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**Valuation Laws, Principles, and Procedures**


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## Introduction to Property Valuation

- Assessors must determine:
  - The value of the land only,
  - The value of the structures and improvements only, and
  - The total market value of the property (land plus structures/improvements).
- Among other elements and factors affecting market value, assessors must consider:
  - Any environmental factors in the vicinity of the property,
  - Its location with reference to roads and streets, and
  - The location of roads and streets on or over the property.
- It is also the duty of every assessor when estimating the market value to consider and give due weight to lands which are **comparable in character, quality, and location**, so that all lands similarly located and improved will be assessed on a uniform basis and without discrimination.
- When valuing property, the assessor should not adopt a lower or different standard of value because the assessment is to be used for the basis of taxation.
- The assessor's estimate of market value is prima facie valid correct. The burden of proof is on the taxpayer to prove that the assessor's value is in error. This is stated in Minnesota Statutes, section [271.06](#), which discusses the provisions of Tax Court and states in part that:

*"...All such parties shall have an opportunity to offer evidence and arguments at the hearing; provided, that the order of the commissioner or the appropriate unit of government in every case shall be prima facie valid..."*

- This has been affirmed in numerous court cases over the years. These include but are not limited to:
  - An assessor's valuation is prima facie valid, and burden rests on taxpayer to prove that valuation is excessive, and if assessor's valuation is arrived at in violation of statutory mandates with reference thereto, court's findings upholding valuation will nevertheless be sustained by Supreme Court if there is other competent and proper evidence sufficient to sustain them. (Schlieff v. Freeborn County, 1950, 231 Minn. 389, 43 N.W.2d 265)
  - To show discrimination in the valuation process, the taxpayer must demonstrate that his property was valued on a different basis from other comparable property in the same taxing district, and that this other property was

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systematically or arbitrarily undervalued. (Matter of McCannel, 1980, 301 N.W.2d 910)

- County assessor's estimate of value for real estate tax purposes is prima facie valid, and taxpayers carries burden of proving that value is excessive. (TMG Life Ins. Co. v. County of Goodhue, 1995, 540 N.W.2d 848)
- Taxpayer has burden of showing that valuation reached by assessor for tax purposes is excessive. (Hansen v. County of Hennepin, 1995, 527 N.W.2d 89)

**For more information on the assessment of real property, see [Module 1 – General Property Tax Law](#). Information available in Module 1 includes:**

- Entering property into the assessment system
- Assessment date
- Listing and time
- The quintile review process
- Classification of assessor's data

For general overview of how property is valued and classified, property tax due dates and determining how property taxes are calculated see [Understanding Property Tax](#) information page.

### Definition of Market Value

The value determined by the assessor as the price the property would likely sell for on the open market is called the estimated market value (EMV). This value is determined each year on the assessment date of January 2. Taxpayers may appeal their EMV to boards of appeal and equalization and/or to Tax Court.

There are many widely accepted definitions of market value. The statutory definition of market value is found in Minnesota Statutes, section [272.03](#), subdivision 8, which states that:

*“‘Market value’ means the usual selling price at the place where the property to which the term is applied shall be at the time of assessment; being the price which could be obtained at a private sale or an auction sale, if it is determined by the assessor that the price from the auction sale represents an arm’s-length transaction. The price obtained at a forced sale shall not be considered.*

The Appraisal Institute defines market value as:

*“The most probable price, as of a specified date, in cash, or in terms equivalent to cash, or in other precisely revealed terms, for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest, and assuming that neither is under undue duress.” (The Appraisal of Real Estate, 12<sup>th</sup> edition, Appraisal Institute [2001], page 22)*

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The International Association of Assessing Officers defines market value as:

*"...cash price a property would bring in a competitive and open market. In such a market, sufficient time has been allowed for a sale, the buyer and seller are not subject to undue pressure, and both are well informed." (Property Appraisal and Assessment Administration, International Association of Assessing Officers [1990], page 35)*

The various definitions of market value generally imply the consummation of a sale, as of a specific date, under the following conditions:

1. The buyer and seller are typically motivated.
2. Both parties are well-informed or well-advised and each is acting in what is considered to be their own best interest.
3. A reasonable time is allowed for exposure to the open market.
4. Payment is made in cash or its equivalent.
5. Financing, if any, is on terms generally available in the community at the specified date and typical for the property type in its locale.
6. The price represents a normal consideration for the property sold unaffected by the special financing amounts and/or terms, services, fees, costs, or credits incurred in the transaction.

In summary, market value is the price that would tend to prevail under typical, normal, competitive open-market conditions.

*"It is up to the assessor to form an opinion of the market value even when there is no market or sales to aid in fixing values. Where there have been no actual sales for a long period of time, there is no way of determining values except by the judgment and opinion of people acquainted with the lands, their adaptability for use, and the circumstances of the surrounding community. (State v. Fritch, 175 Minn. 478, 221 N.W. 725)*

Assessors typically employ mass appraisal systems to determine market value. The *Dictionary of Real Estate Appraisal* (Appraisal Institute; 5<sup>th</sup> ed. 2010) defines mass appraisal as "the process of valuing a universe of properties as of a given date using standard methodology, employing common data, and allowing for statistical testing." The International Association of Assessing Officers' *Standard on Mass Appraisal of Real Property* (January 2012) states that mass appraisal models "attempt to represent the market for a specific type of property in a specified area" and should "identify the variables (supply and demand factors) that influence value, for example square feet of living area."

Primary Statutory References: [272.03](#), [273.11](#), [273.12](#), [273.13](#)

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## Highest and Best Use

Inherent to the concept of market value is the term “highest and best use.” Highest and best use is a common appraisal concept used by appraisers in estimating the market value of property. This principle of appraisal states that appraisers should value property as though it was being put to the use that provides the highest return to the land. This use must be physically possible, legally permissible, financially feasible, and maximally productive. Again, this concept surrounds the valuation of land. For assessment purposes, property should always be valued at its highest and best use.

Assessors should consider all factors when trying to identify the highest and best use of property, including but not limited to:

- zoning (what types of uses are allowed by local zoning ordinances, and the likelihood that the zoning of a property may change);
- any covenant restrictions on the property;
- any environmental regulations on the property;
- the use of surrounding properties;
- local building codes (more restrictive codes may discourage development);
- setback and height restrictions;
- size and shape of the site (some shapes may preclude development);
- accessibility of a parcel (landlocked or water-locked);
- location and capacity of public utilities;
- topography;
- soil conditions; and
- potential income derived from different uses.

## Important Notes

- According to Minnesota law, all property is to be valued at its market value.
  - Any amount under \$100 is rounded up to \$100.
  - Any amount exceeding \$100 is rounded to the nearest \$100.
- If a property is **leased**, it must be valued at its market value and not at the value of the leasehold interest. Thus, for the income approach to value, the assessor must use a market rent and should not consider whether a property is currently leased at a level that is above or below market rent.
- The **accessibility** of land to a good **road** enhances its value.
  - The volume of traffic accessible to a given location may influence its value for commercial use tremendously.
  - The assessor must also allow for the reduction in acreage or area caused by the location of roads over a tract of land. When a public road is on a land easement,

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- the acreage in the tract subject to this easement is not reduced. The assessor should however account for the area in public roads and base the assessment on the remaining land.
- The same is true for land in county and judicial **ditches**. The land that is in the ditch should be excluded in determining the value of the parcel that contains the ditch.
  - In some instances, **fee interest in land in public highways** has been acquired and a new description of the remaining land has been listed on the assessment record.
    - Here the acreage taken for highway purposes has been excluded from the parcel.
    - In these instances, the assessor includes all the land listed in determining its value.
    - Assessors are urged to check carefully whether a parcel has been separated from the land in roads before making an acreage deduction in the valuation.
  - For **agricultural land**, the assessor must also consider and give recognition to its earning potential as measured by its free market rental rate.
    - However, the value of a property should not include the value of any crops being grown on the property.
    - The assessor must also determine, and list separately on the records, the market value of the homestead dwelling and the one acre of land on which that dwelling is located.
    - If any farm buildings or structures are located on this homesteaded acre of land, their market value shall not be included in this separate determination.
  - If a property includes a **mine or quarry**, the value of the property should include the mine or quarry. When mineral, clay, or gravel deposits exist on a property and their extent, quality, and costs of extraction are well-known enough so as to influence market value, such deposits shall be recognized in valuing the property, with the following exceptions:
    - mineral deposits and energy-resource deposits that are subject to the net proceeds tax imposed under Minnesota Statutes, section [298.015](#); and
    - taconite and iron-sulphide deposits which are exempt from the general property tax under Minnesota Statutes, section [298.25](#).
  - The **net proceeds tax**, as outlined in Minnesota Statutes, section [298.015](#), is imposed on *“all mineral and energy resources mined or extracted within the state of Minnesota except for sand, silica sand, gravel, building stone, crushed rock, limestone, granite, dimension granite, dimension stone, horticultural peat, clay, soil, iron ore, and taconite concentrates.”*

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- An assessor may not reduce the value of a property subject to a **conservation easement** if the conservation easement was entered into after May 23, 2013, unless it meets certain exceptions. This restriction does not apply to:
  - Easements covering riparian buffers along lakes, rivers, and streams that are used for water quality, or to easements granted by a county that has adopted a program by referendum to protect farmland and natural areas since 1999 (i.e., Dakota County).
  - Property located in the seven-county metropolitan area where the county has adopted a program to protect farmland or natural areas and authorized the assessor to consider the impact of the conservation easement on the property's value.

The existence of a conservation easement may not decrease the property's value and may, in fact, add to a property's value. In addition, the value of neighboring properties may also be enhanced due to their proximity to land that is subject to a conservation easement.

### Taxable Market Value

Taxable Market Value (TMV) refers to the amount of value that is used in calculating property taxes. This can differ from EMV due to special programs in which the property may be enrolled such as Plat Law, Green Acres, etc. Some of these programs will be described in more detail later in this module.

### Referendum Market Value

Referendum market value is used to calculate all **school operating referendum levies**. These voter-approved levies are used for the day-to-day general operations of schools. School **bonding referendum levies** are voter-approved levies for long-term debt obligations such as constructing a new school or building an addition onto an existing school. These bonding referendum levies are calculated on net tax capacity (rather than referendum market value) and are paid for by **all** classes of property, including those that are exempt from market value-based operating referendum levies.

Referendum market value refers to the market value of all taxable property **except**:

- property classified as class 2 (agricultural land, rural vacant land, managed forest land, private airport, land with a commercial aggregate deposit);
- class 4c(1) seasonal residential recreational non-commercial;
- class 4c(4) post-secondary student housing.

The portion of class 2a property consisting of the house, garage, and surrounding one acre of land on an agricultural homestead property **is** included in referendum market value. In the case of class 1a, 1b or 2a property, the market value used to determine referendum market value is the value prior to the homestead market value exclusion.



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Any classification of property or any portion of a classification of property that is included in the definition of referendum market value and that has a classification rate of less than 1 percent shall have a referendum market value equal to its net tax capacity multiplied by 100.

This affects:

- class 1b blind/disabled homesteads which have a classification rate of 0.45 percent on the first \$50,000 of TMV;
- class 1c seasonal residential recreational – commercial property (Homesteaded resort that includes a homestead of the owner/operator) which has a first-tier classification rate of 0.50 percent on the first \$600,000 of TMV; and
- class 4d qualifying low-income rental housing which has a classification rate of 0.75 percent.

Example: A residential homestead property with an estimated market value of \$100,000 receives an exclusion of \$28,240 resulting in a taxable market value of \$71,760. The referendum market value is equal to the market value prior to the homestead market value exclusion (or the taxable market value plus the market value homestead exclusion amount), which in this case is \$100,000.

**Note:** Other local units of government, including counties, cities, towns, and special taxing districts may have voter-approved referendum levies for either operating or bonding purposes. All these non-school referendum levies are calculated on market value. None of them are calculated on net tax capacity.

Primary Statutory Reference: [126C.01](#), [275.61](#)

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### Solar, wind, methane gas systems

The market value of real and personal property that is solar, wind, or agriculturally derived methane gas system used as a heating, cooling, or electric power source of a building or structure shall be excluded from the market value of that building or structure if the property is not used to provide energy for sale and the property was installed prior to January 1, 1984.

Primary Statutory Reference: [273.11](#), subdivision 6

### Fire-safety sprinkler systems

For the purposes of property taxation, the market value of automatic fire-safety sprinkler systems installed in existing buildings after January 1, 1992, and meeting the standards of the Minnesota Fire Code shall be excluded from the market value of:

1. Existing multifamily residential real estate containing four or more units and used or held for use by the owner or by the tenants or lessees of the owner as a residence; and
2. Existing real estate containing four more or contiguous residential uses for use by customers of the owner, such as hotels, motels, and lodging houses; and
3. Existing office buildings or mixed use commercial-residential buildings, in which at least one story capable of occupancy is at least 75 feet above the ground.

The market value exclusion under this section expires if the building is sold.

Primary Statutory Reference: [273.11](#), subdivision 6a

### Limited equity cooperative apartments

“Limited equity cooperatives” are corporations organized under Minnesota Statutes, [Chapter 308A \(Cooperatives\)](#) or [Chapter 308B \(Cooperative Associations\)](#), which has as its primary purpose the provision of housing and related services to its members, and whose members meet one of the following criteria:

1. A minimum of 75 percent of members must have incomes at less than 90 percent of the area median income;
2. A minimum of 40 percent of members must have incomes at or less than 60 percent of area median income; or
3. A minimum of 20 percent of members must have incomes at or less than 50 percent of area median income.

A “limited equity cooperative apartment” is a dwelling unit that is owned by a limited equity cooperative.

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“Occupancy entitling cooperative share or membership” is the ownership interest in a cooperative organization which entitles the holder to an exclusive right to occupy a dwelling unit owned or leased by the cooperative.

“Member income” means that the income of a member existing at the time the member acquires cooperative membership, and median income shall mean the Minneapolis-St. Paul metropolitan area median income as determined by the United States Department of Housing and Urban Development.

In addition, the cooperative must also meet the following requirements:

- a. The articles of incorporation set the sale price of occupancy-entitling cooperative shares or memberships at no more than a transfer value determined as provided in the articles of incorporation. That value may not exceed the sum of the following:
  - i. The consideration paid for the membership or shares by the first occupant of the unit as shown in the records of the corporation;
  - ii. The fair market value, as shown in the records of the corporation, of any improvements to the real property that were installed at the sole expense of the member with the prior approval of the board of directors;
  - iii. Accumulated interest, or an inflation allowance not to exceed the greater of a 10 percent annual (not compounded) increase on the consideration paid for the membership or share by the first occupant of the unit, or the amount that would have been paid on that consideration if interest had been paid on it at the rate of the percentage increase in the revised Consumer Price Index for All Urban Consumers for the Minneapolis-St. Paul metropolitan area prepared by the United States Department of Labor, provided that the amount determined pursuant to this clause may not exceed \$500 for each year or a fraction of the year the membership or share was owned; plus
  - iv. Real property capital contributions shown in the records of the corporation to have been paid by the transferor member and previous holders of the same membership, or of separate memberships that had entitled occupancy to the unit of the member involved. These contributions include contributions to a corporate reserve account the used or which is restricted to real property improvements or acquisitions, contributions to the corporation which are used for real property improvements or acquisitions, and the amount of principal amortized by the corporation on its indebtedness due to the financing of real property acquisition or improvement or the averaging of principal paid by the corporation over the term of its real property-related indebtedness.
- b. The articles of incorporation require that the board of directors limit the purchase price of stock or membership interests for new member-occupants or resident shareholders to an

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amount which does not exceed the transfer value for the membership or stock as defined in paragraph (a).

- c. The articles of incorporation require that the total distribution out of capital to a member shall not exceed that transfer value.
- d. The articles of incorporation require that upon liquidation of the corporation any assets remaining after retirement of corporate debts and distribution to members will be conveyed to a charitable organization described in section 501(c)(3) of the Internal Revenue Code or a public agency.

For the purposes of taxation, the assessor must value a unit owned by a limited equity cooperative at the lesser of its market value or the value determined by capitalizing the net operating income of a comparable apartment operated on a rental basis at the capitalization rate used in valuing comparable buildings that are not limited equity cooperatives. If a cooperative fails to operate in accordance with the provisions outlined above, the property shall be subject to additional property taxes in the amount of the difference between the taxes determined in accordance with this subdivision for the last ten years that the property had been assessed pursuant to this subdivision and the amount that would have been paid if the provisions of this law had not applied to it.

The additional taxes, plus interest at the rate specified in Minnesota Statutes, section [549.09](#), must be extended against the property for the current year.

The articles of incorporation of the organization should specify under which chapter the corporation is organized, and what the primary purpose of the organization is.

Primary Statutory Reference: [273.11](#), subdivision 8

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**Condominium property**

Condominium property must be valued in accordance with this provision.

- a. A structure or building that is initially constructed as condominiums must be identified as separate units after filing a declaration. The market value of the residential units in that structure or building and included in the declaration shall be valued as condominiums.
- b. When 60 percent or more of the residential units in a structure or building being converted to condominiums have been sold as condominiums including those units that the converters retain for their own investment, the market value of the remaining residential units in that structure or building which are included in the declaration shall be valued as condominiums. If not all of the residential units in the structure or building are included in the declaration, the 60 percent factor shall apply to those in the declaration. A separate description shall be recognized with a declaration is filed. "Retain" means units that are rented and completed units that are not available for sale.
- c. "Sale" is defined as the date when the first written document for the purchase or conveyance of the property is signed unless that document is revoked.

The Department of Revenue's opinion is that common areas of condominium complexes should be assessed as follows:

1. All common areas should be valued at their market value. The assessor must be able to identify the value that has been attributed to the various common area components.
2. The total value of the common areas should be equally distributed among all the units of the condominium complex.

Distributing the common area valuation prevents problems in the event of non-payment of tax and forfeiture proceedings. In addition, it allows individual unit owners to receive homestead benefits on both their units and their share of the common elements.

**Timeshares**

The department has been asked how to value and classify timeshares or interval interests in the past. Typically, in such cases, the covenant for the development will specify that each owner of an interval interest will pay a certain share of expenses and property taxes based on their percentage of ownership in the timeshare. It is not the responsibility of the county to split the taxes to the owners of the timeshares. It is the responsibility of the developer. Typically, the units are classified as seasonal residential recreational-non-commercial property unless used as a short-term rental (which would then be classified as 4b1). Each parcel should be assessed and taxed using normal methodology. It is then up to the developer to apportion the taxes to the timeshare owners and make sure that the taxes are paid.

Primary Statutory Reference: [273.11](#), subdivision 9

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**Valuation of restored or preserved wetland**

Wetlands that have been restored by the federal, state, or local government, or by a nonprofit organization, or those that have been preserved under the terms of a temporary or perpetual easement by the federal or state government, must be valued by assessors at their wetland value.

“Wetland value” means the market value of wetlands in any potential use in which the wetland character is not permanently altered. The wetland value must not reflect potential uses of the wetland that would violate the terms of any existing conservation easement, or any onetime payment received by the wetland owner under the terms of a state or federal conservation easement. The wetland value must also reflect any potential income consistent with a property’s wetland character, including but not limited to lease payments for hunting or other recreational uses.

The term “wetlands” as used in this context means lands that are transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For the purposes of this definition, wetlands must have the following attributes:

1. A predominance of hydric soils;
2. Are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and
3. Supports a prevalence of such vegetation under normal circumstances.

In September 1991, the Department of Revenue issued a bulletin to all assessors regarding proper valuation of such wetlands. In that bulletin, the department stated that this provision applied to taxable wetlands that have been either:

- restored (through plugging of tile lines or similar action) by the government (state, federal, or local) or by a nonprofit organization; **or**
- preserved wetlands under the terms of a temporary or perpetual easement by the federal or state government (i.e. CRP, RIM, Water Bank, U.S. Fish and Wildlife easements, etc.)

“Wetlands” are broadly defined under this law to include wet meadows, woody swamps, and other wetlands that are not exempt under Minnesota Statutes, section [272.02](#), subdivision 11. (That section exempts class 3, 4, and 5 wetlands. For additional information, please refer to the [Exempt Module](#)). Therefore, the deciding factor in determining if the wetland is eligible for valuation under this provision should be whether or not the wetland has been either restored by a government or nonprofit agency, or preserved under an easement to the government.

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The provisions of this law only apply to the actual acreage of wetland that has been restored, or to the actual acreage of land protected by easements. Property owners do not have to apply for valuation under this law and no special landowner eligibility requirements apply.

In general, wetland value is the price a property would bring in an arm's-length sale to a buyer intending to maintain the property as a wetland.

Wetland value **should** reflect any market value influences consistent with a property's permanent wetland character. These may include:

- the value of any available opportunities to lease the wetland for recreational uses such as waterfowl hunting; and
- any value attributable to agricultural uses that do not involve draining, filling, or otherwise permanently altering the wetland, such as mowing for hay or grazing when conditions permit.

Wetland value **should not** reflect the following:

- any potential uses of the property that would permanently alter its wetland character, such as draining, filling, and/or any other activity that would violate the terms of any existing protective easement on the property; and
- any value of any one-time payments made to landowners at the time they enter into easement agreements, such as payments under the Reinvest in Minnesota (RIM) program as these payments are received by the landowner originally entering into the easement agreement and would not increase the property's market value in any subsequent sale.

Wetland value may reflect this income stream to the wetland for wetlands subject to easements which are accompanied by ongoing annual compensation payments that may, in some cases, be assumed by a subsequent buyer (such as wetlands enrolled in the federal CRP program). However, any value adjustments made on this basis must be well-supported by comparable sales of other enrolled properties and accurately reflect the remaining flow of payments to be received by the particular property.

Primary Statutory Reference: [273.11](#), subdivision 11

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### Neighborhood land trusts

Neighborhood land trusts are defined in Minnesota Statutes, section [462A.30](#), subdivision 8, which states that they are a city or a nonprofit corporation organized under chapter [317A](#) that complies with section [462A.31](#) and that qualifies for tax exempt status under United States Code, title 26, section 501(c)(3) of the Internal Revenue code, and that meets all other criteria for neighborhood land trusts set by the agency.

- A neighborhood land trust, as defined under chapter [462A](#), is:
  - A community-based nonprofit corporation organized under chapter [317A](#), which qualifies for tax exempt status under 501(c)(3), or
  - A “city” as defined in section [462C.02](#), subdivision 6, which has received funding from the Minnesota Housing Finance Agency (MHFA) for purposes of the neighborhood land trust program. The Minnesota MHFA shall set the criteria for neighborhood land trusts.
- All occupants of a neighborhood land trust building must have a family income of less than 115 percent of the greater of:
  - the state median income, or
  - the area or county median income, as most recently determined by the Department of Housing and Urban Development.
- Before the neighborhood land trust can rent or sell a unit to an applicant, the neighborhood land trust shall verify to the satisfaction of the administering agency or the city that the family income of each person or family applying for a unit in the neighborhood land trust building is within the income criteria provided in section [462A.30](#), subdivision 9. The administering agency or the city shall verify to the satisfaction of the county assessor that the occupant meets the income criteria under that section. The property tax benefits under paragraph (c) shall be granted only to property owned or rented by persons or families within the qualifying income limits. The family income criteria and verification is only necessary at the time of initial occupancy in the property.
- A unit which is owned by the occupant and used as a homestead by the occupant qualifies for homestead treatment as class 1a (residential homestead) under section [273.13](#), subdivision 22. A unit which is rented by the occupant and used as a homestead by the occupant shall be class 4a (rental housing with 4 or more units) or 4b (residential non-homestead 1-3 units not qualifying for class 4bb) property, under section [273.13](#), subdivision 25, whichever is applicable. Any remaining portion of the property not used for residential purposes shall be classified by the assessor in the appropriate class based upon the use of that portion of the property owned by the neighborhood land trust. The land upon which the building is located shall be assessed at the same class rate as the units within the building, provided that if the building contains some units assessed as



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class 1a and some units assessed as class 4a or 4b, the market value of the land will be assessed in the same proportions as the value of the building.

According to Minnesota Statutes, section [462A.31](#), a neighborhood land trust must have as one of its purposes (under the organization's articles of incorporation) the holding of land and the leasing of land for the purpose of preserving the affordability of housing on that land for persons and families of low and moderate income.

A neighborhood land trust may have any or all the powers permitted to a nonprofit corporation under chapter [317A](#), except that a neighborhood land trust must have the power to buy and sell land, to mortgage and otherwise encumber land, and to negotiate and enter into ground leases with an initial term of up to 99 years.

A ground lease where the lessor is a neighborhood land trust must contain provisions designed to preserve the affordability of housing on the land. Each ground lease must reserve to the neighborhood land trust the first option to purchase any building or improvement on the land, or any condominium or cooperative unit located in a building on the land, at a limited equity price specified in the ground lease. Each ground lease must grant to the MHFA the right to exercise that first option to purchase if the neighborhood land trust does not, for any reason, exercise their first option. Each ground lease must exempt sales to persons and families of low and moderate income from the provisions granting the first option to purchase to the neighborhood land trust and to MHFA. Sales to persons and families of low and moderate income are not exempt from the limited equity price. The ground lease may also contain appropriate restrictions on: subletting or assigning the ground lease, construction and renovation of buildings and other improvements; and sale of buildings and improvements.

A ground lease with a neighborhood land trust must prohibit the lessee from mortgaging the lessee's interest in the lease or in buildings or other improvements without the consent of the neighborhood land trust. A ground lease may obligate a neighborhood land trust as lessor and fee title holder to consent to, join in, or subordinate its interest to, a mortgage entered into by the lessee as mortgagor for the purpose of obtaining financing for acquisition, construction, or renovation of housing on the land. A lease provision so obligating a neighborhood land trust must specify that the mortgage must provide to the neighborhood land trust the right to receive from the mortgagee prompt notice of default in the mortgage and the right to cure the default or to purchase the mortgagee's interest in the mortgage. The limited equity price and provisions above do not apply if the lessee or the neighborhood land trust fails to cure the default or purchase the mortgagee's interest in the mortgage.

A ground lease with a neighborhood land trust must provide that the neighborhood land trust will not, during the term of the lease, mortgage or otherwise encumber its interest in the property or permit any liens on its interest in the property to exist. This prohibition does not apply to mortgage that require the mortgagee to subordinate the lien of its mortgage to a

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mortgage entered into by a lessee as mortgagor for the purpose of obtaining financing for acquisition, construction, or renovation of housing on the land.

A ground lease with a neighborhood land trust must provide that heirs of the lessee may assume the lease if the heirs agree to occupy the lease property as their homestead. "Heirs" means the heir or heirs of a lessee who dies intestate or the devisees of a lessee who dies testate.

A city may by resolution determine to act as a neighborhood land trust with the powers and duties described above.

Any ground leases held by a neighborhood land trust must include the legal description of the real property subject to the ground lease and shall be recorded with the county recorder where the property is located.

A few years ago, the Department of Revenue was asked how to tax properties where the land was owned by a neighborhood land trust and leased for 99 years to the owner of the structure. The specific question concerned who should receive the tax statement. At that time, we concluded that there were two options.

**Option #1** – Mail the tax statement to the neighborhood land trust. As the owner of the real estate, the land trust is technically responsible for payment of the tax. If the neighborhood land trust did not receive the tax statement and the property forfeits due to non-payment by the owner of the home, the neighborhood land trust's interest in the property would forfeit as well.

If county policy allowed the auditor to do so, send a courtesy copy of the tax statement to the owner of the structure, who according to the agreement provided was responsible for paying the taxes. The owners could also request a duplicate statement as provided for under Minnesota Statutes, section [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 #2** – Mail the tax statement to the owner of the structure. This option, although technically incorrect, 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

## Valuation Laws, Principles, and Procedures

collecting the tax would be to send the statement directly to the person responsible for the taxes. However, if the tax went unpaid and became delinquent or if the property forfeited for non-payment of tax, the county would encounter a host of potential legal issues.

In no case should two separate tax statements be issued – one for the structure and one for the land. The structure is part of the real estate and must be assessed as such.

Homes that are located on land owned by a neighborhood land trust are eligible for homestead so long as all other requirements for homestead are met. See [Module 4](#) on Homesteads for additional information.

Primary Statutory Reference: [273.11](#), subdivision 12, [276.041](#), [462A.30](#), [462A.31](#)

### Land abutting bodies of water (riparian rights)

Real property that is located next to lakes or rivers includes riparian rights, which relate to land under the water or inside the high-water mark. When a lake is public (navigable), riparian rights extend to the land between the high water and low water marks. Ownership of this land goes with the shore land and is not absolute, but subject to certain public rights.

When land abuts a private (non-navigable) lake, the riparian rights of ownership extend to the middle of the lake.

In either case, the assessor should consider the value of these rights. Where a private lake has been drained or has dried up, the value of the additional land should be included in the assessment of the described parcel to which the lakebed attaches.

“Public waters” are defined as:

1. Water basins assigned a shore land management classification by the Commissioner of Natural Resources;
2. Waters of the state that have been finally determined to be public waters or navigable waters by a court of competent jurisdiction;
3. meandered lakes, excluding lakes that have been legally drained;
4. Water basins previously designated by the Commissioner of Natural Resources for management for a specific purpose such as trout lakes and game lakes pursuant to applicable laws;
5. Water basins that have been specifically designated as scientific and natural areas under section [84.033](#);
6. Water basins located within and totally surrounded by publicly owned lands;
7. Water basins where the state of Minnesota or the federal government holds title to any of the beds or shores, unless the owner declares that the water is not necessary for the purposes of the public ownership;

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8. Water basins where there is a publicly owned and controlled access that is intended to provide for public access to the water basin;
9. Natural and altered watercourses with a total drainage area greater than two square miles;
10. Natural and altered watercourses designated by the Commissioner of Natural Resources as trout streams; and
11. Public waters wetlands

“Public waters wetlands” are class 3, 4, and 5 wetlands as defined in United States Fish and Wildlife Service Circular No. 39 (1971 edition), not included within the definition of public waters, and that are 10 or more acres in size in unincorporated areas or 2 ½ acres in incorporated areas.

Public waters are not determined exclusively by the proprietorship of the underlying, overlying, or surrounding land or by whether it is a body or stream of water that was navigable in fact or susceptible of being used as a highway for commerce at the time this state was admitted to the union.

Primary Statutory Reference: [103G.005](#), [103F.201 to 103F.22](#)

### Valuation of vacant hospitals

When valuing a hospital that is located outside a metropolitan county (Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, or Washington), that is:

- vacant on the date of sale,
- is not used for hospital purposes,
- is not used for any other purpose (and is therefore not exempt);

the assessor's estimated market value for the current assessment year should not be greater than the sale price of the property (both the land and buildings) as adjusted for terms of financing. If the sale is made later than December 15, the market value determined under this subdivision shall be used for the following assessment year. This only applies if the sale price of the property was determined under the conditions of an arms-length transaction.

Primary Statutory Reference: [273.11](#), subdivision 15

### Valuation of lands encumbered by conservation easements

Ordinarily, assessors are expected to consider all things that affect market value when completing their assessments. However, Minnesota Statute [273.117](#) specifies that assessors must not reduce the value of property because of a conservation easement entered into after May 23, 2013, except for:

- Conservation restrictions or easements that cover riparian buffers along lakes, rivers, and streams that are used for water quantity or quality control.

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- Easements in a county that has adopted, by referendum, a program to protect farmland and natural areas since 1999.
- Property located in the seven-county metropolitan area where the county has adopted a program to protect farmland or natural areas and authorized the assessor to consider the impact of the conservation easement on the property's value.

The first exception (value reductions in the case of riparian buffers) may cause some confusion that is best addressed on a case-by-case basis. We recommend you use the following guidelines:

- For water quality or quantity control easements along a lake, river, stream, or – in some cases – a ditch, you may reduce the value of the property if the market indicates a reduction. All acres encumbered by the easement may be eligible for a value reduction.
- On rare occasions, an easement may not specifically identify water quality or quantity control as its purpose. If the covered lands are close enough to a body of water that it appears likely the easement was granted for water quality or quantity control, you should contact the entity holding the easement to determine its purpose. Review the easement to determine which entity to contact – the Board of Water and Soil Resources (BWSR), Department of Natural Resources (DNR), or a private non-profit organization.

Primary Statutory Reference: [273.117](#)

## Taxable Leaseholds

## Assessment of Personal Property

In general, personal property can be anything that is not real property. The main characteristic of personal property is that it is movable without causing damage to itself or the real estate it is part of. In general, most personal property in the state of Minnesota is exempt from ad valorem property tax. However, there are exceptions to this rule.

Minnesota Statutes, section [272.02](#), subdivision 9, states that:

*“Except for the taxable personal property enumerated below, all personal property and the property described in section [272.03](#), subdivision 1, paragraphs (c) and (d), shall be exempt.*

*The following personal property shall be taxable:*

*(a) personal property which is part of an electric generating, transmission, or distribution system or a pipeline system transporting or distributing water, gas, crude oil, or petroleum products or mains and pipes used in the distribution of steam or hot or chilled water for heating or cooling buildings and structures;*

*(b) railroad docks and wharves which are part of the operating property of a railroad company as defined in section [270.80](#);*

*(c) personal property defined in section [272.03](#), subdivision 2, clause (3);*

*(d) leasehold or other personal property interests which are taxed pursuant to section [272.01](#), subdivision 2; [273.124](#), subdivision 7; or [273.19](#), subdivision 1; or any other law providing the property is taxable as if the lessee or user were the fee owner;*

*(e) manufactured homes and sectional structures, including storage sheds, decks, and similar removable improvements constructed on the site of a manufactured home, sectional structure, park trailer or travel trailer as provided in section [273.125](#), subdivision 8, paragraph (f); and*

*(f) flight property as defined in section [270.071](#).”*

Personal property that is defined in section [272.03](#), subdivision 2, clause (3), includes all improvements upon land owned by the federal government, and all improvements upon land the title to which is vested in any corporation whose property is not subject to the same mode and rule of taxation as other property.

In addition, assessors sometimes refer to property that is “assessed as personal property.” In such cases, the tax lien is assessed **against the person rather than against the real property**. This generally occurs where manufactured homes, park trailers, and taxable travel trailers are located on land that is leased from another person. In addition, some leasehold interests as

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### Taxable Leaseholds

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outlined in section [272.01](#), subdivision 2; [273.124](#), subdivision 7; or [273.19](#), subdivision 1, where the property that would otherwise be exempt from property tax but it is leased and therefore, that leasehold interest becomes taxable. Taxable leasehold estates are discussed later in this module.

### Listing of Personal Property

As is the case with real property, all personal property subject to taxation is valued and classified according to its use on January 2. Generally, personal property assessments are made, and taxes are billed and collected, in the same way as real property assessments. However, manufactured homes, park trailers and travel trailers that are assessed as personal property are valued and taxes are collected in the same year. This is discussed in greater detail later in this module.

Primary Statutory References: [273.01](#), [272.01](#), [272.02](#)

### Situs

Personal property should be assessed in the town, city, county, or district where the property is situated. When the situs<sup>1</sup> is in doubt between places in the *same* county, the place for listing and assessment is to be determined by the county board of equalization. If the situs is in doubt between *different* counties, or places in different counties, the Commissioner of Revenue will determine the appropriate place for listing and assessment.

All elevators and warehouses, with the machinery and fixtures therein, situated upon the land of any railroad company, which are not in good faith owned, operated, and exclusively controlled by such company, shall be listed and assessed as personal property in the town or district where situated. They should be listed in the name of the owner, if known, and, if not known, as "owner unknown."

Personal property of electric light and power companies having a fixed situs in any city in Minnesota shall be listed and assessed where situated, without regard to where the principal or other place of business of the company is located. Transmission lines that are 69 kv or higher in voltage, along with all attachments and appurtenances, shall be listed and assessed in the same manner unless they are in an unorganized township.

Primary Statutory References: [273.36](#), [273.48](#)

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<sup>1</sup> The place to which, for purposes of legal jurisdiction or taxation, a property belongs

## Taxable Leaseholds

### Manufactured Homes, Park Trailers, and Travel Trailers

A **manufactured home** is a structure that is transportable in one or more sections and meets all of the following criteria:

- is eight body feet or more in width or 40 body feet or more in length in the traveling mode or, when erected on-site, is 320 or more square feet;
- is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities; and
- contains the plumbing, heating, air conditioning, and electrical systems in it.

A manufactured home includes any accessory structure which is an addition or supplement to the manufactured home and, when installed, becomes a part of the manufactured home.

Statutory Reference: [327.31](#), subdivision 6 and [273.125](#), subdivision 8

A **manufactured home park** means any site, lot, field, or tract of land upon which two or more occupied manufactured homes are located, either free of charge or for compensation. A manufactured home park includes any building, structure, tent, vehicle, or enclosure used or intended for use as part of the equipment of the manufactured home park.

Statutory Reference: [327.14](#), subdivision 3

A **park trailer** is a trailer that exceeds 8.5 feet in width in traveling mode but is no larger than 400 square feet when the collapsible components are fully extended or at a maximum horizontal width, and is used as temporary living quarters. Park trailers do not include manufactured homes.

Statutory Reference: [168.002](#), subdivision 23

A **sectional structure** is a building or structural unit that has been in whole or substantial part manufactured or constructed at an off-site location to be wholly or partially assembled on-site along or with other units, and is attached to a permanent foundation.

Statutory Reference [273.125](#), subdivision 8, paragraph (d)

A **modular home** is a building or structural unit that has been wholly or substantially manufactured or constructed at an off-site location to be wholly or partially assembled on-site as a single-family dwelling. Please also note that:

- Construction of the modular home must comply with applicable standards adopted in Minnesota Rules authorized under Minnesota Statutes, chapter [16B](#).
- A modular home does **not** include a structure subject to the requirements of the National Manufactured Home Construction and Safety Standards Act of 1974 or prefabricated buildings as defined in Minnesota Statutes, section [327.31](#), subdivision 6.

Statutory Reference [272.02](#), subdivision 85



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**Taxable Leaseholds**

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A **travel trailer** is a trailer, mounted on wheels, that:

- is designed to provide temporary living quarters during recreation, camping, or travel;
- does not require a special highway movement permit based on its size or weight when towed by a motor vehicle; and
- does not exceed 8.5 feet in width or 45 feet in length (including the tow bar).

Statutory Reference: [168.002](#), subdivision 36, [169.80](#), subdivision 2, and [169.81](#), subdivision 2

It is important to note that many of these definitions are found in the statutes regulating motor vehicles and places of lodging. While these definitions may be helpful to describe the types of properties observed, the definitions are not determinative of their tax status.

### **Manufactured Homes: License Plates and Certificate of Title**

#### **License Plates**

Manufactured homes and park trailers are not registered or taxed as motor vehicles and are not issued license plates. While they are exempt from motor vehicle registration taxes, they are subject to property taxation as either real or personal property.

Travel trailers are subject to motor vehicle taxation and must be issued a license plate. Travel trailers displaying current license plates are not eligible for the assessment. However, travel trailers become subject to property taxes if they are occupied as human dwelling places and do not conspicuously display current registration plates on the assessment date. If an assessor comes across a travel trailer that does not have current registration plates conspicuously displayed **and** it is occupied as a human dwelling place, the assessor must include the travel trailer on the tax rolls.

Only manufactured homes, modular model homes, and park trailers held by a licensed or limited dealer as inventory are exempt if the manufactured home is:

- listed as inventory and held by a licensed or limited dealer;
- unoccupied and not available for rent;
- connected or not connected to utilities when located in a manufactured home park or at a dealer's sales center.

There is a 5-year limit (assessment years) on the time that an unoccupied home held in inventory may be exempt.

It is important to know that it is generally unlawful in Minnesota to operate a vehicle on the roads and highways if the vehicle is more than 8.5 feet wide. In general, if you want to move a vehicle or structure more than 8.5 feet, you must apply for and receive a special moving permit.

It is also important to note that the manufactured homes industry uses terms in ways that are not consistent with Minnesota statutory terms used for taxation.

## Taxable Leaseholds

For example, the term “park trailer” under Minnesota law means a structure more than 8.5 feet in width, but if you browse the Internet, you will see that structures/vehicles called park trailers come in various sizes, some smaller than 8.5 feet in width.

For assessment purposes, a vehicle that is called a “park trailer” but is **less than 8.5 feet** in width is a **travel trailer** (no matter its length) and would be subject to motor vehicle registration fees unless it does not display current registration plates and it is being occupied as a dwelling unit. In that case, it is subject to property taxes. It may be illegal to drive this vehicle on the roads, but it remains a travel trailer for assessment purposes.

Assessors must list all manufactured homes, sectional structures (modular homes), and park trailers on the tax rolls except those manufactured homes, sectional structures (modular homes), and park trailers held by a **licensed or limited dealer as inventory**.

During an assessment, if an assessor finds a travel trailer without current license plates and it is being used as a dwelling place on the assessment date, the assessor must include that property on the tax rolls as well.

Similarly, if an assessor happens to find a trailer that meets the definition of a park trailer in that it exceeds 8.5 feet in width, but it has license plates on it, it must still be assessed by the assessor. Motor vehicle registrars throughout the state have the same issues as assessors when trying to categorize these structures. People will come to the registrar to license what they portray to be a travel trailer but, in reality, the structure is a park trailer. Registrars issue licenses based on the information with which they are provided.

### Certificate of Title

A certificate of title is required for a manufactured home. The certificate must include the following notice: “THIS TITLE DESCRIBES A MANUFACTURED HOME NOT A MOTOR VEHICLE.” Once a manufactured home is titled, the certificate of title serves as a bill of sale in a transfer of ownership. There are circumstances in which the owner of a manufactured home may surrender the title of the unit, after which it will be considered an improvement to real property rather than personal property. More information about this is located in the “Assessed as Real Property” section.

The title to a manufactured home cannot be transferred to a new owner unless the application for transfer of title is accompanied by a statement from the county auditor or county treasurer where the manufactured home is presently located, stating that all *personal property taxes levied on the unit in the name of the current owner* at the time of transfer have been paid. This applies even if the transfer of title is requested prior to tax statements for the current year since these taxes are considered to be levied as of January 1 of the payable year rather than May 30 as indicated in other areas of the law.

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**Taxable Leaseholds**

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This provision does not apply to:

- a manufactured home which is sold or otherwise disposed of pursuant to section [504B.271](#) (abandonment of leased property), or section [504B.265](#) (death of tenant), by the owner of a manufactured home park; or
- 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.

Primary Statutory References: [168A.02](#), [168A.05](#)

**Movement of Manufactured Homes**

Manufactured homes may be moved with certain permits issued by the Department of Transportation. Permits relating to over-width, over-length manufactured homes shall not be issued to persons other than manufactured home dealers or manufacturers for movement of new units owned by the manufactured home dealer or manufacturer, until the person has presented a statement from the county auditor and treasurer where the unit is presently located, stating that all personal and real property taxes have been paid. Upon payment of the most recent single-year delinquent personal property or current-year taxes only, the county auditor or treasurer must issue a taxes-paid statement to a manufactured home dealer or a financial institution desiring to relocate a manufactured home that has been repossessed. This statement must be dated within 30 days of the contemplated move. The statement from the county auditor and treasurer where the unit is presently located, stating that all personal and real property taxes have been paid, may be made by telephone. If the statement is obtained by telephone, the permit shall contain the date and time of the telephone call and the names of the person in the auditor's office and treasurer's office who verified that all personal and real property taxes had been paid.

Primary Statutory References: [169.86](#), subdivision 1

**Assessment of Manufactured Homes**

Generally, when determining as to whether a manufactured home should be assessed as real property or personal property, the deciding factor is the ownership of the land on which the manufactured home sits.

**Assessed as Real Property**

Affixed manufactured homes must be valued and assessed as an improvement to real property; the appropriate real property classification applies, and the valuation is subject to review and the taxes payable in the manner provided for real property. A manufactured home is considered affixed if it meets each of the following criteria:

## Taxable Leaseholds

- If the land is owned by:
  - The owner of the manufactured home; or
  - A Minnesota nonprofit corporation of which the owner is a member; or
  - a Minnesota cooperative of which the owner is a member
- 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, or is affixed to the land like other real property in the taxing district; and
- the unit is connected to public utilities, has a well and septic system, or is serviced by water and sewer facilities comparable to other real property in the taxing district.

There are processes that allow manufactured homes previously titled and assessed as personal property to change status to be permanently affixed as improvements to real property and no longer titled as personal property. If the manufactured home is considered affixed as described above, the owner of the unit may surrender their title to the Department of Transportation. This **permanently** converts the manufactured home to become an improvement to real property and it is no longer titled as personal property.

Primary Statutory References: [273.125](#); [168A.1411](#); [168A.1412](#)

### Assessed as Personal Property

A manufactured home that meets each of the following criteria **must be treated as personal property**; the appropriate classification applies and the valuation is subject to review and the taxes payable in the manner provided in this section:

- 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 (with the exceptions of the ownership scenarios listed above;
- 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; or is affixed to the land like other real property in the taxing district; and
- the unit is connected to public utilities, has a well and septic system, or is serviced by water and sewer facilities comparable to other real property in the taxing district.

### Valuation Notice

Each manufactured home shall be valued each year by the assessor and be assessed with reference to its value on January 2 of that year. Notice of the value shall be mailed to the person to be assessed at least 10 days before the meeting of the local board of appeal and equalization as is the case for all other property.

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**Taxable Leaseholds**

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**Homestead**

In the case of manufactured homes assessed as personal property, the homestead must be established, and a homestead classification requested, by May 29 of the assessment year. The assessor may include information on these deadlines for manufactured homes assessed as personal property in published notices. For more details, please see Module 4- Homestead or Minnesota Statutes, section [273.124](#), subdivision 9.

**Return of Assessment Books**

The assessor must return the assessment books relating to manufactured homes to the county auditor. The county auditor must then determine the taxes by applying the tax rates of the current year (as levied in the preceding year). As such, taxes levied on manufactured homes that are assessed as personal property are additional taxes since the values are not included in determining the local tax rate. The auditor must supply a list of the taxes of the calculated taxes to the county treasurer by May 30.

**Tax Statements; Penalties; Collections**

Taxes on manufactured homes assessed as personal property are assessed and taxed in the current year rather than assessed in one year with taxes payable in the following year as is the case for all other property. Not later than July 15 in the year of assessment, the county treasurer shall mail to the taxpayer a statement of tax due on a manufactured home. The taxes shall be due as follows:

- if the tax exceeds \$50, one-half of the amount due may be paid on August 31, and the remainder on November 15; or
- if the tax is less than \$50, the tax is due in full on August 31.

Taxes are considered delinquent if any amount remains unpaid after the due date. Pursuant to section [273.125](#), subdivision 3, all property tax statements for manufactured homes must include a sentence notifying the taxpayer that title to the manufactured home may not be transferred unless personal property taxes are paid.

**Court Petitions**

Appeals may be filed in either district court or Tax Court by October 1 of the year the tax is payable year (also the year of assessment).

**Payment of Tax to Continue Petition**

The right to continue prosecution of the petition shall be conditioned upon the payment of the tax when due unless the court permits the petitioner to continue prosecution of the petition without payment, or with a reduced payment, pursuant to [section 278.03, subdivision 2](#). The petitioner, upon 10 days' notice to the county attorney and to the county auditor, given at least 10 days prior to the last day of August, may apply to the court for permission to continue prosecution of the petition without payment or with a reduced payment.

## Taxable Leaseholds

### Correcting the Tax

If either the local or county board of appeal and equalization changes the assessor's valuation of a manufactured home, the change shall be transmitted to the county auditor, who shall immediately re-compute the tax and advise the treasurer of the corrected tax. If the property is entitled to homestead classification, the auditor shall also take appropriate action to reflect the reduction in tax.

### Tax is Personal Property Tax

The tax assessed on manufactured homes assessed as personal property is a personal property tax in that it **is assessed as a lien against a person and not against the property**. In the case of a delinquency, the county may pursue a judgment via revenue recapture proceedings or other methods allowed by law. More information about this can be found in the [Delinquent Personal Property Tax Manual](#).

### Rules

The Commissioner of Revenue may adopt rules pursuant to the Administrative Procedure Act for the purpose of establishing additional criteria for the classification of manufactured homes and sectional structures under this subdivision.

Primary Statutory References: [273.125](#)

Because anything is possible with property that is movable, a situation may occur where the owner of the land owns the manufactured home, but the manufactured home is not permanently affixed to the land or does not meet all the criteria listed above. In these cases, the assessor should treat the manufactured home as personal property. For example, if a person is constructing a new home on their property but brings in a manufactured home to occupy temporarily while the new home is being constructed, the assessor should assess the manufactured home as personal property.

### Improvements

#### Storage Sheds; Decks; Other Improvements

Storage sheds, decks, or similar improvements constructed on property that is leased or rented as a site for a manufactured home, sectional structure, park trailer, or travel trailer are taxable. The taxable value that should be assessed to the owner of the unit should include the value of the unit and the value of all ancillary structures as well.

However, certain improvements on sites leased to travel trailers that are assessed as personal property are exempt. Improvements (e.g. a deck, storage shed, etc.) on leased sites occupied by travel trailers, both licensed and unlicensed, are taxable **only if the combined estimated market value exceeds \$10,000**. This only applies to travel trailers that are located on leased sites, e.g. trailer parks. If the owner of the travel trailer owns the land it is located on, this exemption does not apply. This exemption does not apply to either park trailers or manufactured homes.

### Taxable Leaseholds

There are numerous campgrounds, often located on rivers or lakes, which rent or lease sites for travel trailers on a seasonal basis. In most instances, the travel trailers are moved at the end of each season. The travel trailers are properly licensed and as such, are not taxable as either real or personal property even if they are not moved at the end of the season. If the owner of the travel trailer is allowed to construct a shed, deck or other similar improvement on the leased property and the value of the improvement exceeds \$10,000, the improvement is subject to a personal property tax if the structure is not owned by the owner of the land. The tax bill is sent to the owner of the travel trailer. In this case, the travel trailer is not taxed by the ancillary improvement but is subject to a personal property tax.

To properly administer this law, the value of all improvements on the site leased for the travel trailer should be added together.

- If a site contained a deck valued at \$7,000 and storage shed valued at \$4,000, the value of the improvements would be added together and equal \$11,000. The entire amount would be assessed.
- If the site contained only a \$7,000 deck, the entire \$7,000 amount would be not be taxed because the improvements do not total more than \$10,000.

The property is taxable as personal property to the lessee of the site if it is not owned by the owner of the site. The property is taxable as real estate if it is owned by the owner of the site. As a condition of permitting the owner of the manufactured home, sectional structure, park trailer, or travel trailer to construct improvements on the leased or rented site, the owner of the site must obtain the permanent home address of the lessee or user of the site. The site owner must provide the name and address to the assessor upon request.

Primary Statutory Reference: [273.125](#)

### General Rules

1. Every manufactured home, except manufactured homes that are inventory of a licensed or limited dealer, is subject to property tax.
2. Every park trailer that is wider than 8.5 feet, except park trailers that are inventory of a licensed or limited dealer, is subject to property tax.
3. Even if a manufactured home or park trailer that is more than 8.5 feet wide is displaying current registration plates, the manufactured home or park trailer is subject to property tax. By law, the manufactured home or park trailer should not be registered/licensed and the owner should apply to the motor vehicle registrar for a refund.
4. Travel trailers (and park trailers that are 8.5 feet or less in width) are subject to motor vehicle registration/license fees.
5. Travel trailers (and park trailers that are 8.5 feet or less in width) that are not displaying current license plates or tabs on the assessment date of January 2 are subject to property tax if they are used as human dwelling places.



### Taxable Leaseholds

6. If the owner of the land is the owner of the manufactured home (including park trailers and taxable travel trailers) and the manufactured home is on a permanent foundation and it is connected to utilities, has a well or septic system or is serviced by municipal water and sewer, the land and manufactured home is subject to property tax as real property.
7. If the owner of the land also owns the manufactured home but the manufactured home is not permanently affixed to the land, the land is taxed as real property and the manufactured home is taxed as personal property.
8. A manufactured home on leased property is always taxed as personal property.

### Tips

1. In Minnesota, a vehicle over 8.5 feet in width needs a special permit to be on the roads and highways. If you are looking at a vehicle or structure that is wider than 8.5 feet, it is likely taxable whether it has a current license plate or not. Assessors should begin from the premise that the structure is taxable. The owner would need to provide proof that it is not taxable. Current registration alone **does not** prove that the structure is not taxable.
2. The terms we use for taxation **do not** have universal definitions. For example, a park trailer is defined in our law as a structure that is wider than 8.5 feet. But, there are structures that people refer to as park trailers that are less than or equal to 8.5 feet in width. We would refer to a structure that is 8.5 feet in width or less as a travel trailer. If it is more than 8.5 feet wide, it is taxable. If it is 8.5 feet wide or less, assessors should decide whether it is currently registered and if it is being used as a dwelling unit. If the unit does not have current license plates conspicuously displayed and it is being used as a dwelling unit, it is taxable.
3. Many "campgrounds" usually located on a lake or river, are used seasonally. Campers, trailers, mobile homes, and other recreational vehicles are parked there "permanently" for the season but are moved from the site when the season ends. These vehicles are typically not wider than 8.5 feet; they are probably displaying current license plates; and they are probably not taxable. These vehicles probably meet the definition of travel trailers. Any ancillary structure that is constructed on the campground by the owner of the travel trailer is taxable if the assessor determined that the ancillary structure has a value over \$10,000. In these cases, the travel trailer **may not** be taxable, but the ancillary structure **may be** taxable.
4. We have been asked about park trailers that have a current license plate and have been moved over the road in the past year. Remember general rule #2 – a park trailer (over 8.5 feet wide) is subject to tax. To be moved it requires a special permit, not a license. If it was improperly licensed, the owner may ask for a refund of the license exempt from property tax was repealed in 1995 as part of the same legislation establishing that park trailers are subject to property tax.



## Taxable Leaseholds

## Manufactured Home Park Cooperatives

We are aware of at least two manufactured home park cooperatives in Minnesota and several others are in the process of converting to cooperatives. Lessees of manufactured home park sites have had little control over management of the park and had no control over the owner's decision to sell or close the park. If a park closes or is sold, the lessee probably has the legal right to move the manufactured home, but many parks will not accept manufactured homes over a certain age or in less than very good condition. In addition, it is expensive to move the manufactured home. Lessees may lose significant dollars when decisions are made about their futures, but they have no voice in those decisions.

Manufactured home park cooperatives allow lessees to create an association that buys the park itself, manages the park and guarantees every member of the association a site upon which to locate a manufactured home. Formation of manufactured home park cooperatives can have property tax implications. Manufactured home parks are classified as class 4c(5). However, some or all of a manufactured home park cooperative's estimated market value may qualify for a residential homestead (class 1a) under the provisions of Minnesota Statutes, section [273.124](#), subdivision 3(a), which states that:

*"When a manufactured home park is owned by a corporation or association organized under [chapter 308A](#), 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. The manufactured home park shall be entitled to homestead treatment if all of the following criteria are met:*

*(2) 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*

*(3) the corporation or association organized under [chapter 308A](#) is wholly owned by persons having a right to occupy a lot owned by the corporation or association.*

*A charitable corporation, organized under the laws of Minnesota with no outstanding stock, and granted a ruling by the Internal Revenue Service for 501(c)(3) tax-exempt status, qualifies for homestead treatment with respect to a manufactured home park if its members hold residential participation warrants entitling them to occupy a lot in the manufactured home park.*

*'Homestead treatment' under this subdivision means the class rate provided for class 4c property classified under section [273.13](#), subdivision 25, paragraph (d), clause (5), item (ii), and the homestead market value credit under section [273.1384](#) does not apply.*

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**Taxable Leaseholds**

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A manufactured home park cooperative should be valued the same as any other manufactured home park. However, it should be classified as class 4c(5)(ii). As stated above, the entire park is eligible for homestead treatment if it meets the requirements in section 273.124, subdivision 3a. The class rate for manufactured home park cooperatives differs based on the proportion of lots that are occupied by shareholders. If more than 50% of the lots in the park are occupied by shareholders in the cooperative corporation or association, the manufactured home park receives a lower-class rate). However, the park does not receive residential homestead market value credit.

**Example**

A new manufactured home park cooperative has been formed in County Z and the assessor is working with the representatives of the cooperative association to determine how the park and the manufactured homes will be valued, classified, and taxed. The park is 10 acres in size and there are 50 pads for manufactured homes plus several common buildings such as a laundry, community center and storage and maintenance sheds. Since this is a new park, there are no manufactured homes yet on site, but the cooperative association has laid out the location and size of the 50 pads. Of course, the pads are not all the same size, and not all 50 locations have the same amenities—some are closer to the entrance road, some overlook the pond, some are in a more secluded area, etc.

The assessor has estimated the market value of the ten acres plus common buildings at \$500,000. The association needs the assessor to split this total value into values per pad for the purposes of setting association fees for members and rental fees for nonmembers. Since the pads are not equal, the assessor and the cooperative association representatives agree that the total value cannot be equally distributed. After discussion, both parties agree on a methodology to distribute the total value to each individual pad. It is important to establish the methodology since the total value will change over time and neither party wants to redistribute the value each year on a pad-by-pad basis.

The cooperative association currently has 32 members who have the right to occupy a pad in the park. Eighteen pads will be available for lease, but the goal of the cooperative association is to attract 18 new cooperative members so that eventually all pads will be occupied by members.

Now is the opportunity for the assessor and the association management or leadership to set the ground rules for their future responsibilities. The assessor explains the rules for establishing a homestead as manufactured homes are brought in and situated on the pads. As the association is dealing with the new member or lessee, this is the perfect time to get the homestead applications completed. The association can forward the new applications to the assessor's office. The association can furnish lists of both members and lessees to the assessor on a regular basis so the assessor's records remain current and the billing process works.

## Taxable Leaseholds

So long as more than 25 members move their manufactured homes into the park, the entire park will receive a homestead and qualify for the reduced classification rate provided by class 4c(5)(ii). There will be 51 tax statements. The first statement is the real estate tax statement for the park as a whole (the underlying land plus common buildings) and is sent to the park owner, the cooperative association. The next 50 statements are personal property tax statements for each manufactured home occupying a pad (assuming 100% occupancy) and the statements are sent to the manufactured homeowners.

## Taxable Leaseholds

Several types of leasehold estates are subject to taxation as personal property. There are not many of these since many of the common leaseholds have been given real estate status. All property that is taxable under these provisions must be valued at the market value of the property, and not at the value of the leasehold interest in the property or at a value that is less than its market value.

Primary Statutory Reference: [273.11](#)

Generally, these taxable leasehold estates are found in Minnesota Statutes, sections [272.01](#) and [273.19](#). Minnesota Statutes, section [272.01](#), subdivision 2, states in part that:

*“(a) When any real or personal property which is exempt from ad valorem taxes, and taxes in lieu thereof, is leased, loaned, or otherwise made available and used by a private individual, association, or corporation in connection with a business conducted for profit, there shall be imposed a tax, for the privilege of so using or possessing such real or personal property, in the same amount and to the same extent as though the lessee or user was the owner of such property.”*

This provision will not apply to most categories of tax-exempt property because in most cases, a for-profit use will negate the basis for exemption. Therefore, the most likely situation in which this provision will apply is when the property is “immune” from taxation (i.e. exempt regardless of use), which generally only happens when the property is owned by the federal or state government. Even then, this tax may not apply because of the exemptions provided in either paragraph (b) or subdivision 3.

For example, a religious congregation builds a new church across the street from the old one and abandons religious usage of the old church. The congregation leases the old church to a for-profit restaurant at market rates. The old church is no longer exempt under section [272.02](#) because it is no longer used for church purposes and it is not covered by section [272.01](#), subdivision 2, paragraph (a).

Minnesota Statutes, section [273.19](#), states in part that:

*“Except as provided in subdivision 3 or 4, tax-exempt property held under a lease for a term of **at least one year**, and not taxable under section [272.01](#), subdivision 2, or under a contract for the purchase thereof, shall be considered, for all purposes of taxation, as*

### Taxable Leaseholds

*the property of the person holding it. In this subdivision, "tax-exempt property" means property owned by the United States, the state or any of its political subdivisions, a school, or any religious, scientific, or benevolent society or institution, incorporated or unincorporated, or any corporation whose property is not taxed in the same manner as other property. This subdivision does not apply to property exempt from taxation under section 272.01, subdivision 2, paragraph (b), clauses (2), (3), and (4), or to property exempt from taxation under section 272.0213. [Emphasis added.]"*

This provision also has limited application. It applies only if each of the following criteria is met:

- the property belongs to:
  - the United States government
  - the State of Minnesota or any of its political subdivisions
  - a school
  - a church
  - a charity
  - a corporation that is subject to gross earnings taxation in lieu of property taxes (as railroads used to be)
- the property, in the absence of the lease, would be exempt from property tax;
- the lease **does not** negate an exemption that is based on *ownership and use* by the owner;
- the lease did not trigger an assessment under section 272.01, subdivision 2; and
- none of the exemptions in section 273.19, subdivisions 2, 3 or 4 apply.

For example, a religious congregation builds a new church across the street from the old one and abandons a religious usage of the old church. Rather, the congregation leases the old church to a non-profit medical clinic. The old church is not exempt because it is no longer being used for church purposes, and it is not covered by section 273.19.

However, in another example, the Minnesota Department of Natural Resources leases lakeshore lots at market rates to private individuals for recreational use. Whether leased or not, the state's land is "immune" from taxation. However, section 273.19 provides a means to tax the person who is leasing and using the land.

In February 2008, the Department of Revenue developed a bulletin for county assessors regarding the proper assessment and taxation of federal, state, county and city leases. It is provided on the following pages.

Primary Statutory References: [272.01](#), [273.19](#)

## Taxable Leaseholds

**Elevators and Warehouses on Railroad Property**

All elevators and warehouses situated upon the land of any railroad company which are not in good faith owned, operated, and exclusively controlled by such company, shall be listed and assessed as personal property in the town or district where it is situated. This includes the machinery and fixtures within the elevators and warehouses. The personal property is listed in the name of the owner, if known, and as "owner unknown" if not known.

Primary Statutory References: [273.32](#)

**Government-Owned Leased Property**

Beginning with the 2010 assessment, for federal and state lands leased by the DNR under Minnesota Statutes, section [92.46](#), the land is exempt but the improvements are subject to tax based on the value of the improvements only. For county and city lands, and state-owned tax-forfeited land, the land and improvements must be valued as if the lessee actually owns the property and must be taxed accordingly.

**State leases**

The typical state DNR lease includes two to three acres, has a 10-year period and an annual lease payment. The usual lessees are hunters who use the leased properties on a seasonal basis. The DNR has other leases (boathouse leases on Lake Vermillion, "squatter leases," driveway/easement leases, mineral leases) but the hunting cabin leases have been a primary issue.

The DNR's authority to enter into and manage these leases is in Minnesota Statutes, section [92.46](#). This section provides that certain state lands may be designated as public campgrounds and leased for cottage and camp purposes with an annual lease payment equal to 5 percent of the appraised value of the land only. Minnesota Statutes, section [272.02](#), subdivision 18, exempts section [92.46](#) land from taxation even if the land is leased to a private party. **However, any improvements to the land are taxable and valued by the local assessors.** The tax is considered a personal property tax and the tax statement is sent to the lessee. **Only DNR lands leased under section [92.46](#) are exempt.** Any other state leases are subject to taxation.

**Federal leases**

In 2008, there were approximately 430 parcels of property owned by the United States in the Chippewa and Superior National Forests that were managed by the Bureau of Land Management (BLM) and leased to private individuals for recreational purposes. Ordinarily, these parcels are lakeshore properties. The process for leasing and managing these parcels is governed by federal laws. There are restrictions on how the properties can be improved by the lessees. Generally, the main structure cannot exceed 900 square feet and cannot exceed one story. Decking may not exceed 200 square feet, and the garage or storage area is also restricted. The lease excludes a strip of 25 feet from the high water mark that is retained by the federal government for public access. Lessees are responsible for all improvements including

## Taxable Leaseholds

structures, septic systems, electrical service and road/access maintenance. Leases are generally for a 20-year period and are usually eligible for renewal, but renewal is not guaranteed. If the lessee terminates the lease or if either party does not renew the lease, the lessees must remove all improvements and restore the property to its natural state.

Federal law requires that the lease payments be set by BLM at 5 percent of the appraised value of the land. The BLM must appraise the properties every 10 years and adjust the annual payments according to the appraised value. The lease then adds a Cost of Living Adjustment (COLA) for each of the succeeding nine years.

The **federal leased lands** are exempt from property taxation, but the **improvements** continue to be subject to taxation to the lessee of the federally-owned site.

### Taxation

In 2008, the Minnesota Legislature enacted section [272.0213](#) which was amended in 2017. This statute provides a property tax exemption for land leased from the federal government, the state, a county, a city, or a town for either of these uses:

- noncommercial seasonal-recreational (such as a cabin)
- class 1c commercial seasonal-recreational residential (such as a homesteaded resort)

Structures remain taxable to the lessee of the land.

Lands owed by the federal government and rented for non-commercial seasonal recreational or non-commercial seasonal residential recreational uses are exempt from taxation, including taxes imposed under section [273.19](#). Any improvements remain taxable to the lessee of the site.

Primary Statutory Reference: [272.0213](#)

### Attorney General Opinions – Taxable Leasehold Interests

The Attorney General has issued several opinions on issues involving taxable leasehold interests. They are excerpted below.

Landowner who deeded property to state for park purposes with reservation of a life estate for duration of his occupancy of the premises is not personally liable for real property tax as beneficial owner of exempt property under Minnesota Statutes, section [272.01](#), subdivision 2, since the property is not exempt during the term of the life estate. However, if the tax is not paid, the life tenancy will be forfeited under the tax forfeiture procedure of [chapter 279](#). *Op. Atty. Gen. 232d, Nov. 6, 1968.*

Property acquired by nonprofit corporation curling club and conveyed to the city, and thereafter leased back to the curling club would be taxable as leased property. *Op. Atty. Gen. 4j, Oct. 1, 1962.*

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**Taxable Leaseholds**

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Municipally owned property leased to private enterprise is not exempt from taxation. *Op.Atty.Gen. 414-A-11, June 14, 1954.*

Where Navy department proposed to develop housing project for occupancy by military and civilian personnel on land which would be ceded to United States, and site would be leased to a private corporation for construction and operation of project, leasehold interest of corporation would be subject to taxation. *Op.Atty.Gen. 414-A-2, Jan. 19, 1953.*

Subject of a long-term lease by the State Agricultural Society to a private party would be taxed either under section [272.01](#), subdivision 2 if the business is conducted for profit, or under section [273.19](#) if the business concerned is not one conducted for profit, and upon the termination of the lease and the reversion of the property to the state, the property would no longer be taxable. *Op.Atty.Genl, 4j, Oct. 1, 19*

## State-Assessed Properties

### State-Assessed Property

If you have any questions about State Assessed Properties and the role of the Commissioner of Revenue in assessing these properties, please contact the State Assessed Properties Section: [sa.property@state.mn.us](mailto:sa.property@state.mn.us)

As briefly outlined in [Module 1](#), the Commissioner of Revenue is required by law to assess several types of real and personal property. The properties that are assessed by the commissioner are:

- Airline flight property
- Railroad operating property
- Pipeline and utility operating property

#### Airline Flight Property

The authority to tax aircraft in Minnesota is found in [Article X, section 5, of the Constitution of the State of Minnesota](#). It states that:

*“The legislature may tax aircraft using the air space overlying the state on a more onerous basis than other personal property. Any such tax on aircraft shall be in lieu of all other taxes. The legislature may impose the tax on aircraft of companies paying taxes under any gross earnings system of taxation notwithstanding that earnings from the aircraft are included in the earnings on which gross earnings taxes are computed. The law may exempt from taxation aircraft owned by a nonresident of the state temporarily using the air space overlying the state.”*

Primary Statutory Reference: [270.071 – 270.079](#)

If you have questions on the **taxation of airline properties**, please contact: [sa.property@state.mn.us](mailto:sa.property@state.mn.us)

#### Railroad Property

Railroad Property Tax is based on the market value of a railroad company's operating property in Minnesota. All railroad operating property is valued and assessed in accordance with Minnesota Rules, [Chapter 8106](#).

The Minnesota Department of Revenue estimates and certifies the market value to the counties. The counties use the market value to calculate, bill, and collect property taxes from the railroad companies.

We must notify the counties of the certified railroad values by June 30 of the assessment year. We can make corrections until August 31 of the assessment year. We will make corrections for clerical errors until December 31 of the assessment year.

All railroad operating property values are ordered and include the value of land.



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State-Assessed Properties

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**Definitions**

The following definitions are those commonly used in the taxation of railroad property.

A **“railroad company”** means:

1. Any company which as a common carrier operates a railroad or a line or lines of railway situated within or partly within Minnesota; or
2. Excluding a common carrier railroad, any company owning or operating a railway section that is principally used for transportation of taconite concentrates from the plant at which the taconite concentrates are produced in shipping form to a point of consumption or port for shipment beyond the state; or
3. Any company that produces concentrates from taconite in the course of the concentrating process and before the concentrating processes completed to a concentrating plant located within the state over a railroad that is not a common carrier and shall not use a common carrier or taconite railroad company as defined in #2 above for the movement of the concentrate to a point of consumption or port for shipment beyond the state.

**“Operating property”** means all property owned or used by a railroad company in the performance of railroad transportation services including without limitation franchises, rights-of-way, bridges, trestles, shops, docks, wharves, buildings, and structures.

**“Non-operating property”** includes all property other than operating property. It includes real property which is leased or rented or available for lease or rent to any person which is not a railroad company. Vacant land shall be presumed to be available for lease or rent if it has not been used as operating property for a period of one year preceding the valuation date. Non-operating property also includes land which is not necessary and integral to the performance of railroad transportation services and which is not used on a regular and continual basis in the performance of these services. Non-operating property also includes that portion of a general corporation office building and its proportionate share of land which is not used for railway operation or purpose.

The **“Commissioner”** refers to the Commissioner of Revenue.

**Valuation Process**

We estimate the market value of railroad operating property, following these steps:

1. Estimate the market value of the company
2. Allocate a portion of the value to Minnesota
3. Remove locally-assessed and non-operating property
4. Apportion the remaining value to all parcels in Minnesota with operating property
5. Apply equalization, if necessary

## State-Assessed Properties

**Step 1: Estimate the market value of the company**

The market value is the value of the entire company's property, functioning as a single unit. We consider all approaches to value to determine their validity relating to the specific property being valued.

- **Cost approach:** based on the principal of substitution, a buyer will not pay more for a property than the cost of a satisfactory replacement.

To calculate this, we take the restated cost and subtract depreciation of the railroad system. We then add the restated cost of current construction work and a deduction for obsolescence.

- **Income approach:** converts future anticipated income into present value, based on the assumption that investors will buy and sell property for its future expected income potential. This conversion process is called capitalization.

To calculate this, we:

1. Take the average of the net railway operating income for five years prior to the assessment. This is given to us by the Surface Transportation Board.
2. Apply the capitalization rate, computed using the Band of Investment method. This method considers equity and debt financing aspects and is a combination of the weighted rates for each aspect.

This table shows an example:

- This company used debt for 50% and equity for 50% of its financing.
- The company's cost of debt financing is 10% and the company's cost of equity financing is 12%.
- Adding the weighted rates of those costs gives the company's capitalization rate of 11%.

Band of Investment Method					
	Financing	X	Cost of Financing	=	Weighted Rate
Debt	50%	X	10%	=	5%
Equity	50%	X	12%	=	6%
<b>Capitalization Rate</b>				<b>=</b>	<b>11%</b>

- **Stock and debt approach:** Adds a company's debt to the worth of its stock to establish its property value. We use the stock and debt approach for railroads that are publicly traded. Conceptually, the total value of a company's assets is equal to the total value of its liabilities and stockholder's equity.

## State-Assessed Properties

**Step 2: Allocate a portion of the value to Minnesota**

We allocate a railroad's unit value to Minnesota based equally on the following information:

- Miles of railroad track operated in Minnesota divided by miles of railroad track operated in all the states
- Ton miles of revenue freight transported in Minnesota divided by ton miles of revenue freight transported in all the states
- Gross revenues from transportation operations within Minnesota divided by gross revenues from transportation operations in all the states
- Cost of road property in Minnesota divided by the total cost of road property in all the states

**Step 3: Remove locally assessed and exempt property**

We remove locally assessed property, such as buildings used for general office functions, and exempt property, such as office equipment.

**Step 4: Apportion remaining value to all parcels in Minnesota with operating property**

After we determine the taxable Minnesota portion of the unit value, we distribute it among the various counties and taxing districts where the company operates.

We use land, miles of track, and railroad operating structures to apportion the taxable portion of the unit value to each of these counties and taxing districts.

**Step 5: Apply equalization, if necessary**

We apply equalization, if necessary. If a county's commercial/industrial sales ratio is outside of the 95% - 105% range, we equalize railroad values by multiplying the railroad property value by the county's equalization rate. If a county has less than six commercial/industrial sales between October and September, the countywide sales ratio is used instead of the commercial/industrial sales ratio.

Primary Statutory Reference: [270.80 – 270.87](#)

If you have questions on the **taxation of railroad properties**, please contact [sa.property@state.mn.us](mailto:sa.property@state.mn.us).

**Utility and Pipeline Operating Property**

The Minnesota Department of Revenue estimates the value of operating property of electric light and power, gas and water, express, stage, transportation, and pipeline companies in Minnesota and certifies the values to the counties. (See Minnesota Administrative [Rule 8100](#).) These values are used by the counties along with locally assessed values in calculating property taxes. Some of the values are ordered, while some are recommended. Counties may use a

## State-Assessed Properties

different value for the recommended values, but the counties must follow ordered values. The steps in the valuation process are outlined below.

We must notify the counties of the certified utility and pipeline values by August 1 of the assessment year. We can make corrections until October 1 of the assessment year. We will make corrections for clerical errors until December 31 of the assessment year.

Land is not included in the department's values. Land is always locally assessed.

Property that is located on the same or contiguous parcels of land as operating property is presumed to also be operating property.

### Valuation Process

We estimate the market value of utility and pipeline operating property, following these steps:

1. Estimate the market value of the company
2. Allocate a portion of the value to Minnesota
3. Remove locally-assessed and non-operating property
4. Apportion the remaining value to all parcels in Minnesota with operating property
5. Apply equalization, if necessary

#### Step 1: Estimate the market value of the company

We use one of the two methods to estimate the company's market value:

- Unit value
- Cost less depreciation

#### Unit Value

The unit value is the value of the entire company's operating property, functioning as a single unit. We consider all approaches of value to determine their validity relating to the specific property being valued.

- **Cost approach:** Based on the principle of substitution, a buyer will not pay more for a property than the cost of a satisfactory replacement.  
To calculate this, we take the original cost less depreciation of the system plant, plus the costs of:
  - Improvements to the system plant
  - All types of construction work in progress that are installed by the assessment date
  - Property held for future use
  - Contributions in aid of construction
- **Income approach:** Converts future anticipated income into present value, based on the assumption that investors will buy and sell property for its future expected income potential. This conversion process is called capitalization.

## State-Assessed Properties

To calculate this, we:

1. Take the weighted average of the net operating income for the three years prior to the assessment.
2. Apply the capitalization rate, computed using the Band of Investment method. This method considers equity and debt financing aspects and is a combination of the weighted rates for each aspect.

This table shows an example:

- This company used debt for 50% and equity for 50% of its financing.
- The company's cost of debt financing is 10% and the company's cost of equity financing is 12%.
- Adding the weighted rates of those costs gives the company's capitalization rate of 11%.

Band of Investment Method					
	Financing	X	Cost of Financing	=	Weighted Rate
Debt	50%	X	10%	=	5%
Equity	50%	X	12%	=	6%
Capitalization Rate				=	11%

- **Additional approaches:** We will consider additional approaches to value if there is available information.

### Cost less depreciation

It's the original cost of the company's operating property less a deduction for depreciation of 2.5% each year (not to exceed 75%).

We use the cost less depreciation method for companies that are:

- Cooperative associations, not electing unit valuation
- Do not operate in the traditional profit-making mode
- Not common carriers
- Nonregulated

### Step 2: Allocate a portion of the value to Minnesota

We use an allocation formula, which is specific to the type of utility or pipeline being valued.

- Electric utility:
  1. Original cost of the utility property located in Minnesota divided by the total original cost of the property in all states weighted at 90%.
  2. Gross revenue from Minnesota operations divided by total gross revenue from all states weighted at 10%.

### State-Assessed Properties

- Gas distribution utility:
  1. Original cost of utility property located in Minnesota divided by the total original cost of property in all states weighted at 75%.
  2. Gross revenue from Minnesota operations divided by total gross revenue from all states weighted at 25%.
- Pipeline utility:
  1. Original cost of utility property located in Minnesota divided by the total original cost of property in all states weighted at 75%.
  2. Throughput of product from operations in Minnesota divided by the total throughput of product from operations in all states weighted at 25%.

#### Step 3: Remove locally assessed and exempt property

We remove locally assessed property, such as land, and exempt property, such as office equipment.

#### Step 4: Apportion remaining value to all parcels in Minnesota with operating property

After we determine the taxable Minnesota portion of the unit value, we distribute it among the various counties and taxing districts where the company operates. It's based on percent of the current original cost of each parcel as a part of the total current original cost.

#### Step 5: Apply equalization, if necessary

Equalization is applied when a county's sales ratio is outside of the level accepted by the State Board of Equalization (usually if the ratio is below 90% or above 105% we apply equalization). For utility and pipeline property, we only equalize the property type that is labeled as "Structure, Owned Land" or "Structure, Leased Land". No other property type is equalized.

When applying equalization to utility and pipeline property, we do not simply multiply the county's sales ratio by the value of the property. We equalize to 95%. Meaning, we instead take 100% minus the difference between 95% and the ratio. If the ratio is 87%, we would equalize to 92%. Example:  $(100\% - (.95 - .87)) = .92$ , or 92%.

Primary Statutory Reference: [273.33](#), [273.35](#), [273.36](#), [273.37](#), [273.3711](#) [273.88](#)

If you have questions on the **taxation of utilities or pipelines**, please contact  
[sa.property@state.mn.us](mailto:sa.property@state.mn.us)

## Open Space

## Wind Energy Production Tax

The Wind Energy Production Tax, as outlined in Minnesota Statutes, section [272.029](#), subdivision 1, is a tax that is imposed on the production of electricity from a wind energy conversion system installed after January 1, 1991, and used as an electric power source.

The Minnesota Legislature enacted the wind energy production tax during the 2002 legislative session. The law imposed a production tax beginning with taxes payable in 2004 on the production of electricity from wind energy conversion systems installed after January 1, 1991, in lieu of the property tax. However, the land on which the systems are located is subject to property tax.

The counties bill and collect the Wind Energy Production Tax based on the tax notice they received from the department.

*Related Statutes:* Minnesota Statutes, section [272.029](#) and section [216C.06](#), subdivision 19

### General Information

- Legislature enacted the wind energy production tax during the 2002 legislative session
- Tax imposed on the production of electricity from wind energy conversion systems (WECS) installed after January 1, 1999.
- Wind energy conversion systems (all real and personal property, except the land), is exempt from property tax.
- Wind energy conversion system includes the substation that is used and owned by one or more wind energy conversion facilities. **Land** on which the systems are located is subject to property tax. Land is valued in the same manner as similar land that has not been improved with a wind energy conversion system (if approved by the county where the property is located). The land is classified as the most probable use of the property if it were not improved with the wind energy conversion system.

### Deadlines

- **January 15** of the assessment year, the owner of a WECS must file a report with the department containing the amount of production from the previous calendar year.
  - Owners who do not file on time are taxed at 60% of the nameplate capacity of the system. There is no late-filing allowed by statute.
- **February 28** of the year of the assessment, the department must issue notices of the tax due to owners of the WECS's and the counties where the systems are located.
- **April 1**, deadline for the department to issue corrections to the tax notices.
- **December 31**, deadline to correct clerical errors.

## Open Space

### Definitions

- “Wind Energy Conversion System” – any device, such as a wind charger, windmill, or wind turbine, which converts wind energy into a form of usable energy; including a substation that is used and owned by one or more wind energy conversion facilities.
- Large scale WECS – a WECS which has a nameplate capacity greater than 12 megawatts.
- Medium scale WECS – a WECS which has a nameplate capacity greater than 2 megawatts, but less than 12 megawatts.
- Small scale WECS – a WECS which has a nameplate capacity of two megawatts or less

### Wind Energy Production Report

- The owner of a WECS is to notify the department each year of the production of their system. This report includes:
  - Number of towers in the system;
  - Nameplate capacity of the system;
  - Location of each tower; and
  - Production amount of the system from the previous calendar year

### Tax Rate

Type of WECS	Nameplate Capacity (MW)	Tax per Megawatt Hour
Large Scale	Over 12	\$1.20
Medium Scale	Between 2 and 12	\$0.36
Small Scale	2 and under	\$0.12

In the case of a dispute, the **Department of Commerce** determines the total size of the system.

### Late Filing Consequences

- Owners who do not file on time are taxed at 60% of the nameplate capacity of the system. There is no leniency allowed by statute.
  - Wind energy company has a nameplate capacity of 19.8 MWh.
  - There are 8,760 hours in year.
  - This means that the total production capacity of the company is 19.8 MWh x 8,760 hours in a year = 173,448 MWh for the year.
  - 60% of nameplate capacity is 173,448 x 60% = 104,068.80.
  - Tax Due is 104,068.80 x \$1.20 = \$124,883.



## Open Space

### Exemptions

- The wind energy production tax does not apply to
  - Electricity produced by a WECS located in a job opportunity building zone (JOBZ)
  - Small scale WECS with a capacity of 0.25 megawatts or less
  - Small scale WECS with a capacity of 2 megawatts or less that are owned by a political subdivision

### Distribution of Wind Energy Production Tax Revenues

Revenues from the taxes imposed under this section must be part of the settlement between the county treasurer and the county auditor under section [276.09](#). The revenue must be distributed by the county auditor or the county treasurer to the local governments in the following percentages: 80 percent to counties; and 20 percent to cities and townships. Any penalties, interest, and costs on energy production taxes are distributed in the same manner. The state is not included in the distribution of Wind Energy Production Tax revenues.

### Collection, Interest and Penalties

The wind energy production tax must be paid to the county treasurer at the same time and in the same manner provided for payment of property taxes under section [277.01](#), subdivision 3. If unpaid, the production tax is subject to the same enforcement, collection, and interest and penalties as delinquent personal property taxes.

Primary Statutory Reference: [272.029](#)

## Solar Energy Production Tax

The Solar Energy Production Tax, as outlined in Minnesota Statutes, section [272.0295](#), subdivision 1 is a tax imposed on the production of electricity from a solar energy generating system (SEGS) used as an electric power source.

The counties bill and collect the Solar Energy Production Tax based on the tax notice they received from the department.

### General Information

- Legislature enacted the solar energy production tax during the 2014 legislative session
- Tax imposed on the production of electricity from solar energy generating facilities, beginning in 2015.
- The personal property of solar energy generating systems is exempt from property tax.
- Solar energy generating systems does not include the substation.
- **Real property** under the solar energy generating system is subject to property tax. If the solar energy generating system is subject to production tax under section 272.0295, the real property under the system is classed as 3a. If the solar energy generating system is

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**Open Space**

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not subject to the production tax, the real property is classified without regard to the system; except if there is more than one solar energy generating system on the same property with nameplate capacities that total more than 1 megawatt. In those instances, the real property under the multiple systems on one property is classified as 3a.

**Deadlines**

- **January 15** of the assessment year, the owner of a SEGS must file a report with the department, with the amount of production for the previous calendar year.
  - **Owners who do not file on time are taxed at 30% of the nameplate capacity of the system. There is no late-filing allowed by statute.**
- **February 28** of the year of the assessment, the department must issue notices of the tax due to owners of the SEGS and the counties where the SEGS are located.
- **April 1**, deadline for the department to issue corrections.
- **December 31**, deadline to correct clerical errors.

**Definitions**

**"Solar energy generating system"** means a set of devices whose primary purpose is to produce electricity by means of any combination of collecting, transferring, or converting solar generated energy.

The production tax rates are based on the size of the solar energy generating system. They are as follows:

- systems with a capacity exceeding one megawatt alternating current, pays \$1.20 per megawatt-hour; and
- systems with a capacity of one megawatt alternating current or less are exempt from the production tax.

**Solar Energy Production Report**

- The owner of a SSEGS is to notify the department each year of the production of their system. The report includes:
  - Nameplate capacity of the system;
  - Location; and
  - Production amount of the system during the previous calendar year

**Tax Rate**

The tax rate is \$1.20 per megawatt hour.

**Late Filing Consequences**

- Owners who do not file on time are taxed at 30% of the nameplate capacity of the system. There is no late-filing option in statute.

**Exemptions**

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**Open Space**

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- The solar energy production tax does not apply to Solar energy generating systems with a nameplate capacity of one megawatt or less.

**Distribution of Solar Energy Production Tax Revenues**

Revenues from the taxes imposed under this section must be part of the settlement between the county treasurer and the county auditor under section [276.09](#). The revenue must be distributed by the county auditor or the county treasurer to the local governments in the following percentages: 80 percent to counties; and 20 percent to cities and townships. Any penalties, interest, and costs on energy production taxes are distributed in the same manner. The state is not included in the distribution of Solar Energy Production Tax revenues.

**Collection, Interest and Penalties**

The solar energy production tax must be paid to the county treasurer at the same time and in the same manner provided for payment of property taxes under section [277.01](#), subdivision 3. If unpaid, the production tax is subject to the same enforcement, collection, and interest and penalties as delinquent personal property taxes.

Primary Statutory Reference: [272.0295](#), , [272.02](#), [subdivision 24](#)

If you have questions on the **Wind Energy Production Tax or the Solar Energy Production Tax**, please contact [sa.property@state.mn.us](mailto:sa.property@state.mn.us).

## Special Valuation and Tax Programs

### Special Programs

There are several special valuation and tax programs available for qualifying properties in Minnesota. This section will provide a comprehensive overview of those programs.

#### Value Reduction for Homestead Property Damaged by Mold

In 2005, the Minnesota Legislature enacted a special program for properties damaged by mold. The program is a one-time valuation reduction for the estimated cost to cure the mold damage. This program is not designed to replace a value reduction made by the assessor due to the damage to the property. Rather, it is a supplement to that reduction.

In many cases, it may be more than one year from the time the mold problem is identified, when the determination is made as to who will pay for the damage and when the work is completed. As such, the assessor's estimated market value may reflect the loss in value attributed to the mold damage over several assessment years. In these cases, it is important to remember that the value of the affected structure should be returned to the "pre-mold" value before granting the one-year abatement provided by this program by subtracting the amount of the estimated cost to cure the damage.

The owner of homestead property may file an application with the assessor for a reduction in the market value of a property that has been damaged by mold. The notification must include the estimated cost, provided by a licensed contractor, to cure the mold condition. The **estimated cost to cure must be at least \$20,000** to receive a reduction in market value. Upon completion of the work, the owner must file an application on a form prescribed by the Commissioner of Revenue, accompanied by the copy of the contractor's estimate.

If the conditions listed above are met, the county board must grant a one year reduction in the market value of the homestead dwelling equal to the estimated cost to cure the mold condition.

- If a property owner applies for a reduction between January 1 and June 30, the reduction should be applied to the current year's assessment for taxes payable in the following year.
- If the owner applies for a reduction between July 1 and December 31 of any year, the reduction applies for the following year's assessment.

The value reduction must be approved by the county board of commissioners. A denial by the county board of commissioners may be appealed to Minnesota Tax Court. If the county board fails to take action within 90 days of the receipt of the application, it is considered to be an approval.

For the year following the assessment year in which the reduction is granted, any market value added by the assessor to the property resulting from curing the mold condition must be considered to be new construction.

Primary Statutory Reference: [273.11](#), subdivision 21

## Special Valuation and Tax Programs

**Plat Law**

Minnesota law provides for a phase-in of a property's estimated market value when raw land is platted into a subdivision. The phase-in period depends on whether a property is located in a metropolitan county or a non-metropolitan county.

All land that is platted and not improved with a permanent structure is to be assessed as provided below unless it is eligible for the new plat law provisions enacted by the Minnesota Legislature in 2008 (see the section on [Certain Vacant Land Platted – Metropolitan Counties](#)). Under this provision, the assessor must determine the market value of each individual lot based upon the highest and best use of the property as unplatted land. In establishing the market value of the property, the assessor shall consider the sale price of the unplatted land or comparable sales of unplatted land of similar use and with similar availability of public utilities.

The market value determined in the above paragraph shall be phased in over a certain period of years. The duration of the phase-in period is dependent upon whether the land is platted in a metropolitan or not metropolitan county. For metropolitan counties (Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, or Washington), land is phased in over three years. For non-metropolitan counties, the phase-in period is seven years.

**Vacant Land Platted – Metropolitan County**

For platted parcels in metropolitan counties, one-third of the difference between the property's unplatted market value and the market value based upon the highest and best use of the land as platted property shall be added in each of the three subsequent assessment years.

Any increase in market value after the first assessment year following the plat's final approval shall be added to the property's market value in the next assessment year. If construction begins, or if the property has been sold or transferred, before the expiration of the three-year phase-in period, the lot is eligible for revaluation in the next assessment year.

**Example**

Bowling Green subdivision is a new residential subdivision located in Carver County. The developers are platting the 100-lot subdivision from a 45-acre piece of agricultural property. The value of the agricultural parcel for assessment year one is \$100,000.

It is estimated that the residential lots will sell for approximately \$50,000 each once the subdivision is completed.

The agricultural piece is subdivided into 100 lots in September of assessment year one. When splitting a property, the value and classification cannot change during the year of the split.

### Special Valuation and Tax Programs

Therefore, the agricultural piece of property is subdivided into 100 lots, each with an agricultural classification and each valued at \$1,000 for assessment year one.

For assessment year two, each lot is given an EMV of \$50,000. The value is to be phased-in over a three-year period. The following steps illustrate how to calculate the platted values.

**First, calculate the total amount to be phased in:**

\$50,000	-	\$1,000	=	\$49,000
(full EMV as platted land)		(assessment year one EMV before platting)		(total amount to be phased in)

**Next, calculate the amount to be phased in each year:**

\$49,000	/	3	=	\$16,333 or \$16,300 rounded
(total amount to be phased in)		(length of phase-in period)		(amount to be phased in each year)

**For assessment year two, phase-in one third of the value:**

\$16,300	+	\$1,000	=	\$17,300
(amount to be phased in each year)		(assessment year one EMV before platting)		(one-third of the value is phased in)

**For assessment year three, phase-in an additional one-third of the value (for a total of two-thirds):**

\$17,300	+	\$16,300	=	\$33,600
(assessment year two value)		(amount to be phased in each year)		(two-thirds of the value is phased in)

**For assessment year four, the land goes to full value – \$50,000**

This example assumes that there is no change in the market for residential lots during the phase-in period. It also assumes the lot was not built upon, sold or transferred during the phase-in period.

#### Vacant Land Platted – Non-Metropolitan County

The procedure for phasing in the market value of newly platted property is the same in non-metro counties except that the phase-in period is **seven years**. Therefore one-seventh of the difference between the property's unplatted market value and the market value based upon the highest and best use of the land as platted property shall be added in each of the seven subsequent assessment years, with the property at full value in year eight.

#### Certain Vacant Land Platted – Metropolitan County

### Special Valuation and Tax Programs

In 2008, the Legislature enacted a variation to provisions for platted land in metropolitan counties when certain specific conditions are met. This provision is expected to have very limited application.

Land located in a metropolitan county that was platted after August 1, 2001, and has not been approved with a structure, is to be assessed as provided below as long as:

- the property was classified as homestead in the assessment year prior to the year of the initial plat;
- the property has been owned or partially-owned by the same person for the past 10 consecutive years prior to the initial plat year; and
- the property remains under the same ownership in the current assessment year.

All other provisions of the Plat Law remain the same except that a subdivision that qualifies under this paragraph will receive a **seven-year** phase-in period. An owner of eligible property platted before July 1, 2008, must file an application with the assessor to receive the special phase-in for the remainder of the seven-year period.

### Frequently Asked Questions

#### What happens in a declining market where the estimated market value decreases after the initial platting process?

The Department of Revenue has said in the past that the amount of the phase-in does not change. Rather, the period for phasing in the market value will occur over a shorter time period. Using the previous example of the Bowling Green subdivision located in a non-metro county, the assessor finds after two years that the estimated market value has decreased by 20 percent to \$40,000. In this case, the plat will be at full value after six assessment years rather than seven assessment years.

#### Step 1 – Calculate the total amount to be phased in:

\$50,000 (EMV as platted) - \$1,000 (EMV before platting) = \$49,000 (total amount to be phased in)

#### Step 2 – Calculate the amount to be phased in each year:

\$49,000 (total phase – in) / 7 years (phase in period) = \$7,000 (phase-in amount per year)

#### Step 3 – phase in one-seventh of the value (\$7,000) for each of the next seven assessment years as follows:

<u>Assessment Year</u>	<u>TMV</u>	<u>EMV</u>
Year 1 Assessment =	\$ 1,000 (initial EMV before platting)	\$50,000
Year 2 Assessment =	\$ 8,000	\$50,000
Year 3 Assessment =	\$15,000	\$50,000
Year 4 Assessment =	\$22,000	\$40,000

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**Special Valuation and Tax Programs**

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Year 5 Assessment =	\$29,000	\$40,000
Year 6 Assessment =	\$36,000	\$40,000
Year 7 Assessment =	\$40,000 full value	\$40,000
Year 8 Assessment =	No Plat Law reduction – full EMV	Full EMV



Special Valuation and Tax Programs

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**If a subdivision is re-platted, does it receive a new phase-in period?**

If there is no land added to or deleted from the original plat, no potential exists for a new phase-in period.

**Can a developer rescind their plat to benefit from lower taxes and, if so, can they get a new Plat Law exclusion if the property is platted again later?**

If no lots have been sold or constructed on, the potential may exist to legally dissolve the plat and return the property to its original configuration. However, dissolving the plat may or may not result in tax benefits for the developer. In addition, there may be legal fees, recording fees, etc., associated with dissolving the plat. If the property were to be platted again later, we are not aware of anything in current law that would preclude them from receiving a new phase-in period.

**Land receiving the plat law is sold to a new buyer on a contract for deed. That new buyer defaults on the contract and the land reverts to the original owner. Can that original owner continue to qualify for the plat law benefit?**

No, the property is considered transferred at the time that is sold on a contract for deed. Minnesota Statutes 273.1, subdivision 14b identifies that the transfer of property is one reason to stop the phase-in period for the property's estimated market value. The law makes no exception for default of the buyer and the land reverting to the original owner.

Primary Statutory References: [273.11](#), subdivisions 14a, 14b, & 14c

## Special Valuation and Tax Programs

### Metropolitan Agricultural Preserves

#### Introduction

Established in 1980, the Metropolitan Agricultural Preserves Act ("Ag Preserve") was designed to encourage agricultural-use retention on land specifically located in close proximity to the Minneapolis/St. Paul metropolitan area. The structure of this law is similar to that of Green Acres (Minnesota Statutes, section [273.111](#)) in that the land is valued based solely on the land's agricultural use. However, land enrolled in Ag Preserve is protected from tax increases by limiting the annual tax capacity rate increases to 105 percent of the average statewide levy. The land is also protected from special assessments and eminent domain rights of local governments. Unlike land enrolled in Green Acres, land that is enrolled in Ag Preserve is not required to repay taxes or special assessments that have been deferred. Therefore, it is the land not the landowner that determines the qualification under Ag Preserve.

Although no penalty is imposed upon withdrawal of the land from Ag Preserve, landowners are required to commit the property for a minimum of eight years. Early termination is allowed in situations where the land is acquired by a state agency or governmental unit, or an easement is obtained by a state or other governmental unit, for the purpose of creating or expanding a public trail or park.

#### Public Policy Statement

Minnesota Statutes, section [473H.01](#), contains a public policy statement regarding the Metropolitan Ag Preserve program. It states that *"it is the policy of the state to encourage the use and improvement of its agricultural lands for the production of food and other agricultural products. It is the purpose of sections [473H.02](#) to [473H.17](#) to provide an orderly means by which lands in the metropolitan area designated for long-term agricultural use through the local and regional planning processes will be taxed in an equitable manner reflecting the long-term singular use of the property, protected from unreasonably restrictive local and state regulation of normal farm practices, protected from indiscriminate and disruptive taking of farmlands through eminent domain actions, protected from the imposition of unnecessary special assessments, and given such additional protection and benefits as are needed to maintain viable productive farm operations in the metropolitan area."*

#### Definitions

For the purposes of Metropolitan Agricultural Preserves Act only, the following terms have meanings as stated in Minnesota Statutes, section [473H.02](#).

**Agricultural use** means the production for sale of livestock, dairy animals, dairy products, poultry or poultry products, fur-bearing animals, horticultural or nursery stock, fruit, vegetables, forage, grains, or bees and apiary products. Wetlands, pasture, and woodlands accompanying land in agricultural use shall be deemed to be in agricultural use.

## Special Valuation and Tax Programs

**Authority** means the unit government exercising planning and zoning authority for the land specified in an application as provided under Ag Preserves and pursuant to county planning and zoning, city planning and zoning, or township planning and zoning. If both a county and township have adopted zoning regulations, the authority shall be the unit of government designated to prepare a comprehensive plan under section [473.861](#), subdivision 2.

**Certified long-term agricultural land** means land certified as eligible for Ag Preserve.

**Covenant** means a restrictive covenant initiated by the owner and contained in the application provided for in Ag Preserve whereby the owner places the limitations on specified land and in return receives the protections and benefits contained within the Ag Preserve program.

**Date of application** means the date the application is determined to be complete by the authority.

**Long-term agricultural land** means land located in the metropolitan area designated for agricultural use in local or county comprehensive plans adopted and reviewed pursuant to sections [473.175](#) and [473.851 to 473.871](#), and which has been zoned specifically for agricultural use permitting a maximum residential density of not more than one unit per quarter-quarter (40 acres).

**Metropolitan area** means the seven-county metropolitan area including the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

**Owner** means a resident of the United States owning land specified in the Ag Preserve application and includes an individual, legal guardian or family farm corporation as defined in section [500.24](#), having a joint or common interest in the land. If the land is owned via a contract for deed, the owner means the vendor in agreement with the vendee.

### Eligibility

The eligibility requirements for land enrolled in Ag Preserve are more restrictive than for Green Acres. Ag Preserve status may be granted to land:

1. Located within the seven-county metro area;
2. That is at least 40 acres\* in size; and
3. That is zoned specifically for long-term agricultural use by the local planning board.

Note that non-contiguous parcels may be included to achieve the minimum acreage requirement of 40 acres provided that each parcel is at least 10 acres in size and provided that the separate parcels are farmed together as a unit.

## Special Valuation and Tax Programs

**35-acre exception** – the minimum acreage requirement of 40 acres may be reduced to 35 acres provided the land is a single quarter-quarter parcel and the amount less than 40 acres is due to a public road right-of-way or perturbation in the rectangular survey system resulting in a quarter-quarter of less than 40.

**20-acre exception** – contiguous long-term agricultural land comprising at least 20 acres and surrounded by eligible land on two or more sides shall be eligible for Ag Preserve, provided the authority by resolution determines the land as meeting the qualifications under section [473H.03](#), subdivision 4.

**Exception for land acquired for parks or trails** – the minimum requirement of 40 acres is waived in situations where a state agency or governmental unit purchases a portion of an enrolled parcel, either in fee title or by easement, for trail or park purpose.

Contiguous long-term agricultural land that meets the total acreage requirements but is located in two or more authorities so that the minimum acreage requirement of 40 acres is not met in one or more of the authorities shall be eligible if joint resolution is made by the authorities.

Contiguous long-term agricultural land not meeting the total acreage requirements but under the same ownership as an Ag Preserve parcel adjoining it on at least one side shall be eligible for Ag Preserve.

### Designation of Agricultural Preserve Area

Each authority (city, township, county) in the metropolitan area that has land used for agricultural purposes must certify by resolution and using appropriate maps which lands, if any, are eligible for designation as Ag Preserve. Maps must be in sufficient detail as to identify eligible lands by property boundaries. The authority must publish notice of its intended action in a newspaper having a general circulation within the area of jurisdiction of the authority at least two weeks prior to adoption of the resolution.

Land will cease to be eligible for designation as Ag Preserve when the comprehensive plan and zoning for the land have been amended so that the land is no longer planned and no longer zoned for long-term agricultural use, evidenced by a maximum residential density permitting more than one unit per 40 acres. When changes have been made, the authority shall certify by resolution and appropriate maps which lands are no longer eligible for Ag Preserve. The authority shall again publish a notice of its intended action in a newspaper having general circulation within the area of jurisdiction of the authority at least two weeks before the resolution is to be adopted.

Local authorities must provide the Metropolitan Council with maps showing lands that have been certified or decertified as eligible for Ag Preserve. The Metropolitan Council must maintain the maps of the metropolitan area showing all certified long-term agricultural lands.

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**Special Valuation and Tax Programs**

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**Application and Covenant Agreement**

An owner of certified long-term agricultural land may apply to the authority (city, township, county) with jurisdiction over the land on forms provided by the Minnesota Commissioner of Agriculture for Ag Preserve by June 1 to be effective for the current assessment year (for taxes payable the following year). At a minimum, the application must contain:

- the legal description of the area proposed to be designated as Ag Preserve, the parcel identification numbers, and the certificate of title number if the land is registered;
- the name and address of the owner;
- an affidavit by the authority indicating that the land is certified as long-term agricultural land at the date of the application; and
- a restrictive covenant that states that the land shall be kept in agricultural use and shall be used in accordance with the rules of the program which exist on the date of the application, and provides that the covenant shall be binding on the owner, owner's successor or assignee, and shall run with the land.

Authorities may charge an application fee to defray administrative costs. The application fee cannot exceed \$50.

**Re-enrollment**

If a property was initially granted Agricultural Preserve status but the owner of the property filed an Ag Preserve termination notice on that property, the owner may re-enroll the property in the program. In lieu of the requirements specified earlier, the county may allow a property owner to re-enroll by completing a one-page affidavit or form as prepared by the county. The county may require whatever information is deemed necessary. The approval by the city or township where the property is located must also be required on the form or affidavit. The county may charge a re-application fee to defray any administrative costs. The fee may not exceed \$10. Re-enrolling is only allowed if the same property owner or owners wish to re-enroll the same property under the same conditions as previously approved under the original application.

**Notification**

Within five days of receipt of the completed application, the authority must forward the completed and signed application to the county recorder and copies to the county auditor, county assessor, Metropolitan Council, and the county soil and water conservation district. The county recorder shall record the application containing the restrictive covenant upon the certificate of title. The authority shall be notified by the recorder or registrar of titles that the application has been recorded.

The county auditor shall determine local tax rates, assessments and taxes involving the property enrolled in Ag Preserve in compliance with specifications outlined in this provision. The auditor must also maintain records of taxes assessed and paid on Ag Preserve land in a manner prescribed by the Commissioner of Revenue.

## Special Valuation and Tax Programs

The county assessor must value and assess the land enrolled in Ag Preserve in compliance with specifications outlined in this provision.

The Metropolitan Council must maintain maps illustrating certified long-term agricultural lands; and lands subject to restrictive covenants under the Ag Preserve program. The council shall make yearly reports to the Minnesota Department of Agriculture and other agencies the council deems appropriate.

The county soil and water conservation district may prepare an advisory statement of existing and potential conservation problems for the Ag Preserve land. The statement shall be forwarded to both the owner of the property and the authority.

### Commencement of Preserve

The land shall be deemed an Ag Preserve and subject to all the benefits and restrictions beginning 30 days from the date of the completed application.

### Duration

Ag Preserve designation shall continue until either the owner or the authority initiates expiration.

A landowner may initiate expiration by notifying the authority on a form provided by the Commissioner of Agriculture. The notice must describe the property for which the expiration is desired and shall state the date of expiration, which shall be at least eight years from the date of the notice. The notice and expiration may be rescinded by the owner at any time during the first two years following the notice.

The authority may initiate expiration by notifying the property owner by registered letter on a form provided by the Commissioner of Agriculture, provided that before notification:

- the comprehensive plan and the zoning for the land have been officially amended so that the land is no longer planned and no longer zoned for long-term agriculture, evidenced by a maximum residential density permitting more than one unit per quarter/quarter (40 acres), and the authority has certified such changes in accordance with section [473H.08](#); or
- the land is acquired by a state agency or governmental unity, or an easement is obtained by a state agency or other governmental unit, for the purpose of creating or expanding a public trail or park.

The notice must describe the property for which expiration is desired and shall state the date of expiration.

Upon receipt of a landowner's intention to withdraw or an authority's intention to initiate expiration, the authority shall forward the original notice to the county recorder for recording or to the registrar of titles if the land is registered and shall notify the county auditor, county assessor, Metropolitan Council, and the county soil and water conservation district of the date of expiration. Designation as an Ag Preserve and all benefits and limitations for the preserve

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Special Valuation and Tax Programs

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shall cease on the date of expiration. The restrictive covenant shall terminate on the date of expiration.

**Early Termination**

Termination of an Ag Preserve earlier than a date derived through application may be permitted in the event of a public emergency upon petition from the owner or authority to the governor by executive order which identifies the Ag Preserve, the reasons requiring the action and the date of termination, or upon the death of a property owner, owner's spouse, or other qualifying person. If the surviving owner chooses to terminate, they must notify the unit of government with planning and zoning authority for the land within 365 days of the death. When an agricultural preserve is terminated under this section, the property is subject to additional taxes equal to 50 percent of the current year's taxes.

Termination earlier than a date derived through application may also be requested by the owner eight years after the commencement of the preserve. An owner seeking termination under [473H.09 Subd. 3](#) must provide notice to the authority on a form provided by the commissioner of agriculture describing the property for which termination is desired and the date of termination. Termination the preserve and covenant under this subdivision is effective only if approved by a majority vote of the authority.

For the purposes of early termination from the Metropolitan Agricultural Preserves Act only, the following terms have meanings as stated in Minnesota Statutes, section 473H.09:

- **Qualifying Person** includes a partner, shareholder, trustee for a trust that the decedent was the settlor or a beneficiary of, or member of an entity permitted to own agricultural land and engage in farming under section 500.24 that owned the agricultural preserve; and
- **Surviving Owner** includes the executor of the estate of the decedent, trustee for a trust that the decedent was the settlor or a beneficiary of, or an entity permitted to own farmland under section 500.24 of which the decedent was a partner, shareholder, or member.

**Valuation**

Real property located within an Ag Preserve shall be valued using normal methodology at its market value pursuant to Minnesota Statutes, section [273.11](#). In addition, all land used for agricultural purposes, exclusive of buildings, shall be valued solely with reference to its appropriate agricultural valuation. In determining the value, the assessor shall not consider any added values resulting from non-agricultural factors.



## Special Valuation and Tax Programs

**Computation of Tax**

- A. After the assessor has estimated the market value of all land valued according to the provisions of Ag Preserve, the assessor must compute the net tax capacities of those properties by applying the appropriate classification rates. When computing the rate of tax pursuant to section [275.08](#), the county auditor shall include the net tax capacity of land as provided in this clause.
- B. The county auditor shall compute the tax on Ag Preserve land and non-residential buildings by multiplying the net tax capacity by the total local tax rate for all purposes as provided in paragraph A above.
- C. The county auditor shall compute the tax on Ag Preserve land and non-residential buildings by multiplying the net tax capacity by the total local tax rate for all purposes as provided in paragraph A above, subtracting \$1.50 per acre of land in the preserve.
- D. The county auditor shall then compute the maximum property tax on the Ag Preserve land and non-residential buildings by multiplying the net tax capacity by 105% of the previous year's statewide average local tax rate levied on property located within townships for all purposes.
- E. The tax due and payable by the owner of the land valued as Ag Preserve land and non-residential buildings will be the amount determined in paragraph C or paragraph D, whichever is less. The State of Minnesota will reimburse the taxing jurisdictions for the amount of the difference between the net tax determined under this clause and the gross tax in paragraph B.

Residential buildings will continue to be valued and classified as they would be in the absence of this section, and the tax on those buildings shall not be subject to the limitation contained in this program.

The county may transfer money from the county conservation account created in Minnesota Statutes, section [40A.152](#), to the county revenue fund to reimburse the fund for the tax lost as a result as a result of Ag Preserves or to pay taxing jurisdictions within the county for the tax lost. On or before June 1, the county auditor must certify to the Commissioner of Revenue the total amount of tax lost to the county and taxing jurisdictions located within the county as a result of this section, and the extent to which the tax lost exceeds funds available in the county conservation account. Payment shall be made by the state on December 26 to each of the affected taxing jurisdictions, other than school districts, in the same proportion that the ad valorem tax is distributed if the county conservation account is insufficient to make the reimbursement. Under section [40A.151](#), there is annually appropriated from the Minnesota conservation fund to the Commissioner of Revenue an amount sufficient to make the reimbursement provided under this provision. If the amount available in the Minnesota conservation fund is insufficient, the balance that is needed shall be appropriated from the general fund.



## Special Valuation and Tax Programs

### Limitation on Certain Public Projects

Notwithstanding [Chapter 429](#) (Local Improvements; Special Assessments), construction projects for public sanitary sewer systems and public water systems benefiting land or buildings in Ag Preserves shall be prohibited. New connections between land or buildings in Ag Preserve and sanitary sewers or water systems shall be prohibited. Public sanitary sewer systems, public storm water sewer systems, public water systems, public roads, and other public improvements built on, adjacent to or in the vicinity of land enrolled in Ag Preserve after August 1, 1993, are deemed to be no benefit to the land and buildings in Ag Preserve.

For the purposes of this section, **public storm water sewer systems** means any wholly or partially piped system which is owned, operated and maintained by the authority that is designed to carry storm water runoff, surface water or other drainage primarily for the benefit of land which is not in Ag Preserves.

### Protection for Normal Farm Practices

Local governments and counties shall be prohibited from enacting or enforcing ordinances or regulations within an Ag Preserve which would unreasonably restrict or regulate normal farm structures or farm practices that are contrary to the purposes of this section unless the restriction or regulation bears a direct relationship to an immediate and substantial threat to the public health and safety. This applies to the operation of farm vehicles and machinery in planting, maintenance and harvesting of crops and in the care and feeding of farm animals, the type of farming and the design of farm structures, exclusive of residences.

### Annexation

Ag Preserve land that is located within a township shall not be annexed to a municipality without a specific finding by the chief administrative law judge of the Office of Administrative Hearings that either:

- the expiration period has begun;
- the township, due to size, tax base, population or other relevant factors would not be able to provide normal governmental functions and services; or
- the Ag Preserve would be completely surrounded by lands within a municipality.

This does not apply to annexation agreements that were approved prior to creation of the Ag Preserve.

### Eminent Domain

Any entity possessing the powers of eminent domain under [Chapter 117](#) must follow the procedures contained in section [473H.15](#) before acquiring any land or easement with a gross area over 10 acres in size within Ag Preserve; or advancing a grant, loan, interest subsidy or other funds for the construction of dwellings, commercial or industrial facilities, or water or sewer facilities that could be used to serve non-farm structures within Ag Preserve.

### Special Valuation and Tax Programs

At least 60 days prior to any eminent domain action, a notice of intent must be filed with the Environmental Quality Board (EQB). The notice of intent shall contain a report justifying the proposed action, including an evaluation of alternatives which would not require acquisition within Ag Preserve.

The EQB, in consultation with affected units of government, shall review the proposed action to determine the effect of the action on the preservation and enhancement or agriculture and agricultural resources within an Ag Preserve and the relationship to local and regional comprehensive plans. If the EQB finds that the proposed action might have an unreasonable effect on an Ag Preserve, the EQB shall issue an order within the 60-day period for the party to desist from such action for an additional 60-day period.

During the 60-day period, the EQB shall hold a public hearing concerning the proposed action at a place within the affected preserve or otherwise easily accessible to the preserve upon notice in a newspaper having a general circulation within the area of the Ag Preserve land, and individual written notice to the municipalities whose territory includes land in Ag Preserve, the entity proposing to take the action and any public agency having the power of review or approval of the action in a manner conducive to the wide dissemination of the findings to the public.

The required review process may be conducted jointly with any other environmental impact review conducted by the EQB. The EQB may request the attorney general to bring an action to enjoin any entity from violating the provisions of section [473H.15](#). This section does not apply to an emergency project which immediately necessary for the protection of life and property. The EQB is empowered to suspend any eminent domain action for up to one year which it determines to be contrary to this section and for which it determines there are feasible and prudent alternatives which have less of a negative impact on Ag Preserve property. The Ag Preserve designation and all benefits and limitations accruing for the Ag Preserve land and the restrictive covenant for that portion of the Ag Preserve land taken via eminent domain shall cease on the date the final certificate is filed with the court administrator.

#### Conservation

Land enrolled in Ag Preserve shall be farmed and otherwise managed according to sound soil and water conservation management practices. Management practices which are not sound shall be any use of the land resulting in wind or water erosion in excess of the soil loss tolerance for each soil type as found in the United States Soil Conservation Service, Minnesota Technical Guide.

The authority shall be responsible for enforcement of this conservation provision. Upon receipt of a written complaint stating the conditions or land management practices which are believed to be in violation, the authority shall consult with the county's soil and water conservation district (SWCD). The SWCD shall determine the average soil loss in tons per acre per year for each field cited in the complaint according to the universal soil loss equation and the wind erosion equation, and shall issue a report to the authority showing the average soil loss in tons

### Special Valuation and Tax Programs

per acre per year for each field and a list of alternative practices that the landowner can use to reduce the soil loss to the allowable limit. After consultation and, if in the judgment of the authority, the land is not being managed properly as required in this section, the authority shall adopt a resolution to this effect and shall seek corrective measures from the owner. At the request of the landowner, the SWCD shall assist in the planning, design and application of the practices selected to reduce the soil loss to an acceptable level and the SWCD shall give such landowners a high priority for providing technical and cost share assistance.

An owner who fails to implement the corrective measures to the satisfaction of the authority within one year of notice from the authority may be subject to a civil penalty of up to \$1,000. The authority may recover the penalty via a civil court action. Any costs incurred by the authority in the enforcement of these provisions may be charged to the property owner. Any charges that are not timely paid may be placed on the tax rolls and collected as a special assessment against the real property.

#### Land Use

Land enrolled in Ag Preserve must be maintained for agricultural production. The average maximum density of residential structures within an Ag Preserve shall not exceed one unit per 40 acres. The location of any new structure shall conform to locally applicable zoning regulations. Commercial and industrial uses shall not be permitted unless a separate parcel is created after the user is issued a permit by the authority. The authority is responsible for enforcing this provision.

Commercial and industrial operations are not allowed on land located within an Ag Preserve except:

- small on-farm commercial or industrial operations normally associated with and important to farming in the Ag Preserve area;
- storage use of existing (before August 1, 1987) farm buildings that does not disrupt the integrity of the Ag Preserve;
- small commercial use of existing (before August 1, 1987) farm buildings for trades not disruptive to the integrity of the agricultural preserve such as carpentry shop, small scale mechanics shop, and similar activities that a farm operator might conduct; and
- wireless communications installments (cell towers) when the associated technology has a potential benefit to farming activities.

When a separate parcel is created for an allowable residential structure, commercial or industrial use, the parcel shall cease to be an agricultural preserve unless the eligibility requirements are met. However, the separate parcel shall remain under the maximum residential density restrictions in effect for the original preserve at the time it was placed into Ag Preserve until the Ag Preserve status for the original parcel ends.

#### Transfer from Green Acres Treatment

## Special Valuation and Tax Programs

When land that has been receiving the Green Acres tax deferral becomes an Ag Preserve, the payment of deferred tax and special assessments as provided in section [273.111](#) shall not be made. Special assessments deferred under Green Acres shall continue to be deferred for the duration of the Ag Preserve status. For the purpose of this section “deferred special assessments” includes the total amount of special assessments deferred under Green Acres, including any portion of the deferred special assessments which have not yet been levied at the time the property transfers to the Ag Preserve program. All special assessments so deferred shall be payable within 90 days of the date of expiration unless other terms are mutually agreed upon by the authority and the owner. In the event of early termination of an Ag Preserve or a portion of it, all special assessments accruing to the terminated portion plus interest shall be payable within 90 days of the date of termination unless otherwise deferred or abated by executive order of the governor. In the event of an eminent domain taking, all special assessments accruing to the taken portion plus interest shall be payable within 90 days of the date the final certificate is filed with the court administrator.

Primary Statutory Reference: Chapter [473H](#)

## Non-Metropolitan Agricultural Preserves

### Introduction

Minnesota Laws, Chapter [40A](#) (Agricultural Land Preservation Program), allows non-metropolitan counties to participate in agricultural land preservation. Currently, we are only aware of three counties – Waseca, Winona, and Wright – that participate in this program. As stated in Minnesota Statutes, section [40A.01](#), the goals of the program are to:

- preserve and conserve agricultural land, including forest land, for long-term agricultural use in order to protect the productive natural resources of the state, maintain the farm and farm-related economy of the state, and assure continued production of food and timber and agricultural uses;
- preserve and conserve soil and water resources; and
- encourage the orderly development of rural and urban land uses.

According to the law, these goals will best be met by combining the state policies and guidelines with local implementation and enforcement procedures and private incentives. This provision was enacted in 1984 with pilot counties selected by the Commissioner of Agriculture by January 1, 1985.

### Definitions

For the purposes of Non-Metropolitan Agricultural Preserves only, the following terms have meanings as stated in Minnesota Statutes, section [40A.02](#).

**Agricultural use** means the production of livestock, dairy animals, dairy products, poultry or poultry products, fur-bearing animals, horticultural or nursery stock, fruit, vegetables, forage, grains, timber, trees, or bees and apiary products. It also includes wetlands, pasture, forest land, wildlife land, and other uses that depend on the inherent productivity of the land.

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**Board** means the Board of Water and Soil Resources (BWSR).

**Commissioner** means the Commissioner of Agriculture.

**Crop Equivalent Rating (CER)** means a rating that reflects the net economic return per acre of soil when managed for cultivated crops, permanent pasture, or forest, whichever provides the highest net return.

**Department** means the Minnesota Department of Agriculture.

**Development** means the subdivision and partitioning of land or the construction of residences on land or the conversion to competing land uses.

**District** means a Soil and Water Conservation District (SWCD).

**Agricultural Preserve or Preserve** means a preserve created under this chapter.

**Forest land** means land that is at least 10 percent stocked by trees of any size and capable of producing timber, or of exerting an influence on the climate or on the water regime; land that the trees described above have been removed from to less than 10 percent stocking and that has not been developed for other use; and afforested areas.

**Local government** means a county or municipality.

**Metropolitan area** means the area over which the Metropolitan Council has jurisdiction, including only the counties of Anoka; Carver; Dakota excluding the city of Northfield; Hennepin excluding the cities of Hanover and Rockford; Ramsey; Scott excluding the city of New Prague; and Washington.

**Municipality** means a statutory or home rule charter city or town.

**Official controls or controls** means legislatively defined and enacted policies, standards, precise detailed maps, and other criteria, all of which control the physical development of a municipality or a county or any part thereof or any detail thereof, and are the means of translating into ordinances all or any part of the general objectives of the comprehensive plan. Such official controls may include but are not limited to ordinances establishing zoning, subdivision controls, site plan rules, sanitary codes, building codes, housing codes, and official maps.

**Soil survey** means the comprehensive inventory and classification of soil types being conducted by the Minnesota Cooperative Soil Survey.

### **Statewide Agricultural Land Preservation**

A county located outside the metropolitan area may submit a proposed agricultural land preservation plan and proposed official controls implementing the plan to the Commissioner of Agriculture and to the appropriate regional development commission. If possible, submission of

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the proposal must coincide with the completion of the county soil survey. The commissioner in consultation with the regional development commission shall review the plan and controls for consistency with the provisions of this program and shall submit written comments to the county within 60 days of receipt of the proposal. If the commissioner determines that the plan and controls are consistent, the county may adopt the controls within 90 days of the completion of the commissioner's review. If the commissioner determines that the plan and controls are not consistent, the comments must include the additional elements that must be addressed. The county may amend its plan and controls to include recommendations made by the commissioner and to address those additional elements. The amended plan and controls may be adopted within 120 days of completing of the commissioner's review.

#### Non-Metropolitan City

A city that is located partially within a county in the metropolitan area but is not included in the definition of the metropolitan area may elect to be governed as follows. The city may:

- request that the county where it is partially located include the city in the agricultural land preservation plan and controls of the county under section [394.32](#); or
- perform the duties of a county independently.

If the city does not elect to be governed by this section, the city may perform the duties of an authority under Chapter [473H](#) (Metropolitan Agricultural Preserve).

#### Elements of Plans and Official Controls

The plans and official controls prepared under Minnesota Statutes, chapter [40A](#) must be adopted in accordance with the provisions of chapter [394](#) (Planning, Development, Zoning) or chapter [462](#) (Housing Redevelopment, Planning, Zoning) that apply to comprehensive plans and official controls and must also contain the elements of section [40A.05](#).

A plan must address at least the following elements:

- integration with comprehensive county and municipal plans;
- relationship with shore land, surface water, and other land use management plans;
- identification of land currently in agricultural use, including the type of agricultural use, the relative productive value of the land based the CER and the existing level of investment in buildings and equipment;
- identification of forest land;
- identification of areas in which development is occurring or is likely to occur during the next 20 years;
- identification of existing and proposed public water and sanitary sewer systems;
- classification of land suitable for long-term agricultural use and its current and future development;
- determination of present and future housing needs representing a variety of price and rental levels and an identification of areas adequate to meet the demonstrated or projected needs; and
- a general policy statement as to how the county will achieve the goals of the program.

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Official controls implementing a plan must be consistent with the plan and must address at least the following elements:

- designation of land suitable for long-term agricultural use and the creation of exclusive agricultural use zones, allowing for conditional compatible uses that do not conflict with long-term agricultural use;
- designation of urban expansion zones where limited growth and development may be allowed;
- residential density requirements and minimum lot sizes in exclusive agricultural use zones and urban expansion zones; and
- standards and procedures for county decisions on rezoning, subdivision, and parcel divisions.

### Contested Case Hearings; Judicial Review

If a county or municipality in the county disputes the determination of the Commissioner of Agriculture relating to whether the plan and controls address the elements required under [Chapter 40A](#), the county or municipality may request that the commissioner initiate a contested case proceeding within 30 days after receiving the determination. In addition, 10 or more eligible voters of the county who own real estate within the county may request a contested case proceeding. The commissioner shall initiate the proceeding within 30 days of receiving the request. Judicial review of the contested case decision is as provided in [Chapter 14](#) (Administrative Review).

### Municipal Agricultural Land Preservation

If a county has not submitted a proposed agricultural land preservation plan and proposed official controls to the commissioner and regional development commission (if one exists), a municipality within the county may request by resolution that the county submit them. If the county does not do so within one year of receipt of the municipality's resolution, the municipality may perform the duties of the county with respect to land under its jurisdiction.

Nothing in this chapter limits a municipality's power to plan or adopt official controls under other laws, or to adopt official controls that are consistent with or more restrictive than those enacted by the county. Municipalities shall revise existing plans and official controls to conform to the county-approved agricultural land preservation plan and official controls and shall initiate implementation of the revised plans and controls within one year after receiving the county-approved agricultural land preservation plan and controls.

### Agricultural Preserve Eligibility

An owner or owners of land that has been designated for exclusive long-term agricultural use under a plan submitted to or approved by the commissioner is eligible to apply for the creation of an Agricultural Preserve. Eligibility continues unless the commissioner determines that the plan and official controls do not address the elements contained in this chapter or unless the county fails to implement the plan and official controls as required by this program.



## Special Valuation and Tax Programs

### Application for Creation of Agricultural Preserve

A property owner may apply to the county in which the land is located for the creation of an Agricultural Preserve on forms prescribed by the Commissioner of Agriculture. If a preserve is located in more than one county, the application must be submitted to the county in which the majority of the land is located. The application shall be executed and acknowledged in the same manner as a deed and must contain at least the following information as well as any other information the commissioner deems necessary:

- a legal description of the area to be designated and parcel identification numbers where designated by the county auditor;
- name and address of the property owner; and
- a restrictive covenant that states that the land will be kept in exclusive agricultural use and will be used in accordance with the provisions of this program that exist on the date of application and that the restrictive covenant will be binding on the owner or the owner's successor or assignee and will run with the land.

Upon receipt of an application, the county shall determine if all required information has been submitted and if so, shall deem the application to be complete. As used in this section the **date of application** means the date the application is determined to be complete by the county. The county shall send a copy of the application to the county assessor, the regional development commission if applicable and the SWCD where the land is located. The district shall prepare an advisory statement of existing and potential conservation problems in the zone. The district shall send the statement to the owner of record and to the commissioner. A copy of the application and a legal description of the property must also be sent to the Commissioner of Agriculture.

Within five days of the date of application, the county must forward the application to the county recorder for recording or to the registrar of titles for filing if the land is registered. The recorder must record the application containing the restrictive covenant and return it to the applicant. If the land is registered, the registrar of titles shall place the application containing the restrictive covenant upon the certificate of title.

The land is considered to be in an Ag Preserve and is subject to the benefits and restrictions of this chapter commencing 30 days from the date of application. The county may require an application fee that is not to exceed \$50. The commissioner shall maintain Ag Preserve maps illustrating land that is enrolled in Ag Preserve.

### Duration of Ag Preserve

The Ag Preserve continues in existence until either the owner or the county initiates the expiration proceedings. The date of expiration must be at least eight years from the date of notice.

The owner may initiate expiration of an Ag Preserve by notifying the county on a form prepared by the commissioner and available in each county. The notice must describe the property



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**Special Valuation and Tax Programs**

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involved and must state the date of expiration. The notice may be rescinded by the owner during the first two years following the notice. The county may initiate expiration of the Ag Preserve by notifying the owner by registered mail on a form provided by the commissioner.

Before notification, the agricultural land preservation plan and official controls must have been amended so that the land is no longer designated for long-term agricultural use, and the commissioner must have reviewed and approved the amended plan and official controls for consistency with the guidelines of this chapter. The notice must describe the property involved and must state the date of expiration.

When the county receives notification that an owner wants to initiate expiration of the zone or serves notice to a property owner that the county wants to initiate expiration proceedings, the county shall forward the original notice to the county recorder for recording or to the registrar of titles if the land is registered, and shall notify the regional development commission, the commissioner, and the county SWCD. Designation as an Ag Preserve and the benefits and limitations contained in the program and the restrictive covenant filed with the application cease on the date of expiration.

An Ag Preserve may be terminated earlier than as provided above only in the event of a public emergency upon petition from the owner or county to the governor. The determination of a public emergency must be made by the governor by executive order which identifies the Ag Preserve, the reasons requiring the action and the date of expiration.

**Protection for Normal Agricultural Practices**

Local governments may not enact ordinances or regulations that may restrict or regulate normal agricultural practices within an Ag Preserve unless the restriction or regulation has a direct relationship to public health and safety. This applies to the operation of vehicles and machinery for planting and maintaining and harvesting crops and timber and for caring and feeding farm animals, to the type of farming and to the design of farm structures, except for residences.

**Annexation**

Land located in a township and is included within an Ag Preserve cannot be annexed to a municipality unless the Chief Administrative Law Judge of the Office of Administrative Hearings finds that:

- the owner or the county has initiated termination of the zone;
- because of size, tax base, population or other relevant factors, the township would not be able to provide normal governmental functions and services; or
- the zone would be completely surrounded by lands within a municipality.

This prohibition does not apply to annexation agreements approved prior to creation of the Ag Preserve.

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**Special Valuation and Tax Programs**

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**Eminent Domain**

Any entity with the power of eminent domain except certain public utilities, municipal electric or gas utilities, municipal power agencies, cooperative electric associations, or pipelines operating under the authority of the Natural Gas Act must follow the procedures specified in law before:

- acquiring land or an easement in land with a total area over ten acres located in an Ag Preserve; or
- advancing a grant, loan, interest subsidy, or other funds for the construction of dwellings, commercial or industrial facilities, or water or sewer facilities that could be used to serve structures in areas that are not for agricultural use that require an acquisition of land or an easement in an exclusive agricultural zone.

Notices of intent of such acquisitions must be filed at least 60 days before an action with the Environmental Quality Board (EQB). The notice of intent must contain the information specified by the EQB on a form required by the EQB and must contain a report justifying the proposed action, including an evaluation of alternatives that would not affect land within an Ag Preserve.

The EQB and the affected local governments must review the proposed action to determine its effect on the preservation and enhancement of agriculture and agricultural uses within the zone, and the relationship to local and regional comprehensive plans. If the EQB finds that the proposed action might have an unreasonable effect on a zone, the EQB may issue an order within 60 days of the notice of intent for the party to refrain from the proposed action for up to an additional 60 days.

During the additional 60 days, the EQB must hold a public hearing concerning the proposed action at a place within the affected zone or easily accessible to the zone. Notice of the public hearing must be published in a newspaper with general circulation within the area of the zone. Individual written notice must be given to the local governments with jurisdiction over the entity proposing to take the action, the owner of land in the zone, and any public agency having the power of review or approval of the action.

The review process may be conducted jointly with any other environmental impact review by the EQB. The EQB may suspend an eminent domain action for up to one year if it determines that the action is contrary to the purposes of [Chapter 40A](#) and that there are feasible and prudent alternatives that may have a less negative impact on the zone.

Designation as an Ag Preserve and all benefits and limitations of the program, including the restrictive covenant for the portion of the zone taken, ends on the date the final certificate is filed with the court administrator. The EQB may request the attorney general bring action to preclude an entity from violating this provision. This section does not apply to an emergency project that is immediately necessary for the protection of life and property.

**Limitation on Certain Public Projects**

## Special Valuation and Tax Programs

Generally, construction projects for public sanitary sewer systems, public water systems and public drainage systems are prohibited in exclusive agricultural use zones. New connections between land or buildings in a zone and public projects are prohibited. Land in a zone may not be assessed for public projects built in the vicinity of the zone. This prohibition does not apply to public projects necessary to serve land in primarily agricultural use or if the owner of the land in an Ag Preserve elects to use and benefit from a public project.

### Conservation Practices

An owner of land in an Ag Preserve must manage the land with sound soil conservation practices that prevent excessive soil loss according to the model ordinance adopted by the commissioner. The model ordinance and sections relating to soil loss apply to all land in an exclusive agricultural zone. A sound soil conservation practice prevents excessive soil loss or reduces soil loss to the most practical extent.

### Agricultural Land Preservation and Conservation Awareness Program

An Agricultural Land Preservation and Conservation Awareness Program was created under section [40A.14](#). Its purpose is to promote and increase public awareness of:

- the need for agricultural land preservation and conservation and the consequences of resource degradation;
- the physical, environmental, and social factors that affect agricultural land use; and
- the availability and effectiveness of agricultural land preservation and conservation approaches and technologies.

The Commissioner of Agriculture administers the program to develop a working partnership between the state and local governments.

In addition, the commissioner must survey awareness of agricultural land preservation and conservation problems, technologies, and available technical and financial resources. The survey must include:

- an assessment of related efforts of the United States Department of Agriculture, the Board of Water and Soil Resources, the Minnesota Association of Soil and Water Conservation Districts, and other related public and private organizations;
- an assessment of programs in other states; and
- an assessment of attitudes among a variety of target audiences in Minnesota that are involved in or affected by land use decisions.

### Agricultural Land Preservation and Conservation Assistance Program

[Section 40A.15](#) established an Agricultural Land Preservation and Conservation Assistance Program to provide technical and financial assistance for agricultural land preservation and conservation activities. The program also helps counties and municipalities prepare agricultural land preservation plans and official controls. The Commissioner of Agriculture administers the program under the rules in [Chapter 14](#). The commissioner must actively seek the involvement of local government officials in the rulemaking process.

### Special Valuation and Tax Programs

All counties within the state, municipalities that prepare plans and official controls instead of a county, and districts are eligible for assistance under the program. Counties and districts may apply for assistance on behalf of other municipalities. To be eligible for financial assistance, a county or municipality must agree to levy at least 0.01209 percent of taxable market value for agricultural land preservation and conservation activities, to otherwise spend the equivalent amount of local money on those activities, or to spend \$15,000 of local money, whichever is less. In administering the program, the commissioner shall time the promotion of public awareness and the distribution of technical and financial assistance in order to maximize the use of available resources, facilitate the agricultural land preservation process and promote sound soil conservation practices.

The commissioner shall administer grants for up to 50 percent of the cost of the activity to be funded. Grants may not be used to reimburse the recipient for activities that have already been completed. Grants may be used to employ and train staff, contract with other units of government or private consultants, and pay other expenses related to promoting and implementing agricultural land preservation and conservation activities. The commissioner shall prepare and publish an inventory of sources of financial assistance. To the extent possible, the commissioner shall assist recipients in obtaining matching grants from other sources.

The commissioner shall also provide for technical assistance for eligible recipients. The commissioner shall provide model plans and model official controls for the preservation of land for long-term agricultural use. To the extent possible, the commissioner shall provide technical assistance through existing administrative structures. The commissioner may contract for the delivery of technical assistance by a regional development commission, a district, any state or federal agency, any political subdivision of the state or private consultants. The commissioner shall prepare and publish an inventory of sources of technical assistance, including studies, publications, agencies, and persons available.

#### Minnesota Conservation Fund

The Minnesota Conservation Fund is established as an account in the state treasury. County conservation fees must be deposited in the state treasury and credited one-half to the Minnesota Conservation Fund account and one-half to the general fund. Money in the fund is annually appropriated to the Commissioner of Revenue to reimburse taxing jurisdictions for credits as provided in sections [273.119](#) (Conservation Tax Credits) and [473H.10](#) (Metropolitan Ag Preserves Credit).

#### County Conservation Fee Account

Counties in the seven-county metropolitan area (Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington) that have allowed exclusive agricultural zones to be created under Chapter [40A](#) must impose an additional fee of \$5 per transaction on the mortgage registration tax imposed under section [287.05](#) and an additional \$5 on the deed tax imposed under section [287.21](#). One-half of the fee must be deposited in a special conservation account to be created in the county's general revenue fund and one half must be transferred to the Commissioner of

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Revenue for deposit into the state treasury pursuant to the provisions of the Minnesota Conservation Fund as outlined above.

Money from the county's conservation account must be spent to reimburse the county and taxing jurisdictions within the county for revenue lost under the conservation tax credit under section 273.119 or the valuation of Ag Preserves under section 473H.10. If expenditures from other county funds for the same purposes remain at least equal to the amount spent in the previous county budget year, money remaining in the account after the reimbursements are made may be spent for the following purposes:

- agricultural land preservation and conservation planning and implementation of official controls under either Chapter 40A or Chapter 473H;
- soil conservation activities and enforcement of soil loss ordinances;
- incentives for landowners who create exclusive agricultural use zones; or
- payments to municipalities within the county for the three purposes listed above.

Money in the county's conservation account that is not encumbered within one year of deposit in the account must be transferred to the Commissioner of Revenue for deposit into the state treasury.

#### Interagency Cooperation

The board, districts, agency, and the Minnesota Department of Natural Resources shall cooperate with and assist the Commissioner of Agriculture in developing and implementing the agricultural land preservation and conservation awareness and assistance programs. The commissioner may enter into agreements where staff members from those agencies are loaned to the Department of Agriculture for the purpose of administering the programs.

#### Report

The Commissioner of Agriculture shall report to the Legislature on January 1 of each year on activities under Chapter 40A.

#### Land Use

Land within an Ag Preserve must be maintained for agricultural production. The average maximum density of residential structures within a preserve and the location of a new structure must conform to locally applicable plan or zoning regulations. Commercial or industrial uses are not permitted except for the following uses if issued a permit by the local government, which is responsible for enforcing this section:

- small on-farm commercial or industrial operations normally associated with and important to farming in the Ag Preserve area;
- storage use of existing (in existence on August 1, 1989) farm buildings that does not disrupt the integrity of the Ag Preserve;
- small commercial use of existing (in existence on August 1, 1989) farm buildings for trades not disruptive to the integrity of the Agricultural Preserve such as a carpentry

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**Special Valuation and Tax Programs**

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shop, small scale mechanics shop and similar activities that a farm operator may conduct; and

- wireless communications installments (cell towers) when the associated technology has a potential benefit to farming activities.

If a separate parcel is created for a residential structure, commercial, or industrial use permitted above, the parcel is no longer an Ag Preserve unless the eligibility requirements are met. However, the separate parcel must remain under the maximum residential density restrictions in effect for the original preserve at the time it was placed into the preserve until the Ag Preserve status for the original parcel ends.

**Transfer from Green Acres Treatment**

When land that has been receiving Green Acres treatment as provided in section [273.111](#) becomes an Ag Preserve, the recapture of deferred tax and special assessments may not be made. Special assessments deferred under Green Acres at the date of the commencement of the Ag Preserve, must continue to be deferred for the duration of the preserve. All these deferred special assessments are payable within 90 days of the date of expiration unless other terms are mutually agreed upon by the authority and the owner. In the event of early termination of an Ag Preserve or a portion of a preserve, all special assessments accruing to the terminated portion plus interest are payable within 90 days of the date of the termination unless otherwise deferred or abated by executive order of the governor. In the event of an eminent domain taking, all special assessments accruing to the taken portion plus interest are payable within 90 days of the date the final certificate is filed with the appropriate court administrator.

Primary Statutory Reference: Chapter [40A](#)

## Special Valuation and Tax Programs

## Open Space

### Introduction

Minnesota's Private Outdoor Recreational, Open Space and Park Land Tax, commonly referred to as Open Space, was originally enacted in 1969. It provides a tax deferment for property that is currently used as open space but has a highest and best use that is something other than open space, such as a commercial development or a residential housing development. For example, if a property is currently used as a golf course but would command a higher price if it were sold and converted into a residential subdivision, the golf course would likely qualify for the reduced valuation provided by the Open Space provision if all other eligibility requirements are met. The assessor would continue to value the property at its highest and best use (as a subdivision), but would also value the property at its current use (as a golf course). The difference in value would be deferred until the property is sold or is no longer used as a golf course. At that time, the owner would pay back the difference in taxes on the two values for the current year plus the prior six years.

### Policy Statement

The Open Space provision in Minnesota Statutes, section [273.112](#), contains the following policy statement:

*"The present general system of ad valorem property taxation in the state of Minnesota does not provide an equitable basis for the taxation of certain private outdoor recreational, open space and park land property and has resulted in excessive taxes on some of these lands. Therefore, it is hereby declared that the public policy of this state would be best served by equalizing tax burdens upon private outdoor, recreational, open space and park land within this state through appropriate taxing measures to encourage private development of these lands which would otherwise not occur or have to be provided by governmental authority."*

### Requirements

Real estate is eligible for the reduced valuation provided under this program if it is:

- actively and exclusively devoted to golf, skiing, lawn bowling, croquet, polo, or archery or firearms range recreational use or other recreational uses carried on at the establishment;
- at least five acres or more in size, except in the case of lawn bowling, croquet greens, or archery or firearms ranges; and
- in the case of golf courses, the course must be devoted to golf without discrimination based on sex during the time when the facility is open for public use or by members; except that use for golf may be restricted based on sex no more frequently than one, or part of one, weekend each calendar month for each sex and no more than two, or part of two weekdays each week for each sex.



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In addition, the property must be:

- operated by private individuals or, in the case of a lawn bowling or croquet green, by private individuals or corporations, and open to the public;
- operated by firms or corporations for the benefit of employees or guests; or
- operated by private clubs having a membership of 50 or more, or open to the public, provided that the club does not discriminate in membership requirements or selection based on sex or marital status.

If a golf club membership allows use of golf course facilities by more than one adult per membership, the use must be equally available to all adults entitled to use the golf course under that membership.

- The use may be restricted on the basis of sex under certain conditions (e.g. men's days and women's days).
- Memberships that permit play during restricted times may be allowed only if the restricted times apply to all adults using the membership.
- A golf club may not offer a membership or golfing privileges to a spouse of a member that provides greater or lesser access to the golf course than is provided to that person's spouse under the same or a separate membership in that club.
- The terms of a membership may, however, provide that one spouse may have no right to use the golf course at any time while the other spouse may have either limited or unlimited access to the golf course.
- A golf club may have or create an individual membership category which entitles a member to a reduced rate to play during restricted hours as established by the club. The club must keep a record of written requests by members for such membership.

Those golf clubs with food or beverage facilities or services must also always allow equal access to those facilities and services for both men and women members in all membership categories. This provision must not be misconstrued to require service or access to facilities to those who are under the legal drinking age of 21 years old.

In 1989, the Legislature directed the Department of Revenue to develop guidelines to provide assistance in interpreting and uniformly applying the eligibility requirements of private golf clubs. These guidelines are listed as following:

### Private Golf Club Non-Discrimination Guidelines (July 1989)

1. A private golf club may not use gender as selection criteria for membership. For example, a private golf club may not limit membership to either men or women only. A club also cannot specify that men or women may only have a social membership with no golf course access while the spouse has golfing privileges. The club may not discriminate



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in membership selection on the basis of sex, and each type of membership must be available to both sexes.

2. A private golf club may restrict access to the golf course on the basis of sex if the club does not do so more than the following permitted amounts: two days per week and one weekend per month, per sex. Parts of a day or parts of a weekend will count as a day or weekend for these purposes.

For example, it would be permissible for a club to restrict access to the golf course to men only on Wednesdays, Friday afternoons, and the second weekend of each month. A club could also allow golfing for women only on Tuesday and Thursday mornings and the third Saturday of each month. In this case, the combination of these restricted-access times would be allowed. Even though the total number of hours of “men only” and “women only” access times are not equal, the permitted restrictions of two days a week and one weekend per month per sex are not exceeded, so the unequal treatment is allowed.

3. When a private golf club membership allows more than one adult to use the golf course, the use must be equally available to all adults allowed to use the golf course under the membership, subject to the permitted restrictions for access to the golf course. For example, if a father and his adult daughter are allowed to use the golf course facilities under one family membership, the daughter must be allowed to golf at the same time, and just as frequently, as the father, except for the permitted restrictions. This would be true for any adults allowed to use the golf course under the joint membership. Unlike the case of a spouse, an adult child may request, in writing, a separate membership with golf course privileges which are more limited than other family members have under a separate membership.
4. If a husband and wife have either a joint membership or separate memberships, or a spouse of a member has golfing privileges in the same private golf club, they must each be allowed equal access to the golf course unless one spouse has no right to golf at any time. The restrictions based on sex (two weekdays per week and one weekend per month) would still be permitted. However, beyond this allowed restriction, the access the spouses have to the golf course must be the same unless one spouse does not golf at all at that course.

**Example 1** – A joint membership that allowed a wife unlimited golf course use, but only allowed her husband to golf on Wednesdays would not be allowed. The husband and wife must be able to golf at the same time as the other spouse, except for the permitted restrictions.

**Example 2** – A husband and wife each have individual memberships at a private golf club. The husband may golf any time except Thursdays and the third weekend of each

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month, both of which are restricted to female golfers only. The wife may golf at any time since there are no “men only” days. This situation would be allowed since other than the permitted restrictions, the couple would have equal access to the golf course.

**Example 3** – A husband and wife have a joint membership at a private golf club. The wife is not allowed to golf on Tuesdays, Wednesdays, or Thursdays from 10:00 am to 2:00 pm, since the course is restricted to “men only” at those times. The wife may golf at any other times. The husband may golf anytime because there are no “women only” days. This golf club would not qualify for the preferential valuation and tax treatment of Open Space because the restricted times for men only to play go beyond the permitted restrictions. If the men only restriction was limited to two days per week, the club would meet the requirements.

**Example 4** – A husband has a full membership which allows him to golf anytime. The wife has a separate limited membership that she requested in writing which allows her to golf on Tuesdays and Thursdays only. The wife must be allowed access to the golf course which is equal to her husband’s access or she must not have any access to the golf course under her membership (e.g. social membership). She may have a separate membership, but the golf course access rights under the membership must be equal to her husband’s access rights, subject to the permitted restrictions, or she must not golf at all.

**Example 5** – A husband and wife each have individual memberships which allow each to golf only on Mondays and Tuesdays. Although they are restricted in their golfing privileges, they have equal access, so these restricted memberships would be allowed.

5. A private golf club may offer a membership that allows use of the golf course at restricted times for a reduced fee. A request for this restricted membership must be made in writing. A restricted membership of this type cannot be used by one spouse if the other spouse had unrestricted golfing privileges.

For example, a club could offer a membership that allows golfing only on weekday mornings at a rate equal to one-fourth of the normal membership fees. However, a married couple could only take advantage of this reduced rate membership if both spouses requested the special membership in writing or if one spouse did not golf at the course at all.

Several amendments to this provision since 1986 relative to use of golf courses that seek or have obtained Open Space tax deferment seem to clearly indicate the need to eliminate discrimination against women in access to, and use of, private golf courses in Minnesota. The legislation authorizes assessors to review rules, bylaws, and practices of private golf clubs that restrict golf course use, and authorize assessors to deny the reduced valuation and corresponding tax benefits when such rules, bylaws, or practices do not comply with the statute as interpreted by these guidelines.

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**Application**

Applications for Open Space deferral are prescribed by the Commissioner of Revenue. New application forms were issued to all counties in 2013.

Application must be made to the assessor at least 60 days prior to January 2 of each year (November 3). The assessor may require proof by affidavit or other written documentation that the property meets the eligibility requirements.

**Valuation and Taxation**

As described previously, assessors must provide two values for qualifying properties – the estimated market value considering the highest and best use of the property, and the reduced value based on the property's current use. Taxes are calculated on both amounts and the difference between the tax calculated on the estimated market value and the tax calculated on the taxable market value is deferred until the property is sold or is no longer eligible for Open Space deferral.

When a property ceases to qualify for Open Space deferral, the additional taxes imposed are a lien upon the property assessed to the same extent and duration as other taxes imposed upon property in the state. The taxes are to be annually extended by the county auditor and collected and distributed in the same manner as other property taxes.

This does not apply to real property that ceases to qualify because it is acquired by the State of Minnesota or a political subdivision, agency or instrumentality of the state provided that the property continues to be used for a qualifying purpose for at least five years from the date the property was acquired.

When property no longer qualifies for the deferment because of a failure to comply with prohibitions against discrimination on the basis of sex, payment of additional taxes imposed by this section is not required.

**Continuation upon Transfer**

When property that is valued and assessed under the Open Space provision is transferred, no additional taxes are to be extended against the property if the property continues to qualify and the buyer files an application for the continuation of Open Space with the assessor within 30 days.

Primary Statutory Reference: [273.112](#)

## Special Valuation and Tax Programs

## Green Acres

### Background and History

In 1967 the Minnesota legislature created a new property tax program named the Minnesota Agricultural Property Tax Law, commonly referred to as Green Acres. Legislators were attempting to find a method for valuing agricultural property for its agricultural use only, while protecting its value from other non-agricultural influences.

Minnesota Statutes, section [273.111](#) contains a statement of public policy and a purpose statement in subdivision 2 and 2a respectively. Subdivision 2 reads:

*"The present general system of ad valorem property taxation in the state of Minnesota does not provide an equitable basis for the taxation of certain agricultural real property and has resulted in inadequate taxes on some lands and excessive taxes on others. Therefore, it is hereby declared to be the public policy of this state that the public interest would best be served by equalizing tax burdens upon agricultural property within this state through appropriate taxing measures."*

While [subdivision 2a](#) reads:

*"The legislature finds that it is in the interest of the state to encourage and preserve farms by mitigating the property tax impact of increasing land values due to nonagricultural economic forces."*

By law, assessors must determine the highest and best use of property and then estimate the value of property based on the results of that determination. If the highest and best use of tillable agricultural property is residential or commercial development, recreational purposes, or lakeshore development, the assessor must value the property as if it were to be converted to the highest and best use. In cases where the highest and best use of the property is for something other than agriculture, the assessor places a value on that property that exceeds the agricultural value resulting in higher property taxes.

The Green Acres law requires assessors to look at enrolled agricultural property in two ways. First, the assessor must value the property according to its highest and best use. Then the assessor must determine the agricultural value of the property based upon the combination of Department of Revenue guidance and local factors. If the Applied Green Acres value, as determined by the Department of Revenue in collaboration with the assessor, is below the highest and best use value, the assessor must use the agricultural value for tax purposes. The Department of Revenue is charged with establishing average agricultural land values throughout the state to be used as a baseline for assessors. A discussion of the valuation methodology is contained within this manual.

For general information about this program, see the [Green Acres](#) information page.

## Special Valuation and Tax Programs

This section covers the guidelines for determining Green Acres qualifications (including classifying the land, determining ownership, etc.), valuing the land, calculating the deferred tax amount, and withdrawal from the Green Acres program.

### Step 1- Determining if Qualifications Are Met

#### Qualification #1: Classification and Size Requirements

The first requirement that must be met for property to enroll in the Green Acres program are related to size and classification.

**The property must be at least 10 acres or contain a nursery or greenhouse.** When determining if the property meets the acreage requirements, we examine all contiguous parcels under the same ownership. "Same ownership" means that spouses are considered as the same owners, but any other difference in ownership, including partial ownership, would result in parcels not being considered together. This is the same process for determining if there are enough contiguous acres to be eligible for the agricultural classification; more information can be found under "*Contiguous Acreage*" in the *2a Agricultural* section of Module 3- Classification of the Property Tax Administrator's Manual.

**Nursery** means a place where nursery stock is grown, propagated, collected, or distributed, including, but not limited to, private property or property owned, leased, or managed by any agency of the United States, Minnesota or its political subdivisions, or any other state or its political subdivisions where nursery stock is fumigated, treated, packed, or stored.  
(*Minnesota Statutes, section 18H.02, subdivision 17.*)

**Nursery stock** means a plant intended for planting or propagation, including, but not limited to, trees, shrubs, vines, perennials, biennials, grafts, cuttings, and buds that may be sold for propagation, whether cultivated or wild, and all viable parts of these plants. Nursery stock does **not** include:

- (1) field and forage crops;
- (2) the seeds of grasses, cereal grains, vegetable crops, and flowers;
- (3) vegetable plants, bulbs, or tubers;
- (4) cut flowers, unless stems or other portions are intended for propagation;
- (5) annuals; or
- (6) Christmas trees. (*Minnesota Statutes, section 18H.02, subdivision 20.*)

All land should be classified according to use. Land that is ten acres or more in size and used for agricultural purposes (by statutory definition) is class 2a agricultural land. Land that is not used for agricultural purposes, not improved, etc. is class 2b rural vacant land. Some lands may not be used for agricultural purposes but are "impractical to separate." This requires assessor subjective decision-making and common sense to determine if it should be classified as 2a. The class rates for 2a and 2b lands are the same on an agricultural homestead parcel. Only 2a land

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Special Valuation and Tax Programs

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may qualify for Green Acres, while 2b land can qualify for the Rural Preserve program once a property has qualified for Green Acres. As a result, determining the classification on the property is very important to assessors and taxpayers alike to determine what programs the property can qualify for. Details regarding agricultural classification can be found in Module 3-Classification.

**Appeal Options**

Taxpayers may appeal their classification to local and county boards of appeal and equalization, and/or to Minnesota Tax Court.

**Question: Is Green Acres allowed on property that is split-classed as class 2a agricultural productive land and class 2c managed forest land?**

There is nothing in law that precludes a property from receiving Green Acres on class 2a agricultural productive land if that contiguous land mass under same ownership also has acres classified as class 2c managed forest land.

The presence of class 2c managed forest land acres does not preclude a property from receiving Green Acres on the class 2a agricultural acres. However, class 2c acres cannot receive Green Acres benefits and the primary use of the property **as a whole** must be agricultural and meet all other Green Acres requirements.

Consider a homestead property that was split-classified 2a agricultural, 2b rural vacant land, 2c managed forest land, and 3a commercial. The presence of four separate uses of the property would not preclude the 2a acres from Green Acres eligibility, but they would make it less likely that the property is primarily devoted to agricultural uses, and the assessor should ask for additional information to verify whether the property qualified for Green Acres.

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**Qualification #2: Ownership Requirements**

Minnesota Statutes, section [273.111](#), subdivision 3 outlines the following ownership requirements for Green Acres eligibility:

- (1) is the homestead of the owner, or of a surviving spouse, child, or sibling of the owner or is real estate which is farmed with the real estate which contains the homestead property; or*
  - (2) has been in possession of the applicant, the applicant's spouse, parent, or sibling, or any combination thereof, for a period of at least seven years prior to application for benefits under the provisions of this section, or is real estate which is farmed with the real estate which qualifies under this clause and is within four townships or cities or combination thereof from the qualifying real estate; or*
  - (3) is the homestead of an individual who is part of an entity described in paragraph (b), clause (1), (2), or (3); or*
  - (4) is in the possession of a nursery or greenhouse or an entity owned by a proprietor, partnership, or corporation which also owns the nursery or greenhouse operations on the parcel or parcels, provided that only the acres used to produce nursery stock qualify for treatment under this section.*
- (b) Valuation of real estate under this section is limited to parcels owned by individuals except for:*
- (1) a family farm entity or authorized farm entity regulated under section [500.24](#);*
  - (2) an entity, not regulated under section [500.24](#), in which the majority of the members, partners, or shareholders are related and at least one of the members, partners, or shareholders either resides on the land or actively operates the land; and*
  - (3) corporations that derive 80 percent or more of their gross receipts from the wholesale or retail sale of horticultural or nursery stock.*
- The terms in this paragraph have the meanings given in section [500.24](#), where applicable.*

Under previous law, ownership entities had to be authorized under Minnesota Statutes, section [500.24](#) in order to qualify for Green Acres. Clause (2) of paragraph (b) above allows entities that are not subject to regulation under section [500.24](#) to qualify for Green Acres if the majority of the members, partners, or shareholders are related, and at least one of the members, partners, or shareholders lives on the land or actively operates the land, and the property meets all other qualifications for the program.

In the case of fractional interests in a property that otherwise qualifies for Green Acres, if any one of the owners qualifies, the whole property qualifies but all owners must acknowledge, in



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writing, the rights and responsibilities of Green Acres property owners by signing the application.

**Question:** A property owner has agricultural property in County 1. He also owns property in County 2 which he has owned for three years. The property in County 2 is non-homestead and is more than four cities or townships away from his agricultural property in County 1. The property owner maintains that he farms the property in County 2 in conjunction with his homestead property in County 1. The property owner does not question the classification of his property as non-homestead in County 2, but questions his Green Acres eligibility.

Minnesota Statutes, Section [273.111](#), Subdivision 3, states in part:

*"...if it is primarily devoted to agricultural use, and meets the qualifications in subdivision 6, and either (emphasis added):*

*(1) is the homestead of the owner, or of a surviving spouse, child, or sibling of the owner or is real estate which is farmed with the real estate which contains the homestead property; or*

*(2) has been in possession of the applicant, the applicant's spouse, parent, or sibling, or any combination thereof, for a period of at least seven years (emphasis added) prior to application for benefits under the provisions of this section, or is real estate which is farmed with the real estate which qualifies under this clause and is within four townships or cities or combination thereof from the qualifying real estate..."*

We have always said that if the property does not qualify for homestead, the owners must first fulfill the seven-year ownership requirement prior to applying for Green Acres. Since the property in County 2 is non-homestead (and, cannot receive the homestead classification because it is farther than four townships or cities from the agricultural property in County 1), and the current owner has only owned the property for three years, this property could not qualify for Green Acres.

**Question:** The owners of a 26-acre parcel just purchased a 14-acre adjacent parcel. The title on the 14-acre parcel is in the name of a limited liability company (LLC). Can the contiguous land mass be viewed as one piece of property if the ownership is in different names?

The answer is no. The parcels have different ownership entities. One is in the name of two individual people while the other is in the name of an LLC. It is our opinion that these parcels cannot be linked for homestead or any other purposes, including Green Acres.

**Question:** Owners have applied for Green Acres on parcels that are held in their trust in County 1 because they are being farmed in conjunction with their parcels in County 2. The owners have applied for special Ag homestead on all of the properties located in County 1,



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**and all of the applications have been denied because the parcels are unoccupied and no one connected with the grantors of the trust farms the properties. Four different people are renting and farming the land in County 1. How should Green Acres applications be handled in this situation?**

Applications for Green Acres should be denied for the properties that are held in trust by the owners in County 1. Homestead has been denied based on the fact that the active farmers on the parcels are not the grantor, spouse of the grantor, child or grandchild of the grantor, sibling of the grantor, nor the grantor's spouse.

Based on the fact that none of the parcels qualify for a special Ag homestead, these parcels must be owned for a period of seven years prior to qualifying for Green Acres deferment under Minnesota Statutes, section [273.111](#).

**Question: A property owner has an 80-acre, non-homestead agricultural parcel which he has owned for more than 20 years and which is enrolled in the Green Acres program. The owner recently acquired another 400-acre parcel of agricultural property within four townships of the original parcel. The owner does not live on the parcel. The owner has applied for Green Acres benefits on the second parcel. Does the second parcel qualify for Green Acres even though the owner has not owned the parcel for seven years?**

Assuming the owner meets the requirements, the second parcel does qualify for Green Acres benefits. Minnesota Statutes, section [273.111](#), subdivision 3, includes the requirements for Green Acres and provides in part that real estate of more than ten acres which is class 2a agricultural, is primarily devoted to agricultural use, and "has been in possession of the applicant...for a period of seven years...or is farmed with real estate which qualifies under this clause and is within four townships or cities or combination thereof from the qualifying real estate" will be entitled to valuation and deferment as Green Acres. The second parcel meets these criteria and should be considered for the Green Acres program.

At first glance, one might assume that each and every parcel must have its own seven year waiting period; but the language added to subdivision 3 in 1989 clearly provides a second method for qualifying non-homestead agricultural parcels. Once an owner has the "base" parcel qualified as Green Acres, other parcels that the owner farms within four cities or townships can be added to the program without the waiting period.

**Question: Two brothers have purchased a property. The property is not occupied and not homesteaded. One of the brothers farms this land along with his parents' land which is located within four townships of the brothers' property. The parents own and occupy their farm. Does the property that was recently purchased by the brothers qualify for Green Acres immediately since it is being farmed in conjunction with the property that is owned and occupied by the parents?**

No, the property cannot qualify for Green Acres. Minnesota Statutes section [273.111](#), subdivision 3, paragraph (a), states in part that:

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*“Real estate consisting of ten acres or more or a nursery or greenhouse, and qualifying for classification as class 2a under section 273.13, shall be entitled to valuation and tax deferment under this section if it is primarily devoted to agricultural use, and either:*

*(1) is the homestead of the owner, or of a surviving spouse, child, or sibling of the owner or is real estate which is farmed with the real estate which contains the homestead property; or*

*(2) has been in possession of the applicant, the applicant's spouse, parent, or sibling, or any combination thereof, for a period of at least seven years prior to application for benefits under the provisions of this section, or is real estate which is farmed with the real estate which qualifies under this clause [emphasis added] and is within four townships or cities or combination thereof from the qualifying real estate;...”*

Based on the information, the property in question has not been in possession of the applicant, applicant's spouse, parent, or sibling, or any combination thereof for at least seven years. The property was recently purchased from elsewhere. In addition, while one of the brothers may farm the land owned by the brothers in conjunction with land that is owned by the parents, it is our opinion that this falls short of meeting the requirements to qualify for Green Acres because the applicant, applicant's spouse, applicant's parent, or applicant's sibling has not owned the property for seven years. This provision only allows existing owners of non-homestead property who have already met the seven-year ownership requirement and qualify for Green Acres, to purchase additional acres and have those acres qualify for Green Acres immediately rather than meeting the seven-year ownership requirement, because the owner is farming them in conjunction with the original land that is enrolled in Green Acres.

**Question: A parcel of land is classed as agricultural. Your county has granted Green Acres benefits to the parcel. The property was owned by a woman who ten years ago deeded the property to her daughter and son-in-law, retaining a life estate. The daughter and son-in-law have now divorced and you have a copy of a contract for deed transferring the property to the now former son-in-law and removing the life estate. The former son-in-law is now applying for Green Acres indicating that he has owned the property more than seven years. Does the applicant qualify for Green Acres under this fact situation?**

In our opinion, the former son-in-law does not qualify for Green Acres under the seven year provision. Minnesota Statutes, section <https://www.revisor.mn.gov/statutes/?id=273.111>, subdivision 3, provides that agricultural property may qualify for Green Acres if the property “has been in possession of the applicant, the applicant's spouse, parent, or sibling, or any combination thereof, for a period of at least seven years.” For the last ten years, the former son-in-law had a remainder interest in the property but had no right to sell or otherwise use the property without the consent of his mother-in-law. Under these circumstances, we believe his remainder interest for those years does not qualify as having been in possession. Further, we believe that the divorce breaks the connection to his former mother-in-law so the property does not qualify as having been in possession of the applicant's spouse or parent for the

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requisite years. There is, however, a possibility that the property could qualify as the applicant's homestead as a special agricultural homestead. If the property does, in fact, qualify as a special agricultural homestead, the applicant may qualify for a continuation of the Green Acres benefits.

**Question: Two parcels in your county were owned by a husband and wife. The property was not their homestead but did qualify for Green Acres and was receiving Green Acres benefits. A few years ago, the husband and wife sold the parcels to an entity on contracts for deed. The new purchaser did not qualify for Green Acres benefits. The contracts for deed vendee defaulted on the contracts and the vendors cancelled the contracts, having the title to the parcels revert to the husband and wife. The husband and wife have asked you if they can reinstate the Green Acres benefits on these parcels.**

Minnesota Statutes, section [273.111](#), subdivision 3, provides that agricultural property may qualify for Green Acres benefits if the property is the homestead of the applicant or if the property has been in possession of the applicant for a period of at least seven years prior to the application date. In this case, neither requirement is met. The property is not the homestead of the husband and wife and, because of the transfer to a third person; the property has not been in their possession for the seven years preceding the application date. In our opinion, the break in the chain of title requires a new seven year waiting period.

**Question: A parcel of land is classified as agricultural property. The owner recently sold the property to his nephew. The nephew has an agricultural homestead that is located within four cities/townships from the property. He occupies the primary homestead parcel but does not farm it himself. All of the fields on the properties (both the primary parcel and the recently purchased property) are rented to another farmer. Can the newly-purchased parcel be granted homestead since it is non-contiguous to the primary parcel, and if it can, does it qualify for Green Acres since it is not farmed by the owner?**

The nephew can extend his owner-occupied agricultural homestead from the base parcel that he occupies to the non-contiguous, newly-purchased land, even though he will not farm it himself. Due to the fact that the property will continue to be homesteaded and farmed (though not by the owner) continuation of Green Acres treatment may be granted. So long as the lessee devotes the property to agricultural pursuits, the owner is not required to actively farm land to qualify for tax assessment under Green Acres.

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### Qualification #3: The property must be “primarily devoted to agricultural use.”

The “primarily devoted to” criteria was once applicable for determining agricultural classification. In a Minnesota Tax Court case (Barron v. Hennepin), the court defined the criteria:

*“The ‘primary use’ test... implies an examination of the specific nature of the property and the use or multiple uses to which that property has been put, together with a subjective balancing of those relative uses....” (Barron v. Hennepin; 488 N.W.2d 293, Minn. 1992.)*

This criterion for agricultural classification was removed from statute in 1997. However, it is still applicable for determining Green Acres eligibility. It is no longer found in the classification statute (273.13), rather it is now located in the Green Acres statute (273.111). To be eligible for Green Acres, the assessor needs to clearly inform the property owner that in addition to the minimum requirement of 10 acres of 2a lands, the law also requires the assessor to make a subjective decision: *Is the property primarily devoted to agricultural use?*

### Using “Primarily Devoted to Agricultural Use” to Determine Green Acres Eligibility

After determining the classification of the property, verifying that the homestead or ownership requirements are met, and applying the minimum requirement of 10 acres of class 2a land for Green Acres, if the property has not yet been disqualified, assessors must make a decision if it is “primarily devoted to agricultural use.” This decision should be based on a list of objective factors that are always considered before the decision is finalized.

**A property does not need to meet all criteria to be considered as primarily devoted to agricultural use.** Assessors should examine each criteria separately and decide whether a property could be considered to be primarily devoted to agricultural use. While there is no specific threshold for each criteria that a property must meet, it is important to remember the two purpose statements in the statute that seek to equalize tax burdens upon agricultural property and encourage and preserve farms. Based on this information, assessors should determine if a property is “primarily devoted to agricultural use” based on the following criteria:

1. The number of acres used agriculturally.
  - a. This may be compared to both the total acres on the property and the number of acres that could feasibly be farmed.
2. Visible indication of participation of farming activity.
  - a. This may include both visual indications of raising or cultivating agricultural products, as well as the presence of physical structures for livestock, equipment, storage, etc. used to support agricultural activity.
3. If a property is used to raise animals:

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- a. The number and type of animals raised as agricultural products in comparison to the overall use of the property.
  - b. Length of time animals raised as agricultural products are physically located on the property each year.
4. The income derived from agricultural products, to be evaluated both as a dollar amount and proportionate to the size of the property.
5. If the property is leased:
  - a. The use of the property by the lessee.
  - b. The proportion of acres rented agriculturally compared to the number of acres rented for other uses.
  - c. The income from rented acres, evaluated both as a dollar amount and compared to the income of acres rented for other uses.

For applicants of multiple parcels, contiguous property under the same ownership should be treated as one landmass when evaluating these criteria. For example, if a property owner owns two contiguous 40 acre parcels and applies for Green Acres, both parcels should be looked at together when evaluating the above criteria.

#### Informing Property Owner of Determination

After reviewing the property owner's Green Acres application, inspecting the parcel, and applying the suggested criteria, the assessor must make a determination whether to approve or deny the application. If denied, the assessor must clearly and concisely inform the property owner of the reason for denial.

If the denial is based on the "primarily devoted to" determination, the assessor should provide the property owner with a "Primary Use Determination" form which would identify the use of the property and the criteria used by the assessor to support their decision. For example, the form would include:

- A statement that "For the purposes of determining Green Acres eligibility, the assessor has determined the property's primary use to be [i.e. residential, residential / agricultural split classification, commercial, etc]."
- The form should indicate the number of acres attributed to each use (i.e. X acres of residential use, Y acres of 2a agricultural use, Z acres of commercial use, etc.)
- Along with this statement, the form should provide the evidence and criteria the assessor used in making the determination.
- The form should also list appeal options if the property owner disagrees with the determination.

#### Appealing the "Primary Use" Determination

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If the property owner disagrees with the assessor's classification or split-classification, the owner can appeal to the local and/or county boards and to Minnesota Tax Court for a final determination. If the property owner disagrees with the assessor's "primary use" determination, and resulting Green Acres eligibility decision, the owner may appeal to Minnesota Tax Court.

### Other Discussion

This statutory provision related to "primarily devoted to agricultural use" is based on situational circumstances, as are the guidelines presented above. It allows for flexibility – to some degree, counties can tailor a "primarily devoted to agricultural use" policy that aligns with their markets and land uses.

Similarly, the provision also requires assessor judgment. As a result, counties will need to establish a guide, based on the above uniform set of criteria developed by the department, which can be used by assessors to make consistent decisions and justify their application of this provision to landowners. The criteria and rationalization used should also be consistent with adjoining counties or with counties having similar markets and land uses. This uniformity should be coordinated through the department and Regional Reps.

### Qualification #4: The property owner must submit an application.

Minnesota Statutes [273.111](#), subdivision 8 requires:

*"Application for deferment of taxes and assessment under this section shall be filed by May 1 of the year prior to the year in which the taxes are payable. Any application filed hereunder and granted shall continue in effect for subsequent years until the property no longer qualifies. The application must be filed with the assessor of the taxing district in which the real property is located on the form prescribed by the commissioner of revenue. The assessor may require proof by affidavit or otherwise that the property qualifies under subdivision 3 and may require the applicant to provide a copy of the appropriate schedule or form showing farm income that is attested to by the applicant as having been included in the most recently filed federal income tax return of the applicant."*

In other words, an application for Green Acres must be made to the assessor by May 1 of a given assessment year to be eligible for deferred taxes the following payable year. The application must be signed by all owners of the property and must include any "proof by affidavit or otherwise that the property qualifies" for Green Acres that the assessor deems is necessary (e.g. the agricultural use verification form, Schedules F, etc.).

If the assessor receives an application for a property which the assessor is not sure meets the criteria for agricultural classification and/or primary use, the assessor may request additional information, including the Agricultural Use Verification Form, Schedule F, etc.

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**Question: Do 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?**

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. However, 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. If the land qualifies and if the application was complete and timely, the county assessor should grant the Green Acres benefits. If the land does not qualify, or 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.

A property owner may appeal denial of Green Acres tax deferral to Minnesota Tax Court if the application is denied by the assessor.



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**Step 2 – Determining the valuation and deferred taxes****Definitions:****Revenue Green Acres Values**

The Department of Revenue issues tillable and non-tillable values annually for all 87 counties. These are referred to as the Revenue Green Acres values.

**Applied Green Acres Values**

County assessors use the Department's values as a starting point. They then consider local market conditions and other property-specific factors to determine the Applied Green Acres value for each property enrolled in the program.

For assessors, the most significant barrier to implementing Green Acres in the program's earlier years was determining the "actual" agricultural value of farmland in their counties. By law ([M.S. 273.11](#)), assessors must determine the "highest and best use" of property and then estimate the market value based on that determination. If the highest and best use of agricultural property is for residential, lakeshore, or commercial development, or for recreational purposes, the assessor must value the property as if it were to be converted to the highest and best use and disregard its value as property used agriculturally. Thus, in cases where the highest and best use of the property is for something other than agriculture, the assessor places a value on that property that exceeds its agricultural value, likely resulting in higher property taxes. It is because of these non-agricultural value influences that Green Acres exists.

Green Acres ([M.S. 273.111](#)) requires assessors to look at qualifying agricultural property in two ways. First, the assessor must value the property according to its highest and best use (as is done for all properties). Then the assessor must determine the Applied Green Acres value of the property. If the highest and best use value exceeds the agricultural value, then the assessor uses the agricultural value as the taxable market value. A law change in 2006 required the Department of Revenue to establish a fair and equitable method of determining agricultural values for each separate county.

The Department's methodology focuses on identifying "pure" agricultural sales, or sales in which development pressure or other non-agricultural factors have not influenced the sale price, to determine the Green Acres Revenue value. In order to identify "pure" agricultural sales, the first step identifies areas where development pressure may affect the sale price of agricultural land. The sales in these areas are then removed from the sales sample. The remaining sales are used to determine Green Acres Revenue values for tillable and non-tillable land for each county.



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The Department of Revenue has identified three variables that may indicate non-agricultural influences in an area:

- Change in number of households
  - Change in the previous three years by city/town
  - Data from the Minnesota State Demographic Center and the Metropolitan Council
- Newly created non-agricultural parcels
  - Change in the previous three years by city/town
  - Data from PRISM submissions
- Annexations to cities and towns
  - Annexations in the previous three years
  - Data from Minnesota Geospatial Information Office

These three variables are each assigned thresholds that may indicate development pressure in a city or town. These thresholds are:

- Increase of six or more households in a city or town
- Six or more new non-agricultural parcels in a city or town
- All cities and towns in and surrounding an annexation

All agricultural sales in areas where any two of the three thresholds are met are flagged as sales with potential non-agricultural influence. These sales are referred to Property Tax Compliance Officers (PTCOs) for further review. If the PTCOs confirm that non-agricultural influence may have affected the sale price, the sale is removed from the sales sample used to determine the Green Acres Revenue value. Sales are also removed if the land is on a lake or river, if it includes property types other than agricultural land, and if the sale is an outlier in the sample.

After sales with potential non-agricultural influences have been removed from the sales sample, the remaining sales are used to determine the Green Acres Revenue value for each county. Green Acres Revenue values for tillable and non-tillable land are calculated using a basic regression. Using data from the sales sample on sale price, the number of tillable acres, and the number of non-tillable acres, the regression estimates a price per acre for tillable and non-tillable land for each county.

$$\text{Sale Price} = \beta_1 * \text{Tillable Acres} + \beta_2 * \text{Non-Tillable Acres}$$

This regression is run using the sales sample from the previous 12 months for each county. The Green Acres Revenue value per acre of tillable land in a county is  $\beta_1$ ; the non-tillable value per acre is  $\beta_2$ .

Because the size and representativeness of sales samples can vary by county and year to year, the Green Acres Revenue values calculated using the regression may not be reliable for all counties. To get a larger sample size for some counties, the regression is run using two additional sales samples: the previous 21-months of sales in each county and the previous 12-

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months of sales in each agricultural region. If a county's value using the previous 12 months of sales in that county is questionable, then the results of the other two regressions are considered, prioritizing the regression using previous 21 months in the county over the one using agricultural regions. If the results of the three regressions do not yield a consistent Green Acres Revenue value, then Department of Revenue staff sets Green Acres Revenue values based on surrounding counties, counties with similar agricultural markets, and previous years' Green Acres Revenue values.

This process appears to be effective for valuing tillable and non-tillable lands and - with a little blending of the values between counties - provides a fair, uniform, and equalized method to value tillable agricultural land throughout the state. The result of this method is a projection of what the current agricultural value of land would be in the absence of the current non-agricultural market influences. Assessors must use the values as the basis for setting the Applied Green Acres values for qualifying Green Acres properties in their counties. The non-tillable value is also used for Rural Preserve purposes.

While the Green Acres value for a county is determined by Department of Revenue, the values resulting from the factor may be adjusted by the assessor to account for different land types throughout a county. Additionally, the Green Acres Revenue values are appealable by the assessor if the assessor believes them to not represent the agricultural market in the county.

Minnesota Statutes, section 273.111, subdivision 4 reads:

*“(a) The value of any real estate [qualifying for Green Acres]... shall ... be determined solely with reference to its appropriate agricultural classification and value.... Furthermore, the assessor shall not consider any added values resulting from nonagricultural factors. In order to account for the presence of nonagricultural influences that may affect the value of agricultural land, the commissioner of revenue shall, in consultation with the Department of Applied Economics at the University of Minnesota, develop a fair and uniform method of determining the average value of agricultural land for each county in the state consistent with this subdivision. The values must be determined using appropriate sales data. When appropriate, the commissioner may make reasonable adjustments to the values based on the most recent available county or regional data for agricultural production, commodity prices, production expenses, rent, and investment return. The commissioner shall annually assign the resulting countywide average value to each county, and these values shall be used as the basis for determining the agricultural value for all properties in the county qualifying for tax deferment under this section. The county assessor, in consultation with the Department of Revenue, shall determine the relative value of agricultural land for each assessment district in comparison to the countywide average value, considering and giving recognition to appropriate agricultural market and soil data available.”*

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This means that while the Department of Revenue provides the Green Acres Revenue Value, it should not be applied arbitrarily to all parcels that qualify for Green Acres in the county. Instead, the county assessor must determine the Applied Green Acres Value. This is based on the Green Acres Revenue Value, while also considering local factors such as geographic differences that impact agricultural production. These factors might include cropland productivity, suitability for specialty crops, or other differences that result in changes in the agricultural markets throughout the county.

### Appealing the Green Acres Revenue Values.

At the end of the year, counties are notified of preliminary tillable and non-tillable Green Acres Revenue Values for the next assessment year. This notification includes the directions for appealing these values in addition to the preliminary values for all counties in the state. It is incumbent upon county assessors to review the preliminary values compared to their county's agricultural sales, while giving some consideration to alignment with bordering counties. Generally, if the preliminary tillable or non-till Green Acres Revenue Value is not within 10% of what the assessor is seeing as a county average for agricultural sales, an appeal is warranted.

### The Green Acres Continuum

Recognizing the lack of a one size fits all recommendations when determining the Applied Green Acres Value, it is helpful to identify and define a Green Acres continuum consisting of four categories. This ranges from counties with no properties with non-agricultural influences to counties where all parcels have non-agricultural influences. Most counties will fall in between these extremes in categories 2 and 3. **Counties should determine which category they fall into on an annual basis**, using the most recent PRISM 1 submission to self-identify. If the county has any questions regarding the categories, they should consult with their Property Tax Compliance Officer.

The annual PRISM numbers are considered a barometer of Green Acres and Rural Preserve participation and will be a reference point for the county assessor, in consultation with the Department of Revenue, in determining the relative value of agricultural land for each assessment district in comparison to the Green Acres Revenue Value, considering and giving recognition to appropriate agricultural market and soil data available.

This results in three factors contributing to the final Applied Green Acres Value:

- The tillable or non-tillable Green Acres Revenue Value
- The county's place in the Green Acres continuum
- Recognition of appropriate agricultural market and soil data available within the county

### Special Valuation and Tax Programs

There are four categories of Green Acres (GA) or Rural Preserve (RP) enrollment in counties.

#### 1. No Green Acres/Rural Preserve

- Farming is the dominant use in the land value market. There are no or minimal competing nonagricultural economic forces.
- The countywide average class 2a tillable/non-tillable value is not greater than 110% of the tillable Green Acres Revenue Value (e.g. County Avg. Tillable = \$4,000 Tillable Green Acres Revenue Value = \$3,900). If it is greater than 110% and the county believes that there are not countywide non-agricultural influences, the county should appeal the Green Acres Revenue Value.
- Though the county has no parcels enrolled in Green Acres yet, the assessor must be aware that on a parcel specific level any class 2a parcel having an inflated market value based on a recognized nonagricultural highest and best use could still receive a benefit from Green Acres and Rural Preserve.

#### 2. Isolated or Sporadic Green Acres/Rural Preserve

- Throughout the county land value market, farming is dominant, and there is also a small amount of class 2a agricultural properties (or qualifying Rural Preserve class 2b properties) with increasing land values due to nonagricultural economic forces. This is limited to recognized higher values for influences such as building sites, water influence, and possibly population centers.

For example: A county has a handful of lakes where there is a GA benefit to the landowner; there is a GA benefit to the landowner of 2a land in or near a city where the highest best use is for development.

- The counties in this category do not simply apply the Revenue Green Acres Value for property enrolled in Green Acres. Instead, they apply the value without non-agricultural influences to the property.

For example: If a county has determined that some class 2a acreage within a city has a highest and best use value of \$20k (development), but the localized agricultural value found in surrounding township is \$6k, they would use the \$6k as the Applied Green Acres Value.

- Important considerations for this category:

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- The countywide average class 2a tillable or non-tillable value should not be greater than 110% of the tillable or non-tillable Green Acres Revenue Value.
  - If it is greater than 110% and the county believes that there are not countywide non-agricultural influences, the county should appeal the Revenue Green Acres value. A higher value indicates that there might be a need for significantly more Green Acres deferrals.
- Counties in this category do **not** need to have an average tillable or non-tillable Applied Green Acres Value that is within 10% of the tillable or non-tillable Green Acres Revenue Value, as the Applied Green Acres values are based on surrounding sales within that district.

### 3. Regional Green Acres/Rural Preserve

- In places throughout the county land value market, farming is dominant. Meanwhile, there are also regions where land values have surpassed agricultural values due to nonagricultural economic forces primarily due to higher property value for building sites, water influence, residential development, and proximity to population centers. There are more non-agricultural market forces than a category #2 county and there are larger areas where GA/RP is applied.
- The county's average 2a tillable or non-tillable value may or may not be greater than 110% of the Green Acres Revenue Value.
- If it is greater than 110% of the tillable or non-tillable Green Acres Revenue Value, the county's average tillable or non-tillable Applied Green Acres Value is expected to be within 10% of the Green Acres Revenue Value.
- If it is not greater than 110% of the tillable or non-tillable Green Acres Revenue Value, the countywide average tillable or non-tillable Applied Green Acres Value does **not** need to be within 10% of the Green Acres Revenue value as the Applied Green Acres values are based on surrounding sales within that district.

### 4. Countywide Green Acres/Rural Preserve

- Farming no longer competes in tillable or non-tillable land value markets. Competing nonagricultural economic forces dictate the assessor's market land values.
- The county's average class 2a tillable or non-tillable value is greater than 110% of the Green Acres Revenue Value.

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- The countywide average tillable or non-tillable Applied Green Acres Value is expected to be within 10% of the Revenue Green Acres Value.

### Land use vs. land type

While the land *use* will determine its classification as either 2a agricultural land (tilled, pastured) or 2b rural vacant land (not used for agricultural purposes), it is the land *type* that determines the value applied. Land that is tilled, pastured, or vacant may still be high-quality tillable land and the assessor would apply the corresponding tillable value whether enrolled in Green Acres or Rural Preserve. Additionally, non-tillable land might be pastured or vacant, and the assessor would apply a non-tillable value for purposes of either Green Acres or Rural Preserve. In other words, the land is valued based on its *potential* use, while it is classified according to its current actual use.

### Frequently Asked Questions

**Question: When a property that is granted Green Acres is platted, what value should the three or seven year plat valuation phase-in be based on?**

Plat law deferral should be based on the high value of the Green Acres property. The plat valuation phase-in is supposed to phase-in the difference in value between the pre-plat value and the post-plat value. In other words, plat law phases in the value added to the property as the result of the plat. The Green Acres value does not reflect the value of the property; it is reflective of the value of the property as farmland, which is not the market value.

The Green Acres valuation deferral is designed to allow farmers owning or occupying qualifying land that has increased in value because of some non-agricultural influences to pay tax based upon the agricultural value of the property.

The fact that the property is receiving Green Acres means that a value higher than the value as farmland has been recognized. This is the actual market value of the property. The Green Acres Value is a lesser value that recognizes the use of the property as farmland. It is not reflective of the market value of the land.

The added value resulting from the plat should be added to the property's market value, or the "high" value. The difference between these two values is the amount that should be phased-in pursuant to the plat law. For example:

Value as farmland, Green Acres value:	\$150,000
Market/"high" value of the property as unplatted:	\$500,000
Post-plat value of the property:	\$600,000

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The plat phase-in would be based upon the difference between \$500,000 and \$600,000. The \$100,000 difference would be phased in either seven years for out-state counties or over three years for the seven metro counties.

### **Question: Is there a separate Green Acres Revenue value for “low” non-tilled class 2a lands?**

No. For class 2a lands, there are only the “full” 100% tilled and the non-tilled class 2a values.

While the Green Acres Revenue value is developed using Department of Revenue methodology so as to promote uniformity, some counties have found it necessary to adjust the Applied Green Acres values from east to west or north to south to achieve an equalized assessment with bordering counties. In addition, some counties have adjusted the average value for different grades of land with some higher quality land valued higher than the average value, and lower quality land valued lower.

### **Question: Is the Green Acres value appealable to a Local or County Board of Appeal and Equalization (“BAE”)?**

No. Taxpayers may only appeal the assessor’s Estimated Market Value at the Local or County Board of Appeal and Equalization. A property owner would need to appeal to the Minnesota Tax Court for changes to their Applied Green Acres values.

## **Other Green Acres Considerations**

### **Transfers of Property Enrolled in Green Acres**

Transfers of class 2a property (by sale or any other transfer of ownership) require the new property owner to apply for Green Acres deferral within 30 days of the transfer of ownership. This is outlined in Minnesota Statutes, section [273.111](#), subdivision 11a:

*“(a)When real property qualifying under subdivision 3 is sold or transferred, no additional taxes or deferred special assessments plus interest shall be extended against the property provided the property continues to qualify pursuant to subdivision 3, and provided the new owner files an application for continued deferment within 30 days after the sale or transfer.”*

However, the following types of “transfers” are not considered a change in ownership under the same subdivision:

- (1) death of a property owner when a surviving owner retains ownership of the property thereafter;
- (2) divorce of a married couple when one of the spouses retains ownership of the property thereafter;



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- (3) marriage of a single property owner when that owner retains ownership of the property in whole or in part thereafter;
- (4) organization into or reorganization of a farm entity ownership under section 500.24, if all owners maintain the same beneficial interest both before and after the organizational changes; and
- (5) placement of the property in trust provided that the individual owners of the property are the grantors of the trust and they maintain the same beneficial interest both before and after placement of the property in trust.”

In other words, in any of the above, ownership has not changed for Green Acres purposes.

#### **Question: When does the 30-day reapplication requirement go into effect for sales?**

Minnesota Statute 273.111, subdivision 11a provides for continuation of tax treatment upon sale when a property is sold provided the new property owner files an application for continued deferment of taxes “within 30 days after the sale” and meets all other requirements for Green Acres. In our opinion, this means that a new owner must file an application within 30 days of when the actual transfer of the property occurs, which is typically the date on the deed. Since there is no specific requirement in law that deeds must always be recorded, it is our opinion that the date of recording of the deed is of no relevance in this situation.

#### **Question: How are foreclosure sales to be treated for Green Acres purposes? Would a payback or reapplication be required?**

Foreclosures are to be treated as any other sale or transfer of ownership. The new owner may apply within 30 days to continue Green Acres on the class 2a acres. However, any class 2b acres are to be withdrawn if still enrolled in the program, and deferred taxes on those acres are due with respect to the last three years’ deferral. The deferred taxes are collected at the end of the redemption period.

#### **Withdrawal from the Program & Calculation of Tax Payback**

The following would cause Green Acres deferral to be removed from the property:

- Sale or transfer of the land where the new owner chooses not to reapply for Green Acres within 30 days
- Sale or transfer of the land where the new owner does not meet the qualifications for Green Acres upon reapplication
- Property owner requests withdrawal from the program
- Property owner no longer meets the program requirements (e.g. does not use at least ten acres of the property for agricultural purposes, or the primary use of the property changes)

Please note that portions of properties may be withdrawn without the entire parcel or property being withdrawn from the program assuming all qualifications are still met.



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Once a property is transferred, the new owner has 30 days to reapply for Green Acres. **The county must wait the 30 days before initiating a payback on the property.** It is not appropriate to require the payback at the time of sale or before the 30 days have passed.

For any class 2a property withdrawn from Green Acres, the payback is described in Minnesota Statutes, section [273.111](#), subdivision 9:

*“... 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.”*

This means that the payback is levied onto the **property**, not a person.

### Special Assessments

Special local assessments levied on properties enrolled in Green Acres are deferred if the property continues to be in the program. The deferral of special assessments remains in effect until the entire property is withdrawn from (or no longer qualifies for) Green Acres. If special assessments are being deferred, the governmental unit is to file a certificate containing the property's legal description and the amount deferred with the county recorder of the county in which the property is located. Interest on special assessments continues to accrue while the property is enrolled in Green Acres and the assessment is being deferred.

A property enrolled in Green Acres that is transferred to an Agricultural Preserve may continue to have its special local assessments deferred.

There are two exceptions for special local assessments that are levied under certain authorities. Special local assessments levied by a county or district court at any time under chapter [116A](#) cannot be deferred. Chapter [116A](#) refers to public water and sewer systems. Special local assessments levied by a watershed district under chapter [103D](#) may or may not be deferred depending on when the assessment was levied. Chapter [103D](#) refers to management and administration of watershed districts and is known as the “Watershed Law.” If the special local assessment was levied prior to June 1, 2008, it will still be deferred if the property was enrolled

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in Green Acres as of the 2008 assessment. If the special local assessment was levied after May 31, 2008, it will not be deferred.

Deferral of Special Assessments			
Type of Special Assessment	Date of Special Assessment Levy	Date of Enrollment in Green Acres	Can the Special Assessment be Deferred?
Levied under chapter <a href="#">116A</a> (for most public water and sewer systems )	N/A	N/A	No, not deferrable
Levied under chapter <a href="#">103D</a> ("Watershed Law")	Prior to June 1, 2008	As of 2008 Assessment (May 1, 2008)	Yes
Levied under chapter <a href="#">103D</a> ("Watershed Law")	After May 31, 2008	N/A	No, not deferrable
Levied under other authority	N/A	N/A	Yes

See the [Department of Revenue's Auditor/Treasurer manual](#) for complete information regarding calculation of deferred taxes and special assessments due.

**Question: Is the collection of the deferred taxes a current-year tax?**

Yes. The deferred taxes should be billed on a separate tax statement at the time the payback is calculated.

**Question: A taxpayer in your county receives Green Acres on six parcels of property that are linked together for homestead purposes. The taxpayer has sold several of the parcels to a new owner that will not qualify for Green Acres. What is the appropriate way to calculate the amount of the payback?**

Minnesota Statutes, section [273.111](#), subdivision 9 states in part that:

*"...when real property which is being, or has been valued and assessed under this section no longer qualifies under subdivision 3 [ownership requirements], 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 [the low Green Acres value], and the amount determined under subdivision 5 [the highest and best use estimated market value]".*

Subdivision 5 of this same statute states in part that:

*"The assessor shall, however, make a separate determination of the market value of such real estate. The tax based upon the appropriate local tax rate applicable to such property in the taxing district shall be recorded on the property assessment records."*

This means that, for each parcel of property that is enrolled in Green Acres, two tax amounts are calculated – one based on the lower agricultural or Green Acres value and one calculated on the highest and best use or market value of the property. If the parcel is part of a chain of

## Special Valuation and Tax Programs

parcels that are linked together, two separate tax amounts are still calculated. When several of the parcels in a chain no longer qualify for Green Acres, the difference in the tax amounts should be collected on those parcels for the current year plus the two preceding years.

In the following simplified example of such a tax payback, there are six parcels in the chain. The taxes are calculated using both the Ag/GA values and the estimated market values. All taxes are based on a first-tier amount of \$1,010,000 which is the breakpoint for the 2009 assessment for taxes payable in 2010. Using the Ag/GA values, the entire amount falls within the first-tier limit of \$1,010,000. Therefore, the value is all multiplied by the .50 percent classification rate. On the estimated market value calculation, the first tier of \$1,010,000 is reached on parcel 4. The remainder of the value of parcel 4 as well as the entire amount of the value of parcels 5 and 6 is calculated using a class rate of 1.00 percent.

Since only parcels 1, 4, and 6 will be sold and the new owner will not qualify for Green Acres, the *difference* in taxes for those three parcels only for the current year (pay 2010) and two prior years (pay 2009 and pay 2008) will be collected under the Green Acres payback provision. In the example provided, the difference in taxes is as follows:

Parcel	Difference in Taxes
1	\$ 550.00
4	\$1,045.00
6	<u>\$1,450.00</u>
Total:	<b>\$3,045.00</b>

Please note that the calculations are for net tax capacity only using the classification rates for taxes payable in 2010. There are no limited market values, homestead credits, referendums, or local tax rates in the calculations.

**Question: Is the 30-day application period meant to be from the date of recording or from the date on the Deed?**

Minnesota Statutes, section [273.111](#), subdivision 11a provides for continuation of tax treatment upon sale when a property is sold provided the new property owner files an application for continued deferment of taxes “within 30 days after the sale” and meets all other requirements for Green Acres. In our opinion, this means that a new owner must file an application within 30 days of when the actual transfer of the property occurs, which is typically the date on the deed. Since there is no specific requirement in law that deeds must always be recorded, it is our opinion that the date of recording of the deed is of no relevance.

**Question: When should the Green Acres value be removed if a property that is enrolled in Green Acres sells, and the new owner does not intend to apply for Green Acres?**

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When a property sells to a non-qualifying owner, the assessor should remove the Green Acres value as soon the property is sold to a non-qualifying owner and then the payback is calculated. The values for the same assessment year should be modified at that same time to reflect the loss of the Green Acres deferral. This is only in the case of a transfer to non-qualifying owner, or an owner who did not make application within 30 days of the sale.

**Question: How would one handle a Green Acres withdrawal process when only some of the parcels of a property enrolled in Green Acres are sold and no longer qualify, while the remaining parcels of property continue to qualify for Green Acres?**

The statute governing the Green Acres program is Minnesota Statute [273.111](#). Subdivision 9 states in part that:

*“When real property which is being, or has been valued and assessed under this section no longer qualifies ... 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 [the agricultural/low value], and the amount determined under subdivision 5 [the estimated market value/high value].”*

Subdivision 5 states in part:

*“The assessors shall, however, make a separate determination of the market value of such real estate. The tax based upon the appropriate local tax rate applicable to such property in the taxing district shall be recorded on the property assessment records.”*

This means that for each parcel of property that is enrolled in Green Acres, two tax amounts are calculated – one based on the lower agricultural value and one based on the value of the property based on its highest and best use (estimated market value). If the parcel is part of a chain of parcels that are linked together, two separate tax amounts are still calculated. When several of the parcels in a chain no longer qualify for Green Acres, the difference in the tax amounts should be collected on those parcels for the current year plus the two preceding years.

The tax on the parcels remaining in Green Acres should **not** be recalculated after the parcels that no longer qualify for Green Acres are removed from the chain. Just because parcels are removed from the chain does not mean that you recalculate new tax amounts on the parcels that remain in the chain. No provision exists in the law that would allow the recalculation.

**Question: If a property is sold in an arm's length transaction and the sale price is between the high value and the lower Green Acres value, is the payback calculated on the difference between the sale price and the Green Acres value?**

Repayment of taxes deferred under Green Acres is addressed in Minnesota Statutes, section [273.111](#), subdivision 9:

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Special Valuation and Tax Programs

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*“Except as provided in paragraph (b), 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 [Green Acres agricultural value], and the amount determined under subdivision 5 [assessor’s estimated market value]. 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 [emphasis added].”*

If a property sells for less than the assessor’s estimated market value, and if the sale is indeed determined to be an arm’s-length transaction and is not otherwise rejected from the sales study, then the repayment of taxes deferred would be calculated based on the sales price and not on the assessor’s estimated market value. For example, assume an agricultural property has a \$4,000 per acre Green Acres taxable value, and has been valued at \$10,000 per acre by the assessor reflecting its highest and best use. If the owner sells the property for \$9,000 per acre, and the sale is determined to be an arm’s-length transaction, then the repayment of taxes deferred would be calculated based on the \$9,000 per acre sales price.

## Special Valuation and Tax Programs

## Rural Preserve Property Tax Program

### Background

The Rural Preserve program was enacted to provide similar tax benefits as the Green Acres program to property owners who own qualifying class 2b rural vacant land. Reports on the Green Acres program prior to 2008 law changes found that statewide, 38% of enrolled acres were not tilled land\*. Due to the inconsistencies in the implementation of the Green Acres program and the resultant tax shift caused by extending Green Acres to non-agricultural lands, significant legislative changes were made to Green Acres in 2008 and 2009. One of the legislative changes was the creation of the Rural Preserve program.

For general information about this program, see the [Rural Preserve](#) information page.

### Program Eligibility

#### Who is eligible for the Rural Preserve Property Tax Program?

Minnesota Statutes, section [273.114](#), subdivision 2 provides:

*"Class 2b property that had been properly enrolled under section [273.111](#) for taxes payable in 2008, or that is part of an agricultural homestead under section [273.13](#), subdivision 23, paragraph (a), at least a portion of which is enrolled under section [273.111](#), is entitled to valuation and tax deferment under this section if:*

- (1) the property is contiguous to class 2a property enrolled under section [273.111](#) under the same ownership;*
- (2) there are no delinquent property taxes on the land; and*
- (3) the property is not also enrolled for valuation and deferment under section [273.111](#) or [273.112](#), or chapter [290C](#) or [473H](#)."*

We will focus more on the land requirements in the next section. However, the property owner requirements fall into two groups:

1. Property owners who had been properly enrolled in Green Acres for taxes payable in 2008 (i.e. under 2006 statutory requirements, whether the property is currently homesteaded or not); or
2. Owners of agricultural homestead property, at least part of which is enrolled in Green Acres.

If a property owner meets the qualifications for this program because of previous enrollment in Green Acres for taxes payable in 2008, for any sale/transfer/etc. that results in new ownership, the new owner would need to meet the agricultural homestead and contiguous Green Acres property enrollment requirements to qualify for continued valuation/deferral. The property would **not** have been assessed under Green Acres for taxes payable in 2008 for that owner, so

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\* ("Green Acres" and Agricultural Land Preservation Programs, Office of the Legislative Auditor, State of Minnesota, 2008)

### Special Valuation and Tax Programs

that provision would not apply. For 2b acres currently in Green Acres, this is a “one time landing area” for those acres. Going forward, all new applicants and all new owners of enrolled land would need to meet the agricultural homestead and contiguous Green Acres property enrollment requirements.

For farm property owners who are not currently enrolled in Green Acres but have an agricultural homestead, the owners would need to apply for both programs. It is possible that there is no deferral provided under Green Acres for some property owners if the highest and best use value does not exceed the Green Acres indicated value. However, the property must meet the requirements for, and be enrolled in, Green Acres (e.g. the property is primarily devoted to agricultural use) - **whether or not there is a valuation benefit to Green Acres enrollment** - to be eligible for Rural Preserve enrollment.

#### What are the land requirements?

Class 2b property that had been enrolled in Green Acres for taxes payable in 2008 and that is contiguous to class 2a property enrolled in Green Acres **or** class 2b property that is a contiguous part of an agricultural homestead, at least a part of which is currently enrolled in Green Acres, may qualify. For property qualifying due to prior enrollment in Green Acres, this means property that had been properly enrolled in Green Acres for the 2007 assessment year, taxes payable in 2008.

There is no minimum eligible acreage size for enrollment in Rural Preserve. The property as a whole must be primarily devoted to agricultural use and must meet the Green Acres requirements. Any class 2b acreage that is contiguous to the class 2a land under the same ownership that is enrolled in Green Acres qualifies for Rural Preserve enrollment, regardless of size. In most cases, a farm property enrolled in Green Acres will not have small (i.e., less than ten acres in size) tracts of class 2b land due to those tracts being considered impractical to separate from the contiguous class 2a lands. However, in cases where those acres are classified as 2b, they are eligible for enrollment in Rural Preserve so that the entire contiguous land mass is eligible for valuation deferral (either Green Acres or Rural Preserve).

Qualifying class 2b acres do not need to be directly contiguous to each other, so long as they are on the same contiguous land mass under same ownership. For example, if a property owner has 13 qualifying acres on the eastern edge of the qualifying class 2a farm property, and another 4 acres on the western edge, all 17 acres are eligible for enrollment in the program due to contiguity to the class 2a property.

#### What are the limitations?

Acres may not be enrolled in this program while concurrently enrolled in:

- Green Acres
- Open Space
- Sustainable Forest Incentive Act
- Metropolitan Agricultural Preserves



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**Special Valuation and Tax Programs**

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Because eligible acres are only class 2b land, the property would be ineligible for concurrent classification as class 2c (Managed Forest Land). If a property owner enrolled in class 2c with a qualifying Forest Management plan, she/he may be eligible for Rural Preserve if the land is reclassified as 2b and is either:

- part of an agricultural homestead currently enrolled in Green Acres or
- had been properly enrolled in Green Acres by that same owner for taxes payable in 2008 and prior to enrollment in the Managed Forest Land class.

As stated above, there must be no delinquent taxes on the land at the time of application.

**When can property owners apply?**

For new applications, the due date is May 1. The application does not need to be filed annually after initial acceptance, but assessors may request additional information to verify that a property owner continues to meet program requirements.

**Program Benefits****What are the benefits of the program?**

Similar to Green Acres, a tax amount is deferred for the duration of enrollment in the program. The assessor is to determine two values for the land:

- One without regard to non-agricultural influences which must not exceed the 2a tillable value for that county as determined by the Commissioner of Revenue, and
- Another value based on the highest and best use of the property which takes into account any non-agricultural influences such as development pressure or demand for seasonal or recreational use.

The taxes will be based on the Rural Preserve value (the value without regard to non-agricultural influences) and the difference between the taxes based on the Rural Preserve value and the taxes based on a highest and best use value are deferred for the duration of the program.

Special assessments may also be deferred as long as property is enrolled in the program. When a property no longer qualifies, all deferred special assessments plus interest (in equal installments over the time remaining until the last maturity date of the bonds issued) along with three years' deferred taxes (current year's deferred amount and two prior years) must be paid.

As with Green Acres, the deferred taxes are a lien on the property, and when due are assessed to the same extent and for the same duration as other taxes imposed on the property in this state. The tax shall be annually extended by the county auditor and when payable shall be collected and distributed in the manner provided by law for the collection and distribution of other property taxes.

**How is the Rural Preserve value determined?**



### Special Valuation and Tax Programs

Minnesota Statutes, section [273.114](#), subdivision 3 provides:

*“Notwithstanding sections [272.03](#), subdivision 8, and [273.11](#) [both sections refer to market value], the value of any real estate that qualifies under subdivision 2 must, upon timely application by the owner in the manner provided in subdivision 5, not exceed the value prescribed by the commissioner of revenue for class 2a tillable property in that county. The house and garage, if any, and the immediately surrounding one acre of land and a minor, ancillary nonresidential structure, if any, shall be valued according to their appropriate value. In determining the value for ad valorem tax purposes, the assessor shall not consider the presence of commercial, industrial, residential, or seasonal recreational land use influences that may affect the value of real estate subject to this section.”*

For individual properties, the Applied Rural Preserve values should appropriately reflect local markets lacking the presence of commercial, industrial, residential, or seasonal recreational land use influences. In these cases, the appropriate Rural Preserve value would be based on surrounding sales within that district. For example, a parcel with lake frontage on wooded acres adjacent to farmed 2a land under the same ownership would have a higher market value due to the value added by the frontage. The Rural Preserve value would be as woods, similar to neighboring properties without lakefront.

At the county level, for purposes of valuation for the Rural Preserve program, the Department of Revenue recommends comparing the non-tillable Revenue value to the average per acre value for 2b. If the average market value for 2b is greater by 10% or more the county should be aware that properties enrolled in Rural Preserve will likely see a benefit countywide.

When there is a countywide benefit, the Department of Revenue strongly recommends using the following:

- For class 2b tillable land (land that may be tilled for row crops, but is not tilled or pastured), the county should use the tillable Revenue value.
- For class 2b non-tillable land (land that is not tillable and is not used for agricultural purposes), the county should use the non-tillable Revenue value.
- For unusable wasteland (land that is not usable for agricultural purposes including tilling or pasturing), counties should use 50% of the non-tillable Revenue value. Topography may be a determining factor in whether land is deemed unusable.

The land is to be valued based on its potential use. This method maintains the symbiotic relationship between the Green Acres and Rural Preserve programs and makes the programs more transparent and understandable to property owners. Keeping the values related also allows properties to continue to be valued based on land type, rather than uses. The use of the property will drive its classification and special program eligibility.

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For example, if the county has estimated the value of woods at \$2,500 per acre because of recreational or other non-agricultural value influences, and the value for Rural Preserve (based on the Green Acres valuation memo) is \$2,200, the deferral is based on the \$300 difference.

If a county has estimated the value of a wasteland swamp at \$1,800 per acre because of recreational or other non-agricultural market value influences, and the value of non-tillable lands is \$2,200 based on the value assigned to the county, then the recommended Rural Preserve value for the **unusable** swamp wasteland is \$1,100 per acre (50% of \$2,200), and the deferral is based on the \$700 difference in value.

If the estimated market value (EMV) of the land the property owner wishes to enroll in Rural Preserve is less than the recommended value for the Rural Preserve Program, the property may still be enrolled, but there are no deferred taxes. The Rural Preserve deferral is only applicable in cases where the EMV exceeds the indicated Rural Preserve value for any given property. For example, if a county has valued a swamp at \$900 per acre due to lack of non-agricultural market influences, and the recommended value for non-tillable value is \$2,200 and 50% of that value is \$1,100, there is no deferral because the swamp EMV is lower than the Rural Preserve wasteland value.

### Wasteland

Most often, wasteland carries so little value and is uninfluenced by non-agricultural pressures since it cannot be developed for residential or commercial purposes. There are few cases where wasteland would require a separate, lower value than its estimated market value. However, there may be some areas of the state where recreational uses are affecting the market value of these unusable wastelands that are part of a farm. In those cases where a separate value is necessary, perhaps due to recreational influences, 50% of the lower, non-tillable value seems appropriate.

### Application Process

#### What is the application process?

The process for applying for the Rural Preserve Property Tax program is very similar to that of applying for Green Acres tax deferral.

Property owners seeking to enroll lands into the Rural Preserve program should first contact their assessor's office for an explanation of the program. The department maintains a [property tax information page](#) to help in this part of the process. Assessors should work with property owners to determine program eligibility (Green Acres application has been made and is on file and/or agricultural homestead requirements are met, no delinquent taxes, etc.).

The property owner must complete the Rural Preserve program application along with Green Acres or agricultural homestead applications if needed prior to being eligible for enrollment. Applications must also include the most recent available aerial photograph or satellite image of the property provided by the Farm Service Agency of the United States Department of Agriculture or the county may use an aerial photograph or satellite image from its own GIS

## Special Valuation and Tax Programs

system. The property owner may request the image from the FSA, or if the county has more recent imagery available or if the farmer is unable to get an image from the FSA, the county's image may be used. The image should clearly delineate the acres which the property owner would like to enroll in Rural Preserve. Any acreage that the owner would not like to include for any reason (such as the intent to develop the land), should be marked as well.

Applications for deferral under Rural Preserve are due by May 1 of the year prior to the year in which taxes are payable. A completed and signed application must be returned to the assessor. The assessor should contact the property owner of the approval or denial.

As with similar special programs, if the assessor denies the application, the property owner may appeal to Minnesota Tax Court. Local and county boards of appeal and equalization are not able to grant special programs to property owners.

### Program Compliance

#### What do we need to know about compliance issues?

As previously stated, the requirements for Rural Preserve valuation and deferral are listed in Minnesota Statutes, section [273.114](#), subdivision 2:

*"Class 2b property that had been properly enrolled under section [273.111](#) for taxes payable in 2008, or that is part of an agricultural homestead under section [273.13](#), subdivision 23, paragraph (a), at least a portion of which is enrolled under section [273.111](#), is entitled to valuation and tax deferment under this section if:*

- (1) the property is contiguous to class 2a property enrolled under section [273.111](#) under the same ownership;*
- (2) there are no delinquent property taxes on the land; and*
- (3) the property is not also enrolled for valuation and deferment under section [273.111](#) or [273.112](#), or chapter [290C](#) or [473H](#)."*

Deferred taxes and special assessments are due as soon as the property no longer qualifies under the requirements of subdivision 2 shown above. If a property is enrolled under the agricultural homestead and Green Acres requirements and then becomes non-homestead or no longer qualifies for Green Acres, that property no longer qualifies for continued deferral under the Rural Preserve program. If the contiguous class 2a property is no longer farmed, or if the classification of the land enrolled in Rural Preserve changes to anything other than class 2b rural vacant land property, the property no longer qualifies and the taxes deferred under Rural Preserve for the current year and the previous two years are due along with any deferred special assessments.

#### **If property enrolled in Rural Preserve is sold or transferred, what are the consequences (if any)?**

The new owner would need to meet the requirements of [273.114](#), subdivision 2 to qualify for continued valuation and deferral under this program. As with Green Acres, we recommend that the new owner be granted 30 days to apply for the program. For all new owners, etc.,

## Special Valuation and Tax Programs

“The assessor may require proof by affidavit or otherwise that the property qualifies under subdivision 2” (M.S. [273.114](#), subd. 5). If a new owner is able to make application and meets the requirements of subdivision 2, the benefits may continue for the same assessment year.

If the new owner does not qualify, there is no valuation/deferral benefit, and deferred taxes and special assessments must be paid.

### Additional Taxes

The statutes governing deferred taxes and special assessments read as follows under M.S. [273.114](#):

*“Subd. 6. **Additional taxes.***

*(a) When real property which is being, or has been valued and assessed under this section is sold, transferred, or no longer qualifies under subdivision 2, the portion sold, transferred, or no longer qualifying shall be subject to additional taxes in the amount equal to the difference between the taxes determined in accordance with subdivision 3 and the amount determined under subdivision 4, provided that the amount determined under subdivision 4 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 4. The additional taxes shall be extended against the property on the tax list for taxes payable in the current year, provided that no interest or penalties shall be levied on the additional taxes if timely paid and provided that the additional taxes shall only be levied with respect to the current year plus two prior years that the property has been valued and assessed under this section.*

*(b) In the case of a sale or transfer, the additional taxes under paragraph (a) shall not be extended against the property if the new owner submits a successful application under this section by the later of May 1 of the current year or 30 days after the sale or transfer.*

*(c) For the purposes of this section, the following events do not constitute a sale or transfer for property that qualified under subdivision 2 prior to the event:*

*(1) death of a property owner when the surviving owners retain ownership of the property;*

*(2) divorce of a married couple when one of the spouses retains ownership of the property;*

*(3) marriage of a single property owner when that owner retains ownership of the property in whole or in part;*

*(4) the organization or reorganization of a farm ownership entity that is not prohibited from owning agricultural land in this state under section [500.24](#), if all owners maintain the same beneficial interest both before and after the organization or reorganization; and*

*(5) transfer of the property to a trust or trustee, provided that the individual owners of the property are the grantors of the trust and they maintain the same beneficial interest both before and after placement of the property in trust.”*

This provision allows transfers of ownership for properties enrolled in Rural Preserve to be treated the same way as transfers of ownership for properties enrolled in Green Acres.

### Special Valuation and Tax Programs

Since Green Acres and Rural Preserve programs are intended to work concurrently, specific transfers of ownership (listed above) do not trigger payback of deferred taxes or reapplication. Additionally, a new owner (after sale or transfer) has 30 days to apply for continuation of the Rural Preserve benefits before deferred taxes are calculated.

***“Subd. 8. Special local assessments.***

*The payment of special local assessments levied after June 1, 2011, for improvements made to any real property described in subdivision 1 together with the interest thereon shall, on timely application as provided in subdivision 6, be deferred as long as the property meets the conditions contained in this section. If special assessments against the property have been deferred pursuant to this subdivision, the governmental unit shall file with the county recorder in the county in which the property is located a certificate containing the legal description of the affected property and of the amount deferred. When the property no longer qualifies under subdivision 1, all deferred special assessments plus interest shall be payable in equal installments spread over the time remaining until the last maturity date of the bonds issued to finance the improvement for which the assessments were levied. If the bonds have matured, the deferred special assessments plus interest shall be payable within 90 days. The provisions of section [429.061](#), subdivision 2, apply to the collection of these installments. A penalty shall not be levied on these special assessments if timely paid. This subdivision does not apply to special assessments levied at any time by a county or district court under chapter [116A](#) or by a watershed district under chapter [103D](#).”*

Three years’ deferred taxes (current year’s deferred amount and two prior years) and deferred special assessments are therefore due when the property owner requests removal from the program, or if the property becomes:

- a. any classification other than 2b rural vacant land;
- b. non-homestead (does not apply to properties qualifying for Rural Preserve due to enrollment in Green Acres for taxes payable in 2008); or
- c. no longer contiguous to Green Acres property under the same ownership

Remember, if a property owner meets the qualifications for this program because of previous enrollment in Green Acres for taxes payable in 2008, any sale/transfer/etc. that puts the property into new ownership will require the new owner to meet all requirements, including the agricultural homestead and contiguous Green Acres enrolled property requirements, to qualify for continued valuation/deferral. The property would **not** have been assessed under Green Acres for taxes payable in 2008 to that owner, so that provision would not apply. For those class 2b acres moving from Green Acres, this is a “one time landing area”. Going forward, all new applicants and all new owners of enrolled land would need to meet all requirements, including the agricultural homestead and Green Acres requirements.

Primary Statutory Reference: [273.114](#)

## Special Valuation and Tax Programs

### Aggregate Resource Preservation Program

#### Introduction

[Minnesota Laws 2008, Chapter 366](#), created a new classification of property, Commercial Aggregate Deposit (class 2e) and a new property tax program, the Aggregate Resource Preservation Property Tax Program. Property classified as 1a, 1b, 2a, 2b, or 2e may be eligible for valuation deferment under the Aggregate Resource Preservation Property Tax Law. This section will outline this new property classification, along with the tax implications of such classification and the Aggregate Resource Preservation Property Tax Law.

#### County Opt-Out Provisions

Counties had an option to opt-out of the program before June 1, 2010. Further information can be found in [Minnesota Statute 273.1115, subdivision 6](#). Counties that opted-out of the Aggregate Resource Preservation Property Tax Program also opted out of the 2e classification. Information on the 2e classification can be found in Module 3.

#### Property Being Actively Mined

When any portion of property classified as class 2e begins to be mined, the owner of the property must file a supplemental affidavit within 60 days from the day any aggregate is removed indicating the number of acres of the property that are being mined. The acres being mined must be valued and classified as class 3a commercial property for the following assessment year and must be removed from the Aggregate Resource Preservation Property Tax Program if it is enrolled in that program.

Copies of the original affidavit and all supplemental affidavits must be filed with the county assessor, the local zoning administrator, and the DNR's Division of Land and Minerals. A supplemental affidavit must be filed each time a subsequent portion of the property is actively mined provided that the minimum acreage change is five acres, even if the actual mining activity is taking place on less than five acres.

#### Benefits of Aggregate Resource Preservation Property Tax Program

The Aggregate Resource Preservation Property Tax Program provides a valuation deferment for qualifying property owners whose land contains a commercial aggregate deposit but that deposit is not being actively mined. This program is available in the counties whose county boards did not opt out of the program.

Minnesota Statutes, section [273.1115](#), outlines the program benefits for aggregate resource preservation. The land is to be valued as if it were agricultural property, using a per-acre valuation equal to the current assessment year's average per-acre valuation of agricultural land within the county. The assessor cannot consider any additional value resulting from potential alternative and future uses of the property. The buildings located on the land are to be valued in the normal manner.



## Special Valuation and Tax Programs

### Requirements

To qualify for the program, the property must:

- be classified as class 2e;
- be at least 10 contiguous acres at the time of application;
- not have delinquent taxes; and
- be subject to a restrictive covenant.

### Application

A property owner wishing to apply for the Aggregate Resource Preservation program must file an application with the county assessor where the property is located. The application is due by May 1 of the assessment year in which the property owner seeks qualification to be applied to the next taxes payable year. Reapplication is not necessary, provided the property owner continues to meet the requirements outlined above. The application must contain:

1. The legal description of the area;
2. The name and address of the owner;
3. A copy of the affidavit (described above) which is required for 2e classification; and
4. A statement of proof from the property owner that the land contains a restrictive covenant\* limiting its use for the property's surface to that which exists on the date of the application and limiting its future use to the preparation and removal of the commercial aggregate deposit under its surface.

\* The restrictive covenant must be binding on the owner or the owner's successor or assignee, and run with the land. The Department of Revenue has developed an application for the Aggregate Resource Preservation Program, which is available on request.

### Cancellation of Covenant

The restrictive covenant outlined above may be cancelled in one of the following two ways:

1. The covenant may be cancelled by the owner beginning with the next subsequent assessment year provided that the additional taxes are paid by the owner at the time of cancellation. If the covenant is cancelled by the owner, additional taxes must be paid at the time of cancellation.
2. The city or town in which the property is located may cancel the covenant beginning with the next assessment year if the city council or town board:
  - a. Changes the conditional use of the property;
  - b. Revokes the mining permit; or
  - c. Changes the zoning to disallow mining.

If the city or town cancels the covenant, additional taxes are not imposed on the property.

## Special Valuation and Tax Programs

### Actively Mined

If any portion of the property becomes actively mined, the property owner must file an additional affidavit within 60 days. The 60-day time limit begins on the day any aggregate is removed. The affidavit must state the number of acres of the property that is being actively mined. A supplemental affidavit must be filed each time a subsequent portion of the property is actively mined, provided that the minimum acreage change is five acres, even if actual mining activity constitutes less than five acres.

The acres that are being actively mined must be valued and classified as class 3a commercial for the next subsequent assessment year. The acres must also be removed from the aggregate resources preservation program. Additional taxes are not due if the land has been properly withdrawn by affidavit as described above. However, if land is not properly withdrawn before being actively mined, additional taxes are due as outlined below.

Upon removal, copies of the original affidavit and all supplemental affidavits must be filed with the county assessor, the local zoning administrator, and the Department of Natural Resources, Division of Land and Minerals.

### Additional Taxes Due upon Withdrawal from Program

Calculating deferred taxes due is similar to the calculation used in Green Acres. When property which has been valued under the Aggregate Resource Preservation Property Tax Program no longer qualifies, the portion of the land in the program is subject to additional taxes. The additional tax amount is determined by:

1. computing the difference between the current year's taxes as determined by valuation as agricultural land and an amount determined by the assessor based on the property's current year's estimated market value of like real estate at its highest and best use; and
2. multiplying the difference determined above by the number of years the land was enrolled in the aggregate resource preservation program.

### Formula:

Tax calculated on estimated market value  
(less) Tax calculated on agricultural land value  
Equals: Difference in tax

Difference in tax  
X Number of years enrolled  
Equals: Amount of deferred tax due



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**Special Valuation and Tax Programs**

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The current year's estimated market value as determined by the assessor cannot exceed the market value that would result if the property was sold in an arms-length transaction, and must not be greater than it would have been had the actual bona fide sale price of the property been used in lieu of that market value.

The deferred taxes due must be extended against the property on the tax list for the current year, except that interest or penalties must not be levied on these additional taxes if timely paid. The additional taxes must not be imposed on that portion of the property which has been actively mined or has been properly removed from the program based on the supplemental affidavits filed by the property owner (described above).

The additional taxes imposed are considered a lien upon the property assessed to the same extent and for the same duration as other taxes imposed on the property. When collected, they must be distributed in the manner provided by law for collection and distribution of other property taxes.

**Continuation upon Sale**

If the property sells, additional taxes must not be extended if the property continues to qualify for the program and the new owner files application with the county assessor for continued deferment within 30 days after the sale.

## Special Valuation and Tax Programs

## Homestead Market Value Exclusion for Veterans with a Disability

Minnesota Statutes, section 273.13, subdivision 34 provides a market value exclusion to qualifying disabled veterans, their surviving spouses, their primary family caregivers, and surviving spouses of service members who die while serving honorably in active duty. This is **not a property tax exemption** and it is not a tax forgiveness program. Rather, it lowers property tax liability by subtracting the amount of the exclusion from the assessor's estimated market value to arrive at a lower taxable market value. Special assessments or other taxes that are not ad valorem property taxes will not be affected by this value exclusion.

This program provides two different levels of market value exclusion to qualifying veterans:

- **\$150,000** market value exclusion on homesteaded property for veterans with 70% to 100% service-connected disability
- **\$300,000** the market value exclusion on homesteaded property of veterans with 100% total and **permanent** service-connected disability.
  - **Note:** there are some exceptions to the 100% rating requirement, these are explained in the "exceptions" section later.

### Qualifications for Veterans

To qualify for the exclusion, a qualifying veteran must:

- Have been honorably discharged from the United States armed forces
  - **Note:** A discharge that is "General-Under Honorable Conditions" also may meet this requirement
- Have a service-connected disability rating of 70% or higher that is certified by the United States Department of Veterans Affairs (VA)
  - **Note:** There are some exceptions for veterans that have a lower than 70% disability rating, see the "exceptions" section later
- Qualify for homestead on the property they own and occupy
- Apply to the county assessor's office by December 31

### \$150,000 Market Value Exclusion Qualifications for Veterans

Veterans with 70% or more service-connected disability must make application to the assessor for the \$150,000 market value exclusion. 70% or more includes veterans with 100% disability that is **not considered permanent**.

Veterans qualifying for the \$150,000 exclusion must complete the application and submit it to the county assessor's office by **December 31** to be eligible for the exclusion **for that assessment**

### Special Valuation and Tax Programs

**year.** The veteran does not need to reapply unless their disability rating drops below 70% or increased to 100% total and permanent, ownership changes, and/or the use of the property changes.

#### **\$300,000 Market Value Exclusion Qualifications for Veterans**

Veterans with 100% total and permanent service-connected disability must make application to the assessor for the \$300,000 market value exclusion.

Veterans qualifying for the \$300,000 exclusion must complete the application and submit it to the county assessor's office by **December 31** to be eligible for the exclusion **for that assessment year.** The veteran does not need to reapply unless their disability rating changes, the ownership changes, and/or the use of the property changes.

#### **Basic Provisions of the Exclusion**

- Application for this valuation exclusion is **not a substitute for the homestead application.** The property must qualify for homestead before being granted valuation exclusion under this program.
- For **agricultural property**, only the house, garage, and immediately surrounding one acre of land qualify for the valuation exclusion. Excess land and buildings are not eligible for the valuation exclusion.
- Residential and agricultural (HGA) homestead properties that receive this exclusion are **not eligible to receive the homestead market value exclusion** provided under Minnesota Statutes, section [273.13](#), subdivision 35. Excess agricultural land and buildings will continue to receive the agricultural homestead credit provided in section [273.1384](#), subdivision 2.
- **Relative homesteads do not qualify** for this program. A property must be both owned and occupied by a qualifying individual before being eligible for the market value exclusion.
- Fractional homesteads will receive a fractional benefit.

#### **Application Requirements**

When a qualifying veteran wants to apply for the exclusion, they must obtain a copy of the application from the county assessor's office. The veteran must complete the application in its entirety and include information such as:

- Social security or individual tax identification numbers of the veteran and their spouse
- Physical address
- Homestead status
- Verification of disability status

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Special Valuation and Tax Programs

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- Signature

Along with the application, veterans may submit additional documentation so assessor's can verify that all requirements have been met. The additional documents that must be included with the application are:

- Official military discharge papers such as the DD214 or military discharge papers that verifies that the veteran was honorably discharged
- Forms/letters that provide proof of the service-connected disability status and rating which are certified by the Veteran's Affairs (VA) office.

Veterans may work with their county veterans service office to obtain this information or the Veteran's Affairs office. The application and the additional information must be submitted to the assessor by **December 31**.

Once the application is approved and the exclusion is granted, the veteran does not need to reapply each year to have the exclusion remain on the property. Minnesota Statutes requires that the veteran's disability rating and permanent address are certified annually by the county veteran service officer (CVSO) to the county assessor.

### Annual Certification

Each year, after the initial application is approved and exclusion is granted, the CVSO is responsible for verifying continued qualifications of a veteran who is receiving the exclusion **by July 1** of the assessment year. This includes certifying the disability rating of the qualifying veteran as well as the veteran's physical address. Each CVSO will have their own process in place to provide the information that assessors need to continue granting the exclusion, therefore the department recommends that assessor offices work very closely with their CVSO's. Minnesota Statute does allow CVSO's and assessors to share private information to determine a veteran's qualification for the exclusion. This includes sharing a veteran's social security or individual tax identification number for the purpose of determining a person's eligibility for this program.

### The Role of the Assessor's Office

The assessor's office is the primary administrator of the program. All applications go through the assessor's office and determinations are made by the assessor's office on whether a property qualifies, based on the information provided. The assessor's office performs the following duties:

## Special Valuation and Tax Programs

**Receive and process applications from qualifying veterans with a disability, surviving spouses, and primary family caregivers.** The applications may include a letter from the U.S. Department of Veterans Affairs attesting to service-connected disability and discharge, or both a DD214 (or other official military discharge papers) and an up-to-date service-connected disability rate sheet. All initial applications and supporting documentation are due by December 31 to be eligible for that same assessment year.

**Work with the CVSO** each year following initial application to certify the disability rating and permanent address of each veteran receiving and/or seeking to receive the exclusion. The exclusion **must be removed** if the CVSO cannot certify the disability rating. We suggest sending a denial letter to the veteran explaining the CVSO was unable to certify their information. CVSO's are required to certify disability rating and permanent address by July 1 of each assessment year.

**Continue to estimate market value for the properties in question.** This valuation exclusion will be deducted after calculating any other deferred valuations or exclusions to arrive at the taxable market value. This valuation exclusion will be deducted from the estimated market value after other exclusions for Plat Law, Mold Damage, etc. to arrive at the taxable market value. (The homestead market value exclusion is **not** applied to properties receiving the homestead exclusion for veterans with a disability.) Additionally, tax statements, value notices, and Truth in Taxation notices will continue to be sent.

**Exercise caution when questioning disability ratings.** Although as an assessor you may only be aware of a small disability such as a knee injury, you would not be able to ascertain other circumstances such as post-traumatic stress disorder, Agent Orange contamination, head trauma, back trauma, etc. Moreover, it is not important for you to be able to ascertain these extenuating circumstances. Disability ratings are very personal and private. Discussing these disabilities or questioning them with third parties opens the door for lawsuits and administrative repercussions.

The county assessor's office and the Department of Revenue **are not** responsible for determining the disability status of veterans. Applicants requiring information concerning their discharge or disability status must work with their County Veterans Service Office or the Department of Veterans Affairs to receive this information from the VA.

### Exceptions for Disability Ratings

There are some exceptions to the standard rules where a veteran might have a certified rating that is lower than 70% - 100% but still qualifies for the exclusion. It's important for counties to understand that the disability rating percentage is not the sole factor when determining which exclusion, a veteran qualifies for. The county must review the documentation carefully and be

### Special Valuation and Tax Programs

aware that there are some situations that allow a veteran to qualify when the ratings are outside of the 70% - 100% threshold.

#### Individual Unemployability (I/U)

Certain veterans are certified by the Veterans Affairs as “individual unemployability.” Individual Unemployability (IU) is the Veterans Affairs’ acknowledgement that there are conditions that do not have a 100% rating but can be so severe that a person be made unemployable due to that disability and therefore, totally disabled. That is partially based on the person’s education level, age, and usual occupation. If a veteran supplies documentation from the Veterans Affairs that they are certified with individual unemployability, that veteran is to be treated as 100% disabled, even if the rating is lower than 100%. This disability is considered 100%, but it **may or may not be permanent**.

**Individual unemployability, not considered permanent:** Veterans with individual unemployability that are **not** considered permanently disabled will be eligible for the \$150,000 market value exclusion (100% disabled, not permanent).

**Individual unemployability, permanent:** Veterans with individual unemployability status who are **permanently** disabled will be eligible for the \$300,000 market value exclusion.

On annual letters that veterans receive from the Department of Veterans Affairs, this may be noted as stating that the veteran is “entitled to a higher level of disability due to being unemployable” or that the veteran is “considered to be totally and permanently disabled” even though the “combined service rating” **may not be 100%**.

Individual unemployability is determined based solely on service-connected disabilities and the potential for the veteran to find gainful employment considering those service-connected disabilities.

A veteran may be younger or older than Social Security retirement age but may still be eligible for individual unemployability due to the service-connected disabilities which preclude the veteran (regardless of age) from gainful employment.

#### “No Futures”

“No futures” relates to future medical exams scheduled to evaluate the current state of a veteran’s disability. A veteran whose Veterans Affairs disability has been determined to be static would have no futures exams. This is **not an indicator of permanence** of a Veterans Affairs disability rating or of total disability. When a veteran provides documentation that states, “no futures”, the veteran must have a disability rating of at least 70% to qualify for the \$150,000 exclusion. If a veteran with “no futures” also has a 100% total and permanent rating, then the veteran would qualify for the \$300,000 exclusion.

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The CVSO is required to certify the service-connected disability status of the veteran each year following initial application.

**Removing or Changing the Exclusion**

There are multiple situations as to why a veteran would no longer qualify for the exclusion and the exclusion needs to be removed or changed. Some of those situations include:

- The veteran no longer qualifies for homestead
- The use of the property changes
- The homestead status has changed based on ownership changes (fractional homestead)
- The veteran has died and does not have a surviving spouse
- The disability ratings changed, and the veteran no longer qualifies
- The CVSO is not able to certify the disability ratings and/or address by July 1

As soon as the county is made aware that something has changed and that the property no longer qualifies, the exclusion should be removed.

**Moving to a new property after January 2**

Qualifying veterans may move to a new property after the homestead has been granted an exclusion from property tax. In most cases, the exclusion would be removed from the current home that is being sold immediately and the exclusion would “move” with the qualifying veteran to the new property, assuming the new property is homesteaded. Qualifying veterans who own and occupy a property as a homestead by December 31 will receive the exclusion if they apply on the new property by this date, the exclusion will be for the current assessment year for taxes payable the following year.

It is important to note that **once taxes have been extended against a property, the exclusion cannot be removed**. For example, if a veteran qualified throughout the 2021 assessment but sells the home in February 2022 and the taxes payable in 2022 have already been calculated, the taxes payable for 2022 would still reflect the 2021 assessment with the exclusion, regardless of the fact that the qualifying veteran no longer owns the property. The veteran would be eligible to apply on the new property for the 2022 assessment (for taxes payable in 2023) by December 31; but the taxes on the new property for pay 2022 would not receive the exclusion based on the statutory application requirements.

If the veteran vacates the property and no longer qualifies for homestead but has not applied for homestead at a new property, the exclusion should still be removed as soon as practical if taxes have not been extended against the property. For example, if a veteran moves to a new state and rents his property, the exclusion would be removed.

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**Backdating/Change in Benefits**

If a veteran's disability rating changes and they now qualify for the higher exclusion amount, the veteran must submit a new application by December 31 to receive the higher exclusion for the current assessment year and following payable year. In a situation where the disability rating is backdated to a prior assessment year, the assessor may not retroactively upgrade the disability rating.

**Example:** A veteran is receiving the \$150,000 exclusion in Year 0 and has an 80% disability rating. This 80% disability rating is certified by the CVSO by July 1 in Year 1. In October, the Veteran's rating is upgraded to 100% total and permanent. The veteran submits an application based on the new 100% total and permanent rating by December 31 of Year 1 and qualifies for the \$300,000 exclusion beginning in assessment Year 1 for taxes payable in Year 2.

A different veteran is receiving the \$150,000 exclusion in Year 0 and has an 80% disability rating. This 80% disability rating is certified by the CVSO by July 1 in Year 1. In January of Year 2, the Veteran's rating is upgraded to 100% total and permanent retroactive to October of Year 1. The Veteran submits an application based on the new 100% total and permanent rating by December 31 of Year 2 and qualifies for the \$300,000 exclusion beginning in assessment Year 2 for taxes payable in Year 3. The assessor may not grant the increased exclusion amount for assessment Year 1 because the new application was not submitted until assessment Year 2.

**Additional Qualifying Individuals that May Receive the Exclusion**

In most situations the veteran must be the property owner who must qualify the property for the exclusion, however Minnesota Statutes provides some exceptions that allow some properties to qualify for the exclusion if they meet other requirements. These exceptions are focused on primary family caregivers of a veteran with a disability or a surviving spouse of a veteran with a disability.

**Qualifications-Primary Family Caregivers**

There are situations where a veteran does not own or homestead a property in Minnesota, however the veteran meets all the other requirements to qualify for the exclusion. In these situations, a primary family caregiver of the qualifying veteran with a disability could be eligible for the same exclusion benefit as the veteran (i.e., maximum of \$150,000 or \$300,000 exclusion, depending on the veteran's disability rating). The primary family caregiver would need to own and homestead property in Minnesota and be approved as the primary family caregiver by the United States Department of Veterans Affairs.

A primary family caregiver is defined as a person who is approved by the United States Department of Veterans Affairs for assistance as the primary provider of personal care services



### Special Valuation and Tax Programs

for an eligible veteran under the Program of Comprehensive Assistance for Family Caregivers (codified as US Code, title 38, section 1720G).

To be eligible as the primary family caregiver the family member must meet the following criteria:

- You are at least 18 years of age.
- You are a family member such as a parent, spouse, child, stepfamily member or extended family member, or you are living with the veteran full time, but are not a family member of the veteran.
- There are no reports of abuse or neglect of the veteran that have been documented in the veteran's electronic health record.
- You have demonstrated the ability to communicate and understand details of the treatment plan and any specific instructions related to the care of the Veteran.
- You have demonstrated the ability to provide personal care services, to include such things as assistance with activities of daily living, (i.e., bathing, eating, dressing, toileting) required by the veteran and/or providing supervision to prevent the veteran from harm to self or others.
- You have demonstrated the ability to follow a treatment plan listing the specific
- care needs of the Veteran without direct supervision.
- You have demonstrated the ability to carry out core competencies as well as additional care requirements as prescribed by the veteran's care team.

The VA administers these criteria and makes the determination on whether the family member is approved as the primary family caregiver or not. Upon approval, the VA will provide a VA Caregiver Support Approval Letter. It is not the responsibility of the assessor's office to determine whether a family member qualifies, the family member must contact the VA for more information on applying to be a primary family caregiver.

Primary family caregivers must apply for the exclusion by December 31 to be eligible for taxes payable in the following year. Applications must include necessary information to verify qualifications for **both the veteran and the primary family caregiver**. The primary family caregiver must provide a copy of the VA Caregiver Support Approval Letter as part of the application.

#### Qualifications-Surviving Spouses

Minnesota Statutes provide a variety of ways for a surviving spouse of a veteran with a disability to qualify for the exclusion. Surviving spouses are required to apply by December 31 to qualify for the exclusion for that assessment year.

## Special Valuation and Tax Programs

**Surviving spouses of veterans who were receiving the exclusion prior to their death**

If a property was receiving the \$300,000 exclusion based on the veterans 100% total and permanent disability rating **prior to the veteran's death**, a surviving spouse is eligible to continue the exclusion as a lifetime benefit for the tax's payable year of the veteran's death.

The surviving spouse would need to apply by December 31 of that assessment year to continue to receive the lifetime benefit. The lifetime benefit for the surviving spouse begins with the tax's payable year after the initial application is received. Previously, surviving spouses could only receive the benefit for a select number of years before it expired. The 2023 tax bill allows surviving spouses whose exclusion had expired to re-apply for the program, assuming all requirements are still met.

Typically, the benefit is removed if the spouse remarries, sells, transfers, or otherwise disposes of the property. However, Minnesota Statutes do allow the spouse to move one time and continue the lifetime benefit if all requirements are met.

**Surviving spouses of veterans who were 100% total and permanent but not receiving the exclusion prior to their death**

Minnesota Statutes allow a surviving spouse to apply for the lifetime benefit even if the veteran **did not** apply for or receive the exclusion prior to their death or if the exclusion did not exist at the time of their death. This is not a continuation of the exclusion, rather it is the surviving spouse applying as a first-time applicant. There are certain requirements that must be met for surviving spouses in these situations to qualify after the veteran's death. Those requirements are:

- The veteran was honorably discharged and had a 100% total and permanent disability rating at the time of death
- The surviving spouse must be the legal or beneficial title holder to the homestead residence that was occupied by the veteran and must permanently reside there

Prior to the 2023 assessment year, the veteran also had to have died after 2011, and the surviving spouse was required to apply within two years of the veteran's death. This requirement was removed in the 2023 tax bill, allowing surviving spouses of qualifying veterans to qualify for the exclusion regardless of when the veteran died.

The surviving spouse would need to apply by December 31 of that assessment year to receive the lifetime benefit. The lifetime benefit for the surviving spouse begins with the tax's payable year after the initial application is received. Typically, the benefit is removed if the spouse

## Special Valuation and Tax Programs

remarries, sells, transfers, or otherwise disposes of the property. However, Minnesota Statutes do allow the spouse to move one time and continue the lifetime benefit if all requirements are met.

### Surviving spouses of service members who die in action

Minnesota Statutes allow a surviving spouse of a service member of any branch of the armed forces who die while serving honorably in active duty to be eligible for the \$300,000 exclusion. Disability ratings are not considered in these situations however there are requirements that must be met before the surviving spouse can qualify for the lifetime benefit. Those requirements are:

- The United States Government forms DD1300 or DD2064 form must indicate that the veteran was serving honorably and died due to a service-connected cause while on active duty
- The surviving spouse must be the legal or beneficial title holder to the homestead residence and must permanently reside there
- The surviving spouse must apply **within two years** of the veteran's death. This requirement was not changed in the 2023 tax bill.

The surviving spouse must apply by December 31 of that assessment year to receive the lifetime benefit. The lifetime benefit for the surviving spouse begins with the tax's payable year after the initial application is received. Typically, the benefit is removed if the spouse remarries, sells, transfers, or otherwise disposes of the property. However, Minnesota Statutes do allow the spouse to move one time and continue the lifetime benefit if all requirements are met.

### Surviving spouses who receive Dependency and Indemnity Compensation (DIC)

Dependency and Indemnity Compensation (DIC) is a benefit paid to eligible survivors of military service members who died in the line of duty, or eligible survivors of veterans whose death resulted from a service-related injury or disease. When a surviving spouse qualifies for DIC, the spouse qualifies for the \$300,000 exclusion amount as a lifetime benefit, regardless of a veteran's disability rating at the time of their death. The disability rating is **not considered** when DIC is awarded, therefore it is **not a factor** to require when determining if the spouse qualifies for the lifetime benefit. There are requirements that must be met for spouses that are receiving DIC to qualify for the lifetime benefit. Those requirements are:

- The veteran was honorably discharged
- The surviving spouse must be the legal or beneficial title holder to the homestead residence that was occupied by the veteran and must permanently reside there

## Special Valuation and Tax Programs

Prior to the 2023 assessment year, the veteran also had to have died after 2011, and the surviving spouse was required to apply within two years of the veteran's death. This requirement was removed in the 2023 tax bill, allowing surviving spouses of qualifying veterans to qualify for the exclusion regardless of when the veteran died.

The surviving spouse must apply by December 31 of that assessment year to receive the lifetime benefit. The lifetime benefit for the surviving spouse begins with the tax's payable year after the initial application is received. Typically, the benefit is removed if the spouse remarries, sells, transfers, or otherwise disposes of the property. However, Minnesota Statutes do allow the spouse to move one time and continue the lifetime benefit if all requirements are met.

For more information on DIC go to the U.S. Department of Veterans Affairs website ([www.va.gov](http://www.va.gov)).

### Surviving Spouses Moving to a New Property

Minnesota Statutes allows a qualifying surviving spouse to sell the homestead where they had **initially received the spousal exclusion** and continue to receive the exclusion on a new property, provided that:

- The spouse had previously received the benefit on the initial property prior to moving
- The spouse qualifies for homestead on the new property
- The spouse applies for the exclusion for the new property by December 31
- The spouse holds ownership interest in the new property and permanently resides there
- The estimated market value of the new property **is equal to or lower than** the estimated market value of the initial property at the date of sale of the initial property
- The spouse has not previously received the exclusion on a property other than the initial property

The "initial property" refers to the homestead where the surviving spouse had first received the exclusion after the death of the veteran. This provision went into effect in 2020, therefore any spouses that were receiving the exclusion and moved prior to 2020 would not qualify.

If a surviving spouse sells or transfers the initial property and moves to a new property, assessors must use the **January 2 estimated market value** for both the initial home and the new home when determining if the spouse qualifies for the benefit. Because statute makes no reference to the sale price, the estimated market value on the assessment date must be used. If there have been changes to the estimated market value by the Local or County Boards of

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Appeal and Equalization, the updated estimated market value should be used to determine eligibility.

Statute requires that the spouse sell, transfer, or dispose of the initial property prior to applying for the continuation of the benefit on the new property. Also, the surviving spouse must first qualify for homestead on the new property before they can qualify for the continuation of the lifetime benefit. Therefore, if a surviving spouse receiving the exclusion sells their property in Year 1 and purchases a new property in Year 2, the spouse would need to establish homestead and apply by December 31 of Year 2 to continue to receive the lifetime benefit on the new property.

For general information about this program, see the [Market Value Exclusion for Veterans with a Disability](#) information page.

### Market Value Hierarchy

The following chart is the market value hierarchy. The chart shows how the taxable market value is arrived at for qualifying properties. Remember that properties receiving the homestead exclusion for veterans with a disability are not eligible for the homestead market value exclusion described in M.S. [273.13](#), subdivision 35.

	Hierarchy of Market Value Components - AY 2014
1.	Market Value Irrespective of Contaminants
2.	Contamination Value
3.	<b>Estimated Market Value (EMV)</b> [1 – 2]
4.	Green Acres Deferment
5.	Rural Preserves Deferment
6.	Open Space Deferment
7.	Aggregate Resource Preservation Deferment
8.	Platted Vacant Land Exclusion
9.	Veterans with a Disability Exclusion
10.	Mold Damage Reduction
11.	<b>Referendum Market Value</b> [3-4-5-6-7-8-9-10]
12.	Homestead Market Value Exclusion [NOT APPLIED TO PROPERTIES RECEIVING VETS' EXCLUSION]
13.	<b>Taxable Market Value (TMV)</b> [11-12]

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### Fractional Homestead Scenarios

Occasionally, veteran, primary caregiver or surviving spouse will transfer a percentage of ownership in their home to other individuals such as children, siblings, or friends. In these situations, the homestead of the property needs to be reviewed which ultimately means that the exclusion also needs to be reviewed. The exclusion **must mirror the homestead status** of the property based on the veteran, primary caregiver or surviving spouse's ownership interest.

If the veteran, primary caregiver or surviving spouse is one of two owners of the property, the exclusion would need to be adjusted to reflect their ownership percentage. For example, if the veteran, primary caregiver or surviving spouse owns the property with an unrelated individual and each owner has 50% ownership interest then they would no longer qualify for a full exclusion and instead would qualify for 50% of the exclusion.

This also applies to relative homestead situations, where a veteran, primary caregiver or surviving spouse owns 50% of the property and their child owns the other 50% of the property. Technically the property qualifies for a full homestead (50% owner occupied, 50% relative) however the veteran, primary caregiver or surviving spouse only qualifies for 50% of the exclusion because relative homesteads do not qualify for the veteran's exclusion.

In addition to fractionalizing the exclusion, it is important to note that Minnesota Statute 273.13, subdivision 34 states that a property that qualifies for the veteran's exclusion is not eligible to qualify for the market value exclusion. This means a property receiving the valuation exclusion for veterans with a disability is not eligible for the regular homestead value exclusion. In the cases of fractional ownership, despite only one of the owners being eligible for exclusion, the **entire property is ineligible** for the homestead market value exclusion.

This requirement in the law can cause issues within county's taxing system so it is crucial that counties discuss this with their vendors so that properties are not receiving both the veteran's exclusion and the homestead market value exclusion.

### Examples of tax calculations for fractional homesteads:

To calculate the benefit for fractional homesteads, you must take into account the estimated market value (EMV) and the number of homesteading owners.

1. Determine the percentage of ownership for each homesteading person ( $100\% / \# \text{ of owners}$ ).
2. Multiply the EMV by the percentage of ownership to determine each owner's share of estimated market value.
3. Determine each qualifying veteran's exclusion eligibility (either \$150,000 or \$300,000 exclusion levels).

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4. Multiply the veteran's exclusion level by their percentage of ownership.
5. Determine the exclusion amount. This will be the lesser of their eligibility limit or their share of EMV. In other words, if a qualifying veteran is eligible for \$150,000 exclusion, but step 4 results in a value of \$200,000, the exclusion would not exceed \$150,000.
6. Calculate the remaining taxable market value (TMV). This is done by subtracting the exclusions of all eligible persons from the EMV.

**Example 1 - Two unrelated qualifying veterans at the same exclusion level.**

Two unrelated veterans with disabilities, George and Washington, own a home with an EMV of \$400,000. George has a 70% service-connected disability rating, Washington is at 80%. As such, both George and Washington qualify for the \$150,000 exclusion level. Each owner's benefits are applied to each owner's share of the homestead (50% for each), where the maximum exclusion is apportioned by each owner's ownership percentage instead of allowing additional benefits per homestead.

1. Determine ownership % (*100% / # of owners*)
  - George  $100\% / 2 = 50\%$
  - Washington  $100\% / 2 = 50\%$
2. Determine share of EMV (*Total EMV x owner % from step 1*)
  - George  $\$400,000 \times 50\% = \$200,000$
  - Washington  $\$400,000 \times 50\% = \$200,000$
3. Determine eligible exclusion (*based on disability rating*)
  - George 70% disability = \$150,000
  - Washington 80% disability = \$150,000
4. Determine exclusion limit (*eligible exclusion from step 3 x owner % from step 1*)
  - George  $\$150,000 \times 50\% = \$75,000$
  - Washington  $\$150,000 \times 50\% = \$75,000$
5. Determine exclusion amount (*lesser of EMV from step 2 or exclusion limit per owner from step 4*)
  - George  $\$75,000 < \$200,000 = \$75,000$
  - Washington  $\$75,000 < \$200,000 = \$75,000$
6. Calculate TMV (*EMV - exclusion amount from step 5*)
  - George  $\$200,000 - \$75,000 = \$125,000$
  - Washington  $\$200,000 - \$75,000 = \$125,000$

**Total Taxable Market Value Remaining: \$250,000** (amount excluded = \$150,000)

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**Example 2 - Four unrelated persons, two veterans at different exclusion levels.**

Harry, Ron, Hermione, and Ginny all jointly own and occupy a residential property. The estimated market value of this property is \$160,000. Harry is a qualifying veteran with 90% service-connected disability. Hermione has individual unemployability, which is permanent.

1. Determine ownership % (*100% / # of owners*)
  - Harry      100% / 4 =              25%
  - Ron              100% / 4 =              25%
  - Hermione 100% / 4 =              25%
  - Ginny      100% / 4 =              25%
2. Determine share of EMV (*total EMV x owner % from step 1*)
  - Harry      \$160,000 x 25% =      \$40,000
  - Ron              \$160,000 x 25% =      \$40,000
  - Hermione \$160,000 x 25% =      \$40,000
  - Ginny      \$160,000 x 25% =      \$40,000
3. Determine eligible exclusion (*based on disability rating*)
  - Harry      90% disability =              \$150,000
  - Ron              n/a                              \$0
  - Hermione I.U. permanent =      \$300,000
  - Ginny      n/a                              \$0
4. Determine exclusion limit (*eligible exclusion from step 3 x owner % from step 1*)
  - Harry      \$150,000 x 25% =      \$37,500
  - Ron              n/a                              \$0
  - Hermione \$300,000 x 25% =      \$75,000
  - Ginny      n/a                              \$0
5. Determine exclusion amount (*lesser of EMV from step 2 or exclusion limit per owner from step 4*)
  - Harry      \$37,500 < \$40,000 =      \$37,500
  - Ron              n/a                              \$0
  - Hermione \$75,000 > \$40,000 =      \$40,000
  - Ginny      n/a                              \$0
6. Calculate TMV (*EMV - exclusion amount from step 5*)
  - Harry      \$40,000 - \$37,500 =      \$2,500
  - Ron              \$40,000 - \$0 =              \$40,000
  - Hermione \$40,000 - \$40,000 =      \$0
  - Ginny      \$40,000 - \$0 =              \$40,000

**Total Taxable Market Value Remaining              \$82,500** (total amount excluded = \$77,500)



## Special Valuation and Tax Programs

## Frequently Asked Questions

### FAQs - Applications, Verification, and Ownership

**1. What do we do if application documentation is unclear, or we are unsure of its authenticity?**

If you are presented with information that you feel is unclear, you may request additional information. The onus is on the taxpayer to provide additional information if it is reasonable and requested by the assessor to verify the information required for the market value exclusion. Any information pertaining to disability status must come from the Veteran's Administration and not elsewhere. It is not up to county assessors, the Department of Revenue, or County Veterans Service Officers to determine a veteran's service-connected disability.

**2. What if the veteran has transferred ownership in their property to a son or daughter but retained a life estate?**

If a qualifying veteran is the **grantor** of the life estate and continues to occupy the property as their homestead and primary place of residence, that veteran would be eligible for this exclusion.

**3. What if the veteran transfers ownership to a trust?**

If a property is owned by a trust, the veteran may receive the exclusion if they are a **grantor** of the trust and still receiving homestead for that property. All other requirements must still be met.

**4. If a property is owned by the spouse of a qualifying veteran with a disability, but does not list that veteran as an owner on the deed, does the property qualify?**

No; the veteran needs to be an owner on the deed to qualify for market value exclusion. The veteran's name must be listed as an owner on the deed of the property before the property is eligible for market value exclusion (except in the cases of property owned by a Primary Family Caregiver)

**5. In the case of married veterans who do not occupy a property with the spouse (and receive 50 percent homestead), how is the exclusion applied?**

The exclusion is only applicable to the property that the veteran owns and occupies. The benefit is based on the qualifying veteran's percentage of homestead interest in the property he or she occupies. If the veteran is receiving partial (50 percent) homestead on this property, the eligibility would be for 50 percent of the maximum exclusion benefit toward the value of the home that the veteran owns and occupies. For example, a veteran with a permanent and total disability would be eligible for a \$150,000 market value exclusion on the property he occupies (50 percent of the maximum \$300,000 eligibility, based on 50 percent homestead). Fractional interest scenarios are described in a previous section. A property owned by the veteran and the veteran's spouse, but only occupied by the spouse, would not qualify for exclusion. The property not occupied by the veteran would not be eligible for any "carry over" provisions, either. A property must be owned,

## Special Valuation and Tax Programs

occupied, and used as a homestead by a qualifying veteran to be eligible for exclusion. The spouse is not eligible for benefit on his or her own.

**6. A qualifying veteran and his spouse own a home but are living in an assisted living apartment. Can their home qualify?**

If the qualifying veteran is an owner of the home, no one else occupies the home or claims homestead on it, and the property is not rented to anyone else, it may still be eligible for market value exclusion. Traditionally, we have not denied homestead benefits to persons requiring assisted living.

**7. If a qualifying veteran is living in a nursing home, and his wife occupies their home alone, would the property qualify?**

If the home is still owned by the veteran (or the veteran and the veteran's spouse), we see no reason to disqualify the home from exclusion. Traditionally, we have not denied homestead treatment to persons requiring nursing home care. As stated above, the property may be eligible for homestead treatment (and therefore the market value exclusion) so long as the qualifying veteran is still an owner of the home, no one other than the owner's spouse occupies the home, the home is not rented by anyone else, and no one else except the veteran and their spouse claims homestead on it. If, logically, the qualifying veteran would claim homestead on this property if they were not requiring nursing home care, it would follow that market value exclusion also be given.

**8. If a letter from the Department of Veterans Affairs shows a combined service rating of less than 70%, but the question "Are you considered to be totally and permanently disabled due to your service-connected disabilities?" is answered "Yes," how do we proceed?**

The department recommends that qualification letters from the Department of Veterans Affairs are read from the bottom up. In other words, starting with the question, "Are you considered to be totally and permanently disabled due to your service-connected disabilities?" if it is answered "Yes," then the property qualifies for the \$300,000 exclusion regardless of the combined service rating. If this question is not indicated or is not answered yes, the property owner would not qualify for the \$300,000 exclusion.

The designation as totally and permanently disabled is based on a number of factors. While a combined service rating may be less than 100% (or even less than 70%), if the Department of Veterans Affairs determines that the disability or disabilities are such that the veteran is permanently and totally disabled or unable to work, the veteran may be granted the higher level of disability that qualifies him or her for the \$300,000 exclusion.

## Special Valuation and Tax Programs

**9. If a letter from the Department of Veterans Affairs shows a combined service rating of less than 70%, but the question “Are you being paid at the 100% rate because you are unemployable due to your service-connected disabilities?” is answered “yes,” how do we proceed?**

If the question, “Are you being paid at the 100% rate because you are unemployable due to your service-connected disabilities?” is answered “yes,” then the property qualifies for the \$150,000 exclusion regardless of the combined service rating. If this question is not indicated or is not answered yes, the property owner must have a combined service rating of at least 70% to qualify for the exclusion.

The designation as unemployable is based on a number of factors. While a combined service rating may be less than 100% (or even less than 70%), if the Department of Veterans Affairs determines that the disability is such that the veteran is unable to work, the veteran may be granted the higher level of disability referred to as “individual unemployability” that is considered 100% disabled by the Department of Veterans Affairs. Such designation qualifies the veteran for the \$150,000 exclusion (as a veteran with a 100% disability, without indication that the disability is permanent).

**10. Can someone be of retirement-age and also classified with individual unemployability?**

Yes, an individual of retirement age may also be “I/U.”

- The United States Code of Federal Regulations (CFR), title 38 states that age may not be considered when making determinations of individual unemployability.
- Individual unemployability is determined based solely on service-connected disabilities and the potential for the veteran to find gainful employment considering those service-connected disabilities.
  - Age, as well as disabilities which are not service-connected, are not considered when making I/U determinations. [See 38 CFR 3.341, 38 CFR 4.16, and 38 CFR 4.19.]
  - A veteran may be younger or older than Social Security retirement age, but may still be eligible for individual unemployability due to the service-connected disabilities which preclude the veteran (regardless of age) from gainful employment.

**11. What does it mean when a veteran’s disability says “no futures”?**

Many veterans with less than 100 percent disability might still be considered **permanently disabled**. For example, a veteran with 70 percent disability with “no future exams” is considered permanently disabled.

Such veterans are **not** eligible for the \$300,000 market value exclusion. They are eligible for the \$150,000 exclusion. However, if upon initial application a veteran supplies a letter from the VA verifying disability status with “no futures,” or that their disability is considered permanent, that veteran does not need to supply a new letter annually.

## Special Valuation and Tax Programs

We recommend that the county assessor retain a copy of the original “no futures” letter for future reference. The CVSO must certify the service-connected disability status of the veteran each year following initial application.

### 12. Who is responsible for deciding a veteran's disability level?

Neither the Department of Revenue nor County Assessors are responsible for determining the disability status of veterans.

- Applicants requiring information concerning their discharge or disability status must work with their County Veterans Service Office or the Department of Veterans Affairs to receive this information from the VA.
- The veteran may supply the U.S. Government Form DD214 or other official military discharge papers, as well as documentation verifying service-connected disability status.
- It is anticipated that the VA will be able to supply uniform letters to qualifying veterans certifying both discharge and disability status.

### FAQs – Surviving Spouses

#### 1. What is the qualifying eligibility for a surviving spouse of a veteran who was permanently and totally disabled that passed away before enrolling their property?

Starting in 2017 the spouse of a veteran who was 100% totally and permanently disabled may now qualify for the homestead exclusion even if the veteran did not apply or receive the exclusion before their death or the exclusion did not exist before their death.

For example: the disability rating changed after the veteran's death or they became 100% after the deadline and the veteran hadn't applied and received the exclusion before they passed away. The law allows the surviving spouse to apply and qualify after the veteran's death.

#### 2. Does a surviving spouse of 100% permanent veterans who were receiving the Exclusion for Veterans with a Disability at the time of their death still qualify for the continuation of this property tax benefit of the exclusion even if they do not receive documentation from the VA regarding their benefits as a surviving spouse?

In short, the answer is yes. The qualification for these surviving spouses is that they are the legal and beneficial title holder of a property that was homesteaded by the qualifying veteran spouse, who must have had 100% permanent and total service-connected disability at the time of death.

While the cause of death may not be service-connected, the veteran's property tax exclusion benefit carries over to the surviving spouse as a lifetime benefit after the year of the veteran's death.

## Special Valuation and Tax Programs

It is true that many of these surviving spouses will not have documentation of continued benefits. We have advised that the qualifying documentation may simply be your records related to the *veteran's* qualifications and subsequent benefit of the exclusion. If the spouse continues to occupy the same property and you have record of the veteran qualifying, the exclusion may stay on for the maximum period allowed, provided no other changes are made to the ownership or use of the property.

You may also work with your County's Veterans Service Officer to verify eligibility if necessary.

**3. What if the veteran passes away after submitting a timely application? When should the surviving spouse first apply for the extension?**

It is our opinion that in the assessment year of the veteran's death, the exclusion is based on the veteran's qualifications.

- If the veteran applies and qualifies prior to December 31, the spouse receives the exclusion for the entirety of that assessment year but must reapply by the following December 31 to continue to receive the exclusion.
- If a veteran has not applied and qualified prior to December 31, the spouse must make initial application by December 31 to receive the benefit for that assessment year.

**4. Are surviving spouses required to make application annually?**

No. Surviving spouses are not required to make annual application.

**5. Can a surviving spouse qualify if the veteran was not totally and permanently disabled?**

Yes. Surviving spouses may qualify if they were awarded Dependency and Indemnity Compensation (DIC) by the U.S. Department of Veterans Affairs. The veteran's disability rating does not affect the spouse's eligibility.

**6. Can a surviving spouse who is currently receiving the exclusion continue to qualify if they move to a different home?**

Potentially yes. The spouse may qualify for a one-time transfer of the exclusion to a different property if the following are met:

- They received the benefit on the initial property in the current payable year
- They hold ownership interest in the new property and permanently resides there
- The estimated market value of the new property is equal to or lower than the estimated market value of the original property at the date of sale.
- They have not previously received the exclusion on a property other than the original homestead

Special Valuation and Tax Programs

**7. Can a surviving spouse transfer the exclusion to a different home without selling the original homestead?**

No. The exclusion may only be transferred when the original homestead is sold.

**8. Can a surviving spouse sell the initial home that was receiving the exclusion and move to a cabin or second home that they already own and still qualify for the exclusion?**

Yes. The statute does not require the surviving spouse to purchase a new property, it only requires that the initial property is sold or transferred. The assessor must use the January 2 EMV for both properties to determine if the cabin/second home can qualify for the continuation of the exclusion.

**9. Does a surviving spouse need to live in the same home as they did when the veteran died to initially qualify for the exclusion?**

Yes, to initially qualify for the exclusion. One of the requirements is that upon death of the veteran, the spouse holds the legal and beneficial title to the homestead and permanently resides there. The spouse can move one time and still receive the exclusion if certain requirements are met, this applies to both spouses who are receiving DIC as well as spouses applying for the 100% total and permanent exclusion.

**FAQs - Miscellaneous**

**1. Will the qualifying veterans be responsible to pay special assessments?**

Yes. This value exclusion reduces or eliminates all or a portion of the value on a veteran's homestead property. The exclusion has no effect on special assessments. Special assessments have no relationship to value, they are a lien against property imposed by a public authority to pay costs of public improvements such as sidewalks, streets, sewer, etc.

**2. How does the exclusion work for manufactured homes assessed as personal property?**

The exclusion would apply for the same taxes payable year as the application is made.

**3. Do relative homesteads qualify?**

No. Relative homesteads do not qualify for this program. A property must be both owned and occupied by a qualifying veteran with a disability before being eligible for the market value exclusion (except in the cases of properties owned by a Primary Family Caregiver).

**4. Does the market value exclusion for veterans with a disability apply to linked parcels on a residential homestead?**

The law does not preclude linked residential parcels that are homesteaded from being included in the exclusion; it does not limit the exclusion to the base parcel only. Therefore, in our opinion, linked residential parcels that are part of the homestead may receive the market value exclusion. The law *does* limit the benefit on agricultural homesteads to the house, garage and one acre.

## Special Valuation and Tax Programs

**5. How would the exclusion apply to multiple qualifying veterans who own the same property, assuming they are not married?**

In a scenario where more than one qualifying veteran with a disability owns and occupies a property as a homestead, ownership of the home would be divided equally among all owner-occupants without regard to actual percentage of investment. For each qualifying veteran with a disability, the exclusion amount would also reflect the percentage in ownership. This is illustrated in the calculation example in a previous section.

**6. If two qualifying spouses own and occupy a home, how should the exclusion be applied?**

Spouses are treated as one entity for property tax purposes. If two 70 percent qualifying spouses owned and occupied a property as homestead, the benefit would be \$150,000. If two 100 percent permanently qualifying spouses owned the property, the exclusion would be \$300,000. If one spouse has a 100 percent permanent disability rating, and the other has a 70 percent disability rating, the exclusion amount would be \$300,000 (which is the same as if the veteran who has a permanent and total disability rating were married to someone with no qualifying disability).

**7. Do properties qualifying for market value exclusion also qualify for class 1b homestead (under Minnesota Statutes, section 273.13, subdivision 22)?**

No. Properties that qualify for the market value exclusion for homesteads of veterans with a disability do not additionally qualify for class 1b: homesteads of persons who are blind or with a disability.

**8. How should duplex properties be treated?**

If the veteran with a disability meets all other qualifications for the market value exclusion, the value of the entire duplex property would be excluded. Minnesota Statutes, section 273.13, subdivision 22, states in part, "In the case of a duplex or triplex in which one of the units is used for homestead purposes, the entire property is deemed to be used for homestead purposes."

**9. Can a property qualifying for the value exclusion also receive the property tax refund?**

Technically, yes. While the homestead market value exclusion (M.S. 273.13, subd. 35) is prohibited in statute, there is nothing precluding a qualifying veteran from applying for a property tax refund. Of course, eligibility requirements will vary from situation to situation.

**10. What terminology should assessors use when explaining the exclusion to a veteran?**

There has been some misunderstanding among qualifying veterans with a disability in terms of what this benefit offers. It might be helpful to explain the different terminology of property tax law when assisting qualifying veterans. Here are some specific examples of commonly misused words when explaining this benefit.

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**Special Valuation and Tax Programs**

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**Class:** This is not a new property tax classification. It applies to residential and agricultural homestead classes. For agricultural homesteads, the value exclusion applies the house, garage, and first acre of the property.

**Credit:** This program is not a credit or refund. It is a market value exclusion in relation to taxable market value of a homestead property.

**Exemption:** This is not a property tax exemption. Again, it is an exclusion of market value (up to a certain amount) from property taxes. It is very possible for a qualifying veteran with a disability to continue to pay some property taxes. Properties valued at amounts higher than the available exclusion amount may still be subject to taxes on the remaining market value or special assessments.

Primary Statutory References: [273.13](#), subdivision 34



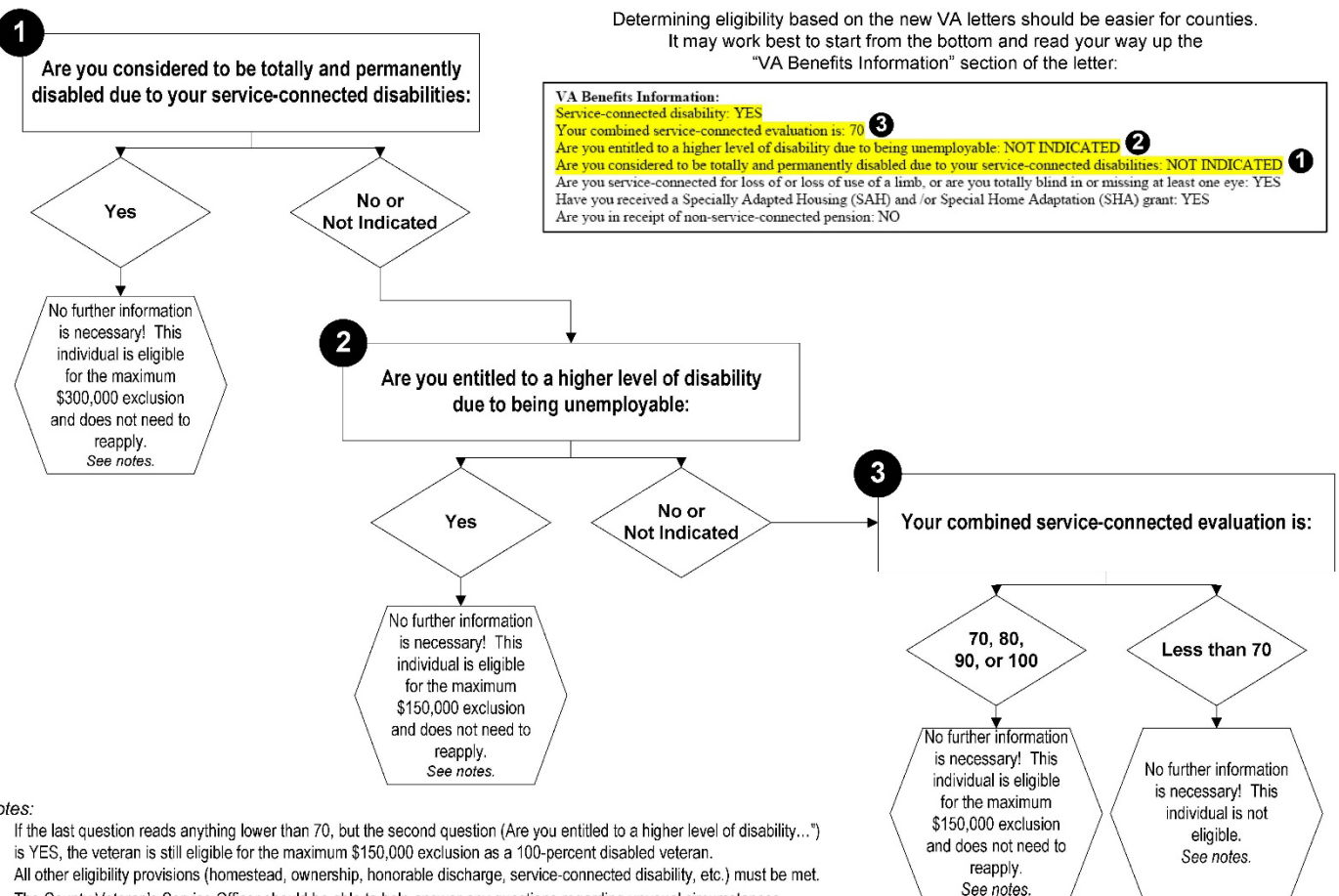
**Special Valuation and Tax Programs**
**Flow Chart: Determining Market Value Exclusion for Veterans with a Disability**

**Determining Market Value Exclusion for Veterans with a Disability**  
 Based on the NEW Veteran's Affairs Letters

Rev. 9/2017

Determining eligibility based on the new VA letters should be easier for counties.  
 It may work best to start from the bottom and read your way up the  
 "VA Benefits Information" section of the letter:

**VA Benefits Information:**  
 Service-connected disability: YES  
 Your combined service-connected evaluation is: 70  
 Are you entitled to a higher level of disability due to being unemployable: NOT INDICATED  
 Are you considered to be totally and permanently disabled due to your service-connected disabilities: NOT INDICATED  
 Are you service-connected for loss of or loss of use of a limb, or are you totally blind in or missing at least one eye: YES  
 Have you received a Specially Adapted Housing (SAH) and/or Special Home Adaptation (SHA) grant: YES  
 Are you in receipt of non-service-connected pension: NO


**Notes:**

- If the last question reads anything lower than 70, but the second question (Are you entitled to a higher level of disability...) is YES, the veteran is still eligible for the maximum \$150,000 exclusion as a 100-percent disabled veteran.
- All other eligibility provisions (homestead, ownership, honorable discharge, service-connected disability, etc.) must be met.
- The County Veteran's Service Officer should be able to help answer any questions regarding unusual circumstances.

## Special Valuation and Tax Programs

## Example Letter from the Department of Veteran's Affairs

**DEPARTMENT OF VETERANS AFFAIRS**

Regional Office

Bishop Henry Whipple Fed. Bldg.

1 Federal Drive Fort Snelling

St. Paul MN 55111-4050

MAY 08 2013

In Reply Refer To: 335/21  
C SOCIAL SECURITY #  
NAMENAME  
ADDRESS  
CITY, STATE ZIP

Dear NAME:

This letter is a summary of benefits you currently receive from the Department of Veterans Affairs (VA). We are providing this letter to disabled Veterans to use in applying for benefits such as state or local property or vehicle tax relief, civil service preference, to obtain housing entitlements, free or reduced state park annual memberships, or any other program or entitlement in which verification of VA benefits is required. Please safeguard this important document. This letter is considered an official record of your VA entitlement.

Our records contain the following information:

**Personal Claim Information**Your VA claim number is: SS#.  
You are the Veteran.**Military Information**Your character(s) of discharge and service date(s) include:  
Honorable, Marine Corps, Jul 29, 1991 - Jul 28, 1995  
Honorable, Army, Mar 3, 2007 - Jul 11, 2008  
Honorable, Army, Apr 13, 2009 - May 28, 2010  
(You may have additional periods of service not listed above)**VA Benefits Information**Service-connected disability: YES  
Your combined service-connected evaluation is: 100 percent  
Your current monthly award amount is: \$3,102.00  
Are you entitled to a higher level of disability due to being unemployable: YES  
Are you considered to be totally and permanently disabled due to your service-connected disabilities: YES

Special Valuation and Tax Programs

## Homestead Market Value Exclusion

Minnesota Statutes, section [273.13](#), subdivision 35, provides a homestead market value exclusion which was created in 2011 to replace what had been a state-paid homestead market value credit. This states that, prior to determining a property's net tax capacity, property classified as class 1a or 1b, and the portion of property classified as class 2a consisting of the house, garage and surrounding one acre of land, shall be eligible for a market value exclusion.

### Calculation

Starting in assessment year 2024, taxes payable 2025, for a homestead valued at \$95,000 or less, the exclusion is 40 percent of market value, yielding a maximum exclusion of \$38,000 at \$95,000 of market value. For a homestead valued between \$95,000 and \$517,200, the exclusion is \$38,000 minus nine percent of the valuation over \$95,000. For a homestead valued at \$517,200 or more, there is no valuation exclusion.

Taxes on residential net tax capacity from the original exclusion amounts (prior to 2023 law changes) to the new exclusion amounts effective for assessment year 2024, payable 2025 now function as follows:

NTC Based Taxes	Original exclusion amounts	New exclusion amounts
<b>EMV (Estimated Market Value)</b>	141,100	141,100
- Exclusions	24,541	33,851
<b>TMV (Taxable Market Value)</b>	116,559	107,249
Class Rate	1.00%	1.00%
<b>NTC (Net Tax Capacity)</b>	1,165.59	1,072.49
Gross Tax (NTC x Tax Rate of 104%)	1,212.21	1,115.39
<b>NET TAX</b>	<b>1,212.21</b>	<b>1,115.39</b>

### Fractional Homesteads

If a portion of a residential property is classified as non-homestead solely because not all of the owners occupy the property, not all the owners have qualifying relatives occupying the property, or solely because not all the spouses of owners occupy the property, the exclusion amount shall be initially computed as if that non-homestead portion were also in the homestead class and then prorated to the owner-occupant's percentage of homestead ( $100\% / \# \text{ of owners}$ ). When an owner-occupant's spouse does not occupy the property (and it does not receive a full homestead for the allowable instances when spouses can live apart), the percentage of homestead for the owner-occupant spouse is one-half of the couple's homestead percentage. (See a calculation example later in this section.)

*Note: the calculation for fractionalizing agricultural homesteads has additional factors to review as outlined in Module 4.*

## Special Valuation and Tax Programs

### Rounding

The valuation exclusion shall be rounded to the nearest whole dollar and may not be less than zero. With respect to rounding, however, note that authority remains under M.S. 276.04, subd. 2, to round tax amounts to the nearest even whole dollar.

### Hierarchy of Market Value Components

Below is the hierarchy of market value components. The homestead market value exclusion is taken after any valuation exclusions or adjustments in 273.11 (which includes the platted vacant land exclusion and other exclusions), making it the last adjustment in determining the taxable market value used to compute net tax capacities.

Hierarchy of Market Value Components: AY 2014	
1.	Market Value Irrespective of Contaminants
2.	Contamination Value
3.	<b>Estimated Market Value (EMV)</b> [1 – 2]
4.	Green Acres Deferment
5.	Rural Preserves Deferment
6.	Open Space Deferment
7.	Aggregate Resource Preservation Deferment
8.	Platted Vacant Land Exclusion
9.	Exclusion for Veterans with a Disability (not eligible for homestead market value exclusion)
10.	Mold Damage Reduction
11.	<b>MV Prior to Homestead MV Exclusion</b> [3-4-5-6-7-8-9-10] (RMV)
12.	Homestead Market Value Exclusion
13.	<b>Taxable Market Value (TMV)</b> [11-12]

### Calculation examples:

Note: The following examples reflect the original homestead market value exclusion amounts for assessment year 2023.

#### Example 1 - Residential homestead with an estimated market value of \$280,000.

The first step is to calculate the initial, or maximum, exclusion amount that is equal to 40% of the first \$95,000. Since this example has a value over \$95,000, the initial/maximum exclusion equals \$38,000. The second step is to determine the amount of value, if any, that is over the \$95,000 threshold (as shown below, the EMV minus \$95,000 is \$185,000). The third step is to multiply that amount over \$95,000 (\$185,000) by 9%. This is the amount to be reduced from the maximum of \$38,000, as shown in the fourth step. This example has an exclusion amount of \$21,350.

### Homestead Market Value Exclusion Calculation

- i. Initial/Maximum Exclusion:  $\$95,000 \times 40\% = \$38,000$

## Special Valuation and Tax Programs

- |      |                           |                                   |
|------|---------------------------|-----------------------------------|
| ii.  | Value over \$95,000:      | $\$280,000 - 95,000 = \$185,000$  |
| iii. | Benefit Reduction Amount: | $\$185,000 \times 9\% = \$16,650$ |
| iv.  | Final Exclusion Amount:   | $\$38,000 - 16,650 = \$21,350$    |

Note that the value used in the above calculation is the value from line 14 on the hierarchy of values found below. In this example Line 11 equals the EMV on line 3, but that will not always be the case.

		AY 20XX
1.	Market Value Irrespective of Contaminants	\$280,000
2.	Contamination Value	NA
3.	<b>Estimated Market Value (EMV) [1 – 2]</b>	\$280,000
4.	Green Acres Deferment	NA
5.	Rural Preserves Deferment	NA
6.	Open Space Deferment	NA
7.	Aggregate Resource Preservation Deferment	NA
8.	Platted Vacant Land Exclusion	NA
9.	Exclusion for Veterans with a Disability	NA
10.	Mold Damage Reduction	NA
11.	<b>MV Prior to Homestead MV Exclusion [3-4-5-6-7-8-9-10] (RMV)</b>	\$280,000
12.	Homestead Market Value Exclusion	\$21,350
13.	<b>Taxable Market Value (TMV) [11-12]</b>	\$258,650

Taxable market value (TMV) on line 13, therefore, is the line 11 amount minus the value of the exclusion. This is the value used to calculate net tax capacities. The process for NTC calculation remains the same.

Line 11 is also generally the referendum market value (RMV) since the exclusion is not meant to have any impact on RMV. For homesteads, the RMV is calculated as the TMV (line 13) plus the value of the MV Homestead Exclusion (line 12). In the case of class 1b homesteads, this market value must be multiplied by the class rate, and then multiplied by 100.

### Referendum Market Value Calculation

TMV + Homestead MV Exclusion:  $\$258,650 + \$21,350 = \$280,000$

Special Valuation and Tax Programs

**Example 2- Residential homestead with an estimated market value of \$80,000.**

The first step is to calculate the initial, or maximum, exclusion amount that is equal to 40% of the first \$95,000. Since this example has a value of less than \$95,000, the initial exclusion does not hit the maximum (\$38,000) and equals \$32,000. The second step is not applicable, because there is no value over the \$95,000 threshold. The third step is likewise not applicable. The final exclusion amount equals the initial amount. This example has an exclusion amount of \$32,000.

**Homestead Market Value Exclusion Calculation**

i.	Initial/Maximum Exclusion:	\$80,000 x 40% = \$32,000
ii.	Value over \$95,000:	\$0
iii.	Benefit Reduction Amount:	\$0
iv.	Final Exclusion Amount:	\$32,000

Note that the value used in the above calculation is the value from line 11 on the hierarchy of values found below. In this example line 11 equals the EMV on line 3, but that will not always be the case.

		AY 20XX
1.	Market Value Irrespective of Contaminants	\$80,000
2.	Contamination Value	NA
3.	<b>Estimated Market Value (EMV) [1 – 2]</b>	\$80,000
4.	Green Acres Deferment	NA
5.	Rural Preserves Deferment	NA
6.	Open Space Deferment	NA
7.	Aggregate Resource Preservation Deferment	NA
8.	Platted Vacant Land Exclusion	NA
9.	Exclusion for Veterans with a Disability	NA
10.	Mold Damage Reduction	NA
11.	<b>MV Prior to Homestead MV Exclusion [3-4-5-6-7-8-9-10]</b>	\$80,000
12.	Homestead Market Value Exclusion	\$32,000
13.	<b>Taxable Market Value (TMV) [11-12]</b>	\$48,000

Taxable market value (TMV) on line 13, therefore, is the line 11 amount minus the value of the exclusion. This is the value used to calculate net tax capacities. The process for NTC calculation remains the same.

Line 11 is also generally the referendum market value since the exclusion is not meant to have any impact on RMV. For homesteads, the RMV is calculated as the TMV (line 13) plus the value of the MV Homestead Exclusion (line 12). In the case of class 1b homesteads, this market value

## Special Valuation and Tax Programs

must be multiplied by the class rate, and then multiplied by 100. For other classes of property that are not homesteads, the RMV calculations have not changed.

**Referendum Market Value Calculation**

TMV + Homestead MV Exclusion:  $\$48,000 + \$32,000 = \$80,000$

**Example 3 - Residential Homestead with an estimated market value of \$520,000.**

As a shortcut, since the value is greater than \$517,200, the exclusion is \$0. If the process were followed, the first step would be to calculate the initial, or maximum, exclusion amount that is equal to 40% of the first \$95,000. Since this example has a value over \$95,000, the initial/maximum would be \$38,000. The second step would be to determine the amount of value, if any, that is over the \$95,000 threshold. The third step would be to multiply that amount over \$95,000 (in this case \$425,000) by 9%. Since that amount exceeds the maximum, the resulting final exclusion is \$0 (as the exclusion can never be negative). This example has no exclusion.

**Homestead Market Value Exclusion Calculation**

- |      |                            |                                    |
|------|----------------------------|------------------------------------|
| i.   | Initial/Maximum Exclusion: | $\$95,000 \times 40\% = \$38,000$  |
| ii.  | Value over \$95,000:       | $\$520,000 - \$95,000 = \$425,000$ |
| iii. | Benefit Reduction Amount:  | $\$425,000 \times 9\% = \$38,250$  |
| iv.  | Final Exclusion Amount:    | $\$38,000 - \$38,250 = \$0$        |

Note that the value used in the above calculation is the value from line 11 on the hierarchy of values found below. In this example line 11 equals the EMV on line 3, but that will not always be the case.

		AY 20XX
1.	Market Value Irrespective of Contaminants	\$520,000
2.	Contamination Value	NA
3.	<b>Estimated Market Value (EMV) [1 – 2]</b>	\$520,000
4.	Green Acres Deferment	NA
5.	Rural Preserves Deferment	NA
6.	Open Space Deferment	NA
7.	Aggregate Resource Preservation Deferment	NA
8.	Platted Vacant Land Exclusion	NA
9.	Exclusion for Veterans with a Disability	NA
10.	Mold Damage Reduction	NA
11.	<b>MV Prior to Homestead MV Exclusion [3-4-5-6-7-8-9-10]</b>	\$520,000
12.	Homestead Market Value Exclusion	\$0
13.	<b>Taxable Market Value (TMV) [11-12]</b>	\$520,000



## Special Valuation and Tax Programs

Taxable market value (TMV) on line 13, therefore, is the line 11 amount minus the value of the exclusion. This is the value used to calculate net tax capacities. The process for NTC calculation remains the same.

Line 11 is also generally the referendum market value since the exclusion is not meant to have any impact on RMV. For homesteads, the RMV is calculated as the TMV (line 13) plus the value of the MV Homestead Exclusion (line 12). In the case of class 1b homesteads, this value must be multiplied by the class rate, and then multiplied by 100. For other classes of property that are not homesteads, the RMV calculations have not changed.

### Referendum Market Value Calculation

TMV + Homestead MV Exclusion:  $\$520,000 + \$0 = \$520,000$

### Example 4: Agricultural Homestead - Farm with an estimated market value of \$875,000: HGA \$125,000; Remainder \$750,000

For agricultural homesteads, the exclusion only applies to the house, garage, and first acre (HGA). The first step is to calculate the initial, or maximum, exclusion amount that is equal to 40% of the first \$95,000. Since this example has an HGA value over \$95,000, the initial/maximum equals \$38,000. The second step is to determine the amount of HGA value, if any, that is over the \$95,000 threshold. The third step is to multiply that amount over \$95,000 (in this case \$30,000) by 9%. This is the amount to be reduced from the maximum of \$38,000, as shown in the fourth step. This example has an exclusion amount of \$35,300.

### Homestead Market Value Exclusion Calculation

- |                                |                                   |
|--------------------------------|-----------------------------------|
| i. Initial/Maximum Exclusion:  | $\$95,000 \times 40\% = \$38,000$ |
| ii. Value over \$95,000:       | $\$125,000 - \$95,000 = \$30,000$ |
| iii. Benefit Reduction Amount: | $\$30,000 \times 9\% = \$2,700$   |
| iv. Final Exclusion Amount:    | $\$38,000 - \$2,700 = \$35,300$   |

Note that the value used in the above calculation is the HGA homestead value from line 11 on the hierarchy of values found below. In this example line 11 contains both HGA and remainder value, but only the HGA value is used in the calculations. In this example line 11 equals the EMV on line 3, but that will not always be the case.



## Special Valuation and Tax Programs

		AY 20XX
1.	Market Value Irrespective of Contaminants	\$875,000
2.	Contamination Value	NA
3.	<b>Estimated Market Value (EMV) [1 – 2]</b>	\$875,000
4.	Green Acres Deferment	NA
5.	Rural Preserves Deferment	NA
6.	Open Space Deferment	NA
7.	Aggregate Resource Preservation Deferment	NA
8.	Platted Vacant Land Exclusion	NA
9.	Exclusion for Veterans with a Disability	NA
10.	Mold Damage Reduction	NA
11.	<b>MV Prior to Homestead MV Exclusion [3-4-5-6-7-8-9-10]</b>	\$875,000
12.	Homestead Market Value Exclusion	\$35,300
13.	<b>Taxable Market Value (TMV) [11-12]</b>	\$839,700

Taxable market value (TMV) on line 13, therefore, is the line 11 amount minus the value of the Line 12 exclusion. This is the value used to calculate net tax capacities. The process for NTC calculation remains the same.

Line 11 is also generally the referendum market value since the exclusion is not meant to have any impact on RMV. However, for agricultural homesteads, only the HGA is subject to referendum market value, which has not changed. For agricultural homesteads, the RMV is calculated as the HGA's TMV (part of line 13) plus the value of the MV Homestead Exclusion (line 12). The HGA portion of line 13 is \$89,700, plus the exclusion of \$35,300, results in an RMV of \$125,000. In the case of class 1b agricultural homesteads, this HGA value must be multiplied by the class rate, and then multiplied by 100.

### Referendum Market Value Calculation

TMV + Homestead MV Exclusion:  $\$89,700 + \$35,300 = \$125,000$   
(Class 2 property, except for the HGA, is not included in RMV).

Special Valuation and Tax Programs

**Example 5: Split Class Residential Homestead - A hardware store with a single unit homesteaded living space upstairs and an estimated market value of \$95,000: hardware store \$55,000; homestead unit \$40,000**

The first step is to calculate the initial, or maximum, exclusion amount that is equal to 40% of the first \$95,000. Since this example has a homestead value of less than \$95,000, even though the total estimated market value (including the commercial portion) is greater than \$95,000, the initial exclusion does not hit the maximum and equals \$16,000. The second step is not applicable because there is no homestead value over the \$95,000 threshold. The third step is also not applicable. The final exclusion amount equals the initial amount. This example has an exclusion amount of \$16,000.

**Homestead Market Value Exclusion Calculation**

i.	Initial/Maximum Exclusion:	$\$40,000 \times 40\% = \$16,000$
ii.	Value over \$95,000:	\$0
iii.	Benefit Reduction Amount:	\$0
iv.	Final Exclusion Amount:	$\$16,000 - \$0 = \$16,000$

Note that the value used in the above calculation is the value from line 11 on the hierarchy of values found below. In this example line 11 equals the EMV on line 3, but that will not always be the case.

		AY 2014
1.	Market Value Irrespective of Contaminants	\$95,000
2.	Contamination Value	NA
3.	<b>Estimated Market Value (EMV) [1 – 2]</b>	\$95,000
4.	Green Acres Deferment	NA
5.	Rural Preserves Deferment	NA
6.	Open Space Deferment	NA
7.	Aggregate Resource Preservation Deferment	NA
8.	Platted Vacant Land Exclusion	NA
9.	Exclusion for Veterans with a Disability	NA
10.	Mold Damage Reduction	NA
11.	<b>MV Prior to Homestead MV Exclusion [3-4-5-6-7-8-9-10]</b>	\$95,000
12.	Homestead Market Value Exclusion	\$16,000
13.	<b>Taxable Market Value (TMV) [11-12]</b>	\$79,000

Taxable market value (TMV) on line 13, therefore, is the line 11 amount minus the value of the exclusion. This is the value used to calculate net tax capacities. The process for NTC calculation remains the same.

## Special Valuation and Tax Programs

Line 11 is also generally the referendum market value since the exclusion is not meant to have any impact on RMV. For homesteads, the RMV is calculated as the TMV (line 13) plus the value of the MV Homestead Exclusion (line 12). In the case of class 1b homesteads, this market value must be multiplied by the class rate, and then multiplied by 100. For other classes of property that are not homesteads, the RMV calculations have not changed.

### Referendum Market Value Calculation

TMV + Homestead MV Exclusion:  $\$79,000 + \$16,000 = \$95,000$

### Example 6: Fractional Homestead - A single unit house with an estimated market value of \$275,000 is occupied by one of two unrelated owners.

For property tax purposes, the occupant is one of two owners and eligible for one-half homestead in the house (100% / # of owners).

In a fractional homestead situation, the process changes. A partial homestead should not get a larger exclusion based on using a smaller value (and less phase-out). Therefore, for a fractional homestead, the values used to calculate the exclusion are the values as if the homestead was a full homestead, and then the resulting exclusion amount is fractionalized. In this case, instead of using \$137,500 of homestead value (one-half of the \$275,000 EMV), use the full value of \$275,000 as if it were a full homestead. The first step is to calculate the initial, or maximum, exclusion amount that is equal to 40% of the first \$95,000. Since this example has a value over \$95,000, the initial/maximum equals \$38,000. The second step is to determine the amount of value, if any, that is over the \$95,000 threshold. The third step is to multiply that amount over \$95,000 (in this case \$180,000) by 9%. This is the amount to be reduced from the maximum of \$38,000, as shown in the fourth step. The last, extra step is to fractionalize the computed amount based on the homestead percentage (in this case 50%). This example has an exclusion amount of \$10,900.

### Homestead Market Value Exclusion Calculation

- |                                |                                   |
|--------------------------------|-----------------------------------|
| i. Initial/Maximum Exclusion:  | $\$95,000 \times 40\% = \$38,000$ |
| ii. Value over \$95,000:       | $\$275,000 - 95,000 = 180,000$    |
| iii. Benefit Reduction Amount: | $\$180,000 \times 9\% = \$16,200$ |
| iv. Final Exclusion Amount:    | $\$38,000 - \$16,200 = \$21,800$  |
| v. Fractionalize Exclusion:    | $\$21,800 \times 50\% = \$10,900$ |

Taxable market value (TMV) on line 13, therefore, is the line 11 amount minus the value of the exclusion. This is the value used to calculate net tax capacities. The process for NTC calculation remains the same.

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		AY 20XX
1.	Market Value Irrespective of Contaminants	\$275,000
2.	Contamination Value	NA
3.	<b>Estimated Market Value (EMV) [1 – 2]</b>	\$275,000
4.	Green Acres Deferment	NA
5.	Rural Preserves Deferment	NA
6.	Open Space Deferment	NA
7.	Aggregate Resource Preservation Deferment	NA
8.	Platted Vacant Land Exclusion	NA
9.	Exclusion for Veterans with a Disability	NA
10.	Mold Damage Reduction	NA
11.	<b>MV Prior to Homestead MV Exclusion [3-4-5-6-7-8-9-10]</b>	\$275,000
12.	Homestead Market Value Exclusion	\$10,900
13.	<b>Taxable Market Value (TMV) [11-12]</b>	\$264,100

Line 11 is also generally the referendum market value since the exclusion is not meant to have any impact on RMV. For homesteads, the RMV is calculated as the TMV (line 13) plus the value of the MV Homestead Exclusion (line 12). In the case of class 1b homesteads, this market value must be multiplied by the class rate, and then multiplied by 100. For other classes of property that are not homesteads, the RMV calculations have not changed.

**Referendum Market Value Calculation**

TMV + Homestead MV Exclusion:  $\$264,100 + \$10,900 = 275,000$

**Example 7: Residential Homestead with Mold Damage - An owner-occupied house with an EMV of \$200,000 and \$85,000 exclusion for mold damage.**

The first step is to calculate the initial, or maximum, exclusion amount that is equal to 40% of the first \$95,000 of market value. Since this example has a value over \$95,000, the initial/maximum equals \$38,000. The second step is to determine the amount of value, if any, that is over the \$95,000 threshold. In this case there is only \$20,000 of value over \$95,000, because the value used here is the line 14 amount after other exclusions are applied. The third step is to multiply that amount over \$95,000 by 9%. This is the amount to be reduced from the maximum of \$38,000, as shown in the fourth step. This example has an exclusion amount of \$36,200.

## Special Valuation and Tax Programs

**Homestead Market Value Exclusion Calculation**

- |      |                            |                                   |
|------|----------------------------|-----------------------------------|
| i.   | Initial/Maximum Exclusion: | $\$95,000 \times 40\% = \$36,200$ |
| ii.  | Value over \$95,000:       | $\$115,000 - 95,000 = \$20,000$   |
| iii. | Benefit Reduction Amount:  | $\$20,000 \times 9\% = \$1,800$   |
| iv.  | Final Exclusion Amount:    | $\$38,000 - 1,800 = \$36,200$     |

		AY 2014
1.	Market Value Irrespective of Contaminants	\$200,000
2.	Contamination Value	NA
3.	<b>Estimated Market Value (EMV) [1 – 2]</b>	\$200,000
4.	Green Acres Deferment	NA
5.	Rural Preserves Deferment	NA
6.	Open Space Deferment	NA
7.	Aggregate Resource Preservation Deferment	NA
8.	Platted Vacant Land Exclusion	NA
9.	Exclusion for Veterans with a Disability	NA
10.	Mold Damage Reduction	\$85,000
11.	<b>MV Prior to Homestead MV Exclusion [3-4-5-6-7-8-9-10]</b>	\$115,000
12.	Homestead Market Value Exclusion	\$36,200
13.	<b>Taxable Market Value (TMV) [11-12]</b>	\$78,800

Taxable market value (TMV) on line 13, therefore, is the line 11 amount minus the value of the exclusion. This is the value used to calculate net tax capacities. The process for NTC calculation remains the same.

Line 11 is also generally the referendum market value since the exclusion is not meant to have any impact on RMV. For homesteads, the RMV is calculated as the TMV (line 13) plus the value of the MV Homestead Exclusion (line 12). In the case of class 1b homesteads, this market value must be multiplied by the class rate, and then multiplied by 100. For other classes of property that are not homesteads, the RMV calculations have not changed.

**Referendum Market Value Calculation**

TMV + Homestead MV Exclusion:	$\$78,800 + \$36,200 = \$115,000$
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## Special Valuation and Tax Programs

**Example 8 - Class 1b homestead with an estimated market value of \$120,000.**

The first step is to calculate the initial, or maximum, exclusion amount that is equal to 40% of the first \$95,000. Since this example has a value over \$95,000, the initial/maximum equals \$38,000. The second step is to determine the amount of value, if any, that is over the \$95,000 threshold. The third step is to multiply that amount over \$95,000 (in this case \$25,000) by 9%. This is the amount to be reduced from the maximum of \$38,000, as shown in the fourth step. This example has an exclusion amount of \$26,440.

**Homestead Market Value Exclusion Calculation**

i.	Initial/Maximum Exclusion:	$\$95,000 \times 40\% = \$38,000$
ii.	Value over \$95,000:	$\$120,000 - \$95,000 = \$25,000$
iii.	Benefit Reduction Amount:	$\$25,000 \times 9\% = \$2,250$
iv.	Final Exclusion Amount:	$\$38,000 - \$2,250 = \$35,750$

Note that the value used in the above calculation is the value from line 11 on the hierarchy of values found below. In this example line 11 equals the EMV on Line 3, but that will not always be the case.

		AY 2014
1.	Market Value Irrespective of Contaminants	\$120,000
2.	Contamination Value	NA
3.	<b>Estimated Market Value (EMV) [1 – 2]</b>	\$120,000
4.	Green Acres Deferment	NA
5.	Rural Preserves Deferment	NA
6.	Open Space Deferment	NA
7.	Aggregate Resource Preservation Deferment	NA
8.	Platted Vacant Land Exclusion	NA
9.	Exclusion for Veterans with a Disability	NA
10.	Mold Damage Reduction	NA
11.	<b>MV Prior to Homestead MV Exclusion [3-4-5-6-7-8-9-10]</b>	\$120,000
12.	Homestead Market Value Exclusion	\$35,750
13.	<b>Taxable Market Value (TMV) [11-12]</b>	\$84,250

Taxable market value (TMV) on line 13, therefore, is the line 11 amount minus the value of the exclusion. This is the value used to calculate net tax capacities. The process for NTC calculation remains the same. The first \$50,000 of taxable market value has a class rate of 0.45% ( $\$50,000 \times 0.45\% = \$225$ ) while the remaining value is at 1.00% ( $\$34,250 \times 1\% = \$342.50$ ), for an NTC of \$567.50.

### Special Valuation and Tax Programs

Line 11 is also generally the referendum market value since the exclusion is not meant to have any impact on RMV. While this usually is calculated as the TMV (line 13) plus the value of the MV Homestead Exclusion (line 12), this is an example of class 1b which has a class rate of less than 1.00%. Therefore, the line 11 value of class 1b (\$50,000) must be multiplied by the class rate, and then multiplied by 100. The remaining homestead value for the class 1b homestead is at 1.00% and then multiplied by 100. For other classes of property that are not homesteads, the RMV calculations have not changed.

#### Referendum Market Value Calculation

Class 1b share of RMV:	$\$50,000 \times 0.45\% = \$225 \times 100 = \$22,500$
Remainder of class 1b (if Ag, HGA part only):	$\$70,000 \times 1.00\% = \$700 \times 100 = \$70,000$
Total RMV:	$\$22,500 + \$70,000 = \$92,500$

#### Referendum Market Value

Referendum market value generally equals the taxable market value of all taxable property, excluding property classified as class 2 (ag/rural land), 4c(4) (student housing), or 4c(12) (noncommercial seasonal residential recreational). The portion of class 2a property consisting of the house, garage, and surrounding one acre of land of an agricultural homestead is included in referendum market value. However, in regard to this exclusion, in the case of class 1a, 1b, or 2a property, the market value used to determine referendum market value is the value prior to the homestead market value exclusion. Note, however, that any class of property, or any portion of a class of property, that is included in the definition of referendum market value and that has a class rate of less than one percent, shall have a referendum market value equal to its market value (either the TMV or the market value prior to the homestead market value exclusion, whichever is appropriate) times its class rate, multiplied by 100.

Example: A residential homestead property with an estimated market value of \$100,000 receives an exclusion of \$28,240 resulting in a taxable market value of \$71,760. The referendum market value is equal to the market value prior to the homestead market value exclusion (or the taxable market value plus the market value homestead exclusion amount), which in this case is \$100,000.

Primary Statutory References: [273.13](#), subdivision 3

## Special Valuation and Tax Programs

## Contamination Tax

### Introduction

In May 2008, the Department of Revenue issued a bulletin and forms for assessors to use in administering the Contamination Tax program. That information is repeated here. County assessors, auditors, and treasurers each have specific functions in administering the contamination tax. Proper administration of the tax requires a coordinated effort of many stakeholders: property owners, county officials, boards of appeal and equalization, the Minnesota Department of Revenue and the Minnesota Pollution Control Agency, among others. The assessor has some roles in administering the tax, which are described below. For more detail on the Contamination Tax, please consult the [Department of Revenue's Auditor/Treasurer manual](#).

The contamination tax is designed to act as an incentive for property owners to clean up contaminated properties. The tax is based on the "lost value" due to the presence of contamination and is also seen as a way to capture the taxes due on this lost value and to use that revenue to fund pollution clean-up grants. Some of the collected tax is statutorily directed to a contaminated site clean-up and development account in the state's general fund.

### County Assessor Functions

The assessor must locate contaminated property and determine the contaminated value for any property within the county. There are many possible avenues for gathering this information and establishing the contaminated values. This section will provide additional information in locating contaminated parcels and establishing contamination values.

The assessor has the responsibility of locating any contaminated property within the county. The Minnesota Pollution Control Agency (PCA) is an initial resource for trying to identify potential Contamination Tax-eligible parcels. The PCA website, [www.pca.state.mn.us](http://www.pca.state.mn.us), has a [database](#) that allows users to search by geographical area (city/township, address, zip code, etc.). Other resources would include the Minnesota Department of Agriculture or other professionals in the county (County Environmental Services Departments or other government officials).

A contamination value can be established in a variety of ways. A court, board of review, or a petition by the property owner can result in a reduced market value due to the presence of contamination and the addition of a contamination value. The contaminated value, as ordered by the court or board of review, will be used to calculate the contamination tax.

The assessor can apply a reduction in market value if it is based on the presence of contaminants and is determined by an appraisal method that is intended to account for the impact of the contaminants on the property's market valuation. The Tax Court has determined in previous opinions that a modified traditional approach to value (cost, income, market) that



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**Special Valuation and Tax Programs**

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accounts for and supports deductions for stigma and the cost to cure contaminated parcels is acceptable.

The reduction in value may be for the actual contamination on the parcel and for the loss of value due to the stigma associated with the contamination. The reduction must be at least \$10,000 per contamination tax rate (100%, 25%, 50%, or 12.5%) or the contamination value for that contamination will be zero. This means a property could be generating several contamination tax amounts, based on contaminant and responsibility. A contamination value can never exceed the cost of implementing a reasonable response action plan (meaning the cost to cure).

There does not appear to be any termination of the contamination tax if a parcel has no approved response action plan and is not cleaned up. However, once the plan is completed, as determined by the PCA or Department of Agriculture, the contamination value is removed for the next assessment. At this time, the assessor will also need to review the parcel's market value and revalue the parcel accordingly. The parcel cannot be subject to the contamination tax once the action plan is completed even if there is still a reduced market value due to stigma. In this case, the property will still receive a reduced market value if it is supported by the assessor's data.

The assessor should be aware of different provisions of the contamination tax if the contaminant is asbestos. In certain circumstances, different tax rates may apply. Similarly, a property is exempt from contamination tax if the property owner is implementing a proactive in-place asbestos management program consistent with the rules, requirements, and formal policies of the United States Environmental Protection Agency. In this case, the property could still receive a reduced market value if it is supported by the assessor's market data.

After identifying the contaminated parcels and establishing the values, the assessor must then notify the taxpayer of their findings. Minnesota statutes require notice of the contamination value to the property owner by the later of June 1 of the assessment year or 30 days after the reduction in the market value is finally granted by a court, by a board of review, or by the assessor. In most cases, the assessor will have contact with the property owner throughout the identification and valuation phases, but this will serve as formal notice and will provide the taxpayer with the opportunity to share relevant information.

At this point, the assessor determines the appropriate contamination tax rate(s). The rate is based on responsibility for the contamination and the progress toward clean-up. The default rate is 100% and applies when there is no clean-up or approved clean-up plan, and the taxpayer is responsible for the contamination. If the property owner does not supply the required documents to the assessor to qualify for a lower rate, the assessor shall use the 100% rate. It is the property owner's responsibility to provide this information. Any information provided must

## Special Valuation and Tax Programs

either be approved by other governmental agencies or be from acceptable pollution remediation experts/consultants.

Clean-Up Status	Tax Rate Applied to Contaminated Value <i>Contaminated Value must be at least \$10,000</i>	
	Responsible Party	Non-Responsible Party
No clean-up; No clean-up plan	100%	25%
Clean-up plan approved; Contaminants are asbestos and the owner has an abatement plan in place	50%	12.5%
Clean-up done	No Contamination Tax	No Contamination Tax

The assessor would need to determine if separate market value reductions are necessary in these situations – meaning each contaminant requires an individual value reduction. If so, each must meet the \$10,000 minimum value reduction and would then be assigned a tax rate. If not, the entire market value reduction, no matter how many contaminants, would receive the highest contamination tax rate that can be determined. The following examples all assume that separate value reductions for each contaminant are not necessary:

- If the owner is responsible for at least one of the contaminants and there is not an approved clean-up plan for all of the contaminants, the rate is 100%.
- If the owner is responsible for at least one of the contaminants and there is an approved clean-up plan for all of the contaminants, the rate is 50%.
- If the owner is not responsible for any of the contaminants and there is not an approved clean-up plan for all of the contaminants, the rate is 25%.
- If the owner is not responsible for any of the contaminants and there is an approved clean-up plan for all of the contaminants, the rate is 12.5%.

Finally, the assessor is required to notify the county auditor of the following information by each separate contamination tax rate for each parcel: contamination value, property class, and class rate percentage. This information is in addition to the traditional information reported for ad valorem taxes. The contamination market value and contamination net tax capacity data are reported on the PRISM submission two of Real and Personal Property as well.

While the Contamination Tax Return forms are being completed, the assessor will also be expected to review the accompanying schedule to ensure all parcels with a contamination value are listed. The forms will be completed in conjunction with the county treasurer. The county assessor will need to sign the printed version of the form to acknowledge their involvement. The signed version will be mailed or faxed to the Department of Revenue and an electronic version (not signed) will be emailed, according to the form's instructions.

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The following is a very rudimentary listing of the process:

1. Assessor establishes any applicable contamination value as appropriate for each assessment.
2. Assessor provides notice to taxpayer, determines contamination tax rate and notifies auditor.
3. Auditor records information and provides contamination tax information for treasurer.
4. Treasurer collects contamination tax with regular tax collection.
5. Treasurer distributes collected taxes (including contamination taxes) as required by statute.
6. Treasurer and assessor complete Contamination Tax Return form and schedule twice each year.

The form and schedule are submitted to the state as directed in the instructions.

### County Auditor/Treasurer Functions

The auditor will calculate the contamination tax based on the information provided by the assessor, while the county treasurer prepares the property tax statements for the affected property owners, including the listing for the contamination tax and the amount of the tax.

For more detail, please consult the [Department of Revenue's Auditor/Treasurer manual](#).

### Contaminated Parcel Tax Calculation

To ensure complete and accurate calculation of the contamination tax amount, the department advises determining and utilizing net tax capacity values as demonstrated below. This methodology takes into account the preferential class rates, split classification, fractional ownerships, value exclusions, and all other special provisions that impact the determination of the net tax capacities and would therefore impact the calculation of the contamination tax amounts. The following demonstrates the entire process, from valuation to resulting contamination tax amount. Note that this process assumes just one contamination amount – it would be repeated as required to calculate the contamination tax for different responsibility levels or contaminations, provided they each reach the \$10,000 minimum value loss threshold.

### Market Valuation

- **Estimate market value irrespective of any pollution or contamination.** Assume the property is not contaminated or polluted, and value it using traditionally-accepted appraisal methodology.
- **Estimate the loss of value due to the pollution or contamination.** Each loss must be at least \$10,000 to generate a contamination tax amount. If this minimum is not reached, the property's market value will still be reduced, but it will not generate the contamination tax.
- **Subtract the loss of value from the uncontaminated estimated market value.** This difference is the estimated market value for regular property tax purposes.

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Special Valuation and Tax Programs

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- **Determine/calculate any deferments, exclusions, or reductions to estimated market value.** This includes (but not limited to) the following, if applicable:
  - Green Acres or Open Space Deferment
  - Platted vacant land exclusion
  - other value exclusions, deferrals, or reductions
- **Subtract these from the estimated market value for property tax purposes;** the result is the taxable market value for regular property tax purposes.

**Net Tax Capacities**

- **Calculate a net tax capacity to be used for regular property tax purposes** by multiplying the property class rate by the taxable market value for regular property tax purposes.
- **Add the loss of value due to the pollution or contamination to the taxable market value for regular property tax purposes.** This value is the contaminated taxable market value. Remember, if the loss is less than \$10,000, there is no contamination tax to calculate.
- **Calculate a contaminated net tax capacity.** This amount is the contaminated taxable market value multiplied by the property class rate. The contaminated net tax capacity should be greater than the regular property tax net tax capacity.
- **Subtract the regular property tax net tax capacity from the contaminated net tax capacity.** This difference is the net tax capacity to be used for calculating the contamination tax amount.

**Contamination Tax**

- **Multiply the resulting difference in net tax capacities by the appropriate contamination tax rate** (100%, 25%, 50%, or 12.5%). This amount is the contamination tax for the parcel. If there are several contamination tax calculations (due to multiple responsibility or contaminants), the individual contamination tax amounts would be summed to be reported as the contamination tax for the parcel.

## Special Valuation and Tax Programs

## Economic Development Abatements

A political subdivision may abate all or a portion of its current or future property tax on one or more parcels of real or personal property, including machinery, for economic development purposes, subject to a duration limit and a limit on the amount of the amount of abatements.

The abatement may be:

- a rebate of property taxes to the property owner;
- a reallocation of taxes to pay bondholders;
- a reallocation of taxes to pay for public infrastructure costs; or
- a deferment of property taxes.

The abatement for a parcel may be any one of the above but it cannot be two or more of these types of abatements. However, the type of abatement for a parcel may be changed by a modification to the abatement resolution for the parcel. In addition, a political subdivision may choose one form of abatement for one parcel and another form of abatement for another parcel. The abatement may be current or prospective. One or more political subdivisions (e.g. county and city) may grant abatements to the same parcel at the same time.

For more information, please consult the [Department of Revenue's Auditor/Treasurer manual](#).

## Special Valuation and Tax Programs

### Disaster Relief

#### Background

Legislation enacted in 2007 established comprehensive new tax relief for disaster-affected and destroyed property under Minnesota Statutes, section [273.1231 to 273.1235](#). These provisions replaced the old disaster credit and local option reductions that were previously provided under Minnesota Statutes, section [273.123](#); they also formalize the distinction between tax credits and tax abatements and provide more generous relief for properties located in a disaster or emergency area.

The following terms and definitions are important to remember when administering property tax relief.

#### Reassessment Required

Reassessment of property is required for all the methods of property tax relief under sections [273.1231 to 273.1235](#). This applies to properties located in a disaster or emergency area, and to other properties that may not qualify as being in a disaster or emergency area, but which apply for local option relief. Assessors must adjust the market values of affected properties to account for damage to adjust for the loss in value caused by the disaster. To do this, the assessor estimates the market value of each damaged home – in its damaged condition.

#### Credits and Abatements

For the purposes of administering the new disaster credits and abatements, the county assessor must reassess all damaged property in a disaster or emergency area. The Commissioner of Revenue shall reassess all damaged or destroyed property that is state-assessed. The reassessed value must be reported as soon as practical to the county auditor.

The following types of property tax relief for owners of damaged or destroyed property are now available:

1. **Local-option disaster abatements** ([273.1233](#)) for taxes payable in the **year of the disaster or destruction**;
2. **Homestead disaster credit** ([273.1234](#)) for taxes payable the year **following** the disaster (relating to the assessment year in which the disaster occurred); and
3. **Local-option disaster credit** ([273.1235](#)) for taxes payable the year **following** the disaster or destruction (relating to the assessment year in which the disaster or destruction occurred).

#### Eligibility

If a property is more than 50% damaged or destroyed in a disaster, accident, or arson/vandalism by someone other than the owner, the property is eligible for a local option disaster abatement and/or credit. The property owner must apply to the county assessor and county board as soon as practical and before the end of the calendar year that the

## Special Valuation and Tax Programs

disaster occurred. These credits/abatements are discretionary, and may be approved or denied by the county board.

If a property is homesteaded and is located in a declared disaster or emergency area, that property automatically qualifies for a homestead disaster credit. A property may **not** receive a homestead disaster credit if they have already qualified for a local option disaster credit.

The property owner at the time of the disaster is the only one who is eligible to apply for the local option credit/abatement. Once the application has been approved, the credit/abatement is tied to the property. Any subsequent change in ownership should not affect how the credit is applied or calculated.

### Computation

For property **located in a disaster or emergency area**, local-option credits and abatements are based on the difference between (1) the net tax on the property computed using the market value of the property established for the January 2 assessment in the year in which the damage occurred, and (2) the net tax computed using the reassessed market value.

$$\left( \begin{array}{c} \text{Net Tax} \\ \text{(as computed using the market value} \\ \text{established January 2 of the year of the} \\ \text{destruction)} \end{array} - \begin{array}{c} \text{Net Tax} \\ \text{(as computed using the reassessed} \\ \text{market value established after the} \\ \text{destruction)} \end{array} \right) = \begin{array}{c} \text{Disaster Abatement} \\ \text{Amount} \end{array}$$

For property **not located in a disaster or emergency area**, the abatement is **pro-rated** by the number of full months the property was unusable. If the structure was usable for a fraction of a month, that month is not included in the numerator.

$$\left( \begin{array}{c} \text{Disaster Abatement Amount} \end{array} \times \begin{array}{c} \text{\# of full months the} \\ \text{property was not usable/12} \end{array} \right) = \begin{array}{c} \text{Local Option} \\ \text{Abatement} \\ \text{Amount} \end{array}$$

For detailed information regarding the reassessment and property tax relief available to affected properties, [please visit our dedicated page on disaster relief for damaged and destroyed property.](#)