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Background and History

Minnesota's tax system predates statehood. In 1849, the first territorial assembly established a property tax levy to support schools – nine years before Minnesota became a state in 1858. Today, the states acquire the necessary revenue to provide public services to their citizens such as public schools, police protection, health and welfare benefits, and the operation of the state government through tax collection, fees and licenses, as well as money from the federal government. Among the common types of taxes that many states currently impose are personal income tax, corporate income tax, sales tax, and real property tax.

Introduction to Tax Policy

Revenue Resources

There are several ways that a government can obtain the necessary resources for operation. These include:

1. **Voluntary contributions** – may be time or monetary contributions and can include parents volunteering in their children's schools, volunteering to serve on advisory boards, etc.
2. **Public sector owns its own resources** – parks, national defense, public education, etc. Some require patrons to pay a fee for the service such as park entrance fees, or state university tuition.
3. **The government may "take" what it needs** – eminent domain, jury duty, etc. These may be considered to be arbitrary due to a perceived "need."
4. **Taxation** – this is necessary when numbers 1-3 above do not generate enough revenue to cover expenditures. There is always an argument over increasing a tax rate or decreasing expenditures.

Functions of a Tax System

1. **Source of revenue** – The main purpose of taxation is to raise revenue for government (at all levels) to provide for the common welfare of the people. Different goods and services are provided at different levels of the government –federal, state, and local.
2. **Encourage beneficial consumption** – Just as prices affect consumer decisions in the private sector, taxes can affect behavior by encouraging or discouraging certain activities. Examples include: tax credits for arts education, buying hybrid vehicles, owning your own home, taxes on cigarettes, etc.
3. **Changing income distribution of society** – By "taking from the rich and giving to the poor," governments level the pre-tax income distribution. Currently, the income tax system, in a simplistic form, is designed to do this by taxing greater income at a higher rate. This effect is tempered by deductions and credits.
4. **Stabilization** – Primarily a concern of the federal government rather than state or local governments, it reflects the effects tax changes have on inflation and unemployment. It

may also occur at the state or local level when jurisdictions use tax changes to attract businesses and create new jobs.

Characteristics of a Good Tax System

Many analysts agree that a good overall tax system includes a broad base (many or all goods/services are taxed) with a low tax rate. They believe a balanced, multi-tax system that consists of a combination of income, sales, and property taxes allows governments to meet their revenue needs most efficiently. The following characteristics are characteristics of a good tax system.

1. **Stability** – the ability of a tax system to generate a stable level of income for the government amid changing economic conditions. This implies that there is not a single tax system, but rather a multiple set of taxes. Typically, sales and income taxes are much more prone to economic upturns and downslides. Property taxes are a much more stable revenue source because jurisdictions levy what they need.
2. **Efficiency** – the effect a tax has on resource allocation. A tax may change the price of a product or service. The change in price may lead to a reallocation of resources due to a change in behavior because of the tax. The goal of tax policy is to minimize the negative effects on economic efficiency.
3. **Elasticity** – response of a tax to changing economic conditions. Income and sales tax revenues are quite volatile due to economic conditions. They expand during good times and contract during bad. Property taxes generally produce a more stable revenue flow.
4. **Political Acceptability** – citizens know what the tax is used for and generally consider the system to be fair.
5. **Administrative Simplicity** – both collection and compliance should be simple to administer.

Types of Tax

There are three main tax types collected in the state of Minnesota:

1. income taxes
2. sales or excise taxes
3. property taxes

There are numerous sub-categories, including liquor taxes, tobacco taxes, gambling taxes, mortgage and deed taxes, petroleum taxes, estate taxes, etc.

Income Tax is a tax on such items as wages, capital gains, dividend, and interest income, etc.

- There is a federal income tax, which is paid to the United States Treasury.
- Some states have no individual income tax while a few states only tax dividend and interest income.
- Very few local governments tax income.

- One of the strengths of the income tax is that taxpayers can anticipate their tax liability based on their rate of earnings. The income tax is more closely related to ability to pay than the sale tax.
- One of the weaknesses is that it is an unstable tax in that it is difficult for government to predict the amount of income tax it will receive due to changing economic cycles. It is also a complicated tax; however, administering state income tax is easier if state regulations conform to federal income tax regulations.

Sales Tax is based on the price paid for taxable items and is generally considered to be a consumption–based tax.

- It is generally enacted by states.
- Local governments can also collect an additional sales tax.
- The sales tax is also somewhat unstable and difficult to predict due to changing economic conditions.
- It is complex for states and businesses to administer and it has an uneven application in that some goods and services are taxed while others are not.
- Many analysts agree that it is most effective when sales tax applies to most, if not all, goods and services. In reality, many goods and services are excluded from sales tax. These exemptions vary from state to state.
- Sales tax rates also vary from state to state.
- Some local governments in Minnesota also have a local-option sales tax where they have received legislative approval to add an additional tax percentage to goods and services purchased in their jurisdictions. This additional funding is used for a variety of local purposes. This can lead to compliance issues and confusion among providers.
- Sales tax is generally considered to be regressive in that it has greater impact on low-income taxpayers than high-income taxpayers. Exempting basic items such as food, clothing, and prescription drugs make the sales tax less regressive.

Property Tax in Minnesota is an "ad valorem" tax. This means that property is taxed according to its value.

- Property tax is a major source of revenue for local units of government including cities, counties, and school districts.
- It is also the only tax that is subject to local review.
    - Values and classifications may be appealed to Local and County Boards of Appeal and Equalization and/or Tax Court.
    - In addition, public hearings (Truth in Taxation hearings) must be held each year by local units of government to discuss the upcoming year's budget.
- The property tax assessor is a key person in local government. Appraised values that are used for tax purposes must be accurate and equalized so the tax burden will be distributed fairly.

- Property taxes are a stable and predictable source of revenue for local units of government.
- However, the property tax system in Minnesota is also complicated and may not be predictable for the taxpayer. It may not reflect ability to pay based on a taxpayer's current income.

Minnesota's power of taxation is found in **Article X** of the **Constitution of the State of Minnesota**. The article states that the power of taxation will never be surrendered, suspended, or contracted away. It also states that the taxes will be uniform upon the same class of subjects and will be levied for public purposes. This **"uniformity clause"** is important in that it permits the use of different classification rates to be applied to different classes of property.

Article X also exempts certain types of properties from taxation. These exemptions include public burying grounds, public schools, public hospitals, academies, colleges, universities, all seminaries of learning, all churches, church property, houses of worship, institutions of purely public charity, and public property used exclusively for public purposes. However, the Legislature may define or limit the properties exempted by Article X except for churches, houses of worship, and properties used solely for educational purposes by colleges, universities, academies, and seminaries of learning.

Property taxes are paid annually by all property owners and renters. Up until 2001, property taxes were solely levied and collected at the local level. In 2001, the Legislature enacted the state general tax, which is paid by several classes of property, including classes 4c(1) and 4c(12) seasonal residential recreational, class 3a commercial/industrial, and class 5 "all other." This portion of the property tax is levied by the state, but it is collected by each county as part of the property tax.

Before property taxes are levied, it is necessary for each level of local government (cities, townships, counties, and school boards) to determine their funding needs for the upcoming year. This budget amount (less all non-property tax revenue such as state aid, fees, etc.) is divided by the total tax capacity of property to obtain the local property tax rate.

Proportional Tax

A tax is said to be proportional if the same amount of tax is paid on the first dollar as is paid on the last dollar. For example, assume there is a flat income tax rate of 5 percent. A taxpayer earning $1 per year would pay $0.05 in income tax. A taxpayer earning $10,000 per year would pay $500 per year in income tax; and a taxpayer earning $1 million per year would pay $50,000 in income tax.

This same concept could be applied to property tax. Assume there is a flat property tax rate of 1 percent per year. In this case, a property valued at $100,000, regardless of its classification, would pay $1,000; and a property valued at $1 million would pay $10,000.

Progressive Tax
With a progressive tax, as income increases, the tax rate increases. Our current system of income tax is a progressive tax. Taxpayers who earn less money generally pay less in the form of income tax in relation to their total income. As a taxpayer's income increases, the tax rate increases as well.

Regressive Tax
With a regressive tax, the proportional tax burden would be higher on lower incomes or property values. The property tax is generally regressive. However, several factors make the current system "less regressive." These factors include: the different classifications for different types of property, the state property tax refund, and homestead credits.

Advantages of the Property Tax
Generally, property tax is a "fair" tax, in that there are no loopholes to prevent people from paying property taxes. Wealth in the form of property cannot be hidden, unlike the income tax system where income is more likely to be sheltered or hidden. Another advantage of the property tax system is that most of the money is spent locally. Up until 2002, all the money collected from property taxes was spent locally. In 2002, the state began collecting the state general tax, which is only levied on certain types of property. This money goes into the state general fund.

Property assessments are subject to local review. If taxpayers do not agree with the assessed value or the classification of their property, they can appeal it to the Local or County Boards of Appeal and Equalization and/or to Tax Court.

Property tax is elastic. It can be adjusted to control the flow of revenue. Because a jurisdiction only receives what it levies, there is no surplus or deficit.

However, the property tax is also one of the most unpopular taxes. This may be attributed to the way the tax is collected. Instead of having a portion withheld from each paycheck as is the case with income tax, property tax bills are sent out once a year to be paid in two equal installments.

Another unintended consequence of the property tax is that in a market that is quickly appreciating, property owners who have held a property for a long time may find it difficult to pay any property taxes that are based on the current market value.

Some of the main reasons why the property tax has become so unpopular especially in recent years include:

1. There is a growing dislike of it among those in the economic development community because tax rates can vary widely between local jurisdictions. A high local tax rate can discourage new industries from locating within that jurisdiction.
2. There is a growing dislike of it among believers in per-pupil spending equality in public school education.
3. There is a continued belief that property taxes are regressive (greater impact on the poor than on the wealthy).
4. Taxpayers dislike it because they believe it is based on a "hypothetical" value and is levied on wealth, rather than income, and is therefore not necessarily based on the ability to pay. Some taxpayers may be property-rich but cash-poor.
5. Property taxes are highly visible and paid in large, lump-sums.

There also seems to be a public relations issue in that the average person does not understand the property tax system and what factors affect their property taxes. Many taxpayers think that assessors raise market values to raise property tax revenue. This is simply not the case, but the stigma is there. For these reasons, property taxes may be seen as being more of a burden than the other taxes.

Reporting of Property Tax in PRISM

In the past, County Auditors and County Assessors reported summarized data to the Department of Revenue in the form of nine abstract files. The Department of Revenue implemented PRISM (an acronym for the Property Record Information System of Minnesota), in 2016 to replace these abstracts. Counties now submit four standardized files each year. These files contain much more specific data, which provides a better picture of the property tax system. This helps determine if the tax system is functioning according to legislative intentions and helps model proposed changes to the tax system. It also increases the equalization of property values through better studies.

More information about PRISM submissions and reporting can be found in the A/T Manual and on the PRISM website.

Three Branches of Minnesota State Government

Minnesota's state government has three branches: executive, legislative, and judicial.

Executive Branch

The executive branch is made up of the Governor, Lieutenant Governor, the Secretary of State, the State Auditor, the State Treasurer, and the Attorney General, as well as numerous state departments and agencies. The Minnesota Tax Court is a specialized, executive branch court specifically established by the Minnesota Legislature to hear only tax-related cases.

There are 24 departments within the executive branch (May 2019). Each department is led by a Commissioner (except for Military Affairs which is led by the Adjutant General) who is appointed by the Governor. The Department of Revenue is an executive department and serves to achieve compliance with the tax laws of Minnesota. The Property Tax Division is part of the Department of Revenue.

The main duties of the executive branch are to administer the laws passed by the Legislature and to see that state government runs smoothly and efficiently.

Legislative Branch

The legislative branch includes the bicameral Legislature, which consists of the House of Representatives and the Senate, along with any legislative commissions (i.e. the Legislative Commission on Public Education). Their main duties are to make laws for the state and its people, as well as to propose amendments to the state Constitution.

As with any law, property tax legislation can change on an annual basis. These changes can include class rate changes, tax program changes, state aid changes, etc. It is important to keep up with the many changes that happen in any given year. Each year, the Department of Revenue produces a summary of the new law changes and disseminates it to the state's 87 counties and any cities with their own assessor.

Judicial Branch

The judicial branch comprises the Supreme Court, Court of Appeals, District Court, and Conciliation Court. In addition, any judicial councils, and boards, such as the State Board of Law Examiners are part of the judicial branch. Their main duties are to interpret the meaning of the law and to decide if anyone has broken the law.

Local Units of Government

The term "local government" is a general term for those governmental entities or political subdivisions of the state that provide functions and services at the local level. In Minnesota, the term usually refers to counties, towns (townships), and cities.

Counties

There are 87 counties in Minnesota. Duties and services provided by county governments include assessment of property, recordkeeping, construction and maintenance of roads, social services, corrections, child protection, library services, hospitals and nursing homes, public health services, planning and zoning, economic development, parks and recreation, water quality, and solid waste management.

County Boards of Commissioners are the governing bodies of Minnesota's counties. County boards are elected by district, serve a four-year term, and are responsible for the operation of the county and delivery of county services. Generally, the number of commissioners on a county board is five. However, counties with more than 100,000 residents may, by board resolution, increase the size of the county board from five to seven members.

Cities

As of August 1, 2009, there were 855 cities in Minnesota. The Legislature has described cities as the type of government that most efficiently provides governmental services in areas intensively developed for residential, commercial, industrial, and governmental purposes. Minnesota cities provide a wide range of services to their citizens.

There are two types of cities: statutory cities, which are organized and operate under the options provided in the statutory city code and other laws, and home rule charter cities, which are organized and operate under their individual charters and other laws.

City Councils are the governing bodies of Minnesota's cities. Although not all statutory cities have the same elected offices, all must have a mayor and at least three council members. Whether a statutory city elects other officers depends on several factors, including the plan of government under which it operates. For home rule charter cities, the city charter specifies the type and number of elected officials.

Cities are also classified based on population as a way for the Legislature to provide powers or impose duties as appropriate to cities of a certain size.

- First Class cities have populations of more than 100,000. The cities of Minneapolis, St. Paul, Duluth, and Rochester are First Class cities.
- Second Class cities have populations of more than 20,000, but not more than 100,000.
- Third Class cities have populations of more than 10,000 but not more than 20,000.
- Fourth Class cities have fewer than 10,000 residents.

Changes in a city's designation take effect when the Minnesota Secretary of State receives certified copies of the national census.

Towns (Townships)
As of 2009, there are 1,793 towns (including unorganized townships) in Minnesota. The Legislature describes township government as the form of local government that most efficiently provides governmental services in areas used or developed for agricultural, open space, and rural residential purposes.

To accommodate growing towns in need of more services, the Legislature has created a class of towns called "urban towns." Towns that have a population of at least 1,000 may exercise urban town powers (224 towns are eligible). Urban towns have many of the same powers that statutory cities have under the statutory city code.

Boards of Supervisors are the governing bodies of Minnesota's towns. Town boards are composed of three or five elected township supervisors.

Unique Taxing Areas
A unique taxing area is an important concept to understand when discussing property taxes. Because cities, townships, school districts, and counties have different boundaries that sometimes overlap, a unique taxing area is one in which the same set of local tax rates comprise the same total tax rate. There are currently more than 6,000 unique taxing areas in the state of Minnesota, each with its own unique local tax rate. This is discussed further in the Auditor/Treasurer Manual.

Properties Subject to Taxation

All property is presumed to be **taxable**. Minnesota Statutes, section 272.01, subdivision 1 provides that:

> *"All real and personal property in this state is taxable, except Indian lands and other property that is by law exempt from taxation."*

However, as stated previously, some types of properties have been exempted from property tax by either the Minnesota Constitution or by the Minnesota Legislature. Generally, information concerning the types of properties that qualify for exemption from property tax can be found in Minnesota Statutes Chapter 272. These exemptions will be explored in detail in the Module 5 – Exempt Property.

Primary Statutory Reference: 272.01

Definitions

Real Property refers to the rights, interests, and benefits connected with real estate.

Pursuant to Minnesota Statutes, section 272.03, for the purposes of taxation:
Real property includes:

- the land itself, rails, ties, and other track materials annexed to the land, and all buildings, structures, and improvements or other fixtures on it, bridges of bridge companies, and all rights and privileges belonging or appertaining to it, and all mines, iron ore and taconite minerals not otherwise exempt, quarries, fossils, and trees on or under it.

- A building or structure includes the building or structure itself, and all improvements or fixtures annexed to the building or structure, which are integrated with and of permanent benefit to the building or structure, regardless of the present use of the building and which cannot be removed without substantial damage to itself or to the building or structure.

Real property does **not** include:

- tools, implements, machinery and equipment attached to or installed in real property for use in the business or production activity conducted thereon, regardless of size, weight or method of attachment, and mine shafts, tunnels, and other underground openings used to extract ores and minerals taxed under chapter 298 together with steel, concrete, and other materials used to support such openings.

- The exclusion here does not apply to machinery and equipment includable as real estate above, even though such machinery and equipment is used in the business or production activity conducted on the real property if and to the extent such business or production activity consists of furnishing services or products to other buildings or structures which are subject to taxation.

- The exclusion here does not apply to the exterior shell of a structure which constitutes walls, ceilings, roofs, or floors if the shell of the structure has structural, insulation, or temperature control functions or provides protection from the elements. Such an exterior shell is included in the definition of real property even if it also has special functions distinct from that of a building. This is referred to as the **"shelter test."**

- "Real Property" does not include property primarily used for processing of biofuels, beer, wine, distilled beverage, or dairy. However, if a component is primarily used for *storage* of a raw material or finished product of the biofuels, beer, wine, distilled beverage, or dairy processing, the component used primarily for storage is taxable real property.

- The term real property does not include tools, implements, machinery, equipment, poles, lines, cables, wires, conduit, and station connections which are part of a **telephone communications system**, regardless of attachment to or installation in real property and regardless of size, weight, or method of attachment or installation. *Note:* Tools, implements, machinery, equipment, poles, lines, cables, wires, conduit and station connections which are part of a telephone communications system are considered to be personal property and are exempt from taxation.

Primary Statutory Reference: 272.03

Real Estate includes the land and any appurtenances (e.g. structures) attached to the land. It is immobile and tangible. It includes all things that are a natural part of the land such as trees, minerals, etc. as well as things that are attached to it by people such as buildings and site improvements. A *right* or *interest* in real estate is referred to as an **estate**.

Real estate includes a **bundle of rights** which are inherent to ownership. These rights include the right to:

- Use a property
- Sell it
- Lease it
- Enter it
- Give it away
- Choose to do some, none, or all of the rights

The most complete ownership is a title in **fee**. This ownership establishes a **fee simple interest** in a property which is absolute ownership, unencumbered by any other estate or interest, subject only to the limits imposed by the four governmental powers of taxation, eminent domain, police power and escheat.

A **partial interest** in real estate is created by selling, leasing, or otherwise limiting the bundle of rights in a fee simple estate.

Primary Reference: *The Appraisal of Real Estate*, Appraisal Institute, 2001 edition (updated 2013)

Personal Property can be defined by exception: anything that is not real property is personal property. The main characteristic of personal property is that it is moveable. If it is moveable without causing damage to itself or the real estate, it is personal property.

Minnesota Statutes, section 272.03, subdivision 2 defines personal property for the purposes of taxation. Most personal property has been exempted from property tax in Minnesota Statutes, section 272.02, subdivision 9. Several exceptions are listed in that subdivision. Additional information on personal property can be found in Module 5 – Exempt Property.

Sometimes manufactured homes can be "assessed as personal property." This means that the owner of the manufactured home does not own the land upon which the manufactured home sits. This is explained further in Module 2.

Minnesota Statutes, section 272.03 states that:

*(a) "**'Tract,' 'lot,' 'parcel,' and 'piece or parcel'** of land means any contiguous quantity of land in the possession of, owned by, or recorded as the property of, the same claimant or person.*

(b) Notwithstanding paragraph (a), property that is owned by a utility, leased for residential or recreational uses for terms of 20 years or longer, and separately valued by the assessor, will be treated for property tax purposes as separate parcels."

Primary Statutory Reference: 272.03

Assessment of Real Property

Assessment Books

The county auditor, at the expense of the county, annually provides the necessary assessment materials for each assessment district. The county auditor makes complete lists of all lands or lots subject to taxation in the real property assessment books showing the names of the owners opposite each description of property. The assessment books and blanks must be ready for delivery to the assessors on or before the first Monday in December.

County auditors may elect to discontinue use of the assessment books if the county has established an electronic data processing system or similar system to perform the processing of assessment and tax accounting.

Primary Statutory Reference: 273.03

Assessment Date

All property is valued at its market value and classified according to its use on **January 2 of each year**.

- Any improvements made to a property after January 2 will be evaluated for the following year's assessment
- Any destruction that occurs after January 2 will also be evaluated for the next assessment.
    - If a property does not have a garage on January 2 of the current assessment year and then the owner builds a garage in June, the estimated market value for the current assessment will reflect the lack of garage. For the following assessment year, the assessor will review the record and add the value of the newly completed garage to the assessment as new construction.
    - Conversely, if a property has a garage on January 2 of the current assessment year but it burns down in June, the current assessment will reflect the fact that the property had a garage on January 2. The assessor will review the record and change the value to reflect the lack of garage for the following assessment if a new garage has not been constructed.

Listing, Assessment, and Time

All taxable real property is to be listed and at least **one-fifth** of the parcels listed must be physically inspected each year so that each parcel is re-inspected at maximum intervals of five years (the quintile assessment).

All exempt real property that becomes taxable during any year should be listed with reference to its value on January 2 of that year. It would be eligible for revaluation on the next assessment.
Each year on January 2, the assessor must also **revalue**:

- All real property that has become subject to taxation since the previous assessment, including all real property platted since then;
- All property that has been devalued by more than $100 due to destruction, fire, flood, etc.; and
- All new construction of buildings or other structures of over $1,000 in value (may be a partial value or completed value). If the value of the new construction is less than $1,000 the value can be picked up as part of the next quintile assessment.

Reporting New Construction

New construction is identified by assessors when the current market value is affected due to a new improvement or a previously unassessed improvement made to a property. The new construction value must be listed separately so that property owners have a clear understanding as to why the overall total value of the property was affected. This includes undervalued property that is not necessarily new, but the value had been unassessed in previous assessment years.

Assessors must report the **net value** of new construction. The net value is the different between the original market value and the new market value. In situations where there is a negative net value due to a lower value improvement that replaced the original improvement, assessors must report that net value as zero. For example, if a $30,000 structure is demolished and replaced by a $20,000 structure, the assessor must report the new construction net value as $0. Assessors should not report the net value as -$10,000, negative net value is not allowed.

In addition, the assessor must list, but **does not have to revalue**:

- All parcels that have become homesteads or have ceased to be homesteads since the last assessment date; and
- All other parcels of land where a change in the use of the property requires a classification change or where the land has been incorrectly classified in the previous assessment.

Assessors must complete all real property assessments at least two weeks prior to the Local Board of Appeal and Equalization. **Note:** Boards of Appeal and Equalization are discussed in Module 8.

- If a valuation and classification is not placed on any real property by the scheduled date of the Local Board of Appeal and Equalization, the previous year's assessment is used.
- The classification provisions in Minnesota Statutes, section 273.13 would then not be applicable, except with respect to real property which has been constructed since the previous assessment.

Any changes made after the date the Notice of Valuation and Classification is mailed should be reviewed and accepted by the appropriate Board of Appeal and Equalization. This may be the Local Board of Appeal and Equalization or the County Board of Appeal and Equalization.

Generally, all valuations and classifications for the current assessment year are considered final following adjournment of the County Board of Appeal and Equalization (typically July 1). Assessors cannot make any changes in valuation or classification that are intended to correct errors in judgment by the assessor after the adjournment of the Local or County Board of Appeal and Equalization. Changes may be made only to:

- Correct errors that are merely clerical in nature (*clerical errors* are errors made by someone doing clerks work such as transposition of numbers, mathematical errors, coding errors, or keypunch errors, etc.); or
- Extend homestead treatment to property (e.g. residential non-homestead to residential homestead).

These changes are only permitted after adjournment until the tax extension date for that assessment year.

Any changes made by the assessor after the County Board of Appeal and Equalization adjourns must be fully documented and maintained in a file in the assessor's office and available for review by any person. A copy of any changes made during this period must be sent to the County Board no later than December 31 of the assessment year.

Changes to an assessment may be made by order of the Minnesota Tax Court or by a supplemental order of the State Board of Equalization following adjournment of the County Board of Appeal and Equalization.

Real property containing iron ore, the fee to which is owned by the State of Minnesota, shall, if leased by the state after January 2 in any year, be subject to assessment for that year on the value of any iron ore removed under said lease prior to January 2 of the following year.

Personal property subject to taxation should be listed and assessed annually with reference to its value on January 2, and, if acquired on that day, should be listed by or for the person acquiring it.

Primary Statutory References: 273.01, 273.17

The Quintile Review Process

Minnesota Statutes require the assessor to inspect properties **at least once in a five-year** interval. This inspection process is called the quintile review process. Quintile inspections are an important component of the overall assessment process toward maintenance and improvement of data quality and integrity.

To ensure uniformity and accuracy, a physical (on-site and in-person) inspection is necessary to obtain initial property characteristic data. The primary objective of the quintile review process is to maintain and improve data quality, integrity, or consistency.

Statutory Requirements for Quintile

The specific statutory citations for the quintile are Minnesota Statutes, sections 273.08 and 273.01.

Minnesota Statute 273.08 states:

> *"The assessor shall actually view, and determine the market value of each tract or lot of real property listed for taxation, including the value of all improvements and structures thereon, at maximum intervals of five years and shall enter the value opposite each description. When directed by the county assessor, local assessors must enter construction and valuation data into records in the manner prescribed by the county assessor [emphasis added]."*

Minnesota Statutes 273.01 states:

> *"All real property subject to taxation shall be listed and at least one-fifth of the parcels listed shall be appraised each year with reference to their value on January 2 preceding the assessment so that each parcel shall be reappraised at maximum intervals of five years [emphasis added]."*

Because quintile reviews are required by law, it is important that each county maintain a detailed quintile plan, including staff expectations for inspections of properties.

When appropriate conditions and technology are present, assessors may employ **computer-assisted office reviews** to comply with quintile review requirements.

In accordance with the IAAO Standard on Mass Appraisal of Real Property section 3.3.5 and MDOR determined best practices, appropriate conditions ***must*** include all the following:

- Initial physical inspections have been completed and an adequate and effective system of building permits or other means of physical change identification
- High resolution street-view images no greater than 5 years old

  - Imagery should provide **clear view of primary structures** and be capable of identifying condition and quality information.
  - Imagery should provide a panoramic viewing of primary structure and have accurate measuring capabilities.
  - The high-resolution street-level imagery used for computer assisted office reviews is not a one time, static, single-digital picture taken by appraisal staff during the normal in person quintile inspection. High-resolution street-level imagery is typically vendor provided as similarly provided for orthophotography and oblique imagery.
- Orthophoto images (no greater than 2 years old in rapid-growth areas, and no greater than 5 years old in slow-growth areas; 6-inch pixel resolution in urban areas and 12-inch pixel resolution in rural areas)
- Low-level oblique images capable of measurement verification images (images in 4 directions; no greater than 2 years old in rapid-growth areas and no greater than 5 years old in slow-growth areas; 6-inch pixel resolution in urban areas and 12-inch pixel resolution in rural areas)

Computer-assisted office reviews are not a replacement for physical reviews. They serve as an alternative to meet quintile viewing requirements. Assessors should not perform computer-assisted office reviews on a property for more than two consecutive quintile periods. A high level of data quality remains important. When reporting quintile inspections to the Department of Revenue, assessors must indicate the type of inspection as a computer-assisted office review.

Computer-assisted office reviews are best suited for established and homogenous areas, e.g. completed townhome subdivisions or well-established single family subdivisions. These reviews may assist assessors with efficiency toward meeting quintile requirements when requisite conditions are present. They may also be suitable when properties have been recently reviewed for informal or formal appeals, tax court appeals, new construction that is fully complete, or sales reviews. Each assessing office should have a clear policy and procedure for when properties are and are not eligible for office reviews.

The Department of Revenue may require assessors to perform physical reviews to remain compliant with statutory requirements when quality standards of imagery are not met, adequate tools are not present, or other evidence of data integrity failure exists. Appraisers should routinely visit assigned areas to assure no major changes have occurred during the quintile cycle. Physical inspections should be performed when new construction is detected, routine changes occur within an area, sales occur, a property carries significant physical depreciation or functional obsolescence, damage has been sustained by a structure, or uncertainty in verifying property attributes exists.

Quintile Plans

Many county assessors' offices have developed quintile plans to ensure compliance with statutory requirements. **The most important part of a quintile plan is *having* a quintile plan!** Preparation is key. Often, these plans may be in a table or spreadsheet form, with detailed information related to the jurisdictions in the county, parcel counts, quintile history, and planned quintile years. A quintile plan should be thorough enough to include beginning to end processes and expectations, follow-up procedures, auditing of results, and accountability measures for failure to meet quintile expectations.

The goal of a thorough quintile plan is for any assessor new to the office to be able to quickly and easily understand the county's process, where the county is in the process, and what needs to be done. New staff should have clear expectations of their role in the process and the requirements of the work to be done.

Ideally, a quintile plan or plan description should include:

- The area of quintile (city/township, section, quarter-quarter, plat, neighborhood, property type, PIN #'s)
- Parcel counts – improved and unimproved
- Map of quintile areas per year
- Identify who is doing each portion of the quintile
- Staff and local assessor areas
- County procedures for ensuring local assessors are completing the quintile
- County procedure for ensuring county quintile plan is being followed and work is being done
- A description of the county procedure for a quintile review.

A consistent plan for each type of jurisdiction is important toward quintile accuracy and efficacy. Many choose to designate quintile areas by section or quarter-quarter, but assurance that an approximate 20% of parcel counts in reviewed each year is also important. Quintile plans should ultimately assure that no property exceeds a period of five years without inspection.

When creating a quintile plan, assessors should keep in mind the appraisers and/or local assessors they have on staff, as well as, the **licensing levels of the staff**. For example, income-qualified assessors should be identified. Only income-qualified assessors may do assessments for income-producing properties. Assessors may also wish to note **what license level is *needed* for each jurisdiction**.

Each district's parcel count and required staffing should be considered when creating the quintile plan. Assessors should note **conflicts of interest** between the appraisers/assessors within jurisdictions. Alternate assessors should be noted for those conflict of interest parcels.

Assessors should be mindful and update conflict of interest forms as necessary whenever the quintile plan is updated or reorganized.

Quintile plans should take into consideration the mix of property types in each jurisdiction. Jurisdictions with many special-use properties may take more time to complete. Some counties also separate their income-producing properties within the quintile plan, e.g. all apartments may be reviewed in one year and all industrial properties reviewed in the next.

Quintile plans should be kept somewhere accessible for your entire office and readily available to your county's Property Tax Compliance Officer to review.

Examples of quintile plans are shown on the following pages. Note that these are **specific by year.** Your county may also consider maintaining a color-coded map to indicate each area to be reviewed within the quintile cycle.

				2019			2020		
Jurisdiction	C-T Code:	Parcel Count	Jurisdiction License Level Required	Appraiser	Appraiser's License Level	Quintile Area	Appraiser	Appraiser's License Level	Quintile Area
Adams Township	1	450	CMA	Jack Jackson	CMAS	Sections 1 - 7	Jack Jackson	CMAS	Sections 8 - 15
Adamsville City	100	950	CMAS	Tom Smith	CMAS	Parcels 1 - 200	Tom Smith	CMAS	Parcels 201 - 400
Belle City	200	1500	AMA	Janet Smith	SAMA	Neighborhoods 14 - 21	Janet Smith	SAMA	Neighborhoods 22 - 28, 30

2019	
Township A	Residential, Seasonal
Township B	Residential, Seasonal, Agricultural
Township C	Residential, Seasonal, Agricultural
Township D	Residential, Seasonal, Agricultural
City A	Residential, Seasonal, Agricultural
City B	Apartments
City C	Downtown Neighborhood
All Small Cities & Townships	Commercial
2020	
Township E	Residential, Seasonal, Agricultural
Township F	Residential, Seasonal, Agricultural
City C	East Neighborhood
City C	West Neighborhood
City D	Residential, Seasonal, Agricultural
2021	
Township G	Residential, Seasonal, Agricultural
Township H	Residential, Seasonal, Agricultural
City C	South Neighborhood
City C	North Neighborhood
All Small Cities & Townships	Apartments

Township A	
2019	Parcels 1-150
2020	Parcels 151-300
2021	Parcels 301-450
2022	Parcels 451-600
2023	Parcels 601-750
City A	
2019	Sections 30 and 31
2020	Plats A, B, C, M, N
2021	Plats D, E, F, O, Q, R
2022	Plats G, H, I, S, T, U
2023	Plats J, K, L, V, W, X, Y Z

Other Best-Practices Recommendations

There is no set format for a quintile plan and each county should create a plan that will help them meet their quintile requirements. Quintile plans should have **flexibility** built into them to account for unexpected changes, such as legislative mandates to reclassify properties, natural disasters, or additional construction that alters parcel counts. If the plan needs to be altered because of staffing issues, legislative mandates, etc., it is the Department of Revenue's expectation that the quintile plans would be updated accordingly.

County assessor offices should **notify property owners** in advance of upcoming quintile review work. This may take place in the form of sending postcards to property owners, calling property owners, and/or publishing notice of the upcoming work in print or on the jurisdiction's website. It is a highly recommend practice for assessors to **contact the local jurisdiction's administration and public safety personnel** to notify them of the upcoming work. You should provide data relating to the vehicles that will be driving through neighborhoods (make, model, color, etc.) to help alleviate concern related to calls of suspicious behavior. Assessors may also consider magnets or window clings that identify the vehicles as assessing personnel.

Quintile plans may also be shared at the Local Boards of Appeal and Equalization, outlining where revaluations were recently done, what is upcoming, etc.

Exempt reviews are not covered by these guidelines. While it is only required to report exempt property values to the Department of Revenue every six years, it is highly recommended that exempt properties be included within an assessor's quintile plan.

Staff Expectations

As part of the quintile plan, it is imperative to document expectations for staff during the review process. Staff appraisers should be considerate and knowledgeable of the county assessor's expectations, county policies, state law, State Board of Assessors requirements, appraisal industry standards, and Department of Revenue guidelines.

Expectations should include **verification of proper classification.** Appraisers should be prepared for the quintile work by having **maps and routes** planned in advance, by understanding the standards of the work, and being adequately trained.

It is also important to use the review and inspection process as an opportunity to pick up any **omitted or undervalued** property. Aerial photography and maps may assist to identify any such properties.

Assessors may include inspections performed for other reasons, e.g. sales verification, local/county board appeals, tax court, new construction, etc., within their quintile compliance submissions to the department when those inspections meet the criteria for review items

contained in their quintile plans. **If an inspection performed for other reasons is as or more comprehensive than the specified criteria for quintile and the inspection considers all aspects of a parcel (land and all structures), then it would likely qualify as meeting quintile requirements.** Assessors must use some level of discretion to determine how best to fulfill the primary objective of the quintile review process; to obtain and maintain a high standard of data quality. Assessors still must ensure that every parcel has an adequate inspection performed within a five-year interval.

Assessors should have clear and available guidelines that outline **safety protocols** in the case of incidents involving a range of possible safety issues from dog bites to perceived threats. Safety protocols may also include documentation and training for how to conduct inspections of construction sites and some of the possible dangers to watch for, e.g. shingles flying off the roof of a home. Safety protocols should include who to contact, how to escalate issues, whether or not law enforcement should be involved, and any other additional guidelines to protect staff. Staff safety in the field should be held as a high priority for county assessors. Safety protocols may be drafted in consultation with law enforcement, the county's Human Resources Department, the County Attorney, and/or others deemed necessary by the assessor.

Staff expectations that are outlined for the quintile review process should also include consequences for not meeting the quintile review requirements and should be clearly communicated with all staff members.

Physical Inspection Guidelines

Recommended items to bring to the review include:

- **Visible Identification**
- Safety vest
- Cell phone (with preset to 911)
- Plat books/subdivision maps
- Soil maps and/or aerial photography
- Property field record cards
- Camera
- Measuring device
- Calling cards
- Calculator
- Clipboard, paper, and pen or pencil
- Valuation manual

Often, a tablet computing device can be used for many of these (maps, aerials, record cards, camera, calculator, sketch pad, and manual all in one).

We recommend the following guidelines for physical inspections when a **property owner is present**:

1. Staff should identify themselves and explain the reason for the inspection.

2. Engage the property owner in the inspection.

3. Note the date and type of inspection (exterior only; interior; or verbal discussions with property owner to verify data on file).

4. Measure the property.
   - **Agricultural property:** measure and verify all buildings (may utilize aerial photography) and review land type breakdowns and acreage. For your safety and the safety of farm animals, **never approach livestock or poultry**. Calling ahead to both the property owner and consulting with the environmental services department prior to on-site visits of livestock areas is recommended.
   - **Lakeshore property**: verify the front footage using aerial photography with GIS overlay.
   - **All property:** use aerial photography to assist in verifying that all improvements are entered into the system.

5. Take photos of the property; take additional photos and document any deferred maintenance or damage.

6. Complete interior inspections.
   - **Never** enter a house or property without introducing yourself and explaining why you are there.
   - **Never** enter a house or property where children or vulnerable adults are home alone.
   - **Never** enter or stay in a house or property where you feel unsafe.
   - **Never** enter a house without the property owner/representative present or without their expressed and explicit permission.
   - Always carry proper photo identification and business cards.
   - Do not open closed doors to rooms or a house without obtaining the owner's permission.
   - Do not open cabinets, closets, refrigerators, etc.
   - Always ask the owner if they would like you to remove your shoes before entering the home.
   - Be brief and professional.
   - Try to maintain good public relations at all times.

- If you are **denied entry**, first and foremost, be respectful of the property owner's wishes. If possible, explain the process and outline possible estimations that will be made. It is recommended that counties have a written policy for how to document refused entry as well.

When the property owner is **not present**, leave a tag or other notice that you were at the property. The information you leave behind should identify contact information so that the property owner may call you to schedule an inspection or verify the property information you have on file over the phone. Appraisers may alternatively choose to send a letter to the property owner making a similar request. Complete an exterior inspection, note any necessary changes and take updated photos. Appraisers should never peek into windows of a property.

Have a written plan for how to deal with "no trespassing" signs or fenced yards. It is also recommended that counties have written plans for how to proceed when property owners are not present, but renters are.

Possible review items for the inspection include:

- Make sure effective age (depreciation) is accurate.
- Make sure the site sketch - including all improvements - is accurate.
- Measure every improvement or verify improvements that are on file.
- Take a picture of all improvements (opposing corners of house/garage).
- Take a picture of anything unusual that may influence value.
- Complete an interior inspection if possible.
- Determine construction quality, era, and condition.
- Identify whether there are any changes/considerations for the property's highest and best use.
- Review **external** value influences (e.g., railroads, busy roads, newly constructed school).

For **residential properties**, additional review items include:

- Verify the height and type (e.g. rambler, 2 story, etc.) of each house.
- Verify the quality and grade of the structures.
- Make certain the foundation/basement is correctly identified.
- Note the heat source and finish of homes and garages.
- Note and photograph any structures that are missing from your current information (e.g. detached garages and storage buildings); make sure the number and type (e.g. shed, deck, silo, etc.) is accurate.
- Verify secondary parcels linked for homestead.
- For questionable homesteads, send a homestead confirmation form to any questionable properties.

For other property types, other criteria may be included and should be part of the quintile plan and assessors' expectations.

- For example, for **apartment** properties, it would be important to verify the unit mix and counts (e.g. number of one-bedroom units, number of two-bedroom units), size of common areas, office areas, etc.
- For **commercial** properties, it may be important to verify the quality of interior finishes, rentable area, rental rates and expenses, etc.

Any special or specific valuation adjustments should be reasonable, consistently applied (ideally derived from the county's procedures manual), and supported by clear documentation in the notes.

Using aerial photography to gather data, particularly for large properties, agricultural properties, and lakeshore, may be very helpful. However, solely viewing aerial photography is not considered an alternative to physical inspection or computer-assisted desktop reviews that meet the criteria.

For all reviews, note the date and the type of inspection (external-only, interior, refused entry, left card, office review, etc.).

Routine Repairs vs. Improvements

Many questions arise regarding the distinction between ordinary repairs, additions, and improvements. Most repairs are regarded as expenditures made to restore items that are worn out because of deterioration to a new or useable condition. For example, re-shingling a roof, replacing a furnace, or painting are maintenance items that, when independently completed, *may* not result in added value to a property.

However, a large-scale project with numerous repairs or updates completed at the same time such as new carpet, new cabinets, updated décor, new furnace, new siding, new roof, etc., can result in an improvement to a structure's effective age. These large-scale projects likely improve the useful life of a structure. This results in a better overall appeal and a higher value of a property. In addition, if the assessor has increased the estimated accrued physical depreciation on a property due to its deferred maintenance, making updates and repairs could cure the depreciation and result in a higher market value.

An addition is a part of a building added to the original structure. Additions not only include entirely new units, but also include extensions, expansions, and enlargements of existing structures.

Primary Statutory References: 273.17

Office work

After inspections have been completed, it is important to **update the information in the CAMA system as soon as possible**. Doing this update as soon as possible will help to keep the notes fresh in the appraiser's mind. Recommended plans for office work include:

- Download and label photos to be attached in CAMA
  - If you publish photos to the county's website, make sure they are also updated there.
  - Make sure the photos are of the property only and never include people or license plates.
- Use sketching software for complex structures.
- Correct all errors, make appropriate updates, and document the inspection with clear and complete notes (including the date and appraiser's name or initials).
- Send homestead verification to questionable homesteads.
- Create a follow-up file for possible issues that need attention.
- Address any **omitted/undervalued** properties that were discovered during the review process; have a plan for communicating omitted properties with the County Auditor.
- Discuss lakeshore properties with assessors in other jurisdictions that share the same lake(s) or other bodies of water.

We recommend that County Assessors audit the CAMA system to verify compliance with the quintile review process. County Assessors have the authority under Minnesota Statutes, sections 273.064 and 273.065 to have all assessment records returned to the office and to review local assessor work. It may be good practice for County Assessors to have appraisers and local assessors sign a quintile certification form prior to approving the assessments for a jurisdiction.

Requirement to verify local assessment work

Minnesota Statutes, section 273.064 **requires** county assessors to examine the appraisal records of local assessors any time after December 1 of each year prior to the upcoming assessment. If deficiencies in quantity or quality of assessments are discovered, the **assessors must give 30 days to correct** the deficiencies. If corrections are not satisfactory after those 30 days, the county can perform the work needed to correct the assessments, and may bill the taxing jurisdiction for the cost of the reassessment (the local jurisdiction must be billed by August 1 of the assessment year).

Clear expectations and outlined accountability measures may assist in a more efficient review process. Clear guidelines with incompliance results should be well documented by the county assessor. This information may be provided to local jurisdiction personnel or the Department of Revenue to support correction.

Primary Statutory References: 273.01, 273.08, 273.064 and 273.065

Assessor's Data – Data Privacy

Private and Public Data

While most information concerning income and sales taxes is private data, most information concerning property taxation is public information. However, some data is specifically defined as being private data under Minnesota Statutes, Chapter 13, The Government Data Practices Act. This includes:

- Data contained on sales sheets received from private multiple listing service organizations where the contract with the organization requires the assessor to refrain from making the data available to the public;
- Income information on individuals collected and maintained by the assessor that is used to determine eligibility of property for class 4d(1);
- Social Security and Individual Taxpayer Identification numbers of individuals;
- Detailed income and expense figures;
- Average vacancy factors;
- Verified net rentable areas or net usable areas;
- Anticipated income and expenses;
- Projected vacancy factors; and
- Lease information.

Great care should be taken to assure proper protection of such private data. That being said, in order to promote a uniform assessment and review of assessments, the Commissioner of Revenue, county assessors, county auditors, and local assessors may exchange data on property even if it is classified as private data under Chapter 13. The data for any property includes its sales, income expenses, vacancies, rentable or usable areas, anticipated income and expenses, projected vacancies, lease information, and private multiple listing service data. Data exchanged under this provision that is classified as private data is still private.

Primary Statutory References: 13.51, 273.061, subdivision 8a

Health Information Portability and Accountability Act (HIPAA)

Some special programs (class 1b homestead and the Homestead Market Value Exclusion for Veterans with a Disability) require assessors to utilize information that is protected within the federal Health Information Portability and Accountability Act (HIPAA).

Concerns have been raised that – since disability information is private data – showing that a property was subject to one of these special programs on the property record, Notice of Valuation and Classification, Truth in Taxation Notice, or Property Tax Statement would not be allowed. This would have necessitated keeping two sets of records – one private and one public. In addition, it would have made it very difficult to answer taxpayer questions regarding any differences in taxable market value or property taxes between two properties if the assessor was unable to state that a

property receives a beneficial classification rate provided by class 1b homestead or the disabled veteran's exclusion.

However, the assessor's office would need to be declared a "covered entity" under HIPAA privacy rules in order to be subject to the HIPAA regulations. After discussing this issue with legal professionals and other state agencies, the department concluded that assessors' offices are most likely not "covered entities" under HIPAA privacy rules. Therefore, property tax information relating to the blind/disabled classification and disabled veterans exclusion is public information.

The department strongly recommends that each assessor work with the county's privacy officer or data practices specialist to determine what departments in your specific county have been declared to be "covered entities" and thus subject to HIPAA regulations. In the unlikely event the county assessor's office is a "covered entity" and subject to HIPAA regulations, the county may be limited in what information is considered public. Please contact the Property Tax Division if this situation arises in your county.

Homestead Applications & Data Privacy

Social Security numbers and individual taxpayer identification numbers submitted to a county or local assessor to support a homestead application are private or nonpublic data per Minnesota Statutes, section 273.1245, subdivision 1.

Anyone may obtain a copy of a completed homestead application as long as the following items are fully redacted:

1. Social Security and Individual Taxpayer Identification numbers;
2. Any check-marks, statements, documents, or other information that is meant to establish or prove that the reason why the occupant's spouse is absent from the home because of one of the reasons listed in the spousal homestead provision; and
3. Schedule F or other income tax information provided as part of a Special Agricultural Homestead Application.

Sometimes applicants make such statements merely by checking a box to indicate that they agree with a prepared statement on the preprinted application for their convenience. Sometimes applicants may make such statements on a separate sheet of paper that is submitted as part of their application, or they may provide copies of legal documents as proof of meeting the provisions.

Exempt Applications & Data Privacy

Any applications for exemption from property tax and any other supporting documentation is public with the exception of any income/expense information, Social Security numbers, or any data that is otherwise classified as private information under data privacy laws.

Abatement Applications & Data Privacy

Social Security numbers are specifically required as part of the abatement application by Minnesota Statutes, section 375.192, subdivision 2. The 2023 law changes which allowed ITINs to be used for homestead purposes did not change this section of law. This may be changed in the future but at this time, a Social Security number remains a required field on any abatement application and must also be submitted to the Commissioner of Revenue as prescribed by law after the abatement has been approved. Generally, all abatements must be approved by the County Board of Commissioners as part of the abatement process. Applications are often discussed as part of an open meeting and some counties attaches the applications to the meeting minutes. Social Security numbers should be fully redacted before discussing them at a public meeting or attaching them to meeting minutes.

Primary Statutory References: 273.124, subdivision 13, 375.192, subdivision 2

Safe at Home

The Safe at Home program is an address confidentiality program administered by the Office of Secretary of State. Minnesota law allows for a Safe at Home participant to purchase a home after their Safe at Home enrollment and have all records regarding that property purchase and ownership privatized. Safe at Home was created in 2006 to protect victims of stalking, domestic violence, sexual assault, and others who fear for their safety, such as a members of law enforcement or the judiciary.

The program is governed by Minnesota Statutes, Chapter 5B. The Government Data Practices Act permits program participants to notify other governmental entities of the applicant's participation in the Safe at Home program. This act requires most identity and location data to be classified as private data.

The Safe at Home program gives participants a legal substitute address (a post office box) to use in place of their physical addresses; this address can be used whenever an address is required.

Thousands of individuals have enrolled in the Safe at Home program in Minnesota. For up to date details on program data visit the Secretary of State's webpage to view annual legislative reports by following this link: Minnesota Secretary Of State - Safe at Home Reports

Minnesota Statues 13.045 outlines the program requirements for county and other governmental entity personnel as it relates to real property records. This is defined in statute as:

> "real property records" means any record of data that is maintained as part of the county real estate document recording system for use by the public, data on assessments, data on real or personal property taxation, and other data on real property.

Below is a brief overview, however we strongly encourage any government agency dealing with real property and other assessment documentation to review the program carefully at the Secretary of State's website and in the statutes to ensure data that is made private by the participant's application is carefully protected.

Specifically, as it relates to real property records the statute details the following:

- Distinguishes "identity data" from "location data" and enables the participant to specify the location and identity data to be protected
- Clarifies requirements related to submitting a notice of participation in the Safe at Home program to a government entity
- For real property records, a participant must submit a real property notice to the County Recorder in the county where the property is located
- For real property records maintained by any other government entity, the participant must submit a real property notice in writing to the other government entity's responsible authority
- Outlines the requirements for intergovernmental data sharing without consent or a court order in specific circumstances
- Allows counties to determine best methods of compliance regarding real property records, but provides counties with statutory authority to comply
- Establishes standards for providing access to data on real property this is subject to a bona fide title examination, including the requirements for submitting a request to the Secretary of State
- Provides that data practices provision related to Safe at Home participants do not prohibit sharing participant data with the secretary of state to facilitate compliance with the law
- Allows protected participant data to be shared for purposes of administering assessment and taxation laws.
- Requires the Secretary of State or any government entity to notify relevant agencies within 90 days if a real property notice is terminated.

For more information on the Safe at Home program, please visit the Secretary of State's website http://www.sos.state.mn.us/safe-at-home/. If you have additional questions regarding the program you can e-mail the Safe at Home Program at safe.athome@state.mn.us or call 651-201-1399 or if in out-state Minnesota 1-866-723-3035.

Primary Statutory References: 13.045

General Powers and Duties

Department of Revenue
The Minnesota Department of Revenue manages the state's revenue system. The department administers 30 different taxes, collecting over $26.7 billion annually. This money funds education, local government aid, property tax relief, social service programs, highways, and other state programs and operations.

Commissioner of Revenue
The Commissioner of Revenue is appointed by and serves the Governor.

The Commissioner of Revenue is directly responsible to the governor for the supervision of the Minnesota's revenue system, advises the governor and legislature on tax policy and operations, acts as the State Board of Equalization, and has the power to organize the department with such divisions and other agencies as is deemed necessary.

The commissioner may also appoint one deputy commissioner, a department secretary, directors of divisions, and such other officers, employees, and agents as is deemed necessary to discharge the functions of the department, define the duties of such officers, employees, and agents, and delegate to them any of the commissioner's powers or duties, subject to the commissioner's control and under such conditions as the commissioner may prescribe.

The Property Tax Division of the Department of Revenue is responsible for overseeing the administration of the property tax system. This division provides information and education for property tax administrators, answers questions from taxpayers, develops reports for the Legislature, and gathers information from counties regarding assessments.

Primary Reference: www.revenue.state.mn.us

Powers and Duties of the Commissioner of Revenue
The Commissioner of Revenue has the power and authority:

- To exercise general supervision over the administration of property tax laws, assessors, local and county boards of appeal and equalization, and all other assessing officers in the performance of their duties, so that all assessments of property are relatively just and equal in compliance with the laws of the state;
- To confer with, advise and give the necessary instructions and directions to assessors and boards of appeal and equalization throughout the state as to their duties under the laws of the state;
- To direct proceedings, actions and prosecutions to be instituted to enforce the laws relating to the liability and punishment of public officers and officers and agents of corporations for failure

or negligence to comply with the provisions of property tax laws They also have the power to make complaints to the proper authority against local assessors, members of boards of appeal and equalization, or any other assessing or taxing officer for their removal from office for misconduct or negligence of duty;

- To require county attorneys to assist in the commencement of prosecutions in actions or proceedings for removal, forfeiture and punishment for violation of the property tax laws in their respective districts or counties;
- To require town, city, county and other public officers to report information as to the assessment of property and other information that may be needed in the work of the Department of Revenue. The commissioner may decide how this information is presented to them;
- To transmit to the governor, on or before the third Monday in December of each even-numbered year, and to each member of the legislature, on or before November 15 of each even-numbered year, the report of the Department of Revenue for the preceding years, showing all the taxable property in the state and the value of the same, in tabulated form;
- To inquire into the methods of assessment and taxation and to determine whether the assessors faithfully discharge their duties;
- To assist local assessors in determining the estimated market value of industrial special-use property that is designed and equipped for a particular type of industry, is not easily adapted to some other use due to the unique nature of the facilities, has facilities totaling at least 75,000 square feet in size, and has a total estimated market value of $10,000,000 or greater based on the assessor's preliminary determination.

Primary Statutory Reference: 270C.85

Additional Powers and Duties:

- The powers of examination, investigation, and subpoena, and the power to administer oaths and take testimony granted to the Commissioner of Revenue and officers and employees of the Department of Revenue do not apply to a matter that has been appealed to the tax court.
- The commissioner is to constitute the State Board of Equalization. This power is prescribed by M.S. 270.12 (State Board of Equalization duties). The State Board of Equalization is discussed in Module 8.
- Each county assessor shall file by April 1 with the Commissioner of Revenue PRISM submission 1: *Preliminary Assessment File* that is subject for review by the local and county boards of appeal and equalization. The PRISM submission must contain locally assessed real property in the county, itemized by assessment districts. See PRISM website for further details.
- The assessor of each county shall file with the commissioner any changes made by the local or county board. The information must be filed in the manner prescribed by the commissioner which is currently an electronic form. It must be sent:

  - within 10 working days following final action of the local board of appeal and equalization
  - within five days following final action of the county board of appeal and equalization.

- The PRISM Submission #2: *Adjusted Assessment File* must contain the real and personal property in the county, after adjustments by the State Board of Equalization and inclusion of any omitted property, shall be submitted to the Commissioner of Revenue on or before September 1 of each calendar year. The submission must separately report:
  - the captured tax capacity of tax increment financing districts under section 469.177, subdivision 2 (captured net tax capacity)
  - the area-wide net tax capacity contribution values determined under section 276A.05, subdivision 1
  - the metropolitan revenue contribution value under section 473F.07
  - the value subject to the power line credit under section 273.42.

- The commissioner may appoint a special assessor and deputies and cause to be made, in any year, a reassessment of all or any real and personal property, or either, in any assessment district, when in the commissioner's judgment such reassessment is desirable or necessary, so that any and all property in such district shall be assessed equitably as compared with like property in the county wherein such district is situated.
- The commissioner shall require the county auditor to place upon the assessment rolls omitted property which may be discovered to have escaped assessment and taxation in previous years.
- The commissioner shall receive complaints and carefully examine all cases where it is alleged that property subject to taxation has not been assessed, or has fraudulently or for any reason has been improperly or unequally assessed, or the law in any manner evaded or violated, and cause to be instituted such proceedings as will remedy improper or negligent administration of property tax laws.
- The commissioner shall raise or lower the market value of any real or personal property. Before doing so, they must send notice by mail of the intention to raise market value, along with the time and place at which a hearing will be held shall be given to such person. The notice must be addressed to the person at that place of residence as the same appears upon the assessment book, at least five days before the day of the hearing.
- All relevant and material evidence concerning the assessed valuation of the property shall be submitted at the hearing, and the hearing shall not be a "contested case" within the meaning of the M.S. 14.02, subdivision 3. The person notified of the hearing, or any other person having an interest in the property, may present evidence and argument bearing upon the market value of the property.

- A property owner, other than a public utility, mining company, or the metropolitan airport commission for which the original assessments are determined by the Commissioner of Revenue, may not appear before the commissioner to request an examination of complaints or proceeding or to request a change in market value unless a timely appearance in person, by counsel, or by written communication has been made before the county board of appeal and equalization as provided in M.S. 274.13, to appeal the assessment of the property. The exception to this is if the property owner can establish that they did not receive notice of their market value at least five days before the local board of appeal and equalization meeting.
- The commissioner may refuse to hear an appeal that is within the jurisdiction of the Small Claims Division of the Minnesota Tax Court. The property owner shall be notified by the commissioner of the right to appeal to the Small Claims Division whenever an appeal to the commissioner is denied.
- The commissioner is to hear all matters of grievance relating to taxation except for matters delegated to the various boards of county commissioners under M.S. 375.192 (abatements) and except as otherwise provided by law. The commissioner has the power to grant reductions or abatements of net tax capacities or taxes and of any costs, penalties or interest which is deemed just and equitable. The Commissioner of Revenue may also order a refund, in whole or in part, of any taxes, costs, penalties or interest thereon which have been erroneously or unjustly paid.

- To exercise other powers and perform other duties required of or imposed upon the Commissioner of Revenue by law.

Primary Statutory References: 270C.03, 270C.31, 270C.32, 270C.86, 270C.89, 270C.92, 270C.94 270C.97

Reassessments – Omitted or Undervalued Property

The Commissioner of Revenue is authorized under Minnesota Statutes, section 270C.94, subdivision 1 to order a reassessment in any year in any taxing district.

The commissioner may order a reassessment to ensure that all property in the same county or in the state is assessed equitably. The need for a reassessment may become apparent to the commissioner by:

- complaints from taxpayers, or
- findings of a court or of the legislature, or
- a request from any city council or county board.

Such complaints or findings might indicate that a considerable amount of property has been omitted from the assessment roll or that assessments have been undervalued or overvalued. If after an investigation, the Commissioner of Revenue is satisfied that it would be in the best interest of the state, the commissioner can order the reassessment. The commissioner can then appoint a special assessor and as many deputy assessors as are needed to make the reassessment.

The Commissioner of Revenue may also appoint a special assessor and deputy assessors as needed to make a reappraisal when an assessor has failed to properly appraise at least one-fifth of the parcels of property in a district or county as required in Minnesota Statutes, section 273.01 (the quintile assessment).

Following their appointments under Minnesota Statutes, section 270C.94 the special assessors and deputies must file with the Commissioner of Revenue their oaths to faithfully and fairly perform their duties. The special assessor, assisted by deputies, then reassesses the property in the district ordered to be reassessed.

The special assessor must prepare duplicate lists of the assessment roll showing the amount of the original assessment and the newly reassessed valuations. The lists are filed with the Commissioner of Revenue for examination and correction. After the commissioner is satisfied the lists are correct, one copy is sent to the county auditor.

Any person may appeal their resulting assessment to the district court. This is done by filing a notice of the appeal with the county auditor within 30 days after the reassessment. The county auditor files a certified copy of the appeal with the court administrator of the district court and notifies the county attorney of the appeal. The district court is required to hear and determine the case in the same manner as other tax matters are tried and determined by the courts. The county attorney must appear for and defend the interests of the state in these matters.

The salaries and expenses of the special assessors and deputies are set by the Commissioner of Revenue and are paid out of the money appropriated for the operation of the Department of Revenue. On August 1, the Commissioner of Revenue is to notify the county auditor of the amount paid on behalf of that county since August 1 of the preceding year. The county auditor is to levy a tax in the district or districts which were reassessed to reimburse the state. One-half of the tax is levied in the year which the Commissioner or Revenue notified the county auditor and the remaining half is levied in the following year.

The county must reimburse the state in two installments. These reimbursements are credited to the general fund. The first one-half of the reimbursement is due on or before July 1 and the remaining half is due on or before December 1 of the year the tax is payable by the property owners. The reimbursement is to be paid whether or not the county collected the tax. If the county fails to reimburse the state on the specified date, the Commissioner of Revenue can withhold state aids or distributions equal to the delinquent amount.

Primary Statutory References: 270C.94, 270C.95, 270C.96

Property Assessed by the Commissioner of Revenue (State-Assessed Property)
In addition to the previously mentioned duties, the Commissioner of Revenue also assesses several types of real and personal property. These include:

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

The assessment of these types of properties is explored in greater detail in Module 2.

Airline Flight Property
The flight property of all airline companies engaged in air commerce in Minnesota is assessed annually by the Commissioner of Revenue. All real and personal property of an airline company, except for flight property, is taxed as otherwise provided by law. The flight property tax is collected by the Commissioner of Revenue and goes to the State Airports fund at the Minnesota Department of Transportation. Local units of government do not receive any of this tax.

Railroad Property
The *operating property* of every railroad company doing business in Minnesota is annually valued and certified to the counties by the Commissioner of Revenue in accordance with Minnesota Statutes, sections 270.80 through 270.87, and Minnesota Rule 8106.

- 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 is assessed locally. It includes all other property that is not operating property. This includes:
  - Real property that is leased or rented or is available for lease or rent to any person which is not a railroad company;
  - Vacant land is 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;
  - Land that 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; and
  - That portion of a general corporation office building and its proportionate share of land which is not used for railway operations or purposes.

Utility and Pipeline Operating Property
The Commissioner of Revenue annually values the operating property of utility and pipeline companies in accordance with Minnesota Statutes 273.33, 273.35 273.36, 273.37 and Minnesota Rule 8100. The Commissioner of Revenue certifies these values to the counties by recommendation or order. Non-operating property, such as land, is assessed locally.

General Assessors' Duties
Assessors must view and estimate the market value of each tract or lot of real property, including the value of all improvements and structures, at maximum intervals of five years. This requirement is discussed in the section titled "The 'Quintile' Review".

Property values change continuously with changing economic conditions. In addition to market changes are the numerous physical changes in land and its improvements, such as drainage and clearing of land, agricultural production, improvement with public streets and utilities, and the addition or improvement of structures. All should be accounted for in assessment. This cannot be done without field inspection of all real property subject to assessment.

Primary Statutory Reference: 273.08

Assessor Authority to Enter Buildings
Any officer authorized by law to assess property for taxation, when necessary to the proper performance of their duties, may enter and view any dwelling, house, building, or structure.

Any officer authorized by law to assess property for ad valorem tax purposes shall have reasonable access to land and structures as necessary for the proper performance of their duties.

A property owner may refuse to allow an assessor to inspect their property. This refusal by the property owner must be either verbally to the assessor attempting to inspect the property, or expressly stated in a letter to the county assessor. If the assessor is denied access to view a property, the assessor is authorized to estimate the property's estimated market value by making assumptions believed appropriate concerning the property's finish and condition. In addition, if an inspection is refused by a taxpayer, they cannot receive a favorable appeal by a board of appeal and equalization.

Primary Statutory Reference: 273.20

Neglect of Duties

The law provides severe penalties for tax officials who knowingly neglect their duty or who willfully obstruct the enforcement of the laws which they are sworn to execute, deliberately omit or exempt taxable property from the tax rolls, or undervalue property. These penalties can be up to $1,000 for each affected property.

Every county auditor and every assessor who refuses or knowingly neglects to perform any duty or who consents to or connives at the evasion of its provisions whereby any proceeding required by law is prevented or hindered, or whereby any property required to be listed for taxation is unlawfully exempted or entered onto the assessment rolls at less than its market value shall pay to the state for each such case a payment of not less than $200 and not more than $1,000.

Primary Statutory Reference: 273.21

Local Assessors

Local assessors are assessors who contract with a city or township to perform its assessment. Local assessors are hired by the local jurisdiction. They are not hired by the county assessor. However, the county assessor is generally responsible for the local assessor's work.

Appointment

The governing body of any township or city must appoint and employ an assessor as required by the Board of Assessors. All township and statutory city assessors are appointed for an indefinite term. They may be dismissed for cause. The term of a local assessor may be terminated at any time by the town board or city council on charges by the Commissioner of Revenue of inefficiency or neglect of duty. If the governing body of any township or city fails to employ an assessor as required by law, the assessment will be made by the county assessor.

Vacancies in the office of a township or city assessor must be filled within 90 days. If the vacancy is not filled within 90 days, the office shall be terminated. If the vacancy is not filled by appointment, the county auditor may appoint an assessor for the township or city. The county auditor may appoint the county assessor to do the assessment for the township or city. In this case, the city or township must pay the county treasurer the amount determined by the county auditor for the services performed and expenses incurred in the assessment.

Notwithstanding any other provision of law, all town assessors are appointed by the town board. Notwithstanding any charter provision to the contrary, all city assessors are appointed by the city council or other appointing authority as provided by law or charter. City and town assessors need not be a resident of the town or city for which they are appointed nor are they required to be residents of the state.

Incompatible Offices
Appointed city or town assessors may not also serve in certain elected positions. An appointed city assessor must not also serve as a mayor or city council member for the same city. An appointed town assessor must not also serve as a town board supervisor for the same town.

Vacancies
When a vacancy occurs in the office of a township or city assessor, the appropriate appointing authority must fill this position, by appointment, within 90 days. If the vacancy is not filled within 90 days, the office will be terminated and the assessment will be made by the county assessor.

When a vacancy is not filled by appointment, and it is imperative that the office of assessor be filled, the county auditor will appoint a city or township assessor. The county auditor may appoint the county assessor as the assessor for that city or township. In such case, the town or city must pay to the county treasurer an amount determined by the county auditor to be due for the services and expenses incurred by the county assessor acting as the assessor for that city or township.

Compensation of Town Assessors
The town board will set the level of compensation as well as mileage and expense reimbursement of the town assessor.

Compensation of City Assessors
The assessor may be compensated on a full-time or part-time basis at the option of the city council.

Primary Statutory Reference(s): 270.41 to 270.53, 273.05, 273.061, 367.05, 412.131

Joint Assessment of Two or More Districts by One Assessor
The governing bodies of cities or townships may enter into an agreement that provides for two or more assessment districts to be assessed by one assessor. The governing body of any assessment district that is wholly within a county may enter into an agreement with the county to have the assessment completed by the county assessor's office. **Such agreements have no effect upon the powers and duties of local boards of review and equalization**. Whenever taxing districts enter into agreement between themselves for joint assessment, the following provisions should be covered in the agreement:

1. A statement of the purpose of the agreement, the power to be exercised, and the manner in which it is to be exercised;
2. The office of assessor that is to be abolished;
3. The term of the agreement unless an indefinite term is desired;
4. The method of appointment to and removal from office of the assessor who is to make the assessment;

5. The amounts to be paid in salaries and expense reimbursement and the manner in which those funds are to be provided and paid; and
6. The disposition of any property acquired and the return of unexpected funds in proportion to contributions of contracting parties.

Primary Statutory References: 273.072, 471.59

Oath

Every person elected or appointed to the office of assessor, at or before the time of receiving the assessment books, must take an oath that he or she will be diligent, faithful, and impartial in the performance of their duties. If the oath is taken before the town clerk, there is no fee. Failure to take the oath within the time prescribed will be deemed a refusal to serve. Any town officer who enters upon the duties of his or her office before taking the oath will forfeit to the town the sum of $50.

The oath of office is described in Minnesota Statutes, section 273.05, subdivision 2. A sample oath is located in the appendix.

Primary Statutory References: 273.05, 367.25, 358.06

Duties of Local Assessors

The duty of the duly-appointed local assessor shall be to view (at maximum intervals of five years), appraise the value, and classify all property as provided by law. However, all the book work shall be done by the county assessor or the county assessor's assistants, and the value of all property subject to assessment and taxation shall be determined by the county assessor unless previous exceptions were made. At a minimum, this includes:

- Identifying all property in the jurisdiction;
- Maintaining an accurate property record card (may be hard copy or electronic) on all property in the jurisdiction. Each property record should have a sketch made to scale with accurate measurements. Some jurisdictions also require photos (may be printed or digital);
- Property records should also contain information regarding the quality of construction, condition, depreciation (physical, functional, and economic), amenities, last date inspected and by whom;
- Entering construction and valuation data into the records as directed by the county assessor. This includes entering valuation and new construction data into CAMA systems.
- Identifying the use of a property (residential, commercial, seasonal residential, etc.);
- Information on agricultural production if agricultural property;
- Information on the occupancy of the property for homestead purposes;
- Locating and valuing new construction each year;
- Attending Local Board of Appeal and Equalization (or Open Book) meetings; and
- Making any changes as dictated by the Local Board of Appeal and Equalization;

Generally, most book work such as mailing of Notices of Valuation and Classification is done by the county assessor. Depending upon the size of the city or town, the local assessor may have additional duties.

Except for Ramsey County, in counties having a city of the first class, or cities with a population of 30,000 persons or more according to the last federal census (in counties not having a county assessor prior to January 1, 1967), the powers and duties contained in M.S. 273.061, subdivision 8, clauses 5 to 16 of the county assessor within such cities will be performed by a duly appointed city assessor. The county assessor will, however, retain the supervisory duties contained in M.S. 273.061, subdivision 8.

Primary Statutory References: 273.061, 273.08, 273.063

Delivery of Assessment Records

The county assessor shall examine the assessment appraisal records of each local assessor any time after December 1 of each year prior to the upcoming assessment.

If there are any deficiencies in the assessment procedures with respect to the quantity or quality of the work done as of that date, the county assessor shall immediately give notice in writing to the governing body of the district of those deficiencies and indicating any corrective measures to be undertaken by the local assessor within 30 days.

After 30 days, the county assessor should reexamine the records to determine if the deficiencies have been corrected. If the deficiencies have not been substantially corrected, the county assessor, with the approval of the county board of commissioners, should complete the assessment or employ others to complete the assessment. Upon completion, the local assessor may then resume the assessment function in the district.

The costs incurred by the county assessor in completing the assessment of the local jurisdiction must be billed to the local jurisdiction by August 1 of the assessment year. If the cost remains unpaid as of September 1 of the assessment year, the county auditor shall levy a tax upon the taxable property of the local assessment district sufficient to pay such costs.

Local assessors must complete the assessment appraisal records on or before February 1 of each assessment year.

The records shall be delivered to the county assessor as of that date and any work which is the responsibility of the local assessor which is not completed by February 1 shall be accomplished by the county assessor or persons employed by the county assessor and the cost of such work shall be charged against the assessment district as provided in section 273.064.

Extensions of time to complete the assessment appraisal records may be granted to the local assessor by the county assessor if such extension is approved by the county board.

Primary Statutory References: 273.064, 273.065

County Assessors

Appointment

Every county in the state must have a county assessor. County assessors are appointed by the county board of commissioners. County assessors will be selected and appointed because of their knowledge and training in the field of property taxation. Appointments of county assessors must be approved by the Commissioner of Revenue before the appointment becomes effective. The Commissioner of Revenue may refuse to approve an appointment. In these cases, the term of the appointee terminates at the end of that day.

The Commissioner of Revenue may grant approval on a probationary basis for a period of two years. The commissioner must base the decision to impose a probationary period on objective and consistent criteria. At the end of the two-year probationary period, the commissioner may either refuse to approve the person's appointment for the remainder of the person's four-year term, approve the person's appointment but only for another two-year probationary period, or unconditionally approve the person's appointment for the remainder of the four-year term for which the person was originally appointed by the county board. These criteria are not considered rules and are not subject to the Administrative Procedure Act.

County assessors must achieve the Senior Accredited Minnesota Assessor designation within two years of their first appointment as county assessor. In the case of the first appointment of a county assessor who is an Accredited Minnesota Assessor but who does not have senior accreditation, an approval of the appointment by the commissioner must be provisional, provided that a county assessor appointed to a provisional term under this paragraph must reapply to the commissioner at the end of the provisional term. A provisional term may not exceed two years. The commissioner shall not approve the appointment for the remainder of the four-year term unless the assessor has obtained senior accreditation.

Term, Reappointment, and Vacancies

The term of the office of the county assessor is four years and runs from January 1 through December 31. New terms begin January 1 of 2021, 2025, 2029, etc.

If the county board of commissioners does not intend to reappoint a county assessor, the county board must notify the assessor in writing no later than 90 days prior to the termination of the term. If timely, written notice is not provided to the county assessor, the assessor will automatically be reappointed by the county board of commissioners.

Whenever a vacancy occurs, the county board of commissioners must fill the office for the remainder of the term, by appointment, within 90 days. In the event of a vacancy in the office of the county assessor, through death, resignation, or other reasons, the deputy (or chief deputy, if more than one) shall perform the functions of the office. If there is no deputy, the

county auditor shall designate a person to perform the functions of the office until the appointment is made. The deputy or designated person shall perform the duties of the office for not more than 90 days, during which time the county board must appoint a county assessor. This 90-day period may be extended by written approval of the Commissioner of Revenue. The term of the county assessor may be terminated by the county board of commissioners at any time on charges of malfeasance, misfeasance, or nonfeasance by the Commissioner of Revenue.

> **Malfeasance** can be defined as **wrong or illegal conduct, or an unlawful act**, especially those committed by politicians or civil servants. This term is often used when a professional or public official commits an illegal act that interferes with the proper performance of his or her duties. An example of malfeasance would be an elected official who accepts a bribe in exchange for political favors or an assessor who intentionally undervalues a county commissioner's house.
>
> **Misfeasance** can be defined as **illegally performing something legal**; acting improperly or illegally in performing an action that is in itself lawful; or general incompetence. This term is frequently used when a professional or public official does his job in a way that is not technically illegal but is nevertheless mistaken or wrong. Examples of misfeasance include a lawyer who is mistaken about a deadline and files an important document too late, an accountant who make an unintentional error on a client's tax return, a doctor who accidentally writes the wrong dosage on a prescription, an assessor exempting his or her own house, or an assessor who grants a homestead without proper application.
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> **Nonfeasance** can be defined as the **failure to meet legal obligations**; failure to do something that is legally obligatory. It is the complete neglect of or failure to perform a contractual duty. For example, an assessor that does not physically inspect properties in their jurisdiction at least once every five years would be a case of nonfeasance.

The Commissioner of Revenue may recommend to the State Board of Assessors the nonrenewal, suspension, or revocation of an assessor's license as provided in Minnesota Statutes, sections 270.41 through 270.50.

Primary Statutory Reference: 273.061

Compatible and Incompatible Offices

The person serving as the county assessor may also serve as the county auditor, county treasurer or county auditor-treasurer if those offices are appointed. However, the county assessor/auditor/treasurer cannot then serve on the County Board of Appeal and Equalization. In addition, the county board may not delegate any authority, power or responsibility under Minnesota Statutes, section 375.192 (abatements) to the county auditor if the offices of the county assessor and auditor or auditor/treasurer are combined.

In a county where the office of the auditor, treasurer or auditor-treasurer is an elected position, the person appointed as the county assessor also may serve as the county auditor, treasurer or auditor-treasurer in that county if that office will be changing to an appointed position within five years.

County assessors may not also serve in certain elected positions. A county assessor must not also serve as:

- County attorney;
- County commissioner;
- Elected county auditor, treasurer, or auditor/treasurer;
- Township supervisor for a town in the same county; or
- Mayor or city council member for a city in the same county.

In addition, a city assessor cannot be a mayor or city council member for the city in which he or she is employed as an assessor. A township assessor cannot be a township supervisor in the township he or she assesses. Any township, city, or county assessor who accepts a position that is incompatible with the office of assessor is deemed to have resigned from the assessor position.

Primary Statutory References: 273.061

Optional "True County" Assessor System

Any county in the state of Minnesota may elect, by special resolution, to have all taxable property in the county assessed by the county assessor. This is known as a "true county" assessor system. In this system, there are no city or township assessors. Property is assessed by assessors who are employees of the county assessor's office.

Any county which has elected to have a "true county" system is authorized to appropriate sufficient money to defray the expenses of making a proper assessment of all property in the county. The county board shall, by resolution, authorize the county assessor to employ such additional deputies, clerks, and appraisers as it may deem necessary for the proper performance of the duties of the office of the county assessor.

The decision to switch to a "true county" system may be made by resolution of the county board of commissioners. The resolution will be effective at the second assessment date following the adoption of the resolution. The office of all township and city assessors shall be terminated 90 days before the assessment date at which the election becomes effective. If part of a taxing district is located in a county not electing to have the county assessor assess all property, the office of assessor will continue but shall apply only to such property in the non-electing county. After a county chooses to use a "true county" assessor system, all local assessors must turn over all records relating to property in the county to the county assessor a minimum of 90 days prior to the assessment date the county's election becomes effective.

The county board of commissioners may revoke the election of the "true county" system if they determine that the interests of the county may be better served through valuation performed by local assessors. Such revocation may not be made within four years after the election. In the event of revocation, it shall be effective at the second assessment date following the revocation. The offices of all the township and city assessors shall then be filled as provided by charter or law 90 days before such effective date.

Primary Statutory References: 273.052, 273.053, 273.055, 273.056

Oath

Before performing his or her duties, every county assessor must take and subscribe the oath required of public officials.

The oath of office is described in Minnesota Statutes, section 273.061, subdivision 3. A sample oath is located in the appendix.

Primary Statutory References: 273.061, 358.06

Offices and Assistants

With approval of the county board of commissioners, the county assessor may employ one or more deputies, assistants (appraisers), and sufficient clerical help to enable the assessor to perform the duties of the office. All deputy assessors and appraisers must meet the licensure qualifications sent forth by the Board of Assessors.

Typically, staff appraisers will have essentially the same duties as a local assessor. For example, they will be responsible for inspecting property, maintaining property records, classifying property, attending local boards of appeal and equalization, answering taxpayer questions, etc.

The county board of commissioners must provide suitable office space and equipment for the county assessor, the assistants and clerical staff. The county board must also furnish such books, maps, stationery, postage and supplies as may be necessary.
In counties having unorganized territory, the county board of commissioners may appoint the county assessor to perform the assessment duties for all such districts.

Primary Statutory References: 273.061, 273.06

Duties of County Assessors

The duties of a county assessor include:

- To direct, confer and instruct all local and city assessors and staff appraisers to perform their duties under the laws of the state **to ensure that a uniform and equalized assessment of all property in the county is attained**;
- To keep all local and city assessors and staff appraisers in the county advised of all changes in assessment laws and all instructions from the Commissioner of Revenue relating to their duties;
- To provide information to local and county boards of appeal and equalization;
- To confer with assessors in neighboring counties in order to attain a uniform and equalized assessment;
- To prepare and keep available in the assessor's office information showing the average minimum and maximum market values per acre of cultivated, meadow, pasture, cutover, timber, and waste lands for each township in the county;
- To prepare and maintain a land valuation map of the county, in such form as may be prescribed by the Commissioner of Revenue. This map should include the bordering tier of townships of each county adjoining. It should additionally show the average market value per acre, both with and without improvements, as finally equalized in the last assessment of real estate, of all land in each town or unorganized township which lies outside the corporate limits of cities;
- To regularly examine and keep on file all conveyances of property filed with the county recorder;
- To make a diligent search each year for real and personal property which has been omitted from assessment in the county, and report all such omissions to the county auditor so that they can be added to the tax rolls;
- To regularly confer with county assessors in all adjacent counties about the assessment of property in order to uniformly assess and equalize the value of similar properties and classes of properties located in adjacent counties. The conference shall emphasize the assessment of agricultural and commercial and industrial property or other properties that may have an inadequate number of sales in a single county;
- The county assessor is ultimately responsible for the final valuations and classifications made by local or deputy assessors;
- To maintain, in conjunction with other county offices, a record of all transfers of property to assist in determining the proper classification of property, including but not limited to transferring homestead property and name changes on homestead property.
- To personally view and determine the value of any property which because of its type or character may be difficult for the local assessor to appraise.

- To mail annual Notices of Valuation and Classification;
- To develop and submit accurate PRSIM submissions in a timely manner;
- To exchange data on property with other local and county assessors and the Commissioner of Revenue, in order to promote a uniform assessment and review of assessments. The data for any property may include but is not limited to its sales, income, expenses, vacancies, rentable or usable areas, anticipated income and expenses, projected vacancies, lease information, and private multiple listing service data. Data exchanged under Minnesota Statutes, Chapter 13, that is classified as nonpublic or private data shall retain its classification;
- To perform appraisals of property, review the original assessment and determine the accuracy of the original assessment, prepare an appraisal or appraisal report, and testify before any court or other body as an expert or otherwise on behalf of the assessor's jurisdiction with respect to properties in that jurisdiction.

Primary Statutory References: 273.061

Examination of Local Assessor's Work

The county assessor may examine the appraisal records of each local assessor any time after December 1 of each year. If the county assessor finds that the local assessor is not proceeding satisfactorily with the assessment, the assessor should immediately give written notice to the governing body of that district. The notice must include the deficiencies noted in the assessment and the corrective measures to be taken by the local assessor. If the deficiencies are not remedied by the local assessor within 30 days, then the county assessor may, with the approval of the county board, obtain the books and complete the assessment. After the county assessor has completed the assessment, the local assessor shall resume the assessment function of the district.

The costs of completing the assessment shall be charged against the assessment district. The county auditor is to certify the costs incurred to the appropriate district no later than August 1. If the costs remain unpaid as of September 1, the county auditor shall levy a tax upon the taxable properties of that district sufficient to pay the costs. The amount collected is to be credited to the general revenue fund of the county.

Note: *This does not apply to cities whose assessors have the powers and duties of a county assessor pursuant to M.S. 273.063.*

Primary Statutory References: 273.064

Assessor's Qualifications and Licensure

Board of Assessors

The State Board of Assessors reviews, supervises, coordinates, and approves courses in assessment practices and establishes criteria for determining assessors' qualifications. In addition, the board considers any other matters relating to assessment administration that are brought forth by the Commissioner of Revenue. The board may grant, renew, suspend, or revoke an assessor's license.

For more information, see the State Board of Assessors webpage.

Members

The State Board of Assessors consists of nine members who are appointed by the Commissioner of Revenue. The members include:

- Two members from the Department of Revenue;
- Two county assessors;
- Two assessors who are not county assessors, one of which must be a township assessor;
- One member from the private appraisal field who holds a professional appraisal designation; and
- Two public members.

Primary Statutory References: 270.41, 214.09,

Licensing Requirements

Minnesota's Board of Assessors is charged with the task of licensing persons as possessing the necessary qualifications of an assessing official and providing the necessary courses or training for all assessors. Different levels of licensure have been established as to the classes of property which assessors may be certified to assess at the discretion of the board. Every person, except a local or county assessor, regularly employed by the assessor to assist in making decisions regarding valuing and classifying property for assessment purposes shall be required to become licensed within three years of date of employment. Licensure shall be required for local and county assessors as provided in Minnesota Statutes, Chapter 270.

The board may refuse to grant or renew, or may suspend or revoke, a license of an applicant or licensee for any of the following causes or acts:

- Failure to complete required training;
- Inefficiency or neglect of duty;
- Failure to comply with the Code of Conduct and Ethics for Licensed Minnesota Assessors, including:
    - Knowingly neglecting to perform a duty required by law;
    - Violation of the laws of this state relating to the assessment of property;

  - Unlawfully exempting property;
  - Knowingly and intentionally listing property on the tax list at substantially less than its market value or the level required by law in order to gain favor or benefit;
  - Knowingly and intentionally misclassifying property in order to gain favor or benefit.
- Conviction of a crime involving moral turpitude; or
- Any other cause or act that, in the Board's opinion, warrants a refusal to issue or renew a license, or a suspension or revocation of a license.

All county assessors and property tax compliance officers in the Department of Revenue's Property Tax Division must obtain the Senior Accredited Minnesota Assessor (SAMA) designation from the Board of Assessors within two years of their first appointment. If a department senior appraiser or regional representative fails to obtain or maintain senior accreditation, the failure shall be grounds for dismissal, disciplinary action, or corrective action.

The Commissioner of Revenue must not approve the appointment of a county assessor who is not a SAMA, except in the case of the first appointment of a county assessor who has achieved the Accredited Minnesota Assessor (AMA) designation, but who does not have senior accreditation. In this instance, approval of the appointment is provisional, provided that the county assessor appointed to a provisional term must reapply to the commissioner at the end of the provisional term, which may not exceed two years. The commissioner shall not approve the appointment for the remainder of the four-year term unless the assessor has obtained senior accreditation.

Employment of Licensed Assessors

No assessor may be employed who has not been licensed as qualified by the Board of Assessors; however additional time to comply may be given after an application to the board shows that licensed assessors are not available for employment. The board may license a county or local assessor who has not received the training, but possesses the necessary qualifications for performing the functions of the office by the passage of an approved examination. The board may waive the examination if such person has demonstrated competence in performing the functions of the office for a period the board deems reasonable.

All individuals who appraise or physically inspect property for the purpose of determining valuation or classification for property taxes must obtain Accredited Minnesota Assessor (AMA) licensure by July 1, 2022 or five years after that person becomes licensed as a Certified Minnesota Assessor (CMA), whichever is later.

In other words, all current CMAs who appraise or physically inspect property for the purpose of determining valuation or classification for property taxes must obtain AMA by July 1, 2022. For

individuals who have received CMA licensure after July 1, 2017, they will have five years to obtain AMA licensure.

A 2017 law change provided a potential waiver from the Accredited Minnesota Assessor (AMA) licensing requirement for qualifying assessors who have been licensed since 2004. This waiver is located on the Department of Revenue's State Board of Assessors webpage.

A city or township whose office of assessor has been eliminated because of failure to fill a vacancy in the office within 90 days may, with the approval of the Commissioner of Revenue, elect to have the office of assessor reinstated by hiring a certified or accredited assessor. This does not apply to Ramsey County or to cities and townships located in counties which have elected to have a "true county" assessment system.

Primary Statutory References: 270.48; 270.50; 270C.9901; 273.05; Rules 1950.1090

Prohibited Activity

A licensed assessor or other person employed by or contracting with an assessment jurisdiction for the purpose of valuing or classifying property for property tax purposes is prohibited from making appraisals or analyses, accepting an appraisal assignment, or preparing an appraisal report on any property within the assessment jurisdiction where the individual is employed or performing the duties of the assessor under contract. Violation of this prohibition shall result in immediate revocation of the individual's license to assess property for property tax purposes.

This prohibition must not be construed to prohibit an individual from carrying out any duties required for the proper assessment of property for property tax purposes. If a formal resolution has been adopted by the governing body of a governmental unit, which specifies the purposes for which such work will be done, this prohibition does not apply to appraisal activities undertaken on behalf of and at the request of the governmental unit that has employed or contracted with the individual. The resolution may only allow appraisal activities which are related to condemnations, right-of-way acquisitions, special assessments, or land exchanges. Assessors may assist in the appraisal of tax forfeited land, but those appraisal duties do not require a resolution from the governmental unit.

Assessor Sanctions; Refusal to License

The State Board of Assessors may censure, warn, or fine an assessor for cases of misfeasance, malfeasance, or nonfeasance. Additionally, the board may suspend, revoke, or refuse to grant a license. The sanctions may also be against a non-licensed individual who is employed by an assessment jurisdiction or who contracts with an assessment jurisdiction for the purposes of valuing or classifying property for property tax purposes.

This also allows that a written warning must be given to assessors who have no prior identified infractions. The warning must also include expectations of future performance and behavior.

Fines must not exceed $1,000 for the first occurrence, and must not exceed $3,000 for subsequent occurrences. Suspensions are not to exceed one year. Fines are to be deposited into the state general fund.

Contested sanctions are subject to review under Minnesota Statutes, Chapter 14 (administrative law).

Minnesota Statutes, section 273.21 ("Neglect by Auditor or Assessor; Penalty"), also provides:

> *"Every county auditor and every town or district assessor who in any case refuses or knowingly neglects to perform any duty enjoined by this chapter, or who consents to or connives at any evasion of its provisions whereby any proceeding required by this chapter is prevented or hindered, or whereby any property required to be listed for taxation is unlawfully exempted, or entered on the tax list at less than its market value, shall, for every such neglect, refusal, consent, or connivance, forfeit and pay to the state not less than $200, nor more than $1,000, to be recovered in any court of competent jurisdiction."*

A County Assessor may also file a written complaint with the Commissioner of Revenue, detailing allegations of misfeasance, malfeasance, or nonfeasance of a *local* assessor. The commissioner must complete an investigation and recommend an appropriate action to the State Board of Assessors. The Commissioner of Revenue may also conduct such an investigation without a written complaint from a county assessor.

By February 1 of each odd-numbered year (e.g., 2015, 2017, etc.), the State Board of Assessors is required to publish a report to the House and Senate Taxes Committees on the number and types of disciplinary action recommended to the board by the Commissioner of Revenue. The board must also report its disposition of those recommendations.

Primary Statutory References: 270.41, subd. 3, subd. 3a; 273.0645; 273.21

Valuation of Income-Producing Property

Only AMA, SAMA, or other licensed assessors who have successfully completed at least two income-producing property appraisal courses may value income-producing property for ad valorem tax purposes.

"Income-producing property" as used above means:

- Class 1c seasonal residential recreational commercial property (resorts containing homestead of the owner/operator);
- Class 3a commercial-industrial and public utility property;

- Class 4a rental housing – four or more units, including private for profit hospitals;
- Class 4c(1) seasonal residential recreational commercial property (resorts);
- Class 4c(2) qualifying golf courses;
- Class 4c(3)(i) and (ii) nonprofit community service oriented organization;
- Class 4c(4) post-secondary student housing;
- Class 4c(5) manufactured home parks;
- Class 4c(6) qualifying metro nonprofit recreational property;
- Class 4c(7) certain non-commercial aircraft storage hangars on leased land;
- Class 4c(8) certain non-commercial aircraft storage hangars on private land;
- Class 4c(9) bed and breakfast up to five units;
- Class 4c(10) seasonal restaurant on a lake;
- Class 5 unmined iron ore; low recovery iron ore; and all other property not included in another class.

"Income-producing property appraisal course" means a course of study of approximately 30 instructional hours, with a final comprehensive test that has been approved by the Board of Assessors. An assessor must also successfully complete the final examination for each of the required courses.

Primary Statutory References: 270C.98-99, 270.41, 270.48, 270.50, 273.11 subdivision 13

Levels of Licensure

The Board of Assessors has established four levels of licensure for assessors. Assessors may be required to achieve higher levels of licensure in order to assess certain districts or to obtain certain assessor positions. The four levels of licensure are:

- Certified Minnesota Assessor (CMA)
- Certified Minnesota Assessor Specialist (CMAs)
- Accredited Minnesota Assessor (AMA)
- Senior Accredited Minnesota Assessor (SAMA)

Continuing Education

In addition to the requirements needed for licensing, the Board of Assessors has established a program of required continuing education for each level of licensure within each licensing period. This is necessary to improve, update, and maintain the knowledge and abilities that are needed by assessors in order to achieve excellence in the area of assessing.

The unit of measurement for accomplishment in continuing education is a Continuing Education Hour (CEH). The board requires that assessors must attain a specified number of CEHs, according to

their level of licensure, during a four-year licensing period in order to remain licensed. Additional information on licensing and continuing education can be found on the Board of Assessors' website.

Anyone with questions to the State Board of Assessors concerning licensure, certification, continuing education, or rules see the State Board of Assessors website or contact them by phone at (651) 556-6086 or via email at assessors.board@state.mn.us.

Primary Statutory Reference: 270.41, Minnesota Rules section 1950

Ethics Seminar for All Licensed Assessors

The Department of Revenue is statutorily required to develop a code of conduct and ethics for all licensed Minnesota assessors. The Code of Conduct and Ethics for Licensed Minnesota Assessors was developed by members of the DOR, Minnesota Association of Assessing Officers, and the Board of Assessors. It was formally adopted by the Board of Assessors in December of 2005 and became effective March 1, 2006.

All licensed assessors who are licensed for one year or more in a four-year cycle will be required to participate in an ethics course developed and presented by the Commissioner of Revenue. This requirement must be met at least once in every four-year period**.** Ethics is a self-paced online course. See Ethics for Minnesota Assessors for more information.

Training and Education of Property Tax Personnel

Every person licensed by the State Board of Assessors at the Accredited Minnesota Assessor level or higher, shall successfully complete 30 hours of educational coursework on Minnesota laws, assessment administration, and administrative procedures sponsored by the Department of Revenue in every four-year period. These courses have been named the Professional Assessment Certification and Education (PACE) courses. See PACE Courses for more information.

The Commissioner of Revenue may also require that each county, and each city for which the city assessor performs the duties of county assessor, have:

1. a person on the county's staff (assessor, auditor, or treasurer) who is certified by the Department of Revenue in sales ratio calculations;
2. an officer or employee who is certified by the Department of Revenue in tax calculations; and
3. an officer or employee who is certified by the Department of Revenue in the proper preparation of PRISM submissions.

The Commissioner of Revenue may require that each county have an officer or employee who is certified by the Department of Revenue in the proper preparation of PRISM submissions.

The Commissioner of Revenue may require property tax training if it is determined property tax personnel have not been performing their functions in a uniform or equitable manner.

Primary Statutory Reference: 273.0755

Code of Conduct and Ethics for Licensed Minnesota Assessors

The purpose of this code of conduct and ethics is to instill public confidence in property assessment and promote fairness and uniformity of assessment practices. As a licensed Minnesota assessor, it is your obligation to abide by the ethical and professional guidelines established in this code.

1. **Conduct and Performance**
   a. **Professionalism** – Conduct all duties and activities in a professional manner that will reflect favorably upon you, the jurisdiction, the assessment profession, and the property tax system.
   b. **Honesty** – Be honest in all dealings with property owners and their representatives.
   c. **Diligence** – Be diligent in the performance of your duties as prescribed by Minnesota Statutes and Minnesota Rules, Chapter 1950, and apply these laws and rules fairly and uniformly without advocacy for, or accommodation of, any special interests.
   d. **Excellence** – Perform all duties to the best of your ability so as to ensure fair and equitable assessments of all property.

2. **Conflicts of Interest**
   a. **Appearance of impropriety** – Avoid the appearance of impropriety even if no impropriety exists or is intended.
   b. **Prohibited assignments** – Accept no assignment in which you are related to the owner as spouse, parent, son or daughter by blood or marriage, or in which you have a financial or other interest in the property.

c. **Unwarranted privileges** – Do not use your official position to secure privileges for yourself, your family, business associates, or any other person wherein you benefit directly or indirectly.

3. **Representation of Qualifications**
   Do not claim professional qualifications that you do not possess.

4. **Cooperate and Investigations**
   Cooperate with the Minnesota Department of Revenue and the State Board of Assessors in an investigation of the professional conduct of any assessor.

5. **Reporting Unethical Practices**
   Report to the Minnesota Department of Revenue the unethical practices of actions of any assessor.

6. **Violations**
   Violating this code of conduct and ethics may result in disciplinary actions by the State Board of Assessors and/or the Commissioner of Revenue.

Appendix

COUNTY ASSESSOR OATH OF OFFICE

State of Minnesota

County of _____

I, _____ *do swear and affirm that I will support the constitution of the United States and the Constitution of the State of Minnesota, and that I will be diligent, faithful, and impartial in the performance of the duties of the office of County Assessor for the county of* _____, *in the State of Minnesota, to the best of my judgement and ability in accordance with the law.*

_____

Signature

Subscribed and sworn before me this _____ *day of* _____ *20*_____.

Signature of Notary Republic | Date Commission Expires

Printed Name of Notary Republic | County of Residence

TOWN OR CITY ASSESSOR OATH OF OFFICE

State of Minnesota

County of _____

I, _____ *do swear and affirm that I will be diligent, faithful, and impartial in the performance of the duties of the office of Town or City Assessor for* _____*, in the State of Minnesota, to the best of my judgement and ability in accordance with the law.*

_____

Signature

Subscribed and sworn before me this _____ *day of* _____ *20*_____.

Signature of Notary Republic | Date Commission Expires

Printed Name of Notary Republic | County of Residence

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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

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*, 12th edition, Appraisal Institute [2001], page 22)

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:

- The buyer and seller are typically motivated.
- Both parties are well-informed or well-advised and each is acting in what is considered to be their own best interest.
- A reasonable time is allowed for exposure to the open market.
- Payment is made in cash or its equivalent.
- Financing, if any, is on terms generally available in the community at the specified date and typical for the property type in its locale.
- 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; 5th 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

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,

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*."

- 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.

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

Valuation Laws, Principles, and Procedures

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:

- 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;
- 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
- 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:

- A minimum of 75 percent of members must have incomes at less than 90 percent of the area median income;
- A minimum of 40 percent of members must have incomes at or less than 60 percent of area median income; or
- 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.

"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

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

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 when 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

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.

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

Community land trusts

Community 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 community 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 community 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

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 community 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 community 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 community land trust must contain provisions designed to preserve the affordability of housing on the land. Each ground lease must reserve to the community 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 community 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 community 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 community 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 community 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 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 community 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 devises of a lessee who dies testate.

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

Any ground leases held by a community 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 community 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 community 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 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 community 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;
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, unless the statute expressively states otherwise.

"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.
- 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

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

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[1] 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

[1] The place to which, for purposes of legal jurisdiction or taxation, a property belongs

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;
- 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

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; and
- 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.

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. 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.

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:

- 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.

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.

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.

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.

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 places 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.

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.*

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.

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 owed 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*

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 or 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

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

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.*

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 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**

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

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.

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.

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% an 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%**

- **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.

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.**

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

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.

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%.

- 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**

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.

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.

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

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 SEGS 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

- 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.**

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

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 plats 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.

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

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

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

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

$16,300 (amount to be phased in each year)	+	$1,000 (assessment year one EMV before platting)	=	$17,300 (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 (assessment year two value)	+	$16,300 (amount to be phased in each year)	=	$33,600 (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

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:

Assessment Year	TMV	EMV
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
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

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 Statues 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

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.

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.

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.

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.

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

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.

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.

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.

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 EQU 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 of 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

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

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.

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 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.

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.

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 o 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 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.

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 live and property.

Limitation on Certain Public Projects

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.

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 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 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

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.

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

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

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.

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

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.

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

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.

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

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,

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:

"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, sectionhttps://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

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.

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:

   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
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.

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.

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.

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 β_1; the non-tillable value per acre is β_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-

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."*

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

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:

- 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 Acre Value does **not** need to be within 10% of the Green Acres Revenue value as the Applied Green Acre values are based on surrounding sales within that district.

4. <u>Countywide Green Acres/Rural Preserve</u>

- 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.

- 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 it 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

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;

(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.

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

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 116A (for most public water and sewer systems)	N/A	N/A	No, not deferrable
Levied under chapter 103D ("Watershed Law")	Prior to June 1, 2008	As of 2008 Assessment (May 1, 2008)	Yes
Levied under chapter 103D ("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

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	$1,450.00
Total:	**$3,045.00**

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?

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:

"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, than 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.

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

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

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

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 re-classified 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?
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.

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 $2200 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

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.,

"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.

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

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.

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.

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

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.

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:

- Be listed as an owner on the deed.
    - If the property is owned by an entity and the veteran qualifies the veteran for homestead (such as an agricultural homestead or a motel or 1c property), this qualifies as the veteran being listed on the deed.
- Occupy the property and qualify for homestead
- Have been honorably discharged from the United States armed forces
    - 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)
    - There are some exceptions for veterans that have a lower than 70% disability rating, see the "exceptions" section later
- 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 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
- Signature

Along with the application, veterans must submit additional documentation so assessor 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 are submitted to the assessor who then determines if a property qualifies based on the information provided. The assessor's office performs the following duties:

Receive and process applications from qualifying veterans with a disability, surviving spouses, and primary family caregivers. The applications should include a letter from the U.S. Department of Veterans Affairs attesting to service-connected disability and a DD214 (or other official military discharge papers). Some VA letters will list both the service-connected disability and the discharge, however, statute requires the discharge be indicated by the DD214 or other official discharge papers. 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 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.

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.

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 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.

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 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

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).

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 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.	**Estimated Market Value (EMV)** [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.	**Referendum Market Value** [3-4-5-6-7-8-9-10]
12.	Homestead Market Value Exclusion [NOT APPLIED TO PROPERTIES RECEIVING VETS' EXCLUSION]
13.	**Taxable Market Value (TMV)** [11-12]

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% / # 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).
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 x 50%= $200,000
   - Washington $400,000 x 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 x 50%= $75,000
   - Washington $150,000 x 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)

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)

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 or a qualifying member of the entity that owns 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, 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.

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 <u>not</u> service-connected, are not considered when making I/U determinations. [See 38 CFR 3.341, 38 CFR4.16, 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.

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.

   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

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.

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.

    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.

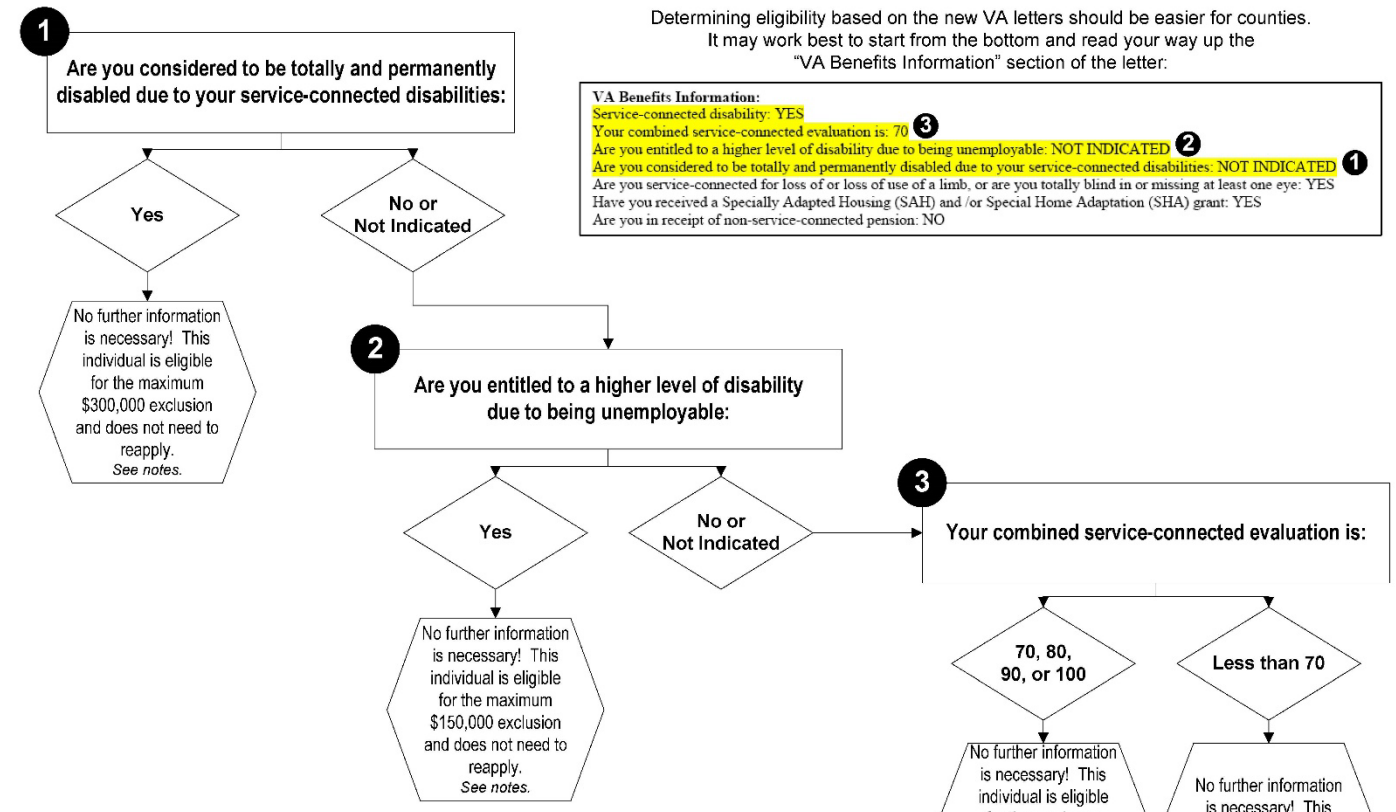
    Exemption: This is not a property tax exemption. Again, it is an exclusion of market value (up to a certain amount) from property taxes. It is very possible for a qualifying veteran with a disability to continue to pay some property taxes. Properties valued at amounts higher than the available exclusion amount may still be subject to taxes on the remaining market value or special assessments.

Primary Statutory References: 273.13, subdivision 34

Flow Chart: Determining Market Value Exclusion for Veterans with a Disability

DEPARTMENT OF REVENUE

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 ❸
Are you entitled to a higher level of disability due to being unemployable: NOT INDICATED ❷
Are you considered to be totally and permanently disabled due to your service-connected disabilities: NOT INDICATED ❶
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.

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 0 8 2013

In Reply Refer To: 335/21
C SOCIAL SECURITY #
NAME

NAME
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

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
EMV (Estimated Market Value)	141,100	141,100
- Exclusions	24,541	33,851
TMV (Taxable Market Value)	116,559	107,249
Class Rate	1.00%	1.00%
NTC (Net Tax Capacity)	1,165.59	1,072.49
Gross Tax (NTC x Tax Rate of 104%)	1,212.21	1,115.39
NET TAX	**1,212.21**	**1,115.39**

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% / # 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.

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.	**Estimated Market Value (EMV)** [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.	**MV Prior to Homestead MV Exclusion** [3-4-5-6-7-8-9-10] (RMV)
12.	Homestead Market Value Exclusion
13.	**Taxable Market Value (TMV)** [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 x 40% = $38,000

ii. Value over $95,000: $280,000 – 95,000 = $185,000
iii. Benefit Reduction Amount: $185,000 x 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.	**Estimated Market Value (EMV)** [1 – 2]	$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.	**MV Prior to Homestead MV Exclusion** [3-4-5-6-7-8-9-10] (RMV)	$280,000
12.	Homestead Market Value Exclusion	$21,350
13.	**Taxable Market Value (TMV)** [11-12]	$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 calculated 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

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.	**Estimated Market Value (EMV)** [1 – 2]	$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.	**MV Prior to Homestead MV Exclusion** [3-4-5-6-7-8-9-10]	$80,000
12.	Homestead Market Value Exclusion	$32,000
13.	**Taxable Market Value (TMV)** [11-12]	$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 calculated 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: $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 x 40% = $38,000
ii. Value over $95,000: $520,000 – 95,000 = $425,000
iii. Benefit Reduction Amount: $425,000 x 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.	**Estimated Market Value (EMV)** [1 – 2]	$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.	**MV Prior to Homestead MV Exclusion** [3-4-5-6-7-8-9-10]	$520,000
12.	Homestead Market Value Exclusion	$0
13.	**Taxable Market Value (TMV)** [11-12]	$520,000

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 calculated 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 x 40% = $38,000
ii.	Value over $95,000:	$125,000 – 95,000 = $30,000
iii.	Benefit Reduction Amount:	$30,000 x 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.

		AY 20XX
1.	Market Value Irrespective of Contaminants	$875,000
2.	Contamination Value	NA
3.	**Estimated Market Value (EMV)** [1 – 2]	$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.	**MV Prior to Homestead MV Exclusion** [3-4-5-6-7-8-9-10]	$875,000
12.	Homestead Market Value Exclusion	$35,300
13.	**Taxable Market Value (TMV)** [11-12]	$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 calculated 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).

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 x 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.	**Estimated Market Value (EMV)** [1 – 2]	$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.	**MV Prior to Homestead MV Exclusion** [3-4-5-6-7-8-9-10]	$95,000
12.	Homestead Market Value Exclusion	$16,000
13.	**Taxable Market Value (TMV)** [11-12]	$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 calculated 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:	$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 x 40% = $38,000
ii.	Value over $95,000:	$275,000 – 95,000 = 180,000
iii.	Benefit Reduction Amount:	$180,000 x 9% = $16,200
iv.	Final Exclusion Amount:	$38,000 - $16,200 = $21,800
v.	Fractionalize Exclusion:	$21,800 x 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 calculated net tax capacities. The process for NTC calculation remains the same.

		AY 20XX
1.	Market Value Irrespective of Contaminants	$275,000
2.	Contamination Value	NA
3.	**Estimated Market Value (EMV)** [1 – 2]	$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.	**MV Prior to Homestead MV Exclusion** [3-4-5-6-7-8-9-10]	$275,000
12.	Homestead Market Value Exclusion	$10,900
13.	**Taxable Market Value (TMV)** [11-12]	$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.

Homestead Market Value Exclusion Calculation

i. Initial/Maximum Exclusion: $95,000 x 40% = $36,200
ii. Value over $95,000: $115,000 – 95,000 = $20,000
iii. Benefit Reduction Amount: $20,000 x 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.	**Estimated Market Value (EMV)** [1 – 2]	$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.	**MV Prior to Homestead MV Exclusion** [3-4-5-6-7-8-9-10]	$115,000
12.	Homestead Market Value Exclusion	$36,200
13.	**Taxable Market Value (TMV)** [11-12]	$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 calculated 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

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 x 40% = $38,000
ii.	Value over $95,000:	$120,000 – 95,000 = $25,000
iii.	Benefit Reduction Amount:	$25,000 x 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.	**Estimated Market Value (EMV)** [1 – 2]	$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.	**MV Prior to Homestead MV Exclusion [**3-4-5-6-7-8-9-10]	$120,000
12.	Homestead Market Value Exclusion	$35,750
13.	**Taxable Market Value (TMV)** [11-12]	$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 calculated 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 x 0.45% = $225) while the remaining value is at 1.00% ($34,250 x 1% = $342.50), for an NTC of $567.50.

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 x 0.45% = $225 x 100 = $22,500
Remainder of class 1b (if Ag, HGA part only):	$70,000 x 1.00% = $700 x 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

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 determining 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, 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

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

either be approved by other governmental agencies or be from acceptable pollution remediation experts/consultants.

Clean-Up Status	Tax Rate Applied to Contaminated Value *Contaminated Value must be at least $10,000*	
	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.

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.

- **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.

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.

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

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.

(	**Net Tax** (as computed using the market value established January 2 of the year of the destruction)	-	**Net Tax** (as computed using the reassessed market value established after the destruction)	)	=	Disaster Abatement Amount

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.

(	Disaster Abatement Amount	**X**	# of full months the property was not usable/12	)	=	Local Option Abatement Amount

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.

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Classification of Property

Introduction to Classification Law

In Minnesota, property is classified according to its use on the annual assessment date of January 2. If a property is improved with a structure, the use of the property is typically quite clear – residential, commercial, industrial, etc. If there is not a structure, the use of the property may be less evident.

Except for property that may be classified as 2b rural vacant land, unimproved property for which there is no identifiable current use must be classified according to its highest and best use permitted under the local zoning ordinance.

- If the ordinance permits more than one use, the land must be classified according to the highest and best use permitted under the ordinance.
- If no such ordinance exists, the assessor shall consider the most likely potential use of the unimproved land based upon the use of the surrounding land or land in proximity to the unimproved land.

There are five basic classifications of property, and there are numerous subclasses of property. Each classification will be discussed in this section.

Tax Capacity

As stated in Module 1, the Uniformity Clause of the Minnesota Constitution allows for different classifications of property to be taxed at different rates. Each classification of property has a unique classification rate which is set by the Minnesota Legislature. The Legislature may change these classification rates to accomplish various tax policy objectives. The first step in calculating the tax liability for a property is to determine its tax capacity using the classification rate. Tax capacity is calculated using the following formula:

Taxable Market Value (TMV) x Class Rate = Tax Capacity

This **is not** the final amount of property taxes payable and is only the first step in the tax calculation process.

Class 1

Class 1a – Residential Homestead
Real estate which is residential and is used for a homestead purposes is class 1a. The market value of class 1a property must be determined based upon the value of the house, garage, and the land.

More information on homesteads may be found in Module 4 – Homesteads.

In the case of a duplex or triplex where one of the units is used for homestead purposes, the entire property is deemed to be used for homestead purposes and should be classified as class 1a.

The first $500,000 of market value of class 1a property has a net class rate of 1.00%. Any market value exceeding $500,000 has a class rate as 1.25%.

Tax Capacity Example:
The tax capacity calculation for class 1a residential homestead property with an EMV of $600,000 would be calculated as follows (Note: a residential homestead with an EMV of $600,000 would not receive the residential homestead market value exclusion):

Class	TMV		Class Rate		Tax Capacity
1a	$500,000	x	1.00%	=	$5,000
1a	$100,000	x	1.25%	=	$1,250
					$6,250 Total Tax Capacity

Primary Statutory Reference: 273.13, subd. 22, para. (a)

Class 1b – Residential Blind/Disabled/Surviving Spouse of a Paraplegic Veteran Homestead

Class 1b property includes homestead real estate or homestead manufactured homes homesteaded by:

1. Any person who is blind as defined in section 256D.35, subdivision 4a, or the blind person and the blind person's spouse.
    - For a property to qualify, the county assessor must certify that the homestead occupant satisfies the requirements of this paragraph.
2. Any person who is permanently and totally disabled or the disabled person and the disabled person's spouse.
    - For a property to qualify, proof from the relevant government agency or income-providing source must certify that the homestead occupant satisfies the disability requirements of this paragraph and the property is not eligible for the Disabled Veterans Homestead Market Value Exclusion.
3. The surviving spouse of a veteran who was permanently and totally disabled homesteading a property classified under this provision for the 2007 assessment year for taxes payable in 2008, unless they are already receiving the Disabled Veterans Exclusion.

Statutory Reference: Minnesota Statutes, section 273.13, subdivision 22, paragraph (b)

Note: Property receiving the Disabled Veterans' Homestead Market Value exclusion does not qualify for class 1b.

The class 1b blind/disabled homestead is different than other classifications because the qualification is specific to both the use of the property and to a person (and the person's disabling condition). As a result, the class 1b homestead follows the person who is blind or disabled from one property to another. For general information see Special Homestead Classification For Property Owners who are Blind or Disabled information page.

The first $50,000 of taxable market value of class 1b property has a classification rate of 0.45%. The remaining taxable market value has a class rate using the rates for class 1a residential homestead or agricultural homestead, whichever is appropriate.

Tax Capacity Example:
Fred and Wilma are married. Fred is blind. Wilma is not. They own, occupy and homestead their single family home in the city of Bedrock. The property is valued at $200,000. After applying the residential homestead market value exclusion, the TMV is $171,450. The appropriate classification for the property would be:

$50,000 Class 1b	Full Blind Homestead	
$121,450 Class 1a	Residential Homestead	

Class	TMV		Class Rate		Tax Capacity
1b	$50,000	x	0.45%	=	$225
1a	$121,450	x	1.00%	=	$1,215
					$1,440 Total Tax Capacity

Application Process
A property owner must apply for the 1b classification by October 1 for the current assessment year for taxes payable the following year per MN Statute 273.1315. Applicants must also complete a homestead application and be granted homestead prior to the county approving an application for 1b. Applicants are required to provide additional documentation along with the 1b application so that assessors can verify whether the applicant qualifies for the classification. Applicants should be notified of their eligibility after the county receives the application. If the application is approved and the classification is granted, the taxpayer does not need to apply again unless there is a change in eligibility. **There is no annual application requirement.**

The Department of Revenue provides standardized applications to be used by all counties when administering classification of 1b blind/disabled homesteads. The applications can be customized to fit your county's needs (logo, address, etc.) but the general format should not be altered. The application should look and function the same from county to county.

Note: Please remember that any Social Security and Individual Taxpayer Identification numbers, and income and medical information received from class 1b applicants are private data and should be treated as such.

The onset of a person's disability or blindness must have occurred on or before **June 30** of the year they are filing for the special homestead classification. If the onset of the disability or blindness occurs after June 30, an applicant will not be approved until the next year.

Blind: Blind, as determined in Minnesota Statutes, section 256D.35. When applying for class 1b an eye doctor's report or letter giving detail of the person's sight must be included. A statement by the individual is not sufficient.

Disabled: Permanently and totally disabled describes a condition which is permanent in nature and totally incapacitates a person from working at an occupation which brings the person an income. A letter from a qualifying agency stating that an individual is permanently and totally disabled and is eligible to receive disability payments is required. Only providing evidence of a payment is not sufficient. A note from a doctor is not sufficient verification of total and permanent disability for purposes of the 1b classification.

The following sources are qualifying agencies and commonly pay disability payments:

- Social Security Administration
- Veterans Administration
- Public or private pension plans
- Welfare Supplemental Security Income
- Workers Compensation
- Insurance program

Most cases the documentation received will specify the person is "permanently and totally" disabled. However, letters from the Social Security Administration (SSA) may not specify whether a property owner is permanently and totally disabled. The SSA's definition of permanently and totally disabled is very strict and meets the requirements of the 1b classification. The SSA will only pay disability benefits to people with a permanent and total disability. Therefore, a letter from the Social Security Administration that indicates a person is **eligible for disability benefits** is enough documentation to grant the 1b classification. It is important to review the benefit letter sent to the applicant to ensure that the payment is being received because of a disability.

The SSA will stop paying disability benefits once they are over 65. This means that property owners over 65 may not have a recent letter from the SSA showing disability payments. In this situation, old letters may be used to continue to verify the property owner's eligibility for the 1b classification.

If you receive information attesting to disability from the Veterans Administration, please verify whether the disability is service-connected. If the disability is service-connected, the veteran may qualify for the Disabled Veterans Homestead Market Value Exclusion program. If the disability is not service-connected, but the veteran is still permanently and totally disabled, the class 1b benefits should be applicable. Remember that property owners receiving the Disabled Veterans Value Exclusion are not eligible for the 1b classification.

There are no income requirements, but to be eligible a person must have a disability income and must be able to provide proof of such income before class 1b (disabled) homestead is granted.

Relative Homestead and 1b

To qualify as class 1b (blind or disabled) on a relative homestead, the qualifying relative occupying the home must be the qualifying person who is blind or disabled. This same concept applies to spouses. For example, if spouse A owns the property and spouse B is blind/disabled but is not listed as an owner, the property would qualify for 1b as long as spouse B is occupying the property. If a person who is blind or disabled owns a home and a non-blind/disabled relative is the one that occupies the home, it does not qualify for a class 1b classification.

Class 1b cannot be granted to minor children who are blind or disabled living with their parents. The homestead is granted to the parents based on their ownership and occupancy of the property. It is not appropriate to grant the reduced class rate for class 1b based on the blindness/disability status of a minor child who lives with them.

Changing the Classification

If a property no longer qualifies for the 1b classification due to the owner selling the property, using the property in a different way rather than a homestead, or death of the owner then the classification must be reviewed.

If the owner sells the property and moves to a different property, they must qualify for homestead on the new property and apply for the 1b classification by October 1 of that assessment year to qualify for taxes payable the following year. The 1b classification on the initial property would be removed and the property classified as it would have been without the application for 1b. Homestead would remain for that assessment year.

If the property owner dies in the middle of the assessment year, the 1b classification should be left on the property for the current assessment year and be removed the next assessment year. However, if the property were to be sold between the death and the next assessment date, the 1b classification should be removed from the property for the current assessment year. The 1b classification can only be changed to a homestead classification.

Administration

If, after applying, the county assessor certifies that the class 1b homestead applicant satisfies the necessary requirements, the applicant will receive a reduction in taxes as follows:

- First $50,000 market value has a net class rate of .45 percent of its market value.
- The remaining market value is classified as either class 1a residential homestead or class 2a agricultural homestead, whichever is appropriate based on the use of the property.

If the qualifying person moves to a new location, they must notify the county assessor of the change within 30 days and the class 1b status will move with the person to a new homestead. The property owner must notify the county assessor within 30 days if the property is sold, if there is a change in occupancy, or if there is a change in status or condition of the occupant that would no longer warrant the special homestead.

If a property owner fails to notify the assessor of such a change within 30 days the property owner may be subject to the fraudulent homestead penalties provided in Minnesota Statutes 273.124, subdivision 13, paragraph (h). The property will also lose its current class 1b classification. Upon death of a person meeting the provisions for the class 1b homestead, the 1b classification expires as of the next assessment and does not extend to a surviving spouse or relative.

In terms of persons qualifying under the provision of being blind or disabled, the qualifying person must own and occupy the home, or occupy and homestead with a spouse who owns the home. For joint ownership with someone other than a spouse, fractional benefits will apply to reflect the fractional ownership.

HIPAA – Health Insurance Portability and Accountability Act: Privacy Rule
We have received several questions concerning certain privacy rules contained within the federal Health Information Portability and Accountability Act (HIPAA) and how these privacy rules may interact with the *Disabled Veteran's Market Value Exclusion* and the *Blind/Disabled Special Homestead*.

The main concern was that the HIPAA privacy rules would not allow assessors to make any reference to a person's disability status on the person's tax statements and other tax records that might be viewed by the public. This would have necessitated keeping two separate sets of records; one set for the assessor's office only, and one set that would have any reference to the taxpayer's physical condition removed, which would be viewable to the public.

For your office to be subject to the HIPAA regulations, it would need to have been declared a "covered entity" under the HIPAA privacy rules. After discussions with legal professionals and other state agencies, the department has determined that assessors' offices are most likely **not** "covered entities" under the HIPAA privacy rules. Therefore property tax information relating to the blind/disabled classification and disabled veteran's exclusion is public information.

However, each county has a privacy officer or data practices specialist who will know what departments in that specific county have been declared to be "covered entities" and therefore subject to HIPAA regulations. You should check with your county's specialist to determine if your office is regulated by HIPAA privacy rules. In the unlikely event that your office is a "covered entity" and subject to HIPAA regulations, you may be limited as to what information you can make public. If this is the case, you may contact the department to discuss the best way to move forward.

Class 1b Blind/ Disabled Homestead Examples

1. A property is receiving a special homestead (blind/disabled) on January 2, 2020. On June 1, 2020, new owners purchase the property and file for a full conventional homestead. The assessor should remove the 1b classification and grant a full regular 1a residential homestead for assessment year 2020.

2. A property is receiving a regular residential homestead on January 2, 2020. On June 1, 2020, a person who is blind or disabled purchases the property and applies for the 1b classification. The assessor should grant the 1b classification for assessment year 2020.

3. A person is receiving the 1b classification on their home. The person decides to sell his home and buy a new home a few miles away. The property owner must notify the county assessor of the change and the 1b classification should be removed from the original property and extended to the newly acquired property.

4. A person receiving the 1b classification passes away mid-year. The 1b classification should be left on the property for the current assessment year and be removed the next assessment year. However, if the property were sold between the death and the next assessment date, the 1b classification should be removed from the property for the current year.

5. A person owns a property, and the property is occupied by a blind/disabled relative. The owner does not occupy the property. This property is eligible for the 1b classification. The person who is blind or disabled occupies the property as a homestead and is a qualifying relative.

6. A property is receiving a special homestead (blind/disabled) on January 2, 2020. On June 1, 2020, new owners purchase the property and do not file for homestead. The assessor should remove the 1b classification, however, the homestead for assessment year 2020 would remain. Homestead is a fact situation as of a particular date and should not be removed; during the assessment year it may only be improved.

Frequently Asked Questions

1. **If a property owner receiving the 1b classification dies, do the homestead benefits extend to the surviving (non-blind/disabled) spouse? If not, when does the classification change?**
   No. The 1b classification expires with the death of the qualifying property owner. The classification should be removed for the following assessment.

2. **A person is receiving the classification 1b on her home and she owns another home that is occupied by a relative. Is the second home eligible for the class 1b homestead as well?**

No. In order to qualify as class 1b on a relative homestead the relative living in the home must be the person who qualifies as blind/disabled. If a person who is not blind or disabled owns a home which is occupied by a relative who is blind or disabled, the home occupied by the qualifying person who is blind or disabled is eligible for a class 1b relative homestead.

3. **A person is certified as being blind in September of the assessment year and applies for the 1b classification before October 1 of that year. Should the person be approved for taxes payable the next year?**

   No. In order to be approved for taxes payable the next year, the onset of blindness must have been on or before June 30 of the current year (the year they file for the special homestead). The application would be held for approval until the following assessment year.

Example of Tax Calculations on Class 1b Property

A person qualifying for class 1b residential homestead is the sole owner of a residential homestead valued at $200,000. Calculate the taxes payable assuming a net tax capacity tax rate of 100.00%.

Estimated Market Value =	$200,000
Taxable Market Value =	$180,760

Apply 1b class rate of 0.45% to the first $50,000.

$50,000 X 0.45% =	$225.00

The remainder of the value is calculated according to the class rate applied to residential homesteads (1a). The first $500,000 of 1a property has a tax rate of 1.00%.

$130,760 X 1.00% =	$1,308

Add the two results to determine the net tax capacity.

$1308.00 + $225.00 =	$1,533

This results in a net tax capacity of $1533.00. Multiply the net tax capacity with the net tax capacity tax *rate* to calculate taxes payable (net tax capacity tax).

$1,533 X 100.00% =	**$1,533**

Class 1c Homesteaded Resorts

Class 1c property is commercial-use real property that abuts public water (as defined in Minnesota Statutes, section 103G.005, subdivision 15) or a state trail administered by the Department of Natural Resources. It is used for temporary and seasonal residential occupancy for recreational purposes, as long as the property is **not** devoted to commercial purposes for more than 250 days in the year preceding the year of assessment.

The property must also include a portion used as a homestead by the owner. The dwelling can be occupied as a homestead by any of the following:

- an owner as sole proprietor;
- a shareholder of a corporation that owns the resort;
- a partner in a partnership that owns the resort; or
- a member of a limited liability company that owns the resort.

Property is considered as devoted to a commercial purpose on a specific day if any portion of the property, excluding the portion used exclusively as a homestead, is used for residential occupancy and a fee is charged. A camping pad offered for rent that is part of a property that otherwise qualifies for class 1c is also class 1c, regardless of the term of the rental agreement, as long as the camping pad is not used for more than 250 days.

Rental Units

Class 1c property must have three or more rental units. Rental units are defined as cabins, condos, townhouses, sleeping rooms, or individual camping sites equipped with water and electrical hookups for recreational vehicles.

Recreational Activities

The property must provide recreational activities such as:

- rental of ice fishing houses;
- rental of boats and motors;
- rental of snowmobiles;
- rental of downhill or cross country ski equipment;
- providing marina services;
- providing launch services;
- providing guide services; or
- selling bait and tackle.

Class Rates
After subtracting the homestead unit, the remainder of the resort property is classified as class 1c and the appropriate classification rates are as follows:

- Tier I: The first $1,500,000 at 0.50%
- Tier II: $1,500,000-$4,500,000 at 1.00%
- Tier III: Over $4,500,000 at 1.25%*

*Any value in Tier III is subject to the state general levy.

Declaration Required
Owners of real property desiring classification as 1c must submit a declaration to the assessor's office and provide guest registers or other records, by January 15 of the assessment year, that show which cabins or units were occupied for 250 days or less in the year preceding the assessment year. Those cabins or units and a proportionate share of the land on which they are located will be designated as class 1c.

Split Classifications
Non-qualifying cabins or units (those rented for more than 250 days) and a proportionate share of land on which they are located must be classified as class 3a commercial. In addition, the portion of the property operated as a restaurant, gift shop, bar, conference center/meeting room, and other nonresidential facilities that are operated on a commercial basis not directly related to temporary and seasonal residential occupancy for recreational purposes do not qualify for class 1c. This portion of the property should be classified as class 3a commercial, or potentially class 4c(10) if there is a qualifying seasonal restaurant on a lake.

Any unit in which the right to use the property is transferred to an individual or entity by deeded interest, or by the sale of shares or stock, no longer qualifies for class 1c even though it may remain available for rent. These units shall be reclassified according to their use as of the next assessment date following the transfer.

The portion of the property used as a homestead (house, garage, and up to one acre of land) by the owner should be classified as class 1a residential homestead.

Tax Capacity Example:
Tom and Katie are married. They own, occupy, and operate a resort on Gull Lake. The resort units are all occupied for fewer than 250 days per year, and no portion of the property is classified as commercial property. The homestead portion of the property is valued at $250,000 with a taxable market value of $235,260 after the homestead market value exclusion. The remainder of the resort is valued at $2.5 million. The property would be classified as follows:

Class 1a Residential Homestead = $250,000
Class 1c Homesteaded Resort = $2.5million

The tax capacity would be calculated as follows:

Class	TMV		Class Rate		Tax Capacity
1a	$ 235,260	x	1.00%	=	$ 2,353
1c (Tier I)	$ 600,000	x	0.50%	=	$ 3,000
1c (Tier II)	$1,700,000	x	1.00%	=	$17,000
1c (Tier III)	$ 200,000	x	1.25%	=	$ 2,500
					$24,853 **Total Tax Capacity**

In this example, the property would also be subject to the state general tax. For purposes of this example, we are only calculating the net tax capacity, but the value in Tier III will be subject to the state general levy.

"Linking" – Limited Option
In 2011, this statute was modified to allow one class 1c classification and corresponding tiers and tax classification rates to two separate resorts if all of the following conditions are met:

- one of the properties must be owner-occupied (or occupied by a member of an LLC that owns the property) and qualifying for homestead
- both resort parcels must be located within the same township
- if both parcels are owned by LLCs, each LLC must have identical ownership structures
- all other requirements for 1c classification beyond homestead (i.e., located on public water, used seasonally, provides recreational activities, etc.) must be met

If these requirements are met, the value of both parcels is treated as if it were one class 1c property, with one HGA.

Primary Statutory Reference: 273.13, subd. 22, para. (c)

Class 1d –Housing for Seasonal Workers (structures only)

Class 1d property includes structures only (not land), which meet all of the following criteria:

- The structure is located on property that is otherwise classified as agricultural under section 273.13.
- The structure is occupied exclusively by seasonal farm workers during the time they work on that farm, and the occupants are not charged rent for the privilege of occupying the property, provided that use of the structure for storage of farm equipment and produce does not disqualify the property from classification under this provision.
- The structure meets all applicable health and safety requirements for the appropriate season.
- The structure is not saleable as residential property because it does not comply with local ordinances relating to location in relation to streets or roads (e.g. setback requirements).

The taxable market value of class 1d housing for seasonal workers has the same class rates as class 1a property. The first $500,000 of taxable market value of class 1c property has a class rate of 1.00%, and market value exceeding $500,000 has a class rate of 1.25%.

Tax capacity example:

Farmer McDonald farms 2,000 contiguous acres with the help of several workers who assist him on a seasonal basis. As part of the workers' compensation, he provides housing for them during the months they are working on the farm. The structure where the workers live has a taxable market value of $130,000. The tax capacity of the structure would be calculated as follows:

Class	TMV		Class Rate		Tax Capacity
1d	$130,000	x	1.00%	=	$1,300
					$1,300 **Total Tax Capacity**

Primary Statutory References: 273.13, 273.124

Class 2

Class 2a –Agricultural Land

Class 2a agricultural land consists of parcels of property, or portions thereof that are agricultural land and buildings.

Class 2a land may be homestead or non-homestead depending on ownership, occupancy and active farming scenarios. The homestead determination is made independently of the classification of the property, and are discussed in greater detail in Module 4.

Minnesota Statutes, section 273.13, subdivision 23, provides a number of requirements that must be met in order to be classified as class 2a land. These can be divided into requirements for parcels that are greater than 10 acres in size, and parcels that either are 10 acre or less or 11 acres or less with a structure.

Parcels larger than 10 acres

For parcels that are larger than 10 acres (or 11 acres that have a structure), there must be at least 10 contiguous acres of land used during the preceding year for **agricultural purposes**.

For classification of agricultural land with at least ten acres used for agricultural purposes, "contiguous acreage" means all (or a contiguous portion of) a single tax parcel as described in Minnesota Statutes, section 272.193.

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

Agricultural purposes may also include certain land that is being used for environmental purposes. Land that is enrolled in the Reinvest in Minnesota (RIM) program, the federal Conservation Reserve Program (CRP), or a similar state or federal conservation program is deemed as used for agricultural purposes if the property was classified as agricultural property:

- since the 2002 assessment; or
- in the year prior to its enrollment in the conservation program.

Additionally, up to three acres of land that is used to provide environmental benefits may be deemed as being used for agricultural purposes. Statute lists buffer strips, old growth forest restoration or retention, and retention ponds to prevent soil erosion as examples of environmental benefits.

A program is deemed "similar" to RIM or CRP if it shares the main objectives of the aforementioned programs. This means that the program must focus on taking agricultural land out of production and focusing on conserving it. While many conservation programs may enroll previously farmed land, this is not a sufficient enough similarity to RIM or CRP to qualify as being used for an agricultural purpose. Programs such as the Wetland Reserve Program (WRP) do **not** qualify, because while previously agricultural land is often enrolled, it is not specifically intended for agricultural land.

This property classification supersedes, for property tax purposes only, any locally administered agricultural policies or land-use restrictions that define minimum or maximum farm acreage requirements.

The grading, sorting, and packaging of raw agricultural products for first sale is considered to be an agricultural purpose.

If a parcel is used for both agricultural purposes and for commercial or industrial purposes including but not limited to:

- Wholesale and retail sales;
- Processing of raw agricultural products or other goods;
- Warehousing or storage of processed goods; and
- Office facilities for the support of the activities listed above.

then the assessor shall classify the portion of the property used for productive agricultural purposes as class 2a, and the rest of the property should be classified according to its use.

For example, an owner-occupied dairy farm also has several buildings onsite that are used to produce ice cream. The total size of the property is 80 acres. The house, garage and first acre (HGA) occupied by the owner of the property should be classified as class 2a. The portion of the property used for dairy production should also be classified as class 2a productive agricultural land. The portion of the property used for the production of ice cream including any area used for processing, packaging, freezing, sales, and office space should be classified as class 3a commercial/industrial property.

Similarly, a vineyard may also have several uses. The acres that are used to grow grapes to be used in wine production should be classified as 2a agricultural land while the portion of the property used for wine production, tasting, sales, etc. should be classified as class 3a commercial/industrial.

A greenhouse or other building where floricultural, horticultural or nursery products are grown that is also used for the purpose of retail sales must be classified as agricultural only if it is primarily used for growing floricultural, horticultural or nursery stock from seeds, cuttings or roots, and occasionally as a showroom for the retail sale of the products. The use of a

greenhouse or building **only** for the display of already grown floricultural, horticultural or nursery products **does not** qualify as an agricultural purpose.

In most cases, a property will qualify for the agricultural classification because they are producing **agricultural product**. For the purposes of classifying land for property tax purposes, the term *"agricultural products"* includes the **production for sale** (defined below) of:

a) livestock, dairy animals, dairy products, poultry and poultry products, fur-bearing animals, horticultural and nursery stock, floriculture, fruit of all kinds, vegetables, forage, grains, bees, and apiary products by the owner;
    a. Floriculture includes the production of bedding and garden plants, foliage plants, potted flowering plants, and cut flowers.
b) aquaculture products for sale and consumption if production occurs on land zoned for agricultural use;
c) the commercial boarding of horses. This may also include related horse training and riding instruction, if the commercial boarding is done on property that is also used for raising pasture to graze horses or raising or cultivating other agricultural products as defined in (a) above;
d) property that is owned and operated by non-profit organizations used for equestrian activities, excluding racing;
e) game birds and waterfowl that are bred and raised:
    a. on a game farm licensed under section 97A.105, provided that the annual licensing report required under that section indicates that at least 500 birds were raised or used for breeding stock on the property and the owner provides the assessor with the most recent schedule F; or
    b. for use on a shooting preserve that is licensed under Minnesota Statutes, section 97A.115;
f) insects that are primarily bred to be used as food for animals;
g) trees, grown for sale as a crop (e.g. Christmas trees), including short rotation woody crops, as long as they are not harvested and sold for timber, lumber, wood, or wood products;
h) maple syrup taken from trees grown by a person who is licensed by the Minnesota Department of Agriculture under Minnesota Statutes, Chapter 28A as a food processor.

Production for Sale

The agricultural product being produced on the land must be produced for the purpose of sale. Although income should not be the sole determining factor, the assessor may want to consider the following factors:

- Income (Schedule F) from sale of agricultural products (crops, livestock, etc.)
- How the agricultural products were sold (wildlife food plots do not qualify)
- Income earned in the past year from the sale of animals
- The income from the productive acres divided by the number of total acres

- Rental income from an agricultural lease

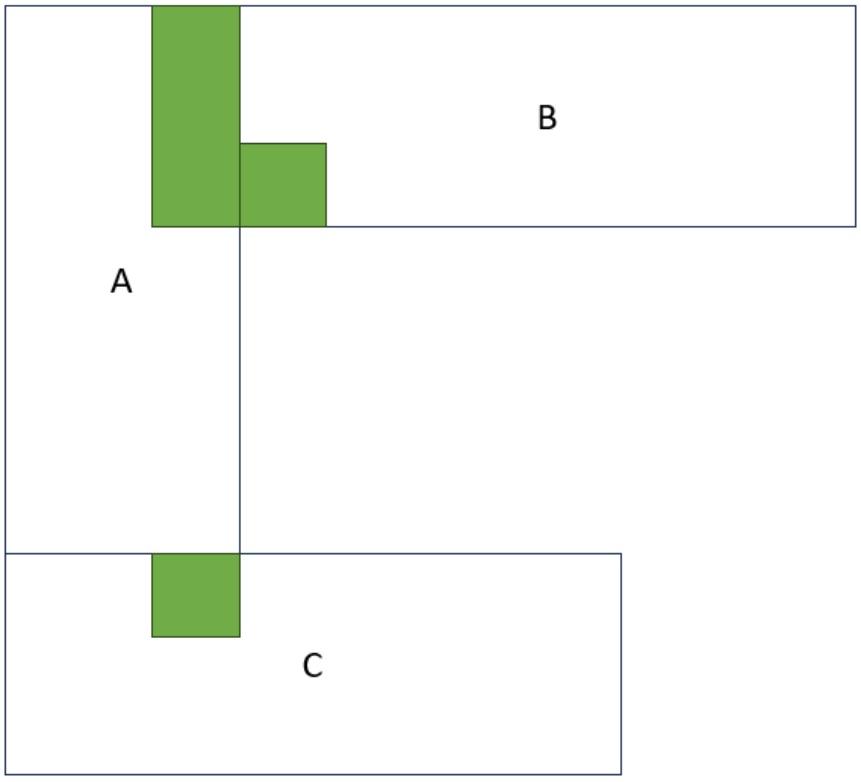
Contiguous Acreage
Contiguous is defined by Minnesota Statute 273.13, subdivision 23(e) as:

all of, or a contiguous portion of, a tax parcel as described in section 272.193, or all of, or a contiguous portion of, a set of contiguous tax parcels under that section that are owned by the same person.

Contiguous is simply defined as "connected to" or "next to." This means that there must be ten acres **together** that are used for agricultural purposes. A parcel with singular acres scattered around the property would not qualify even if there were a total of ten acres used for agricultural purposes because the acres are not contiguous. Notably, this extends across parcels owned by the same person; this means if there is a field that is over ten acres, it does not matter where the parcel lines are as long as they are owned by the same person. Multiple parcels of agricultural land may be referred to as a "contiguous landmass".

Example:
A property owner owns several parcels, arrayed in the diagram on the right:

- Parcel A is 40 acres, with 13 contiguous acres of land used for agricultural purposes. The rest is 2b rural vacant land.
- Parcel B is 80 acres, with 5.3 acres of land used for agricultural purposes that is contiguous with the agricultural land in parcel A. The rest is 2b rural vacant land.
- Parcel C contains 5 acres of land used for agricultural purposes that is not contiguous with the agricultural land in parcel A. The rest is 2b rural vacant land.



In this situation, the land used for agricultural purposes on parcels A and B would qualify for the 2a agricultural classification, but the land on parcel C would not. The land on parcel A would qualify because it is more than 10 contiguous acres. The land on parcel B would qualify even though it is below ten contiguous

acres because it is contiguous to the land used for agricultural purposes on parcel A and parcels A and B are under the same ownership. The land used for agricultural purposes on parcel C would **not** qualify because it is under ten acres and is not contiguous to any other agricultural land.

"Same Ownership"

When spouses own property as individuals, meaning one of them is listed as an owner on the deed, they would still be considered "one person/same person" and meet the definition of contiguous. However, when agricultural land is owned by multiple owners, determining whether contiguous parcels qualify for the agricultural classification can be difficult. The assessor must verify the ownership of each parcel before determining the classification status of a parcel. There are no exceptions within 273.13 that allow partial ownership to be considered the same as individual ownership for classification purposes.

Example:

Tract A has been split into three separate parcels with different ownership:

- Parcel 1: 6 acres, mom fully owns and occupies, is not used for intensive agricultural production
- Parcel 2: 15 acres, owned 50% by mom, 25% by son A, and 25% by son B, used for corn production
- Parcel 3: 99 acres, owned 50% by mom and 50% by Family Trust, used for corn production
- Mom and dad are the sole grantors of the family trust, dad has passed away
- Son A owns and occupies his own agricultural homestead
- Son B lives in town, he owns and farms agricultural land and is receiving a special agricultural homestead
- Both sons live within four cities or townships of the parcels in question



Due to the different ownership of the three parcels, each parcel must meet the agricultural classification requirements on their own.

- Parcel 1 does not meet the requirements and should be classified as residential. Mom's ownership in parcel 2 and parcel 3 does not qualify this parcel for the agricultural classification because it does not meet the definition of contiguous.

- Parcel 2 does meet the requirements for the agricultural classification.
- Parcel 3 does meet the requirements for the agricultural classification.

Impractical to Separate
Once this determination is made, any land deemed "impractical to separate" and any other smaller land masses of class 2a land on the same parcel may be classified as class 2a land as well. *(More detailed information about "Impractical to Separate" determinations can be found after the Class 2b information.)*

Class 2a land must also contain any property that would otherwise be classified as 2b rural vacant land, but is interspersed with class 2a property. This includes but is not limited to sloughs, wooded wind shelters, acreage abutting ditches, ravines, rock piles, land subject to a setback requirement, and other similar land that is impractical for the assessor to value separately from the rest of the property or that is unlikely to be able to be sold separately from the rest of the property.

Intensive Livestock or Poultry Confinement
Property used for intensive livestock or poultry confinement may be agricultural regardless of the size of the parcel the confinement activity is located on. The acreage must be contiguous and have been used for intensive livestock or poultry confinement during the preceding year. The property may be homesteaded as agricultural land, but would not be eligible for Green Acres unless the other requirements for Green Acres – including the parcel being at least 10 acres– are met (see Module 2 – Valuation for more information).

Farmed Wild Animals
The Legislature has designated that certain species of wild animals that are being farmed for certain agricultural purposes are considered to be livestock for sales tax, hunting and wildlife law purposes. The department has taken the position that the following may be considered as livestock for property tax purposes, but these classifications are not determinative of qualifying for the agricultural property tax classification:

- Farmed cervidae, such as deer, elk, or moose.
- Farmed ratitae, such as ostriches, emus, and rheas.
- Farmed llamas.

These animals and their products, such as fiber, meat, or other animal by-products, are treated as livestock and farm products. Raising farmed cervidae, ratitae, or llamas is an agricultural production.

Primary Statutory References: 17.452, 17.453, 17.454, 17.455, 17.456

Classification of property used of horse breeding and boarding

- Horses used for personal or recreational use DO NOT enable a property to qualify for the agricultural classification. (There are no agricultural products being produced for sale in this situation.)

- Ten acres or more of pasture used to provide feed for horses that are being used by the owners for their own personal/recreational use DOES NOT qualify the property for the agricultural classification – there is not an agricultural product being produced for sale.

- Ten acres or more of pasture being used to provide feed as part of a commercial boarding operation on the same property DOES qualify the property for the agricultural classification. In addition, horse training and riding instruction **related** to the commercial boarding may also be included in the agricultural classification if the boarding is done on property that is also used for raising pasture to graze horses or raising or cultivating other agricultural products specified in section 273.13, subdivision 23, paragraph (i), clause (1). It is the expectation that the training and riding instruction related to the commercial boarding is provided to those individuals who are boarding their horses onsite. If the training and riding instruction are provided to the general public (e.g. those who do not board their horses onsite) that portion of the property would be classified as commercial.

- Land used to produce horses bred or raised for sale should qualify toward the 10-acre requirement for the agricultural classification. However, breeding/selling 1-2 horses is likely not enough to qualify a property for the agricultural class, similarly to how selling 1-2 cows, 1-2 sheep, etc. would not automatically qualify a property. Assessors must use good professional judgment to differentiate between hobby and business enterprises. Assessors may want to ask for additional information such as receipts of sale, Schedule F, etc. to help make this determination.
- Ten acres or more of pasture being used to feed horses that are being bred/raised for sale DOES qualify for the agricultural classification since there is a product being sold (the horses). The assessor must determine if there is significant production taking place (enough animal units being sold each year) to warrant the agricultural classification.

- If a property is used for both breeding horses for sale and commercial boarding, the assessor would classify the entire property as agricultural, assuming there is no other use of the property (e.g. rural vacant land which would be classified as class 2b or a tack shop or event center which would both be classified as class 3a commercial, etc.).

- Any commercial use of the property such as tack shops, riding lessons for the general public, horse rental (e.g. trail rides, hay rides, or other service typically sold by the hour), conference centers, event centers, etc. must be classified as 3a commercial property.

Exclusive Use - Real Estate of Less Than 10 Acres

Real estate of **less than** 10 acres that is **exclusively** used to raise or cultivate agricultural products should be considered to be agricultural land. "Exclusively" means the entire parcel, border-to-border is used for an agricultural purpose – there is no house, no cabin, and no other use of the parcel. If there is another use on the property, it is by definition not used exclusively for agricultural purposes.

Intensive Use Real Estate of Less Than 11 Acres Improved With Residential Structure

If a property is less than 11 acres in size **and** has a residential structure, the property must be used for one of the following purposes to be considered agricultural:

- Intensive grain drying or storage;
- Intensive storage of machinery or equipment used to support agricultural activities on other parcels of property operated by the same farming entity;
- Intensive nursery stock production, provided that only those acres used to produce nursery stock are considered as agricultural land (land used for parking, retail sales, etc. does not qualify);
- Intensive market farming (see the "Market Farming" section for more information).

Exclusive	Intensive
Less than 10 acres	Less than 11 acres
Entire parcel, border to border	Ag use and residential use
No structure on the parcel	Has a residential structure
Only can establish homestead if contiguous to other ag land	Only **4 intensive ways** to use the property for it to qualify
Non-contiguous parcels must be linked to qualify for homestead	Can qualify for occupied ag homestead

Market Farming

For the purposes of the agricultural classification, market farming is defined as "the cultivation of one or more fruits or vegetables or production of animal or other agricultural products for sale to local markets by the farmer or an organization with which the farmer is affiliated." This requires that the farmer sell their agricultural products to a local market or otherwise be associated with an organization that sells their products to the local market. Assessors may request documentation such as farmers market applications or permits to verify that the farmer is participating in market farming.

Properties that are market farming can qualify for the 2a classification in two different ways. Please note that these two ways of qualifying for the 2a classification are independent, and a property owner only has to qualify under one set of requirements.

Property under 11 acres with a residence

- The contiguous acres exclusive of the house, garage, and surrounding acre of land was used in the preceding year for "intensive" market farming.
- Items to review to determine if the property meets the requirements of "intensive" market farming include:
    - The income generated by agricultural production on a property.
    - The amount of labor required for production.
    - Farmers' market applications or permits.
    - Any other information deemed necessary to help the assessor make this determination.

Property under 15 acres with a residence

Property that is under 15 acres with a residence may qualify for the agricultural classification if they meet the following three requirements:

- The contiguous acres inclusive of the house, garage, and surrounding acre were used in the preceding year for market farming.
- The property owner provides the county assessor with the filed Schedule F for the most recent completed tax year showing gross income of at least $20,000.
    - As the assessment date and valuation notices are sent before income taxes are due, assessors may accept the Schedule F from one year prior. E.g., for assessment year 2026, the assessor may accept the Schedule F filed in year 2025 showing income from year 2024.
    - If the more recent year's Schedule F meets the income requirements, the property owner may provide it to the assessor to qualify for the classification, even if the Schedule F from two years prior did not.
        - This should be done as soon as possible.
        - If the property owner does not provide the Schedule F within 10 days of the Local Board or Open Book meeting, they must appeal their classification at the meeting.
        - Once boards have concluded, the classification of properties may not change outside of Minnesota Tax Court.
- The Schedule F must show a gross income of at least $20,000.
    - The Schedule F must be in the name of the property owner their spouse, or an entity of which the owner or their spouse is a member. It cannot be from a relative or lessee.
    - The $20,000 must be generated from market farming on the under 15-acre parcel to qualify.

- If the property owner has multiple parcels that contribute income to the Schedule F, the property owner must provide documentation of the amount earned from the under-15-acre parcel.
- Similarly, if the parcel has income from market farming and non-market farming, the property owner must provide documentation showing which income is from market farming versus non-market farming.

Administration:

- Once a property owner has qualified under this clause, the assessor should verify this requirement annually with the property owner.
  - This should be done regardless of income shown on the previous Schedule F.
  - For customer service purposes, assessors should treat this verification similar to special agricultural homestead reapplications. Ultimately, the burden is on the property owner to provide their Schedule F.

House, Garage and One Acre (HGA)

When assessing farm property, the assessor must determine the market value of the HGA and list it separately on the property records. If any farm buildings or structures are located on this acre of land, their market value shall not be included in this separate determination. This distinction is very important as it is used for state aids, referendum market values, property tax refunds, and more. Assessors should take great care in making certain these values are uniform and equalized.

Local Conservation Programs

Starting with the 2018 assessment year, the definition for agricultural purposes is expanded for property tax classification to include local conservation programs. Local conservation programs may be administered by a town, city, county, watershed district, water management organization, or soil and water conservation district.

To meet the definition of a local conservation program to qualify for agricultural classification, all of the following requirements must be met.

The land must:

- have been classified as agricultural in the year before enrollment
- receive payments of at least $50 per acre in exchange for use or other restrictions on the land

Additionally, the landowner must:

- apply to the assessor by February 1 of the assessment year
- submit information required by the assessor including a copy of program requirements, the agreement between land owner and the local agency, and a map of the conservation area

Primary Statutory Reference: 273.13, subdivision 23

Tax capacity example:

Again using the example for seasonal housing, Farmer McDonald owns, occupies and farms 2,000 contiguous acres with the help of several workers who assist him on a seasonal basis. As part of the workers' compensation, he provides housing for them during the months they are working on the farm. The structure where the workers live has a taxable market value of $130,000. The HGA has a taxable market value of $165,000. All of the land has been classified as class 2a agricultural land by the assessor. The excess land has a taxable market value of $4,000,000. The tax capacity of the property is as follows:

Class	TMV		Class Rate	Tax Capacity
2a (HGA)	$ 165,000	x	1.00% =	$1,650
2a excess land	$1,500,000	x	0.50% =	$7,500
2a excess land	$2,500,000	x	1.00% =	$25,000
1d	$ 130,000	x	1.00% =	$1,300
				$35,450 **Total Tax Cap.**

Primary Statutory References: 273.13, subdivision 23

Class 2b – Rural Vacant Land
Class 2b rural vacant land consists of property that is unplatted, unimproved, rural in character and is not used for agricultural purposes. It also includes land that is used for growing trees for timber, lumber, wood and wood products.

Minor, Ancillary Structures
Class 2b land cannot be improved with a structure unless the structure is a minor, ancillary, non-residential structure as defined by the Commissioner of Revenue. The Department of Revenue has defined ***minor, ancillary structures*** as sheds or other primitive structures that are less than 300 square feet and are not used residentially. A structure can still be considered minor and ancillary if it is occasionally used overnight for hunting or other outdoor activities.

A structure or group of structures **may not** be considered minor and ancillary if they total 300 or more square feet, if any structure is used residentially on more than an occasional basis, or if there is an improved building site that provides water, sewer, or electrical hook ups for residential purposes. If there is a non-minor/ancillary structure on the property, then the property must be split classed according to the appropriate use or uses of the property. Some indications that the structure is not a minor, ancillary structure would be the fact that it is designed for residential occupancy and includes kitchen facilities, separate bedroom areas, or gas service.

If a parcel of 20 acres or more in size is improved with a structure that is not minor and ancillary, then the assessor should split-classify the property. The structure and 10 acres should be classified according to the use of the structure (residential, seasonal residential recreational, etc.) and the remaining land should be classified as class 2b rural vacant land. There is an exception to this if the parcel is enrolled in Sustainable Forest Incentive Act program. See below.

Platted Rural, Unimproved, Non-Agricultural Parcels

A rural, unimproved, non-agricultural parcel may retain the 2b rural vacant land classification if it is platted due to a government requirement, such as a local ordinance or other administrative mandate.

Distinction Between Administrative and Owner-Initiated Plats

- **Administrative plats**: Required by a government entity (e.g., county ordinance, land survey mandates, Homestead Act of the 1800s). These do not automatically disqualify the property from the 2b classification, provided the remaining lot is at least 20 acres in size.
- **Owner-initiated plats**: Completed for personal reasons (e.g., estate planning, future development, or sale). These make the property ineligible for the 2b classification.

Assessor Review Requirements

- If the remaining lot is **20 acres or more**, the assessor must evaluate additional factors such as rural character and the use of surrounding land before determining classification.
- If the remaining lot is **less than 20 acres**, classification should be based on the property's current use or, if unused, its most probable highest and best use.

Tax Capacity Examples

Example #1:
Tom owns a 100-acre parcel of wooded land in southeastern Minnesota but lives in Florida. The land does not produce any agricultural products, is not platted and is rural in character. The property has a taxable market value of $1.1 million. The property should be classified as class 2b rural vacant land.

The tax capacity would be calculated as follows:

Class	TMV		Class Rate		Tax Capacity
2b	$1,100,000	x	1.00%	=	$11,000
					$11,000 Total Tax Capacity

Example #2:
The same situation exists as in example #1 above except that there is a hunting cabin located on the property. The property has a taxable market value of $1,150,000. Ten acres of land plus the cabin must be classified as class 4c(12) seasonal residential recreational-noncommercial. The remainder of the property should be classified as class 2b rural vacant land.

The tax capacity would be calculated as follows:

Class	Type	TMV		Class Rate		Tax Capacity
4c(12)	Cabin	$ 50,000	x	1.00%	=	$ 500
2b	RVL	$1,100,000	x	1.00%	=	$11,000
						$11,500 Total

Class 2b land may qualify as part of an agricultural homestead if it is contiguous to qualifying class 2a agricultural land under the same ownership. The class 2b would be included in the agricultural homestead classification rates and tiers.

Class 2b and Sustainable Forest Incentive Act Enrolled Land

Minnesota Statute 273.13, subdivision 23(c) provides the exception to the split classification requirement for Sustainable Forest Incentive Act (SFIA) enrolled land.

The law requires assessors to split classify 2b property differently if a parcel meets all the criteria below:

- 20 or more acres in size
- is enrolled in the Sustainable Forest Incentive Act (SFIA) program
- improved with a structure (that is not a minor, ancillary nonresidential structure)

If a parcel meets these requirements, then the number of acres split classified according to the use of the structure must equal the number of acres (or 3 acres at a minimum) excluded from the SFIA covenant due to the structure.

This law change is an exception to the general rule for split classifying property that is 20 or more acres in size and improved with a structure. This change only applies to SFIA enrolled land**.**

The law change was made because there was a conflict between the direction under SFIA and class 2b statutes when a structure is located on a parcel that is over 20 acres in size. This conflict in acreage could result in acres of enrolled land receiving a classification that violates the SFIA definition of forest land (which excludes land used for residential or agricultural purposes).

Assessor Responsibilities:

- Assessors do not need to determine if a parcel qualifies for SFIA. DOR and the Department of Natural Resources (DNR) determine active eligible acres for SFIA. Both departments utilize the information you provide to us in making determination on whether parcels are still eligible.

- A list is sent to the county assessor by the Department of Revenue SFIA administrator each year which includes the SFIA enrolled parcels. Assessors must review enrolled SFIA parcels that have a structure and update the number of acres that are classified according to the structure to match the number of acres that are excluded in the SFIA covenant. If there are no acres excluded on the covenant, a minimum of 3 acres must be classified according to the structure. SFIA covenants are recorded with the county recorder's office. The map of the property which includes any excluded acres are found on Exhibit B of the covenant. To find an example of what a covenant looks like, go to the SFIA website under How to Enroll.

Examples of Split Classification of a Parcel Enrolled in SFIA

Example 1
A 60-acre parcel with a residence with 5 acres being used residentially, and 55 acres of woods. 55 acres are enrolled in SFIA and the covenant shows an exclusion of 5 acres. The parcel would be classified as follows:

- Since the parcel is over 20 acres, contains a non-minor structure, and enrolled in SFIA you must refer to the SFIA covenant to determine how many acres surrounding the structure you must classify according to the use of the structure.
- In this example 5 acres were excluded so you must classify the immediately surrounding 5 acres according to the use of the structure. The remaining acres are classified as 2b rural vacant land.

Example 2
A 40-acre unimproved parcel with 8 acres being tilled, and 32 acres of woods. Part of this parcel is enrolled in SFIA. The parcel would be classified as follows:

- Since the parcel is over 20 acres, is not improved with any non-minor structures, and does not have at least 10 contiguous acres in used for agricultural purposes, you must classify the entire property as 2b rural vacant land.
- If a structure is built in the future, you will need to review the classification for that assessment year and classify accordingly.

Example 3
An 80-acre parcel has a hunting cabin on it and is enrolled in SFIA. No acres were excluded on the covenant. The parcel would be classified as follows:

- Since the parcel is over 20 acres, contains a non-minor structure, enrolled in SFIA and does not have a specified exclusion amount on the covenant, three acres must be split classified according to the use of the structure.
- The remaining acres are classified as 2b rural vacant land.
- This is a potential violation of SFIA and should be reported to proptax.sfia@state.mn.us and we will work with DNR to review the parcel.
- Note: if this parcel was not enrolled in SFIA, then the split classification would be 10 acres with the use of the structure and the remaining 70 acres as 2b.

Example 4
An 18-acre unimproved parcel with 5 acres being tilled, and 13 acres of woods. This property is NOT enrolled in SFIA. This property would be classified as follows:

- Since the parcel is less than 20 acres, is not improved with any non-minor structures, and does not have at least 10 contiguous acres used for agricultural purposes, you must classify the entire property as 2b rural vacant land.

Primary Statutory References: 273.13, subdivision 23

2a/2b Agricultural Homestead First-Tier Valuation Limits
Beginning with the 2006 assessment, the Commissioner of Revenue annually calculates and certifies the first-tier limit for agricultural homestead property, as required by law.

The Department of Revenue calculates and certifies the first-tier valuation limit rounded to the nearest $10,000. Assessment data is used to calculate the new limit, which is the product of:

- the first-tier limit for the preceding assessment year, and
- the ratio of the statewide average taxable market value of agricultural property per acre in the preceding assessment year to that of the second preceding assessment year.

The table showing the certified agricultural homestead first-tier valuation limit amounts for current and past assessment years can be found on the Agricultural Homesteads First-Tier Valuation Limit website.

Defining 2a/2b Using "Impractical to Separate"
Some lands not used to produce agricultural products for sale may still be classified as 2a in limited circumstances. Minnesota Statutes, section 273.13, says:

> "*Class 2a property must also include any property that would otherwise be classified as 2b, but is interspersed with class 2a property, including but not limited to sloughs, wooded wind shelters, acreage abutting ditches, ravines, rock piles, land subject to a setback requirement, and other similar land that is impractical for the assessor to value separately from the rest of the property or that is unlikely to be able to be sold separately from the rest of the property*."

"Interspersed" is commonly defined as being placed at intervals among other things; the word is synonymous with strewn or sprinkled. Small tracts of land not used for agricultural purposes that are scattered throughout the entire parcel and considered "interspersed" include:

- sloughs
- wooded wind shelters
- grass setback acres abutting ditches
- grass setback acres abutting public waters
- ravines
- rock piles
- waterways
- ridges
- pivot points
- terraces
- ditches
- sink/pot holes
- fence lines

These types of interspersed lands should be classed as 2a land.

The term "interspersed" implies that in most cases, the amount of interspersed acres will be a small amount in relation to the total acreage for that parcel.

"Land subject to a setback requirement" is understood to be any land prohibited by local requirements/ordinances from being used for agricultural purposes (i.e. setbacks from feedlots, wind turbines, or water frontage, etc.). This land should generally be considered impractical to separate and should be classed as 2a land because the setback prohibits agricultural use.

In 2008 (before this language), the department issued the following policy statement:

> "*In most cases according to the DNR, in shore land districts, agricultural areas adjacent to lakes, rivers, and streams a buffer strip of permanent vegetation that is at least 50' wide is required. In the real world, these buffer strips will vary in width based on the topography and pre-existing natural vegetation. To compensate for this and avoid penalizing farms that demonstrate good conservation practices we have developed the following policy regarding lands abutting lakeshore, rivers, and streams.*
>
> *If 50% or more of a contiguous land mass which lies within 400' of the Ordinary High Water Line is in agricultural production, the entire land mass within the 400' will be considered 2a and eligible for consideration for GA [Green Acres].*
>
> *If less than 50% of that land is in agricultural production, only the land actually in production shall be classed as 2a. The nonproductive land should be classified as 2b and therefore ineligible for green acres.*
>
> *If local zoning or shore land ordinances require a lot depth greater than 400' for development, the land area used to calculate the percentage of land in agricultural production shall be extended from the 400' mark to that local depth standard. The 400' delineation should be used in situations where the state or local requirement is less than 400' to provide as much consistency as possible.*
>
> *This policy will allow for substantial irregularities in the shape of the buffer strip yet require the strip to "average out" to 200' or less to qualify as 2a."*

Legislature directed assessors to consider whether land would be "unlikely to be able to be sold separately" from the rest of the property. This factor should be given considerably less weight than the other factors in the determination of impractical to separate. A very literal reading of this language could prevent the vast majority of rural vacant lands from being separated as 2b land because of market evidence. This was not the intent of the legislation.

The general rule is that contiguous class 2b land masses that are 10 acres or more in size should be considered practical to separate from 2a land, while contiguous land masses less than 10 acres in size should be considered impractical to separate.

Applying a 10-Acre Rule for "Impractical to Separate"
Assessors should be able to easily apply the 10-acre rule in the majority of situations. The contiguous acreage of the non-agricultural land that has been identified is first considered. This is land that is not tilled, actively grazed, or mowed for hay.

- If this land mass is **10 acres or more**, the assessor would separate it from the class 2a land and classify it as class 2b rural vacant land. If the owner applies and meets the other requirements, the 2b land may be eligible for the Rural Preserve Program.

- If this land mass is **less than 10 acres**, you would not separate it from the class 2a agricultural land since it would be considered "impractical to separate," and it would be classified as class 2a.

Exceptions to the 10-Acre Rule for "Impractical to Separate"
The 10-acre rule for "impractical to separate" should work in the majority of situations. However, one rule can only rarely fit all circumstances, and that is the case when determining the classification of land in Minnesota. The state and its lands are too diverse.

To account for this diversity and allow for professional judgment and common sense of assessors, the Department of Revenue has developed a list of factors (see below) that assessors should consider if they are justifying a case where the 10-acre rule for "impractical to separate" has not been applied.

Counties should create a policy as to how they will use these factors and how they will document the decisions and rationale used in applying the factors. This policy should be consistent for the county and similar to what is being done in the region. The department's Property Tax Compliance Officers can help to coordinate these policies.

These factors should help to achieve consistency because assessors will be working from the same set of considerations to determine what is impractical to separate.

Factors for Separating Class 2b Lands
The 10-acre rule should usually provide sufficient guidance for assessors trying to determine whether to separate class 2b lands, but there will obviously be some exceptions.

In cases where the 10-acre rule does not provide sufficient guidance, assessors should consider and utilize the following factors in determining what is practical or impractical to separate:

1. How is "interspersed" a factor?
    a. Size (acreage)/predominance of the class 2b land to the size of the overall parcel
    b. Characteristics (shape, edges, contours, topography) of the 2a and 2b land
    c. Location of the 2b land – in relation to parcel, to class 2a land, to other 2b land

2. How are alternate uses to the land a factor?
    a. Converting the lands to agricultural use
        i. Is it easy/feasible to till the land?
        ii. Is it possible, or impossible?
        iii. For what reason is any land that could be farmed nor being farmed (i.e. is it physically impossible to get machinery there, etc.)?
        iv. Are there economic, legal, or zoning considerations preventing farming the land?

3. How are setback requirements a factor?
    a. Are there setback requirements that prevent farming the land?
        i. What is the size of setback or amount of land required to be set aside?

4. How is "likely to be sold separately" a factor? Remember this factor is given less weight than the others. It should not be the only factor used in making determinations.
    a. Local market considerations –
        i. Has this land sold separately in the past? Is it accessible if sold? Is it usable if sold?
        ii. Instead of selling, are hunting rights to this type of land typically leased?
    b. Does the size, shape, or location of this land result in an unusual land mass for sale or to split?

The following examples illustrate potential exceptions to the 10-acre rule for "impractical to separate" and how to use the above factors in making that determination.

Example where less than 10 acres may be considered practical to separate. A tract of land with a 3 acre wooded area (not used agriculturally) borders tilled land. Other similar wooded land has been split off as residential sites in the past. The 3 acres are less than the 10-acre rule, but it is feasible and legal to split off for residential development, the characteristics of this land (it is a contiguous mass and shaped/located for a residential site), and there is also a history of this type of sale. The 3 acres should be separated and classed according to use, but are not considered class 2a.

Example where more than 10 acres may be considered impractical to separate. An 80-acre parcel of mostly tilled lands includes a strip of land running next to a waterway. This land cannot be tilled because of setback requirements and the topography of the land. It totals 14 acres, which exceeds the 10-acre rule, but it should be considered impractical to separate because of the setback requirements and the fact that the topography of this land makes it not possible to be used for agricultural purposes. The 14 acres should be classified as 2a land.

Example where not being "interspersed" may be considered practical to separate. A 25-acre parcel has 10 acres being tilled and 15 acres not being used for agricultural production. Some of these 15 acres are in contiguous land masses that are larger in size, and others are in one- or two-acre groupings. Because these 15 acres are not a small amount in relation to the total acreage for that parcel, they should not be considered interspersed. The 15 acres should be classified as class 2b land.

Example where being "interspersed" may be considered impractical to separate. An 80-acre parcel has 65 acres being tilled and 15 acres not being used for agricultural production. Some of these 15 acres are in contiguous land masses (all less than 10 acres), but others are in one or two acre groupings. Because these 15 acres are scattered and are a small amount in relation to the total acreage for that parcel they should be considered interspersed, the 15 acres should be classified as class 2a land.

Example where acres of certain types of non-agricultural land may be considered impractical to separate while other types may be considered practical to separate. A 40-acre parcel has a 10-acre area of woods not used agriculturally in one corner, a 9-acre ravine that cannot be used for agriculture due to the slope running through its center, and 21 acres being pastured.

While there are more than 10 total non-agricultural acres on this parcel, not all necessarily should be considered practical to separate. The 10-acre woods which are feasible to be split and are in a land mass that is conducive to other uses should be considered practical to separate and be classified according to use (likely class 2b).
However, the 9-acre ravine cannot be farmed because of topography and is specifically listed in the statute. It should be considered "impractical to separate" and classified as 2a land (if the ravine was more than 10 acres, the assessor would need to work through the factors to see if it should be an exception to the impractical to separate rule).

Additional Comments on "Impractical to Separate"
Statute lists certain features or types of land that are not physically possible to farm and/or that may be an integral part of the farm. When these lands are interspersed with class 2a land, they should not be included in the acreage counts when using the 10-acre rule. Such lands would be impractical to separate and should be classified as 2a land.

Other land that the owner may be choosing not to use agriculturally, but that is not an integral part of the farm, or that is not interspersed with class 2a land should be counted under the 10-acre rule. Classification of such land would need to be determined using the above criteria. An example of this would be food plots left for wildlife. This is a choice the owner makes, and the land would be considered practical to separate and not considered class 2a land.

Class 2a eligibility cannot be created due to lands being considered "impractical to separate" and therefore being included as class 2a land. The property must first have at least 10 acres used for agricultural production before having land included that is "impractical to separate."

Split-Classifying Agricultural Property (2a/2b)
The first step in classifying property is to identify the acreage that is used for agricultural purposes as defined in statute and therefore classified as 2a land. Then assessors should identify the acreage that is used for a different and separate use. If there is no separate use, then the property is classified as class 2a for the agricultural lands and class 2b for the unused lands, and there is a potential for an agricultural homestead.

If there is an identifiable separate use, then the property is split-classified. In the department's opinion, there are five split-classification options, each dependent on the number of acres in agricultural production (therefore class 2a land). Each option has homestead eligibility implications.

1. If there are at least 10 contiguous acres used for agricultural purposes, those acres are classified as 2a land. The remainder of the land is classified according to its identifiable separate use(s) – potentially class 2b rural vacant lands, class 3a commercial, etc. The class 2a and 2b portions of the property may be eligible for homestead.

Options (2) through (5) apply **if there are less than 10 contiguous acres used for agricultural purposes** (except in situations covered by the intensive or exclusive provisions in statute or other rare circumstances laid out in this section). If there are less than 10 contiguous acres in agricultural production, no acres will be classified as 2a land and the property is not eligible for agricultural homestead on its own.

2. If the parcel is **less than 20 acres** in size, unplatted, rural in character, and is not improved with a structure (unless the structure is minor and ancillary as defined in the above section on 2b rural vacant land), the entire property is classified as 2b rural

vacant land. The property on its own is not eligible for any type of homestead. (It could be linked to an agricultural homestead if the parcel is contiguous to class 2a land under the same ownership.)

3. If the parcel is **less than 20 acres** in size and is improved with a structure (other than a minor or ancillary structure), the property is classified according to the use of the structure. If the structure is a residence, the property may be eligible for a residential homestead.

4. If the parcel is **20 or more** acres in size and is unplatted, rural in character, and not improved with a structure (unless the structure is minor and ancillary), the entire property is classified as 2b rural vacant land. The property on its own is not eligible for any type of homestead. (It could be linked to an agricultural homestead if the parcel is contiguous to class 2a land under the same ownership.)

5. If the parcel is **20 or more** acres in size and is improved with a structure (other than a minor or ancillary structure), the structure and the immediately surrounding 10 acres are classified according to the use of the structure. If the structure is a residence, that portion of the property may be eligible for a residential homestead. The remainder of the property is classified as 2b rural vacant land and on its own is not eligible for any type of homestead.

For options (2) through (5) above, if classification as 2b is not applicable because of enrollment in class 2c Managed Forest Land or some other program, or because another classification is appropriate based on the use of the land, then the appropriate classification should be used in place of class 2b.

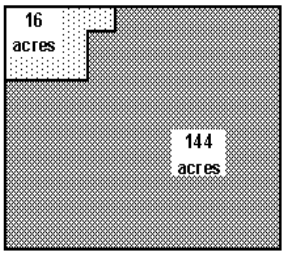
There may also be instances where three or more different uses of the parcel are identified (for example, a house, 2b land, and commercial use). In these cases, the parcel may have multiple classifications. What this illustrates is that when there are less than 10 contiguous acres used for agricultural purposes, none of the land is classified as 2a (unless it is one of the rare circumstances laid out in this section).

Minnesota Statutes, section 273.13, subdivision 23 states that no land can be classified as class 2a unless there is first at least 10 contiguous acres used agriculturally, with the exceptions of intensive or exclusive use. The statute specifically states that class 2a agricultural land is "*contiguous acreage of ten acres or more used during the preceding year for agricultural purposes…*" The statute also includes very specific performance requirements (the production of an agricultural product for sale) that must be met to qualify for the 2a class.
This will likely result in instances where a parcel with some agricultural use, but less than 10 tilled acres, will not be eligible for 2a classification. The department recommends these parcels be classified according to a statutorily-allowable classification, which will likely be class 2b.

While statute prohibits class 2b land being used for agricultural purposes, because there is less than 10 acres in production, the land is not being used for agricultural purposes.. If there is a non-minor or ancillary structure on the property, then the classification would be based on the use of the structure. For example, a parcel with eight acres and a house would likely all be classified as residential.

Classification Determination Examples:
The following illustrate some potential split-classifications when the rural vacant land (class 2b) classification is applicable.

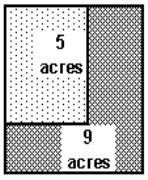
Note: these are simplified examples for illustrative purposes only. They assume the only uses are class 2b rural vacant land or residential when there is a structure on the property. They also assume these parcels are not contiguous to any other parcels under the same ownership.



Example 1
A 160 acre unimproved parcel with 16 acres being tilled, and 144 acres of woods. This property would be classified as follows:

Since the parcel has at least 10 contiguous acres used for agricultural purposes, you must classify the land according to its use. The 16 acres would be classified as 2a productive land and the 144 acres of woods would be classified as 2b rural vacant land.

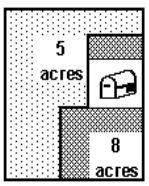
The parcel, on its own, would not be eligible for any homestead.



Example 2
A 14 acre unimproved parcel with 5 acres being tilled, and 9 acres of slough. This property would be classified as follows:

Since the parcel is less than 20 acres, is not improved with any non-minor structures, and does not have at least 10 contiguous acres used for agricultural purposes, you must classify the entire property as 2b rural vacant land.

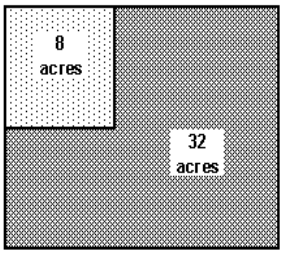
The parcel, on its own, would not be eligible for any homestead.



Example 3
A 14 acre parcel with a residence, 5 acres being tilled, and 8 acres of marsh. This property would be classified as follows:

Since the parcel is less than 20 acres, is improved with a non-minor structure, and does not have at least 10 acres used for agricultural purposes, you must classify the entire property according to the use of the structure.

The parcel could be eligible for a residential homestead.

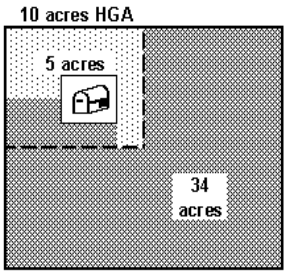


Example 4

A 40 acre unimproved parcel with 8 acres being tilled, and 32 acres of woods. This property would be classified as follows:

Since the parcel is over 20 acres, is not improved with any non-minor structures, and does not have at least 10 contiguous acres in used for agricultural purposes, you must classify the entire property as 2b rural vacant land.

The parcel, on its own, would not be eligible for any homestead.



Example 5

A 40 acre parcel with a residence, 5 acres being tilled, and 34 acres of marsh. This property would be classified as follows:

Since the parcel is over 20 acres, contains a non-minor structure, and does not have at least 10 contiguous acres used for agricultural production, you must classify the immediately surrounding 10 acres according to the use of the structure. The remaining acres are classified as 2b rural vacant land. The 10 acres could be eligible for a residential homestead.

Class 2c – Managed Forest Land
Class 2c property is managed forest land that would otherwise likely be classified as class 2b, but its use is restricted under a forest management plan (FMP).

Class 2c land consists of no less than 20 acres and no more than 1,920 acres statewide per taxpayer.

The FMP must meet the requirements of Minnesota Statutes, chapter 290C (Sustainable Forest Incentive Act program). However, class 2c land **cannot** simultaneously be enrolled in the Sustainable Forest Incentive Act program (SFIA).

The class rate for 2c property is 0.65% of its taxable market value.

Property owners must apply to the assessor to receive the 2c classification. The property owner must apply to the assessor's office on or before April 30 for the application to be effective for that assessment year. The applicant's forest management plan must be active (i.e. not expired) on the date of application.

The Commissioner of Natural Resources must also concur that the land is qualified for 2c classification and shall provide annual verification information. A copy of an applicant's FMP must be attached to their initial application. Property owners must follow the guidelines prescribed by the FMP if they wish to continue to receive the classification.

To qualify for Class 2c the property can neither be platted nor can the property be improved with a structure. Class 2c land may not be improved with a structure other than a minor, ancillary, non-residential structure (as defined in the section on 2b rural vacant land). Properties that are improved with a structure that is not a minor, ancillary, non-residential structure (e.g. home, cabin, commercial building, etc.) must be split-classified with at least 10 acres being assigned to the structure. It is up to the assessor to remove the 10 acres for any structure that does not qualify as a minor, ancillary, non-residential structure. The portion of the property that includes the structure would then be classified based on the use of the structure.

If a property must be split-classified and the resulting forest land is less than 20 acres, the property is not eligible for the 2c classification. For example, if a wooded property is 25 acres in size and there is a single family dwelling that is occupied as homestead by the owner, the property would not qualify for class 2c. The reason is that, after removing 10 acres surrounding the home, only 15 acres of forest property remain, which is short of the statutory minimum of 20 acres to qualify for class 2c.

There may be instances when parcels containing forest land will have more than one use. In these circumstances, the land covered under the FMP should be split-classified as 2c and the remaining land should be classified according to its use. For example, a 360-acre parcel

containing 200 acres of agricultural land and 160 acres of forest land that is covered by a FMP should be split-classified. The 200 farmed acres would be classified as 2a agricultural land and the 160 acres of forest would be classified as 2c managed forest land (assuming proper application is made and approved by the appropriate parties).
Noncontiguous forest land can qualify for the 2c classification providing it is covered under the same FMP (there must be at least 20 acres total), under the same ownership, and located on contiguous parcels.

When determining eligible acres, follow these steps:

1. Determine what parcels are contiguous and under the same ownership.
2. Determine how many acres of FMP land (must be the same FMP) there are on the contiguous parcels.
3. If the FMP land adds up to at least 20 acres, all contiguous parcels and all eligible FMP land located on those parcels can qualify for the 2c classification.

Generally, any land covered under the forest management plan are "eligible acres" for the 2c classification. Exceptions include land enrolled in SFIA, open water greater than three acres in size, or CRP land. The determination of eligible acres should be done on a case-by-case basis.

The Department of Revenue will provide assessors with lists of parcels that are enrolled in SFIA on an annual basis. The Department of Natural Resources will provide county assessors with annual lists of property owners who have registered FMPs in each county. In order to continue to qualify for class 2c, property owners must be listed on the annual list of registered FMPs. It will be the responsibility of the county assessor to verify that any parcels receiving the reduced classification rate for class 2c are not enrolled in SFIA.

The following examples of eligible property are included for illustration purposes. Assume all examples have the same ownership and same forest management plan.

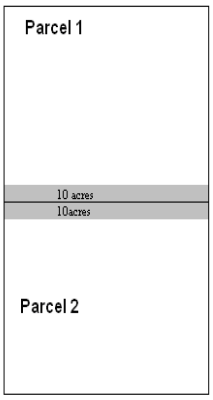
Example 1: Three contiguous parcels covered under the same forest management plan.



Parcel 1 - 15 acres in plan
Parcel 2 - 6 acres in plan
Parcel 3 - 40 acres in plan
Total acres - 61 acres in plan

Solution 1: Parcel 1, 2, and 3 would qualify because together they contain over 20 acres of land covered under a forest management plan, and all three parcels are contiguous. All 61 acres in the plan qualify.

Example 2: Two contiguous parcels covered under the same forest management plan.

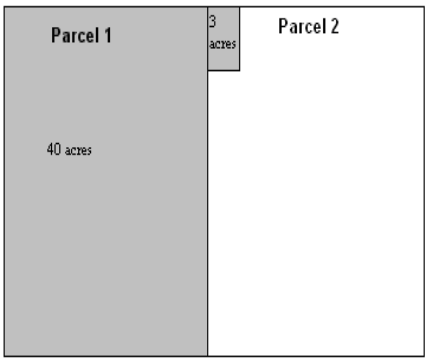


— Land covered by FMP

Parcel 1 -	10 acres in plan
Parcel 2 -	10 acres in plan
Total acres -	**20 acres in plan**

Solution 2: Both parcel 1 and 2 qualify for the 2c classification; there are 20 acres of land with an FMP and the parcels are contiguous. All 20 acres in the plan qualify.

Example 3: Two contiguous parcels covered under the same forest management plan.

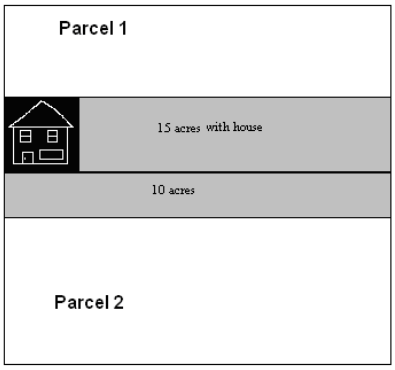


-- Land covered by FMP

Parcel 1 -	40 acres in plan
Parcel 2 -	3 acres in plan
Total acres -	**43 acres in plan**

Solution 3: Both parcel 1 and 2 qualify. There are over 20 acres of FMP land located on contiguous parcels. Even though Parcel 2 only has three acres in the plan it qualifies because it is on a contiguous parcel and has the same forest management plan.

Example 4: Two contiguous parcels covered under the same forest management plan.



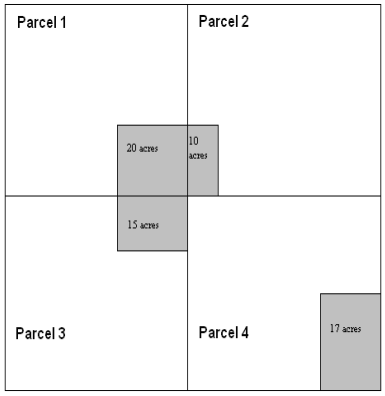
House

Land covered by FMP

Parcel 1 -	15 acres in plan (contains a structure)
Parcel 2 -	10 acres in plan
Total acres -	**25 acres in plan**

Solution 4: Neither parcel 1 or 2 would qualify for the 2c classification. 10 acres must be removed and assigned to the structure, leaving only 15 acres eligible for the 2c classification (5 acres on parcel 1 and 10 acres on parcel 2). There must be at least 20 acres eligible for the 2c classification in order to qualify. Zero acres in the forest management plan would qualify for class 2c.

Example 5: Four contiguous parcels covered under the same forest management plan.

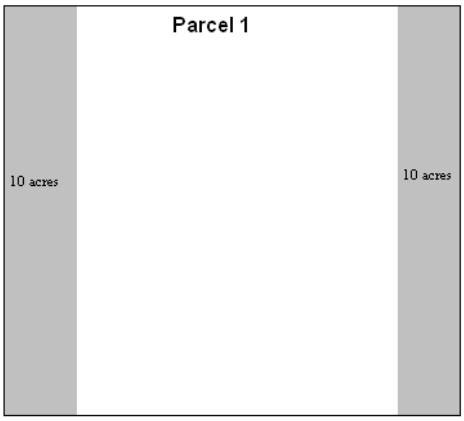


Land covered by FMP

Parcel 1-	20 acres in plan
Parcel 2 -	10 acres in plan
Parcel 3 -	15 acres in plan
Parcel 4 -	17 acres in plan
Total acres -	**62 acres in plan**

Solution 5: All parcels (1,2,3, and 4) would qualify for the 2c classification. All four parcels are contiguous. The sum of the acres covered under a FMP is at least 20. Even though the FMP land on parcel four is not contiguous to the other FMP land, the parcel is contiguous to the other parcels (and has the same FMP), so all 62 acres can qualify.

Example 6: One parcel with forest management plan



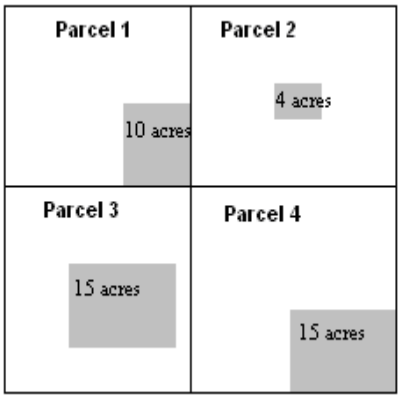
Parcel 1- 20 acres in plan – *(two noncontiguous 10 acre tracts)*

Total acres - 20 acres in plan

Land covered by FMP

Solution 6: Parcel 1 would qualify. The parcel contains 20 acres of land with an FMP. The FMP land is not contiguous, but it is on the same parcel (or contiguous parcels) and is at least 20 acres. All 20 acres in the plan qualify.

Example 7: Four contiguous parcels covered under the same forest management plan. One non-contiguous parcel with same forest management plan.



-- Land covered by FMP

Parcel 1 -	10 acres in plan
Parcel 2 -	4 acres in plan
Parcel 3 -	15 acres in plan
Parcel 4 -	15 acres in plan
Parcel 5 -	14 acres in plan
Total acres -	**58 acres in plan**



Solution 7: Parcels 1, 2, 3, and 4 would qualify. Parcel 5 would not qualify. Parcel 5 is not contiguous to the other parcels and does not contain 20 acres of FMP land. If parcel 5 had 20 acres of FMP land, it could qualify on its own. 44 acres in the plan qualify.

2c - Frequently Asked Questions

1. **Must a property be classified as class 2b rural vacant land prior to being classified as class 2c managed forest land?**

   Answer: No. Land may have been classified in any number of ways before being enrolled in class 2c. For example, a qualifying tract of land that is located on a lake may have been previously classified as class 4c seasonal residential recreational – non-commercial property. If the owner obtains a FMP, follows its provisions and makes proper application to the assessor, that property may qualify for class 2c.

2. **How does 2c property relate to homestead?**

   Answer: 2c property should not be used to qualify property for homestead. If a property containing 2c land meets all the requirements for either agricultural or residential homestead, then that property may receive homestead.

3. **If a portion of a property is farmed, can it be eligible for class 2c?**

   Answer: It is possible for a parcel of property to be partially-farmed and be eligible for the 2c classification. Simply farming a portion of a property does not disqualify the remaining portion of the property from being eligible for class 2c. However, any land that is used for agricultural purposes cannot receive the 2c classification. For example, a property owner owns an 80-acre parcel, 30 of which are farmed and 50 of which are wooded. In this case, the 50 acres may qualify for 2c if all other requirements are met. The 30 acres that are farmed are not eligible. *Please be aware that the property in question may benefit more by having the forest land classified as class 2b rural vacant land if it is contiguous to the 2a productive land under the same ownership and the owner meets the requirements for an agricultural homestead. Class 2c property cannot be homesteaded.*

4. **What is a Minnesota Forest Stewardship Plan?**

   Answer: The terms "Minnesota Forest Stewardship Plan" and "forest management plan (FMP)" are interchangeable. The DNR administers a program called the Forest Stewardship Program to promote sustainable forestry. Participants in this program get a "Forest Stewardship Plan" or FMP. They both reference the same thing which is provided by either the DNR or DNR-approved plan writers with the purpose of maintaining the sustainability of forested land.

5. **Does the FMP follow the owner upon sale or is it tied to the owner that enrolled the property?**

   Answer: The FMP is tied to the owner of the land. The DNR has informed us that they would like the FMP to be updated to reflect current ownership. Therefore, if a property is sold or transferred, the FMP must be updated and a new application must be submitted in order for the new owner to qualify for the 2c classification. The 2c classification should be removed for the next assessment year if the new owner has not submitted a new application containing an updated FMP by that time. *We strongly recommend that assessors send a new application or letter to the new owners informing them that their newly purchased property will only remain classified as class 2c property if they update their FMP and submit a new application.*

2c Tax Capacity Example:

Woody owns a 40-acre tract of property in St. Louis County. There is no residence on the parcel and Woody has made a timely application for class 2c. The DNR has certified that his property meets the requirements for the SFIA program but it is not enrolled in the SFIA program. There is no other use of the property. The parcel is valued at $40,000. The property should be classified as class 2c managed forest land.

The tax capacity is calculated as follows:

Class	TMV		Class Rate		Tax Capacity
2c	$40,000	x	0.65%	=	$260
					$260 **Total Tax Capacity**

Primary Statutory References: 273.13, subdivision 23, paragraph (d)

Class 2d – Private Airport

Class 2d property is an airport landing area or public access area of a privately owned public-use airport. To qualify for this classification, a privately owned public-use airport must be licensed as a public airport under Minnesota Statutes, section 360.018.

Landing area means that part of a privately owned public-use airport properly cleared, regularly maintained, and made available to the public for use by aircraft and includes runways, taxiways, aprons, and sites upon which landing or navigational aids are situated. A landing area also includes land underlying both the primary surface and the approach surfaces that comply with **all** of the following:

- The land is properly cleared and regularly maintained for the primary purposes of the landing, taking off, and taxiing of aircraft; but that portion of the land that contains facilities for servicing, repair, or maintenance of aircraft is not included as a landing area.
- The land is part of the airport property.
- The land is not used for commercial or residential purposes.

The land contained in the landing area must be described and certified by the Commissioner of Transportation. This certification is effective until it is modified or until the airport or landing area no longer meets these requirements.

Public access area means property used as an aircraft parking ramp, apron, or storage hangar, or an arrival and departure building in connection with the airport.

Class 2d has a classification rate of 1.00%.

Primary Statutory References: 273.13, subdivision 23, para. (l)

Class 2e – Land with a Commercial Aggregate Deposit

Class 2e land is land with a commercial aggregate deposit that is **not actively being mined** and that is not otherwise classified as class 2a or 2b. Property classified as 2e may be eligible for valuation deferment under the Aggregate Resource Preservation Property Tax Law. The Aggregate Resource Preservation Property Tax Law is discussed in greater detail in Module 2.

Counties may choose to opt-out of the Aggregate Resource Prevention program; by doing so, those counties also opt-out of the 2e classification.

A **commercial aggregate deposit** is a deposit that will yield crushed stone or sand and gravel that is suitable for use as a construction aggregate. **Actively mining** means the removal of top soil and overburden in preparation for excavation or the actual excavation of the commercial deposit.

To qualify for the 2e classification, the property must be at least 10 contiguous acres in size and the owner of the property must record an affidavit with the county that contains:

- a legal description of the property;
- a disclosure that the property contains a commercial aggregate deposit that is not actively being mined but is present on the entire parcel enrolled;
- documentation that the conditional use under the county or local zoning ordinance of the property is for mining; and
- documentation that a permit has been issued by the local unit of government or that the mining activity is allowed under local ordinance. The disclosure must include a statement from a registered professional geologist, engineer, or soil scientist delineating the deposit and certifying that it is a commercial aggregate deposit.

When any portion of class 2e land begins to be actively mined (provided that the minimum acreage change is 5 acres even though they all may not begin actual mining), the owner must file a supplemental affidavit within 60 days from the first day any aggregate is removed indicating the number of acres of the property that is being actively mined. These acres will then be classified and valued as commercial property for the next assessment. Any of those acres also enrolled in the Aggregate Resource Preservation Program will no longer be eligible for that program.

Copies of both the original affidavit and all supplemental affidavits must be filed with the county assessor, as well as the local zoning administrator and the Department of Natural Resources' Division of Land and Minerals.

Class 2e property has a class rate of 1.00%.

County Opt-Out Provisions

Counties had the opportunity to opt out of the Aggregate Resource Preservation program and class rate before June 1, 2010, by resolution following notice and public hearing. Further information can be found in Minnesota Statute 273.1115, subdivision 6.

Primary Statutory References: 273.13, subdivision 23, para. (m)

Class 3

Class 3a – Commercial-Industrial and Public Utility, Public Utility Machinery, Real Property Owned in Fee by a Utility for Transmission Line Right-of-Way, Transit Zone

Commercial, industrial, and utility real and personal property is class 3a. In general, commercial properties are office buildings, retail stores, malls, hotels, banks, restaurants, service outlets, etc., whereas industrial properties are often manufacturing, warehouse, and distribution facilities.

For classification purposes, parcels are contiguous even if they are separated by a road, street, waterway, or other similar intervening type of property. Connections between parcels that consist of power lines or pipelines do not cause parcels to be contiguous.

The class rate of 3a property is generally 1.50% for the first $150,000 in market value, and 2.00% thereafter, with some exceptions as described below:

1. Each parcel of commercial, industrial, or utility real property has a class rate of 1.50% for the first tier (up to $150,000) of market value and 2.00% for the remaining market value. This first tier is known as the "***preferred commercial***" classification.

   If a property owner has contiguous parcels of property that are separate businesses, in separate structures, and those businesses are operated by the owner may qualify for a first-tier class rate for both businesses. The owner must notify the assessor by **July 1** of the assessment year to be eligible for the current assessment year for taxes payable the following year. Contiguous parcels **under different ownership** used by a single business may be eligible for more than one first tier classification.

   The entire market value of real property owned in fee by a utility for transmission line right-of-way has a class rate of 2.00%.

2. All railroad operating property has a class rate of 1.50% for the first tier (up to $150,000) of market value and 2.00% for the remaining market value. In addition, the following property also has a class rate of 1.50% for the first tier (up to $150,000) of market value and 2.00% of the remaining market value:
   a. All property that is part of an electric generation, transmission or distribution system;
   b. All property that is part of a pipeline system transporting or distributing water, gas, crude oil, or petroleum products; and
   c. All property that is not described in number three below.

   In the case of multiple parcels in one county that are owned by one person or entity, only **one** first tier amount is eligible for the reduced rate.
3. The entire market value of the following personal property has a class rate of 2.00%:

   a. Tools, implements and machinery of an electric generation, transmission, or distribution system;
   b. Tools, implements and machinery of a pipeline system transporting or distributing water, gas, crude oil, or petroleum products; or
   c. The mains and pipes used in the distribution of steam or hot or chilled water for heating or cooling buildings.
4. If the solar energy generating system is subject to production tax, the real property under the system is classed as 3a. If the solar energy generating system is 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.
   a. The U.S. Energy Information Administration (EIA) has a resource (linked below) that lists all solar facilities that are above 1 megawatt. While this is not a comprehensive list of systems that may be classified as 3a as multiple facilities under 1 megawatt may fall under this provision, it can be a helpful resource in identifying possible facilities that should be classified as commercial.
      i. The resource lists multiple types of power plants but can be filtered to only show solar facilities.
      ii. A link to the website can be found here.
   b. Counties additionally should have permits for large solar sites, which usually reference the nameplate capacity.
5. All real property used for raising, cultivating, processing, or storing cannabis plants, flower, or products for sale is classified as 3a. Cannabis property is allowed to receive a first-tier classification rate under the same criteria as other types of commercial property. Cannabis plant, flower, and product are defined in Minnesota Statutes 342.01 and does not include medical cannabis or hemp.

Class 3a property is also subject to the state general tax. Electric generation attached machinery and airport property that is exempt from city and school district property taxes under Minnesota Statutes, section 473.625, are exempt from the state general property tax. (MSP International Airport and St. Paul's Holman Field are exempt under this provision).

Primary Statutory References: 273.13, subdivision 4; 473.625

Tax Capacity Example:
A restaurant (class 3a commercial) has a taxable market value of $500,000. The property qualifies for the preferred commercial classification. The tax capacity is calculated as follows:

Class	TMV		Class Rate	Tax Capacity
3a	$150,000	x	1.5% =	$2,250
3a	$350,000	x	2.0% =	$7,000
				$9,250 **Total Tax Capacity**

**Class 3a property is also subject to the state general tax. For the purposes of this example, we are only calculating the net tax capacity.*

Utility and pipeline companies are eligible for one preferred tier on all **personal property** in each county. Other machinery and electric generation machinery are **only** eligible for the 2% class rate. Structures on owned land and other locally assessed real property in a county that are non-contiguous parcels are **each** eligible for a preferred tier.

Structures on owned land are considered real property of a utility or pipeline company. Structures on leased land are considered personal property of a utility or pipeline company.

Tax Capacity Example 2:
An electric utility (class 3a) has the following 5 parcels in your county:

Parcel	City/Township Name	Property Type Description	Taxable Market Value
Parcel 1	Apple City Of	Other Machinery	$100,000
Parcel 1	Apple City Of	Structure, Owned Land	$75,000
Parcel 1	Apple City of	Land	$10,000
Parcel 2	Apple City Of	Other Machinery	$30,000
Parcel 2	Apple City Of	Structure, Owned Land	$22,000
Parcel 2	Apple City Of	Land	$10,000
Parcel 3	Maple Town of	Other Machinery	$30,000
Parcel 3	Maple Town of	Structure, Leased Land	$4,000
Parcel 4	Countywide	Elec Dist Lines City	$8,000,000
Parcel 5	Countywide	Elec Dist Lines Twp	$13,000,000

Parcels 1, 2, and 3 are substations containing utility-owned machinery and structures. The substation parcels are not contiguous.

The structures on each parcel of company-owned land are eligible for the 1.5% preferred tier rate up to $150,000 of estimated market value of the parcel and improvements. The other machinery at each substation is not eligible for the preferred-tier rate.
The structure at the substation on land the company **leases**, electric distribution lines in a city, and electric distribution lines in a township together will receive one preferred-tier rate. They do not each qualify for a preferred-tier rate.

Parcel	City/Township Name	Property Type Description	Taxable Market Value	Class Rate
Parcel 1	Apple City of	Other Machinery	$100,000	2.0%
Parcel 1	Apple City of	Structure, Owned Land	$75,000	1.5%
Parcel 1	Apple City of	Land	$10,000	1.5%
Parcel 2	Apple City of	Other Machinery	$30,000	2.0%
Parcel 2	Apple City of	Structure, Owned Land	$22,000	1.5%
Parcel 2	Apple City of	Land	$10,000	1.5%
Parcel 3	Maple Town of	Other Machinery	$30,000	2.0%
Parcel 3	Maple Town of	Structure, Leased Land	$4,000	1.5%
Parcel 4	Countywide	Elec Dist Lines City	$146,000	1.5%
		Value Over First Tier	$7,854,000	2.0%
Parcel 5	Countywide	Elec Dist Lines Twp	$13,000,000	2.0%

Tax Capacity Example 3:
A fluid transportation pipeline (class 3a) has 4 parcels in your county. Parcels 1 and 2 are pumping stations containing utility-owned structures and other machinery. The company owns

the land at parcel 1 and leases the land at parcel 2. The pumping station parcels are not contiguous to each other.

Parcels 3 and 4 are personal property transmission pipelines parcels.

Parcel	City/Township Name	Property Type Description	Taxable Market Value
Parcel 1	Fig City of	Other Machinery	$50,000,000
Parcel 1	Fig City of	Structure, Owned Land	$1,500,000
Parcel 1	Fig City of	Land	$150,000
Parcel 2	Plum City of	Other Machinery	$22,000,000
Parcel 2	Plum City of	Structure, Leased Land	$1,500,000
Parcel 3	Fig City of	Trans Pipeline	$10,000,000
Parcel 4	Plum City of	Trans Pipeline	$65,000,000

The real property at parcel 1 is eligible for the 1.5% preferred-tier rate up to $150,000 of estimated market value. The other machinery at each pumping station is not eligible for the preferred-tier rate.

The personal property (other than machinery) at the pumping station on leased land and the transmission pipeline personal property in Fig City and Plum City combined is eligible for one preferred-tier rate.

Parcel	City/Township Name	Property Type Description	Taxable Market Value	Class Rate
Parcel 1	Fig City of	Other Machinery	$50,000,000	2.0%
Parcel 1	Fig City of	Structure, Owned Land	$1,500,000	2.0%

		Land	$150,000	1.5%
Parcel 2	Plum City of	Other Machinery	$22,000,000	2.0%
Parcel 2	Plum City of	Structure, Leased Land	$150,000	1.5%
Parcel 2		*Value Over First Tier*	$1,350,000	2.0%
Parcel 3	Fig City of	Trans Pipeline	$10,000,000	2.0%
Parcel 4	Plum City of	Trans Pipeline	$65,000,000	2.0%

Primary Statutory Reference: 273.13, subd. 24

Class 4

Class 4a – Rental Housing (4 or more units)
Class 4a is residential real estate containing four or more units and used or held for use by the owner or by the tenants or lessees of the owner as a residence for rental periods of 30 days or more, excluding property qualifying for class 4d(1) low-income rental housing.

Class 4a also includes hospitals licensed under Minnesota Statutes, sections 144.50 to 144.56, other than hospitals exempted as public hospitals under Minnesota Statutes, section 272.02, subdivision 4, and contiguous property used for hospital purposes, without regard to whether the property has been platted or subdivided.

The market value of class 4a property has a class rate of 1.25%.

Tax Capacity Example:
A 5-unit apartment building has a taxable market value of $500,000. The tax capacity is calculated as follows:

Class	TMV		Class Rate		Tax Capacity
4a	$500,000	x	1.25%	=	$6,250
					$6,250 **Total Tax Capacity**

Primary Statutory Reference: 273.13, subd. 25, para. (a)

Class 4b

Class 4b property is non-homestead residential real estate, typically either the primary residence of someone or a vacant dwelling not used for any purpose.

Class 4b property includes:

- **4b(1)** - residential real estate containing less than four units that does not qualify as class 4bb, other than seasonal residential recreational.
    - This also includes property rented as short-term rental property for more than 14 days in the preceding year.
    - "Short-term rental property" is defined as non-homestead residential real estate that is rented for periods of less than 30 consecutive days. Additional information on short-term rental property is discussed below.
- **4b(2)** - manufactured homes not classified under any other provision;
- **4b(3)** - a dwelling, garage, and surrounding one acre of property on a non-homestead farm containing two or three units; and
- **4b(4)** - unimproved property that is classified as residential under Minnesota Statutes, section 273.13, subdivision 33 (i.e. the assessor has determined the most probable use to be residential property).

The market value of class 4b property has a class rate of 1.25%.

Tax Capacity Example:

A residential vacant lot has a taxable market value of $50,000. The tax capacity is calculated as follows:

Class	TMV		Class Rate		Tax Capacity
4b(4)	$50,000	x	1.25%	=	$625
					$625 **Total Tax Capacity**

Additional Information Regarding the Classification of Short-term Rental Properties

What documentation should the assessor request or research to help determine the classification?

Assessors should review:

- Permits and licensure from the state or local government entity.
- Booking records or information from the owner or third party accommodation intermediaries.
- Income and expense records of the property.
- Occupancy records for the property showing rental days to verify use.

What if a homesteaded property is rented out for more than 14 days per year?

Do not change the classification of homestead property if short-term rental occurs but the property remains the owner's or relative's primary place of residence. However, if it appears short-term rental may be the primary use, the assessor should review the homestead status and request a reapplication.

When the primary use of a property is a cabin, but it was rented for more than 14 days in the previous year can it still be classified 4c(12) based on the primary use?

No, if the property is rented for more than 14 days, the property should be classified as 4b(1).

What if a property with four or more units is used for short-term rental?

Residential properties containing four or more units used exclusively as short-term rental would be classified as commercial, class 3a, properties. If a property with four or more units has some units rented long-term and some short-term, it would be appropriate to split classify the property as class 4a and 3a based on the primary use of the individual units.

If a parcel qualifies for homestead and it also has a separate structure that is used as a short-term rental such as a guest house or apartment above the garage, how should it be classified?

The parcel should be split-classified according to the two separate uses on the parcel. The separate structure should be classified according to its use and the requirements in law. If it meets the requirements for short term rental and it is not being used as part of the homestead, then it would be appropriate to be classified as 4b1. This is similar to split classifying a residential parcel that also has commercial use such as a mechanic shop or hair salon.

How should a duplex/triplex be classified if one of the units qualifies for homestead and the other unit(s) are being used as short-term rentals?

The entire structure may qualify for a residential homestead when the owner occupies the property. The law (Minnesota Statute, section 273.13, subdivision 22(a)) provides an exception for classifying duplex and triplex structures. This exception also applies to short term rental use of the additional units; therefore, the entire structure would be classified as 1a residential homestead and should not be split-classified due to the short-term rental use. If a structure has more than one unit but is not a duplex/triplex, then the language in subdivision 22 does not apply and the property would be split-classified.

If a parcel is classified as 4bb, but meets the requirements to be classified as a short-term rental, should the classification be changed to 4b?

Yes, the law states that if a property is rented out for more than 14 days in the preceding year, it must be classified as 4b1, the law does not exclude 4bb properties from this classification.

Are individually owned residential non-homestead properties used as short-term rentals by resorts/hotels considered residential real estate and would they qualify for the 4b1 classification?

Yes, those properties whether part of a larger rental pool (resort, condominium complex), or with multiple owners (timeshares, limited deed interest), are considered residential real estate and should be classified according to use. If the property is rented for more than 14 days in the preceding year, then it should be classified as 4b1.

Primary Statutory Reference: 273.13, subd. 25, para. (b)

Class 4bb
Class 4bb property includes:

- 4bb(1): non-homestead residential real estate containing one unit, other than seasonal residential recreational property;
- 4bb(2): a single-family dwelling, garage, and surrounding one acre of property on a non-homestead farm; and
- 4bb(3): non-commercial garage condominium storage units that have separate parcel identification numbers. Note: the storage unit must be used **by the owner** for storage purposes. If the storage unit is rented out by the owner for someone else's personal use, then it does not qualify for 4bb(3).

Class 4bb property has the same rates as class 1a: 1.00% for the first $500,000 of market value, and 1.25% for the market value that exceeds $500,000.

Property that has been classified as seasonal residential recreational property at any time during which it has been owned by the current owner or spouse of the current owner cannot qualify for class 4bb per Minnesota Statutes, section 273.13, subdivision 25(c)**.**

Tax Capacity Example:
Bob owns a single family home in St. Paul that has a taxable market value of $200,000. He leases the home to an unrelated party who occupies the property. The property has never been classified as class 4c(12) non-commercial SRR. The property should be classified as class 4bb. The tax capacity would be calculated as follows:

Class	TMV		Class Rate		Tax Capacity
4bb	$200,000	x	1.00%	=	$2,000
					$2,000 **Total Tax Capacity**

Primary Statutory Reference: 273.13, subd. 25, para. (c)

Guidance on Residential Non-homestead Classifications

According to the data collected in 2016 from county assessors, it was evident that most counties are classifying these properties similarly. The scenarios that showed the highest point of inconsistency occurs when there are two, three, and four non-homestead units on one parcel. It appeared the point of confusion was whether to apply one classification to all of the units, split classify the property, or treat these units as duplexes/triplexes/quads. The following scenarios help provide direction on how to classify these properties.

What is the definition of "a unit/dwelling"?

In 2007, the definition of a unit/dwelling was provided in the Assessment and Classification Practices Report. That definition still stands today: *"A dwelling or unit means a single unit providing complete, independent, living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation."*

Scenarios

Parcel 1 –a bare, non-homestead residential parcel



- **Question:** How should this be classified?
- **Answer:** This parcel should be classified as 4b(4), Unimproved Residential Land with a class rate of 1.25%.

Parcel 2 – non-homestead residential unit



- **Question:** How should this be classified? What if it was agricultural?
- **Answer:** This parcel should be classified as 4bb(1), Residential Non-Homestead Single Unit with a class rate of 1.00% for the first tier and 1.25% for the second tier. If the property was being used agriculturally, we would recommend the HGA be classified as 4bb(2) with the same class rate.

Parcel 3 –2 non-homestead residential units



- **Question:** How should this be classified? What if it was agricultural?
- **Answer:** Each unit should be classified as 4b(1), Residential Non-Homestead with a class rate of 1.25%. We would advise counties to **not** split classify this property. If a county split classifies this property and gives one unit the 4bb(1) classification and the other unit 4b(1), the perception could be that the county is favoring or punishing a property owner depending on which unit receives the lower class rate associated with the 4bb(1) classification. If the property was being used agriculturally, each unit would be classified as 4b(3), Agricultural Non-Homestead.
- **Question:** What if one of the units becomes homestead?
- **Answer:** The homestead unit should be classified as residential homestead and the non-homestead unit be classified as 4b(1), Residential Non-Homestead. If the property is agricultural, the homestead unit would be classified as 2a and the other unit would be classified as 4b(3), Agricultural Non-Homestead.

Parcel 4 –3 non-homestead residential units



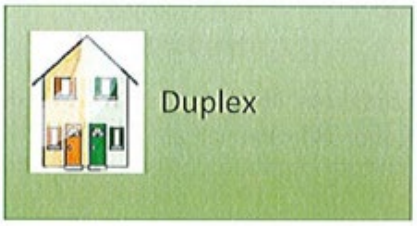
- **Question:** How should this be classified?
- **Answer:** This would be treated exactly like parcel three, each unit should be classified as 4b(1), Residential Non-Homestead with a class rate of 1.25%. If it was an agricultural parcel, again they would be classified as 4b(3), Agricultural Non-Homestead.
- **Question:** What if one of the units becomes homestead?
- **Answer:** The homestead unit should be classified as residential and the other two non-homestead units be classified as 4b(1), Residential Non-Homestead or 4b(3), Agricultural Non-Homestead.

Parcel 5 – 4 non-homestead residential units



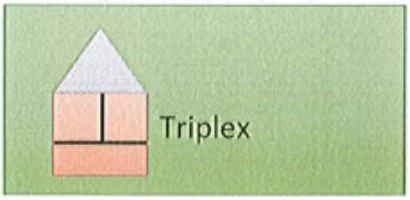
- **Question:** How should this be classified?
- **Answer:** We would recommend that each unit be classified as 4a, Residential Non-Homestead 4+ Units, with a class rate of 1.25%.
- **Question:** What if one unit becomes homestead?
- **Answer:** The homestead unit should be classified as 1a, Residential Homestead and the other three non-homestead units are classified as 4a, Residential Non-Homestead. The number of units on the property hasn't changed, the use of one of those units changed which is why the three non-homestead units would stay at the 4a classification.

Parcel 6 –a non-homestead duplex (2 units)



- **Question:** How should this be classified?
- **Answer:** Each unit should be classified as 4b(1), Residential Non-Homestead with a class rate of 1.25%.
- **Question:** What if one unit becomes homestead?
- **Answer:** MN Statute 273.13, subdivision 22(a) addresses this situation. If one of the units of a duplex becomes homestead, the entire duplex should be classified as 1a, Residential Homestead.

Parcel 7 –a non-homestead triplex (3 units)



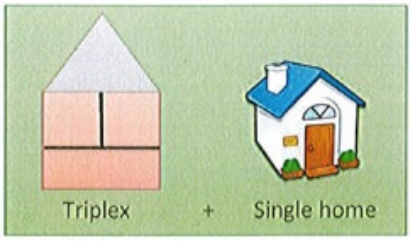
- **Question:** How should this be classified?
- **Answer:** Each unit should be classified as 4b(1), Residential Non-Homestead with a class rate of 1.25%.
- **Question:** What if one unit becomes homestead?
- **Answer:** MN Statute 273.13, subdivision 22(a) addresses this situation. If one of the units of a triplex becomes homestead, the entire triplex should be classified as 1a, Residential Homestead.

Parcel 8 –a non-homestead duplex and a separate non-homestead unit (3 total units)



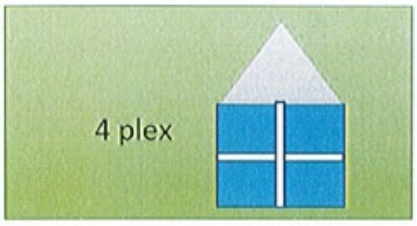
- **Question:** How should this be classified?
- **Answer:** Each unit should be classified as 4b(1), Residential Non-Homestead with a class rate of 1.25%. Again, we would advise that the county to not split classify this property by granting one unit the 4bb(1) classification and the other two the 4b(1) classification or vice versa.
- **Question:** What if one unit becomes homestead?
- **Answer:** That depends on what unit goes homestead. If the single unit becomes homestead, that unit would be classified as a 1a, Residential Homestead and the duplex would remain classified as 4b(1), Residential Non-Homestead. If one of the units located within the duplex goes homestead, the entire duplex should be classified as 1a Residential Homestead and the single unit would remain classified as 4b(1), Residential Non-Homestead. Again, the number of units on the property hasn't changed, just the use, therefore that single unit is still one of three units and would retain the 4b(1), Residential Non-Homestead classification.

Parcel 9 –a non-homestead triplex and a separate non-homestead unit (4 total units)



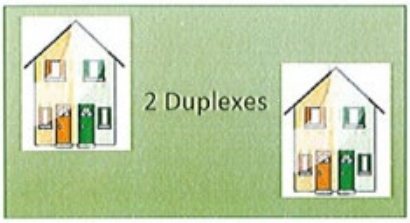
- **Question:** How should this be classified?
- **Answer:** Each unit should be classified as 4a, Residential Non-Homestead 4+ Units, with a class rate of 1.25%.
- **Question:** What if one unit becomes homestead?
- **Answer:** That depends on what unit goes homestead. If the single unit becomes homestead, that unit would be classified as a 1a, residential homestead and the triplex would remain classified as 4a, Residential Non-Homestead. If one of the units located within the triplex goes homestead, the entire triplex should be classified as 1a residential homestead and the single unit would remain classified as 4a, Residential Non-Homestead. Again the number of units on the property hasn't changed, just the use , therefore that single unit is still one of four units and would retain the 4a, Residential Non-Homestead classification.

Parcel 10 –a non-homestead fourplex/quad



- **Question:** How should this be classified?
- **Answer:** Each unit should be classified as 4a, Residential Non-Homestead 4+ Units, with a class rate of 1.25%.
- **Question:** What if one unit becomes homestead?
- **Answer:** The unit that is homesteaded would be classified as a 1a residential homestead. The other three non-homestead units would retain the 4a, Residential Non-Homestead classification.

Parcel 11 –2 separate non-homestead duplexes (4 units total)



- **Question:** How should this be classified?
- **Answer:** Each unit should be classified as 4a, Residential Non-Homestead 4+ Units, with a class rate of 1.25%.
- **Question:** What if one unit becomes homestead?
- **Answer:** MN Statute 273.13, subdivision 22(a) addresses this situation. If one of the units of a duplex becomes homestead, the entire duplex should be classified as 1a, Residential Homestead. The other duplex on the property would retain the 4a, Residential Non-Homestead classification.

Class 4c
Class 4c property includes classes 4c(1), 4c(2), 4c(3)(i), 4c(3)(ii), 4c(4), 4c(5)(i), 4c(5)(ii), 4c(6), 4c(7), 4c(8), 4c(9), 4c(10), 4c(11), and 4c(12).

Class 4c(1) Seasonal Residential Recreational – commercial (resorts)
4c(1) property is real property devoted to commercial temporary and seasonal residential occupancy for recreation purposes (resorts) for no more than 250 days in the year preceding the year of assessment. The classification is typically referred to as Seasonal Residential Recreational, commercial SRR, or simply "resorts".

To qualify for the 4c commercial resort classification the following requirements are listed in MN Statutes, section 273.13, subdivision 25:

- The property must be devoted to temporary and seasonal residential occupancy for recreation purposes, and not devoted to commercial purposes for more than 250 days in the year preceding the year of assessment.

- The property must contain three or more rental units. A "rental unit" includes a cabin, condominium, townhouse, sleeping room, or individual camping site.

For most properties, the following requirements must be met in addition to the requirements listed above:

i. The property must provide recreational activities such as renting ice fishing houses, boats and motors, snowmobiles, downhill or cross-country ski equipment; provide marina services, launch services, or guide services; or sell bait and fishing tackle.

ii. At least 40% of the property's annual gross lodging receipts must be from business conducted during 90 consecutive days.

iii. Additionally, one of the following must be met:

- At least 60% of all paid bookings during the year must be for at least two consecutive nights; or
- At least 20% of the annual gross receipts must be from charges for rental of fish houses, boats and motors, snowmobiles, downhill or cross-country ski equipment, or charges for marina services, launch services, and guide services, or the sale of bait and fishing tackle.

In 2011, a provision was added which allows the 4c(1) classification to properties in cities or townships with a populations of 2,500 or less, located outside of the metropolitan area, and where the city or township contains a portion of a state trail managed by the Department of Natural Resources. The property must not be devoted to commercial purposes for more than 250 days in the year preceding the year of the assessment; and the property must contain at least three rental units, but less than 20 rental units.
The owner has to designate which units meet the maximum 250 day use requirement and all other units are class 3a commercial. In other words, the property can be split classified. As provided in Minnesota Statutes, section 273.13, subdivision 25:

> *" In order for a property to qualify for classification under this clause, the owner must submit a declaration to the assessor designating the cabins or units occupied for 250 days or less in the year preceding the year of assessment by January 15 of the assessment year. Those cabins or units and a proportionate share of the land on which they are located must be designated class 4c under this clause as otherwise provided. The remainder of the cabins or units and a proportionate share of the land on which they are located will be designated as class 3a. The owner of property desiring designation as class 4c property under this clause must provide guest registers or other records demonstrating that the units for which class 4c designation is sought were not occupied for more than 250 days in the year preceding the assessment if so requested."*

The following portions of the property are not eligible for 4c(1) classification and should instead be classified as 3a:

- Restaurants
- Bars
- Gift shops
- Conference centers or meetings rooms not directly related to SRR purposes

Commercial-use seasonal residential recreational property not used for commercial purposes has a class rate of 1.00% for the first $500,000 of market value, and 1.25% for market value exceeding $500,000. Class 4c(1) property is also subject to the state general levy at the same tiers and tax rates.

Primary Statutory Reference: 273.13, subd. 25, para. (d)

Class 4c(2) - Qualifying Golf Course

A golf course may qualify for this classification if:

- it is open to the public on a daily fee basis. It may charge membership fees or dues, but a membership fee may not be required in order to use the property for golfing, and its green fees for golfing must be comparable for green fees typically charged by municipal courses; and
- it does not discriminate on the basis of gender, per Minnesota Statutes, section 273.112, subdivision 3, paragraph (d).

The market value of public golf courses and indoor recreational property has a class rate of 1.25%.

A structure used as a clubhouse, restaurant, or place of refreshment in conjunction with the golf course must be classified as class 3a commercial property.

Primary Statutory Reference: 273.13, subd. 25, para. (d)

Class 4c(3)(i) - Non-Profit Community Service Oriented Organization (Non-Revenue)

Class 4c(3)(i) is real property up to a maximum of three acres of land owned by a non-profit community service oriented organization. The property cannot be used for a revenue-producing activity for more than six days in the calendar year preceding the year of assessment and cannot be used for residential purposes on a temporary or permanent basis.

For purposes of this classification, a "non-profit community service oriented organization" means any corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, fraternal, civic, or educational purposes, and which is exempt from federal income taxation pursuant to Section 501(c)(3), (8), (10), or (19) of the Internal Revenue Code.

"Revenue-producing activities" include but are not limited to, property or that portion of the property that is used as:

- an on-sale intoxicating liquor or 3.2% malt liquor establishment licensed under Chapter 340A;
- a restaurant open to the public, bowling alley, or retail store; gambling conducted by organizations licensed under Chapter 349;
- an insurance business, office or other space leased or rented to a lessee or conducts a for-profit enterprise on the premises.

Any portion of the property which is used for revenue-producing activities for more than six days in the calendar year preceding the year of assessment shall be assessed as class 3a commercial property, unless it meets the requirements for 4c(3)(ii) classification outlined below. The use of property for social events open exclusively to members and their guests for periods of less than 24 hours, when an admission is not charged nor any revenues are received by the organization shall not be considered a revenue-producing activity. Class 4c(3)(i) property has a class rate of 1.50%. This class of property does not pay state general tax.

Class 4c(3)(ii) - Non-Profit Community Service Oriented Organization (Donations)
To qualify for this 4c(3)(ii) classification, a non-profit community service oriented organization which has revenue-producing activities for more than six days in a calendar year must meet both of the following criteria:

- the organization must make annual charitable contributions and donations that are at least equal to the property's previous year's property taxes paid (excluding state general taxes)
- the property must be available to be used for public and community meetings or events for no charge, as appropriate to the size of the facility

As with class 4c(3)(i) property, a maximum of three acres is eligible for 4c(3)(ii) classification. The organization must be able to provide proof that they are meeting the above requirements at the request of the assessor.

The application deadline for 4c(3)(ii) classification is May 1 of the assessment year to be effective for taxes payable in the following year.

Statute does not limit how an organization raises money (charitable gambling, potluck, concerts, etc.), but it does place limitations on what charitable contributions or donations can be used for. Charitable contributions or donations must go to one or more of the approved sources identified for "lawful gambling purposes" which are found in 349.12, subdivision 25. However, according to statute, only certain of those expenditures qualify as charitable contributions for the 4c(3)ii classification.

Applicants are required to provide documentation of the organization's charitable contributions and donations to qualify for 4c(3)(ii). To do so, they must provide copies of the Gambling Control Board's *Schedule C* (formerly known as Form LG1010), *DOR Form CR-DR Record of Charitable Contributions and Donations: Lawful Purpose Expenditures*, or both, to show they have met the qualification.

These forms use "A-codes" to report an organization's expenditures which correspond to the "lawful gambling purpose" found in 349.12, subdivision 25. Since only certain "A-code" expenditures will qualify towards an organizations total amount of charitable contributions, assessors will need to look at the forms and identify the "A-code" expenditures that qualify as charitable contributions to determine if the organization has contributed/donated an amount equal to their previous year's property taxes.

Organizations participating in charitable gambling complete the Schedule C monthly for the Gambling Control Board. In some situations, charitable contributions equal to their previous year's property taxes may be made in the span of a few months, or even a single month. Therefore, applicants are only required to provide the copies of their Schedule C that bring them to an amount equal to their previous year's property taxes. For example, if an organization made charitable contributions equal to their previous year's property taxes in the

span of three months (January, February, March), they would only need to attach a copy of the Schedule c for those three months.

According to statute, only 501(c)(3), (8), (10), or (19) organizations (as defined by the Internal Revenue Code) can qualify. Because this is explicitly stated in statute, if an organization is not considered one of the aforementioned designations, they are not eligible for this classification.

These types of properties would otherwise be classified as class 3a commercial property instead of 4c(3)(ii) due to the fact that their facilities are used for revenue-producing activities for more than six days per year.

Class 4c(3)(ii) property has a classification rate of 1.50%. These properties continue to pay the state general tax. However, they will pay at the SRR rate rather than the class 3a commercial/industrial rate, pursuant to Minnesota Statutes, section 275.025, subdivision 3.

For class 4c(3)(i) and 4c(3)(ii) property, it may be possible to split-classify a property owned by a qualifying non-profit organization in certain cases. The following examples are the only types of classification possible on these properties:

- 4c(3)(i) only
- 4c(3)(ii) only
- 4c(3)(i) and 3a split-class
- 4c(3)(i) and 4c(3)(ii) split-class

An equal proportion of land and buildings should be split-classed as appropriate. As you will note, it is never an option to split-classify a property as 4c(3)(ii) and 3a.

Please also note that these split-classification guidelines apply only to the three acres including the 4c(3)(ii) classification. On a parcel larger than 3 acres in size, it may be appropriate to have additional classifications, including 3a, but not for the three acres containing the 4c(3)(ii) property.

Primary Statutory Reference: 273.13, subd. 25, para. (d)

Class 4c(3)(i) and 4c(3)(ii) - Congressionally Chartered Veteran Organizations
Congressionally chartered veterans' service organizations that qualify as class either 4c(3)(i) or 4c(3)(ii) non-profit community service-oriented organizations have a reduced class rate of 1.00% (from 1.50%).

The Commissioner of Veterans Affairs is required to provide a list of congressionally chartered veterans' service organizations to the Department of Revenue each year by January 1.

Veterans & Military Service Organizations
Congressionally-Chartered Veterans Service Organizations (by date of Charter)

1. Navy Mutual Aid Association (Jul. 28, 1879)
2. The American Red Cross (Jan. 5, 1905)
3. The American Legion (Sept. 16, 1919)
4. Disabled American Veterans (June 17, 1932)
5. Veterans of Foreign Wars (May 28, 1936)
6. Marine Corps League (July 4, 1937)
7. United Spanish War Veterans (April 22, 1940)
8. Navy Club of the United States of America (June 6, 1940)
9. American Veterans Committee (1944)
10. AMVETS (American Veterans) (July 23, 1947)
11. American G.I. Forum (March 1948)
12. Military Chaplains Association of the USA (Sept. 20, 1950)
13. Reserve Officers Association (June 30, 1950)
14. Legion of Valor of the USA, Inc. (July 4, 1955)
15. Congressional Medal of Honor Society (July 14, 1958)
16. Veterans of World War I (July 18, 1958)
17. Military Order of the Purple Heart (Aug. 26, 1958)
18. Blinded Veterans Association (Aug. 27, 1958)
19. Blue Star Mothers of America, Inc. (June 1960)
20. National Association for Black Veterans, Inc. (July 1969)
21. Paralyzed Veterans of America (Aug. 11, 1971)
22. Swords to Plowshares: Veterans Rights Organization (Dec. 23, 1974)
23. Veterans of the Vietnam War, Inc. (May 5, 1980)
24. Gold Star Wives of America, Inc. (Dec. 4, 1980)
25. National Veterans Legal Services Program, Inc. (1981)
26. American Ex-Prisoners of War (Aug. 10, 1982)
27. Women's Army Corps Veterans Association (Oct. 30, 1984)
28. American Gold Star Mothers, Inc. (June 12, 1984)
29. Polish Legion of America (June 23, 1984)
30. Catholic War Veterans (Aug. 17, 1984)
31. Jewish War Veterans (Aug. 21, 1984)
32. Pearl Harbor Survivors (Oct. 7, 1985)
33. Vietnam Veterans of America (May 23, 1986)

34. Non-Commissioned Officers Association of America (April 6, 1988)
35. National Association of County Veterans Service Officers, Inc. (June 1990)
36. Military Order of the World Wars (Oct. 23, 1992)
37. The Retired Enlisted Association (Oct. 23, 1992)
38. Fleet Reserve Association (Oct. 23, 1996)
39. Air Force Sergeants Association (Nov. 18, 1997)
40. Korean War Veterans Association (June 30, 2008)
41. Military Officers Association of America (2009)
42. National Association of State Directors of Veterans Affairs (NASDVA) (N/A)
43. Women Airforce Service Pilots of World War II (N/A)

SOURCES

1. https://www.va.gov/vso/VSO-Directory.pdf

For more details regarding these organizations, a list is available on the Department of Veterans Affairs website.

To qualify for the reduced class rate, assessors must verify the organization is on the Department of Veterans Affairs' list and meets requirements for class 4c(3)(i) or 4c(3)(ii) non-profit community service-oriented organizations.

Class 4c(4) - Post-Secondary Student Housing

Class 4c(4) is post-secondary student housing of not more than one acre of land that is owned by a non-profit corporation organized under Chapter 317A and used exclusively by a student cooperative, sorority, or fraternity for on-campus housing or housing located within two miles of the border of a college campus.

The class rate for 4c(4) property is 1.00%

Primary Statutory Reference: 273.13, subd. 25, para. (d)

Class 4c(5)(i) - Manufactured Home Park
Class 4c(5)(i) properties are manufactured home parks as defined in Minnesota Statutes, section 327.14, subdivision 3, not including manufactured home park cooperatives.

The class rate for 4c(5) property is 1.25%.

Primary Statutory Reference: 273.13, subd. 25, para. (d)

Class 4c(5)(ii) – Manufactured Home Park Cooperatives
Class 4c(5)(ii) properties are manufactured home park cooperatives which are owned by a corporation or association organized under chapter 308A (cooperatives) or 308B (cooperative associations) and each person who owns a share or shares in the corporation or association is entitled to occupy a lot within the park.

The park as a whole may be eligible for "homestead treatment" in the form of a reduced class rate. If more than 50% of the lots in the park are occupied by shareholders in the cooperative corporation or association, the classification rate is 0.75%; if 50% or less are so occupied the class rate is 1.00%. If the park meets the requirements for homestead treatment, the residential homestead market value exclusion under section 273.13 does not apply.

Primary Statutory Reference: 273.13, subd. 25, para. (d)

Class 4c(5)(iii) – Class I Manufactured Home Park
Class I Manufactured Home Park was effective starting in assessment year 2018 for parks in which an owner or on-site attendant completes 12 hours of qualifying education courses every three years. Upon qualification, the manufactured home park will qualify for a reduced class rate of 1.00%.

The courses must be approved by the Department of Labor and Industry or the Department of Commerce for continuing education in real estate or continuing education for residential contractors and manufactured home installers.

The 12 hours that are required are broken down to specific courses in the following areas:

- 2 hours on fair housing and one hour on the Americans with Disabilities Act, both approved for real estate licensure or residential contractor license.
- 4 hours on legal compliance related to any of the following: landlord/tenant, licensing requirements or home financing.
- 3 hours of general education which again must be approved for real estate, residential contractors, or manufacture home installers.
- 2 hours of HUD-specific manufactured home installer courses.

In order to qualify the owner must provide an application to the county assessor affirming that the required course work has been completed. The owner must maintain original course completion certificates and provide them to the county assessor within 30 days upon written

request. It is the property owner's responsibility to demonstrate that the course certificates provided meet the educational requirements of this statute. Assessors must verify the courses are approved by the Department of Labor and Industry or the Department of Commerce when reviewing the certificates.

What happens if the trained representative moves/no longer works at the park?
As long as the park qualified during the assessment year, even though the on-site attendant no longer works for the park, according to statute, the park should continue to receive the Class I Manufactured Home Park Class rate of 1.00% for the current assessment year. They must have another qualified (trained) individual to receive the classification for the next assessment year.

What happens when the three-year continuing education cycle expires?
The three-year educational requirement is based on the assessment year in which the application was made and approved by the county assessor. Approved applications qualify a property for the current assessment year and the next two if requirements continue to be met. Park owners/on-site attendants will need to renew their continuing education, provide updated completion certificates and file a new application by December 15 following the third assessment year to qualify for the 4c(5)(iii) classification for the following three assessment years.

For example, if the park owner applied for the 4c(5)(iii) classification in assessment year 2018, their continuing education would qualify them for assessment years 2018, 2019, and 2020. The park owner would need to provide a new application, including new completion certificates, by December 15, 2021 to qualify for the classification for the 2021, 2022, and 2023 assessment years.

Note: Park owners are required to notify the assessor by December 15 of the assessment year of **any change in compliance,** including any change of the individual complying with the education requirements, or failure of the qualifying individual to complete the required training for the next three-year cycle.

Primary Statutory Reference: 273.13, subd. 25, para. (d), 327C.01, 327C.16

Class 4c(6) - Metro Non-Profit Recreational Property
Class 4c(6) is real property that is actively and exclusively donated to indoor fitness, health, social, recreational and related uses, is owned and operated by a not-for-profit corporation, and is located within the seven-county metropolitan area (counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington excluding the cities of Northfield, Hanover, Rockford, and New Prague).

Class 4c(6) indoor recreational property has a class rate of 1.25%.

Primary Statutory Reference: 273.13, subd. 25, para. (d)

Class 4c(7) - Certain Non-Commercial Aircraft Hangars (and land) Located on Leased Land
Class 4c(7) is leased or privately-owned non-commercial aircraft storage hangars that are exempt as public property used for a public purpose under Minnesota Statutes, section 272.02, subdivision 8 but taxed under section 272.01, subd. 2 as property leased, loaned, or otherwise made available in connection with a business conducted for profit. The property must also meet the following conditions to qualify for this classification:

- the land is on an airport owned or operated by a city, town, county, metropolitan airports commission, or group thereof; and
- the land lease, or any ordinance or signed agreement restricting the use of the land premise, prohibits commercial activity performed at the hangar.

Note: If the property is leased by an aviation-related business located on an airport owned or operated by a town or a city with a population under 50,000, it is exempt under section 272.01, even if that business is conducted for profit. Please see the chart in Module 5 (Exempt Property) for a full array of tax statuses.

Examples: Bernie owns an airplane hangar located on land that is owned by the airport. Ordinarily, both the land and building would be taxable to Bernie as personal property.

- If it is for Bernie's private use of his jet, it is class 4c(7).
- If it is to store carpet for Bernie's imported rug business, it is class 3a.
- If it is to repair planes, it is for an aviation-related business, and it is exempt under section 272.01, subdivision 2, paragraph (b)(2) if it is a small city airport.

If a hangar classified under this clause is sold, a bill of sale must be filed by the new owner with the assessor of the county where the property is located within 60 days of the sale.

The class rate for 4c(7) property is 1.50%.

Primary Statutory Reference: 273.13, subd. 25, para. (d)

Class 4c(8) - Certain Non-Commercial Aircraft Hangars (and land) Located on Private Land
Class 4c(8) is privately-owned non-commercial aircraft storage hangars and the land on which they are located, provided that:

- the land abuts a public airport; and
- the owner of the aircraft storage hangar provides the assessor with a signed agreement restricting the use of the premises prohibiting commercial use or activity from being performed at the hangar.

Note: The exemption provided in section 272.01, subdivision 2, paragraph (b)(2) for aviation-related businesses in towns and small cities DOES NOT apply to property leased from a private individual to conduct aviation-related business.
If a private individual owns a hangar on their private land that abuts an airport and they lease the property to someone who repairs planes, it is still taxable to the owner of the property as class 3a commercial property.

If the private individual uses the same hangar for their own use for storage of their personal aircraft, the appropriate classification is class 4c(8).

If the owner uses the hangar to conduct a commercial business, the proper classification would be class 3a commercial.

The class rate for 4c(8) property is 1.50%.

Primary Statutory Reference: 273.13, subd. 25, para. (d)

Class 4c(9) - Bed and Breakfast (up to 5 units)
Class 4c(9) is residential real estate that is also a place of lodging, if all of the following criteria are met:

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

The market value subject to 4c classification under this definition is limited to five rental units. Any additional rental units must be classified as 3a commercial. The portion of the property used for homestead purposes by the owner must should be classified as 1a residential homestead.
The class rate for 4c(9) property has a class rate of 1.25% for up to five units.

Some bed and breakfast properties will have common areas that are used for both homestead purposes and as part of the bed and breakfast. The following steps should be taken to calculate the value of these common areas:

1. Determine the total estimated market value of the parcel (land and buildings).
2. Determine the total estimated market value of the portion of the structure **exclusively** used for homestead purposes.
3. Determine the total estimated market value of the portion of the structure **exclusively** used for Bed and Breakfast purposes.
4. Add the value of the exclusively used homestead portion to the value of the exclusively used Bed and Breakfast portion.
5. Divide the portion of the residence used exclusively for homestead purposes by the sum of step (4). The result is the percentage of exclusively used portion of the house used for homestead purposes.
6. Divide the portion of the residence used exclusively for Bed and Breakfast purposes by the sum of step (4). The result is the percentage of exclusively used portion of the house used for Bed and Breakfast purposes.
   (The percentages of use identified by steps (5) and (6), when properly rounded, should equal 100%.)
7. Multiply the percentage determined in step (5) by the total estimated market value of the common area. The result is the amount of common area value to be attributed to the homestead. This same calculation should be applied against the land value to determine the value of the land attributable to the homestead.
8. Multiply the percentage determined in step (6) by the total estimated market value of the common area. The result is the amount of common area value to be attributed to the Bed and Breakfast. This same calculation should be applied against the land value to determine the value of the land attributable to the Bed and Breakfast. The values (the exclusively used Bed and Breakfast portion, the exclusively used homestead portion and the common area) should add up to the total estimated market value identified in step one.

The following example illustrates how this formula works:

Total Bed and Breakfast estimated market value.....$600,000
Land estimated market value $100,000
Structure estimated market value $500,000

Value of structure used exclusively for homestead purposes.....$75,000
Value of structure used exclusively for B&B purposes.....$160,000
Total estimated market value (of exclusively used portions).....$235,000

Exclusive homestead value, divided by total value of exclusive portions:
$75,000 / $235,000 = .3191489 or 32%

Exclusive B&B value, divided by total value of exclusive portions:
$160,000 / $235,000= .680851 or 68%

Total structure value	$500,000	
	- 235,000	Value of exclusively used B&B and homestead portion
	$265,000	Value of common area

$265,000 (common area value) X 32% (homestead percentage) = $84,800

$265,000 (common area value) X 68% (B&B percentage) = $180,200

$100,000 (land value) X 32% (homestead percentage) = $32,000 homestead land value

$100,000 (land value) X 68% (B&B percentage) = $68,000 B&B land value

RECAP
Structure value used exclusively for homestead purposes $75,000
Common area value used for homestead purposes..... $84,800
Land value used for homestead purposes..... $32,000
Value of homestead portion to be classed at 1%..... $191,800

Structure value used exclusively for B&B purposes $160,000
Common area value used for B&B purposes..... $180,200
Land value used for B&B purposes ..... $ 68,000
Value of B&B portion homestead to be classed at 1.25%..... $408,200

Total property value $600,000

Tax Capacity Calculation:

$191,800 x 1.00% =	$1,918.00
$408,200 x 1.25% =	$5,102.50
Total Tax Capacity	**$7,020.50**

Important Notes:
1. New Construction – New construction items added should be included in the applicable class. For example, an addition added to the owner-occupied portion of the property to be

used exclusively by the owner, should be added to the value of the owner-occupied homestead portion of the value. If items are added to the common area (e.g. a kitchen upgrade) these items should be apportioned using the method outlined in this bulletin.

2. Market Value Referendum – Class 4c(9) Bed and Breakfast up to five units is subject to market value based referendums as well as any bonding (tax-capacity based) referendums.

3. State General Levy – Only the portion of the property that exceeds five Bed and Breakfast units, and is thereby classified as 3a Commercial, is subject to the state general levy.

Primary Statutory Reference: 273.13, subd. 25, para. (d)

Class 4c(10) - Seasonal Restaurant on a Lake

Class 4c(10) is defined as real property that is a seasonal restaurant and up to three acres of surrounding land located on a meandered lake. To qualify for 4c(10) classification, a property must have the following characteristics:

- it must **not** be devoted to commercial purposes for more than 250 days ***or*** at least 60 percent of its gross annual receipts (including alcohol sales but excluding gift shop sales) must be from business conducted during four consecutive months;
- the property owner must submit a declaration (proscribed by the Department of Revenue) annually to the assessor by February 1 to be eligible for the same assessment year; and
- the declaration information must be based on sales from the previous year (in other words, declarations received by February 1, 2019 will contain sales information from the 2018 calendar year).

Restaurants may also receive this classification if they meet the above requirements and is located on a parcel which abuts and is within the 3-acre "footprint" of the lakeshore. Seasonal restaurants on a lake that qualify for the 4c(10) classification are not subject to the state general tax.

The class rate for 4c(10) property is 1.25%.

Primary Statutory Reference: 273.13, subd. 25, para. (d)

Class 4c(11) – Marinas

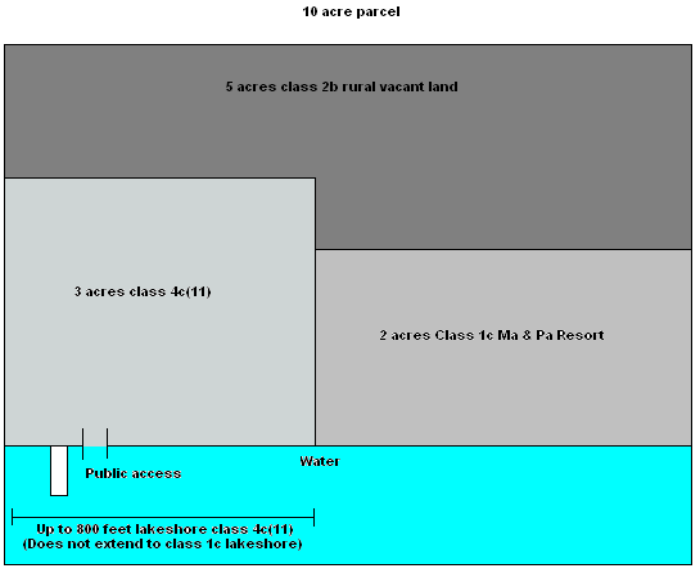
Class 4c(11) property refers to lakeshore and riparian property and adjacent land up to six acres that is used as a marina. The property must also meet the following criteria:

- must include public water-access by means of an access ramp or other facility (such as a boat crane) that is either located on the property of the marina or at a publicly owned site that **directly** abuts the property of the marina;
- the owner must make annual application and declaration to the assessor;
- the classification is limited to no more than 800 feet of lakeshore; and
- buildings that are used in conjunction with the marina for marina services such as food and beverage services, fuel, boat repairs, or the sale of bait or fishing tackle must be classified as class 3a commercial property.

A reasonable, non-restrictive fee may be charged for launch services. The fee is charged to launch a boat and provide upkeep of the launch/landing area; the fee does not make the person a member of a club or group with access to services unavailable to the general public. The law only requires that the marina be made accessible to the public, however most marinas charge a fee for boat launch services. As long as the fee charged is not prohibitive for the market, it would not preclude a marina from qualifying for this classification. For example, a launch fee in Lake of the Woods County may be prohibitive to public access, while the same launch fee for Lake Minnetonka may be appropriate for that market. It is the department's opinion that assessors are in the best position to determine whether the launch fees are excessive for their local markets.

If the marina meets the above criteria, the 4c(11) classification may be applied to up to 800 feet of lakeshore and up to 6 acres of property that are used for marina purposes, which would include property used for leased boat slips, boat rentals, etc. The classification cannot be applied to property that is not being used for marina purposes, such as vacant land, woods, cabins, etc. For example, 3 acres of woods, with no discernible use, but adjacent to the marina, should not receive class 4c(11). The 4c(11) classification is applicable to land only and cannot be applied to any structures. The class rate for class 4c(11) property is 1.00% for the first $500,000 of market value and 1.25% for the remainder.

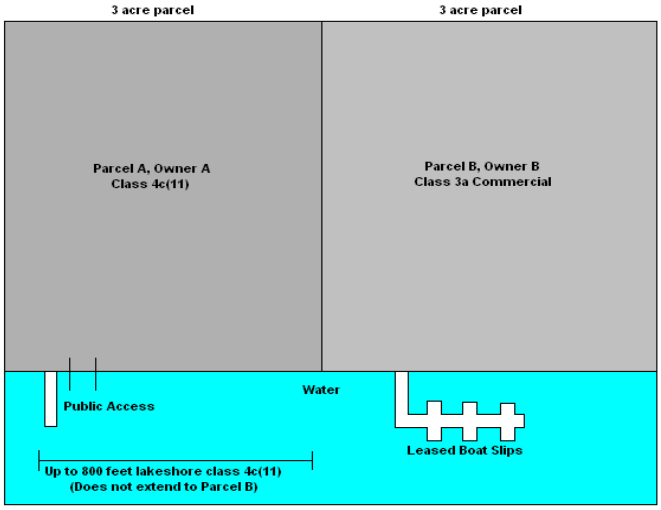
Example 1:
A ten-acre parcel contains a marina with public access, resort property, and five acres of woods that are vacant. The portion of the property used for marina purposes takes up 3 acres. Only the land used for marina purposes can receive the 4c(11) classification.



Example 2:
Two separate 3-acre parcels are owned by different entities. Parcel A contains a marina that has a public access boat ramp. Parcel B contains a marina that is used for privately leased boat slips and does not offer public access.

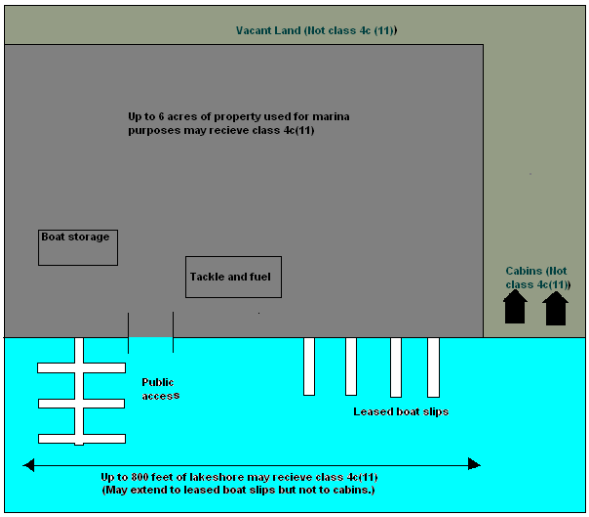
Parcel A would qualify for class 4c(11) on up to 6 acres of land that is used for marina purposes.

Parcel B would not qualify for class 4c(11) because it does not offer public access



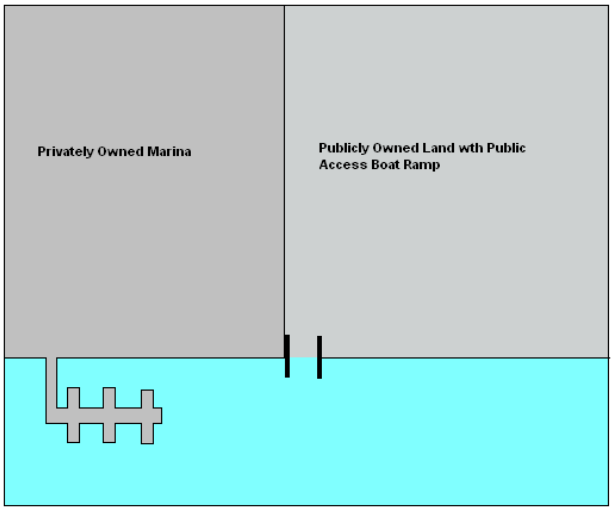
Example 3:

The parcel contains a marina with public access and leased boat slips, a resort with rentable cabins, and some rural vacant land. Because the marina offers public access, the 4c(11) classification can be applied to up to 6 acres of land being used for marina purposes, which would include the area and lakeshore used for leased boat slips.



Example 4:

This marina could receive the 4c(11) classification because the property directly abuts publicly owned land that contains a public access boat ramp. The 4c(11) classification can be applied to up to 6 acres of land being used for marina purposes, which would include the area and lakeshore used for leased boat slips.



Class 4c(12) Non-Commercial Seasonal Residential Recreational

Non-commercial seasonal residential recreational property is real and personal property devoted to non-commercial temporary and seasonal residential occupancy for recreation purposes.

Non-commercial seasonal residential recreation property has a class rate of 1.00% for the first $76,000 of market value, 1.00% for market value exceeding $76,000 up to $500,000, and 1.25% for market value exceeding $500,000. Non-commercial SRR property is also subject to the state general levy at 0.40% for the first $76,000 of market value, 1.00% on market value exceeding $76,000 up to $500,000, and 1.25% on market value exceeding $500,000.

Primary Statutory References: 273.13, subdivision 25

Class 4d(1) – Qualifying Low Income Rental Property

Class 4d(1) is low-income rental housing that has been certified to the assessor by the Minnesota Housing Finance Agency (MHFA). Low-income rental property owners must first qualify as low-income housing and apply with the MHFA by March 31 of the current assessment year. Minnesota Statute 273.128 provides the requirements for properties to certify as low-income rental property.

Classification

By June 1 of each assessment year, the MHFA must certify to the appropriate county or city assessors the specific properties that qualify as low-income properties and report the number of units in each building that qualify.

In the 2023 legislative session, additional reporting requirements for owners of 4d(1) properties were introduced as part of the reduction in classification rate to .25%. These requirements are reviewed and approved by MHFA prior to reports being sent to assessors in June and are not a requirement assessors will need to consider when classifying units that qualify for 4d(1). An overview of those reporting requirements is located at the end of this section.

At that time, assessors must use the information provided by MHFA to appropriately classify **each qualifying unit** as 4d(1) as soon as possible. If only a portion of the units located in a building qualify for the 4d(1) classification, then only that number of qualifying units should be classified as 4d(1). The remaining portion of the building should be classified by the assessor based on use (typically class 4a apartments). Class 4d(1) also includes the same proportion of land as the qualifying low-income rental housing units are to the total units of the building.

If assessors do not receive the information needed to appropriately classify each qualifying low-income unit, then assessors cannot classify the units as 4d(1). Assessors should contact the property owner and notify them that without the information needed for each qualifying unit, they will not qualify for the 4d(1) classification.

Valuation

Low-income rental housing should **not be valued differently** than any other rental housing property. While the rents are restricted to a portion of, or all of the property, depending on how many units qualify for 4d(1) in the building, assessors are required by statute to base the market value on "normal unrestricted rents." All things being equal, a property with qualifying 4d(1) units and a property without any 4d(1) units would have the same value.

Because the classification is applied to an individual housing unit, the value of individual units must be determined. It will not be possible to apportion the value by unit factors for mixed unit properties with less than 100% 4d(1) qualification without a breakdown of qualifying units. Assessors are encouraged to contact the property owners early in the process to ensure the 4d(1) classification and its associated reduced classification rate can be assigned to the qualifying units.

When valuing rental housing, the assessor may consider the three approaches to value and give weight to the approach that yields the most reliable estimate of market value. For each approach, a final factor can be used to apportion the value to units. For example, the following are suggestions of applicable factors that can be used to apply a market value to the qualifying units:

- Price per square foot
- Value per bedroom
- Percentage of potential gross income
- Gross income multiplier

For those items which may add to the overall value but are attributable to the property and are shared by all units such as lobbies, hallways, stairwells, elevators, laundry areas and such, the value is inherent within in each unit. For those items which are individual to a unit and not shared with other units, such as a garage space, the value associated with that should be apportioned to the individual unit.

The department can provide a sample spreadsheet for the income approach which can be used to assist in apportioning the value for 4d(1).

In the very limited cases where a single-family house is used as a low-income rental house, the number of qualifying occupants should be treated as a qualifying "unit". This will require additional communication with the property owner and/or MHFA to determine the number of qualifying "units" for those properties. For example, if a single-family house with a property value of $320,000 has four qualifying occupants and that number has been verified, the value apportionable to each "unit" is $80,000.

The class rate for 4d(1) property is .25%.

Beginning in assessment year 2024, a property classified as 4d(1) in the prior year must demonstrate to MHFA that the property tax savings received with the reduced classification rate was used for the following purposes:

- Property maintenance
- Property security
- Improvements to the property
- Rent stabilization
- To increase the property's replacement reserve account

Additionally, for any new applications for 4d(1) received in assessment year 2024 and thereafter, if the city or town where the property is located has 4d(1) property that represents more than 2% of the total net tax capacity, the property owner must receive approval by resolution of the city or township prior to applying to MHFA. The commissioner of revenue must provide to MHFA a list of all cities and towns where 4d(1) properties exceed 2% of the net tax capacity.

Class 4d(2) – Homestead Community Land Trust (CLT)

Class 4d(2) is owner-occupied housing that is part of a qualifying community land trust. In order to qualify for 4d(2), an owner occupant must first apply for and be eligible for homestead. In order to qualify for 4d(2), the requirements of M.S. 273.13, Subdivision 25, paragraph (e), clause (2) must be met and the CLT must certify to the assessor by December 31 that it continues to own the land where the unit is located and that the owner/occupant is a member in good standing with the CLT. The classification rate for 4d(2) is .75%.

The valuation for 4d(2) must be done without regard to any restrictions that apply because the unit is part of a community land trust property. The land upon which the unit is located is assessed proportionate to the classifications of the units in the building.

Properties classified as 4d(2) are eligible for the Homestead Market Value Exclusion as well as Property Tax Refund.

Primary Statutory References: 273.13, subdivision 25, 272.01, 202.02, 273.124, subd. 3a, 273.128; 275.025; 327.14; Chapter 349; 273.11; 273.128; 273.128, subdivision 1

Class 5

Class 5(1) – Unmined Iron Ore

Class 5(1) property is unmined iron ore and low-grade iron-bearing formations as defined in Minnesota Statutes, section 273.14. The class rate for 5(1) property is 2.00%, and class 5(1) properties are subject to the state general levy at a rate of 2.00%.

Class 5(2) – All Other

Class 5(2) property is all other property not otherwise classified and not meeting the requirements for class 2b, rural vacant land. Class 5(2) property has a class rate of 2.00%.

Primary Statutory References: Minnesota Statutes, section 273.13; M.S. 273.14

Split-Classification

In some instances, there may be more than one identifiable use of a property. For example, a residential parcel may also contain a commercial establishment, such as a hair salon. In a case such as this, split-classification of the parcel may be appropriate (residential/commercial split-class proportionate to the residential and commercial use of the property and surrounding land).

In some cases a homestead property may have a split-classification with commercial, managed forest land, or other type of classification for which homestead benefits are not applicable. In such cases, it is never appropriate to extend the homestead benefits to any portion(s) of the property which are not used for residential homestead purposes. Please see the Homestead Module (Module 4) for further information.

Examples of split-classifications:

- A 30 acre parcel enrolled in a forest management plan with a cabin on the parcel:
  - 10 acres with the structure would be classified according to use (residential homestead or seasonal residential recreational); 20 acres would be classified as 2c managed forest land.
- An improved property where the second floor of a structure is rented for fee and the first floor is occupied as a residence by the owners:
  - 50% of the structure would be classified as residential homestead and 50% as 3a commercial.
- A 157-acre parcel with two acres leased to the United States Department of Transportation as an airfield and the remainder agriculturally productive:
  - two acres would be classified as 3a commercial and the remaining 155 acres would be classified as 2a agricultural.

Primary Statutory References: Minnesota Statutes, section 273.13

Mid-Year Classification Changes: Under normal circumstances, the classification of a property cannot be changed during the course of the assessment year. However, there are some exceptions to this rule.

- If a portion of a parcel is sold to a separate party who applies for a mid-year homestead, the classification should be changed if homestead treatment is granted.
- A property is classified as 3a commercial/industrial or any other classifications that does not allow homestead treatment on January 2nd. During the year, the property becomes eligible and submits an application for a mid-year homestead. If homestead treatment is granted, the classification should be changed.

- Some classifications require special applications that have deadlines other than January 2nd, such as 1b blind/disabled homestead, 1d housing for seasonal workers, 2c managed forest land, and others. These classifications should be granted upon receiving a timely application for an eligible property.

More information regarding specific classifications and their rules are found in the appropriate sections of this module, while information on Homesteads may be found in Module 4.

DEPARTMENT OF REVENUE

Classification Rates for Assessment Year 2026

Class	Description	Tiers	Class Rate	State General Rate
1a	Residential Homestead	First $500,000	1.00%	N/A
		Over $500,000	1.25%	N/A
1b	Homestead of Persons who are Blind/Disabled	First $50,000	0.45%	N/A
	[classified as 1a or 2a]	$50,000 - $500,000	1.00%	N/A
	[classified as 1a or 2a]	Over $500,000	1.25%	N/A
	[classified as 4d(2)]	Over $50,000	0.75%	N/A
1c	Homestead Resort	First $1,500,000	0.50%	N/A
		$1,500,000 - $4,500,000	1.00%	N/A
		Over $4,500,000	1.25%	1.25%
1d	Housing for Seasonal Workers	First $500,000	1.00%	N/A
		Over $500,000	1.25%	N/A
2a	Agricultural Homestead - House, Garage, 1 Acre (HGA)	First $500,000	1.00%	N/A
		Over $500,000	1.25%	N/A
2a/2b	Agricultural Homestead - First Tier	First $3,840,000	0.50%	N/A
2a/2b	Farm Entities Remaining First Tier	Unused First Tier	0.50%	N/A
2a	Agricultural - Non-Homestead or Excess First Tier		1.00%	N/A
2b	Rural Vacant Land		1.00%	N/A
2c	Managed Forest Land		0.65%	N/A
2d	Private Airport		1.00%	N/A
2e	Commercial Aggregate Deposit		1.00%	N/A
3a	Commercial/Industrial/Utility (*not including utility machinery*)	First $150,000	1.50%	N/A
		Over $150,000	2.00%	2.00%
	Electric Generation Public Utility Machinery		2.00%	N/A
	All Other Public Utility Machinery		2.00%	2.00%
	Transmission Line Right-of-Way		2.00%	2.00%
4a	Residential Non-Homestead 4+ Units		1.25%	N/A
4b(1)	Residential Non-Homestead 1-3 Units		1.25%	N/A
4b(2)	Unclassified Manufactured Home		1.25%	N/A
4b(3)	Agricultural Non-Homestead Residence (2-3 units)		1.25%	N/A
4b(4)	Unimproved Residential Land		1.25%	N/A
4bb(1)	Residential Non-Homestead Single Unit	First $500,000	1.00%	N/A
		Over $500,000	1.25%	N/A
4bb(2)	Agricultural Non-Homestead Single Unit - (HGA)	First $500,000	1.00%	N/A
		Over $500,000	1.25%	N/A
4bb(3)	Condominium Storage Unit	First $500,000	1.00%	N/A
		Over $500,000	1.25%	N/A
4c(1)	Seasonal Residential Recreational Commercial (resort)	First $500,000	1.00%	1.00%
		Over $500,000	1.25%	1.25%
4c(2)	Qualifying Golf Course		1.25%	N/A
4c(3)(i)	Non-Profit Community Service Org. (non-revenue)		1.50%	N/A
	Congressionally Chartered Veterans Organization (non-revenue)		1.00%	N/A
4c(3)(ii)	Non-Profit Community Service Org. (donations)		1.50%	1.50%
	Congressionally Chartered Veterans Organization (donations)		1.00%	1.00%
4c(4)	Post-Secondary Student Housing		1.00%	N/A
4c(5)(i)	Manufactured Home Park		1.25%	N/A
4c(5)(ii)	Manufactured Home Park (>50% owner-occupied)		0.75%	N/A
4c(5)(ii)	Manufactured Home Park (50% or less owner-occupied)		1.00%	N/A
4c(5)(iii)	Class I Manufactured Home Park		1.00%	N/A
4c(6)	Metro Non-Profit Recreational Property		1.25%	N/A
4c(7)	Certain Non-Comm. Aircraft Hangars and Land (leased land)		1.50%	N/A
4c(8)	Certain Non-Comm. Aircraft Hangars and Land (private land)		1.50%	N/A
4c(9)	Bed & Breakfast		1.25%	N/A
4c(10)	Seasonal Restaurant on a Lake		1.25%	N/A
4c(11)	Marina	First $500,000	1.00%	N/A
		Over $500,000	1.25%	N/A
4c(12)	Seasonal Residential Recreational Non-Commercial	First $76,000	1.00%	0.40%
		$76,000 - $500,000	1.00%	1.00%
		Over $500,000	1.25%	1.25%
4d(1)	Low Income Rental Housing (Per Unit)		0.25%	N/A
4d(2)	Homestead Community Land Trust (Per Unit)		0.75%	N/A
5(1)	Unmined Iron Ore and Low-Grade Iron-Bearing Formations		2.00%	2.00%
5(2)	All Other Property		2.00%	N/A

DEPARTMENT OF REVENUE

Classification Rates for Assessment Year 2027

Class	Description	Tiers	Class Rate	State General Rate
1a	Residential Homestead	First $500,000	1.00%	N/A
		Over $500,000	1.25%	N/A
1b	Homestead of Persons who are Blind/Disabled	First $50,000	0.45%	N/A
	[classified as 1a or 2a]	$50,000 - $500,000	1.00%	N/A
	[classified as 1a or 2a]	Over $500,000	1.25%	N/A
	[classified as 4d(2)]	Over $50,000	0.75%	N/A
1c	Homestead Resort	First $1,500,000	0.50%	N/A
		$1,500,000 - $4,500,000	1.00%	N/A
		Over $4,500,000	1.25%	1.25%
1d	Housing for Seasonal Workers	First $500,000	1.00%	N/A
		Over $500,000	1.25%	N/A
2a	Agricultural Homestead - House, Garage, 1 Acre (HGA)	First $500,000	1.00%	N/A
		Over $500,000	1.25%	N/A
2a/2b	Agricultural Homestead - First Tier	TBA December 2026	0.50%	N/A
2a/2b	Farm Entities Remaining First Tier	Unused First Tier	0.50%	N/A
2a	Agricultural - Non-Homestead or Excess First Tier		1.00%	N/A
2b	Rural Vacant Land		1.00%	N/A
2c	Managed Forest Land		0.65%	N/A
2d	Private Airport		1.00%	N/A
2e	Commercial Aggregate Deposit		1.00%	N/A
3a	Commercial/Industrial/Utility (*not including utility machinery*)	First $150,000	1.50%	N/A
		Over $150,000	2.00%	2.00%
	Electric Generation Public Utility Machinery		2.00%	N/A
	All Other Public Utility Machinery		2.00%	2.00%
	Transmission Line Right-of-Way		2.00%	2.00%
4a	Residential Non-Homestead 4+ Units		1.25%	N/A
4b(1)	Residential Non-Homestead 1-3 Units		1.25%	N/A
4b(2)	Unclassified Manufactured Home		1.25%	N/A
4b(3)	Agricultural Non-Homestead Residence (2-3 units)		1.25%	N/A
4b(4)	Unimproved Residential Land		1.25%	N/A
4bb(1)	Residential Non-Homestead Single Unit	First $500,000	1.00%	N/A
		Over $500,000	1.25%	N/A
4bb(2)	Agricultural Non-Homestead Single Unit - (HGA)	First $500,000	1.00%	N/A
		Over $500,000	1.25%	N/A
4bb(3)	Condominium Storage Unit	First $500,000	1.00%	N/A
		Over $500,000	1.25%	N/A
4c(1)	Seasonal Residential Recreational Commercial (resort)	First $500,000	1.00%	1.00%
		Over $500,000	1.25%	1.25%
4c(2)	Qualifying Golf Course		1.25%	N/A
4c(3)(i)	Non-Profit Community Service Org. (non-revenue)		1.50%	N/A
	Congressionally Chartered Veterans Organization (non-revenue)		1.00%	N/A
4c(3)(ii)	Non-Profit Community Service Org. (donations)		1.50%	1.50%
	Congressionally Chartered Veterans Organization (donations)		1.00%	1.00%
4c(4)	Post-Secondary Student Housing		1.00%	N/A
4c(5)(i)	Manufactured Home Park		1.25%	N/A
4c(5)(ii)	Manufactured Home Park (>50% owner-occupied)		0.75%	N/A
4c(5)(ii)	Manufactured Home Park (50% or less owner-occupied)		1.00%	N/A
4c(5)(iii)	Class I Manufactured Home Park		1.00%	N/A
4c(6)	Metro Non-Profit Recreational Property		1.25%	N/A
4c(7)	Certain Non-Comm. Aircraft Hangars and Land (leased land)		1.50%	N/A
4c(8)	Certain Non-Comm. Aircraft Hangars and Land (private land)		1.50%	N/A
4c(9)	Bed & Breakfast		1.25%	N/A
4c(10)	Seasonal Restaurant on a Lake		1.25%	N/A
4c(11)	Marina	First $500,000	1.00%	N/A
		Over $500,000	1.25%	N/A
4c(12)	Seasonal Residential Recreational Non-Commercial	First $76,000	1.00%	0.40%
		$76,000 - $500,000	1.00%	1.00%
		Over $500,000	1.25%	1.25%
4d(1)	Low Income Rental Housing (Per Unit)		0.25%	N/A
4d(2)	Homestead Community Land Trust (Per Unit)		0.75%	N/A
5(1)	Unmined Iron Ore and Low-Grade Iron-Bearing Formations		2.00%	2.00%
5(2)	All Other Property		2.00%	N/A

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Introduction

One of the most important distinctions in the various classifications of property is the distinction between homesteads and non-homestead property.

Even though current residential classification rates have eliminated the difference between homesteads and non-homesteads (which once had much different class rates), homestead status is important for many features of the tax system because it determines eligibility for programs such as property tax refunds, the disabled veteran's market value exclusion, the blind/disabled classification, and the senior citizen property tax deferral program. It can also affect tax delinquency and forfeiture procedures.

The idea of having a "homestead" is important to the taxpayer and therefore it must be important to the assessor. Improper classification of homesteads causes taxpayers to pay incorrect tax amounts and may cause taxpayers to harbor resentment for the property tax system as a whole and those who administer it. Therefore, assessors should be knowledgeable of the homestead laws so that homesteads are imposed effectively and uniformly across the state.

If a property is granted homestead, the property qualifies for the **Homestead Market Value Exclusion** and the **1a or 2a homestead classification**. The Homestead Market Value Exclusion is discussed in Module 2 – Valuation, while classes 1a and 2a are both discussed in Module 3 – Classification.

For general Homestead Classification information see the Homestead Classification Informational Page.

Types of Homesteads

In general, a **homestead** is granted to a property that is used as a "principal or primary place of residence."

Two classifications of property qualify for homestead status: residential and agricultural property. Residential property can qualify for either an owner-occupied homestead or a residential relative homestead. Agricultural property may be eligible for an owner-occupied homestead, relative homestead, or a special agricultural homestead, depending on the circumstances. These situations will be covered in greater detail later in the manual.

1. **Residential Homestead**
    a. Owner-occupied homestead
    b. Residential relative homestead

2. **Agricultural homestead**
    a. Owner-occupied homestead
    b. Agricultural relative homestead
    c. Special agricultural homestead

Homestead is a fact situation and based on three main requirements:

- Ownership
- Occupancy
- Residency

It should be noted that it is not the assessor's job to determine **how** a property owner qualifies for homestead. Rather, the property owner or occupant must prove that they meet the requirements for homestead. Homestead requirements are prescribed in state law. Local jurisdictions, including towns, cities, and counties, have no authority in law to impose additional or fewer requirements for homestead.

When property owners apply for homestead, assessors must verify the three main requirements before they can grant the homestead. The applicant must be the owner or relative of the owner, they must occupy the property, and they must be a Minnesota resident. There are exceptions to these requirements, which are covered later in this module.

Owners and occupants must be Minnesota residents to qualify for homestead. Verification of income tax returns would assure the assessor that a property owner does, at a minimum, pay income tax in Minnesota and therefore would assist with determining whether a property owner is a Minnesota resident. The Department of Revenue may verify if an individual who is requesting or receiving a homestead has or has not filed a tax return as a Minnesota resident for the most recent year the information is available. The assessor will need to send a request for this information to proptax.questions@state.mn.us.

Other indicators that may be helpful for verifying Minnesota residency include:

- Where is the taxpayer registered to vote?
- Where is the taxpayer's mail delivered?
- Does the taxpayer have another residence in Minnesota for which they can or do claim homestead?
- Has the taxpayer applied for or received any rent credits?
- What is the taxpayer's address on the taxpayer's motor vehicle registration?
- What is the taxpayer's address on their driver's license? (Per Minnesota Statutes, section 171.11, all licensed drivers must change their driver's license within 30 days of an address or name change.)
- What is the address on the taxpayer's hunting or fishing license and is the license a resident or non-resident license?

It is important to stress that property owners do not have to meet all the above factors. They are simply listed here to assist assessors in making a final determination as to the probability that the property owner meets the Minnesota residency requirement.

Part Year Resident

There are situations where a property owner is considered a "part year" resident of Minnesota for income tax purposes. When a property owner is considered a "part year" resident for income tax purposes, that means the owner has either:

- Moved to or from Minnesota during the tax year and established residency **or**
- Spent at least 183 days in Minnesota and they either rent, own, maintain, or occupy a residence suitable for year-round use that is equipped with its own cooking and bathing facilities.

Assessors need to request a copy of the M1NR form to verify this "part year" residency status. If the property owner is considered a "part year" resident on the M1NR form, then they would be considered a MN resident for homestead purposes. In these situations, the county should continue to verify that the applicant meets the criteria for homestead, and if the applicant's residency status changes, homestead treatment should be re-evaluated.

The department always recommends that the assessor follow a reasonableness test and consider whether the request for homestead is reasonable. Where the answer is close and the assessor is in doubt, the assessor should deny or pull the homestead status of the property and allow the property owner to provide the correct documentation to prove that they do qualify for homestead status.

Current law only requires a one-time application to initiate the homestead classification for occupied homesteads. After the homestead is successfully established, the assessor may

require the applicant to file a new application at any time if there is a reason to question the accuracy of the existing homestead. This is an area where good judgment is crucial. If an assessor feels the homestead is not appropriate (e.g. the homeowners are homesteading their summer cabin), they should require a new homestead application to be completed.

General Rules and Guidelines

There are general rules that must always be used when trying to determine whether a property qualifies for homestead. An assessor should always approach a property with these general rules in mind but should also know that there are exceptions to the general rules in certain circumstances. Some types of homesteads, such as Special Agricultural Homesteads, have their own set of special rules or provisions that must be followed in addition to the general rules. Special agricultural homesteads are be covered later in this module.

General Rules

- A person may claim only one homestead.
- The owner/occupant must be a Minnesota resident to get homestead.
- In most cases, residential property owned by an entity does not qualify for homestead.
- The two main types of homesteads that are owner-occupied are **residential owner-occupied homestead** and **agricultural owner-occupied homestead**.
- Property held by a grantor under a trust may be eligible for homestead if all other requirements are met.
    - In such cases, the **grantor** of the trust is considered to be the **"owner"** of the property for homestead purposes.
    - If the grantor occupies the trust-held property, it would be considered to be an owner-occupied homestead (either agricultural or residential).
    - Trust-held property can receive relative homestead if occupied by a qualifying relative of the grantor of the trust. If a relative or surviving relative of the grantor occupies and uses the property as a homestead, the property may be eligible for homestead treatment.
- Homestead property includes property that is used for purposes of the homestead but is separated from the homestead by a road, street, lot, waterway, or other similar intervening property.
    - The term "used for purposes of the homestead" includes, but is not limited to, uses for gardens, garages, or other outbuildings which are commonly associated with a homestead.
    - It does not include vacant land that is held primarily for future development.
    - To receive homestead on the non-contiguous property, the owner must apply to the assessor.

- See "Homestead Carryover/Extension" for more information.

- Whenever there is a name change or an ownership transfer of a homestead property, the assessor should remove the homestead from the property as of the next assessment year unless a new homestead application is filed to verify that the property continues to qualify for homestead.

- A **full-year homestead** is granted to a property that is occupied by its owner on January 2 of the assessment year for taxes payable the following year.

- A "**Mid-year" homestead** is granted to property that was not homesteaded on the assessment date, but is occupied by its owner any time between January 3 and December 31 of the assessment year for taxes payable the following year.
  - Application must be made by December 31.
  - "Mid-year" homesteads have the same benefits as full-year homesteads.

- In the case of **manufactured homes** assessed as personal property (located on leased land), the homestead must be established, and application must be made by **May 29** of the assessment year.

- Most homesteads do not require an annual application (except for special agricultural homesteads).

- If the Commissioner of Revenue determines that a person is a non-Minnesota resident or part-year resident for income tax purposes, the commissioner may disclose the person's name, address, and Social Security number or individual taxpayer identification number to the assessor if it is believed that the person may have claimed or received homestead.

- No political subdivision may impose any requirements not contained in Chapter 272 or Chapter 273 to disqualify property from being classified as a homestead if the property otherwise meets the requirements for homestead treatment under Chapter 272 and Chapter 273.

Primary Statutory Reference: 273.124

Both Ownership and Occupancy Required

- To qualify for a homestead, a property must be both owned and occupied by the owner or qualifying relative of the owner as of January 2 for a full year homestead. For mid-year homesteads, the property must be occupied as of December 31 of the assessment year. Application must be made by December 31 of the assessment year to qualify for homestead.

- A buyer's interest under a Contract for Deed is sufficient to meet the ownership requirement. However, typically an "Earnest Money Contract" or "Purchase Agreement" does not ordinarily constitute enough of an ownership interest to qualify for homestead.
    - Some rare situations may arise when such instruments may constitute more of an interest in the property than the title of the document indicates.
    - In these cases, the department recommends the assessor solicit the advice of the county attorney as to the legal implications.

- Deeds or contracts for deed are not required to be recorded to receive homestead. However, the assessor should examine the deed or contract for deed to determine whether it is a valid purchase and keep a copy of the document attached to the application for homestead.

- Transfer on death deeds are to be treated similarly to life estate property. Basically, the grantor would retain enough ownership interest to qualify for homestead treatment, but the grantee would not (unless the grantee is a qualifying relative of the grantor, in which case the property could receive a relative homestead). Please remember that all other homestead requirements (occupancy, Minnesota residency, etc.) must still be satisfied.

- In all cases, a **Certificate of Real Estate Value must be filed**, even if the deed is not recorded, to receive homestead if the price paid for the property is greater than $3,000.

- The occupancy of a property for homestead purposes must be actual and substantial.
    - A minimal occupancy and use of a property, merely to obtain a tax advantage, falls short of statutory requirements.
    - An owner may be away from a property for a reasonable length of time without losing homestead benefits provided the property is maintained as a homestead awaiting the owner's return.

- In most cases, an owner **cannot** rent out their property to another person and still retain homestead status. There are exceptions to this which will be explored later in this module.

Primary Statutory Reference: 273.124; 272.115

Homestead Carryover/Extension

Sometimes, property owners will own additional parcels of non-contiguous property that may or may not qualify to be linked to their base parcel, which is occupied, for homestead purposes.

Some examples may include a vacant lot with a garden that is located down the street from a taxpayer's home, a garage located on a site within close proximity to the taxpayer's home, or a storage shed that is located down the block from a taxpayer's home.

If such parcels are in close proximity to the taxpayer's home, are used in conjunction with the homestead, and the taxpayer makes proper application to the assessor, homestead may be extended.

Agricultural homesteads may link other non-contiguous agricultural parcels to their established main parcel if certain requirements are met. This is discussed later in the module under *Agricultural Homesteads.*

If a property is a duplex or triplex, and one of the units is used for homestead purposes by the owner or a qualifying relative of the owner the entire property is deemed to be used for homestead purposes.

Homestead Accretion

When non-homestead property is purchased after the assessment date but on or before December 31, it is eligible for a mid-year homestead provided the owner makes timely application and the property is used in conjunction with the primary homestead.

The parcel(s) may be contiguous or noncontiguous. This will mainly apply to unimproved land; however, it is conceivable that a property owner may purchase a non-homestead parcel with a garage across the street from the primary homestead parcel which would then be used in conjunction with the homestead.

This policy on accretion of homesteads does not apply to the acquisition of additional non-homestead houses. A second residential structure, located on a separate parcel, cannot be used in conjunction with a homestead. The additional parcel must be owned on December 31 and used in conjunction with the primary homestead. Application for homestead must be made no later than December 31 of the assessment year for taxes payable the following year.

Primary Statutory Reference: 273.124, subd. 14; 273.13, subd. 23

Homestead Qualifications Chart

Type of homestead:	Who must meet the requirements:	Requirements		
		Minnesota Resident	Own	Occupy
Residential homestead	Owner	X	X	X
	Spouse of owner	X	X[1]	X
Residential relative homestead	Owner	N/A	X	N/A
	Spouse of owner	N/A	X[1]	N/A
	Relative[2]	X	N/A	X
	Spouse of relative	X	N/A	X
First-time homeowner	First-time homeowner[3]	X	X	X
	Spouse of first-time homeowner	X	X[1]	X
	Relative co-owner	N/A	X	NA
Special circumstances allowing spouses to have two homesteads[4]	Owner	X	X	X
	Spouse of owner	X	X[1]	N/A
Agricultural relative homestead[2, 5]	Owner[6]	X	X	N/A
	Spouse of owner	X	X[1]	N/A
	Relative[2, 5]	X	N/A	X
	Spouse of relative	X	N/A	X

[1]The spouse also is considered an owner for property tax purposes even if he/she is not listed as an owner on the deed.

[2]"Relative" for the purposes of a **residential or occupied agricultural** homestead means a parent, stepparent, child, stepchild, grandparent, grandchild, brother, sister, uncle, aunt, nephew, or niece. This relationship may be by blood or marriage.

[3]Only applies to first-time purchasers, whether married or single, or to a person who had previously been married and is purchasing as a single individual for the first time. The first-time homeowner must be required, as a condition of the financing agreement, to have a relative shown on the deed as a co-owner.

[4]The four specific circumstances which allow spouses to have two homesteads are listed in Minnesota Statutes, section 273.124, subdivision 1, paragraph (e): (1) marriage dissolution proceedings; (2) legal separation; (3) employment or self-employment in another location (if the spouse's place of employment or self-employment is at least 50 miles away from the other spouse's place of employment, and the homesteads are at least 50 miles from each other); or (4) other personal circumstances causing the spouses to live separately, not including an intent to obtain two homestead classifications for property tax purposes.

[5] "Relative" for the purposes of a **special agricultural (unoccupied)** homestead is a grandchild, child, sibling, or parent of the owner of the agricultural property or of the spouse of the owner of the property. This relationship may be by blood or marriage.

[6] The owner also must not claim another agricultural homestead in Minnesota, and only one agricultural relative homestead is allowed per owner.

Homestead Application

A person who meets the requirements for homestead must file an application with the county assessor to initially obtain the homestead benefits. The Commissioner of Revenue prescribes the format and content of all homestead applications.

- Owners are not required to file an annual application.
  - If the property is granted homestead for any assessment year, the property will remain homesteaded until the property is sold or transferred, or the owners, spouse of the owner, or the qualifying relative of the owner no longer occupies the property.
  - The assessor may, at any time, require a new application to verify the homestead status.
  - Special agricultural homesteads have separate rules for when properties must re-apply.

- The Department of Revenue strongly recommends that **relative homestead** applications be filed on an annual basis since occupancy often changes in these situations.

- By law, owners are required to inform the assessor's office within 30 days that they have sold and/or vacated the property and no longer use the property as a homestead. The assessor should then remove the homestead as of the next assessment date unless a new application is submitted before the December 31 deadline.

- The application must be signed by all owners/qualifying relatives who occupy the property and the application must be returned to the county assessor for the property to receive homestead treatment.

- Every property owner applying for homestead must furnish to the county assessor the Social Security number or individual taxpayer identification number of:
  - each **occupant** who is listed as an owner of the property on the deed of record,
  - the name and Social Security number or individual taxpayer identification number of each occupying owner's spouse

- Social Security numbers and individual taxpayer identification numbers, state or federal tax returns or tax return information, including the federal income tax Schedule F, or affidavits or other proof of property owners submitted to support a claim of homestead are private data on individuals under Minnesota Statutes, section 13.02, subdivision 12. However, apart from that section, the private data may be disclosed to the Commissioner of Revenue or to the county treasurer for the purposes of proceeding under the Revenue Recapture Act to recover personal property taxes.

- Property owners applying for homestead must have Social Security numbers or individual taxpayer identification numbers and must be Minnesota residents, but do not need to be U.S. citizens.

- In the case of a residential relative homestead application, both the qualifying relative and the spouse of the qualifying relative must provide their Social Security numbers or individual taxpayer identification numbers.

- Applicants must also provide the name and address (but not Social Security number or individual taxpayer identification number) of:
    - each owner that **does not occupy** the property

- The application must be signed by each owner who **occupies** the property and by each owner's spouse who occupies the property or, in the case of property that qualifies as a relative homestead, by the qualifying relative.

- If the property owner occupies the homestead, the property owner's spouse may not claim another property as a homestead unless the property owner and the property owner's spouse file an affidavit or other proof required by the assessor stating that the property qualifies for a special spousal homestead as provided by law. These are covered later in this module.

- Upon sale or transfer of homesteaded property, a Certificate of Real Estate Value must be timely filed with the County Auditor as indicated under Minnesota Statutes, section 272.115.

- The homestead application must inform the applicant of the requirement that they must inform the assessor within 30 days if the property sells or transfers, or if the owner, spouse of the owner, or qualifying relative no longer occupies the property as their homestead. A penalty will result for failing to notify the assessor and the property will lose its current homestead status.

Primary Statutory Reference: 273.124, subd. 13

Rescinding a Homestead Application

A homestead application is a legal document. By completing one and securing the corresponding tax benefit, taxpayers are certifying that they are residents of Minnesota, the property they are claiming as their homestead is their primary place of residence, and they have a sufficient ownership interest to qualify for homestead benefits.

Minnesota Statutes, section 609.41, also states that anyone giving false information in order to avoid or reduce tax obligations is subject to a fine of up to $3,000 and/or up to one year in prison.

Therefore, the Department of Revenue is of the opinion that it is inappropriate for taxpayers to attempt to retroactively change their homestead status and a homestead application cannot be rescinded or undone by an applicant once that application has been made.

Primary Statutory Reference: 273.124; 609.41

Identity Theft

If there are situations where an assessor finds that multiple individuals apply for homestead with the same Social Security number and both have identical Social Security cards, this is likely a situation of identity theft. Should you encounter this situation, our recommendation is to deny both homestead applications. Notify both taxpayers in writing of the denial and encourage them to contact their local police departments to report the situation. Tell them that they can apply for abatements once the police investigation is completed, and it can be satisfactorily determined who qualifies for homestead. The local police should be able to guide them from there. Once the situation has been satisfactorily resolved, the appropriate taxpayer can reapply for homestead and apply for any applicable abatements.

Individual Taxpayer Identification Numbers

Any individual who is not eligible to obtain a Social Security number may apply for an individual taxpayer identification number (ITIN). An ITIN is a nine-digit number issued by the Internal Revenue Service (IRS) to individuals who are required to have a United States taxpayer identification number but who do not have and are not eligible to obtain a Social Security number. An ITIN may be used in place of Social Security numbers when applying for a homestead.

Individuals who do not have permission to work but need an ITIN for homestead purposes must visit, call or write an IRS office and request Form W-7. The form is also available online at www.irs.gov.

Primary Statutory Reference: 273.124, subd. 13

Electronic Homestead Applications

Electronic homestead applications have become more and more prevalent as technology has become more widely used and available. The department is accepting of modern and innovative ways to communicate with taxpayers. Property tax administrators do not require department approval to implement electronic homestead applications, but must comply with the Commissioner of Revenue's prescribed manner, format and content of electronic homestead application.

During 2015 the department issued guidance clarifying that electronic signatures are acceptable in accordance with Minnesota Statutes, section 325L.07 paragraph (c). There are several ways to confirm identities online; counties should confer with their information technology providers and county attorneys to assure the appropriate option is used.

Applications should be able to accept signatures of multiple owners or occupants, including spouses.

All fields included on the department prescribed homestead application **must** also be collected by an electronic application. The application **must not** expand data collection beyond those fields required by assessors to make a determination on homestead qualification by the submitter.

Counties **must** assure that the data received via electronic homestead applications is maintained in a secure environment. Counties should consult with their information technology provider, county attorney and their data steward to assure the data is held securely at all checkpoints.

Data from electronic applications may be stored electronically and current applications must be retained until the property sells or a new application is submitted. These applications must be reproduced in the format prescribed by the Commissioner of Revenue on demand. When a property sells or a new homestead application is submitted for the property the prior application should be retained for 10 years or in compliance with the counties retention policy.

Primary Statutory Reference: 273.124, subd. 13

Audits Performed by Commissioner of Revenue

Duplicate Homestead List

Each year, counties must provide the Commissioner of Revenue with a list that includes:

- the name and Social Security number or individual taxpayer identification number of each property owner and their spouse that occupies a property, or
- the qualifying relative and their spouse that occupies the property.

The commissioner generates a list that indicates if the same Social Security number or individual taxpayer identification number has been used to homestead more than one property in the State of Minnesota and also to detect improper claims of property tax refunds or renter's credits by owners or relatives of owners.

Counties are required to investigate these situations to determine if the homesteads were properly claimed. Failure on the part of property owners to notify the assessor within 30 days that the property has been sold or transferred, or that the owner, spouse of the owner, or the qualifying relative is no longer occupying the property as a homestead, shall result in a penalty, and the property will lose its homestead.

If the homestead has been improperly claimed, the county auditor must determine the amount of homestead benefits the owner received. The owner must reimburse the county for the difference between the homestead and non-homestead tax and pay a penalty equal to 100 percent of the homestead benefits.

If the Commissioner of Revenue believes a property owner may be claiming a **fraudulent homestead**, the commissioner shall notify the appropriate county or counties.

- Within 90 days of the notification, the county assessor must investigate to determine of the homestead classification was properly claimed.
- If the property owner does not qualify, the county assessor must notify the county auditor who will determine the amount of homestead benefits, including appropriate credits and/or exclusions, which were improperly allowed.
- The county auditor will then notify the person who owned/occupied the improperly homesteaded property at the time the improper application was filed, demanding reimbursement of the homestead benefits plus a penalty equal to 100 percent of the homestead benefits.
- The person notified may appeal the county's determination in Tax Court within 60 days of the date of notice from the county.
- If no appeal is filed within 60 days and the repayment of homestead benefits and penalty are not paid, the county auditor shall certify the amount of taxes and penalty to

the county treasurer and the treasurer will add interest to the unpaid homestead benefits and penalty amounts.

If the person notified is **the current owner** of the property, the treasurer may add the total amount of the homestead benefits, penalty and interest, and costs to the ad valorem taxes otherwise payable on the property by including the amounts on the property tax statement for the following year. The amount added under this paragraph shall include interest accrued through December 31 of the year preceding the taxes payable year for which the amounts are first added. These amounts, when added to the property tax statement become a lien on the property.

If the person notified is **not the current owner** of the property, the treasurer may collect the amounts due under the ***Revenue Recapture Act in Chapter 270A***, or use any of the powers granted in sections 277.20 (lien for personal property tax) and ***277.21*** (levy and distrait), to enforce payment of the homestead benefits, penalty, interest, and costs. The amount(s) due should be treated as if they were delinquent tax obligations of the person who owned the property at the time the application related to the improperly-allowed homestead was filed.

The treasurer may relieve a prior owner of personal liability for the homestead benefits, penalty interest, and costs, and instead extend those amounts on the tax lists against the property to the extent that the current owner agrees in writing.

On all demands, billings, property tax statements, and related correspondence, the county must list and state separately the amounts of homestead benefits, penalty, interest and costs being demanded, billed or assessed.

Any amount of homestead benefits recovered by the county are distributed as follows:

- to the county, city or town, and school district where the property is located in the same proportion that each taxing districts levy was to the total of the three taxing districts levy for the current year;
- any amount recovered attributable to taconite homestead credit shall be transmitted to the St. Louis County Auditor to be deposited in the taconite property tax relief account;
- any amount attributable to the supplemental homestead credit is transmitted to the Commissioner of Revenue for deposit into the general fund of the state treasury; and
- the total penalty collected must be deposited into the county's general fund.

If a property owner has applied for more than one homestead and the county assessor cannot determine which property should properly receive the homestead, the county assessor should refer the information to the Commissioner of Revenue and the commissioner will make the determination and notify the counties within 60 days.

In addition to the lists of homestead properties, the Commissioner of Revenue may ask the counties to furnish lists of all properties and owners of record. The Social Security numbers and Federal Identification Numbers that are maintained by a county or city assessor for property tax administration purposes, and that may appear on the lists continue to retain their classification as private data; may also be viewed, accessed, and used by the county auditor or treasurer of the same county for the limited purpose of assisting the commissioner in the preparation of data samples as provided in Minnesota Statutes, section 270C.12 (tax information sample data).

Primary Statutory Reference: 273.124, subd. 13a, 13b, 13c, 13d

Property Tax Refund File

On or before April 30 of each year, each county must provide the Commissioner of Revenue with the following data, by electronic means, for each parcel of homestead property:

- the property identification number assigned to the parcel for taxes payable in the current year;
- the name and Social Security number or individual taxpayer identification number of each occupant of homestead property who is the owner, owner's spouse, qualifying relative of the owner, or spouse of the qualifying relative of the owner;
- the classification of the property under section 273.13 for taxes payable in both the current year and prior years;
- whether or not the property was classified as a homestead for taxes payable in the current year due to occupancy by a qualifying relative of the owner or by the spouse of a qualifying relative;
- the property taxes payable (as defined in section 290A.03, subd. 13), for both the current and prior years;
- the market value of new improvements to the property first assessed for taxes payable in the current year;
- the assessor's estimated market value of the property for taxes payable in both the current and prior years;
- the taxable market value of the property for taxes payable in both the current and prior years;
- whether there are delinquent property taxes owed on the property and
- other information deemed necessary by the commissioner.

This information will be used as appropriate under the law, including for the detection of improper property tax refund claims by owners or relatives of owners.

Primary Statutory Reference: 273.124, subd. 13d

"Mid-Year" Homesteads Established After the Assessment Date

Any property that was not used for the purpose of a homestead on the assessment date of January 2 but was used for the purpose of a homestead on December 31 of a given year, may be granted either an agricultural or a residential mid-year homestead. This may happen in a variety of ways. For example:

- a new home is built on a vacant site after January 2 and occupied by the new owner and homesteaded before December 31;
- a non-homestead property is purchased and occupied by a new owner who meets the qualifications for homestead before December 31; or
- a home that receives a fractional homestead on January 2 is purchased by an owner who qualifies for a full homestead before December 31.

The previous examples assume the new owners make application by December 31.

If the homestead has not been requested as of December 31, the assessor will classify the property as non-homestead for the current assessment for taxes payable in the following year.

Primary Statutory Reference: 273.124, subd. 9

Homestead Notice

Each year, no later than December 1, assessors are required to publish a public notice in a newspaper of general circulation within the county requesting anyone who has purchased a home to file a homestead application. The Department of Revenue will typically send an annual reminder notice with suggested text. However, it is still the responsibility of the assessor to make sure this requirement is met. The suggested plain language text is below.

IMPORTANT PROPERTY TAX HOMESTEAD NOTICE

This will affect your 20XX property taxes and eligibility for Property Tax Refund.

Have you purchased or moved into a property in the past year?
Contact your county assessor to file a homestead application if you or a qualifying relative occupy the property as a homestead on or before December 31, 20XX.

What is a qualifying relative?
For occupied agricultural or residential property, "qualifying relative" means a parent, stepparent, child, stepchild, grandparent, grandchild, brother, sister, uncle, aunt, nephew, or niece. This relationship may be by blood or marriage.

When do I apply?
You must apply on or before December 31, 20XX.

Once homestead is granted, annual applications are not necessary unless they are requested by the county assessor.

Contact the assessor by December 31, 20XX if the use of the property you own or occupy as a qualifying relative has changed during the past year.

If you sell, move, or for any reason no longer qualify for the homestead classification, you are required to notify the county assessor within 30 days of the change in homestead status.

What if I want to apply for agricultural homestead on an unoccupied property?
Special agricultural homestead allows property owners to receive homestead on unoccupied agricultural property if certain requirements are met. Contact the assessor's office for more information.

Spruce County Assessor's Office (XXX) 555-1234

Primary Statutory Reference: 273.124, subd. 9

Relative Homesteads

There are two types of relative homesteads: residential relative homesteads and agricultural relative homesteads. Both are described in this section. It is important to remember the following when administering relative homesteads:

- Spouses are not considered relatives for homestead purposes. The Social Security number or individual taxpayer identification number of an occupying owner is required on the application.
- There are different qualifying relatives for unoccupied agricultural property than for residential/occupied agricultural property.
- Properties owned by an entity (corporation, partnership, limited partnership, LLC, LLP, etc.) cannot qualify for a relative homestead – since they are entities and cannot have relatives.
- Trust-held property can receive relative homestead if occupied by a qualifying relative or surviving relative of the *grantor* (creator) of the trust.

If at any time, a different relative from the one listed on the application subsequently occupies the property, the owner must notify the assessor within 30 days of the change in occupancy. The department strongly recommends verifying relative homesteads on an annual basis since they are subject to frequent changes.

Residential Relative Homesteads

Residential real estate that is occupied and used for the purposes of a homestead by a relative of the owner is a homestead to the extent of the homestead treatment that would be provided if the related owner occupied the property. Qualifying relatives for residential and occupied agricultural property, which may be by blood or by marriage, include:

Parents	Brothers
Step-parents	Sisters
Children	Aunts
Step-children	Uncles
Grandparents	Nieces
Grandchildren	Nephews

To qualify for a residential relative homestead, the owner does not need to be a Minnesota resident, but the qualifying relative must be a Minnesota resident.

Neither the owner nor the qualifying relative who occupies the property may claim a property tax refund under Chapter 290A unless the property is jointly owned and one of the joint owners occupies the property as his or her principal place of residence.

Property that has been classified as seasonal residential recreational property at any time while it has been owned by the current owner or spouse of the current owner cannot receive a homestead unless it is occupied as a homestead by the owner. (It also cannot be reclassified

as class 4bb residential non-homestead.) This also applies to property that would have been classified as seasonal residential recreational property at the time the residence was constructed.

Minor Relative Homesteads

Minnesota Statute 273.124 does not prohibit minors from qualifying for homestead as a qualifying relative. Ultimately, the occupant or owner confers homestead status on the property, but the property has homestead status, not the person. Therefore, if the minor meets all the requirements, the property can qualify for relative homestead.

Minors may occupy a property with an adult who is **not the owner** or relative of the owner of the property. In those cases, if the minor is the **only qualifying relative of the owner that occupies the property**, then they may qualify the property for relative homestead as long as the requirements outlined below are met.

In cases where a minor is listed as a qualifying relative of the owner on a homestead application, it is important to verify that the child is using the property as their primary place of residency before granting the homestead. In making this determination an applicant could be asked to provide:

- The location of the school that the child is attending
- A copy of the divorce decree that provides information on where the minor will primarily reside
- If deemed necessary, an affidavit from the parents or legal guardians to be filed attesting to the primary residency of the minor

Keep in mind that a property owner occupying the property cannot have a relative also occupying the property apply for a relative homestead. In that case, the owner-occupant must be the applicant. A qualifying minor cannot qualify for relative homestead in that situation.

We have advised in the past that relative homesteads are subject to frequent changes and therefore we encourage you to verify these homesteads on an annual basis. In the case of relative minor homesteads, we would similarly recommend more frequent verification as these situations may also have frequent changes.

If a minor applicant signs a relative homestead application themselves, nothing prohibits a county from accepting that signature for the purposes of processing the homestead application. However, we would advise that due diligence is exercised when reviewing applications with a minor's signature. The minor's social security number should be reported on the application and collected by the county. If the minor applicant is too young to sign the form, or cannot sign for any reason, counties should accept a parent or legal guardian's signature with appropriate confirmation of signing authority.

Agricultural Relative Homesteads

Agricultural property that is occupied and used for the purposes of a homestead by a qualifying relative of the owner may be given an agricultural relative homestead on the house, garage, farm buildings, other structures, agricultural land, and contiguous rural vacant land under the same ownership. Such property that is occupied and used for the purposes of a homestead by a qualifying relative of the owner is a homestead to the same extent as the homestead that would be provided if the related owner occupied the property, providing that all the following criteria are met:

- the relative **who occupies** the property is a qualifying relative.
    - For occupied agricultural homesteads, "qualifying relatives" include parents, siblings, step-parents, children, step-children, grandparents, grandchildren, aunts, uncles, nieces, and nephews.
    - For unoccupied (special) agricultural homesteads, qualifying relatives include grandchildren, children, siblings, or parents of the owner or the owner's spouse.
- the owner is a Minnesota resident;
- neither the owner nor their spouse receives another agricultural homestead in Minnesota; and
    - Neither the owner nor the qualifying relative may claim another agricultural homestead in Minnesota. This is because the qualifying relative is the one qualifying the property for the agricultural homestead, meaning they would be receiving multiple agricultural homesteads.
- the owner of the agricultural property is limited to only one relative agricultural homestead.

If all the requirements for an agricultural relative homestead are not met, the house, garage, and first acre of a residence that is located on agricultural land may be eligible for a residential relative homestead if those requirements are satisfied.

Neither the qualifying relative nor the owner of the property may claim a property tax refund for a homestead occupied by a relative unless the property is owned jointly and one of the joint owners occupies the property as his or her primary residence.

Limitation on Multiple Relatives

An owner may not establish relative agricultural homestead with more than one relative. A single property owner cannot have multiple relatives qualify for relative agricultural homestead on parcels owned by that same owner.

Example 1:

- Mario owns a parcel that is classified as agricultural.
- His brother Luigi occupies the property.
- Neither Mario nor Luigi receives another agricultural homestead.
- Both are Minnesota residents.
- The agricultural land is rented to an unrelated third party.

The property **would** be eligible for relative agricultural homestead, as Luigi occupies the property, neither he nor Mario receive another agricultural homestead, both are Minnesota residents, and Mario is not receiving multiple relative agricultural homesteads. It does not matter who is farming the property for occupied relative agricultural homestead.

Example 2:

- Anna owns a property that is classified as agricultural.
- Her brother Fred occupies and farms the property.
- Anna lives in a different state.
- Neither Anna nor Fred receives another agricultural homestead.

The property would **not** be eligible for relative agricultural homestead, as Anna is not a Minnesota resident.

Example 3:

- Taj owns a property that is classified as agricultural.
- His niece Kayla occupies and farms the property.
- Kayla also owns a 40-acre agricultural parcel and farms it.
- Kayla receives a special agricultural homestead on her parcel.
- Taj does not receive another agricultural homestead.

This property would **not** be eligible for relative agricultural homestead, as Kayla is already receiving an agricultural homestead. Kayla would need to choose between maintaining her special agricultural homestead and establishing relative agricultural homestead on Taj's land.

Example 4:

- Guillermo rents an apartment and owns three different agricultural parcels.
- Parcel A is occupied by his cousin Sam.
- Parcel B is occupied by his nephew Winston.
- Parcel C is occupied by his niece Paula.

- All three have applied for relative agricultural homestead.
- None of the four persons claim another agricultural homestead.

Only parcel B **or** parcel C could qualify for relative agricultural homestead. Both parcels cannot qualify because of requirement (d) that the owner only receive one relative agricultural homestead. Parcel A could not because it is occupied by a cousin, which is not a qualifying relative.

Primary Statutory Reference: 273.124, subd. 1

Spousal Homesteads

Each year we receive inquiries from assessors and the public regarding application of the homestead laws when a married couple owns property but the spouses are living apart and/or are applying for homestead benefits on more than one property. The information contained within this manual reflects our best understanding of the homestead laws in cases where a married couple owns property either together or separately and are claiming homestead for one or more properties.

Minnesota Statutes, section 273.124, contains the rules for determining when a homestead can be granted. Generally, a property that is owned by a Minnesota resident and is occupied and used by that person as a principal place of residence qualifies for homestead benefits. However, there are situations where the homestead status can get difficult to administer. For example:

- If a property is owned by several individuals, all of whom are Minnesota residents, and all occupy and use the property as a principal place of residence, the property will qualify for a full regular homestead.

- If a property is owned by more than one person and at least one person occupies and uses the property as a principal place of residence but at least one person does not occupy the property as a principal place of residence, the property will qualify for only a fractional regular homestead.

- Relative homestead provisions are generally not applicable in spousal circumstances because the law does not define a spouse as a relative.

- For a married couple, the most common situation finds the couple living together in a home owned by either one or both of them. No matter how a property is titled, whether in one name or both, a married couple is considered one entity for property tax purposes. The property qualifies for a full regular homestead if the couple occupies the home as their principal place of residence. **Therefore, if a property owner is married and does not live with their spouse, they are not entitled to a full homestead (with certain exceptions listed below).**

Minnesota Statutes, section 273.124, subdivision 1, clause (e) provides some exceptions to this rule. It reads:

> "(e) In the case of property owned by a property owner who is married, the assessor must not deny homestead treatment in whole or in part if only one of the spouses occupies the property and the other spouse is absent due to:
>
> (1) marriage dissolution proceedings,
>
> (2) legal separation,

(3) employment or self-employment in another location, or
(4) other personal circumstances causing the spouses to live separately, not including an intent to obtain two homestead classifications for property tax purposes.

To qualify under clause (3), the spouse's place of employment or self-employment must be at least 50 miles distant from the other spouse's place of employment, and the homesteads must be at least 50 miles distant from each other."

Also, section 273.124, subdivision 1, clause (f), reads in part:

"(f) The assessor must not deny homestead treatment in whole or in part if: …
(2) in the case of a property owner who is married, the owner or the owner's spouse or both are absent due to residence in a nursing home, boarding care facility, or an elderly assisted living facility property as defined in section 273.13, subdivision 25a, and the property is not occupied or is occupied only by the owner's spouse."

Note that the above exception for a nursing home solely applies to the property **owner** or owner's spouse. A qualifying relative receiving relative homestead **would not** be able to retain the homestead if they stopped occupying the property due to residence in a nursing home, boarding care facility, or assisted living facility.

The following are examples designed to illustrate some of these rules and exceptions.

Example 1: Spouse 1 and Spouse 2 own Home A with both names on the deed but Spouse 2 lives somewhere else on the assessment date. Often the assessor will not be aware that Spouse 2 is no longer living in the home. Most likely the assessor learns the facts when Spouse 2 files an application for homestead benefits on Home B. The assessor denies the homestead application telling Spouse 2 that since a homestead already exists, the applicant cannot qualify for a second homestead. The applicant tells the assessor the spouses are divorcing.

Questions: Is Home A eligible for homestead benefits? Is Home B eligible for homestead benefits?

Discussion: Both Home A and Home B are eligible for full regular homesteads IF a divorce petition has actually been filed in the District Court. As part of the divorce proceedings, the Court will determine the property rights in Home A and appropriate deeds will be drafted and recorded, removing one spouse's name from the title to Home A.

Until the divorce is finalized and title to Home A transferred, the Social Security number or individual taxpayer identification number of the Spouse 2 will appear on the homestead records for both properties and will cause a "duplicate record" report when the Department runs the statewide homestead files.

Tip: The petition for dissolution must be filed with the Court before the second property qualifies for homestead benefits. A mere assertion that the couple intends to divorce is not sufficient.

Example 2: Same as Example 1 but the divorce petition has not been filed.

> **Questions:** Is Home A eligible for homestead benefits? Is Home B eligible for homestead benefits?
>
> **Discussion:** Home A and Home B are each eligible for one-half owner-occupied homestead.

The law (Section 273.124, subdivision 13, clause (c)) is clear and says that Spouse 2 may not claim another property as a full homestead unless the conditions in subdivision 1, clause (e), exist and the assessor has sufficient proof that the conditions exist. In this example, since the petition for dissolution has not been filed, Homes A and B can only receive one-half homestead benefits each based on occupancy by one spouse. Even if the assessor knows Spouse 1 and Spouse 2 personally and knows that they intend to file the petition soon, neither home is eligible for full homestead.

Tip: Remember that Home B may not qualify on the assessment date but if the petition is filed in Court before December 31 of the assessment year and Spouse 2 files the homestead application by December 31, the assessor may grant Spouse 2 a midyear homestead for that assessment.

Example 3: Home A is owned by Spouse 1 and Spouse 2 and is receiving full homestead benefits. Spouse 2 files an application for homestead benefits on Home B. Spouse 2 advises the assessor that Spouse 1 and Spouse 2 are "separated."

> **Questions:** Is Home A eligible for homestead benefits? Is Home B eligible for homestead benefits?
>
> **Discussion:** Minnesota Statutes, section 518.06, provides that "a decree of legal separation shall be granted when the court finds that one or both parties need a legal separation." A decree of separation does not dissolve the marriage but does determine the rights and responsibilities of husband and wife arising out of a marital relationship.

While many spouses are separated, meaning that the spouses do not live together, a court-ordered legal separation is not common. One spouse may institute a proceeding in District Court seeking a legal separation.

The analysis for homestead purposes follows the analysis in Examples 1 and 2. Until a decree of separation is issued by the court, Spouse 2 has not met the conditions in section 273.124, subdivision 1, clause (e) and, therefore, cannot have a separate full homestead. As Spouse 2 is not residing in Home A, Home A can receive only half of the homestead benefit and Home B is eligible to receive one-half homestead based upon the occupancy by Spouse 2.

If a decree of separation has been issued by the court, Spouse 1 and Spouse 2 can establish separate homesteads and Home A and Home B qualify for full regular homestead benefits. The Social Security number or individual taxpayer identification number of Spouse 2 will appear on the records for both properties and will cause a "duplicate record" report when the Department runs the statewide homestead files.

Tip: The assessor should review the decree as issued by the court to establish that a legal separation has occurred. If the decree has not been issued as of the assessment date but is issued before December 31 of the assessment year and Spouse 2 files the homestead application prior to December 31, the assessor may grant the homestead for the current assessment.

Example 4: Home A is owned by Spouse 1 and Spouse 2 and is receiving full homestead benefits. Spouse 2 files an application for homestead benefits on Home B. Spouse 2 advises the assessor that Spouse 2 is now employed in another location and is establishing a separate homestead at the new location. Spouse 1 will continue to reside in Home A. Spouse 1 and Spouse 2 are not divorcing, and they are not legally separated.

Questions: Is Home A eligible for homestead benefits? Is Home B eligible for homestead benefits?

Discussion: Subdivision 1, clause (e), does provide for the possibility of separate full homesteads if spouses live apart because of employment. The place of employment or self-employment of Spouse 2 must be at least 50 miles from the place of employment or self-employment of Spouse 1 AND Home A must be at least 50 miles away from Home B. Both Spouse 1 and Spouse 2 must be gainfully employed or gainfully self-employed. If the assessor is satisfied that the facts support this exception, both Home A and Home B qualify for full regular homesteads.

If Spouse 1 remains in Home A but is not gainfully employed, Home B does qualify for only half homestead benefits and Home A also qualifies for only a half regular homestead.

Tip: Both spouses must be gainfully employed or self-employed and the places of employment must be at least 50 miles apart and the homes must be at least 50 miles apart. The applicant is responsible for supplying whatever evidence the assessor needs to establish the qualification for homestead benefits. Remember that the Social Security numbers or individual taxpayer identification numbers of Spouse 1 and Spouse 2 will appear on the records for both properties and will cause a "duplicate record" report when the Department runs the statewide homestead reports.

Example 5: Spouse 1 and Spouse 2 were recently married. Spouse 1 owns, operates and resides on the 160-acre Farm A. Farm A is classified as an agricultural homestead. Spouse 2 owns, operates and resides on the 160-acre Farm B. After the marriage, Spouse 1 intends to live on Farm A and manage the operations there. Spouse 2 will continue to live on Farm B and manage the operations there.

> **Questions:** Is Farm A eligible for homestead benefits? Is Farm B eligible for homestead benefits?
>
> **Discussion:** If the farms are over 50 miles apart from each other, both farms qualify for full agricultural homesteads. Farm A is the place of employment for Spouse 1 and Farm B is the place of employment for Spouse 2. If the assessor is satisfied that the facts support the exception, the assessor should extend homestead benefits to both properties.

If the farms are not 50 miles away from each other, each property qualifies for only one-half homestead based on its occupying spouse.

Tip: The Social Security numbers or individual taxpayer identification numbers for both Spouse 1 and Spouse 2 will appear on the records of both properties and will cause a "duplicate record" report when the statewide homestead report is run.

Example 6: Spouse 1 and Spouse 2 own and occupy Home A as their principal residence but Spouse 1 must now move to a nursing home, a boarding care facility or an elderly assisted living facility, either on a short term or longer-term duration.

Question: Is Home A eligible for a full regular homestead?

Discussion: Home A is eligible for regular homestead treatment based on section 273.124, subdivision 1, paragraph (f), clause (2). Even if both Spouse 1 and Spouse 2 moved to a nursing home, a boarding care facility or an elderly assisted living facility *and* Home A is not occupied by anyone, Home A continues to qualify for a full homestead. The statute considers this a temporary absence from Home A, even if the absence extends for quite some time, if no one else moves into Home A. If Home A is rented to someone, it no longer qualifies for homestead treatment because Home A is no longer available for the return of Spouse 1 and/ or Spouse 2. If a son or daughter or other relative of Spouse 1 or Spouse 2 stays in Home A on a short-term basis while visiting Spouse 1 or Spouse 2, we would not consider this short use as an abandonment of the homestead by Spouse 1 or Spouse 2.

Tip: If one or both spouses are absent because they are residing in a nursing home, boarding care facility, or an elderly assisted living facility, the law presumes that the homestead is not abandoned if the home remains available for their return. If the home is offered for sale but not yet sold, the homestead remains. Generally, if the home is leased to others, the home no longer qualifies for a regular homestead. However, in some cases, if the nursing home, boarding care facility, or elderly assisted living facility fees are being paid by a governmental assistance program, the program will require that the home be offered for lease and any payments received used to defray the governmental assistance. Our position is that the homestead benefits continue if the leasing arrangement is a requirement of the governmental program.

Example 7: Spouse 1 and Spouse 2 own and occupy Home A and receive a full regular homestead. Spouse 2 purchases Home B and applies for homestead benefits. Spouse 1 and Spouse 2 are not divorcing, are not separated, and are not working at least 50 miles apart. Spouse 2 advises the assessor that Spouse 2 can no longer live with Spouse 1 because Spouse 1 battered Spouse 2.

Question: Is Home B eligible for a full regular homestead?

Discussion: The Department has advised the assessor to grant a full regular homestead on Home B. Section 273.124, subdivision 1, clause (e) allows one additional exception for "other personal circumstances causing the spouses to live separately, not including an intent to obtain two homestead classifications…." The circumstances here were so

unique that the Department agreed with the assessor that a second homestead was warranted. The Department has narrowly construed the "other personal circumstances" clause to be abuse or other extreme circumstances.

In another situation, Spouse 1 and Spouse 2 owned Home A and received a full regular homestead. Spouse 1 worked outside the home but became ill with a debilitating disease and could no longer work. Spouse 2 then became employed to support the family and obtain insurance benefits. Spouse 2 purchased Home B and applied for homestead benefits. Even if the place of employment is over 50 miles away, Spouse 1 was not employed so the exception for working apart did not fit. Spouse 1 could not move to Home B because the medical treatments for Spouse 1 were close to Home A. The Department again agreed with the assessor that these circumstances were sufficiently unique to allow a second homestead.

Tip: Under unique circumstances, the assessor may consider an additional exception but should contact the Department. Rarely will the circumstances merit this exception, but it can happen.

Conclusion
Unless the specific exceptions are met, spouses living apart cannot receive homestead benefits on two homes. In fact, Home A and Home B can receive only a half regular homestead each based upon the occupying spouse.

Minor Homesteads

As mentioned earlier in the Minor Relative Section earlier, Minnesota Statute 273.124 does not prohibit minors from qualifying for homestead. Ultimately, the occupant or owner confers homestead status on the property, but the property has homestead status, not the person. Therefore, if the minor meets all the requirements, the property can qualify for homestead.

Anyone under the age of 18 is considered a minor. Minors are allowed to own property in Minnesota.

In cases where a minor is listed on a homestead application, it is important to verify that the child is using the property as their primary place of residency before granting the homestead. In making this determination an applicant could be asked to provide:

- The location of the school that the child is attending
- A copy of the divorce decree that provides information on where the minor will primarily reside
- If deemed necessary, an affidavit from the parents or legal guardians to be filed attesting to the primary residency of the minor

In the case of minor homesteads, we would recommend more frequent verification as these situations may have frequent changes.

If a minor applicant signs a homestead application themselves, nothing prohibits a county from accepting that signature for the purposes of processing the homestead application. However, we would advise that due diligence is exercised when reviewing applications with a minor's signature. The minor's social security number or individual taxpayer identification number should be reported on the application and collected by the county. If the minor applicant is too young to sign the form, or cannot sign for any reason, counties should accept a parent or legal guardian's signature with appropriate confirmation of signing authority.

Homesteads with Multiple Owners

When a property has multiple owners, it can be difficult to determine whether a property qualifies for homestead and what percentage of the property may qualify. The property may qualify for a fractional homestead, due to some owners not meeting homestead requirements.

When evaluating a homestead application with multiple owners, the best way to determine their homestead eligibility is to evaluate **each owner separately.** If a property has three separate owners (not including spouses), the assessor should evaluate each homestead claim individually to determine the level of homestead warranted. In the case of agricultural homesteads, the assessor must also analyze the **ownership structure** within the deed. **Agricultural homesteads** are fractionalized dependent on whether the property is owned as a tenancy in common or as a joint tenancy. It is important to note, that if the deed **does not specify the ownership structure** of a property, the assessor should assume the property is owned equally and fractionalize the homestead based on the number of owners. For additional information about fractional homestead calculation, see the Auditor Treasurer Manual

Tenants in Common Ownership

When agricultural property is owned by tenants in common, each individual has an **explicit share of the property** as dictated by the deed, and the fractional homestead should be determined based on the deeded interest of each qualifying owner.

The only exception to fractionalizing property owned as tenants in common is in the case of a spousal ownership. Spouses are considered one entity in the state of Minnesota; therefore the ownership structure of the property would not be considered. For example, if a married couple owns property as tenants in common and one of them does not occupy the property, the assessor should grant a 50% owner occupied homestead, even if the spouse that occupies owns 90% of the property.

Joint Tenancy Ownership

When the agricultural property is owned by joint tenants, then the fractional homestead is calculated based on the number of owners. Joint tenancy ownership means that each owner has an equal share of the property. The fractional homestead should be determined by based on the number of owners rather than ownership interest in the property.

Note: fractionalizing homestead based on ownership structure **only applies to agricultural homesteads**. Homestead for residential property that is owned by multiple owners would always be fractionalized according to the number of owners. Tenants in common and joint tenancy ownership does not play a factor when fractionalizing residential homesteads.

Example 1: Person 1, Person 2, and Person 3 own a house in town together and are unrelated. Persons 1 and 2 occupy the property, while Person 3 lives elsewhere. All three are Minnesota residents and do not claim another homestead.

Person 1 qualifies for homestead, because they own and occupy the property, and are a Minnesota resident. Person 2 also qualifies for homestead for the same reasons. Person 3 does not qualify for homestead because they do not occupy the property. Because two of the three owners qualify for homestead, the property should receive a 2/3 (66%) homestead.

Example 2: Person 1, Person 2, Person 3, and Person 4 all own an agricultural property, are all Minnesota residents, and the property is owned as a joint tenancy. Person 1 occupies the property and does not claim another agricultural homestead. Person 2 claims another agricultural homestead 100 miles away and does not occupy the property. Person 3 does not occupy the property themselves, but their child does. Neither they nor their family claim an agricultural homestead elsewhere in Minnesota. Person 4 is active in the day-to-day decisions of the farm but occupies a residential homestead elsewhere in Minnesota.

Looking through each owner individually, we can determine that Person 1 qualifies for agricultural homestead, as they own and occupy the property and are Minnesota residents. Person 2 does not qualify for homestead because they already claim an agricultural homestead. Person 3 qualifies for a relative homestead, as their qualifying relative (their child) occupies the property, and neither of them nor their family claim another agricultural homestead. Person 4 does not qualify for agricultural homestead, as they do not occupy the agricultural property. Therefore, the property would qualify for 25% owner-occupied agricultural homestead and 25% relative agricultural homestead, for a total of 50% homestead.

Example 3: Four individuals own an agricultural property, are all Minnesota residents, and the property is owned as tenants in common. The deeded ownership interest between the four owners is shown below. Like in example 2, Person 1 occupies the property and does not claim another agricultural homestead. Person 2 claims another agricultural homestead 100 miles away and does not occupy the property. Person 3 does not occupy the property themselves,

but their child does. Neither they nor their family claim an agricultural homestead elsewhere in Minnesota. Person 4 is active in the day-to-day decisions of the farm but occupies a residential homestead elsewhere in Minnesota. Because this property is owned as tenants in common, the deeded ownership interest is taken into consideration. Therefore, because person 1 and person 3 qualify for homestead, the total homestead percentage is 60%.

Individual	Deeded ownership interest
Person 1	10%
Person 2	15%
Person 3	50%
Person 4	25%

Leased Buildings or Land

Occasionally, assessors will come across situations where homes are owned by one or more individuals but are located on land owned by someone else. Are these properties eligible for homestead? Answer: Yes.

Minnesota law provides the following:

> "*For the purposes of class 1* [residential] *determinations, homesteads include:*
>
> *(a) buildings and appurtenances owned and used by the occupant as a permanent residence which are located upon land the title to which is vested in a person or entity other than the occupant;*
>
> *(b) all buildings and appurtenances located upon land owned by the occupant and used for the purposes of a homestead together with the land upon which they are located, if all of the following criteria are met:*
>
> *(1) the occupant is using the property as a permanent residence;*
> *(2) the occupant is paying the property taxes and any special assessments levied against the property;*
> *(3) the occupant has signed a lease which has an option to purchase the buildings and appurtenances;*
> *(4) the term of the lease is at least five years; and*
> *(5) the occupant has made a down payment of at least $5,000 in cash if the property was purchased by means of a contract for deed or subject to a mortgage;*
>
> *(c) all buildings and appurtenances and the land upon which they are located that are used for purposes of a homestead, if all of the following criteria are met:*
>
> *(1) the land is owned by a utility, which maintains ownership of the land in order to facilitate compliance with the terms of its hydroelectric project license from the federal Energy Regulatory Commission;*
> *(2) the land is leased for a term of 20 years or more;*
> *(3) the occupant is using the property as a permanent residence; and*
> *(4) the occupant is paying the property taxes and any special assessments levied against the property.*
>
> *Any taxpayer meeting all the requirements of this paragraph must notify the county assessor, or the assessor who has the powers of the county assessor pursuant to section 273.063, in writing, as soon as possible after signing the lease agreement and occupying the buildings as a homestead."*

Primary Statutory Reference: 273.124, subd. 7

Townhomes, Condominiums, Cooperatives and Common Areas

Upon meeting all other requirements and qualifications, a townhome or condominium unit, including a proportionate share of land and its interest in any common areas, shall be awarded the homestead benefits. The value of the unit's interest in the common area **should** be included in the total value of the unit along with the proportionate share of land. If common areas are valued or taxed separately, it can lead to issues involving:

1. the value of the common areas to a potential buyer separate from the condominium or townhome complex;
2. what happens in the event of non-payment of tax and the potential for tax forfeiture; and
3. the potential for property tax refund.

If the condominium, cooperative, or townhome property is owned by the occupant and used for the purposes of a homestead but is located upon land which is leased, that leased land must be valued and assessed as if it were homestead property within class 1 (residential) if all the following criteria are met:

1. the occupant is using the property as his permanent residence;
2. the occupant or the Cooperative Association is paying the ad valorem property taxes and any special assessments levied against the land and structure;
3. the occupant or the Cooperative Association has signed a land lease; and
4. the term of the land lease is at least 50 years, notwithstanding the fact that the amount of the rental payment may be renegotiated at shorter intervals.

Primary Statutory Reference: 273.124, subd. 2

Owner-Occupied Hotel/Motel and Cooperative Property

Homestead benefits may be granted to owner-occupied motel property if the person who is residing at the motel is using that property as a homestead, is part-owner of the motel and is actively engaged in the operation of the motel business. The homestead is limited to the portion of the motel occupied by the person (no common area). Homestead treatment applies even if legal title to the property is in the name of a corporation or partnership and not in the name of the individual person residing at the motel.

A person meeting these requirements must notify the county assessor in writing to qualify for the homestead under this provision. The motel must meet the definition under Chapter 157 to qualify. Minnesota Statutes, section 157.15, subdivision 7, defines a hotel or motel to be "*a building, structure, enclosure, or any part thereof used as, maintained as, advertised as, or held out to be a place where sleeping accommodations are furnished to the public and furnishing accommodations for periods of less than one week.*"

Primary Statutory Reference: 273.124, subd. 17; 157.15, subd. 7

Buildings Owned by Non-Profit Corporations

When a building containing several dwelling units is owned by an entity organized under Chapter 317A (Non-Profit Corporations) and operating as a non-profit corporation, and the entity enters into membership agreements with persons under which those persons are entitled to life occupancy in a unit in the building, homestead classification must be given to each unit so occupied, and the entire building must be assessed the same as cooperatives and charitable organizations.

Primary Statutory Reference: 273.124, subd. 4

Continuing Care Facilities

When a building containing several dwelling units is owned by an entity which is regulated under the provisions of Chapter 80D (Continuing Care Facilities) and operating as a continuing care facility, and the entity enters into residency agreements with persons who occupy a unit in the building under which those residents are entitled to occupancy in the building after personal assets are exhausted and regardless of ability to pay the monthly maintenance fee, homestead classification shall be given to each unit so occupied and the entire building shall be assessed the same as cooperatives and charitable organizations. Continuing care facilities may not present ownership structures or definition of units in the same manner as typical cooperatives or CIC's, therefore, the assessor should work with the underlying property owner to establish unit description to apply the homestead appropriately.

Primary Statutory Reference: 273.124, subd. 5

Cooperatives and Charitable Corporations

A. When a property is owned by a corporation or association that is organized under Chapter 308A (Cooperatives), and each person who owns a share or shares in the corporation or association is entitled to occupy a building on the property or a unit within a building on the property, the corporation or association may claim homestead treatment for each dwelling or on each unit occupied by a shareholder. Each building or unit must have its own legal description or number.

   The net tax capacity **of each building or unit** that qualifies for a homestead cannot include more than ½ acre of land (if platted) or 80 acres of land (if unplatted).

   The net tax capacity **of the property** is the sum of the net tax capacities of each of the units comprising the property, including the net tax capacity of each unit's proportionate share of the land and any common areas.

   To qualify for homestead treatment, the corporation or association must be wholly owned by persons having a right to occupy a building or unit owned by the corporation or association. A charitable corporation that is organized under the laws of Minnesota and not otherwise exempt, with no outstanding stock, qualifies for homestead treatment with

respect to member residents of the buildings or dwelling units who have purchased and hold residential participation warrants entitling them to occupy the units.

B. To the extent provided in paragraph A above, a cooperative or corporation organized under Chapter 308A or Chapter 308B (Cooperative Association) may obtain individual valuation and tax statements for each residential homestead, residential non-homestead, or each seasonal residential recreational unit that is not used for commercial purposes. The appropriate class rates shall be applicable as if each unit were a separate tax parcel. However, this is provided the tax parcel which exists at the time the cooperative or corporation makes application under this subdivision shall be a single parcel for purposes of property taxes or the enforcement and collection thereof, other than as provided in paragraph A or B.

C. A member of a corporation or association may initially obtain the separate assessment, valuation and tax statements as provided in paragraph B by applying to the assessor by June 30 of the assessment year.

D. When units within a building no longer qualify under paragraph A or B, the current owner must notify the assessor within 30 days. Failure to do so will result in the loss of benefits under paragraph A or B for taxes payable in the year the failure is discovered.

Primary Statutory Reference: 273.124, subd. 3

Leasehold Cooperatives

Ordinarily, someone must have an ownership interest in a property to receive a homestead. However, special legislation allows homesteads for those meeting certain conditions below. To qualify for homestead status as a leasehold cooperative, such properties must be owned by a non-profit corporation subject to the provisions of Chapter 317A (Non-Profit Corporations) and qualifying under section 501(c)(3) or 501(c)(4) of the Internal Revenue Code, or by a limited partnership which corporation or partnership operates a property in conjunction with a cooperative association and receives public financing. In these cases, the cooperative association, on behalf of the members, may claim homestead for each dwelling unit occupied by a member of the cooperative. The cooperative association must provide the assessor with the Social Security numbers or individual taxpayer identification numbers of those members. In addition, the following conditions must be met:

1. The cooperative association must be organized under Chapter 308A, and all voting members of the board of directors must be resident tenants of the cooperative and must be elected by the resident tenants of the cooperative.

2. The cooperative association must have a lease for occupancy of the property for a term of at least 20 years, which permits the cooperative association, while not in default of

the lease, to participate materially in the management of the property, including material participation in establishing budgets, setting rent levels, and hiring and supervising a management agent.

3. To the extent permitted under state and federal law, the cooperative association must have a right under a written agreement with the owner to purchase the property if the owner proposes to sell it. If the cooperative association does not purchase the property when it is offered for sale, the owner may not subsequently sell the property to another purchaser at a price lower than the price at which it was offered for sale to the cooperative association unless the cooperative association approves the sale.

4. A minimum of 40% of the cooperative association's members must have incomes at or less than 60% of the area median gross income as determined by the United States Secretary of Housing and Urban Development under section 142(d)(2)(B) of the Internal Revenue Code. For purposes of this clause, "member income" means the income of a member existing at the time the member acquires his or her cooperative membership.

5. If a limited partnership owns the property, it must include, as the managing general partner, a non-profit organization operating under the provisions of Chapter 317A and qualifying under section 501(c)(3) or 501(c)(4) of the Internal Revenue Code. The limited partnership agreement must provide that the managing general partner has sufficient powers so that it materially participates in the management and control of the limited partnership.

6. Prior to becoming a member of a leasehold cooperative described in this subdivision, a person must receive notice that describes the leasehold cooperative property in plain language, including the effects of classification under this subdivision on rents, property taxes, and tax credits or refunds, and operating expenses. It must also state that copies of the articles of incorporation and bylaws of the cooperative association, the lease between the owner and the cooperative association, a sample sublease between the cooperative association and a tenant, and, if the owner is a partnership, a copy of the limited partnership agreement, can be obtained upon written request at no charge from the owner. The owner must provide the requested information within 7 days of receiving the request.

7. If a dwelling unit of a building was occupied on the 60th day prior to the date on which the unit became leasehold cooperative property, then the notice described in paragraph 6 must have been sent by first class mail to the occupant of the unit at least 60 days prior to the date on which the unit became leasehold cooperative property. For purposes of the notice under this paragraph, the copies of the documents referred to in paragraph 6 may be in proposed version, provided that any subsequent material alteration of those documents made after the occupant has requested them shall be disclosed. Copies of the articles of incorporation and certificate of limited partnership

shall be filed with the secretary of state after the expiration of the 60-day period unless the change to leasehold cooperative does not proceed.

8. The county attorney of the county in which the property is located must certify to the assessor that the property meets the requirements of this subdivision.

9. The public financing received must be from at least one of the following sources:

    a. Tax increment financing proceeds used for the acquisition or rehabilitation of the building or interest rate write-downs relating to the acquisition of the building.

    b. Government-issued bonds exempt from taxes under section 103 of the Internal Revenue Code, the proceeds of which are used for the acquisition or rehabilitation of the building.

    c. Programs under section 221(d)(3), 202, or 236, of Title II of the National Housing Act.

    d. Rental housing program funds under Section 8 of the United States Housing Act of 1937 or the market rate family graduated payment mortgage program funds administered by MHFA that are used for the acquisition of rehabilitation of the building.

    e. Low-income housing credit under section 42 of the Internal Revenue Code.

    f. Public financing provided by a local government used for the acquisition or rehabilitation of the building, including grants or loans from federal community development block grants, HOME block grants, or residential rental bonds issued under Chapter 474A.

    g. Other rental housing program funds provided by the MHFA for the acquisition or rehabilitation of the building.

10. At the time of the initial request for homestead classification or of any transfer of ownership of the property, the governing body of the municipality where the property is located must hold a public hearing and make the following findings:

    a. That the granting of the homestead treatment of the apartment's units will facilitate safe, clean, affordable housing for the cooperative members that would otherwise not be available absent the homestead classification.

    b. That the owner has presented information satisfactory to the governing body showing that the savings garnered from the homestead classification on the units will be used to reduce tenant's rents or provide a level of furnishing or maintenance not possible without the homestead classification.

c. That all requirements of paragraphs 2, 4, and 9 have been met.

Homestead treatment must be afforded to units occupied by members of the cooperative association, and the units must be assessed as provided in subdivision 3 provided that any unit not so occupied shall be classified and assessed pursuant to the appropriate class. No more than three acres of land may, for assessment purposes, be included with each dwelling unit that qualifies for homestead treatment under this subdivision.

When dwelling units no longer qualify under this subdivision, the current owner must notify the assessor within 60 days. Failure to notify the assessor will result in the loss of benefits under this subdivision for taxes payable in the year that the failure is discovered. For these purposes, "benefits under this subdivision" means the difference in the net tax capacity of the units which no longer qualify as computed under this subdivision and as computed under the otherwise applicable law, multiplied by the local tax rate applicable to the building for taxes payable that year. It will also result in a penalty equal to 100% of that amount.

Preliminary Approval of Leasehold Cooperatives

Preliminary approval for classification as a leasehold cooperative may be granted to property when a developer proposes to construct one or more residential dwellings or buildings using funds provided by the Minnesota Housing Finance Agency if all the following conditions are met.

1. The developer must present an affidavit to the county attorney and to the governing body of the municipality that includes a statement of the developer's intention to comply with all requirements in subdivision 6 and a detailed description of the plan for doing so.

2. The commissioner of the MHFA must provide the county attorney and governing body with a description of the financing and related terms the commissioner proposes to provide with respect to the project, as well as an objective assessment of the likelihood that the project will comply with the requirements of subdivision 6.

3. The county attorney must review the materials provided above and may require the developer or the MHFA to provide additional information. If the county attorney determines that it is likely that the project will meet the requirements of this subdivision, the county attorney may provide preliminary approval to treat the property as a leasehold cooperative.

4. The governing body shall conduct a public hearing as provided in subdivision 6, paragraph 10, and make its preliminary findings based on the information provided by the developer and MHFA.

Upon completion of the project and creation of the leasehold cooperative, actual compliance with the requirements of this subdivision must be demonstrated and certified by the county attorney. A second hearing by the governing body is not required.

If the county attorney finds that the homestead treatment granted pursuant to a preliminary approval under this subdivision must be revoked because the completed project failed to meet the requirements of the subdivision, the benefits of the treatment shall be recaptured. The county assessor shall determine the amount by which the tax imposed on the property was reduced because it was treated as a leasehold cooperative. The developer will be charged an amount equal to the tax reduction received, or if the county attorney determines that the failure to meet the requirements was due to the developer's intentional disregard of the requirements, 150% of the tax reduction received.

Primary Statutory Reference: 273.124, subd. 6a

Manufactured Home Park Cooperatives

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. There is at least one, maybe more, nonprofit group that is assisting the lessees to organize themselves into cooperative associations and financing the purchase of the park. Currently, we are aware of several manufactured home park cooperatives in Minnesota.

Formation of a manufactured home park cooperative can have property tax implications. Ordinarily, manufactured home parks are classified as class 4c(5)(i) property and taxed at 1.25%. However, all a manufactured home park cooperative's estimated market value may qualify for a reduced class rate of .75% if over 50% of the pads are occupied by shareholders of the cooperation or association that owns the manufactured home park. If 50% or fewer of the pads are occupied by shareholders, the park receives a class rate of 1.00%.

When a manufactured home park is owned by a corporation or association organized under Chapter 308A (Cooperatives), 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. "Homestead treatment" means the class rate provided for class 4c property under section 273.13, subdivision 25, paragraph (d), clause (5), item (ii). This refers to the reduced class rate provided if more than 50% of the pads are occupied by shareholders of the corporation. The homestead market value credit under section 273.1384 does not apply.

The park shall be entitled to homestead treatment if all of the following criteria are met:

1. Each lot must be designated by legal description or number, and each lot is limited to not more than ½ acre of land
2. The occupant or the cooperative corporation or association is paying 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.

The charitable corporation, organized under the laws of Minnesota with no outstanding stock and granted a ruling by the IRS 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.

A manufactured home park cooperative is valued the same as any other manufactured home park. To determine if the park cooperative is eligible for homestead treatment, the assessor must work with the representatives of the cooperative association to see how many lots are on the plan, how the cooperative association has laid out the lots, and how many will be occupied by shareholders.

Primary Statutory Reference: 273.124, subd. 3a; 273.13, subd. 25

Agricultural Homestead

Agricultural homestead follows many of the same general rules as residential homestead such as occupancy, ownership, and use, however there are several notable differences between the two. The largest difference is that a portion of the property must contain agricultural land. Some other differences are the ability for property owned by certain farming entities (e.g. family farm corporation, LLC operating a family farm, etc.) to receive homestead, and the ability for unoccupied agricultural properties to receive homestead, which is referenced as special agricultural homestead. This section will provide information on the different types of occupied agricultural homestead and additional information related to occupied agricultural homesteads. Information on unoccupied agricultural homesteads will be addressed in the Special Agricultural Homesteads section of this module.

In addition to the information contained in this section, the department has created three flowcharts to assist in establishing agricultural homesteads. These are located at the end of this module and are designed to be used to evaluate whether an agricultural property may qualify for agricultural homestead. Please note that not all requirements are listed on the flowcharts and assessors are responsible for the verification process prior to granting a homestead.

Possible Agricultural Homestead Scenarios

Please note that these scenarios are based on potential scenarios where the agricultural property is occupied. Homestead scenarios for agricultural property that is unoccupied is discussed later in this module under "Special Agricultural Homesteads"

1. **Property that is owned, occupied, and farmed by a natural person:** Typically, the property is owned in fee simple ownership. A Property Tax Refund (PTR) is available on the house, garage and first acre (HGA). The homestead is granted in the name of the owner/occupant/farmer. The farmer is irrelevant in this case.

   Primary Statutory Reference: 273.124, subd. 1, para. (a)

2. **Property that is owned and occupied by a natural person but farmed by another person:** In this situation, the land is often rented to and farmed by a neighbor or family member. This type of farm is typically owned in fee simple ownership. A PTR is available on the house, garage, and first acre. As a general rule, if the owner is a Minnesota resident and occupies the property, it doesn't matter who actually farms the property, the property is eligible for homestead. The homestead is granted in the name of the owner/occupant. The farmer is irrelevant in this case.

   Primary Statutory Reference: 273.124, subd. 1, para. (a)

3. **Life estates:** A person deeds the property to someone else (usually a child/children) but retains the right to occupy the property for the remainder of their life. In this case, the

property may be homesteaded in the name of the person retaining the life estate or in the name of a qualifying relative of the life estate holder who occupies the property. The life estate may be for the house, garage, and first acre or on the entire farm, depending on the wording of the life estate documents. It is up to the assessor to verify this information before granting the homestead. PTR is available only on the HGA. The homestead is in the name of the life estate holder who occupies the property. The farmer is irrelevant in this case.

Primary Statutory Reference: 273.124, subd. 1, para. (a)

4. **Vested remainder interests:** This occurs when there is a life estate on an agricultural property, and the remainder interest follows the life estate. For example, if parents sell their property to their son, but retain a life estate (the right to occupy until their death) on the entire farm, the child's interest is called a vested remainder interest in that they do not have the right to occupy the property until their parents pass away. The child could be granted a vested remainder homestead in this case if the child actively farms the property. This type of homestead happens infrequently since the relative homestead provisions came into effect. The homestead is in the name of the holder of the vested remainder interest.

Primary Statutory Reference: 273.124, subd. 14, para. (d)

5. **Agricultural relative homestead**: Property that is owned by one person, occupied by a qualifying relative, and farmed.

   The qualifying relatives for agricultural property differ based on whether the property is occupied (agricultural homestead) or unoccupied (special agricultural homestead). For occupied agricultural homestead, qualifying relatives include parents, siblings, step-parents, children, step-children, grandparents, grandchildren, aunts, uncles, nieces, and nephews. For special agricultural homesteads, qualifying relatives include grandchildren, children, siblings, or parents of the owner or of the spouse of the owner. These relationships can be by blood or by marriage.

   If the property is occupied by a qualifying relative for agricultural property, the entire property can receive an agricultural relative homestead, regardless of who farms the property.

   You may grant agricultural relative homesteads in cases of fractional ownership. For example, if ownership of the farm was split between six children and the farm was occupied by the parents, the property could qualify for an agricultural relative homestead. It is incumbent upon the assessor to verify that the applicant meets all of the qualifications. These include:

- both the owner(s) and qualifying relative(s) must be Minnesota residents;
- neither the owner (or owners in cases of fractional ownership) nor the qualifying relative(s) may claim another ag homestead in Minnesota; and
- there may only be **one** Ag relative homestead per family.

Neither the owner, nor the qualifying relative is eligible for a Property Tax Refund. The homestead is granted in the name of the qualifying relative who occupies the property.

It should also be noted that with the exception of trusts, entity-owned property **cannot** receive agricultural relative homestead. Corporations, partnerships, limited liability companies, etc. are legal entities in and of themselves. They are not people, so they cannot have relatives. If a property is occupied by a qualifying relative of the grantor of **trust-held** property, the relative can receive an agricultural relative homestead if they meet all the other requirements.

Primary Statutory Reference: 273.124, subd. 1, para. (d)

6. **Residential relative homestead on HGA**: If a farm is occupied by a relative that does not qualify for an agricultural relative homestead but does qualify for a residential relative homestead (e.g. if the owner already receives an agricultural homestead), OR if the farm is **not** owned by a Minnesota resident, it may be appropriate to grant a residential relative homestead on the house, garage on immediately surrounding one acre (HGA). The remaining agricultural land would be either non-homestead or it may qualify for a different type of homestead. Neither the owner nor the qualifying relative is eligible for a Property Tax Refund. The homestead is granted in the name of the qualifying relative who occupies the property.

   Primary Statutory Reference: 273.124, subd. 1, para. (c)

7. **Trust-held property:** Agricultural property that is held under a trust may be homesteaded if it is occupied by the grantor or their spouse (who must be Minnesota residents) or the surviving spouse of the grantor (who also must be a Minnesota resident). This would be a regular agricultural homestead. It may also qualify if the property is occupied by a qualifying relative or surviving qualifying relative of the grantor. Again, if the property is occupied by a qualifying relative for an agricultural homestead, it should be given an agricultural relative homestead. If the property is occupied by a qualifying relative that is a qualifying relative for residential property but not for agricultural property, the relative should be given a residential relative homestead on the HGA. The property may only receive PTR if it is occupied by the grantor or the grantor's spouse (not qualifying relatives) and it is only available on the HGA. The homestead is granted in the name of the occupant – the grantor, grantor's surviving spouse, or qualifying relative that occupies the property. Trust-held property is discussed further in the *Special Provisions* section.

Farms Owned by Individuals
A classic agricultural homestead is applied when a property owner occupies the agricultural property as their primary place of residency. The requirements for an occupied agricultural homestead are minimal which makes the administration of agricultural homestead a simple process.

Agricultural homestead can get more complicated when the property is transferred to different ownership types like an entity or trust.

Farms Owned by Entities
Owners may transfer ownership of their property to an entity for estate planning purposes which can affect the homestead status of a property. When an owner transfers property to an entity property taxes may not be a concern - until they lose homestead. Since ownership is very important for homestead purposes it's important for owners and assessors to understand the requirements for entity owned agricultural land. It is also important for assessors to have a basic understanding of the different types of entities. Please review the glossary for additional information on the types of entities.

Farming entities are regulated under Minnesota Statutes section 500.24 to own and farmland under that section in order to qualify for homestead. Entities including corporations, limited partnerships, limited liability companies, and trusts (except revocable trusts) must register with the Minnesota Department of Agriculture (MDA) by filing the Minnesota Corporate Farm Application prior to purchasing or engaging in farming of agricultural land. A copy of the application may be on their website: http://www.mda.state.mn.us/

The following types of entities are required to register with the MDA:

Entities subject to law	**Entities NOT subject to law**
Corporations (S-corps, C-corps, etc.)	Individual owners (sole proprietorships)
Limited Liability Companies (LLCs)	General Partnerships
Limited Partnerships (LPs)	Limited Liability Partnerships (LLPs)
Limited Liability Limited Partnerships (LLLPs)	Revocable Trusts
Trusts (except revocable trusts)	

Once an entity that is subject to the law meets the requirements of section 500.24, that entity is issued a letter of approval and is required to annually verify eligibility information with the MDA. The entity's name will also appear on MDA's database of approved entities. The database can be searched at: http://www2.mda.state.mn.us/webapp/lis/corpfarm_default.jsp.

In other words, any entity **other than individuals, general partnerships, LLPs, and revocable trusts**, must be listed on the website to be eligible for agricultural homestead. If the entity is

subject to the law and they are not listed on the website, they must contact MDA to get registered before making application for homestead.
Once an entity meets the requirements of 500.24, or if the entity is not required to meet the requirements as in the case of the entities listed in the right hand column above (individuals, general partnerships, LLPs, and revocable trusts), the requirements of section 273.124 must still be met for a property to be granted an agricultural homestead.

Entity Owned and Occupied

To qualify for an agricultural homestead, when an agricultural property is occupied by a qualifying member of an entity requires that the occupant is **actively engaged in farming**. This means that the occupant must participate on the farm on a regular and substantial basis. The homestead is granted in the name of the qualified person who is occupying the property, which means that the occupant and their spouse must not claim another agricultural homestead in Minnesota. If the property is classified as agricultural, there is no additional land size requirement for occupied agricultural homestead.

During the 2019 legislative session, statute was amended so that land owned by one entity could be operated by a separate entity and still potentially qualify for agricultural homestead. Under the new law, a different entity may operate the property if:

1. the **occupant** is a member of **both** the operating entity and the owning entity; and
2. more than half of the shareholders, members, or partners of **each** entity must be qualifying relatives.

All other requirements for entity owned and occupied agricultural homestead must still be met. The homestead would be granted to the **owning** entity on behalf of the occupant.

Primary Statutory Reference: 273.124, subd. 8; 500.24

Farms Owned by Trusts

Agricultural property owned by a trust is eligible to receive an agricultural homestead. The grantor of the trust is treated as "the owner" for homestead purposes. The "grantor" is defined as the person creating or establishing a trust.

The "type" of trust that is created is not of primary concern for homestead purposes. The property may be a "testamentary, *inter vivos*, revocable, or irrevocable trust" and no matter what type of trust, the grantor - or individuals of specific relation to the grantor - may be eligible for homestead. The homestead is granted in the name of the qualifying occupant – the grantor, grantor's surviving spouse, or qualifying relative that occupies the property. While grantors are treated as individual owners for trust property purposes, you must keep in mind that trusts are not individuals- they are entities.

Real property owned by a trust is eligible for homestead if:

1. the grantor/surviving spouse of the grantor of the trust occupies and uses the property as a homestead *(this is the same as an owner-occupied homestead)*;
2. a qualifying relative/qualifying surviving relative of the grantor occupies and uses the property as a homestead *(this is the same as a relative homestead)*;
3. a family farm corporation, joint farm venture, limited liability company or partnership that operates the trust property and the grantor/grantor's surviving spouse/qualifying relative is a member of the operating entity *(these are special agriculture homestead situations)*;

Agricultural property owned by a trust is eligible for an agricultural homestead if the grantor or surviving spouse of the grantor of the trust occupies and uses the property as a homestead. [See M.S. 273.124, subd. 21, paragraph (a).] This is treated in the same manner as an owner-occupied homestead.

If the grantor has passed away but the trust has not dissolved, the surviving spouse of the grantor may occupy the property and continue to receive homestead treatment. Once the trust is dissolved, ownership changes and homestead determinations are based on the ownership and occupancy facts at that time.

Example: A property was owned by a spousal trust. The wife was the sole grantor of the trust. She passed away, and her husband continues to reside on the farm. The trust is still active and remains as the "owner" of the property. The husband has since remarried. Is he still eligible for homestead as the surviving spouse of the grantor?

Yes. Regardless of having remarried, he is still considered the surviving spouse of the grantor of the trust for homestead purposes. Per Minnesota Statutes, section 273.124, subdivision 21, the property may be homestead.

Relative trust-held homesteads

Trust-held property can receive relative agricultural homestead if occupied by a qualifying relative of the *grantor* (creator) of the trust. If a relative *or surviving relative* of the grantor occupies and uses the property as a homestead, the property may be eligible for homestead treatment. See M.S. 273.124, subdivision 1, paragraphs c and d for lists of qualifying relatives.

Linking Parcels

Linking is the process of extending the benefits of either an agricultural or special agricultural homestead to other non-contiguous agricultural parcels. Before linking homestead to other agricultural parcels you must **establish** the homestead on a single parcel.

In other words, you must be sure that the established parcel qualifies for agricultural/special agricultural homestead before you can link to other agricultural parcels. This established parcel is called the **base parcel** if the homestead is occupied, or the **established main parcel** if the homestead is unoccupied.

Once you have established homestead on a parcel, then you can review the additional parcels for linking. Linking non-contiguous properties for agricultural homestead purposes may only be done if those properties qualify for the agricultural classification under section 273.13. Just because a base parcel qualifies for an agricultural homestead does not mean that the homestead may be linked to all property within 4 townships owned by that same person or entity.

First, the non-contiguous parcel(s) must qualify for the agricultural classification, meaning at least 10 contiguous acres must be used to produce an agricultural product for sale, then the assessor can determine whether the property meets the qualifications for linking the homestead.

- For example, Fred and Wilma own and occupy a 160-acre farm where they raise dairy cattle. In addition, they own a 40-acre parcel of wooded property approximately 6 miles from their home, which the assessor has classified as 2b rural vacant land. Can the wooded parcel be linked to the base parcel's homestead? **Answer: No**. To be linked for homestead purposes, the property must first be classified as 2a agricultural property. Since the property is wooded and classified as 2b rural vacant land and there is no agricultural production taking place on the property, the property cannot be linked to the base parcel for homestead purposes.

When the assessor verifies that the parcel qualifies for the agricultural classification, then the first step for linking is to verify ownership of the non-contiguous parcels. It is NOT appropriate to link properties **where the ownership differs**. This is the basic principle behind linking agricultural properties.

- For example, Entity D could not link the agricultural homestead to Entity F's agricultural parcels, because the ownership of the agricultural parcels are different, even if the members of the two entities are the same.

There are some **exceptions to the ownership** rules for linking, those exceptions are explained below:

Individual Ownership: a base parcel which is owned and occupied by an individual may be linked to a parcel of property that the owner owns with **other** individuals.

- For example, Ole and Lena own and occupy their own farm. Ole and Lena also own three parcels jointly with Ole's brother Sven and Sven's wife Uma. In this case, Ole and Lena may extend their agricultural homestead to the 50% ownership of the parcels they own with Sven and Uma.

For married couples, properties that are solely held in the name of one spouse may be linked to parcels that are solely held by the other spouse, and/or parcels that are titled in both names.

- For example, Ole owns parcel 1, Lena owns parcels 2 & 3, Ole & Lena own parcel 4. Ole and Lena occupy parcel 4, this is the base parcel. They can link the homestead from parcel 4 to the other three parcels that they own individually.

Trust Ownership: there are two exceptions for trust owned property and linking agricultural homestead. The first exception applies to an individually-owned parcel that may be linked to a trust-held parcel if the owners of the individually-owned parcel are the grantor(s) of the trust or they are the spouse/surviving spouse of the grantor(s) of the trust.

- For example, Ole and Lena own a farm, Lena occupies the farm, and Ole has passed away. The OL Family Revocable Trust, which Ole and Lena are the grantors, owns four additional agricultural parcels. The agricultural homestead from the base parcel may be linked to the other four, trust-held parcels since Lena is a grantor of the trust and the surviving spouse of Ole, the other grantor of the trust.

The second exception applies to separate parcels that are owned by different trusts, these trusts may be linked if the grantors of **each** trust are any combination of an individual, that individuals spouse, or that individuals surviving spouse.

- For example, Ole Trust owns parcel A and Lena Trust owns parcel B. Ole is the grantor of Ole Trust and Lena is the grantor of Lena Trust. Ole and Lena occupy parcel A. Since Ole is Lena's spouse, he can link the agricultural homestead from parcel A to parcel B which is owned by Lena Trust.

Agricultural Homestead Value-Tier Linking

Minnesota Statutes section 273.124, subdivision 8 allows **non-homestead agricultural land** to use remaining first-tier value under the following parameters:

- The **non-homestead agricultural land must be owned** by a family farm corporation, joint farm venture, limited liability company, or partnership

- The non-homestead land is located within four cities or townships, or combination thereof from the agricultural land that is owned and occupied as a homestead by an individual who is a shareholder, member, or partner of owning entity
    - This property must be individually owned and cannot be owned by a trust or entity.
- the owner, or someone acting on the owner's behalf must notify the county assessor by July 1 that the property may be eligible under this paragraph for the current assessment year, for taxes payable in the following year

What value gets linked?
Qualifying property is entitled to receive the first-tier homestead class rate on any remaining market value in the first homestead class tier that is in excess of the market value of the shareholder's, member's, or partner's class 2a agricultural homestead property.

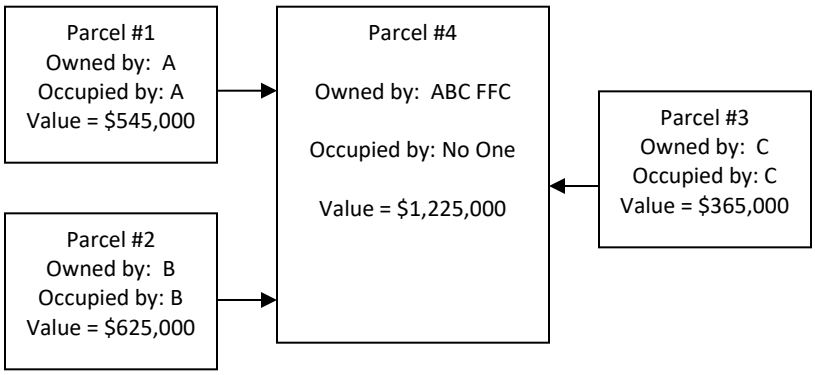
This means that agricultural property owned by a qualifying entity may be "linked" to an individual's agricultural homestead up to the amount remaining on the first tier of market value that is unused from the individual's homestead land. This does not mean that they qualify for the other benefits of homestead. The linked parcel should not receive agricultural homestead market value credit, nor should the fact that it is linked qualify the property for Green Acres benefits. Any market value that exceeds the first tier continues to receive the non-homestead class rate. This provision is not limited to the ownership percentage the individual has in the entity-held land. Owners must notify the county assessor by **July 1** that they have property that may qualify for value linkage for taxes payable the next year.

Example:
Ole and Lena own, occupy, and homestead their own farm. In addition, they own and farm additional farmland with Sven and Uma, which is owned under the name Norsk Family Farms, Inc. The family farm corporation has been approved to own and farmland under section 500.24. Ole and Lena can extend their first-tier homestead class rate to the corporately held land up to the first-tier value limit.

We urge all County Assessors Offices to develop a good record-keeping system and monitor qualifying properties on an ongoing basis for changes. In future years, the first tier of market value may either expand or contract, property ownership may change, or owners may apply on new or different properties.

Ag Homestead Value Tier Linkage Example:

Farmers A, B, and C each own and occupy their own farms. Together they also own land and farmland as ABC Family Farm Corporation which is within 4 cities or townships of all individually owned parcels. ABC Family Farm Corp. is authorized to own and farmland under section 500.24.



1. Start with each individually-owned Ag homestead parcel.
2. Link all the individually-owned parcels to the chain first.
3. Calculate the total value of these parcels.
4. If the amount is less than the first-tier value maximum (this amount can vary annually, so we will use $2.14 million for this example), then additional entity-owned parcels may receive the remaining value.

Individual Owner	Individually-Owned Homestead Parcel(s) Values	+	Remaining First-tier Homestead Value *(to carry over to entity-owned property)*	=	Maximum First Tier Value Amount (for current assmt)
Owner A (Parcel 1)	$545,000		$1,595,000		$2,140,000
Owner B (Parcel 2)	$625,000		$1,515,000		$2,140,000
Owner C (Parcel 3)*	$365,000		$1,775,000		$2,140,000
Total Value Available to Carry Over to Entity-Owned Property (Parcel #4)			**$4,885,000**		

* Since Parcel 4 is only valued at $1,225,000 and there is $4,885,000 of total value available to carry over, the entire parcel is at the ag homestead class rate. The owners have additional value that **could** potentially be carried over to another qualifying entity-owned property. If the total value available to carry over is less than the value of the entity-owned parcel, the remaining value should be classified as agricultural non-homestead.

1. **Does this mean the property receives all the other benefits of homestead such as Green Acres benefits?**

   Answer: No. This "linkage" represents a linkage for ***classification rate*** purposes only. It does not refer to the more commonly understood "linkages" that convey the other homestead benefits such as agricultural homestead market value credits or allow the property to qualify for any subsequent Green Acres benefits. It does not confer any other homestead benefits. Therefore, in programming terms, the new law does NOT address multi-parcel homestead linkages. Instead, it has effectively created a new classification that is tied to the first-tier homestead value limit. Because programming for this situation may be impossible or ill-advised, it may best be addressed via manual maintenance, at least until the provision has matured in practice.

2. **Does the agricultural homestead value linkage extend to agricultural relative homesteads or to special agricultural homestead situations?**

   Answer: No. Minnesota Statutes, section 273.124, subdivision 8, paragraph (d) specifies *"Nonhomestead agricultural property that is owned by a family farm corporation, joint farm venture, limited liability company, or partnership; and located not farther than four townships or cities, or combination thereof* ***from agricultural land that is owned, and used for the purposes of a homestead by an individual*** *[emphasis added] who is a shareholder, member, or partner of the corporation, venture, company, or partnership..."*

   Agricultural relative homesteads are granted in the name of the relative who is occupying the property, they are not granted in the name of the owner of the property. In addition, since special agricultural homesteads are based on farming activity during the current crop year, they are not finalized until the December 31 application deadline, which is after the deadline by which taxpayers must notify assessors that they qualify under this provision.

3. **If the base parcel is a special agricultural actively farming homestead, is entity-owned land eligible for the first-tier rate up to the maximum?**

   Answer: No. The "base" parcel for this value linking provision must be an individually-owned, owner-occupied property. The base parcel may not be owned by a family farm corporation or other entity.

4. **In the example, what if property owner A had a value of $1,000,000, property owner B had a value of $700,000 and property owner C had a value of $365,000. Will we need to break out multiple records manually each year so that they reach the threshold – so property owner A could get another $140,000, B could have $440,000 and C could have $775,000?**

   Answer: Yes. The first-tier homestead may change each year. The value allowed under the first tier may go up or down each assessment year, so each linkage would need to be recalculated on an annual basis as long as there is value to link to on the entity-owned parcel. The property owner must notify you of potentially affected parcels.

5. **In the past, we have always looked at the percentage of ownership and split accordingly. This will be difficult to administer if ownership isn't treated equally or to the percentage of interest in that parcel or LLC.**

   Answer: When granting homesteads to entity-owned properties, there is no need to base it on the percentage of ownership in the entity. In fact, there is no basis in law for you to do so. Rather the law only requires that the person be a "qualified person" (a shareholder, member, or partner) in an authorized entity. The percentage of ownership generally only factors into the equation when a sole proprietor owns the property.

Past Agricultural Homestead Scenarios

There are several situations where a property may currently receive a homestead under a provision that no longer applies. No new homesteads should be granted under the following provisions, but properties who are currently receiving homestead may continue to do so.

1. ***Less than 10 acres*:** Property of less than 10 acres that was homesteaded by its owner **for the 1998 assessment** is grandfathered in as an agricultural homestead if:

    a. The parcel on which the house is located is contiguous on at least two sides to either agricultural land, land owned or administered by the U.S. Fish and Wildlife Service, or land administered by the DNR on which payments in lieu of tax are made under sections 477A.11 to 477A.14; AND
    b. The owner also owns a noncontiguous parcel of agricultural land that is at least 20 acres in size; AND
    c. The noncontiguous land is located not farther than four townships, cities or a combination thereof from the homestead; AND
    d. The agricultural use value of the noncontiguous land and farm buildings is equal to at least 50% of the market value of the house, garage and one acre of land.

    This homestead is granted in the name of the owner/occupant.

    Primary Statutory Reference: 273.124, subd. 14, para. (a)

2. ***Flooded agricultural homesteads:*** Agricultural land and buildings that were agricultural homestead property for the 1997 assessment shall remain classified as agricultural homestead for subsequent assessments if:

    a. The property owner abandoned the homestead dwelling located on the agricultural homestead as a result of the April 1997 floods; AND
    b. The property is located in either Polk, Clay, Kittson, Marshall, Norman, or Wilkin counties; AND
    c. The agricultural land and buildings remain under the same ownership for the current assessment year as existed for the 1997 assessment and continue to be used for agricultural purposes; AND
    d. The dwelling occupied by the owner is located in Minnesota and is within 30 miles of one of the parcels of agricultural land that is owned by the taxpayer; AND
    e. The owner notified the county assessor that the relocation was due to the 1997 floods, and the owner furnished the assessor any information deemed necessary by the assessor in verifying the change in dwelling.

    This homestead should be granted in the name of the owner.

    Primary Statutory Reference: 273.124, subd. 14, para. (e)

3. ***Tornado-affected agricultural homesteads:*** Agricultural land and buildings that were agricultural homestead property for the 1998 assessment shall remain classified as agricultural homesteads for subsequent assessments if:

    a. The property owner abandoned the homestead dwelling located on the agricultural homestead as a result of damage caused by a March 29, 1998 tornado; AND
    b. The property is located in either Blue Earth, Brown, Cottonwood, Le Sueur, Nicollet, Nobles, or Rice counties; AND
    c. The agricultural land and buildings remain under the same ownership for the current assessment year as existed for the 1998 assessment year; AND
    d. The dwelling occupied by the owner is located in Minnesota and is within 50 miles of one of the parcels of agricultural land that is owned by the taxpayer; AND
    e. The owner notifies the county assessor that the relocation was due to a March 29, 1998 tornado and the owner furnishes the assessor any information deemed necessary by the assessor in verifying the change in homestead dwelling.

    This homestead should be granted in the name of the owner.

    Homesteads can no longer be established under this provision but homesteads granted under this provision for the 1998 assessment may continue as long as the ownership remains the same and any dwellings remain uninhabited.

    Primary Statutory Reference: 273.124, subd. 14, para. (f)

4. ***Flooded agricultural homesteads.*** Agricultural land and buildings that were agricultural homestead property for the 2007 assessment shall remain classified as agricultural homestead for subsequent assessments if:

    a. The property owner abandoned the homestead dwelling located on the agricultural homestead as a result of the August 2007 floods; AND
    b. The property is located in either Dodge, Fillmore, Houston, Olmsted, Steele, Wabasha, or Winona counties; AND
    c. The agricultural land and buildings remain under the same ownership for the current assessment year as existed for the 2007 assessment and continue to be used for agricultural purposes; AND
    d. The dwelling occupied by the owner is located in Minnesota and is within 50 miles of one of the parcels of agricultural land that is owned by the taxpayer; AND
    e. The owner notified the county assessor that the relocation was due to the August 2007 flood, and the owner furnished the assessor any information deemed necessary by the assessor in verifying the change in dwelling.

For taxes payable in 2009, the owner must have notified the assessor by December 1, 2008, of their eligibility for this special agricultural homestead.

Homesteads can no longer be established under this provision but homesteads granted under this provision for the 2008 assessment may continue as long as the ownership remains the same and any dwellings remain uninhabited.

Primary Statutory Reference: 273.124, subd. 14, para. (i)

5. ***Flooded agricultural homesteads.*** Agricultural land and buildings that were class 2a homestead property under section 273.13, subdivision 23, paragraph (a), for the 2008 assessment shall remain classified as agricultural homestead for subsequent assessments if:
   (1) The property owner abandoned the homestead dwelling located on the agricultural homestead as a result of the March 2009 floods;
   (2) The property is located in Marshall County;
   (3) The agricultural land and buildings remain under the same ownership for the current assessment year as existed for the 2008 assessment year and continue to be used for agricultural purposes;
   (4) The dwelling occupied by the owner is located in Minnesota and is within 50 miles of one of the parcels of ag land that is owned by the taxpayer; and
   (5) The owner notifies the county assessor that the relocation was due to the 2009 floods, and the owner furnishes the assessor any information deemed necessary by the assessor in verifying the change in dwelling. Further notifications to the assessor are not required if the property continues to meet all the requirements in this paragraph and any dwellings on the agricultural land remain uninhabited.

Special Agricultural Homesteads

Special agricultural homesteads were introduced after a series of floods in the late 1990's forced residents off their properties. The legislature introduced these measures to allow those affected to retain their homesteads, even though they did not occupy the property anymore. Today, special agricultural homestead has expanded to include many scenarios that are not predicated on natural disasters. Given the rapid expansion of statute, some scenarios can be more difficult to evaluate than they appear. Therefore, in addition to the information contained in this section, please consult the department's agricultural homestead flowcharts located at the end of this module. These flowcharts give a glossary of terms and can help determine a property's eligibility for agricultural homestead.

General information can be found on the Special Agricultural Homestead page.

What is the difference between agricultural homesteads and special agricultural homesteads?

- Agricultural homesteads are granted when property owners/qualifying relatives/qualifying persons of an entity/grantors ***live*** on the farm and meet all other requirements.
- Special agricultural homesteads are cases where the property owners/qualifying persons of an entity/grantors/active farmer that ***do not live*** on the farm but live within 4 cities/townships of the agricultural property.
- There are fewer types of qualifying relatives for special agricultural homestead- only grandchildren, children, siblings, or parents of the owner or of the spouse of the owner are considered qualifying relatives.
- In most cases, if a property is occupied, it doesn't matter who farms the land to qualify for agricultural homestead; but when the property is unoccupied the farmer/operator of the land is a very important factor when determining whether that property qualifies for special agricultural homestead.

All special agricultural homesteads must meet the following basic requirements:

- The agricultural property is at least 40 acres, including undivided government lots and correctional 40s.
- The person receiving homestead and their spouse must not claim another agricultural homestead in Minnesota.
- The person receiving homestead and their spouse must live within four cities or townships of the agricultural property.
- The person receiving homestead must be a Minnesota resident.

These requirements are described in more depth later in the module. Other factors apply depending on whether a property is owned by an individual, and entity, or a trust.

We have tried to simplify the process by developing a flow chart that is based on three basic questions:

1. Who owns the property?
2. Who occupies the property?
3. Who farms the property?

Using the flow chart at the end of this module, and the answers to these questions, you should be able to determine who qualifies for special agricultural homestead. The flow chart includes a section to indicate on whose behalf the property receives the homestead. This is the person whose Social Security number or individual taxpayer identification number should be entered into the property tax system.

There is also a row to highlight which homestead application form should be used in each situation. You may use the appropriate re-application form in subsequent years when nothing has changed since the original special ag homestead application was completed.

Special Ag homestead applications are to be used for the current assessment year for taxes payable in the following year. It is important to remember that special Ag homesteads must be applied for on an annual basis based on current crop year. These forms should be provided to taxpayers by the county.

Special Agricultural Homestead for Property Owned by Individuals

If a person owns a piece of agricultural land but does not occupy it, they still may qualify for a special agricultural homestead. First, they must meet the basic criteria listed above: the agricultural parcel is at least 40 acres, the owner lives within four cities or townships from the agricultural parcel, and the owner and their spouse do not claim another agricultural homestead in Minnesota. Assuming those criteria are met, the next piece of information that is needed is **who farms** the property.

The easiest way for an assessor to determine who is farming the property is by checking who is listed as the operator on the farm's 156-EZ form that is submitted to the Farm Service Agency (FSA). If the farmer is the owner, owner's spouse, or a qualifying relative of the owner who is actively farming the property either on their own behalf or on behalf of the operating entity of which the relative is a qualified member, the property could qualify for special agricultural homestead. That farmer/operator must also live within four cities or townships of the property, must be a Minnesota resident, and must be **actively farming** the property. This means that they are participating in the day-to-day decision making, labor, administration, and management of the farm, and shares in a portion of the financial risks, profits, and losses. If these conditions are met, then the owner is eligible to receive a special agricultural homestead for the property.

If an entity is listed as the operator, then there are additional conditions that must be met to grant a special agricultural homestead. The owner of the property must be a **qualified person**

of the entity for the property to qualify for a special agricultural homestead. A qualified person of the entity also must be actively farming, though it does not **need to be the owner**. That person also must be a Minnesota resident, not claim another agricultural homestead, and must live within four cities or townships of the property. If these conditions are met, then the qualified person who is actively farming receives the homestead for the property.

Special Agricultural Homestead for Property Owned by Entities

If an authorized entity owns a property that is unoccupied, they potentially can qualify for a special agricultural homestead. Because the property is not owned by a physical person, a **qualified person** of the authorized entity must qualify the property. More information regarding entity-owned homesteads can be found in the "Farms Owned by Entities" section of this module.

Agricultural homestead for entity-owned property is limited to those entities with 12 or fewer members, shareholders, or partners that are authorized to own and farm land under Minnesota Statutes, section 500.24. If there are 13 or more shareholders, members, partners, the entity cannot receive any homesteads. Assessors will need to verify the number of shareholders, members or partners involved in the entity. This information is typically specified in the legal documents (i.e. articles of incorporation, etc.) that are drawn up when the entity is formed. It should also be noted that if a shareholder, member, or partner is married, the spouse is not automatically considered a separate shareholder, member, or partner. Again, you must view the organizational documents to determine exactly who the shareholders, members, or partners are in the entity.

For an entity-owned special agricultural homestead, a qualified person of the owning entity must be actively farming the property. That same person must be a Minnesota resident, live within four cities or townships from the property, and they and their spouse must not claim another agricultural homestead in Minnesota. If these conditions are met, then the qualified person who is actively farming qualifies the property for a special agricultural homestead.

During the 2019 legislative session, statute was amended to allow unoccupied property owned by one entity to be operated by a different entity if certain conditions are met. Previously, if an entity-owned property was to receive special agricultural homestead, the same entity needed to both own **and** operate the property. Under the new law, a different entity may operate the property as long as:

1. the active farmer is a member of both the operating entity and the owning entity; and
2. more than half of the shareholders, members, or partners of **each** entity must be qualifying relatives.

If all these conditions are met along with the rest of the requirements for entity owned special agricultural homestead, the homestead would be granted to the **operating** entity on behalf of the active farmer.

Special Agricultural Homestead for Property Owned by Trusts

If a trust owns a piece of agricultural land but that is unoccupied, they still may qualify for a special agricultural homestead. Trust owned property follows very similar rules as individually owned property, but because there is no owner the **grantor** of the trust must meet the criteria to qualify for a special agricultural homestead. Note that this is not the beneficiary of the trust, but the person(s) who initially set up the trust.

For a trust-owned property seeking a special agricultural homestead, they first must meet the same above criteria- the agricultural parcel is at least 40 acres, the grantor lives within four cities or townships from the agricultural parcel, and the grantor and their spouse do not claim another agricultural homestead in Minnesota. Similar to individual-owned special agricultural homestead, it is important to determine if an authorized entity leases the agricultural property. The easiest way for an assessor to determine who is farming the property is by checking who is listed as the operator on the farm's 156-EZ form that is submitted to the Farm Service Agency (FSA). If there is **no** formal lease on the land and a person is listed as the operator, that person must be the grantor or qualifying relative of the grantor. That person must also live within four cities or townships of the property, must be a Minnesota resident, and must be **actively farming** the property. This means that they are participating in the day-to-day decision making, labor, administration, and management of the farm, and shares in a portion of the financial risks, profits, and losses. If these conditions are met, then the grantor is eligible to receive a special agricultural homestead for the property.

If an entity is listed as the operator, then there are additional conditions that must be met to grant a special agricultural homestead. If an entity is the operator, then there is an assumption that a lease exists for the entity to farm the property, even if there is no official lease recorded. The grantor or the grantor's surviving spouse of the property must be a **qualified person** of the entity in order for the property to qualify for a special agricultural homestead. A qualified person of the entity also must be actively farming, though it does not need to be the grantor. That farmer also must be a Minnesota resident, not claim another agricultural homestead, and must live within four cities or townships of the property. If these conditions are met, then the qualified person who is actively farming receives the homestead for the property.

Here are a few situations in which "special agricultural homesteads" may be granted to trust-held property:

Situation 1

Agricultural property that is held under a trust that is not occupied but is actively farmed by the grantor of the trust, the spouse of the grantor, or a grandchild, child, sibling or parent of the owner/grantor or spouse/grantor may also qualify for special agricultural homestead under M.S. 273.124, subd. 14, paragraph (b) clause (ii):

- The agricultural property must be at least 40 acres in size.
- The property can be actively farmed on behalf of an authorized entity of which the active farmer is a qualified person.
- Both the grantor of the trust and the active farmer must be Minnesota residents.
- Neither the grantor nor the grantor's spouse can claim another agricultural homestead in Minnesota.
- Neither the grantor nor the active farmer can live farther than 4 cities/townships or a combination thereof from the agricultural property (unless the grantor or the grantor's spouse is required to live in employer-provided housing).

Situation 2

If a grantor or grantor's surviving spouse is a member, shareholder, or partner of a family farm corporation, joint farm venture, limited liability company, or partnership of which the operating a family farm **and the property is leased by the trust to that entity**, the property may qualify for homestead if a shareholder, member or partner of the corporation, joint farm venture, limited liability company or partnership occupies and uses the property as a homestead. [M.S. 273.124, subdivision 21, paragraph (c).]

This provision is not technically "active farming" because the property is occupied and used as a homestead, but is similar to those determinations because of the leasing of the property to an authorized entity. Please note that this applies to cases where the grantor is a member of a qualifying entity or cases where the grantor has passed away and the *surviving spouse* is a member of a qualified entity (i.e., the trust is not dissolved and still owns the property but the grantor has passed away).

Situation 3

If a grantor or grantor's surviving spouse is a member, shareholder, or partner of a family farm corporation, joint farm venture, limited liability company, or partnership which is operating a family farm **and the property is leased by the trust to that entity**, the property may qualify for homestead if the property is at least 40 acres (including undivided government lots and correctional 40's) and a shareholder, member, or partner of the tenant-entity is actively farming the property on behalf of the corporation, joint farm venture, limited liability company, or partnership.

Please note that this applies to cases where the grantor is a member of a qualifying entity or cases where the grantor has passed away and the *surviving spouse* is a member of a qualified entity (i.e., the trust is not dissolved and still owns the property but the grantor has passed away). [M.S. 273.124, subdivision 21, paragraph (c).]

Primary Statutory Reference: 500.24, 273.124

FAQ's for Property Owned by a Trust

A property is owned by a trust. The grantor of the trust is deceased, but the daughter has applied for relative homestead. Can homestead be applied if the grantor/relative is deceased?

The daughter who is occupying the property would qualify for a relative homestead because she is a qualifying relative of the grantor of the trust, even if that grantor is deceased as stated in Minnesota Statute 273.124, subdivision 21.

Are the homestead rules different if the trust is created by court order?

Minnesota Statutes, section 273.124, subdivision 21, outlines the provisions for which property held under a trust may be eligible for homestead treatment.

In the scenario outlined, a qualifying surviving relative occupies the property and uses it for purposes of a homestead. The law does not state that trusts created by a court order should be treated differently, therefore the property is eligible for homestead.

An agricultural property was put into a trust with the grantor retaining life estate. The grantor had to move into a nursing home. There is a second residence on the property that is occupied by the grantor's son and daughter-in-law. That second residence is receiving a residential relative homestead. The grantor of the trust has passed away. How should homestead be granted to this property when the grantor is deceased?

Language in Minnesota Statutes, section 273.124, subdivision 21, paragraph (b) allows for agricultural relative homesteads on trust-held properties if the property is occupied by "a relative or ***surviving relative*** of the grantor who meets the requirements of subdivision 1, paragraph (d). In other words, although the grantor of the trust has passed away, a qualifying surviving relative occupies the property. Therefore, the property may qualify for an agricultural relative homestead.

There is also the question if the trust is considered "null and void" when the grantor passes away. The answer, of course, depends. When the conditions of the trust are satisfied or if it is dissolved, the estate would be disposed of according to the trust. At that time, the property would transfer ownership depending on the beneficiary or beneficiaries of the estate. At the time of transfer, the county will need to review the homestead status according to the new ownership.

A farmer put all of his property into a trust. His grandson lives in the farmhouse. His son and daughter receive an actively farming special agricultural homestead on the agricultural land and the house, garage, and one acre is classified as a residential relative homestead. The farmer is now deceased. Can we continue to grant both the son/daughter actively farming special agricultural homestead and the residential relative homestead until the property ownership changes?

In our opinion, the death of the grantor of the trust does not change the homesteads on this property. The son/daughter and the grandson remain qualifying relatives of the grantor of the trust. Therefore, the actively farming special agricultural homestead and the residential relative homestead may continue until such time as the property's ownership changes (e.g., when the trust is dissolved).

A farm property was transferred from individual ownership to a trust. The grantors of the trust are parents and the trustees are their two children. The grantors live in another county (away from the trust property) and the trustees each own individual properties that are contiguous to the trust property. The trust land is farmed by a non-relative. Can the trust property be linked to the qualifying relative's properties for homestead treatment?

Only the grantors of a trust or their spouse can link an individually-owned parcel to another parcel held by the trust. The trustees cannot be linked to the trust property and cannot receive homestead on it. In this particular case, because the property is farmed by a non-relative, the property is not eligible for homestead benefits.

Four Cities/Townships or Combination Thereof Rule

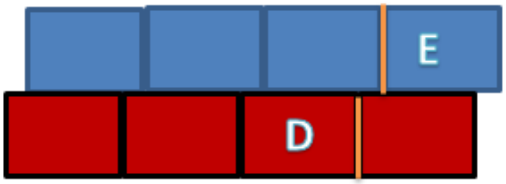
This rule is consistent for **all** types of non-contiguous farm homestead property. Non-contiguous farmland must be located within four cities, townships or a combination of four cities and townships in order to be linked to the base parcel and therefore qualify for homestead. For example, if the base parcel is located in township A, then farm land could also be in township A, B, C, D or E to qualify for homestead. Land located in township F does not qualify.

This rule has been tested and upheld in Minnesota Tax Court (see *Allan W. and Janet T. Lamkin v. County of Sibley*, C2-02-70, 2002).

Base Parcel	**YES**	**YES**	**YES**	**YES**	**NO**
Township **A**	Township **B**	Township **C**	Township **D**	Township **E**	Township **F**

It should also be noted that corner-to-corner townships can be counted as contiguous. An example illustrated later should help clarify this explanation.

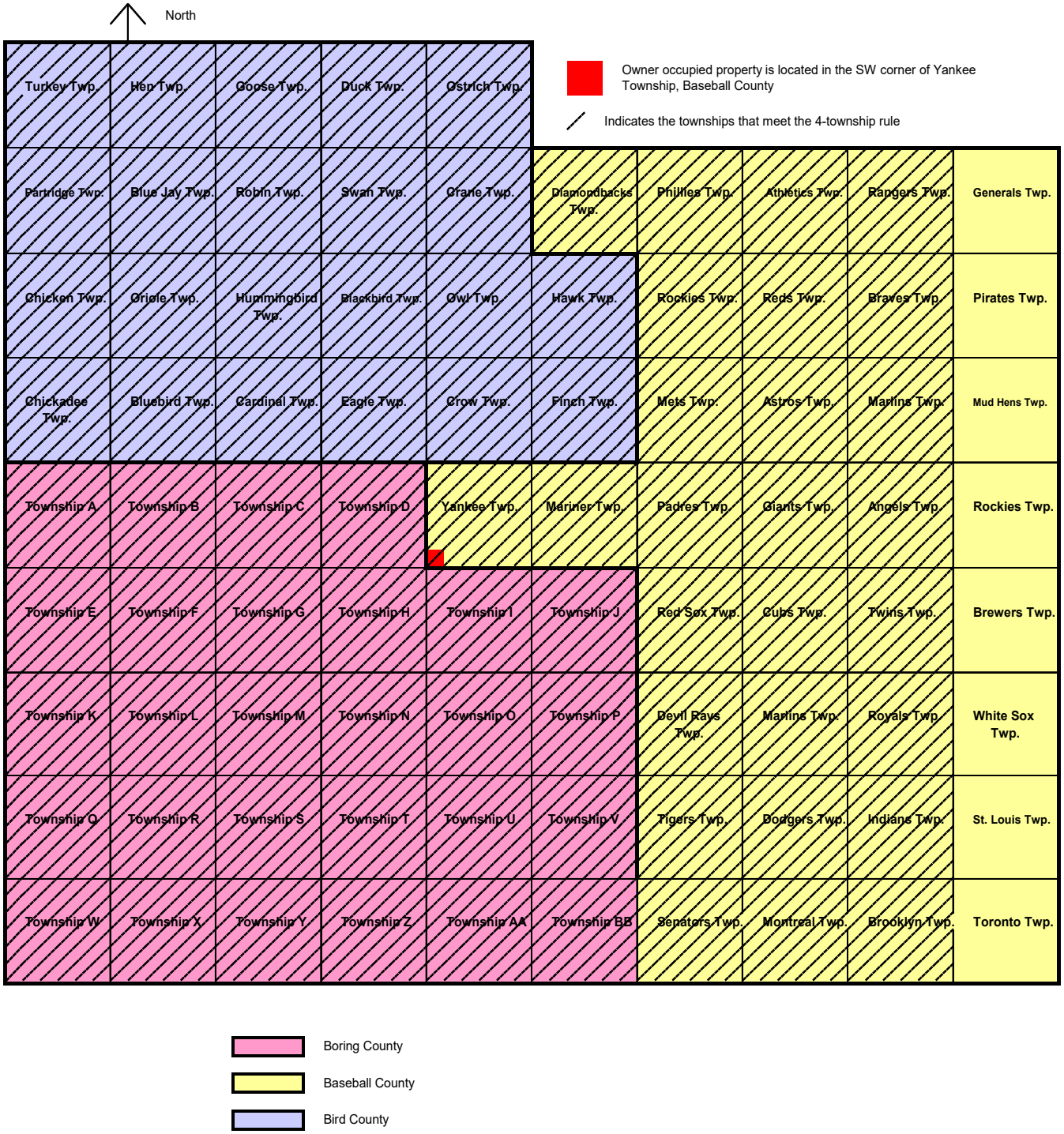
Additionally, some townships do not line up corner-to-corner because of correction lines. These are lines that correct for the curvature of the earth, resulting in townships not being perfectly aligned. The Department of Revenue has determined that two townships that **would** be contiguous without these correction lines can be treated as contiguous. In the example below, the correction line is highlighted, and Township D and E can be treated as contiguous.



It must be stressed that all non-contiguous land must qualify for the agricultural classification on its own merits under Minnesota Statutes, section 273.13**, meaning that there must be at least 10 acres in agricultural production, or there must be an exclusive or intensive agricultural use. Just because the base parcel qualifies for the ag class, it does not mean that everything a farmer owns within 4 cities/townships then automatically qualifies for ag homestead.** Properties that do not meet the statutory requirements for the agricultural classification under section 273.13 are not to be considered part of the homestead, and are to be classified according to use.

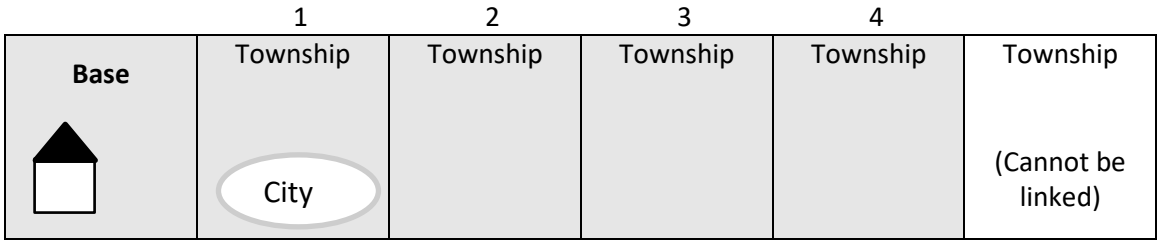
Special Agricultural Homestead

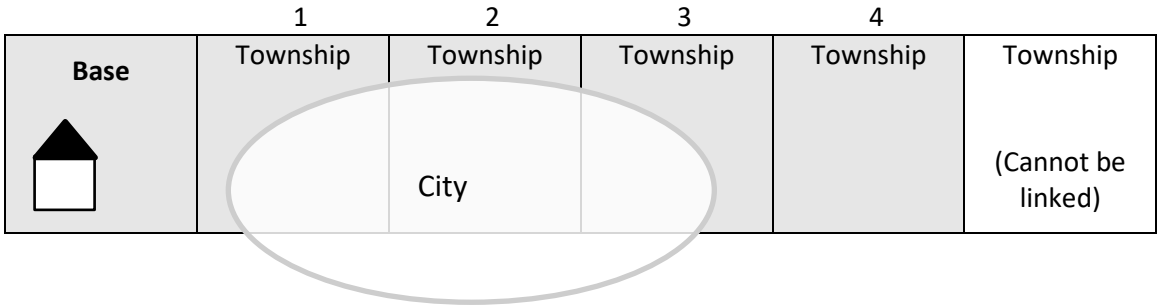
Four Township Rule

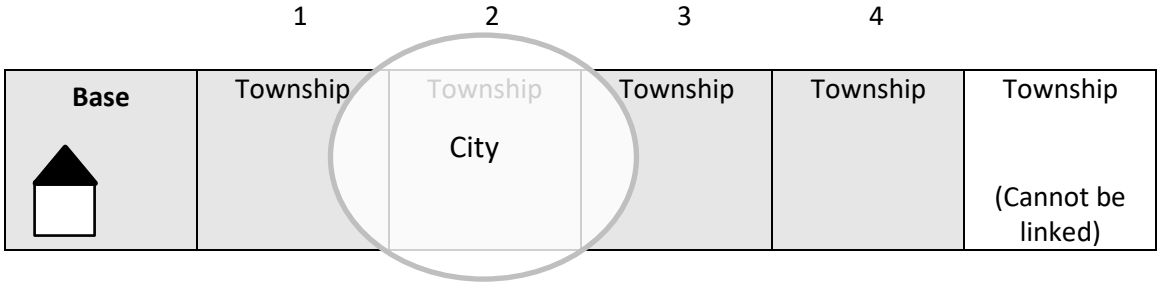


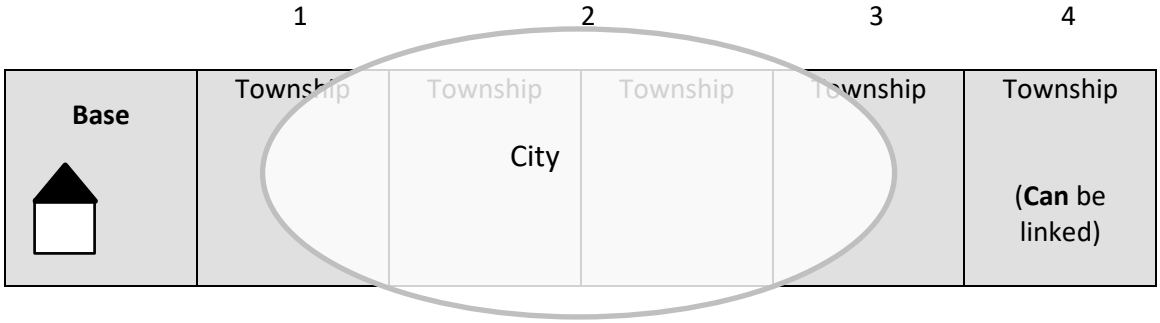
Though not specifically stated, Department of Revenue has said the townships referred to in this statute include congressional townships. If unorganized districts or municipalities are located within these townships, they should not be counted in addition to the township. However if the unorganized district or municipality covers multiple townships, the townships should be counted.

Examples:









Over 50% Rule

This policy was developed in 2001 and applies ***only to special agricultural homesteads where no one lives on the farm.***

In order for land to qualify for an actively farming homestead, over 50% of the class 2a land (**excluding** CRP, RIM, CREP, etc.) must be actively farmed by the person who is receiving the homestead.

Information:

- **Farmed land** is defined as land that is used for agricultural purposes and qualifies as class 2a.
- Land enrolled in CRP/CREP/RIM, by definition, is **not farmed land**, even if it qualifies for the 2a classification. The CRP/CREP/RIM acres are excluded from determining whether the property owner actively farms over 50% of the class 2a land.
- Wetlands, wastelands, wooded land, etc. and other acreage classed by the assessor as 2b rural vacant land or other are **not farmed land**, even if they are a part of the agricultural homestead land mass.
- Land that is rented out to another farmer who is farming it **is** considered to be agricultural (farmed) class 2a land.
- Each non-contiguous land mass must qualify on its own merits. Just because a farmer meets the requirements for one of the land masses they own, that **does not** carry over to all property the farmer owns within four townships/cities.
- The rule **does** allow a farmer to enroll only one parcel rather than an entire contiguous land mass in actively farming if he/she is farming only one parcel in a contiguous land mass.

The examples on the next page should help provide clear direction as to whether or not a property qualifies for a special agricultural homestead.

Example #1
A farmer lives on a residential parcel in City X and receives a residential homestead. The farmer also has a 200-acre farm, but he only actively farms 100 acres himself. He rents 60 acres to his neighbor. The other 40 acres are wetlands and are class 2b.

Step #1: Take the total acreage of the parcel/land tract and subtract the acreage that is not farmed.

(200 total acres – 40 acres wetland) = 160 farmed acres

Step #2: Divide the number of acres actively farmed by the owner by the number of total farmed acres.

100/160 = .625 or 62.5%

Step #3: The answer must be greater than .50 or 50% in order to be eligible for a special ag homestead.

.625 (62.5%) > ***.50 (50%)***

The property may be granted an actively farming homestead if all other requirements are met.

Example #2
A farmer lives on a residential parcel in City X and receives a residential homestead. The farmer also owns three contiguous 100-acre parcels which are entirely class 2a agricultural land and are farmed. He rents out two of the parcels and actively farms the third parcel himself. In this case, he only farms 1/3, or 33 1/3%, of the farmed land mass. He could receive a special ag homestead on only the 100-acre parcel that he actively farms. The other two 100-acre parcels **would not** be eligible for an actively farming homestead.

Step #1: Take the total acreage of the parcel/land tract and subtract the acreage that is not farmed.

(300 total acres – 0 acres that are not farmed) = 300 farmed acres

Step #2: Divide the number of acres actively farmed by the owner by the number of total farmed acres.

100/300 = .333 or 33.3%

Step #3: The answer must be greater than .50 or 50% in order to be eligible for an actively farming homestead.

.333 (33.3%) < ***.50 (50%)***

The entire contiguous land mass that he owns* ***cannot* *be granted an actively farming homestead.* ***However****, the farmer may receive a special ag homestead on the 100-acre parcel that he is actively farming. The two parcels that are rented to the neighbor should remain class 2a agricultural non-homestead.*

Special Ag Homesteads after the Assessment Date (Mid-Year Homesteads)

Minnesota Statutes, section 273.124, subdivision 9, provides that when *non-homesteaded* property is purchased after the assessment date but on or before December 31, and the property is used in conjunction with the primary homestead, it is eligible for a mid-year homestead provided the owner makes application by the statutory deadline of December 31.

However, special circumstances may arise in the case of special ag homesteads because the homestead is granted or denied based on the ***current crop year***. If a buyer purchases property from a seller who occupied the property as their homestead on January 2 of the assessment year, obviously the homestead would continue for that assessment year until January 2 of the following assessment year, when the homestead would be subject to change. Assessors will have to use their judgment in these cases, keeping in mind the requirements of farming during the "current crop year." The following examples are meant to provide guidelines.

Example #1
A buyer purchases non-homesteaded agricultural land on April 1 – can the buyer file for a special ag homestead on the property? **Answer:** Yes.

Example #2
A buyer purchases non-homesteaded agricultural land on July 1 (the crop has been planted by the previous owner but has not been harvested) – can the buyer file for special ag homestead on the property? **Answer:** It depends. If the buyer plans to farm it, harvest it, etc., for the remainder of the current crop year and meets all of the other requirements, a special ag homestead may be granted.

Example #3
A buyer purchases non-homesteaded ag land on November 30 (the seller planted and harvested the crop) – can the buyer apply for a special ag homestead since he owns the property on December 31 but did not perform any of the work for the current crop year? **Answer:** No. Since the current crop year is over, the farmer should not be granted a special ag homestead for the current year.

Example #4
A buyer purchases non-homesteaded ag land (pasture land) – can the buyer apply for a special ag homestead since he owns the property on December 31? **Answer:** Possibly if the buyer can prove that he/she is using it agriculturally by having livestock in the pasture. This is where the decision is best left to the discretion of the assessor.

Example #5
A husband and wife have a residential homestead. Every other year, they lease their agricultural land to a corporation which farms potatoes. They farm it themselves on the alternating years. Since special ag homestead must be applied for on an annual basis, can they receive a special ag homestead during the years that they actually farm? **Answer:** Yes. However, the assessor should require that they fill out the full application in the years they farm. In this case, it would not be appropriate for them to fill out the re-application for the years they farm.

Poultry

There has been some confusion in that in Minnesota Statutes, section 500.24, the definition of farming states that farming does not include poultry production. However, poultry is considered to be an agricultural product in Minnesota Statutes, section 273.13, for purposes of classifying property. Therefore, poultry production should not preclude anyone from receiving a homestead under Minnesota Statutes, section 273.124.

Actively Engaged in Farming vs. Actively Farming
Prior to examining the specific scenarios of special agricultural homesteads, we must have a basic knowledge differences between those who are "actively farming" and those who are "actively engaged in farming." There are several differences between these two concepts.

Actively Engaged in Farming applies when the agricultural property is **occupied**. It also involves participation on the farm on a regular and substantial basis but it is not as much direct involvement and participation as "actively farming."

Actively Farming generally applies in situations where the agricultural property is **unoccupied**. The person must participate in the day-to-day decision-making and labor on the farm. They must contribute to the administration and management of the farming operation and they must assume all or a portion of the financial risks and sharing in any profits or losses of the farm.

Using the Flow Chart
The flow chart is organized around three key questions:

- **Who owns the property?**
- **Who lives on the property?**
- **Who farms the property?**

REMEMBER: It is assumed that the owner has enough ownership interest in the property to claim homestead, and it is assumed that the land meets the requirements for the agricultural classification as specified under Minnesota Statutes, section 273.13, subdivision 23.

Actively Farming Scenarios

Actively farming homesteads generally occur where no one occupies the farm. In order to qualify for an "actively farming" homestead, there are several special provisions to keep in mind:

- If a property is entirely enrolled in CRP/CREP/RIM, it is NOT eligible for an actively farming homestead, because by definition, it cannot be farmed.
- Over 50% of the class 2a agricultural land excluding CRP, RIM, CREP, etc. (on either the parcel or the contiguous land mass) must be actively farmed by the person receiving the homestead.
- Property with an actively farming homestead is NOT eligible for PTR because there is no HGA that receives the homestead.

1. Agricultural property that is owned by a natural person, but not occupied, and is actively farmed by the owner, the owner's spouse, OR a grandchild, child, sibling or parent of the owner or the owner's spouse. It may be farmed on behalf of an authorized entity of which the active farmer is a qualified person.
    - The agricultural property must be at least 40 acres in size.
    - Both the owner and the active farmer must be Minnesota residents.
    - Neither the owner nor the owner's spouse may claim another agricultural homestead in Minnesota.
    - Neither the owner nor active farmer can live farther than 4 cities/townships or a combination thereof, from the actively farmed agricultural property (unless the owner or the owner's spouse is required to live in employer-provided housing).

Primary Statutory Reference: 273.124, subd. 14, para. (b), clause (i)

2. Agricultural property is owned by a natural person, but not occupied, and is leased from the owner who is a qualified person in the authorized entity, to that authorized entity, and the property is actively farmed by a qualified person of that entity.
    - The agricultural property must be at least 40 acres in size.
    - The qualified person who is actively farming must be a Minnesota resident.
    - Neither the qualified person actively farming nor the farmer's spouse can claim another agricultural homestead in Minnesota.
    - Neither the owner nor the qualified person who is actively farming the property lives farther than 4 cities/townships or a combination thereof from the agricultural property. (There is no exception to this requirement!)

Primary Statutory Reference: 273.124, subd. 14, para. (g)

3. Agricultural property is owned by an authorized entity, but is not occupied, and is actively farmed by a qualified person of that entity.
    - The agricultural property must be at least 40 acres in size.

- The qualified person who is actively farming the property on behalf of the entity must be a Minnesota resident.
- Neither the qualified person who is actively farming nor their spouse can claim another agricultural homestead in Minnesota.
- The qualified person who is actively farming cannot live farther than 4 cities/townships or a combination thereof from the agricultural property. (There is no exception to this requirement!)

Primary Statutory Reference: 273.124, subd. 14, para. (g)

4. Agricultural property is held under a trust, but is not occupied, and is actively farmed by the grantor of the trust, spouse of the grantor, or a grandchild, child, sibling or parent of the owner/grantor or spouse/grantor.
    - The agricultural property must be at least 40 acres in size.
    - The property can be actively farmed on behalf of an authorized entity of which the active farmer is a qualified person.
    - Both the grantor of the trust and the active farmer must be Minnesota residents.
    - Neither the grantor nor the grantor's spouse can claim another agricultural homestead in Minnesota.
    - Neither the grantor nor the active farmer can live farther than 4 cities/townships or a combination thereof from the agricultural property (unless the grantor or the grantor's spouse is required to live in employer-provided housing).

    Primary Statutory Reference: 273.124, subd. 14, para. (b), clause (ii)

5. If the grantor of a trust or the grantor's surviving spouse is a member, shareholder, or partner of a family farm corporation, joint farm venture, limited liability company, or partnership operating a family farm ***and the agricultural property is leased by the trust to that entity,*** the property may qualify for homestead if the property is at least 40 acres (including undivided government lots and correctional 40's) and a shareholder, member, or partner of the tenant-entity is actively farming the property on behalf of the corporation, joint farm venture, limited liability company, or partnership.

    Please note that this applies to cases where the grantor is a member of a qualifying entity or cases where the grantor has passed away and the *surviving spouse* is a member of a qualified entity (i.e., the trust is not dissolved and still owns the property but the grantor has passed away).

    Primary Statutory Reference: 273.124, subd. 21, paragraph (c)

Special Ag Homestead Applications

In 2019, the Department of Revenue, in collaboration with a working group of county administrators from across Minnesota, released a set of new special agricultural homestead applications. The working group decided that the applications should be focused on the **owner** rather than on the active farmer, which reduced the number of applications from six to three:

- Individually owned special agricultural homestead
- Entity owned agricultural homestead (both occupied **and** unoccupied)
- Trust owned special agricultural homestead

When processing an application, it is the assessor's role to verify the information provided. Assessors are able to request additional information if necessary to verify an applicant's eligibility for homestead. The applications are not a "checklist" for granting/denying homestead, they are simply a tool to collect information to assist the assessor during the verification process.

Re-applications are only to be used for situations in which **nothing has changed** (ownership, farmer, and property) from the original application. If anything does change, applicants must complete a new homestead application.

NOTE: Revenue does not post these forms to the Department of Revenue website because we do not administer homestead. Property owners should contact the county assessors office for a copy of the application. If a county needs a copy of the application, they should contact Revenue.

Many applications require the applicant to provide a schedule F or similar form with their application. A "Schedule F" is an IRS form that is filed with income tax returns to report passive and non-passive income/losses from a farming operation. It is rare that a farmer does not have to file a Schedule F to report individual income. These situations should be examined on a case-by-case basis by the assessor.

Business entities file the following types of forms with the IRS for income tax purposes:

- Form 1065 - U.S. Return of Partnership Income
- Form 1120 - U.S. Corporation Income Tax Return
- Form 1120S – U.S. Income Tax Return for an S Corporation

Farm Service Agency (FSA) forms should indicate who is listed as the owner and operator of the farm. The information on the FSA forms are helpful for the assessor to verify ownership of the property and the operation of the property. These forms are not required by statute, however assessors do have the authority to require any additional documentation before they make any decisions on homestead applications.

Linking Parcels for Special Agricultural Homestead

What is the difference between linking agricultural homesteads and linking special agricultural homesteads?

There are more requirements that must be met when linking special agricultural homesteads versus linking agricultural homesteads. When the agricultural land is occupied and agricultural homestead has been established on that base parcel you can link that agricultural homestead to any other non-contiguous 2a agricultural land that is owned by the same owner and is within 4 cities/townships from the base parcel.

This process differs when dealing with special agricultural homestead. To link special agricultural homestead, you cannot use the property where the owner lives as the base parcel. Instead, you must establish special agricultural homestead on one of the unoccupied agricultural parcels, making that parcel the established main parcel. Every other agricultural parcel must meet the requirements for special agricultural homestead *prior* to linking that homestead. When determining which parcel to use for the established main parcel, it has always been our recommendation that the parcel that is the most contiguous parcel to the residence should be the established main parcel.

How are special agricultural homesteads linked?

The following requirements must be met for ***each parcel*** that you want to link special agricultural homestead to:

- The parcel is under the same ownership as the established main parcel.
    - Please note, the three exceptions listed earlier for agricultural homestead linking also apply to special agricultural homestead.
- A qualified person (qualifying relative of owner/grantor/shareholder/member of an entity) must be farming the land on **behalf of the owner.**
- The agricultural parcel is at least 40 acres.
- The owner/grantor **and the qualified person actively farming lives** within 4 cities/townships of the agricultural property.
- If an established main parcel is leased for farming purposes and a qualified person of the entity is farming, then all other non-contiguous parcels must be **farmed by that same entity and farmer**. In this situation, and the homestead would go to the farmer rather than the owner.
    - **It is important to note that** if an established main parcel is not leased but the non-contiguous agricultural land is leased, then the special agricultural homestead linking should be denied.

Important Requirements

- When linking special agricultural homestead, you should be linking from the established main parcel, not the owner's residence. Therefore, you will look at the ownership of the established main parcel when linking, not the ownership of the residence.
    - **Note**: This is for linking purposes only. If you currently use the "MP" (typically the residential property) for taxing or CAMA purposes, you may continue that practice for those purposes **only**.
- Use the residence of the owner **and** active farmer when determining whether the agricultural parcels are within 4 cities/townships. Remember, all of the agricultural parcels must be within 4 cities/townships of the residence to qualify. Do not start counting cities/townships from the established main parcel; you must count from the residence.
- Use the Homestead Linking Checklist (see next page) after you have established special agricultural homestead and are ready to link to non-contiguous agricultural parcels.
- When a parcel is leased to an authorized entity for farming purposes, special agricultural homestead linking should be denied if the established main parcel is not leased to the same farming entity. If the established main parcel is leased for farming purposes, parcels leased to the same authorized entity must have the **same qualified person** actively farming as the established main parcel in order to be linked.
- The same rules for linking agricultural homestead apply to special agricultural homestead around ownership interest. If the established main parcel has multiple owners, the degree of homestead the owners are entitled to would determine the amount of homestead that can be linked to additional parcels.

Homestead Linking Checklist

Agricultural Homestead (Occupied)

Use this checklist for agricultural properties where the owner or other qualified person lives on the farm. You would use this checklist after you have established agricultural homestead on the base parcel using the appropriate flowchart.

- ☐ The non-contiguous parcel is located within 4 cities/townships of the base parcel.
- ☐ The non-contiguous parcel is owned by the same owner/entity/trust as the base parcel.
- ☐ The non-contiguous parcel is classified as agricultural.

If these requirements are met, you can link the agricultural homestead from the base parcel to any other agricultural parcels that meet these requirements.

Special Agricultural Homestead (Not occupied)

Use this checklist for special agricultural properties where the established main parcel is not occupied. You would use this checklist after you have established special agricultural homestead on the main parcel using the appropriate flowchart. Do not use the residence of the owner as your base parcel; you must establish special agricultural homestead on the established main parcel prior to linking the homestead.
Be sure to use this checklist for **each** agricultural parcel that you are linking the homestead to.

- ☐ The non-contiguous parcel is located within 4 cities/townships of the **residence of the owner/grantor and farmer.**
- ☐ The non-contiguous parcel is owned by the same owner/entity/trust as the **established main parcel** or an exception applies.
- ☐ The non-contiguous parcel is classified as agricultural.
- ☐ The non-contiguous parcel is at least 40 acres in size.
- ☐ The non-contiguous parcel is being farmed by the owner, grantor, qualifying relative, or a qualified person of an authorized entity on behalf of the owning entity.
- ☐ **(ENTITY OWNED PROPERTY ONLY)** Neither the **farmer** nor their spouse can claim another agricultural homestead in MN.
  - This is not a requirement for individually owned or trust owned property since the homestead is being granted to the owner/grantor or their spouse.

If all of these requirements are met, you can **link** the special agricultural homestead from the **established main parcel** to any other agricultural parcels that meet these requirements.

Example Scenarios for Special Agricultural Homestead Linking

Individually Owned Example:

Scenario:

- John and his wife Mary have a residence in town.
- Their residence is classified as a 1a Residential Homestead.
- John and Mary also individually own 5 non-contiguous agricultural parcels.
- All 5 parcels (A-E) are located within 4 townships of their residence.
- All 5 parcels are at least 40 acres and farmed by John.

Question: Would their non-contiguous agricultural parcels qualify for homestead?

Finding the Answer:
Now that we have all of the information, we can move forward with determining which parcels qualify for homestead.

- **Step 1:** Review where John and Mary's residence is located.
- **Step 2:** Verify that each non-contiguous parcel is located within 4 cities/townships of their residence.
- **Step 3:** Determine which non-contiguous agricultural parcel will be the established main parcel. In our scenario, it appears that parcel A will be the established main parcel. Again, we recommend the established main parcel should be the one located closest to the residential homestead.
- **Step 4:** Using the agricultural homestead *"Individually Owned"* flowchart, determine whether parcel A qualifies for special agricultural homestead. Once you have established homestead on parcel A, it is now referred to as the "established main parcel" for linking purposes.
    - **Note:** If parcel A would not have qualified for special agricultural homestead, you may use the next contiguous parcel.

- **Step 5:** Now that special agricultural homestead has been established on parcel A, you can begin to link homestead to the other non-contiguous agricultural parcels. Remember, each parcel must meet the same requirements for special agricultural homesteads as the established main parcel before you can link. This is when you want to reference the checklist.

Answer: Upon review of the information, parcels A–E would qualify for special agricultural homestead. Parcel A is the established main parcel and qualifies for special agricultural homestead, parcels B–E are all: owned by John and Mary, within 4 cities/townships of John and Mary's residential residence, are at least 40 acres, and are farmed by John (the owner).

Multiple Owners Scenario w/Exception Example:

Scenario:

- John and Tom each have a residence in town.
- Their residence is classified as a 1a Residential Homestead.
- John and Tom also own non-contiguous agricultural parcels that are within 4 cities/townships of their residences.
- Parcel 1 is owned by John and Tom, farmed by John & Tom.
- Parcel 2 is owned by John, farmed by John.
- Parcel 3 is owned by Tom, farmed by Tom.
- All three parcels are at least 40 acres in size.

Question: Do the non-contiguous agricultural parcels qualify for homestead?

Answer: First we must establish special agricultural homestead on one of the parcels. For the purpose of this scenario, we will call parcel 1 the established main parcel; this is where we will establish the special agricultural homestead using the *"Individually Owned"* flowchart.

- **Who owns:** John and Tom, unrelated.
- **Who occupies:** Property is unoccupied.
- **Who farms:** John and Tom.
- **Is the ag property at least 40 acres:** Yes.
- **Does the owner/owner's spouse claim another ag homestead in MN**: No for both owners.
- **Does the owner and the active farmer live within 4 cities/townships of the property**: Yes for both owners.

Since all requirements have been met, parcel 1 qualifies for special agricultural homestead, 50% special agricultural homestead should be granted to John and 50% special agricultural homestead should be granted to Tom.

Now that special agricultural homestead has been established on the established main parcel (parcel 1), we can now review the other parcels for special agricultural homestead linking. One thing to note, we are linking from the established parcel, not the residence of the owners. Using the checklist, all the requirements must be met.

- ✓ The non-contiguous parcel is located within 4 cities/townships of the residence of the owner **and** the active farmer.
- ✓ The non-contiguous parcel is owned by the same owner as the established main parcel.
- ✓ The non-contiguous parcel is classified as agricultural.
- ✓ The non-contiguous parcel is at least 40 acres in size.

- ✓ The non-contiguous parcel is being farmed by a qualified person.

This is a situation where the ownership is different; however, there are exceptions to the rule of linking different ownership properties.

One of those exceptions states:

- The established main parcel which is owned by individuals may be linked to a parcel of property that the owner owns as an individual (and vice versa).

In this example, John owns parcel 2 as an individual and parcel 1 is owned by John and Tom and individuals. Therefore, John's 50% homestead can be linked to parcel 2 and parcel 2 would receive 50% special agricultural homestead. The same process would apply to parcel 3, Tom's 50% homestead can be linked to parcel 3 and parcel 3 would receive 50% special agricultural homestead.

Entity Owned Scenario Example:

- XYZ LLLP owns five parcels of non-contiguous agricultural property
- All five parcels are unoccupied.
- XYZ is made up of 3 shareholders: Jim, Joe, and Sarah.
- Parcels 1–3 are farmed by Jim, a qualified person of the entity.
- Parcels 4 & 5 are farmed by Joe, a qualified person of the entity.
- Both farmers live in town which is within 4 cities/townships of the five parcels.
- Neither of the farmers or their spouses claim another ag homestead.

Question: Which of these parcels qualify for special agricultural homestead?

Answer: First, we must establish special agricultural homestead. Since this is entity-owned we will need to establish on one of the three parcels Jim farms and then review for linking. Then, we will need to establish on one of the two parcels Joe farms and then review for linking. Remember, entity owned land can receive up to twelve agricultural homesteads, one for each shareholder/member. For the purpose of this scenario, we will call parcel 1 the established main parcel for Jim; this is where we will establish the special agricultural homestead using the *"Entity Owned"* flowchart.

- **Who owns:** XYZ LLLP.
- **Who occupies:** Property is unoccupied.
- **Who farms:** Jim, a qualified person of the authorized entity on behalf of XYZ LLLP.
- **Is the ag property at least 40 acres:** Yes.
- **Does the qualified person who is actively farming claim another ag homestead in MN:** No.
- **Does the qualified person who is actively farming live within 4 cities/townships of the property:** Yes.

Since all requirements have been met, parcel 1 qualifies for special agricultural homestead.

Now that special agricultural homestead has been established on the established main parcel (parcel 1), we can now review parcels 2-3 for special agricultural homestead linking. One thing to note: we are linking from the established main parcel, not the residence of the farmer. Using the checklist, all the requirements must be met for parcels 2–3.

- ✓ The non-contiguous parcel is located within 4 cities/townships of the residence of the farmer.
- ✓ The non-contiguous parcel is owned by the same owner as the established parcel.
- ✓ The non-contiguous parcel is classified as agricultural.
- ✓ The non-contiguous parcel is at least 40 acres in size.
- ✓ The non-contiguous parcel is being farmed by a qualified person.
- ✓ Neither the farmer nor their spouse is claiming another agricultural homestead in MN.

- Note, this requirement is only for entity owned property because the farmer will receive the homestead.

The requirements for special agricultural homestead linking have been met, therefore the homestead can be linked from parcel 1 to parcels 2 and 3. Jim, the active farmer would receive the homestead.

Now that we have reviewed the parcels farmed by Jim, we will review the parcels farmed by Joe. First we must establish special agricultural homestead on one of the two parcels. For the purpose of this scenario we will call parcel 4 the established main parcel.

- **Who owns:** XYZ LLLP.
- **Who occupies:** Property is unoccupied.
- **Who farms:** Joe, a qualified person of the authorized entity on behalf of XYZ LLLP.
- **Is the ag property at least 40 acres:** Yes.
- **Does the qualified person who is actively farming claim another ag homestead in MN:** No.
- **Does the qualified person who is actively farming live within 4 cities/townships of the property:** Yes.

Since all requirements have been met, parcel 4 qualifies for special agricultural homestead.

Now that special agricultural homestead has been established on the established main parcel (parcel 4), we can review parcel 5 for special agricultural homestead linking. One thing to note: we are linking from the established parcel, not the residence of the farmer. Using the checklist, all the requirements must be met for parcel 5.

- ✓ The non-contiguous parcel is located within 4 cities/townships of the residence of the farmer.
- ✓ The non-contiguous parcel is owned by the same owner as the established parcel.
- ✓ The non-contiguous parcel is classified as agricultural.
- ✓ The non-contiguous parcel is at least 40 acres in size.
- ✓ The non-contiguous parcel is being farmed by a qualified person.
- ✓ Neither the farmer nor their spouse is claiming another agricultural homestead in MN.
    - Note, this requirement is only for entity owned property because the farmer will receive the homestead.

The requirements for special agricultural homestead linking have been met, therefore the homestead can be linked from parcel 4 to parcel 5. Joe, the active farmer would receive the homestead.

Two qualified persons of the LLLP receive separate full homesteads.

Examples of Special Agricultural Homestead Scenarios

1. Kirk is too elderly to live alone on his farm so he purchases a nice, maintenance-free condo in the city. The farm consists of a house and garage along with several outbuildings and 400 tilled acres. His son, Michael, farms his father's land. Michael and his wife, Catherine, also own/occupy/farm their own property that is located within 4 cities/townships of his father's farm. Can homestead be granted on both properties?

   Kirk's Farm
   - Who owns the property? **Answer:** Kirk, a natural person.
   - Who occupies the property? **Answer:** No one.
   - Is the property leased to an authorized entity from the owner who is a qualified person in the authorized entity? **Answer**: No.
   - Who farms the property? **Answer:** Michael, Kirk's son.

   Therefore, Kirk may be granted a special ag homestead under M.S. 273.124, subdivision 14(b), clause (i), in Kirk's name since his son, Michael, is farming the property.

   Michael's Farm
   Michael qualifies for a regular, owner-occupied ag homestead on the farm that he owns, occupies, and farms with his wife.

2. Dan lives in town on a residential parcel of property. He also works in town. Dan's son, McGwire occupies his father's farm. McGwire also owns his own land that he farms. It is within 4 cities/townships of the farm that he occupies. Can McGwire receive ag homestead on both the farm that he occupies and his farm that he owns?

   Answer: No, but he can maximize his homestead benefits by receiving a **residential** relative homestead on the HGA that he occupies on his father's farm. Since McGwire farms his father's property, Dan can receive a special agricultural homestead, in his own name on his ag land. McGwire can then qualify for a special ag homestead on his own ag property that he farms on his own behalf.

   If McGwire claimed an **agricultural** relative homestead on his father's farm, he would not be able to receive a special ag homestead on his own land since he would already have an agricultural homestead (an ag relative homestead on his father's property).

3. Bob's Family Farm Partnership owns a 90-acre farm. Bob is a partner and lives on the farm. He is actively engaged in farming the land on behalf of the entity and he is a Minnesota resident. Does Bob qualify for homestead?

    - Who owns the property? **Answer:** Bob's Family Farm Partnership (an authorized entity).
    - Is the property occupied by a qualified person of the authorized entity that owns the land? **Answer:** Yes. Bob is a partner (qualified person) of Bob's Family Farm Partnership (authorized entity).
    - Is the qualified person actively engaged in farming the ag property on behalf of the authorized entity? **Answer:** Yes. Bob farms on behalf of the family farm partnership of which he is a member.
    - Is the qualified person who is actively engaged in farming a Minnesota resident? **Answer:** Yes. Bob is the qualified person who is actively engaged in farming the property on behalf of the authorized entity (Bob's Family Farm Partnership) and is a Minnesota resident.

    Bob qualifies for homestead under M.S. 273.124, subdivision 8(a).

4. Fred, a widower, lives in the city of Rockville and receives a residential homestead. He also owns 2 agricultural parcels in Rockville. Parcel #1 consists of 80 acres, of which 69 are actively farmed by Fred. The remaining 11 acres are not farmed. Parcel #2 is contiguous to parcel #1 and consists of 12 acres, all of which are farmed. Fred operates a large hog operation on this parcel. Fred is a Minnesota resident. Does Fred qualify for an actively farming homestead?

    - Who owns the property? **Answer:** Fred, a natural person.
    - Is the property occupied by the owner? **Answer:** No.
    - Does a qualifying relative occupy the property? **Answer:** No.
    - Is the agricultural property leased to an authorized entity from the owner who is a qualified person in the authorized entity? **Answer:** No.
    - Is the owner, owner's spouse or child of the owner or owner's spouse actively farming the ag property either on their own behalf or on behalf of the authorized entity of which they are a qualified person? **Answer:** Yes. Fred farms the land on his own behalf.

- Are the other requirements met?
  - Is the property at least 40 acres? **Answer:** Yes, the property consists of 2 contiguous parcels which total 92 acres.
  - Are both the owner and the active farmer Minnesota residents? **Answer:** Yes, Fred (owner and active farmer) is a Minnesota resident.
  - Does the owner or owner's spouse claim another ag homestead in Minnesota? Answer: No, Fred has a **residential** homestead in Rockville.
  - Does the owner or the active farmer live more than 4 cities/townships from the ag property? **Answer:** No, Fred lives and farms within the Rockville city limits.

Fred may be granted a special agricultural homestead in his name on the agricultural property under M.S. 273.124, subdivision 14(b), clause (i).

5. John Jingle and his son Jacob Jingle own a 60-acre farm together. The Jingles both live in town (within 4 townships) and each claim their own separate residential homesteads with their wives. Both Jingles actively farm the 60-acre farm. Neither the father, nor the son, claims another agricultural homestead in Minnesota. Both John and Jacob are Minnesota residents.

   - Who owns the property? **Answer:** John and Jacob Jingle, natural people.
   - Is the property occupied by the owner? **Answer:** No, neither owner occupies the property.
   - Does a qualifying relative occupy the property? **Answer:** No.
   - Is the agricultural property leased to an authorized entity from the owner who is a qualified person in the authorized entity? **Answer:** No.
   - Is the owner, owner's spouse or child of the owner or owner's spouse actively farming the ag property either on their own behalf or on behalf of an authorized entity of which they are a qualified person? **Answer:** Yes, both owners actively farm the property on their own behalf.
   - Are the other requirements met? **Answer:** Yes. Property is more than the required 40 acres; both owners/active farmers are Minnesota residents; neither the owners/farmers nor their spouses claim other agricultural homesteads in Minnesota; and all live within 4 townships of the property.

The property qualifies for a special ag homestead under M.S. 273.124, subdivision 14(b), clause (i). Each person may be granted a 50% special ag homestead in their own names.

6. The Stone Family Farm Partnership consists of a mother, father, son, and daughter. The Stone Family Farm Partnership owns a 350-acre farm. The daughter and her husband farm the land held by the partnership but do so through a family farm corporation in which they are the only shareholders. No one lives on the farm. The daughter and son-in-law live in a residential property that is within four townships of the farm. All are Minnesota residents.

    - Who owns the property? **Answer:** Stone Family Farm Partnership, an authorized entity.
    - Is the property occupied by a qualified person of the authorized entity that owns the land? **Answer:** No, the property is not occupied.
    - Is a qualified person of the authorized entity **that owns** the property actively farming the property **on behalf of the owning** authorized entity? **Answer:** No.
    - Is the active farmer a member of both the farming and owning entity? **Answer:** Yes.
    - Are both entities made up of more than 50% qualifying relatives? **Answer:** Yes.
    - Are the other requirements met? **Answer:** Yes. Property is more than the required 40 acres; both owners/active farmers are Minnesota residents; neither the owners/farmers nor their spouses claim other agricultural homesteads in Minnesota; and all live within 4 townships of the property.

    This property is eligible for homestead because while the operating and owning entities are different, the daughter is a member of both the Stone Family Farm Partnership (the owning entity) and her own entity (the operating entity). .

7. Farm #1 is owned by Porky's Hog Farms, Inc., a family farm corporation. Aaron and Glen Porky are each 50% shareholders in the corporation. Farm #1 is occupied by Aaron, who is a Minnesota resident. Glen lives in South Dakota and is a South Dakota resident. Farm #1 is operated by Porky's Hog Farms, Inc. It consists of 31 acres. Farm #2 is owned jointly by Aaron and Glen Porky as individuals. It is leased to and operated by Porky's Hog Farms, Inc. It consists of 779 acres and does not contain a residence. Both farms are located in the same township but are not contiguous to each other.

    <u>Farm #1</u>

    - Who owns the property? **Answer:** Porky's Hog Farms, Inc.
    - Is the property occupied by a qualified person of the authorized entity that owns the land? **Answer:** Yes. Aaron Porky occupies Farm #1. He is a shareholder (qualified person) of Porky's Hog Farms, Inc.

- Is the qualified person actively engaged in farming the ag property on behalf of the authorized entity? **Answer:** Yes. Aaron Porky is actively engaged in farming Farm #1 on behalf of the authorized entity.
- Is the qualified person who is actively engaged in farming a Minnesota resident? **Answer:** Yes. Aaron Porky is a Minnesota resident.

Farm #1 should be granted homestead in Aaron Porky's name pursuant to section 273.124, sub. 8 (a) and (b). There is no 40-acre requirement for this specific type of special ag homestead situation.

Farm #2

- Who owns the property? **Answer:** Aaron and Glen Porky jointly as individuals.
- Is the property occupied by the owner? **Answer:** No.
- Does a qualifying relative occupy the property? **Answer:** No.
- Is the agricultural property leased to an authorized entity from the owner who is a qualified person in the authorized entity? **Answer:** Yes, The property is leased to and operated by Porky's Hog Farms, Inc. Aaron and Glen are qualified persons of this operating entity.
- Are all of the other requirements met? **Answer:** No. Although the property is more than 40 acres, and it is located in the same township as Farm #1, the property does not qualify for special agricultural homestead because Aaron, the active farmer, is already claiming another agricultural homestead on Farm 1. Glen, is not actively farming and is not a MN resident, therefore you cannot establish special agricultural homestead under Glen either.
- Since an agricultural homestead cannot be established on farm 2, the assessor's next step would be to review the two farms for linking. In this case, the assessor would not be able to link farm 1 and farm 2 because the ownership of the two farms is different.
    - Note: the assessor could look into ag value tier linking in this situation, if these farms were to qualify for value tier linking the assessor would only be linking the classification rate and not the homestead. There is more information about value tier linking towards the beginning of this module.

8. Widow White has agricultural land in a revocable trust of which she is the grantor (Farm #1). She lives on Farm #1. Adjacent to Farm #1 is a farm that is owned in a fee simple arrangement by Widow White (Farm #2). Sammy White, the widow's son, farms both Farm #1 and Farm #2. Sammy owns and lives on his own farm (Farm #3) which he also farms. All of the properties are within four townships and/or cities from each other and each is larger than 40 acres in size. Everyone is a Minnesota resident.

   Farm #1

   - Who owns Farm #1? **Answer:** Widow White's revocable trust. Widow White is the grantor of the trust.
   - Does the grantor or surviving spouse of the grantor occupy the property? **Answer:** Yes.

   Participation level is not a factor in this scenario. Since Widow White is a resident of Minnesota and she lives on the property, she qualifies for an owner-occupied homestead.

   In addition, since Widow White is the grantor of the trust on Farm #1 and owns Farm #2 individually, she may link her homestead to Farm #2. Again, it does not matter who farms the property in this case.

   Farm #3

   - Who owns Farm #3? **Answer:** Sammy White, a natural person.
   - Is the property occupied by the owner? **Answer:** Yes.

   Participation level is not a factor in this scenario. As long as Sammy is a Minnesota resident, he would qualify for an owner-occupied homestead on Farm #3.

9. Four Brothers Family Farm Corporation owns and farms property located in Whiskey Township. There are four shareholders (Jim, Johnny, Jack, and Jose). All of the shareholders are Minnesota residents.

   The corporation owns and farms four, 600-acre parcels (Parcels #1, #2, #3, & #4). Each parcel is valued by the assessor at $600,000. Jim lives on parcel #1. Johnny, Jack, and Jose each live in their own residential property (and receive residential homesteads) in Whiskey Junction, a small town that is within four townships of the corporately owned land.

   How should the homesteads be structured?

Parcel #1

- Who owns the Parcel #1? **Answer:** Four Brothers FFC.
- Who lives on Parcel #1? **Answer:** Jim, a shareholder (qualified person) of Four Brothers FFC (an authorized entity).
- Who farms Parcel #1? **Answer:** Jim. Therefore, Jim receives a Special Ag Homestead (actively engaged – someone occupies) in his name on behalf of the FFC for parcel #1.

Parcel #2

- Who owns Parcel #2? **Answer:** Four Brothers FFC.
- Who lives on Parcel #2? **Answer:** No one. Johnny lives on a residential parcel in Whiskey Junction where he receives a residential homestead in his name.
- Who farms Parcel #2? **Answer:** Johnny farms the parcel on behalf of Four Brothers FFC. Therefore, Johnny receives a Special Ag Homestead (Actively Farming – no one occupies) in his name on behalf of the FFC for parcel #2.

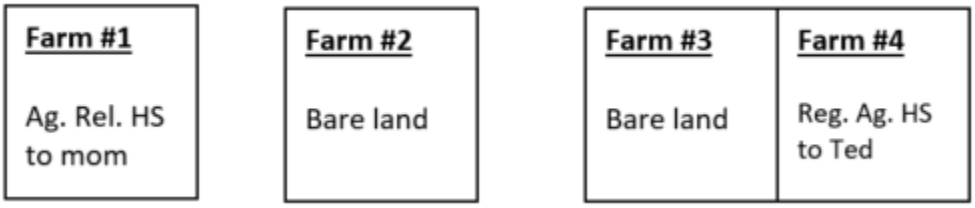
Parcel #3

- Who owns Parcel #3? **Answer:** Four Brothers FFC.
- Who lives on Parcel #3? **Answer:** No one. Jack lives on a residential parcel in Whiskey Junction where he receives a residential homestead in his name.
- Who farms Parcel #3? **Answer:** Jack farms the parcel on behalf of Four Brothers FFC. Therefore, Jack receives a Special Ag Homestead (Actively Farming – no one occupies) in his name on behalf of the FFC for parcel #3.

Parcel #4

- Who owns Parcel #4? **Answer:** Four Brothers FFC.
- Who lives on Parcel #4? **Answer:** No one. Jose lives on a residential parcel in Whiskey Junction where he receives a residential homestead in his name.
- Who farms Parcel #3? **Answer:** Jose farms the parcel on behalf of Four Brothers FFC. Therefore, Jose receives a Special Ag Homestead (Actively Farming – no one occupies) in his name on behalf of the FFC for parcel #4.

10. Mother Rose has two sons, Robert and Ted. Mother Rose lives on Farm #1, which is owned by Robert but farmed by Ted. Rose currently receives an agricultural relative homestead on Farm #1. Farm #2 is bare land that is owned by Rose who retains a life estate and Ted who has a remainder man interest. Ted farms Farm #2. Farm #3 has the same ownership arrangement and features as Farm #2. Farm #4 is contiguous to Farm #3 and is owned, occupied and farmed by Ted.



	Farm 1	Farm 2	Farm 3	Farm 4
Who Owns?	Robert	Rose & Ted	Rose & Ted	Ted
Who Occupies?	Rose	No one	No one	Ted
Who Operates?	Ted	Ted	Ted	Ted

Can Ted receive homestead on the contiguous Farm #3 as well as Farm #2 since he has a remainder man interest on both?

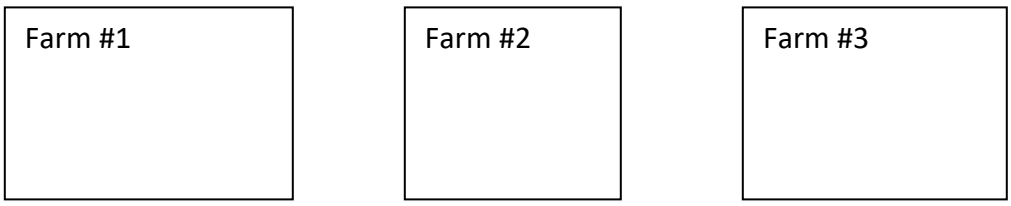
Answer: No. Since Mother Rose has a life estate, she is considered the owner for homestead purposes, even if she is not living on either Farm #2 or Farm #3.

Would Farm #2 and Farm #3 be eligible for a special ag homestead?

Answer: Not under the current ownership/occupancy/farming situation. Since Mother Rose already receives an agricultural relative homestead on Farm #1, she is not eligible to receive a special ag homestead on Farms #2 and #3. In addition, since Teddy already receives a regular ag homestead on Farm #4, he is not eligible to receive a special ag homestead on Farms #2 and #3.

11. Ward and June recently retired from farming and have moved to town. They receive a residential homestead on the residential property they occupy. Ward owns two farms that are titled in his name only. Wally, Ward's son, is the sole shareholder in Wally's Family Farm Corporation. Wally occupies Farm #1 that Ward owns and actively farms it on behalf of his corporation. Ward also owns another farm (Farm #2) that is leased to his second son's entity – Beaver's Family Farm Corporation. Beaver is the sole shareholder in his corporation. Beaver also owns and occupies his own farm with his wife Penny (Farm #3). What can qualify for homestead?

    It may be helpful to show this visually:



	Farm 1	Farm 2	Farm 3
Who Owns?	Ward	Ward	Beaver's FFC
Who Occupies?	Wally	No one	Beaver & Penny
Who Operates?	Wally's FFC	Beaver's FFC	Beaver's FFC

Farm #1
Wally can qualify for an agricultural relative homestead since he occupies the property even if he is farming it on behalf of Wally's FFC.

Farm #2
Beaver CANNOT qualify for a special ag homestead in this case even if he is farming it on behalf of Beaver's FFC because he already has his own special agricultural homestead on Farm #3. Farm #3 also cannot be linked because the ownership entities are different. However, Farm #1 can link to Farm #2 if they are within four cities or townships of each other because the ownership entities are the same.

Farm #3
Beaver can receive a special ag homestead on this property because he is a qualified person (shareholder) of the authorized entity (Beaver's FFC) that owns the land, he occupies the property, and he is actively engaged in farming the property on behalf of that entity.

12. Woody individually owns a quarter-section of land (160 acres). He does not occupy the property. On the north 50 acres, he grazes his cattle. The remaining 110 acres is tilled and rented to Cliff. Can Woody qualify for homestead on the entire 160 acres?

    Answer: No. Since Woody is not farming over 50% of the class 2a land (80+ acres) himself, he does not qualify for a special ag homestead.

13. Two unrelated women, Paris and Nicole, purchased a 640-acre farm in rural Minnesota. The building site of this farm (house, garage, and 5 acres) was split off and is owned and occupied by Nicole and her husband. The remaining 635 acres were put into a partnership (Divas Partnership) consisting solely of Paris and Nicole. Both Paris and Nicole are actively farming this property on behalf of the partnership. Paris and her husband solely own and occupy another 160-acre farm that is located within four cities/townships of the partnership-owned land. Can the partnership property be homesteaded?

    - Who owns the property? **Answer:** Divas Partnership, an authorized entity.
    - Who lives on the property? **Answer:** No one occupies.
    - Who farms the property? **Answer:** Nicole, a qualified person of the authorized entity.

    Nicole and her husband should receive a residential homestead on the house, garage, and 5 acres that they solely own and occupy. Since the partnership land is owned by an authorized entity and a qualified person (Nicole) is actively farming the property, Nicole may receive a special ag homestead on the partnership land, provided she meets all of the other requirements. However, Paris could not qualify for a special ag homestead on this property because she and her husband already have a regular ag homestead on the 160-acre farm that they own and occupy.

Glossary of Agricultural Terms

actively engaged in farming - participation on the farm on a regular and substantial basis; someone lives on the farm. The person who is actively engaged in farming must be a Minnesota resident.

actively farming - participation in the day-to-day decision making, labor, administration, and management of the farm, as well as assuming all or a portion of the financial risks and sharing in any profits or losses; generally no one lives on the farm. The person who is actively farming must be a Minnesota resident.

agricultural land – for purposes of special agricultural homesteads, agricultural land is real estate used for farming (production for sale of an agricultural product). Agricultural land means contiguous acreage of 10 acres or more, used during the preceding year for agricultural purposes. "Agricultural purposes" means the raising or cultivation of agricultural products for sale (see M.S. 273.13, subdivision 23). Agricultural classification for property shall be determined excluding the house, garage, and immediately surrounding one acre of land, and shall not be based upon the market value of any residential structures on the parcel or contiguous parcels under the same ownership. Property enrolled in CRP/RIM/CREP or other similar state or federal conservation programs may be classified as 2a agricultural land but is not considered farmed land for the purposes of special agricultural homesteads.

agricultural homestead - agricultural land that is occupied and used as a homestead by its owner, who must be a Minnesota resident, is an agricultural homestead (M.S. 273.124, subdivision 1(a)).

authorized entity - can be a family farm corporation, joint family farm venture, limited liability company or partnership operating a family farm (M.S. 273.124, subdivision 8(a)). This is limited to entities with 12 or fewer members, shareholders, or partners. The following entities would be eligible for homestead treatment:

- authorized farm limited liability company (operating a family farm)
- authorized farm partnership (operating a family farm)
- family farm
- family farm corporation
- family farm limited liability company (operating a family farm)
- family farm partnership
- family farm trust
- general partnership (operating a family farm)

authorized farm limited liability company - a limited liability company that has:

- no more than five members who are all natural persons or estates;
- only one class of membership interests;

- no more than 20 percent of its gross receipts derived from rents, royalties, dividends, interest, and annuities;
- members who own at least 51 percent of the company either reside on the farm or are actively engaged in farming it;
- no interest in or ownership of more than 1,500 acres of agricultural land, either directly or indirectly;
- none of its members are members in other authorized farm limited liability companies if combined would directly or indirectly own more than 1,500 acres; AND
- members may not transfer their interests to ineligible persons (M.S. 500.24, subdivision 2(m)).

authorized farm partnership - a limited partnership formed for the purpose of farming and owning agricultural land, as documented on a certificate from the Secretary of State or on a document registered with the county recorder, and that has:

- no more than five partners who are all natural persons or estates;
- no more than 20 percent of its gross receipts derived from rents, royalties, dividends, interest, and annuities;
- its general partners own at least 51 percent of the interest in the land assets of the partnership and either reside on the farm or are actively engaged in farming not more than 1,500 acres as a general partner in an authorized limited partnership;
- its limited partners do not participate in the business of the limited partnership including operating, managing, or directing management of farming operations;
- no interest in or ownership of more than 1,500 acres of agricultural land, directly or indirectly; AND
- none of the limited partners are limited partners in other authorized farm partnerships that if combined would directly or indirectly own more than 1,500 acres (M.S. 500.24, subdivision 2(k)).

beneficiaries - anyone who received any kind of benefit from a trust is a beneficiary. For example, if you had the right to live on property held under a trust, you would be a beneficiary.

corporation - an artificial person or legal entity created under the laws of a state, having an existence separate and apart from that of its members or owners, vested with the capacity of continuous succession (Black's Law Dictionary, 5th Ed., West, 1979). Characteristics of a corporation include: (1) continuity of life, without interruption as a result of the death or withdrawal of the members; (2) centralized management by representatives selected by the members; (3) limited liability for the organization's debts, without recourse to the members; (4) free transferability of interests; and (5) the holding of title to property by the organization itself (*Morrissey v. Commissioner*, 298 U.S. 344, 1935). The corporate name must include the word (or abbreviation): "corporation," "incorporated," or "limited," or the word "company" or the abbreviation "Co." but may not contain "and company," or "& co." or a variation (M.S.

302A.115). Articles of incorporation are effective and corporate existence begins when the articles of incorporation are filed with the Secretary of State (M.S. 302A.153).

family farm - an unincorporated farming unit which has one or more owners residing on the farm or who are actively engaged in farming (M.S. 500.24, subdivision 2(b)).

family farm corporation - a corporation founded for farming and owning agricultural land that has:

- a majority of stock held by and a majority of the stockholders are persons (or their spouse) or current beneficiaries of family farm trusts who own stock in the family farm corporation and the persons and the beneficiaries are related to each other within the third degree of kindred;
- at least one of the related persons is residing on or actively operating the farm; AND
- no stockholders who are corporations (M.S. 500.24, subdivision 2(c)).

NOTE: Transfers of shares to persons related within the third degree of kindred, or to a trust of which the related recipient is a current beneficiary, will not cause a disqualification.

family farm limited liability company - a limited liability company founded for the purpose of farming and owning agricultural land that has:

- a majority of its members are persons or current beneficiaries of family farm trusts who own stock in the family farm limited liability company and the persons and the current beneficiaries are related to each other within the third degree of kindred;
- at least one of the related persons is actively operating the farm; AND
- no members who are corporations or limited liability companies (M.S. 500.24, subdivision 2(l)).

NOTE: Transfers of membership interests to persons related within the third degree of kindred, or to a trust of which the related recipient is a current beneficiary, will not cause a disqualification.

family farm partnership - a limited partnership formed for the purpose of farming and owning agricultural land that has:

- a majority of the partnership interests held by persons or current beneficiaries of family farm trusts who own stock in the family farm partnership and the persons or current beneficiaries are related to each other within the third degree of kindred; AND
- a majority of its partners are persons or current beneficiaries of family farm trusts who own stock in the family farm partnership and the persons or current beneficiaries are related to each other within the third degree of kindred; AND

- at least one of the related persons is residing on or actively operating the farm, or has owned the agricultural land for at least five years prior to its transfer to the limited partnership; AND
- no partners who are corporations (M.S. 500.24, subdivision 2(j)).

NOTE: Transfers of partnership interests to persons related within the third degree of kindred, or to a trust of which the related recipient is a current beneficiary, will not cause a disqualification.

family farm trust - any one of the following may qualify as a family farm trust:

1. A trust in which:
    a. a majority of current beneficiaries are persons (or spouses of persons) who are related to each other within the third degree of kindred;
    b. all current beneficiaries are persons, nonprofit corporations or trusts organized for religious, charitable or scientific purposes; and
    c. at least one of the family member current beneficiaries is residing on or actively operating the farm.

2. A charitable remainder trust.

3. A charitable lead trust that has:
    a. a lead period that does not exceed 10 years; and
    b. a majority of the remainder beneficiaries are related to the grantor within the third degree of kindred (M.S. 500.24, subdivision 2(d)).

farmer - a natural person who regularly participates in physical labor or operations management in the person's farming operation and files "Schedule F" as part of the person's annual Form 1040 filing with the United States Internal Revenue Service (M.S. 500.24 subdivision 2(n)).

farming - is defined in Minnesota law as the production for sale of agricultural products under M.S. 273.13, subdivision 23.

general partnership - an association of two or more persons to conduct a business for profit as co-owners (whether or not the persons intend to form a partnership) in which:

- "persons" includes individuals, corporations, estates, trusts, and any other type of legal or commercial entity;
- sharing gross profits does not by itself establish a partnership; and
- a person who receives a share of the profits of a business is presumed to be a partner in that business unless the profits were received in payment for goods or services, as rent, as repayment of a debt or interest, as an annuity, or on account of the sale of goodwill (*M.S.* 500.24, subdivision 3(a); M.S. 323A.1-01(8), (12); M.S. 323A.2-02*).

** This definition reflects the provisions of the Minnesota Uniform Partnership Act of 1994 (i.e., M.S. chapter 23A). Partnerships governed by a predecessor statute or a comparable statute of another state may have somewhat different attributes.*

grantor - is defined as the person creating or establishing a testamentary, inter vivos, revocable or irrevocable trust by written instrument or through the exercise of a power of appointment (M.S. 273.124, subdivision 21). For a property that is held under a trust to receive an agricultural homestead, the grantor must be a Minnesota resident and neither the grantor nor the spouse of the grantor can claim another ag homestead.

irrevocable trust - a trust which cannot be changed at any time.

inter vivos trust - see "revocable trust"**.**

joint family farm venture - a means a cooperative agreement among two or more farm enterprises authorized to operate a family farm under section M.S. 500.24 (M.S. 273.124, subdivision 8(a)). For homestead purposes, it can only be a combination of other entities qualifying for homestead.

limited liability company - an unincorporated organization created by state law that affords its members limited liability for the organization's debts and the potential to avoid income taxes at the entity level, thus combining the characteristics of a corporation and a partnership (Lloyd G. Kepple, Esq.). The name of a limited liability company must contain the words "limited liability company" or "LLC." Other words or letters may be used when the members of the company provide certain professional services including medicine, veterinary, landscaping, accountancy, engineering, or law. The name must not contain the words (or abbreviations): "corporation" or "incorporated" (M.S. 322B.12 and 319B.05). Articles of organization are effective and limited liability company existence begins when the articles of organization are filed with the Secretary of State (M.S. 322B.175).

limited partnership - a partnership consisting of one or more general partners, jointly and severally responsible as ordinary partners, and be whom the business is conducted, and one or more special partners, contributing in cash payments a specific sum as capital to the common stock, and who are not liable for the debts of the partnership beyond the fund so contributed (Black's Law Dictionary, 5th Ed., West, 1979). The name of a limited liability partnership must end with "Registered Limited Liability Partnership," "Limited Liability Partnership," "R.L.L.P.," "L.L.P.," "RLLP," or "LLP" (M.S. 323A.1002). The partnership must file an annual registration with the Secretary of State. (M.S. 323A.1003).

owner – defined as an individual person or multiple people who own the property (i.e. it is not owned by a business or entity).

qualified person - can be a:

- member in an authorized entity;
- shareholder in an authorized entity; OR
- partner in an authorized entity.

qualifying relative or surviving relative – must be a Minnesota resident; definition depends on the type of homestead:

- Residential property and occupied agricultural property**:** a qualified relative of the owner or grantor can be a parent, stepparent, child, stepchild, grandparent, grandchild, sibling, aunt/uncle, or niece/nephew. The relationship may be by blood or by marriage (M.S. 273.124, subdivision 1(c) and (d)).

- Unoccupied agricultural property**:** a qualified relative can be a grandchild, child, sibling, or parent of the owner or grantor (or of the spouse of the owner or grantor) of the agricultural property (M.S. 273.124, subdivision 14(b)(i)(2)).

revocable trust - a trust created to handle the grantor's assets, often called a "living trust" or "inter vivos trust," which only becomes irrevocable on the death of the grantor.

third degree of kindred - for the purposes of M.S. 500.24, a person's first degree of kin includes parents and children; that person's kindred of the second degree include grandparents, grandchildren, and siblings; and that person's kindred of the third degree includes aunts, uncles, nieces, nephews, and great-grandparents (23 Am.Jur.2d, Descent and Distribution, section 55).

trust - a fiduciary relationship under which one party holds property for the benefit of another party.

trustee - means the party that holds property rights for the benefit of another party through a trust.

Special Provisions

As discussed previously in this module, a property must be occupied by the owner or a qualifying relative in order to receive homestead benefits. However there are several special provisions in law that allow for exceptions to those rules. These exceptions are outlined on the following pages.

Life Estates

When a life estate is established on a residential or agricultural property, it gives the grantor/holder of the life estate the right to occupy and use the property until their death. When a life estate has been established, the person holding the life estate is considered as the **owner for homestead purposes**, rather than the person listed on the deed. A qualifying relative of the life estate holder may also qualify for a relative homestead. Upon the death of the life estate grantor/holder, the ownership transfers to the fee holder or the person with the remainder interest, therefore, homestead status should be removed as soon as the county is notified of the death. The county is not required to wait for the life estate to be removed from the property records to update the homestead status.

For agricultural property, a life estate may be for the house, garage, and first acre (HGA) or it may be for the entire farm. The type of homestead that will be granted, either residential on the HGA or agricultural on the entire farm, will depend on the terms of the life estate.

When a life estate is established on unoccupied agricultural property, the holder of the life estate, not the fee owner of the property or the person with the remainder interest in the property, has the ownership rights over the property. Therefore, for the property to qualify for special agricultural homestead either the holder of the life estate must be actively farming the property or a relative of the holder of the life estate must be actively farming.

If the terms of the life estate do not specify that the person is allowed to occupy the property until their death, or if it specifies that the person may occupy for a specific period of years, it is not a true life estate. This is likely an "estate in years." It is the department's opinion that an estate in years is not enough of an ownership interest to grant a property a homestead.

Licensed Child Care

If a single-family home, duplex, or triplex classified as either residential homestead or agricultural homestead is also used to provide **licensed child care**, the portion of the property used for licensed child care must be classified as a part of the homestead property.

Homestead of Owner in Nursing Home, Boarding Care, or Elderly Assisted Living Care Facility
An assessor cannot deny homestead, in whole or in part, if:

1. In the case of a property owner who is not married, the owner is absent due to residence in a nursing home, boarding care facility, or an elderly assisted living facility, as defined in section 273.13, subdivision 25a, and the property is not otherwise occupied; or
2. In the case of a property owner who is married, the owner or owner's spouse or both are absent due to residence in a nursing home, boarding care facility, or an elderly assisted living facility, as defined in section 273.13, subdivision 25a, and the property is not otherwise occupied or is occupied only by the owner's spouse.

If the owner of the property is required by the Department of Human Services to rent out the property in order to pay for the cost of care received in a nursing home, the homestead should remain on the property.

Minnesota Statutes, section 273.13, subdivision 25a, defines elderly assisted living facility property to mean "*residential real estate containing more than one unit held for use by the tenants or lessees as a residence for periods of 30 days or more, along with community rooms, lounges, activity rooms, and related facilities, designed to meet the housing, health, and financial security needs of the elderly. The real estate may be owned by an individual, partnership, limited partnership, for-profit corporation or nonprofit corporation exempt from federal income taxation under United States Code,* title 26, section 501(c)(3) *or related sections.*

An admission or initiation fee may be required of tenants. Monthly charges may include charges for the residential unit, meals, housekeeping, utilities, social programs, a health care alert system, or any combination of them. On-site health care may be provided by in-house staff or an outside heal care provider…"

Note that the above exception for a nursing home solely applies to the property **owner** or owner's spouse. A qualifying relative receiving relative homestead **would not** be able to retain the homestead if they stopped occupying the property due to residence in a nursing home, boarding care facility, or assisted living facility.

Example: Parent occupies their child's property and receives relative homestead. Child receives their own homestead on a different property. Parent leaves the property to reside at a nursing home for a few years.

> **Question:** Should the property continue to receive relative homestead?
>
> **Discussion:** No. The exception allowing an occupant to retain homestead after moving into a nursing home solely applies to the property **owner or their spouse**. In this

situation, the parent who was occupying the property no longer does so, and therefore the homestead should be removed.

Primary Statutory Reference: 273.124, paragraph (f); 273.13, subdivision 25a

Homesteads for Property Requiring a Relative Co-Owner for Financing Purposes

Note: This section predates relative homesteads and therefore has more limited applications under current statute. An individual who is purchasing a property and is required by the terms of the financing agreement to have a relative shown on the deed as a co-owner is entitled to receive a full homestead benefit. This provision only applies in the following situations:

1. A single person or married couple is purchasing a property for the first time; or
2. A person who was previously married is purchasing a property for the first time as an individual.

The related, non-occupying co-owner is not required to be a Minnesota resident for this type of homestead.

It should be noted that this type of homestead differs from a relative homestead and should not be treated as such. The owner/occupant may be eligible for property tax refund if all other qualifications are met. However, in the case of a subsequent purchase requiring a relative co-owner for financing purposes, this section does not preclude the property owner from being granted an owner-occupied and relative homestead if all qualifications for relative homestead are met.

Primary Statutory Reference: 273.124, paragraph (g)

Homestead of Property Subject to Jurisdiction of Probate Court

When a property owner dies, the natural process is that the property goes into probate where the owner's estate will be settled depending on whether the owner had a will and/or heirs to inherit the property. Once probate is settled, the ownership of the property will change and homestead status will need to be reviewed according to the new ownership. Under the Uniform Probate Code, probate proceedings must typically start **within three years of the individual's death**.

If a property is going through the probate process, we would recommend the county allow a reasonable period of time to pass before removing the homestead after the death of the property owner. The amount of time the county wants to allow for the property to go through probate should be based on county policy and practices. If the property isn't going through the probate process, the county should make a decision on whether to pull the homestead immediately or allow time for the probate process to begin.

Minnesota Statutes, section 273.124, subdivision 1, paragraph (h), allows a property to qualify for a relative homestead if a child of the deceased owner is occupying the property as a homestead while the property is subject to the jurisdiction of probate court. It specifies that the child shall receive a relative homestead classification to the same extent to would be entitled to if the owner (parent) were still living, until the probate is completed. For the purposes of this provision, "child" includes a relationship by blood or by marriage. This provision also allows the assessor to grant a relative homestead to minor children who are occupying a property where the owner is deceased, and the property is subject to the jurisdiction of probate court. Once the probate process is completed and the ownership changes, then the homestead status will need to be reviewed .

Primary Statutory Reference: 273.124, paragraph (h)

Homestead of a Member of the United States Armed Forces, Peace Corps, or VISTA

Real estate that is actually occupied and used for the purpose of a homestead by a person or by a member of that person's immediate family should remain classified as a homestead even though the person or family is absent due to the person being on active duty with the United States Armed Forces or serving as a volunteer under either the VISTA or Peace Corps programs.

The homestead must first be established before being called to active duty or prior to serving as a volunteer under these programs in order to continue receiving homestead during the person or family's absence. The owner must intend to return to the property and claim it as their homestead as soon as he/she is discharged or relieved from service. The property may be rented out and still retain the homestead so long as the person or family intends to return. This provision requires the owner to be a member of the United States Armed Forces, Pease Corps, or VISTA. In situations where a property is receiving a relative homestead where the service member is the qualifying relative and not the owner, these provisions would not apply.

It should be noted that the military serviceperson or volunteer must maintain their Minnesota residency for income tax purposes in order to continue to homestead their property.

Any person who knowingly makes or submits to an assessor an affidavit or other statement that is false in any material matter to obtain or aid another in obtaining a benefit under this subdivision is guilty of a felony.

In the case of a person who is absent solely because he/she is on active duty with the United States Armed Forces, homestead benefits may be granted even of the property has not been occupied as a homestead by the person or member of the person's family (i.e. the homestead does not need to be established prior to being called away from home to active duty).

To qualify, the person who acquires the property must notify the assessor of the acquisition and of their absence due to military service. When the person returns from military service and occupies the property as a homestead, he/she shall notify the assessor, who will provide for an abatement of the difference between the homestead and non-homestead taxes for the current and two preceding years – not to exceed the time the person owned the property.

Primary Statutory Reference: 273.124; subdivision 12

Property Undergoing Renovation by a Church or Non-Profit Organization

Another exception to the general "occupancy" rule is given to property that is owned by a church or a non-profit organization. Property that is not occupied as a homestead on the assessment date of January 2 will be classified as a homestead if it meets **each** of the following requirements:

1. the structure is a single family or duplex residence;
2. the property is owned by a church or an organization that is exempt from taxation under section 501(c)(3) of the IRS Code; and
3. the organization is in the process of renovating the property for use as a homestead by an individual or family whose income is no greater than 60 percent of the county or area median income, adjusted for family size, and that renovation process and conveyance for use as a homestead can reasonably be expected to be completed within 12 months after construction begins.

The church or organization must apply to the assessor for classification under this provision within 30 days of its acquisition of the property, and must provide the assessor with the information necessary for the assessor to determine whether the property qualifies.

Primary Statutory Reference: 273.124, subdivision 18

Lease-Purchase Program

Qualifying buildings and appurtenances, together with the land on which they are located, may receive homestead benefits if the following conditions are met:

1. the property is leased for up to a 5-year period by the occupant under a lease-purchase program administered by the Minnesota Housing Finance Agency (MHFA) or a Housing and Redevelopment Authority (HRA) as defined under sections 469.001-469.047;
2. the occupant's income is no greater than 80 percent of the county or area median income, adjusted for family size;
3. the building consists of one or two dwelling units;
4. the lease agreement provides that part of the lease payment is escrowed as a non-refundable down payment on the housing;
5. the administering agency verifies the occupant's income eligibility and certifies to the county assessor that the occupant meets the income standards; and
6. the property owner applies to the county by May 30 of **each** year.

For the purposes of the provision, "qualifying buildings and appurtenances" means a one or two unit residential building which was unoccupied, abandoned, and boarded up for at least 6 months.

Primary Statutory Reference: 273.124, subdivision 19

Establishing Agricultural Homestead Flowcharts

The flowcharts on the following three pages are an administrative tool for assessors to use when determining whether agricultural homestead can be established. They are not the only tool an assessor should rely on in determining a specific property's qualification for homestead treatment.

Assessors are required to classify according to use and then apply homestead to properties that meet the homestead requirements. These crucial assessment roles are strictly the responsibility of an assessor and can only be determined by an assessor.

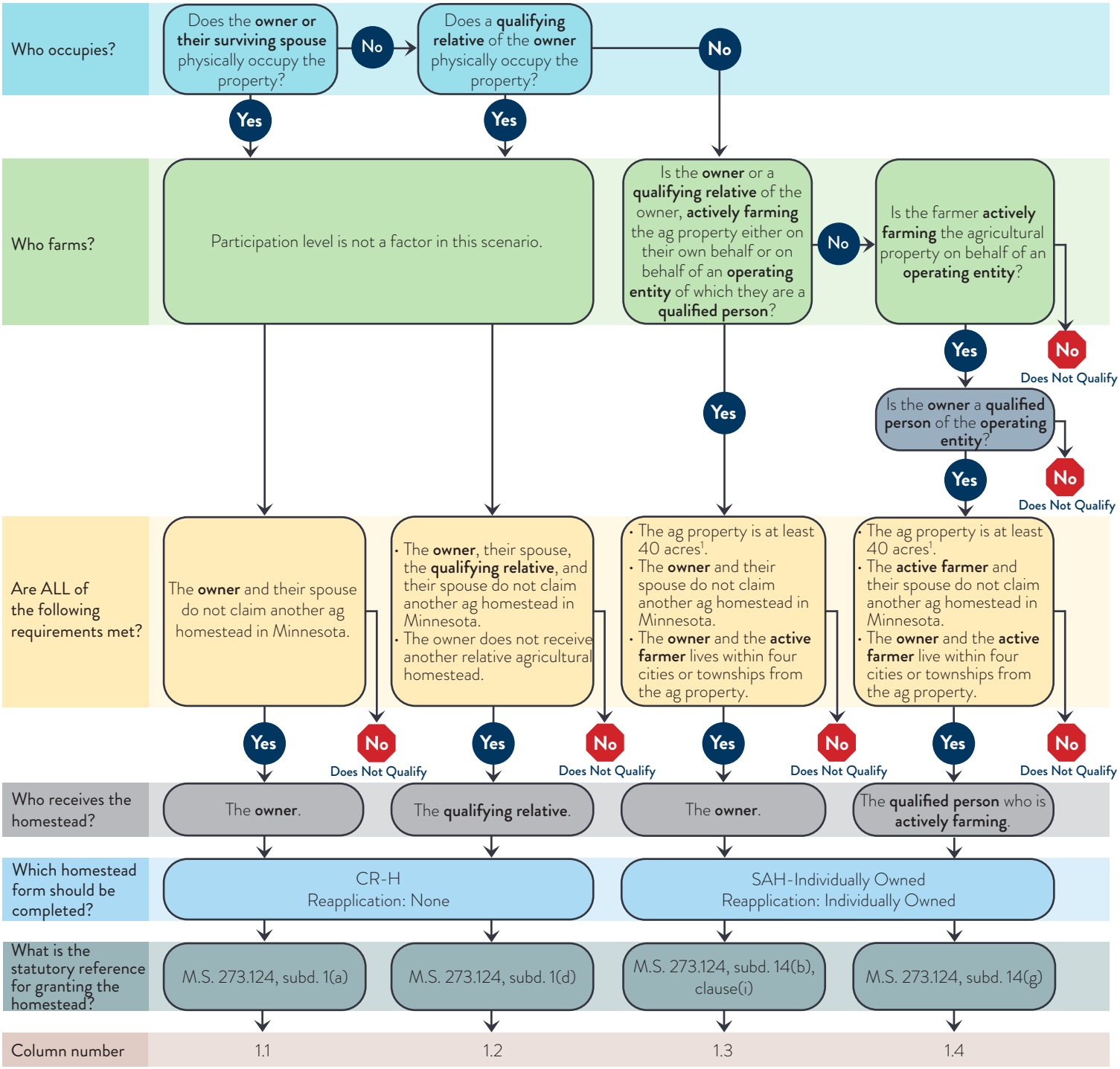
Note: The flowcharts are only used for establishing agricultural homestead. Information regarding linking agricultural homestead can be found in the Linking Parcels for Special Agricultural Homestead section of this module.

DEPARTMENT OF REVENUE

Establishing Individually Owned Agricultural Homestead Flowchart

Note: Terms in **bold** are defined in the glossary.

Revised October 2025



Footnote

[1]The ag property is at least 40 acres, including undivided government lots and correctional 40's.

Glossary

Actively farming - participation in the day-to-day decision making, labor, administration, and management of the farm as well as assuming all or a portion of the financial risks and sharing in any profits or losses. The person who is actively farming must be a Minnesota resident.

Operating entity - must meet the authorized entity requirements of M.S. 500.24 and must be operating the agricultural land. (See M.S. 273.124, subdivision 8(a).)

Owner - is defined as an individual person or multiple people who own the property. An owner must be a Minnesota resident.

Qualified person - must be a Minnesota resident and can be a member, shareholder, or partner in an authorized entity.

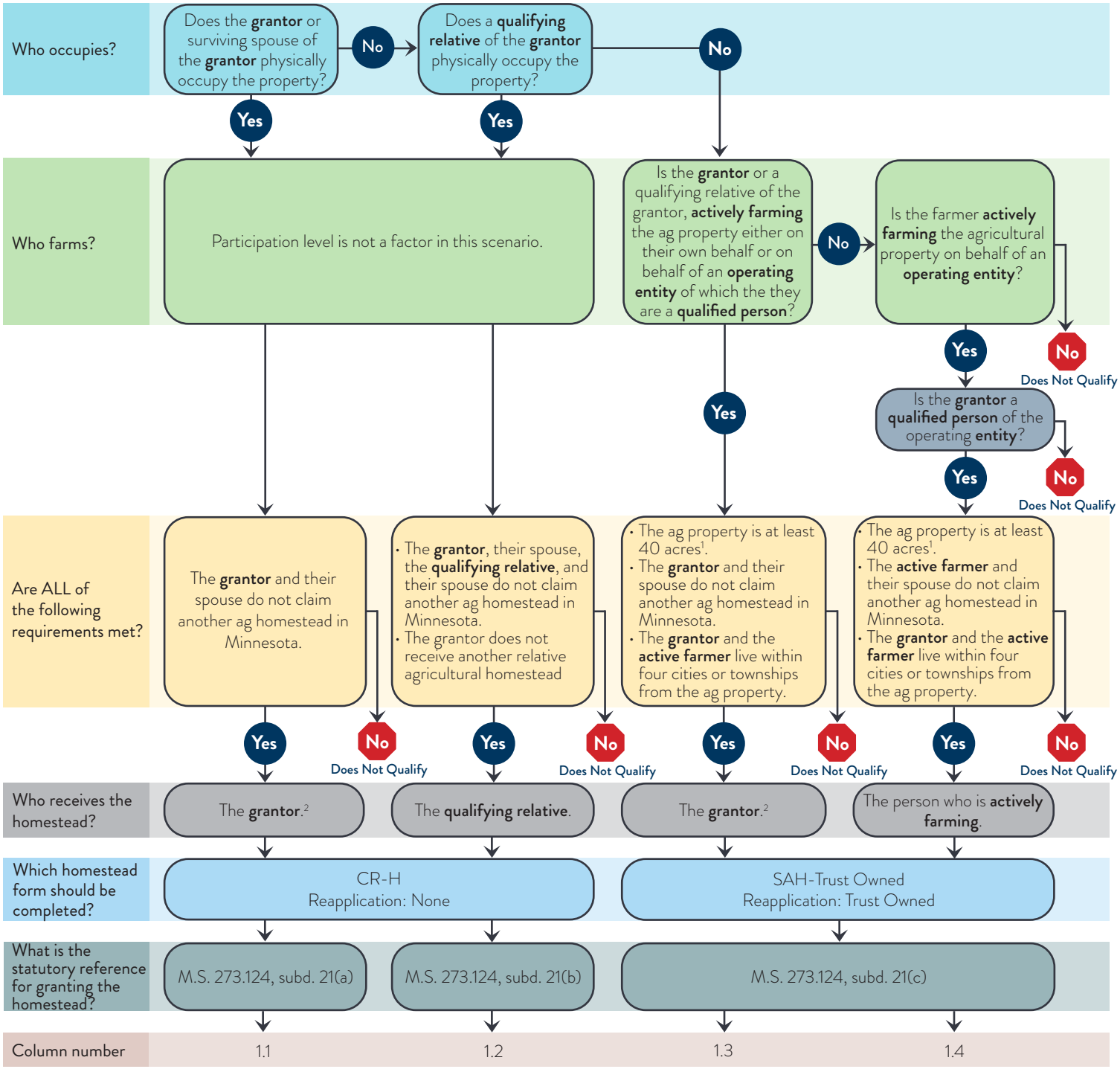
Qualifying relative – must be a Minnesota resident. For agricultural property, a qualified relative can be a child, sibling, grandchild, or parent of the owner or of the spouse of the owner. (See M.S. 273.124, subdivision 1(d).)

DEPARTMENT OF REVENUE

Establishing Trust Owned Special Agricultural Homestead Flowchart

Note: Terms in **bold** are defined in the glossary.

Revised October 2025



Footnote

[1]The ag property is at least 40 acres, including undivided government lots and correctional 40's.

[2]If the grantor is deceased, the property may still qualify for homestead to the benefit of the trust. The active farmer must sign the application, attesting that the requirements are factually met, but the homestead is given to the land owned by the trust.

Glossary

Actively farming - participation in the day-to-day decision making, labor, administration, and management of the farm as well as assuming all or a portion of the financial risks and sharing in any profits or losses. The person who is actively farming must be a Minnesota resident.

Grantor - is defined as the person creating or establishing a trust.

Operating entity - must meet the authorized entity requirements of M.S. 500.24 and must be operating the agricultural land. (See M.S. 273.124, subdivision 8(a).)

Qualified person - must be a Minnesota resident and can be a member, shareholder, or partner in an authorized entity.

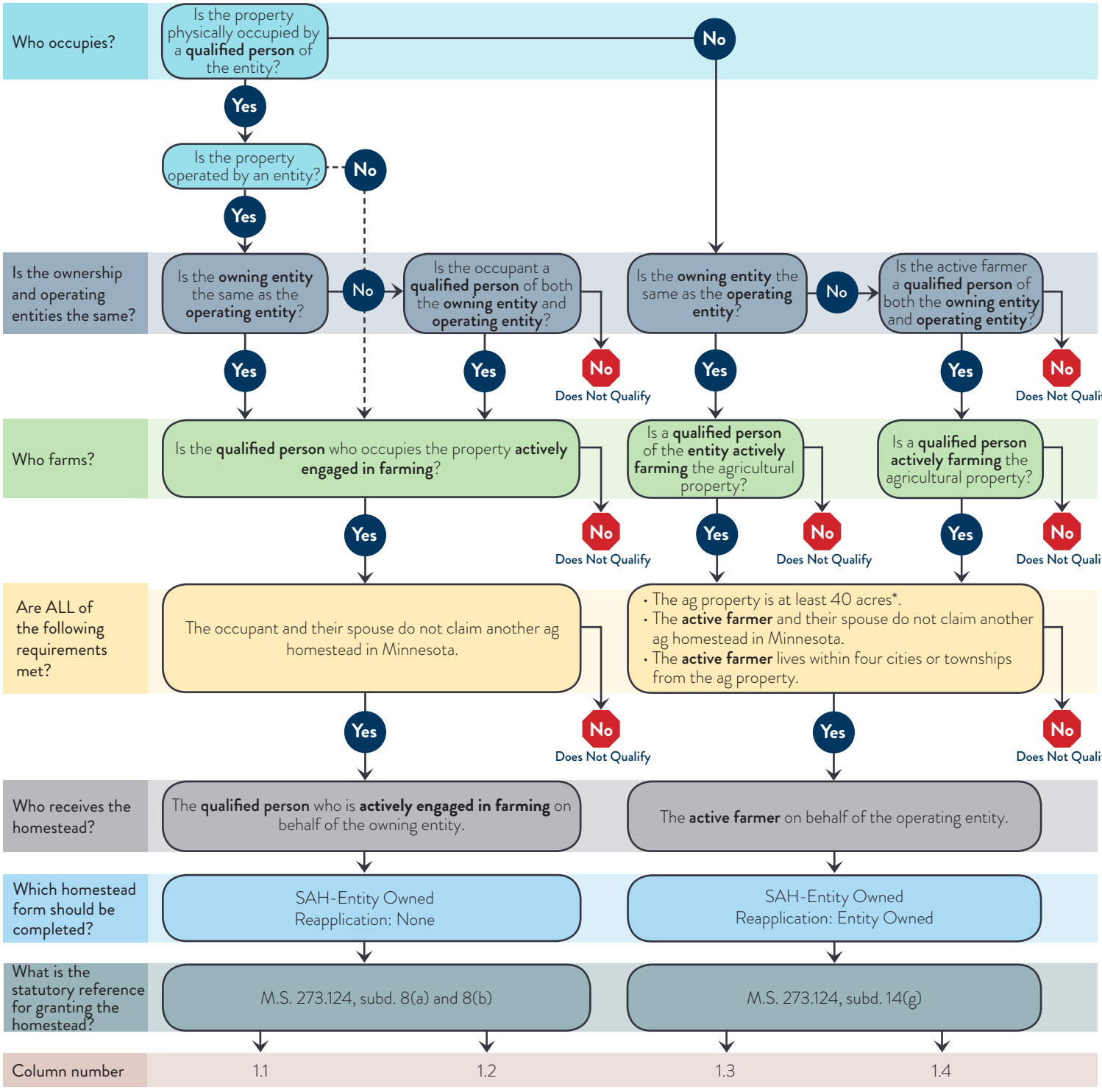
Qualifying relative – must be a Minnesota resident. For agricultural property, a qualified relative can be a child, sibling, grandchild, or parent of the owner or of the spouse of the owner or grantor of the agricultural property. (See M.S. 273.124, subdivision 1(d).)

DEPARTMENT OF REVENUE

Establishing Entity Owned Agricultural Homestead Flowchart

Note: Terms in **bold** are defined in the glossary.

Revised September 2019



Footnote

*The ag property is at least 40 acres, including undivided government lots and correctional 40's.

Glossary

Actively engaged in farming - participation on the farm on a regular and substantial basis. The person who is actively engaged in farming must be a Minnesota resident.

Active farmer - participation in the day-to-day decision making, labor, administration, and management of the farm as well as assuming all or a portion of the financial risks and sharing in any profits or losses. The person who is actively farming must be a Minnesota resident.

Owning/operating entity - must meet the authorized entity requirements of M.S. 500.24 and must be owning and/or operating the agricultural land. (See M.S. 273.124, subdivision 8(a).)

Qualified person - must be a Minnesota resident and can be a member, shareholder, or partner in an authorized entity.

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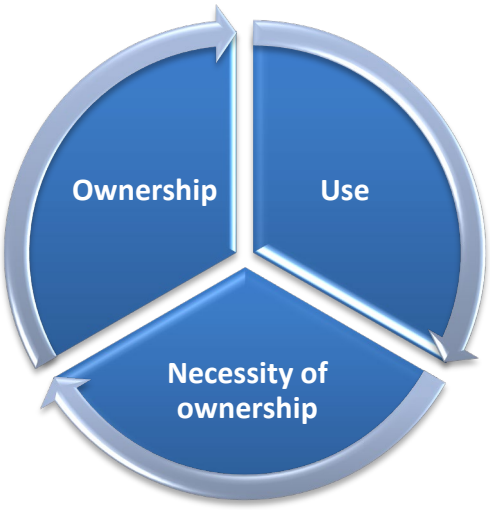
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Introduction

In Minnesota law, taxation is the rule and exemption is the exception. Exemption laws are to be strictly (not broadly) construed.

Ownership, use, and necessity of ownership are the three key elements in determining exemption. Absence of any of the three elements would likely disqualify a property from exemption unless specifically allowed by law. For example, a property may be owned by a church (an exempt institution), but if it is not used for church purposes, exemption should be denied.



Whenever property is removed from the tax rolls, the other taxpayers of that jurisdiction pay a higher share of the tax burden. Therefore, burden of proof is on the one seeking exemption to prove to the assessor that they are entitled to the exemption. The assessor has an extremely important responsibility in extending exemptions only to properties that meet the qualifications under law.

In terms of property taxation, lawmakers have decided that certain *types of property*, **or** properties *owned by specific organizations*, are exempt from property taxes if they meet certain criteria. There are distinct ways in which a property may qualify. The purpose of this module is to assist assessors regarding potentially exempt properties.

Most exempt property is defined in Minnesota Statutes, section 272.02 and the treatment of exempt properties has been addressed over time by Minnesota Tax Court, the Minnesota Supreme Court, and the Department of Revenue. While this module will not exhaustively describe the various nuances of property tax exemption guidelines, it will serve as a valuable resource to anyone with questions concerning exemption guidelines.

Introduction

If an assessor is in doubt as to the taxable status of a property, the property should be placed on the tax rolls and the taxpayer should be allowed to appeal to Minnesota Tax Court. Or, if subsequent information causes the assessor to conclude the property should be exempt from property tax, the taxes may be abated pursuant to Minnesota Statutes, section 375.192.

Assessment Practices

Application Requirements
It is required that all ownership entities seeking exemption must file an initial application with the county assessor. Each entity should include enough information to help the assessor determine whether to grant or deny the exemption. Initial applications for exemption are due to the assessor in the district where the property is located on or before **February 1** of the assessment year in which the exemption is first sought.

For most exempt properties, owners or authorized representatives must reapply for exemption **every three years**. No matter what year the owner or authorized entity originally filed for exemption, **reapplications for property tax exemption must be filed in 2025, 2028, 2031 etc.**

The commissioner of revenue is responsible for determining the types of exempt properties that must file applications and reapplications according to Minnesota Statutes, section 272.025, subdivision 3. To determine which exempt properties are required to only make an initial application and those that are required to reapply every three years, review the Exempt Property Filing Requirements chart located below.

Only properties owned by the state or a political subdivision of the state are not required to file an exemption application, but you may ask for information necessary to grant an exemption. Also, exempt properties that were **not required** to submit an initial application **prior to the 2018 law change**, such as wetlands, are not required to submit a reapplication.

Owners of property that received an order granting a property tax exemption for **pollution control property** must file a statement of exemption **each year by February 15** to continue receiving the exemption. The department administers the property tax exemption for pollution control property. See the department's Pollution Control Exemption webpage for more information.

What information can you request with an application?

The assessor can request that the taxpayer make available all records relating to ownership and/or use of the property that the assessor believes is needed to verify that the property meets requirements for exemption. If a property owner fails to file an exempt application or knowingly violates any of the filing requirements, the property would not qualify for exemption.

According to M.S. 272.02 Subd. 35, for property owned or operated by an LLC with a single member, that member shall be treated as the owner or operator for exemptions found in M.S. 272.02, subdivisions 1-33. In those cases, the assessor may request information reasonably necessary to determine if the ownership meets the requirements for exemption. This ability to disregard the entity as owner or operator applies only to those designated subdivisions.

Only the County Assessor may approve applications for exemption, not city assessors. The County Assessor must sign all applications that are approved for exemption.

In the case of sickness, absence, or other disability, or for good cause, the assessor or the Commissioner of Revenue may extend the time for filing the exempt application for a period not to exceed 60 days.

How long should you keep the application?

The assessor should retain the most recent application for as long as the exemption is granted, along with its supporting documents and notation of why or why not exemption was granted.

The following retention schedule guidelines should be used for exempt applications:

- It is required that the most current application be kept on file in the assessor's office for as long as the current property owner receives exemption.
- If at any time the ownership transfers (via sale or other means), the previous owner's application should be held for 10 years.

Examples of common exemption applications are listed below:

- Property Tax Exemption Application for Property Used for Pollution Control (Form PT-63).
- Property Tax Statement of Exemption for Property Used for Pollution Control (Form PT-64).
- Application for Property Tax Exemption [General].
- Institution of Purely Public Charity Application for Property Tax Exemption.
- Application for Property Tax Exemption for Nursing Homes and Boarding Care Homes.

What are the filing requirements?

The chart below lists the types of properties required to make initial application and apply every three years. They are listed by title and the associated subdivision in Minnesota Statute 272.02.

M.S. 272.02 Exempt Property Filing Requirements				
Subd.	**Type of Property**	**Initial application only**	**Initial & every 3 years**	**Every year**
2	Public burying grounds	**X**		
3	Public schoolhouses	**X**		
4	Public hospitals	**X**		
5	Education institutions	**X**		
6	Churches and houses of worship	**X**		
	Church property		**X**	
7	Institutions of public charity		**X**	
8	Property used for public purpose (These are not properties owned by the state or a political subdivision of the state that are not required to file an application)	**X**		
10	Personal property used for pollution control			**X**
11	Wetlands	**X**		
12	Native Prairie	**X**		
13	Emergency Shelters for victims of domestic abuse		**X**	
14	Property for Senior Citizen groups	**X**		
15	Property used to generate hydroelectric or hydromechanical power	**X**		
16	Satellite broadcasting facilities	**X**		
17	Hot water heat; generation and distribution		**X**	
18	State leased lands		**X**	
19	Property used to distribute electricity to farmers		**X**	
20	Transitional housing facilities		**X**	
21	Property used to provide computing resources to U of M		**X**	
22	Wind energy conversion system	**X**		
24	Solar energy generating system	**X**		
25	Ice arenas; baseball parks		**X**	
27	Superior National Forest; recreational property for use by disabled veterans		**X**	
28	Manure pits	**X**		
29	Cogeneration system		**X**	
30	Government property; lease or installment purchase	**X**		

Filing Requirements

32	Wastewater treatment systems	X		
39	Economic development; public purpose	X		
41	Pollution abatement property		X	
42	Property leased to schools		X	
46	Residential buildings on temporary sites	X		
49	Agricultural historical society property		X	
57	Comprehensive Health Association	X		
58	Private Cemeteries	X		
59	Western Lake Superior Sanitary Board	X		
60	Unfinished sale or rental projects	X		
61	Pedestrian systems; public parking structures	X		
62	Municipal recreation facilities	X		
64	Job opportunity building zone property	X		
73	Property subject to taconite production tax or net proceeds tax		X	
74	Religious Corporations	X		
75	Children's Homes	X		
76	Housing and redevelopment authority and tribal housing authority property	X		
77	Property of housing and redevelopment authorities	X		
78	Property of regional rail authority	X		
79	Spirit Mountain Recreation Area Authority	X		
81	Certain recreational property for disabled veterans.		X	
85	Modular Homes used as models by dealers	X		
86	Apprenticeship training facilities		X	
87	Monosloped roofs for feedlots and manure storage areas	X		
88	Fergus Falls historical zone	X		
90	Nursing Homes		X	
91	Railroad wye connections	X		
95	St. Louis County fairgrounds		X	
98	Certain property owned by an Indian tribe	X		
101	Certain property owned by an Indian tribe		X	
102	Certain property owned by an Indian tribe		X	
103	Licensed child-care facility		X	
104	Certain property owned by an Indian tribe		X	
105	Certain elderly living facility		X	
106	Certain property owned by an Indian tribe		X	
107	Certain property owned by an Indian tribe		X	

Filing Requirements

Below are additional subdivisions listed in M.S.272.02. These types of property are required to make initial application only.

M.S. 272.02 Exempt Property Filing Requirements		
Subd.	**Type of Property**	**Initial Application Only**
33	Electric generation facility personal property	**X**
44	Electric generation facility personal property	**X**
45	Biomass electrical generation facility; personal property	**X**
47	Poultry litter biomass generation facility; personal property	**X**
52	Electric generation facility personal property	**X**
54	Small biomass electric generation facility; personal property	**X**
55	Electric generation facility personal property	**X**
56	Electric generation facility personal property	**X**
68	Electric generation facility personal property	**X**
69	Electric generation facility personal property	**X**
70	Electric generation facility personal property	**X**
71	Electric generation facility personal property	**X**
84	Electric generation facility personal property	**X**
89	Electric generation facility personal property	**X**
92	Electric generation facility personal property	**X**
93	Electric generation facility personal property	**X**
96	Electric generation facility personal property	**X**
99	Electric generation facility personal property	**X**
100	Electric generation facility personal property	**X**

These application requirements are for new claims of exemption applications filed after 2018. The requirement of filing an initial application has not changed, so we recommend having an initial application on file for verification of granting the exemption.

Primary Statutory References: 275.025

Filing Requirements

Conversion to Exempt or Taxable Uses

- Any property that is **exempt** from taxation on January 2 of an assessment year and loses its exemption prior to **July 1** of that year should be placed on the assessment rolls for that year.
    - The valuation shall be determined with respect to the January 2 assessment of that year.
    - The classification shall be based upon the use to which the property is put by the purchaser.
    - In the event that the purchaser has not used the property by July 1, the intended use of the property, determined by the county assessor based on all relevant facts, will be used.
    - Exempt property being listed for sale should also be considered taxable provided it is no longer used exclusively for its exempt purposes and no longer meets the "necessity of ownership" requirement.

- Property that is **taxable as of January 2** of an assessment year, which may become eligible for exemption **prior to July 1** of that year, may be exempt for that assessment year if it is used for an exempt purpose.
    - Minnesota Statutes, section 272.02, subdivision 38, specifically clause (b) provides that "*property subject to tax on January 2* ***that is acquired before July 1*** *of the year is exempt for that assessment year if the property is to be used for an exempt purpose under subdivisions 2 to 8 [emphasis added]*."
    - If an exempt institution did not "acquire" the property after the assessment date, rather, they owned the property for several years and it had a taxable use, the acquisition qualifier is moot and the property should remain taxable for that assessment year.
    - The exemption may be granted for the following assessment year if all other requirements are met.
    - For example, a private college has owned a parcel of property for many years that was improved with a single-family residence and was rented to others. The property was taxable and was classified as residential non-homestead. On January 2, the property was occupied by the tenants. Sometime after the assessment date, the tenants moved out, the college demolished the home and applied for exemption. Since the property was not newly acquired by the college, the property must remain taxable for the current assessment year since it was used for taxable purposes on January 2.

Filing Requirements

- The cutoff date for **manufactured homes** with respect to determining exemption is the January 2 assessment date.

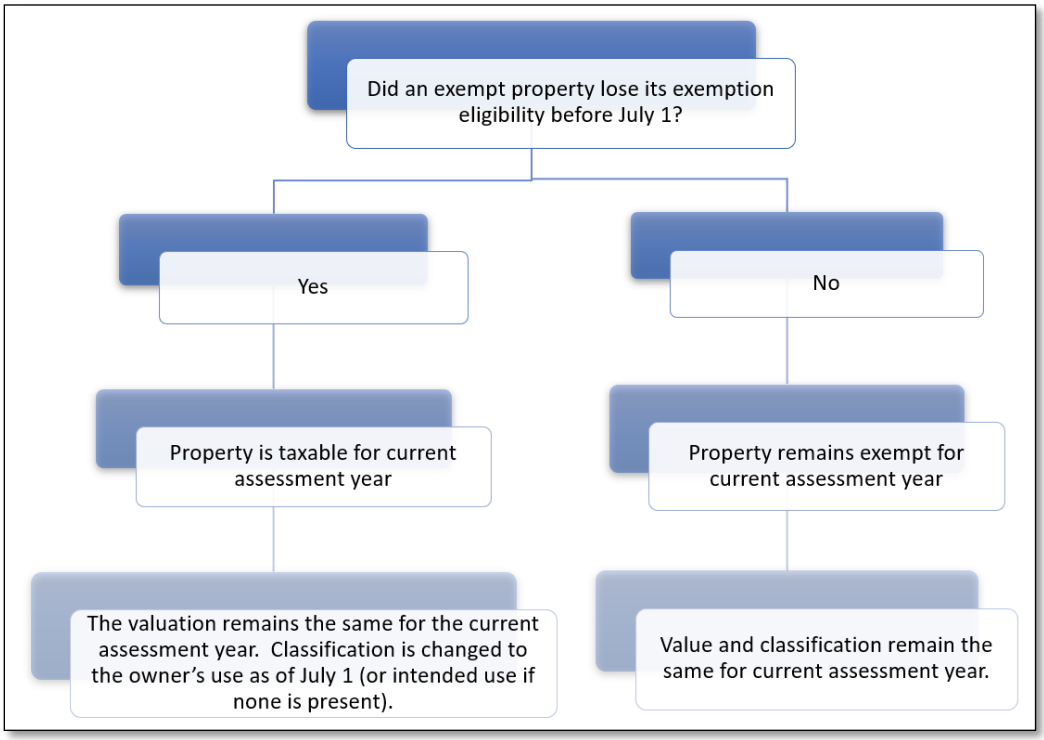
- Property which **forfeits to the state** for nonpayment of real estate taxes on or before **December 31** of an assessment year shall be removed from the assessment rolls for that year. Forfeited property that is repurchased or sold on or before **December 31** of an assessment year shall be placed on the assessment rolls for that year's assessment.

- It is important to note that exemptions may only be granted by the county assessor or by Minnesota Tax Court. They may not be granted by local or county boards of appeal and equalization.

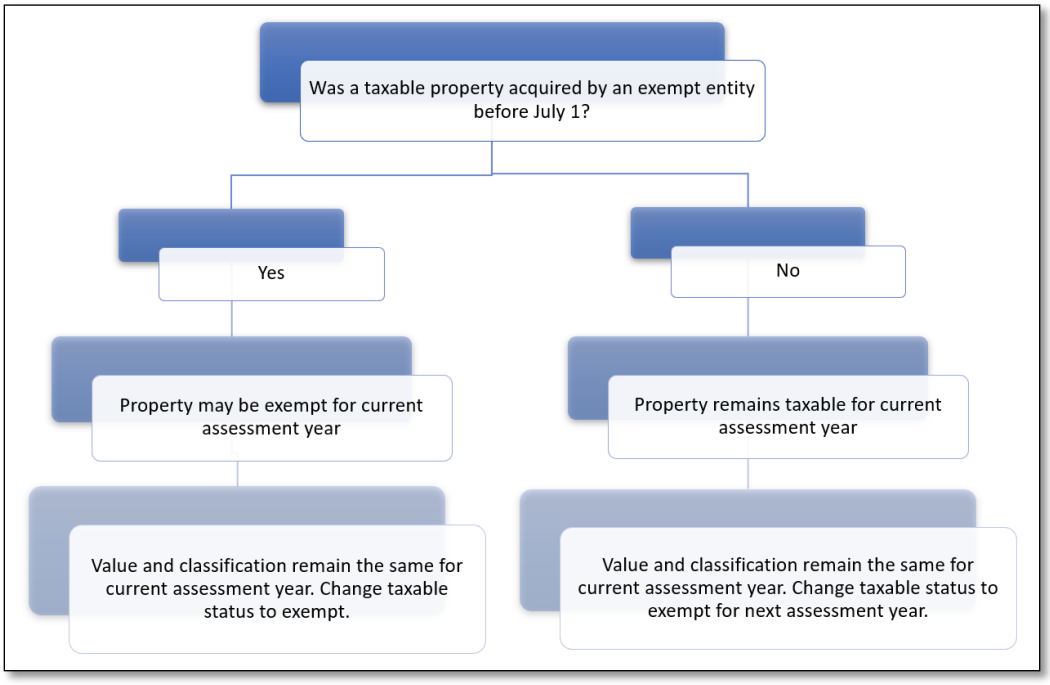
- The flowcharts on the next page may be useful in determining conversion of a property from taxable to exempt and vice versa.

Primary Statutory References: 272.02, subd. 38

Conversion of Exempt to Taxable Property Flowchart



Conversion of Taxable to Exempt Property Flowchart



Payment of Taxes and Assessments on Property Acquired by the State

When the state or a political subdivision of the state (except the Minnesota Department of Transportation, which is covered below) acquires a fee interest in property before forfeiture, provision must be made to pay all taxes, including all unpaid special assessments and future installments that are unpaid on the property at the date of acquisition.

The date of acquisition is the date on which the acquiring authority is entitled under law to take possession of the property.

In cases of condemnation, the date of acquisition is the date of the filing of the petition in condemnation. Taxes which become a lien on the property after the date of acquisition and before the condemning authority is entitled to take possession, if paid by the owner, are added to the award. If not paid, they must be paid by the condemning authority.

Taxes lawfully levied cannot be abated. However, this does not require the payment of accrued taxes and unpaid assessments on the acquired property which exceed its fair market value. The state or a subdivision acquiring property may make provisions for the apportionment of the taxes and unpaid assessments if less than a complete parcel is acquired.

If such accrued taxes and unpaid assessments are not paid as required, then:

1. The county auditor of the county in which the acquired property is located shall notify the Commissioner of Finance of the facts.
2. The Commissioner of Finance shall divert an amount equal to the accrued taxes and unpaid assessments from any funds which are to be distributed by the Commissioner of Finance to the acquiring authority.
3. The Commissioner of Finance shall pay over such diverted funds to the county treasurer of the county in which the acquired property is in payment of such accrued taxes and unpaid assessments.

Property otherwise taxable that is acquired by subdivisions of government must remain taxable until the acquiring authority is by law or by the terms of a purchase agreement entitled to take possession of it.

If the acquiring authority permits a person to occupy the property after the acquiring authority has become entitled to actual possession, the authority must charge a reasonable rental and pay 30% (or other percentage prescribed by law) of the rent received to the county treasurer. This rent is to be distributed in the same manner as property taxes.

Filing Requirements

When the political subdivision is a housing and redevelopment authority which has obtained the right to take possession of a property in a redevelopment project area, it may lease the property to the previous occupant for temporary use pending the relocation of the former occupant's residence or business. The authority may also relocate the former occupant to any other property owned by the authority in a project area. The authority may agree with the municipality to make payments in lieu of taxes on said property during such temporary occupancy. If an agreement is reached, the payment of the sum agreed upon shall be in lieu of taxes as provide in Minnesota Statutes, section 469.040, and the provisions of Minnesota Statutes, section 272.01, subdivision 2, and Minnesota Statutes, section 273.19 shall not apply to such property or to its use.

In the case of the Department of Transportation, per M.S. 117.135 Subd. 2 the date of acquisition shall be either the date on which the department enters into a written agreement to purchase the property or, in cases of condemnation, the date of acquisition shall be the date of the award of the court-appointed commissioners; except where the provisions of section 117.042 are exercised and apply.

M.S. 117.042 states that whenever the petitioner shall require title and possession of all or part of the owner's property prior to the filing of an award by the court appointed commissioners, the petitioner must notify the owner of the intent to possess at least 90 days prior to the date on which possession is to be taken. Before taking title and possession the petitioner shall pay to the owner or deposit with the court an amount equal to petitioner's approved appraisal of value. In this case, the date of acquisition will be the date on which the Department of Transportation is entitled to take possession.

Primary Statutory References: 272.68

Listing Exempt Property

Beginning with property tax data reported in 2020, the county auditor must submit the description of each tract of real property that is exempt from taxation by law, along with the name of the owner in PRISM submission 2.

If an assessor is in doubt as to the taxable status of property of any institution or organization, or even of the county or any political subdivision, the assessor should place the property upon the tax rolls. If subsequent information causes the assessor to conclude that the property should be exempted, it can be abated pursuant to Minnesota Statutes, section 375.192.

Natural resources lands for which in-lieu payments are made under Minnesota Statutes, sections 477A.11 to 477A.14 must be listed. The assessor must estimate its market value; if

the assessor cannot estimate the market value of the land on a per-parcel basis, the assessor must furnish the Commissioner of Revenue with an estimate of the average value per acre of this land within the county.

The assessor is required to value and assess the exempt property in the same manner that other real property is valued and assessed. The assessor must also determine the use of the property.

Special Assessments
Unless specifically stated in statute, if a property is exempt from property tax, it is still subject to special assessments. Special assessments are a fee and not a traditional tax. They are levied in a different manner and exempt property must pay them unless specifically exempted from them by law.

This was confirmed in a 1956 Attorney General opinion which stated that though churches, church property, and houses of worship are exempt from general taxation, they are not exempt from special assessment. (*Op.Atty.Gen*., 408C, Aug. 22, 1956.)

In 2016 the Minnesota Supreme Court reaffirmed that entities exempt from taxation must still pay special assessments for local improvements. This case, however, went into further review of what constitutes as a special assessment by reviewing a city's annual right-of-way assessment, which funds a wide range of city-wide maintenance services. The court determined that these assessments are a "tax," rather than a fee for service. *(First Baptist Church of St. Paul v. City of St. Paul*, 884 N.W.2d 355 (Minn. 2016)).

Valuing and Classifying Exempt Property

Valuation
Statute provides an exception to the general rule for valuation as it relates to exempt property. Every six years exempt properties are to be revalued, however all exempt values are reported yearly in PRISM submission 2. Therefore, values can remain stagnant until the sixth year. However, values may be adjusted annually on January 2 based on changes to market or property. Exempt properties that are adjusted annually for valuation purposes will allow assessors to respond more appropriately to the market conditions when an exempt property becomes taxable between the January 2 assessment date and July 1. The conversion from taxable to exempt does not allow valuations changes to the values set on January 2. It is important to note that although exempt properties escape taxation, exempt values are used for other property tax related programs such as PILT and Fire Aid.

There are other times when exempt values need to be updated before year six. These include:

- New construction – when there is new construction on exempt property, assessors are required to add that value to the record in the same manner as taxable property. This requires the assessor to revalue the property for the next assessment year.
- Demolition – like new construction, assessors are required to revalue the property when there is a loss of value.
- Sale of an exempt property – when an exempt property is sold and the new owner is also an exempt entity; the value must be updated based on the market value and reported that way. Do not wait for the sixth year to adjust the value in these situations.
- Dramatic changes to a market/cost schedule – when this situation arises exempt values should reflect those changes for reporting purposes.

Value changes would be identified in one assessment year, and the value would be updated for the following assessment year, just like taxable property.

Classification

Classifying a property as "exempt" is not appropriate because the statute does not provide a classification for exempt property. Therefore, assessors should be classifying the exempt property according to its current use. Although some assessment software does not allow a property to be coded with both a classification and an exempt status, all property must be classified according to use on January 2, regardless of its exempt or taxable status. In situations where this is the case the assessor should work with the software vendor to enable this classification entry.

Classifications set by January 2 may only be changed by the assessor after the assessment date in two ways.

The first option is a classification change through the boards of appeal process. It is important to remember that a new owner will also have the right to appeal classification during the Board of Appeal process.

The second option allowed in statute is specific to an exempt property being sold to a non-exempt purchaser by July 1. Minnesota Statutes 272.02 Subd. 38 states: *the classification shall be based* ***upon the use to which the property was put by the purchaser****, or in the event the purchaser has not utilized the property* ***by July 1****,* ***the intended use*** *of the property, determined by the county assessor, based upon all relevant facts.*

Primary Statutory References: 273.18; 477A.11-477A.14

Leasing Exempt Property

Whenever property that is exempt from property tax is leased, the exemption is put at risk because the property is not being used for the purpose for which the exemption was originally granted.

Generally, the property is taxable under Minnesota Statutes, section 272.01 if the property is used by a private entity for profit, or under section 273.19 if the property is held under a lease for a term of at least one year (can be on a for profit or non-profit basis). There are some exceptions provided in each of these sections. Please consult the statute for the most up to date information. Some of the most common exempt leased-property situations are discussed on the following pages.

Primary Statutory References: 272.01; 273.19

Leased Publicly-Owned Land

Minnesota Statutes, section 272.0213 allows land leased from the federal government to be exempted, while the improvements continue to remain taxable to the lessee of the site.

The department recommends that assessors continue to review all property records for the federal, state, county, and city leases that are subject to personal property taxes.

- For federal and state lands leased by the DNR under Minnesota Statutes, section 92.46 as public campgrounds, 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 land and must be taxed accordingly.

State Land Leases

The Minnesota DNR leases some hunting cabins to individual property owners. In addition, several counties and cities own properties that they lease to individuals for recreational purposes. Finally, some counties lease state-owned tax-forfeited land for recreational purposes under Minnesota Statutes, section 282.04.

The DNR's authority to enter into and manage these leases is found in 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 valued and taxed by the assessor. The tax is considered a personal property tax (a tax against the person) 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 the same rules as federal land.

Federal Land Leases

There are several hundred parcels of property owned by the United States in the Chippewa and Superior National Forests that are managed by the Bureau of Land Management (BLM) and are leased to private individuals for recreational purposes. Typically, these are lakeshore properties.

The process for leasing and managing these parcels is governed by federal law. There are restrictions on how the properties can be improved by the lessees. Generally, the main structure cannot exceed a given square footage and height. Decking may not exceed a given square footage, and the garage or storage area is also restricted. The lease excludes a strip of some feet from the high-water mark that is retained by the federal government for public access.

Lessees are responsible for all improvements including structures, septic systems, electrical service, and road/access and 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 lessee 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.

Lands owned by the federal government and rented for non-commercial seasonal-recreational or non-commercial seasonal residential recreational use are exempt from taxation including the taxes imposed under section 273.19.

Taxation of Land Leases

Qualified lands exempt from taxation includes those that are:

1. Owned by a county, city, town, or the state; and
2. Rented by the entity for noncommercial seasonal-recreational, noncommercial seasonal-recreational residential use, or class 1c commercial seasonal-recreational residential use.

Lands owned by the federal government and rented for noncommercial seasonal recreational, noncommercial seasonal-recreational residential, or class 1c commercial seasonal-recreational residential use are exempt from taxation, including the tax imposed under section 273.19.

Primary Statutory References: 272.01; 273.19; 272.0213; 92.46

Commonly Exempted Property Requiring Diligent Assessment

Church-Owned Property and Property of Religious Corporations

All churches, church property, and houses of worship are exempt per Minnesota Statutes. However, the Department of Revenue has consistently advised that to be exempted, the property must be **used by the church for church purposes**. For example, the department has advised that vacant land purchased by a church but not used for any church purpose should not be granted an exemption.

Churches and houses of worship must file an initial exemption application for the first assessment year they are seeking exemption. Reapplications are not required for churches and houses of worship. All other church property must file an application for exemption every three years. Court cases related to church exemptions are discussed here, as well as in the Court Cases section of this module.

In the case of properties owned by religious corporations used for religious purposes, exemption is also granted unless the property is not being used for a church purpose; or is being leased or used for profit. For example, church property, including the parsonage, is not exempt if it is rented out to private individuals or corporations. Additionally, church property is not exempt when the property is used for purposes other than those for which the church was established. The exemption granted to churches also does not apply to the property owned by a clergyman or to any property owned by an individual and used for church purposes.

The Minnesota Supreme Court concurs that the test for determining entitlement of church-owned property for a tax exemption is whether or not the property is devoted to and reasonably necessary for accomplishment of church purposes. The Court has granted exemption in a case where a duplex was located 30 feet from a church sanctuary and owned by the church, but one unit was occupied by a part-time janitor in one unit and the other occupied by the director of church music, the church liturgist, and the director of

Christian education at the church. The exemption was granted in this case on the basis that the duplex was devoted to and reasonably necessary for the accomplishment of church purposes (*St. John's Lutheran Church v. County of Hennepin*, 1985, 373 N.W.2d 281). Furthermore, in *State vs. Second Church of Christ, Scientist* (240 N.W.2d 532), the Supreme Court said that the test is the use to which the property is devoted or about to be devoted.

In many court cases, decisions were based on whether the "church organization" met the requirements of Article X, section 1 of the Minnesota Constitutions definition of a church; or the definition with Minnesota Statutes, section 272.02, subdivision 1. Organizations not meeting the requirements therein were denied exemption based on the fact that they were not, by legal definition, "church" organizations. [E.g. *Ideal Life Church of Lake Elmo v. County of Washington*, 1981; *State of Minnesota, County of Hennepin v. American Fundamentalist Church*, 1993.]

Primary Statutory References: 272.02, subd. 6

Property Owned and Used by Institutions of Purely Public Charity

While many different types of property are specifically exempted under Minnesota Statute, property may also be exempt if it is owned and used by an institution of purely public charity. When reviewing an application for property tax exemption, the assessor should determine if the property is specifically exempted in statute before evaluating the application as an institution of purely public charity. That is, if a property owned by a 501(c)(3) operates as a domestic violence shelter or nursing home, there are other subdivisions of Minnesota statutes that cover those exemption types.

Requirements and Background

As stated, taxation is the rule and exemption is the exception. The qualifying parcel must be owned by an exempt institution, used for exempt purposes, and the ownership must be reasonably necessary to further the mission of the exempt organization. This three-prong test must be used when making these determinations. Absence of any of the three elements would likely disqualify a property from exemption unless specifically allowed by law.

Although the State of Minnesota has not adopted a statutory definition of a "charity" for property tax exemption purposes, it may be helpful to know that the United States Internal Revenue Service (IRS) outlines requirements for a charitable organization eligible for federal income tax exemption under section 501(c)(3) of the Internal Revenue Code. According to the IRS website, the requirements include that, "an organization must be organized and operated exclusively for exempt purposes set forth in section 501(c)(3), and none of its earnings may inure to any private shareholder or individual." The IRS further defines exempt purposes as:

> *"… [C]haritable, religious, educational, scientific, literary, testing for public safety, fostering national or international amateur sports competition, and preventing cruelty to children or animals. The term* charitable *is used in its generally accepted legal sense and includes relief of the poor, the distressed, or the underprivileged; advancement of*

religion; advancement of education or science; erecting or maintaining public buildings, monuments, or works; lessening the burdens of government; lessening neighborhood tensions; eliminating prejudice and discrimination; defending human and civil rights secured by law; and combating community deterioration and juvenile delinquency."

For an institution of purely public charity to meet requirements for exemption, it must first be exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code. Any institution of purely public charity which is not a 501(c)(3) organization is ineligible for property tax exemption. However, being granted 501(c)(3) status by the IRS **does not** automatically qualify an organization for Minnesota property tax exemption.

Prior to law changes in 2009, most of the requirements for an institution of purely public charity to qualify for property tax exemption were provided by court decisions rather than statute.

In 2009, past factors based on court cases were modified and codified in law. Since then, apart from the requirement of 501(c)(3) tax-exempt status, a qualifying organization must meet all six requirements in 272.02, subdivision 7, unless there is a "reasonable justification" for failing to meet requirement 2, 3, or 5. Assessors may request additional information from the applicants in order to prove that "reasonable justification" for failing to meet a requirement is met. As always, the burden is on the taxpayer to prove eligibility for exemption.

When reading the examples under requirements 2, 3, and 5, keep in mind that in the "real world", it is unlikely that the exact same circumstances would be found among different institutions. For all the examples, it must be noted that determinations of failure to meet these requirements will be based on the unique facts of each individual case.

If an assessor determines that a requirement has not been met, the institution has the burden of proving to the assessor that it either (1) meets the requirement or (2) that the institution has a reasonable justification for failing the requirement. The assessor may request additional information.

Requirement 1: The stated purpose of the undertaking of the organization is to be helpful to others without immediate expectation of material reward.

- This factor MUST be met.
- This requirement is also necessary to receive 501(c)(3) exempt status from the IRS.
- Assessors may assume, given a 501(c)(3) determination letter, that this factor is met.
- Assessors may also refer to the organization's Articles of Incorporation if necessary.

Requirement 2: The institution must be supported by material donations, gifts, or government grants for services to the public in whole or in part.

- "Reasonable Justification" may be given for not meeting this requirement.
- Assessors may refer to the Federal Form 990 and/or other income and expense statements to determine if this requirement is met.
- A "government grant" is defined for property tax exemption purposes under M.S. 272.02, subd. 7 as:
  "a written instrument or electronic document defining a legal relationship between a granting agency and a grantee when the principal purpose of the relationship is to transfer cash or something of value to the grantee to support a public purpose authorized by law in a general manner instead of acquiring by professional or technical contract, purchase, lease, or barter property or services for the direct benefit or use of the granting agency."

  For instance, one example of an institution of purely public charity which would receive government grants would be a clinic receiving federal funds under section 330 of the Federal Public Health Code. Another example would be the Minnesota Pollution Control Agency providing grants for proposals for water quality management planning. The appropriation for grants to volunteer tax preparers by the State of Minnesota is another example of a government grant.

- **Examples**:
  - An arts and culture center which operates as a 501(c)(3) nonprofit has a mission to support literary arts through educational opportunities, training, and showcasing local artists' work. The organization receives community foundation support, individual gifts and donations, and government grants for its literacy program. The organization is supported by material donations, gifts, and government grants. *This organization satisfies this requirement.*

  - A 501(c)(3) non-profit conserves land for the public benefit. For properties donated to the non-profit, the donation of the land may qualify as a "gift" for purposes of this second requirement if the land is given freely or sold at materially below market value for to the non-profit organization*. If the value of the gift (the land) is material, the organization would satisfy requirement 2.*

  - A 501(c)(3) non-profit works with homeless populations to provide job training. By design, the organization conducts an annual fund drive every other year. It utilizes funds raised at its bi-annual drive through the next two years in advancement of its charitable mission. The funds raised through the drive were material. Although the organization has not participated in fund-raising for one

year, *the donations received through its bi-annual drive are material and this second requirement is met*.

- A 501(c)(3) was organized two years ago under a significant endowment. During the last year, dividends and interest from the original endowment were sufficient enough to run the operation. Because of the endowment, the organization did not devote time to fundraising last year, as it was able to perform its exempt activities through the dividend and interest income. In other words, the endowment is considered the "fundraiser" for this organization. In the prior to the assessment year, the organization fails this factor. However, the organization is able to articulate the use of the endowment instead of other active fundraising for its financial support. *The organization is able to prove to the assessor that it has reasonable justification for not receiving donations, gifts, or government grants in the previous year and the property may qualify for exemption.*

- A non-profit printing press publishes some materials for retail sale for a profit, some materials are sold below cost, and some materials are donated. The organization has raised some funds through donations and gifts; however, the printing press also uses the commercial sale of some of its books to offset the cost of making and distributing the educational materials which are available in a charitable manner. The organization is able to prove to the assessor that it is supported by material gifts and donations and that its revenue-generating activities are secondary and incidental to its charitable activities. *The organization may be eligible for property tax exemption.*

- A 501(c)(3) organization provides training and materials to disadvantaged persons so that they can create gift items (e.g. bird houses, dolls, candles, etc.) for sale. The items are created by participants of the organization and sold at the organization's property. The participants are low income, and many are disabled or elderly. The organization receives very little donations but does receive small government grants. The organization uses the income received from the sales of these gift items to pay the participants and also to purchase more materials to continue with its mission. The assessor determines that the organization does not meet the requirements under clause 2. The organization feels that they have reasonable justification for not clearly meeting this requirement due to the nature of its mission, given their needy clientele the gainful employment provided to people who were otherwise not readily employable. The organization does give up some profits, and the support it receives is used for the furtherance of the organization's mission. In other words, *the organization has provided evidence of a reasonable justification for failing to meet this*

requirement and may be eligible for property tax exemption.

- A children's theater is organized as a 501(c)(3) nonprofit, and its mission is to provide meaningful educational and cultural theater experiences for young people. The theater's sole source of revenue is from ticket sales, which are $30 per ticket. The theater does not attempt to fundraise and never applied for grants or other public financial support. Similar theater companies have received material donations; however, this organization does not try to raise funds in this manner. *The organization does not meet the second requirement, nor does it have reasonable justification for failing to meet it; therefore, it does **not** qualify for property tax exemption.*

- The test of reasonable justification only applies if the factor is not met. A non-profit may first work to demonstrate that it does, in fact, meet the requirement. If it cannot do that, it must demonstrate a reasonable justification for failure to do so. Each case of "reasonable justification" is to be looked at based on the unique facts of each individual situation. The burden is on the property owner to prove "reasonable justification" for failing to meet any requirement based on the nature of the organization. For example, if an organization chooses not to fundraise, while other organizations of the same type actively fundraise and receive donations and gifts, there is no reasonable justification for the organization to **not** fundraise. It was the choice of the organization not to engage in fundraising activities; it is not the nature of the organization or any other reasonable factor which precluded it from doing so.

Requirement 3: A material number of the recipients of the charity must receive benefits or services at reduced or no cost, or the organization must provide services to the public that alleviate burdens or responsibilities that would otherwise be borne by the government.

- "Reasonable justification" may be given for not meeting this requirement.

- An organization must either provide its goods or services at reduced or no cost to a material number of the recipients **or** must provide services that alleviate burdens or responsibilities that would otherwise be borne by the government to satisfy this factor. It does not need to meet both requirements.

- **Examples**:
  - A 501(c)(3) nonprofit childcare center cares for ten children from eight families. The organization makes free or reduced-cost childcare services available through a sliding-scale fee program. At any point, three to five children may utilize this program. *Because the organization offers services at reduced or no cost to a material number of recipients, the organization satisfies this requirement.*

- A 501(c)(3) nonprofit youth diversion program provides court-ordered placement and services for youths as an alternative to a government-provided detention program. *Because this organization alleviates the burden of government by providing alternative placement, this requirement is met.*

- A 501(c)(3) group home provides daily living support for brain trauma patients but does not provide its services for free or at a reduced cost. The institution accepts government payments at the rates set by government. Although the group home does not have proof of providing services for free or at a reduced cost in this case, based on the actual charitable activities of the organization and the recipients of the charity, the assessor determines that the *organization has reasonable justification for failing to clearly meet the third requirement and may be eligible for property tax exemption.*

- A 501(c)(3) group home provides daily living support for person with developmental disabilities but is unable to prove that those supports and services are provided for free or at reduced cost. The organization accepts government payments at the rates set by government. Although the group home does not have proof of providing services for free or at a reduced cost in this case, based on the actual charitable activities of the organization and the recipients of the charity, *the assessor determines that the organization has a reasonable justification for failing to meet the third requirement and may be eligible for property tax exemption.*

- A 501(c)(3) nonprofit theater trust has a mission to engage the community in a diverse array of live performances and educational experiences so as to enrich lives, inspire an affinity for our historic theaters, and to contribute to the economic vitality of the community. The theater trust owns several theater properties. The trust receives monetary support from the local municipality to rehabilitate and maintain the historic theaters. The theater trust also provides material community education services at reduced or no cost that are in accordance with its stated mission. However, the theater trust gives away relatively few tickets for free or at a reduced cost. The theater trust engages community members in several other ways for free or at a reduced cost. Although the organization does generate revenue from ticket sales the organization provides its services for reduced or no cost to a material number of people. Therefore, *this third requirement is met.*

- A 501(c)(3) childcare facility does not provide reduced rates for its families who are unable to pay and are referred to social services, and the same rate is charged whether the recipients of the childcare are paying directly or are using social assistance. The childcare center does not provide a sliding-scale fee setup

(so that some recipients could receive rates below market rate), nor does the center provide vouchers or scholarships for those unable to pay market rates. Failure to provide payment assistance in any way to private individuals receiving the service is a failure to meet this requirement and may make an institution ineligible for property tax exemption. *The organization is given the opportunity to provide evidence of a reasonable justification for failing to meet the requirement but cannot. The facility does **not** qualify for property tax exemption.*

- A 501(c)(3) group home for the elderly that does **not** receive government grants (and the rates they charge are not mandated by government reimbursement rates) does not have a practice of reducing rates for clients unable to pay the full amount. The group home would not meet this factor. Because the group home does not provide services for free or at reduced cost, and because *the group home does not have reasonable justification for not meeting this requirement, the group home would **not** qualify for exemption.*

- Each case of "reasonable justification" is to be looked at based on the unique facts of each individual situation. The burden is on the taxpayer to prove "reasonable justification" for failing to meet any requirement based on the nature of the organization. Organizations that could—but choose not to—provide goods or services for free or at reduced cost do not have reasonable justification for failure to do so.

Requirement 4: That the income received, including material gifts and donations, must not produce a profit to the institution which is distributed to private interests.

- This factor MUST be met.

- To be eligible for 501(c)(3) exemption, the Internal Revenue Code requires that "The organization must not be organized or operated for the benefit of private interests, and no part of a section 501(c)(3) organization's net earnings may inure to the benefit of any private shareholder or individual." As such, a 501(c)(3) organization applying for property tax exemption may be assumed to have met this requirement.

- This is not to say that the organization must operate at a loss or at zero profit. Rather, the profits may be redistributed back into the organization for the organization's purposes.

Requirement 5: That the beneficiaries of the charity must be unrestricted. If the beneficiaries are restricted, the class of persons to whom the charity is made available must be one having a reasonable relationship to the charitable objectives.

- "Reasonable justification" may be given for not meeting this requirement.

- **Examples**:
    - A 501(c)(3) nonprofit works worldwide to preserve ecologically important wildlife habitat for nature and for people. Part of the organization's Minnesota-based operations include preserving a large tract of prairie in Northern Minnesota which has been identified as ecologically fragile, home to several endangered species, and critical to the health of the local watershed. In addition to preserving and maintaining this prairie land, the organization makes the land available for education, research, and low-impact recreational activities. *The beneficiaries of the organization's conservation practices are unrestricted as the general public benefits from this preservation, and the general public is awarded the opportunity to use the lands. This requirement is met, and the organization may be eligible for property tax exemption.*

    - A property is owned by a 501(c)(3) organization whose mission is to provide cultural and educational opportunities for inner-city Native American youth. The beneficiaries of this organization's charity are restricted to inner-city Native American youth. However, in this specific case, the restriction is found to be directly related to the organization's genuine charitable mission. *The "class of persons to whom the charity is made available" is one "having a reasonable relationship to the charitable objectives" and this requirement is met.*

    - A 501(c)(3) organization's mission is to provide camping opportunities to disadvantaged youth and to promote wildlife preservation. The organization has fenced off access to its land and is awaiting future sale or development; however, the organization has not had any youth groups camping on this land. The organization's owners allow access to a neighbor and that neighbor's small group of friends or to private hunting parties each year. The beneficiaries of this wildlife area are restricted, but not in a manner which furthers the organization's charitable cause. *This property would **not** meet this factor and therefore would **not** qualify for exemption.*

- In our opinion, the only case where it is acceptable to restrict the beneficiaries of a charity is when "the class of persons to whom the charity is made available [is] one having a reasonable relationship to the charitable objectives." This is the only case of a "reasonable justification" for restricting the beneficiaries of a charity.

Requirement 6: That dividends, in form or in substance, or assets upon dissolution are not available to private interests.

- This requirement MUST be met.

- An organization must also meet this requirement to be a 501(c)(3) tax exempt organization under the Internal Revenue Code. The IRS website (www.irs.gov) states:

  "…[I]f an organization dissolves, its assets must be distributed for an exempt purpose, to the federal government, or to a state or local government for a public purpose. To establish that an organization's assets will be permanently dedicated to an exempt purpose, its organizing documents should contain a provision insuring their distribution for an exempt purpose in the event of dissolution. If a specific organization is designated to receive the organization's assets upon dissolution, the organizing document must state that the named organization must be a section 501(c)(3) organization when the assets are distributed."

  Because only 501(c)(3) organizations are eligible for exemption as institutions of purely public charity, a 501(c)(3) organization applying for property tax exemption will have met the sixth requirement.

Application Process for Institutions of Purely Public Charity

All institutions of purely public charity must apply for exemption as explained at the beginning of this module. When reviewing the application, all six requirements should be met, unless the organization is able to provide reasonable justification for failing to meet the second, third, or fifth requirement.

Applications must be provided to the assessor's office with:

- Determination letter from the IRS granting status as a 501(c)(3) organization
- Income and expense statements (such as Federal Form 990)
- Articles of Incorporation

Applicants are to fill out each section of the application. There is additional space by requirements 2, 3, and 5 in case the organization wishes to provide reasonable justification for not meeting these requirements or other additional information. If the applicants do not meet requirements 2, 3, or 5, they may also wish to provide additional documentation outlining why these requirements are not met (or if such documentation is not provided, it may be helpful for the assessor to request this information).

If a charitable organization can provide evidence of reasonable justification, the assessor should review that documentation before making a determination. If the assessor feels that there is insufficient evidence of reasonable justification, the assessor may allow additional time to

produce such evidence. We recommend that the assessor allow for up to 60 days to receive the additional information.

There is also space on the application for the organization to outline uses of the property which are not directly related to the charitable mission of the organization. If there is a substantial use present that is not part of the organization's charity, the exemption is provided *pro rata*. For example, if there is a substantial residential use of an otherwise exempt building, but the residential portion is not part of the exempt mission of the institution, that residential portion is not exempt from taxation.

If the assessor denies the original application, or denies an application based on the additional information provided, the assessor should respond in writing, clearly outlining the assessor's determination for denying exemption. The letter informing the applicant of denial should also include information regarding the taxpayer's opportunities for appeals. This includes both the formal Tax Court appeal and the advisory review board appeal discussed later in this section.

On the following pages, we have included a checklist with notation that you may use when reviewing applications for institutions of purely public charity. If you use this checklist, keep it on file with the application for your records.

Leasing Exempt Property

Optional checklist for determining exemption for institutions of purely public charity

Name of Organization: _____

Address of Organization:

_____

Date of review: _____

Documents provided for review purposes (check all that apply):

- ☐ Application for exemption
- ☐ Supporting documents requested by the assessor or provided by the applicant
- ☐ Federal Form 990 and/or other income and expense statements for the previous three years
- ☐ IRS 501(c)(3) determination letter or substitute
- ☐ Articles of Incorporation
- ☐ A detailed description of the organization's function, outlining why the organization believes it qualifies for property tax exemption

REVIEW OF REQUIREMENTS IN 272.02, Subd. 7:

Requirement 1: The stated purpose of the undertaking of the organization is to be helpful to others without immediate expectation of material reward.
Reasoning based on documents/proof provided (e.g. 501(c)(3) determination letter):

_____

_____

_____

Requirement met?

- ❑ Yes
- ❑ No

Leasing Exempt Property

Requirement 2: The institution must be supported by material donations, gifts, or government grants for services to the public in whole or in part.
"Reasonable Justification" may be given for not meeting this requirement.
Reasoning based on documents/proof provided of either requirement or reasonable justification:

_____

_____

_____

Requirement met?

- ❑ Yes
- ❑ No
- ❑ No, but reasonable justification has been given

Requirement 3: A material number of the recipients of the charity must receive benefits or services at reduced or no cost, or the organization must provide services to the public that alleviate burdens or responsibilities that would otherwise be borne by the government.
"Reasonable justification" may be given for not meeting this requirement.
Reasoning based on documents/proof provided of either requirement or reasonable justification:

_____

_____

_____

Requirement met?

- ❑ Yes
- ❑ No
- ❑ No, but reasonable justification has been given

Requirement 4: That the income received, including material gifts and donations, must not produce a profit to the institution which is distributed to private interests.
Reasoning based on documents/proof provided (e.g. 501(c)(3) determination letter):

_____

_____

_____

Requirement met?

- ❑ Yes
- ❑ No

Requirement 5: That the beneficiaries of the charity must be unrestricted. If the beneficiaries are restricted, the class of persons to whom the charity is made available must be one having a reasonable relationship to the charitable objectives.
"Reasonable justification" may be given for not meeting this requirement.
Reasoning based on documents/proof provided of either requirement or reasonable justification:

_____
_____
_____

Requirement met?

- ❑ Yes
- ❑ No
- ❑ No, but reasonable justification has been given

Requirement 6: That dividends, in form or in substance, or assets upon dissolution are not available to private interests.
Reasoning based on documents/proof provided (e.g. 501(c)(3) determination letter):

_____
_____
_____

Requirement met?

- ❑ Yes
- ❑ No

Reviewer's Opinion
Determination:

- ❑ Taxable
- ❑ Exempt
- ❑ Pro-rata exempt (explain):

  _____
  _____
  _____

- ❑ Indeterminate, more information needed:
- ❑ _____
  _____
  _____

Additional Considerations when Reviewing Institutions of Purely Public Charity for Property Tax Exemption and Historical Cases

Below are some general agreements and common discussions of the review board:

Membership fees that provide the "member" with market value goods or services are generally not considered donations.
In other words, a membership fee which provides a return of something of material value is not considered a donation but is more similar to a fee-for-service.

However, in some cases, the membership "fee" is greater than the value of goods or services received for membership. The amount of that membership fee that exceeds the amount of goods or services received may be considered a donation (organizations are able to lay out for members which portion of their fee/donation is considered an exempt donation – the portion of the fee that exceeds the return).

For example, a non-profit radio station may host a "membership drive" as fundraising. "Members" of the public radio station may receive some goods or services for being a member, but in general the membership fee/donation exceeds the value of those goods or services. The portion of the fee/donation that exceeds the goods or services received would be considered a donation for purposes of property tax exemption determinations.

The use of the property must fulfill the organization's mission.
This is part of the umbrella requirement that for any property tax exemption, property must be owned by a qualifying organization, used for that organization's purposes, and ownership of the property must be reasonably necessary to fulfill the organization's mission.

Bare land owned by an organization, for example, may not be exempted unless there is a clear use of the property that fulfills the mission of the organization (e.g., bare land that is used for camping by a youth camping organization).

If the property's use changes to a mission-based use, exemption eligibility may be reconsidered.

During the 2025 legislative session, additional language related to IPPCs that provide low-income residential housing was added. Property is not exempt if rental housing is the sole charitable purpose of the property. Instead, the exemption is limited to qualifying charitable organizations where providing rental housing furthers the charitable purpose, but where income-based rental housing is not the sole charitable purpose of the property.

Leasing Exempt Property

In the case of the lease, how does the tenant use the property? Does the tenant's use coincide with the mission of the owner organization?
The board has not developed a bright-line test on how tenant/owner relationships must coincide for property tax purposes.

We do know that if a nonprofit leases a portion of its property to a for-profit organization, the leased portion is taxable. However, if a nonprofit leases a portion of its property to another nonprofit, the lease is not necessarily taxable, but the review board would ask for much more information about the tenant's use of the property, the lease fee, etc.

In general, the lessee organization needs to meet the same statutory standards for property tax exemption on its own merits to qualify. We would also recommend that assessors get as much additional information as possible for their own purposes, as well.

Who is benefiting from the property?
While there are no requirements for "who benefits?" there have been discussions regarding cases where it has been unclear whether anyone benefits, whether anyone other than members benefit, and whether a good or service is provided that anyone "needs".

In general, the expectation is that qualifying organizations would primarily benefit the public, with incidental private benefit not disqualifying a property from exemption.

However, a property that primarily benefits private interests with only incidental public interests would be questionable in terms of qualifying for property tax exemption. This is another instance where it is helpful to both the assessor and the review board if the organization is able to clearly outline who is benefitting from the good or service provided. Please note that this is only in cases of properties seeking to qualify under clause 3 that *do not* alleviate burdens or responsibilities that would otherwise be borne by the government.

2009 Legislative Survey

A 2009 survey conducted across Minnesota counties and involving several charitable organizations found types of organizations were commonly exempted for property tax purposes.

Note: While these may be commonly exempted in 2009, every assessor must make the determination based on the facts on the specific property they are reviewing. Also keep in mind there have been additional exemptions put into law since 2009. For example, nursing homes used to be exempt as institutions of purely public charity. However, clarifying legislation in 2009 legislature created a separate statutory exemption for nursing home facilities that did not discharge residents based on their inability to pay.

The organizations they found commonly exempted are:

- Nursing homes
- Daycare centers
- Group homes
- Youth activity centers (Boy Scouts, Girl Scouts, youth camps, etc.)
- Animal shelters (Humane Society)
- Nature and history preservation sites (museums, Nature Conservancy land, etc.)
- Sobriety-based organizations (AA, Alano, rehabilitation, etc.)
- Senior citizen centers
- Organizations devoted to the training of disabled persons
- YMCA buildings
- Crisis pregnancy centers
- Salvation Army locations
- American Red Cross sites
- Food shelf/food bank locations
- Land owned by Habitat for Humanity (after homes are built on the land, the property becomes taxable)
- Transitional housing facilities
- Housing and services for persons with physical and/or mental disabilities
- Art and cultural institutions

Historical Court Cases

The following cases were prior to the 2009 legislation:

In *Junior Achievement of Minneapolis, Inc. v. State*, 1965 (271 Minn. 385, 390, 135 N.W.2d 881, 885), the Minnesota Supreme Court interpreted "lessening the burden of government" as a factor to consider for an institution of purely public charity to qualify for property tax exemption. This case, which predated the *North Star* decision, first articulated "lessening the

burden of government" requirement, which has since been understood to be a sub-factor of the fifth factor of the *North Star* case.

In *Assembly Homes, Inc. v. Yellow Medicine County*, 1966 (273 Minn. 197, 140 N.W.2d 336), in its decision, the Court decided that a nursing home was exempt from property taxes as an institution of purely public charity. At issue in this case was whether the institution served as a charitable organization while charging rates to its clientele that were similar to the rates charged elsewhere in the State of Minnesota by non-exempt nursing homes. Some of the payments received by Assembly Homes, Inc. were made by county welfare boards and federal institutions such as the U.S. Veterans Administration. The court decided that the exemption was allowable because there were some free services provided.

In 2007, the Minnesota Supreme Court refined their definition of property tax-exempt institutions in two cases: *Under the Rainbow Child Care Center, Inc. v. County of Goodhue* and *Afton Historical Society Press v. County of Washington*.

At issue in the *Afton* case was whether the organization was eligible for exemption from property taxes while maintaining for-profit book sales. Profits from the sales of some books were used to further the organization's charitable mission of providing reading materials and books to others for free or at below-cost. The Supreme Court found that the organization was eligible for the exemption and should be allowed to carry on its for-profit book sales, as long as those book sales were subordinate to the overall charitable activities of the organization.

The Minnesota Supreme Court decided in *Under the Rainbow Child Care Center, Inc. v. County of Goodhue* that where a daycare center did not offer its services for free or at a reduced rate compared to the local market, it did not satisfy *North Star* factor three, and that the institution (Under the Rainbow Child Care Center) did not qualify for property tax exemption. In the past, numerous court cases cited the *North Star* factors generally, explaining not all six factors needed to be met and that no one factor was more determinative of eligibility for exemption. The Supreme Court for the first time held in *Under the Rainbow* that because *North Star* factor 3 "…is a core characteristic of an institution of public charity, we now clarify that the third factor **must** be satisfied if an organization is to be deemed an institution of purely public charity [emphasis added]." The required expectation was that to be considered an "institution of purely public charity" for property taxation purposes, an institution must offer free or reduced rates for its goods or services. Among other issues, this was problematic for assessors if there was no definable local market to compare to, or when rates were pre-set by government entities.

Many nonprofit groups in the state felt that the *Under the Rainbow* decision could drastically change the ability of some organizations to be exempted from property taxes. The department did not interpret the court's decision as a change from what had been standard assessment practices. A memorandum to all county assessors following the decision stated that "For many

years, we have held that for an entity to qualify as an institution of purely public charity there must be some sort of 'gift' or 'charity.'" In a 2022 case, the court ruled that *Under the Rainbow* Child Care Center qualified for exemption as a seminary of learning. Details on that decision are provided in the *Applicable Court Cases* section at the end of this module.

Primary Statutory References: 272.02, subd. 7

Appeal Options

First and foremost, it is the assessor's duty to determine eligibility for property tax exemption. The assessor must consider all documentation provided by an applicant, including any documentation relating to a "reasonable justification" for failing to meet requirements 2, 3, or 5 previously discussed. The assessor must request any information he or she deems necessary before making this determination.

If an applicant applies for exemption as an institution of purely public charity but does not meet the six requirements and the assessor does not find that reasonable justification applies, there are two options:

1. reach out to the advisory review board, which will provide non-binding opinion to the assessor and/or the organization or
2. an appeal to Minnesota Tax Court which may grant or deny property tax exemption.

Exemption determinations are made solely by an assessor, Tax Court, or the Minnesota Supreme Court. Exemptions for institutions of purely public charity may not be granted by the Department of Revenue, the advisory review board, local boards of appeal and equalization, county boards of appeal and equalization, or by any other local or county board.

Option 1: Advisory Review Board

The institution seeking exemption as an institution of purely public charity, or an assessor may request the eligibility for exemption be reviewed by an advisory board comprised of members of the Minnesota Council of Nonprofits, the Department of Revenue, and the Minnesota Association of Assessing Officers.

This review board will assess which requirements the institution meets, determine if any are not met, and review any reasonable justification for the failure to meet a requirement.

The board may also determine whether the supporting facts of the organization would be considered enough to either meet the statutory requirements or qualify for reasonable justification.

A written response to the assessor or the institution outlining an advisory opinion will be issued as to whether or not the organization meets the requirements for property tax exemption. This opinion is non-binding, as the review board is not able to formally grant or deny exemption.

The review board *will not* hear appeals which:

- have not first been reviewed by the assessor and/or
- are currently being presented to Minnesota Tax Court (or Supreme Court) prior to or at the same time as being presented to the review board.

How to have an institution reviewed by the Advisor Review Board:
Either the assessor or the applicant/institution may request that the board review the application for exemption as an institution of purely public charity. The party seeking review should contact the Department of Revenue Property Tax Division at proptax.questions@state.mn.us.

The written review requests must be accompanied by all documentation appropriate to the organization's application. This includes, but is not limited to:

- Application for exemption
- Supporting documents requested by the assessor or provided by the applicant
- The Federal Form 990 and/or other income and expense statements for the **previous three years**
- IRS 501(c)(3) determination letter or substitute
- Articles of Incorporation
- A detailed description of the organization's function, outlining why the organization believes it qualifies for property tax exemption
- Assessor's letter of denial, explaining the reasoning for the assessor's decision (if any)
- Department of Revenue opinion (if any)
- Aerial photos of the property and/or a building diagram/site plan, (if available).

The Department of Revenue organizes the meetings and disseminates all the documentation for the institution(s) to be reviewed. The board generally meets every two to three months (or as needed), to discuss and review requests.

Each member group has one "vote" for purposes of determining exemption eligibility. The members may bring along one or two additional field experts (e.g. an attorney) if necessary to provide input or further information to the review board. The assessor and the applicant are **not** asked to appear in person before the board.

The board reviews the organization's documents and determines whether the organization meets the six statutory requirements for exemption. The board also determines whether the property meets the traditional understanding that ownership, use, and necessity of ownership are the three key elements in determining exemption. Absence of any of the three elements would likely disqualify a property from exemption unless specifically allowed by law. For

example, a property may be owned by an exempt institution, but if it is not used for that institution's stated mission and purposes, exemption would be denied.

An informal opinion is issued by the board within 60 days of a meeting. Again, this opinion is not binding on the assessor. Minnesota Tax Court (or Supreme Court) is the only authority eligible to make exemption determinations which must be acted upon by the assessor. However, the opinions of the board are to be carefully considered by the assessor when deciding whether to follow the board's advice regarding acceptance or denial for exemption as an institution of purely public charity.

The review board is neither required nor funded by legislation. Board members serve voluntarily and are not reimbursed by the state for travel or other expenses. Property Tax Division staff schedule and organize the meetings, share organizations' documentation, record the final decision of the review board, and communicate the board's decision with the institution(s) seeking a review.

Option 2: Minnesota Tax Court
The applicant may appeal its tax-exempt status to Minnesota Tax Court. The deadline for appealing to Tax Court is April 30 of the year in which taxes become payable. The deadline is statutory and is not subject to change even if the property owner has applied for an informal appeal to the review board.

The decision of the Tax Court is official for property tax purposes. Tax Court appeal information can be found online at mn.gov/tax-court.

Charter Schools

Minnesota Statutes, section 272.02, subdivision 3 exempts all public schools from property tax. However, charter schools, while being public schools, rarely own the property where the charter school is located. Rather, they will often lease the property from another entity. The space may be leased from a private entity, a public or private non-profit entity, a school district, or a unit of government.

Minnesota Statutes, section 272.02, subdivision 42 outlines the requirements for a property leased to a school district or a charter school to be granted property tax exemption.

Property owned by an exempt entity leased to a charter school

If the owner of the property is not the charter school operating at the property, the owner must satisfy the new requirements for exemption under Minnesota Statutes, section 272.02, subdivision 42, paragraph (b) to qualify for property tax exemption.

Under this new paragraph, property owned by a not-for-profit entity other than the charter school may qualify for exemption if the statutory requirements are met. (See M.S. 272.02, subdivision 42, paragraph [b].)

- The lease must be for at least 12 consecutive months.
- The property must be owned by one of the following:
  - a 501(c)(2) or (3) non-profit;
  - a private school district, college, or university;
  - a private academy, college, university, or seminary of learning;
  - a church; or
  - the state or a political subdivision of the state.

- The charter school must provide one of the following:
  - Direct k-12 instruction;
  - Special education for disabled children; and
  - Administrative services directly related to the educational program at that site.
- The lease must provide the charter school with the exclusive right to use the property during the lease period (except for lease arrangements that allow shared use by the charter school and a school, state, subdivision of the state, or a church).

Provisions that allow the property to be used for adult basic education, community education programs, and preschool and early childhood family education **do not apply** to these exemptions for property leased to charter schools.

Property owned by a private, for-profit entity leased to a school district

Under that legislation, no changes were made to M.S. 272.02, subdivision 42, paragraph (a). This paragraph now reads:

"(a) Property that is leased or rented to a school district is exempt from taxation if it meets the following requirements:
(1) the lease must be for a period of at least 12 consecutive months;
(2) the terms of the lease must require the school district to pay a nominal consideration for use of the building;
(3) the school district must use the property to provide direct instruction in any grade from kindergarten through grade 12; special education for disabled children; adult basic education as described in section 124D.52; preschool and early childhood family education; or community education programs, including provision of administrative services directly related to the educational program at that site; and
(4) the lease must provide that the school district has the exclusive use of the property during the lease period."

The Department of Revenue has interpreted "nominal" on various occasions to mean something less than the cost to break even, or something that is small in comparison to what might properly be expected. We maintain this definition of a nominal fee for properties leased to school districts.

As always, the lease to the school district must be for a period of at least twelve consecutive months, and the school must provide direct education in any grade K-12 and/or special education for disabled children.

The property may also be used to provide adult basic education as described in Minnesota Statutes, section 124D.52, preschool and early childhood family education or community education programs, and provide administrative services directly related to the educational program **at that site**. The lease must provide the school district exclusive use of the property during the lease period.

Primary Statutory References: 272.02, subdivisions 3 and 42

Leased Airplane Hangars

In the past, there has been significant confusion regarding the tax status of airplane hangars. As a result, we developed the following chart which summarizes the different types of ownership situations, uses, tax statuses, and classifications.

The chart assumes that hangars leased for personal aircraft storage are leased for a term of at least one year as they are taxable under section 273.19 unless they meet the requirements for exemption contained in section 272.01, subdivision 2. This includes any agreement that gives the tenant the use of the property for a term of one year or more, including any future renewal periods that are at the option of the tenant.

Leasing Exempt Property

The commercial-use hangars are taxable under section 272.01 as property made available to and used by a for-profit business whether by lease or otherwise unless meeting the requirements for exemption contained in subdivision 2.

For purposes of these exemptions, it is our opinion that an "aviation-related business" means a business engaged in providing aviation goods, services, or facilities to the airport or general public. This would include delivery, transportation, and other similar aviation uses if those services are available to the general public. In the past a commercial entity providing crop dusting services to area farms was found to meet this definition, while a private corporation leasing a hangar to store a private plane used to transport executives of that entity was not.

As another example, if the lessees had a subsidiary that operated a non-exclusive jet-fuel dispensing facility at an airport, that operation may be considered aviation-related business. The onus is on the taxpayer to prove eligibility for property tax exemption.

Note: If the property is leased by an aviation-related business located on an airport owned or operated by a town or a city with a population under 50,000, it is exempt under section 272.01, even if that business is conducted for profit.

Chart Assumptions:

- The hangar is located on city-owned airport.
- The hangar is leased for **personal-use** aircraft for a term of at least 1 year.
- If the lease term is less than 1 year, there is a potential for exemption, however lease terms which automatically renew are taxable.

Who Owns the Hangar?	What is the Population of the City?	How is the Hangar Used?	Is the LAND Taxable or Exempt?	Is the HANGAR Taxable or Exempt?	What is the Classification?
Government Entity	50,000 or less	Leased to or used by private entity for storage or repair of personal-use aircraft	Exempt	Exempt	Class 3a/4c(7)*
Government Entity	50,000 or less	Leased to or used by private entity as part of an aviation-related business	Exempt	Exempt	Class 3a Commercial
Government Entity	50,000 or less	Leased to or used by private entity for storage or repair of commercial-use aircraft or for a business purpose	Taxable as personal property	Taxable as personal property	Class 3a Commercial

Leasing Exempt Property

		which is <u>not</u> aviation-related (E.g. Corporate planes)			
Government Entity	More than 50,000 or owned by MAC	Leased to or used by private entity for storage or repair of personal-use aircraft	Taxable as personal property	Taxable as personal property	Class 4c(7)
Government Entity	More than 50,000 or owned by MAC	Leased to or used by private entity as part of an aviation-related business	Taxable as personal property	Taxable as personal property	Class 3a Commercial
Government Entity	More than 50,000 or owned by MAC	Leased to or used by private entity for storage or repair of commercial-use aircraft and business use which is <u>not</u> aviation-related	Taxable as personal property	Taxable as personal property	Class 3a Commercial
Private Entity	50,000 or less	Used by private entity for storage or repair of personal –use aircraft	Exempt	Taxable as personal property	Class 4c(7)
Private Entity	50,000 or less	Used by private entity for part of an aviation-related business	Exempt	Taxable as personal property	Class 3a Commercial
Private Entity	50,000 or less	Used for storage or repair of commercial-use aircraft, and business use which is not aviation-related	Taxable as personal property	Taxable as personal property	Class 3a Commercial
Private Entity	More than 50,000 or owned by MAC	Used by private entity for storage or repair of personal-use aircraft	Taxable as personal property	Taxable as personal property	Class 4c(7)
Private Entity	More than 50,000 or owned by MAC	Used by private entity as part of an aviation-related business	Taxable as personal property	Taxable as personal property	Class 3a Commercial
Private Entity	More than 50,000 or owned by MAC	Used for storage or repair of commercial-use aircraft, and business use which is not aviation-related	Taxable as personal property	Taxable as personal property	Class 3a Commercial

*For row 1, the property would likely be classified as 3a commercial when exempt, but if it became non-exempt it would likely be classified as 4(c)7; class 4(c)7 explicitly states that it cannot be exempt.

Leasing Exempt Property

Primary Statutory References: 272.01, 273.19

Billboards, Cell Antennae/Towers, and Communications Antennae/Towers
For purposes of this section, a "site" may include land, but may also include a rooftop, steeple, wall, water tower, etc.

1. Billboard **structures**, cell antenna/tower **structures**, and other communication tower **structures** are exempt
    a) Billboards, along with the supporting framework and superstructure are exempt from ad valorem property tax as business equipment.

    b) Cell antennae/towers and communication towers are also exempt as equipment.

2. Billboard and cell/communication antenna/tower **sites** are taxable
    a. The site that billboards, cell antennae/towers, and other communication antennae/towers are located on are taxable. A sub-record may be created for the site, but the site is still taxable real estate. If the owner of the site is an exempt entity (e.g. the state of Minnesota), then the land is taxable *in personam* to the lessee of the site.

    b. A site can include another structure. For example, a cell array may be located on a high-rise building. The cell array is exempt, but the high-rise building is still taxable.

3. Classification of billboard and cell antenna/tower **sites**
    a) Because classification is based on the actual use of a property, our opinion is the appropriate classification for billboard sites should be 3a commercial property.

    b) For cell and other communication antennae/towers, the site should be classified as 3a commercial property.

4. Valuation of billboard and cell/communication **sites**
    a) For billboards, valuation should reflect the highest and best use of the site, consider market rents, and the location of the billboard site. For example, a billboard in a low traffic area may only be able to command minimal rents and the use may be only incidental. It may be appropriate to value that site no differently from the surrounding sites. However, a billboard located on a heavy-traffic highway area may generate significant income for the site that should be recognized when valuing the property.

b) For cell and communication antenna/tower sites, the value should be based on the income approach and reflect a capitalization of the annual market rent payments the site would command.

c) When valuing billboard or cell/communication sites, we recommend using a gross income multiplier (GIM). Annual market income is multiplied by the GIM to establish a value for those site rights. A GIM is usually established by identifying and verifying sales of similar properties, establishing the annual gross income, and dividing the sale price by the gross income to determine the GIM. Assessors will need to gather and verify all necessary data for their counties. Income data, applicable multipliers, and sale prices will vary depending on the location of the billboard or cellular antenna and the details of the lease, so verification of income data is very important. This market is dominated by regional and national players, and any sale data may include multiple properties. As with other income producing properties, the income used in any valuation model should be market rent.

d) It is possible that a value could be derived from a supportable rate such as dollars per traffic count or through direct capitalization if expenses are verified and cap rates can be derived. However, for uniformity, we are recommending the use of a GIM.

5. Creating a separate parcel identification (PID) for a billboard or cell/communication site

a. If an easement is **recorded** for site use rights for billboards or antenna sites, a separate PID for that easement's legal description *may* be created. ***This is only for cases in which the easement is for someone other than the property owner*****.** The PID is treated as real property, and the taxes are the responsibility of the easement holder; delinquency or forfeiture proceedings would result if that easement owner did not pay his or her taxes on that legally described site right. The easement PID could forfeit if taxes were unpaid (and the holder of the underlying land title would have first rights to repurchase the easement right). The property taxes assessed to the easement are *in rem* (against the easement) rather than *in persona* (against the owner of easement rights).

Types of Exempt Properties

Personal Property
In general, most personal property is exempt from property tax in Minnesota. Personal property equipment court cases are discussed in the Court Cases section of this module.

However, the following personal property is taxable:

- personal property which is part of an electric generation, transmission, or distribution system, a pipeline system transporting or distributing water, gas, crude oil, or petroleum products, mains and pipes used in the distribution of hot or chilled water, or steam for heating or cooling buildings and structures;
- railroad docks and wharves which are part of the operating property of a railroad company as defined in section 270.80;
- personal property as defined in section 272.03, subdivision 2, clause (3) [all improvements upon land the fee of which is vested in the United States, 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];
- leasehold or other personal property interests which are taxed pursuant to section 272.01, subd. 2 [exempt property used by a private entity for profit]; section 273.124, subd. 7 [buildings located on leased land]; or section 273.19, subd. 1 [exempt property held under a lease for at least a year]; or any other law providing the property is taxable as if the lessee or user were the fee owner;
- 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 held as inventory by a licensed or limited dealer as inventory (as provided in section 273.125, subd. 8, paragraph [f]); and
- flight property as defined in section 270.071.

For further information on manufactured homes, please see Module 2- Valuation

Types of Exempt Public Properties
Per Minnesota Statutes, section 272.02 the following types of public property are exempted from property taxes:

- Public burial grounds (used specifically as such) [see "Private Cemeteries" below]
- Public schoolhouses [see "Education Institutions" below]
- Public hospitals
- Public property used exclusively for public purposes

Much of this exemption law stems from Article X, Section 1 of the Minnesota Constitution, which states:

> *"public burying grounds, public school houses, public hospitals, academies, colleges, universities, all seminaries of learning, all churches, church property, houses of worship, institutions of purely public charity, and public property used exclusively for any public purpose, shall be exempt from taxation."*

Property exclusively used for public purposes under 272.02, subdivision 8 should not be confused with property owned by the state of Minnesota or a political subdivision thereof that is not required to make application for exemption according to 272.025. Property exclusively used for public purposes and not owned by the state or political subdivision may still qualify for exemption under this subdivision in a case where it is owned by one of the entities identified in section 273.19 **and** that property is leased to the state or political subdivision for a public purpose. An example is found in *Inter-Faith Care Center v. Carlton County*, Dkt. No. 09-CV-11-992 (Minn. Tax. Ct. Apr. 24, 2014), where property owned by a qualifying benevolent society was leased to the state for use as a chemical dependency treatment facility, which qualified as a public purpose due to its participation in the Department of Health's addiction recovery program. Because the exempt property was leased for more than a year to the state, the property was considered for tax purposes to be the property of the state under section 273.19, subd. 1. The tax court then turned to 272.02, subd. 8 to determine that the property was therefore exempt as public property used for a public purpose.

Primary Statutory References: 272.02, subd.2, 3, 4, 5, 6 and Minnesota Constitution, Article X

Property Managed by a Housing Redevelopment Authority or Public Housing Agency

Property that is under the direct management and control of a housing redevelopment authority or public housing agency but is not owned by that entity may be eligible for exemption. The property must:

- be used in a manner authorized and contemplated by sections 469.001-469.046
- the authority or agency is eligible for assistance payments under federal law,
- The property is public property that is used for essential public and governmental purposes and

Property qualifying under this section is exempt from all taxes and special assessments of the city, the county, the state, or any political subdivision of the state in the same manner as property referred to in section 469.040, subdivision 1.

Payments in lieu of taxes for the property shall remain as provided in section 272.68 or 469.040, subdivision 3.

Primary Statutory References: 272.026, 272.68; Chapter 469

Types of Exempt Properties

Private Cemeteries

All property owned by private cemeteries that are owned and managed by either religious corporations or corporations solely owned and controlled by and in the interest of any religious denomination is exempt. The parameters for exemption are:

- private cemeteries up to 100 acres for individuals; or
- up to 300 acres for cemeteries owned and managed by religious corporations.

Cemeteries may **not** be exempted if they are owned by a corporation, association, partnership, proprietorship, or other organization **unless** no pecuniary gain is available to its shareholders and no dividends or pecuniary remuneration are paid directly or indirectly to its shareholders or members.

Private cemeteries, along with any entity requesting property tax exemption, must be used for the purposes which would grant it exemption. In other words, private cemeteries must be used for burial or plots, and no other commercial enterprises, to be granted exemption.

Primary Statutory References: 272.02, subd. 58; 307.09

Educational Institutions

All academies, colleges, universities, and all seminaries of learning are exempt, even private educational institutions which may be operated for profit. However, to meet the exemption requirements, the curriculum must parallel that of a public education institution. Cosmetology schools, barber colleges, dancing academies, and riding schools, for example, are not exempted.

The department has issued opinions on organizations that lease space to educational institutions for education purposes. In such a scenario, we rely on the concurrency of ownership and use. In a situation such as this, if the property were not owned by the educational institution, it is not exempt under these guidelines. The institution which owns the property would need to prove to the assessor whether they qualify for exemption under one of the other provisions.

The Minnesota Supreme Court decided *in State v. Northwestern Preparatory School*, 1957 (83 N.W.2d 242) that for purposes of meeting exemption requirements as a "seminary of learning," an educational institution must meet the following three guidelines:

1. The institution is truly of an "educational" nature.
2. The institution provides at least part of the educational training that would otherwise have to be provided by publicly supported institutions.
3. The public schools do, or would, give credit for educational credits earned at the institution.

Primary Statutory References: 272.02, subd. 5

Property Leased to School Districts

Property leased or rented to a school district for a period of at least 12 consecutive months may be exempt from property taxes if it also meets the following criteria:

- The terms of the lease must require the school district to pay a nominal consideration for use of the building;
- The school district must use the property to provide direct instruction for any grade kindergarten through 12, special education for disabled children, adult basic education, preschool and early childhood family education, or community education programs; and
- The lease must provide the school district with exclusive use of the property for the lease period.

The department has defined "nominal" rent as something less than the cost to break even. Property that is leased or rented to a charter school may be exempt from property taxes if it meets all the following requirements:

- The lease is for a period of at least 12 consecutive months;
- The property owned by a non-profit corporation or association exempt from federal income tax under section 501(c)(2) or (3) of the Internal Revenue Code, a public school district, college, or university, a private academy, college, university, or seminary of learning, a church, the state or a political subdivision of the state;
- The charter school must use the property to provide direct instruction in any K-12 grade, special education for disabled children, or administrative services directly related to the educational program at that site; and
- Except for lease provisions which allow for the shared use of the property by the charter school and another public or private school, the charter school and a church, or the charter school and the state or a political subdivision of the state, the lease must provide that the charter school has the exclusive right to use the property during the lease period.

More information on charter school exemptions is covered in a previous section.

Primary Statutory References: 272.02, subd. 42

Certain School District Property, Not Exempt

Property owned, leased, or used by any public elementary or secondary school district for a home, residence, or lodging house for any teacher, instructor, administrator, and any property owned by any public school district which is leased to any person or organization for a nonpublic purpose for one year or more (pursuant to Minnesota Statutes, section 123B.51, subdivision 4) shall not be included in the exemption provided to other types of school district or educational property.

Primary Statutory References: 272.02, subd. 36

Certain Hospital Property, Not Exempt

Property owned, leased by, or loaned to a hospital and used principally by that hospital as a recreational or rest area for employee, administrators, or medical personnel shall not be included in the exemptions provided to other publicly available hospital property. As a rule, clinics are also ineligible for exemption (although in some extenuating circumstances, it may be prudent to examine the operations of the clinic to see if it may qualify for exemption under other scenarios, such as an institution of purely public charity).

The Department of Revenue has also issued opinions where an exempt hospital began constructing a clinic which would be taxable. The department advised that the property under construction be taxable, as its intended use was taxable and it was not being used for the purposes of the exempted hospital.

Primary Statutory References: 272.02, subd. 37

Ice Arenas; Baseball Parks

Real and personal property owned and operated by a non-profit 501(c)(3) organization is exempt if it is used

1. primarily for an ice arena or ice rink and used primarily for youth and high school programs; or
2. primarily used as a baseball park by amateur baseball players

The baseball park includes parking facilities and land necessary to the use of the baseball park. Any use of the property in any manner different from its use as a baseball park will not be considered. Baseball parks are still subject to special assessments levied by a political subdivision under Minnesota Laws, Chapter 429.

The necessity of use also applies to ice arenas. For example, a city owned a hockey arena which was exempt from taxes. However, a small portion of the building was leased for sales of sports equipment. That portion of the building used by individuals for retail sale of sports equipment was not eligible for property tax exemption and was to be taxed as personal property to the lessees as provided under Minnesota Statutes, section 272.01, subdivision 2.

It is important to note the 501(c)(3) status of the owning organization. The Department of Revenue has issued opinions in cases such as a Lion's Club owning a ball park. Since the Lion's Club operates as a 501(c)(2) organization (a title holding corporation for exempt organizations), a ballpark owned by it would not be eligible for exemption under this provision.

Primary Statutory References: 272.02, subd. 25

Types of Exempt Properties

Municipal Recreation Facilities

All properties acquired and used, whether under lease or otherwise, by a city that are declared to be public property exclusively used for a public purpose and as such are exempt from taxation. However, if that property is subleased to any private individual, association, or corporation in connection with a business conducted for profit and not for purely public purposes, for a term of three or more years, the exemption is nullified.

Primary Statutory References: 272.02, subd. 62

Emergency Shelters for Victims of Domestic Abuse

Properties used in a continuous program to provide emergency shelter for victims of domestic abuse are exempt, provided the organization that owns and operates the shelter is a 501(c)(3) non-profit organization as determined by the IRS.

Primary Statutory References: 272.02, subd. 13

Nursing homes

A nursing home licensed under Minnesota Statutes, section 144A.02 or a boarding care home certified as a nursing facility under title 19 of the Social Security Act that is exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code is exempt from property taxation if the nursing home or boarding care home either:

1. is certified to participate in the medical assistance program under title 19 of the Social Security Act; or
2. certifies to the Commissioner of Revenue that it does not discharge residents due to the inability to pay.

Title 19 of the Social Security Act refers to the Medicare and Medicaid programs.

Nursing homes used to be exempt as institutions of purely public charity. However, clarifying legislation in 2009 led some nursing home groups to believe that they might be ineligible for exemption as institutions of purely public charity. Legislature determined that it would be prudent to create a separate statutory exemption for nursing home facilities that did not discharge residents based on their inability to pay.

The Department of Revenue has created a form which nursing homes may use to apply for the exemption and certify either that they participate in medical assistance programs under title 19 of the SSA or that they do not discharge residents due to inability to pay. Nursing homes will not need to provide anything directly to the Department of Revenue; rather the department will be able to audit these forms for certification at the county level.

Primary Statutory References: 272.02, subd. 90

Property of Senior Citizens' Groups (Local Option)
The governing body of a municipality may elect to exempt property in its jurisdiction owned and operated by a senior citizen group or association of groups. The senior citizens group or association must limit its membership to persons age 55 or older and must be organized for pleasure, recreation, and other non-profit purposes. No part of the net earnings of said group or association may benefit any private shareholder(s). The property may be used as a clubhouse, meeting facility, or recreational facility.

The property may **not** be used for residential purposes on either a temporary or permanent basis and may **not** exceed one acre in size. The governing body of a municipality in which such a property is located must approve this exemption.

Primary Statutory References: 272.02, subd. 14

Children's Homes
Personal and real property owned by a corporation formed under Minnesota Statutes, section 317A.907 is exempt. Corporations organized under this statute may be used for the following purposes:

1. securing homes for orphaned, homeless, abandoned, neglected, or mistreated children; or
2. establishing and maintaining homes for those children.

Primary Statutory References: 272.02, subd. 75

Transitional Housing Facilities
Transitional housing facilities may be exempted provided they meet the following requirements:

1. It provides temporary housing for individuals, couples, or families.
2. It has the purpose of reuniting families and enabling parents or individuals to obtain self-sufficiency, advance their education, get job training, or become employed in jobs that provide a living wage.
3. It provides support services such as childcare, work readiness training, and career development counseling; and a self-sufficiency program with periodic monitoring of each resident's progress in completing the program's goals.
4. It provides services to a resident of the facility for at least three months but no longer than three years, except residents enrolled in an educational or vocational institution or job training program. These residents may receive services during the time they are enrolled but in no event longer than four years.
5. It is owned and operated under lease from a unit of government or governmental agency under a property disposition program and operated by one or more organizations exempt from federal income tax as a 501(c)(3).

Primary Statutory References: 272.02, subd. 20

Types of Exempt Properties

Agricultural Historical Society Property

Properties owned by a non-profit charitable or educational organization qualifying for status as a 501(c)(3) organization may be exempted if it meets the following criteria:

1. The property is used primarily for storing and exhibiting tools, equipment, and artifacts useful in providing an understanding of local or regional agricultural history. (Primary use is determined each year based on the number of days the property is used solely for storage and exhibition purposes);
2. The property is limited to a **maximum** of 40 acres per owner per county, but includes the land and any taxable structures, fixtures, and equipment on the land;
3. The property is not used for a revenue-producing activity for more than ten days in each calendar year; and
4. The property is not used for residential purposes on either a temporary or permanent basis.

An example of an agricultural historical society property which has been granted exemption is a threshing society.

It is necessary for the organization to be devoted to "charitable or educational" purposes as stated above. The Department of Revenue has advised denying exemption to various threshing societies which were not deemed to meet the requirements that they be devoted to charitable/educational uses.

The Department of Revenue has also advised against exempting an agricultural historical society property in which the property was only used for an exempt purpose for a few days throughout the year. When that organization opened to the public with free admission every weekend from Memorial Day through Labor Day, the primary use of the property was deemed to be for a tax-exempt purpose. In that scenario, the assessor was advised to review financial information and other factors to ascertain whether the organization could be exempted from property taxes.

Primary Statutory References: 272.02, subd. 49

Wetlands

Wetlands are exempt in the following scenarios:

1. Public waters wetlands. "Public waters wetlands" means all types 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, that are 10 or more acres in size in unincorporated areas or 2.5 or more acres in incorporated areas. Please note that the acreage requirements apply to the size of the **entire area of wetland**, not just the size of wetlands on one parcel. For example, if an 11 acre exempt wetland is split evenly between two parcels, both parcels may have their respective 5.5 acres of wetlands exempt.

2. Land which is mostly under water which produces little if any income and has no use except for wildlife or water conservation purposes, provided it is preserved in its natural condition and drainage of it would be legal, feasible, and economically practical for the production of livestock, dairy animals, poultry, fruit, vegetables, forage, and grains (except wild rice). Minnesota Statutes, section 272.02, subdivision 11 states this:

   "…land which is mostly under water, produces little if any income, and has no use except for wildlife or water conservation purposes, provided it is preserved in its natural condition and drainage of it would be legal, feasible, and economically practical for the production of livestock, dairy animals, poultry, fruit, vegetables, forage and grains, except wild rice…"Wetlands" under clauses (i) and (ii) include adjacent land which is not suitable for agricultural purposes due to the presence of the wetlands, but do not include woody swamps containing shrubs or trees, wet meadows, meandered water, streams, rivers, and floodplains or river bottoms."

3. Land in a wetland preservation area (under Minnesota Statutes, section 103F.612 to 103F.616).

Wetlands qualifying under clauses 1 and 2 include adjacent land which is not suitable for agricultural purposes due to the presence of the wetlands, but do not include woody swamps containing shrubs or trees, wet meadows, meandered water, streams, rivers, and floodplains or river bottoms.

Wetlands are most often exempted under clause 1 as public waters wetlands, which means that assessors will need to determine whether or not wetlands that are present on a property are types 3, 4, or 5 wetlands. Previously, the department recommended that assessors use the DNR's Public Waters Inventory (PWI) maps. While these maps are still recommended by the DNR, they were created in the 1980s, and therefore there may have been changes since then. The DNR has also released the National Wetlands Finder in June 2019 which is a more up-to-date GIS overlay that attempts to catalogue all wetlands in Minnesota. However, the National Wetlands Finder also includes wetlands that do not meet the statutory definition of a public waters wetland, such as public waters lakes/basins. While both maps may be used as preliminary sources to determine if an exempt wetland exists on a property, the assessor still must verify that wetlands exist on the property that meet the statutory definition of type 3, 4, or 5 wetlands. This may require that the assessor or property owner to consult with the DNR, soil or water conservation district for the county, or other oversight entity to perform a field survey or other review of the property to determine if public waters wetlands exist.

Exemption of wetlands from taxation does not grant the public any additional or greater right of access to the wetlands or diminish any right of ownership of the wetlands.

It is important to note that if it is determined that part of a property is a type 3, 4, or 5 wetlands using the Circular 39 method, **only** the wetland portion of the property would be exempt—the remainder of the property would be valued and taxed in the normal manner.

Primary Statutory References: 272.02, subd. 11

Native Prairie

The Commissioner of the Department of Natural Resources (DNR) shall determine lands in the state which are native prairie and shall notify the county assessor of each county in which these lands are located. These certified native prairie lands shall be exempted from taxation. Pasture land used for livestock grazing purposes shall not be considered native prairie for exemption purposes.

If the assessor receives application for exemption for which the commissioner of the DNR has not notified the assessor, the assessor shall refer the application to the DNR. The DNR shall notify the assessor within 30 days as to whether the land is native prairie and thereby eligible for exemption. Typically, the DNR has stated that to qualify as native prairie, a tract of private property must:

1. never have been plowed;
2. not be in use as pasture (haying is allowed);
3. be at least five acres (smaller tracts with important rare species habitat or other significant prairie features may qualify);
4. be mostly native prairie vegetation.

In addition, the tract must not have been severely altered by:

1. plowing, heavy grazing, or seeding to non-native grasses or legumes
2. spraying with large amounts of herbicides

Exemption of native prairie land in this section shall not grant the public any additional or greater right of access to the native prairie or diminish any right of ownership to it.

Primary Statutory References: 272.02, subd. 12

Government Property; Lease or Installment Purchases

Real property acquired by a home rule charter city, statutory city, county, town or school district under a lease purchase agreement or an installment purchase contract during the term of the lease purchase agreement is exempt as long as, and to the extent that, the property is used by the jurisdiction and is devoted to a public use. It may not be subleased to any private individual or organization in connection with a business or enterprise operated for profit.

Primary Statutory References: 272.02, subd. 30

Types of Exempt Properties

Business Incubator Property

Property owned by a 501(c)(3) non-profit organization that is intended to be used as a business incubator in a high-unemployment county, is exempt. A "business incubator" is defined in statute as a facility used for the development of nonretail business, offering access to equipment, space, services, and advice to the tenant businesses, for the purpose of encouraging economic development, diversification, and job creation in the area serviced by the organization. "High-unemployment County" is defined as a county that had an average annual unemployment rate of 7.9 percent or higher in 1997. Property qualifying under this subdivision is limited to no more than two contiguous parcels and structures that do not exceed in the aggregate 40,000 square feet. This exemption expires after taxes payable in 2016.

Primary Statutory References: 272.02, subd. 31

Unfinished sale or rental projects

If a building is to be constructed for sale or rent to a contracting party, the building is exempt from taxation as public property exclusively used for a public purpose until the building is first conveyed or first occupied by the lessee, whichever comes first. This exemption is valid for up to a maximum of four years from the date of issue of bonds or notes for the project. The exemption must be applied for before October 10 of the year of the levy of the first taxes to which the exemption applies.

Primary Statutory References: 272.02, subd. 60

Residential buildings on temporary sites

A newly constructed building that is situated on real property is exempt if it meets the following criteria:

1. It is intended for future residential occupancy.
2. It is on a temporary foundation and is intended to be moved.
3. It is not used as a model or for any other business purposes.
4. It is not connected to any utilities.
5. It is located on land that will not be sold with the building.

The exemption under this subdivision is allowable for only one assessment year after the date of the initial construction of the building.

Primary Statutory References: 272.02, subd. 46

Modular Homes Used as Models by Dealers
A modular home is exempt from property taxes if:

1. it is owned by a model home dealer and is located on land owned or leased by that dealer;
2. it is a single-family model home;
3. it is not available for sale and is used exclusively as a model;
4. it is not permanently connected to any utilities except electricity; and
5. it is situated on a temporary foundation.

This exemption is allowable for up to five assessment years after the date it becomes located on the property, provided that the modular home continues to meet all of the criteria each year. The owner of a modular model home must notify the county assessor within 60 days that it has been constructed or located on the property and must again notify the assessor if the modular home ceases to meet any of the criteria. If more than one modular home is constructed or situated on a property, the owner must notify the assessor within 60 days for each of the models placed on the property.

This subdivision defines a "modular home" as a building or structural unit that has been wholly or partially and substantially manufactured or constructed at an off-site location to be wholly or partially assembled on-site as a single-family dwelling. 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.

Primary Statutory References: 272.02, subd. 85

Comprehensive Health Association
All property owned by a Comprehensive Health Association as formed under the guidelines Minnesota Statutes, section 62E.10 is exempt.

Primary Statutory References: 272.02, subd. 57

Satellite Broadcasting Facilities
The following property is exempt if approved by the governing body of the municipality in which the property is located, and if construction commenced after June 30, 1983:

a. a "direct satellite broadcasting facility" operated by a corporation licensed by the Federal Communications Commission to provide direct satellite broadcasting services using direct broadcast satellites operating in the 12-ghz. band; and
b. a "fixed satellite regional or national program service facility" operated by a corporation licensed by the Federal Communications Commission to provide fixed satellite-transmitted regularly scheduled broadcasting services using satellites operating in the 6-ghz band

Types of Exempt Properties

An exemption provided under this subdivision cannot exceed five years. When a property no longer qualifies for exemption, it shall be placed on the tax rolls as provided by law.").

Before approving a tax exemption under these guidelines, the governing body of a municipality must provide an opportunity for the county board of commissioners and the members of the school board within the facility's proposed jurisdiction to meet with the governing body. The governing body shall provide these boards with its estimate of the fiscal impact of the exemption. The tax exemption shall not be approved until the county board of commissioners has presented its written comment on the proposal to the governing body, or 30 days have passed from the date of transmittal by the governing body to the board of the information on the fiscal impact, whichever comes first.

Primary Statutory References: 272.02, subd. 16

Hot Water Heat; Generation and Distribution Property

Real and personal property owned and operated by a private, non-profit, 501(c)(3) organization that is used primarily for the generation and distribution of hot water for heating buildings and structures, is exempt.

Primary Statutory References: 272.02, subd. 17

Wastewater Treatment Systems

Real property meeting the following criteria may be exempt:

1. It constitutes a wastewater treatment system that
    a. Is constructed by a municipality using public funds
    b. Operated under a state disposal system permit issued by the Minnesota Pollution Control Agency
    c. Applies its effluent to land used as part of an agricultural production;
2. It is located within a municipality of a population of less than 10,000;
3. It is used for treatment of effluent from a private potato processing facility; and
4. It is owned by a municipality and operated by a private entity under agreement with that municipality.

Primary Statutory References: 272.02, subd. 32

Types of Exempt Properties

Agricultural Chemical Containment Facilities

An exemption was removed for real property used in agricultural chemical containment facilities for taxes payable 2016 (assessment 2015) during the 2017 legislative session. Any exemption that was granted in assessment 2015/payable 2016 and assessment 2016/payable 2017 will not lose its exempt status for those years. Before this repeal, real property used in agricultural chemical containment facilities was exempt under a statute enacted in 1992. Over the years, practices with respect to storage of the chemicals used in farming have changed considerably. It was unclear whether the exemption should apply to other types of fertilizer containment. The repeal simplifies valuation and exemption determination.

Primary Statutory References: 272.02, subd. 23

Manure pits

Manure pits and appurtenances, which may include slatted floors and pipes, installed or operated in accordance with a permit, order, or certification of compliance issued by the Minnesota Pollution Control Agency (MPCA) are exempt. The exemption shall continue for as long as the permit, order, or certificate issued by the MPCA remains in effect.

As always, the actual use of the property is necessary to determine exemption eligibility. The Department of Revenue has issued an opinion relating to a manure pit under a hog barn. The department determined that the hog barn was not exempt from property taxes, as the primary use of the property was still as a hog barn. The presence of the manure pit did not automatically allow for an exemption.

Primary Statutory References: 272.02, subd. 28

Monosloped Roofs

Single-pitched monosloped (skillion) roofs over manure storage areas or feedlots intended to prevent runoff may be exempt. Only the roofs are eligible for exemption; sidewalls or other improvements do not qualify for exemption. To be eligible for exemption, the roof must prevent runoff.

Some of the concern regarding the monosloped roof property tax exemption may relate to a lack of understanding the characteristics of a monosloped roof. A monosloped roof is more commonly known as a "skillion" roof in other parts of the country and the world. A skillion roof is generally defined as single pitched roof without a ridge or peak.

Assessors should consult with the Minnesota Pollution Control Agency if they are unsure as to whether a monosloped roof would meet these requirements. The Minnesota Pollution Control Agency (MPCA), or some delegated counties, maintains a list of registered feedlots. This information will be shared with each county assessor annually to aid in your identification of the feedlots.

Types of Exempt Properties

Manure storage areas are where animal manure or process wastewaters are stored or processed. They can be a short-term stockpile in which the manure must be removed and land-applied within one year of the date when the stockpile was formed. Short-term sites do not need a permit if the owner is **not** the owner of the feedlot. A permanent stockpile allows for storage for over a year. Construction of permanent sites containing manure from 300 to 999 animal units requires a construction short form permit. A NPDES/SDS permit is required if the site contains manure from 1,000 or more animal units. Any permitting information will be shared with each county assessor annually to aid in your identification of the manure storage areas. The permitting and registration information will be distributed on or around July 1 of each year to coincide with the taxable-to-exempt conversion date.

In order to qualify for this specific exemption, a construction/site/use test must be met:

- Construction – structure must be a monosloped (single-pitch) roof without a ridge or peak;
- Site – roof must be over a feedlot (with a current MPCA or county registration) or a manure storage area (also with a current permit or registration); and
- Use – must actually be in place to prevent runoff.

When using the construction/site/use test, there are some additional guidelines we feel would be helpful when determining qualification for exemption. The following are additional guidelines assessors should take into consideration:

Construction Characteristics

- A roof with more than one slope goes beyond the restrictions for the statutory exemptions and is thus taxable. A solar panel slope is considered a roof component and therefore making a roof with a sloped solar panel a multi pitched roof and taxable.
- An improvement with walls is considered a *structure* and not a roof, making it along with the roof taxable. Even though a structure may have a single-sloped roof, it is nonetheless a *building* which performs a shelter function and we believe it goes beyond what the legislation had envisioned with this exemption. The exemption is only for roofs, and not full structures or buildings.

Site Requirements

If the area underneath the monosloped roof does not meet one of the following definitions for feedlots or manure storage area, it would be taxable:

- Feedlots are part of livestock operations that confine animals in such a manner that manure accumulates and vegetation cannot be maintained.
- Manure storage areas are where animal manure or process wastewaters are stored or processed.

Use Requirements

The monosloped roof must prevent runoff in order to qualify for exemption. The assessor should verify that runoff is being prevented by the roof.

Assessors should adhere to a strict and narrow interpretation of the statute. This coincides with the interpretation for other exemptions. Remember, taxation is the rule and exemption is the exception and should be strictly construed. This will allow for more consistent and uniform administration statewide. The following information is most helpful to keep in mind when assessing monosloped roofs:

- Assessors should use the literal definition for a monosloped roof. It is a single-pitched roof, also called a skillion roof, and does not have a ridge or peak.
- Only monosloped roofs over feedlots or manure storage areas are eligible for exemption. Assessors should verify this requirement, either through proof of registration/permit for the feedlot or the manure storage area.
- Assessors should consult with the county's feedlot official or the MPCA if they have any questions regarding the permitting or actual use of a feedlot or manure storage area.
- Assessors should consider the purpose of the monosloped roof; it must prevent runoff in order to qualify for property tax exemption.
- Assessors may only exempt the monosloped roof if it meets all requirements of this new legislation.
- Only the monosloped roof and support structure qualify for the exemption to the extent it meets the three requirements. Sidewalls or other improvements do not qualify for exemption.

Primary Statutory References: 272.02, subd. 87

Cooperative Farming Agreements

Minnesota Statutes, section 97A.135, exempts cooperative farming agreements. On any public hunting, game refuge, wildlife management area, or scientific and natural area lands, the Commissioner of the Department of Natural Resources may enter into written cooperative farming agreements on a sharecrop basis, without competitive bidding, for the purpose of wildlife and plant management. Cooperative farming agreements may also be used to allow pasturing of livestock. The agreements may provide for the bartering of a share of any crop, produced from these lands, for services or products that will enhance or benefit the management of state lands for plant and animal species.

Primary Statutory References: 97A.135

Economic Development; Public Purpose

The holding of property by a political subdivision of the state for later resale and economic development purposes shall be considered a public purpose in terms of exemption for properties used for public purposes as described above. This shall not exceed a period of nine years, except that for property acquired after January 1, 2000 and before December 31, 2010 and located in a city, or property located in a city with a population under 20,000 located outside the metro area, the period must not exceed fifteen years.

The governing body which acquires the property shall certify to the city or county assessor whether the property is held for economic development purposes or housing purposes, or whether it meets the conditions of Minnesota statutes, section 469.174, subdivision 10 (redevelopment district).

If the property is acquired for economic development purposes and buildings or other improvements are constructed after acquisition if the property, and if more than one-half of the floor space of the buildings or improvements are available for lease to or use by a private individual or entity, then the provisions of this exemption shall not apply to the property.

This shall not create an exemption from Minnesota laws regarding the taxation of or for payments in lieu of taxes for publicly held property which is leased, loaned, or otherwise made available for use by a private person (M.S. 272.01, subd. 2; M.S. 272.68; M.S. 273.19; and M.S. 469.040, subd. 3).

Primary Statutory References: 272.02, subd. 39

Property of Volunteer Fire Departments

Minnesota Statutes, section 272.021 also exempts property of volunteer fire departments. This includes property of any volunteer fire department used exclusively for fire prevention and protection. This ownership and use designates the property as public property used for essential public and governmental purposes. They are exempt from all taxes and special assessments of the city, county, state, or any political subdivision.

Primary Statutory References: 272.021

Leased Municipality-Owned Property

Minnesota Statutes, section 471.191, provides that school district or city-owned recreational property may retain their exempt status even if they are managed by private individuals, associations, or corporations where the entity is for-profit or non-profit. Such recreational property includes marinas, golf courses, concert halls, skating rinks, swimming pools, athletic fields, museums, and other facilities for athletic or cultural participation. The lands and building may retain exemption, as well as the related parking facilities.

For example, a marina owned by the city of St. Paul, managed by a private management company, provided retail sales of boats. The Department of Revenue understands such a property to be exempt provided it meets the statutory requirements that "such property is devoted to said purposes and is not subleased to any private individual, association, or corporation in connection with a business conducted for profit, for a term of three or more years."

Primary Statutory References: 471.191

Certain Low-Rent Public Housing

Minnesota Statutes, section 469.012 provides for property tax exemption for some low-rent public housing institutions that received financial assistance under the United States Housing Act of 1937 or successor federal legislation. The governing body that created the Housing and Redevelopment Authority (HRA) that created such low-rent public housing **must make agreement** with such an institution to provide for an ad valorem real and personal property tax exemption.

Property of HRAs is considered to be public property used for public purposes and may be exempt as such. However, such property may still be liable for ***payments in lieu of taxes*** (PILT). After a qualifying housing project or housing development project becomes occupied in whole or in part, an authority must file by April 15 of each year a statement with the assessor which indicates the aggregate shelter rentals of that project collected during the preceding calendar year. Unless a greater amount has been previously agreed upon, 5 percent of the shelter rentals are charged to the HRA as a service charge for the services and facilities provided to the project. The service charge cannot exceed what the amount of the property taxes would have been.

Primary Statutory References: 272.02, subd. 76, 469.040

Indian Lands Held in Trust

Federal law holds that Indian tribal property is exempt from taxation. The State of Minnesota, an instrumentality of the federal government, is bound by these laws. Further, Minnesota Statutes, section 272.01, subdivision 1 explicitly exempts Indian lands from property subject to taxation. Lands and structures located on Indian reservations shall be exempt from property taxes, provided the land is owned by the federal government and held in trust for the tribe. For anyone living on Indian lands and owning the land in fee, the property is taxable.

Indian lands should still be assessed and listed when exempt property is submitted through PRISM Submission 2. Indian lands are not handled differently than non-Indian lands in terms of the July 1 cutoff date for taxable/exempt status.

Types of Exempt Properties

Primary Statutory References: 272.01, subd. 3, para. (d)

Personal Property Located Within an Indian Reservation

The taxation or exemption of personal property located on reservation land is based on several factors. All personal property located on trust land is exempt regardless of ownership. However, the tax treatment of personal property located on fee land within the reservation is based on the ownership of the personal property. Personal property owned by a tribal member is exempt by federal law, regardless of the ownership of the underlying land. Personal property owned by anyone other than a tribal member and located on fee land is taxable.

Railroad Wye Connections

Any real or personal property of a railroad wye connection, including the track, ties, ballast, switch gear, and related improvements, is exempt if it meets all of the following:

1. is publicly owned;
2. is funded, in whole or in part, by state grants;
3. is located within the metropolitan area as defined in section 473.121, subdivision 2;
4. includes a single track segment that is no longer than 2,500 feet in length;
5. connects intersecting rail lines; and
6. was constructed after January 1, 2009.

Although not specifically limited, this exemption is targeted to a connection in New Brighton (Ramsey County).

Primary Statutory References: 272.02, subd. 91

Property used in mining subject to net proceeds tax

This provision grants an exemption from property tax for property used for mining that is subject to the net proceeds tax in section 298.015. This affirms a provision in section 273.11, subdivision 1. The exemption applies only after mining, quarrying, producing, or refining has started. The exemption includes lands, and all real and personal property used in mining, quarrying, producing, or refining ores, minerals, or metals. The exemption applies for each year that an individual is subject to the tax under section 298.015 (the net proceeds tax on mining).

Primary Statutory References: 272.02, subd. 97

Licensed Child Care Facility

This provision grants an exemption to child care facilities licensed under Minnesota Rules chapter 9503 or provides licensed or group family day care defined under Minnesota Rules, chapter 9502. The child care facility must accept families participating in a child care assistance program under Chapter 119B and must be owned and operated by a nonprofit charitable organization that qualifies for tax exemption under section 501(c)(3) of the Internal Revenue Code.

Primary Statutory References: 272.02, subd. 103

Limited Applicability Special Exemptions

Property Used to Provide Computing Resources to the University of Minnesota
Real and personal property (including leasehold or other personal property interests) is exempt if it is owned and operated by a corporation of which more than 50 percent of the total voting power of the stock of the corporation is owned collectively by:

1. the Board of Regents of the University of Minnesota.
2. the University of Minnesota Foundation (an organization exempt from taxation as a 501(c)(3) organization).
3. a non-profit corporation organized under Minnesota Laws, Chapter 317A, which by its articles of incorporation is prohibited from providing pecuniary gain to any person or entity other than the regents of the University of Minnesota.

The property must be primarily used to manage or provide goods, services, or facilities utilizing or relating to large-scale advanced scientific computing resources to the regents of the University of Minnesota and others.

Primary Statutory References: 272.02, subd. 21

Superior National Forest; Recreation Property for Use by Disabled Veterans
Real and personal property located in the Superior National Forest which is owned or leased and operated by a non-profit 501(c)(3) organization may be exempted if it is used primarily to provide recreational opportunities for disabled veterans and their families. This exemption only applies to Cook, Lake, and St. Louis Counties.

Primary Statutory References: 272.02, subd. 27

Western Lake Superior Sanitary Board
All property owned, leased, controlled, used or occupied for public, governmental, and municipal purposes by the Western Lake Superior Sanitary Board is exempt as provided in Minnesota Statutes, section 458D.23.

Primary Statutory References: 272.02, subd. 59

Pedestrian Systems, Public Parking Structures
The pedestrian skyway system, underground pedestrian concourse, the people mover system, and publicly owned parking structures are exempt from property taxes.

Primary Statutory References: 272.02, subd. 61

Limited Applicability Special Exemptions

Housing and Redevelopment Authority, Tribal Housing, and Other Housing Authority Property
Property owned by a housing and redevelopment authority organized using the criteria of Minnesota Statutes, Chapter 469, or by a designated housing authority described in section 469.040, subdivision 5; section 469.042 is exempt from property taxes.

Primary Statutory References: 272.02, subd. 76

Property of Regional Rail Authority
Property of regional rail authority as defined in Minnesota Laws, Chapter 398A is exempt from property taxes.

Primary Statutory References: 272.02, subd. 78; M.S. 398A.05

Spirit Mountain Recreation Area Authority
Property owned by the Spirit Mountain Recreation Area Authority is exempt from property taxes.

Primary Statutory References: 272.02, subd. 79

Certain Recreational Property for Disabled Veterans
Real and personal property is exempt from taxation if it is located in a metropolitan county with a population of less than 500,000 according to the 2000 federal census, and owned or leased and operated by a non-profit organization, and primarily used to provide recreational opportunities for disabled veterans and their families. This provision specifically pertains to the Disabled Veterans Rest Camp located on Big Marine Lake in Washington County.

Primary Statutory References: 272.02, subd. 81

Property Subject to Taconite Production Tax or Net Proceeds Tax
Real and personal property described in Minnesota Statutes, section 298.25 is exempt to the extent the tax on taconite and iron sulphides under section 298.24 is described in section 298.25 as being in lieu of other taxes on such property. The exemption applies to each year that the tax under section 298.24 is payable with respect to such property. Deposits of mineral, metal, or energy resources the mining of which is subject to taxation under section 298.015 are exempt. Ore docks are **not** eligible for such exemption.

Primary Statutory References: 272.02, subd. 73

Limited Applicability Special Exemptions

Apprenticeship Training Facilities

Apprenticeship training facilities may be exempt from property taxes for all or a portion of the building used exclusively for a state-approved apprenticeship program through the Minnesota Department of Labor and Industry if:

1. it is owned and operated by a non-profit corporation or non-profit trust;
2. the program participants receive no compensation; and
3. it is located:
    a. in the Minneapolis and Saint Paul standard metropolitan statistical area as determined by the 2000 federal census;
    b. in a city outside of the Minneapolis and Saint Paul standard metropolitan statistical area that has a population of 7,400 or greater according to the most recent federal census; or
    c. in a township that has a population greater than 1,400 but less than 3,000 determined by the 2000 federal census and the building was previously used by a school and was exempt for taxes payable in 2010.

Use of the property for advanced skills training of incumbent workers does not disqualify the property for the exemption under this subdivision. This exemption includes up to five acres of the land on which the building is located and associated parking areas on that land, except that if the building meets the requirements of 3c above (located in a qualifying township), then the exemption includes up to 10 acres of land on which the building is located and associated parking areas on that land. If a parking area associated with the facility is used for the purposes of the facility and for other purposes, a portion of the parking area shall be exempt in proportion to the square footage of the facility used for purposes of apprenticeship training.

Primary Statutory References: 272.02, subd. 86

Fergus Falls Historical Zone

Property located in the area of the campus of the former state regional treatment center in the city of Fergus Falls, including the five buildings and associated land that were acquired by the city prior to January 1, 2007, is exempt from ad valorem taxes levied under Chapter 275.

The exemption applies for 15 calendar years from the date specified by resolution of the governing body of the city of Fergus Falls. For the final three assessment years of the duration limit, the exemption applies to the following percentages of estimated market value of the property:

1. for the third to the last assessment year of the duration, 75 percent;
2. for the second to the last assessment year of the duration, 50 percent; and
3. for the last assessment year of the duration, 25 percent.

Primary Statutory References: 272.02, subd. 88

Limited Applicability Special Exemptions

St. Louis County Fairgrounds

Land and buildings used exclusively for county or community fairgrounds in St. Louis County as provided in Minnesota Statutes, sections 383C.164, 383C.161, and 383C.16 are exempt from property taxes.

Primary Statutory References: 272.02, subd. 95

Certain Elderly Assisted Living Facilities
Saint Paul

Elderly assisted living facility property is defined in Minnesota Statutes, section 273.13, subd. 25a as *"residential real estate containing more than one unit"* along with *"community rooms, lounges, activity rooms, and related facilities, designed to meet the housing, health, and financial security needs of the elderly."* For state licensure purposes, an elderly assisted living facility is a housing with services establishment, as defined in section 144D.01, subd. 4 that either (1) an establishment providing sleeping accommodations to one or more adult residents, at least 80 percent of which are 55 years of age or older, and offering or providing, for a fee, one or more regularly scheduled health-related services or two or more regularly scheduled supportive services, whether offered or provided directly by the establishment or by another entity arranged for by the establishment; or

(2) an establishment that registers under section 144D.025.

An elderly living facility may be exempt per Minnesota Statutes, section 272.02, subdivision 66, if it meets the following requirements:

- The facility is located in a city of the first class with a population of more that 350,000;
- The facility is owned by a non-profit corporation organized under Minnesota Laws, Chapter 317A;
- The facility was constructed between January 1, 2002 and June 1, 2003;
- The facility consists of two buildings, which are connected to a church that is exempted from taxation under subdivision 6;
- The land for the facility was donated to the non-profit corporation by the church to which the facility is connected;
- The residents of the facility must be at least 62 years of age **or** disabled;
- The facility operates an on-site congregate dining program in which participation by residents is mandatory;
- The facility provides assisted living or similar social and physical support services for residents; and
- At least 30 percent of the units of the facility are occupied by persons whose annual income does not exceed 50 percent of the median family income or the area.

A property qualifying based on the above requirements is determined to have met the "necessity of ownership" requirements. Any portion of the property not used for the

purposes of the facility and not necessary to the aims of the organization will not be eligible for exemption.

A property qualifying for exemption under this subdivision is exempt for taxes levied in each year or partial year of the term of the facility's initial permanent financing or 25 years, whichever is later.

Primary Statutory References: 272.02, subd. 66

Minneapolis

The first $5,000,000 in market value of an elderly living facility is exempt from taxation if it meets all of the following requirements:

1. the facility consists of no more than 75 living units;
2. the facility is located in a city of the first class with a population of more than 350,000;
3. the facility is owned and operated by a nonprofit corporation organized under Chapter 317A;
4. the owner of the facility is an affiliate of entities that own and operate assisted living and skilled nursing facilities that:
    i. are located across a street from the facility;
    ii. are adjacent to a church that is exempt from taxation under subdivision 6;
    iii. include a congregate dining program; and
    iv. provide assisted living or similar social and physical support;
5. the residents of the facility must be:
    i. at least 62 years of age; or
    ii. handicapped;
6. at least 30 percent of the units in the facility are occupied by persons whose annual income does not exceed 50 percent of median family income for the area; and
7. the facility has received approval of street vacation and land use applications from the city in which it is to be located before taxes payable in 2010.

For this exemption, "affiliate" means any entity directly or indirectly controlling or controlled by or under direct or indirect common control with an entity, and "control" means the power to direct management and policies through membership or ownership of voting securities. The exemption provided in this subdivision applies to taxes levied in each year or partial year of the term of the facility's initial permanent financing or 25 years, whichever is later. It was first effective for taxes payable in 2010. This provision was targeted to Catholic Eldercare in Minneapolis.

Primary Statutory References: 272.02, subd. 94

St. Paul Ballpark [CHS Field]

A city-owned ballpark in St. Paul that is primarily used by a minor league baseball team (i.e., a ballpark for the St. Paul Saints) is exempt. The ballpark remains subject to special assessments levied for local improvement in amounts proportionate to the special benefit received by the properties from the improvement. No use other than as a ballpark may be considered when determining special benefit received. Additionally, language is included that exempts real or personal property subject to a lease or use agreement between the city and another person for uses related to the operation of the ballpark and related parking facilities. This does not apply to property that is used for residential, business, or commercial development or other purposes different from those necessary to the operation of the ballpark.

Primary Statutory References: Laws 2013, Chapter 143, Article 4, section 41

St. Paul Soccer Stadium

The 2017 tax bill provided language for a property tax exemption for a Major League Soccer stadium in the city of St. Paul. The property is subject to special assessments levied for local improvements. The exemption does not apply to real property used for residential, business, commercial, or any other use that is not necessary for the operation of the stadium. This exemption is only effective upon approval by the St. Paul City Council and compliance with Minnesota Statutes, section 645.021.

Primary Statutory References: Laws 2017, Chapter 1, Article 2, Section 42

Public Entertainment Facility [Target Center]

Property owned, leased, controlled, used, or occupied by the city of Minneapolis for the primary purpose of providing an arena for a professional basketball team (i.e., Target Center) is exempt. The exemption does not apply to any portion of the facility leased for business purposes unrelated to the operation of the arena, including a restaurant open more than 200 days a year. The property remains subject to special assessments levied for local improvement in amounts proportionate to the special benefit received by the properties from the improvement. No use other than as a professional basketball arena may be considered when determining special benefit received. Additionally, language is included that exempts real or personal property subject to a lease or use agreement between the city and another person for uses related to the operation of the arena and related parking facilities. This does not apply to property that is used for residential, business, or commercial development or other purposes different from those necessary to the operation of the arena.

Primary Statutory References: Laws 2013, Chapter 143, Article 4, section 42

Limited Applicability Special Exemptions

Certain Property Owned by an Indian tribe

M.S. 272.02 contains multiple subdivisions related to specific properties around the state that are owned by an Indian tribe and have been exempted from property tax liability.

Certain Elderly Living Facility

The 2023 tax omnibus bill exempted a certain elderly living facility in Duluth, so long as it continues to meet the following conditions:

- Residents of the facility must be at least 55 years old or disabled
- At least 30% of the units in the facility are occupied by persons whose annual income is 50% or less

Primary Statutory References: 272.02 subd. 105

Exemptions Noted Elsewhere

Some property tax exemptions are not contained in Minnesota Statutes, Chapter 272, but are listed elsewhere. The Department of Revenue continues to make efforts to identify and define these property tax exemptions for purposes of this administrator's manual. A brief description of these exemptions follows. Greater detail may be found in the statutes cited:

- Airports (M.S. 360.035)
- St. Louis County schools/ISD 692 (M.S. 383C.48)
- Medical facilities (M.S. 447.47)
- Parking facilities – St. Paul and Minneapolis (M.S. 459.14)
- Personal property leased to the state pursuant to a master lease (M.S. 16A.85)
- Local transit commissions – St. Cloud and Duluth (M.S. 458A.09 and 458A.30)
- Regional railroad authorities (M.S. 398A.05)
- Community corrections facilities (M.S. 401.05)
- County law enforcement facilities (M.S. 641.24)
- Computer and telecommunications service cooperatives for educational services (M.S. 123A.21)

Certain Types of Energy Generation/Distribution Property

Hydroelectric/Hydromechanical Power

Minnesota Statutes, section 272.02, subdivision 15, provides that real and personal property used or to be used primarily for the production of hydroelectric or hydromechanical power on a site owned by the federal government, the state, or a local governmental unit may be exempt from property tax for all years during which the site is developed and operated under terms of a lease or agreement as authorized in Minnesota Statutes, section 103G.535.

Primary Statutory References: 272.02, subd. 15; 103G.535

Wind Energy Conversion Systems

All real and personal property of a wind energy conversion system may be exempt from property taxes, except that the land on which the system is located remains taxable. The value of the land on which the system is located shall be valued in the same manner as similar land that has not been improved with a wind energy conversion system, if approved by the county board where the property is located. The land shall be classified based on the most probable use of the property if it were not improved with a wind energy conversion system. In other words, if a wind turbine were located on a productive farmland, the classification of the land upon which the wind turbine rests shall be classified as 2a productive agricultural land.

"Wind energy conversion system" means any device, such as a wind charger, windmill, or wind turbine which converts wind energy to a form of usable energy.

Primary Statutory References: 272.02, subd. 22

Solar Energy Generating Systems (Solar Panels)

Personal property of a solar energy-generating system, as defined in section 272.0295 is exempt from property taxes. This includes photovoltaic devices, as defined in Minnesota Statutes, section 216C.06, subdivision 16, installed after January 1, 1992, and used to produce or store electric power. **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 classified as 3a. If the solar energy generating system is 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.

Primary Statutory References: 272.02, subd. 24

Certain Types of Energy Generation/Distribution Properties

Electric Generation Facilities; Personal Property

The laws concerning electric generation facilities that qualify for exemption are very static. For the majority of these exemptions, construction must already be completed and therefore new facilities may not qualify; the exceptions are noted below. Additionally, for each of these facilities, the exemption applies only to attached machinery and other personal property. For all except the exemption provided under subdivision 29, the exemption **does not** include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or the facility. Lastly, please note that some subdivisions require the electric generation facility to pay Payments in Lieu of Taxes to local jurisdictions (e.g. subdivisions 92 and 93).

Rather than exhaustively describe each unique scenario, we will note that exemptions for electric generation facilities are noted in Minnesota Statutes, section 272.02, in the following subdivisions:

- subdivision 29
- subdivision 33
- subdivision 44
- subdivision 52
- subdivision 55* *an additional 750 megawatts of construction must be commenced before January 1, 2015*
- subdivision 56
- subdivision 68*
- subdivision 69*
- subdivision 70*
- subdivision 71*
- subdivision 84
- subdivision 89* *construction must begin before January 1, 2012*
- subdivision 92* *construction must begin before March 1, 2014*
- subdivision 93* *construction must begin before January 1, 2014*
- subdivision 96* *construction must begin before January 1, 2015*
- subdivision 99 *construction must begin before June 1, 2017*

***Must have resolution or other approval by local governing body for exemption [see specific statutes].**

Certain Types of Energy Generation/Distribution Properties

Biomass Electric Generation Facilities; Personal Property
For all biomass electric generation facilities, the exemption applies to attached machinery and other personal property.

For all of the following except that provided in subdivision 43, the construction of the facility must have already been completed, and therefore new facilities **do not** qualify.

Biomass electric generation facilities exempted as personal property are noted in the following subdivision of Minnesota Statutes, section 272.02:

- subdivision 43 (waste wood electric generation facility; **does not** include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or facility)
- subdivision 45
- subdivision 47 (poultry litter biomass generation facility)
- subdivision 54
- subdivision 82

Property Used to Distribute Electricity to Farmers
Electric power distribution lines and their attachments and appurtenances that are used primarily for supplying electricity to farmers at retail are exempt.

Primary Statutory References: 272.02, subd. 19

Cogeneration Systems; Certain Property
Attached machinery and other personal property which is part of a facility containing a cogeneration system may be exempt if the cogeneration system meets the following criteria:

1. The system utilizes natural gas as a primary fuel and the cogenerated steam initially replaces steam generated from existing thermal boilers utilizing coal;
2. The facility developer is selected as a result of a procurement process ordered by the Public Utilities Commission; and
3. Construction of the facility is commenced after July 1, 1994 and before July 1, 1997.

Primary Statutory References: 272.02, subd. 29

Property Used for Pollution Control

Property, equipment, or device used to control or abate pollution (pollution control property) may qualify for a property tax exemption.

Owners of pollution control property must apply and receive an order granting the exemption before they are able to receive the exemption.

After an owner receives an order granting a pollution control exemption, the owner must file a statement of exemption by February 15 of each year in order to continue receiving the exemption.

The department administers pollution control exemptions. See the department's Pollution Control Exemption webpage for more information, including the application, statement of exemption, and instructions.

Primary Statutory References: 272.02, subd. 10 & 272.02, subd. 41; 272.025

Exemption Programs

Border City Development Zone Property
Class 1, 3, 4, and 5 property that is located in a border city development zone and is newly constructed after the zone was designated, including the land that contains the improvements, is exempt from property tax per Minnesota Statutes, section 272.0212, subdivision 2. The exemption is meant to encourage economic development, to revitalize the designated areas, to expand the tax base and economic activity, and to provide job creation, growth, and retention.

A "zone" is a border city development zone designated under Minnesota Statutes, section 469.1731. The following cities are allowed to designate development zones: Breckenridge, Dilworth, East Grand Forks, Moorhead, and Ortonville.

All qualified property in such a zone is exempt to the extent, and for a period up to, the duration provided by the zone designation under M.S. 469.1731 to 469.1735. This exemption is available to a parcel only if the municipality determines that the granting of the tax exemption is necessary to enable a business to expand within a zone or to attract a business to zone.

Property in a zone is not exempt from the following:

- special assessments
- ad valorem property taxes specifically levied for the payment of principal and interest on debt obligations
- all taxes levied by a school district, except equalized school levies under M.S. 273.1398, subdivision 1, paragraph (e)

The city may limit the property tax exemption to a shorter period than the duration of the zone or to a percentage of the property taxes payable, or both. Property exempt under this section is included in the net tax capacity for purposes of computing aids under Minnesota Laws, chapter 477A.

Primary Statutory References: 272.0212; Chapter 469

Applicable Court Cases

Many court cases have molded how exemption policies and procedures have developed in terms of assessment practices. When statute is unclear the department often looks to past court cases and Attorney General Opinions for guidance in making administrative interpretations. When doing so, the department cannot depend on a single case where the decision is made based solely on the facts presented in that case. Therefore, the department must look at a variety of cases in order to identify general guidelines. Some examples are listed on the following pages. A more comprehensive guide may be found in Minnesota Statutes Annotated, section 272.02.

Taxation is the Rule

The most intrinsic procedure for assessing properties which may be eligible for exemption comes from *Christian Business Men's Committee of Minneapolis v. State*, 1949 (228 Minn. 549, 38 N.W.2d 803), which held that, "Taxation is the rule, and exemption is an exception…so that presumption is that all property is taxable and he who seeks exemption bears burden of proof." Time and again, the Department of Revenue has also advised that, when exempt status is not apparent to an assessor, the onus is on the taxpayer to provide whatever information necessary to prove that the property is being used for a purpose which would make it eligible for exemption.

An exemption from taxation is a privilege of such high order and is so rarely granted that it can be established or extended only by and according to the reasonable and natural import of clear and explicit language and not by implication or presumption. *Ramaley v. City of St. Paul*, 1948, 226 Minn. 406, 33 N.W. 2d 19.

When interpreting statutes that exempt property from taxation, the Supreme Court adheres to the proposition that taxation is the general rule and exemption the exception. *ILHC of Eagan, LLC* v. County of Dakota, 2005, 693 N.W.2d 412

Administrative officers should not place property in category of tax-exempt property unless the right to exemption is free from doubt. *Op. Atty. Gen.* 1930, No. 351, p. 298.d

If there is doubt as to the public charitable nature of a corporation the property should be assessed. *Op.Atty.Gen*. 414a-10, Mar. 15, 1967.

Basis for Exemption

The basis of tax exemptions is the accomplishment of public purposes and not the favoring of particular persons or corporations at the expense of taxpayers generally. *Petition of Bd. Of Foreign Missions of Augustana Synod*, 1946, 221 Minn. 536, 22 N.W.2d 642.

Applicable Court Cases

Reasonably Necessary

The Minnesota Supreme Court has established a test for determining whether a hospital owned building is entitled to exempt status. This test requires that "to justify exemption it must be established that the property involved is devoted to and reasonably necessary for the accomplishment of the purposes of the institution seeking exemption." *State v. Fairview Hospital Assn.*, 262 Minn. 184, 187, 114 N.W. 2d 568, 571 (1962).

The reasonable relation of property to accomplishment of the objectives of institution which owns the property, and the identity of those objectives with public welfare, are necessary for all tax exemption. *Petition of Bd. Of Foreign Missions of Augustana Synod*, 1946, 221 Minn. 536, 22 N.W.2d 642.

Mere fact that association owning land in question is organized under section 306.01 et seq., does not ipso facto render such land exempt from taxation, and the land is so exempt only if it is part of a greater area which as a whole constitutes one cemetery and if the land is essential to such cemetery. *Op. Atty. Gen.,* 414-D-4, Feb. 5, 1946.

A cemetery association's land platted, dedicated, and held for future use for burial purposes but used presently for agricultural purposes is not exempt from taxation as a "public burying ground." An intention on the part of cemetery association to use its land in the future for burial of the dead affords no basis for exemption of the land from taxation as a public burying ground, and it is immaterial that present use of land for burial is prevented by city ordinances. *State v. Ritschel,* 1945, 220 Minn. 578, 20 N.W.2d 673.

Where defendant, a charitable corporation, maintained a hospital and owned a farm from which it derived an annual income applied to the relief of charity patients, but such farm was not part of the curtilage of the hospital, or essential or necessary to operate the same, the farm was not exempt from taxation as real estate. *State v. Bishop Seabury Mission*, 90 Minn. 96, 95 N.W. 882, distinguished. *State v. St. Barnabas Hosp.*, 1905, 95 Minn. 489, 104 N.W. 551.

Student dormitories and faculty-occupied residences located upon college-owned lands, even though detached from the campus, were devoted to and reasonably necessary for the accomplishment of the institution's educational purposes, and therefore exempt. *State v. Carlton College* 154 Minn. 280, 286, 191 N.W. 400, 403.

In exempting from taxation property of churches and charitable institutions, there must be a concurrence of ownership of property by a 'church' and use of property for purpose for which church was organized. *Ideal Life Church of Lake Elmo v. Washington County*, 1981 (301 N.W.2d 308).

Applicable Court Cases

Pro Rata Exemption
Where building is owned by charitable or other tax-exempt institution and one substantial part thereof is directly, actually, and exclusively occupied by such institution for purpose, for which it was organized, and another substantial portion thereof is primarily used for revenue by rental to general public, building with grounds thereof is pro rata exempt from taxation and pro rata taxable according to its separate uses. *Op.Atty.Gen*, 414-D-12, Feb. 25, 1954 (Opinion #364 of 1936 overruled).

In determining whether a portion of a building devoted primarily to a tax exempt use is substantial, what is substantial is a question of fact to be determined in light of a reasonable, natural and practical interpretation of that term. *Christian Business Men's Committee of Minneapolis v. State*, 1949, 228 Minn. 549, 38 N.W.2d 803.

Where institution of purely public charity was equitable owner of realty under executory contract for deed and occupied basement, second, and third floors for purpose for which it was organized and first floor was primarily used for revenue by rental to general public, building with grounds thereof was pro rata exempt from taxation and pro rata taxable according to separate uses. *Christian Business Men's Committee of Minneapolis v. State*, 1949, 228 Minn. 549, 38 N.W.2d 803.

Definition of "Church"
Where non-profit corporation which was organized by religious society was not subject in any way to control by church body, property owned by corporation was not exempt from ad valorem taxes as church property. *Petition of United Church Homes, Inc.*, 1972, 292 Minn. 323, 195 N.W.2d 411.

Purported religious organization which was organized and operated primarily for motive of tax avoidance by private individuals in control of corporation, had no formally trained or ordained ministry, had no sacraments, rituals, education classes or literature of its own, had no liturgy other than simple meetings resembling mere social gatherings or discussion groups and did not require a belief in any supreme being or other being, and whose doctrine and beliefs were intentionally vague and nonbinding upon its members and whose members freely continued to practice other religions, was not a "church" as such term was used in state's tax exemption laws. *Ideal Life Church of Lake Elmo v. Washington County*, 1981, 304 N.W.2d 308.

Threshold question in determining whether real property is "church" entitled to tax exemption is whether entity claiming exemption is "church" within meaning of statute. In re Collection of Delinquent Real Property Taxes, *State of MN v. American Fundamentalist Church*, 1995, 530 N.W.2d 200 rehearing denied.

Applicable Court Cases

Test for determining whether organization is "church" entitled to tax exemption is subjective one, focusing on sincerity of belief and taking into account evidence on objective issues. In re Collection of Delinquent Real Property Taxes, *State of MN v. American Fundamentalist Church*, 1995, 530 N.W.2d 200 rehearing denied.

Principal motivation for organizing religious corporation was tax minimization and, therefore, organization was not "church" and, therefore was not entitled to real property tax exemption in view of evidence that most of financial contributions to organization came from individual founder, that most of founder's income came from taxpayer, that founder was primary beneficiary of organization's financial actions, and that founder and his wife, who was co-founder, dominated meetings of organization's board of trustees. In re Collection of Delinquent Real Property Taxes, *State of MN v. American Fundamentalist Church*, 1995, 530 N.W.2d 200 rehearing denied.

Public Hospitals

A "public hospital," within statutes granting exemption from taxation was one that was open to public generally and was operated without private profit, but it was not necessary that the hospital be owned by the public, that it dispensed public charity, or rendered its services without charging for them. *Village of Hibbing v. Commissioner of Taxation*, 1944, 217 Minn. 528, 14 N.W.2d 923.

Community hospital association operating without stockholders and without profit to any individual is a "public hospital" for tax exemption purposes. *Fairmont Community Hosp. Ass'n v. State*, 1945, 221 Minn. 107, 21 N.W.2d 243.

Hospital owned by individual and operated with intent to make private profit was not exempt from taxation as "public hospital," notwithstanding there was no profit during year for which taxes were imposed. *State v. Browning*, 1934, 192 Minn. 25, 255 N.W. 254.

To qualify for property tax exemption as public hospitals, auxiliary facilities must, first of all, be devoted to what it is that public hospital does, and secondly be reasonably necessary to accomplish that purpose; test measures degree to which auxiliary facilities and public hospital are functionally interdependent. *Chisago Health Services v. Commissioner of Revenue*, 1990, 462 N.W.2d 386.

Medical clinic owned and operated by city was not "public hospital," though clinic served to generate patients for nearby hospital, where clinic was not the only clinic to furnish patients hospital, and where clinic was not essential to continued existence of hospital. *City of Springfield v. Commissioner of Revenue*, 1986, 380 N.W.2d 802.

Applicable Court Cases

Government payments to hospital under Medicare and Medicaid programs were payments for services rendered, not donations, for purpose of determining extent to which hospital auxiliary facility was supported by donations, and thus qualified for property tax exemption as institution of purely public charity. *Chisago Health Services v. Commissioner of Revenue*, 1990, 462 N.W.2d 386.

Tax Court's finding that medical clinic owned and operated by city was not "used exclusively for public purpose," so as to be exempt from state property taxation, was supported by sufficient evidence, though city purchased clinic to insure that city was provided with medical doctors, where physicians used clinic to conduct their private medical practices for fee. *City of Springfield v. Commissioner of Revenue*, 1986, 380 N.W.2d 802.

Institutions of Purely Public Charity

A worthwhile objective alone does not justify classification as an institution of purely public charity for purposes of property tax exemption. *Croixdale, Inc. v. County of Washington*, 2007, 726 N.W.2d 483.

In view of the long-standing unchallenged opinion of attorney general of 35 years, ruling that an art gallery was an "institution of purely public charity" and belief that art was not limited to the still arts, real property leased by the T.B. Walker Foundation to the Guthrie Foundation and sublet to the Minn. Theatre Company Foundation was exempt from ad valorem taxation because of Const. Art. 9, sec. 1 [see now, Const. Art. 10, sec. 1] *Op.Atty.Gen*., 414-d-2, Aug. 22, 1963.

On June 23, 1966, Minnesota Tax Court determined that the (i) T.B. Walker Foundation, Inc. (owner of the site of the first Guthrie Theater); (ii) Tyrone Guthrie Theater Foundation (lessee under a 25 year ground lease); (iii) Minnesota Theater Co. Foundation (sublessee); and (iv) Walker Art Center (licensee) are all institutions of purely public charity, and that the property was used in furtherance of their charitable missions to education people about performance and visual art.

Educational Institutions

An education institution may teach a variety of useful accomplishments and yet not be equivalent of a tax exempt academy, college, university, or seminary of learning, and therefore, whenever tax exemption is claimed, it is essential first to determine as a fact question the actual function the institution performs in field of public education as reflected by the basic nature, thoroughness, scope and purpose of educational program which it regularly offers to its students. *State v. Northwestern Preparatory School*, 1957, 249 Minn. 552, 83 N.W.2d 242.

Applicable Court Cases

Accomplishment of requisite public purposes necessary to enable seminaries of learning to obtain tax exempt status is that of providing some substantial part of the educational training which otherwise would be furnished by the various publicly supported schools, academies, colleges, and seminaries of learning, and which to such extent, thereby lessen tax burden imposed upon our citizens as result of our public education system. *State v. Northwestern Preparatory School*, 1957, 249 Minn. 552, 83 N.W.2d 242.

Equipment as Personal Property

To be "equipment" and thus exempt from tax on real property, an item must perform functions distinct and different from functions ordinarily performed by buildings and other taxable structures. *Crown CoCo, Inc. v. Commissioner of Revenue*, 1983 336 N.W.2d 272.

A canopy over self-service gasoline pumps served same shelter function as buildings and other structures to extent that it protected persons and items from forces of nature, and was thus "structure" subject to tax on real property, notwithstanding contention that canopy was "equipment" in that it was integral to operation of self-service station. *Crown CoCo, Inc. v. Commissioner of Revenue*, 1983 336 N.W.2d 272.

Such an interpretation was upheld in *Leonard S. Busch v. County of Hennepin*, 1985, in which greenhouse structures were deemed taxable (not "equipment"). Oil tanks were also deemed taxable structures (not "equipment") under *Barton Enterprises, Inc. v. County of Ramsey*, 1985.

In *KDAL, Inc. v. County of St. Louis*, 1976, the Minnesota Supreme Court upheld the exemption of a television antenna. Here, the court determined that the television tower to support the antenna was essential to the function of the business of the taxpayer (the "functionality" test). It therefore qualified as equipment attached to real property for use in a business or production activity. The framework and superstructure of billboards was deemed exempt in the case of *Skoglund Communications, Inc. v. County of St. Louis*, 1978. The billboard equipment, which was used for business conducted on property where signs were located, was deemed to be exempt equipment essential to the function of the business of the taxpayer. Further, it was understood by the court that the framework for the billboards could serve no other purpose.

One exception to the property tax exemption for equipment is when equipment is incorporated into real property and performs a shelter function. In *Southern Minnesota Beet Sugar Coop v. County of Renville*, 2007 (737 N.W.2d 545), the Supreme Court upheld the definition of taxable real property to include tanks, bins, and silos that had walls, a roof or ceiling, and floors that provided a shelter function. The court noted that the terms "real property" and "equipment" are not mutually exclusive, and therefore property may be considered "equipment" but if that equipment has been attached to or installed in real property, has an exterior shell that provides

structural, insulation, or temperature control functions, or provides protection from the elements, the exterior shell is included in the definition of real property for tax purposes. In this specific case, the court found that the involved tanks, bins, and silos had walls, a roof/ceiling, and floors. The court held that the exterior shell performed a structural function of shelter from the elements.

Hospitals Districts

Property of a hospital district formed under Minnesota Statute 447.31 is exempt. Typically, this exemption may include the hospital building and associated property, nursing homes, and additional facilities covered by Minnesota Statutes 447.31-447.50 owned/operated by a hospital district.

In *Perham Hospital District vs. County of Otter Tail,* 2021, the tax court found, and the supreme court affirmed, that clinics owned and operated by the hospital district were exempt. In light of the specific facts of this case, the clinics purchased and operated by the hospital district were used to improve and run the district's hospital, and the provisions of M.S. 447.31 Subd. 6 applied.

The determination in this specific situation does not impose a broad-based exemption for clinics owned and operated by a hospital district. Further, the decision does not impact the taxability of clinics not owned and operated by a hospital district.

When determining if property owned and operated by a hospital district is exempt, each situation must be looked at on an individual basis. A variety of factual considerations may apply to determine whether clinics are used to improve and run a hospital in a hospital district. Some of the facts that may be relevant, including some of the facts present in the *Perham* case, include:

- Is the clinic owned by a hospital district which is a political subdivision of the state?
- Can the applicant demonstrate that the clinic is needed to improve and run the hospital district? Such as:
    - Provide physical space for other hospital departments
    - Improve the hospital's overall operations and service delivery
    - Increase patient follow-up
    - Provide largely similar care as what would be found in the main hospital
    - Attract physicians and patients within the district
- Are the doctors conducting any private practice in the district clinic?
- Are the staff employees of the hospital district? If not, is there contract in place for any staffing needs, or is the clinic leased to another entity that staffs the facility?
- Does the hospital district retain control of the operation of the clinic even in situations where some or all staff are contracted by the district?
- Are services provided at the clinic largely similar to what is provided at the hospital?

- Has the area served by the district been designated under federal law as a "medically underserved area" without enough local providers to serve the population's medical needs?
- Was acquiring the clinics necessary to maintain a patient base that would support keeping the Hospital doors open?

In the *Perham* case, the review of relevant factors provided enough support for determining that the clinics were parts of the ongoing mission of that hospital district, and services provided at the clinics were used to improve and run the hospital in the district.

Childcare Centers Qualifying as Seminaries of Learning

Certain childcare centers may be exempt as seminaries of learning if they meet specified educational standards. In *Under the Rainbow Early Childcare Center vs. County of Goodhue,* 2022, the supreme court found Under the Rainbow Early Education Center met these standards and was exempt.

There are three types of childcare centers in Minnesota:

1. Licensed Childcare Centers (Under the Rainbow Early Education Center is this type)
2. Family Childcare
3. Certified Childcare (unlicensed)

Guidance from the court in the Under the Rainbow case applies only to "licensed childcare centers" regulated by the Department of Human Services under *Minnesota Regulations* chapter 9503. The decision did not directly address family childcare regulated under *Minnesota Regulations* chapter 9502 or certified childcare. Under the Rainbow Early Education Center participated in the Department of Human Services Parent Aware program earning a Parent Aware rating of 4. The court decision is most applicable to licensed childcare centers regulated under *Minnesota Regulations* chapter 9503 that are *also* Parent Aware rated level 4.

Below are key standards an assessor should use when determining if the childcare center qualifies as a seminary of learning, how to handle childcare centers that do not participate in the Parent Aware program, and more detail on certain ownership situations.

Key Standards

A licensed childcare center, or portions of it, may be exempt as a seminary of learning if three qualifications are met: (1) the organization must be educational in nature, (2) the organization must teach a broad general curriculum, and (3) the organization must be thorough and

comprehensive in its educational work. Below are details of the requirements necessary to meet each qualification.

1. **The organization must be educational in nature**. A childcare center may establish that it is educational in nature by demonstrating that it meets state licensure and Parent Aware rating requirements such as:
   - Meet program requirements of Minnesota Rules 9503.0045 subp. 1(F)
     - "have stated goals and objectives to promote the physical, intellectual, social, and emotional development of the children in each age category"
   - Provide student assessments and evaluations. (Minnesota Rules 9503.0090 subp. 2)
     - "Parent conferences and daily reports. The license holder must ensure that the parent of a child is informed of the child's progress. The license holder must ensure that:
       - individual parent conferences are planned and offered by program staff at least twice a year; documentation is made in the child's record that individual parent conferences were planned and offered;
       - the status of the child's intellectual, physical, social, and emotional development is reported to the parent during the conference; and
       - daily written reports are made to the parent of an infant or toddler about the child's food intake, elimination, sleeping patterns, and general behavior."
   - Meet staff training and education requirements. (Minnesota Rules 9503.0032)

2. **The organization must teach a broad, general curriculum**.
   - This element requires that the curriculum should provide daily learning within each of the eight categories:
     - creative arts and crafts;
     - construction;
     - dramatic or practical life activities;
     - science;
     - music;
     - fine motor activities;
     - large muscle activities; or
     - sensory stimulation activities.
   - Implementing the Parent Aware "Creative Curriculum" further demonstrates a daycare center's broad, general curriculum that adds:
     - emotional, physical, and educational development of the child and
     - required daily lesson plans and child assessments.

3. **The organization's educational curriculum must be offered in a thorough and comprehensive manner.**

- This element requires that staff meet licensing requirements and maintain this status through continuing education.
- Student/teacher ratios must be maintained.
- Curriculum must meet licensing standards and must meet licensing review requirements.
- This element does *not* require that there be local school board evidence that the curriculum allows students to assimilate since that standard is more appropriate in school age instructional settings.
- A daycare center's Parent Aware rating may be considered as proof for purposes of determining that a daycare meets these requirements.

As stated above this case relates to a licensed childcare center, and does not specifically apply to other care centers, such as home-based/family childcare centers, or centers that are certified but not licensed.

The Minnesota Supreme Court did not consider whether family childcare programs licensed under Minnesota Rules 9502 would qualify as seminaries of learning. However, it is possible that if a family childcare program is also Parent Aware Level 4 rated it may be eligible for exemption. Certified childcare centers are not licensed and not required to meet any of the broad educational standards, so these centers are unlikely to qualify as a seminary of learning based on the ruling.

The case did not take into consideration areas of the building used for purposes not directly related to this educational standard.

The court noted that there may be issues with the standard if there are portions of the property used for non-educational purposes. Therefore, it would be appropriate to make a factual determination of whether the entire facility would qualify when determining if a licensed childcare center is exempt as a seminary of learning.

Parent Aware

The Court found that *both* the licensure under Rule 3 and the Parent Aware level 4 rating were central to their finding that Under the Rainbow Early Education Center was exempt as a seminary of learning. Both provided the educational standards and accountability that was required for Under the Rainbow Early Education Center to qualify as an exempt seminary of learning.

Applicable Court Cases

When an early education organization applies for a property tax exemption as a seminary of learning and is not licensed under Rule 3 as a childcare center as Under the Rainbow is, counties may wish to consider these things:

1. Does the early education organization otherwise substantially meet the requirements of Rule 3 and can demonstrate with thorough detailed accounting that they meet these requirements despite not being licensed, such as:
    - Childcare program plan requirements (Minnesota Rule 9503.0045)
    - Staff qualification requirements (Minnesota Rule 9503.0030)
    - Staff to child ratios and group size requirements (Minnesota Rule 9503.0050)
    - Parent visitation and information requirements (Minnesota Rule 9503.0090-.0095)

2. Is there any external system of accountability that the organization meets these requirements (examples in order as above)?
    - Lesson plans, student evaluations
    - Licensure of staff, ongoing education
    - Room plans
    - Parent policies, handbook, parent conferences, report cards

When an early education organization applies for a property tax exemption as a seminary of learning and does not participate in the Department of Human Services Parent Aware program (M.S. 124D.142) receiving a rating of 4, counties may wish to consider these things:

Does the early education organization otherwise substantially meet the requirements of the Parent Aware program (rating 4) and provide a detailed accounting of how they meet these standards, despite not participating in the Parent Aware program? These standards are:

- **Teaching and Relationships with Children**. This standard requires that the organization teach a preapproved curriculum by MDE. Does the organization teach a preapproved curriculum? In the alternative, does the organization have its own curriculum and did they submit it for review to DHS or MDE? Can they provide child evaluation forms and daily lesson plans to support this?
- **Assessment and Planning for Each Individual Child.** This standard requires that the organization provide at least twice a year assessments and planning

meetings for each child. Does the organization hold parent teacher conferences at least twice annually?

- **Professionalism**. This standard requires that staff must go beyond minimum continuing education and development hours for staff. Does the organization have such a requirement, and can they provide records to support that?

Ownership and Necessity of Ownership

Under the Rainbow (2022) did not change the ownership and necessity of ownership requirements for exemption.

A seminary of learning may be eligible for property tax exemption for property it does not own if the seminary of learning controls all aspects of the entity that owns the property, and the property owner exists solely for the benefit of the seminary of learning. A seminary of learning that seeks exemption for property that it does not own carries a greater burden of proof to demonstrate it qualifies. It will need to show that the substance of the arrangement between it and the property's owner is such that the property's owner has no purpose or existence apart from providing services to the seminary of learning.

Counties may wish to consider these things when reviewing an exemption application from a seminary of learning for property it does not own:

1. Does the seminary of learning control all aspects of the entity that owns the property?
    - Does the seminary of learning elect the property owner's board members and officers; audit, approve, and control the property owner's budget and expenditures; or provide finances to the property owner?
    - What is the legal relationship between the seminary of learning and the property's owner? Parent-subsidiary; affiliates, partnership, franchisor-franchisee, lessor-lessee? The counties should ask for all entity formation documents and all legal agreements between the seminary of learning and the owner.

If the entity formation documents and other information gathered by the county evidence separate and distinct entities with the seminary of learning having less than full control over the property owner denying the application is appropriate.

2. Does the property owner exist solely for the benefit of the seminary of learning?
    - Does the property owner hold title to other property used by an entity other than the property used by the seminary of learning?

- Does one or more non-seminary of learning entities use part of the property subject to the exemption application?
- Does the property owner profit from the seminary of learning's use of the property?
- Does the property owner profit from non-seminary of learning entities?
- Does the property owner offer services to entities other than the seminary of learning?

These questions, if answered affirmatively, evidence that the property owner is not in existence solely for the benefit of the seminary of learning and supports the denial of the exemption application.

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General Property Tax Procedures

Introduction

Minnesota's property tax system is very complex and contains many unique features which affect how a property's market value and classification are translated into a taxable base upon which levies are assessed.

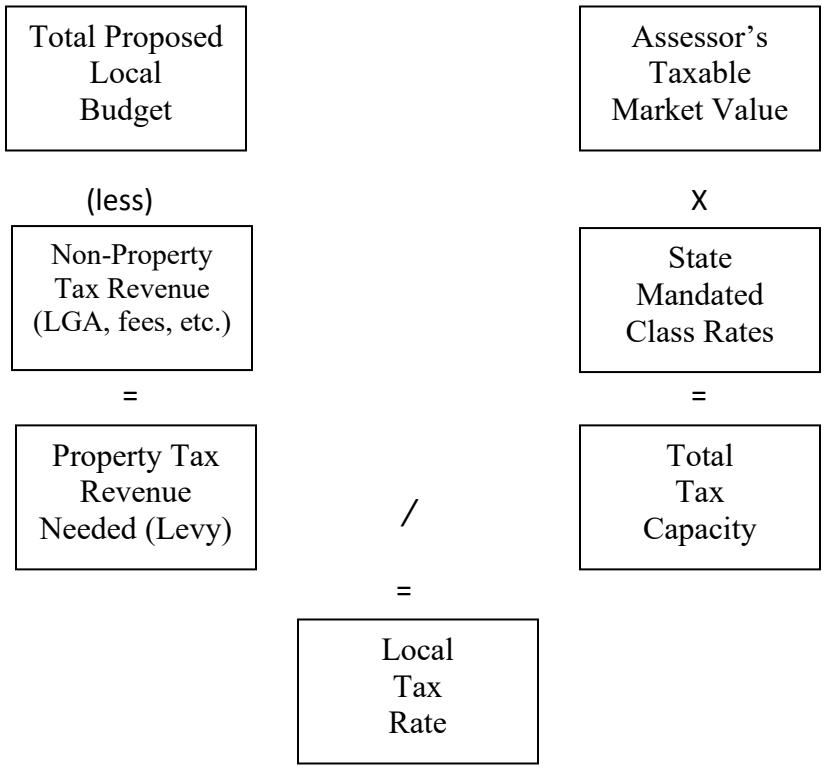
Module 6 focuses on the basic concepts of the actual property tax calculations, credits, and deferral programs that are available to taxpayers. Since tax calculations and collection are functions of county auditors and treasurers rather than county assessors, significantly more detailed information can be found in the Auditor/Treasurer Manual on the Department of Revenue website.

The final tax amount shown on a property tax bill is the result of numerous calculations and is largely a function of local spending decisions, local government aid, the mix of property types in a jurisdiction, etc. Individual property tax amounts collected are not in direct proportion to an individual property's market value.

- It is possible for a property's market value to increase and property's tax amount to decrease and vice versa.
- Some properties may be eligible for various credits, preferential classification rates, or tax programs which lower a property's bottom line tax amount paid each year.

Local revenues are not raised by increasing market values in a jurisdiction, nor are they decreased by lowering market values. Increasing or decreasing tax revenues can generally only be accomplished via increasing or decreasing the overall levy in a jurisdiction. That levy is then spread out amongst all taxable properties in the jurisdiction according to value in an ad valorem tax system and properties are taxed accordingly.

General Property Tax Procedures



Primary Statutory References: 103B.335, 275.066, Chapter 428A, Auditor/Treasurer Manual

General Steps for Local Tax Rate Calculation

1. **Computation of tax capacity** – the county auditor computes the net tax capacity for each parcel of property according to the statutory classification rates and the property's taxable market value. (TMV x Class Rate = NTC)

2. **Computation of tax rates** – The total amount to be levied against the net tax capacity by a jurisdiction is divided by the total net tax capacity of all taxable properties within the local taxing jurisdiction. The result is the jurisdiction's local tax rate. (Total Levy/Total NTC = Local Tax Rate %). This rate, when multiplied by each individual property's net tax capacity equals that property's base tax amount before any credits are applied.

   Any amount certified to be levied against market value shall be divided by the total referendum market value of all taxable properties within the jurisdiction. The result is the jurisdiction's referendum market value rate (Total Referendum Levy/Total Referendum MV = Referendum MV Rate %). This rate is then multiplied by each individual property's referendum market value to determine the property's referendum tax amount before any credits.

3. **Adjustment of local tax rates** – after the local tax rate for a jurisdiction has been determined the auditor shall adjust the jurisdiction's local tax rate for disparity reduction aid, if the unique taxing area qualifies. This adjustment will reduce the local tax rate within the UTA for which the adjustment was calculated. Disparity reduction aid cannot reduce a qualifying UTA's tax rate below 90% (section 273.1398). You can find more information on the Department of Revenue's Disparity Reduction Aid webpage.

4. **Estimates** – If a county auditor has not received cross county information regarding local tax rate or tax capacity information from the auditor in the other county by January 15 of any year, the auditor who has not received the necessary information may levy taxes for the overlapping district by estimating the local tax rate. The county auditor may request the assistance of the county assessor in doing so.

5. **Subsequent adjustments** – After the correct local tax rate or tax capacity information has been certified, the amount of taxes over- or under- levied must be computed and a notice must be sent to each affected taxing district. If the estimated levy exceeds the correct tax levy, the county treasurer will forward any excess money collected to the affected district and adjust the levy in the following year to compensate for the variance. If the estimated levy is less than the correct tax levy, the auditor shall adjust the levy in the following year to cover the shortfall pursuant to section 275.075.

6. **Delivery of lists to treasurer** – on or before the first business day of March, the county auditor must deliver the list of taxes due to the treasurer. These lists serve as the authority for the treasurer to collect the taxes.

7. **Treasurer to publish tax rates** – After the county treasurer receives the tax lists from the county auditor, the treasurer must give 3 weeks published notice of all the tax rates for all general purposes and the levy amounts raised, for each specific purpose in the newspaper.

8. **Treasurer collects all taxes** – The county treasurer collects all taxes on the tax lists submitted by the auditor as well as the penalties, fines, or forfeitures received by any person or officer for the use of the county and credit them to the proper funds. Such items must be paid with US currency by check or money order drawn on a bank or other financial institution in the US. The county board may pass a resolution which authorizes the treasurer to impose a charge for any dishonored checks. The board may also pass a resolution to authorize other designees to accept payments of property taxes by credit card provided that a fee is charged for its use. The fee charged must be commensurate with the costs assessed by the card issuer.

For more specific information, please consult the Auditor/Treasurer Manual

Primary Statutory References: 273.1398, 275.08, 276.01, 276.015, 276.02, 276.04

Property Tax Credits

The law provides for a variety of different property tax credits which reduce the amount of property taxes that are actually paid by taxpayers. County auditors automatically calculate these credits and they are shown on the property tax statements for qualifying properties. Most of the credits require property owners to make some sort of application and meet certain requirements to qualify. The combination of all applicable property tax credits must not exceed the gross tax amount. This section is only meant to be a brief overview of these credits. Additional, more detailed information on all of these credits can be found in the Auditor/Treasurer Manual.

Agricultural Homestead Market Value Credit

Joint ownership interests

For properties with multiple owners, the amount of homestead is prorated dependent on the determinations made for fractionalizing the homestead. (or number of grantors of a trust that own the property).

The **maximum credit is $490 prorated to the amount of homestead** applied to the property. To determine the fractionalization of the homestead, ownership as joint tenancy or tenancy-in-common factors into the proration.

- If the property is a joint tenancy, then homestead is based on the number of owners occupying the property and qualifying for homestead. For instance, if there are two owners, and one of the two (1/2) occupies the property, it receives 50% homestead.
- If the property is a tenancy in common, then the homestead is based on the number of owners occupying the property and must equate to their deeded interest in the property. For instance, if there are two owners, and one of the two occupies the property, but has a 90% deeded interest in the property, it receives a 90% homestead.

Applying first-tier value limit to agricultural parcels

For the 2023 assessment, the first $2,150,000 of 2a land/buildings has a class rate of 0.50%. Any value above $2,150,000 has a class rate of 1.00%. In this example, we will use the 2023 first-tier amount to calculate net tax capacities. First-tier values for the next assessment year are released by the department in November/December and posted on the Agricultural Homesteads First-Tier Valuation Limit website. For the 2024 assessment year, the first-tier value is $3,500,000.

The first-tier value limit applies to the base parcel, then to the next most-contiguous parcel (of the highest value, if multiple parcels are directly contiguous to the base).

For fractional base homesteads, the first-tier amount is also fractionalized.

- If the base parcel or established main parcel is 100% homestead, the first tier is $2,150,000.
- If the base parcel or established main parcel is fractionalized, so is the tier. For example:
  - If the base receives 50% homestead, that property owner's first tier is $1,075,000.
  - If the base receives 25% homestead, that property owner's first tier is $537,500.

Agricultural Homestead Credit

The Agricultural Homestead Credit applies only to the following:

- Homesteaded class 2a agricultural land (which may sometimes be classified as 1b)
- Homesteaded class 2a agricultural buildings
- Contiguous class 2b rural vacant land that is part of the agricultural homestead, and is under the exact same ownership

Regular and special agricultural homesteads may receive the credit on eligible property. The credit **does not** apply to any other classifications – 1a residential homestead, 3a commercial, 4bb non-homestead, etc.

Applying the Agricultural Homestead Credit

This credit applies to homesteads rather than to specific units or parcels. Therefore, the credit extends to linked parcels and it is computed on the whole homestead. (Not as separate credits for each parcel.)

Follow these four rules when applying the credit (see Minnesota Statutes, section 273.1384):

1. The credit only applies to reduce taxes based on local net tax capacity ("NTC taxes").
2. If the credit exceeds the first-tier homestead NTC taxes on the base parcel, the excess applies to the NTC taxes on homestead value over the first tier.
3. If the credit exceeds the total NTC taxes on the base parcel, the excess applies to the NTC taxes on the next linked parcel (the closest one, whether it's in the same county or a different county.)
4. If the credit exceeds the NTC taxes on the agricultural land, the excess applies to the taxes on the HGA. (Excess credits only apply to class 2a/2b homestead property.)

Calculating the credit amount

The Agricultural Homestead Credit is equal to 0.3% of the first $115,000 of the taxable market value (TMV) of the agricultural **land** plus 0.1% of the agricultural **land** TMV above $115,000.

(First $115,000 TMV x 0.3%) + ([Total TMV-$115,000] x 0.1%) = Credit Amount

Do not include the value of the HGA when calculating the credit. (The HGA is not used at all in the calculation.)

The maximum credit for each homestead is limited to $490 at a market value of $260,000.

Fractionalization of the credit

If property is a fractional homestead or has more than one homestead record due to joint ownership, the credit is calculated on a fractional market value. That fractional value is based on the percentage of homestead for each owner who qualifies for the credit. For example:

- For a full homestead with a taxable market value of $300,000, the credit is calculated on the full value ($300,000).
- For a half-homestead on the same $300,000 property, the credit is calculated on half of the taxable market value ($150,000).

Property owners decide for their own purposes whether to own a property in joint tenancy or as tenants in common. For property tax classification purposes, homestead is based on use: a property that is owned and occupied by an owner. It does not take into account unique shares of ownership interest.

Statute directs us to calculate the Agricultural Homestead Credit on the amount of market value corresponding to the percentage of homestead. This percentage is based on the number of owners of a property (or the number of grantors if a trust owns a property). When the property is owned as a joint tenancy, that percentage is calculated by dividing the total by the number of owners to determine each owner's percentage. When the property is owned as a tenancy in common, the percentage is determined based on the deeded percentage of ownership to each owner.

Example

Two brothers (Eric and Pierre) jointly own a parcel of property; each also individually owns other agricultural property. Pierre does not homestead his property.

Owner: Eric Homestead: 100% Value: $100,000	Owner: Eric & Pierre Homestead: 50% Value: $100,000	Owner: Pierre Homestead: 0% Value: $100,000

In this example:

- Eric receives a credit based on the $150,000 value in his chain: $100,000 on his established main parcel plus one-half of the value on the jointly owned parcel ($50,000).
- Pierre does not qualify for a credit (no homestead on either his or the jointly owned property).

Example: Two Related Individuals, Fractional Homestead

Wilbur and Ed are brothers who own agricultural properties.

Parcel A

- Owned by: Wilbur
- Size/Class: 20 acres, 2a agricultural homestead
- Contains Wilbur's homestead residence
- EMV:
    - HGA = $76,000
    - Remaining 19 acres = $115,000

Parcel B

- Owned by: Ed
- Size/Class: 3,010 acres, 2a agricultural homestead
- Contains Ed's homestead residence
- EMV:
    - HGA = $76,000
    - Remaining 3,009 acres =$1,900,000

Parcel C

- Owned by: Wilbur and Ed jointly
- Size/Class: 20 acres, 2a agricultural
- EMV: $110,000

Parcel D

- Owned by: Wilbur and Ed jointly
- Size/Class: 20 acres, 2a agricultural
- EMV: $116,000

None of the parcels are contiguous, but all are within four cities/townships of each other. For this example, we assume Parcel C is most contiguous to Parcels A and B.

Determine Agricultural Homestead Credit

To determine the total Agricultural Homestead Credit, we must know the total value amounts and homestead amounts.

Remember, if a parcel is fractional homestead or jointly owned, the credit is calculated on the percentage homestead for the qualifying owner.

Note: Parcels C and D are 50% homestead for each Wilbur and Ed. The credit is calculated on 50% of the value for each owner.

Calculate Wilbur's credit amount

To calculate Wilbur's credit, we must first determine how much of the land value in his base and linked parcels to use.

Calculate the Total Land Value Used (Wilbur)

Parcel	Land Value (TMV)	Land Value Used for Wilbur
Parcel A (100% homestead to Wilbur)	$115,000	$115,000
Parcel C (50% homestead to Wilbur)	$110,000	$55,000*
Parcel D (50% homestead to Wilbur)	$116,000	$58,000*
Total Value Used for Wilbur's Credit	**N/A**	**$228,000**

* *Wilbur's homestead is 50% of the TMV, so 50% of the TMV is used to calculate the credit.*

Calculate the Credit (Wilbur)

The credit is equal to 0.3% of the first $115,000 of the property's TMV plus 0.1% of the property's TMV in excess of $115,000.

(First $115,000 x 0.3%) + ([Total TMV-$115,000] x 0.1%) = Credit

($115,000 x 0.003) + ([$228,000- $115,000] x 0.001) = Credit
$345 + ($113,000 x 0.001) = Credit
$345 + $113 = **$458**

Wilbur's total credit for his homestead chain is $458.

Calculate Ed's Credit Amount

To calculate Ed's credit, we must first determine how much of the land value in his base and linked parcels to use.

Calculate the Total Land Value Used (Ed)

Parcel	Land Value (TMV)	Land Value Used for Ed
Parcel B (100% homestead to Ed)	$1,900,000	$1,900,000
Parcel C (50% homestead to Ed)	$110,000	$55,000*
Parcel D (50% homestead to Ed)	$116,000	$58,000*
Total Value Used for Ed's Credit	**N/A**	**$2,013,000**

* *Ed's homestead is 50% of the TMV, so 50% of the TMV is used to calculate the credit.*

Calculate the Credit (Ed)
The credit is equal to 0.3% of the first $115,000 of the property's TMV plus 0.1% of the property's TMV in excess of $115,000.

(First $115,000 x 0.3%) + ([Total TMV-$115,000] x 0.1%) = Credit

($115,000 x 0.003) + ([$2,013,000- $115,000] x 0.001) = Credit
$345 + ($1,898,000 x 0.001) = Credit
$345 + $1,898 = **$2,243 ***

** Because this amount ($2,243) exceeds the maximum credit, the $490 limit applies.*

Ed's total credit for his homestead chain is $490.

Apply the Credit
The Agricultural Homestead Credit applies first to the base parcel. If the credit exceeds taxes on the base parcel, it then applies to the next most-contiguous parcel (in the same order as you apportioned the agricultural first-tier value).

Do **not** fractionalize the credit by value among the parcels in a homestead chain. A taxpayer can benefit from several credits before the Agricultural Homestead Credit is applied. This means a given parcel may not have any further tax to reduce if we fractionalize the credit among the parcels.

This credit can apply to any parcel in the chain of agricultural homestead parcels. However, it always starts with the base parcel so taxpayers receive their maximum tax reduction throughout their chain.

For cross-county agricultural homesteads, if you use the property owner's credit in your county and have remaining credit, you need to share remaining credit amounts with the other county. The county with the base parcel should apply as much of the Agricultural Homestead Credit as possible within that county. (Because the home county knows the most about a property owner's agricultural homestead chain – fractionalized base homestead, HGA tax remaining, blind/disabled information, etc.)

To apply the credit in this example, we assume a 100% combined local tax rate for all parcels.

Apply the Credit to Base Homestead Parcels

The Agricultural Homestead Credit applies to land first, so we apply it **only to land** (and not to HGA) on Wilbur's and Ed's base parcels.

Parcel A – Wilbur's base parcel (100% homestead)

Tax Calculation	HGA	Land	
Net Tax Capacity	$456	$575	
Local Tax Rate	100%	100%	
Gross Taxes	$456	$575	
Agricultural Homestead Credit	N/A	(-$458)	
Tax Remaining	$456	$117	
Net Tax Parcel A	**$456**	**+ 117**	**= $573**

There is still a tax on Parcel A after the credit. Since Wilbur's entire credit was used on Parcel A, no credit carries over to Parcels C or D in his chain.

Parcel B – Ed's base parcel (100% homestead)

Tax Calculation	HGA	Land	
Net Tax Capacity	$456	$9,500	
Local Tax Rate	100%	100%	
Gross Taxes	$456	$9,500	
Agricultural Homestead Credit	N/A	(-$490)	
Tax Remaining	$456	$9,010	
Net Tax Parcel B	**$456**	**+ 9,010**	**= $9,466**

There is still a tax on Parcel B after the credit. Since Ed's entire credit was used on Parcel B, no credit carries over to Parcels C or D in his chain.

Apply the Credit to Linked Parcels

In this scenario, there is no agricultural credit left to apply to Parcels C or D. Therefore, we do not need to carry over or fractionalize excess credit to the jointly owned parcels.

Parcel C

Tax Calculation	Land
Net Tax Capacity	$625
Local Tax Rate	100%
Gross Taxes	$625
Agricultural Homestead Credit	N/A
Net Tax Parcel C	**$625**

Parcel D

Tax Calculation	Land
Net Tax Capacity	$870
Local Tax Rate	100%
Gross Taxes	$870
Agricultural Homestead Credit	N/A
Net Tax Parcel D	**$870**

Note: If (and only if) there is excess credit after applying to the base parcels, we apply the remaining credit to the next most-contiguous property (in the same order that you apply the first-tier homestead classification rate).

Primary Statutory Reference: 273.1384, subd. 2

State General Property Tax

The State General Property Tax was enacted by the legislature in 2001, beginning with taxes payable in 2002, when the state took over a large portion of general education funding. Revenues from this levy go into the state's general fund.

The amount raised is determined by the Legislature.

This tax is collected by the counties but remitted to the state after collection.

Each year, by October 1, the Commissioner of Revenue announces the preliminary state general tax rate for the following year. The final rate is issued by January 1 of the year in which the taxes are payable.

The following property classifications are subject to the state general tax:

1. Class 1c – Commercial Seasonal Residential Recreational (Ma & Pa resorts) – only the value in tier 3 (over $2,300,000) is subject to the state general tax.

2. Class 3 – Commercial/Industrial and Public Utility property **except** what is defined as electric generation public utility machinery and any property of the Minneapolis-St. Paul International Airport and Holman Field in St. Paul – the first $150,000 of market value is excluded from state general taxes for taxes payable in 2023 (prior to the change it was $100,000)

3. Class 4c(1) Commercial Seasonal Residential Recreational property (resorts).

4. Class 4c(12) Non-Commercial Seasonal Residential Recreational property (cabins and any vacant land or manufactured homes classified as such). **For the purposes of calculating the state general tax only, the net tax capacity property classified as cabin property has the following classification rate structure:**

1st $76,000	**x**	**.40%**
$76,001 - $500,000	**x**	**1.00%**
Over $500,000	**x**	**1.25%**

5. Class 4c(3)(ii) Qualifying Non-Profit Community Service Oriented Organizations that make charitable donations at least equal to their previous year's property taxes and which allow the public to use the property for events free of charge.

6. Class 5(1) Unmined Iron Ore property.

Notwithstanding section 273.425 (adjustment of levy) the entire tax capacity of property taxed at the average local tax rate in Minnesota Statutes, section 273.42, subdivision 1 (tax rate; payment) is subject to the state general property tax. The entire proceeds of the state tax levy for each property must be distributed to the state. No portion of the proceeds from the state on such property is distributed within the counties.

Primary Statutory Reference: 275.025, 273.42

Sample Calculation – State General Tax Payable in 2022

A commercial property (class 3a) has a taxable market value of $110,000 for the 2021 assessment. The state general property tax rate changes annually and can be found on the department's website. For taxes payable in 2022, only the first $100,000 is excluded from property tax (for taxes payable in 2023 it changes to the first $150,000)

Net Tax Capacity Calculation

TMV = $110,000
Class rate for Class 3a =
1st $100,000 @ 0.00%
Over $100,000 to $150,000 @ 1.50%

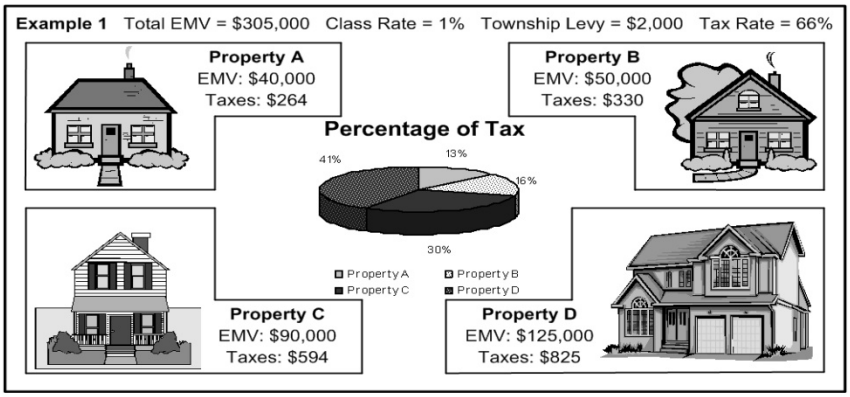
State general net tax capacity = $(110,000-100,000) x 1.50% = $10,000 x 1.50% = $150

State General Property Tax Calculation –

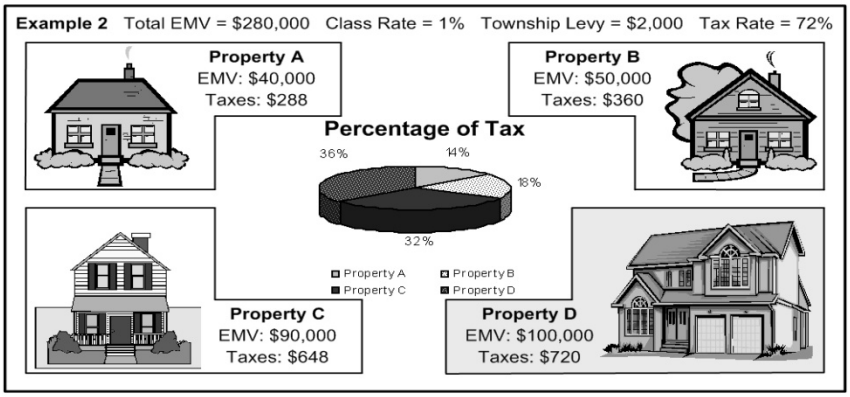
$150 x .36289 = **$54.43** State General Tax

How Value Changes Affect Property Taxes

After all the different rates and credits have been calculated by the auditor, the levies are spread amongst all taxable properties in the taxing jurisdiction according to their taxable market values. So how do fluctuating market values affect property taxes? The examples shown below are based on a town consisting of four class 4bb residential non-homestead properties. While no such town exists, the small tax base is used to illustrate how value changes may affect individual taxes for each house. As the tax base becomes larger, value changes will not affect taxes as dramatically as the examples shown here. Even if a value change results in a few less dollars for an appellant and a few more dollars shared by all properties in the jurisdiction, it should be noted that all value and classification increases, reductions, and exemptions will ultimately impact all taxpayers in the jurisdiction.

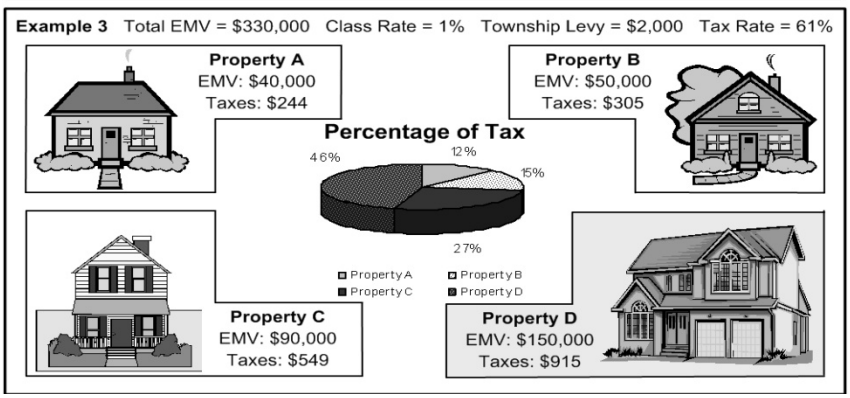


Example 1
The values and corresponding share of the tax burden for the four properties before the meeting of the Local Board of Appeal and Equalization.



Example 2
The owner of Property D appealed the value of his property. He did not provide any evidence as to why his value should be reduced. The board reduced his value by $25,000.

The example shows how the change affects the share of the tax burden for the four properties.



Example 3
The owner of Property D appealed the value of his property. He did not provide any evidence as to why his value should be reduced. The board raised his value by $25,000.

The example shows how the change affects the share of the tax burden for the four properties.

Basic Tax Calculation Formula

Taxable Market Value	X	Classification Rate	X	Local Tax Rate	=	Base Tax (before credits)

Base Tax (before credits)

—

Applicable Credits

Operating Referendum Tax

+

Bonding Referendum Tax

+

State General Tax

=

TOTAL PROPERTY TAX

Truth in Taxation Process

The county auditor is generally calculating all the rates and amounts described throughout the previous pages as part of the "Truth in Taxation Process." This process was developed in the late 1980s in an effort to provide more transparency into the property tax process. There are four broad components to the process:

1. Certification of proposed levies
2. Preparation and delivery of parcel-specific Notices of Proposed Property Taxes
3. Public notice – applies to all taxing jurisdictions except towns.
4. Public meetings – applies to cities with population over 500, counties, metropolitan special taxing districts, fire protection and ambulance special taxing districts established under chapter 144F, regional library authorities established under section 134.201,, and school districts.

If assessors are seeking additional information regarding the Truth in Taxation process, please consult the Auditor/Treasurer Manual and the Truth-in-Taxation webpage for additional information.

Tax Statements

After the Truth in Taxation process is completed, final budgets are adopted, and final levies are certified to the Department of Revenue, the county auditor finalizes tax rate calculations and calculates final tax statements.

For more detailed descriptions of the calculations of taxes, aids, and credits consult the Auditor/Treasurer Manual.

Primary Statutory References: 277.01, 279.01,, 275.065, 276.04, Auditor/Treasurer Manual

Homestead Credit Refund

Homestead credit refunds are intended to provide property tax relief to those whose property taxes are relatively high compared to their household incomes, or to those whose property taxes increase greater than a certain percentage from one year to the next. In 1975, the State of Minnesota began offering property tax relief to homeowners from the state's general fund. Renters may also qualify because a portion of their rent goes to pay property taxes on their residence. This percentage is statutorily determined by the legislature.

The Homestead Credit Refund is not administered by the Property Tax Division of the Department of Revenue because it is not technically considered a "property tax program." Rather, it is an income tax program and is administered by the Income Tax Division of the department. Both renters and homeowners must file the M1PR form with the department to apply for property tax refunds.

Special Property Tax Refund ("Targeted Refund")

If the property taxes payable on a homestead property increase by more than 12 percent over the property taxes payable in the prior year on the same homestead property, if the property is owned by the same owner on January 2 of both years, and the amount of that increase is $100 or more, the homeowner may be eligible for a special property tax refund. However, any increase due to new improvements or the termination of any valuation exclusions is not eligible. There is no household income limit for this refund. The amount of the refund is 60 percent of the property tax increase in excess of the greater of a 12 percent increase or $100. The maximum refund allowed is $1,000.

It should be noted that neither the owner nor the related occupant of a property which is classified as a relative homestead under Minnesota statutes, section 273.124, subdivison1, paragraph (c) may claim a property tax refund under Chapter 290A.

Primary Statutory References: 273.124, Chapter 290A

Special Property Tax Programs

The following section highlights special property tax programs.

Senior Citizens' Property Tax Deferral Program

Recognizing that Minnesota's system of ad valorem property taxation does not adequately recognize the unique financial circumstances of homestead property owned and occupied by low-income senior citizens, the Minnesota Legislature declared it to be in the public interest of the state to stabilize tax burdens on homestead property owned by qualifying low-income senior citizens through a deferral of certain property taxes. The deferral becomes a lien on the property.

The Senior Citizen Property Tax Deferral (SCPTD) program was established to help senior citizens who were having difficulty paying their property taxes. For more detailed information on the Senior Citizen Property Tax Deferral Program consult the Auditor/Treasurer Manual and the Property Tax Deferral for Senior Citizens webpage.

Primary Statutory References: 290B.09

Sustainable Forest Incentive Act (SFIA)

The Sustainable Forest Incentive Act (SFIA) is a statewide program meant to promote sustainable forest resource management on the state's private and public land by encouraging the state's forest landowners to make a long-term commitment to sustainable forest management. The framework for the SFIA program is found in Minnesota Statutes, Chapter 290C. The program provides for incentive payments to be made to enrolled forest owners who practice long-term sustainable forest management as provided in an approved forest management plan. Many forest owners are still able to harvest timber while enrolled in the program.

The Department of Revenue receives applications for the SFIA program. The program is co-administered with the Department of Natural Resources (DNR). It is also important for assessors to be knowledgeable of the qualifications and requirements of the SFIA program so that the program can be administered properly and in accordance with the law. Assessors should be able to identify what property in their specific county is enrolled in the SFIA program. Although the Department of Revenue and DNR administers the SFIA program, assessors are in the best position to know if a property enrolled in the SFIA program is being used appropriately and continuing to meet all necessary requirements. If an assessor becomes aware of a property enrolled in the SFIA program that seemingly does not meet the requirements, the Department of Revenue should be contacted.

Landowners who own forest land, which will most likely be classified as class 2b rural vacant land, and have a forest management plan for their land, must record a restrictive covenant with the county recorder pledging not to develop their land in a manner inconsistent with the requirements and conditions of the SFIA program. After the covenant is recorded, landowners may apply to the Department of Revenue for enrollment. Once they are accepted into the program, the landowner will be mailed a certification letter each year which they must sign and return that indicates they are abiding by the provisions of the program. The landowner then receives an incentive payment each year shortly after October 1.

As part of the SFIA program, the entire Tree Growth Tax Law was repealed with taxes payable in 2003. This means that assessors in counties which had Tree Growth land should have reassessed the property and placed it back on the tax rolls for the 2002 assessment year. In addition, any land under an Auxiliary Forest Contract may have been converted to the SFIA program beginning with the 2002 assessment for taxes payable in 2003.

Definitions

Approved plan writers are natural resource professionals who may be self-employed, employed by private companies or individuals, nonprofit organizations, local units of government, or public agencies which are approved by the Commissioner of the DNR. Anyone determined to be a certified forester by the Society of American Foresters has also been deemed to have met the standards to be an approved plan writer. Each approved plan writer has a unique identification number which is issued by the DNR.

A **claimant** is an ownership entity which may be an individual person, fiduciary, estate, trust, partnership, corporation, etc. who owns forest land in Minnesota and files an application for the SFIA program. For the purposes of penalties for removal, a claimant also includes any person bound by the covenant. No more than one claimant is entitled to an incentive payment with respect to any tract, parcel or piece of land enrolled in the program. When two or more people own the land, both owners must determine between them which one may claim the payments. Owners of land do not have to be Minnesota residents.

Forest land is defined for the purposes of SFIA as land containing a minimum of 20 contiguous acres (50% forested) for which the owner has implemented a forest management plan that was prepared or updated within the past ten years by an approved plan writer. Acres are considered to be contiguous even if they are separated by a road, waterway, railroad track, or other similar intervening property.

Forest land does not include any land that becomes subject to a conservation easement funded under section 97A.056 (the Lessard Sams Outdoor Heritage Council statute) or any similar permanent easement conveyed to a governmental or nonprofit entity (conservation easement) after May 30, 2013.

At least 50 percent of the contiguous acreage must meet the definition of "forest land" in section 88.01, subdivision 7, which states that the land 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; or land from which the trees described above have been removed to less than ten percent stocking and which has not been developed for other use; and afforested areas.

The land **cannot** be:

- used for residential purposes;
- used for agricultural purposes including pasture, hayfields, and cropland;
- land enrolled in Reinvest in Minnesota (RIM), Conservation Reserve Enhancement Program (CREP), Conservation Reserve Program (CRP), Green Acres or Ag Preserves; or
- land improved with such things as pavement, sewer, campsite, or any road, other than a township road, used for purposes not prescribed in the forest management plan. The one exception to this rule is that a paved road that is under an easement or lease with the state of Minnesota or other political subdivision may be included.
- land which includes other improvements which are not required for forest management activities; and
- land enrolled in Class 2c Managed Forest Land.

Camping is allowed on SFIA-enrolled land so long as it does not alter the management of the surrounding area.

A **conservation easement** is a voluntary legal agreement between a landowner and another person or organization (the easement holder). It limits certain uses of the property to conserve natural or scenic benefits provided by the land – such as wildlife habitat, open space, etc. The land still belongs to the landowner, who retains the right to sell the land or pass it on to heirs.

Conservation easements may be purchased by the easement holder or donated by the landowner. In Minnesota, some common easement holders include the DNR, Board of Soil and Water Resources (BWSR), Minnesota Land Trust, and Ducks Unlimited. SFIA is not a conservation easement.

A **forest management plan** is a written document which provides a framework for site-specific healthy, productive, and sustainable forest resources. The plan must be prepared by a DNR-approved plan writer and registered with the DNR. Plans must be updated every 10 years to remain eligible for SFIA payments. For more information on forest management plans, visit the DNR website.

Timber harvesting and forest management guidelines were developed under Minnesota Statutes, section 89A.05 and adopted by the Minnesota Forest Resources Council. These guidelines go in effect at the time the parcel of property is enrolled in the SFIA program.

A minor, ancillary structure is a shed or primitive structure, that is less than 300 square feet and is not used residentially. The structure can be used recreationally for hunting/other recreational outdoor activities. You can find more information on a minor, ancillary structure in Module 3 of the Property Tax Administrator's Manual.

Primary Statutory References: 290C.02; 88.01, subd. 7; 273.13, subd. 23; 89A.05

Eligibility Requirements

Property owners may be eligible to enroll qualifying "forest land" covered under a forest management plan ("forest stewardship plan") into the SFIA program if all of the following requirements are met:

- The property owner owns 20 or more contiguous acres of land in Minnesota, of which at least 50 percent is considered "forest land" (see definitions). An owner may include private individuals, corporations, partnerships, etc.—both residents and nonresidents of Minnesota. However, there can only be one claimant per parcel of land. If the land is owned by multiple people, the owners must decide which one will receive the incentive payment.
- There are no delinquent property taxes owed on the land prior to enrolling, and the taxes must remain current while enrolled in the program.
- The land must have an active forest management plan in place that was prepared by an approved plan writer within the past ten years. The plan writer must be approved by the DNR. All management activities prescribed in the plan must meet the recommended timber harvesting and forest management guidelines created by the Minnesota Forest Resources Council.
- Property owners must annually certify that the land is not enrolled in Reinvest in Minnesota (RIM), Conservation Reserve Enhancement Program (CREP), Conservation Reserve Program (CRP), Green Acres or Ag Preserves or 2c Managed Forest Land.
- The enrolled acres of land cannot be used for residential or agricultural purposes.
- Property owners enrolling more than 1,920 acres or land in a conservation easement in SFIA must allow motorized access on established and maintained roads and trails, unless the road or trail is temporarily closed for safety, natural resource, or road damage reasons. The property owner must also allow year-round, non-motorized access to fish and wildlife resources on enrolled land except within one-fourth mile of a permanent dwelling or during periods of high fire hazard as determined by the commissioner of DNR.
- Property owner must agree to be enrolled in the program for a minimum of the full length of their covenant (8, 20, or 50 years).
  Note: The land does not drop out at the end of the covenant length. After half of the covenant length has passed, the property owner may ask to withdraw the land from the program. The withdrawal process is discussed later in this section.
- The covenant runs with the land. Any new owners must abide by the covenant. The new owner may apply for inclusion into the SFIA program to receive the incentive payment.

If the property meets all the qualifications for enrollment, the property owner must then record a covenant with the county recorder's office (or registrar for registered land) in which the land is located pledging not to develop the land. The covenant includes all parcels (of a specific property owner) in the county that will be enrolled in the SFIA program, even if the parcels are not contiguous. The covenant remains in effect for a minimum of the full length of the covenant (8, 20, or 50 years).

Open water, including rivers, that are *less than three acres in size* can be included as part of the forested land. Larger areas must be excluded. Marshes and other wetlands which are not capable of growing trees, but due to their existence have a significant impact on forested land, are eligible for SFIA. This also includes land that may have been an agricultural field in the past, but has recently been planted for reforestation.

A building or structure used *exclusively* for forest management activities may be included. An example would be a shed or building that only houses equipment used for forest management activities. If the building also is used as a temporary or permanent dwelling or is used for storage of items not regularly used for forest management purposes, the land must be excluded (house, barn, cabin, etc.).

If any portion of a property has improvements which are not necessary for sustainable forest management, they must be deducted from the total acreage on the plan. The minimum deduction is three acres for each area excluded. After deductions for exclusions there must be a minimum of 20 contiguous acres to be eligible. After the minimum contiguous acres (20) are met, additional tracts may be included in the same plan, even if they are not contiguous.

Note: There are different requirements for the SFIA program and the 2c Managed Forest Land classification. Please review Class 2c Managed Forest Land requirements in Module 3.

Primary Statutory Reference: 290C.03

Covenants

Prior to applying to the Department of Revenue, applicants must record an SFIA covenant in the county where the property is located. Copies of the covenant form are available on the Department of Revenue's website under "how do I enroll".

What is a covenant?

A covenant is a set of obligations or requirements placed on the land. The SFIA program rewards landowners for keeping forests as forests under an SFIA covenant. The covenant states that it is binding on the claimant and anyone who buys or inherits the land, and that it runs with the land for a term minimum of the full covenant length. The covenant is basically a promise by the landowner that the land is not and will not be used or developed in violation of the provisions of the forest management plan or SFIA program. The covenant includes a legal description that encompasses all the forest land that the claimant wishes to enroll.

Note: A covenant is not a forest management plan. Landowners must also have a forest management plan to be enrolled in SFIA. For details, see Forest Management Plans in this section.

What covenant lengths are available?

Property owners may now choose from an 8-, 20- or 50-year covenant.

- All land enrolled in SFIA in 2017 is in an 8-year covenant.
- That land will remain in an 8-year covenant unless the property owner changes it.
- They may change to a 20- or 50- year covenant (for land enrolled in 2017) until May 15, 2019.

  Note: For land in a conservation easement, that land is limited to an 8-year covenant.

Property owners may choose a different covenant length for different parcels of land enrolled in SFIA, but all acres in one parcel must have the same covenant length. Also, property owners do not get credit for time spent in an old covenant (8 year). For example, if they record an 8-year covenant on a parcel in 2014 and they change to a 20-year covenant in 2018, the parcel must remain in the new covenant until 2038 at a minimum.

The covenant remains in effect for a minimum of the length of the covenant. If land is requested to be removed from the program before it has been enrolled for the full length of the covenant, the covenant remains in effect for that full length (8, 20, 50 years) from the date recorded. Claimants do have the option to immediately terminate the SFIA covenant without having to meet the program withdrawal requirement if there is a reduction in payments due to changes in the payment formula more than 10%.

If land that has been enrolled for half the duration of the covenant (4, 10, 25 years) or more is removed from the program for any reason, there is a waiting period before the covenant terminates. The waiting period is another 4, 10, or 25 years, depending on the length of the covenant.

For example, those property owners who enrolled in 2009 under an 8-year covenant for incentive payments made in 2010 were eligible to apply to be removed from the program beginning in 2013. Those who chose that option and made timely application were provided with a release of covenant in January 2018. The release of covenant must then be recorded in the county where the property is located to fully release the land from the requirements of the program.

There are a few cases when land can be removed early, such as if property enrolled in SFIA:

- is acquired for a public purpose (e.g. a road or other public use).
- if the land is encumbered with a permanent conservation easement at least as restrictive as the covenant.
- if it is acquired or leased to the state or political subdivision for a paved trail.
- if payment amounts are reduced due to a formula change or executive action.

The covenant is terminated at the same time that the land is removed from the program without penalty. For more information on how to request withdrawal from the program, the withdrawal procedures will be discussed in more detail later in this section.

Applications

Property owners must complete, sign, and submit an application (Form TH1) to the Commissioner of Revenue by October 31 in order to begin receiving payments in the following year.

The application requires the following information regarding the land and the applicant:

- the applicant's Social Security number and date of birth or federal business tax registration number (all of which are considered private data);
- the applicant's address;
- the applicant's signature;
- the county's parcel identification numbers (PIN) for the tax parcels that completely contain the forest land the applicant is seeking to enroll;
- the number of acres eligible for enrollment in the program based on the forest management plan;
- detailed maps and exhibits clearly identifying the acres being enrolled;
- a copy of the current year's tax statement showing no delinquent property taxes are owed on the property; and
- a copy of the recorded covenant indicating that the land is not and will not be developed in a manner inconsistent with the requirements and conditions of the SFIA.

The Commissioner of Revenue will notify the claimant within 90 days after receipt of a completed application that the property has been approved or denied enrollment. A claimant whose application is denied may appeal the denial. The appeals process is the same as those appealing the removal of their land from the program (see the section on "Penalties for Removal").

If the application is denied, the Commissioner of Revenue will execute and acknowledge a document releasing the land from the covenant. The document will be mailed to the claimant and is entitled to be recorded.

Primary Statutory Reference: 290C.04

Certification Letter

On or before May 15 of each year, beginning with the year *after* the applicant has been approved for enrollment into SFIA, the Commissioner of Revenue will send each enrollee in the SFIA program a certification letter. The claimant must sign the certification letter, attesting that the requirements and conditions for continued enrollment in the program are currently being met, and must return the signed certification letter to the Commissioner of Revenue by July 1 of that same year to receive an incentive payment. If the claimant does not return the annual certification letter by the due date, removal from the program and any applicable penalties may apply.

Primary Statutory Reference: 290C.05

Annual Incentive Payment

Incentive payments are provided to property owners with land enrolled in the SFIA program and are paid on or before October 1 of each year to participants who signed and returned the certification letter by the due date of July 1 of that year. Interest will be included with any incentive payment:

1. That is not paid by the later of October 1 of the year the certification was due; or
2. Forty-five days after the completed certification was returned or filed if the Commissioner of Revenue accepts a certification filed after August 15 of the taxes payable year as the resolution of an appeal.

Primary Statutory Reference: 290C.08

The annual incentive payment depends on the length of covenant the land is enrolled under and the total number of acres enrolled in SFIA, unless the land is also in a conservation easement (see Note below). The amount each participant will receive is determined by multiplying the payment-per-acre by the number of enrolled acres. The payment received is taxable income to both individual taxpayers and entities.

The payment rates are adjusted each year based on statewide average market values and tax rates but will not increase by more than 10 percent per year. The minimum payment amount is 90 percent of the amount paid in 2017. The current payment rates can be found on our website.

Primary Statutory References: 290C.06, 290C.07, 273.13, subd. 13

Withdrawal Procedures

After a participant has been enrolled in the SFIA program for half the duration of their covenant length (4, 10, or 25 years, depending on the length of the covenant), they may submit a withdrawal application to the Commissioner of Revenue requesting to remove a parcel(s) of property from the program. The whole parcel must be removed, not just a portion of the parcel. Within 90 days of receipt of the withdrawal application, the Commissioner will acknowledge receipt of the withdrawal application in writing and will indicate the effective date of the termination.

Termination will occur on January 1 after the waiting period that begins after the commissioner receives the termination notice. In other words, there is a waiting period (4, 10, or 25 years) between when the participant notifies the commissioner of termination through a withdrawal application and when termination from the program actually takes place. Therefore, the minimum enrollment in the program is 8, 20, or 50 years.

After the Commissioner of Revenue issues an effective date of termination (but before the occurrence of the termination date), a claimant wishing to continue the land's enrollment beyond the termination date must reapply for enrollment into the program. After the occurrence of the termination date, a parcel of land may not be reenrolled into the SFIA program for a period of three

years. Within 90 days after the termination date, the commissioner will execute and acknowledge a document releasing the land from the covenant. The document will be mailed to the participant and must be recorded.

The Commissioner of Revenue may allow early withdrawal from the Sustainable Forest Incentive Act program without penalty when the State of Minnesota, any local government unit, or any other entity having the right of eminent domain acquires title or possession to the land for a public purpose. In such cases, the commissioner will execute a release of covenant for the property acquired. All other land remains in the program.

Land may be released immediately (upon written notice to the Department of Revenue) if the land is encumbered with a permanent conservation easement at least as restrictive as the covenant. Land may also be released if it is acquired or leased to the state or political subdivision for a paved trail. Additionally, land may be removed without penalty if payment amounts are reduced due to a formula change or executive action.

Primary Statutory Reference: 290C.10

Violation of SFIA Conditions: Removal and Penalties

If the Commissioner of Revenue determines that land is in violation of the conditions of the SFIA program, the commissioner will notify the claimant of the intent to remove **all enrolled land** from the program. The claimant has 60 days to appeal this determination. The appeal must be made in writing to the commissioner, who will, within 60 days, notify the claimant as to the outcome of the appeal. The owner may appeal the outcome to Minnesota Tax Court as if the appeal is from an order of the commissioner.

What are the penalties?
In 2017, penalties were written into law. Landowners may be penalized if they break the terms of the covenant or do not meet SFIA requirements, such as if they:

- Enroll the land in other programs that are not allowed in combination with SFIA, such as Managed Forest Land or Green Acres.
- Owe delinquent taxes on the land.
- Change the use of the land.
- Improve the land, such as adding roads, buildings, cell towers, billboards or electricity.

The claimant has 90 days to satisfy the payment of delinquent property taxes before the land is removed from the program. If the penalty is not paid within the 90-day period, the commissioner will certify the amount to the county auditor for collection as a part of the general ad valorem real property taxes on the land in the following taxes payable year.

The penalty depends on the specific violation. At a minimum, they must pay back the SFIA payments received plus interest for the number of years the land was in a covenant or for half the length of the covenant - whichever is less. See table for examples.

If a landowner	They will be charged
Does not pay property taxes	• Payback amount* • Interest
Adds a building or other property improvement	• Payback amount* • Interest • 25% of the parcel's new EMV
Changes the use of the property	• Payback amount* • Interest • 30% of the parcel's new EMV

*The payback amount is equal to the SFIA payments they received for the number of years the land was in a covenant or for half the length of the covenant (4, 10, or 25 years) – whichever is less.

Note: Violating the terms of a covenant does not remove the covenant from the land.

Primary Statutory Reference: 290C.11

Removal for Property Tax Delinquency

If land enrolled in the Sustainable Forest Incentive Act program has delinquent taxes, the Commissioner of Revenue will remove the land from the program, and the claimant will be notified. Lands terminated for delinquent property taxes are not entitled to any payments and are subject to removal penalties. The land remains subject to the terms of the covenant. The claimant has 60 days from the receipt of the notice from the commissioner to pay the delinquent taxes. If the delinquent taxes are paid within this 60-day period, the land will be reinstated in the program as if it had not been withdrawn and without the payment of a penalty.

Primary Statutory References: 290C.09

Death of Claimant

Within one year after the death of the claimant, the claimant's heir, devisee, or estate must either:

- notify the commissioner of election to terminate enrollment in the SFIA program without penalty; or
- submit an application (in a new property owner's name) to continue enrollment of the land in the program without a break, provided the application is approved.

If the commissioner does not receive notification within one year after the date of death, enrollment in the program shall be terminated without penalty.

Primary Statutory Reference: 290C.12

Transfer of Property

If land enrolled in SFIA is transferred, the seller must notify the Department of Revenue, in writing, within 60 days after the property title is transferred. They must include the tax parcel numbers and the new owner's name and permanent address.

Even if a parcel of property enrolled in the SFIA program is sold or transferred, the SFIA covenant remains in place. Property owners purchasing land enrolled in the SFIA program should be made aware of the covenant and they must continue to abide by the program requirements or else be subject to the penalty provisions. A new owner may choose to withdraw the land from the program but must follow the normal withdrawal procedures. If the owner chooses to withdraw the land from the program, they must submit a written request to the commissioner providing their intent to withdraw.

Land automatically remains in the program if transferred, but a new owner must submit an SFIA application to the commissioner if they wish to receive incentive payments. It is up to the buyer and seller (or those parties involved in the transfer of the property) to come to an agreement about what to do with the incentive payments for the year the property was sold. The owners, transferees or grantees must notify the commissioner in writing which person is eligible to claim the payments.

Assessor Duties for SFIA

- Be knowledgeable of SFIA rules and guidelines.
- Be aware of the property qualifying for SFIA in the assessor's specific county to be able to properly administer other tax programs and classifications and assist in the proper administration of the SFIA program itself.
- Classify SFIA enrolled parcels appropriately according to the 273.13. When an enrolled parcel is 20 or more acres in size and improved with a structure (that is not a minor, ancillary nonresidential structure), then the number of acres split classified according to the use of the structure must equal the number of acres (3 acres minimum) excluded from the SFIA covenant due to the structure. More on the split classification requirement for SFIA enrolled land is found in Module 3.
- Notify the department of property that is enrolled in SFIA but does not appear to be following the rules and guidelines.
    - A list is sent to the county assessor by the Department of Revenue SFIA administrator every year which includes the SFIA enrolled parcels. Assessors should notify the department if they discover a violation of SFIA statutes on the enrolled parcel such as a structure, enrolled in 2c, etc.
- Advise property owners on possible options for their land including SFIA, Class 2c Managed Forest, Rural Preserve, etc.
- Assist property owners in locating the correct forms on our website.

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Sales

Sales are the foundation for mass appraisal when utilizing a sales comparison approach. Assessors rely heavily on sales of properties in their jurisdictions when estimating values of all other similar properties in the same area. Assessors are required to use sales information in their assessment work. The validity of sales information is crucial. The sales analysis and study conducted by the assessor is only as good as the information provided to and the work completed by the assessor.

Importance of Sales

Sales information, the majority of which is required to be reported on a Certificate of Real Estate Value, go through a verification and review process before being utilized by the assessor as part of a sales ratio study to estimate future values. Minnesota is fortunate to be a state that requires reporting of sales information; in states that do not require such reporting and disclosure, the assessor is left to ascertain market information from listings, realtors, and other means.

Certain sales are automatically removed from consideration, while others require more scrutiny and review by the assessor. When only verified sales remain, the assessor is able to analyze and study them to make some generalizations for the market and to make changes in value to respond to the market.

A formal sales study is also conducted on these sales to verify the assessors' actions responded appropriately to the changes in the market. The Department of Revenue conducts additional studies as a check on the assessors' performances and to ensure equalization of values. These formal studies involve data analysis, statistical measurement, reporting of results, and critical thinking to develop solutions to correct issues.

Primary Statutory References: 287.241, 272.115, IAAO.org

Certificates of Real Estate Value (eCRVs)

As previously mentioned, the sale (as it is reported on an eCRV) is the foundation of the analysis an assessor conducts on the local market. It provides the data for sales ratio studies. Since the eCRV contains important market data and is used for sales ratio studies and local government aids, it is important that the assessor examine each certificate when it comes into the office. If there is a wide difference between the sale price and the assessor's EMV, the assessor should examine that property and the conditions and terms of sale. The assessor may find that the property, through improvement or deterioration, has changed since its last physical inspection. Or there may be other considerations that need to be addressed.

Requirement to File an eCRV

A Certificate of Real Estate Value must be filed at the time the conveyance is recorded whenever any real estate is sold for a consideration great than $3,000, whether by warranty

deed, quitclaim deed, contract for deed, or any other method of conveyance. Consideration means the total monetary value that has been exchanged at the time of sale or agreed to in a legal contract. Consideration also includes the amount of any debt assumed. The eCRV is filed in the county in which the property is located. The grantor, grantee, or an entity's legal agent is responsible for filing the certificate.

The eCRV is also important for homestead purposes. When a property is sold, the assessor must remove the homestead classification for the following assessment year unless the new owner qualifies and files for the homestead classification under his or her name. No real estate sold or transferred shall be classified as a homestead unless the required eCRV is filed.

An eCRV is not required when the real estate is being conveyed to the State of Minnesota, a political subdivision of the state, or any combination of them, for highway or roadway right-of-way purposes, provided that the agency or governmental unit has agreed to file a list of the real estate conveyed to the agency or governmental unit with the commissioner of revenue by June 1 of the year following the year of the conveyance.

A Certificate of Real Estate Value (eCRV) must be filed whenever any real estate is sold or conveyed for consideration greater than $3,000. For a list of documents that require an eCRV, refer to the eCRV guidelines.

**Note: In 2017 the requirement was removed for filing a certificate of real estate value when a transfer is made by a deed in fulfillment of a recorded contract for deed. The deed must include the recorded contract for deed by document number or by book, page, and consideration paid. For administrative purposes, the department advises that this section be applied to deeds presented for recording on or after April 22, 2017.*

Primary Statutory References: 272.115, 273.124, subd. 13 (e), 287.20, subd. 2

Paper versus Electronic

Electronic CRVs (eCRV) have been used since October 2014. eCRVs have a retention schedule of 25 years. Paper CRVs are no longer available due the completion of their retention requirements.

The eCRV system was built in a manner that aligns with several statutory requirements. To meet these requirements, each county can set up their eCRV application to ensure that the county recorder receives the eCRV from the submitter and then transfers it electronically to the county assessor for further information entry. When the county is finished with and approves the eCRV, it is sent electronically to the Department of Revenue. eCRV has public search functions to allow taxpayers, real estate professionals, or other government entities to search both preliminary and completed sales data anywhere in the state.

The certificate has required the Social Security number or the federal ID number of the grantors and grantees since July 1, 1995. The SSN (or FEIN) is entered by the submitter and is immediately masked so no other users are able to see it. While this information may be shared with the commissioner of revenue for purposes of tax administration, it is private and/or nonpublic data and is safeguarded accordingly within the eCRV database.

The person submitting the eCRV declares under penalty of law that the information provided is true, correct, and complete to the best of his/her knowledge and belief. Many assessors can recall instances where this is not the case. Some signers of the eCRV do not fully understand the value of the document they are signing and how important it is to the assessment process. They also do not know what to review for accuracy; they are only signing because they are instructed to. Those completing the form may also not be fully aware of the value of the eCRV or may not know what needs to be reported. Assessors must work diligently to verify any sale they plan to use in any sales study or analysis to ensure accurate data.

The eCRV is designed in a way to easily provide the assessor with detailed information pertaining to the sale. Every assessor should become familiar with what information is required (and what other information can be found) on the eCRV. For example, the eCRV may indicate an anticipated change in use. Legislation enacted in 2008 requires the submitter to include on the eCRV any proposed change in the use of the property that could change the classification of the property. When agricultural land is sold for development purposes, the assessor's EMV may be significantly different than the sale price of the property that was purchased for development. This type of sale would likely be discarded from a ratio study.

The county (or city) adds a classification label based on the property to the eCRV for the purpose of determining the fair market value of the property. The submitter includes financing terms and conditions of the sale which are necessary to determine the actual, present value of the sale price for purposes of the sales ratio study. The commissioner of revenue establishes administrative rules specifying the financing terms and conditions which must be included on the certificate.

The current version of the eCRV city/county application is available on the department's website along with an in-depth help menu and a testing environment. Other applications on the Department's website include a public search, the submitter application, and other Web Services.

1031 Exchanges

Additional legislation also requires filers to indicate on the eCRV if the transaction involved a like-kind exchange under section 1031 of the Internal Revenue Code (as amended through December 31, 2006). These transactions are more commonly known as "1031 Exchanges" and are more common for certain property types (commercial properties and agricultural land).

These exchanges may occur through an exchange accommodation titleholder, but that entity may not hold title for more than 180 days.

Federal tax laws allow the exchange of business or investment property solely for business or investment property of a like-kind. Both properties must be held for use in a trade or business or for investment. Property used primarily for personal use, like a primary residence or a second home or vacation home, does not qualify for like-kind exchange treatment. When an exchange occurs, no gain or loss is recognized under Internal Revenue Code Section 1031. Gain deferred in a like-kind exchange under IRC Section 1031 is tax-deferred, but it is not tax-free. If, as part of the exchange, other (not like-kind) property or money is received, a gain is recognized to the extent of the other property and money received, but a loss is not recognized. Section 1031 does not apply to exchanges of inventory, stocks, bonds, notes, other securities or evidence of indebtedness, or certain other assets.

Properties are of like-kind if they are of the same nature or character, even if they differ in grade or quality. Real properties generally are of like-kind, regardless of whether the properties are improved or unimproved. For example, real property that is improved with a residential rental house is like-kind to vacant land. However, real property in the United States and real property outside the United States are not like-kind properties. Indication of a 1031 exchange is a potential reason to discard the sale from a ratio study.

Primary Statutory References: 272.115, IRS.gov website

Completing the eCRV

Submitters are required to provide all information requested on the eCRV. Upon receiving it, the assessor should verify that the appropriate information is provided and may request additional information if it is missing. This can be done by unaccepting the eCRV and sending it back electronically to the submitter.

It was previously mentioned that the eCRV does require the Social Security number or the federal ID number of the grantors and grantees. However, a married person who is not an owner of record and who is signing a conveyance instrument along with the person's spouse solely to release and convey their marital interest, if any, in the real property being conveyed is not a grantor for the purpose of providing a Social Security number. In these instances, submitters should not add a spouse with only marital interest as an individual and should instead include their name in the comment section. A statement in the deed is sufficient to allow the county auditor to accept an eCRV for filing without the Social Security number. This statement should state something very similar to:

> *"(Name) claims no ownership interest in the real property being conveyed and is executing this instrument solely to release and convey a marital interest, if any, in that real property."*

Primary Statutory Reference: 272.115

The spousal exception does not apply to a spouse who is selling the property and is listed on the deed that is going to be updated. The spousal exception only applies to a spouse who is selling, who is not on the deed that is going to be updated, and is an owner of the property solely due to his/her marriage with the person that is listed on the deed.

Sale Price Listed on eCRV

The sale price listed is obviously very important as it is the value used for calculation of sales ratios and it helps the assessor determine market conditions. The sale price, in the case of any deed not a gift, is the amount of the full actual consideration paid, or to be paid, including the amount of any lien or liens assumed. The items and value of personal property transferred with the real property must be listed and deducted from the sale price.

The sale price amount should include the negotiated sale price for the real property, the value of any personal property if it was included in the sales contract (it also gets reported separately so it can be subtracted), any seller paid costs (points, closing costs, etc. which also get reported separately so they can be subtracted), and any normal real estate agent commissions. When the assessor is determining the sale price to use for ratio calculation, they will take the listed sale price and subtract any personal property amount and any seller paid cost amounts. The net is the sale price to use for sales ratio and analysis purposes.

Certain items are allowable as deductions for personal property. They include the following and, if listed as personal property involved in the transaction, should be deducted from the sale price indicated.

- Above ground pools
- Hot tubs
- Boats and docks
- Crops
- Display cases
- Drapes
- Free standing appliances
- Fireplace equipment
- Farm machinery
- Furniture
- Fuel tanks
- Garden equipment
- Swing set
- Commercial signs
- Shelves

Certain items are not allowable as deductions for personal property. They include the following and, if listed as personal property involved in the transaction, should NOT be deducted from the sale price indicated.

- Awnings
- Attached grill or barbecue
- Attic fans / air cleaners
- Built in appliances
- Built in vacuum cleaners
- Central air conditioner
- Garbage disposal
- Gates and fences
- Garage door openers
- Installed carpeting (indoor/outdoor)
- Light fixtures
- Music/intercom system
- Solar panel
- Smoke or security detector

Commercial, industrial, apartment, and agricultural property sales often include personal property that is not taxable, such as machinery, equipment, inventories, furnishings, crops, livestock, etc. If you excluded all sales for these categories of property where there was personal property included in the sale, there would be no sales. Therefore, it is necessary to estimate, through interview and analysis, the portion of the total consideration attributable to real property as opposed to personal property. Any adjustments made to the sale price for personal property or business rights should be well-documented.

In most cases, the inclusion of special assessments can complicate the determination of the sale price without significantly improving accuracy. Special assessments for a sale should only be reported if the buyer paid off delinquent special assessments and delinquent taxes owed on the property. These are costs that the buyer assumes in order to complete the transaction and are necessary for understanding the terms of the sale. Current and future special assessments that the buyer pays are generally considered the cost of owning the property rather than the cost of buying the property and do not need to be reported.

There may be special circumstances in which non-delinquent special assessments should be reported. Discuss any non-delinquent special assessments that should be included in the study of the sale with your PTCO. A manual adjustment to the sale price can be made for any buyer paid special assessments that had a known effect on the sale price.

Deed Tax Calculation

A deed tax is collected on real estate transfers in Minnesota. The rate is .33% (.34% in Hennepin and Ramsey Counties) of the total purchase price on the eCRV in most instances.

For residential real property (one-, two-, or three- unit residential structures), the value of the personal property being conveyed with the real property is subject to deed tax. The seller paid costs are also subject to the deed tax. For example, if a house sells for $200,000 including $10,000 for personal property and another $5,000 for seller paid costs, the deed tax is calculated on the total $200,000.

For other real property, the value of the personal property being conveyed with the real property is not subject to deed tax. The seller paid costs are still subject to the deed tax. For example, if an office building sells for $5,000,000 including $200,000 for personal property and another $10,000 for seller paid costs, the deed tax is calculated on an adjusted $4,800,000 price.

The deed tax amount may be helpful information for assessors if there is any doubt that an eCRV has inaccurate information. Assessors can calculate a total purchase price (after adjusting for personal property if necessary) by dividing the deed tax as reported on the deed by .33% (or .34% in Hennepin and Ramsey Counties). For example, if the recorded deed shows a deed tax of $660, the total purchase price was $200,000 ($660 / .0033). Again, if the property is something other than one-, two-, or three- unit residential real property, the calculated total purchase price would then need to be increased by the total amount of personal property.

Formula:

$$\text{Total Purchase Price} = \frac{\text{Deed Tax Amount}}{.0033 \text{ (or } .0034)}$$

Primary Statutory Reference: 287.20, subd 2(c)

eCRV Verification

As has been mentioned numerous times, the assessor must be very diligent to verify all submitted eCRVs to determine if they will be included in the sales ratio studies and analysis to estimate values. The accuracy of the assessment is dependent on reliable and accurate data that reflects the local market conditions. Without verification of sales, inappropriate or inaccurate information regarding the local market may be included in sales studies and may skew the analysis.

eCRV Verification and Screening

Since the eCRV contains important market data and is used for sales ratio studies and local government aids, it is important that the assessor examine each certificate when it comes into the office. If there is a wide difference between the sales price and the assessor's estimated market value, the assessor should examine that property and the conditions and terms of the sale. The assessor may find that the condition of the property, through improvement or deterioration, may have changed since the previous assessment. The assessor may find that the terms of the sale may be such that they do not reflect normal conditions. On the other hand, the assessor may find that the sale does reflect the market. It is important that the assessor fully explain any abnormalities found in the sale which affects the sales price. These comments, when shared with the PTCO, may have some effect on the usage of that sales price in the sales ratio study.

Some of the verification done is more clerical in nature – solely based on how certain questions are answered – while other verification is more subjective and requires the assessor to work with the PTCO to determine if the sale reflects an open market and arm's-length transaction. Minnesota follows IAAO guidelines in determining this. An "open market sale" is one in which the buyer and seller are acting prudently, and the price is not affected by undue stimulus. Neither the buyer nor the seller must be under great pressure to complete a transaction in a short time. An "arms-length sale" is between two parties, both of whom are seeking to maximize their gain from the transfer. Typically, commercial, industrial, apartment, and agricultural properties need the most extensive verification.

The department specifies the general types of sales that do not meet the acceptance criteria in the annual Sales Ratio Criteria document. Sales meeting those rejection criteria should be rejected from the sales study. Many of these are quickly identified by the information provided in the eCRV. Each reject code is assigned a number.

There is no automatic "reject code" for extremely high or low ratios, and the ratio itself is not a valid reason for rejecting or accepting the sale. However, the extreme ratio indicates a need for additional investigation. The county's PTCO will help work through any of these reasons for removing a sale from study consideration when there are any questions or concerns that arise. More information, including a current list of **reject codes**, is available in the Minnesota

Department of Revenue annual Sales Ratio Study Criteria document is available on the department's website.

Each county should have a standard form and process for verifying sales and making determinations to their appropriateness in the sales ratio analysis and study. Below are some examples of questions to ask when verifying sales:

- May I ask you for a few facts about the property you recently bought?
- Confirm the purchase price, date of deed or contract, and terms listed on the eCRV.
- Did you buy/sell through a real estate agent? What was the property listed for? How long was it on the market? How was the purchase price established? Was there an appraisal done?
- Was the buyer/seller a friend or have you ever had any other dealings with the other party?
- Are there circumstances known to you which would have caused the seller to sell (or buyer to buy) at a price below/above the fair market price?
- Was the date of the purchase agreement shortly before the deed date/closing date? How much time elapsed between the date of the purchase agreement and the closing date?
- Have you, or any company you control, ever owned this particular property before?
- Was there any compelling reason why you bought/sold the property?
- What was the condition of the property when you bought/sold it?
- Have there been any changes in the property since you bought/sold it? Are you planning any future changes to the property?
- What influenced you to buy this particular property rather than another?
- Review the terms of the sale.
- If farmed: Was the crop kept by the seller and for how many years does the seller get the tillable ground? Who gets the government payments? Is it irrigated? Is the tillable ground tiled?
- Was there any personal property in the sale price? What was the value of the personal property?
- Did the seller pay any points?

For sample sales verification forms, consult your PTCO. When sales verifications occur, any information provided, as well as general information about the verification (who was called, when, etc.) should be documented. Whenever a sale is being removed from study consideration, the reason for the exclusion should be noted.

The department recommends that each county assessor hold annual sales training for staff and local assessors on how to uniformly apply the Sales Ratio Criteria, process eCRV's correctly, and to conduct sales verifications in a consistent and uniform manner.

Primary Statutory Reference: 273.061

Foreclosure and/or Bank Sale Verification

In difficult economic times, foreclosure and/or bank sales make it very difficult for assessors to first understand on their local markets, and second, know which sales represent the market and which need to be removed from sales study consideration. If the assessor is experiencing a high number of foreclosure or bank sales, they should work with their PTCO to better understand how to handle them. The MAAO and Department of Revenue also collaborated on the "Joint Advisory: The current residential real estate foreclosure situation and how it relates to sales verification, sales ratio studies, and the assessment process." That advisory was cited in the IAAO "Guide to Foreclosure-Related Sales and Verification Procedures". These are tools to consult in handling these types of sales.

The IAAO guide says the foreclosure sale must pass the "open market" test just like any other sale for possible inclusion in a study. In a depressed market, there may be as many or more foreclosure-related sales as there are traditional sales. In this case, extensive examination and possible adjustment is necessary to include them in a study. Again, the PTCO will need to be aware of this activity and approve the inclusion of foreclosure-related sales.

In jurisdictions where foreclosure and bank sales are still infrequent occurrences that the assessor does not see impacting the overall market, the sales should be removed from consideration in the sales ratio study if the property is residential or seasonal residential property. Residential and seasonal residential property may be considered for use in the study in very specific circumstances as described above. Re-sales of other repossessed property will be considered for use in the study. The resale should be considered for use in the study if the property has been placed on the market and sold through a real estate agent or broker, or if the seller has professional staff who can act as brokers or agents. Thorough verification is essential before using these sales. These sales should not be used if the seller is "dumping" the property without an attempt to get a market level price.

If a sale is an actual foreclosure sale, a sale to prevent a pending foreclosure, or a transfer of the property back to the mortgagor to prevent a foreclosure, the sale should be excluded from the study with the reject code 15. This reject code is also used for any sale resulting from other legal proceedings (divorce settlement required sale of the property, bankruptcy-forced sale, etc.).

Short sales should be scrutinized by the assessor to determine whether they may represent the market. A property that sells "short" of the owed mortgage amount should not be rejected solely based on that fact. Instead, assessors should determine whether the short sale is indicative of other factors, such as, the property sold short to prevent foreclosure or is the result of a forced transaction. To determine the details of the sale, assessors will need to interview parties to the transaction for a complete understanding. If a short sale is the product of the previously listed criteria for reject code 15, then the rejection may be valid.

If a sale actually lists the bank or a lending institution (or mortgage company) as the seller, the sale should be excluded from the study with the reject code 21. There are several other entities that function as banks. When the following are listed as the seller, the sale should be excluded from the study with reject code 21:

- US Department of Housing and Urban Development (HUD or Secretary of HUD, etc.)
- Veteran's Affairs Administration (VA or Secretary of VA, etc.)
- Fannie Mae (FNMA, etc.)

The use of reject code 21 for these sales should supersede using any other reject code that may be apparent based on how the CRV is completed. For example, frequently eCRVs listing HUD as the seller will have the "Was the property condemned or foreclosed, or are there legal actions pending?" or "Is either the buyer or seller a unit of local, state, or federal government" questions marked as "Yes" on the eCRV. Even though these are indicated on the eCRV, the sale should be excluded from the study with reject code 21.

In normal markets, limited numbers of bank sales and foreclosure sales make any analysis of those types of sales unnecessary. Without a need to specifically study them, the proper use of reject code 15 versus reject code 21 was somewhat irrelevant. In a market with ever-increasing bank sales and properties in the foreclosure process, the department needs to study these specific types of sales, and the proper use of reject codes for these sales is necessary. By correctly utilizing these codes, the department is able to analyze the prevalence of only the bank sales, for example, as opposed to all other sales involving legal proceedings.

It cannot be emphasized enough that these are general guidelines regarding the proper use of the sales study rejection codes 15 and 21. There may be other circumstances to be considered. For example, if you are in a jurisdiction where a large percentage of all sales are bank or foreclosure sales, they may need to be considered for inclusion in the sales ratio study. Additionally, sales may need additional verification to ensure there was no physical change to the property that may necessitate exclusion of the sale as reject code 07, or any other possible reasons to exclude the sale. For questions regarding specific sale inclusion or exclusion in the sales ratio study, please consult your PTCO.

Source: Joint Advisory: The current residential real estate foreclosure situation and how it relates to sales verification, sales ratio studies, and the assessment process. MAAO & MN Revenue

"Non-Open Market that Results in a Non-Typical Sale" Verification

Another very subjective reason for removing a sale from sales study consideration is if the assessor deems the sale not reflective of typical market. Rejection reason R26 is for sales of doubtful title or other non-arms-length or non-typical market transactions. They should be removed from the study. This may include sales that are not advertised, listed, or promoted to potential buyers. A sale with a reject reason R26 with no explanation will not be automatically rejected without additional documentation.

While R26 is a valid reason, a blanket application of rejecting all sales that are "not advertised, listed or promoted" would reject many sales that still meet the department's guidelines of sales that are open market and arms-length. In an effort to maximize the number of sales in the ratio study sample and to provide assessors with all possible sales that reflect market value, market trends, and help to establish benchmarks for current and future assessments the following *Three Strike Test* has been developed to determine if the sale should be rejected as an R26 or accepted on its merits and included in the ratio study. Remember, transfers with doubtful title should always be rejected with R26.

Test #1. Was the sale exposed to the market, or announced, and/or promoted through realtor listings, newspaper or other publications, advertisements, brochures or other promotional or informational mailings, including if the property was For Sale by Owner (FSBO)?

- If the answer is YES; the sale SHOULD NOT be rejected as R26.
- If the answer is NO; Go to Test #2.

Test #2. Was an appraisal done prior to the sale to establish the sale price or used as a starting point for negotiations?

- If the answer is YES; the sale SHOULD NOT be rejected as R26.
- If the answer is NO; Go to Test #3.

Test #3. Did the sale involve a willing and informed buyer and a willing and informed seller under no duress to buy or sell and is the sale price typical of the market for this type of property in your assessment district?

- If the answer is YES; the sale SHOULD NOT be rejected as R26.
- If the answer is NO; the sale SHOULD be rejected as R26.

Note: If through the verification process, it is determined that the sale should be considered as a market comparable and meets all other acceptance criteria, then the sale should be included in the study.

The reject R26 code is not an allowable reject code for agricultural sales, apartment sales, and commercial/industrial sales just because the property was not advertised. Individual situations may warrant the use of R26 on these property types. There will always be some highly unusual or questionable sales that will be encountered. It may be very difficult to determine if the sale should be a R26 or not. Any questions concerning whether a sale should be rejected as a 26 or included in the study as a good sale should be reviewed with the county assessor and the PTCO.

Other Sale Verification Considerations

In order to increase the number of agricultural sales considered for the study, certain split sales (sales where a portion of a larger parcel is sold) will be used in most cases unless disqualified by the PTCO:

- If an entire agricultural property is split for sale to two or more buyers, the individual portions will be combined to produce one sale.
- If the agricultural land (over 34.5 acres) is split off from a larger parcel and sold, the land sale will be considered for the sales ratio study.
- If the portion of the agricultural land of at least 34.5 acres was sold off and the seller retained the remainder of the farm, the land sale will be considered for the sales ratio study.

In these cases, assessors are asked to make sure that value is split promptly after the eCRV is filed to assure uniform treatment of split sales throughout the state.

Non-agricultural split sales should not be used (the reason for excluding these are R16).

In order for a sale to be excluded due to physical change after assessment but before sale, the additional construction (or destruction) must be substantial in nature. The intention is to include sales in which the physical change or new construction is merely cosmetic or would not have caused the assessor to change the market value of the property. Partial assessment sales will continue to be excluded. The reason for excluding these is R07.

The eCRV Interface

The eCRV process allows a buyer/agent to submit an electronic CRV via a web interface directly to the Department of Revenue. They may do so by filling out an online form that can be accessed on the Department of Revenue website here. Counties can then retrieve the eCRV data on-line for review, acceptance, and finalization before the department uses it to complete the sales ratio study.

Anyone with computer access can submit an eCRV via a web interface. The department assigns a unique eCRV number for each eCRV submitted. The submitter references that eCRV number when submitting the deed to the county. The county is then able to match an eCRV to a deed and begin analyzing the sale.

eCRV Applications/Versions

There are three applications or interfaces for eCRV:

- **eCRV Submit:** this allows anybody to submit or edit an eCRV for a sale of a property.
- **Public Search**: this allows anybody to search and review eCRVs that have been accepted by a county. A county must accept the sale before it will be entered into the public search.
- **County/City Application**: this is where county/city staff are able to review, accept, edit, and verify sales information. Only sales that match a submitted deed are accepted. When the county/city staff has completed their sales verification process for the accepted eCRV, they can submit it to the State Application.
- **State Application**: the Department of Revenue employees can access all of the sales information in order to use the information for sales ratio studies and other department purposes.

eCRV also offers Web Services for the City/County Application, and a Weekly Sales Extract. Additional information about the eCRV suite of applications is available on the eCRV webpage.

A different version of an eCRV is saved for the Submit, City/County, and State applications, so in the end of the process there are separate versions for the submitted version, the county/city version, and the state version. This makes it possible to see any changes that were made between versions (e.g. submitted version vs. state version).

eCRV FAQs

User Help items are available on the Department of Revenue eCRV website, as well as general information related to eCRV use and submission.

If a submitter submits an eCRV with a mistake, can the eCRV be edited?

Yes. If the submitter realizes they have made a mistake on an eCRV that they have submitted they can use the eCRV number to retrieve the eCRV and make the necessary corrections. If

however, the county has accepted the eCRV before the submitter tries to retrieve it, the submitter will need to contact the county. The county can then "un-accept" the eCRV and send it back to the submitter to be edited. The county/city also has the option to make corrections to most of the sections on the submitted information tabs on an eCRV within the County/City application. For example, if a county staff person knows that there is a typo in the address of a property, the staff person can make that change without contacting the submitter. The staff person is only making a change to the county version of the eCRV and not the submitted version, so it will be possible to see the difference between the two versions if a need arises.

Private eCRVs including Safe at Home

Location and identity information are considered private data under state law, for certain eCRVs, by court order or participation in the Safe at Home program.

The eCRV system is designed to allow individuals with privacy court orders and Safe at Home participants to conceal their information from public view. The department does not use the information from private eCRVs in state sales ratio studies.

Safe at Home (SAH) is a statewide address confidentiality program administered by the Office of the Minnesota Secretary of State. It is governed by Minnesota Statute 13.045, Minnesota Chapter 5B, and Minnesota Rules Chapter 8290. Participant location and identity information is private data under state law.

eCRV Process Notes:

- eCRV Submitters will complete an eCRV using the SAH participant's PO Box address as their main contact address. Submitters **must** select "yes" to answer the question: *Is this person's information private under Minnesota Statute 13.045, Minnesota Rules Chapter 8290, or a Court Order?* Failure to select the privacy indicator for a privacy court order or SAH participant means the data will be treated as public. The Submitter is also required to provide the eCRV ID number along with a copy of a court order or the required Safe at Home program proof of participation documentation to the county recorder. If this information is not provided, the county recorder will not accept the deed or other sale document, and the property cannot be homesteaded for property tax purposes.

- eCRV County/City users accept the private eCRVs, complete the eCRV as a study reject, and transfer to the state. You will have a limited view of the information provided by the submitter. The system will display a note indicating that the information is private:

  "This eCRV contains information that has been marked as private and cannot be shared with others. The submitter is required to file a Court Order or proof of participation in an address confidentiality program with the county referencing this eCRV in order to

suppress the information. Please make certain that a Court Order or proof of participation in an address confidentiality program has been filed."

- The County/City eCRV system provides a view of the County eCRV, County, and Workflow tabs, and the ability to enter the county data and transfer to the state. When completing the County Recommendation for State Study section of the County Data sub tab indicate: Good for Study – Reject, and select Rejection Reason #12 – PTCO Instructed.

- These sales will not be used in the sales ratio study. They also will not be included in the sales list. The low volume of these types of transactions have a negligible effect on sales ratio studies.

- Additionally, these eCRVs will not be found when using the Public Search or the Weekly Sales Extracts.

- If a buyer presents a privacy court order or proof of Safe at Home participation with the sale document and did not select the privacy indicator when completing the eCRV, do not accept the eCRV: use the Decline to Accept eCRV feature and indicate the submitter must edit the Buyer tab and select "yes" to answer the question: *Is this person's information private under Minnesota Statute 13.045, Minnesota Statute 5B, Minnesota Rules Chapter 8290, or a Court Order?*

Sales Ratio Studies

A brief summary of the sales ratio studies are described below, however the most updated and detailed information can be found on the Department of Revenue website.

The sales ratio study is the culmination of the ongoing process of collecting information about the local real estate market. There are other uses, as well. The state conducts several sales ratio studies to assist in assessment review and equalization and to aid the tax court. Many county and local assessors also perform their own in-house sales ratio analyses. Sales ratio studies are used by assessors in refining their valuation levels, by the tax court in adjudicating assessments, by the State Board of Equalization in determining orders, and by various aid formulas that utilize measures of equalized values. By the time sales ratio studies are completed by the department, there is an expectation that all the underlying sales data has been reviewed and is representative of the market.

Sales Ratios

Once sales reported on eCRVs have been verified and determined as representative of market, the assessor can use them as part of a sales ratio study. Almost all measurements in a sales ratio study have some tie to the individual sales ratio. The sales ratio is a key tool in the review and equalization of values. The sales ratio shows the relationship between the assessor's EMV and the sale price of a property.

Formula:

$$\text{Sales Ratio} = \frac{\text{Assessor's Estimated Market Value}}{\text{Sale Price}}$$

Purpose of the Sales Ratio Study

There are three basic purposes of sales ratio studies. They are:

1. To plan an upcoming assessment
2. To evaluate an existing assessment
3. To identify inequities

The State Board of Equalization uses sales ratio studies to determine the assessment level for equalization purposes. For the assessor, the study provides an insight into variations in assessment among specific properties within classes, and between classes and areas. This is the first indication of possible inequities in the assessment. In addition, where assessment jurisdictions do not correspond to the principal taxing district (i.e. school district boundaries overlapping counties), the sales ratio study provides the assessor with information on which to base adjustments to the assessment with respect to the other county.

Property owners use the studies as support for their claim of unfair or inequitable treatment by assessors. Legislators use these studies to develop or change tax rates, which are a factor in distribution of state aids to local municipalities.

The commissioner of revenue is authorized by law to order a reassessment in any taxing district in order to correct a grossly unfair and inequitable assessment. Also, the commissioner of revenue constitutes the State Board of Equalization, and in that capacity, is empowered to reduce wide disparities in assessment levels between counties and among the several classes of real estate within counties. If the aggregate valuation of real or personal property is above or below the market value, the board is authorized to add or deduct from that valuation a percentage necessary to bring that aggregate valuation to market value. Sales ratio studies provide an equalization tool for the commissioner of revenue to measure how closely assessed values are to sale prices and to judge the quality of equalization within classes of properties and between classes and areas.

Sales Ratio Study Periods

While individual assessors perform their own in-house studies to aid in their assessments, the department produces three formal sales ratio studies: a 12-month study for the State Board of Equalization, a 9 and a 12 month study for Tax Court, and a 21-month study for equalizing values for aid calculations.

The sales ratio study used by the State Board of Equalization, and given the most attention by assessors, spans a twelve-month period from October 1 to September 30. The State Board of Equalization uses sales ratios that are adjusted to reflect assessors' actions to estimate the level of assessment in the next assessment year. For example, the 2026 study uses sales occurring from October 1, 2025 to September 30, 2026, which are compared to the January 2, 2027 assessor's estimated market values. In other words, the State Board of Equalization is using the prior year's sales data to approximate the assessment level for the next assessment year where no sales have yet occurred. Assessors will have a working ratio which is their actual ratio from the previous assessment so as to be able to establish market values for the next assessment.

The Tax Court uses sales ratios to measure the accuracy of the assessor's assessment. It uses a nine-month study of sales occurring from January 1 to September 30 of a given year compared to the assessor's market value for that year. For example, the 2026 Tax Court ratios use sales occurring January 1, 2026 to September 30, 2026 which are compared to the January 2, 2026 assessor's estimated market values. The preference for this timeframe may be an attempt to limit "spearing" or the "chasing of sales." In other words, the court may worry that a sale late in the year will cause the assessor to change that property's value for the January 2 assessment. Spearing could cause ratios to seem better than the assessor's actual performance for the majority of properties that did not sell. Studies with a shorter period, however, decrease the chance of having a sufficient number of sales in local districts.

The 21-month sales ratio study runs from January 1 of one year to September 30 of the following year. This study is used for determining equalized values which are used for local government aid (LGA), school aids, and other purposes. In this study, sales taking place in each year are compared to the assessor's taxable market values for that year. For example, sales occurring from January 2026 through September 2026 would be compared to the assessor's 2026 values; while sales occurring from January 2027 through September 2027 are compared to the assessor's 2027 values.

Sales Ratio Study Procedures

Most offices already follow existing procedures for completing a sales ratio study. Those procedures may differ from those listed here. The following are some general guidelines for completing a sales ratio study.

Many jurisdictions stratify their sales ratio studies in order to gain insight into what part of their jurisdiction or what type of property may need additional attention in an upcoming assessment. The stratification occurs prior to the actual sales ratio study so the assessor can study the influence of that characteristic on the sales. The following stratification levels may be helpful to assessors:

- By type of home (i.e. ramblers, split-levels, 2 stories, etc.)
- By age (0 – 10 years old, 11 – 20, etc.)
- On lake/off lake (or other amenity such as golf courses, rivers, etc.)
- By price range ($100,000 - $150,000; over $1 million, etc.)
- By acreage (5 – 10 acres; 40 – 75 acres; over 75 acres, etc.)
- By subdivision or neighborhood

As previously stated, sales ratio studies are only as reliable as the information they are based on. Therefore, it is necessary to take action to ensure the dependability of the information used in the ratio studies. The five steps necessary are as follows:

1. Gather basic data on real estate transfers
2. Screen and edit information to make any necessary adjustments for conditions of sale and exclude all sales that do not represent arm's-length transactions
3. Put relevant data into an acceptable format for processing on computer
4. Sort information by listed categories of real estate within each area
5. Total the data and compute statistics to describe the information

Step 1: Sales Data Collection

Certificates of Real Estate Value are collected on all real estate transactions. Hundreds of thousands of real estate transactions occur in Minnesota each year. It is upon these transactions that the annual sales ratio study is based. All basic data regarding the transactions should be available on the eCRV.

Step 2: Screening and Editing
At the Department of Revenue, eCRVs are carefully screened to exclude transactions that are not "arm's-length" transactions. They should also be screened at the local level. Typically, commercial, industrial, apartment, and agricultural properties need the most personal verification.

All open market, arm's-length transactions should be included in the study. An "open market sale" is one in which the buyer and seller are acting prudently and where the price is not affected by undue stimulus. Neither the buyer nor the seller must be under great pressure to complete the transaction within a short time. An "arm's-length" sale is between two parties, each acting in their own best interest and seeking to maximize their gain from the transfer.

Consult the earlier list for the general types of sales that do not meet the acceptance criteria and should be automatically rejected from the sales study. Remember, extremely high or low ratios are not a valid reason for rejecting or accepting the sale. The extreme ratio indicates a need for additional investigation. Also recall that split class properties will be included in the study for the class that contains the largest share of the assessor's market value.

Step 3: Prepare Data for Computer Entry
After screening all the sales for their usability in the sales ratio study, it is necessary to sort the transactions into useful classifications. Generally, they are sorted into three general categories within the counties (or subcategories from these if there are sufficient sales):

- City or Township
- Improved or Unimproved
- Use of Property (residential, commercial, industrial, apartment, seasonal recreational residential, agricultural [2a and 2b])

Step 4: Results Sorted and Listed
Each individual assessment/sales ratio, or relationship between the assessor's market value and sale price, is calculated. These individual ratios are then arranged in order of magnitude and listed for several classes of properties within municipalities and townships. Hopefully, these individual ratios are grouped around the median ratio. Extremely high or low ratios are reviewed again to determine their suitability for the ratio study. After the outlier sales ratios are reviewed, the ratios are used to perform statistical computations that measure the overall level of assessment and the quality of the assessment.

Step 5: Statistics of Assessment/Sales Ratio Studies
One of the main objectives in property tax administration is an equalized assessment. It is exceedingly important that maximum equalization be attained both among local property owners and between taxing districts because the assessment serves as a basis for:

1. Tax levies by overlapping governmental units (i.e. counties, school districts, and special taxing districts).
2. Determination of net bonded indebtedness restricted by statute to a percentage of either the local assessed value or market value.
3. Determination of authorized levies restricted by statutory tax rate limits.
4. Apportionment of state aid to governmental units via the school aid formula and the local government aid formula.

An equitable distribution of the tax burden is achieved only if it is built upon a uniform assessment. The result of a non-uniform assessment is a shift in the tax burden to other property owners.

Small Sample Study

The Small Sample Study is produced by the Department of Revenue to identify jurisdictions that consistently do not meet the 6 sale minimum for State Board ratios. Counties should review the Small Sample Study with their PTCO to identify jurisdictions that may require further attention. The Department will issue a final preliminary Small Sample Study using the final preliminary State Board ratios and a final Small Sample Study using the final State Board ratios.

A "small sample" is a jurisdiction that was not reviewed by the State Board of Equalization at least twice in the past 5 years. In other words, any jurisdiction that did not have at least 2 years over the past 5 years with at least 6 sales is considered a small sample. Jurisdictions with 6 good sales in the current year Sales Ratio Study are not included in the Small Sample Study. The Small Sample Study is stratified by sales ratio property type aggregations.

The Small Sample Study provides the following information for every small sample for each of the 5 years. This information is also provided at the county level for reference:

- Sale count, including extreme sales.
- Annual trend, if any, applied or indicated.
- Median ratio, including extreme sales.
- % value change, determined using values for all parcels of that property type in the jurisdiction, adjusted for net improvements. These values are determined using values from the PRISM files.
- Parcel count for that property type in that jurisdiction.

A five-year weighted median is calculated to provide a snapshot of median ratios over the 5 years. The weighted median gives more weight to the median ratios from more recent years and less weight to the median ratios from older years. The five-year weighted median is not calculated for jurisdictions with less than 6 sales over the 5 years. The table below describes the weights for each year as the percent that each contributes to the final weighted median.

Weights by Year for the Five-Year Weighted Median

	2026	2025	2024	2023	2022
Weight	30%	25%	20%	15%	10%

If there is a year (or years) with no sales, the weights adjust proportionally to include only those years with sales. For example, if there were no sales in 2025, the weights only add up to 75%. To determine the new weights for each year with sales, divide the weight in Table 1 by the new total. In this example, 2026 would now hold 40% (30% ÷ 75%) of the weight, 2024 would hold 27% (20% ÷ 75%), etc.

There are certain situations which may warrant attention from the county. Several flags were created to indicate these jurisdictions. These flags are not definitive indicators of a problem, nor is a lack of flags a definitive indicator that there is not a problem. These flags are described below.

- The Low Total Sales Flag indicates jurisdictions where there are less than 6 total sales over the 5 years.
- The Value Change Flag indicates jurisdictions where values did not change at least twice over the 5 years.
- The Weighted Median Flag indicates jurisdictions where the five-year weighted median is outside of the standard 90% to 105% compliance level.

Sales Ratio Study Statistical Measures

Sales ratios are the most common calculation used to measure assessment equality or inequality. In a perfect world, if perfect assessment uniformity existed, the assessor's estimated market value and the sales price of a property would match and show a ratio of 100% since assessors are directed to appraise property at full market value. Since this is not realistic, there are several other measures that are useful to the assessor during the sales ratio study and analysis process. These measures help the assessor uncover areas to improve the assessment and determine changes. The following is a basic review of the most common statistical measures. The calculations and measures adhere to the IAAO standards.

Measures of Central Tendency

Measures of central tendency describe the overall level at which properties are valued. In assessment practice, three measures of central tendency are used to measure the overall level of assessment: the mean ratio, median ratio, and the aggregate (weighted mean) ratio.

The first step in calculating any of the measures of central tendency is to calculate each individual ratio for each sale. This is accomplished by the following basic formula:

Basic Formula:

$$\text{Sales Ratio} = \frac{\text{Assessor's Estimated Market Value}}{\text{Sale Price}}$$

As noted earlier, the State Board of Equalization and the Tax Court use different sets of data to determine the ratio for a particular year. The Tax Court uses sales occurring in a particular year compared to the assessor's estimated market values in that same assessment year. The State Board of Equalization uses sales prices from the prior sales period compared to the assessor's estimated market values for the current assessment. This changes the formulas slightly depending upon which ratio is being examined. These formulas are:

Tax Court Formula:

$$\text{2025 Sales Ratio} = \frac{\text{2025 Estimated Market Value}}{\text{Sale Price Adjusted to January 2025}}$$

The Tax Court is using sales that are backward-adjusted for time to the January 2025 assessment date.

State Board Formula:

$$\text{2025 Sales Ratio} = \frac{\text{2026 Estimated Market Value}}{\text{Sale Price Adjusted to January 2026}}$$

The State Board of Equalization is using sales from the 2025 sales ratio study period that are adjusted for time to January 2026.

The **mean ratio** is the average of a group of ratios. It is the arithmetic average of the group and is a measure of central location. The mean is the most commonly used, easily understood average, but it weights each ratio equally and is easily affected by one extreme sales ratio. This can lead to significant distortion of the average.

Formula:

$$\text{Mean Ratio} = \frac{\text{Sum of All Ratios}}{\text{Number of Ratios}}$$

For example, a jurisdiction had 10 sales last year with ratios as follows:

.83	.81	1.00	.88	.76
.93	.86	.89	.64	.98

The sum of all the ratios is 8.58. To find the mean, the total of all of the ratios, is divided by the number of ratios

Formula:

$$\text{Mean Ratio} = \frac{\text{Sum of All Ratios}}{\text{Number of Ratios}} \quad \frac{8.58}{10} = .858 \text{ or } 85.8\%$$

The **median ratio** is found by arranging the ratios in order from lowest to highest and then selecting the middle ratio in the series. (In a case where there is an even number of ratios, select the midpoint between the two middle ratios.) It is used to describe a group of individual sales ratios. This is the most widely used measure of central tendency because it is not affected by extreme ratios. The median of a group of ratios depends upon the position of items in the distribution rather than their magnitude.

Department of Revenue guidelines indicate that the median ratio of a sales ratio study should be from 90 to 105 percent. The median ratio is used to determine the level of assessment for the State Board of Equalization.

Using the ratios from the previous example, this time arranged in order from lowest to highest:

.64
.76
.81
.83
.86 ← Median
.88
.89
.93
.98
1.00

The **median** is the midpoint between the ratios, in this example the fifth and sixth ratios, .86 and .88. Thus the median is .87, or 87 percent (the mean or average of .86 and .88 is found by adding them together [.86+.88 = 1.74] and dividing that total by two [1.74 / 2] to find the median ratio of .87).

The **aggregate ratio** or **weighted mean** is computed by dividing the total EMV for all properties sold, by the total sale prices of those properties. With the aggregate mean, each property sold is given a weight based on its sale price. Higher priced properties are given more weight than lower priced properties when the average is determined. This effect is justified if the number of higher priced properties that were sold represents the same percentage of higher priced properties in the area being studied (for example, if 30 percent of all property sales for a city are properties over $400,000 and if 30 percent of properties in the entire city are valued over $400,000). Because of these considerations, the aggregate mean is generally accepted as the most appropriate measure to be used in the equalization of aids.

$$\text{Formula: Aggregate Mean Ratio} = \frac{\text{Total EMV}}{\text{Total of Sale Prices}}$$

Measures of Uniformity

Measures of uniformity measure the quality and uniformity of the assessment. These measures of uniformity include the range of ratios, the coefficient of dispersion, and the price related differential.

The **range** is the difference between the smallest and largest ratios. A large range typically indicates poor uniformity. However, the range is highly susceptible to extreme ratios. The range from the previous example is .36 and is calculated by subtracting the smallest ratio (.64) from the largest ratio (1.00).

Formula:

Range = Largest Ratio – Smallest Ratio 1.00 - .64 = .36

The **average absolute deviation (AAD)** measures the average difference between each ratio and the median ratio. This statistic is used to calculate the coefficient of dispersion. It is calculated by subtracting each individual ratio from the median ratio, summing the absolute values of those differences, and dividing by the number of the ratios.

Formula:

$$\text{Average Absolute Deviation (AAD)} = \frac{\text{Sum of (Absolute Value of Each Ratio – Median Ratio)}}{\text{Number of Ratios}}$$

The **coefficient of dispersion (COD)** is an index by which individual ratios vary from the median ratio. It is defined as the average absolute variation from the measure of central tendency (the median) expressed as a percentage of that measure. In other words, it measures the average percentage variation between all of the sales ratios and the median.

The COD is an important statistical measure in mass appraisal because it measures the equality or uniformity of the assessment. A low COD indicates that appraisals within a class or area are uniform; the sales ratios are grouped relatively close to the median. If the sales ratios are relatively close to the median and to themselves, relative over- and under- assessments are small. A high COD indicates that properties are being appraised at inconsistent percentages of market value.

IAAO standards suggest the following:

- Single family residential –
  Generally less than 15; less than 10 if a newer, homogeneous area.
- Income-producing properties –
  Generally less than 20; less than 15 in large, urban areas.

The Acceptable COD Range by Property Type:

Property Type	Acceptable COD Range
Newer, homogenous residential properties	10.0 or less
Older residential areas	15.0 or less
Rural residential and SRR	20.0 or less
Income producing, larger urban area	15.0 or less
Income producing, smaller rural area	20.0 or less
Vacant land	20.0 or less
Depressed markets	25.0 or less

This table can be found in the Sales Ratio Criteria listed on the Sales Ratio Studies page.

Formula:

$$\text{Coefficient of Dispersion (COD)} = \frac{\text{Average Absolute Deviation}}{\text{Median Ratio}} \times 100$$

The **price-related differential (PRD)** measures the relationship between the mean ratio and the aggregate mean ratio. It is calculated by dividing the mean ratio by the aggregate mean sale ratio and multiplying by 100. Appraisal uniformity is said to be regressive if high-value properties are under-appraised relative to low-value properties. This would be evident by a PRD of greater than 1.00. A progressive assessment, evident by a PRD of less than 1.00, indicates that lower priced properties are under-appraised. The Department of Revenue considers PRDs between 98 and 103 to be acceptable.

The general rule of thumb for a PRD is:

- .98 to 1.03 = Acceptable
- Less than .98 = Unacceptably progressive
- More than 1.03 = Unacceptably regressive

Formula:

$$\text{Price Related Differential (PRD)} = \frac{\text{Mean Ratio}}{\text{Aggregate Mean Ratio}} \times 100$$

Other Features of the Sales Ratio Study

Market condition adjustments

Market condition adjustments are based on market condition trends and are a necessary component of the Sales Ratio Study in order to correctly adjust sales for market conditions. The purpose of market condition adjustments is to determine what the sale price would have been if it occurred on the assessment date. For example, if values have been rising in a market and no adjustment has been made to the sale price, a sale that occurred in February 2025 may have an artificially high State Board ratio. The EMV is the value as of January 2026 and accounts for the rising market but the sale price is from 10 months earlier and does not capture the rising market, therefore overstating the level of appraisal for the State Board study if market conditions are not accounted for.

By adjusting each sales price based on a market condition trend, the Department of Revenue can more accurately measure a county's assessment level because the two values used to calculate the final ratio are representative of the same point in time. When all sale prices are adjusted to the same point in time, the median ratio better reflects the overall assessment level of that jurisdiction.

To adjust a sale forward for its market condition trend, we use the following formula:

$$\text{Adjusted Sales Price} = \text{Net Sale Price} * [(1 + \textit{Monthly Growth Rate})^{\textit{Adjustment Months}}]$$

General procedures used to calculate time adjustments:

- The sales are stratified by property type – residential/seasonal recreational, apartment, commercial, industrial, and agricultural (agricultural, rural vacant, mixed, managed forest).
- Residential / Seasonal Recreational may be stratified by whether they are on or off water.
- A regression is performed on the median sales ratios over time. In order for a time adjustment to be applied, it must be statistically significant at the 90% confidence level and have at least 30 sales. If the time adjustment is not statistically significant or there are fewer than 30 sales, no time adjustment is applied.
- All sales in a property type are assigned a base region, or area for which a trend is calculated. If no trend is applied at the base region, sales may revert to a trend of a larger default region.
- Apartment, Commercial, and Industrial trends are calculated at the base county region with no default.*

- Residential / Seasonal Recreational trends are calculated at the base city/township, or multi city/township region, and default to countywide.
- Agricultural sales are trended to base county, and default multi-county regions.

*Metro counties and first-class cities have different trend regions from other counties. Region definitions are flexible and may change to suit the needs of each county's markets. See the Sales Ratio Criteria for the current region definitions.

The regression analysis and other statistical measures are very complex. The important thing for the assessor to remember is that the time adjusted sale price (and corresponding ratio) is supplied to the county on the final sales listing reports. These numbers should be used in conducting any analysis. The adjustment factor is also provided if counties wish to use it internally.

Equalized Values

The State Board of Equalization has the responsibility to determine inequalities in the assessment. Sales Ratios are used to equalize assessed values throughout the state by dividing the assessed values (whether market values or net tax capacities) by the sales ratio. Dividing by the ratio essentially identifies the value at the 100% level for a better comparison of relative values where assessments were equally determined.

For example:

City	Assessed Value	Median Sales Ratio	Equalized Value
A	$5,000,000	99.9%	$5,005,005
B	$3,500,000	65.0%	$5,384,615
C	$4,000,000	81.7%	$4,895,961

In this example, City B looks to be the property poor city, but if the value in these cities were perfectly assessed, they are actually the property rich city. State aid, for instance, should not reward poor assessment performance by giving more aid to the lowest performing assessor's city. The equalization of values controls for varying assessment levels to make sure state aid is fairly distributed. Statue requires the use of equalized values for the calculations of certain state aids.

Sales Chasing

The Minnesota Department of Revenue defines sales chasing as "The practice of making any subjective change in value to a recently sold property, while not also reviewing and applying the same criteria to properties that have not sold."

Sales chasing (or "spearing") is the practice of using the sale of a property to trigger a change in its appraised value to (or near) its selling price. In contrast, the appraised value of unsold

property is not changed. The practice of sales chasing may cause invalid findings in ratio studies. If sales are being chased, the sample will show appraised values at or near market value. Since the sample is made up of a subgroup of all properties and this subgroup is treated differently than the universe of properties, this sample may not reflect the true nature of the universe of properties. The reality may be that the majority of appraised values–unsold properties–may be below or above market value. In a rising housing market, sales chasing may cause a study to arrive at an inaccurately low market value. Conversely, in a falling market, sales chasing may cause a study to arrive at an inaccurately high market value.

By default, sales chasing results in recently-sold properties being more accurately appraised than unsold ones; and leads to issues with assessment equity and causes problems when applying mass appraisal techniques.

Sales chasing is harmful to equal and fair assessment practices. Taxpayers, local taxing jurisdictions, and elected officials all rely on sound, fair, and equal treatment of properties for property tax assessment purposes.

Since the twelve-month sales ratio study includes sales of properties that take place prior to the assessment date those sales are compared to (i.e. an October sale is compared to the assessed value of the next January 2), assessors must be certain they do not chase or spear sales. Spearing could cause ratios to be better than the assessor's actual performance for the majority of properties that did not sell. As previously mentioned, the Tax Court uses a nine-month study in response to this possibility.

The department's definition of sales chasing *does* allow assessors to make non-subjective changes to sold property (e.g., missing square footage, bathroom count, etc.) to properties which have recently sold. Some characteristics can be updated from listings, but major changes such as finished basements or new decks should be verified with on-site inspections. The listing price of a property **should not** be a consideration in value determinations. The department's definition also allows assessors to make changes to properties that have recently sold that do not affect value, e.g. roof or floor coverings, type of siding, type of heating system, etc. Subjective and non-subjective changes can also be made provided assessments of similar (unsold) properties are also reviewed and the same criteria are applied.

The department's definition prohibits subjective value changes when the same criteria are not applied to other properties. Because Minnesota's property tax laws are based on mass appraisal techniques, adjustments can be made for the market, but not for the single property.

If changes are made to a property (or group of properties) after a sale, assessors should document the change that was made, and specify why exactly the change was made.

The department conducts tests and analysis to identify sales chasing, and it will take appropriate measures when sales chasing or spearing is identified or suspected.

Examples of possible acceptable changes:

1. A sale produced a low ratio. The basement was suspected to be finished, but was not accounted for on the property's field card. Even though the assessor was unable to gain access to the home's interior, an exterior inspection indicated possible basement finish. Secondary data sources, such as the multiple listing service (MLS), indicated that the basement was finished by providing detailed interior photographs and finished square footage. The basement finish was added to the field card.

   The department allows property characteristics to be updated from MLS listings, but any major changes do need to be verified with an onsite inspection.

2. A sale produced a low ratio and an onsite inspection of the property was made by the assessor. After a review of the neighborhood and the subject property field card, it was noted that the quality rating was different (lower) than other like properties within that neighborhood. The quality rating was increased, and as a result, the subject property is now similarly assessed to like properties within the neighborhood.

   The department allows assessors to make subjective and non-subjective value changes to recently-sold properties, **as long as the assessments of similar properties are also reviewed** and the same criteria applied.

3. A sale produced a high ratio and it was discovered through verification that the square footage was incorrect. After an onsite inspection and measurement of the subject property, the square footage was found to be smaller than what was stated on the field card. The square footage was subsequently changed, and the value was adjusted on the property's field card.

   The department allows assessors to make non-subjective changes to value (including correcting square footage) to properties that have recently sold.

Examples of unacceptable changes:

1. All data on a field card was found to be accurate even though the ratio was outside of the acceptable range. A change was made (quality rating, effective age, etc.) in order to get the subject property sale into the acceptable range.

   The department of revenue defines sales chasing as the practice of making any subjective change in value to recently sold property, while not also reviewing and applying the same criteria to properties that have not sold.

This is an example of sales chasing.

2. A sale produced a low ratio and an onsite inspection of the property was made by the assessor. After a review of the neighborhood and subject property field card, it was noted that the quality rating was consistent and similar to like properties within that neighborhood. The quality rating was increased, and as a result, the subject property is now different than like properties within that neighborhood.

   The department prohibits assessors from making any subjective value changes to properties that have recently sold when the same criteria is not also applied to similar properties.

   This is an example of sales chasing.

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Assessment Review – Appeals and Equalization

Basic Overview

Property Tax Appeals and Equalization are two distinct processes which share the goal of fair and equitable assessments.

Appeals Process: narrowly refers to individual taxpayers taking issue with their individual valuations or classifications.

- **Local Boards of Appeal and Equalization** are predominantly focused on hearing individual appeals and are not authorized to make orders concerning entire classes of property.

- **County Boards of Appeal and Equalization** have a dual role: review and equalize values across local jurisdictions and also hear individual taxpayer appeals.

Equalization: refers to a more broadly construed concept which looks at the assessment from a broad spectrum of how the assessors' market values are keeping pace with local sale prices or how much consistency there is across jurisdictions, independent of a particular parcel.

- **County Boards of Appeal and Equalization** have a dual role: review and equalize values across local jurisdictions and also hear individual taxpayer appeals.
- The **State Board of Equalization** concerns itself mostly with the review and equalization process while very rarely dealing with individual appeals.

Why is the appeals process important?

- The integrity of an *ad valorem* (value-based) property tax system rests upon an equitable and reliable process for establishing market values.
- The property tax is unique in the fact that it has provisions for local review to help ensure its integrity.

What is the process for appeals and equalization?

- The **first step** in this process is **notifying taxpayers of their valuations and classifications** as determined by the assessor.

- Next, taxpayers are able to review their assessments and engage in the **appeals process** if necessary, which may include:
  - informally appealing either the market value or classification by contacting the assessor,
  - attending a more organized review at an open book meeting,
  - formal appeals to the local, county and/or special boards of appeal and equalization, or
  - appealing to Minnesota Tax Court.

- In addition to hearing individual taxpayer appeals, each **County Board of Appeal and Equalization** reviews and examines assessments in general and can make changes to the assessment on a broader scope if necessary.

- The **State Board of Equalization** also performs an important review and equalization function and issues orders to ensure equity within and across counties.

What else is important to know about the appeals process?

- The assessment review and appeal process can become adversarial in nature.

- While assessors do not directly affect the amount of property tax an individual property pays, taxpayers often view the assessor as the face of the property tax system and may be critical of their work.

- When a property's value or classification is appealed, or when the assessment level of a jurisdiction is being reviewed, everyone involved must remain professional.
    - People are entitled to have differences of opinion, and much of what is done throughout the assessment process is based on an opinion.
    - The very definition of an appraisal is "an opinion of value…"
    - That opinion is based on market evidence, professional judgment, experience, and expertise, but in the end, it is still an "opinion."
    - The assessment review and appeal process is designed to allow for adequate consideration of different opinions with the goals of fairness, consistency, and equalized assessments so that every property paying taxes pays its fair amount.

- The assessor has a responsibility to maintain a professional image throughout the assessment review and appeal process.
    - This requires effective communication skills as well as positive and proactive public relations strategies.
    - Assessors should be able to clearly explain the assessment process and issues at hand in an understandable and concise manner to taxpayers.

Equalization: Sales Ratios and other Measures

- **Sales ratios** are key tools in the review and equalization of market values.

- The Department of Revenue conducts several sales ratio studies each year to assist in assessment review and equalization as well as to aid the Tax Court. The Department produces three formal sales ratio studies:
    - a 12-month study for the State Board of Equalization for equalization purposes
    - a 9-month and a 12-month study used by the Tax Court
    - a 21-month study used to produce equalized values for aid calculation purposes

- Many county and local assessors also perform their own in-house sales ratio analyses to judge their own assessments.

- Sales ratio studies are used by assessors to determine their valuation levels, by the Tax Court in adjudicating appeals, by the State Board of Equalization in measuring assessment levels and uniformity, and by various aid formulas which utilize measures of equalized values.

- Module 7 includes much more detailed information on Sales Ratios.

- **Measures of assessment uniformity** measure the overall quality of the assessment.
    - Such statistical measures include the range of sales ratios, the median assessment level, coefficients of dispersion, price related differentials, and price related bias.
    - Measures of uniformity falling outside of Department of Revenue guidelines within a jurisdiction may indicate a potential for some sort of assessment review or correction.

Notice of Valuation and Classification

- The process of assessment review and appeals begins with the annual **Notice of Valuation and Classification**.

- Each year, the County Assessor is responsible for notifying all property owners of the market value and classification of their properties.

- The notice must be mailed at least ten calendar days before the meeting of the Local Board of Appeal and Equalization or open book meeting. If this requirement is not met the county must mail an additional valuation notice and convene a supplemental Local Board of Appeal and Equalization meeting or local review session. This supplemental meeting or session cannot be held earlier than ten calendar days after mailing the additional notice.

- Upon written request by property owners, the assessor may send notice electronically. Local boards meet between April 1 and May 31 each year.

- By law, the notice of valuation and classification must include the following information:
    1. The assessor's **estimated market value** for the current and prior assessment years;
    2. The market value subject to taxation after subtracting the amount of any qualifying improvements for the current assessment year (this is referred to as the "**Taxable Market Value**");
    3. The **classification** of the property for the current and prior assessment years;
    4. The assessor's **office address, phone number, and email address**;
    5. The dates, places, and times for meetings of the local and county boards of appeal and equalization and/or open book meetings;
    6. A specific and prominently listed note if the classification of the property has changed between the current and prior assessments;
    7. Where property information is available, the times when the information may be viewed by the public, and the county's Web site address.

- The Commissioner of Revenue is charged with specifying the form of the notice. In recent years, the Department of Revenue has requested the following additional information be included with the value notice so that it may be more readily understandable to taxpayers:
    1. The property's location and parcel identification
    2. The taxpayer's mailing address
    3. Reductions from the estimated market value that result in lowering the taxable market value, including Green Acres, Rural Preserve, plat deferment, JOBZ exempted values, Homestead Exclusion for Veterans with a Disability, Homestead Market Value Exclusion, etc.
    4. Specific and detailed information regarding the appeal options, especially if appointments are requested for the County Board of Appeal and Equalization.
    5. Definitions of some of the terms included on the notice.

- Valuation notices should ideally be sent separately from tax statements so that they receive independent attention from taxpayers. However, the notices may be mailed in the same envelope with tax statements as a cost saving measure, provided that they are not combined on a single document.
- Assessors should have a review process in place to assure the content and format of the notice is accurate before it is mailed to taxpayers.

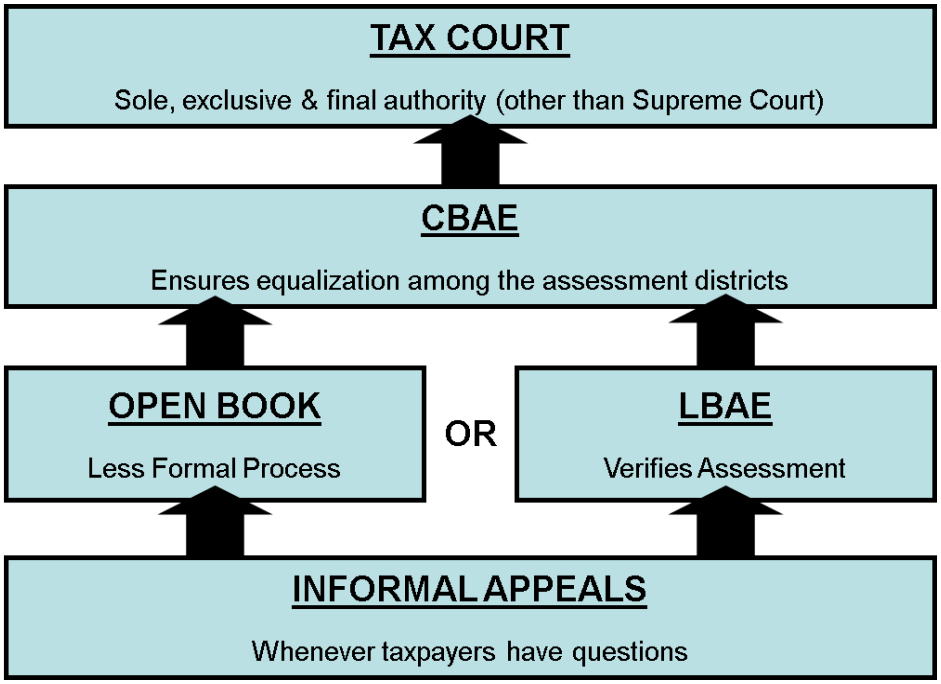
Note: It is our opinion that any **state-assessed structure and machinery values** for operating property should be zeroed out at the beginning of each assessment. This is to avoid confusing taxpayers for this type of property as deadlines for notification and appeals differ for these properties than locally assessed properties. If you have any questions regarding this, please direct them to sa.property@state.mn.us.

Primary Statutory Reference: 273.121

The Assessment Appeal Process

If a property owner disagrees with the assessed value or classification of their property, they have the right to appeal. For general appeal information see Appealing Property Value and Classification page. More detailed information regarding the assessment appeals process is covered in this module.

The following graph shows the progressive steps in the appeal process:



Informal Appeals

- Property owners should be encouraged to contact the assessor's office whenever they have questions or concerns about their market value, classification, or the assessment process. Almost all questions can be answered during this informal type of appeal process.

- When taxpayers call to question the market value, every effort should be made by appraisers to make appointments to inspect properties that have not been recently inspected to ensure that property records are correct.

- If all data on the property is considered to be correct by the appraiser, the appraiser should be able to show the property owner other sales that have taken place within the market that support the appraiser's estimated market value.

- If errors are found during the inspection, or other factors indicate a value reduction is warranted, the appraiser can make these changes at this time or recommend them to an appeals board.
  Note: If the reduction is determined within ten calendar days of a formal board convening, the assessor may not make the change themselves. They must recommend the change to the board, so they may act on the change.

- If the property owner is not satisfied after talking with the assessor, they can explore formal appeal options including:
  - open book meetings,
  - local and county boards of appeal and equalization, and/or
  - Minnesota Tax Court.

- The property owner is not required to take part in an informal appeal, but it is often more efficient for everyone involved to begin the appeal process with this step.

Open Book Meetings

As an alternative to the Local Board of Appeal and Equalization, a jurisdiction may turn their meeting over to the county to hold an open book meeting. This version of appeal is an organized approach to address individual appeals in a less formal manner than the Local Board of Appeal and Equalization.

The assessor sets aside a time and place to meet with property owners individually to discuss their specific concerns about their properties. These meetings must take place during April and May.

If the taxpayer and assessor continue to disagree after the open book meeting, the taxpayer may choose to proceed to the County Board of Appeal and Equalization (CBAE) meeting. As with all appeals, the taxpayer may choose to pursue an appeal to Tax Court at any point.

What are the benefits of open book meetings?

- Taxpayers often find them less intimidating than presenting their appeal to the Local Board of Appeal and Equalization.

- They often appreciate the fact that they can have their questions answered in a more private setting and not have to be apprehensive about making a presentation in front of their friends and neighbors.

- In a one-on-one setting, property owners may spend as much time with the appraiser as they need. They can compare the value of their home with the values of similar homes and review similar homes that have sold.

- The process is efficient because concerns and questions are often resolved immediately. Property owners can see that the appraiser applies the same criteria to all properties,

reassuring them that the process is the same for everyone, and they have not been singled out for a value increase.

Open Book Meeting Procedures

While Local Board of Appeal meetings have many requirements outlined in statute, open book meetings do not. Minnesota Statutes 274.13, subd. 1(c) describes open book meetings as an "alternative" to meetings of the local board, indicating that it is a different process with different procedures.

Open Book Meeting Dates

- Minnesota Statutes 274.014 subd. 3 states that any alternate review process to the LBAE must take place in April and May. Therefore, **all open book meetings must be scheduled in April and May.**
    - Before a scheduled open book meeting, assessors may make changes based on informal appeals in the same way they can more than 10 days before LBAE meetings.

- Counties may elect to hold open book meetings for a specific time and date (similar to a LBAE meeting), or over a span of time up to the entirety of April and May.

- Assessors may establish an end date for open book meetings before the end of May. If so, the end date must be clearly published on the valuation notice.

- Some counties hold countywide open book meetings at one or more locations over a set time period, often during both daytime and evening hours.
    - The dates, times, and locations of all meetings appear on the valuation notices.
    - Taxpayers can attend any of the locations at any time during scheduled hours and meet with an appraiser to discuss their valuations and/or classifications.
    - Property records and value information is brought to any offsite meetings or accessed via laptop computers.

- Other counties hold open book meetings for specific jurisdictions.
    - Taxpayers in these jurisdictions are notified of the date and time of the meeting on their valuation notices.
    - These meetings may take place at a public facility in that jurisdiction or at the county offices.
    - All the property information is brought to the meeting or accessed via laptop computers if the meeting is held offsite.

- If the taxpayer and assessor continue to disagree on the market value or classification after meeting at the open book meeting, the taxpayer may appeal at the County Board of Appeal and Equalization or the Minnesota Tax Court.

- After open book meetings have concluded, a property owner who wishes to appeal must do so at the County Board of Appeal and Equalization or the Minnesota Tax Court.

What is the assessor's role at the open book meeting?

- The assessor must handle every appeal presented at the open book meeting.

- County assessor offices may choose to show each taxpayer a short presentation about the assessment and property tax process, how the assessor arrives at the estimated market value and how values have changed in the jurisdiction over the past year.

- The office should have **documentation procedures** in place so taxpayer appeals can be recorded and addressed uniformly.
    - In cases where changes are made, the assessor will need to document these changes, their rationale, and make sure the changes are reflected for that assessment.
    - The office should also have procedures in place for notifying taxpayers of any changes that result from the open book meeting. This notification is important because any changes to the assessment made during the open book process may be further appealed by the taxpayer to the county boards, or to Tax Court.

- If a taxpayer comes to the open book meeting to discuss issues and the **property has not been recently inspected** by someone in the assessor's office, an appointment to view the property (both interior and exterior) should be scheduled.

- The ultimate role for the assessor at the open book meeting is to be sure all questions are addressed, and that clear information is shared with property owners. The open book meeting can be used as an avenue to improve public relations.

Local Board of Appeal and Equalization

What is the purpose and function of the local board of appeal and equalization?

- The purpose of the Local Board of Appeal and Equalization (LBAE) is to provide a fair and objective forum for property owners to appeal their valuations and/or classifications.
- The local board often serves as the first formal step to the appeals process.
- Effective actions taken by the local board may potentially make a direct contribution to attaining assessment equality.
- The local board must address property owners' issues efficiently, fairly, and objectively. They can only make changes that are substantiated by facts and that meet statutory guidelines.
- Any changes must be justified because they have the effect of shifting the tax burden to other properties in the jurisdiction.

Primary Statutory References: 274.01; 274.014; 274.03

Can an assessor make a change before the LBAE meets?

- Assessors should not make changes to property within the **ten-day** "window" between notices of valuation and classification being sent and the date of Local Board of Appeal and Equalization meeting.
    - **Note:** these are calendar days and includes the tenth day. Meaning if the LBAE is scheduled for April 11, the assessor may not make any changes from April 1 onwards.
- If an assessor feels that a change to valuation or classification needs to be made between the time that notices are sent out and the board convenes, the assessor must notify the property owner at least **ten calendar days** before bringing the issue before the board, thereby to give the property owner a chance to appear before the board as well.

Primary Statutory References: 274.01; 274.014; 274.03

Who makes up the LBAE?

- Ordinarily, the LBAE is made up of the city council or township board; but it can also be a specially appointed board if a city charter provides for one.
- In standard plan statutory cities, the clerk may be an elected position and a voting member of the board.
- In cities with an elected treasurer, the treasurer is not a voting member of the board.

- Some jurisdictions choose to transfer their local board duties to the County Board of Appeal and Equalization and hold open book meetings in lieu of LBAE meetings.

Primary Statutory References: 274.01

Who decides when the meeting is held?

- The county **assessor** sets a day and time for each LBAE meeting and each jurisdiction must be notified in writing on or before February 15 of each year.

- The **clerk** is responsible for giving published and posted notice of the meeting **at least ten calendar days before** the meeting.
  - The publishing typically occurs in the local newspaper of the jurisdiction and posting typically occurs in the city or town hall.
  - An example of such notice is included at the end of this section.

- Meetings must be held **between April 1 and May 31** of each year.

Primary Statutory References: 274.01; 274.014; 274.03

What are the basics of the LBAE meeting?

- The LBAE meets at a **centralized location** within the county where the jurisdiction is located, **or at the office of the clerk** to review the valuations and classifications of properties within the jurisdiction.

- The LBAE must hear all appeals regardless of when those appeals were presented to the board. There are **no deadlines to make an appeal as long as the board is convened**. The board should make a decision on those appeals. The decision may be that an informed decision cannot be reasonably made, and they may choose to vote for no change to the property's valuation or classification allowing the taxpayer to continue to the County Board of Appeal and Equalization. The assessor should act on the board's request for information and should respond reasonably to all appeals initiated at any time prior to the LBAE's adjournment.

- The LBAE may not make an individual market value adjustment or classification change that would benefit the property if the owner or other person having control over the property has **refused the assessor access** to inspect the property and the interior of any buildings or structures. The inspection must be **explicitly requested by the assessor and denied by the property owner**. While it is important for assessors to have accurate property information to provide support to the LBAE, if access is not requested by the assessor, then there is no access denial and the board may consider a valuation or classification change that benefits the property owner. When determining if a property owner has denied access for the current appeal season, that denial would be any time after the last board meeting, until the current board adjourns. In the case where a

property owner has refused access at any time after the last appeal season, but subsequently allows the assessor to inspect the property, the board may act on the appeal.

- An assessor must be present to answer any questions and present evidence supporting their values and/or classifications.
    - **Note:** it is important that the assessor does not direct how the board should rule on each appeal. The assessor should limit their feedback to giving explanations as to why the property was assessed the way it was and other relevant technical information.

- To appeal to the County Board of Appeal and Equalization, a property owner must first appeal to the Local Board of Appeal and Equalization, if one is held.
    - For the LBAE meeting to be valid, a quorum of voting members must be present. In addition to a quorum, there must also be at least one trained voting member present at the meeting.
    - If a local board holds a LBAE meeting but fails to meet the training and/or quorum requirement, the assessor should immediately take over the meeting as an open book meeting, and the local board will lose its LBAE meeting as detailed below.

What will happen if a local board has a quorum for an initial meeting, but does not have a quorum for a reconvene?

- It is illegal for the board to conduct a meeting without a quorum.

- If the board does not have a quorum present at a reconvene, the assessor should take over the meeting and **change it to an open book** format. For failing to be in compliance with the quorum requirement, the board would **lose its LBAE** duties as described below.

- The board's decision on any appeals completed and voted upon in the **initial meeting** will stand.
    - However, any unfinished business would have to be addressed by the assessor in the open book meeting.
    - If the property owner and the assessor cannot agree, the property owner can appeal to the County Board of Appeal and Equalization and/or Tax Court.

- The LBAE may recess from day to day until they finish hearing the cases presented but must adjourn **within 20 calendar days**.
    - A longer period may be approved by the Commissioner of Revenue. The board must apply in writing for an extension; and the commissioner's approval is necessary to legalize any proceedings subsequent to the expiration of the 20-day period.

  - The commissioner will not extend the time for LBAEs to convene beyond May 31st.

- **No action may be taken by the board after May 31**. All taxpayer concerns heard after the initial 20-day period (unless extended by the commissioner) or any concerns brought forth after May 31 must be appealed to the County Board of Appeal and Equalization.
- These meetings are public and must adhere to open meeting laws.
- Board members may not participate in any actions of the board which result in market value adjustments or classification changes to property owned by the board member, the board member's spouse, parent, stepparent, child, stepchild, grandparent, grandchild, brother, sister, uncle, aunt, nephew, or niece, or to any property in which the board member has a financial interest. Any relation may be by blood or by marriage.
  - If such **conflict of interest** arises, the remaining board may elect to hear the appeal, if a quorum and trained member remain.
    - If a recusal would negate a quorum or leave no trained member, then no change should be made to the property. The property owner would then be able to appeal to the County Board of Appeal and Equalization.
    - In cases where the board lacks a trained member or quorum, but makes a change, the Commissioner may null and void those changes.
- Taxpayers may appeal in person, in writing, or by representative.
  - If a taxpayer fails to appeal in person, in writing, or by representative to appeal the valuation and/or classification of property, that person may not appeal to the County Board of Appeal and Equalization.
  - This does not apply if an assessment was made after the local board meeting or if the taxpayer can establish not having received the notice of market value at least five days before the meeting.

Primary Statutory References: 274.01; 274.014; 274.03

What is the assessor's role with the LBAE?

- Give notice to the clerk of the date and time of the Local Board of Appeal and Equalization meeting by no later than February 15.
- Give the board information concerning the state of the real estate market.
- Attend the meeting with assessment books and papers, but do not vote.
- Attend the meeting with maps and tables relating particularly to land values for guidance.
- Raise objections received in writing for review to the local board.
- Provide an alternative review option (open book meeting) as described above, when necessary.

- Provide the Commissioner of Revenue with a record form from the proceedings of the LBAE within ten business days of final action of the board.

Primary Statutory Reference(s): Minnesota Statutes, section 274.01; 274.014; 274.03; 274.12.

Local Board of Appeal and Equalization Training

What are the training requirements for boards of appeal and equalization?

- Minnesota law requires that **at least one voting member of each board** must have completed training provided by the Department of Revenue **within the last four years**. Though, the department recommends that all members of the board complete training.

- The training is offered online through the Department of Revenue website. A board member must complete the training by February 1 of the year in which appeals will be heard.

- Board members seeking a certificate of completion will need click the "Report Button" at the end of the video. A certificate of completion will be e-mailed to the board member.

Primary Statutory References: 274.01; 274.014; 274.03.

What else do board members need to know about the training?

- To find the training, board members can enter "BAE" in the search function on the department's website: revenue.state.mn.us. Select the "Board of Appeal and Equalization Training," from the generated search list.

- The online training is posted on the department's website so board members may take the course at their convenience.

- The training is prepared by property tax administrators from the department and is about 30 minutes in length.

- It includes an educational video reviewing the procedures and responsibilities of the board.

- Attendees must certify completion of the training. Instructions are located at the end of the course.

- To successfully complete the training and receive a completion certificate, we recommend that you use with Google Chrome or Microsoft Edge browsers. To avoid complications during training and when receiving your certificate, take the training on a desktop or laptop computer (not on a mobile device).

- For boards that were **in compliance on February 1** but lost their trained member due to elections or other limited circumstances after that date, "catch up" training may be allowed. Contact the department at proptax.bae@state.mn.us to inquire if the board is eligible for this option.

What is included in the training?

- The handbook and course developed by the department includes information related to:
  - the **role** of the board in the assessment process,
  - the **legal and policy** reasons for fair and impartial appeal and equalization hearings,
  - board **meeting procedures** that foster fair and impartial assessment reviews and other best practices recommendations,
  - **quorum requirements** for boards, and
  - explanations of **alternate methods of appeal**.

What happens if a LBAE does not have a trained member on February 1st?

- Statute requires that each LBAE that intends to hold a local board of appeal and equalization meeting for the current assessment year must have a trained voting member by February 1 of that current assessment year.
- If the LBAE does not have a trained member on February 1 of the current assessment year, the board will lose their appeal powers as described below.

Primary Statutory Reference: 274.01; 274.014

What happens if a LBAE is forced to transfer their appeals powers?

- If the local board is forced to transfer their powers to the county board for any of the reasons listed above, they will lose their appeal powers at minimum of the current appeals year and the following year.
  - Example: if a quorum is not present at the start of the LBAE meeting in April 2019, the board will lose its powers for the 2019 and 2020 appeals year.

- For the local board to be **reinstated**, it must prove compliance with the requirements and present the county assessor with a resolution by February 1 of the assessment year that they wish to hold their LBAE meeting.
  - If the board does not reinstate their powers, the board powers stay with the county until the board reinstates their powers.
  - Example: Board loses their powers in 2019 for non-compliance, they can reinstate their powers by February 1, 2021, to hold a meeting in the spring of 2021.

LBAE Roles and Duties

What are the recommendations for board members?

- It is recommended that assessors prepare board members ahead of the LBAE meeting to allow them to become familiar with local market activity for the year.
- The assessor should also provide sales information in advance of the meeting.
- Other helpful information may include sales ratio studies by type of property, valuation schedules for land types, valuation information for the district, statutory classification information and corresponding class rates, or review of value changes by property type in the district.

What are the LBAE Powers and Duties?

Generally, a local board determines whether all taxable property in the city or town has been properly placed on the **current** assessment rolls and property valued and classified by the assessor. Specifically, LBAEs have the following duties:

- Reduce the value of a property if market evidence warrants a reduction. The board may not make an individual market value adjustment that would benefit the property owner if the property owner has refused access to the assessor to inspect the property (both interior and exterior);
- Increase the value of a property if market evidence warrants an increase or if improvements are missing from the property record, provided that the taxpayer is notified of the board's intent to increase the value so that they may be allowed an opportunity to appeal;
- Correct the classification of a property;
- Add omitted properties to the assessment rolls;
- Personal property assessments are also within the board's jurisdiction. Personal property includes manufactured homes, storage sheds, or similar improvements located in a manufactured home park, structures on leased public land, and railroad operating right-of-way;
- Consider and act upon any complaints or objections by taxpayers. Complaints may be made via letter, in person, or by representative.
- No changes in valuation or classification which are intended to correct **errors in judgment** by the county assessor may be made by the county assessor after the board has adjourned.
- The county assessor may continue to correct errors that are **clerical in nature** after the board adjourns up until the tax extension date of that assessment year.

- There are also **several restrictions and limitations** placed on LBAEs. A local board:
  - Cannot consider any prior year assessments;
  - Cannot act on individual tax amounts;
  - Cannot order changes to entire classes of property (by a blanket percentage);
  - Cannot make individual reductions that would reduce the aggregate assessment of a jurisdiction to decrease by more than one percent. If the total reductions would lower the aggregate assessments made by the assessor by more than one percent, none of the adjustments made by the board are valid. (The assessor shall correct any clerical errors or double assessments discovered by the board without regard to the one percent limitation.);
  - Cannot increase a parcel's market value without duly notifying the owner of the intent and allowing the taxpayer an opportunity to appeal;
  - Cannot exempt property;
  - Cannot make changes benefitting a property owner who refuses access to the property by the assessor;
  - Cannot continue a meeting beyond 20 calendar days from the time it convenes without specific approval from the Commissioner of Revenue;
  - Individual board members cannot participate in changes to property owned by relatives or property in which the member has a financial interest;
  - Cannot grant inclusion into special programs such as Green Acres, Open Space, Homestead Exclusion for Veterans with a Disability, etc.

Primary Statutory References: 274.01; 274.014; 274.03

What are the duties of the clerk?

The town or city clerk has the following duties relating to LBAEs:

- work with the county assessor to establish meeting dates for the board
- coordinate with the board to ensure a quorum and trained member will be present
- publish and post notice of meetings at least ten calendar days prior to the date of the meeting
- have a sign-in sheet for all appellants
- take minutes as part of town or city record
- return all necessary records to the county assessor in a timely manner
- In standard plan statutory cities, the clerk may be an elected position and a voting member of the board

An example of published/posted notice for local boards of appeal and equalization is such:

Important Information Regarding Assessment and Classification of Property
This may affect your [#YEAR#] property tax payments.

Notice is hereby given that the Board of Appeal and Equalization of the [City/ Township Name] shall meet on [date], [time], at [location]. The purpose of this meeting is to determine whether taxable property in the jurisdiction has been properly valued and classified by the assessor, and also to determine whether corrections need to be made.

If you believe the value or classification of your property is incorrect, please contact your assessor's office to discuss your concerns. If you are still not satisfied with the valuation or classification after discussing it with your assessor, you may appear before the local board of appeal and equalization. The board shall review the valuation, classification, or both if necessary, and shall correct it as needed. Generally, an appearance before your local board of appeal and equalization is required by law before an appeal can be taken to your county board of appeal and equalization.

Special Board of Appeal and Equalization

What is a Special Board of Appeal and Equalization?

- The council or governing body of any city may appoint a special board of appeal and equalization to which it may delegate all of the powers and duties of a local board of appeal and equalization.
- The special board serves at the direction and discretion of the appointing body, subject to the rules and restrictions as any other LBAE.
- The appointing body determines the number of members, the compensation and expenses to be paid, and the term of office of each member.
- **At least one member of the special board must be an appraiser, Realtor, or other person familiar with property valuation in the assessment district**.
- At least one member must also have met the **training requirements** for LBAE members.

Primary Statutory References: 274.01

LBAE Documentation and Reporting Requirements

The department requires that two forms be completed for each local board.

1. The **Certification Form** must be completed and signed by all members present to ensure that the quorum and trained member requirements were met, even if no taxpayers attended the meeting.
    - The county assessor, or delegate, must certify that the trained member and quorum requirements were met or certify that they took over the meeting and changed the format to an open book meeting.
    - All board members must also certify that they made no changes to property owned by a board member, a relative or family member of a board member, or to any property in which a board member has a financial interest.
    - A Certification Form must be completed and signed for each LBAE meeting, including any reconvenes.
    - At the end of the meeting, the assessor must take possession of the Certification Form.
    - The original Certification Form shall be kept at the assessor's office so it is accessible if it needs to be reviewed by a Department of Revenue Property Tax Compliance Officer.

2. Only one **Record Form** needs to be returned to the Department of Revenue. However, it must reflect all board actions. Therefore, it must list:
    - assessments of property added to the tax rolls with the market value for each;
    - appeals brought before the board, indicating the action taken by the board (including all appeals for which the board voted "no change");
    - assessments that have been increased or decreased with the market value for each;
    - all class changes; and
    - all changes that the county assessor brought to the board for action, indicating the action taken by the board even if it was "no change."

- Minnesota law requires the county assessor to submit any changes made at LBAE meetings **(the Record Form)** to the Commissioner of Revenue **within ten business days following the final action** of the board.

What are some important requirements for the record form?

- The local board must keep accurate and detailed records of appeals on the Record Form.

- The form is an online form:
  - All required information will be identified on the form.
  - For more information on how to use the form, please visit our website.

Primary Statutory References: 274.01; 274.014

FAQ's

A local board is one member short of a quorum. One of the missing members called and is running late. Should we wait for the missing board member or should the meeting change to an open book meeting?

- It depends on the situation. Some criteria for consideration include:
  - Are people waiting?
  - How many people are waiting?
  - Are these people willing to wait longer or are they under time constraints?
  - What is the expected time frame before the quorum requirement is will be met?

- The assessor will have to use his/her judgment to decide if the meeting should change to an open book format.

- The department understands that many varied circumstances are certainly going to come into play.

- If a situation should arise where the board cannot start at the scheduled time, good judgment, common sense, and professional courtesy should prevail in decision making.

- The *Board of Appeal and Equalization Handbook* indicates that it is "very important that the board members and all required attendees arrive at the meeting on time and the meeting begins as scheduled. This shows respect for the people who are appealing to the board, and also shows that you value their time."

- There is no "hard line" in setting an acceptable or reasonable time to wait before an official determination of a quorum is made. The department cannot advise any specific time frame that is appropriate to wait (10 minutes, 30 minutes, etc.).

- There is not a specific number of constituents that can be kept waiting before a change in format is appropriate.

- The decision to change the format to an open book meeting is an important one, and it should only be made with due cause. Keep in mind, once the assessor has changed the format to an open book meeting for lack of having a quorum, **it cannot be changed back even if a quorum is formed later**.

An individual shows up at the local board meeting and asks, "How did you come up with my value?" He was not appealing his value. Should we list his appearance on the Record Form?

- Everyone that **appears** before the board should be listed on the Record Form. For consistency purposes, we recommend noting the person's appearance before the board and selecting no change if a change wasn't made by the board. This will allow the taxpayer to appeal to the county board if they choose to do so.

How might LBAE duties be transferred to the county?

- The board may voluntarily transfer its powers and duties to the county board and no longer perform the function of a local board.

- Before a board transfers its duties, the jurisdiction's governing body must give **public notice** of the meeting at which the proposal for transfer is to be considered.

- A transfer of duties must be **communicated to the county assessor**, in writing, before December 1 of any year to be effective for the following year's assessment.

- The transfer may either be permanent or for a specified number of years, provided that the transfer **cannot be for less than three years**.
    - The length of the transfer must be stated in writing or it will be deemed **permanent**.
    - A town or city **may renew** its option to transfer its duties to the county board after the time limit has expired.

- The option to transfer is only available to a town or city whose assessment is done by the county. This means that in order to exercise this option, the **local jurisdiction must give up its local assessor**.

- Property owners in jurisdictions that have chosen this option would be provided with an open book meeting option in lieu of a Local Board of Appeal and Equalization. Property owners who are not satisfied with the results of the open book meeting may appeal to the County Board of Appeal and Equalization and/or Tax Court.

- If a LBAE fails to meet quorum and/or training requirements, the board must transfer its duties to the county for a minimum of two assessment years. In this situation, the jurisdiction would lose the right to hold its local board of appeal, but it would be able to retain its local assessor.

- Property owners in a jurisdiction that has chosen to transfer its Local Board of Appeal and Equalization duties to the county would be provided with an open book meeting in place of the local board. Property owners who are not satisfied with the outcome of the open book meeting may appeal to the County Board of Appeal and Equalization and/or Tax Court.

- The local board can be reinstated by resolution of the governing body of the city or town and upon proof of compliance with training requirements. The resolution and proof of compliance must be provided to the county assessor by February 1 to be effective for the same assessment year.

Primary Statutory Reference(s): Minnesota Statutes, section 274.01

County Boards of Appeal and Equalization

What is the purpose and function of the CBAE?

- The County Board of Appeal and Equalization (CBAE) is the **second** avenue in the appeals process.

- A property owner must first appeal to the Local Board of Appeal and Equalization if one is held before being eligible to appear at the county board.

When does the CBAE meet?

- The board may meet on any **ten consecutive meeting** days in June **after the second Friday in June**.

- "**Meeting days**" typically means any day of the week excluding Sunday. (The board may elect to consider Saturday as a meeting day as well.)

- At least one meeting must be held **until 7:00 pm or on a Saturday**; i.e., if the county does not hold a meeting until 7:00 pm they must instead hold a meeting on a Saturday.
    - This is to ensure that property owners have ample time to present their appeals.
    - A board may convene on the first Monday after the second Friday in June at 6:00 p.m. and adjourn at 8:00 p.m. and these requirements will have been met.
    - The board may also convene on the Saturday immediately following the second Friday.
    - In any scenario, the board may not hold meeting beyond those ten meeting days without approval from the Commissioner of Revenue.
    - If the board chooses to consider Saturday a "meeting day," it must consider a second Saturday as a meeting day if it falls within ten meeting days of the original Saturday meeting.

- All boards must adjourn **no later than June 30**. Any action taken after that date is considered invalid except corrections of clerical errors.

- The dates of the meetings must be contained in **valuation notices**.

- If a board completes its work before ten meeting days have transpired and has met the requirements to be present for a meeting not recessing/adjourning prior to 7:00 p.m. or has met on a Saturday, it is not necessary for the board to continue to meet for each of the ten meeting days.

What are the meeting time requirements for counties that request appointments?

- If a county requests appointments for CBAE appeals, the county must allow appointments until 7:00 p.m. to meet the requirement in Minnesota Statutes, section 274.14.
    - If the board requests appointments and allows for appointment times as late as 7:00 p.m., but those times go unfilled, the board does not need to physically meet at or until 7:00 p.m. The allowance of scheduled appeals until 7:00 p.m. is sufficient.

- However, if the CBAE does not request appointments, the board may not adjourn prior to 7:00 p.m. to meet statutory requirements.

- Additionally, if value notices sent to taxpayers show that the board will meet during a specific time frame, the assumption is that the board will be available during that time frame for walk-in appointments and therefore must meet.
    - For example, if the notices say the board will meet from 1 p.m.-7p.m., the board must be in attendance during that posted time for walk-ins.

- The department recommends that requests to schedule an appeal to a CBAE be clearly stated in Notices of Valuation and Classification, and if appointments are requested, rather than stating the specific time frame in which the board will be convened, list the time the board will begin only and be prepared to schedule appointments until 7:00 p.m. in order to comply with statute.

Who makes up the CBAE?

- The board is made up of the county commissioners (or a majority of them with the county auditor; or if the county auditor cannot be present, the deputy county auditor; or if there is no deputy, the court administrator of the county district court).

- A **quorum** (or majority) of the board must be present to take any action.

- Each member must take an oath to fairly and impartially perform duties as a board member.

What are the duties of the CBAE?

- The board's major duty is to compare the estimated market values of property in the towns or districts and equalize them so that each tract of real property and each article or class of personal property is entered on the assessment list at its market value.

- In order to equalize property values, the board may raise or lower the value of any such property.

    - The board must give notice of its intent to raise the valuation of a property to the person in whose name it is assessed.
    - Such notice must fix a time and place for the hearing.

- The board may also raise or lower the value of a class of personal property, referred to as a "blanket change."
    - Again, it must notify affected property owners of the intent to raise the value of a class of property, and the notice must contain a time and place for the hearing.

- The board **may not reduce the aggregate value** of all property in its county (as submitted to the CBAE) **by more than one percent** of its whole valuation.
    - A reduction in total assessed value for the county by more than one percent invalidates all actions taken by the board.
    - The board may raise values without limitation.

- The county board may also change the **classification** of any property for which it believes has an improper classification.

- The county board may not make an individual market value adjustment that would benefit the property owner if the property owner has refused access to the assessor to inspect the property (both interior and exterior)

- The board **does not have the authority to grant exemptions** or to remove property from the tax rolls.

- The board must make its decisions within statutory guidelines.

- The county board must also refrain from granting acceptance into property tax programs which require direct application to the assessor or the Department of Revenue (e.g. class 1b blind/disabled homestead, Green Acres, 2c Managed Forest Land class, etc.).

- Members cannot participate in any actions of the board which result in market value adjustments or classification changes to property owned by a board member, the board member's spouse, parent, stepparent, child, stepchild, grandparent, grandchild, brother, sister, uncle, aunt, nephew, or niece, or any property in which a board member has a financial interest. The relation may be by blood or by marriage. If such a property owner chooses to appeal before the board, remaining members may hear the appeal if the non-interested board members represent a quorum and contain a trained member.

- The county board is not responsible for making original assessments. Rather, its duties are restricted to reviewing and equalizing assessments already made.

- The State Board of Equalization may, in its review, overturn local and county board decisions which appear contrary to Minnesota Laws.

Primary Statutory Reference(s): Minnesota Statutes, section 274.13; 274.14; 274.01

CBAE Quorum and Trained Member Requirements

- There must be at least one member of the County Board of Appeal and Equalization who has completed an appeals and equalization course developed or approved by the Commissioner of Revenue **within the last four board years**.

- This is **the same training as the LBAE training described previously.**

- Counties must meet this training requirement by **February 1** of each year to be in compliance for the following assessment year.

- Verification of a quorum of voting members at each meeting of the board of appeal and equalization is required on the CBAE Certification Form submitted to the commissioner following the hearing.

- A county that does not comply with these requirements will be deemed to have **transferred its board's powers to a special board of appeal and equalization for a minimum of two assessment years**. In such case, the county must notify taxpayers that a transfer to a special board of appeal and equalization has taken place.

- A county board which **fails to meet the training and quorum requirements**, for which its duties have been transferred to a special board, may be reinstated by resolution of the county board and upon proof of compliance to the Commissioner of Revenue. The resolution and proofs must be provided by February 1 to be eligible for the assessment year following the two year transfer to the special board of appeal and equalization.

- A **quorum and trained member** must be present at all meetings of the County Board of Appeal and Equalization. If the board recesses and/or reconvenes without a quorum or trained member, all actions that take place at that time are not legally valid and will be nullified.

- If a board attempts to convene but cannot because it does not have a quorum or trained member present, the taxpayers will be allowed to appeal to the Commissioner of Revenue so they are not disenfranchised. Pursuant to law, a fee of $500 per tax parcel will be assessed to the county for these appeals.

Primary Statutory Reference(s): Minnesota Statutes, section 274.135

CBAE Documentation and Reporting

- Two forms must be completed for County Board of Appeal and Equalization meetings. These are:

  1. **County Board of Appeal and Equalization Certification Form:** This must be completed and signed to verify that the quorum requirement was met and to provide a summary of board actions. A Certification Form must also be completed and signed for reconvene meetings as well as initial meetings if more than one meeting is held. The form also requires board members to verify that they have not made changes to properties owned by relatives or properties in which a board member has a financial interest, pursuant to Minnesota Statutes, section 274.01, subdivision 1, paragraph (b).

  2. **County Board of Appeal and Equalization Record Form:** This must be completed to provide a detailed report of the proceedings of the board. Changes made by the board at the initial meetings and any reconvene meeting(s) may be documented on the same form.

- Each year, the department will release instructions for completing and submitting all required county board forms.

- At **each meeting**, the county board must **sign a certification form** and maintain a record form.
  - All voting members must sign and date the certification form for each meeting (original and/or reconvene) to verify that a quorum was present.
  - Any meetings that are held without a quorum or a trained member are not legally valid meetings, and all actions taken will be nullified.
  - A new certification form must be signed at each meeting of the County Board of Appeal and Equalization.

- It is imperative that the county board keep accurate and detailed records of appeals on the **record form**.

  - In the field marked "**explanation for change**" on the record form, the explanation is to be as detailed as possible.
  - An example of a **good entry** would be a property owner requesting agricultural classification on a parcel previously classified as residential. It would be appropriate to enter information such as "8-acre parcel exclusively tilled and sold" with regards to such a classification change.
  - An example of an **improper entry** would be "property owner requested change" as this does not give accurate information regarding why the change was made. Greater detailed information decreases the amount of overall time spent with these changes.

- The **record form** must reflect all board actions. Therefore, it must list:
  - assessments of property added to the tax rolls with the market value for each;
  - appeals brought before the board, indicating the action taken by the board (including all appeals for which the board voted "no change");
  - assessments that have been increased or decreased with the market value for each;
  - all class changes;
  - all changes that the county assessor brought to the board for action, indicating the action taken by the board;
  - any "blanket changes" made by the board.

- Only one record form needs to be returned to the Department of Revenue. The record forms from each meeting may thus be compiled into one document before being submitted for Department of Revenue review.

- All documentation (certification forms, record forms) shall be submitted to the Department of Revenue **within 5 days of adjournment**.
  - County assessors should provide these forms to the county board, and work with the county board to ensure that the forms are properly completed.
  - A printed version of the Certification Form is required because the county board must sign the form.
  - During the meeting, assessors may choose to complete a handwritten version of the Record or assessors may input the changes directly into the electronic form.
  - Assessors should take possession of the completed forms at the end of the meeting

What is the role of the auditor at the CBAE?

- The auditor is a **voting member** of the County Board of Appeal and Equalization, per Minnesota Statutes, section 274.13.
- The auditor may be the trained member if they have taken an appeals and equalization course developed or approved by the Department of Revenue.
- In the case of a **special board of appeal and equalization**, the auditor is not a voting member, but is required to attend the meetings as a recorder of the board's actions.
- If the auditor cannot be present at either format board meeting, the deputy auditor shall take his/her place. If there is no deputy, the court administrator of the district court shall take the place of the auditor.

What are the county assessor's duties at the CBAE?

- Attend the meetings of the County Board of Appeal and Equalization.
- Provide copies of certification and record forms for the board to complete.
- Assist the board in every way possible, including making available to the board tables and charts relating to values in various districts of the county.
- Prepare a map showing a comparison of the average market values per acre (both with and without improvements) of all land in townships and also the bordering tier of townships of each adjoining county.
- Collect completed certification and record forms from the County Board of Appeal and Equalization to provide to the Department of Revenue.
- Maintain a record of sales of real property within the county.
- Enter all changes made by the board to the assessment books.
- Submit the CBAE record form to the Commissioner of Revenue within five days of the board's final adjournment.

Primary Statutory Reference(s): Minnesota Statues, section 274.13; M.S. 274.12; M.S. 274.16; M.S. 274.175, M.S. 290C.89

*****Find more information on the assessor's duties during the appeal season in the County Assessor's Office-Roles and Responsibilities during the Appeal Season section found later in this module.*****

Special Board of Appeal and Equalization

- The CBAE may appoint a special board of appeal and equalization and may delegate to it the powers and duties of the board.
- The special board shall serve at the direction and discretion of the appointing county board and is subject to the same rules and limitations provided by statute and described above.
- The special board of appeal and equalization must also meet **training and quorum** requirements.
- The appointing board may determine the number of members of the special board, compensation, and expenses to be paid, and the term of office.
- **At least one member of the board must be an appraiser, Realtor, or other person familiar with property values within the county**.
- The **county auditor** is a nonvoting member and serves as recorder for the special board.
- If a county appoints a special board of appeal and equalization, the special board must both hear appeals and vote on them.
- The same board which hears appeals is the board which is to take action.
- The county board may not elect to have a special board hear appeals while remaining the board which decides upon such appeals.

Primary Statutory Reference(s): Minnesota Statutes, section 274.13

State Board of Equalization

State Board of Equalization Duties

- The State Board of Equalization is a board of the Department of Revenue, under the direction of the Commissioner of Revenue.

- The board meets **annually between April 15 and June 30** with the Department of Revenue to examine and compare assessments between counties and equalizes assessments so that all taxable property in Minnesota is assessed at its market value.

- The board must adhere to the **following rules**:
    1. The board may adjust the aggregate valuation of an entire class of property within a county that has been overvalued or undervalued.
    2. The board must equalize values for all classes of property between counties, towns, or districts.
    3. The board may raise the value of a class of property in any county, city, or town believed to be undervalued by a percentage which would bring it to fair market value.
    4. The board may lower the value of any class of property in a county, city, or town believed to be overvalued by a percentage which would bring it to fair market value.
    5. The board may not reduce the aggregate valuation of all the property of the state by more than one percent of the whole valuation.
    6. The board may request information from county auditors and/or assessors to assure equalization of assessments.
    7. The board must notify individuals, firms or corporations of intent to raise value if their property appears to be undervalued.
    8. The board may not reduce an assessment below the value placed by the County Board of Appeal and Equalization.
    9. The board uses sales data between October 1 of the year before last and September 30 of the previous year. For example, if the board convenes in May 2024, they would use sales from October 1st 2022 through September 30th 2023.
    10. The board may issue supplemental orders to local or county boards within 60 days of final action of the board.

Primary Statutory Reference(s): Minnesota Statutes, section 270.11; 270.12; 270C.91

How does the State Board handle apportionment of levies?

- The board may order the apportionment of the levy if:
  a) a taxing jurisdiction overlaps two or more counties and;
  b) the sales ratio studies show that the average levels of assessment in the taxing jurisdictions in the different counties differ by more than five percent.

- If the sales ratio studies prepared by the Department of Revenue show that the average levels of assessment the taxing jurisdictions in the different counties differ by more than ten percent, the board shall order the apportionment of the levy unless:
  a) the proportion of the total adjusted assessed value in one of the counties is less than ten percent of the total adjusted assessed value in the taxing jurisdiction, and the average level of assessment in that portion of the taxing jurisdiction differs by more than five percent from the assessment level in any one of the other portions of the taxing jurisdiction;
  b) significant changes have been made in the level of assessment in the taxing jurisdiction which have not been reflected in the sales ratio study, and those changes alter the assessment levels in the portions of the taxing jurisdiction so that the assessment level now differs by five percent or less; or
  c) commercial, industrial, mineral, or public utility property predominates in one county within the taxing jurisdiction and other class of property predominates in another county within the same taxing jurisdiction. If one or more of these factors are present, the board may order the apportionment of levy.

- The levy for the metropolitan mosquito control district, metropolitan council, metropolitan transit district, and metropolitan transit area must be apportioned without regard to the percentage difference.

- If the board apportions the levy, then that levy apportionment among the portions in the different counties should be the same proportion as the ratio of the adjusted assessed value in each portion and the total adjusted assessed value of the taxing jurisdiction.

- The aggregate assessment sales ratio is the average level of assessment in a taxing jurisdiction or a portion of the taxing district. Assessed values as determined by the Commissioner shall be the values as determined for the year preceding the year of which the levy is to be apportioned.

- Actions shall be commenced subsequent to the annual meeting on April 15 of the State Board of Equalization, but notice of the action must be given to the affected jurisdiction and the appropriate county auditors by the following June 30.

- Apportionment of a levy shall be considered as a remedy to be taken after equalization, and when equalization within the jurisdiction would disturb equalization within other jurisdictions of which the several portions of the jurisdictions in question are a part.

Primary Statutory Reference(s): Primary Statutory Reference(s): Minnesota Statutes, section 270.11; 270.12; 270C.91

What are the recording requirements for the State Board of Equalization?

- A record of all proceedings of the Commissioner of Revenue that affects any change in the net tax capacity of any property, as revised by the State Board of Equalization, must be kept by the Commissioner of Revenue.

- A certified copy must be mailed each year to the auditor of each county where the property is situated. The copy must be mailed on or before June 30 or 30 days after PRISM submission 1 required by M.S. 270C.89, whichever is later.
    - This record must specify:
        - the amounts added to or deducted from the net tax capacity of the real property of towns and cities, and of the real property not in towns or cities,
        - the percent or amount of both categories listed above that were added to or deducted from the several classes of personal property in each of the towns and cities, and
        - the amount added to or deducted from the assessments of individuals, co-partnerships, associations, or corporations.

- The **county auditor** must make the following changes:
    - changes to any real property in the county (the required percent or amount, or both), on the net tax capacity as it stood after equalized by the county board, rounded to the nearest dollar;
    - changes to any personal property in the county (the required percent or amount, or both), on the net tax capacity as it stood after equalized by the county board, rounded to the nearest dollar;
    - add to or deduct from the assessments of individuals, co-partnerships, associations, or corporations, as they stood after equalization by the county board, the required amounts to agree with the assessments as returned by the Commissioner of Revenue.

Primary Statutory Reference(s): Minnesota Statutes, section 270.11; 270.12; 270C.91

What are the assessor's duties with the State Board of Equalization?

- Turn in all PRISM submissions as required by the Department of Revenue.
- Comply with all State Board orders and supplemental orders.

Minnesota Tax Court

- Taxpayers may appeal to Minnesota Tax Court even if they have not appealed to local and county boards of appeal and equalization.
- A taxpayer may appeal to Tax Court at any time during the assessment year, or **up to April 30** of the year in which taxes are due.
- The Tax Court is an administrative court that is part of the Executive Branch and has statewide jurisdiction.
- The principal office is in Saint Paul, but hearings may be held anywhere within the state so that taxpayers may be able to appear before it with as little inconvenience as practicable.
- The tax court is allowed to use the district court courtroom of any of the counties.
- Except for appeals to a higher court, such as the Supreme Court, the tax court is the final authority in all questions of law and fact arising from Minnesota tax laws.
- Tax court does not hear criminal cases.

Small Claims Division

- The small claims division within tax court is less formal than the regular division, and many appellants choose to represent themselves.
- Small claims hearings do not have a court reporter present and decisions are not published.
- The small claims division will only hear cases which either have first been heard by local and county boards of appeal and equalization, or if the case involves the valuation, assessment, or taxation of real or personal property where one of the following is true:
    1. The issue is a denial of a current-year application for the homestead classification for the taxpayer's property.
    2. Only one parcel is included in the petition, the entire parcel is classified as homestead class 1a or 1b, and the parcel contains no more than one unit.
    3. The entire property is classified as agricultural 2a or 1b homestead.
    4. The assessor's estimated market value is less than $300,000.

For taxpayers whose local jurisdictions have transferred its duties to the County Board of Appeal and Equalization, the taxpayers will need only to appeal at the county level before pursuing an appeal with tax court (unless one of the four circumstances above is met). A taxpayer who appeals to the small claims division may not additionally appeal to the regular division of tax court.

Regular Division

- The regular division will hear all appeals, and its decisions may be appealed to a higher court.

- Most people who appeal to the regular division choose to hire an attorney, as hearings are conducted in accordance with Minnesota rules of civil procedure.

- A taxpayer who appeals to the regular division may not additionally appeal to the small claims division.

Primary Statutory Reference(s): Minnesota Statutes, section 271.06.

Tax Court Contact Information
https://mn.gov/tax-court/

What additional information might there be for appeals of income-producing properties?

- Petitioners appealing the value of income-producing property need to furnish the assessor various documentation by **August 1 of the taxes payable year** in accordance with Minnesota Statues section 278.05, subd. 6.

- In cases where there has been an appeal of income-producing property, the following **information must be provided to the County Assessor by no later than August 1** of the taxes payable year:
    1. A year-end financial statement for the year prior to the assessment date;
    2. a year-end financial statement for the year of the assessment date;
    3. a rent roll on or near the assessment date listing the tenant's name, lease start and end dates, base rent, square footage leased, and vacant space;
    4. identification of all lease agreements not disclosed on the rent roll under item 3 above, listing the tenant's name, lease start and end dates, base rent, and square footage leased;
    5. net rentable square footage of the building(s);
    6. anticipated income and expenses in the form of a proposed budget for the year subsequent to the year of the assessment date;

- The information required to be provided to the assessor does not include leases. However, after August 1, if the assessor determines that the actual leases in effect on the assessment date are necessary to properly evaluate the property, then the assessor may require the petitioner to submit the leases. The leases must then be provided **within 60 days** of the assessor's request.

Primary Statutory Reference(s): Minnesota Statutes, section 278.05, subdivision 6

What happens with personal property appeals?
Personal property is treated differently than real property in terms of appealing to Minnesota Tax Court. The rules governing appeals of personal property assessments may be found in Minnesota Statutes, section 278.

Where can I find information related to Minnesota Supreme Court?
Minnesota Statutes, section 271.10 outlines the process for having the Minnesota Supreme Court review a final order of the Tax Court.

Abatements

Power to Abate – County Boards

What is an abatement?

The Merriam-Webster dictionary definition of "abatement" states that it is the "act or process of reducing something." According to Minnesota Statutes Section 375.192, subdivision 2, an abatement refers to the **reduction of estimated market valuation or taxes and of any costs, penalties, or interest on them.**

Abatements may be granted for virtually any reason in the current tax year because of the county board's discretionary authority to grant abatements. Abatements may be granted for up to two additional prior tax years but must be limited to the correction of clerical errors **or** for a property owner's failure to file for a reduction due to hardship.

The statutory language defining abatements **does not** allow a property's value or taxes to be increased.

Is an application required for abatements?

According to statute, all abatements must be applied for by "the owner of any property". Neither the assessor nor auditor has any authority to initiate the abatement process on their own. The first step in the abatement process must always be the submission of an application by the property owner.

Who has the power to abate market value and tax?

For an abatement to be successful, it requires approval by the **county assessor** (or the city assessor in cities of the first or second class)**, county auditor, and county board**. While the county board is the final authority on granting an abatement, the assessor, auditor or board each have the authority to deny an application. When that occurs, there is no further consideration required. The assessor and auditor must approve the application before the county board considers it.

In the case of cities of the second class, the county assessor remains responsible for investigating and making their recommendation to the county board on **all abatement applications** per Minnesota Statutes Section 273.061 subdivision 9 (7).

A county board has statutory authority to delegate their approval authority to the county auditor. In this case, the abatement application requires the approval of the assessor and

auditor only. The county board may rescind their delegation at any time. In counties where the assessor and auditor are the same individual, authority delegation may not be granted in accordance with Minnesota Statutes Section 273.061 subdivision 1a.

Abatements to provide an incentive for economic development or redevelopment may **only** be granted in the specifically defined situations for economic development abatements (discussed later in this section).

The county auditor must notify the Commissioner of Revenue of all abatements resulting from erroneous classification of real property as non-homestead property.

Abatements for **special assessments** are also at the discretion of the local taxing level, not the Commissioner of Revenue.

Primary Statutory Reference(s): Minnesota Statutes, section 375.192

Why should counties have written abatement policies?

All counties should have a written policy regarding abatements. A written abatement policy will ensure that County Boards, County Auditors, and Assessors are treating all taxpayers who apply for abatements consistently, equitably, and fairly.

An abatement policy should address how and when abatements are to be granted.

The Department of Revenue recommends the following guidelines for written abatement policies (please note, these are recommendations only; any abatement policy should be agreed upon by the Assessor, County Auditor, and County Board):

- The policy should include a definition of "hardship" (and "hardship" should be based on the individual's inability to apply for property tax relief as required in statute, not the individual's inability to pay property taxes).
- The policy should include the requirement in law that abatements over $10,000 require the county to give notice to the school board and municipality.
- Specific county policies should be outlined and defined (e.g., it is not the policy of the county to grant abatements if a survey not on record in the assessor's office adjusts acreage, lake frontage, or other land measurements).
- We do not recommend requiring a fee for filing abatements. If an individual does not pay the fee, the county must still accept and consider the request for abatement; approving the request is still at the discretion of the county, however. In limited circumstances (e.g., the taxpayer failed to file for homestead in a timely manner), the written policy could clearly state a processing fee amount for the abatement request and any applicable information.

- Counties should include a policy for abatement on current taxes as an example if a payment is lost in the mail, and the taxpayer presents positive proof such as a copy of the check register, certified check, or other means of payment. Penalties shall not be abated because of failure to receive tax statements or if any parcel was omitted when making payment.

- For homestead abatements, the required December 31 date of ownership AND occupancy will be strictly adhered to. To be considered for abatement for homestead where no homestead application has been properly signed and returned, property owners may be required to provide two forms of proof of occupancy, e.g., electric and/or other utility services to the homesteaded address for the assessment year in question.

- Abatements allow counties the opportunity to correct assessment errors in valuation or classification. Abatements should not be used as a means to reduce conflict and/or controversy.

- Property is required to be valued at its market value. The county board, upon approval by the assessor and auditor, has discretionary authority to reduce a valuation or tax in the current tax year for almost any reason but should comply with the market value definition in statute as they make their decision. The market value definition is located in Minnesota Statutes Section 272.03, subdivision 8.

- In all cases, court rulings dictate that while abatements are discretionary, **it is a statutory requirement that counties must accept and consider *all* applications for abatement.**

Does the Commissioner of Revenue have authority to abate property taxes?

- Yes. Beyond the county's authority to grant abatements under section 375.192, the Commissioner of Revenue also has the power to grant abatements under section 270C.86.

- The Commissioner may grant abatement or reduce or refund any penalty or interest if it is the commissioner's opinion that the failure to pay the tax or failure to timely file a return is due to a reasonable cause.

- This authority has rarely been used. Typically, requests for abatements are appropriately handled at the level of the local taxing jurisdiction and based on the county's authority to grant abatements for up to two prior years.

- The department has administrative policies and procedures for granting abatements in very limited circumstances under Minnesota Statute 270C.86 for abatements that exceed the time limit of those granted by counties. For instance, the Department of

Revenue will consider granting abatements in situations involving errors made by government officials or when there is no other method to rectify unjustly or erroneously applied property taxes.

- If your office believes that there is a situation that warrants the department's involvement concerning an abatement, please contact the Property Tax Division. The department has a written policy and an updated abatement form that we can provide to the county if it is determined that the abatement request is appropriate.

County Assessor's Office - Roles & Responsibilities during the Appeal Season

This section will go into further detail regarding the roles and responsibilities of the county assessor's office during the appeal season. Some of the information has already been covered in previous sections of this module, however this section will go into specific detail regarding the roles and responsibilities.

The Board of Appeal and Equalization Administration Process

February 1 of the assessment year

County assessor's office verifies that **each LBAE** has a trained **voting** member.

Shortly after February 1 the county assessor must verify that each local board of appeal and equalization has a current trained member. It's important to remember that anyone can take the online training and their names will appear on the attendance roster that is located on our website. When the county is verifying trained members, it is extremely important that the county verifies that the trained member is an **active, voting board member**.

What if there isn't a trained member on February 1?

Local Board of Appeal and Equalization	County Board of Appeal and Equalization
County assessor's office must notify the board immediately. The county assessor's office will change the board meeting to an open book meeting for a minimum of two assessment years, starting with the current assessment year.	The county assessor's office must notify the board immediately. The board must transfer its powers to the Special Board of Equalization a minimum of two assessment years, starting with the current assessment year.

Once the county has verified which boards have a trained member as of February 1, the county will need to know what to do if a local board does not have a trained voting member.

If a local board does not have a trained member, the county will need to change the meeting to an open book meeting for a minimum of two assessment years, starting with the current assessment year. The board should be contacted and notified that they will have an open book

meeting due to non-compliance. If the board wants to reinstate their powers after the second assessment year, they will need to pass a resolution and have a trained member by February 1.

County board of appeal and equalization members have the same training requirements and therefore the county assessor's office should also be verifying that the county board of appeal and equalization is meeting those requirements as of February 1.

If a county board of appeal and equalization does not have a trained member on February 1 the board must transfer its powers to the Special Board of Equalization for a minimum of two assessment years beginning with the current assessment year. A special board of appeal and equalization must also meet the training requirements of the regular board of appeal and equalization. If the county board of appeal and equalization wants to reinstate their powers after the second assessment year, they will need to pass a resolution and have a trained member by February 1.

You have verified a trained member, now what?

February

The county assessor sets the time, date, and location for each LBAE meeting.

February 15 - the logistics of the LBAE meetings must be set and reported to the LBAE clerk.

Meetings must be held between April 1 – May 31

Statute does not require a timeframe for LBAE meetings. It should be based on board policy and/or timeframe listed on notice.

Once the county assessor has verified a trained member for each local board of appeal and equalization, they will need to schedule the local board of appeal and equalization meetings and communicate those details with the local board clerks no later than February 15. Local board meetings are held between April 1 and May 31. All LBAE meetings must be adjourned by May 31.

Valid meeting days are Monday – Friday, there are no time constraints for local board meetings provided in statute, however the timeframe should be reasonable. It is strongly encouraged that the board should have a policy on how long they will leave the meeting open for. However, if a time frame is listed on the valuation notice, such as 4:00 – 6:00 pm, the board must not adjourn until after 6:00 pm.

Local Board of Appeal and Equalization (LBAE)

Valuation Notices

February - May

Valuation Notices must be sent at least **ten days prior** to the LBAE meeting.

The notice must have information regarding the local and county board of appeal meetings.

If **recommending** appointments, that information **must be listed**.

Do not include a deadline date for appointments.

Once the county has identified the formats of the meetings, either Open Book or Local Board, and the dates of the meetings have been set, the next step is to get the information on the valuation notices.

Those notices must be mailed **at least** ten calendar days prior to the LBAE meeting.

The notices must have information regarding the local board of appeal and equalization meeting as well as the county board of appeal and equalization meeting. That information should include dates, times, locations, and phone numbers to call for questions or appointments.

If the county assessor's office prefers that property owners make an appointment to appeal, there are several considerations that must be made. Statute allows for counties and county assessors to request appointments for board of appeal meetings. Appointments are defined as an arrangement at a reserved time and date for something to occur. This authority exists to recognize the need for counties to run orderly, efficient meetings while also saving appellants time by eliminating the need to sit through a whole meeting. This authority, however, **is not intended to restrict** the ability or time period that a taxpayer had to appeal their value or classification.

If a taxpayer has not made an appointment by the deadline, they **have not forfeited the right for their appeal to be heard** at some point during the board meeting. However, they may have to wait until after all scheduled appointments have been heard to present their appeal.

If appointments are **preferred by the county**, the county must include that information on the notice. If the county chooses to include an appointment deadline, the county **must include an explanation** that the deadline is for the appointment only and the process if the property

owner fails to make an appointment. Do not put a deadline on the notice without explaining what that deadline is referring to.

The perception of a deadline leads property owners to think they cannot appeal if they did not make an appointment. This perception of the appointment deadline causes frustration, confusion, and a misunderstanding of a property owner's right to appeal. **A property owner can still appeal without making an appointment**. The only time a property owner may be turned away from making an appeal is if the board adjourned prior to the property owner arrived.

February – May

The LBAE clerk must post and publish the meeting details at least ten days prior to the LBAE meeting.

Counties should be verifying that this was done correctly and timely.

In addition to sending valuation notices, the counties should follow-up with the clerks of the local boards of appeal and equalization to verify that the clerk posted and published the meeting details at least ten calendar days prior to the LBAE meeting. We recommend that the counties verify this well before the ten day mark, so that if a clerk has not posted/published they still have time to do so. Being proactive and contacting the clerk ahead of time will help with noncompliance issues, which leads to recessing the scheduled LBAE meeting and then needing to reconvene at least ten days after the clerk posts and publishes the new meeting information.

Let the Meetings Begin!

April - May

Meetings are held and must be adjourned within 20 calendar days of the **original meeting date**.

A county representative must be present at **each LBAE meeting, including reconvene meetings**.

County representative provides certification form. They should verify there is a trained member and quorum present.

Local board meetings are held between April 1 and May 31. All LBAE meetings must be adjourned by May 31. In addition, all local board meetings must be adjourned within 20 calendar days of the original meeting date. If a board needs an extension to this 20-day rule, they must request that extension from the Commissioner of Revenue.

A county assessor representative must be present at each local board meeting. The county representative is there to present information about the values and classifications of the properties in the jurisdictions. The county representative should be available to **provide factual and market information** that assists the board in their deliberation, but should avoid involvement or sharing opinions in the decision making process. The **meeting is the local board's meeting**, it is **not** the county assessor's meeting.

If board members ask the county representative for their opinion or decision on the appeal, the representative should politely explain that the board members have the authority to make an educated decision, and if the board feels uncomfortable making a decision, they can vote "no change" so that the appellant can appeal to the county board of appeal and equalization in June.

Certification Form

Another important role of the county representative is distributing the certification form. This should be done before the meeting begins. The form must be completed by the board members and the county representative must review the form to verify there is a trained member present and a quorum is established. At that time, the meeting can begin. If a board recesses, the county will need to supply a new certification form for **each reconvene meeting**. Statute requires that there is a quorum and a trained member at each board of appeal meeting. If there is a quorum and a trained member the meeting can begin.

If there isn't a quorum and/or a trained member present, the county representative must turn the meeting over to an open book meeting. No appeals can be heard by the board at this time. The board will lose their board powers for a minimum of two assessment years.

Record Form

In addition to the certification form, the county representative is also responsible for the record form. The record form documents all appeals heard and the action that was taken by the board. A record form must be submitted to the Department of Revenue within ten business days after the meeting has been adjourned. A record form for all local board meeting must be submitted, even if there aren't any appeals. Record forms for open book meetings do not need to be submitted.

County Boards of Appeal and Equalization (CBAE)

June

CBAE's are held after the second Friday in June

The CBAE must meet on a Saturday or they must have their scheduled meeting time go past 7:00 pm.

ten calendar days to adjourn

The county assessor must be present at the meeting, including all reconvenes.

The county assessor must supply the certification form, for each meeting that takes place.

The county assessor will need to verify if there is a quorum and trained member present.

By June 1, all LBAE meetings must be adjourned. We will now review the requirements for county board of appeal and equalization meetings. CBAE meetings must be held after the second Friday in June and must be adjourned by June 30th. The CBAE must meet on a Saturday or they must have their scheduled meeting time go past 7:00 pm. The CBAE has ten calendar days to adjourn the meeting.

The county assessor must be present at the CBAE meeting, including all reconvenes. The assessor has similar responsibilities for a county board of appeal and equalization meeting as the county representative does for a local board of appeal and equalization meeting.

It is the county board's meeting it is **not the assessor's meeting**. The assessor is there to provide factual information about the assessment; they should not be assisting with the board's decision after an appeal is heard by the county board.

The county assessor must supply the certification form to the CBAE for each meeting that takes place. The county assessor will need to verify if there is a quorum and trained member present prior to the start of the meeting.

If the CBAE does not have a trained member and/or quorum **present at the meeting**, the meeting would be an invalid meeting and no appeals could be heard. At that time, all property owners should be informed that they can appeal to the Commissioner of Revenue before August 1. A fee of $500 per tax parcel that is appealed will be assessed to the county.

By July 1 all board of appeal and equalization meetings are adjourned for the current assessment year. **No further changes can be made to the current assessment.** It's also important to note that valuation and classification changes made by the LBAE and/or the CBAE are only valid for the current assessment year. On January 2nd of each year, the assessor must set their value and classification according to market value and use. Therefore, if the assessor feels that the value/classification that was set by the LBAE and/or CBAE is no longer accurate for the new assessment year, the assessor should change the values/classification according to the valuation and classification requirements in the law.

Frequently Asked Questions

Throughout the years there have been situations that have caused some confusion for both the county assessor's office and board members. In this section we will provide some guidance on some of these situations. Our intention for this portion is that you can be prepared with a solution if any of these situations come up throughout the appeal season.

The clerk did not post and/or publish and the meeting is tomorrow, now what?

- Posting and publishing is a requirement in statute and the requirement must be met for the meeting to be determined a valid meeting. If this scenario were to happen, the board would need to meet on the scheduled date however they would not be able to hear any appeals.

- The board would need to start the meeting, announce the situation, publicly set a new date and time and then **recess** the meeting. Boards should keep the ten day post/publish law in mind when setting the new meeting date.

- In addition to that, if the board sets the new date 21 or more days after the initial meeting date, they will need to request an extension since statute requires that they adjourn within 20 calendar days of the initial meeting.

- The first scheduled meeting is considered the initial meeting, even though no appeals were heard. Lastly, this all needs to be done publicly; open meeting laws apply in this situation, therefore no decisions can be made in private, including rescheduling the initial meeting. It is important to note that the county cannot change the meeting to an open book in this situation, statute only gives that authority to the county assessor when the board is not in compliance with a trained member and/or quorum.

What is the procedure if a county sends the valuation notices out too late?

This is treated similar to when a clerk does not post/publish the meeting details. If a county does not send their notices ten calendar days prior to the LBAE meetings the procedure that needs to take place is:

- All LBAE meetings, in the effected jurisdictions, need to be held as the initial meeting.
- At the scheduled meeting, no appeals can be heard. The board must publicly set a new date and time, keeping the ten days rule in mind for posting/publishing.
- The board must recess after the new date and time has been agreed upon in a public setting.
- The county will need to send new notices with updated dates and times. The notices must be sent at least ten days prior to the new reconvene date. The clerk will also need to post/publish the new meeting details ten days prior to the reconvene date.
- If the reconvene date goes beyond the 20 day rule from the initial meeting, the county will need to request an extension from the Department of Revenue for each jurisdiction that is affected.
- **Note:** This same procedure would need to take place if a county sent the notices on time but then discovered there was a value/classification error on the notice. If that were to happen, the county would need to send new notices to the affected jurisdictions with corrected information and schedule supplemental local board of appeal meetings.

Can a quorum be established when a board member is participating in a meeting via video conference (Skype/FaceTime etc…)?

Yes. Minnesota Statute 13D.02 subdivisions 1 & 2 provides information regarding meetings that are conducted by interactive technology and the conditions. If all conditions in the statute are met, the board member participating in the meeting via video conference should be considered as present and a quorum may be established. This also applies to the trained member requirement, meaning the trained member should be considered "present" if they are participating via video conference and all requirements in 13D.02 are met. It is important to note that the requirements in the statute only address interactive technology (Skype/FaceTime). Therefore, a board member **cannot** be considered as "present" if they join the meeting via telephone. If they join via telephone they should not be considered a voting member for quorum/trained member purposes.

Can a property owner who wants to appeal do so using telephone/video conference?

Maybe. Statute allows appeals to be presented in person, by written communication, or by counsel therefore appealing by telephone/video conference would be acceptable. The property owner must be sure the board has sufficient technology capabilities prior to the

meeting, if the board does not have the technology then this would not be an option for the property owner. Technology such as a Wi-Fi connection, a device with video conferencing options, etc. Lastly, this would be another good situation where the board could add this to their policies for the meeting so they have the authority to accept/deny these requests and they are treating all property owners the same based on their policies.

What should the assessor do if they discover an appeal (after a meeting has adjourned) that was submitted via email, but was blocked due to in house security?

The assessor can take that appeal to the county board of appeal and equalization. If the CBAE has adjourned then the assessor will need to notify the taxpayer that the appeal wasn't heard and no further changes can be made for the current assessment year.

How should the county handle a situation where a local board makes a change that is outside of their legal authority?

The assessor should notify the board that they are making a decision outside of their statutorily defined responsibilities. If the board continues with their decision and makes a change outside of their legal authority the county should contact Revenue as soon as possible. Revenue will then send a "null and void" letter to the board explaining that the change was invalid. All invalid appeals will need to be heard by the county board of appeal and equalization and whatever decision is made by the county board (if the board has authority) will apply to the current assessment year. Some examples of invalid changes are: blanket changes, exempting property, or approving a special program.

What is the process if there is severe weather at the time of a board of appeal meeting?

If severe weather is forecasted on a day that a board of appeal meeting is scheduled, the board members should gather as soon as possible, once a quorum is established they should open the meeting, schedule a new date and time and recess the meeting.

- The board should make every effort to communicate this with the taxpayers of their city/town so that the taxpayers are aware that the meeting has been cancelled and rescheduled.

- An announcement should be sent through **all possible communication platforms** such as radio, television, websites, social media, and phone calls to property owners that made appointments, and any other communication platforms that the board has access to.

- A posting should be left at the facility that the meeting was scheduled at, that way if a property owner were to show up for the appeal meeting, they would be able to review the posting and be informed about the rescheduled date and time.

If severe weather hits **with very little notice**, board members and property owners should not risk their safety by trying to attend the meeting. If the board members cannot meet to reschedule prior to the severe weather, they should gather as soon as possible and follow through with the procedure listed above.

- In either of these severe weather situations the board would **not need to wait** 10 days, notices would not need to be resent, and the clerk would not need to republish/repost. However, they should make every effort to communicate this with the city/town.

- Lastly, in these rare situations, the CBAE could allow property owners from the effected jurisdictions to appeal at the CBAE even if they did not appeal at the LBAE due to severe weather and cancellation of the meeting. The county assessor should notify the CBAE about this exception so that they are aware that **certain property owners** would be allowed to appeal without appealing at the LBAE first.

If a county discovers a mistake, after the local board meeting, can the county take that mistake to the county board of appeal as an assessor recommendation?

Yes, the assessor can take valuation or classification changes to the LBAE or CBAE as an assessor recommendation. However, counties should only use this in critical situations. This situation should not be treated as a way for the county to fix mistakes that they have identified after valuation notices have been mailed. When a county brings multiple assessor recommendations to a LBAE and/or a CBAE meeting it can create a negative perception from taxpayers, board members, the Commissioner of Revenue, and legislative staff. If this is a common practice by a county it can appear as if the county did not finalize their values and classifications on time or accurately.

If a county decides to bring assessor recommendations to a board of appeal and equalization meeting, they should bring both value increases and decreases recommendations. The county should not limit the recommendations they bring to those that only benefit a property owner, which would be unfair treatment and could potentially cause tax shifts throughout the county. If an assessor is recommending an increase to the value of a property they must notify the property owner at least ten calendar days prior to the appeal meeting.

How do you handle appeals when a property owner contacts the assessor after the board of appeal has convened, but has not yet adjourned?

The Board of Appeal and Equalization has a responsibility to hear all appeals presented until the board adjourns. Property owners may present their appeal at the initial meeting or at any

reconvene meetings. The board must hear that appeal and make a decision. While it is the board's meeting, the county assessor should determine a policy for the role of the assessor at that stage. The assessor may choose to continue reviewing appeals when time allows and their results are helpful to the board in their decision making.

What is the process if a local board wants to voluntarily transfer their powers and assessment to the county?

First, it is important to note that this is different than losing board powers due to non-compliance. This only applies when the board gives up their board powers **and** their local assessor.

The board must communicate this intent in writing to the county assessor before December 1 of any year to be effective for the following year's assessment. This transfer of duties may either be permanent or for a specified number of years. However, the duties must be transferred to the county board for a minimum of three years and the length of the transfer must be stated in writing. If the board decides to reinstate their powers, after the designated time of transfer, the board must notify the assessor by December 1 of any year to be effective for the following year's assessment. This is the only situation where the December 1 date applies. The February 1 compliance date applies to all other board of appeal and equalization situations.

Can a local board reinstate their powers if they voluntarily transferred their powers and assessment to the county years ago and never documented how long the transfer was for?

No, if the board never documented the amount of years they wanted to transfer their powers & assessment to the county then the board will never be able to reinstate their powers. Minnesota Statute clearly requires that the amount of time be listed when a board decides to transfer their powers voluntarily.

If a local board transferred their board powers but retained their local assessor, can they reinstate their board powers?

Yes, this is treated similar to a board losing their powers due to non-compliance. The board may reinstate their powers as long as they pass a resolution and have a trained member by February 1 of the assessment year for the upcoming board season.

If you have questions regarding board of appeal and equalization, contact proptax.bae@state.mn.us.