Title 350 Nebraska Administrative Code
Nebraska Dept. of Revenue Property Assessment Division
Regulations effective October 26, 2014*

Chapter	**Rev Date**	**Regulation Title**
Chapter 10	10/26/2014*	Real Property
Chapter 11	03/15/2009	Agricultural or Horticultural Land Special Valuation
Chapter 12	03/15/2009	Sales File
Chapter 13	03/15/2009	Mineral Interests
Chapter 14	03/15/2009	Agricultural Land and Horticultural Land Assessment
Chapter 15	03/15/2009	Property Owned by the State & Governmental Subdivisions
Chapter 16		Repealed in 2014 (Sale of Educational Land)
Chapter 17	07/03/2013*	Reports and Opinions
Chapter 18	03/15/2009	Community Redevelopment Law (TIF Tax Increment Financing)
Chapter 19		Repealed in 2004 (Qualified Farm Site Land)
Chapter 20	03/15/2009	Personal Property
Chapter 22		Repealed in 2014 (Measurement of Special Valuation)
Chapter 23	03/15/2009	Historical Real Property
Chapter 30	03/15/2009	Property Valued by the State (Centrally Assessed)
Chapter 40	07/03/2013*	Property Tax Exemptions
Chapter 41	03/15/2009	In Lieu of Tax
Chapter 42	03/15/2009	Employment & Investment Growth Act Exempt Personal Property
Chapter 43	03/15/2009	Nebraska Advantage Act Exempt Personal Property
Chapter 45	07/03/2013*	Homestead Exemption
Chapter 50	03/15/2009	Assessment Process
Chapter 51	03/15/2009	Assessment Process for Affordable Housing Projects
Chapter 52	03/15/2009	Documentary Stamp Tax
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Chapter 70	03/15/2009	County Officials
Chapter 71	03/15/2009	Education, Certification, and Re-Certification
Chapter 80	07/03/2013*	School Adjusted Valuation
Chapter 90	03/15/2009	Practice and Procedure
Chapter 91	03/15/2009	Proceedings Instituted by the Department of Revenue, Property Assessment Division
Chapter 92		Repealed in 2014 (Assessment Function Transfer to the Property Tax Administrator)
Chapter 93	01/03/2007	Tax Equalization and Review Commission Order Compliance Audit Regulations

**NOTES:*
Chapter 10 reflects legislative changes through 2014.
Chapters 17, 40, 45, and 80 reflect legislative changes through 2012 and approved in 2013.
Chapter 52 reflects legislative changes through 2008 and approved in 2009.
Chapter 93 reflects legislative changes up through 2006 and approved in 2007.
The remaining chapters reflect legislative changes up through 2007 and approved 2009.

See Regulations posted to Property Assessment Division's website:
www.revenue.ne.gov/PAD/

NEBRASKA ADMINISTRATIVE CODE

Title 350 – Nebraska Department of Revenue, Property Assessment Division
Chapter 10 – Real Property Regulations
Effective Date – October 26, 2014

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Title 350 – Nebraska Department of Revenue, Property Assessment Division
Chapter 10 - Real Property Regulations

REG-10-001 PURPOSE

001.01 These regulations address the duties, procedures, and recordkeeping responsibilities of county assessors when valuing real property. They also detail the duties and powers of the county board of equalization requiring that all real property in the county is assessed uniformly and proportionately.

Neb. Rev. Stat. §§ 37-335, 77-102, 77-103, 77-103.01, 77-112, 77-117, 77-123, 77-124, 77-126, 77-128, 77-129, 77-130, 77-131, 77-132, 77-202, 77-604, 77-682, 77-702, 77-802, and 77-1245, 77-1303, and 77-1359. October 26, 2014.

REG-10-002 DEFINITIONS

002.01 Actual value means the market value or fair market value of real property in the ordinary course of trade. It is the most probable price expressed in terms of money, that a property will bring if exposed for sale in the open market or in an arm's-length transaction between a willing seller and a willing buyer, both of whom are knowledgeable concerning all the uses to which the real property is adapted and for which it is capable of being used. Actual value may be determined using professionally-accepted mass appraisal methods, including, but not limited to, the: (1) sales comparison approach; (2) income approach; and (3) cost approach.

002.02 Assessment means listing the description of all real and personal property, determining its taxability, determining its taxable value, and placing it on the assessment roll.

002.03 Assessment roll means a complete and verified list of all real property in a county and the associated assessments.

002.04 City size means the population of a city in which a parcel is located.

002.05 Class or subclass of real property means a collection of properties that share one or more common characteristics that affect value and that are not found in other properties outside the class or subclass.

002.05A For agricultural or horticultural land, class or subclass includes, but is not limited to: irrigated cropland; dry cropland; grassland; wasteland; nurseries; feedlots; orchards; location; geographic characteristics; and other market characteristics that are appropriate for the assessment of the class or subclass of agricultural or horticultural land.

002.05A(1) In the case of agricultural or horticultural land subject to special valuation, class or subclass includes, but is not limited to: irrigated cropland; dry cropland; grassland; wasteland; nurseries; feedlots**;** orchards; location; geographic characteristics; and other market characteristics that are appropriate for the valuation of a class or subclass of agricultural or horticultural land at 75% of its special value as if the land were available only for agricultural or horticultural purposes, or uses without regard to any other purpose, or use that could be applied to the land.

002.05B For all other real property, class or subclass includes, but is not limited to, improvement status; parcel type; zoning; location; city size; parcel size; geographic characteristics; or market characteristics that are appropriate for the valuation of a class or subclass of real property. For the purposes of this regulation, market characteristics means the social and economic factors in the market that affect the value of real property.

002.05C Geographic characteristics means the physical characteristics of the earth, land, region, or site that may have an effect on value.

002.06 Clerical error means transposition of numbers, mathematical error, computer malfunction causing programming and printing errors, data entry error, items of real property other than land identified on the wrong parcel, incorrect ownership, or certification of an incorrect valuation to political subdivisions, pursuant to Neb. Rev. Stat. § 77-128.

002.07 Equalization means a process by which the valuations of similar or comparable properties are reviewed, to assure that equivalent characteristics receive equivalent consideration and treatment in the assessment process.

002.08 Farm site means the portion of land contiguous to land actively devoted to agriculture, which includes improvements that are agricultural or horticultural in nature, including any uninhabitable or unimproved farm home site, all of which is contiguous to agricultural or horticultural land. This land will not be classified as agricultural or horticultural land and will not include a home site.

002.09 Home site means a parcel, which is used or intended to be used for residential purposes.

002.09A Farm home site means land contiguous to a farm site which includes an inhabitable residence and improvements used for residential purposes and which is located outside of urban areas or outside a platted and zoned subdivision. This land must not be classified or assessed as agricultural or horticultural land.

002.10 Location means the physical site of real property by one of the following descriptions:

002.10A Rural means all real property outside of an urban or suburban area. Unincorporated villages and subdivisions outside the legal jurisdiction of an incorporated city or village are classified as rural.

002.10B Suburban means a parcel located outside of the limits of an incorporated city or village, but within the legal jurisdiction of an incorporated city or village.

002.10C Urban means a parcel located within the limits of an incorporated city or village.

002.11 Omitted property means, for the current tax year, any taxable real property that was not assessed on March 19. Beginning January 1, 2014, the date is March 25 for counties with a population of at least 150,000 inhabitants. Omitted property also means any taxable real property that was not assessed for any prior year. Omitted property does not include exempt property or listing errors of an item of property on the assessment roll.

002.12 Parcel means a contiguous tract of land under the same ownership and in the same tax district and section. A parcel may include all lots in a block that belong to the same owner and are in the same tax district. Parcel also means an improvement on leased land (IOLL). A parcel cannot contain more than one section.

002.13 Parcel size means the size of the parcel in square feet or acres.

002.14 Predominant use means the most common, frequent, or prevailing use of the land.

002.15 Property parcel type means the predominant use of the parcel at the time of assessment regardless of the parcel's legal use or zoning.

002.15A Agricultural or horticultural land means a parcel that is primarily used for agricultural or horticultural purposes, excluding any land associated with a building or enclosed structure located on the parcel. Agricultural or horticultural land includes wasteland lying in or adjacent to, and in common ownership or management with, other agricultural and horticultural land.

002.15B Agricultural or horticultural purposes means used for the commercial production of any plant or animal product in a raw or unprocessed state that is derived from agriculture, aquaculture, or horticulture. Agricultural or horticultural purposes include~~s~~ land retained or protected for future agricultural or horticultural purposes under a conservation easement as provided in the state Conservation and Preservation Easement Act (Neb. Rev. Stat. §§ 76-2,111 to 76-2,118), except when the parcel or a portion of the parcel, is being used for purposes other than agricultural or horticultural. Land enrolled in a federal or state program in which payments are received for removing the land from agricultural or horticultural production will be considered as being used for agricultural or horticultural purposes.

002.15B(1) See, Agricultural Land and Horticultural Land Regulations, Chapter 14.

002.15B(2) Land encumbered by an easement under the federal Wetlands Reserve Program cannot be used for agricultural or horticultural purposes, cannot be characterized as agricultural or horticultural land, and must be valued at its actual value.

002.15C Centrally assessed means operating real property valued by the Property Tax Administrator. See, Property Valued by the State Regulations, Chapter 30.

002.15D Commercial means all parcels predominantly used or intended to be used for commerce, trade, or business.

002.15E Exempt means real property that receives a property tax exemption pursuant to Neb. Rev. Stat. § 77-202. See, Property Tax Exemption Regulations, Chapter 40.

002.15F Nebraska Game and Parks Commission (Commission) payments in lieu of tax means the annual payment made in place of, or as a substitute for, a property tax for land acquired by the Commission for wildlife management purposes. The payments are for the same amount that the real property taxes would have been if the land was privately owned based upon the land use at the time of acquisition by the Commission. See, In Lieu of Tax Regulations, Chapter 41.

002.15G Industrial means all parcels predominantly used or intended to be used to process or manufacture goods or materials.

002.15H For mineral interests and mobile homes, see, Regulations 10-002.18E and 10-002.18F respectively.

002.15I Multi-family means dwellings predominantly used for occupancy by more than two families.

002.15J Recreational means all parcels predominantly used or intended to be used for diversion, entertainment, and relaxation on an occasional basis. Some of these uses are fishing, hunting, camping, boating, hiking, picnicking, or having an access or view that simply allows diversion, entertainment, and relaxation.

002.15K Single family residential means all parcels predominantly used or intended to be used as a dwelling place or abode whether occupied by the owner, tenant, or lessee; and where occupancy is usually year-round, as opposed to a transitory occupancy.

002.16 Property record card means a master record located at the beginning of the property record file and serves as a reference to and inventory of all portions of the property record file. It must contain a summary of the general data relevant to the parcel it represents. This may be in the form of an electronic file that can be printed on demand.

002.17 Property record file means a file that contains the property record card, worksheets, supplemental data, and transfer information. All portions of the property record file are interrelated through codes and references, which are recorded on a property record card. This may be in the form of an electronic file that can be printed on demand.

002.18 Real property means all land, buildings, fixtures other than trade fixtures, improvements, certain mobile homes, cabin trailers and similar property, mineral interests, and all privileges pertaining to real property.

002.18A Building means an improvement to real property enclosing a space within its walls and usually, but not necessarily, covered by a roof and designed for habitation, shelter, storage, business, trade, or manufacture.

002.18B Fixtures (other than trade fixtures) means any item of property that is:

002.18B(1) Annexed or physically attached to or incorporated into the real property;

002.18B(2) Appropriated to the use of the real property to which it is annexed. If the property is a necessary or useful addition to the real property to which it is annexed, then it has been appropriated to the use or purpose of the real property; and

002.18B(3) Intended to be annexed to the real property. Intention is inferred from the nature and extent of the annexation and appropriation, unless the owner of the real property provides documentation that the intention is otherwise.

002.18C Examples of fixtures are items which are common to the maintenance and operation of a building such as central air conditioning, heating system, common lighting, and plumbing. All of these examples add to the value of a building or appreciably prolong the useful life of the building and are considered real property.

002.18D Improvement means any addition made to real property, amounting to more than a repair, such as sidewalks, streets, sewers, or utilities.

002.18E Mineral interest means the ownership of mines, minerals, quarries, mineral springs and wells, oil and gas wells, overriding royalty interests, and production payments with respect to oil and gas leases. A mineral interest includes the executor's rights to sell or lease the property, to receive bonus payments and delay rentals, and to participate in the production through royalty payments. See, Mineral Interests Regulations, Chapter 13.

002.18F Mobile home, cabin trailer, and similar property means every portable or relocatable device of any description without motive power, which is used, or designed to be used for residential, office, commercial, agricultural, or other similar purposes. Mobile homes, cabin trailers, and similar property that are unoccupied and held for sale at the location of the business, by persons engaged in the business of selling this type of property, are not included.

002.18G Privileges pertaining to real property means the right to sell, lease, use, give away, or enter, and the right to refuse to do any of these. All rights may or may not be vested in one owner or interest holder.

002.19 Special valuation means the actual value of the land if the land were available only for agricultural or horticultural purposes or uses, without regard to any other purpose or use for which the land may be used.

002.20 Special valuation assessment means 75% of the special valuation.

002.21 Status means improved, unimproved, or improvements on leased land.

002.21A Improved land means land upon which buildings or structures are located.

002.21B Improvements on leased land (IOLL) means any item of real property which is located on land owned by a person other than the owner of the item.

002.21C Unimproved land means land without buildings or structures.

002.22 Structure means anything constructed or erected, requiring permanent attachment to real property or attached to something permanently affixed to real property.

002.23 Taxable value and assessed value, mean the values set on real property by a government as a basis for levying taxes. Taxable value and assessed value have the same meaning and can be used interchangeably.

002.24 Trade fixture means an item of machinery or equipment, used in commercial, manufacturing, or processing activities. The degree of attachment does not influence the classification of the machinery or equipment as real property. Trade fixtures are items of personal property which are placed upon or affixed to real property for the sole purpose of carrying on a trade or business.

002.25 Undervalued and overvalued property means any taxable property that is assessed by the county assessor, but has a taxable value lower or higher than other taxable property with which it is required to be equalized.

002.26 Valuation means the act or process of estimating actual value of real property, pursuant to Assessment Process Regulations, Chapter 50.

002.27 Zoning means the public regulation and enforcement of the use of land by a county or incorporated city. An incorporated city is granted legal zoning jurisdiction for a specific area outside of the city limits based on the class of the city. The class of city and the area of jurisdiction are as follows:

002.27A Metropolitan class (population 300,000 or more) - three miles;

002.27B Primary class (population 100,001 - 299,999) - three miles;

002.27C First class (population 5,001 - 100,000) - two miles;

002.27D Second class (population 801 – 5,000) - one mile;

002.27E Village (population 100 – 800) - one mile.

Neb. Rev. Stat. §§ 37-335, 77-102, 77-103, 77-103.01, 77-112, 77-117, 77-123, 77-124, 77-126, 77-128, 77-129, 77-130, 77-131, 77-132, 77-202, 77-604, 77-682, 77-702, 77-802, and 77-1245, 77-1303, and 77-1359. October 26, 2014.

REG-10-003 PROCEDURES

003.01 All real property including fixtures other than trade fixtures, buildings and structures under construction, and any mobile homes or cabin trailers that are owned by a dealer and not located at the dealer's business location, will be assessed as of January 1, 12:01 a.m. annually. The assessment level of real property is:

003.01A All real property, other than agricultural land and horticultural land, is valued at 100% of its actual value;

003.01B Agricultural land and horticultural land is valued at 75% of its actual value;

003.01C Agricultural land and horticultural land, which has value for purposes other than for agriculture or horticulture, and meets the qualifications for special valuation assessment, is valued at 75% of the special valuation.

003.02 County Assessor's Annual Duties.

003.02A The county assessor must prepare an assessment roll of all taxable real property on or before March 19 of each year. Beginning January 1, 2014, the date will be March 25 of each year for counties with a population of at least 150,000 inhabitants.

003.02A(1) Beginning January 1, 2014, county assessors in any county with a population of at least 150,000 inhabitants must provide preliminary valuation notices to real property owners on or before January 15 of each year. The notices must either be mailed or published on a website maintained by the county assessor or by the county. The county assessor must also send the notices of valuation change on or before June 1 to every owner of record or lessee as of May 20.

003.02A(1)(a) Beginning January 1, 2014, in counties with at least 150,000 inhabitants, the county assessor must provide an opportunity for real property owners to meet in person with the county assessor's office to review the property owner's real property record file and the assessed valuation placed upon the property for the upcoming assessment year. The meeting must take place between January 15 and March 1.

003.02A(1)(b) If the real property owner does not notify the county assessor's office of his or her intent to meet by February 1, he or she waives the opportunity to meet with the county assessor's office.

003.02A(1)(c) During the meeting, the county assessor's office must provide the real property owner the basis for the valuation shown on the preliminary notice and accept any information the real property owner provides that is relevant to the valuation of the property.

003.02B The county assessor cannot change the valuation of any real property for the current year, except as ordered by the Tax Equalization and Review Commission or the county board of equalization after March 19 of each year. Beginning January 1, 2014, the date will be March 25 of each year for counties with a population of at least 150,000 inhabitants.

003.02B(1) The county assessor must report any current-year overvalued or undervalued real property or any current-year omitted real property to the county board of equalization after March 19 and on or before July 25, except:

003.02B(1)(a) Beginning January 1, 2014, a county with at least 100,000 inhabitants that has adopted a resolution to extend the deadline for hearing protests can extend this report submission to August 10.

003.02B(1)(b) Beginning January 1, 2014, in a county with at least 150,000 inhabitants, reporting will occur after March 25 and on or before July 25. A resolution to extend the deadline for hearing protests can extend this report submission to August 10.

003.02B(2) The county assessor must report any omitted real property that was not reported to the county assessor pursuant to Neb. Rev. Stat. § 77-1318.01 and any clerical errors pursuant to § 77-128 that result in a change of the assessed value to the county board of equalization.

003.02C After April 1, and on or before June 1, the county assessor must implement all adjustments to value as ordered by the Tax Equalization and Review Commission.

003.02D On or before June 1, the county assessor must publish in a newspaper of general circulation that the assessment roll is complete, the notices of valuation changes have been mailed, and the final date for filing a protest.

003.02E On or before June 1, the county assessor must send notices of valuation changes by first class mail, to every owner of record or lessee as of May 20, that is responsible for paying the property taxes pursuant to Neb. Rev. Stat. § 77-202.11, whose assessed valuation has changed from that of the previous year. The notice must describe the real property and state the old and new valuation, the convening date of the county board of equalization, and the dates for filing a valuation protest.

003.02F On or before June 6, the county assessor must post in the county assessor's office, and mail to a designated newspaper of general circulation and licensed broadcast media in the county, the assessment sales ratios as determined by the Tax Equalization and Review Commission and any other statistical measures.

003.02G The county assessor may correct the assessment roll at any time for clerical errors that do not result in a change of value.

003.02H The county assessor must attend all meetings of the county board of equalization when the meetings pertain to the assessment or exemption of real property.

003.02H(1) The county assessor may appoint a designee to attend meetings of the county board of equalization when the county assessor is unable to attend.

003.02I The county assessor must annually, on or before June 15, prepare a plan of assessment describing the assessment actions that will be implemented for the next assessment year and two years thereafter. The plan must identify the classes or subclasses of real property that the county assessor plans to examine during this three-year period.

003.02I(1) The plan must examine the level, quality, and uniformity of assessment along with proposed measures and resources needed to achieve and maintain the statutory and administrative requirements.

003.02I(2) The county assessor must present the plan of assessment to the county board of equalization on or before July 31 of each year. The county assessor may amend the plan as a result of county board actions in the adopted budget affecting the county assessor's office. A copy of the plan and any amendments to the plan will be mailed to the Department of Revenue, Property Assessment Division on or before October 31 each year.

003.02J When the date for filing or submitting any form, report, tax valuation notice, valuation data, adjustments to value, published notices, or any other requirement under REG 10-003.02, falls on a Saturday, Sunday, or legal holiday, the items will be considered timely filed if performed in person or postmarked on the next business day. When any document is sent by regular, certified, or registered mail, the postmarked certification or registered date will be used to determine the date filed.

003.03 Protests to the County Board of Equalization.

003.03A All protests of valuation for real property must be in writing, signed, and filed with the county clerk on or before June 30. If June 30 falls on a Saturday, Sunday, or legal holiday, the protest will be considered timely filed if performed in person or postmarked on the next business day. If the protest is not timely filed, it will automatically be dismissed.

003.03B Each protest must have attached or contain a written statement of why the requested change in assessment should be made. The statement must contain a description adequate to identify the parcel. If no statement is provided, the protest will automatically be dismissed. Each protest can only pertain to one parcel, not a combination of parcels.

003.03B(1) The protest may be prepared on the Property Valuation Protest, Form 422 or Form 422A. Failure to use Form 422 or Form 422A will not affect the filing or cause it to be dismissed. Neither the Form 422 nor Form 422A is required to be promulgated by the Nebraska Department of Revenue.

003.04 County Board of Equalization Powers and Duties.

003.04A The county board of equalization must fairly and impartially equalize the valuation of all real property in the county, so that all real property is assessed uniformly and proportionately.

003.04B The county board of equalization must meet between June 1 through July 25, for the purpose of correcting the current year's assessment for any real property that was omitted pursuant to Neb. Rev. Stat. § 77-1318.01, and any undervalued or overvalued real property. Any county board of equalization of a county with over 100,000 inhabitants may extend the deadline for hearing protests from July 25 to August 10 if a resolution is adopted before July 25. The county board of equalization may not hold a hearing on a protest with a single commissioner or supervisor.

003.04B(1) Beginning January 1, 2014, in counties with a population of at least 150,000 inhabitants, the county board of equalization must allow protesters an opportunity to meet in person with the county board of equalization or a referee.

003.04C After July 25, or after August 10 if the county board of equalization has adopted a resolution to extend the deadline for hearing protests, the county board of equalization cannot change the valuation of any real property for the current year unless there was a clerical error or the real property was omitted and not properly reported to the county assessor pursuant to Neb. Rev. Stat.§ 77-1318.01.

003.04C(1) The county clerk must mail to the protester on or before August 2, or on or before August 18 in a county that has adopted a resolution extending the deadline for hearing protests, a written notice of the county board of equalization's decision regarding the protest. The notice must state that a report of the decision is available at either the county clerk's or county assessor's office, whichever is appropriate. Nothing in this regulation prohibits a county from providing a copy of the report of the county board of equalization's decision to the protester along with the written notice of the decision.

003.04C(2) If July 25 or August 10 falls on a Saturday, Sunday or legal holiday, the county board of equalization must hear and decide protests on the previous business day.

003.04C(3) The county clerk or county assessor will prepare a report for each protest filed. The report should contain a signed statement by the chairperson of the county board of equalization stating the board's decision and basis for the decision, a description of the real property affected, the recommendation of the county assessor, the recommendation of a referee if applicable, the date the county board of equalization heard the protest, the date of the decision, and the date notice of the decision was mailed to the protester. Attached to the report should also be a copy of the property record file that substantiates the assessed value, unless the county assessor certifies to the county board of equalization that a copy of the file is maintained in either paper or electronic form in the county assessor's office.

003.04C(3)(a) One copy of the report, if prepared by the county clerk, must be given to the county assessor on or before August 2. The county assessor cannot make a

change to the values prepared and submitted by the county clerk until the report is completed.

003.04D The county board of equalization may petition the Tax Equalization and Review Commission for a class or subclass adjustment~~s~~ on or before July 26. Any county that has adopted a resolution extending the deadline for hearing protests waives any right to petition the Tax Equalization and Review Commission for adjustment of a class or subclass of real property for that year. For properties that have already received an adjustment from the county board of equalization, an additional adjustment may be made so that the total adjustments are equal to the Tax Equalization Review Commission's ordered adjustment.

003.05 Beginning on July 26 and on or before August 24, or on or before September 10 if the county has adopted a resolution to extend the deadline for hearing protests, any action of the county board of equalization taken pursuant to Neb. Rev. Stat. §§ 77-1502 or 77-1504 may be appealed to the Tax Equalization and Review Commission pursuant to § 77-5013. An appeal will be considered timely filed if postmarked by August 24, or September 10 if the county has adopted a resolution to extend the deadline for hearing protests.

003.06 Overvalued or Undervalued Real Property and Properly Reported Omitted Real Property.

003.06A After March 19 and on or before July 25, or on or before August 10 in a county with at least 100,000 inhabitants that has adopted a resolution to extend the deadline for hearing protests, the county assessor must report to the county board of equalization any current year overvalued or undervalued real property, and current year omitted real property that was properly reported to the county assessor. Beginning January 1, 2014 in counties with a population of at least 150,000 inhabitants, the dates the county assessor is to report any current year overvalued or undervalued real property and omitted property that was properly reported are after March 25 and on or before July 25, or on or before August 10 in a county with a population of over 100,000 inhabitants that has adopted a resolution to extend the deadline for hearing protests.

003.06B Beginning June 1 and on or before July 25, or on or before August 10 in a county that has adopted a resolution to extend the deadline for hearing protests, the county board of equalization must meet to consider and correct the current year assessment for overvalued or undervalued and current year properly reported omitted real property, and give written notice of the assessed value to the record owner, agent, or lessee responsible for paying the property taxes pursuant to Neb. Rev. Stat. § 77-202.11 at his or her last-known address.

003.06B(1) Protests for current year properly reported omitted real property and current year undervalued or overvalued real property must be filed with the county board of equalization within 30 days after the mailing of the notice by the county board of equalization. The procedures for filing a protest are the same as those in REGS-10-003.03A through 10-003.03B, except for the date restrictions.

003.06C All protests relating to current year undervalued and overvalued real property must be heard and decided by the county board of equalization on or before September 15 (or on or before September 30 if the county has adopted a resolution to extend the deadline for hearing protests).

003.06C(1) If September 15 or September 30 falls on a Saturday, Sunday or legal holiday, the county board of equalization must hear and decide protests on the previous business day.

003.06D All protests relating to current year omitted real property, which was properly reported to the county assessor pursuant to Neb. Rev. Stat. § 77-1318.01, should be heard and decided by the county board of equalization within 30 days of the date the protest was filed.

003.06E The county clerk must mail to the protester a written notice of the county board of equalization's decision regarding the protest within seven days. The notice must state that a report of the

decision is available at either the county clerk's or county assessor's office, whichever is appropriate. Nothing in this regulation prohibits a county from providing a copy of the report of the county board of equalization's decision to the protester along with the written notice of the decision.

003.06F Final decisions of the county board of equalization concerning undervalued and overvalued current year real property may be appealed to the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat. § 77-5013 on or before October 15 (or on or before October 30 if the county has adopted a resolution to extend the deadline for hearing protests).

003.06G Final decisions of the county board of equalization concerning current year omitted real property, which was properly reported to the county assessor, may be appealed to the Tax Equalization and Review Commission within 30 days after the board's final decision.

003.06H After July 25 (or after August 10 if the county has adopted a resolution to extend the deadline for hearing protests), the county board of equalization cannot change the valuation of any real property that is undervalued or overvalued, or omitted real property which was properly reported to the county assessor for the current year. Only real property with a clerical error or omitted real property not properly reported to the county assessor pursuant to Neb. Rev. Stat. § 77-1318.01 may be changed at any time by the county board of equalization.

003.07 Clerical Errors and Omitted Real Property not Properly Reported to the County Assessor.

003.07A The county board of equalization may meet at any time after June 1 for the current year, and any time between January 1 and December 31 for any prior years, for the purpose of assessing any omitted real property which was not properly reported to the county assessor pursuant to Neb. Rev. Stat. § 77-1318.01 and for any clerical errors that result in a change of valuation. The county board of equalization must send written notice of the assessed value to the record owner, agent, or lessee who is responsible for paying the property taxes pursuant to § 77-202.11 at his or her last known address.

003.07B Protests for clerical errors and omitted real property must be filed with the county board of equalization within 30 days after the mailing of the written notice of the assessed valuation. The procedures for filing a protest are the same as those in REGS-10-003.03A through 10-003.03B, except for the date restrictions.

003.07C The county board of equalization may meet at any time for the purpose of hearing and deciding protests relating to clerical errors and omitted real property not properly reported to the county assessor pursuant to Neb. Rev. Stat. § 77-1318.01.

003.07C(1) All protests relating to clerical errors and omitted real property, which was not properly reported to the county assessor, should be heard and decided by the county board of equalization within 30 days of the date the protest was filed.

003.07D The county clerk must send notification to the protester of the county board of equalization's decision within seven days. The notice must state that a report of the decision is available at either the county clerk's or county assessor's office, whichever is appropriate. Nothing in this regulation prohibits a county from providing a copy of the report of the county board of equalization's decision to the protester along with the written notice of the decision.

003.07E The county clerk must send a report to the Property Tax Administrator stating the description of the property, the reason the omitted property was not assessed by the county assessor, and a statement of the county board of equalization's justification for its action within seven days. A copy of the report will also be retained by the county clerk for public inspection.

003.07F The action of the county board of equalization may be appealed within 30 days after the final decision to the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat. § 77-5013.

003.07G No prior year assessment can be made to any omitted real property where the ownership has changed by any means other than by will, inheritance, or gift.

003.08 If failure to give notice prevented the timely filing of a protest or appeal, an owner, agent, or the lessee who is responsible for paying the property taxes pursuant to Neb. Rev. Stat. § 77-202.11 may petition the Tax Equalization and Review Commission, pursuant to § 77-5013, on or before December 31 of the year the notice should have been sent, for a determination of the actual valuation or special valuation assessment.

003.08A No petition or appeal can suspend the collection of any tax or the duties of officers during the pendency of the petition or appeal, and all taxes collected must be distributed as though no petition or appeal were pending.

003.08B If, by final order of the Tax Equalization and Review Commission, it is determined that the tax or a part of the tax should be refunded, the county treasurer is authorized to make the refund upon receiving a certified copy of the final order.

003.09 On or before October 15 of each year, the county board of equalization will levy the taxes necessary for county purposes and include all levies necessary to fund tax requests of other political subdivisions.

003.10 All real property taxes are due and payable on December 31 following the date of levy. One-half of the real property taxes become delinquent on May 1 and the second half on September 1 following the date the taxes become due, except in counties having a population of more than 100,000. In those counties, the delinquent dates are April 1 and August 1 following the date the taxes become due.

Neb. Rev. Stat. §§ 49-1202, 49-1203, 77-203, 77-204, 77-702, 77-1311, 77-1315, 77-1315.01, 77-1317, 77-1343, 77-1344, 77-1345, 77-1501, 77-1502, 77-1504, 77-1504.01, 77-1507, 77-1613.04, 77-5007, 77-5013, 77-5022, and 77-5023. October 26, 2014.

REG-10-004 MANUALS

004.01 Every county assessor will use all manuals issued by the Property Tax Administrator and the Tax Commissioner as a basis for the performance of his or her duties. Classifications or assessment methods included in any manual will be used as a basis for the assessment of all real property uniformly throughout each county. Unless otherwise provided by law, no deviation from the classifications or assessment methods is allowed, unless the deviation is necessary for compliance with the laws of the state or regulations promulgated by the Property Tax Administrator and the Tax Commissioner. Thorough documentation of each deviation, clearly stating the reasons for the deviation, must be included in the property record file of the parcel in question.

004.02 The county assessor must use the Nebraska Assessor's Reference Manual, as issued and updated by the Department of Revenue, Property Assessment Division or Property Tax Administrator and the Tax Commissioner, in the performance of his or her duties.

004.03 The Marshall Valuation Service, including associated handbooks, as published and updated by Marshall and Swift Publishing Company, must be used for uniform identification of the physical characteristics of real property. If a county assessor wishes to utilize an alternative characteristics system, the county assessor must make this request in writing to the Property Tax Administrator. If the Property Tax Administrator is satisfied that the alternative method provides a characteristics system that reasonably corresponds with the Marshall and Swift Valuation Service to assure consistency with other counties, he or she will grant approval in writing to the county assessor.

004.04 If the Property Tax Administrator has reason to believe that any county assessor has failed to properly implement any manual as required by law, a hearing will be held pursuant to the Administrative Procedures

Act of the Nebraska statutes. See, Practice and Procedures Regulations, Chapter 90, and Proceedings Instituted by the Department of Revenue, Chapter 91.

Neb. Rev. Stat. §§ 77-702, 77-1311, 77-1330, 77-1363, and 77-1374. October 26, 2014.

REG-10-005 RECORD KEEPING

005.01 Every county assessor must prepare and maintain a property record file which includes a property record card for each parcel in the county, including improvements on leased land. The property record file and property record card must be updated annually by the county assessor to reflect any changes made to the assessment information for the property.

005.01A Each property record card must contain the following items.

005.01A(1) The legal description, which must be prepared using one of the following methods: government survey; lot number of a recorded plat; metes and bounds; or tax lot number. The legal description on the record card must be sufficiently complete so that the parcel can be located and identified. If a metes and bounds description is used, it must begin at a known point that can be readily identified and the description must close. If there are more than 160 characters in the legal description, a tax lot number system must be developed. If the county does not have a tax lot number system, pursuant to Neb. Rev. Stat. §§ 23-304 through 23-307, the county assessor will keep a copy of the complete legal description in the record file or in a reference book in his or her office.

005.01A(2) The book and page number of the last deed of record during the past five years and any changes of record ownership including an area for noting splits or additions to the original parcel during the past five years.

005.01A(3) The current record owner's name and mailing address.

005.01A(4) The address of the parcel if it is different from the owner's mailing address.

005.01A(5) The cadastral map book and page numbers, or GIS reference number.

005.01A(6) The current property classification code pursuant to REG-10-005.02.

005.01A(7) The tax district code as determined by the county, and

005.01A(8) The current year and one or more prior years' history of the final assessed value of the land and improvements, except for real property that receives a property tax exemption.

005.01B Each property record file must contain the following (if applicable):

005.01B(1) A picture of the improvements or main buildings;

005.01B(2) A sketch of the improvements or main buildings;

005.01B(3) A ground plan sketch or aerial photograph if there are multiple improvements in addition to the main structures

005.01B(4) The school district codes as prescribed by the Nebraska Department of Revenue, Property Assessment Division;

005.01B(5) Four or more prior years' history of the final assessed value of land and improvements. Further, a complete history of each incremental adjustment or change made within an assessment year to the assessed value of the parcel must be recorded in the file, including the nature of the change and an indication of the assessment body or official ordering the change;

005.01B(6) Other codes created by the county assessor that are relevant to the specific parcel, such as coded expressions for the legal description, account numbers, or other identifiers; and

005.01B(7) The property record file must contain a correlation section that summarizes the results of each approach to value that has been completed for the parcel. There must also be a narrative statement that provides an explanation of the correlation process and the final estimate of value.

005.02 All real property must be identified by a property classification code on the property record card. The classification code is vital for the stratification of real property into classes or subclasses. The classification number must be derived from the following numerical coding system:

(A) Status
1. Improved
2. Unimproved
3. IOLL

(B) Property Parcel Type (Predominant Use of Parcel)
1. Single Family
2. Multi-Family
3. Commercial
4. Industrial
5. Agricultural
6. Recreational
7. Mobile Home
8. Minerals Non-Producing
9. Minerals Producing
10. State Centrally Assessed
11. Exempt
12. Game and Parks In Lieu (Wildlife Preservation Only)

(C) Zoning
1. Single Family
2. Multi-Family
3. Commercial
4. Industrial
5. Agricultural
6. Recreational
7. Other
0. None

(D) Location
1. Urban
2. Suburban
3. Rural

(E) City Size
1. 300,000 and over (metropolitan city)
2. 100,001-299,999 (primary city)

3. 12,001-100,000 (first class city)
4. 5,001-12,000 (first class city)
5. 2,501-5,000 (second class city)
6. 800-2,500 (second class city)
7. 101-799 (village)
8. 1-100 (village)
9. Unincorporated village or Not applicable

(F) Parcel Size (Square feet or Acres)
1. 1 sq. ft.-10,000 sq. ft.
2. 10,001 sq. ft.-20,000 sq. ft.
3. 20,001 sq. ft.-1.00 acre
4. 1.01 acre-2.00 acres
5. 2.01 acres-5.00 acres
6. 5.01 acres-10.00 acres
7. 10.01 acres-20.00 acres
8. 20.01 acres-40.00 acres
9. 40.01 acres-160.00 acres
10. 160.01 acres-one section

005.02A The agricultural or horticultural land capability groups may be platted on aerial photographs or in an electronic data file. The photograph or data file must indicate the ownership boundaries and the date of physical inspection by the county assessor.

005.03 All land in the state may be identified using the public land survey system. The entire state has been laid out in townships North of the baseline running from east to west along the Kansas-Nebraska border, and ranges East and West from the 6th parallel which runs perpendicular to the baseline approximately 108 miles West of the Eastern tip of the state. The parcel should be identified using the public land survey system legal description.

005.03A Government lots may be identified using the appropriately assigned government lot number. Some government lots are irregularly shaped lots which most often occur along the North and West sections in a township.

005.03B Irregular lots may be identified using the appropriately assigned “tax lot” number.

005.04 Every county assessor must prepare and annually maintain a cadastral map system. It must consist of a series of layers, sheets, or books accurately showing each parcel to scale. Any of the following items that are pertinent must be shown on each sheet.

005.04A General
(1) Title of map
A. Township
B. Range
C. Section or sections
D. Subdivision
E. Block
F. Lot
G. Parcel
(2) Book and page number as found in the register of deed’s office
(3) City
(4) Arrow indicating north
(5) Scale of map
(6) Page number of bordering maps on respective edges

005.04B Descriptive information

(1) Sections, townships, and ranges if more than one
(2) Subdivisions, if they cover only a portion of the map and are not in the title
(3) Property ownership lines with essential courses and distances - shown by solid lines
(4) Dimensions of lots and tracts - showing original plotted areas in dotted lines if parcel includes a greater area
(5) Lot numbers shown in the center of the lot
(6) Parcel number - circled or otherwise highlighted on the parcel
(7) Original block number
(8) County assessor's block number, must be enclosed elliptically or otherwise highlighted
(9) Acreage of any parcel containing one acre or more, or fractions of an acre; or, if the county has implemented a lot and block system of identification, the lot and block
(10) Width of streets and roads

005.04C Street names

005.04D Highway route numbers designating whether federal, state, or local

005.04E Ownership and use of public property (courthouse, library, school, park, etc.)

005.04F Creeks, rivers, ditches, bridges, lakes, etc.

005.04G In the preparation of a cadastral map, the following scale of measurement must be used as applicable:

Urban lot	Scale - 1 inch = 100 feet
Large urban and suburban	Scale - 1 inch = 200 feet
General rural	Scale - 1 inch = 1,320 feet
General rural and range	Scale - 4 inches = 1 mile

A cadastral map must be printed on permanent materials that facilitate reproduction. Each sheet or page of a cadastral map must be uniform in size. The county assessor must update and maintain the cadastral map to reflect any changes in the information. The requirements mandated in this regulation will not prohibit a county from using electronic records that encompass items such as the Nebraska Geographic Information Systems after approval from the Property Tax Administrator.

Neb. Rev. Stat. §§ 77-702, 77-1303, 77-1329, and 77-1331. October 26, 2014

REG-10-006 IMPROVEMENTS ON LEASED LAND

006.01 Improvements on leased land or leased public land are real property and must be assessed in the same manner as other real property. The taxes on improvements on leased land must be collected in the same manner as the collection of taxes on other real property.

006.02 Improvements on leased public land must be assessed, together with the value of the lease, to the owner of the improvements as real property. The situs of improvements on leased land must be the same as the land upon which the improvement is located. The Improvements on Leased Public Land Assessment Application, Form 402P, must be filed stating that the specifically described improvements on the leased public land are the property of the lessee. This form must be filed with the county assessor of the county where the land is located on or before March 1 and must be signed by the owner of the improvements. A new Form 402P must be filed following any change in the improvements or ownership.

006.03 Improvements on leased land, other than leased public land, must be assessed to the owner of the leased land unless Form 402, is filed stating that specifically described improvements on the leased land are the property of the lessee. This form must be filed with the county assessor of the county where the land is located by

either the owner of the land or the owner of the improvements before March 1. A new Form 402 must be filed and signed by the owner of the improvements following any change in the improvements or ownership.

006.04 When improvements are placed on leased land, and are listed separately to the owner of the improvements, the actual value of the land and improvements must be determined without regard to the fact that the owner of the improvements is not the owner of the land.

006.05 If either the owner of the improvement or the owner of the land claims that the value of his or her interest in the real property is reduced because of the terms of the contract or because of the prospective termination or expiration of the term, he or she must serve notice of this claim in writing by mail on the owner of the land or the owner of the improvement and on the county assessor, together with an affidavit that notice was served on the other party before January 1. If the claim is determined to be valid, the county assessor must apportion the total value of the improvements between the owner of the improvements and the owner of the land. The county assessor must give notice to the parties of the findings by mail on or before June 1.

Neb. Rev. Stat. §§ 77-117, 77-702, 77-1374, 77-1375, and 77-1376. October 26, 2014.

NEBRASKA ADMINISTRATIVE CODE

Title 350 - Nebraska Department of Revenue Property Assessment Division
Chapter 11 - Agricultural or Horticultural Land Special Valuation Regulations
Effective Date 3/15/09

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Title 350 - Nebraska Department of Revenue, Property Assessment Division
Chapter 11 - Agricultural or Horticultural Land
Special Valuation Assessment Regulations

REG-11-001 PURPOSE

001.01 Since urban development and other non-agricultural development can have an economic impact on neighboring agricultural or horticultural land, Neb. Rev. Stat. Sections 77-1343 through 77-1348 were enacted. The special valuation assessment provides for a taxable value based solely on seventy-five (75) percent of the actual value of land for agricultural or horticultural purposes or uses, without regard to the actual value the land might have for other purposes or uses, allowing persons wishing to continue to engage in agriculture as a livelihood, from being forced to discontinue their agricultural endeavors as a result of excessive tax burdens. It is also recognized that special valuation assessment reduces the value base for property tax purposes. To limit this effect, a recapture of the tax benefit received is imposed through 2008, when the property ceases to qualify for the special valuation.

001.02 Under advisement of the Greenbelt Advisory Committee, the following regulations set forth the requirement of the assessor to determine (1) the actual value of the land based on current sales, and, (2) the actual value of the land based on current sales of similar land not subject to influences other than the agricultural and horticultural uses of the land, or (3) actual value of the land based on the present value attributable to agricultural and horticultural uses of the land.

(Neb. Const., Art.VIII, Sec. 1, subsec.5, Neb. Rev. Stat. Sections 77-1343, 77-1345.01 and 77-1347, R.S. Supp., 2006 and Neb. Rev. Stat. Sections 77-702, 77-1344, 77-1345, 77-1346, 77-1348 and 77-1355, R.S. Supp., 2007.)

REG-11-002 DEFINITIONS

002.01 Additional taxes shall mean the amount of potential tax liability constituting the difference between real property taxes due as a result of the special valuation assessment and taxes which would have been due had the land been taxed at the recapture valuation.

002.02 Actual value shall mean the market value of real property in the ordinary course of trade. It is the most probable price expressed in terms of money that a property will bring if exposed for sale in the open market in an arm's length transaction between a willing seller and a willing buyer, both of whom are knowledgeable concerning all the uses to which the real property is adapted and for which it is capable of being used. Actual value may be determined using professionally accepted mass appraisal methods, including, but not limited to, the (1) sales comparison approach, (2) income approach, and (3) cost approach.

002.03 Special valuation shall mean the actual value of the land if the land were available only for agricultural or horticultural purposes or uses without regard to any other purpose or use to which the land may be used.

002.04 Special valuation assessment shall mean seventy-five (75) percent of the special valuation.

002.05 Recapture valuation shall mean the actual value of the land.

002.06 Recapture valuation assessment shall mean eighty (80) percent of the recapture valuation for tax years 2006 and 2005. For tax year 2007 and thereafter the recapture valuation assessment shall mean seventy-five (75) percent of the recapture valuation.

002.07 Agricultural land and horticultural land is a parcel of land primarily used for agricultural or horticultural purposes. This includes wasteland lying in or adjacent to and in common ownership or management with other agricultural and horticultural land. Agricultural land and horticultural land does not include any land directly associated with any building or enclosed structure.

002.08 Agricultural and horticultural purposes shall mean used for the commercial production of any plant or animal product in a raw or unprocessed state that is derived from the science and art of agriculture, aquaculture, or horticulture.

002.08A Agricultural or horticultural purposes includes land retained or protected for future agricultural or horticultural purposes under a conservation easement as provided in the Conservation and Preservation Easements Act, except when the parcel or a portion thereof is used for purposes other than agricultural or horticultural purposes.

002.08B Agricultural or horticultural purposes also includes land enrolled in a federal or state program in which payments are received for removing such land from agricultural or horticultural production.

002.08B(1) Land encumbered by an easement under the Wetlands Reserve Program cannot be used for agricultural or horticultural purposes and therefore cannot be characterized as agricultural or horticultural land and must be valued at its actual value.

002.09 Owner shall mean an owner of record of agricultural or horticultural land or the purchaser of agricultural or horticultural land under a contract for sale.

002.10 Lessee for purposes of Neb. Rev. Stat. Sections 77-1343 through 77-1348, shall mean a person leasing agricultural or horticultural land from a state or governmental subdivision which is an owner that is subject to taxation under Neb. Rev. Stat. Section 77-202.11.

002.11 Applicant for purposes of Neb. Rev. Stat. Sections 77-1343 through 77-1348 shall mean the owner or lessee that is responsible for paying the property taxes levied on the land.

002.12 Parcel shall mean a contiguous tract of land under the same ownership and in the same tax district and section. Parcel may include all lots in a block that belong to the same owner and are in the same tax district. Parcel shall also mean an improvement on leased land (IOLL). A parcel cannot contain more than one section.

002.13 Commercial production shall mean agricultural and horticultural products produced for the primary purpose of obtaining a monetary profit.

(Neb. Rev. Stat. Section 23-372, R.S. Supp., 2000, Neb. Rev. Stat. Sections 23-174.03, 77-1343, 77-1347 and 77-1359, R.S. Supp., 2006 and Neb. Rev. Stat. Sections 77-702, 77-1346 and 77-1348, R.S. Supp., 2007.)

REG 11-003 ELIGIBILITY

003.01 In order to be eligible for the special valuation assessment the land must meet the following criteria:

003.01A The land must be located outside the corporate boundaries of any sanitary and improvement district, city, or village, except that land within the corporate boundaries of a city or village if the land is subject to a conservation or preservation easement as provided in the Conservation and Preservation Easements Act and the governing body of the city or village approves an agreement creating the easement, would be eligible;

003.01B The land must be agricultural or horticultural land. Eligibility shall be determined annually as of January 1. However, the land must remain eligible the entire year in order to retain the special valuation assessment for that year. To remain eligible in succeeding years the land must continue to be agricultural or horticultural land.

003.02 An approved application will remain in effect until such time as the land becomes disqualified pursuant to REG-11-006.

(Neb. Rev. Stat. Sections 77-202.03, 77-1345.01, 77-1347 and 77-5013, R.S. Supp., 2006 and Neb Rev. Stat. Sections 77-702, 77-1344,77-1345, 77-1346 and 77-1348, R.S. Supp., 2007.)

REG-11-004 APPLICATION PROCEDURE

004.01 The initiation of special valuation assessment is dependent on the filing of an application for special valuation assessment by the applicant or authorized representative of the applicant. If the land qualifies for the special valuation assessment pursuant to REG-11-003, the assessor shall approve the application. No action of a county board of equalization is required for the special valuation assessment to be implemented.

004.02 Application for the special valuation assessment shall be submitted to the assessor on or before June 30. Any application received after June 30 shall be accepted only as an application for the following year, except for action by the county board of equalization pertaining to the assessment of agricultural and horticultural land that is undervalued, overvalued, or omitted from the assessment roll and clerical errors involving the assessment of agricultural and horticultural land. See REG-11-004.08 for the submitting of applications because of county board of equalization action on undervalued, overvalued or omitted agricultural and horticultural land and clerical errors involving agricultural and horticultural land. The application shall be made on the Special Valuation Application, Form 456, prescribed by the Tax Commissioner and supplied by the assessor. The application must be submitted on behalf of the applicant seeking the special valuation assessment on the property and be signed by one of the following persons:

004.02A The applicant as defined in REG-11-002.11,

004.02B Any person of legal age duly authorized to sign an application on behalf of an applicant described in this regulation,

004.02C The guardian or conservator of an applicant or the executor or administrator of the applicant’s estate.

004.03 The assessor shall not approve an application signed by a person whose authority to sign is not a matter of public record unless there is filed with the application a true copy of the deed, contract of sale, power of attorney, lease or other appropriate instrument evidencing the signer's qualification pursuant to REG-11-004.02A through 11-004.02C.

004.04 On or before July 15, the assessor, upon receiving an application and necessary documentation as required pursuant to REG-11-004.03, shall verify the information as to the status of the applicant and the eligibility of the land pursuant to the criteria in REG-11-003.01. If all of the information is proper and all criteria for the special valuation assessment is met, the assessor shall approve, sign the application, and on or before July 22, send written notification of approval to the owner and applicant if different from the owner. After approving the application, the assessor shall apply the special valuation assessment whenever appropriate to the land. An approved application will remain in effect until the land becomes disqualified.

004.05 On or before July 15 in the year of application, the assessor shall approve or deny the application for the special valuation assessment filed pursuant to Neb. Rev. Stat. Section 77-1345 based upon the two criteria required in REG-

11-003.01. If the application is denied, the assessor shall on or before July 22, send written notification of his or her action to the owner and the applicant if different from the owner, by regular mail to the address on the application. The assessor shall state the reason or reasons why the application was denied.

004.05B The owner or the applicant if different from the owner may protest the denial of their application for the special valuation assessment to the county board of equalization within thirty days after the mailing of the notice by the assessor.

004.05B(1) The protest shall be written in triplicate, signed and filed with the county clerk.

004.05B(2) If the protest is not timely filed, it shall automatically be dismissed.

004.05B(3) The protest shall contain a written statement of why the application should not have been denied.

004.05B(4) Each protest filed can only pertain to one parcel and not a combination of parcels.

004.06 The county board of equalization shall decide the protest within thirty days after the filing of the protest.

004.06A Within seven days after the county board of equalization's decision, the county clerk shall mail written notice of the board's decision to the owner and the applicant if different from the owner. If the protest is denied the notice shall state the reason for denial.

004.07 Within 30 days after the date of the decision of the county board of equalization, the owner and if not the same, the applicant may appeal the board's decision to the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat. Section 77-5013.

004.08 When the county board of equalization takes action on agricultural and horticultural land which was undervalued, overvalued or omitted from the assessment roll or clerical errors involving agricultural or horticultural land, the owner or lessee may file an application for the special valuation assessment within thirty days after the mailing date of the valuation notice, by the county board of equalization. The application shall be made on the Special Valuation Application, Form 456, prescribed by the Tax Commissioner and supplied by the assessor. The application must be submitted on behalf of the applicant seeking the special valuation assessment on the property and be signed by one of the following persons:

004.08A The applicant as defined in REG-11-002.11,

004.08B Any person of legal age duly authorized to sign an application on behalf of a applicant described in this regulation,

004.08C The guardian or conservator of an applicant or the executor or administrator of the applicant's estate.

004.09 The assessor shall not approve an application signed by a person whose authority to sign is not a matter of public record unless there is filed with the application a true copy of the deed, contract of sale, power of attorney, lease or other appropriate instrument evidencing the signer's interest or authority.

004.10 The assessor upon receiving an application and necessary documentation as required pursuant to REG-11-004.08, shall verify the information as to the status of the applicant and the eligibility of the land pursuant to the criteria in REG-11-003.01. Within fifteen days after the filing of the application, the assessor shall approve or deny the

application and sign the application. Within twenty-two days after the filing of the application, the assessor shall send written notification of approval or denial to the owner and the applicant if different from the owner. If the application is denied, the assessor shall state the reason or reasons why the application was denied.

004.11 If the application is approved, the assessor shall apply the special valuation assessment whenever appropriate to the land. An approved application will remain in effect until the land becomes disqualified.

004.12 The owner or the applicant if different from the owner may protest the denial of the application by the assessor to the county board of equalization within thirty days after the mailing date of the notice from the assessor.

004.12A The protest shall be written in triplicate, signed and filed with the county clerk.

004.12B If the protest is not timely filed, it shall automatically be dismissed.

004.12C The protest shall contain a written statement of why the application should not have been denied.

004.12D Each protest filed can only pertain to one parcel and not a combination of parcels.

004.13 The county board of equalization shall decide the protest within thirty days from the date the protest was filed with the county clerk.

004.13A Within seven days after the county board of equalization's decision, the county clerk shall mail written notice of the board's decision to the owner and the applicant if different from the owner. If the protest is denied the notice shall state the reason for denial.

004.14 Within 30 days after the date of the decision of the county board of equalization, the owner and if not the same, the applicant may appeal the board's decision to the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat. Section 77-5013.

004.15 If failure to give notice pursuant to REG-11-004.05, REG-11-004.06A REG-11-004.10 and REG-11-004.13A prevented the timely filing of a protest or appeal, an owner or applicant if different from the owner, may petition the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat. Section 77-5013 on or before December 31, of each year for a determination as to whether the land will receive the special valuation assessment for that year.

004.16 No appeal or petition shall in any manner suspend the collection of any tax or the duties of officers relating thereto during the pendency of the appeal or petition, and all taxes affected thereby, which may be collected, shall be distributed as though no appeal or petition were pending.

004.16A If by final order of the Commission, it is determined that such tax or a part thereof should be refunded, the county treasurer is authorized to make the refund upon receiving a certified copy of such final order.

004.17 If the appeal of the denial of an application for special valuation is reversed on final order and the application is approved the land shall be valued pursuant to Neb. Rev. Stat. Section 77-1344.

004.17A The county board of equalization shall send the property valuation notice for the special valuation assessment and the recapture valuation to the owner and if not the same, the applicant, or his or her successor in interest within fourteen days after the date of the final order.

004.18 If an application is denied, the owner and if not the same the applicant may file an application in a future year to once again seek the special valuation assessment.

(Neb. Rev. Stat. Sections 77-202.03, 77-1345.01, 77-1347 and 77-5013, R.S. Supp., 2006 and Neb. Rev. Stat. Sections 77-702, 77-1344, 77-1345, 77-1346 and 77-1348, R.S. Supp., 2007.)

REG-11-005 VALUATION

005.01 The assessor shall annually use comparable sales from within the influenced area or other areas of similar influence to determine the actual value of the agricultural land and horticultural land in the area.

005.01A Actual valuation of agricultural land and horticultural land shall be based on a market analysis of arms length transactions that may include property that sold subject to certain probable and legal purposes and uses. For the purposes of these regulations, probable and legal uses shall mean those which are immediately feasible, and permitted by current zoning or other statutorily permitted uses. The actual value may additionally be influenced by other probable uses that are not yet feasible or legal under current zoning. These include, but are not limited to use of the land for residential (homesite) purposes, use of the land for commercial use purposes, use of the land for industrial use purposes, or use of the land for recreational use purposes.

005.02 The assessor shall annually determine the special valuation assessment. The information shall be based upon sales of similar classes or subclasses of agricultural land and horticultural land from agricultural and horticultural areas in which actual value is not subject to influences by other purposes and uses.
Sales within the same county that, in the judgment of the assessor, do not have nonagricultural or nonhorticultural influences on the value of agricultural or horticultural land, may be used for market comparison in determining the special valuation assessment. Care should be taken to ensure that the uninfluenced sales represent land that is comparable to the land to which the special valuation assessment is being applied.

005.02A Sales in neighboring counties shall be used in the market comparison approach if all agricultural and horticultural sales within the county have been determined to reflect selling prices that have been influenced by other than agricultural and horticultural purposes and uses.

005.02B Special valuation of agricultural and horticultural land shall be based on a market analysis of arms length sales that may include property that sold subject to certain probable and legal agricultural and horticultural purposes and uses. These include, but are not limited to:

005.02B(1) Additions to existing land holdings;

005.02B(2) Like-kind exchanges (1031 Exchanges);

005.02B(3) Location to existing towns or other locations of marketing influences such as grain elevators, grain processors, feedlots, livestock sale barns, livestock buying stations, packing plants, fertilizer dealers, fuel sales, feed supplement sales, and other suppliers of purchased inputs used in farming and ranching;

005.03 The assessor shall capitalize net cash rent to determine a valuation based on the earnings of the property from the agricultural or horticultural use only. The valuation indicated by such an income capitalization approach shall be used as the special valuation if the market comparison approach results in a value that reflects a value influenced by purposes and uses other than agricultural or horticultural. Where the differences between the market comparison approach and income capitalization approach is more than a mere difference of opinion the assessor must determine which value most accurately reflects the property's value for agricultural or horticultural purposes.

005.03A The income estimate shall be based upon;

005.03A(1) Typical cash rent for the land capability group observed for the parcel of land;

005.03A(2) Typical crop-share rental income based on a typical crop rotation observed for similar land in the county or land manual area including government program payments received. In accounting for government program payments in developing the income estimate, the assessor shall analyze the nature of the government payment and its relationship to the cash rent or the crop-share rental income for the property;

005.03A(3) Typical cash rent per animal unit month in the case of grassland use.

005.03B The expenses deducted shall reflect those typical to the land capability group observed for the parcel of land and may include a proration of shared input costs of production if a crop-share income is estimated.

005.03C The capitalization rate shall include, but not be limited to:

005.03C(1) An appropriate discount rate for the land use of the parcel of land;

005.03C(2) An adjustment for change in land value;

005.03C(3) The effective tax rate for the parcel of land; and,

005.03C(4) Any other appropriate adjustment to arrive at an overall capitalization rate.

005.04 The assessor shall maintain a file of all data used for determining the special and actual valuation. This information shall be filed with the Department of Revenue Property Assessment Division on or before March 1 of each year. The information shall be considered a public record and available for inspection by the Department of Revenue, Property Assessment Division, the Tax Equalization and Review Commission, or any interested person. The file shall include, but not be limited to:

005.04A A determination of the highest and best use of the properties to be valued;

005.04B An explanation of the valuation models used in arriving at the value estimates;

005.04C A delineation and explanation of "market areas" recognized in the analysis;

005.04D An explanation and analysis including documentation of adjustments made to sales to reflect current cash equivalency or typical market conditions;

005.04E An explanation and analysis of the estimate of economic rent or net operating income used in an income capitalization approach including estimates of yields, commodity prices, typical crop share, or documentation of cash rents;

005.04F An explanation and analysis of typical expenses allowed in an income capitalization approach;

005.04G An explanation and analysis of the overall capitalization rate used in an income capitalization approach; and,

005.04H Any other information necessary in supporting the estimate of valuations.

(Neb. Rev. Stat. Section 77-1371, R.R.S. 2003 and Neb. Rev. Stat. Sections 77-702 and 77-1346, R.S. Supp., 2007.)

REG-11-006 DISQUALIFICATION CRITERIA

006.01 Any land upon which the special valuation assessment has previously been granted shall cease to be eligible for the special valuation assessment upon the occurrence of any of the following events:

006.01A Written notification by the applicant or his or her successor in interest, or the applicant's agent, guardian, conservator, or executor of the applicant's estate to the assessor to remove the special valuation assessment; or

006.01B Sale or transfer of the land to an ownership if it results in a status of tax exemption. If the property is sold or transferred to an entity that may qualify for a property tax exemption pursuant to Neb. Rev. Stat. Section 77-202(1) (c) or (d), then this subsection shall not apply until the exemption has been granted; or

006.01C Sale or transfer to the state or its political subdivisions unless the land continues to qualify as agricultural or horticultural land; or

006.01D Annexation of the land by a sanitary and improvement district, city, or village except for land in a conservation and preservation easement, inside the corporate limits of a city or village; or

006.01E The land no longer qualifies as agricultural or horticultural land ; or

006.01F The land is donated to an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code, State of Nebraska or a political subdivision of the State of Nebraska and will be used by the organization, state or political subdivision for a public, educational, religious, charitable, or cemetery purpose.

006.02 It is the duty of the applicant, the applicant's agent, guardian or the conservator, or executor of the applicant's estate, to notify the assessor of any change in the status of the land, which will disqualify it from receiving the special valuation assessment.

006.03 It shall be the duty of the assessor to continually verify, throughout the year, that all properties listed for the special valuation assessment continue to qualify and apply the recapture valuation assessment through tax year 2008, to any properties which are no longer eligible.

(Neb. Rev. Stat. Section 77-1347, R.S. Supp., 2006 and Neb. Rev. Stat. Sections 77-702 and 77-1348, R.S. Supp., 2007.)

Reg-11-007 DISQUALIFICATION PROCEDURE

007.01 If land that has been receiving the special valuation assessment is disqualified, the assessor shall send written notice of the disqualification and the reason for disqualification to the owner and applicant if different from the owner within fifteen days after his or her determination.

007.01A The owner and if not the same, the applicant may protest the disqualification by the assessor to the county board of equalization within thirty days after the mailing date of the notice.

007.01A(1) The protest shall be written in triplicate, signed and filed with the county clerk.

007.01A(2) If the protest is not timely filed, it shall automatically be dismissed.

007.01A(3) The protest shall contain a statement of why the land should not be disqualified.

007.01A(4) Each protest filed can only pertain to one parcel and not a combination of parcels.

007.01B The county board of equalization shall decide any protest filed within thirty days from the date the protest was filed with the county clerk.

007.01C Within seven days after the county board of equalization's decision, the county clerk shall mail written notice of the board's decision to the owner and, if not the same, the applicant. If the protest is denied the notice shall state the reason for denial.

007.01D Within 30 days after the date of the decision of the county board of equalization, the owner and if not the same, the applicant may appeal the board's decision to the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat. Section 77-5013.

007.02 If failure to give notice pursuant to REGS -11-007.01 and 11-007.01C, prevented the timely filing of a protest or appeal, an owner or the applicant if different from the owner having a right to protest or appeal may petition the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat. Section 77-5013 on or before December 31 of the year in which the notice should have been sent, for a determination of the qualification or disqualification of the land.

007.02A No petition or appeal shall in any manner suspend the collection of any tax or the duties of officers relating thereto during the pendency of the petition or appeal, and all taxes affected thereby, which may be collected, shall be distributed as though no petition or appeal were pending.

007.02B If by final order of the Commission, it is determined that such tax or a part thereof should be refunded, the county treasurer is authorized to make the refund upon receiving a certified copy of such final order.

007.03 Notice of disqualification shall not be sent for the following occurrences:

(a) sale or transfer to an entity, which did or has the authority to acquire land through eminent domain; or

(b) the land is owned by a public entity and is disqualified because it is being used or is being developed for use in a public purpose or is exchanged for other property to be used or developed for use in a public purpose; or

(c) the land is donated to an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code, State of Nebraska or a political subdivision of the State of Nebraska and will be used by the organization, state or political subdivision for a public, educational, religious, charitable, or cemetery purpose.

(Neb. Rev. Stat. Section 77-1347, R.S. Supp., 2006 and Neb Rev. Stat. Sections 77-702 and 77-1348, R.S. Supp., 2007.)

REG-11-008 NOTICE OF VALUE

008.01 For a parcel of land that has an approved application on file as of the certification of the assessment roll, the assessor shall send notice to the owner and the applicant if different from the owner thereof, pursuant to REG-10-002.02F and REG-10-002.02G, if either the special valuation assessment or the recapture valuation assessment is different from the previous year. The notice shall state the information as required pursuant to Neb. Rev. Stat. Section 77-1315(2). The protest procedures for the special valuation assessment and the recapture valuation assessment shall be as set out in REG-10-002.04 through REG-10-002.04C1. After tax year 2008 the recapture valuation assessment will not be included on the notice of valuation.

008.02 For a parcel that has an approved application filed after the certification of the assessment roll and on or before June 30, the county board of equalization shall send the valuation change notice as required under REG-11-008.01, except that the notice shall state that the owner or the applicant if different from the owner, has thirty (30) days after the date the notice was mailed to protest the valuations to the county board of equalization.

008.02A The county board of equalization shall decide the protest within thirty (30) days after the date the protest was filed with the county clerk.

008.02A(1) Within seven (7) days after the county board of equalization's decision, the county clerk shall mail written notice of the board's decision to the owner and the applicant if different from the owner.

008.02B The owner and if not the same, the applicant, upon receiving notice of the decision of the county board of equalization regarding his or her valuation protest, may within thirty (30) days from the notice date, appeal the decision, to the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat. Section 77-5013.

008.03 For a parcel of land that has an approved application filed after June 30, because of county board of equalization action on agricultural or horticultural land that was undervalued, overvalued or omitted from the assessment roll or clerical errors involving agricultural or horticultural land, the county board of equalization shall send to the owner and the applicant if different from the owner, a notice of valuation stating the special valuation assessment and the recapture valuation assessment. After tax year 2008 the recapture valuation assessment will not be included on the notice of valuation. The notice of valuation shall be sent at the same time as the application approval notice.

008.03A The valuation notice shall state that the owner or the applicant if different from the owner, has thirty (30) days after the date of the valuation notice to protest the valuations to the county board of equalization. The protest procedures for the special value assessment and the recapture value shall be as set out in REG-10-002.04 through REG-10-002.04C1 except for date restrictions.

008.03B The county board of equalization shall decide the protest within thirty (30) days after the date the protest was filed with the county clerk.

008.03B(1) Within seven (7) days after the county board of equalization's decision, the county clerk shall mail written notice of the board's decision to the owner and the applicant if different from the owner.

008.03C Within thirty (30) days after the date of the decision of the county board of equalization, the owner and if not the same, the applicant may appeal the board's decision to the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat. Section 77-5013.

008.04 If failure to give notice pursuant to REG-11-008.01, REG-11-008.02, REG-11-008.02A(1), REG-11-008.03 and REG-11-008.03B(1) prevented the timely filing of a protest or appeal, an owner or applicant if different from the owner having a right to protest or appeal may petition the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat. Section 77-5013 on or before December 31 of the year in which the notice should have been sent, for a determination of the special valuation assessment or the recapture valuation assessment.

008.05 No appeal or petition shall in any manner suspend the collection of any tax or the duties of officers relating thereto during the pendency of the appeal or petition, and all taxes affected thereby, which may be collected, shall be distributed as though no appeal or petition were pending.

008.06 If by final order of the Commission, it is determined that such tax or a part thereof should be refunded, the county treasurer is authorized to make the refund upon receiving a certified copy of such final order.

(Neb. Rev. Stat. Sections 77-1315, 77-1502 and 77-5013, R.S. Supp., 2006 and Neb. Rev. Stat. Section 77-702, R.S. Supp., 2007.)

REG-11-009 DISQUALIFICATION AND TAX CALCULATION

009.01 Each year through 2008, the assessor shall maintain the assessment roll to show the recapture valuation assessment and special valuation assessment on all land receiving the special valuation assessment.

009.02 Upon disqualification by the assessor or after protest to the county board of equalization, the assessor shall determine the total additional taxes due. This determination of the additional taxes shall be calculated as the difference from the recapture valuation assessment, minus the special valuation assessment, times the levies accrued during the applicable past years for which the property received the special valuation assessment. The total of these tax liabilities shall constitute the additional taxes and first liens on the disqualified land.

009.02A The assessor shall on certain dates issue tax list corrections to the county treasurer for the applicable years showing the amounts of additional taxes due and payable, and the periods during which the taxes accrued.

009.02A(1) Any date that the applicant wishes to pay the additional taxes and accrued interest during the thirty day appeal period of the notice of disqualification.

009.02A(2) The date following the expiration of the thirty day appeal period of the notice of disqualification if no protest was filed.

009.02A(3) The date the county board of equalization decides the disqualification protest and the decision is in agreement with the assessor's determination.

009.02B The assessor shall on the dates set out in Regs-11-009.02A(1) through 11-009.02A(3), mail or provide written notification to the applicant that all or a portion of the land receiving the special valuation assessment, has become disqualified and state the amount of additional taxes and interest due for the past number of applicable years for which the property received the special valuation assessment.

009.02B(1) The notice shall also state that the additional taxes for the past number of applicable years for which the property received the special valuation assessment have become a first lien on the property, will accrue interest at the annual rate of six percent (6%) for sixty (60) days after the date of the notice of disqualification pursuant to Reg-11-007 and after the expiration of the sixty (60) days the additional taxes and interest combined shall be considered delinquent and subject to interest at the annual rate of fourteen percent (14%). For the current tax year, all taxes levied against the land shall become due and payable on December 31, in the same manner as all other real property taxes.

009.02C The county treasurer shall compute interest at the annual rate of six percent on the additional taxes from December 31 of the year such tax would have become payable had the special valuation assessment not been granted. Interest shall continue to accrue at the annual rate of six percent for sixty days after the date of disqualification pursuant to Reg-11-007. Upon the expiration of the sixty-day period the additional taxes and interest shall be considered delinquent. The combined delinquent taxes and interest shall become subject to interest at the annual rate of fourteen percent.

009.03 The total amount of additional taxes and interest collected by the county treasurer shall be distributed by tax year to the political subdivisions levying the tax in the same manner as other property taxes. If a subdivision no longer exists that was a part of a prior levy, that subdivision's tax shall be distributed to the subdivision or subdivisions with which it merged or consolidated.

009.04 If eligibility for the special valuation assessment is lost in 2007, the land shall be assessed and taxed at the recapture valuation assessment (75% of the recapture valuation) for that year. The additional taxes accrued during the prior two or lesser years shall be collected and are considered a lien against the property as of December 31 of each tax year in which the special valuation assessment was allowed. The additional taxes for 2006 and 2005 shall be calculated as the difference from the recapture valuation assessment, (80% of the recapture valuation) minus the special valuation assessment, times the levies accrued during the applicable past years.

09.05 If eligibility for the special valuation assessment is lost in 2008, the land shall be assessed and taxed at the recapture valuation assessment (75% of the recapture valuation) for that year. The additional taxes accrued during the prior year if the special valuation was in effect shall be collected and are considered a lien against the property as of December 31 of the prior year if the special valuation assessment was allowed. The additional taxes for 2007 shall be calculated as the difference from the recapture valuation assessment, (75% of the recapture valuation) minus the special valuation assessment, times the applicable levy from the past year.

009.05A Recapture valuation assessment is no longer applicable after 2008. No additional taxes and interest on the additional taxes will be collected after 2008.

009.06 If eligibility for the special valuation assessment is lost in 2009 or any year thereafter, the land will remain assessed at its special valuation assessment for that year. In the years following the year of ineligibility the land shall be assessed according to its classification pursuant to Neb. Rev. Stat. Section 77-201.

009.07 When eligibility is lost in 2007 or 2008 and the land is acquired by an owner who may make application for exemption from property taxes pursuant to Neb. Rev. Stat. Section 77-202.03 (3) or acquired by the state or its political subdivisions by means other than those outlined in REG-11-009.08, (a) (b) (c) the lien for additional taxes for the current year shall attach as of the day preceding the day the exemption was granted. The lien for any previous years shall attach as of December 31, of each year, in which the special valuation assessment was allowed.

009.08 No additional taxes are due for any previous tax year when eligibility is lost as a result of:

(a) a sale or transfer to an entity, which did or has authority to acquire land through eminent domain; or

(b) the land is owned by a public entity and is disqualified because it is being used or is being developed for a public purpose use or is exchanged for other property to be used or developed for a public purpose use; or

(c) when the land is donated to an organization exempt from taxation under section 501(c)((3) of the Internal Revenue Code, state of Nebraska or a political subdivision of the State of Nebraska and will be used by the organization, state or political subdivision for a public, educational, religious, charitable, or cemetery purposes; or

(d) when the land was disqualified due to the change in the definition of agricultural and horticultural land pursuant to Neb. Rev. Stat. Section 77-1359.

009.09 Examples of recapture tax calculation.

This process is applicable only to the agricultural or horticultural land on any parcel that received the special valuation assessment. Any nonagricultural or nonhorticultural land and improvements are not part of this process.

Example A

On September 17, 2007, 160 acres of unimproved agricultural land became disqualified and no longer will be eligible to receive the agricultural or horticultural land special valuation assessment. The additional taxes and interest that became due on September 17, 2007 for any applicable previous years were paid on September 17, 2007

The following is the history of the valuations and consolidated tax rates applied to this land for the current year and the applicable past years.

2007 Special Valuation Assessment $128,000.00 Recapture Valuation $800,000.00
Recapture Valuation Assessment $600,000.00 (75% of Recapture Valuation)
Tax due date will be 12/31/07

2006 Special Valuation Assessment $128,000.00 Recapture Valuation $800,000.00
Recapture Valuation Assessment $640,000.00 (80% of Recapture Valuation)
2006 Additional Taxable Valuation $512,000.00 = ($640,000.00 - $128,000.00)
2006 Consolidated Tax Rate .02
Tax due date was 12/31/06

2005 Special Valuation Assessment $112,000.00 Recapture Valuation $720,000.00
Recapture Valuation Assessment $576,000.00 (80% of Recapture Valuation)
2005 Additional Taxable Valuation $464,000.00 = ($576,000.00 - $112,000.00)
2005 Consolidated Tax Rate .0215
Tax due date was 12/31/05

Calculation of Additional Real Property Taxes and Interest

2007
For 2007, the taxable valuation for the 160 acres will be the recapture valuation assessment of $600,000.00 **No additional taxes and interest will be collected for the current year because of disqualification.**

2006
Additional real property taxes = $512,000.00 x .02 = $10,240.00.
Additional interest @ .06 from the tax due date 12/31/06 through 9/17/07 = 260 days.
$10,240.00 x .06 = $614.40 ÷ 365 = $1.68 x 260 = $436.80.
Total additional taxes and interest $10,240.00 + $436.80 = $10,676.80.

If the additional taxes and .06 interest had not been paid on September 17, 2007 they would continue to accrue interest at $1.68 per day thru November 16, 2007 after which interest of .14 would be charged against the total additional taxes and interest until paid.

2005
Additional real property taxes = $464,000.00 x .0215 = $9,976.00.
Additional interest @ .06 from the tax due date 12/31/05 through 9/17/07 = 625 day.
$9,976.00 x .06 = $598.56 ÷ 365 = $1.64 x 625 = $1,025.00.
Total additional taxes and interest $9,976.00 + $1,025.00 = $11,001.00.
If the additional taxes and .06 interest had not been paid on September 17, 2007 they would continue to accrue interest at $1.64 per day thru November 16, 2007 after which interest of .14 would be charged against the total additional taxes and interest until paid.

2004
There are no additional taxes and interest collected for year 2004 on land that became disqualified for special valuation assessment at any time in 2007.

Example B

On April 25, 2008, 160 acres of unimproved agricultural land became disqualified and no longer was eligible to receive the agricultural or horticultural land special valuation assessment. The additional taxes and interests for 2007 that became due on April 25, 2008 were paid on September 17, 2008. There are no additional taxes and interest for 2006.

The following is the history of the valuations and consolidated tax rates applied to this land for the current year and the past three years.

2008 Special Valuation Assessment $128,000.00 Recapture Valuation $800,000.00
2008 Recapture Valuation Assessment $600,000 (75% of Recapture Valuation)
Tax due date will be 12/31/08

2007 Special Valuation Assessment $128,000.00 Recapture Valuation $800,000.00
2007 Recapture Valuation Assessment $600,000 (75% of Recapture Valuation)
2007 Additional Taxable Valuation $472,000.00 = ($600,000.00 - $128,000.00)
2007 Consolidated Tax Rate .02
Tax due date was 12/31/07

Calculation of Additional Real Property Taxes and Interest

2008
For 2008, the taxable valuation for the 160 acres will be the recapture valuation assessment of $600,000.00. **No additional taxes and interest will be collected for the current year because of disqualification.**

2007
Additional real property taxes = $472,000.00 x .02 = $9,440.00.
Additional interest @ .06 from the tax due date 12/31/07 thru 6/24/08 = 175 days.
$9,440.00 x .06 = $566.40 ÷ 365 = $1.55 x 175 = $271.25.
Additional interest @ .14 from 6/25/08 thru 9/17/08 = 85 days.
$9,440.00+ $271.25 = $9,711.25 x .14 = $1,359.58 ÷ 365 = $3.73 x 85 = $317.05

Total additional taxes and interest $9,440.00 + $271.25 + $317.05 = $10,028.30.
If the additional taxes and interest had not been paid on September 17, 2008, they would continue to accrue interest at $3.73 per day, until paid.

2006
There are no additional taxes and interest collected for 2006 on land that became disqualified for special the valuation assessment in 2008.

Starting January 1, 2009 and forward, no additional taxes and interest will be collected on land that becomes disqualified for the special valuation assessment.

(Neb. Rev. Stat. Sections 77-702, 77-1344 and 77-1346, R.S. Supp., 2007.)

NEBRASKA ADMINISTRATIVE CODE

Title 350 - Nebraska Department of Revenue, Property Assessment Division
Chapter 12 - Sales File Regulations
Effective Date 3/15/09

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Title 350- Nebraska Department of Revenue, Property Assessment Division
Chapter 12 - Sales File

REG-12-001 PURPOSE

001.01 The purpose of these regulations is to define terms and establish procedures for the sales file. The sales file is a data base of sales of real property, including arm's length transactions, in the State of Nebraska. The sales file is required to be developed by the Property Tax Administrator in compliance with professionally accepted mass appraisal methodology.

001.02 The data gathered and compiled to develop the sales file serves to provide statistical information regarding the measure of central tendency as one of many possible indicators of the level of value and quality of assessment by county and school district for any class or subclass of real property. The sales file information is provided to the assessors, the Nebraska Tax Equalization and Review Commission, and the county boards of equalization, for use in valuing and equalizing real property. The information is also used by the Department of Revenue, Property Assessment Division to assist in determining the level of value for statewide equalization purposes, and to assist in determining the assessable valuation of real property for each school district in Nebraska. (See School Adjusted Valuation Regulation, Chapter 80).

001.03 The data gathered and compiled to develop the sales file is available for use by assessors as a base of sales to use as similar properties, and for the development of assessment strategies.

(Neb. Rev. Stat. Section 77-1377, R.R.S. 2003 and Neb. Rev. Stat. Sections 77-702 and 77-1327 R.S. Supp. 2007.)

REG-12-002 DEFINITIONS

002.01 Weighted Mean ratio, is a ratio determined by adding the assessed value of each parcel in a ratio study and dividing that number by the sum of the total selling prices of all the parcels in the study. The weighted mean gives weight to each dollar value for the parcels included in the ratio study.

002.02 Assessment shall mean the act of listing the description of all real property, determining its taxability, determining its taxable value, and placing it on the assessment roll.

002.03 Level of value shall mean the most probable overall opinion of the relationship of assessed value to actual value for a political subdivision based upon an analysis of all information available to the Property Tax Administrator including, but not limited to, the assessment/sales ratio and assessment practices study for each county for the various classes of real property.

002.04 Assessment/sales ratio shall mean the ratio of assessed value divided by the selling price of a sold parcel of real property.

002.05 Assessment statistics shall mean computed measures of central tendency and dispersion used in determining the degree of assessment uniformity, proportionality, and compliance.

002.06 Benchmark sale shall mean a similar property that has sold in a similar area which may be used to assist in determining the level of value in an assessment/sales ratio study for a jurisdiction with insufficient sales.

002.07 Actual value shall mean the market value of real property in the ordinary course of trade. It is the most probable price expressed in terms of money that a property will bring if exposed for sale in the open market or in an arm's-length transaction between a willing seller and a willing buyer, both of whom are knowledgeable concerning all the uses to which the real property is adapted and for which it is capable of being used. In analyzing

the uses and restrictions, the analysis shall include a consideration of the full description of the physical characteristics of the property and the property rights being valued. Actual value may be determined using professionally accepted mass appraisal methods, including, but not limited to, the (1) sales comparison approach, (2) income approach, and (3) cost approach.

002.08 Mean ratio shall mean the arithmetic mean ratio or the total of all assessment/sales ratios divided by the number of ratios.

002.09 Median ratio shall mean the middle ratio of the sorted or arrayed assessment/sales ratios. If there is an even number of ratios, the median shall be the average of the two middle ratios.

002.10 Non-qualified sale shall mean a sale which has been identified through the sales verification process as a non-arm's length transaction, or where the property as assessed is substantially different in it's characteristics then from the property as it was when sold.

002.11 Qualified sale shall mean a sale which is an arm's-length transaction included in the sales file as determined by the assessor or verification process of the Department.

002.12 Professionally accepted mass appraisal techniques shall include standards recognized in the appraisal industry contained in publications of the International Association of Assessing Officers and Standard 6 of the Uniform Standards of Professional Appraisal Practice. The publications referred to are available to the public and maintained at the Department's office in Lincoln, Nebraska, for viewing during normal business hours. Additionally, practices or techniques may be developed from sources within the appraisal industry as professionally accepted mass appraisal techniques, even if not contained within IAAO publications or USPAP if information can be developed regarding the use of such practices or techniques to show that they are reliable, can be tested, are not in conflict with existing professionally mass appraisal techniques and do not conflict with the statutory or regulatory provisions dealing with the subject matter of those practices or techniques.

002.13 Sale shall mean the transfer of property or an interest in property in exchange for consideration of more than one hundred dollars or upon which more than two dollars and twenty-five cents ($2.25) in documentary stamp taxes are paid. For the purposes of this definition, consideration shall mean money or its equivalent.

002.14 Adjustment shall mean the determination that there are necessary changes to the stated selling price of a parcel for time, atypical financing or personal property, involved in the transaction which represents the actual value paid for atypical financing or personal property.

002.15 Valuation is the act or process of estimating actual value of real property. (See, Assessment Process Regulations, Chapter 50.)

002.16 Transfer shall mean the conveyance of title or any interest in real property by a deed which is recorded with the register of deeds and requiring the filing of a Real Estate Transfer Statement, Form 521.

002.17 Supplemental information shall mean additional information which relates to sold real property as of the date of sale.

002.18 Sale verification shall mean the confirmation or authentication of all of the data relating to a given transaction with the buyer or the seller, or the authorized agent of either. This data includes, but is not limited to, data relating to the sale price, date of sale, terms of sale, terms of financing, and other motivating factors.

002.19 Qualified sales roster shall mean a listing of all sold properties that are not disqualified as non-arm's length transaction by the Department, or that are not disqualified as non-arm's length transactions by the assessor.

002.20 Non-qualified sales roster shall mean a listing of all sold properties from the total sales roster which have been identified through the sales verification process as non-arm's length transactions.

002.21 Arm's length transaction shall mean a sale between two or more parties, each seeking to maximize their positions from the transaction.

002.22 Representative sample shall mean a sample of observations drawn from the entire population of observations such that statistics calculated from the sample can be expected to proportionately represent the characteristics of the population being studied.

002.23 Dispersion shall mean the degree to which data are distributed either tightly or loosely around a measurement of central tendency. Measures of dispersion include the range, average deviation, standard deviation, coefficient of dispersion and coefficient of variation and price related differential.

002.24 Measures of central tendency shall mean descriptive measures that indicate the center of a set of values, for example, mean and median.

002.25 Coefficient of dispersion shall mean the extent to which a set of ratios is clustered either tightly or loosely around the median, arithmetic mean or weighted mean ratio and expressed as a percentage of that measure.

002.26 Price related differential is found by dividing the mean ratio by the weighted mean ratio and then multiply by one hundred (100) to obtain the percentage relationship. A percentage more than one hundred (100) indicates that higher priced properties are assessed at lower ratios than lower priced properties. A percentage of less than one hundred (100) indicates that lower priced properties are assessed at lower ratios than higher priced properties.

002.27 Class or subclass of real property shall mean a collection of properties that share one or more common characteristics that are not found in other properties outside the class or subclass.

002.27A For agricultural or horticultural land, class or subclass shall include, but not be limited to irrigated cropland, dry cropland, grassland, wasteland, nurseries, feedlots, orchards, location, geographic characteristics and market characteristics that are appropriate for the valuation of a class or subclass of agricultural or horticultural land at seventy-five (75) percent of its market value. In the case of agricultural or horticultural land subject to special valuation assessment, seventy-five (75) percent of its special value as if the land were available only for agricultural or horticultural purposes or uses without regard to any other purpose or use that could be applied to the land.

002.27B For all other real property, class or subclass shall include, but not be limited to status, parcel type, zoning, location, city size, parcel size, geographic characteristics or market characteristics that are appropriate for the valuation of a class or subclass of real property at one hundred (100) percent of its market value. For the purposes of this regulation market characteristics shall mean the social and economic factors in the market that affect the value of real property. Geographic characteristics shall mean the physical characteristics of the earth, land, region, or site that may have an effect on value.

(Neb. Rev. Stat. Sections 77-112, 77-117, 77-126 and 77-1360.01, R.R.S. 2003 and Neb. Rev. Stat. Sections 77-702, 77-705, 77-1327 and 79-1016, R.S. Supp. 2007.)

REG-12-003 PROCEDURES

003.01 The Department of Revenue receives all Real Estate Transfer Statements, Forms 521, filed each month by each county register of deeds.

003.02 The sales file data base shall contain the name of the county and school district where the parcel is located, the property class and subclass, and selected information reported on the real estate transfer statement or supplemental data required by the Property Tax Administrator for the parcel.

003.03 The assessor shall provide to the Department of Revenue, Property Assessment Division supplemental data required by the Property Assessment Division in the form of a sales worksheet or a previously approved electronic transfer of said data for each Real Estate Transfer Statement with the required stated consideration or documentary stamp tax paid.

003.03A The assessor shall forward a copy of the Real Estate Transfer Statement and the supplemental data to the Department of Revenue, Property Assessment Division on or before the fifteenth of the second month following the month the deed was recorded. The data shall be included by deed book and page number and date of sale with the Real Estate Transfer Statement in the sales file database. Failure on the part of the assessor to comply with the requirements of REG-12-003.03 may result in corrective action being taken by the Property Tax Administrator, pursuant to Proceedings Instituted by the Department of Revenue Regulations, Chapter 91.

003.03B All data incorporated into the sales file database by the assessor or Property Assessment Division shall be available for further verification by the assessor or the Department of Revenue, Property Assessment Division.

003.03C The assessor shall indicate numerically on the sales worksheet their opinion as to whether the sale is qualified or non-qualified for inclusion in the sales file as an arm's length transaction. If the assessor determines a sale to be non-qualified, a numeric code and explanation as defined by the Property Tax Administrator shall be indicated on the sales worksheet.

003.03D The Property Tax Administrator may verify any transaction with the county assessor that may be questionable for inclusion or exclusion from the sales file. The verification of these transactions may include, but not be limited to:

(1) Interview with the assessor to gather information regarding the sales transaction and the assessment information for the property. Such interviews may be conducted by Department of Revenue, Property Assessment Division personnel by telephone.

(2) Interview with a primary party to the sale or knowledgeable third person, for the purpose of gathering information regarding the sales transaction. Such interviews may be conducted by Department of Revenue, Property Assessment Division personnel by telephone.

(3) The Property Assessment Division shall determine from all information gathered if any adjustments to selling price are warranted.

(4) The Property Assessment Division shall provide a narrative explanation of the determination made regarding the qualification of the sale. Such explanation shall be based on the information gathered by the Property Assessment Division and entered in the data base contemporaneously in time with the gathering of the data.

003.04 In the verification of sales by the Property Assessment Division, the assessor's opinion with respect to the inclusion, exclusion or adjustment of a sale shall be presumed correct. The Property Assessment Division may treat a sale in a manner different from that recommended by the assessor when the information accumulated through the Property Assessment Division's verification process indicates that the opinion of the assessor regarding the inclusion, exclusion, or adjustment of the transaction is incorrect.

003.04A If the county assessor fails to provide a reason for adjusting the sales price or for disqualifying the sale, the Property Assessment Division may include the sale in the sales file, without adjustment.

003.04B If the county assessor has indicated a reason for the adjustment of a sale or the disqualification of a sale, and the reason is not in compliance with professionally accepted mass appraisal techniques, the Property Assessment Division may include the sale in the sales file, without adjustment.

003.04C If the county assessor has indicated a reason for the adjustment of a sale, or the disqualification of a sale, and the reason is in compliance with professionally accepted mass appraisal techniques, including but not limited to, Appendix A Sections A.4.1 and A.4.2 of the Standard on Ratio Studies of the International Association of Assessing Officers, the Property Assessment Division shall include or exclude the sale in or from the sales file only after the Property Assessment Division has completed a verification of the sale, and the Property Assessment Division does not agree with the decision of the county assessor.

003.04D If the Property Assessment Division determines that it does not agree with the decision of the county assessor, the Property Assessment Division shall, within seven (7) days of such determination, notify the county assessor in writing that the sale will not be included in or excluded from the sales file, or that the adjustment amount to the sale is changed.

003.04E If the county assessor disagrees with the Property Assessment Division's determination, the county assessor, using the sales file protest form, may file a written protest of the Property Assessment Division's determination within thirty (30) days from the mailing of the Property Assessment Division notification, with the Tax Commissioner. Any such protest shall be filed pursuant REG 12-004, below.

003.05 Rosters of the sales file database shall be provided by the Department of Revenue, Property Assessment Division twice per year to assessors. The assessor may request in writing additional rosters for use in the assessment process.

003.05A All rosters shall show the county, school district, class or subclass of real property, and all other necessary information contained in the data base as specified by the Property Tax Administrator.

003.05B The additional rosters requested by the assessor may include additional data, if available, as specified in the written request of the assessor.

003.06 The Property Tax Administrator shall test the sales data provided by the assessor to ensure that the sales reporting and processing procedures are being followed uniformly as set forth in REG-12-003.01 through REG-12-003.05. The test shall include both qualified and non-qualified sales.

003.07 The Property Tax Administrator shall calculate the measures of central tendency and other statistical indicators of the quality of assessment, such as the coefficient of dispersion and price related differential, of all of a class or subclass of property.

003.07A The study period for each major class of property shall be as follows:

003.07A(1) For residential property, from July 1 to June 30 for the two (2) years ending on June 30 of the year prior to the issuance of the Report and Opinion.

003.07A(2) For commercial property, from July 1 to June 30 for the three (3) years ending on June 30 of the year prior to the issuance of the Report and Opinion.

003.07A(3) For agricultural and horticultural land, from July 1 to June 30 for the three (3) years ending on June 30 for the year prior to the issuance of the Report and Opinion.

003.07A(4) The Department of Revenue, Property Assessment Division may use a longer or shorter study period where the data developed for the above described periods does not, based on all of the data available to the Department of Revenue, Property Assessment Division accurately reflect the level of value for a county and where the change to the length of the study period will enhance the Department's ability to determine a county's level of value. The adoption of a longer or shorter time period may be done by the Department of Revenue, Property Assessment Division based on its own information or information provided by a county pursuant to a request to adopt a longer or shorter study period. Such a request shall be in writing and set forth the reasons the county is seeking a different study period. To the extent possible, sales outside the established time period will be adjusted to the mid-point of the established time period.

003.08 Upon request, the Property Tax Administrator shall make the sales file database available to the assessors, the county boards of equalization, and the Tax Equalization and Review Commission for use in the assessment and equalization of property pursuant to Neb. Rev. Stat. Sections 77-1377 and 77-5027.

(Neb. Rev. Stat. Sections 77-1371 and 77-1377, R.R.S. 2003, and Neb. Rev. Stat. Sections 77-702, 77-1327, 77-5027 and 79-1016, R.S. Supp., 2007.)

REG-12-004 SALES FILE PROTEST PROCEDURES

004.01 After receiving the qualified and nonqualified sales roster from the Department of Revenue, Property Assessment Division, an assessor may protest the inclusion, exclusion, or the adjustment or failure to make an adjustment to a sale, in the following manner:

004.01A The protest shall be in writing on the sales file protest form supplied by the Property Assessment Division and shall set forth the reasons for the protest as well as the requested action the assessor wishes the Property Tax Administrator to take with respect to treatment of the sale in the sales file;

004.01B The protest shall be accompanied by supplementary written materials that question whether the transaction is arm's length or whether the selling price should be adjusted for time, personal property or atypical financing to more accurately reflect the price paid for the real property.

004.01B(1) Issues regarding the improper classification of the sold property must be dealt with using a sales file correction form or the actual value update. Property that is the subject of an arm's length transaction but has been reclassified, shall be a qualified sale in the sales roster under its corrected classification. This corrected classification should reflect the typical assessment practices of the assessor.

004.01C The protest shall be mailed to the main office of the Department of Revenue, Property Assessment Division within thirty (30) days of the date on the certificate of mailing on the qualified and nonqualified semi annual sales roster sent by the Property Tax Administrator to the assessor.

004.01D The assessor shall be entitled to a hearing on the merits of the protest before the Tax Commissioner. Such hearings shall be governed by the Department's Practice and Procedure Regulations, Nebraska Administrative Code, Title 350, Chapter 90.

004.01D(1) The assessor may waive the hearing before the Tax Commissioner. The waiver of hearing shall be in writing and shall be done in conjunction with the filing of the protest or at any time prior to a scheduled hearing.

004.01D(2) In the event that the assessor agrees to waive the hearing on the protest, the matter shall be submitted for determination by the Tax Commissioner based on the information provided by the assessor accompanying the protest and the information developed by the Property Assessment Division through the verification process.

004.02 Burden of Proof. The burden of proof to alter the contents of the qualified sales roster after the verification process shall be on the assessor filing the protest to provide evidence to the Tax Commissioner to show, by more than a mere difference of opinion, that the property should be treated in the manner advocated by the assessor who filed the protest.

004.03 Review of Protests. In ruling on protests following the hearing or in making a determination of protests for which the hearing was waived the Tax Commissioner or his or her designee shall apply the following standards:

004.03A All sales shall be deemed to be arm's length transactions unless determined to be otherwise under professionally accepted mass appraisal techniques.

004.03B The determination of the Department of Revenue, Property Assessment Division regarding the treatment of the sale will stand in the absence of additional evidence provided by the assessor accompanying the protest;

004.03C Assertions by the assessor without additional information accompanying the protest shall be insufficient to change the treatment of the sale for roster purposes;

004.03D Supplemental information provided by the assessor accompanying the protest such as additional contact with the buyer or seller or other information affecting the sale may result in the Tax Commissioner ruling in favor of the assessor and treating the sale in the manner requested in the protest. Such information must be relevant to the question of whether the transaction is arm's length in nature or whether an adjustment to the selling price recognized under professionally accepted mass appraisal techniques is appropriate. The information provided with the protest may also relate to errors in the classification or subclassification of a parcel. If a protest results in the reclassification of a parcel, that transaction shall become part of the sales file for its new classification. Reclassification or data correction maybe handled by the liaison without the necessity of a written protest.

004.03E The fact that a sale has an assessment/sales ratio above or below the acceptable range for equalization, as set forth in Neb. Rev. Stat. Section 77-5023, standing alone, shall not be grounds for the exclusion or adjustment of the sale.

004.04 Ruling on Protest. The Tax Commissioner shall review the protests filed regarding the sales file and the Tax Commissioner shall issue a written ruling on the protest within thirty (30) days of the hearing, or, if the hearing has been waived within thirty (30) days from receipt of the protest by the Property Assessment Division. Such ruling in writing shall set forth the reasons for grant or denial of the action requested in the protest and shall be sent to the assessor by regular U.S. mail, within seven (7) days after the date of the ruling.

004.05 Appeal. Any assessor whose protest has been denied may appeal within thirty (30) days after the date of the written ruling of the Tax Commissioner to the Tax Equalization and Review Commission in accordance with Neb. Rev. Stat. Section 77-5013.

(Neb. Rev. Stat. Sections 84-901, 84-913 and 84-914, R.R.S. 1994, Neb. Rev. Stat. Section 77-5013, R.S. Supp., 2006 and 77-702 and 77-5023, R.S. Supp., 2007.)

NEBRASKA ADMINISTRATIVE CODE

Title 350 - Nebraska Department of Revenue, Property Assessment Division
Chapter 13 - Mineral Interests Regulations
Effective Date 3/15/09

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Title 350 - Nebraska Department of Revenue, Property Assessment Division
Chapter 13 - Mineral Interests Regulations

REG-13-001 DEFINITIONS

001.01 Mineral shall mean an inorganic substance found naturally in the earth, including, but not limited to ore, gravel, oil, or natural gas.

001.02 Mineral interest shall mean the ownership of any minerals, mines, quarries, mineral springs, overriding royalty interest, and production payments with respect to oil and gas leases. The interest includes the executor rights to sell or lease the property, to receive bonus payments and delay rentals and to participate in the production through royalty payments.

001.02A A producing mineral interest shall be the interest created in a mine, quarry, mineral spring, or oil or gas wells at the time it has come into production and for which production payments are being made or received. Most mineral leases have a term specific until the property subject to lease is made to produce a specific mineral. These leases may be extended for as long as the lessee recovers the mineral subject to the lease in paying quantities.

001.02B A non-producing mineral interest is one in which there is no known activity related to the recovery of a mineral. A mineral lease commonly allows for a bonus rental and delay rentals to be paid to the lessor unless and until the lessee is able to extract in an economically feasible manner the specific mineral subject to the written agreement or lease.

001.03 Mineral lease shall mean a written agreement under which the owner of the mineral interest grants the lessee the right to use the land for mineral exploration. Production may be divided into royalty interests, overriding interests, and working interests.

001.04 Overriding royalty interest shall mean a given percentage of the gross production at the surface carved out of the working interest.

001.05 In regard to oil, gas and petroleum production leases, royalty interest shall mean a share of not less than 12.5 percent of either the gross production or the market value of such gross production at the leased premises. Such royalty is paid to the owner-lessor of the mineral interests.

001.06 Severed mineral interest shall mean a mineral interest in which ownership of the mineral interest is different from that of the surface interest.

001.07 Unit shall mean any single oil, gas, or other hydrocarbon well or any other mineral well or field, which has multiple ownership or any combination thereof, consolidated into a single operation.

001.08 Well shall mean an orifice in the ground made by drilling, boring, or in any other manner from which any mineral is obtained or obtainable or which is being made for the purpose of obtaining minerals.

001.09 Working interest shall mean the remaining percentage after royalty interests and overriding royalty interests. Such working interest is commonly 87.5 percent (87.5%) or less and belongs to the lessee and others involved in the production in regard to oil, gas and petroleum production leases.

(Neb. Rev. Stat. Sections 57-219, 57-234 through 57-236, R.R.S 2004 and Neb. Rev. Stat. Sections 77-103 and 77-702, R.S. Supp., 2007.)

REG-13-002 ASSESSMENT

002.01 Mineral interests, either producing or non-producing, are real property and shall be valued for taxation as any other real property whether or not such mineral interests are severed from the surface interests. For more information, see Real Property Regulations, Chapter 10.

002.02 Any owner of land from which a mineral interest has been severed or the owner of a mineral interest which has been severed may file an application with the assessor of the county where such land is located to separate for purposes of assessment and taxes such severed mineral interest from the surface interest and place them separately on the assessment and tax roll of the county. When proof of ownership of the severed mineral interest is not made available to the assessor, the mineral interest shall be assessed to the owner of the surface interest. The applicant shall, at his or her own cost, provide to the assessor proof of ownership of the severed mineral interest and a record of the creation of the severed mineral interest, as shown by the records of the county clerk or register of deeds. Proof of ownership, the name and last known address of the owner or owners, the ownership interest including any fractional interest, legal description, and the record of creation of the severed mineral interests shall be provided in the form of an opinion by an attorney or a certificate prepared by a licensed abstracter.

002.03 The application requesting separate assessment listings of a severed mineral interest and surface interest must be filed with the assessor on or before January 1 of the year in which the interests are to be separately listed and assessed. The mineral interest will continue to be separately assessed without a new application regardless of any change of ownership of either the surface interest or the mineral interest. If after separate assessment the owner of the surface becomes the owner of the mineral interest, so that all interests in the surface and the mineral interest are the same, the owner of the surface may request in writing, along with proof of recorded ownership, that the separate assessment cease. Upon receipt of the request and proof of recorded ownership, the assessor shall combine the values of the surface and mineral interest.

002.04 The assessor shall determine the actual value of all mineral interests, whether producing or non-producing, in the county by use of the applicable factors listed in Neb. Rev. Stat. Section 77-112. The three standard approaches to value are cost, income, and sales comparison. The summed total value of the mineral interest and any value established for the surface interest only, shall not exceed the value of the fee simple interest for the parcel of land as may be compared to properties with similar uses, geographical characteristics and/or geological potentials.

002.05 All items of real property, such as wells, buildings, fixtures, except trade fixtures, improvements, or mobile homes, that are used for the production of minerals and owned by parties other than the owners of the mineral and/or surface interests are real property and shall be assessed as improvements on leased lands.

002.06 All taxable tangible personal property held or owned on January 1, which may include pipe, submersible pumps, sucker rods, fittings and any other equipment, trade fixtures, tools and items used for the production of minerals, shall be reported to the assessor where such property is located.

002.07 In the valuation of parcels of real property containing mineral deposits the assessor shall consider the likelihood of the mineral to be extracted or to begin extraction within a several year time frame. The assessor shall consider whether the present value of a mineral that will be extracted diminishes in value the more remote the extraction is likely to be in terms of time or certainty of occurrence.

002.07A If an income approach is used to value a mineral interest, it requires an estimate of the amount of mineral in place, an estimate of the time of commencement and period of extraction, a net dollar value per unit of the extracted mineral, a determination of continuity of production and the selection of an appropriate capitalization rate. The selection of the capitalization rate shall be based on market factors, including capital costs and risks based on the certainty of the existence or quality of minerals or the commencement and continuity of an extraction operation. The determination of the dollar value per unit of mineral should be based upon the prevailing local lease/royalty rate per ton (or other appropriate measure) for similar mineral, and the existence of considerations of abnormal expenses of extraction such as depth of overburden or restoration of the property.

002.07B The valuation of mineral interests shall be evaluated each year as part of the valuation process by the assessor for changes in the underlying assumptions contained in the present value calculation, such as the ongoing nature of the extraction operation, the likelihood of near term extraction of minerals, or a change in the quality and rate of extraction.

002.07C The net present value of the potential cash flow will be calculated based on the summation of the estimate of the individual cash flows discounted for time of production and time until commencement of extraction.

002.07D In those occurrences where extraction is so remote in time or probability of being extracted as to have little present value, the mineral interest shall have little or no measurable contributory value and is considered included in the total value of the fee interest assessed. The parcel's value shall be comparable to other parcels with similar uses, geographical characteristics, and geological potentials.

002.08 In the valuation of parcels of real property containing mineral deposits which would require the impairment of the surface interest in extracting the minerals, the assessor shall determine the value of such parcels in the following manner:

002.08A When the extraction of minerals diminishes or impairs the use of the surface of the parcel (open pit mining and sand and gravel pumping operations and subsurface mining susceptible to subsidence), the portion of the value of the parcel representing the surface use of the parcel will diminish as the extraction of minerals consumes the surface of the parcel or creates a subsidence hazard. As the surface is consumed, or the subsurface is removed creating a subsidence hazard, the portion of the value of the parcel represented by the mineral interests may increase as a percentage of the entire value of the parcel.

002.08B As minerals are extracted and mineral deposit is depleted on any portion of a property, the value of the mineral interests on that portion of the property will decrease. The assessor should seek to ascertain data regarding the extent of the minerals extracted and the likelihood of the parcel continuing to generate minerals at the same level in the future.

002.08B(1) Where the surface of the parcel is primarily used for the production of agricultural and horticultural products and the actual value of the parcel is influenced by nonagricultural or non-horticultural influences, including the potential for mineral extraction, the surface interest value may qualify for special valuation pursuant to REG. 11, Agricultural or Horticultural Land Special Valuation.

002.08B(2) In order for special valuation to apply to the parcel, in addition to the use of the surface primarily for agricultural or horticultural purposes, the parcel must meet all of the eligibility requirements set forth in REG 11-004.

002.08B(3) The extraction of minerals constitutes a change of use of the parcel or the portion of the parcel from which the minerals are extracted when such extraction disrupts the use of the surface of the parcel or the portion of the parcel. For parcels receiving special valuation, the extraction of minerals sufficient to disrupt the agricultural or horticultural use of the property shall constitute a disqualifying event pursuant to REG 11-006 for the portion of the parcel no longer primarily used for agriculture or horticulture.

002.08B(4) The parcel shall only be disqualified from special valuation to the extent of the portion of the parcel for which the primary use changes to mineral extraction. For example, if an 80 acre parcel, on which the primary use of the surface is for the production of agricultural or horticultural products contains minerals and the extraction of those minerals is begun on 10 of the 80 acres, the acres taken out of production (10 acres) shall be disqualified from valuation as agricultural

property or for special valuation. The remaining acres, if being used primarily for agricultural or horticultural purposes, would not, by virtue of change in use of the 10 acres or a conditional use permit to extract on the remaining 70 acres, be disqualified for agricultural valuation or for special valuation.

002.08B(5) It shall be the duty of the owner, agent, guardian, or executor to notify the assessor of any change in status of the parcel or a portion of the parcel which will disqualify it from receiving special valuation, including an impairment of additional acres through increased extraction of minerals. The assessor shall continually verify, throughout the year, that all properties listed for special valuation continue to qualify and shall apply the recapture valuation to any properties which are no longer eligible.

002.08C When minerals have been extracted from a parcel and mining operations have been discontinued, the assessor shall consider the following factors in estimating the value of the parcel:

002.08C(1) The damage to and ability to use the surface of the parcel, including the cost to restore the parcel and risk to surface use caused by existing and potential subsidence from subsurface mining or other affects of mining; and

002.08C(2) The existing use of the parcel and readily available uses or practical potential uses of the surface of the mined-out parcel. In determining the readily available uses or practical potential uses of the parcel, the assessor shall consider whether those potential uses are physically possible, legally permissible, financially feasible, and the most productive use of the parcel. Within consideration of these factors, the cost to realize such use, the time to commence and complete conversion to the potential use, regulatory approval of the alternative or potential use, the time to convert the parcel to such use, capital cost and risk to convert, and existing demand for the alternative or potential use.

002.08C(3) The value of parcels or portions of parcels of real property adjoining mined-out parcels may be affected by the proximity to the mined-out parcels. The assessor shall consider the impact on the adjoining parcels including "buffer" or "open space" acres, caused by their proximity to the mined-out parcels.

002.08C(4) Where no readily available or practical potential uses of the impaired parcel meet the four part test for highest and best use of the parcel described in this section, the value of the parcel shall consider the valuation of "waste acres" in the county or other parcels with similar characteristics regardless if they are associated with an agricultural or horticultural parcel of land.

(Neb. Rev. Stat. Section 57-236, R.R.S. 2004, Neb. Rev. Stat. Sections 77-112 and Neb. Rev. Stat. Section 77-702, R.S. Supp., 2007.)

REG-13-003 TAXATION

003.01 All property taxes levied against mineral interests shall be due and payable on December 31 following the levy date, and commencing on that date shall be a first lien on the mineral interest until paid.

(Neb. Rev. Stat. Sections 77-203 and 77-702, R.S. Supp., 2007.)

REG-13-004 COLLECTION OF TAXES

004.01 For mineral interests belonging to multiple owners and operated as a unit, the owner of each fractional interest in such unit shall be liable for the same proportion of the tax levied against the real property of the unit that the

fractional interest therein bears to the total of all interests in the unit. Each owner shall also be liable for the tax levied against his or her taxable value in the tangible personal property of the unit.

004.02 The unit operator shall collect from the owner or owners the taxes levied against the real or tangible personal property of the unit and remit the tax to the county treasurer of the county in which the unit or portion of the unit is located.

004.03 The unit operator may deduct and withhold, from royalty payments or any other payments made to any owner or owners either in kind or in money, the estimated amount of the tax to be paid. Any difference between the estimated tax withheld and the actual tax due by any owner or owners may be accounted for by adjustments in royalty or other payments made to the owner or owners after the actual tax is determined.

004.04 At the request of any unit operator who does not disburse payments to the owner or owners, the first purchaser shall collect the tax from the owners and transfer such proceeds to the operator who shall remit the taxes to the county treasurer. The first purchaser shall collect from the owner using the same procedure as outlined for the unit operator under REG-13-004.03.

004.05 Failure of the unit operator to collect and remit the tax shall not preclude the county treasurer from utilizing lawful collection and enforcement procedures against the interest of the owner or owners to collect the tax owed, pursuant to Chapter 77, Article 18 and Article 19.

004.05A Any non-operating owner shall not be subject to penalty or interest under Neb. Rev. Stat. Section 45-104.01, unless the owner fails to remit such tax within 20 days after notification by the county treasurer pursuant to Neb. Rev. Stat. Sections 57-234 and 77-1726 that the operator defaulted in payment of the taxes and the taxes are delinquent.

004.06 The lien for real property taxes applies only against the interest upon which the taxes are delinquent. No other interests shall be affected upon which the taxes have been paid.

The following is an example illustrative of the above regulation and is provided as a general guideline. In utilizing this example, all relevant factors of each particular case must be considered.

(1) EXAMPLE - A owns the surface interest and B and C own the mineral interest. A has paid the real property taxes on the surface interest and the operator has paid the real property taxes on C's fractional interest of the mineral interests. The lien for taxes and foreclosure proceedings can only be brought against the interest of the mineral interests owned by B.

(Neb. Rev. Stat. Sections 45-104.01, 57-227 and 57-234, R.R.S. 2004, Neb. Rev. Stat. Section 77-1726, R.R.S. 2003 and Neb. Rev. Stat. Section 77-702, R.S. Supp., 2007.)

Reg-13-005 APPEALS

005.01 A protest of the determination of the assessor of whether the applicant has met the requirements for listing severed mineral interests separately from the surface estate for property tax purposes shall be made to the county board of equalization.

005.02 A protest of the assessor's determination of value shall be made to the county board of equalization as protests of the valuation of other real and personal property pursuant to Real Property Regulations, Chapter 10, and Personal Property Regulations, Chapter 20.

005.03 All appeals of the determination of the county board of equalization shall be made pursuant to Neb. Rev. Stat. Section 77-5013.

(Neb. Rev. Stat. Section 57-238, R.R.S. 2004, Neb. Rev. Stat. Sections 77-1502 and 77-5013, R.S. Supp., 2006 and Neb. Rev. Stat. Sections 77-702, 77-1233.06 and 77-1504, R.S. Supp., 2007.)

NEBRASKA ADMINISTRATIVE CODE

Title 350 - Nebraska Department of Revenue, Property Assessment Division
Chapter14 – Agricultural Land and Horticultural Land Assessment Regulations
Effective Date 3/15/09

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Title 350 – Nebraska Department of Revenue, Property Assessment Division
Chapter 14 – Agricultural Land and Horticultural Land Assessment Regulations

REG-14-001 PURPOSE

001.01 The purpose of the Agricultural Land and Horticultural Land Assessment Regulations is to establish guidelines for the assessment of agricultural land and horticultural land in the State of Nebraska.

(Neb. Rev. Stat. Section 77-1306.01 R.R.S. 2003, Neb. Rev. Stat. Section 77-1359, 77-1363 and 77-1379, R.S. Supp., 2006 and Neb. Rev. Stat. Section 77-702, R.S. Supp., 2007.)

REG-14-002 DEFINITIONS

002.02 Accretion Land is the increase of land by the gradual deposit of water borne solid materials. Accretion land areas may vary in size as the associated body of water either raises or lowers, or as a stream or river changes its channel. It is the opposite of erosion.

002.02 Acre - Foot is a volume of water equivalent to one acre in area with a depth of one foot. It is 43,560 cubic feet of water.

002.03 Actual Value shall mean the market value of real property in the ordinary course of trade. It is the most probable price expressed in terms of money that a property will bring if exposed for sale in the open market in an arm's-length transaction between a willing seller and a willing buyer, both of whom are knowledgeable concerning all the uses to which the real property is adapted and for which it is capable of being used. Actual value may be determined using professionally accepted mass appraisal methods, including, but not limited to the (1) sales comparison approach, (2) income approach, and (3) cost approach.

002.04 Aesthetic Value is the intangible psychic enhancement of the value of a property due to such factors as a parcel offering an unusually pleasing view.

002.05 Agricultural land and horticultural land is a parcel of land primarily used for agricultural or horticultural purposes. This includes wasteland lying in or adjacent to and in common ownership or management with other agricultural land and horticultural land. Agricultural land and horticultural land does not include any land directly associated with any building or enclosed structure.

002.06 Agricultural or horticultural purposes includes land retained or protected for future agricultural and horticultural purposes under a conservation easement as provided in the Conservation and Preservation Easements Act, except when the parcel or portion thereof is being used for purposes other than agricultural or horticultural purposes.

002.06A Agricultural or horticultural purposes also includes land enrolled in a federal or state program in which payments are received for removing such land from agricultural or horticultural production.

002.06B Land encumbered by an easement under the Wetlands Reserve Program cannot be used for agricultural or horticultural purposes and therefore cannot be characterized as agricultural or horticultural land and must be valued at its actual value.

002.07 Alkali Soil is a soil having so high a degree of alkalinity or so high a percentage of exchangeable sodium, or both, that plant growth is reduced.

002.08 Alluvial Soil is a soil formed from materials transported and deposited by flowing water.

002.09 Alluvium is fine soil material such as sand, silt, or clay that is carried by water and deposited on land.

002.10 Animal Unit is generally a two year old steer or a range cow weighing 1,000 pounds or more or their equivalent.

002.11 Animal Unit Month (AUM) is the forage or feed necessary to carry an animal unit for one month.

002.12 Available Water Capacity is the capacity of soils to hold water available for use by most plants. Commonly expressed in inches of water per inch of soil.

002.13 Badlands are a land type consisting of steep or very steep barren land that has little or no agricultural value.

002.14 Canopy is the cover of leaves and branches formed by the tops of crowns of trees and plants.

002.15 Carrying Capacity is the maximum number of animals an area can support over a period of the production year, or grazing season, without inducing a downward trend of forage production, or affecting the quality of the soil of the area.

002.16 Catsteps are very small, irregular terraces on steep hillsides, especially in grassland, formed by cattle tracks or slippage of saturated soil.

002.17 Cubic Feet Per Second (CFS) is a term used in the allocation of water from streams and irrigation canals. One cfs of water equals 450 gallons.

002.18 Clay is commonly the finest or smallest particles of soil. Wet clay is sticky or gummy. Sometimes referred to as heavy soils. Clay soils take water slowly and are slowly or very slowly permeable.

002.19 Clayey describes soils high in clay. Includes the textures of clay, silty clay, and sandy clay.

002.20 Claypan is a dense, compact layer in the subsoil having a much higher clay content than the overlying material.

002.21 Cropland is that part of an agricultural or horticultural parcel, normally used for the production of crops or rotation pasture. Cropland may be irrigated or dryland cropland.

002.21A Dryland cropland is land that is primarily used for crop production without irrigation. Dryland Cropland includes all cultivated row crops, small grains, and seeded hay and forage crops grown under dryland conditions. Alfalfa or alfalfa and bromegrass used for hay, is considered cropland. Permanent bromegrass used for grazing is considered grassland.

002.21B Irrigated Cropland includes all land where irrigation is used, whether for cultivated row crops, small grains, seeded hay, forage crops, or grasses.

002.22 Crop Mix refers to the ratio of the different kinds of crops on the land of a farm or in a certain area. This ratio can be expressed in acres, percent, or years.

002.23 Crop Rotation refers to the growing of different crops in recurring succession on the same land.

002.24 Crop Share Rent is a rent which is an agreed percentage of the crop grown by the tenant. The share usually varies from one-fourth to one-half, depending on the landlord's contribution.

002.25 Depth of Soil is the total thickness of weathered soil material over bedrock or mixed sand and gravel.

002.26 Dunelike is a slope term used to describe high rounded hills or ridges common in areas of drifted sand such as the Sandhills.

002.27 Erosion is the wearing away of the land surface by water, wind, ice, or other geologic agents and by such processes as gravitational creep.

002.28 Fallow is cropland left idle in order to restore productivity through accumulation of moisture. Common in regions of limited rainfall.

002.29 Timberland and Forestland is land which is wooded by nature or humans and consisting of a dense growth of trees and underbrush such that it is not suitable for grazing.

002.30 Friable is soil which is easy to break, crumble, or crush.

002.31 Grassland is the state and condition of the range based on what it is naturally capable of producing. Grassland includes all types of grasses, permanent bromegrass, other introduced grasses, and native grasses used for grazing or mowed for hay. In many instances it is not possible to identify permanent bromegrass from temporary bromegrass that is grown as part of the crop rotation. For this reason, all of the present bromegrass should be classified as grassland until the area is returned to cultivation. There may be situations where an alfalfa and grass mixture is grown in rotation with cropland or is harvested for hay. These areas can be classified as cropland but their market value may be more representative of grassland. Areas of wooded grazing land are classified as grassland not timberland or wasteland. When there are significant areas of trees or timber on a parcel, and it can no longer be grazed, consideration needs to be given to placing the affected acres in the forestland and timberland category.

002.31A Hardland Grassland is a term commonly used to distinguish the silty and clayey grassland areas from those of the sandy grassland areas.

002.31B Introduced Grassland is an area devoted to the production of introduced grass species, such as bromegrass, and harvested by grazing.

002.31C Native Grassland is all land producing native forage for animal consumption and land that is revegetated naturally or artificially to provide a forage cover that is managed like native vegetation.

002.31D Sandy Grassland generally refers to rangesites in which soils range from very fine sandy loam to loamy fine sand in texture. Typically these grasslands have rapid permeability, low runoff, and have low water tables.

002.32 Grazing Season is that portion of the year that livestock graze or are permitted to graze on a given area of grassland.

002.33 Hayland is land used primarily for the production of hay from long-term stands of adapted forage plants.

002.34 Highest and Best Use is generally defined as that use which will generate the highest net return to the property over a period of time.

002.35 Hummocky is a slope term used to describe the topography consisting of low rounded hills or knolls that occur in areas of drifted sand.

002.36 Intake Rate is the average rate of water entering the soil under irrigation.

002.37 Irrigation is the artificial application of water to the soil for crop production.

002.37A Gravity Irrigation is irrigation in which the water is distributed by gravity.

002.37B Irrigation reuse pits and adjacent ponded bodies of water used in conjunction with irrigation systems may be classified as contiguous irrigated land.

002.37C Pivot Irrigation is the application of water to the soil using an automated power source and equipment in a circular pattern. The equipment collectively is referred to as a "center pivot irrigation system".

002.38 Irrigable Lands are lands having soil, topographic, drainage, and climatic conditions favorable for irrigation and located in a position where a water supply is or can be made available.

002.39 Land Capability is the suitability of land for use of producing a crop or crops without permanent damage.

002.40 Land Capability Classification is a system for showing the suitability of soils for most kinds of field crops. These are determined by the Natural Resources Conservation Service.

002.41 Land Capability Groups are groups of soils that are similar in their productivity and their suitability for most kinds of farming. It is a classification based on the capability classification, production, and limitations of the soils, the risk of damage when they are used for ordinary field crops, grassland, and woodlands, and the way they respond to treatment. Land Capability Groups are determined by the Department of Revenue, Property Assessment Division based upon the dryland capability classification.

002.42 Land Classification is the arrangement of acres into categories based on the properties of the land or its suitability for some particular use. The categories for land use include, but are not limited to, irrigated cropland, dryland cropland, grassland, wasteland and intensive land uses such as nurseries, feedlots, orchards, shelterbelts, timberland and forestland.

002.43 Land Areas are general areas of the state which have been determined to have similar topographic characteristics, growing seasons, and rainfall. The counties in each area are therefore determined to have similar farming and ranching practices enough that they are considered to be comparable, on a regional basis, for valuation.

002.44 Land Resource Area is an area which is topographically similar, whether plains, hills, tableland, or badlands.

002.45 Loamy refers to or includes a broad group or range of textures and includes silt loams, clay loams, sandy loams, and loams. Generally, loamy soils range from moderately fine to medium and moderately coarse texture.

002.46 Loess is material transported and deposited by wind and consisting predominantly of silt-sized particles.

002.47 Market Area is an area with defined characteristics within which similar properties are effectively competitive in the minds of buyers and sellers with other comparable property in the area.

002.48 Meadow is an area of natural or planted vegetation dominated by grasses and grass like plants used primarily for hay production.

002.49 Mellow Soil is very friable, soft porous soil. Not hard or fine like clay.

002.50 Permeability is the rate at which water moves through the soil or the ease of water and air movement in a soil.

002.51 Range Sites are distinctive kinds of grassland that differ from other kinds of grassland in their potential to produce native plants. There are 24 range sites in Nebraska.

002.52 Recapture Rate is that rate which is necessary to recover a capital investment over its projected economic life.

002.53 Texture (Soil) is the relative proportions of sand, silt, and clay particles in a mass of soil.

002.54Wasteland includes land that cannot be used economically and are not suitable for agricultural or horticultural purposes. Such land types include but are not limited to, blowouts, riverwash (recent unstabilized alluvial deposits), marshes, badlands, large deep gullies (including streambeds and banks), bluffs, rockland, gravel areas, and salt flats. To qualify for wasteland the land must be lying in or adjacent to and in common ownership or management with land used for agricultural or horticultural purposes. Some of these areas could be developed or reclaimed for some beneficial use by land shaping, revegetation, drainage, or possibly other special practices. Until they are reclaimed, developed, or restored to agricultural production or recreational use, they should be classified as wasteland. Other land which may be classified as wasteland are the permanent easement acres associated with the Bureau of Reclamation or irrigation districts, which are defined as open canals or ditches, laterals, drains, and service roads for the canal system. Assessors need to verify or be aware of the type of deed or easement that may be filed for these areas before making any determination of classification.

002.55 Water Table is the upper surface of groundwater or that level below which the soil is saturated with water. The depth below the surface at which free water is found. Generally refers to the apparent water table, but can also be a perched or artesian condition.

002.56 Primarily used shall mean that the use of the land is mainly agricultural or horticultural.

002.57 Parcel shall mean a contiguous tract of land under the same ownership and in the same tax district and section. Parcel may include all lots in a block that belong to the same owner and are in the same tax district. Parcel shall also mean an improvement on leased land (IOLL). A parcel cannot contain more than one section.

002.58 Commercial production shall mean agricultural and horticultural products produced for the primary purpose of obtaining a monetary profit.

002.59 Roads and ditches shall mean a public road on private land which is maintained by the county or the township in counties under the township supervisor system.

(Neb. Rev. Stat. Section 77-1306.01, R.R.S. 2003, Neb. Rev. Stat. Sections 77-1359, 77-1363 and 77-1379, R.S. Supp., 2006 and Neb. Rev. Stat. Section 77-702, R.S. Supp., 2007.)

REG-14-003 AREAS

003.01 The following general descriptions outline the geological formations, soils parent materials, topographic regions, growing seasons, frost-free days, average rainfall, predominant land uses, typical farming and ranching practices, and typical crops located in each Land Area.

003.01A Area 1 Northwest Area (generally referred to as the Panhandle) consists of Sioux, Dawes, Sheridan, Box Butte, Scotts Bluff, Banner, Kimball, Morrill, Cheyenne, Garden, and Deuel Counties.

003.01A(1) The soils in the area are quite variable due to the different geological formations and soil parent material. The topographic regions included in this area are rolling hills, valley side slopes, bluffs and escarpments, dissected plains, plains, sandhills and valleys. The regions and their local names identify areas or landscape features that are generally familiar from north to south in the Panhandle; Pierre Hills, White River Valley, Pine Ridge, Niobrara Valley, Box Butte Plain, Sandhill Region, North Platte Valley, Wildcat Ridge, Pumpkin Creek Valley, Cheyenne Plain, and Lodgepole Creek Valley. The soils vary from clayey soils to sandy and silty soils formed from bedrock and loess. There are some very shallow and shallow soils from bedrock on the dissected plains and in the bluffs and escarpments area. The valleys and valley side slope areas have mostly deep, silty to sandy soils.

003.01A(2) Farming operations consist primarily of ranching in the grassland areas, winter wheat and summer fallow dryland farming on the plains, and extensive irrigation in the valleys and on uplands where water is available. The principal irrigated crops are corn, sugar beets, field beans, and alfalfa. Some of the river valley areas have a high water table so that the soils are subirrigated (unless they are artificially drained). Saline and alkali soils are common in some areas. The Sandhills have many areas of wet meadows that are used mostly for native hay.

003.01A(3) The average precipitation in this area ranges from about 15 to 18 inches. The growing season ranges from about 120 to 140 days. The western part of this area has elevations from 4,000 to over 5,000 feet above sea level. These elevations generally have cooler night temperatures and cooler seasonal temperatures. This affects the kinds of crops and grasses suitable for use and their total production. This in turn affects land values in some parts of this area.

003.01B Area 2- The North Area extends from the state line on the north to nearly the middle of the state on the south and from the Panhandle on the west to the eastern Boyd, Holt, and Wheeler County lines. This area is the north central part of the state and is composed of Cherry, Keya Paha, Boyd, Brown, Rock, Holt, Grant, Hooker, Thomas, Blaine, Loup, Garfield, Wheeler, Arthur, McPherson, and Logan counties.

003.01B(1) The topographic regions of this area include the sandhills in the entire western part of the area except for some bluffs and escarpments along the Niobrara River. Other topographic regions include plains, dissected plains, valleys, and bluffs and escarpments in the eastern and northeast part of this area. The topographic regions in the east and northeast part are identified as the Nebraska-Dakota Plains; the Holt-Pierce Plain; the Prairie Plain; the Ainsworth Plain; and the Niobrara Valley. These plains areas have few soils in common with sandhills in this area. The soils in the Sandhills area are nearly all formed in wind deposited sands. In the lowland areas of the Sandhills the soils are subirrigated and are generally in meadow grasses.

003.01B(2) The Sandhills are nearly all in native grass although there are scattered pivot irrigation systems in many areas of the Sandhills that are used to irrigate corn and alfalfa. The uplands are used primarily for grazing as part of cattle ranching operations. Many subirrigated meadows are used for hay production. A supply of water that is used for both livestock water and irrigation underlies nearly the entire Sandhills. The plains and dissected plains of Boyd, Keya Paha, and northeast Cherry County have soil parent materials of shale, sandstone, loess, and some sand and gravels. Soils range from sandy to silty and clayey and from very shallow and shallow over bedrock or gravel to deep soils over loess or sandy parent material. Cultivated crops are mainly dryland farmed because of the lack of sufficient irrigation water. The principal dryland crops are oats, corn, wheat, alfalfa, and some sorghum. The more rolling and dissected land is nearly all in grass and used for grazing. The Holt-Pierce Plain and the Ainsworth Plain have soils developed mainly over silts and sands. There is a gravelly substratum in many areas. These areas have been developed extensively with center pivot irrigation. A few areas lack sufficient water for

irrigation. The principal irrigated crops are corn and alfalfa. The dryland crops are mainly corn, oats, alfalfa, and some rye. The Prairie Plains to the south of the Elkhorn River have many center pivot irrigation systems. This is an area of extensive meadow lands because of a relatively high water table. These meadows are in grass that is harvested for hay and the surrounding Sandhills are used for grazing.

003.01B(3) The average precipitation ranges from about 18 inches in the west to 24 inches in the east. The average growing season varies from about 120 days in the west to 150 days in the east.

003.01C Area 3 - The Northeast area is north of the Platte River and Southwest of the Missouri River consisting of Knox, Cedar, Dixon, Dakota, Antelope, Pierce, Wayne, Thurston, Boone, Madison, Stanton, Cuming, and Burt counties.

003.01C(1) The topographic regions map shows that it includes the Missouri River Lowlands to the north and east with the adjacent bluffs and escarpments. A major part of the area consists of the Loess Hills dissected by the Elkhorn River and its tributaries. The west central part is identified as the Holt-Pierce Plain and the southwest area as the Loess Hills and Plains. Small outlying areas of Sandhills are along the Elkhorn River Valley in the central part. The rolling hills and dissected plains have mostly silty soils that are formed in loess. The Holt-Pierce Plain has mixed silty and sandy soils. Nearly all the river valleys have mixed silty, sandy, and clayey alluvial soils. A few soils are formed in weathered bedrock in the bluffs and escarpment areas along the edge of the Missouri River.

003.01C(2) The principal dryland crops are corn, soybeans, alfalfa, and oats. There is considerable irrigation in the stream valleys. Center pivot systems are scattered through the uplands where an adequate water supply is available. The principal irrigated crops are corn and alfalfa. Bromegrass and introduced grassland are common throughout the area. Native grasses occur on the sandy soils, and on the bluff and escarpment areas where slopes are steep and nontillable. Most farm operations consist of mixed grain and livestock operations; however, cash grain farming is extensive in certain areas.

003.01C(3) The average annual precipitation ranges from about 24 to 30 inches. The growing season averages from about 140 to 160 frost-free days.

003.01D Area 4 - The Central Area includes Custer, Valley, Greeley, Sherman, Howard, Dawson, Buffalo, and Hall counties.

003.01D(1) Land formations in the area are the Loess Hills and Plains, the Sandhills and the Platte Valley Lowland which crosses the southern boundary of this area from west to east. The North Loup, Middle Loup, South Loup, Loup, and Cedar River Valleys are in the northern part of this area. The soil parent material over most of the area is loess and consequently the upland soils are mostly silty to somewhat clayey. The river valley soils are sandy or silty and are formed in alluvium of similar textures. In the Sandhill areas along the streams the soils are moderately sandy to very sandy.

003.01D(2) Farming operations range from ranching and dryland crops to extensive irrigation in some areas. The rolling upland soils north of the Platte River are primarily dryland cropland. The principal dryland crops in the uplands are corn, alfalfa, grain sorghum, winter wheat, and spring small grains. Irrigation is extensive along the stream valleys and center pivot systems are scattered through the rolling uplands north of the Platte River. The principal irrigated crops consist of corn and alfalfa. Some grain sorghum is irrigated, but it is generally not considered as suitable or potentially productive as corn is when it is irrigated for maximum production. Extensive areas of grassland occur in the more rolling Loess Hills, and the dissected

plains and Sandhill areas. Beef production from grass is an important enterprise as is the feeding and finishing of cattle in the feedlots.

003.01D(3) The average annual precipitation in this area ranges from about 21 to 24 inches. The growing season ranges from about 140 frost-free days in the northwest to 160 days in the southeast part.

003.01E Area 5 - The East area covers a large area of eastern Nebraska including Nance, Platte, Colfax, Dodge, Washington, Merrick, Polk, Butler, Saunders, Douglas, Sarpy, Hamilton, York, Seward, Lancaster, and Cass counties. The Platte River dissects the area from west to east and the eastern border is the Missouri River.

003.01E(1) The topographic regions in the area include rolling hills and Missouri River Lowlands to the east, plains to the west and a portion of the Drift Loess Hills in the southeast. The major stream valleys in the area are along the Platte and Big Blue Rivers. The upper tributaries of the Big Nemaha River and Salt Creek also extend into the area. The soils in most of the area are formed in loess. In the river valleys, it consists mostly of silty, sandy, and clayey alluvium. A few upland areas have soils formed in glacial material that is exposed on many of the lower slopes. Most of the upland and lowland soils are deep, silty, or clayey soils. A few areas of sandy soils are in stream valleys. The soils formed in loess and glacial material are generally clayey. The soils in the flood plains range from silty to clayey.

003.01E(2) The principal dryland crops in this area are grain sorghum, winter wheat, soybeans, and alfalfa on the more clayey soils. Corn is grown on the more loamy or silty soils on the lowlands and uplands. The plains in the western part of this area have many irrigated areas that produce corn and alfalfa. Irrigation developments are scattered through the eastern part where an adequate water supply is available. Grain sorghum and soybeans are irrigated in a few areas; however, corn is generally considered the most productive grain crop under irrigation. Small areas of introduced grassland (pastures) are commonly seen on the more productive soils, while native grassland is found on the lesser productive soils. Both native and introduced grasses are used for beef and dairy cattle operations.

003.01E(3) The average annual precipitation ranges from about 25 inches in the west to 31 inches in the southeast. The average annual growing season is about 160 to 175 frost-free days.

003.01F Area 6 - The Southwest area includes Keith, Lincoln, Perkins, Chase, Hayes, Frontier, Dundy, Hitchcock, and Red Willow counties located in southwest Nebraska with Colorado on the west and Kansas on the south. The eastern border is about 100 miles east of the state line and it extends into the sandhills on the north.

003.01F(1) It includes the topographic regions of the Sandhills, Platte Valley Lowland, Cheyenne Plain, Perkins Plain, Lincoln County Sandhills, Frenchman Valley, Colorado-Nebraska Sandhills, dissected plains and the Republican Valley. The parent materials for these soils are the windblown sands in the Sandhills, sandstone and loess on the Perkins and Cheyenne Plains, loess in the dissected plains, and silty and sandy alluvium in the Platte, Republican, and Frenchmen River Valleys. Soils are mostly silty or sandy. Some moderately wet, poorly drained soils are in the Platte River Valley and in some of the Sandhill valleys.

003.01F(2) The Southwest area is the approximate eastern end of the winter wheat-fallow dryland cropping system. Corn, alfalfa, and some grain and forage sorghums are produced under dryland farming. Extensive irrigation is present in all stream valleys and center pivot irrigation is predominant on some parts of the upland plains. The principal irrigated crops are corn and alfalfa. Much of the area is in native grassland. Ranching and beef production is an important enterprise in this area.

003.01F(3) The average annual precipitation ranges from about 18 to 21 inches. The growing season is about 145 to 155 frost-free days.

003.01G Area 7 - The South area includes Gosper, Phelps, Kearney, Adams, Furnas, Harlan, Franklin, and Webster counties.

003.01G(1) The area includes the Loess Plain Region between the Platte and Republican River Valleys. The dissected plains are along the edge of the Republican River Valley which crosses this area from west to east. The upper tributaries of the Little Blue and Big Blue Rivers extend into the eastern part of the Loess Plain which is south of the Platte Valley. The soil parent material over most of this area is loess and consequently the upland soils are mostly silty to somewhat clayey. The river valley soils are sandy or silty and are formed in alluvium of similar textures.

003.01G(2) Farming operations range from ranching and dryland crops to extensive irrigation. The rolling upland soils south of the Platte River are primarily managed as dry cropland. The principal dryland crops in the uplands are grain sorghum, winter wheat, and alfalfa. Irrigation is extensive along the stream valleys and on the Loess Plains south of the Platte River. The principal irrigated crops are corn and alfalfa. Extensive areas of grassland occur in the more rolling Loess Hills and the dissected plains where beef production from the forage is an important enterprise.

003.01G(3) The average annual precipitation in this area ranges from about 21 to 27 inches. The growing season ranges from about 150 frost-free days in the northwest to 165 days in the southeast.

003.01H Area 8 - The Southeast includes Clay, Fillmore, Saline, Gage, Otoe, Johnson, Nemaha, Nuckolls, Thayer, Jefferson, Pawnee, and Richardson counties in the extreme southeast corner of Nebraska along the Kansas border on the south and the Missouri River on the east.

003.01H(1) The area includes some Missouri River Lowlands and the Big Nemaha and Little Nemaha River Valleys in the south. The uplands in the area are the rolling hills, bluffs, and escarpments along the river valleys. The soil parent material is primarily loess in the uplands and in the river valleys it is mostly silty, sandy, and clayey alluvium. A few upland areas have soils formed in glacial material that is exposed on many of the lower slopes, especially in the southern counties of this area. Most of the upland and lowland soils are deep, silty or clayey soils. There are a few acres of exposed bedrock and thin soils over bedrock in the bluffs and escarpment areas along some of the tributary streams branching off of the Missouri, Big Nemaha, and Little Nemaha Rivers.

003.01H(2) The principal dryland crops in this area are corn, soybeans, and alfalfa. Some winter wheat is grown on the uplands and on the more clayey soils in the stream valleys. There is some irrigation in the area where water is available, especially in the valleys. Corn yields in this area are fairly good to good without irrigation in years with normal rainfall; however, irrigation increases yields considerably and assures crop production in dry years. Most counties in the area have a high percentage of good tillable land. The introduced grassland is mostly bromegrass. There are some areas of native grass on the bluffs and escarpments along the major streams.

003.01H(3) Precipitation ranges from about 27 inches in the northwest of this area to 33 inches in the southeast. The extreme southeast gets as much as 36 inches of precipitation at times. The average growing season ranges from about 168 days in the northwest to nearly 180 days in the southeast.

(Neb. Rev. Stat. Section 77-1379, R.S. Supp., 2006.)

REG-14-004 PROCEDURES

004.01 Identification of the parcel.

004.01A All land in the state of Nebraska can be identified using the public land survey system. The entire state has been laid out in townships north of the baseline running from east to west along the Kansas-Nebraska border and ranges east and west from the 6th parallel which runs perpendicular to the baseline approximately 108 miles west of the eastern tip of the state. The parcel should be identified using the public land survey system legal description.

004.01A(1) Government lots may be identified using the appropriately assigned government lot number. Government lots are irregularly shaped lots which most often occur along the north and west sections in a township.

004.01A(2) Irregular lots may be identified using the appropriately assigned "tax lot" number.

004.01B Every county shall prepare and maintain a parcel numbering system based on the cadastral mapping program. The property identification numbering system is addressed in REG-10-004.03.

004.02 Identification of the rights to be appraised.

004.02A The assessor is to value all the rights that may legally be owned, including the rights to sell, lease, use, gift, enter, or refuse to do anything are considered to be the rights being appraised for property tax purposes.

004.02B Rights in other than the surface estate are to be valued and assessed separately to the owner of those rights when they have been severed from the surface rights. See, Mineral Interest Regulation, Chapter 13, procedures for assessing mineral interests.

004.03 Date of assessment is as of January 1 of the current assessment year. The assessor shall complete the assessment process for all real property on or before March 19 of each year, prior to filing of the county's abstract of assessment.

004.04 Classes of agricultural and horticultural land. The assessor is responsible for an accurate inventory of each parcel into its current agricultural and horticultural land class.

004.04A Irrigated Cropland.

004.04B Dryland Cropland.

004.04C Grassland.

004.04D Wasteland.

004.04E Government Programs Land which is voluntarily enrolled in the Conservation Reserve Program (CRP), Conservation Reserve Enhancement Program (CREP), Environmental Quality Incentives Program (EQIP), the Stewardship Incentive Program, the Tree Assistance Program, the Water Bank Program, or any other programs may require separate market analysis. The land should be classified at its current use such as grassland or timbered grassland; however, the values for land enrolled in government program acres should be adjusted to reflect the local market for similar property.

004.04F Intensive Use Areas: Agricultural or horticultural land which has been designed for intensive uses such as feedlots, nurseries, vineyards, sod farms, and orchards should be valued in a separate category. A separate land classification for these intensive use areas shall be determined. Intensive use areas must be valued independently from rural farmsites. Land not directly associated with buildings in these instances would be assessed at seventy-five (75) percent of value as determined by a market study.

004.04G Forestland and Shelterbelt Areas: Include natural and planted stands of trees and/or shrubs where livestock grazing is not practiced or possible. Areas where grazing occurs will be classified as timbered grassland. This includes any natural stands of timber. Planted forests include areas planted for windbreaks, shelterbelts, wildlife habitat, wood products, and living snowfence. Areas that include a combination of both planted and natural forests will be in this classification. Trees planted for nursery stock, tree farms, orchards, and other horticultural purposes will be categorized and analyzed separately to determine their value.

004.05 Accretion Land: Includes land that has been formed by alluvial deposits associated with a body or stream of water. The State of Nebraska is unique in its recognition of the riparian rights of individuals to own land lying under water. Accretion land can be classified into any agricultural use category.

004.05A In counties adjoining rivers which represent the state boundary, the county surveyor shall survey the land adjoining the river before June 1, 1960, and at least once within each five-year period thereafter.

004.05B In counties with rivers which are not state boundaries, the county surveyor shall cause a survey of lands believed to be altered by adjoining bodies of water when ordered by the county board of equalization or requested by the Property Tax Administrator.

004.05C A report of such survey findings of changes in land areas or a certificate of the opinion that the acres as noted on the current tax lists have not changed due to actions of adjoining bodies of water shall be filed with the assessor.

004.06 Classification of agricultural land in Nebraska requires that there be a set of complete and accurate maps or digital imageries that reflect the location, identification, and inventory of all parcels of land within every jurisdiction. The general procedures used in these regulations require that the counties have their soils classified by parcel, soil, and land use. If the soils have not been counted in a county, the county needs to have the following items available:

004.06A Up-to-date aerial photographs or digital imageries of the entire county.

004.06B Supplemental land valuation records, to inventory the acres of every soil type by land use for every parcel.

004.06C The current soil conversion legend prepared by the Department of Revenue, Property Assessment Division that reflects the land capability groups by dryland soil type.

004.06D Property record cards that list the soils, the land use, the number of acres for each use, and the land capability groups for each parcel of agricultural land being assessed.

004.07 The following general procedures for a soil inventory shall be followed for those counties without digital imagery:

004.07A Prepare and organize the aerial photos and soil maps or "Mylars" so they can be filed in a systematic manner for retrieval. Prepare photo index maps as needed. Use property lines that can be changed and some means of identification for each parcel on these photos.

004.07B Record the current land use on the photos or the "Mylar" map after verifying and physically reviewing the land use in the county.

004.07C Display the land use groups for the soils on the maps or "Mylars" depending on the procedure preferred.

004.07D Tabulate and record the acres and soils for each land use on the property being appraised. Since data may be, or already is, computerized, all data will need to be recorded for each soil type. A separate record will be needed for each ownership. No single parcel shall be larger than one section.

004.07E Consolidate the data on each record into individual land capability groups by grouping the soils together according to the soil conversion legend and the value assigned to the land capability group for that market area.

004.07F Transfer the consolidated summary of acres by land capability groups to the property record cards.

004.07G Summarize and check all land value data on the property record card. A separate property card is needed for each parcel in each section.

004.07H File all photos, supplemental records, and property cards and keep them for reference. When parcels are later split or combined, the information for each unit will need to be regrouped and summarized according to the new property lines.

004.07I An organized maintenance program is desirable for the maps. If maps are not maintained and changed when property is split, combined, or changes ownership, the original investment in a mapping program is lost and eventually an expensive and time consuming remapping program will become necessary. The current land use on agricultural land must be annually updated and maintained. Aerial photos or digital imagery can be utilized for this purpose.

004.08 Classification by Land Capability Groups.

004.08A Soil surveys are one of the principal tools and sources of information used in the classification of agricultural land in Nebraska. The classification of agricultural land for assessment purposes is based on each county's most recent soil survey and the most recent technical updates available. A county's soil survey is not required to be published for its implementation to occur.

004.08B All soil types in a county are assigned to a Land Capability Group. As soil mapping is completed, conversion legends are prepared by the Department of Revenue, Property Assessment Division according to the dryland capability classification of each soil that shows, in a general way, the suitability of each soil for most kinds of field crops. Grouping and inventorying soils in this way creates a uniform classification system and is the next step in the assessment of agricultural land. The conversion legend shows the LCG for each soil in the county whether in grassland, dryland or irrigated cropland. The conversion legend groups similar soils throughout their area of occurrence into the same LCG. A conversion legend of the soils of Nebraska is made available to the assessors.

004.08C Soil types that have similar capabilities and characteristics are placed in the same land capability group. The main criteria for different land capability groups are types of soil, slope, and erosion. A few of the other soil characteristics that help to determine land capability and subsequently the land capability group are texture, attributes, saline or alkali conditions, water tables, flooding hazards and depth of soil over bedrock or gravel. All of these characteristics affect the capability of a soil.

004.08D Procedures have been established to achieve a fair and uniform method of using soil maps and interpretations in the classification and inventory of land. It sets forth a consistent and standard land classification and inventory system which can be used statewide for all land classes. It was developed by using pertinent factors such as soil classification, characteristics, properties, limitations and hazards, land use, precipitation, and length of growing seasons. The following procedures are designed to achieve uniform and equitable assessments for similar kinds of agricultural land throughout the State of Nebraska:

004.08D(1) The highest capability soils in cropland are classified into the highest Land Capability Group under that use.

004.08D(2) The lowest capability soils are classified into the lowest Land Capability Group. Every Land Capability Group may not occur in every county.

004.08E A Land Capability Group (LCG) is a grouping of various soils according to their limitations for field crops, the risk of damage if they are used for crops, and the way they respond to average management. Since the soil conservation service maps major natural bodies of soil in a mapping area, the criteria used for grouping the soils do not include major land reformation that would change slope, depth or other characteristics of the soils, nor do they include unlikely major reclamation projects. When such areas have been mapped and assigned capability units by the Natural Resources Conservation Service, the assigned capability unit is used. A LCG is determined for each kind of soil and its current land use. Nebraska has three primary land uses. The eastern part of the state is principally a dryland farming area. The central and western regions of the state generally require irrigation for the intensive production of common cultivated crops. Approximately one-half of the acreage in the state is in native grassland. Scattered throughout, there is recreational land, timberland and wasteland.

004.08F Due to the wide range of climate and soils in Nebraska, there is a minimum of 12 LCGs to classify the various kinds of soil by land use throughout the state. Some counties may not have every land capability group. Four principal LCGs are established for each of the following agricultural uses and they are coded as shown below:

004.08F(1) Irrigated cropland (includes irrigated grassland) 1A, 2A, 3A, and 4A.

004.08F(2) Dryland cropland 1D, 2D, 3D, and 4D.

004.08F(3) Grassland 1G, 2G, 3G, and 4G.

004.08G Land capability groups defined. The general definition for each of the four land capability groups applies to irrigated cropland, dryland cropland, and grassland.

004.08G(1) LCG 1 includes soils that generally have the capability to produce high to very high yields of grain or forage crops, including native and introduced grasses, and foods and crops produced for processing such as, soybeans, corn, sugar beets, potatoes, field beans, and others.

004.08G(2) LCG 2 includes soils that have the capability to produce moderately high to above average yields of either grain or forage crops, including native and introduced grasses, and foods and crops produced for processing. Soils in this group have moderate limitations and hazards that affect use and management.

004.08G(3) LCG 3 includes soils that have the capability to produce average or moderately low yields of either grain or forage crops, including native and introduced grasses, and foods and crops produced for processing. Soils in this group have moderately severe limitations and hazards that affect use and management.

004.08G(4) LCG 4 includes soils that have the capability to produce low or very low yields of either grain or forage crops, including native and introduced grasses, and foods and crops produced for processing. Soils in this group have very severe limitations and hazards that affect use and management.

004.08H Additional Land Capability Groups. The foregoing cropland and grassland LCGs may be subdivided if intermediate or additional LCGs and land values are needed. In many counties, the four LCGs are not adequate to show the range of classifications needed for the diversity of the soil capabilities within the area. In such cases, the LCGs are divided and identified by the addition of the number 1 (one) to the LCG. (Example: 2G1, 4D1, 3A1, etc.) If the irrigated cropland LCG 1A needs to be subdivided, LCG 1A1 will be used for the soils with the higher capability. Intermediate or other appropriate groups will be used as needed when a LCG is divided. The following LCGs are generally adequate for classifying and inventorying agricultural land throughout most of the state.

004.08H(1) 1D1 and 1A1 - Cropland soils generally capable of producing very high yields.

004.08H(2) 1D and 1A - Cropland soils generally capable of producing high yields.

004.08H(3) 2D1 and 2A1 - Cropland soils generally capable of producing moderately high yields.

004.08H(4) 2D and 2A - Cropland soils generally capable of producing above average yields.

004.08H(5) 3D1 and 3A1 - Cropland soils generally capable of producing average yields.

004.08H(6) 3D and 3A - Cropland soils generally capable of producing moderately low yields.

004.08H(7) 4D1 and 4A1 - Cropland soils generally capable of producing low yields.

004.08H(8) 4D and 4A - Cropland soils generally capable of producing very low yields.

004.08H(9) 1G1 - Grassland and meadows generally capable of producing very high yields of forage.

004.08H(10) 1G - Grassland and meadows generally capable of producing high yields of forage.

004.08H(11) 2G1 - Grassland and meadows generally capable of producing moderately high yields of forage.

004.08H(12) 2G - Grassland and meadows generally capable of producing above average yields of forage.

004.08H(13) 3G1 - Grassland and meadows generally capable of producing average yields of forage.

004.08H(14) 3G - Grassland and meadows generally capable of producing moderately low yields of forage.

004.08H(15) 4G1 - Grassland areas generally capable of producing low yields of forage.

004.08H(16) 4G - Grassland areas generally capable of producing very low yields of forage.

004.09 The assessor may create any further sub-classification of agricultural land necessary to achieve uniform and proportionate valuation.

(Neb. Rev. Stat. Section 23-304, R.R.S. 1997, Neb. Rev. Stat. Section 57-236, R.R.S. 2004, Neb. Rev. Stat. Sections 76-2,111, 76-2,112, 76-2,113 through 76-2,118, 77-102, 77-1306.01 and 77-1329 , R.R.S. 2003, Neb. Rev. Stat. Sections 77-1301, 77-1303, 77-1343, 77-1361, 77-1363 and 77-1379, R.S. Supp., 2006 and Neb. Rev. Stat. Sections 77-103, 77-201, 77-702, 77-1344 and 77-1345, R.S. Supp., 2007.)

REG 14-005 OTHER AGRICULTURAL AND HORTICULTURAL LAND USES

005.01 There are other land uses on a agricultural or horticultural parcel which are not classified as agricultural land and horticultural land uses. All of these areas will need to have market studies conducted by the assessor to determine the proper assessment of the land. Other land uses shall not be classified as agricultural and horticultural land and shall be assessed at 100% of actual or market value.

005.01A Farm home site shall mean one acre or less of land that is contiguous to a farm site and upon which is located a residence and necessary improvements needed for residential purposes. This land shall not be classified or assessed as agricultural or horticultural land.

005.01B Farm site shall mean land containing improvements that are agricultural or horticultural in nature, including an uninhabitable or unimproved farm home site, all of which is contiguous to agricultural or horticultural land. This land shall not be classified as agricultural or horticultural land and shall not include a home site.

005.01C Roads and ditches are to be counted and inventoried when the county is maintaining a public road on privately owned land. The public road and adjoining ditch acres will carry no taxable value to the land owner. Generally public roads and ditches will not exceed 4 acres per mile or 16 acres per section.

005.01D Other non-agricultural and horticultural uses including but not limited to:

005.01D(1) Intermittent small drainage ways, with or without small channels, should be included with the surrounding land. They usually carry runoff only after rains.

005.01D(2) Stream channels of principal streams should be deducted from the surrounding cropland or grassland.

005.01D(3) Large lakes created by watershed dams may have different values. Watershed dams are comprised of various components that will not necessarily be classified differently from the surrounding land. The components include a permanent water basin and silt pool, a temporary storage basin, the dam, and the spillway. The classification of these areas may vary for each location. A value for each individual watershed will need to be established.

005.01D(4) Private lakes and ponds, whether natural or artificial, and not developed or used for recreational purposes, may be classified with the adjacent land. In many situations an analysis needs to be completed to determine the proper classification and valuation of these areas. Included with lakes are sandhill lakes, inactive gravel pits, ox bow lakes in old stream channels, and intermittent bodies of water caused by depressions and claypan soils.

005.01D(5) Reservoirs or lakes that are developed for or have recreational potential will be classified as such. An analysis will be completed to reflect the current market value. These lakes will occur in an agricultural land area and will be separate from the agricultural land classification. When classifying these lakes, zoning regulations should be checked for compliance.

005.01D(6) Sewage lagoons on private land should be valued as amenities to the farm site or the building site.

(Neb. Rev. Stat. Section 23-304, R.R.S. 1997, Neb. Rev. Stat. Section 57-236, R.R.S. 2004, Neb. Rev. Stat. Sections 76-2,111, 76-2,112 and 76-2,113 through 76-2,118, 77-102, 77-1306.01 and 77-1329, R.R.S. 2003, Neb. Rev. Stat. Sections 77-1301, 77-1303, 77-1343, 77-1361, 77-1363 and 77-1379, R.S. Supp., 2006 and Neb. Rev. Stat. Sections, 77-103, 77-201, 77-702, 77-1344 and 77-1345, R.S. Supp., 2007.)

REG 14-006 VALUATION OF AGRICULTURAL AND HORTICULTURAL LAND

006.01 A market or sales comparison approach may be used to determine the actual value for each class and subclass of agricultural and horticultural land.

006.01A A valuation per unit of comparison, or per land capability group, may be made based on matched pairs analysis of comparable sales.

006.02 The income approach to valuation may be used to determine the actual value for each class and subclass of agricultural and horticultural land.

006.02A An estimate of potential gross income is made from:

006.02A(1) Typical cash rents for comparable land; or

006.02A(2) Estimated landlord's share of income on a crop/share basis; or

006.02A(3) For grassland, the rent should be based on animal unit months.

006.02B Typical expenses are deducted from the estimate of gross income to arrive at net income to the landowner.

006.02C Indicated net income is capitalized or divided by the appropriate capitalization rate to estimate the value of the parcel.

006.02C(1) Capitalization rate must consider:

006.02C(1)(a) Market derived discount rate;

006.02C(1)(b) Market derived rate of change;

006.02C(1)(c) Market derived sinking fund rate; and

006.02C(1)(d) Appropriate effective tax rate.

006.03 Reconciliation of final value is based on the appropriateness of the approach to value (market is preferred in the valuation of agricultural land) and the availability and reliability of the information used in each approach.

006.04 Miscellaneous land use adjustments.

006.04A Tree Canopy-Land with less than thirty-five (35) percent tree canopy should be classified as grassland. A market analysis will demonstrate if any adjustments are needed. Some soil mapping units consider tree canopy as typical and this has been considered when classifying the land into LCG's. A determination will need to be made whether tree canopy along rivers and streams is used as agricultural land, timberland, or recreational land.

006.04B Soil Spot Symbols-Most soil surveys show some spot symbols on soil maps that are used to indicate special soil conditions that are not typical for the soil in the area. The symbols are used to show small areas of wet spots, alkali spots, saline areas, severely eroded areas, sand spots, gravelly areas, rock outcrops, small blowouts, or other conditions for which an adjustment in land value may be necessary. The symbol is used for areas that are too small to delineate, but are significant to the use of the soil in the area. Each county will need to review the spot symbols that are mapped in their county to determine if an adjustment is necessary and how much of an adjustment should be applied. If an adjustment is warranted, it is applied to all areas affected.

006.04C Other sub-classifications may be recognized in order to achieve proportionate market value. Examples of the sub-classifications include, but are not limited to:

006.04C(1) Irrigation from sources other than the parcel being assessed shall be classified as other properties by soil type; however, the market value should be based on transactions of irrigated land which is under the same limitation as to availability of water source for irrigation.

006.04C(2) Irrigable land as defined in REG 14-002.38 may be considered a sub-classification. The value of the land should reflect the current market value recognized for other similarly situated land that has the potential to be irrigated but is not currently irrigated.

006.04C(3) Conservation Reserve Program (CRP) Land, Conservation Reserve Enhancement Program (CREP), Environmental Quality Incentives Program (EQIP) and other lands which have been enrolled in a federally or state funded program that encourages the development of specific conservation practices in exchange for a guaranteed or contracted annual payment . This land is to be classified at its current use; usually grassland uses. The value for this land should be based on the current market value for land subject to similar restrictions and similar payments.

006.04C(4) Parcel size or shape may be detrimental to the value of the parcel for agricultural and horticultural use, while the market may indicate a higher value for smaller tracts as for other uses. Often small irregular shaped parcels are farmed in conjunction with the adjoining farmland rather than being left idle. These parcels shall be valued based on the classification of the soils as determined in the market analysis.

006.04C(5) Parcel location may affect the value of a parcel. The soil shall be classified as other like soils, but the value should reflect the market for properties with similar location limitations or enhancements.

006.05 Assessment of agricultural land and horticultural land.006.05A Valuations shall be developed in consideration of land capability group and market area, within a county in order to value all property at or near the statutorily required level of value.

006.05B Land which has been determined to meet the definition of being agricultural land or horticultural land in use shall be assessed at seventy-five (75) percent of the market value.

006.05C Land not meeting the definition of agricultural land or horticultural land in use shall be assessed at one hundred (100) percent of the market value.

(Neb. Rev. Stat. Section 23-304, R.R.S. 1997, Neb. Rev. Stat. Section 57-236, R.R.S. 2004, Neb. Rev. Stat. Sections 76-2,111, 76-2,112, 76-2,113 through 76-2,118, 77-102, 77-1306.01 and 77-1329, R.R.S. 2003, Neb. Rev. Stat. Sections 77-1301, 77-1303, 77-1343, 77-1363 and 77-1379, R.S. Supp., 2006 and Neb. Rev. Stat. Sections 77-103, 77-201, 77-1344 and 77-1345, R.S. Supp., 2007.)

NEBRASKA ADMINISTRATIVE CODE

Title 350 - Nebraska Department of Revenue Property Assessment Division
Chapter 15 – Property Owned by the State and Governmental Subdivisions Regulations
Effective Date 3/15/09

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Title 350 – Nebraska Department of Revenue Property Assessment Division
Chapter 15 – Property Owned by the State and Governmental Subdivisions

REG 15-001 PURPOSE

001.01 The purpose of this regulation is to establish guidelines for the exemption, assessment, taxation, and in lieu of tax payments on property owned by the State of Nebraska and its governmental subdivisions.

(Neb. Rev. Stat. Section 77-202.11, R.R.S. 2003, Neb. Rev. Stat. Section 77-202, R.S. Supp., 2006 and Neb. Rev. Stat. Sections 77-202.12 and 77-702, R. S. Supp., 2007.)

REG-15-002 DEFINITIONS

002.01 Public purpose shall mean the use of property to provide public services with or without cost to the recipient, including the general operation of government, public education, public safety, transportation, public works, civil and criminal justice, public health and welfare, developments by a public housing agency, parks, culture, recreation, community development, and cemetery purposes. Public purpose includes any use of the property to carry out duties or responsibilities conferred by law. Public purpose does not include the leasing of property to a private party for purposes other than a public purpose. Income generated for the state or governmental subdivision, either through leases or other receipts, will not convert a nonpublic use of a property to a tax exempt public purpose use.

002.02 General operation of government shall mean the powers conferred upon a state agency or governmental subdivision through the federal or state constitution, federal or state legislation, duly promulgated federal or state regulation, or voluntarily assumed, for the benefit of its citizens.

002.03 Public education shall mean schools and institutions of higher learning belonging to the public, established, and conducted under public authority and includes teaching and instructional activities, research activities or public service activities.

002.04 Public safety shall mean an agency, which actually provides firefighting, law enforcement, ambulance, emergency medical, or other emergency services.

002.05 Transportation shall mean the transport of passengers or goods by water, land, air or other conveyance.

002.06 Public works shall mean the establishment of grades, building of culverts, sewers, electric light system, waterworks, irrigation works, power plant, and structures used in connection with providing electricity, public heating system, bridges, curbing, and gutters, the improvement of streets, aviation facilities, landing fields, and the erection and repair of buildings.

002.07 Civil and criminal justice shall mean the courts and any government agency, which performs the administration of civil and criminal justice pursuant to a statute or executive order.

002.08 Public health and welfare shall mean the prosperity, well being, or convenience of the public at large.

002.09 Developments by a public housing agency means and includes all dwellings and associated appurtenances, including real and personal property, and all other facilities and improvements of every kind and description which a local housing agency may own or operate or in which it may hold an interest; all land upon which such dwellings, appurtenances, and facilities are situated; all work and activities undertaken by a local housing agency or others relating to the creation of such property and all tangible and intangible personal property

relating thereto, including all leases, licenses, agreements, and other instruments; and all rights and obligations arising thereunder establishing or confirming ownership, title, or right of use or possession in or to any such property by a local housing agency.

002.10 Parks shall mean an area set aside for the historical or recreational benefit of the public.

002.11 Culture means property used primarily for educational, performing arts, scientific, historic preservation, or aesthetic purposes, and which owns, borrows, cares for, exhibits, studies, archives, or catalogs property. Cultural property includes, but is not limited to, museums, performing arts facilities, historical societies, historic sites or landmarks, parks, monuments, libraries, and zoos.

002.12 Recreation shall mean property used for diversion and relaxation.

002.13 Community development shall mean public property for use in a development project.

002.14 Cemetery shall mean property set apart for the interment of human dead.

002.15 Lease shall mean a contract between the lessor and lessee wherein the lessor conveys to the lessee the exclusive right to possess, use, and enjoy property for a specified period of time in exchange for legal consideration. Lease shall not include an easement or license in property.

002.16 Lessor shall mean the owner of property who leases the property to a lessee.

002.17 Lessee or leaseholder shall mean a person leasing property from a lessor.

002.18 Leasehold interest shall mean the lessee's right or estate in leased property.

002.19 Lease at fair market value shall mean reasonable compensation from the lessee to the lessor in terms of money or services provided by the lessee to the lessor in connection with the lessee's use of the property. The reasonableness of the compensation from lessee to lessor may be based, where available, on leases for similar nongovernmentally owned property.

002.20 Being developed for use for a public purpose shall mean all of the following:

002.20A The state or governmental subdivision has publicly stated the intention of what use will be made of the property when completed. The intended use of the property must be such that it will clearly qualify as a public purpose upon completion;

002.20B The property must be being actively prepared for its specified use such that other uses of the property are precluded; and

002.20C Reasonable progress must be made toward completion of the project.

002.21 Incidental use shall mean a use of a property which is other than the primary use and is so minor or secondary in nature as not to distract from the primary use.

002.22 Aviation facilities shall mean runways, hangars, control towers, areas and buildings used for the service of commercial or general aviation aircraft, terminals and areas and buildings used for the comfort and accommodation of air travelers in either commercial or general aviation, restricted landing areas and required clear zones for the safe take-off and landing of aircraft.

002.23 Service of commercial or general aviation aircraft shall mean work performed on aircraft related to the safe operation of the aircraft

002.24 Hangars shall mean buildings or structures in use for the storage of or service of commercial or general aviation aircraft.

002.25 Clear zones shall mean areas in proximity to runways at aviation facilities required by federal or state law, rule or regulation to remain unimproved to ensure the safe take-off and landing of aircraft. Clear zones shall not include land not necessary for the safe operation of aircraft, held for future airport development or in use for other non-aviation purposes.

(Neb. Rev. Stat. Section 77-202.11, R.R.S. 2003, Neb. Rev. Stat. Section 77-202, R.S. Supp., 2006 and Neb. Rev. Stat. Sections 77-202.12 and 77-702, R.S. Supp., 2007.)

REG-15-003 TAX STATUS

003.01 Real and personal property owned by the state of Nebraska and its governmental subdivisions, to the extent used or being developed for use by the state or governmental subdivision for a public purpose, shall be exempt from property taxes.

003.02 Real and personal property, leased or unleased, being used to carry out responsibilities conferred by law, with or without compensation, is deemed used for a public purpose under these regulations. Duties and responsibilities sufficient to meet the definition of public purpose may be conferred by federal or state constitution, statute, or case law or legally promulgated federal or state regulation.

003.03 Unleased real and personal property owned by the state and its governmental subdivisions, which is not being used or developed for use for a public purpose, shall be subject to property taxes unless one of the following conditions is met:

003.03A A payment in lieu of taxes, pursuant to REG-15-006, is being paid for public safety, rescue, and emergency services and road or street construction or maintenance services to all governmental units providing such services to the property; or

003.03B Other specific provisions of law prohibit taxation of such property.

003.04 Real and personal property of the state and its governmental subdivisions that is leased to a private party for a public purpose shall be exempt from property taxes if such lease is at fair market value.

003.05 Real and personal property of the state and its governmental subdivisions that is leased to a private party for any purpose other than a public purpose shall be subject to property taxes as if the property was owned by the lessee. Public purpose shall not include leasing of property to a private party unless the lease of the property is for a public purpose and at fair market value or unless otherwise specifically provided for by law.

003.06 When the assessor or county board of equalization determines the use of property pursuant to this regulation, the dominant or primary use of property shall be considered, such that any incidental use for other purposes shall not effect the tax status of the property. For the purposes of this regulation, property obtained by a political subdivision due to failure to pay taxes or special assessments that is held by the political subdivision for sale at an amount less than or equal to the tax or special assessment liability plus interest, shall be deemed used for a public purpose.

003.07 In cases where it is determined that the property, when considered as a whole, is not used entirely for a public purpose, but the property has separate and distinct use portions, an exemption from taxes for the portion used for a public purpose shall be allowed. When a parcel of governmentally owned property is used for several purposes simultaneously, the determination of taxable status should be based on the predominant use of the property. The predominant use of the property is the primary or dominant use.

For example, if land adjacent to a publicly owned airport is required for a buffer zone for public safety purposes but is also leased for agricultural purposes, the predominant use of the parcel is as a buffer zone and its agricultural use is incidental in nature and the property is exempt.

003.07A In the analysis of such mixed use properties, a number of factors may be included in determining the predominant use of the property, including:

003.07A(1) Whether the use of the property assists the government entity in meeting a long term or ongoing purpose;

003.07A(2) Whether the governmental entity has spent significant money in making the property ready for its public purpose use in comparison with any revenue generated by its nonpublic use; and

003.07A(3) Whether the public purpose use is ongoing throughout the year as opposed to the seasonal nature of its nonpublic use.

003.08 Leased properties of a public housing authority to low income individuals as a place of residence are for the authority's public purpose and shall be exempt from property tax.

003.09 Aviation facilities owned by the state, an airport authority or other governmental subdivision, shall be deemed to be used for a public purpose and shall be exempt from property taxes and in lieu of taxes.

003.09A Aviation facilities leased by the state airport authority or governmental subdivision to a private party or entity are also deemed to be exempt from property taxes and in lieu of taxes provided they are leased at fair market value and are used or being developed for a public purpose.

003.10 When the assessor or county board of equalization determines whether a lease to a private party for a public purpose, is at fair market value, factors other than the dollar amount of the lease payments must be taken into consideration. As long as the value of all benefits received by the state or governmental subdivision from the lessee is reasonable compensation for allowing the lessee use of the property, the lease shall be considered to be at fair market value. Such benefits may include services provided by the lessee in connection with the lessee's use of the property.

003.11 Change in tax status during the year.

003.11A When the tax status of property as determined by the assessor pursuant to REG-15-004.01 changes between January 1 and on or before levy date, the assessor shall modify their determination to reflect the tax status of the property as of levy date.

003.11B . When the State or a political subdivision purchases property for a public purpose after levy date and on or before lien date, the property shall be exempt from property tax for the current year, because as of lien date there is no taxable property upon which to attach the lien.

003.11B(1) When the State or a political subdivision purchases property for a public purpose upon which exists a lien for a prior taxes, the State or political subdivision takes the property subject to the lien.

003.11C When exempt property of the State or a political subdivision is sold to a non-exempt entity on or after January and on or before levy date, the county board of equalization shall place the property on the tax list retroactive to January 1 of the year the property is sold because as of levy date, there is taxable property upon which to levy a tax. The county board of equalization shall send notice of the assessed value to the record owner. Protests on the assessed valuation may be filed within thirty days after the mailing of the notice. The procedures for filing a protest shall be as set forth in REG-15-004.

003.11C(1) The decision of the county board of equalization on a protest must be made within thirty days after the date the protest was filed.

003.11C(2) The county clerk shall mail notice of the board's decision to the protestor within seven days after the date of the decision.

003.11C(3) The decision of the county board of equalization , may be appealed within thirty days after the date of the decision to the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat. Section 77-5013.

003.12 When the assessor makes a change in the tax status of the property, notice shall be sent to the owner of record. The owner or lessee may protest such change in tax status to the county board of equalization within thirty days after the date of the notice. Decisions of the county board of equalization on protests must be made within thirty days after the date the protest was filed.

003.12A The county clerk shall mail notice of the board's decision to the protestor within seven days after the date of the decision.

003.13 The decision of the county board of equalization may be appealed within thirty days after the date of the decision to the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat. Section 77-5013.

003.14 When property of the state and governmental subdivisions is deemed taxable after March 1, the assessor shall report such property for taxation purposes to the county board of equalization on or before July 25.

003.14A If the property is deemed taxable after March 1 and on or before June 1, only the notice of intent to tax shall be sent to the affected state agency or governmental subdivision by the county board of equalization. The county board of equalization shall send the valuation change notice after June 1 and on or before July 25.

003.14B If the property is deemed taxable after June 1 and on or before July 25, the notice of intent to tax and valuation change notice shall be sent on or before July 25 to the affected state agency or governmental subdivision by the county board of equalization.

003.15 When leased taxable property of the state and governmental subdivisions is discovered as not having been reported to the assessor pursuant to REG-15-004.02, for the current year or any former year or years, such property shall be reported immediately to the county board of equalization.

003.15A If the leased taxable property is discovered after March 1 and on or before June 1 for the current year, only the notice of intent to tax shall be sent to the affected state agency or governmental subdivision by the county board of equalization. The county board of equalization shall send the valuation change notice after June 1, for the current year. For any former year or years the notice of intent to tax along with the valuation change notice shall be sent immediately by the county board of equalization.

003.15B If the leased taxable property is discovered after June 1 for the current year and any former year or years, the county board of equalization shall immediately send the notice of intent to tax along with the valuation change notice to the affected state agency or governmental subdivision.

003.16 The owner or lessee, if applicable, may protest any notice received from the county board of equalization pursuant to REG-15-003.15 to the county board of equalization within thirty days after the date of the notice. Decisions of the county board of equalization on protests must be made within thirty days after the date the protest was filed.

003.16A The county clerk shall mail notice of the board's decision to the protestor within seven days after the date of the decision.

003.17 The decision of the county board of equalization may be appealed within thirty days after the date of the decision to the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat. Section 77-5013.

003.18 If failure to give notice pursuant to REG-15-003.11C, REG-15-003.11C(2), REG 15-003.12, REG–15-003.12A, REG-003.14A, REG-15-003.14B, REG-15-003.15B and REG-15-003.16A prevented the timely filing of a protest or appeal, an owner, agent or the lessee that is responsible for paying the property taxes pursuant to Neb. Rev. Stat. Section 77-202.11 and has a right to protest or appeal may petition the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat. Section 77-5013, on or before December 31 of the year in which the notice should have been sent, for a determination of the taxability, the actual valuation or the special valuation assessment.

003.19 No petition or appeal shall in any manner suspend the collection of tax or the duties of officers relating thereto during the pendency of the petition or appeal, and all taxes affected thereby, which may be collected, shall be distributed as though no petition or appeal were pending.

003.20 If by final order of the Commission, it is determined that such tax or a part thereof should be refunded, the county treasurer is authorized to make the refund upon receiving a certified copy of such final order.

(Neb. Rev. Stat. Section 77-202.11, R.R.S. 2003, Neb. Rev. Stat. Sections 77-202, and 77-5013, R.S. Supp., 2006 and Neb. Rev. Stat. Sections 77-202.12, 77-702 and 77-5007 R.S. Supp., 2007.)

REG-15-004 PROCEDURES

004.01 On or before March 1, the assessor shall review all property owned by the state and the various governmental subdivisions within the county and make a determination of what property is not being used for or being developed for a public purpose as of January 1. All property determined not used for or being developed for a public purpose and not specifically exempted by statute, shall be assumed taxable for property tax purposes and valued pursuant to REG-15-004.01.

004.01A All real property as defined in REG-10-001, other than agricultural and horticultural land, shall be valued for property tax purposes at its actual value.

004.01B All agricultural and horticultural land as defined in REG-14-002, shall be valued for property tax purposes at seventy-five (75) percent of its actual value.

004.01C All depreciable tangible personal property as defined in REG-20-001, shall be valued for property tax purposes at its net book value as defined in REG-20-001.05.

004.02 On or before January 31 each year, the state and each governmental subdivision shall provide the appropriate assessor a legal description of its recently leased property or a copy of each new lease or preexisting lease, which has been substantially changed and was in effect on January 1 of the current year.

004.02A On or before January 31, in subsequent years, the state and each governmental subdivision shall also provide the appropriate assessor a listing of previously reported leases that are still in effect and have not been materially changed.

004.03 On or before March 1, the assessor shall send written notice to each state agency and governmental subdivision when he or she finds that the entity owns property that is not being used or developed for a public purpose, and upon which no in lieu of tax is paid.

004.03A The notice shall be sent by first-class mail to the last known address of the state agency or governmental subdivision.

004.03A(1) If the property is leased and the lessor does not intend to pay the taxes for the lessee, the lessor shall immediately forward the notice to the lessee.

004.03B The notice shall contain the legal description of the property and shall inform the entity that the property will become subject to property taxation for the current year.

004.04 The state, governmental subdivision, or lessee may protest the assessor's determination pursuant to REG-15-004.03, to the county board of equalization on or before April 1. If April 1 falls upon a Saturday, Sunday, or legal holiday the protest will be considered timely filed if performed in person or postmarked on the next business day. When the protest is sent by ordinary mail the postmarked date shall be used to determine the date filed. When the protest is sent by either certified or registered mail, the certification or registration date shall be used as the postmarked date.

004.04A The protest shall be in writing, signed and filed with the county clerk of the county in which the property is located.

004.04B If the protest is not timely filed, it shall automatically be dismissed.

004.04C The protest shall contain a written statement as to why the property should not become subject to taxation for property tax purposes. If no statement is included or attached, the protest shall automatically be dismissed.

004.04D Each protest filed can only pertain to one parcel and not a combination of parcels.

004.05 The county board of equalization shall decide the protest on or before May 1.

004.05A If May 1 falls on a Saturday, Sunday, or legal holiday, the county board of equalization shall hear and decide protests on the previous business day.

004.05B Within seven days after the final decision, the county clerk shall send written notice to the protester (state agency, governmental subdivision or lessee), and the assessor of the action taken by the board.

004.06 The decision of the county board of equalization may be appealed to the Tax Equalization and Review Commission on or before June 1, pursuant to Neb. Rev. Stat. Section 77-5013.

004.07 On or before June 1, the assessor shall send notices of assessed valuation changes to each state agency, governmental subdivision and lessee, whose assessed valuation has changed from that of the previous year. The notice shall describe the real property and state the old and new assessed valuation, the convening date of the county board of equalization, the date for filing a valuation protest, and also provide the average level of value of all classes and subclasses of real property as determined by the Tax Equalization and Review Commission.

004.08 On or before June 30, a state agency, governmental subdivision, or the lessee may protest the assessed valuation to the county board of equalization. If June 30 falls upon a Saturday, Sunday, or legal holiday, the valuation protest will be considered timely filed if performed in person or postmarked on the next business day. When the valuation protest is sent by ordinary mail the postmarked date shall be used to determine the date filed. When the valuation protest is sent by either certified or registered mail, the certification or registration date shall be used as the postmarked date.

004.08A The valuation protest shall be written in triplicate, signed and filed with the county clerk of the county in which the property is located.

004.08B If the valuation protest is not timely filed, it shall automatically be dismissed.

004.08C Attached to each valuation protest, shall be a written statement of why the requested change in assessment should be made. If no statement is attached, the protest shall automatically be dismissed.

004.08D Each protest filed can only pertain to one parcel and not a combination of parcels.

004.09 The county board of equalization shall hear and decide the protest on or before July 25.

004.09A If July 25 falls on a Saturday, Sunday, or legal holiday, the county board of equalization shall hear and decide protests on the previous business day.

004.09B The county clerk shall notify the protester of the county board of equalization's action taken on the protest within seven days after the date of the decision of the board.

004.10 Beginning on July 26 and on or before August 24, the action of the county board of equalization regarding a valuation protest may be appealed to the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat. Section 77-5013.

004.11 Any state agency, governmental subdivision or the lessee having a right to protest or appeal may petition the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat. Section 77-5013 on or before December 31 of the year in which the notice should have been sent, for a determination of the actual value, or special value because a failure to give notice pursuant to REG-15-004.03, REG-15-004.05B, REG-15-004.07 and 15-004.09B prevented the timely filing of a protest or appeal.

004.12 No petition shall in any manner suspend the collection of any tax or the duties of officers relating thereto during the pendency of the petition, and all taxes affected thereby, which may be collected, shall be distributed as though no petition were pending.

004.13 If by final order of the Commission, it is determined that such tax or a part thereof should be refunded, the county treasurer is authorized to make the refund upon receiving a certified copy of such final order.

(Neb. Rev. Stat. Sections 49-1202 and 49-1203, R.R.S. 2004, Neb. Rev. Stat. Sections 77-202.11, R.R.S. 2003, Neb. Rev. Stat. Sections 77-1315, 77-1502 and 77-5013, R.S. Supp., 2006 and Neb. Rev. Stat. Sections 77-202, 77-202.12, 77-702 and 77-5007, R.S. Supp., 2007.

REG-15-005 PROPERTY TAXES

005.01 Property taxes paid by the lessee.

005.01A Each state agency and governmental subdivision that has leased taxable property upon which the taxes are to be paid by the lessee, shall on or before October 15, provide the assessor of the county in which the property is located, the name and address of the lessee to whom the property tax statement should be sent. If the governmental entity has provided this information pursuant to REG-15-004.02 and the identity of the lessee has not changed, the governmental entity is not required to provide this information a second time.

005.01B Taxes on property assessed to the lessee shall be due and payable in the same manner as all other property taxes.

005.01B(1) All taxes assessed to the lessee shall be due and payable on December 31 of each year. One-half of the property taxes become delinquent on May 1 and the second half on September 1 next following the date the taxes become due, except in counties having a population of more than one hundred thousand. In counties with a population of more than one hundred thousand, the delinquent dates are April 1 and August 1 next following the date the taxes become due.

005.01C As of December 31, all taxes assessed to the lessee shall become a first lien upon the personal property of the lessee until paid. No lien or attachment shall be attached to the property of the state or the governmental subdivisions for failure of the lessee to pay the taxes.

005.01D At least 20 days prior to the issuance of distress warrants, the county treasurer shall mail a notice of delinquent taxes to the lessee and state agency or governmental subdivision advising them that if full payment of the taxes is not received by September 1 next after the due date, distress warrants will be issued and delivered to the county sheriff for collection.

005.01E Neither the state nor a governmental subdivision is obligated to pay the taxes upon failure of the lessee to pay.

005.01F The state or governmental subdivision may request the assessor to send the tax statement to it, rather than the lessee, voluntarily pay the taxes for the lessee and collect the tax from the lessee as part of the lease payment.

005.02 Property taxes paid by the state or governmental subdivision.

005.02A Each state agency and governmental subdivision that has property upon which the taxes are to be paid by the entity shall, on or before October 15, provide the assessor of the county in which the property is located, the name and address to whom the property tax statement should be sent.

005.02A(1) All taxes charged to a state agency or governmental subdivision shall be due and payable and delinquent on the same dates as outlined in REG-15-005.01B(1).

005.03 As of December 31, all taxes assessed to a state agency or governmental subdivision for unleased taxable property shall become a first lien upon the property of the state agency or governmental subdivision until paid.

(Neb. Rev. Stat. Sections 77-202.11, 77-203, 77-204, 77-1701 and 77-1718, R.R.S. 2003 and Neb. Rev. Stat. Sections 77-202.12 and 77-702, R.S. Supp., 2007.)

REG-15-006 IN LIEU OF TAX

006.01 Unleased property of the state and governmental subdivisions that is not being used or being developed for a public purpose may, rather than being subject to property taxes, be subject to an in lieu of tax payment. Such in lieu of tax payments are separate from and shall not apply to property on which in lieu of tax payments are made pursuant to Article VIII, Section 11 of the Nebraska Constitution.

006.02 The in lieu of tax payment shall be paid directly to all state agencies and governmental subdivisions providing public safety, rescue and emergency services, and road or street construction or maintenance services to the property.

006.02A Any property of the state or a governmental subdivision as described in REG-15-006.01, may be subject to the in lieu of tax even though all the services to the property are provided by the owner.

006.03 The in lieu of tax shall be based upon a proportionate share of each state agency's or governmental subdivision's cost for providing the services as outlined in REG-15-006.02.

A governing body after a hearing and a majority vote may adopt a general policy by ordinance or resolution for determining the amount of in lieu of tax. Such ordinance shall still result in an equitable contribution for the cost of providing the services to the property.

006.04 The state agency or governmental subdivision that owns a property that is subject to an in lieu of tax, shall negotiate a written agreement with the state agencies or governmental subdivisions that are providing

public safety, rescue and emergency services, and road or street construction or maintenance services, as to the amount of in lieu of tax payable to each. Such in lieu of tax payments shall be considered revenue for budget purposes.

006.05 If a written agreement is not obtained on a property, with all the entities involved, the property will be subject to assessment by the assessor for property taxes.

006.06 All in lieu of tax agreements shall be filed with the assessor on or before February 15.

(Neb. Rev. Stat. Section 77-202.11, R.R.S. 2003, Neb. Rev. Stat. Section 77-202, R.S. Supp., 2006 and Neb. Rev. Stat. Sections 77-202.12 and 77-702, R.S. Supp., 2007.)

REG-15-007 REPORTING BY THE ASSESSOR

007.01 On or before December 1, 2004 and every fourth December 1 thereafter, the assessor shall file with the county board and the Property Tax Administrator a report containing the following information for that particular year:

007.01A The legal description and the owner of all property located within the county that is owned by state agencies and political subdivisions of the State of Nebraska.

007.01B The legal description, owner and tax status of all leased and unleased property owned by state agencies and political subdivisions of the State of Nebraska that is not being used for a public purpose and is subject to taxation.

007.02 The Department of Revenue shall create and maintain a database from the information in REG 15-007.01B on the Department's website which is available to the public.

007.02A The database shall be searchable by legal description, owner and tax status of the property.

(Neb. Rev. Stat. Section 77-202.13, R.S. Supp., 2007.)

NEBRASKA ADMINISTRATIVE CODE

Title 350 – Nebraska Department of Revenue, Property Assessment Division
Chapter 17 – Report and Opinion Regulations
Effective Date – 7/3/2013

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Corrections and Amendments	Neb. Rev. Stat. §§ 77-702.	006

Title 350 – Nebraska Department of Revenue, Property Assessment Division
Chapter 17 – Report and Opinion Regulations

REG-17-001 PURPOSE

001.01 This regulation defines terms, responsibilities of parties, implementation, and presentation of the Property Tax Administrator's Report and Opinion of the level of value and quality of assessment required by Neb. Rev. Stat. §§ 77-1327 and 77-5027. Each annual report and opinion will be based on all information available to the Property Tax Administrator as provided by statistical studies, county assessor survey information, and any other report or information sources available to the Department of Revenue, Property Assessment Division (Division).

The description of the techniques generally used in the development and use of a ratio study is developed using the Standard on Ratio Studies (Standard), issued by the International Association of Assessing Officers (IAAO). Two other references, Mass Appraisal of Real Property and Property Assessment Valuation, also issued by the IAAO, contain discussion of the development and use of ratio studies. Further, the Division sets forth procedures for the development of the ratio study in the Chapter 12, Sales File Regulations. The Standard provides recommendations for the design, preparation, interpretation, and use of ratio studies for a number of purposes. The 2010 Standard assumes that ratio studies will contain a statistically adequate sample of sales to represent the level of value for a particular jurisdiction being measured.

Neb. Rev. Stat. §§ 77-702, 77-1327, and 77-5027.

REG-17-002 DEFINITIONS

002.01 Class or subclass of real property means a collection of properties that share one or more common characteristics that affect value, and that are not found in other properties outside the class or subclass.

002.01A For agricultural or horticultural land, class or subclass includes but is not limited to: irrigated cropland; dry cropland; grassland; wasteland; nurseries; feedlots; orchards; location; geographic characteristics; and other market characteristics that are appropriate for the assessment of the class or subclass of agricultural or horticultural land.

002.01B For all other real property, class or subclass includes, but is not limited to: improvement status; parcel type; zoning; location; city size; parcel size; geographic characteristics; or market characteristics that are appropriate for the valuation of a class or subclass of real property.

002.01C Geographic characteristics means the physical characteristics of the earth, land, region, or site that may have an effect on value.

002.01D Market characteristics means the social and economic factors in the market that affect the value of real property.

002.02 Clerical error means transposition of numbers, mathematical error, computer malfunction causing programming and printing errors, data entry error, items of real property other than land identified on the wrong parcel, incorrect ownership, or certification of an incorrect valuation to political subdivisions, pursuant to Neb. Rev. Stat. § 77-128.

002.03 Coefficient of dispersion means the extent to which a set of ratios is clustered either tightly or loosely around the median, arithmetic mean, or weighted mean ratio and expressed as a percentage of that measure.

002.04 Coefficient of variation means the standard deviation expressed as a percentage of the mean.

002.05 Confidence interval means a calculated range of values in which the measure of central tendency is expected to fall.

002.06 Confidence level means the defined degree of confidence in a confidence interval which is commonly stated on a percentage basis.

002.07 Data set means the sales data pertaining to a class or subclass of real property during a study period.

002.08 Direct equalization means the process of converting the level of value for a class or subclass of real property into an adjustment factor, and changing the assessed values of real property in the class or subclass to more closely reflect level of assessment required in Nebraska statutes.

002.09 Mean ratio means the arithmetic mean ratio or the total of all assessment/sales ratios divided by the number of ratios.

002.10 Measures of central tendency means descriptive measures that indicate the mathematical center of a set of values, for example, mean and median.

002.11 Median ratio means the middle ratio of the sorted or arrayed assessment/sales ratios. If there is an even number of ratios, the median will be the average of the two middle ratios.

002.12 Preliminary Statistical Report means a report displaying the statistical information calculated for the qualified sales for each class of real property that occurred during a study period based on comparing selling price with assessed value in place in the year prior to the current assessment year. All statistical reports must use the sales file developed pursuant to Chapter 12, Sales File Regulations.

002.13 Price-related differential means the statistical measure found by dividing the mean ratio by the weighted mean ratio, and then multiplying by 100 to obtain the percentage relationship. A percentage more than 100 indicates that higher-priced properties are generally assessed at lower ratios than lower-priced properties. A percentage of less than 100 indicates that lower-priced properties are generally assessed at lower ratios than higher-priced properties.

002.14 Statistical Report means an annual report displaying the statistical information calculated for qualified sales for each class of real property that occurred during the study period based on comparing selling price with the assessed values for the current assessment year. All statistical reports must use the sales file developed pursuant to Chapter 12, Sales File Regulations.

002.15 Special valuation means the actual value of the land if the land were available only for agricultural or horticultural purposes or uses, without regard to any other purpose or use for which the land may be used.

002.16 Special valuation assessment means 75% of the special valuation.

002.17 Standard deviation means the measure of data variance calculated from a set of numbers by subtracting each value from the mean and squaring each of the remainders, adding together all the squares, dividing the sum by the number that is one less than the number of values being analyzed, and taking the square root of the result.

002.18 Study period means the time frame established by the Property Tax Administrator in which all sales utilized in developing an assessment to sales ratio study have occurred. The study periods used by the Division for each major class of property are set forth in Chapter 12, Sales File Regulations.

002.19 Weighted mean ratio means a ratio determined by adding the assessed value of each parcel in a ratio study and dividing that number by the sum of the total selling prices of all the parcels in the study. The weighted mean gives weight to each dollar value for the parcels included in the ratio study.

Neb. Rev. Stat. §§ 77-103.01, 77-702, and 77-1327.

REG-17-003 PROCEDURES

003.01 The Property Tax Administrator will issue a directive that establishes the following assessment standards: definition of terms; statistical reports to be created; statistical studies to be performed; data sets to be used; and assessment practice reports to be performed.

003.02 The Report and Opinion will contain a special valuation study for those counties whose predominate base of agricultural or horticultural land is determined to be influenced by non-agricultural or non-horticultural factors. The study will be prepared in compliance with professionally accepted mass appraisal techniques in determining the level of assessment for agricultural and horticultural land receiving the special valuation assessment.

003.03 On or before March 1 each year, the county assessor will certify to the Property Tax Administrator whether the market for agricultural and horticultural land in their county has influences outside the typical agricultural and horticultural land market. In any county that has applied the special valuation assessment, the county assessor must file with the Property Tax Administrator the information requested in Chapter 11, Agricultural Land Special Valuation Regulations as well as the following:

003.03A The methodology for determining the special valuation assessment of agricultural and horticultural land (uninfluenced value) and;

003.03B The methodology for determining the actual valuation of agricultural and horticultural land (100% of market value).

003.04 On or before March 25 each year, a county assessor may provide written comments to the Property Tax Administrator that will become part of the Report and Opinion.

003.05 On or before 19 days following the final filing due date for the abstract of assessment for real property, the Property Tax Administrator must certify the Report and Opinion for real property in each county to the Tax Equalization and Review Commission and provide each county assessor a certified copy of the Report and Opinion for that county. Beginning January 1, 2014, in counties with a population of at least 150,000 inhabitants, the Property Tax Administrator must certify the Report and Opinion for real property in each county within 15 days of the final filing date.

Neb. Rev. Stat. §§ 77-702, 77-1327, 77-1343, 77-1344, 77-1377, 77-1514, and 77-5027.

REG 17-004 REPORT

004.01 The Report and Opinion issued by the Property Tax Administrator will consist of narrative and statistical reports, and other reports as determined by the Property Tax Administrator.

004.01A The narrative portion of the Report and Opinion will be designed to ascertain, on an ongoing basis, whether the assessment practices in each county comply with Nebraska law, achieve actual value, and are applied uniformly and proportionately to real property in the county. The information contained in the narrative will be developed by the Division through observing, conferring with, and providing assistance to county assessors. The information gathered by the Division will include, but is not limited to:

004.01A(1) Information regarding the actions and procedures used by county assessors to accomplish their assessment responsibilities;

004.01A(2) Sales review procedures used in each county to determine whether, for valuation purposes, sold and unsold real property is treated in the same manner;

004.01A(3) Market data for each county relating to the behavior of buyers and sellers of real property; and

004.01A(4) Any other information relevant to the assessment of real property in the county.

004.01B In analyzing the statistical studies for each county, the median ratio, as defined in Chapter 12, Sales File Regulations, is the Division's preferred measure of central tendency in determining the level of value, for the purpose of direct equalization.

004.01B(1) The Division will determine the level of value using the median ratio if the sample of sales is representative of the properties in the county or market area.

004.01B(2) If the sample of sales is not representative of the properties in the county or market area, the Division may expand its analysis to include sales in adjoining counties that share similar market and geographic characteristics.

004.01C The statistical portion of the Report and Opinion will be designed to assist the Division, on an ongoing basis, in determining whether each county has achieved the required level and quality of assessment for each class of property for that county. The information contained in the statistics will be developed by the Division pursuant to the Chapter 12, Sales File Regulations, and will include, but is not limited to:

004.01C(1) Qualified sales as determined in REG 12-002;

004.01C(2) The following statistical information for qualified sales:

004.01C(2)(a) The number of sales in the sample;

004.01C(2)(b) The total assessed value of the sales;

004.01C(2)(c) The total market value represented by the total of the selling prices of the sales;

004.01C(2)(d) The minimum and maximum assessment sales ratios by class or subclass;

004.01C(2)(e) The average sales price by class or subclass;

004.01C(2)(f) The mean ratio, median ratio, and weighted mean ratio;

004.01C(2)(g) The price-related differential;

004.01C(2)(h) The coefficient of dispersion;

004.01C(2)(i) The standard deviation;

004.01C(2)(j) The coefficient of variation;

004.01C(2)(k) The 95% confidence interval for each of the measures of central tendency;

004.01C(2)(l) The property type; and,

004.01C(2)(m) The date of analysis.

004.01D The Property Tax Administrator may determine that additional information is relevant when determining the level of value and the assessment practices within a county. The Report and Opinion may contain a report on topics determined by the Property Tax Administrator.

004.01E The county report section is a report about each county during the preceding year. The information gathered for this report will include, but is not limited to, the following:

004.01E(1) County Abstract of Assessment for Real Property, Form 45; and

004.01E(2) The county assessor's annual plan of assessment as submitted to the Division by the county assessor pursuant to Neb. Rev. Stat. § 77-1311.02.

004.01F The Property Tax Administrator will provide a correlation section of all information considered relevant for the determination of the level of value.

Neb. Rev. Stat. §§ 77-702, 77-1327, 77-1343, 77-1344, 77-1377, 77-1514, and 77-5027.

REG 17-005 OPINION

005.01 After an examination of any information relevant to the level of value, including, but not limited to the narrative and statistical studies, the Property Tax Administrator will certify his or her opinion as to the level of value and quality of assessment for the various classes or subclasses of real property.

005.01A In analyzing the statistical studies for each county, the median ratio is the preferred measure of central tendency for determining the level of value for an opinion concerning direct equalization.

005.01A(1) The preferred use of the median ratio in analyzing statistical studies for each county will not prevent the Property Tax Administrator from analyzing and taking into account other professionally-accepted measures of central tendency such as the weighted mean or mean, or other statistical measures such as the coefficient of dispersion, price-related differential, coefficient of variation, or confidence intervals. The level of value may be determined by the Property Tax Administrator based on the analysis of the representative sample developed in accordance with REG 17-004.01B(2).

005.01B The Property Tax Administrator's Opinion will state whether the county's level of value and quality of assessment are acceptable or not acceptable based on a consideration of all of the information available. The Property Tax Administrator will take into consideration in the formulation of his or her opinion the information regarding the assessment practices in the county in addition to the results indicated from the statistical reports calculated from the sales file and the quantity, quality, and reliability of the statistical analysis of the county's data set including the dispersion and representativeness of sales in the database.

Neb. Rev. Stat. §§ 77-702, 77-1327, 77-1343, 77-1344, 77-1377, 77-1514, and 77-5027.

REG 17-006 CORRECTIONS AND AMENDMENTS

006.01 The Property Tax Administrator may amend or supplement the Report and Opinion as provided in this regulation. The Property Tax Administrator will not modify the Report and Opinion, except by amendment or supplementation, after submission to the Tax Equalization and Review Commission.

006.01A It will be the county assessor's responsibility to explain to the Tax Equalization and Review Commission any errors and omissions in their information as originally submitted to the Property Tax Administrator.

006.02 The Property Tax Administrator may amend a Report and Opinion that was certified to the Tax Equalization and Review Commission due to any clerical errors made by the Division.

006.03 The Property Tax Administrator will supplement the Report and Opinion as requested by the Tax Equalization and Review Commission.

Neb. Rev. Stat. § 77-702.

NEBRASKA ADMINISTRATIVE CODE

Title 350 - Nebraska Department of Revenue, Property Assessment Division
Chapter 18 – Community Redevelopment Law Regulations
Effective Date 3/15/09

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Procedures	17-405.01, 18-2114, 18-2124, 18-2150, R.R.S. 1997, 58-507, R.R.S. 2004, 13-509 and 18-2147, R.S. Supp., 2006 and 13-518, 18-2107, 77-702, 77-1514, 77-1613.01 and 79-1016, R.S. Supp., 2007	003
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Reporting by Redevelopment Authorities	18-2117.01 R.S. Supp., 2006 and 77-702, R.S. Supp., 2007	005

Title 350 - Nebraska Department of Revenue, Property Assessment Division
Chapter 18 – Community Development Project Regulations

REG-18-001 PURPOSE

001.01 The purpose of these regulations is to outline various duties of assessors and redevelopment authorities in administering property assessment and taxation laws for properties in a community redevelopment project. The community redevelopment laws allow for the increased property taxes generated by the improvement of blighted property to be used to pay for the financing of the redevelopment, i.e. tax increment financing (TIF).

(Neb. Rev. Stat. Sections 18-2102 and 18-2105, R.R.S. 1997, Neb. Rev. Stat. Section 18-2113, R.S. Supp., 2006 and Neb. Rev. Stat. Section 77-702, R.S. Supp., 2007.)

REG-18-002 DEFINITIONS

002.01 Redevelopment Authority shall mean a public body corporate and politic, exercising public and essential governmental functions and having all the powers necessary or convenient to carry out and effectuate the purposes and provisions of the Community Development Law.

002.02 Limited Redevelopment Authority shall mean a redevelopment authority created for the purpose of only one single specific limited pilot project.

002.03 City shall mean any city or incorporated village in the state.

002.04 Public body shall mean the state, county, township, board, commission, authority, district, or other political subdivision or public body of the state.

002.05 Governing body or local governing body shall mean the city council, board of trustees, or other legislative body charged with governing the municipality.

002.06 Area of operation shall mean and include all real property within the corporate limits of a city and such land outside the city as may come under the purview of Neb. Rev. Stat. Section 18-2123.

002.07 Substandard area shall mean an area as defined in Neb. Rev. Stat. Section 18-2103(10) and generally refers to an area in which there are buildings and structures that are detrimental to public safety and health.

002.08 Blighted area shall mean an area as defined in Neb. Rev. Stat. Section 18-2103(11) and generally refers to an area with high unemployment, the average age of buildings and structures is over forty years, majority of the land is unimproved, lower than city average per capita income and the area has had either stable or decreasing population.

002.09 Redevelopment project shall mean a project as defined in Neb. Rev. Stat. Section 18-2103(12) and generally refers to any work or undertaking in a substandard or blighted area, including clearing the area through demolition of existing buildings, structures, or improvements and to make available through the leasing, or selling of the land to developers for residential, recreational, commercial, industrial or other uses.

002.10 Redevelopment plan shall mean a plan as defined in Neb. Rev. Stat. Section 18-2103(13) and generally refers to a plan showing the boundaries of the redevelopment area, proposed land uses, population densities, land and building intensities within the area after development, statement of changes effecting zoning, streets and building codes and other ordinances, site plan for the area, and a statement as to the kind and number of public facilities and utilities needed to support the area.

002.11 Redeveloper shall mean any person, partnership, or public or private corporation or agency which shall enter or propose to enter into a redevelopment contract.

002.12 Redevelopment contract shall mean a contract entered into between an authority and a redeveloper for the redevelopment of an area in conformity with a redevelopment plan.

002.13 Real property for the purpose of this regulation shall mean all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage, or otherwise, and the indebtedness secured by such liens.

002.14 Community redevelopment area shall mean a substandard and blighted area which the community redevelopment authority designates as appropriate for a renewal project.

002.15 Redevelopment project valuation, also known as the base value, shall mean the assessed valuation on the taxable real property in a redevelopment project last certified to the political subdivisions in the year prior to the effective date of the provision authorizing the dividing of ad valorem tax pursuant to Neb. Rev. Stat. Sections 18-2103(21) and 18-2147.

002.16 Redevelopment project excess valuation shall mean the total assessed valuation on the real property in a redevelopment project for the current year less the redevelopment project base valuation.

(Neb. Rev. Stat. Section 18-2147, R.S. Supp., 2006 and Neb. Rev. Stat. Sections 18-2103 and 77-702, R.S. Supp., 2007.)

REG-18-003 PROCEDURES

003.01 The governing body shall not implement any plan until such time the real property in the redevelopment project is within the corporate boundaries of the city or the property is to be developed for an agricultural processing facility and is annexed pursuant to Neb. Rev. Stat. Section 17-405.01(2).

003.02 For property qualified under Nebraska Redevelopment Act, the redevelopment project valuation shall include real and personal property, pursuant to Chapter 58, Article 5.

003.03 Beginning August 1, 2006 and on or before each August 1 thereafter, in the calendar year that the division of the real property tax is to become effective, the governing body shall give notice to the assessor, on forms prescribed by the Property Tax Administrator.

003.03A Failure on the part of the governing body to provide the notice for dividing the real property taxes to the assessor on or before August 1, shall result in the taxes becoming undivided and allocated to the political subdivisions levying the taxes. Such real property taxes shall remain undivided until such time as the governing body provides the notice for the division of the real property taxes to the assessor. Upon the providing of notice by the governing body to the assessor, on or before August 1, shall result in the real property taxes being divided based upon the redevelopment project valuation as defined in REG-18-002.15, for the remainder of the financing term of the redevelopment project.

003.03B When there is no redevelopment project value on a parcel or parcels, the assessor shall determine the redevelopment project valuation based on the fair market value of the parcel or parcels as of January 1 of the year prior to the year that the real property taxes are to be divided. For example, if there is no assessed valuation on a parcel that may be used as the redevelopment project value because the parcel was previously exempt or centrally assessed, the assessor shall determine a fair market value for the year prior to the year the taxes are to be divided to be used as the redevelopment valuation.

003.03B(1) The assessor shall send notice of the redevelopment project valuation by first class mail to the authority and the owner. The valuation notice shall state that the authority or the owner has thirty (30) days after the date of the valuation notice to protest the valuations to the county board of equalization. If the final date for filing a protest falls upon a Saturday, Sunday, or legal holiday the protest will be considered timely filed if performed in person or postmarked on the next business day. When the protest is sent by ordinary mail the postmarked date shall be used to determine the date filed. When the protest is sent by either certified or registered mail, the certification or registration date shall be used as the postmarked date.

003.03B(1)(a) The valuation protest shall be written in triplicate, signed and filed with the county clerk of the county in which the property is located.

003.03B(1)(b) If the valuation protest is not timely filed, it shall automatically be dismissed.

003.03B(1)(c) Attached to each valuation protest, shall be a written statement of why the requested change in assessment should be made. If no statement is attached, the protest shall automatically be dismissed.

003.03B(1)(d) Each protest filed can only pertain to one parcel and not a combination of parcels.

003.03B(2) The county board of equalization shall decide the protest within thirty (30) days after the date the protest was filed with the county clerk.

003.03B(2)(a) Within seven (7) days after the county board of equalization's decision, the county clerk shall mail written notice of the board's decision to the authority or the owner.

003.03B(3) Within thirty (30) days after the date of the decision of the county board of equalization, the authority or owner may appeal the board's decision to the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat. Section 77-5013.

003.03B(4) If failure to give notice pursuant to REGS-18-003.03A(1) and 18-003.03A(2)(a) prevented the timely filing of a protest or appeal, the authority or owner having a right to protest or appeal, may petition the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat. Section 77-5013 on or before December 31 of the year the notice should have been sent, for a determination of the actual value.

003.03B(5) No appeal shall in any manner suspend the collection of any tax or the duties of officers relating thereto during the pendency of the appeal, and all taxes affected thereby, which may be collected, shall be distributed as though no appeal were pending.

003.03B(6) If by final order of the Commission, it is determined that such tax or a part thereof should be refunded or reallocated, the county treasurer is authorized to make the refund or reallocation upon receiving a certified copy of such final order.

003.03C The division of the real property tax is determined by subtracting the redevelopment project valuation from the current year assessed value to arrive at the redevelopment project's excess value. The consolidated tax rate for the tax district in which the redevelopment project is located is applied to both the redevelopment project valuation and to the redevelopment project excess valuation resulting in a tax on each of the valuations. If the real property in a redevelopment project is granted a homestead exemption, the homestead exempt value shall apply to the base value first and any remaining homestead exempt value

shall apply to the excess value. The division of the homestead tax loss reimbursement shall be proportionate to the homestead exempt value determined for the base value and excess value.

003.03C(1) The resulting real property tax calculated for the redevelopment project valuation shall be distributed by the county treasurer to the political subdivisions that comprise the tax district in which the project is located. Any homestead tax loss reimbursement applicable to base value shall be distributed to the political subdivisions that comprise the tax district in which the project is located.

003.03C(2) The resulting real property tax calculated for the redevelopment project excess valuation shall be distributed by the county treasurer to the local governing body charged with the responsibility of paying the indebtedness of the project. The local governing body shall credit the tax to a special fund to be used for the sole purpose of paying the indebtedness incurred for the project for which the taxes were pledged. Any homestead tax loss reimbursement applicable to excess value shall be distributed to the special fund used for the sole purpose of paying the indebtedness incurred for the project for which the taxes were pledged.

003.03C(3) Any interest and penalties due for delinquent property taxes shall be distributed into the funds of each political subdivision in the same proportion as are all other property taxes collected by or for the political subdivision.

003.03D When the indebtedness incurred for the project has been paid, the local governing body charged with such indebtedness, shall immediately send written notification to the assessor and county treasurer that all further real property taxes shall be distributed to the respective political subdivisions allowed to levy a tax on the project.

003.03E The division of the real property tax on the redevelopment project shall not exceed fifteen years from the effective date of the notice provided to the assessor by the governing body.

(Neb. Rev. Stat. Sections 17-405.01, 18-2114, 18-2124, 18-2150, R.R.S. 1997, Neb. Rev. Stat. Section 58-507, R.R.S. 2004, Neb. Rev. Stat. Sections 13-509 and 18-2147 through 18-2149, R.S. Supp., 2006 and 13-518, 18-2107, 77-702, 77-1514, 77-1613.01 and 79-1016, R.S. Supp., 2007.)

REG-18-004 REPORTING BY ASSESSORS

004.01 On or before August 20, when certifying the total taxable valuation to the political subdivisions, the assessor shall include no more than the redevelopment project valuation as part of the taxable value for levy setting purposes. The redevelopment project excess valuation shall not be included in the certification of the taxable valuation to the political subdivisions.

004.01A The redevelopment project excess valuation shall not be included in the calculation of the valuation attributable to growth for use by certain political subdivisions, for purposes of preparing budgets.

004.01B If the current year's total taxable value of the real property in a redevelopment project drops below the originally established redevelopment project valuation, the current year's taxable value is the amount assessable to the political subdivisions and there would be no excess value or tax proceeds available to the redevelopment project.

004.01B(1) The redevelopment project excess valuation shall be reinstated when the assessed valuation on taxable real property in the redevelopment project is greater than the redevelopment project base valuation.

004.01C The assessor shall annually on or before August 20, certify to the community redevelopment authority and to the county treasurer the amount of the redevelopment project valuation (base value) and the redevelopment project excess valuation, if any for each project.

004.02 The assessor shall include only the redevelopment project base valuation and parcel counts as part of the taxable property for each property class and subclass as required on the County Abstract of Assessment for Real Property (Form 45). In addition, the assessor shall provide the county's total number of parcels involved in a redevelopment project along with the associated total redevelopment project base valuation and excess valuation for each property class and subclass as required on the County Abstract of Assessment for Real Property (Form 45). The redevelopment project excess valuation shall not be included as part of the total taxable valuation for a property class on the Abstract of Assessment for Real Property.

004.03 The assessor, for purposes of preparing the School District Taxable Value Report, pursuant to Neb. Rev. Stat. Section 79-1016, shall include only the redevelopment project base valuation as part of the total taxable value for each school district. The amount certified to the Property Tax Administrator shall be that same amount of taxable value as certified to the school district for levy setting purposes, pursuant to Neb. Rev. Stat. Section 13-509. In addition, the assessor shall provide the supplemental information, outlined on the School District Taxable Value Report, for each school district's total redevelopment project base and excess valuations by property class. The redevelopment project excess valuation will be included in the certification, only when the real property taxes are no longer divided.

004.04 The assessor, for purposes of preparing the Certificate of Taxes Levied Report (Form 49), pursuant to Neb. Rev. Stat. Section 77-1613.01, shall include only the redevelopment project base valuation on the appropriate schedule for each of the levying political subdivisions that make up the tax district within which the project is located. In addition, the assessor shall report each project's information as required on separate schedules of this report, indicating each project's redevelopment base and excess valuations by property class, consolidated tax rate and the taxes levied on the redevelopment excess valuation.

004.05 The assessor shall transmit to an authority and the county treasurer, upon request of the authority, the redevelopment project valuation .

004.06 The assessor, shall at the authority's request conduct an investigation, examination, and inspection of the taxable real property in the redevelopment project and shall reaffirm or revalue the current value for assessment of such property pursuant to the findings of such investigation, examination and inspection.

(Neb. Rev. Stat. Section 13-509, 18-2147, 18-2148, R.S. Supp., 2006 and Neb. Rev. Stat. Sections 13-518, 77-702, 77-1514, 77-1613.01 and 79-1016, R.S. Supp., 2007.)

REG-18-005 REPORTING BY REDEVELOPMENT AUTHORITIES

005.01 On or before December 1 each year, any city which has approved redevelopment plans that are financed in whole or in part through the use of tax increment financing, shall file a report with the Property Tax Administrator for each plan. The report shall contain the following:

005.01A A copy of the redevelopment plan and any amendments thereto, approval date of the plan, the effective date for dividing the real property taxes as provided to the assessor and the location and boundaries of the property in the redevelopment project.

005.01B A short narrative description of the type of development undertaken, including the financing and type of business or commercial activity locating within the redevelopment area as a result of the redevelopment project.

005.02 The Property Tax Administrator shall compile the information obtained from the cities pursuant to Regulation 18-005 and information reported by the assessor or county clerk on the certificate of taxes levied for each redevelopment project into a report to be submitted to the Clerk of the Legislature by March 1 each year.

005.02A The report may also contain any recommendations that the Property Tax Administrator determines necessary to facilitate analysis of the uses, purposes, and effectiveness of tax increment financing and the process for its implementation.

(Neb. Rev. Stat. Section 18-2117.01, R.S. Supp., 2006 and Neb. Rev. Stat. Section 77-702, R.S. Supp., 2007.)

NEBRASKA ADMINISTRATIVE CODE

Title 350 - Nebraska Department of Revenue, Property Assessment Division
Chapter 20 - Personal Property Regulations
Effective Date 3/15/09

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Title 350 - Nebraska Department of Revenue, Property Assessment Division
Chapter 20 - Personal Property Regulations

REG-20-001 DEFINITIONS

001.01 Personal property shall include all property other than real property or franchises.

001.01A Tangible personal property shall include all personal property possessing a physical existence, but excluding money. Tangible personal property also includes trade fixtures, such as machinery and equipment used directly in commercial, manufacturing or processing activities conducted on real property regardless of whether the real property is owned or leased.

001.01A(1) Operational software which is necessary for computer hardware to function is defined as tangible personal property.

001.01B Intangible property shall include property that has no intrinsic value by itself, but is representative or evidence of value, such as stocks, bonds, promissory notes, contract rights, bank accounts, money, and other such property.

001.01B(1) Application software which is not necessary for computer hardware to function, is defined as intangible personal property.

001.02 Depreciable tangible personal property is subject to personal property taxation at its net book value. Depreciable tangible personal property shall mean tangible personal property which is used in a trade or business or used for the production of income, and which has a determinable life of longer than one year.

001.02A Depreciable tangible personal property shall also include tangible personal property which is eligible for depreciation for purposes of federal income tax, but which the owner chooses not to depreciate.

001.02B Depreciable tangible personal property shall also include all other tangible personal property for which a taxpayer is claiming depreciation, amortization, or section 179 deductions for purposes of federal income tax.

001.02C Depreciable tangible personal property shall also include capital expenses incurred because of major repairs, parts, labor and installation costs that prolong the useful life and increase the value of an asset or adapt the asset for a different use.

001.02D Pursuant to the Federal Soldiers and Sailors Relief Act, personal property owned by a nonresident military person who is stationed in Nebraska shall be subject to property taxation only if used in a trade or business. Thus, depreciable tangible personal property owned by a nonresident military person is subject to taxation in the same manner as all other depreciable tangible personal property in Nebraska.

001.03 Nebraska adjusted basis shall mean the adjusted basis of tangible personal property as determined under the Internal Revenue Code of 1986, as amended, as the code exists on the assessment date, increased by the total amount allowed under the code for depreciation or amortization or pursuant to an election to expense depreciable property under section 179 of the code, as amended. Generally, this is the original cost of the item of property and includes any cost incurred in purchasing and placing the item in service such as sales or excise taxes, freight charges, and installation and testing charges.

001.03A The Nebraska adjusted basis of tangible personal property transferred as a gift or devise or as part of a transaction which is not a purchase shall be the previous owner's Nebraska adjusted basis.

001.03B The Nebraska adjusted basis of tangible personal property acquired as replacement property for converted tangible personal property shall be the Nebraska adjusted basis of the converted property, unless insurance proceeds are payable by reason of the conversion.

001.03B(1) If insurance proceeds are payable by reason of the conversion the Nebraska adjusted basis shall be the remaining federal adjusted basis of the converted property plus any additional taxpayer costs for the replacement property.

001.03C The Nebraska adjusted basis of tangible personal property acquired through a trade-in situation shall be the remaining federal adjusted basis in the property being traded, plus cash paid.

001.03C(1) The Nebraska adjusted basis of tangible personal property acquired through a trade-in situation in which no cash was paid shall be the remaining federal basis in the property traded.

001.03C(2) The Nebraska adjusted basis of tangible personal property acquired through a trade-in when the remaining federal adjusted basis is $0 (zero) either through a Section 179 election to expense or in a year exceeding the recovery period shall be the cash paid for the replacement item only.

001.04 The taxable value of tangible personal property shall be the net book value of the property.

001.05 Net book value shall be the Nebraska adjusted basis of tangible personal property multiplied by the appropriate Nebraska depreciation factor. Net book value as a percentage of Nebraska adjusted basis is premised upon the 150 percent declining balance method, switching to straight line, with a one-half-year convention.

001.06 The Nebraska depreciation factor is the percentage of the Nebraska adjusted basis that is taxable. The following table provides the depreciation factors, based on year acquired and recovery period:

NEBRASKA DEPRECIATION FACTORS

Year	Recovery Period (in years)					
	3	5	7	10	15	20
1	75.00	85.00	89.29	92.50	95.00	96.25
2	37.50	59.50	70.16	78.62	85.50	89.03
3	12.50	41.65	55.13	66.83	76.95	82.35
4	0.00	24.99	42.88	56.81	69.25	76.18
5		8.33	30.63	48.07	62.32	70.46
6		0.00	18.38	39.33	56.09	65.18
7			6.13	30.59	50.19	60.29
8			0.00	21.85	44.29	55.77
9				13.11	38.38	51.31
10				4.37	32.48	46.85
11				0.00	26.57	42.38
12					20.67	37.92
13					14.76	33.46
14					8.86	29.00
15					2.95	24.54
16					0.00	20.08
17						15.62
18						11.15
19						6.69
20						2.23
21						0.00

001.06A In the table, the factor shown for year 1 shall be the percentage used for January 1 of the year following the year of acquisition of the property. The factor shown for year two shall be the percentage used January 1 of the second year following the year of acquisition of the property, etc. When property becomes depreciable in a year other than the year it is acquired, it shall be subject to taxation on the first assessment date following the date it became depreciable. The net book depreciation factor for such property shall be based on the year acquired.

001.07 Recovery period is the period over which the Nebraska adjusted basis of tangible personal property will be depreciated for property tax purposes. The applicable recovery period shall be determined as follows:

001.07A Three-year property shall include property with a class life of four years or less;

001.07B Five-year property shall include property with a class life of more than four years and less than ten years;

001.07C Seven-year property shall include property with a class life of ten years or more but less than 16 years;

001.07D Ten-year property shall include property with a class life of 16 years or more but less than 20 years;

001.07E Fifteen-year property shall include property with a class life of 20 years or more but less than 25 years; and

001.07F Twenty-year property shall include property with a class life of 25 years or more.

001.08 Class life shall be based upon the anticipated useful life of a class of property and shall be determined by the Property Tax Administrator under the Internal Revenue Code, as the code exists on the assessment date. When necessary, the Property Tax Administrator will establish the appropriate class life for a class of property.

001.09 Purchase shall include taking by sale, discount, negotiation, or any other transaction for value creating an interest in property except liens. Purchase shall not include transfers for stock or other ownership interests upon creation, dissolution, or any other income tax-free reorganization of any corporation, partnership, trust, or other entity.

001.10 Date acquired shall be the date the owner acquired the property, except that for property transferred as a gift or devise or as part of a transaction which is not a purchase, the date acquired shall be the acquisition date of the previous owner.

001.10A The date acquired for tangible personal property acquired as replacement property for converted tangible personal property shall be the acquisition date of the converted property, unless insurance proceeds are payable by reason of the conversion.

001.10A(1) If insurance proceeds are payable by reason of the conversion the date acquired shall be the date the replacement property was acquired.

001.11 Greater portion of the calendar year shall mean 50 percent or more of the tax year for which the property is assessed.

001.12 Omitted property shall mean all taxable tangible personal property which has not been reported to the assessor for taxation.

001.13 Failure to file shall mean that a taxpayer has failed to timely file a personal property return.

001.14 Converted property shall mean tangible personal property which is involuntarily changed as a result of its destruction in whole or in part, stolen, seizure, requisition or condemnation, or the threat or probability thereof and no loss or gain is recognized for income tax purposes.

001.15 Replacement property shall mean tangible personal property acquired within two years after the close of the calendar year to replace converted property and which is substantially the same as the converted property.

001.16 Trade fixture shall mean an item of machinery or equipment, used in commercial, manufacturing, or processing activities. The degree of attachment shall have no influence towards classifying the machinery or equipment as real property. Trade fixtures are items of personal property which are placed upon or affixed to real property for the sole purpose of carrying on a trade or business. Since having failed to meet the criteria outlined in REGS 10-001.01A(1) through 10-001.01A(3), trade fixtures are not considered to become part of the real property nor do they constitute capital improvements to the real property.

(Neb. Rev. Stat. Sections 77-104, 77-105, 77-118, 77-119, 77-120 and 77-122, R.R.S. 2003 and Neb. Rev. Stat. Sections 77-201 and Neb. Rev. Stat. Section 77-702, R.S. Supp., 2007 and 50 USC 574.)

REG-20-002 PROCEDURES

002.01 Taxpayers Responsibilities.

002.01A All taxable personal property located in this state on January 1, 12:01 a.m., shall be assessed annually.

002.01B All taxable personal property shall be valued at its taxable value as of the assessment date of January 1, 12:01 a.m.

002.01C Every person required to list taxable personal property shall file a return and supporting schedules consisting of all personal property which he or she is required to list, either as owner, lessee, or occupant in control thereof, or as parent, guardian, trustee, personal representative, administrator, receiver, accounting officer, partner or agent. Such return shall contain an itemized list of all taxable personal property along with the taxable value of each item, and shall be signed by the person or his or her agent. The listing may include items of taxable personal property that have a net book value of zero.

002.01C(1) The payment or nonpayment of sales tax does not affect the property tax status of personal property. If the property is depreciable tangible personal property, it is subject to personal property taxation. While a sales tax exemption may be available for certain purchases, there is never a choice to pay either sales or property taxes. In most cases, both sales tax and property taxes are payable.

002.01D The form of the personal property return shall be prescribed by the Tax Commissioner and furnished by the assessor.

002.01E The personal property return must be filed with the assessor on or before May 1 of each year.

002.01F When taxable personal property is brought into this state or into one county from another county between January 1, 12:01 a.m., and July 1, it is the duty of the owner, within 30 days after July 1, to list and return such property for taxation for the current tax year unless he or she can produce a copy of the current assessment duly certified by the proper officer of the state or county, or shows that the personal property was received in exchange for money or other property already subject to taxation during that year. If proof of

assessment or purchase is not produced, the assessor shall promptly assess the property and enter it on the tax books the same as other cases. Notice of the assessment made pursuant to this regulation and a protest thereof may be made in the same manner prescribed in REG-20-003.02 and 20-003.04.

002.01G When the date for filing or submitting a personal property return and supporting schedules or any other requirement under REG 20-002, falls on a Saturday, Sunday, or legal holiday, the items will be considered timely filed if performed in person or postmarked on the next business day. When any document is sent by ordinary mail the postmarked date shall be used to determine the date filed. When any document is sent by either certified or registered mail, the certification or registration date shall be used as the postmarked date.

002.02 Assessor's Powers and Duties.

002.02A The assessor shall have general supervision and direction over the assessment of taxable personal property in his or her county and shall require that the taxable personal property is lawfully assessed throughout the county.

002.02B The assessor may provide to each person who filed a return in the prior year a preprinted return for the current year. However, if a preprinted return is not provided or received, the person shall not be relieved of their duty to properly and timely file a return.

002.02C The assessor may implement procedures of notification to persons required to file a personal property return either prior to the filing due date, or after the filing due date but before the assessor acts to list the property. The assessor shall establish these procedures in writing and said procedures shall be available upon request.

002.02D The assessor, with the aid of the deputy and assistants, shall examine and check all personal property returns and supporting schedules. The assessor shall have the power to investigate, examine, and inspect the property reported in the return and to examine, under oath, the person making the return.

002.02E To ensure that all taxable personal property of a taxpayer is listed at its taxable value, the assessor shall have the right to demand of the owner or his or her agent or employee an inspection of the following for the year preceding assessment: Inventories; all books of accounts; depreciation schedules filed with the Internal Revenue Service; and work papers, worksheets, or any other item prepared by or for a taxpayer and not filed with the Internal Revenue Service. Any demand made pursuant to this section shall be made in writing to the owner or his or her agent or employee, stating the date by which compliance with the demand must be made. All such documentation provided the assessor is confidential and available to taxing officials only.

002.02F If any person refuses the demand, the assessor shall have the authority to issue subpoenas to compel the appearance of the owner, agent or employee, together with such books, accounts, and documents as the assessor may deem necessary for the purpose of determining the taxable value of any taxable personal property. If a person refuses to comply with the subpoena, the assessor may apply to the district court to compel obedience by proceedings for contempt.

002.02G It shall be the duty of any assessor, county sheriff, constable, city council member, or village trustee to at once inform the county treasurer of: (1) any person attempting to sell all or a substantial part of his or her taxable personal property; (2) a levy of attachment being made upon taxable personal property; or (3) a person attempting to remove or removing taxable personal property from the county, city, or village. It shall be the duty of the county treasurer to proceed with the collection of the tax when he or she knows of such acts. Any personal property tax shall immediately be due and collectible, including all tax on personal property assessed for the current year.

002.02G(1) Taxes for the current year shall be computed on the basis of the current valuation and last preceding levy. The county treasurer shall issue a distress warrant for the amount of taxes due. The taxes once due shall be a first lien upon all personal property of the person to whom assessed until paid.

002.02H If the personal property of any taxpayer is seized by legal process, so as not to leave a sufficient amount exempt from levy and sale to pay the taxes, then the taxes on the property of such taxpayer shall at once fall due and be paid from the proceeds of the sale of the property in preference to all other claims against it.

002.03 Protests to the County Board of Equalization.

002.03A The county board of equalization shall meet for the purpose of reviewing and deciding property valuation protests, including any protest of the valuation of taxable personal property. The session shall not occur before June 1 or after July 25 of each year. If July 25 falls on a Saturday, Sunday, or legal holiday, the county board of equalization shall hear and decide protests on the previous business day.

002.03A(1) Personal property protests shall be written in triplicate and filed with the board on or before May 1. If May 1 falls upon a Saturday, Sunday, or legal holiday the protest will be considered timely filed if performed in person or postmarked on the next business day. If the protest is not timely filed, it shall be automatically dismissed by the county board.

002.03A(2) Each protest shall have attached or contain a written statement of why the valuation should be reduced. The statement shall contain the physical description of the personal property. If no statement or physical description of the personal property is attached, the protest shall be automatically dismissed by the county board.

002.03A(3) The protest may be but is not required to be prepared on the Property Valuation Protest (Form 422). Failure to use the Property Valuation Protest (Form 422) shall not result in the protest not being accepted for filing or being dismissed. The Property Valuation Protest (Form 422) is not required to be promulgated by the Department of Revenue, Property Assessment Division.

002.03B Any action taken by the county board of equalization on a protest of the value of personal property shall conform the value of the item to its net book value.

002.03C The county clerk shall mail on or before August 2, to the protestor written notice of the county board of equalization's action taken on his or her protest. The notice shall state that a report of the boards decision is available at either the county clerk's or assessor's office, whichever is appropriate. The notice shall also state that a copy of the report may be used to complete an appeal to the Tax Equalization and Review Commission. Nothing in this regulation shall prohibit a county from providing a copy of the report of the board's decision to the protestor along with the written notice of the board's decision.

002.03D The county clerk or county assessor shall prepare a report for each protest filed. The report shall contain a signed statement by the chairperson of the county board of equalization stating the board's decision and basis for the decision, description of the property affected, the recommendation of the assessor, recommendation of a referee if applicable, the date the county board of equalization heard the protest, date of the decision and the date notice of the decision was mailed to the protester. Attached to the report shall be a copy of the property record file that substantiates the assessed value, unless the assessor certifies to the county board of equalization that a copy of the file is maintained in either paper or electronic form in the assessor's office.

002.03D(1) One copy of the report shall be given to the assessor. The assessor shall not make a change to the values prepared and submitted by the county clerk until such report is completed as required by REG-20-002.03D.

002.03E Appeals may be taken from the decision of the county board of equalization to the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat. Section 77-5013. The appeal must be filed within 30 days after adjournment of the board, which for action taken pursuant to Neb. Rev. Stat. Section 77-1502 shall be deemed to be July 25 of the year in which the action is taken.

002.03E(1) No appeal shall in any manner suspend the collection of any tax or the duties of officers relating thereto during the pendency of the appeal, and all taxes affected thereby, which may be collected, shall be distributed as though no appeal were pending.

002.03E(2) If by final order of the Commission, it is determined that such tax or a part thereof should be refunded, the county treasurer is authorized to make the refund upon receiving a certified copy of such final order.

002.04 All personal property taxes shall be due and payable on December 31 next following the date of levy and, unless the taxes are accelerated, (see REG-20-002.02G), from that date the taxes shall be a first lien upon all personal property of the person to whom assessed until paid.

002.04A One-half of the personal property taxes become delinquent on May 1 and the second half on September 1 next following the date the taxes become due, except in counties having a population of more than one hundred thousand. In those counties with a population of more than one hundred thousand the delinquent dates are April 1 and August 1 next following the date the taxes become due.

002.04B All delinquent property taxes shall draw interest at a rate equal to the rate of interest specified in Neb. Rev. Stat. Section 45-104.01.

002.05 Penalties for failure to file or for omitted property are addressed in REG-20-003.

(Neb. Rev. Stat. Sections 77-203, 77-204, 77-207, 77-1201, 77-1233.02, 77-1233.03 and 77-1236, R.R.S. 2003, Neb. Rev. Stat. Sections 77-1502, 77-1510 and 77-5013, R.S. Supp., 2006 and Neb. Rev. Stat. Sections 77-201, 77-702 and 77-1229, R.S. Supp., 2007.)

REG-20-003 CORRECTION PROCEDURE.

003.01 All personal property returns are required by law to be signed by the taxpayer or his or her agent. If a return is not signed, the assessor shall notify the taxpayer or agent in writing that they have until May 1 or within 10 days from the date of the notice, whichever is later, to sign the return or to file a properly signed corrected return. Upon the failure to sign the return, the unsigned return is presumed correct for tax purposes.

003.02 The following procedures shall be followed if any change in valuation is made, omitted property is added to the personal property return, or the assessor lists and values all of a taxpayer's taxable personal property.

003.02A The assessor shall change the reported valuation of any item of personal property listed on the return and supporting schedules of any taxpayer to conform the valuation to taxable value. The assessor shall make this change to the valuation of any item of personal property, if warranted, for the current taxing period and the three previous taxing periods or any taxing period included therein.

003.02B The assessor shall list any item of taxable personal property omitted from a personal property return. The assessor shall list and value the property for the current and three previous taxing periods or any taxing period included therein. The property shall be taxed at the same rate as would have been imposed if timely returned for taxation.

003.02C If the taxpayer fails or refuses to file a personal property return, the assessor shall file a personal property return which shall list and value all of the taxpayer's taxable personal property. The assessor shall file such a return for the current tax period and three previous taxing periods or any taxing period included therein. The property shall be taxed at the same rate as would have been imposed if timely returned for taxation.

003.02D For changes in valuation or additions of omitted property, the assessor shall send notice by first class mail to the last known address of the taxpayer on a form prescribed by the Tax Commissioner. The taxpayer shall be advised of the action taken, the penalty, and the rate of interest, if any. The notice shall also state the taxpayer's appeal rights and the appeal procedures.

003.03 Whenever a person files an amended federal income tax return or his or her return is changed or corrected by the Internal Revenue Service or other competent authority and the amendment, change, or correction affects the Nebraska adjusted basis of the tangible personal property, such person shall file an amended list of taxable tangible personal property with the assessor. The person shall file the amended list within 90 days of the filing of the amended federal return or within 90 days of the date the change or correction becomes final. No amended list shall be filed or accepted by the assessor until the person requesting the change to the Nebraska adjusted basis provides proof that the federal adjusted basis was amended for federal income tax purposes.

003.03A If the amendment, change, or correction results in tangible personal property becoming exempt or reduces the net book value of the property for an income tax year, the person may file a written claim for a refund of property tax paid relating to the federal income tax changes with the county treasurer. If the amended list and the claim for refund are filed within the 90 day period, the claim shall be considered as timely filed notwithstanding any other provision of law regarding the period during which refunds could otherwise be claimed. The claim shall be processed according to Neb. Rev. Stat. Section 77-1734.01.

003.03B If the amendment, change, or correction results in an increase in the net book value of the tangible personal property or makes other tangible personal property taxable, the assessor shall compute the additional tax due, along with interest, based on the amended listing. Interest shall be computed from the dates the tax would have been delinquent if the property had been listed on or before May 1 of the appropriate year. If the amended listing is filed within the 90-day period, no additional penalties shall be added. If the listing is not filed within the 90-day period, the property shall be treated as undervalued or omitted property.

003.04 Protests and Appeals.

003.04A The taxpayer may protest the action of the assessor, either as to the valuation of the property or the penalties imposed, to the county board of equalization within 30 days of the date the notice of change in value, omitted property, failure to file, or assessment of penalty was mailed by the assessor. The taxpayer shall file the protest with the county clerk in the manner prescribed in REG-20-002. The action of the assessor shall become final unless a protest is filed within the time prescribed.

003.04B Upon ten days notice to the taxpayer, the county board of equalization shall set a date for hearing the protest of the taxpayer. The county board shall make its determination on the protest within 30 days after the hearing date. The county clerk shall within seven days of the determination of the county board send notice to the taxpayer and assessor, on forms prescribed by the Tax Commissioner of the action of the county board.

003.04C Appeal may be taken within 30 days after the decision of the county board of equalization to the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat. Section 77-5013.

003.04C(1) No appeal shall in any manner suspend the collection of any tax or the duties of officers relating thereto during the pendency of the appeal, and all taxes affected thereby, which may be collected, shall be distributed as though no appeal were pending.

003.04C(1) If by final order of the Commission, it is determined that such tax or a part thereof should be refunded, the county treasurer is authorized to make the refund upon receiving a certified copy of such final order.

003.05 Penalties.

003.05A If any person shall make a false or fraudulent schedule or return required by law, or shall willfully fail or refuse to deliver to the assessor a list of the taxable property which by law is required to be listed, or shall temporarily convert any part of such property into property not taxable for the fraudulent purpose of preventing such property from being listed and of evading the payment of taxes thereon, or shall transfer or transmit any property to any person with such intent, he or she shall be guilty of a Class II misdemeanor.

003.05B Any return filed by the assessor or taxpayer or value added by the assessor or taxpayer to a return previously filed, between May 2 and on or before July 31 of the year in which the property was required to be reported, shall have a penalty of ten percent of the tax due on the value added. For purposes of this regulation value added shall include the total taxable value of a return filed between May 2 and July 31 of the year the return was required to be filed. Interest at the rate specified in 45-104.01 shall be assessed upon such penalty from the date of delinquency of the tax until paid.

003.05C Any return filed by the assessor or taxpayer or value added by the assessor or taxpayer to a return previously filed on or after August 1 of the year the property is required to be reported, shall have a penalty of twenty-five percent of the tax due on the value added. For purposes of this regulation value added shall include the total taxable value of a return filed on or after August 1 of the year the return was required to be filed. Interest at the rate specified in Neb. Rev. Stat. Section 45-104.01 shall be assessed upon such penalty from the date of delinquency of the tax until paid.

003.06 The county board of equalization shall have no authority to waive or reduce any penalty and interest, which was correctly imposed. The entire penalty and interest shall be waived if the reason for the omission was that the property was reported in the wrong taxing district.

003.07 When valuation changes are made on a personal property return, the assessor shall correct the assessment roll, and tax list, if necessary, to show the changes. The corrections shall be made for the current and three previous tax years or any tax year therein. If the change results in a decrease in the taxable value upon which the tax has been paid, the taxpayer may request a refund as prescribed in Neb. Rev. Stat. Section 77-1734.01, except the claim shall be made within three years of the date the taxes were due.

003.08 Taxes and penalties assessed for the current year, if not delinquent, shall be certified to the county treasurer and collected as if the property had been properly reported for taxation. Delinquent current taxes and taxes and penalties assessed for prior years shall be certified to the county treasurer, and the tax, penalties, and interest thereon shall be due and collectible immediately. Certification shall be made by the assessor.

(Neb. Rev. Stat. Sections 77-1229.01 and 77-1232, R.R.S. 2003, Neb. Rev. Stat. Section 77-5013, R.S. Supp., 2006 and Neb. Rev. Stat. Sections 77-702, 77-1233.04, 77-1233.06 and 77-5007, R.S. Supp., 2007.)

REG-20-004 PERSONAL PROPERTY SITUS

004.01 Taxable commercial, agricultural, or other business personal property shall be listed and assessed at the location of the business, unless the property has acquired situs elsewhere. For purposes of these regulations, an item of taxable personal property will be deemed to have acquired situs elsewhere if it is kept in a location, other than the location of the business, for the greater portion of the calendar year.

004.01A The situs of aircraft shall be where it is stored for the greater portion of the calendar year.

004.01B The situs of unlicensed motor vehicles and recreational vehicles shall be where they are stored for the greater portion of the calendar year.

004.01C Personal property in transit or so mobile as to not have acquired local situs elsewhere shall have situs at the location of the business.

004.01D The situs of property of an estate shall be where the property was subject to taxation on the date of death of the deceased.

004.01E The situs of the personal property of a lessee shall be deemed to be the same as other personal property of the lessee.

004.02 Questions that may arise as to the proper situs of personal property shall be determined as follows:

004.02A If between several places in the same county, the situs shall be determined by the county board.

(Neb. Rev. Stat. Sections 77-1202, 77-1210, 77-1211 and 77-1214, R.R.S. 2003 and Neb. Rev. Stat. Sections 77-702 and 77-1216, R.S. Supp., 2007.)

REG-20-005 PERSONAL PROPERTY EXEMPTIONS

The following categories of personal property are exempt from the property tax:

005.01 Inventory shall be exempt from the personal property tax.

005.01A Inventory is defined as goods held for sale or resale in a manufacturing, merchandising, or agricultural business where the production, sale, or purchase of property is in the ordinary course of their business. Inventory shall include all finished or partly finished goods or products, and raw materials and supplies, which have been acquired for sale or which, will physically become a part of inventory. A seller shall include in inventory goods or products held under contract for sale, but not yet delivered, and goods or products out on consignment. A seller shall not include in inventory goods or products sold where title has passed to the buyer. Items used in the conduct of the business that are not intended to be sold or to become part of goods or products intended to be sold cannot be included in inventory.

005.01B Inventory shall include personal property owned for purposes of leasing or renting for financial gain only when: (1) the items are of a type which in the ordinary course of business are leased or rented for a period of 30 days or less: and (2) the items may be returned at the option of the lessee or renter at any time: and (3) the items are of a type which would be considered household goods or personal effects if owned by an individual.

005.01C Items of personal property held for lease or rental or in possession of a lessee or renter other than those described in REG-20-005.01B are defined as depreciable tangible personal property and cannot be included in inventory. Treatment of property which is part of a conditional sale is addressed in REG-20-006.

005.02 Household goods and personal effects shall be exempt from the personal property tax.

005.02A The term household goods includes: tools and equipment used in the maintenance of the home and yard; cooking utensils; health, sports, and recreational equipment; art objects; television sets; record players; stereo systems; home computers for personal use; musical instruments; sewing machines; furniture; and, appliances not attached to real property.

005.02B The term personal effects includes items of personal property usually associated with or having a close relationship to the person, such as: wearing apparel; jewelry; hobby equipment and collections; guns; golf carts; snowmobiles; cameras; and, pets.

005.02C Household goods and personal effects do not include any property that is owned or used for the financial gain or profit to either the owner or the user.

005.03 All personal property owned by the state of Nebraska and its governmental subdivisions that is used for a public purpose, is exempt from property tax. Personal property owned by other states or their governmental subdivisions is subject to property tax in Nebraska, if the property has situs for tax purposes in Nebraska.

005.04 Tangible personal property that is not depreciable as defined in REG-20-001, shall be exempt from property tax.

005.05 Employment and Investment Growth Act Personal Property Exemptions. Turbine-powered aircraft, mainframe business computers and peripheral components, and business equipment used in the manufacture or processing of agricultural products, may be exempt from personal property taxation for a specified number of years when the taxpayer and the Tax Commissioner have signed an agreement pursuant to the Employment and Investment Growth Act. Qualifications for this exemption are based upon the attainment of certain levels of new employment and investment. See Chapter 77, Article 41.

005.06 Livestock shall be exempt from the personal property tax.

005.06A For purposes of the exemption, livestock shall mean all animals or other living creatures used or raised for profit.

005.07 Tangible personal property owned by a Native American Indian and having situs on a Nebraska Indian Reservation shall be exempt from the property tax.

005.08 Nebraska Advantage Act Personal Property Exemptions. Turbine powered aircraft, mainframe business computers and peripheral components, business equipment used in the manufacture or processing of agricultural products and personal property used in a distribution facility that is used to store or move products, may be exempt from personal property taxation for a specified number of years when the taxpayer and the Tax Commissioner have signed an agreement pursuant to the Nebraska Advantage Act. Qualifications for this exemption are based upon the attainment of certain levels of new employment and investment. See Chapter 77, Article 41.

005.09 All other personal property which the Legislature has provided by law to be exempt from the property tax. See, Property Tax Exemption Regulations, Chapter 40.

(Neb. Rev. Stat. Section 77-202, R.S. Supp., 2006 and Neb. Rev. Stat. Sections 77-702 and 77-4105, R.S. Supp., 2007.)

REG-20-006 LEASED PERSONAL PROPERTY

006.01 All leased taxable personal property shall be listed and returned as required by law by the lessor as owner or lessee as agent, at the lessor's Nebraska adjusted basis and date of acquisition. If a lessee is unable to list and return an item of leased property because the Nebraska adjusted basis cannot be determined, the lessee shall file a description of the property and the name and address of the lessor. The filing by a lessee as herein provided shall not satisfy the requirements for listing and returning taxable personal property provided by REG-20-002.

006.01A Contracts made between lessor and lessee shall not be recognized by taxing officials in determining tax responsibility. A assessor may require the listing of leased taxable personal property by the lessor as owner and lessee as agent, if it is deemed necessary to secure compliance with the law.

006.01B Tangible personal property leased by tax exempt entities shall be subject to personal property taxation at its net book value.

006.02 Situs of leased personal property is addressed in REG-20-004.

006.03 A lease does not include a transaction intended to finance a purchase, even though the signed agreement is called a lease. Such a transaction is a form of conditional sale and not a lease. When a conditional sale exists, ownership of the personal property is deemed to rest with the lessee/buyer. The tax status of the lessee/buyer will determine the taxability of the property. A conditional sale is an agreement that has one or more of the following characteristics:

006.03A The lease is characterized as a capital lease rather than an operating lease under generally accepted accounting principles;

006.03B Portions of the periodic payments are attributable to an equity to be acquired by the lessee;

006.03C The lessee/buyer is bound for a fixed term and is to obtain title at the end of the lease, or has an option to buy for a nominal amount;

006.03D The agreed periodic payment materially exceeds the current fair rental value of the item; or

006.03E A portion of the payments are identified or readily identifiable as interest.

(Neb. Rev. Stat. Section 77-1201, R.R.S. 2003 and Neb. Rev. Stat. Section 77-702, R.S. Supp., 2007.)

REG-20-007 AIRCRAFT ASSESSMENT

007.01 Any air carrier engaged solely in intrastate transportation, whose flight equipment is based at only one airport within the state, shall be subject to taxation in the same manner as other locally assessed property.

007.01A The Property Tax Administrator pursuant to Property Valued by the State Regulations, Chapter 30, shall assess flight equipment of all air carriers, other than those locally assessed pursuant to this regulation.

007.01B Aircraft situs is addressed in REG-20-004.

007.02 The owner, lessee, or manager of any aircraft hangar or land upon which is parked or located any aircraft shall file a report by February 1 of each year with the assessor in the county in which such aircraft hangar or land

is located. The report shall be on a form prescribed by the Tax Commissioner and shall contain a list of all aircraft located in such hangar or on such land, as of January 1 of each year.

007.02A Any person violating the provisions of this section shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not more than 50 dollars.

(Neb. Rev. Stat. Section 77-1244, R.R.S. 2003 and Neb. Rev. Stat. Sections 77-702 and 77-1250.02, R.S. Supp., 2007.)

NEBRASKA ADMINISTRATIVE CODE

Title 350 - Nebraska Department of Revenue, Property Assessment Division
Chapter 23 – Historical Real Property Regulations
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Title 350 - Nebraska Department of Revenue, Property Assessment Division
Chapter 23 – Historical Real Property Regulations

REG-23-001 DEFINITIONS

001.01 Base value shall mean the assessed valuation of historically significant real property in the assessment year the preliminary certificate of rehabilitation was issued last certified by the assessor pursuant to Neb. Rev. Stat. Section 13-509 or as finally determined if appealed.

001.02 Historically significant property shall mean real property that is:

001.02A Listed in the National Register of Historic Places;

001.02B Located within a district listed in the National Register of Historic Places that has been determined to be historically significant as determined by the State Historic Preservation Officer;

001.02C Property that has been individually designated as historically significant pursuant to a local landmark ordinance or resolution that has been approved by the State Historic Preservation Officer; or

001.02D Located within a district designated pursuant to a local landmark ordinance or resolution approved by the State Historic Preservation Officer and that is historically significant as determined by the State Historic Preservation Officer.

001.03 Final Certificate of Rehabilitation shall mean a certificate issued by the State Historic Preservation Officer determining that the rehabilitation of a property meets the Standards for Rehabilitation described in 36 C.F.R. 67.7, as such regulation existed on January 1, 2005.

001.04 Preliminary Certificate of Rehabilitation shall mean a certificate issued by the State Historic Preservation Officer determining that a property is qualified for historic preservation valuation, the proposed rehabilitation meets the Standards for Rehabilitation described in 36 C.F.R. 67.7, as such regulation existed on January 1, 2005 and the proposed rehabilitation is a substantial rehabilitation.

001.05 Substantial Rehabilitation shall mean interior or exterior rehabilitation work that preserves the historically significant real property in a manner that significantly improves its condition and costs an amount equal to or greater than twenty-five percent of the assessed valuation of the property as certified by the assessor and contained in the application for a preliminary certificate of rehabilitation filed with the State Historic Preservation Officer.

001.06 Historically significant valuation period is the eight assessment years following the issuance of the final certificate of rehabilitation by the State Historic Preservation Officer, beginning in the assessment year following the issuance of the final certificate.

001.07 Actual value phase in period is the four years immediately following the conclusion of the historically significant valuation period.

(Neb. Rev. Stat. Sections 77-1385, 77-1388, 77-1390, and 77-1391, R. S. Supp., 2006.)

REG 23-002 PROCEDURES

002.01 The determination of the status of a property as historically significant, the issuance of a preliminary certificate of rehabilitation and the issuance of a final certificate of rehabilitation is made by the State Historic Preservation Officer, following application by the property owner.

002.02 To be considered historically significant property, the property owner must apply to the State Historic Preservation Officer on a form prescribed by the State Historic Preservation Officer, pursuant to Neb. Rev. Stat. Section 77-1387. If the property is recognized by the State Historic Preservation Officer as historically significant, the owner may apply for a preliminary certificate of rehabilitation.

002.03 To obtain a preliminary certificate of rehabilitation, the owner of the property must apply to the State Historic Preservation Officer on a form prescribed by the State Historic Preservation Officer, pursuant to Neb. Rev. Stat. Section 77-1388. The property owner must obtain from the county assessor a written certification of the base value of the real property that was last certified pursuant to Neb. Rev. Stat. Section 13-509 or as finally determined on appeal.

002.03A The certification issued by the assessor must be in writing and be signed by the assessor.

002.03B If the request for the certification of the base value is received by the assessor prior to August 20, the certified base value will be for the previous assessment year. If the request is received after August 20, the certified base value will be for the current assessment year.

002.03C If the preliminary certificate of rehabilitation is granted by the State Historic Preservation Officer, a copy of the preliminary certificate shall be provided to the assessor by the State Historic Preservation Officer within seven days of the issuance of the certificate.

002.03D If the property receives a final certificate of rehabilitation, the value certified by the assessor as for the purposes of the application for a preliminary certificate will be the base value of the property for assessment purposes.

002.04 To obtain a final certificate of rehabilitation, the owner of the property must provide information to the State Historic Preservation Officer regarding the completion of the rehabilitation of the property pursuant to Neb. Rev. Stat. Section 77-1390. If the final certificate of rehabilitation is issued, the State Historic Preservation Officer shall provide a copy of the certificate to the assessor within seven days of its issuance.

002.05 Upon the issuance of the final certificate of rehabilitation, the assessor shall value the property at its base value, beginning in the assessment year following the receipt of the final certificate by the assessor.

(Neb. Rev. Stat. Sections 13-509, 77-1385, 77-1386, 77-1387, 77-1388, 77-1390, 77-1391 and 77-1393, R.S. Supp., 2006.)

REG 23-003 VALUATION

003.01 The base valuation for historically significant property is the value for the property last certified by the assessor at the time of the property owner's application for a preliminary certificate of rehabilitation from the State Historic Preservation Officer.

003.01A The property owner shall contact the assessor to obtain a certification of the last certified value at the time of the application for a preliminary certificate of rehabilitation. Such certification shall be provided in writing to the property owner, who will attach it to the application filed with the State Historic Preservation Officer.

003.01B If the request for a certification of the base value is received by the assessor prior to August 20, the value certified by the assessor would be the value certified by the assessor for the prior year. If the request for the certified value is received by the assessor after August 20, the certified value will be for the current valuation year.

003.01C When the assessor receives a request for a certified value from a property owner for the purposes of an application for a preliminary certificate of rehabilitation, he or she shall note the base value in the record file for the property so that in the event a final certificate of rehabilitation is issued, the assessor shall have a record of the base value to be applied.

003.02 Until the assessor receives a copy of a final certificate of rehabilitation from the State Historic Preservation Officer, the property shall be valued at its actual value each year.

003.03 The issuance of a final certificate of rehabilitation by the State Historic Preservation Officer shall trigger the application of the base valuation. When a final certificate is issued for the property, the State Historic Preservation Officer shall send a copy to the assessor within seven days of the issuance of the certificate.

003.03A Upon receipt of the final certificate of rehabilitation, the assessor shall apply the base value to the property in the assessment year following the issuance of the final certificate of rehabilitation.

003.03B When the final certificate of rehabilitation is issued, the assessor shall value the property at no more than the base value for eight years, beginning in the assessment year following the issuance by the State Historic Preservation Officer of the final certificate of rehabilitation.

003.03C During the historically significant valuation period the property shall be assessed at no more than the base value, even if increases to the property's actual value occur, e.g. reappraisal or increased ordered by the Tax Equalization and Review Commission.

003.03D During the historically significant valuation period, if the property's actual value declines below the base value, it shall be assessed at it's actual value for that particular year, and at such time the actual value increases the property shall be assessed at no more than the base value.

003.03E The assessor shall determine the actual value of the property each year and maintain both the actual value and certified base value for the property in his or her records. The base value is used for taxation purposes during the historically significant valuation period. The base value and a portion of the actual value are used during the actual value phase-in period.

003.03F In the event that a final certificate of rehabilitation is revoked by the State Historic Preservation Officer, the property shall be assessed at its actual value in the assessment year following revocation.

003.04 After the historically significant valuation period has expired, the actual valuation for historically significant property shall be phased in over a four year period as follows:

003.04A In the first year of the phase-in, the assessed valuation shall be the base value plus twenty–five (25) percent of the difference between the base value and the actual value of the property.

003.04B In the second year of the phase-in, the assessed valuation shall be the base value plus fifty (50) percent of the difference between the base value and the actual value of the property.

003.04C In the third year of the phase-in, the assessed valuation shall be the base value plus seventy-five (75) percent of the difference between the base value and the actual value of the property.

003.04D In the fourth year of the phase-in, the assessed valuation of the property shall be its actual value.

003.05 Example of assessment process.

Year 1—Assessor certifies a base value of $50,000.00 for a property on the National Register of Historic Places.

Year 2—Assessor values property on January 1 at $60,000.00 and the property owner applies for and obtains a preliminary certificate of rehabilitation in June from the State Historic Preservation Officer. Renovation begins on the property.

Year 3—Assessor values property on January 1 at $65,000.00. Renovation continues on the property.

Year 4—Assessor values property on January 1 at $65,000.00 but also applies a 10% increase ordered by the Tax Equalization and Review Commission. The assessed value of the property is now $71,500.00. The renovation work is completed and a final rehabilitation certificate is issued by the State Historic Preservation Officer.

Years 5-12—Assessor values the property at no more than $50,000.00 (base value from year one). (The assessor shall determine the actual value of the property each year and maintain records for both the actual value and certified base value for the property.)

Year 13—Assessor values property at base value plus 25% of the difference between the base value and actual value. If actual value is $140,000.00, then the assessed value for this year should be $72,500.00. ($50,000.00 base value + $22,500.00 (140,000.00 – 50,000.00 = 90,000.00 x .25 = 22,500.00) = $72,500.00.

Year 14—Assessor values property at base value plus 50% of the difference between the base value and actual value. If actual value is still $140,000.00, then the assessed value for this year should be $95,000.00

Year 15—Assessor values property at base value and actual value. If actual value has increased to $150,000.00, then the assessed value for this year should be $125,000.00.

Year 16—Assessor values the property at its full actual valuation of $150,000.00.

003.06 Whenever the assessed valuation changes for historically significant property, a notice of valuation change is required to be issued by the assessor. For example, when the assessed valuation of the property changes from actual value to base value following the issuance of a final certificate of rehabilitation, the assessor shall issue a notice of valuation change as required by Neb. Rev. Stat. Section 77-1315. During the period in which the property is assessed at its base value with no change, a notice of valuation change is not required. If the actual value of the property declines and is less than the base value, a valuation change notice is required. If the actual value of the parcel subsequently increases, the value of the property shall go back to the base value and a notice of valuation change is required. A notice of valuation change is required if the final certificate of rehabilitation is revoked and the property assessed value changes from the base value to actual value. Notice of valuation change shall be required in each year of the four year period in which the assessed value of the property goes from the base value to actual value.

003.07 The assessed valuation for historically significant property may be protested in the same manner as other real property pursuant to Neb. Rev. Stat. Section 77-1502

(Neb. Rev. Stat. Sections 77-1315, 77-1388, 77-1390 and 77-1391, R.S. Supp., 2006.)

REG 23-004 Revocation

004.01 A final certificate of rehabilitation for an historically significant property may be revoked by the State Historic Preservation Officer if the rehabilitation of the property has not been made in accordance with the standards described in 36 C.F.R. 67.7, as such regulation existed on January 1, 2005, the property is determined to be no longer of historical significance to a qualified historic district, or no longer possesses the qualifications for listing in the National Register of Historic Places.

004.01A The determination of whether a property is disqualified from receiving valuation as qualified historically significant property is made by the State Historic Preservation Officer pursuant to the rules and regulations of the State Historic Preservation Office promulgated pursuant to Neb. Rev. Stat. Section 77-1394.

004.01B If the final certificate of rehabilitation has been revoked by the State Historic Preservation Officer, the State Historic Preservation Officer shall provide written notice to the assessor.

004.02 Upon receipt of a notice from the State Historic Preservation Officer that the final certificate of rehabilitation for a property has been revoked, the assessor shall assess the property at its actual value, beginning with the assessment year following the revocation of the final certificate of rehabilitation.

004.03 In the event that a property receiving base value under a final certificate of rehabilitation is disqualified from receiving the base value due to the revocation of the final certificate, there is no recapture of taxes based on the difference between the base value and the actual value of the property.

004.04 Example of revocation.

Year 1—Assessor certifies a base value of $50,000.00 for a property on the National Register of Historic Places.

Year 2—Assessor values property on January 1 at $60,000.00 and the property owner applies for and obtains a preliminary certificate of rehabilitation in June from the State Preservation Officer. Renovation begins on the property.

Year 3—Assessor values property on January 1 at $65,000.00. Renovation continues on the property.

Year 4—Assessor values property on January 1 at $65,000.00 but also applies a 10% increase ordered by the Tax Equalization and Review Commission. The assessed value of the property is now $71,500.00. The renovation work is completed and a final rehabilitation certificate is issued by the State Historic Preservation Officer.

Years 5-9—Assessor values the property at no more than $50,000.00 (base value from year one). The assessor shall determine the actual value of the property each year and maintain records for both the actual value and certified base value for the property. Final certificate of rehabilitation is in full force and effect.

Year 10—State Historic Preservation Officer revokes final certificate of rehabilitation and notifies assessor. Assessor maintains the valuation of the property at the base year's value, $50,000.00.

Year 11—Assessor values property at actual value. If necessary the assessor shall send a Notice of Valuation Change. Taxpayer may protest value in the same manner as other real property.

(Neb. Rev. Stat. Sections 77-1391, 77-1393 and 77-1394, R.S. Supp., 2006.)

NEBRASKA ADMINISTRATIVE CODE

Title 350 - Nebraska Department of Revenue
Chapter 30 - Property Valued By The State Regulations
Effective Date 3/15/09

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Title 350 - Nebraska Department of Revenue, Property Assessment Division
Chapter 30 - Property Valued By The State Regulations

REG-30-001 PURPOSE

001.01 The purpose of these regulations is to govern the method by which specifically identified centrally assessed property is valued and how that value is allocated to the State of Nebraska for property tax purposes by the Property Tax Administrator. The types of property include railroad operating property, public service entity operating property, car line company property, and air carrier flight equipment.

001.02 For railroad companies REG-30-006 and public service entities REG-30-005, the law requires the Property Tax Administrator to value the operating property, to allocate a portion of the value to Nebraska, and to distribute the taxable value to the counties and the various political subdivisions for assessment and tax collection.

001.03 For car line company property REG-30-004 and air carrier flight equipment REG-30-003, the law requires the Property Tax Administrator to value the property and collect the taxes. The State Treasurer is required to distribute the taxes to the counties.

001.04 The Tax Commissioner is responsible for hearing administrative appeals of a company's valuation or the method of allocation. The Tax Commissioner shall act upon such appeal and issue a written order. The Tax Commissioner's order may be appealed pursuant to Neb. Rev. Stat. Section 77-5013. See Practice and Procedure Regulations, Chapter 90.

001.05 The Tax Equalization and Review Commission is responsible for equalizing the valuation of centrally assessed real property. Specific procedures governing an appeal of the equalization of this property are found in the Tax Equalization and Review Commission Act.

(Neb. Rev. Stat. Sections 77-601, 77-602, 77-604 77-606, 77-609, 77-611, 77-615, 77-616, 77-621, 77-623, 77-679 through 77-682, 77-686, 77-688, 77-693, , 77-804, 77-1244, 77-1245, 77-1246, 77-1248 and 77-5030, R.R.S. 2003, Neb. Rev. Stat. Sections 77-801, 77-802, 77-5013 and 77-5022, R.S. Supp., 2006 and Neb. Rev. Stat. Sections 77-603, 77-605, 77-607, 77-612, 77-683, 77-684, 77-685, 77-687, 77-689, 77-690, 77-691, 77-702, 77-803, 77-804, 77-1247, 77-1249 and 77-1250, R.S. Supp., 2007.)

REG-30-002 DEFINITIONS

002.01 Air carrier shall mean any person, firm, partnership, corporation, association, trustee, receiver, or assignee, and all other persons whether or not in a representative capacity, undertaking to engage in the transportation of persons or cargo for hire by aircraft.

002.02 Allocation is the process of assigning a portion of a company's unit value to the state.

002.03 Car line company shall mean any person other than a railroad company, owning or operating any railroad cars of any description through, in, or into the state of Nebraska.

002.04 Centrally assessed property shall mean owned or leased operating property of railroad companies, public service entities, car line companies, and air carrier flight equipment valued by the state.

002.05 Distribution of value is the process of assigning a portion of the company's allocated taxable value to the taxing subdivisions of the state.

002.06 Franchise value is the value that attaches to a group of tangible taxable assets operating as a unit or a whole.

002.07 Locally assessed property shall mean property valued by the assessor. Locally assessed property shall include nonoperating property, owned or leased by a centrally assessed company, that does not contribute to a company's primary function.

002.08 Person shall be defined to include bodies politic and corporate, societies, communities, individuals, partnerships, joint stock companies, and associations.

002.09 Public service entity shall mean any person or company organized for profit under the laws of this state or any other state or government and engaged in the business of waterworks, electrical power, gasworks, natural gas, telecommunications, pipelines used for the transmission of oil, heat, steam, or any substance to be used for lighting, heating, or power, and pipelines used for the transmission of articles of pneumatic or other power, and all other similar or like entities.

002.10 Railroad company shall mean any person, association, company, or corporation owning, controlling, or operating a railroad in this state, or owning, controlling, or operating any station, depot, track, terminal, or bridge in this state for railroad purposes as owner, lessee, or otherwise.

002.11 Taxable value shall mean actual value of real property and franchise where applicable, and net book value of tangible personal property.

002.12 Taxing subdivision refers to the governmental entity empowered to levy a property tax.

002.13 Unit value shall mean the valuation of the operating company as an integrated group of assets functioning as an economic unit without reference to the independent value of the component parts.

002.14 Operating property shall mean property that is owned or leased and contributes to the operation or purpose of a centrally assessed company, entity, or carrier.

002.15 Nonoperating property shall mean property that is owned or leased and does not contribute to the operations or primary purpose of a centrally assessed company, entity or carrier.

002.16 Telecommunications means the transmission, between or among points specified by the subscriber, of information of the subscriber's choosing, without a change in the form or content of the information as sent or received.

002.17 Telecommunications company means any person, firm, partnership, limited liability company, corporation, association, or governmental entity offering telecommunications service.

002.18 Telecommunications service means the offering of telecommunications for a fee.

002.19 Net book value shall be the Nebraska adjusted basis of tangible personal property multiplied by the appropriate Nebraska depreciation factor. Net book value as a percentage of Nebraska adjusted basis is premised upon the one-hundred-fifty (150) percent declining balance method, switching to straight line, with a one-half-year convention.

(Neb. Rev. Stat. Sections 77-602, 77-679 and 77-1244, R.R.S. 2003 and Neb. Rev. Stat. Sections 13-509, 77-801, 86-117, 86-119 and 86-121, R.S. Supp., 2006 and Neb. Rev. Stat. Section 77-702, R.S. Supp., 2007.)

REG-30-003 AIR CARRIERS

003.01 Taxpayer's Responsibilities.

003.01A On or before June 1 of each year, an air carrier engaged in interstate business in Nebraska during the preceding year ending December 31,shall furnish a complete and accurate report pursuant to Neb. Rev. Stat. Section 77-1247 to the Property Tax Administrator on prescribed forms.

003.02 Property Tax Administrator's and Tax Commissioner's Responsibilities and Penalties.

003.02A The Tax Commissioner may assess a penalty in the amount of one-hundred ($100.00) dollars per day, but not exceeding ten thousand ($10,000.00) dollars, for failure or refusal to furnish the information required by the report specified in REG-30-003.01A. The penalty is collected by the Tax Commissioner. Upon written request by the air carrier, the Tax Commissioner may waive the penalty in whole or in part for good cause shown.

003.02A(1) In the event that the air carrier shall feel aggrieved as to the assessment of a penalty, an appeal may be filed with the Tax Commissioner pursuant to the Practice and Procedure REGS, Chapter 90.

003.02B Upon written request and for good cause shown, the Property Tax Administrator may allow up to a thirty (30) day extension of time to file the report required in REG-30-003.01A. Such extension shall not exceed thirty (30) days after June 1.

003.03 Assessment.

003.03A The Property Tax Administrator shall annually determine the taxable value of all flight equipment as of January 1, 12:01 am, based on information provided by the company, as well as other available sources.

003.03B The Property Tax Administrator shall determine the taxable value of the flight equipment allocable to Nebraska.

003.03C The allocation for each class of flight equipment is based on an arithmetic average of the three ratios provided by the air carrier pursuant to Neb. Rev. Stat. Section 77-1245.

003.04 Taxation Of Distributed Value.

003.04A On or before January 15 each year the Property Tax Administrator shall establish the state average tax rate. For the purposes of this regulation, the levy date shall be January 15.

003.04B Prior to January 31, the Property Tax Administrator shall send a statement to each air carrier showing the taxable value, the tax rate, and the amount of tax due.

003.04C The Property Tax Administrator shall collect the air carrier taxes due, retain a three percent collection fee for deposit in the Department of Revenue, Property Assessment Division Cash Fund and remit the balance to the State Treasurer.

003.04D The air carrier taxes shall be distributed to the counties for credit to the county general fund proportionate to the amount the county's total property taxes levied compared to the total property taxes levied in the state.

003.05 Collection Of Taxes.

003.05A The taxes levied in REG-30-003.04B shall become due and payable on January 31 following the year for which the taxes are assessed. The first half shall become delinquent on March 1, and the second half shall become delinquent on July 1 following the year for which taxes are assessed. Interest shall accrue on any delinquent tax at the rate specified in Neb. Rev. Stat. Section 45-104.01. The interest shall be collected and distributed in the same manner as the tax on which the interest accrues. Pursuant to Neb. Rev. Stat. Section 77-3904, taxes levied under this section become a lien on the tangible and intangible personal property of those liable for payment of the tax. Such liens arise at the time of assessment under REG 30-003.04B, on January 31 of each year.

003.05B If taxes and interest are not paid on July 1, following the levy, the Tax Commissioner can collect the tax by distress and sale of any property belonging to the delinquent air carrier in the same manner as required of county treasurers and county sheriffs.

003.05C If any air carrier's taxes, interest, and penalties are not paid on July 1 following the levy, a lien and distress warrant will be issued by the Tax Commissioner against the company's money and credit in favor of the State of Nebraska until the liability is paid or settled.

003.05D Any person or company in possession of the money and credits of the air carrier company which has been taxed must surrender the money and credits to the Tax Commissioner or agent, on demand. If any such person or company fails or refuses to surrender the money and credits pursuant to the requirements of this section, they are liable to the state of Nebraska for an amount equal to the value of the money and credits not surrendered, but not exceeding the amount of the taxes, interest, and penalties owed.

003.06 Appeals.

003.06A In the event the air carrier shall feel aggrieved as to the valuation or method of allocation established, an appeal may be filed with the Tax Commissioner, pursuant to the Practice and Procedure Regulation, Chapter 90, on or before February 15.

003.06B The Tax Commissioner shall act upon the appeal and shall issue a written order a copy of which shall be mailed to the air carrier within seven (7) days after the date of the order. The Tax Commissioner's order may be appealed within thirty (30) days after the date of the order to the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat. Section 77-5013.

(Neb. Rev. Stat. Sections 77-1244, 77-1245, 77-1246, and 77-1248, R.R.S 2003, Neb. Rev. Stat. Section 45-104.01, R.R.S. 1998, Neb. Rev. Stat. Section 77-5013, R.S. Supp., 2006 Neb. Rev. Stat. Sections 77-702, 77-1247, 77-1249, 77-1250 and 77-3904, R.S. Supp., 2007.)

REG-30-004 CARLINE COMPANIES

004.01 Taxpayer's Responsibilities.

004.01A On or before June 1 of each year, a car line company owning or operating any railroad cars through, in, or into Nebraska during the preceding year ending December 31, shall furnish a complete and accurate report pursuant to Neb. Rev. Stat. section 77-680 to the Property Tax Administrator on prescribed forms.

004.01B On or before June 1 of each year a railroad company whose line runs through or into Nebraska shall furnish to the Property Tax Administrator a report showing the total number of miles traveled by

each class of cars for every car line company on their lines in this state during the preceding year ending December 31.

004.01B(1) A car line company requesting the Property Tax Administrator to consider the use of a time/speed study shall submit such study at the time of filing the reports required in REG-30-004.01A.

004.01B(2) Any time/speed study submitted pursuant to REG-30-004.01B(1) shall be applicable for three (3) years. The use of time/speed study may be extended at the discretion of the Property Tax Administrator beyond three (3) years if the carline company requesting the use of the time/speed study provides information to the Property Assessment Division that indicates, in the opinion of the Property Tax Administrator, that the time/speed study continues to reflect traffic patterns in the state.

004.02 Property Tax Administrator's and Tax Commissioner's Responsibilities And Penalties.

004.02A The Property Tax Administrator may assess a penalty, in the amount of $100.00 per day, but not exceeding ten-thousand dollars ($10,000.00), for failure or refusal to furnish the complete and accurate information required by the report specified in REG-30-004.01A. The penalty is collected by the Tax Commissioner. Upon written request by the car line company, the Tax Commissioner may waive the penalty in whole or in part for good cause shown.

004.02A(1) In the event that the car line company shall feel aggrieved as to the assessment of a penalty, an appeal may be filed with the Tax Commissioner pursuant to the Practice and Procedure Regulation, Chapter 90.

004.02B Upon written request and for good cause shown, the Property Tax Administrator may allow up to a thirty (30) day extension of time to file the reports required in REG-30-004.01. Such extension shall not exceed thirty (30) days after June 1.

004.03 Assessment.

004.03A The Property Tax Administrator shall annually determine, the taxable value of all cars as of January 1, 12:01 a. m., based on information provided by the car line company, as well as other available sources.

004.03B The Property Tax Administrator shall determine the taxable value of the cars allocable to Nebraska.

004.03C The formula for allocation of taxable value shall be established by the Property Tax Administrator in a fair and reasonable manner. The Property Tax Administrator may adjust the formula for a company if such adjustment is warranted.

004.03D The car line company's allocated net book taxable personal property value is subject to an adjustment by the Property Tax Administrator, as follows:

004.03D(1) The Property Tax Administrator shall determine the ratio of the net book taxable value of all income producing tangible depreciable personal property subject to taxation in the state, divided by the actual value of all income producing tangible personal property in the state, excluding rail transportation property.

004.03D(2) The Property Tax Administrator shall determine the ratio of the company's net book taxable personal property divided by the actual value of its personal property.

004.03D(3) If the company's ratio of taxable personal property exceeds the state's ratio of taxable personal property by more than five (5) percent, the Property Tax Administrator may adjust the company's taxable personal property value to the state's level of taxable personal property.

004.04 Taxation Of Distributed Value.

004.04A On or before January 15 each year the Property Tax Administrator shall establish the state average tax rate. For the purposes of this regulation, the levy date shall be January 15.

004.04B Prior to January 31, the Property Tax Administrator shall send a statement to each car line company showing the taxable value, the tax rate, and the amount of tax due.

004.04C The Property Tax Administrator shall collect the car line taxes due, retain a three percent collection fee deposited in the Department of Revenue, Property Assessment Division Cash Fund and remit the balance to the State Treasurer.

004.04D The car line company tax shall be distributed among the various taxing subdivisions in proportion to all railroad taxes levied by taxing subdivisions.

004.05 Collection Of Taxes.

004.05A The taxes levied in REG-30-004.04B shall become due and payable on January 31 following the year which the taxes are assessed. The first half shall become delinquent on March 1, and the second half shall become delinquent on July 1 following the year for which the taxes are assessed. Interest shall accrue on any delinquent tax at the rate specified in Neb. Rev. Stat. Section 45-104.01. The interest shall be collected and distributed the same as the tax on which the interest accrues. Pursuant to Neb. Rev. Stat. Section 77-3904, taxes levied under this section become a lien on the tangible and intangible personal property of those liable for payment of the tax. Such liens arise at the time of assessment under REG-30-004.04B, on January 31 of each year.

004.05B If taxes and interest are not paid on July 1, following the levy, the Tax Commissioner can collect the tax by distress and sale of any property belonging to the delinquent company in the same manner as required of county treasurers and county sheriffs.

004.05C If any company's taxes, interest, and penalties are not paid on July 1, following the levy, a lien and distress warrant will be issued by the Tax Commissioner against the company's money and credit in favor of the state of Nebraska until the liability is paid or settled.

004.05D Any person or company in possession of the money and credits of the car line company which has been taxed must surrender the money and credits to the Tax Commissioner or agent, on demand. If any such person or company fails or refuses to surrender the money and credits pursuant to the requirements of this section, they are liable to the state of Nebraska for an amount equal to the value of the money and credits not surrendered, but not exceeding the amount of the taxes, interest, and penalties owed.

004.06 Appeals.

004.06A In the event the car line company shall feel aggrieved as to the valuation or method of allocation established, an appeal may be filed with the Tax Commissioner pursuant to the Practice and Procedure Regulation, Chapter 90, on or before February 15.

004.06B The Tax Commissioner shall act upon the appeal and shall issue a written order a copy of which shall be mailed to the car line company within seven days after the date of the order. The Tax Commissioner's order may be appealed within thirty days after the date of the order to the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat. Section 77-5013.

(Neb. Rev. Stat. Sections 77-679 through 77-682, 77-692 and 77-693, R.R.S. 2003, Neb. Rev. Stat. Section 45-104.01, R.R.S. 1998, Neb. Rev. Stat. Section 77-5013, R.S. Supp., 2006 and Neb. Rev. Stat. Sections 77-683, 77-684, 77-685, 77-687, 77-692, 77-702 and 773904, R.S. Supp., 2007.)

30-005 PUBLIC SERVICE ENTITIES

005.01 Taxpayer's Responsibilities.

005.01A On or before January 1 of each year, a public service entity shall report to the assessor all non-operating taxable property of such company located in the county.

005.01B On or before April 15 of each year, a public service entity engaged in business in Nebraska shall furnish a complete report to the Property Tax Administrator on prescribed forms.

005.01C Any sale of a public service entity shall be reported by the purchaser to the Property Tax Administrator within thirty (30) days from the date of the sale. The purchaser shall identify the seller, date of the sale, any change in name of the entity, and the purchase price.

005.02 Property Tax Administrator's and Tax Commissioner's Responsibilities and Penalties.

005.02A The Property Tax Administrator may assess a penalty, in the amount of one hundred ($100.00) dollars per day, but not exceeding ten thousand ($10,000.00) dollars, for failure or refusal to furnish the complete and accurate information required by the report specified in REG-30-005.01B. The penalty is collected by the Tax Commissioner. Upon written request by the public service entity, the Tax Commissioner may waive the penalty in whole or in part for good cause shown.

005.02A(1) In the event that the public service entity shall feel aggrieved as to the assessment of a penalty, an appeal may be filed with the Tax Commissioner pursuant to the Practice and Procedure Regulation, Chapter 90.

005.02B Upon written request and for good cause shown, the Property Tax Administrator may allow up to a fifteen (15) day extension of time to file the reports required in REG-30-005.01B. Such extension shall not exceed fifteen (15) days after April 15.

005.02C The Property Tax Administrator may request in writing additional information regarding any sale of a public service entity, or other information needed to ascertain valuation.

005.02D All information reported by the public service entity, not available from other public sources, and any memorandum thereof shall be confidential and available to taxing officials only.

005.03 Assessment.

005.03A The Property Tax Administrator shall ascertain as of January 1, 12:01 a.m. annually the taxable value of the public service entity, by determining the sum of:

005.03A(1) The actual value of the operating entity, allocated to Nebraska, less a deduction for the actual value of the tangible personal property; and

005.03A(2) The net book value of all tangible personal property of the entity allocated to Nebraska. For more information regarding the valuation of taxable personal property, see Personal Property Regulations, Chapter 20.

005.03B The deduction for the actual value of tangible personal property from the public service entity's unit value shall be based on a factor representing the company's gross book personal property divided by the gross book of their operating property, as determined from its balance sheet or regulatory reports.

005.03C The formula for allocation of taxable value shall be established by the Property Tax Administrator on a fair and reasonable basis. The Property Tax Administrator may adjust the formula by industry or by entity if such adjustment is warranted.

005.03D On or before July 25, each public service entity shall be mailed a draft appraisal of its allocated taxable value as determined by the Property Tax Administrator.

005.03E The company may meet informally with the Property Tax Administrator through August 5 to discuss the proposed valuation or method of allocation.

005.03F The public service entity's Nebraska allocated actual value, excluding the actual value of the tangible personal property, shall be equalized by the Tax Equalization and Review Commission.

005.03G On or before August 10, the Property Tax Administrator shall certify to each public service entity, a final appraisal showing the total allocated taxable value for property tax purposes and the distribution of that value to the counties and subdivisions therein in which its property has situs.

005.03H On or before August 10, the Property Tax Administrator shall distribute the total taxable value to each county in which the public service entities have property. The distribution shall be in proportion to the ratio of the original cost of all owned or leased operating real and tangible personal property of the public service entity having situs in that taxing subdivision to the original cost of all owned or leased operating real and tangible personal property of that entity having situs in the state. For purposes of this subsection, original cost shall include the capitalized value of all leased property held by the entity.

005.03I If the distribution pursuant to the statute does not fairly represent the proportion of taxable value allowable to the county, the public service entity may petition for, or the Property Tax Administrator may require, the inclusion of any other method to equitably distribute the value of the public service entity for purposes of taxation.

005.03J On or before August 10, the Property Tax Administrator shall certify to each assessor in which the public service entity is located, the taxable value as distributed to the county and subdivisions therein to be used as a basis for levy.

005.04 Taxation Of Distributed Value.

005.04A The assessor shall include the distributed taxable value of the public service entity, as certified by the Property Tax Administrator, on the personal property tax list. The taxes so levied shall be collected by the county and shall be due and payable in the same manner as personal property taxes pursuant to Neb. Rev. Stat. Sections 77-203 and 77-204. Interest shall accrue on any delinquent tax at the rate specified in Neb. Rev. Stat. Section 45-104.01.

005.04A(1) From the date the taxes are due and payable, they shall be a first lien upon the personal property of the public service entity until paid.

005.05 Appeals.

005.05A In the event the public service entity shall feel aggrieved as to the valuation or method of allocation established, an appeal may be filed with the Tax Commissioner pursuant to the Practice and Procedure Regulation, Chapter 90, on or before September 10.

005.05B The Tax Commissioner shall act upon the appeal and shall issue a written order a copy of which shall be mailed to the public service entity within seven (7) days after the date of the order. The Tax Commissioner's order may be appealed within thirty (30) days after the date of the order to the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat. Section 77-5013.

(Neb. Rev. Stat. Sections 77-203, 77-204, 77-801.01 and 77-5030, R.R.S. 2003, Neb. Rev. Stat. Section 45-104.01, R.R.S. 1998, Neb. Rev. Stat. Sections 77-801, 77-802, 77-5013 and 77-5022, R.S. Supp., 2006 and Neb Rev. Stat. Sections 77-702, 77-801.02, 77-802.02, 77-803 and 77-804, R.S. Supp., 2007.)

REG-30-006 RAILROADS

006.01 Taxpayer's Responsibilities.

006.01A On or before January 1 of each year, a railroad company shall report to the assessor all nonoperating taxable property located in the county. Nonoperating property shall include any railroad track mileage abandoned or other property not contributing to the operations of the railroad.

006.01B On or before April 15 of each year, a railroad company engaged in business in Nebraska shall furnish a complete report to the Property Tax Administrator on prescribed forms.

006.01C On or before June 1 of each year, a railroad company whose line runs through or into Nebraska shall furnish to the Property Tax Administrator a report showing the total number of miles traveled by each class of cars for every car line company on their lines in this state during the preceding year ending December 31.

006.01D Any sale of railroad operating property shall be reported by the purchaser to the Property Tax Administrator within 30 days from the date of the sale. The purchaser shall identify the seller, date of the sale, any change in name of the railroad, the miles of main track and sidetrack located in each taxing subdivision, and the purchase price.

006.02 Property Tax Administrator's and Tax Commissioner's Responsibilities And Penalties.

006.02A The Tax Commissioner may assess a penalty, in the amount of one hundred ($100.00) dollars per day but not exceeding ten thousand ($10,000.00) dollars, for failure or refusal to furnish complete and accurate information required by the report specified in REG-30-006.01B. The penalty is collected by the Tax Commissioner. Upon written request by the railroad company, the Tax Commissioner may waive the penalty in whole or in part for good cause shown.

006.02A(1) In the event the railroad company shall feel aggrieved as to the assessment of a penalty, an appeal may be filed with the Tax Commissioner pursuant to the Practice and Procedure Regulation, Chapter 90.

006.02B Upon written request and for good cause shown, the Property Tax Administrator may allow up to a 15 day extension of time to file the report required in REG-30-006.01B. Such extension shall not exceed 15 days after April 15.

006.02C Upon written request and for good cause shown, the Property Tax Administrator may allow up to a thirty (30) day extension of time to file the report required in REG-30-006.01C. Such extension shall not exceed thirty (30) days after June 1.

006.02D The Property Tax Administrator may request, in writing, additional information regarding any sale of railroad property or other information needed to ascertain valuation.

006.02E The Property Tax Administrator shall provide to each assessor a report of main track and sidetrack miles, located in each taxing subdivision, prior to certification of distributed value.

006.02F Beginning January 1, 2001, the Property Tax Administrator shall annually calculate the density factor used in distributing value along the line based upon an average of the most recent three years. Density factors shall be determined by ton miles traveled over a route, measured by the number of tons of revenue freight moved. If a density factor cannot be determined in this manner, the Property Tax Administrator may use other information to develop a fair and reasonable factor.

006.02G All information reported by the railroad company, not available from other public sources, and any memorandum thereof shall be confidential and available to taxing officials only.

006.03 Assessment.

006.03A The Property Tax Administrator shall annually ascertain the taxable unit value of the railroad company, as of January 1, 12:01 a.m., by determining the sum of:

006.03A(1) The actual value of the operating property allocated to Nebraska, less a deduction for the actual value of the tangible personal property; and

006.03A(2) The net book value of all tangible personal property of the company allocated to Nebraska. For more information regarding the valuation of taxable personal property, see Personal Property Regulations, Chapter 20.

006.03B The deduction for the actual value of tangible personal property from the railroad's unit value shall be based on a factor representing the company's net book value of personal property divided by the net book value of their total operating property as determined from its balance sheet or regulatory reports.

006.03C The formula for allocation of taxable value shall be established by the Property Tax Administrator on a fair and reasonable basis. The Property Tax Administrator may adjust the formula, by industry or by company, if such adjustment is warranted.

006.03D On or before July 1, each railroad company shall be mailed a draft appraisal of its allocated taxable value as determined by the Property Tax Administrator.

006.03E The company may meet informally with the Property Tax Administrator through July 12 to discuss the proposed valuation or method of allocation.

006.03F On or before July 15, the Property Tax Administrator shall send each railroad company a final appraisal showing total allocated taxable value for property tax purposes.

006.03G The railroad company's allocated net book taxable value for personal property is subject to an adjustment by the Property Tax Administrator as follows:

006.03G(1) The Property Tax Administrator shall determine the ratio of the net book taxable value of all income producing tangible depreciable personal property subject to taxation in the state, divided by the actual value of all income producing tangible personal property in the state, excluding rail transportation property.

006.03G(2) The Property Tax Administrator shall determine the ratio of the company's net book taxable personal property divided by the actual value of its personal property.

006.03G(3) If the company's ratio of taxable personal property exceeds the state's ratio of taxable personal property by more than five (5) percent, the Property Tax Administrator may adjust the company's taxable personal property value to the state's level of taxable personal property.

006.03H The railroad company's Nebraska allocated actual value, excluding the actual value of the tangible personal property, shall be equalized by the Tax Equalization and Review Commission.

006.03I The Property Tax Administrator shall distribute the railroad's total taxable value, equalized and adjusted pursuant to REG-30-006.03G and REG-30-006.03H, to the counties in the following manner:

006.03I(1) Five (5) percent shall be distributed to all taxing subdivisions where the railroad company has investments in general office buildings or machine and repair facilities proportionate to the company's investment in general office buildings and machine and repair facilities designed to perform heavy or programmed maintenance in the state;

006.03I(2) The balance is to be distributed to all taxing subdivisions where the railroad has track located, based on a formula in which fifty (50) percent of the valuation is based on miles of main track and sidetrack and fifty (50) percent of the valuation is based on a density factor on miles of main track. The value per mile of main track shall equal twice the value per mile of sidetrack as computed in this section. The value per mile of sidetrack shall equal the value of the line divided by the following quantity: The number of miles of sidetrack plus two times the number of miles of main track.

006.03J On or before August 10, the Property Tax Administrator shall certify to each railroad company and to each assessor in which the railroad company is located, the taxable value as distributed to the county and taxing subdivisions therein to be used as a basis for levy.

006.04 Taxation Of Distributed Value.

006.04A The assessor shall include the distributed taxable value of the railroad company, as certified by the Property Tax Administrator, on the personal property tax list. The taxes so levied shall be collected by the county and shall be due and payable in the same manner as personal property taxes pursuant to Neb. Rev. Stat. Sections 77-203 and 77-204. Interest shall accrue on any delinquent tax at the rate specified in Neb. Rev. Stat. Section 45-104.01.

006.04A(1) From the date the taxes are due and payable, they shall become a first lien upon the personal property of the railroad company until paid.

006.05 Appeals.

006.05A In the event the railroad company shall feel aggrieved as to the valuation or method of allocation established, an appeal may be filed with the Tax Commissioner pursuant to the Practice and Procedure Regulation, Chapter 90, on or before August 1.

006.05B The Tax Commissioner shall act upon the appeal and shall issue a written order a copy of which shall be mailed to the company within seven (7) days after the date of the order. The Tax Commissioner's order may be appealed within thirty (30) days after the date of the order to the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat. Section 77-5013.

(Neb. Rev. Stat. Section 45-104.01, R.R.S. 1998, Neb. Rev. Stat. Sections 77-203, 77-204, 77-601, 77-602, 77-604 77-606, 77-609, 77-611, 77-615, 77-616, 77-621, 77-623, 77-681, 77-693, and 77-5030, R.R.S. 2003, Neb. Rev. Stat. Sections 77-5013 and 77-5022, R.S. Supp., 2006 and Neb. Rev. Stat. Sections 77-603, 77-607, 77-612 and 77-702, R.S. Supp., 2007.)

NEBRASKA ADMINISTRATIVE CODE

Title 350 – Nebraska Department of Revenue, Property Assessment Division
Chapter 40 – Property Tax Exemption Regulations
Effective Date – 7/3/2013

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Title 350 – Nebraska Department of Revenue, Property Assessment Division
Chapter 40 – Property Tax Exemption Regulations

REG-40-001 PURPOSE

These regulations govern property tax exemptions of certain real and personal property as authorized by the Constitution and laws of the State of Nebraska.

Neb. Rev. Stat. §§ 77-202, and 77-702.

REG-40-002 GENERAL RULES APPLICABLE TO PROPERTY TAX EXEMPTIONS

002.01 All property in the State is subject to property tax unless an exemption is mandated or permitted by the Nebraska Constitution and enabling legislation is adopted by the Legislature. Federal law may supersede the Nebraska Constitution with regard to taxation of property owned by the federal government or its agencies or instrumentalities.

002.02 Property tax exemptions are to be strictly construed and the burden of proof is on the party seeking an exemption to show that the property is eligible for exemption. Property tax exemptions may be allowed based on the inherent nature of the property, the ownership of the property, the use of the property, or a combination of these factors.

002.03 The following property is exempt from property taxes:

002.03A Property owned by the state and its governmental subdivisions that is used or being developed for use for a public purpose. See Chapter 15, Property Owned by the State and Governmental Subdivisions Regulations;

002.03B Property owned by and used exclusively for agricultural and horticultural societies;

002.03C Property owned by educational, religious, charitable, or cemetery organizations or any organization created for the exclusive benefit of any qualified organization, and used exclusively for educational, religious, charitable, or cemetery purposes. The property cannot be (1) owned or used for financial gain or profit to either the owner or user, (2) used for the sale of alcoholic liquors for more than 20 hours per week, or (3) owned or used by an organization which discriminates in membership or employment based on race, color, or national origin;

002.03D Household goods and personal effects not owned or used for financial gain or profit to either the owner or user;

002.03E The increased value of land by reason of shade and ornamental trees planted along the highway;

002.03F Non-depreciable tangible personal property;

002.03G Motor vehicles required to be registered for operation on the highways of this state;

002.03H Business and agricultural inventory which includes personal property owned for purposes of leasing or renting the property to others for financial gain only if the personal property (1) is leased or rented 30 days or less, in the ordinary course of business, (2) may be returned at the option of the lessee or renter at any time, and (3) is considered household goods or personal effects if owned by an individual;

002.03I Certain depreciable tangible personal property for a specified period of time when a taxpayer has signed an agreement pursuant to the Employment and Investment Growth Act or the Nebraska Advantage Act;

002.03J Livestock, which includes all animals or other living creatures used or raised for profit;

002.03K Depreciable tangible personal property used directly in the generation of electricity using wind as the fuel source, such as in certain wind energy generation facilities that are commissioned or in commercial operation; and

002.03L Personal property that is assembled, engineered, or processed as part of a data center, for the purpose of subsequent use at a physical location outside this state. Data center means computers, supporting equipment, and other organized assembly of hardware or software that are designed to centralize the storage, management, or dissemination of data and information.

Neb. Rev. Stat. §§ 77-202, and 77-702.

REG-40-003 GOVERNMENTAL PROPERTY TAX EXEMPTIONS

003.01 Real and personal property owned by the State and its governmental subdivisions that is used, or being developed for use, for a public purpose is exempt from property tax. Property of other states or their governmental subdivisions located in Nebraska is subject to property tax.

003.02 Taxation of property owned by the United States government and its agencies or instrumentalities is governed by federal law. This property is exempt unless a specific act of Congress subjects it to the state's taxing authority.

Neb. Rev. Stat. §§ 77-202, and 77-702.

REG-40-004 AGRICULTURAL AND HORTICULTURAL SOCIETY PROPERTY TAX EXEMPTIONS

004.01 Property owned by and used exclusively by agricultural and horticultural societies is exempt from property tax. A society must be the owner of the property and the exclusive use of the property must be one that will qualify the property for exemption.

004.02 Exclusive use means the predominant or primary use of the property as opposed to incidental use. The exemption will not be lost if the property is used in an occasional or incidental manner, as long as the predominant or primary use of the property is for one or more of the exempt uses.

004.03 An agricultural and horticultural society is a nonprofit organization promoting agricultural interests and includes, but is not necessarily limited to: the Nebraska State Board of Agriculture established by Chapter 2, article 1; county agricultural societies organized pursuant to Chapter 2, article 2; agricultural associations organized pursuant to Chapter 2, article 20; and, agricultural organizations organized pursuant to Chapter 2, article 28.

004.03A An agricultural and horticultural society does not include an association which devotes a substantial part of its activities to attempting to influence legislation, or which provides money, services, or endorsements to influence any political campaign for public office.

Neb. Rev. Stat. §§ 77-202, and 77-702.

REG-40-005 EDUCATIONAL, RELIGIOUS, CHARITABLE, AND CEMETERY PROPERTY TAX EXEMPTIONS

005.01 A five part statutory test is used to determine eligibility for educational, religious, charitable, and cemetery property tax exemptions. The five mandated criteria are ownership, exclusive use, no financial gain or profit, restricted alcoholic liquor sales, and prohibited discrimination. The property must meet all five criteria for the exemption to be allowed.

An organization need not be established solely for educational, religious, charitable, or cemetery purposes; it may be established for a combination of two or more of the exempt uses. For example, a religious organization may own a cemetery or an educational organization which also provides religious activities.

005.01A Educational organization means an institution operated exclusively for the purpose of offering regular courses with systematic instruction in academic, vocational, or technical subjects, or an organization that assists students relating to the origination, processing, or guaranteeing of federally-insured student loans for higher education.

005.01A(1) Educational organization also means a museum or historical society operated exclusively for the benefit and education of the public.

005.01B Religious organization means an organization whose purpose is the dedication to, or profession of, a sectarian creed and belief in a divine or superhuman power, or powers, to be obeyed or worshipped, or the furtherance and enrichment of spiritual faith involving a code of ethics and a spiritual philosophy.

005.01C Charitable organization means an organization operated exclusively for the purpose of the mental, social, or physical benefit of the public or an indefinite number of persons.

005.01D Cemetery organization means an organization whose purpose is to maintain areas formally set apart for the interment of human dead.

005.02 Ownership, except for motor vehicles, means the property must be owned by an educational, religious, charitable, cemetery organization, or any organization for the exclusive benefit of the educational, religious, charitable, or cemetery organization. Ownership also means the right to sell, lease, use, give away, or enter the property and the right to refuse to do any of these. All rights may or may not be vested in one owner or interest holder.

005.03 Exclusive use means the property must be used exclusively for religious, educational, charitable, or cemetery purposes. The property need not be used solely for one of the four categories of exempt use, but may be used for a combination of exempt uses. For purposes of this regulation, the term exclusive use means the predominant or primary use of the property as opposed to incidental use. The exemption will not be lost if the property is used in an incidental manner as long as the predominant or primary use of the property is for one or more of the exempt uses.

005.03A If the property, when considered as a whole, is not used exclusively for exempt purposes, but the property has a separate and distinct exempt use portion, an exemption for the value of the portion used for exempt purposes will be allowed. No exemption for a portion of the property is allowed where the exempt and nonexempt uses are commingled and the property, when considered as a whole, is not used exclusively for exempt purposes. Property which is vacant and unused for any purpose is not entitled to an exemption.

005.03B An organization claiming a property tax exemption has the burden of establishing that the property is used exclusively for exempt purposes. The following is a list of factors to be considered in determining if the organization is allowed the tax exemption in whole or in part.

005.03B(1) In the case of a private residence, an officer or employee of the organization is required to reside in the residence as part of his or her employment and for the convenience of the organization. The property must be used for the convenience of the organization and its members to such a degree that the property is an integral part of the organization. The use of the property as a residence must be incidental to the use of the property as a part of the organization's mission.

005.03B(2) If property is separate from the organization's main building, exclusive exempt use of the property must still be proved. The relative proximity of the property to the main building is one factor that may be considered in making this determination.

005.03B(3) Using income from the property for exempt purposes under federal and state income tax laws does not qualify the property for a property tax exemption. It is the use of the property that establishes whether the property is exempt. If an organization is organized under section 501(c)(3) of the Internal Revenue Code, it will not necessarily be exempt from Nebraska property taxes.

005.03B(4) Exclusive use of the property includes ongoing construction of a building or improvement that, when complete, will be used exclusively for exempt purposes. The future use of the completed building or improvement may be ascertained by the actions of the organization owning the property, including, but not limited to, resolutions of an organization's board of directors, or the amendment of the organization's articles of incorporation or bylaws, that indicate a clear intent to use the property for an exempt purpose. During construction, other nonexempt uses must be prohibited to render the property exempt from tax. Demolition of existing structures to prepare the property for its exempt use may be considered an exempt use of the property.

005.04 The following examples are provided as general guidelines. All relevant factors of each particular case must be considered when using these examples.

005.04A **Exclusive Use of Residence.** A qualifying organization owns residential property, which is used as the residence of an officer or employee of the organization. The officer or employee is required to reside in the residence as a condition of his or her employment and for the convenience of the organization. In addition to being the residence of the officer or employee, the residence is used for various activities of the organization, to such an extent that the residence becomes an integral part of the organization. Considering all these factors together, an exemption for the residential property would be allowed as the exclusive use is for exempt purposes.

005.04B **Separate and Distinct.** A qualifying organization owns a two-story building. The first floor is used by the organization as a bar and restaurant where food and alcoholic liquors are sold. The second floor is used exclusively by the organization for exempt purposes. The first floor has a nonexempt use and the second floor has an exempt use. The total actual value of this entire property is $90,000, consisting of $10,000 for the land and $80,000 for the improvements. The actual value of the first floor is $50,000and the actual value of the second floor is $30,000. The exempt value is the value of the second floor plus the percentage of the lot corresponding to the percentage of the second floor with respect to the total improvements. The value of the second floor is $30,000. The percentage of the second floor with respect to the total improvements is ($30,000/$80,000)*100 = 37.50%.The corresponding percentage exempt value of the lot is $10,000 * 37.50% = $3,750. Hence, the total exempt value is $30,000 + $3,750 = $33,750. In addition, personal property used on the nonexempt first floor for nonexempt purposes is taxable, while personal property on the exempt second floor used for exempt purposes is eligible for exemption.

005.04C **Motor Vehicle.** A qualifying organization provides a motor vehicle to an employee to use in the activities of the organization. The employee also uses the motor vehicle for personal and family use beyond incidental use. The motor vehicle is taxable since the motor vehicle is not used exclusively for exempt purposes. Motor vehicles cannot be apportioned between exempt and nonexempt use. Personal use

includes the use of the motor vehicle as transportation to and from the workplace, but this personal use does not automatically preclude an exemption.

005.04D **Incidental Use.** A qualifying organization conducts bingo games in the basement of its buildings two nights per week. Although conducting bingo games is not an exempt use, the use of the property for bingo is incidental, and the predominant use of the building remains exempt. No apportionment of the property is required and the entire building is exempt.

005.04E **Exclusive Use.** A qualifying organization owns a building, which is used for its office space, and leases a portion of the building to a private law firm. The portion leased to the private law firm is not used exclusively for exempt purposes and is not eligible for an exemption.

005.04F **Vacant Lot.** A qualifying organization buys a vacant lot for future use as a building site. However, the land is held idle for several years. No exemption is allowed for the tax years during which the vacant land sits idle, because the land is not used for an exempt purpose.

005.04G **Use of Property.** A qualifying organization owns agricultural land on which it plans to build at some future date. In the interim, the land is rented to a farmer who plants and harvests crops on the land. No exemption is allowed for the land because it is used for nonexempt purposes and the use is not incidental. The use of the income by the organization for exempt purposes will not qualify the land for a property tax exemption. It is the use of the property that qualifies it for an exemption.

005.04H **Under Construction.** A qualifying organization begins construction of a building on its previously-nonexempt property that will, when completed, be exclusively used for an exempt purpose. The construction effectively precludes other uses of the property. An exemption for the property under construction will be permitted.

005.04I **Residential Purpose.** A qualifying corporation owns and operates a residential facility for low-income elderly persons. Rent, cost of meals, and other charges are designed to cover the actual cost of the services provided. The property is used for residential purposes, not used exclusively for charitable purposes, and no exemption is allowed.

005.04J **Health Care and/or Assisted Living Facility.** A qualifying organization owns a health care facility which is made up of a nursing home and assisted living housing. The organization does not prescreen the applicants for financial ability prior to admission. The criteria for admission are the need for health care due to age, ill-health, or physical disability. The facility meets the definition of a health care facility and/or assisted living facility under Nebraska law. All residents are permitted to remain in the facility regardless of their ability to pay for the services provided. In this case, the property is allowed an exemption because the property is used exclusively for charitable purposes.

005.05 No Financial Gain or Profit. The property must not be used for financial gain or profit to either the owner or user. There is no financial gain or profit if no part of the income from the property is distributed to the owners, users, members, directors, officers, or private individuals. Reasonable salaries paid to employees do not constitute a distribution of financial gain or profit.

The following examples are provided as general guidelines to be used in particular cases. In utilizing these examples, all relevant factors of each particular case must be considered.

005.05A **Lease by Charitable Organization.** A qualifying organization leases office space in its building to other charitable organizations. All of the building is used exclusively for charitable purposes. The lease payments are used for charitable activities. The entire building is allowed an exemption, since no financial gain or profit exists and the actual use of the entire property remains charitable.

005.05B **Residential Facility.** A qualifying corporation owns and operates a residential facility for low-income persons. Only nominal amounts are charged for rent, or no rent is charged, depending on

the residents' ability to pay. Operational deficits are made up from outside donations and fund-raising activities. In this case, the property is allowed an exemption because: (1) no financial gain or profit exists; and (2) the use of the property is charitable since all or part of the actual cost of the housing is donated to the residents in need.

005.06 Prohibited Alcoholic Liquor Sales. The property must not be used for the sale of alcoholic liquors for more than 20 hours per week. The sale of liquor is not considered to be an exempt use for educational, religious, charitable, or cemetery purposes. Property (or portions of property) used for selling alcoholic liquors include all areas in which alcoholic liquors are normally sold, served, or consumed. For purposes of determining whether alcoholic liquor is sold in excess of 20 hours per week, a reasonable average for the tax year may be used.

005.07 Prohibited Discrimination. The property must not be owned or used by an organization that discriminates in membership or employment based on race, color, or national origin. This discrimination is contrary to public policy and may not be subsidized through a tax exemption. There must be some actual formal or informal policy of discrimination present, which denies or otherwise abridges membership or employment, to disallow an exemption. An organization is not deemed to be discriminatory even though all of its members or employees are of the same race, color, or national origin, if it is willing to admit and employ on a nondiscriminatory basis. Similarly, an organization may be deemed to be discriminatory even though it may have "token" members or employees, if it has a discriminatory policy towards prospective new members or employees.

Neb. Rev. Stat. §§ 77-202, and 77-702.

REG-40-006 APPLICATION, COUNTY REVIEW, AND APPEAL PROCEDURES FOR PROPERTY TAX EXEMPTIONS

006.01 Any organization or society seeking a property tax exemption for real or personal property, other than motor vehicles, must file an Exemption Application for Tax Exemption on Real and Personal Property by Qualifying Organizations, Form 451, on or before December 31 of the year preceding the year for which the exemption is sought, with the county assessor in which the property is located. The county assessor will then make a recommendation of approval or denial to the county board of equalization. If the exemption is approved by the county board of equalization, it will continue for a period of four years, beginning with years evenly divisible by four. The first year in each period is known as an application year (for example, 2012, 2016, 2020, etc.). If application for exemption is made and approved in an intervening year, the exemption will continue for the remainder of the applicable four-year period.

006.01A When the date for filing an application, supporting documentation, personal property return, supporting schedules, depreciation worksheet, or any other requirement falls on a Saturday, Sunday, or legal holiday, the items will be considered timely filed if delivered in person or postmarked on the next business day. The postmark date for any documents mailed using regular U.S. mail will determine the date filed. The certification or registration date of any documents sent by certified or registered mail will determine the postmark date.

006.01B To continue the exemption for a succeeding four-year period, an organization or society which previously had been granted an exemption, other than motor vehicles, must file the Form 451 with the county assessor on or before December 31 prior to an application year.

006.01C If an organization or society fails to timely file an exemption application for real or personal property, other than motor vehicles, it may, on or before June 30, apply to the county assessor. With the application, the organization or society must also file a request in writing to the county board of equalization for a waiver so that the county assessor may consider the application. If the county board of equalization finds that good cause exists for the failure to meet the filing deadline, the request for waiver must be granted. The county assessor will process the application for exemption, and must assess a penalty against the property for 10% of the tax that would have been due or $100, whichever is less, for each month

or part of the month past December 31. Failure to file a completed application and request for waiver on or before June 30 is a waiver of the exemption for that year.

006.01C(1) The penalty will be collected and distributed by the county treasurer in the same manner as a tax on the property and interest will be assessed at the rate specified in Neb. Rev. Stat. § 45-104.01 from the date the tax would have been delinquent until it is paid. The penalty will become a lien on the property in the same manner as a tax pursuant to § 77-203.

006.01D An approved exemption for a cemetery organization or any organization for the exclusive benefit of a cemetery organization will remain in effect, without reapplication, until there is disqualification through a change in ownership or use. County assessors will annually review ownership and use of all cemetery real property and report to the county board of equalization by August 1 pursuant to Neb. Rev. Stat. § 77-202.10.

006.02 An organization or society which has been allowed an exemption for real or personal property, other than motor vehicles, must file a Statement of Reaffirmation of Tax Exemption for Use When Applying for Continued Exemption for Qualifying Organizations, Form 451A, with the county assessor on or before December 31 prior to each intervening year. The reaffirmation statement must certify that the ownership and use of the exempted property has not changed from the ownership and use of the property at the time of the application for the application year.

006.03 Any organization or society which fails to file the Form 451A (reaffirmation statement) on or before December 31, may maintain the exemption by filing the reaffirmation statement no later than the next June 30, and receiving approval from the county board of equalization. The tax exempt status will remain even if the county board of equalization originally had acted to deny the exemption because of the late filing. The county assessor must assess a penalty against the property of 10% of the tax that would have been due or $100, whichever is less, for each calendar month or part of the month past the December 31 deadline. Failure to file a completed reaffirmation statement by June 30 is a waiver of the exemption for that assessment year.

006.03A The penalty will be collected and distributed by the county treasurer in the same manner as a tax on the property and interest will be assessed at the rate specified in Neb. Rev. Stat. § 45-104.01 from the date the tax would have been delinquent until it is paid. The penalty will become a lien on the property in the same manner as a tax pursuant to § 77-203. The county board of equalization has no authority to waive or reduce any penalty and interest which was correctly imposed.

006.04 All forms required to be filed for exemption must be completed in full and filed at the proper address. A form will not be considered timely filed if it is submitted incomplete in any material aspect, such as the description of use or the type of owner. Any incomplete form may be rejected by the county assessor for failure to constitute a proper and valid filing.

006.05 The county assessor will examine timely filed applications and will recommend either taxable or exempt status for the property to the county board of equalization by February 1 of the year for which the exemption is sought. In making the recommendation, the county assessor may specify that only a certain portion of the property should be exempt if all of the property described in the application is not eligible for exemption. The county assessor will follow this procedure for late applications filed on or before June 30, except that the February 1 date will not apply to those late applications filed after February 1.

006.06 The county assessor must maintain a list of the applications from organizations seeking tax exemption, descriptions of the property, and his or her recommendations to the county board of equalization as to whether the property is taxable or exempt.

006.06A Notice must be published in a newspaper of general circulation in the county at least 10 days prior to the county board of equalization's hearing on the applications. The notice must state that a list of the applications from organizations seeking tax exemptions, descriptions of the property, and the county assessor's recommendations are available in the office of the county assessor.

006.07 The county board of equalization must hold a public hearing on all applications for exemption to determine whether to allow or deny an exemption. The hearing will be held after the county board of equalization gives 10 days notice to the applicant at the address on the application. No exemption will be granted or denied by the county board of equalization until after the required hearing is held. A hearing must be held even if the applicant waives the opportunity to appear, since the purpose of the public hearing is also to permit members of the public to submit information regarding the tax exemption. The county board of equalization must complete its review of the exemption applications by June 1, except for hearings on motor vehicle exemptions, exemptions for property which were newly acquired or converted to an exempt use after December 31, and applications filed on or before June 30, if the county board has granted a waiver. For applications granted a waiver, the county board must hear and certify its decisions by August 15.

006.08 The county assessor or county board of equalization may cause any real or personal property exemption to be reviewed in any year to determine whether the exemption should be continued, even though the ownership or the use of the property has not changed. This review procedure must include a notice of hearing and a hearing by the county board of equalization and will proceed in the same manner as applications made pursuant to REG-40-006.07. The exemption previously allowed may be left unchanged, disallowed, or modified. If the exemption is disallowed or modified, the taxable property will be placed on the tax list retroactive to January 1.

006.08A The county assessor must maintain a list of exemptions being reviewed. For each exemption, the list must state the name of the exempt organization or society, descriptions of the property, and the recommendation of the county assessor as to whether a change in the exemption is warranted.

006.08B Notice must be published in a newspaper of general circulation in the county at least 10 days prior to any hearing of the county board of equalization, for the review of exempt status. The notice must state that a list consisting only of exemptions being reviewed, descriptions of the property, and recommendations of the county assessor regarding the exemptions being reviewed are available in the office of the county assessor.

006.09 Within seven days after any decision of the county board of equalization granting, denying, or modifying an exemption from taxation for real or tangible personal property, the county clerk must mail or deliver notice of the decision to the applicant and the county assessor.

006.09A If a previously granted exempt status is disallowed or modified, the county board of equalization must send notice of the assessed value for the taxable real property to the record owner or his or her agent's last known address. Protests on the assessed valuation must be filed within 30 days after the mailing of the notice. The procedure for filing a protest is the same as outlined in Neb. Rev. Stat. § 77-1502. The county clerk will also electronically send all decisions of the county board of equalization regarding exemptions to the Department within seven days of the board's decision pursuant to Neb. Rev. Stat. § 77-202.04.

006.09B Upon a determination of the loss of the exempt status on tangible personal property by the county board of equalization, the owner or his or her agent has 30 days after the date of denial to file a personal property return with the county assessor.

006.09B(1) If the personal property return is not filed within the 30 days, the county assessor will proceed to list and value the tangible personal property and apply a penalty of 10% of the tax due on the value added.

006.10 Persons, corporations, or organizations denied exemption from taxation for real or tangible personal property by a county board of equalization may file an appeal with the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat. § 77-5013 within 30 days after the decision of the county board of equalization. The Tax Commissioner may, in his or her discretion, intervene in this appeal.

006.11 Persons, corporations, or organizations may petition the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat. § 77-5013 on or before December 31 of the year in which the notice should have been sent, for a determination of the taxable status or the actual value of their real property, because the failure to give notice pursuant to REG-40-006.09 and REG-40-006.09A prevented timely filing of a protest or appeal.

006.12 Only the county assessor, the Tax Commissioner, or the Property Tax Administrator may appeal the action of the county board of equalization granting an exemption from taxation to the Tax Equalization and Review Commission. Any appeals of the actions of the county board of equalization to the Tax Equalization and Review Commission must be made within 30 days after the decision of the county board of equalization.

006.12A The Tax Commissioner may, in his or her discretion, intervene in the appeal within 30 days after notice by the Tax Equalization and Review Commission that an appeal has been filed.

Neb. Rev. Stat. §§ 45-104.01, 77-202.01, 77-202.02, 77-202.03, 77-202.04, 77-202.05, 77-202.10, 77-203, 77-702, 77-1502, and 77-5013.

REG-40-007 PROPERTY TRANSFERS OR USE CONVERSIONS DURING TAX YEAR

007.01 When an organization or society seeks an exemption for property, except motor vehicles, acquired or converted to exempt use after January 1, but on or before July 1 of any year, the organization or society must file an Exemption Application for Tax Exemption on Real and Personal Property by Qualifying Organizations, Form 451, with the county assessor on or before July 1 and comply with all application procedures and requirements. To qualify for an exemption, the property must be used for exempt purposes as of the date of application. Failure to file the application on or before July 1 disqualifies the property for an exemption for that tax year. The county board of equalization must review the application for exemption by August 15 following the date of application, as prescribed in REG-40-006.07 and REG-40-006.08.

007.02 All nonexempt property, except motor vehicles, acquired or converted to exempt use after July 1 by an organization or society will not be allowed an exemption for that tax year. If an application is timely filed pursuant to REG-40-006, the organization may be allowed an exemption for the next tax year.

007.03 When exempt property is sold to a nonexempt entity on or after January 1 and on or before levy date, the property will be taxable retroactive to January 1 of the year the property is sold because, as of the levy date, there is taxable property upon which to levy a tax. The levy date is determined by each county board of equalization per Neb. Rev. Stat. § 77-1601 on or before October 15.

007.04 When exempt property is sold between the levy date and December 31, it will remain exempt for that year because no levy had been made upon the property.

007.05 When exempt property is sold to another educational, religious, charitable, or cemetery organization; any organization for the exclusive benefit of an educational, religious, charitable, or cemetery organization; or an agricultural or horticultural society on or before July 1, the property may be exempt only if the new owner files an application for exemption on or before July 1 of that year.

007.06 When an educational, religious, charitable, or cemetery organization; any organization for the exclusive benefit of an educational, religious, charitable, or cemetery organization; or an agricultural or horticultural society purchases property that was exempt from taxes between July 1 and the levy date, and the property continues to qualify for exemption, the purchaser must make application (Form 451) to the county assessor on or before November 15 as provided in REG-40-006.01. The county board of equalization must review the application for exemption by December 15 as prescribed in REG-40-006.07 and REG-40-006.08. The county clerk will also electronically send all decisions of the county board of equalization regarding exemptions to the Department within seven days of the board's decision pursuant to Neb. Rev. Stat. § 77-202.04.

007.07 When a federal governmental entity that is exempt from paying property taxes purchases taxable property on or after January 1 and on or before the levy date, the property will be exempt for that tax year because, as of the levy date on or before October 15, there was no taxable property upon which to levy a tax.

007.08 When a federal governmental entity that is exempt from paying property taxes purchases taxable property between the levy date and on or before December 31, the property will be exempt from taxation for that year because, as of the lien date (December 31), there is no taxable property upon which to attach a lien.

007.09 When a state agency or a political subdivision of the state purchases property on or after January 1 and on or before the levy date, and is using or developing the property for a public purpose, the property will be exempt for that year because as of the levy date, there was no taxable property upon which to levy a tax. If in the years following the purchase, the property is not being used or developed for a public purpose, it will be subject to assessment for property tax purposes or an in lieu of tax.

007.10 When the state or a political subdivision purchases property for a public purpose after the levy date and on or before the lien date, the property will be exempt from property tax for the current year, because as of the lien date there is no taxable property upon which to attach the lien.

007.11 When exempt property is transferred or converted to a nonexempt use on or before levy date, resulting in the property no longer qualifying for exemption, the county board of equalization must hold a public hearing in the manner prescribed in REG-40-006.07. The county board of equalization will place the property on the tax list retroactive to January 1 of the year the exemption is lost.

Neb. Rev. Stat. §§ 77-202, 77-202.03, and 77-702.

REG-40-008 PRE-EXISTING TAX LIENS ON TAX EXEMPT PROPERTY

008.01 When taxes, which are a lien on the property, were validly levied upon the property because the property was not exempt from taxation, the lien cannot be discharged solely by acquisition of the property by an organization or society for exempt use or conversion of the property to exempt use. When an organization or society acquires title to the property for exempt use, but does not provide for discharging any pre-existing tax liens, the property is acquired subject to the liens and the liens remain attached to the property. The property upon which the lien is attached is subject to a tax foreclosure sale in order to satisfy the pre-existing lien.

008.02 If the state, its governmental subdivisions, or a federal governmental entity acquires property subject to a pre-existing tax lien, the property is not subject to levy and sale in order to satisfy the tax lien. The lien will remain on the property until paid or until the expiration of 15 years. If the property is sold to a person or entity other than the state, its governmental subdivisions, or a federal governmental entity prior to the expiration of the lien, the property will be acquired subject to the tax lien and will be subject to sale if the lien is not satisfied.

Neb. Rev. Stat. §§ 25-1555, 77-702, 77-1737, and 77-1862.

REG-40-009 PUBLIC NOTICE OF PROPERTY TAX EXEMPTIONS

009.01 During September of each year, the county board of equalization must publish in a newspaper of general circulation in the county, a list of all real property exempted by the county board of equalization from property tax for that tax year. The list must contain the exemptions of property in the following categories: (1) agricultural and horticultural societies; (2) educational organizations; (3) religious organizations; (4) charitable organizations; (5) cemetery organizations; and (6) any organization for the exclusive benefit of an educational, religious, charitable, or cemetery organization.

009.02 The list will be grouped into the above categories and identify the following: the organization owning the exempt property; the municipality, if any, in which the property is located; the number of parcels of real

property exempted; and any other information necessary to enable the general public to be aware of the types of real property granted exemptions. The list will also indicate whether a total exemption or exemption of a portion of the property has been granted.

009.03 A copy of the list and Proof of Publication must be forwarded to the Property Tax Administrator on or before November 1 of each year.

Neb. Rev. Stat. §§ 77-202.03, and 77-702.

REG-40-010 MOTOR VEHICLE TAX EXEMPTIONS

010.01 Motor vehicles, owned (as defined in the Motor Vehicle Registration Act) and used exclusively by an agricultural or horticultural society, charitable, educational, religious, or cemetery organization or any organization for the exclusive benefit of any charitable, educational, religious, or cemetery organization may be exempt from the motor vehicle tax. To qualify for an exemption, the criteria established in REG-40-004 and REG-40-005 must be met. The tax exemption for a motor vehicle extends through one registration period. Exemption from motor vehicle tax does not necessarily exempt the vehicle from sales and use taxes or wheel tax. See the Application for Exemption from Motor Vehicle Taxes by Qualifying Nonprofit Organizations, Form 457.

010.02 A partial exemption of a motor vehicle may not be granted. A motor vehicle does not have separable portions; it is either exempt or taxable in its entirety. If a motor vehicle is used for other than incidental nonexempt use, no exemption may be granted. A nonexempt use includes personal use of the motor vehicle.

010.03 An organization or society seeking tax exempt status for a motor vehicle must annually file a Form 457, with the county treasurer of the county where the motor vehicle is registered. The application must be filed not more than 15 days before and not later than 30 days after the registration date of the motor vehicle. For a newly acquired motor vehicle, an application must be made within 30 days after the purchase date. Failure to apply for an exemption for a motor vehicle within the time specified is a waiver of the exemption for that registration year.

010.04 The county treasurer will review the Form 457, and make a recommendation to the county board of equalization within 20 days after receipt of the application. The county board of equalization review procedures will be the same as the procedures used for real and personal property, except that publication of notice in a newspaper of general circulation is not required. Upon completion of its review, the county board of equalization will certify its decision to the applicant and the county treasurer within seven days after the decision. If the exemption application cannot be processed before the motor vehicle tax is due, the organization or society will pay the tax and immediately file a claim for refund. Upon approval of the application for exemption, the county board of equalization will also approve the claim for refund. Decisions of a county board of equalization relating to the granting or denial of an exemption under this regulation may be appealed to the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat. § 77-5013.

010.05 Persons, corporations, or organizations may petition the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat. § 77-5013 on or before December 31 of the year notice should have been sent, for a determination of the taxable status of their motor vehicle because a failure to give notice pursuant to REG-40-010.04 prevented timely filing of an appeal.

Neb. Rev. Stat. §§ 60-3,189, 77-702, and 77-5013.

REG-40-011 DISABLED OR BLIND HONORABLY DISCHARGED VETERAN EXEMPTION

011.01 An honorably discharged veteran or a veteran with a general discharge under honorable conditions from the U.S. Armed Forces, whose disability or blindness is recognized by the Department of Veterans Affairs of the United States of America as service-connected is eligible to have the property described in REG-40-011.01D exempt from taxation if the veteran:

011.01A Has lost the use of, or has undergone amputation of, two or more extremities;

011.01B Has undergone amputation of one or more extremities and has lost the use of one or more extremities; or

011.01C Has eyesight so defective as to seriously limit his or her ability to engage in ordinary vocations and activities of life.

011.01D The following property is eligible for exemption under REG-40-011.01:

011.01D(1) A mobile home owned and occupied by the disabled or blind veteran; and

011.01D(2) One motor vehicle owned and used for his or her personal transportation.

011.02 Application for the mobile home exemption must be made to the county assessor on or before April 1 of every year. A certificate of the veteran's condition from the Department of Veterans Affairs must be attached to the application. See the Exemption Application for Honorably Discharged Disabled Veterans, Form 453. The county assessor will approve or disapprove the application and notify the taxpayer of the decision within 20 days of the filing of the application. The taxpayer may appeal to the county board of equalization within 20 days after notice of decision is mailed. The taxpayer may appeal any decision of the county board of equalization under this section to the Tax Equalization and Review Commission.

011.03 Application for the motor vehicle exemption must be made to the county treasurer, pursuant to Neb. Rev. Stat. § 23-186, not more than 15 days before and not later than 30 days after the registration date for the motor vehicle. See Form 453. A renewal application must be made annually, not sooner than the first day of the last month of the registration period, and not later than the last day of the registration period. See Form 453. The county treasurer will approve or deny the application and notify the applicant of his or her decision within 20 days after the filing of the application. An applicant may appeal the denial of an application to the county board of equalization within 20 days after the date the notice was mailed. The taxpayer may appeal any decision of the county board of equalization under this section to the Tax Equalization and Review Commission.

011.04 If failure to give notice pursuant to REG-40-011.02 and REG-40-011.03 prevented timely filing of a protest or appeal, the owner may petition the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat. § 77-5013, on or before December 31 of the year notice should have been sent, for a determination of the taxable status of their real property or motor vehicle.

Neb. Rev. Stat. §§ 60-3,185, 60-3,189, 77-202.23, 77-202.24, 77-202.25, and 77-702.

REG-40-012 BEGINNING FARMER PERSONAL PROPERTY EXEMPTION

012.01 **Definitions.**

012.01A Agricultural assets means agricultural land, livestock, farming or livestock production facilities, or buildings and machinery and equipment used for farming or livestock production.

012.01B Board means the Beginning Farmer Board comprised of the Director of Agriculture (or his or her designee), the Tax Commissioner (or his or her designee), one individual representing lenders of agricultural credit, one individual of the academic community involved in agricultural economics, and one individual from each of the three congressional districts that are involved in farming and livestock production.

012.01C Depreciable tangible personal property is subject to personal property taxation. Depreciable tangible personal property means tangible personal property which is used in a trade or business or used for the production of income, and which has a determinable life of longer than one year.

012.01C(1) Depreciable tangible personal property also includes tangible personal property which is eligible for depreciation for purposes of federal income tax, but which the owner chooses not to depreciate.

012.01C(2) Depreciable tangible personal property also includes all other tangible personal property for which a taxpayer is claiming depreciation, amortization, or Internal Revenue Code (IRC) § 179 deductions for purposes of federal income tax.

012.01C(3) Depreciable tangible personal property also includes capital expenses incurred because of major repairs, parts, labor, and installation costs that prolong the useful life, increase the value of an asset, or adapt the asset for a different use.

012.01C(4) The taxable value of depreciable tangible personal property is the net book value of the property.

012.01D Nebraska adjusted basis means the adjusted basis of tangible personal property as determined under the IRC as it exists on the assessment date, increased by the total amount allowed under the IRC for depreciation or amortization, or pursuant to an election to expense depreciable property under IRC § 179, as amended. Generally, this is the original cost of the item and includes any costs incurred in purchasing and placing the item in service such as sales or excise taxes, freight charges, installation, and testing charges.

012.01E The Nebraska depreciation factor is the percentage of the Nebraska adjusted basis that is taxable. The following table provides the depreciation factors, based on year acquired and recovery period:

NEBRASKA DEPRECIATION FACTORS

Year	Recovery Period (in years)					
	3	5	7	10	15	20
1	75.00 %	85.00 %	89.29 %	92.50 %	95.00 %	96.25 %
2	37.50 %	59.50 %	70.16 %	78.62 %	85.50 %	89.03 %
3	12.50 %	41.65 %	55.13 %	66.83 %	76.95 %	82.35 %
4	0.00 %	24.99 %	42.88 %	56.81 %	69.25 %	76.18 %
5		8.33 %	30.63 %	48.07 %	62.32 %	70.46 %
6		0.00 %	18.38 %	39.33 %	56.09 %	65.18 %
7			6.13 %	30.59 %	50.19 %	60.29 %
8			0.00 %	21.85 %	44.29 %	55.77 %
9				13.11 %	38.38 %	51.31 %
10				4.37 %	32.48 %	46.85 %
11				0.00 %	26.57 %	42.38 %
12					20.67 %	37.92 %
13					14.76 %	33.46 %
14					8.86 %	29.00 %
15					2.95 %	24.54 %
16					0.00 %	20.08 %
17						15.62 %
18						11.15 %
19						6.69 %
20						2.23 %
21						0.00 %

012.01E(1) In the table, the factor shown for year one is the percentage used January 1 of the year following the year of acquisition of the property. The factor shown for year two is the percentage used January 1 of the second year following the year of acquisition of the property, etc. When property becomes depreciable in a year other than the year it is acquired, it is subject to taxation on the first assessment date following the date it became depreciable. The net book depreciation factor for the property is based on the year it is acquired.

012.01F Net book value is the Nebraska adjusted basis of depreciable tangible personal property multiplied by the appropriate Nebraska depreciation factor.

012.01G Personal property includes all property other than real property or franchises.

012.01G(1) Tangible personal property includes all personal property possessing a physical existence, but excluding money.

012.01G(2) Intangible personal property includes property that has no intrinsic value by itself, but is representative or evidence of value, such as stocks, bonds, promissory notes, contract rights, bank accounts, money, and other such property.

012.01H Qualified beginning farmer or livestock producer means an individual who is a resident of this state, who intends to enter farming or livestock production, and who meets the eligibility guidelines in Neb. Rev. Stat. § 77-5209 and other qualifications as determined by the Beginning Farmer Board.

012.02 **Procedures.**

012.02A Taxpayer Filing Responsibilities.

012.02A(1) Any qualified beginning farmer or livestock producer seeking an exemption from tangible personal property tax on agricultural and horticultural machinery and equipment used in his or her operation (whether this machinery or equipment is owned or leased), must apply for the exemption. The application must be filed with the county assessor on or before December 31 of the year preceding the year the exemption from personal property tax begins. The application must be made on the Exemption Application for Qualified Beginning Farmer or Livestock Producer, Form 1027.

012.02A(2) For the initial year of application, the applicant must also file with the county assessor, the original certification from the Beginning Farmer Board stating that the applicant is a qualified beginning farmer or livestock producer.

012.02A(3) Failure to furnish the required documentation by December 31 will result in the loss of the personal property tax exemption for the first year following the application date. Upon furnishing the required documentation, the application for exemption from personal property tax will be considered for the three years thereafter.

012.02A(4) On or before May 1 of each year, the applicant must file with the county assessor a personal property return along with the supporting schedules and depreciation worksheet showing a list of all depreciable taxable tangible personal property. The exemption from personal property tax must not exceed $100,000 of net book value of agricultural and horticultural machinery and equipment in any year.

012.02A(4)(a) Failure on the part of the beginning farmer or livestock producer to file the personal property return, supporting schedules, and depreciation worksheet on or before May 1 is a forfeiture of the exemption from personal property tax for that year and will result in the tangible personal property being subject to the personal property tax, plus applicable late filing penalties.

012.02A(4)(b) Failure on the part of the beginning farmer or livestock producer to file the personal property return, supporting schedules, and depreciation worksheet on or before May 1 will result in a loss of the year from the three-year period for exemption from personal property tax.

012.02A(5) When the date for filing an application, supporting documentation, personal property return, supporting schedules, depreciation worksheet, or any other requirement falls on a Saturday, Sunday, or legal holiday, the items will be considered timely filed if delivered in person or postmarked on the next business day. The postmark date for any documents mailed using regular U.S. mail will determine the date filed. The certification or registration date of any documents sent by certified or registered mail will determine the postmark date.

012.02A(6) If the exemption from personal property tax is granted or approved by the county assessor, it will continue for a period of three years, or until the applicant discontinues farming or livestock production.

012.02A(7) The Tax Commissioner may request the Attorney General or any county attorney to institute proceedings against any taxpayer or his or her agent for failure to comply with the provisions of any property tax law administered by or subject to the administrative jurisdiction of the Nebraska Department of Revenue.

012.02A(8) For further information on filing a personal property return and taxpayer responsibilities, see Chapter 20, Personal Property Regulations.

012.02B County Assessor's Powers and Duties.

012.02B(1) The county assessor, upon receiving an application for exemption and the necessary documentation, as required pursuant to REG-40-012.01A(2), will verify the information regarding the status of the applicant. If all of the information is accurate and complete, and all criteria for the exemption of agricultural and horticultural machinery and equipment are met, the county assessor will approve, sign the application, and on or before February 1, send written notification of approval to the applicant. An approved application will remain in effect for three years.

012.02B(2) After approving the exemption, the county assessor will exempt no more than $100,000 of taxable personal property value in any one year. If the total agricultural and horticultural machinery and equipment schedule exceeds the $100,000 maximum exemption, the county assessor will show the deduction for the exemption on the agricultural machinery and equipment schedule and carry forward the net taxable valuation to the front of the personal property return. The net taxable valuation of the agricultural and horticultural machinery and equipment, plus the taxable value of other nonexempt depreciable tangible personal property, will be the total taxable value for tangible personal property of the beginning farmer and livestock producer.

012.02B(3) If the application is denied, the county assessor will, on or before February 1, issue notice of his or her action to the applicant. The county assessor will state the reasons why the application was denied.

012.02B(3)(a) The applicant may protest the denial of the application for exemption to the county board of equalization within 30 days after notice by the county assessor.

012.03 **Protests to the County Board of Equalization.**

012.03A The applicant may protest the denial of the application for exemption to the county board of equalization within 30 days after receipt of the county assessor notice of denial.

012.03A(1) The protest must be in writing, signed, and filed with the county clerk of the county in which the property is located.

012.03A(2) If the protest is not timely filed, it will be dismissed automatically.

012.03A(3) The protest must contain a physical description of the property and a written statement explaining why the exemption should be allowed. If no description or statement is included or attached, the protest will be dismissed automatically.

012.03B The county board of equalization must decide the protest within 30 days after the filing of the protest.

012.03B(1) Within seven days of the county board of equalization's decision, the county clerk must mail written notice of the board's decision to the applicant. If the protest is denied, the notice must state the reason for denial. The county clerk will also electronically send all decisions of the county board of equalization regarding exemptions to the Department within seven days of the board's decision pursuant to Neb. Rev. Stat. § 77-202.04.

012.03C Within 30 days of the date of the decision of the county board of equalization, the applicant may appeal the board's decision to the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat. § 77-5013.

012.03D Persons, corporations, or organizations may petition the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat. § 77-5013 on or before December 31 of the year in which the notice should have been sent, for a determination of the taxable status of their depreciable tangible personal property because the failure to give notice pursuant to REG-40-012.02B(3) and REG-40-012.03B(1) prevented timely filing of a protest or appeal.

012.03E No appeal or petition will in any manner suspend the collection of any personal property tax or the duties of officers charged with its collection during the pendency of the appeal or petition, and all personal property taxes subject to collection will be distributed as though no appeal or petition were pending.

012.03F If, by final order of the Tax Equalization and Review Commission, it is determined that the personal property tax or a part of it should be refunded, the county treasurer is authorized to make the refund upon receiving a certified copy of the final order from the Commission.

Neb. Rev. Stat. §§ 49-1202, 49-1203, 77-104, 77-105, 77-118, 77-119, 77-120, 77-377, 77-702, 77-5203, and 77-5209.02.

NEBRASKA ADMINISTRATIVE CODE

Title 350 - Nebraska Department of Revenue, Property Assessment Division
Chapter 41 - In Lieu of Tax Regulations
Effective Date 3/15/09

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Title 350 - Nebraska Department of Revenue, Property Assessment Division
Chapter 41 - In Lieu of Tax Regulations

REG-41-001 PURPOSE

001.01 These regulations govern the in lieu of tax payments on real property by certain state agencies, political subdivisions and public corporations as authorized by the Constitution and the laws of the State of Nebraska.

(Neb. Rev. Stat. Section 18-2137, R.R.S. 1997, Neb. Rev. Stat. Sections 70-651.01, 70-651.03, 70-651.05, 70-653.01 and 77-211, R.R.S. 2003, Neb. Rev. Stat. Section 37-335, R.R.S. 2004, Neb. Rev. Stat. Sections 13-509, 77-1315 and 77-1510, R.S. Supp., 2006 and Neb Rev. Stat. Section 77-702, R.S. Supp., 2007.)

REG-41-002 DEFINITIONS

002.01 In lieu of tax shall mean a payment received as substitute for a property tax.

002.02 Political subdivision shall include villages, cities of all classes, counties, school districts, public power districts, any airport authority created by any county, city, or village pursuant to law, or any joint airport authority, and all other units of local government, including entities created by local public agencies pursuant to the Interlocal Cooperation Act. The definition of political subdivision is contained in Neb. Rev. Stat. Section 13-509.

002.03 Housing agency shall mean a body corporate and politic for the purpose of making provisions for the preservation of the public health, safety, morals, and welfare by facilitating sanitary housing conditions.

002.04 Body corporate and politic shall mean a public corporation governed by certain laws for the common good.

002.05 Public power district shall mean a public corporation organized under or subject to Chapter 70, article 6, and engaged in the generation, transmission, or distribution of electric power and energy and which has the power to issue indebtedness.

002.06 Supportive medical services shall mean nursing, surgical, anesthesia, laboratory, diagnostic radiology, pharmacy, dietary, X-ray, rehabilitation and psychiatric services.

(Neb. Rev. Stat. Sections 71-1575 and 77-212, R.R.S. 2003, Neb. Rev. Stat. Sections 13-509, 13-903, and 70-601, R.S. Supp., 2006 and Neb Rev. Stat. Section 77-702, R.S. Supp., 2007.)

REG-41-003 NEBRASKA GAME AND PARKS COMMISSION

003.01 The Game and Parks Commission shall annually make in lieu of tax payments for land acquired for wildlife management purposes. The payments shall be the same as what the real property taxes would have been if the land was privately owned. The Commission shall make the payments to the county treasurer of the county where the land is located. In lieu of tax payments by the Commission shall be exempt from penalty or interest for late payments.

003.02 The county treasurer shall distribute the in lieu of tax payments to the political subdivisions of the tax district in which the land has situs. The distribution shall be in the same manner as other real property taxes collected within the tax district.

003.03 The land shall be valued annually by the assessor based upon the use of the land at the time of acquisition by the Game and Parks Commission. Use at the time of acquisition shall mean, for example the classification of the land pursuant to the Agricultural Land and Horticultural Land Assessment Regulations, Chapter 14, such as irrigated land, dryland, grassland and/or wasteland. The assessor shall determine the use at the time of acquisition. The assessor shall value the land in a manner that equalizes the land with other land under that use as of January 1. Such valuation shall apply only to land and shall not apply to any improvements.

003.04 On or before June 1 and in a manner similar to other notices, the assessor shall send notice to the Game and Parks Commission for each parcel of wildlife management land which has been assessed at a value different than in the previous year.

003.05 The Game and Parks Commission may protest the assessed valuation of the land to the county board of equalization, in the same manner as other real property is protested pursuant to Neb. Rev. Stat. Section 77-1502. The county board shall afford the Commission the same due process as is given other property valuation protests.

003.06 The Game and Parks Commission may appeal the action of the county board of equalization to the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat. Section 77-5013.

003.07 The valuation attributed to wildlife management land shall not be included in the certification of valuation to the political subdivisions for levying purposes pursuant to Neb. Rev. Stat. Section 13-509. The assessor shall report all information concerning the in lieu of tax as required by the Property Tax Administrator on the Abstract of Assessment and the Certificate of Taxes Levied Report.

(Neb. Rev. Stat. Section 37-335, R.R.S. 2004, Neb. Rev. Stat. Sections 13-509, 77-1502, 77-1510, and 77-5013, R.S. Supp., 2006 and Neb. Rev. Stat. Section 77-702, 77-1514 and 77-1613.01, R.S. Supp., 2007.)

REG-41-004 POWER DISTRICTS AND CORPORATIONS

004.01 Every public power district and irrigation district that was organized to provide electricity and paid in lieu of tax in 1957 shall continue to pay annually that same amount of property taxes assessed against said property in 1957 so long as it owns said property.

004.02 The county treasurer receiving the 1957 in lieu of tax shall distribute the payment to the political subdivisions and the state based upon the 1957 distribution.

004.03 Any public power district or irrigation district that sells electricity at retail within an incorporated city or village shall by April 1 of each year, make an in lieu of tax payment to the county treasurer of the county in which the city or village is located. The in lieu of tax payment shall be five percent (5%) of the gross retail sales collected from within the city or village, for the previous calendar year less the amount of the 1957 in lieu of tax that was allocated to the city or village.

004.04 The county treasurer receiving the five (5%) percent gross in lieu of tax shall distribute the payment to the city or village from which the retail revenues were collected, the school district located in that city or village and to the county. The distribution shall be based upon the proportionate share the individual levies in the preceding year bore to the total of such levies.

004.05 Public power and irrigation districts are subject to the motor vehicle taxes and fees imposed under Neb. Rev. Stat. Sections 60-3,186 and 60-3,190.

004.06 Property of public power districts and irrigation districts that is leased to a private party for purposes other than a public purpose as defined in Regulation Property Owned by the State and Governmental Subdivisions, shall

be subject to taxation as if the property was owned by the lessee. See Property Owned by the State and Governmental Subdivisions Regulation, Chapter 15.

004.07 The assessor shall obtain information concerning the in lieu of taxes from the county treasurer and report such information as required by the Property Tax Administrator on the Certificate of Taxes Levied Report.

(Neb. Rev. Stat. Sections 60-3,186, 60-3,190, 70-651.01, 70-651.03, 70-651.04 and 70-651.05, R.R.S. 2003, 77-702 and 77-1613.01, R.S. Supp., 2007.)

REG-41-005 CITY OR VILLAGE ELECTRIC DISTRIBUTION SYSTEM

005.01 Any city or village that has purchased or acquired an electric distribution system prior to June 10, 1947, from a public power district or irrigation district for use within the city or village may pay an in lieu of tax.

005.02 Should the city or village desire to pay an in lieu of tax, the payment shall equal the sum of the last in lieu of tax paid by the public power district or irrigation district from whom the distribution system was purchased.

005.03 The county treasurer to whom an in lieu of tax payment is made by a city or village pursuant to this regulation, shall distribute said payment to the state, county, city, village or school district in the same amounts as were last distributed when the system was owned by the public power district or irrigation district.

005.04 The assessor shall obtain information concerning the in lieu of taxes from the county treasurer and report such information as required by the Property Tax Administrator on the Certificate of Taxes Levied Report.

(Neb. Rev. Stat. Sections 70-653.01 and 70-653.02, R.R.S. 2003 and Neb. Rev. Stat. Sections 77-702 and 77-1613.01, R.S. Supp., 2007.)

REG-41-006 HOUSING AGENCIES

006.01 Housing agencies may pay an in lieu of tax to cover the costs of services provided by various political subdivisions. The in lieu of tax payment shall never exceed the cost of the services, improvements or facilities furnished by the political subdivisions.

006.02 The in lieu of tax payment shall be made to the county treasurer of the county where the agency is located. The distribution by the county treasurer shall be based upon what each subdivision's levy is to the total of all the levies of the subdivisions that could have levied against the property.

006.03 The assessor shall obtain information concerning in lieu of taxes from the county treasurer and report such information as required by the Property Tax Administrator on the Certificate of Taxes Levied Report.

(Neb. Rev. Stat. Section 71-1590, R.R.S. 2003 and Neb. Rev. Stat. Sections 77-702 and 77-1613.01 R. S. Supp., 2007.)

REG-41-007 HOSPITALS

007.01 Any hospital which provides buildings or office space to anyone engaged in private business shall collect from the tenant sufficient rent to pay an in lieu of tax. Such hospital shall make the in lieu of tax payment to the county treasurer for distribution to the political subdivisions.

007.02 The county treasurer shall allocate the in lieu of tax payment to each political subdivision that could have levied upon the property had it not been exempt from property taxes. Each political subdivision shall receive a portion of the payment based upon its levy compared to the combined levy of all the subdivisions that could have levied against the property.

007.03 Space provided for supportive medical services to hospital patients shall be exempt from the in lieu of tax.

007.04 The assessor shall obtain information concerning the in lieu of taxes from the county treasurer and report such information as required by the Property Tax Administrator on the Certificate of Taxes Levied Report.

(Neb. Rev. Stat. Sections 77-211 and 77-212, R.R.S. 2003 and Neb. Rev. Stat. Sections 77-702 and 77-1613.01, R.S. Supp., 2007.)

REG-41-008 STATE AND GOVERNMENTAL SUBDIVISIONS

008.01 Unleased property of the state and governmental subdivisions that is not being used or being developed for a public purpose may be subject to an in lieu of tax. See Property Owned by the State and Governmental Subdivisions Regulations, Chapter 15.

008.02 The in lieu of tax payment shall be paid to state agencies and governmental subdivisions providing public safety, rescue and emergency services, and road or street construction or maintenance services to the property.

008.02A Any property of the state or a governmental subdivision as described in REG-41-008.01 will be subject to the in lieu of tax even though all the services to the property are provided by the owner.

008.03 The in lieu of tax shall be based upon a proportionate share of each state agency's or governmental subdivision's cost for providing the services as outlined in REG-41-008.02. A governing body after a hearing and a majority vote, may adopt a general policy by ordinance or resolution for determining the amount of in lieu of tax. Such ordinance shall still result in an equitable contribution for the cost of providing the services to the property.

008.04 The state agency or governmental subdivision that owns a property that is subject to an in lieu of tax, shall negotiate written agreements with the state agencies or governmental subdivisions that are providing public safety, rescue and emergency services, and road or street construction or maintenance services, as to the amount of in lieu of tax payable to each. Such in lieu of tax payments shall be considered as revenue for budget purposes.

008.05 If a written agreement is not obtained on a property, with all entities involved, the property will be subject to assessment by the assessor for property taxes.

008.06 All in lieu of tax agreements shall be filed with the assessor on or before February 15.

(Neb. Rev. Stat. Section 77-202, R.S. Supp., 2006 and Neb. Rev. Stat. Sections 77-202.12 and 77-702, R.S. Supp., 2007.)

REG-41-009 COMMUNITY DEVELOPMENT AUTHORITY

009.01 Whenever a Community Development Authority purchases or acquires real property pursuant to Neb. Rev. Stat. Sections 18-2101 to 18-2144, it shall annually, so long as it owns such property, pay in lieu of

taxes. The in lieu of tax shall be equal to the amount of property taxes levied against the property for the year prior to the purchase or acquisition of the real property by the authority.

009.01A The county board of equalization may in any year subsequent to the purchase or acquisition of real property by the authority, determine an amount of in lieu of taxes to be paid by the Community Development Authority, in place of the amount of property taxes levied against the property for the year prior to acquisition by the authority.

009.02 The in lieu of taxes shall be paid to the state and the political subdivisions that make up the tax district in which the property is located.

009.03 The assessor shall obtain information concerning the in lieu of taxes from the county treasurer and report such information as required by the Property Tax Administrator on the Certificate of Taxes Levied Report.

(Neb. Rev. Stat. Section 18-2137, R.R.S. 1997 and Neb. Rev. Stat. Section 77-702, R.S. Supp., 2007)

NEBRASKA ADMINISTRATIVE CODE

Title 350 - Nebraska Department of Revenue, Property Assessment Division
Chapter 42 - Employment and Investment Growth Act Exempt Personal Property Regulations
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Purpose	Neb. Const., Art. VIII, section 2, 1998, 77-4103, R.S. Supp., 2006 and 77-702 and 77-4105, R. S. Supp., 2007	001

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Title 350-Nebraska Department of Revenue, Property Assessment Division
Chapter 42-Employment and Investment Growth Act Exempt Personal Property Regulations

REG 42-001 PURPOSE

001.01 These regulations govern personal property tax exemptions of certain personal property as authorized by the Constitution and the Nebraska Employment and Investment Growth Act.

(Neb. Const., Art. VIII, section 2, 1998, Neb. Rev. Stat. Section 77-4103, R.S. Supp., 2006 and Neb. Rev. Stat. Sections 77-702 and 77-4105, R.S. Supp., 2007.)

REG-42-002 DEFINITIONS

002.01 Nebraska adjusted basis shall mean the adjusted basis of depreciable tangible personal property as determined under the Internal Revenue Code of 1986, as amended, as the code exists on the assessment date, increased by the total amount allowed under the code for depreciation or amortization or pursuant to an election to expense depreciable property under section 179 of the code, as amended. Generally, this is the original cost of the item of property and includes any cost incurred in purchasing and placing the item in service such as sales or excise taxes, freight charges, and installation and testing charges.

002.01A The Nebraska adjusted basis for depreciable tangible personal property leased by the taxpayer shall be the lessor's Nebraska adjusted basis in the property.

002.02 The exempt value of depreciable tangible personal property shall be the net book value of the property.

002.03 Net book value shall be the Nebraska adjusted basis of tangible personal property multiplied by the appropriate Nebraska depreciation factor.

002.04 The Nebraska depreciation factor is the percentage of the Nebraska adjusted basis that is exempt. The following table provides the depreciation factors, based on year acquired and recovery period:

002.04A In the table, the factor shown for year 1 shall be the percentage used for January 1 of the year following the year of acquisition of the property. The factor shown for year two shall be the percentage used January 1 of the second year following the year of acquisition of the property, etc. When tangible personal property becomes depreciable in a year other than the year it is acquired, it shall be subject to taxation on the first assessment date following the date it became depreciable. The net book depreciation factor for such property shall be based on the year acquired.

NEBRASKA DEPRECIATION FACTORS

Year	Recovery Period (in years)					
	3	5	7	10	15	20
1	75.00	85.00	89.29	92.50	95.00	96.25
2	37.50	59.50	70.16	78.62	85.50	89.03
3	12.50	41.65	55.13	66.83	76.95	82.35
4	0.00	24.99	42.88	56.81	69.25	76.18
5		8.33	30.63	48.07	62.32	70.46
6		0.00	18.38	39.33	56.09	65.18
7			6.13	30.59	50.19	60.29
8			0.00	21.85	44.29	55.77
9				13.11	38.38	51.31
10				4.37	32.48	46.85
11				0.00	26.57	42.38
12					20.67	37.92
13					14.76	33.46
14					8.86	29.00
15					2.95	24.54
16					0.00	20.08
17						15.62
18						11.15
19						6.69
20						2.23
21						0.00

002.05 Recovery period is the period over which the Nebraska adjusted basis of tangible personal property will be depreciated for property tax purposes. The applicable recovery period shall be determined as follows:

002.05A Three-year property shall include property with a class life of four years or less;

002.05B Five-year property shall include property with a class life of more than four years and less than ten years;

002.05C Seven-year property shall include property with a class life of ten years or more but less than 16 years;

002.05D Ten-year property shall include property with a class life of 16 years or more but less than 20 years;

002.05E Fifteen-year property shall include property with a class life of 20 years or more but less than 25 years; and

002.05F Twenty-year property shall include property with a class life of 25 years or more.

002.06 Class life shall be based upon the anticipated useful life of a class of property and shall be determined by the Property Tax Administrator under the Internal Revenue Code, as the code exists on the assessment date. When necessary, the Property Tax Administrator will establish the appropriate class life for a class of property.

002.07 Purchase shall include taking by sale, discount, negotiation, or any other transaction for value creating an interest in property except liens. Purchase shall not include transfers for stock or other ownership interests upon creation, dissolution, or any other income tax-free reorganization of any corporation, partnership, trust, or other entity.

002.08 Date acquired shall be the date the owner acquired the property, except that for property transferred as a gift or devise or as part of a transaction which is not a purchase, the date acquired shall be the acquisition date of the previous owner.

002.09 Greater portion of the calendar year shall mean 50 percent or more of the tax year for which the property is assessed.

002.10 Omitted property shall mean all depreciable tangible personal property which has not been reported to the Tax Commissioner on the Claim for Personal Property Exemption, Form 775P. Omitted property shall also mean depreciable tangible personal property which was not reported to the county assessor on the personal property return.

002.11 Failure to file shall mean that a taxpayer has failed to timely file a Claim for Personal Property Exemption, Form 775P.

002.12 Qualified personal property shall mean:

002.12A Depreciable turbine powered aircraft purchased or leased after the application date, except when any such aircraft was used for fundraising or the transportation of an elected official during the year prior to the tax year for which an exemption is sought.

002.12B Depreciable computer systems used for business information processing which require environmental controls of temperature and power and which are capable of simultaneously supporting more than one transaction and more than one user, such as the computers in a data center or consolidated processing activity center, plus depreciable peripheral components which require environmental controls of temperature and power connected to such computers.

002.12B(1)(a) Depreciable computer systems shall mean the hardware and software of a computer system made up of equipment that is interconnected, with the following characteristics:

002.12B(1)(a)(1) It is capable of executing many programs concurrently;

002.12B(1)(a)(2) It is capable of supporting multiple users;

002.12B(1)(a)(3) It off loads the input/output processing to peripheral channels;

002.12B(1)(a)(4) It has multiple ports into memory devices;

002.12B(1)(a)(5) It has subsystems of the system's peripherals that can handle the transaction overhead to free up the central processing unit to do data processing, such as computing balances in customer records, or adding and subtracting amounts from inventory;

002.12B(1)(a)(6) It has additional peripherals designed to detect and correct errors through continuous monitoring for failure; and

002.12B(1)(a)(7) It is highly scalable for expansion by adding processors to systems or by adding systems in clusters.

002.12C Depreciable computer peripheral components shall be limited to additional memory units, tape drives, disk drives, power supplies, cooling units, and communication controllers. These peripherals shall directly communicate with the central processing unit of the qualifying computer system and require environmental controls of temperature, and power.

002.12D Depreciable tangible personal property located in a single project and is involved directly in the manufacture or processing of agricultural products.

002.13 Agricultural products shall mean those products that are grown or raised in an agricultural operation and the products that are further manufactured or processed from such products that are not yet ready for use by the final consumer.

002.14 Environmental controls of temperature and power shall mean that the computer and peripheral components are located in a temperature controlled environment which is capable of being sustained within the manufacturer's specifications, independent from the ambient conditions of the surrounding work area. The power controls must be designed to maintain controlled levels of voltage within the limits prescribed by the manufacturer.

002.15 Application date shall mean the date the application was filed with the Tax Commissioner for the purpose of utilizing the tax incentives under the Employment and Investment Growth Act.

002.16 Agreement date shall mean the date of the agreement between the taxpayer and the Tax Commissioner wherein the taxpayer is authorized to use the incentives contained in the Employment and Investment Growth Act.

002.17 Form 775P shall mean a form prescribed by the Tax Commissioner, which is used to claim an exemption from property taxes for qualified personal property defined in REG-42-002.12.

(Neb. Rev. Stat. Sections 77-104, 77-118 through 77-120, R.R.S. 2003 and Neb. Rev. Stat. Sections 77-105, 77-702 and 77-4105, R.S. Supp., 2007.)

REG-42-003 PROCEDURES

003.01 Taxpayer Filing Responsibilities.

003.01A Any taxpayer who has signed an agreement with the Tax Commissioner under the Nebraska Employment and Investment Growth Act, upon qualifying for the exemption from certain personal property taxes, shall file a Claim for Nebraska Personal Property Exemption, Form 775P, and any applicable schedules with the Tax Commissioner

003.01A(1) The taxpayer shall file the Form 775P and Nebraska Schedule I in order to receive the exemption from personal property tax on turbine powered aircraft. The Form 775P and supporting schedule may be filed after the agreement date and before meeting the required levels of investment and employment pursuant to the agreement. All depreciable turbine powered aircraft used in connection with the project and purchased after the application date may be claimed for exemption in the year following the date of acquisition.

003.01A(2) The taxpayer shall file the Form 775P and the applicable Nebraska Schedules II or III in order to receive the exemption from personal property tax on depreciable

computer systems, certain depreciable peripheral components connected to such computer systems and depreciable personal property involved directly with the manufacturing or processing of agricultural products. The Form 775P and supporting schedules may be filed after approval by the Tax Commissioner and meeting the required levels of investment and employment pursuant to the agreement. Such depreciable tangible personal property purchased after the application date may be claimed for exemption in the year following of the year in which the required levels of investment and employment were met.

003.01A(3) The qualified property defined in REG-42-002.12 shall be eligible for exemption through the sixteenth December 31 after the filing of the application.

003.01B In order to receive the property tax exemption allowed pursuant to REG-42-003.01A(1) and 42-003.01A(2), the taxpayer shall annually file a claim for exemption on prescribed forms, with the Tax Commissioner on or before May 1. Copies of the forms shall also be filed on or before May 1 with the county assessor of each county in which a project is located. Failure to timely file such forms with the Tax Commissioner, shall constitute a waiver of the exemption for that year.

003.01B(1) A separate claim for exemption must be filed for each project and in each county in which the property is claimed to be exempt.

003.01B(2) Each item of personal property for which an exemption is sought shall be listed on the appropriate forms.

003.01B(3) Each item of personal property acquired for a particular project shall be listed on the Form 775P and supporting schedules for that project.

003.01B(4) All supporting schedules shall be completed using the information and table provided in REG-42-002.

003.01C No extension in time shall be granted for filing the Form 775P and supporting schedules. The Form 775P and supporting schedules shall be considered filed on time if correctly completed, signed, and postmarked by the U.S. Post Office on or before May 1. If May 1 falls on a Saturday, Sunday, or legal holiday, the next business day shall be the final filing date.

003.01D No amendments to the Form 775P and supporting schedules shall be allowed for omitted property not reported by May 1. All amendments to the Form 775P and supporting schedules shall be filed on or before May 1.

003.01E There shall be no changes made in the prescribed forms issued by the Tax Commissioner without first obtaining written permission for such changes from the Tax Commissioner. Changes include, but are not limited to, copy arrangements, spacing, color of ink and order or sort of date. The foregoing does not apply to typeface unless the alteration of the typeface alters the spacing.

003.01F The taxpayer shall on or before May 1, file a personal property return with the assessor for all taxable tangible personal property in a project See, Personal Property Regulations, Chapter 20. The taxpayer shall on or before May 1, also file the Form 775P and supporting schedules with the county assessor showing the items of tangible personal property for which an exemption is being claimed. The tangible personal property claimed for exemption shall not be listed or commingled with the taxable tangible personal property on the personal property return.

003.02 Tax Commissioners Powers and Duties.

003.02A The contents of any application for benefits filed with the Department of Revenue and all supporting information shall be confidential, except for the name of the taxpayer, the location of the project, the amounts of increased employment and investment, and the information required to be reported by Neb. Rev. Stat. Sections 77-4110 and 77-4113.

003.02B The Tax Commissioner shall determine the qualification of each item claimed for exemption on the Form 775P and supporting schedules. For purposes of determining the eligibility of items of depreciable tangible personal property for exemption, the Tax Commissioner is limited to the question of whether the personal property claimed on the Form 775P and supporting schedules falls within the classes of qualified property pursuant to REG-42-002.12.

003.02B(1) The determination of whether a taxpayer is eligible to receive the exemption for personal property based upon meeting the required levels of investment and employment is the responsibility of the Tax Commissioner.

003.02C The Tax Commissioner shall, on or before August 10, certify to the taxpayer and to the affected assessor his or her determination as to the approval or denial of the exemption for the various items of personal property submitted by the taxpayer. The notice of determination shall be sent to the taxpayer and assessor by certified mail with a return receipt.

003.02D In determining the qualification of property for exemption, the Tax Commissioner or his or her duly authorized representative may administer oaths, compel the attendance of witnesses, and require the production of records as may be necessary for the performance of his or her responsibilities.

003.02E In order to determine the qualification of property for exemption, the Tax Commissioner or his or her duly authorized representative may make an investigation, examination, and inspection of the property at the location of the project as set out in the taxpayer's claim.

003.03 Assessor's Responsibilities

003.03A Upon receiving the notice of determination from the Tax Commissioner the assessor shall immediately adjust the taxable value on the personal property tax return filed pursuant to REG-42-003.01F, to reflect each item of tangible personal property disapproved for exemption.

003.03A(1) If it is discovered that personal property which was reported on the Form 775P and supporting schedules was denied an exemption by the Tax Commissioner, such property shall be treated as reported personal property and not subject to the applicable penalties pursuant to REG 20-003.05.

003.03B If after May 1, it is discovered that personal property was not reported on either the personal property return of the taxpayer or the Form 775P and supporting schedules, such property shall be treated as unreported taxable tangible personal property and subject to the applicable penalties pursuant to REG-20-003.05.

003.04 Appeals

003.04A The taxpayer, assessor, or any affected person may appeal the action taken by the Tax Commissioner in the approval or denial of the exemption of personal property pursuant to REG-42-003.02B.

003.04A(1) All appeals shall be filed with the Tax Commissioner within 30 days after the date of the notice of determination and pursuant to the Practice and Procedure Regulation, Chapter 90.

003.04A(2) Upon ten days notice to the taxpayer, assessor, or affected person, the Tax Commissioner shall set a date for hearing the appeal. The Tax Commissioner shall make his or her determination on the appeal within 30 days after the hearing date. The Tax Commissioner shall within seven days after the date of his or her determination of the appeal, send written notice of such determination to the taxpayer, assessor, or affected person.

003.04A(3) Appeal of the Tax Commissioner's determination may be taken within 30 days after the mailing date of the notice, to the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat. Section 77-5013.

(Neb. Rev. Stat. Sections 77-707 and 77-4104, R.R.S. 2003, Neb. Rev. Stat. Section 77-5013, R.S. Supp., 2006 and Neb. Rev. Stat. Sections 77-702, 77-706, 77-708 77-4105, 77-4110, 77-4113 77-5007 and 84-712.05 R.S. Supp., 2007.)

NEBRASKA ADMINISTRATIVE CODE

Title 350 - Nebraska Department of Revenue, Property Assessment Division
Chapter 43 - Nebraska Advantage Act Exempt Personal Property Regulations
Effective Date 3/15/09

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Purpose	Neb. Const., Art. VIII, section 2, 1998, and 77-702 and 77-5725, R.S. Supp., 2007	001

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SUBJECT	STATUTORY AUTHORITY	SECTIONS
Purpose	Neb. Const., Art. VIII, section 2, 1998, and 77-702 and 77-5725, R.S. Supp., 2007	001
Definitions	77-104, 77-118 through 77-120, R.R.S. 2003, 77-202, R.S. Supp., 2006 and 77-105, 77-702, 77-1229 and 77-5725, R,S. Supp., 2007	002
Procedures	77-707, R.R.S. 2003, 77-5013 and 77-5725, R.S. Supp., 2006 and 77-702, 77-706, 77-708, 77-5007 and 84-712.05, R.S. Supp., 2007	003

Title 350-Nebraska Department of Revenue, Property Assessment Division
Chapter 43-Nebraska Advantage Act Exempt Personal Property Regulations

REG 43-001 PURPOSE

001.01 These regulations govern personal property tax exemptions of certain depreciable tangible personal property as authorized by the Constitution and the Nebraska Advantage Act.

(Neb. Const., Art. VIII, section 2, 1998, and Neb. Rev. Stat. Sections 77-702 and 77-5725, R.S. Supp., 2007.)

REG-43-002 DEFINITIONS

002.01 Nebraska adjusted basis shall mean the adjusted basis of depreciable tangible personal property as determined under the Internal Revenue Code of 1986, as amended, as the code exists on the assessment date, increased by the total amount allowed under the code for depreciation or amortization or pursuant to an election to expense depreciable property under Section 179 of the Code, as amended. Generally, this is the original cost of the item of property and includes any cost incurred in purchasing and placing the item in service such as sales or excise taxes, freight charges, and installation and testing charges.

002.01A The Nebraska adjusted basis for depreciable tangible personal property leased by the taxpayer shall be the lessor's Nebraska Adjusted Basis in the property.

002.02 The exempt value of depreciable tangible personal property shall be the net book value of the property.

002.03 Net book value shall be the Nebraska adjusted basis of tangible personal property multiplied by the appropriate Nebraska depreciation factor.

002.04 The Nebraska depreciation factor is the percentage of the Nebraska adjusted basis that is exempt. The following table provides the depreciation factors, based on year acquired and recovery period:

002.04A In the table, the factor shown for year 1 shall be the percentage used for January 1 of the year following the year of acquisition of the property. The factor shown for year two shall be the percentage used January 1 of the second year following the year of acquisition of the property, etc. When tangible personal property becomes depreciable in a year other than the year it is acquired, it shall be subject to taxation on the first assessment date following the date it became depreciable. The net book depreciation factor for such property shall be based on the year acquired.

NEBRASKA DEPRECIATION FACTORS

Year	Recovery Period (in years)					
	3	5	7	10	15	20
1	75.00	85.00	89.29	92.50	95.00	96.25
2	37.50	59.50	70.16	78.62	85.50	89.03
3	12.50	41.65	55.13	66.83	76.95	82.35
4	0.00	24.99	42.88	56.81	69.25	76.18
5		8.33	30.63	48.07	62.32	70.46
6		0.00	18.38	39.33	56.09	65.18
7			6.13	30.59	50.19	60.29
8			0.00	21.85	44.29	55.77
9				13.11	38.38	51.31
10				4.37	32.48	46.85
11				0.00	26.57	42.38
12					20.67	37.92
13					14.76	33.46
14					8.86	29.00
15					2.95	24.54
16					0.00	20.08
17						15.62
18						11.15
19						6.69
20						2.23
21						0.00

002.05 Recovery period is the period over which the Nebraska adjusted basis of tangible personal property will be depreciated for property tax purposes. The applicable recovery period shall be determined as follows:

002.05A Three-year property shall include property with a class life of four years or less;

002.05B Five-year property shall include property with a class life of more than four years and less than ten years;

002.05C Seven-year property shall include property with a class life of ten years or more but less than 16 years;

002.05D Ten-year property shall include property with a class life of 16 years or more but less than 20 years;

002.05E Fifteen-year property shall include property with a class life of 20 years or more but less than 25 years; and

002.05F Twenty-year property shall include property with a class life of 25 years or more.

002.06 Class life shall be based upon the anticipated useful life of a class of property and shall be determined by the Property Tax Administrator under the Internal Revenue Code, as the code exists on the assessment date. When necessary, the Property Tax Administrator will establish the appropriate class life for a class of property.

002.07 Purchase shall include taking by sale, discount, negotiation, or any other transaction for value creating an interest in property except liens. Purchase shall not include transfers for stock or other ownership interests upon creation, dissolution, or any other income tax-free reorganization of any corporation, partnership, trust, or other entity.

002.08 Date acquired shall be the date the owner acquired the property, except that for property transferred as a gift or devise or as part of a transaction which is not a purchase, the date acquired shall be the acquisition date of the previous owner.

002.09 Greater portion of the calendar year shall mean 50 percent or more of the tax year for which the property is assessed.

002.10 Omitted property shall mean all depreciable tangible personal property which has not been reported to the Tax Commissioner on the Claim for Personal Property Exemption, Form 5725X. Omitted property shall also mean depreciable tangible personal property which was not reported to the county assessor on the personal property return.

002.11 Failure to file shall mean that a taxpayer has failed to timely file a Claim for Personal Property Exemption, Form 5725X.

002.12 Qualified personal property shall mean:

002.12A Depreciable turbine powered aircraft purchased or leased after the application date, except when any such aircraft has been used during the tax year for which an exemption is sought for fundraising or the transportation of an elected official during the prior year of the tax year for which an exemption is sought..

002.12B Depreciable computer systems used for business information processing which require environmental controls of temperature and power and which are capable of simultaneously supporting more than one transaction and more than one user, such as the computers in a data center or consolidated processing activity center, plus certain depreciable peripheral components which require environmental controls of temperature and power connected to such computers.

002.12B(1)(a) Depreciable computer systems shall mean the hardware and software of a computer system made up of equipment that is interconnected, with the following characteristics:

002.12B(1)(a)(1) It is capable of executing many programs concurrently;

002.12B(1)(a)(2) It is capable of supporting more than one user;

002.12B(1)(a)(3) It off loads the input/output processing to peripheral channels;

002.12B(1)(a)(4) It has multiple ports into memory devices;

002.12B(1)(a)(5) It has subsystems of the system's peripherals that can handle the transaction overhead to free up the central processing unit to do data processing, such as computing balances in customer records, or adding and subtracting amounts from inventory;

002.12B(1)(a)(6) It has additional peripherals designed to detect and correct errors through continuous monitoring for failure; and

002.12B(1)(a)(7) It is highly scalable for expansion by adding processors to systems or by adding systems in clusters.

002.12C Depreciable computer peripheral components shall be limited to additional memory units, tape drives, disk drives, power supplies, cooling units, and communication controllers. These peripherals shall directly communicate with the central processing unit of the qualifying computer system and require environmental controls of temperature, and power.

002.12D Depreciable tangible personal property located in a single project and is involved directly in the manufacture or processing of agricultural products.

002.12E Depreciable tangible personal property used in a distribution facility that is used to store or move products, such as conveyors, forklifts, shelving, storage racks.

002.13 Agricultural products shall mean those products that are grown or raised in an agricultural operation and the products that are further manufactured or processed from such products that are not yet ready for use by the final consumer.

002.14 Environmental controls of temperature and power shall mean that the computer and peripheral components are located in a temperature controlled environment which is capable of being sustained within the manufacturer's specifications, independent from the ambient conditions of the surrounding work area. The power controls must be designed to maintain controlled levels of voltage within the limits prescribed by the manufacturer.

002.15 Application date shall mean the date the application was filed with the Tax Commissioner for the purpose of utilizing the tax incentives under the Nebraska Advantage Act.

002.16 Agreement date shall mean the date of the agreement between the taxpayer and the Tax Commissioner wherein the taxpayer is authorized to use the incentives contained in the Nebraska Advantage Act.

002.17 Form 5725X shall mean a form prescribed by the Tax Commissioner, which is used to claim an exemption from property taxes for qualified depreciable tangible personal property defined in REG-43-002.12.

(Neb. Rev. Stat. Sections 77-104, 77-118 through 77-120, R.R.S. 2003, Neb. Rev. Stat. Section 77-202, R.S. Supp., 2006 and Neb. Rev. Stat. Sections 77-105, 77-702, 77-1229 and 77-5725, R.S. Supp., 2007.)

REG-43-003 PROCEDURES

003.01 Taxpayer Filing Responsibilities.

003.01A Any taxpayer who has signed an agreement with the Tax Commissioner under the Nebraska Advantage Act, upon qualifying for the exemption from certain personal property taxes, shall file a Claim for Nebraska Personal Property Exemption, Form 5725X, and any applicable schedules with the Tax Commissioner.

003.01A(1) The taxpayer shall file the Form 5725X and Nebraska Schedule I in order to receive the exemption from personal property tax on turbine powered aircraft. The Form 5725X and supporting schedule may be filed after the agreement date and before meeting the required levels of investment and employment pursuant to the agreement. All turbine powered aircraft

used in connection with the project and purchased after the application date may be claimed for exemption in the year following the date of acquisition.

003.01A(2) The taxpayer shall file the Form 5725X and the applicable Nebraska Schedules II, III or IV in order to receive the exemption from personal property tax on depreciable computer systems, certain depreciable peripheral components connected to such computer systems depreciable personal property involved directly with the manufacturing or processing of agricultural products and depreciable personal property in a distribution facility. The Form 5725X and supporting schedules may be filed after meeting the required levels of investment and employment pursuant to the agreement. Such depreciable tangible personal property purchased after the application date may be claimed for exemption in the year following of the year in which the required levels of investment and employment were met.

003.01A(2)(a) Depreciable turbine powered aircraft shall be eligible for exemption for ten years beginning with the next January 1 following the date of acquisition.

003.01A(2)(b) Depreciable computer systems, certain depreciable peripheral components connected to such computer systems, depreciable personal property involved directly with the manufacturing or processing of agricultural products and depreciable personal property used to store or move products in a distribution facility shall be eligible for exemption for ten years beginning with the next January 1 following the year the required levels of investment and employment were met.

003.01B In order to receive the property tax exemption allowed pursuant to REG-43-003.01A(2)(a) and 43-003.01A(2)(b), the taxpayer shall annually file a claim for exemption on prescribed forms, with the Property Tax Administrator on or before May 1. Copies of the forms shall also be filed on or before May 1 with the county assessor of each county in which a project is located. Failure to timely file such forms with the Tax Commissioner, shall constitute a waiver of the exemption for that year.

003.01B(1) A separate claim for exemption must be filed for each project and in each county in which the property is claimed to be exempt.

003.01B(2) Each item of personal property for which an exemption is sought shall be listed on the appropriate forms.

003.01B(3) Each item of personal property acquired for a particular project shall be listed on the Form 5725X and supporting schedules for that project.

003.01B(4) All supporting schedules shall be completed using the information and table provided in REG-43-002.

003.01C No extension in time shall be granted for filing the Form 5725X and supporting schedules. The Form 5725X and supporting schedules shall be considered filed on time if correctly completed, signed, and postmarked by the U.S. Post Office on or before May 1. If May 1 falls on a Saturday, Sunday, or legal holiday, the next business day shall be the final filing date.

003.01D No amendments to the Form 5725X and supporting schedules shall be allowed for omitted property not reported by May 1. All amendments to the Form 5725X and supporting schedules shall be filed on or before May 1.

003.01E There shall be no changes made in the prescribed forms issued by the Tax Commissioner without first obtaining written permission for such changes from the Tax Commissioner. Changes include, but are not limited to, copy arrangements, spacing, color of ink and order or sort of date. The foregoing does not apply to typeface unless the alteration of the typeface alters the spacing.

003.01F The taxpayer shall on or before May 1, file a personal property return with the assessor for all taxable tangible personal property in a project. See, Personal Property Regulations, Chapter 20. The taxpayer shall on or before May 1, also file the Form 5725X and supporting schedules with the county assessor showing the items of tangible personal property for which an exemption is being claimed. The tangible personal property claimed for exemption shall not be listed or commingled with the taxable tangible personal property on the personal property return.

003.02 Tax Commissioner's Powers and Duties.

003.02A The contents of any application for benefits filed with the Department of Revenue and all supporting information shall be confidential, except for the name of the taxpayer, the location of the project, the amounts of increased employment and investment, and the information required to be reported by Neb. Rev. Stat. Sections 77-5731 and 77-5734.

003.02B The Tax Commissioner shall determine the qualification of each item claimed for exemption on the Form 5725X and supporting schedules. For purposes of determining the eligibility of items of depreciable tangible personal property for exemption, the Tax Commissioner is limited to the question of whether the personal property claimed on the Form 5725X and supporting schedules falls within the classes of qualified property pursuant to REG-43-002.12.

003.02B(1) The determination of whether a taxpayer is eligible to obtain exemption for personal property based upon meeting the required levels of investment and employment is the responsibility of the Tax Commissioner.

003.02C The Tax Commissioner shall, on or before August 10, certify to the taxpayer and to the affected assessor his or her determination as to the approval or denial of the exemption for the various items of personal property submitted by the taxpayer on the Form 5725X and supporting schedules. The notice of determination shall be sent to the taxpayer and assessor by certified mail with a return receipt.

003.02D In determining the qualification of property for exemption, the Tax Commissioner or his or her duly authorized representative may administer oaths, compel the attendance of witnesses, and require the production of records as may be necessary for the performance of his or her responsibilities.

003.02E In order to determine the qualification of property for exemption, the Tax Commissioner or his or her duly authorized representative may make an investigation, examination, and inspection of the property at the location of the project as set out in the taxpayer's claim.

003.03 Assessor's Responsibilities

003.03A Upon receiving the notice of determination from the Tax Commissioner the assessor shall immediately adjust the taxable value on the personal property tax return filed pursuant to REG-43-003.01F, to reflect each item of tangible personal property disapproved for exemption.

003.03A(1) If it is discovered that personal property which was reported on the Form 5725X and supporting schedules was denied an exemption by the Tax Commissioner, such property shall be treated as reported personal property and not subject to the applicable penalties pursuant to REG 20-003.05

003.03B If after May 1, it is discovered that personal property was not reported on either the personal property return of the taxpayer or the Form 5725X and supporting schedules, such property shall then be treated as unreported taxable tangible personal property and subject to the applicable penalties pursuant to REG-20-003.05.

003.04 Appeals

003.04A The taxpayer, assessor, or any affected person may appeal the action taken by the Tax Commissioner in the approval or denial of the exemption of personal property pursuant to REG-43-003.02B.

003.04A(1) All appeals shall be filed with the Tax Commissioner within 30 days after the date of the notice of determination and pursuant to the Practice and Procedure Regulation, Chapter 90.

003.04A(2) Upon ten days notice to the taxpayer, assessor, or affected person, the Tax Commissioner shall set a date for hearing the appeal. The Tax Commissioner shall make his or her determination on the appeal within 30 days after the hearing date. The Tax Commissioner shall within seven days after the date of his or her determination of the appeal, send written notice of such determination to the taxpayer, assessor, or affected person.

003.04A(3) Appeal of the Tax Commissioner's determination may be taken within 30 days after the mailing date of the notice, to the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat. Section 77-5013.

(Neb. Rev. Stat. Section 77-707, R.R.S. 2003 Neb. Rev. Stat. Section 77-5013, R.S. Supp., 2006 and Neb. Rev. Stat. Sections ,77-702, 77-706, 77-708, 77-5007, 77-5725 and 84, 712.05, R.S. Supp., 2007.)

NEBRASKA ADMINISTRATIVE CODE

Title 350 – Nebraska Department of Revenue, Property Assessment Division
Chapter 45 – Homestead Exemption Regulations
Effective Date – 7/3/2013

Alphabetic Table of Contents

SUBJECT	STATUTORY AUTHORITY	SECTIONS
Claim for Homestead Exemption	Neb. Rev. Stat. §§ 77-702, 77-3504, 77-3508, 77-3509, 77-3509.01, 77-3509.02, 77-3509.03, 77-3510, 77-3511, 77-3512, 77-3513, 77-3514, 77-3515, 77-3517, 77-3519, 77-3520, 77-3522, 77-3526, and 77-3527.	004
County Assessor Procedure	Neb. Rev. Stat. §§ 77-702, 77-1315, 77-3506.02, and 77-3521.	007
Definitions	Neb. Rev. Stat. §§ 77-702, 77-3502, 77-3503, 77-3504, 77-3505, 77-3505.01, 77-3505.02, 77-3505.03, 77-3505.04, 77-3505.05, 77-3507, 77-3508, 77-3509, 77-3514, 77-3526, 77-3527, and 80-401.01.	002
Extent of Homestead Exemption	Neb. Rev. Stat. §§ 77-702, 77-3502, 77-3504, 77-3505.02, 77-3506.03, 77-3507, 77-3508, and 77-3509.	003
Forms Prescribed and Authorized	Neb. Rev. Stat. §§ 77-702, 77-3510, 77-3513, 77-3514, and 77-3521.	008
Homestead Exemption Summary Certificate	Neb. Rev. Stat. §§ 77-702, 77-3523.	006
Homestead Exemption Transfer	Neb. Rev. Stat. §§ 77-702, 77-3509, 77-3509.01, 77-3509.02, 77-3509.03, 77-3510, 77-3514, and 77-3521.	009
Nature of the Homestead Exemption	Neb. Rev. Stat. §§ 77-702, 77-3507, 77-3508, 77-3509, 77-3523, and 77-3527.	001
Processing of Homestead Exemption Application	Neb. Rev. Stat. §§ 77-702, 77-3514, 77-3516, 77-3517, 77-3519 77-3520, 77-3521, 77-3526, and 77-3529.	005

Numeric Table of Contents

SUBJECT	STATUTORY AUTHORITY	SECTIONS
Nature of the Homestead Exemption	Neb. Rev. Stat. §§ 77-702, 77-3507, 77-3508, 77-3509, 77-3523, and 77-3527.	001
Definitions	Neb. Rev. Stat. §§ 77-702, 77-3502, 77-3503, 77-3504, 77-3505, 77-3505.01, 77-3505.02, 77-3505.03, 77-3505.04, 77-3505.05, 77-3507, 77-3508, 77-3509, 77-3514, 77-3526, 77-3527, and 80-401.01.	002
Extent of Homestead Exemption	Neb. Rev. Stat. §§ 77-702, 77-3502, 77-3504, 77-3505.02, 77-3506.03, 77-3507, 77-3508, and 77-3509.	003
Claim for Homestead Exemption	Neb. Rev. Stat. §§ 77-702, 77-3504, 77-3508, 77-3509, 77-3509.01, 77-3509.02, 77-3509.03, 77-3510, 77-3511, 77-3512, 77-3513, 77-3514, 77-3515, 77-3517, 77-3519, 77-3520, 77-3522, 77-3526, and 77-3527.	004
Processing of Homestead Exemption Application	Neb. Rev. Stat. §§ 77-702, 77-3514, 77-3516, 77-3517, 77-3519 77-3520, 77-3521, 77-3526, and 77-3529.	005
Homestead Exemption Summary Certificate	Neb. Rev. Stat. §§ 77-702, 77-3523.	006
County Assessor Procedure	Neb. Rev. Stat. §§ 77-702, 77-1315, 77-3506.02, and 77-3521.	007
Forms Prescribed and Authorized	Neb. Rev. Stat. §§ 77-702, 77-3510, 77-3513, 77-3514, and 77-3521.	008
Homestead Exemption Transfer	Neb. Rev. Stat. §§ 77-702, 77-3509, 77-3509.01, 77-3509.02, 77-3509.03, 77-3510, 77-3514, and 77-3521.	009

Title 350 – Nebraska Department of Revenue, Property Assessment Division
Chapter 45 – Homestead Exemption Regulations

REG-45-001 PURPOSE OF THE HOMESTEAD EXEMPTION

001.01 The homestead exemption provides qualified homeowners with a measure of property tax relief. Revenue lost from this exemption is reimbursed to local taxing subdivisions by the state with funds appropriated by the Legislature from the General Fund.

Neb. Rev. Stat. §§ 77-702, 77-3507, 77-3508, 77-3509, 77-3523, and 77-3527.

REG-45-002 DEFINITIONS

002.01 Average assessed value of single-family residential property means the average assessed value for all single-family residential properties in the county for the year for which the exemption is requested.

002.02 Change in status means a change in: the name of the owner-occupant of the homestead; place of residence; marital status; veteran status; rating by the U.S. Department of Veterans Affairs; disability status; or any other change that would affect the qualification for or type of exemption granted, except the income status determined by the Tax Commissioner.

002.03 Closely-related means the relationship of a brother, sister, child, or parent to another owner-occupant of a homestead.

002.04 Exempt amount is the amount of the property value that may be exempt from property tax. The exempt amount depends upon the basis of the exemption and the county of residence. The exempt amount is the lesser of the taxable value of the homestead or the following amount:

002.04A For a qualified claimant, the larger of 100% of the average assessed value of a single-family residential property in the claimant's county, or $40,000.

002.04B For a qualified disabled claimant, qualified veteran claimant, or qualified veteran's surviving spouse claimant, the larger of 120% of the average assessed value of a single-family residential property in the claimant's county, or $50,000.

002.05 Home – for paraplegic or multiple amputee veterans only – means one housing unit and necessary land not to exceed one acre that is occupied by the veteran or his or her unmarried surviving spouse when the veteran or surviving spouse is the owner of record from January 1 through August 15 of each year.

002.06 Homestead means the following residences, if actually occupied by a natural person who is the owner of record from January 1 through August 15 of each year, or is occupied by the surviving spouse and minor children, if any, during the year of the owner's death:

002.06A A residence or mobile home, and the contiguous land surrounding it, not exceeding one acre. A residence may include a detached garage and one outbuilding, for example, a tool shed;

002.06B A residence or mobile home located on leased land;

002.06C A mobile home includes every transportable or relocatable device whether or not it is permanently attached to real estate, but does not include any cabin trailer registered for highway use; or,

002.06D A residential unit in a dwelling complex, not including common areas, if the record title owner of the complex is a nonprofit corporation, and if the purchaser, for fair market value, has a life tenancy in a taxable unit of the dwelling complex, and is entitled to exclusive right of occupancy of that unit for life.

002.07 Household income means the total federal adjusted gross income, as defined in the Internal Revenue Code (IRC), plus: (1) any Nebraska adjustments increasing the total federal adjusted gross income; (2) any interest and dividends received by the owner for obligations of the State of Nebraska or any Nebraska political subdivision, authority, commission, or instrumentality to the extent excluded in the computation of gross income for federal income tax purposes; and (3) any retirement benefits paid by the Social Security Administration or the Railroad Retirement Board for the taxable year immediately prior to the year for which the claim for exemption is made.

002.07A If the claimant was married, then the household income will include the income of the spouse.

002.07B Household income includes the income of any additional owner-occupants who occupied the homestead during any part of the taxable year immediately prior to the year the exemption is claimed. The holder of a remainder interest under a life estate is not an owner.

002.07C Household income may be reduced by medical expenses paid by the claimant, spouse, or additional owners that are in excess of four percent of the household income prior to the deduction for medical expenses. In general, medical expenses mean expenses that are eligible as medical expenses for itemized deductions for federal income tax purposes. Medical expenses, for the purposes of this section, include the costs of health insurance premiums, goods and services purchased from a person licensed under Chapter 71, article 1 or 47, or a health care facility or health care service licensed under the Health Care Facility Licensure Act for purposes of restoring or maintaining health, including insulin, and prescription medicines. Medical expenses do not include expenses for nonprescription medicines, whether or not prescribed.

002.07C(1) Prescription medicine means any drug or medicine requiring a prescription under the IRC definitions.

002.08 Marital status means the claimant's status in the year immediately prior to the year the exemption is claimed:

002.08A Single means a person who files a federal income tax return as single or head-of-household, if he or she is required to file a return.

002.08B Married means a person who files a federal income tax return as married, filing jointly or married, filing separately, if he or she is required to file a return.

002.09 Maximum value is the highest possible full exempt value of the homestead before the consideration of the income of the claimant.

002.09A For a qualified claimant, the maximum value is 200% of the average assessed value of a single-family residential property in the claimant's county, or $95,000, whichever is greater.

002.09B For a qualified disabled claimant, qualified veteran claimant, or qualified veteran's surviving spouse claimant, the maximum value is 225% of the average assessed value of a single-family residential property in the claimant's county, or $110,000, whichever is greater.

002.10 Medical condition means a disease, physical ailment, or injury requiring inpatient care in a hospital, hospice, or residential care facility, or involving any period of incapacity due to a condition for which treatment may not be effective.

002.11 Multiple amputee means a veteran who has undergone amputation of more than one extremity precluding locomotion (not able to walk) without the aid of braces, crutches, canes, wheelchairs, or artificial limbs, or the amputation of both upper extremities.

002.12 Owner means a natural person, or surviving spouse, who either:

002.12A Holds the recorded fee simple title to the homestead; is in possession of and resides in a homestead under a bona fide contract to purchase or a deed of conveyance; resides in a homestead and holds a life estate, which is an estate limited in time by deed, will, or settlement; is one of the joint tenants or tenants in common of a homestead; resides in a mobile home and holds a title or bill of sale; is a resident of a dwelling complex, when the record title owner is a nonprofit corporation, who has, by purchase for fair market value, secured a life tenancy in a taxable unit of the complex (the resident must provide a copy of the contract as proof of life tenancy); or is a beneficiary of a trust of which the trustee is the record title owner and the beneficiary-occupant either has:

002.12A(1) A specific right to occupy the premises as stated in the trust agreement;

002.12A(2) The right to amend or revoke the trust to obtain power of occupancy or of title; or

002.12A(3) The power to withdraw the homestead premises from the trust and place the record title in such occupant's name.

002.12B Owner also means a natural person, or surviving spouse, who is a resident of any of the homesteads listed in §§ 002.12A above ; however, if the deed, trust instrument, contract, or memorandum showing proof of ownership has not been recorded as a matter of public record as of January 1 of the year for which the homestead exemption application is made, a copy of the instrument dated prior to January 1 of the year for which the homestead exemption application is made, must be attached to the application.

002.13 Paraplegic means a veteran who is paralyzed in both legs precluding locomotion, and is not able to walk without the aid of braces, crutches, canes, or a wheelchair.

002.14 Prosthetic device means a device that permanently or temporarily replaces a missing part or a nonfunctioning part of the human body.

002.15 Qualified claimant means an owner of a homestead who was 65 years of age or older before January 1 of the year for which the claim is made, and whose household income, as determined by the Tax Commissioner, is less than the maximum amount.

002.16 Qualified disabled claimant means an owner of a homestead who was disabled on or before January 1 of the year for which the claim is made, and whose household income, as determined by the Tax Commissioner, is less than the maximum income amount; and

002.16A Who has a permanent physical disability and has lost all mobility precluding locomotion without the regular use of a mechanical aid or prosthetic device. (A cane used for blindness does not qualify); who has a permanent partial disability of both arms in excess of 75%; or, who has undergone amputation of both arms above the elbow.

002.17 Qualified veteran claimant means an owner of a homestead who, on or before January 1 of the year for which the claim is made:

002.17A Is certified as drawing compensation from the U.S. Department of Veterans Affairs because of 100% disability and whose household income is less than the maximum income amount determined by the Tax Commissioner pursuant to Neb. Rev. Stat. § 77-3509(1)(b)(i).

002.17B Is certified as totally disabled due to a nonservice-connected accident or illness and whose household income is less than the maximum income amount determined by the Tax Commissioner. Disability based on age alone does not qualify for this exemption pursuant to Neb. Rev. Stat. § 77-3508(1)(b)(i).

002.17C Is a paraplegic or has undergone multiple amputations and occupies a home which was substantially contributed by the U.S. Department of Veterans Affairs.

002.17C(1) Substantially contributed means the grant of any amount of money received from the U.S. Department of Veterans Affairs under Public Law 85-857 by a veteran for the acquisition or construction of a specially-adapted home, or the adaptation of an existing home. If the veteran disposes of the home and uses the proceeds of the sale, or part of the proceeds, to purchase another home within one year, it will be deemed to be substantially contributed by the U.S. Department of Veterans Affairs pursuant to Neb. Rev. Stat. § 77-3527.

002.18 Qualified veteran's surviving spouse claimant means an owner of a homestead who, on or before January 1 of the year for which the claim is made:

002.18A Is the unremarried widow of a serviceman or widower of a servicewoman who died while on active duty during the dates listed in Neb. Rev. Stat. § 80-401.01 and whose household income is less than the maximum income amount determined by the Tax Commissioner;

002.18B Is the unremarried widow of a serviceman or widower of a servicewoman, including those who served during dates not listed in Neb. Rev. Stat. § 80-401.01, whose death while on active duty was service-connected and whose household income is less than the maximum income amount determined by the Tax Commissioner;

002.18C Is the unremarried widow or widower of any veteran, including those who served during dates not listed in Neb. Rev. Stat. § 80-401.01, who died because of a service-connected disability and whose household income is less than the maximum income amount determined by the Tax Commissioner;

002.18D Is the unremarried widow or widower of a veteran whose home was substantially contributed by the U.S. Department of Veterans Affairs; or

002.18E Is the unremarried widow or widower of a veteran certified as drawing compensation because of 100% disability from the U.S. Department of Veterans Affairs and whose household income is less than the maximum income amount determined by the Tax Commissioner.

002.18F If a widow or widower subsequently remarries and the subsequent marriage terminates, the widow or widower does not return to their status as unremarried.

002.19 Residence means all, or any portion, of a building, mobile home, or unlicensed cabin trailer occupied by the owner as his or her primary home.

002.19A An applicant residing in a nursing home may qualify for a homestead exemption if he or she intends to return to the residence, the household furnishings have not been removed, and the home has not been rented or leased. Placing the homestead property on the real estate market does not disqualify the applicant until the property is sold.

002.20 Single-family residential property means all real property with dwellings designed for occupancy by one family, or duplexes designed for occupancy by two families.

002.21 Veteran means a person who has been on active duty, for other than training purposes, in the U.S. Armed Forces, or a citizen of the U.S. who served with the military forces of a government allied with the U.S. and, who has received an honorable or general (under honorable conditions) discharge, or the equivalent. Unless otherwise specified, a veteran must also have served during the dates listed:

002.21A April 21, 1898 to July 4, 1902 (Spanish-American War); April 6, 1917 to November 11, 1918 (World War I); December 7, 1941 to December 31, 1946 (World War II); June 25, 1950 to January 31, 1955 (Korean War); August 5, 1964 to May 7, 1975 (Vietnam War) or in the Republic of Vietnam between February 28, 1961 and May 7, 1975; August 25, 1982 to February 26, 1984 (Lebanon); October 23, 1983 to November 23, 1983 (Grenada); December 20, 1989 to January 31, 1990 (Panama); Persian Gulf War beginning August 2, 1990; or the Global War on Terror beginning September 14, 2001. Service dates may be certified by the county veteran service officer or by discharge documents.

Neb. Rev. Stat. §§ 77-702, 77-3502, 77-3503, 77-3504, 77-3505, 77-3505.01, 77-3505.02, 77-3505.03, 77-3505.04, 77-3505.05, 77-3507, 77-3508, 77-3509, 77-3514, 77-3526, 77-3527, and 80-401.01.

REG-45-003 EXTENT OF HOMESTEAD EXEMPTION

003.01 A homestead exemption may be granted not to exceed the exempt amount determined for the county, except for those homes owned and occupied by a qualified veteran or his or her unremarried surviving spouse substantially contributed to by the U.S. Department of Veterans Affairs as defined under REG-45-002.17C, as adjusted by the following provisions.

003.01A The percentage of the exempt amount allowed for a homestead exemption, after any reductions required because of the maximum value of the homestead, will be determined based on the amount of household income. The Tax Commissioner will publish tables showing the percentage of the exempt amount allowed for each level of income. The Tax Commissioner will annually adjust the income amounts for inflation according to the method described in IRC § 151.

003.01B The exempt amount allowed for a homestead exemption will be reduced when the assessed value of the homestead exceeds the maximum value. The exempt amount will be reduced by 10% for each $2,500 of assessed value of the homestead above the maximum value. Any homestead valued $20,000 or more above the maximum value is not eligible for any homestead exemption.

003.02 The county assessor will determine and certify to the Nebraska Department of Revenue (Department) the average assessed value of a single-family residential property in the county no later than September 1 each year. The county assessor will also report to the Department the computed exempt amount per Neb. Rev. Stat. § 77-3501.01.

Neb. Rev. Stat. §§ 77-702, 77-3502, 77-3504, 77-3505.02, 77-3506.03, 77-3507, 77-3508, and 77-3509.

REG-45-004 CLAIM FOR HOMESTEAD EXEMPTION

004.01 The claimant must file the Nebraska Homestead Exemption Application or Certification of Status, Form 458, with any required schedules and attachments, after February 1 and on or before June 30 with the county assessor of the county where the homestead is located. The Form 458, with any required schedules and attachments, must be filed each year. Failure to timely file the properly completed application will constitute a waiver of the exemption for that year. If the IRS allows a filing extension, the filing deadline is also extended for the Nebraska

Schedule I—Income Statement, Form 458 Schedule I (REG-45-004.04). The Form 458 must be filed on or before June 30 with a reference to the IRS extension, and the Income Statement must be filed by the extended date.

004.01A When the date for filing an application, supporting documentation, or any other requirement falls on a Saturday, Sunday, or legal holiday, the items will be considered timely filed if delivered in person or postmarked on the next business day. When any document is sent by mail, the postmark date determines the date filed. When any document is sent by either certified or registered mail, the certification or registration date determines the postmark date.

004.01B The county board of equalization may grant an extension for filing from June 30 up to, but not beyond, July 20, upon written request from an individual claimant. The request for extension may not be granted if a request for extension for the same claimant was granted for the prior year, except if a medical condition impaired the claimant's ability to apply or certify in a timely manner, and a certification from a physician, physician assistant, or advanced practice registered nurse pursuant to Neb. Rev. Stat. § 77-3514.01 is received.

004.01C The county assessor may grant an extension to an owner-occupant to file a late application if he or she includes documentation of a medical condition which impaired the owner-occupant's ability to file the application in a timely manner. The application must be for the current tax year only and filed with the county assessor on or before the date the first half of the real estate taxes become delinquent, which in counties with a population of over 100,000 is April 1, and in all other counties is May 1. The Physician's Certification for Late Homestead Exemption Filing, Form 458L must be attached to the application.

004.01C(1) The county assessor must approve or deny the late filing within 30 days of receipt of the late filing. If approved, the county assessor will mark the late filing approved and sign the application or certification. If the county assessor finds that the exemption should not be allowed because it does not conform to law, the county assessor will mark the application or certification as denied, state the reason for rejection, and sign the application or certification. When the county assessor denies an exemption, he or she must notify the applicant of this action by mailing written notice to the applicant at the address shown in the application or certification. The notice will be on forms prescribed by the Tax Commissioner. When the county assessor denies an exemption, the applicant may obtain a hearing before the county board of equalization in the manner described by Neb. Rev. Stat. § 77-3519.

004.02 The application must be signed by the person claiming the exemption who is owner-occupant of the homestead. However, if the claimant is incompetent, a guardian or conservator may sign the application; or, if the claimant is unable to apply for a homestead exemption and has given a written power of attorney for that purpose, the attorney-in-fact may sign the application if a copy of the power of attorney is attached to the application.

004.03 If an owner-occupant who is qualified for a homestead exemption dies after January 1 and before June 30, the personal representative may sign and file the application on or before June 30 of that year if the surviving spouse of the owner as of January 1 continues to occupy the homestead. This application will be effective for that year only.

004.03A If a change in ownership, other than caused by the death of the owner, or a change in the residency occurs between January 1 and August 16, the exemption will be rejected for that year, unless the new claimant qualifies for a transfer under REG-45-009. If this type of change occurs after August 15, an approved exemption will continue for that year only.

004.04 A Nebraska Schedule I—Income Statement, Form 458 Schedule I, must be filed with the Form 458 each year, except for claimants described in 004.06B.

004.04A If the claimant was married, the income of the spouse may be included jointly with the income of the claimant, or reported on a separate Income Statement. The income of the spouse must be included whether or not the spouse was an owner or an occupant of the homestead.

004.04B A separate Income Statement must be filed for the income of any additional individuals who were owners of the homestead on January 1 and who occupied the homestead during any part of the taxable year immediately prior to the year the exemption is claimed.

004.05 Additional information must be submitted with the Form 458, for the following categories of exemption during the first year an exemption is requested, or if the exemption was not approved in either of the two prior years:

004.05A For purposes of an exemption claimed as a qualified disabled individual, the applicant must file with the application a certification from a qualified medical physician, physician's assistant, or advanced practice registered nurse, on a form prescribed by the Department affirming the status of the claimant.

004.05B For purposes of all military related exemptions, other than those described in 004.06, the applicant must file with the exemption application a certification from the U.S. Department of Veterans Affairs affirming the status of the claimant.

004.06 The following additional information must be submitted with the Form 458, for each year an exemption is requested for the following categories of exemption:

004.06A A qualified veteran totally disabled due to a nonservice-connected accident or illness must file a certification from a qualified medical physician, physician's assistant, or advanced practice registered nurse, on a form prescribed by the Department affirming the status of the claimant. A disabled veteran may substitute a certification from the U.S. Department of Veterans Affairs affirming total disability.

004.06B For purposes of an exemption claimed by a paraplegic or multiple amputee veteran or his or her unmarried surviving spouse on a home substantially contributed to by the U.S. Department of Veterans Affairs, the applicant must file with the exemption application a certification from the U.S. Department of Veterans Affairs affirming the status of the claimant and the financial contribution to the homestead property. Once this certification is submitted and the application approved, it is not necessary to renew the certification with subsequent annual filings. A copy of the original certification must be attached to Form 458 for subsequent annual applications. An Income Statement is not required to be submitted with the Form 458.

004.07 All qualified owner-occupants of the same residence should file an application for a homestead exemption. Failure of the other qualified owner-occupants to file will result in a loss of the exemption if the filing single claimant dies, transfers his or her ownership, or moves prior to August 16. A married couple may apply for two homestead exemptions provided each spouse meets the ownership criteria and each occupies a separate residence. The household income of each spouse must be added together to determine qualification.

004.08 If the claimant provides incorrect information or fails to notify the county assessor of a change in status, and this results in an unlawful granting or continuation of a homestead exemption, the tax that would have been due, together with penalty and interest, will become a lien on the property when entered upon the books of the county treasurer. Any person who has permitted an unlawful allowance of a homestead exemption will forfeit his or her right to a homestead exemption on any other property located in this state for the two succeeding years.

004.09 When an application is denied, it is the duty of the applicant to refile a new timely application and a new disability certification for any subsequent year. For audit purposes, the county assessor will retain a copy of all applications and certifications.

Neb. Rev. Stat. §§ 77-702, 77-3504, 77-3508, 77-3509, 77-3509.01, 77-3509.02, 77-3509.03, 77-3510, 77-3511, 77-3512, 77-3513, 77-3514, 77-3515, 77-3517, 77-3519, 77-3520, 77-3522, 77-3526, and 77-3527.

REG-45-005 PROCESSING OF HOMESTEAD EXEMPTION APPLICATION

005.01 The county assessor will examine all homestead exemption applications and will determine if all qualifications for exemption have been met, except for the income standard. If all qualifications for exemption have been met, except the income standard, the county assessor will approve, sign the form, and forward the appropriate copy of the Form 458 with all required attachments to the Tax Commissioner by August 1, except if a medical condition impaired the claimant's ability to apply or certify in a timely manner, and the application is filed with certification of the medical condition affecting the filing from a physician, physician assistant, or advanced practice registered nurse pursuant to Neb. Rev. Stat. § 77-3514.01, and as provided in REG-45-004.01.

005.02 If the county assessor finds that any application should be denied by reason of its failure to conform to law, including the failure to timely file as set out in REG-45-004.01 and REG-45-004.04, he or she will mark it denied and state the reasons for denial. Denied applications will not be forwarded to the Tax Commissioner. When the county assessor denies any exemption, written notice of the action will be mailed to the applicant at the address shown on the exemption application or certification of status. The notice must be mailed no later than July 31, except in cases of a medical condition pursuant to Neb. Rev. Stat. § 77-3514.01, or a change in ownership or occupancy from January 1 through August 15, or other cases when the homestead exemption should not be granted, in which case the notice must be sent within a reasonable time. The notice will be on forms prescribed by the Tax Commissioner. See, Notice of Rejection of Homestead Exemption, Form 458R.

005.02A If the date on a deed shows a transfer from the claimant to another person prior to August 16, the county assessor will deny the application. If the claimant has information to show the transfer did not occur on the date shown on the deed, the claimant may present the information to the county board upon appeal.

005.03 Within 30 days from receipt of a denial notice, the claimant may file a written complaint with the county clerk to obtain a hearing before the county board of equalization. The complaint must specify the grievances and the pertinent facts in ordinary and concise language per Neb. Rev. Stat. § 77-3519. The claimant may appeal the finding of the board in the same manner as appeals on questions of valuation of property as mentioned in 005.05 below.

005.03A The county board of equalization must issue its decision within 30 days of the filing of the complaint.

005.03B If a homestead exemption is denied because of the value of the homestead, the claimant cannot protest the value of the homestead through an appeal of the denial of the homestead exemption. All appeals of the valuation of the homestead must be appealed through the valuation appeals process (see the Property Assessment Division's regulations for appealing property valuations, Chapter 10, Real Property Regulations, REG-10-002).

005.04 The Tax Commissioner will review the exemption applications received from the county assessor for the purpose of determining if the applicants meet the required income standards, and may also review any other information he or she deems necessary to determine if the application should be approved. The Tax Commissioner will certify to the county assessor of each county those claimants who qualify or fail to qualify for that year by November 1.

005.04A The Tax Commissioner may review, or the claimant may request a review of, the income information of the claimant, or any other information necessary to determine if the application is in compliance with Neb. Rev. Stat. §§ 77-3501 to 77-3529. The result of the review may be to increase or

decrease the amount of the homestead exemption allowed, allow a homestead exemption previously denied, or deny a homestead exemption previously granted.

005.04B Any action taken by the Tax Commissioner must be completed within three years after December 31 of the year the exemption was claimed.

005.05 If the Tax Commissioner denies or reduces an exemption application, written notice of the action will be mailed to the claimant. A claimant whose exemption is denied or reduced may obtain a hearing before the Tax Commissioner by filing a written protest with the Tax Commissioner within 30 days of receipt of the notice of denial or reduction. The petition must state the amount in controversy, issues involved, name and address of the claimant, and the relief demanded. The hearing will be conducted in accordance with the Administrative Procedures Act. Notice of the Tax Commissioner's decision must be mailed to the claimant within seven days after the decision. The claimant may appeal the Tax Commissioner's decision to the Tax Equalization and Review Commission in accordance with Neb. Rev. Stat. § 77-5013 within 30 days after the decision.

005.06 No claimant will be allowed more than one homestead exemption per year. The homestead exemption to be allowed is the one which gives the highest exemption. If an application for homestead exemption is denied and the claimant would qualify for any other exemption, the denied application will be treated as an application for the next highest homestead exemption for which the claimant is qualified.

005.07 For purposes of this regulation, a reduction in the amount of homestead exemption will be considered a denial.

005.08 When a denied application is treated as an application for the next highest homestead exemption for which the claimant is qualified, the county assessor will notify the claimant of any additional statements or information needed to complete the application. The county assessor will accept additional statements or information for a reasonable time after this notification.

005.09 The Homestead Exemption Application, Form 458, the Income Statement, Form 458 Schedule I, and any other attachments to the application are confidential and available only to tax officials. Unauthorized disclosure of information may result in civil or criminal penalties.

Neb. Rev. Stat. §§ 77-702, 77-3514, 77-3516, 77-3517, 77-3519 77-3520, 77-3521, 77-3526, and 77-3529.

REG-45-006 HOMESTEAD EXEMPTION SUMMARY CERTIFICATE

006.01 The county assessor must summarize taxes as specified in Neb. Rev. Stat. § 77-3523 that would have been collected on the exempt portions of the qualifying homesteads, sign the certificate, and forward the certificate to the county treasurer, who must forward the certificate to the Department on or before November 30 of each year. See, Homestead Exemption Summary Certificate, Form 458S. Until May 30 of the next succeeding year, the county assessor and county treasurer may amend the current certificate to show any change in the tax that was lost due to allowed homestead exemptions for the preceding year. The county treasurer must amend the certificate after May 30 of the next succeeding year if the Tax Commissioner has amended the homestead exemption allowed to any claimant because of the income or other requirements pursuant to REG-45-005.04A and REG-45-005.04B. All corrections decreasing the tax loss must be reported to the Tax Commissioner for reconciliation. Corrections increasing the tax loss will not be allowed after the May 30 deadline, except for reasons pursuant to REG-45-005.04A and REG-45-005.04B; however, reimbursement may be sought from the State Claims Board. See, Amended Homestead Exemption Summary Certificate, Form 458X.

Neb. Rev. Stat. §§ 77-702, 77-3523.

REG-45-007 COUNTY ASSESSOR PROCEDURE

007.01 The real property assessment rolls, revised and completed by the county assessor by March 19 of each year, except beginning January 1, 2014, the date will be March 25 for counties with a population of at least 150,000 inhabitants, must reflect the actual value of all property in the county without any reduction by reason of any approved homestead exemption.

007.02 On or before September 1 of each year, after adjustments by the county board of equalization, the county assessor must certify to the Department the average assessed value of single-family residential property in the county for the current year. The determination of the average assessed value will be made from all real property records containing dwellings, mobile homes, and duplexes which are designed for occupancy as single family residential property, and any associated land not to exceed one acre. The county assessor will also report to the Department the exempt amounts computed pursuant to Neb. Rev. Stat. § 77-3501.01 on forms prescribed by the Tax Commissioner. See, Certificate of Average Assessed Value of Single-Family Residential Property, Form 458V. For residential or agricultural parcels, this includes the value of the dwelling or residence, any building directly associated with or serving the dwelling, and the land surrounding the dwelling not to exceed one acre. This typically means a house, garage, and land not exceeding one acre.

Neb. Rev. Stat. §§ 77-702, 77-1315, 77-3506.02, and 77-3521.

REG-45-008 FORMS PRESCRIBED AND AUTHORIZED

008.01 The Tax Commissioner will prescribe all forms necessary for the administration of the homestead exemption program. These forms will be the only forms used by the county for administering the homestead program. No changes or alterations will be made to any form used in this program without the express written consent of the Tax Commissioner.

008.02 The Tax Commissioner will provide each county assessor printed claim forms, Form 458 and Form 458 Schedule I, and address lists of claimants from the prior year.

008.03 The county assessor must mail a notice on or before April 1 to claimants who are the owners of a homestead which has been granted a homestead exemption in the preceding year unless the claimant has already filed the certification or application for the current year or the county assessor has reason to believe there has been a change of circumstances so that the claimant no longer qualifies. The notice will include the claimant's name, the certification or application deadlines for the current year, a list of documents that must be filed with the certification or application, and the county assessor's office address and telephone number.

Neb. Rev. Stat. §§ 77-702, 77-3510, 77-3513, 77-3514, and 77-3521.

REG-45-009 HOMESTEAD EXEMPTION TRANSFER

009.01 The owner of a homestead which has been granted an exemption provided in Neb. Rev. Stat. §§ 77-3507 to 77-3509 may transfer the exemption to a newly acquired homestead within the state, if the new homestead was acquired after January 1 and on or before August 14 of the year for which the exemption was claimed and the claimant occupies the new homestead on or before August 15 of that year. See, Application for Transfer of Nebraska Homestead Exemption, Form 458T. The claimant is not required to transfer ownership of the original homestead during the same time period.

009.02 The claimant must file a timely application on the original homestead and then must file an application for transfer with the county assessor of the county where the new homestead is located, on or before August 15 of that year. The transfer must be approved by the county assessor using the same criteria as previously applied to the original homestead and the claimant must meet the August 15 occupancy requirement. If the transfer is approved, the exemption, as applied to the original homestead, will be denied for that year.

009.03 For intercounty transfers, a copy of the approved request for transfer must be sent to the county assessor of the county where the former homestead was located, and another copy must be sent to the Department.

009.04 For intracounty transfers, the Department will process all applications received without regard to the transfer provisions. For the year during which the transfer occurred, the approved roster certified by the Tax Commissioner will contain the legal description of the original homestead as provided on the application.

009.05 The time of transfer is determined by the date the seller signs the deed or land contract. Upon appeal, a claimant may prove through documentation that title did pass on or before August 14 rather than the date stated on the deed, if the date on the deed is after August 14.

009.06 A claimant who has transferred ownership of the homestead, and mistakenly or inadvertently failed to retain a life estate or other interest in the property, may execute a corrective deed correcting the original transfer. If the county assessor has sent a denial notice, the claimant may appeal to the county board of equalization within 30 days after the mailing of the notice of denial. Upon the filing of a corrective deed, the claim for the homestead exemption will be allowed.

009.07 When a mobile home transfers from one county to another county, the claimant must timely file an application in the original county. The taxes must be accelerated and paid per Neb. Rev. Stat. § 77-1725.01. The claimant then must file an application for transfer with the county assessor of the county where the mobile home has been moved on or before August 15 of that year. A claim for refund of the accelerated taxes may be filed in the original county with approval subject to the Tax Commissioner's determination per REG-45-005.04. The tax loss may be claimed on the original county's summary certificate.

Neb. Rev. Stat. §§ 77-702, 77-3509, 77-3509.01, 77-3509.02, 77-3509.03, 77-3510, 77-3514, and 77-3521.

NEBRASKA ADMINISTRATIVE CODE

Title 350 – Nebraska Department of Revenue, Property Assessment Division
Chapter 50 – Assessment Process Regulations
Effective Date 3/15/09

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Title 350 - Nebraska Department of Revenue, Property Assessment Division
Chapter 50 - Assessment Process Regulations

REG-50-001 DEFINITIONS

001.01 Actual value shall mean the market value or fair market value of real property in the ordinary course of trade. It is the most probable price expressed in terms of money that a property will bring if exposed for sale in the open market or in an arm's-length transaction between a willing seller and a willing buyer, both of whom are knowledgeable concerning all the uses to which the real property is adapted and for which it is capable of being used. In analyzing the uses and restrictions, the analysis shall include a consideration of the full description of the physical characteristics of the property and the property rights being valued. Actual value may be determined using professionally accepted mass appraisal methods, including, but not limited, to the (1) sales comparison approach, (2) income approach, and (3) cost approach.

001.02 Appraisal shall mean a written opinion of value of real property. An appraisal shall set forth an opinion of value of an adequately described property, as of a specified date, and shall be supported by an analysis of relevant data. For the purposes of property taxation, appraisal, reappraisal, and mass appraisal are interchangeable terms; except, reappraisal may mean a subsequent or second appraisal needed to correct an error in an appraisal. For purposes of these regulations the term appraisal shall be used, unless the context requires otherwise. All appraisals shall meet the standards as promulgated by the Appraisal Standards Board of the Appraisal Foundation in the *Uniform Standards of Professional Appraisal Practice*, effective as currently updated, including Standard 6, Mass Appraisal and Reporting in conjunction with existing "Statements on Appraisal Standards" and "Advisory Opinions". A copy of the *Uniform Standards of Professional Appraisal Practice* is on file at the office of the Tax Commissioner.

001.03 Appraisal process shall mean a systematic analysis of the factors that affect the value of real property. It is a documented, orderly program by which the problem is defined, the work necessary to solve the problem is planned, and the necessary data gathered, classified, analyzed, and interpreted into a written opinion of value. In the assessment process, it is the function for determining assessed value. For purposes of property taxation, it shall include the grouping of similar properties so that all properties within a class or subclass are collectively examined and valued.

001.04 Appraisal firm shall mean any individual, corporation, partnership or joint venture that contracts with a county to undertake an appraisal, an appraisal update, or an appraisal maintenance project. The requirements set out in REG-50-004, Requirements for Appraisal Contracts, shall be complied with by any firm desiring to provide appraisal services.

001.05 Appraisal update shall mean an appraisal in which all or part of the data collection process is determined to be unnecessary (a limited appraisal) but there is a need to adjust values on all of the properties within a defined class or subclass. This includes, but is not limited to recalibration of a market model or cost model involving implementation of more current cost data or adjustments to value by a percentage, and applied uniformly to all property within a defined class or subclass of property.

001.06 Appraisal maintenance, or pick-up work, is the collection of specific data relating to new construction, remodeling, additions, alterations, and removals of existing buildings or structures. Pick-up work may also include: changes in zoning, use or annexation; the addition, deletion or change in characteristics of encumbrances such as leases, easements or special programs (eg., Conservation Reserve Program); and the addition, deletion or change in characteristics external to the property, including, but not limited to, amenities such as paving, utilities and proximity to favorable or unfavorable influences, such as schools, libraries, city dumps, sewage treatment facilities, or meatpacking plants. The data shall be gathered in a systematic process so that all properties are treated uniformly. The value of property analyzed in an appraisal maintenance project shall be equalized with comparable properties.

001.07 Appraiser shall mean a person who estimates value and, more specifically for this regulation, one who possesses the necessary qualifications, ability, and experience to execute or direct the estimation of value of real property.

001.08 Appraiser assistant includes field data collector, apprentice appraiser, and appraiser trainee and shall mean a person who performs tasks of data gathering, organizing, and preparation, but who does not act in the capacity of an appraiser. An appraiser assistant shall be directed by and under the supervision of a qualified appraiser or assessor and shall not be relied upon to make independent valuation judgments.

001.09 Assessment process for real property shall mean the act of listing the description of all real property, determining its taxability, determining taxable value, and placing it on the assessment roll.

001.10 General data shall mean that data which is not specific to individual properties, including but not limited to: neighborhood characteristics, demographics, trends, factors, various maps, zoning, codes, ordinances, and any other similar data relevant to the value of the properties to be assessed.

001.11 Specific Data shall mean data which relates only to the specific parcel being appraised, including but not limited to, on-site and off-site conditions which have specific impact on each individual parcel, such as: measurements, perimeter sketches, age determination, site plans, photos, building elevation sketches, the presence or absence of utilities, street and sidewalk improvements, floor plan, room count, physical condition observations, functional condition observations, and any descriptive information necessary to develop a replacement cost new utilizing the prescribed cost manuals.

001.12 Comparative Data shall mean data which is used to compare unit values of like or competing properties such as: replacement cost estimates; local or historic costs; sales information; and rental and expense data.

001.13 Cost Approach is the approach to value which is based upon the principle of substitution that the informed purchaser would pay no more than the cost of producing a substitute property with the same utility as the subject property.

001.14 Depreciation shall mean the loss of value from deterioration and/or obsolescence. Deterioration, or physical depreciation, is evidenced by wear and tear, decay, dry rot, cracks, encrustations, or structural defects. Obsolescence is divisible into two parts: functional obsolescence may be due to poor interior design, mechanical inadequacy or overadequacy, and inadequacy or overadequacy due to size, design, etc., and is evidenced by conditions within the property; and locational obsolescence is caused by changes external to the property, such as neighborhood changes, environmental or use changes, legislation, etc.

001.15 Income Approach shall mean the approach to value which converts anticipated benefits (dollar income or amenities) to be derived from the ownership of property into a value estimate. Anticipated future income and/or reversions are discounted to a present worth figure through the capitalization process.

001.16 Sales Comparison (Market) Approach shall mean a process of analyzing sales of similar recently sold properties in order to derive an indication of the most probable sales price of the property being appraised. Market approach, market data approach, and direct sales comparison approach are synonymous terms.

001.17 Market is a set of arrangements for bringing buyers and sellers together through the price mechanism. The real estate market reflects attitudes and opinions in the minds of buyers and sellers and their actions in the market create market data.

001.18 Market Area is that geographic area or other area with defined characteristics within which similar properties are effectively competitive in the minds of buyers and sellers with other comparable property in the area.

001.19 Market Analysis is a study of general real estate market conditions that affect the competitive supply, demand, and prices for particular types of facilities or properties.

001.20 Narrative Appraisal Report shall mean a formal written document which explains and defines the results of the comparative data and which contains but is not limited to: the date of the appraisal; the certification and signature of the appraiser; the purpose of the appraisal; the qualifying conditions; information which defines the various

neighborhoods, towns, or property groups which will be considered during the appraisal process; condensation of market and income data; analysis, interpretation, and explanation of conclusions drawn from the data; explanation of the processing of the data through any of the three approaches to value used; and, any maps, plans, charts, or other data which was used to support the appraisal. In mass appraisal, a written summary report should clearly communicate the elements, results, opinions and value conclusions of the appraisal.

001.21 Referee shall mean an impartial professional appraiser or similarly qualified individual who conducts protest hearings as the representative of and under the instructions of the county board of equalization.

001.22 Appraisal or assessed value adjustment shall mean an action taken by the assessor, Tax Equalization and Review Commission or other lawful body that changes the valuation of a class or subclass of property by a percentage, and is based primarily on the analysis of an assessment sales ratio study. This contrasts to an appraisal update which is a change or model calibration based on appraisal process and rooted in the analysis of the market.

001.23 Record review is typically an office/clerical function to systematically determine if all parts of each record are complete and accurate, or to post new data to the record.

001.24 Questionnaires are review mechanisms that are mailed or distributed to targeted property owners and are typically used for the verification of sales, the discovery or verification of rental data or to update listing detail.

001.25 Telephone interviews are essentially used for the same purpose as questionnaires but are accomplished by interviewing the owner or knowledgeable third party to the property using the telephone.

001.26 Office review is any review that is conducted in the office and requires no field work. Included are record reviews, questionnaires and telephone interviews.

001.27 Field review is any inspection and review that is conducted outside the office and occurs at or on the location of the property. Included are off-site inspections and reviews, on-site inspections and reviews, interior inspections, and sometimes listing and measuring.

001.28 Off-site inspection and review, also known as a drive by review is conducted to inspect, review and verify the listing of all of the general property characteristics that are visible without ingressing the property.

001.29 On-site inspection and review covers the same purpose as the off-site inspection and review, but includes ingress to the property, a closer inspection and typically requires the permission of the owner and involves an interview.

001.30 Interior inspection includes all of the detail of the on-site inspection and review but adds the process of entering the buildings to inspect the interior details and condition of the interior components.

001.31 Measuring is an on-site data gathering process that involves the act of taking the actual measurement of the perimeter of all buildings on a parcel. This may be done in addition to either an on-site inspection or an interior inspection. It adds the element of gathering or confirming the dimensional details of the buildings on a parcel to either of the mentioned review processes.

001.32 Listing is an on-site data gathering process that involves any technique necessary to gather all of the specific data necessary for the appraisal of each individual parcel. This process may incorporate the interior inspection process or the measuring process, but may also be a verification of the captive data presently in the record file.

001.33 Inspect means to look at carefully or to examine critically.

001.34 Inspection is the active process of inspecting or looking at, or examining critically. For the purpose of this regulation, it shall mean that the property is actually viewed by the person inspecting the property.

001.34A Exceptions may be made if there are other technological tools that will provide superior information using a comparative method of discovering changes to the property. Examples may be:

001.34A(1) Current aerial photos depicting land use of each agricultural parcel;

001.34A(2) Current land use maps maintained by the FSA that are certified by the owner or operator of each agricultural parcel; and

001.34A(3) Current (less than 2 years old), high resolution aerial photos of buildings on agricultural parcels, taken to discover changes by comparing them to prior similarly taken photos.

001.34B In each case, the county assessor must be able to make a side by side comparison to a photo or map section of the same parcel taken at an earlier time. This process may be used to discover changes if the assessor determines that this is the most efficient process to do so. Any changes to farm buildings that are discovered in this manner must be inspected on-site as a follow up of the discovery process. Residential improvements on agricultural parcels must be inspected in the same manner as residential improvements on residential or recreational parcels.

001.34C The inspection process shall take place within view of the property being inspected. The inspector shall conduct an off-site, an on-site or an interior inspection. The degree of the inspection shall be generally determined first by the assessor and described in the plan of assessment, and second by the findings of the inspector during the course of the inspection. The assessor shall annually determine the classes or subclasses to be inspected, and the minimum method of inspection and the inspector shall determine if more intensive inspection is necessary to gather the required improvement information based on observations made at the location of the parcel.

001.34D Systematic inspection and review is the orderly, methodical and planned process of inspecting and reviewing all parcels within a defined classification structure. The process shall include all classes and subclasses of taxable real property in the county and shall be conducted in such a way that orderly progress is made each year of the inspection and review cycle, so that the process is evenly distributed throughout the defined cycle.

(Neb. Rev. Stat. Sections 77-112, R.R.S. 2003 and Neb. Rev. Stat. Sections 77-702, 77-1301.01 and 77-1311-03, R.S. Supp., 2007.)

REG-50-002 THE APPRAISAL PROCESS

The appraisal process shall contain, but not be limited to, the following steps:

002.01 Definition of the problem: The assessor shall, through the use of assessment/sales ratios, coefficients of dispersion, price related differential, confidence intervals, as well as on-going cost analysis, income analysis, and market analysis, conduct and document an annual review of the quality of the appraisal of all classes and subclasses of land and improvements within their jurisdiction.

002.01A. As a result of this study, the assessor shall determine the appraisal needs of the county for the following year and so inform the county board and the Department of Revenue, Property Assessment Division, using the Three (3) Year Plan of Assessment.

002.01B Additionally, the assessor shall initiate a process whereby each parcel of real property is inspected and reviewed within a six (6) year cycle. The purpose of the inspection and review process is to insure that the county assessment records are kept current and to assure that all changes to improvements, unreported improvements or changes in land use are systematically discovered and assessed. The inspection process shall be done in such a manner that logical classes are examined together. When a class or subclass has

been inspected, the values of all of the parcels in that class may be updated, adjusted or completely reappraised. In the intervening years the remaining classes and subclasses that are not subject to inspection, shall be analyzed and if necessary, adjusted based on market analysis and indicators of the level of value, if there is sufficient data within the market to justify and adjustment, and if measurable change took place among the classes or subclasses that were subject to inspection and review.

002.01C The ongoing appraisal process described in 002.01A and the systematic inspection and review process described in 002.01B shall be conducted in such a way as to accomplish both objectives. The ongoing requirement of reappraisal is now joined with the requirement to systematically inspect and review property.

002.02 Preliminary Survey and Planning: The assessor shall identify and document all of the resources necessary for the completion of the appraisal project, which include but are not limited to: development of appraisal specifications, obtaining the necessary materials, and hiring, training, or contracting for any personnel necessary to accomplish the needed appraisal. Time requirements, training, and budget requirements must all be defined and scheduled. If contractual arrangements are necessary, the contract must comply with REG-50-004, Requirement for Appraisal Contracts.

002.03 Data Collection and Analysis:

002.03A Data Collection is a process by which data relevant to the appraisal is accumulated; the following paragraphs illustrate acceptable methods of data collection:

002.03A(1) Interview, or questionnaires may be used to gather data about replacement cost, age of the property, sale price, circumstances and financing of sold properties, and income or expense data for properties which are rented.

002.03A(2) Field visit and inspection of the actual property amenities shall be the primary method used to obtain, update, and confirm specific data.

002.03A(3) Existing property record files shall be used only to gather general data. Every property appraised or reviewed shall be visited and specific data gathered shall be accurate, current, and relevant at the date of the appraisal.

002.03A(4) Research of public records, utility records, and government publications shall be used only to gather general data.

002.03B Data Analysis is a process which organizes, develops, and displays the data in such a manner that the three (3) approaches to value are supported, illustrated and defended. This analysis shall be done in such a manner that it may be presented in a narrative report explaining the details of the appraisal project.

002.03B(1) The analysis of the sales comparison approach shall include, but is not limited to: the development and substantiation of market based values expressed in appropriate units of comparison; the development and substantiation of any market adjustments to be used; the development and substantiation of gross rent multipliers which are extracted from and used for market comparison purposes; and development and substantiation of benchmark properties for comparison purposes, if insufficient numbers of direct sales occurred.

002.03B(2) The analysis of the cost approach shall include, but not be limited to: the proper use of the prescribed cost manuals; the application of proper update factors, examination of and comparison to available historical costs; and the development and substantiation of the various forms of depreciation which can be shown to exist through a study of the local market.

002.03B(3) The analysis of the income approach shall include, but is not limited to: development and substantiation of the levels of economic rent, vacancy and collection losses, and typical expenses; and any discount, tax or recapture rate to be used in an income approach to value.

002.04 Application of the data: This process shall include a processing phase, a review phase, and preliminary valuation phase for each parcel approved. The processing phase consists of displaying all of the relevant data in an organized fashion for each individual parcel on appropriate worksheets and record files. The review phase consists of examining each parcel and the data relevant to that parcel, either in the office or at the site of the property, to prepare to make an estimate of value. The preliminary valuation is prepared for each individual parcel, using all of the applicable approaches to value, and calculated on the worksheets.

002.04A Land Valuation: Land shall be valued as though vacant and available for development to its highest and best use. The land valuation shall be conducted in the manner described in the sales comparison (market) approach. When insufficient market data is available, an income approach such as a land residual technique shall be conducted to supplement the data supporting value conclusions.

002.04B The application of sales comparison approach shall include, but is not limited to, the comparison and valuation on a unit basis of comparison of the properties which have not sold but are otherwise physically, functionally, and economically similar. Any necessary adjustments to that base value must be made for dissimilarities. It shall include an on-site review to assure that all variables and adjustments have been properly considered and that equalization among similar properties has been accomplished within the direct sales comparison approach. The final step is the calculation of a value indicated by the application of the direct sales comparison approach.

002.04C The application of the cost approach shall include, but is not limited to, the development of a replacement cost new utilizing the prescribed manuals, and the mathematical application of all applicable forms of depreciation developed in the data analysis portion of the appraisal. It shall include an on-site review to assure that all variables have been properly considered and that equalization with similar properties has been accomplished within the cost approach. The final step is the calculation of a value indicated by the application of the cost approach.

002.04D The application of the income approach shall include, but is not limited to, making a comparison of properties or portions of properties with known rental levels, expenses, and lease terms, to properties which are physically, functionally, and economically similar but are not presently rented or at economic rent. An estimate of economic rent is made, using appropriate rates, multipliers, and adjustments, which were developed in the data analysis portion of the appraisal. It shall include an on-site review to assure that all variables and adjustments have been properly considered and that equalization with similar properties has been accomplished within the income approach. The final step is the calculation of a value indicated by the application of the income approach.

002.05 In correlation and reconciliation of final values the assessor or appraiser shall examine the preliminary value made in each of three (3) approaches to value, for every individual parcel, and shall select the most logical, best supported, and most defendable indication of value based upon the following:

002.05A The amount and reliability of the data collected in each approach to value.

002.05B The inherent strengths and weaknesses of each approach to value.

002.05C The relevancy of each approach to the subject of the appraisal.

002.05D The ultimate selection of a predominant approach for use in a mass appraisal should be discussed and defended in the narrative appraisal report and any deviations from the predominant narrative conclusions should be noted and briefly discussed on an individual basis.

002.06 Final Value Estimate: The assessor or appraiser shall calculate and present a final value estimate at the end of the correlation and reconciliation process. The final value estimate indicates land value, improvement value, and the total value. When making the final value estimate, care must be taken to assure that all of the criteria required in Neb. Rev. Stat. Section 77-112 have been considered and that the appraised value has been equalized when compared to similar properties.

002.07 The narrative appraisal report: The assessor or appraiser shall prepare a narrative appraisal report as a part of the appraisal process. This report shall include but not be limited to the information contained in REG-50-001. The property record card shall be part of the summary report for the individual property.

002.08 The appraisal process set forth in REG-50-002 and the assessment requirements set forth in REG-50-003 must be adhered to regardless of the source of the appraisal. The assessor is responsible for the implementation of these regulations regardless of the source of the appraisal service; whether the appraiser is the assessor, a member of the assessor's staff, a contracted or shared employee, or an independent contractor, the requirement is the same.

(Neb. Rev. Stat. Sections 77-702, 77-1301.01, 77-1311 and 77-1311.03, R.S. Supp., 2007.)

REG-50-003 APPRAISAL REQUIREMENTS

003.01 Each county shall regularly conduct appraisals of all or defined parts of the taxable real property within the jurisdiction of the county for the purpose of achieving uniform and proportionate valuations and assuring that the property record data accurately reflects the property. On or before March 19 of each year, each county assessor shall conduct a systematic inspection and review by class or subclass of a portion of the taxable real property parcels in the county for the purpose of achieving uniform and proportionate valuations and assuring that the real property record data accurately reflects the property. The county assessor shall adjust the value of all other taxable real property parcels by class or subclass in the county so that the value of all real property is uniform and proportionate. The county assessor shall determine the portion to be inspected and reviewed each year to assure that all parcels of real property in the county have been inspected and reviewed no less frequently than every six years.

003.02 Appraisal specifications shall be prepared by the assessor prior to the beginning of each assessment cycle. The specifications shall state the scope of the proposed appraisal project, the assessment sales ratio, price related differential, coefficient of dispersion and any other useful statistical measures to report the condition of the existing appraisal of each property type or types to be appraised. The specifications shall set forth a range of acceptable statistics to be reported at the completion of the appraisal project. The specifications shall be prepared in such a manner to describe the appraisal requirements in terms of the appraisal process set forth in this regulation. The specifications shall be presented to any potential appraisal contractor prior to bidding on an appraisal contract.

003.03 A narrative appraisal report shall be required for any project involving mass appraisal, appraisal update, or appraisal maintenance as required by any county. The report shall meet the qualifications set out in REG-50-001.20 and shall document that every effort has been made by the assessor to accomplish equalization.

003.04 It shall be the responsibility of the assessor to inform the Department of Revenue, Property Assessment Division of any intention by the county to appraise real property. A copy of the appraisal specifications, as well as an outline of the proposed project, shall be provided to the Department of Revenue, Property Assessment Division in the Three (3) Year Plan of Assessment.

003.05 Appraisal of real property in any county shall be in compliance with law and regulations of the Tax Commissioner and reflect the following:

003.05A A complete and thorough on-site inspection shall be made of each parcel and all improvements. Descriptive information shall be recorded in a property record file.

003.05B All land and improvements subject to the appraisal shall be valued at actual value.

003.05C No appraisal shall rely in any manner on the value established for a previous tax year.

003.05D A fixed percentage or weighting of the three (3) standard approaches to value shall not be used to establish actual value.

003.05E The actual value determined by the appraisal shall be as of the date of assessment as required by law.

003.05F The assessor shall have the skill or shall employ the staff who have the skill, or shall contract with an appraiser, consultant or appraisal firm having the skill to understand and fully implement all provisions of the appraisal regulation and subsequent directives.

003.05G Rural improvements shall be valued in the same manner as urban improvements. They shall be identified and valuation methods shall be discussed in the narrative appraisal report.

003.05H Improvements on leased land are real property and shall be appraised using the same methods as like improvements on other real property.

003.05I A property record file shall be made for each parcel pursuant to REG-10-004.

003.06 An appraisal update of real property in any county shall be in compliance with the law and regulations of the Tax Commissioner and reflect the following:

003.06A All land and improvements under appraisal update shall be valued at actual value.

003.06B A fixed percentage of weighting of the three (3)standard approaches to value shall not be used to establish actual value.

003.06C The actual value determined by the update shall be as of the date of assessment as required by law.

003.06D An update shall not be used to arrive at actual value if the general or specific data derived from the last appraisal of a defined class or subclass of property is outdated, contains inaccurate data of any kind, or is based on incorrect appraisal techniques. In such case, an appraisal of the defined class or subclass shall be undertaken to arrive at actual value, rather than an update.

003.07 Valuations resulting from an appraisal maintenance project, also known as pick up work, shall be equalized with comparable properties pursuant to the appraisal or appraisal update last performed in the county.

003.08 Informal Hearings. The assessor or appraiser may prior to March 19 of the year the appraisal is implemented, conduct informal hearings to solicit from the property owner or lessee that is responsible for paying the property taxes pursuant to Neb. Rev. Stat. Section 77-202.11, any undiscovered data which is relevant to the valuation of the individual property being appraised or to the appraisal in general. To facilitate the informal hearing process, an assessor may choose to employ a referee or referees to act in behalf of the assessor and/or appraiser in fulfilling the requirements of this regulation.

003.08A If informal hearings are utilized, the property owner or lessee that is responsible for paying the property taxes pursuant to Neb. Rev. Stat. Section 77-202.11 shall be sent a notice reporting the estimate of final value.

003.08B The assessor or appraiser shall hear the informal valuation protests, collect additional data provided and defend or adjust or recommend adjustments to the proposed valuations.

003.08C The assessor or appraiser shall analyze the impact of any adjustments that are recommended as a result of the informal hearings and extend the adjustments to similar properties throughout the jurisdiction of the appraisal to assure that equalization is attained. A supplemental narrative report amending the original narrative appraisal report for the project shall be prepared and added to the report. The supplemental report (a restricted report) shall describe the changes made due to the hearings and further describe general changes made to assure that equalization was maintained.

003.09 The assessor shall be available to the county board of equalization to defend the appraisal and assist the board in the orderly conduct of the formal hearings.

003.10 The appraiser shall be available to the county board of equalization, at their request, to defend the appraisal and provide clarification and expert advice.

(Neb. Rev. Stat. Sections 77-202.11, 77-702, 77-1301.01 and 77-1311.03, R.S. Supp., 2007.)

REG-50-004 REQUIREMENTS FOR APPRAISAL CONTRACTS

004.01 Preference shall be given to individuals or appraisal firms with personnel having the knowledge, experience and ability to competently complete appraisals for ad valorem tax purposes when awarding any appraisal contract.

004.02 An appraisal firm desiring to contract for appraisal services with any county in this state shall meet the qualifications required by this regulation.

004.03 All proposals by appraisal firms for appraisal contracts shall be submitted in writing to the county board. If the appraisal firm will be providing services that are alternative in nature to the county's specifications, the firm shall specifically state to which terms they are providing alternative services.

004.04 The appraisal firm shall be an equal opportunity employer.

004.05 The appraisal firm, or its duly authorized representative, shall certify in writing to the county board that they have read and understood, and are able and willing to comply with all of the requirements of the appraisal regulations prior to submitting any bid proposal for any appraisal.

004.06 The appraisal firm shall include the resumes of the employee or employees supervising the project. The proposal shall show and the resume confirm that:

004.06A The full time and exclusive control of the project shall be under the jurisdiction of a supervisor who shall have not less than five years of practical appraisal experience involving extensive appraisals of the types of property to be appraised. The supervisor shall also be a member in good standing of a recognized professional appraisal organization which requires educational standards, passage of a comprehensive examination and a demonstration of ability to perform an appraisal as qualifications for membership, or, in lieu of these designations, comparable education and practical appraisal experience to enable him or her to perform at that level of competence.

004.06B All work involving the exercise of appraisal judgement shall be performed by appraisers who are experienced in the particular type of appraisal being conducted.

004.07 All appraisal contracts, either for an appraisal or an appraisal update, shall be submitted to the Tax Commissioner for approval. Until approved, the contract is not binding on either party. A copy of the final appraisal specifications and signed appraisal contract shall be on file with the Tax Commissioner.

004.08 The contract shall contain:

004.08A A provision requiring proof of bondability of the appraiser or appraisal firm. The county board may require a performance bond in favor of the county in an amount determined by the county board. The performance bond shall be approved by the county attorney.

004.08B A provision specifying a completion date. This date shall not be more than twenty-four (24) months after the date of execution of the contract. A provision shall be included for liquidated damages for each day of noncompletion at a rate to be determined by the contracting parties and shall be incorporated as part of the contract.

004.08C A provision whereby the appraisal firm assumes liability connected with performance of its contract. The amount of the general liability insurance shall be set by the county with minimum amounts of fifty thousand ($50,000.00) dollars each person, one hundred thousand ($100,000.00) dollars each accident for bodily injury, and twenty-five thousand ($25,000.00) dollars each property damage accident. The insurer shall be identified.

004.08D A provision whereby the appraisal firm agrees to comply with all state and federal statutes and regulations related to taxation, workmen's compensation insurance, and unemployment insurance.

004.08E A provision whereby the appraisal firm shall not be liable for damages by reason of strike, explosion, war, fire, act of God, or any act or failure to act by officials of the county or state which might delay or stop progress of the work. Provisions shall be made for the renegotiation of the completion date on the happening of any of the above contingencies.

004.08F A provision whereby the appraisal firm shall not assign or transfer its contract nor any interest therein without first obtaining written approval from the county and the Tax Commissioner.

004.08G A provision whereby no change in the contract will be permitted except by written agreement of the appraisal firm, the county, and the Tax commissioner.

004.08H A provision whereby the contracting parties determines who shall furnish office space and furniture.

004.08I A provision whereby it is specifically identified that all manuals and guides prescribed by the Tax Commissioner shall be followed by the appraisal firm.

004.08J A provision whereby the appraisal firm shall be required to issue proposed valuation changes and be available to hold informal meetings with property owners or lessees that are responsible for paying the property taxes pursuant to Neb. Rev. Stat. Section 77-202.11, regarding the proposed valuations.

004.08K A provision whereby the responsibility of issuing the formal notice of valuation change for an appraisal or update shall be defined.

004.09 Appraisal specifications shall be required prior to undertaking or contracting for an appraisal or appraisal update project of all real property, by an entire class or subclass, in any county.

004.10 The appraisal firm shall defend its resulting values if protests are filed with the county board of equalization or appeals are filed with the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat., Section 77-5013.

004.11 The appraisal firm shall supply as many copies of the narrative appraisal report to the county as may be agreed upon, which, together with all appraisal files, records, maps, or other data used in the appraisal shall be and remain the property of the county.

(Neb. Rev. Stat. Section, 77-1502.01, R.R.S. 2003, Neb. Rev. Stat. Sections 77-1502, 77-1504.01 and 77-5013, R.S. Supp., 2006 and Neb. Rev. Stat. Sections 77-202.11, 77-702, 77-1301.01, 77-1311, 77-1311.03 and 77-1504, R.S. Supp., 2007.)

NEBRASKA ADMINISTRATIVE CODE

Title 350 - Nebraska Department of Revenue, Property Assessment Division
Chapter 51 – Assessment Process for Affordable Housing Projects Regulations
Effective Date 3/15/09

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Title 350 Department of Revenue, Property Assessment Division
Chapter 51 Assessment Process for Affordable Housing Projects

REGULATION 51-001 PURPOSE

001.01 The purpose of this regulation is to provide a guide to appraisers and assessors in Nebraska in the appraisal of multi-family and/or single family housing for which some, or all, of the units are subject to income and/or rent restrictions imposed by federal/state/local programs (affordable housing), including those that are subject to the restrictions imposed by the federal Internal Revenue Code (IRC) Section 42 Low Income Housing Tax Credits (hereinafter referred to as LIHTC) and IRC Section 142 relating to tax-exempt financing for qualified rental housing projects. The discussion will include issues regarding the three accepted methods for mass appraisal in varying detail. The intended users are the Property Tax Administrator and the Department of Revenue, and County Assessors and their appraisers.

001.02 The value to be determined in the appraisal of the multi-family and/or single family housing is the actual or market value of the property as set forth in Neb. Rev. Stat. Section 77-112 R.R.S. 2003, recognizing that the actual or market value is influenced by the income and/or rent restrictions (or other restrictions) imposed by the federal/state/local programs (affordable housing).

(Neb. Rev. Stat. Section 77-112, R.R.S., 2003, and Neb. Rev. Stat. sections 77-1301.01 and 77-1330, R.S. Supp., 2007.)

REG-51-002 DEFINITIONS

002.01 For this regulation the following definitions apply:

002.01A IRC Section 42 Low Income Housing Tax Credit (LIHTC) program, created by the Tax Reform Act of 1986, is a program created to encourage investment of private capital in the development of rental housing for low-income tenants by providing a credit to offset an investor's federal income tax liability. The amount of the credit is directly related to the amount of qualified development costs incurred and the number of low-income units developed that meet the applicable federal requirements for both tenant income and rents.

002.01A(1) The allocation of tax credits in Nebraska is administered through the Nebraska Investment Finance Authority.

002.01A(2) The income tax credit is available only to the owner of real property developed in compliance with provisions of this Section 42 of Internal Revenue Code.

002.01A(3) Typically the developer must irrevocably elect to designate twenty percent (20%) or more of the housing units available to rent to occupants with incomes at fifty percent (50%) or less of the area median income (20/50 test), or;

002.01A(4) To designate forty percent (40%) or more of the housing units available to rent to occupants with incomes at sixty percent (60%) or less of the area median income (40/60 test).

002.01A(5) It is common in Nebraska for all available units in an affordable housing project to be designated for the targeted income levels.

002.01A(6) Rent for a unit is restricted to a maximum of 30 percent (30%) of the applicable income limit or targeted rent level (less an allowance for utilities).

002.01A(7) The rent restriction and use requirements shall be maintained for fifteen years; failure to do so will result in a recapture of a portion of the tax credit claimed. The restriction must remain in place at least 15 more years (a total of thirty years).

002.01B Section 515 of the Rural Rental Housing Program is administered by the United States Department of Agriculture.

002.01C Community Empowerment Resource Funds (CERF).

002.01D Tax Exempt Bond financing Program for Multi-Family Projects under Sections 103 and 142(d) of the Internal Revenue Code providing for tax exemption of interest on bonds issued to finance the construction or acquisition and rehabilitation of multifamily rental housing for low to moderate-income persons.

002.01D(1) The Nebraska Investment Finance Authority is the agency entrusted with compliance monitoring in the state of Nebraska.

002.01E Contract (actual) rent is the rent received.

002.01F Economic rent or market rent is the rent received for the use of property and is subject to the economic principle of supply and demand based on the size, condition, and desirability of the property. Market rent is typically used in the income approach to valuation of property as an indicator of 'future' benefits to ownership of real property.

002.01G Fair Market Rent (FMR) is the maximum rent allowed to be collected on housing units subject to federal subsidy payments. They are published annually by the Department of Housing and Urban Development (HUD). These rents are based on the median incomes by county or standard metropolitan statistical reporting area. Household income is based on a family of four and the rents represent the maximum allowed for a three-bedroom unit. Adjustments are made for variations from the base family size or bedrooms in a unit and are set for studio apartments through five bedrooms. Generally, Nebraska has FMRs calculated for the Lincoln area, the Omaha area, the South Sioux City area, and for each of the remaining counties.

002.01H Maximum Restricted Rent is the maximum rent allowed to be collected on housing units subject to the applicable restrictions. These rents are generally based on income limits determined by reference to the median incomes published annually by the Department of Housing and Urban Development (HUD) for the county or standard metropolitan statistical reporting area. The median incomes are based on a family of four. The Maximum Restricted Rent for an individual project must be calculated with reference to the specific income limits or targeted rent levels established for the project. For projects from 1990 or later, the standard formula for determining the rent limit is based on the 1.5 person income limit, divided by 12 and then multiplied by 30%. This Maximum Restricted Rent includes all utilities that can be charged for the project. The 1.5 person income limit refers to the number of persons in the unit. Under the applicable programs, the calculations are based on a determination of 1.5 persons per bedroom unit.

(Neb. Rev. Stat. Section 77-1330, R.S. Supp., 2007.)

REG-51-003 PRELIMINARY SURVEY AND PLANNING

003.01 In planning for the appraisal of these properties, it is essential that the assessor/appraiser seek the information necessary to do the appraisal assignment in a competent manner. As competency is always an issue in the appraisal process, the assessor/appraiser should seek out the information and assistance that is necessary to arrive at a fair, impartial, and equitable estimate of value for taxable real property throughout the county. The services of competent contract appraisers may be used to complete the appraisal assignment, but the assessor is responsible for the valuation determined and for maintaining the value into future years. If the services of a contract appraiser are used, the assessor should work closely with the appraiser to understand the assumptions and conclusions made in arriving at the opinion of value.

003.01A Summaries of property types in the various counties indicate that multi-family residential property exists in most counties representing various proportions of the tax base or number of taxable parcels. Depending on the number and size of the properties located in the county, planning for the collection of data should be undertaken to assure the economic use of the resources available to the county assessor's office. The assessor may wish to review existing information to determine the extent or necessity of collecting the specific and comparative data either as an on-site inspection, a written survey or questionnaire, or a telephone interview to be completed with the property owner or site manager for the property.

(Neb. Rev. Stat. Sections 77-1301.01, 77-1311 and 77-1330, R.S. Supp., 2007.)

REG-51-004 DATA COLLECTION AND ANALYSIS

004.01 General data regarding multi-family and/or single-family residential property should include those factors within the county, community, or neighborhood that affect value such as neighborhood characteristics, trends in the supply and demand for this type of property, and a general opinion of whether these factors and trends will be increasing, remaining static, or declining in consideration of the national, regional, and local economies.

004.02 Specific data needed for the appraisal includes information regarding the size, shape, topography, and legal zoning of the site. Off-site improvements that contribute to the value and desirability of the site such as paving, sidewalks, public transit, and availability of public utilities such as electrical power, public water and sewer systems, and natural gas. The availability of these elements in relationship to the zoning and size of the site are instrumental in determining the highest and best use of the site and whether the site as improved is appropriate to the highest and best use determined.

004.03 The comparative data necessary to the appraisal include the size of structure including common areas, number of rental units in the structure, the rentable portion of the structure expressed either as an overall square footage or some other unit of comparison such as number of rooms or number of bedrooms per unit. This data is important for the cost approach, the income approach, and the sales comparison approach to value. The more data collected and analyzed the more comfortable the appraiser should be in applying the information in estimating the value of the property.

004.04 The LIHTC provides a dollar-for-dollar reduction in the federal tax liability for the construction of affordable housing that meets program requirements. Most often, the owner of the affordable housing transfers the credits to limited partner investors in the ownership entity. The owner of the affordable housing then uses this equity contribution to assist in the financing of the affordable housing. Depending on the specifics of the property, housing credits can generate 50 to 60 percent or more of the cost of development. These projects boost the local economy by creating jobs; making housing affordable to the targeted residents who pay a percentage of their household income as rent; and creating an incentive for investors to invest in affordable housing. The LIHTC is a tax credit, not a direct appropriation. The effectiveness of the program may be threatened if administrative policy changes the tax status of corporate dividends. Project participation is based on reserving at least 20 percent of the units for tenants with incomes at 60 percent or less of the area median income; however, it is not uncommon for projects in Nebraska to reserve 100 percent of the units for low and very-low income tenants. The amount of the credits for a specific project may be affected when financing is supplemented by other affordable housing programs particularly those with special mortgage rate considerations. Section 8 housing (voucher) programs do not effect the tax credits as long as the tenant is not charged more than the contract rent based on percentage of household income. In some instances this may result in a unit's gross rent above the fair market rent (FMR) targeted by HUD.

004.05 The IRC Section 142 provisions provide that interest on obligations issued by states and local governments will be exempt from federal income taxation if the proceeds of those obligations are used to finance qualified rental housing. Such housing, while not subject to rent restrictions, is similarly subject to the tenant income restrictions imposed upon LIHTC affordable housing developments.

004.06 When collecting data, three "rents" may be collected and analyzed, as follows;

004.06A The economic rent may be determined for the county, community, or neighborhood and should be expressed in terms of units of comparison, such as rent per unit, rent per square foot, or rent per bedroom. This may accommodate the estimation of the economic rent for the subject properties in the income approach to valuation and,

004.06B The Maximum Restricted Rent for the project may be analyzed. The Maximum Restricted Rent is calculated based on the applicable income limits or targeted rent levels for the project and must be calculated in accordance with the rules issued by NIFA. Since this calculation is based on income limits or targeted rent levels and not the market's supply and demand for this type of housing, the Maximum Restricted Rent may or may not reflect the economic rent for the area, and;

004.06C The actual or contract rent collected may be analyzed and compared to the other two rents. This rent is not calculated based on a percentage of a tenant's actual income and the actual rent collected may or may not equal the Maximum Restricted Rent for the project. The actual or contract rent will never exceed the Maximum Restricted Rent.

004.07 Occupancy (vacancy) rates for multi-family developments in the area may be noted as this will affect the estimate of potential gross income attributable to the property being appraised. Likewise the allowable expense information may be collected so that an appropriate estimate of allowable expenses may be made in estimating the net income attributable to the property in the income approach. A comparison and contrast of the occupancy rates and allowable expenses may be made to determine if the affordable housing properties reflect trends atypical in the area. If there are substantial differences in the occupancy rates this will affect the estimate of potential gross income if there are both market-rent units and LIHTC units. One situation to be aware of is the restriction on renting the market units before the LIHTC units have been occupied.

004.08 The county assessor shall perform an income-approach calculation for all rent-restricted housing projects constructed to allow an allocation of low-income housing tax credits under section 42 of the Internal Revenue Code and approved by the Nebraska Investment Finance Authority when considering the assessed valuation to place on the property for each assessment year. The income-approach calculation shall be consistent with any rules and regulations adopted and promulgated by the Property Tax Administrator and shall comply with professionally accepted mass appraisal techniques. Any low-income housing tax credits authorized under section 42 of the Internal Revenue Code that were granted to owners of the project shall not be considered income for purposes of the calculation but may be considered in determining the capitalization rate to be used when capitalizing the income stream. The county assessor, in determining the actual value of any specific property, may consider other methods of determining value that are consistent with professionally accepted mass appraisal methods described in Neb. Rev. Stat. 77-112.

004.08A The owner of a rent-restricted housing project shall file a statement with the county assessor on or before October 1 of each year that details:

004.08A(1) Income and expense data for the prior year;

004.08A(2) A description of any land-use restrictions; and,

004.08A(3) Such other information as the county assessor may require.

(Neb. Rev. Stat. Section 77-112, R.R.S., 2003, and Neb. Rev. Stat. Sections 77-1301.01, 77-1311, 77-1330 and 77-1333, R.S. Supp., 2007.)

REG-51-005 APPLICATION OF THE DATA

005.01 When determining actual value, all factors, including uses and restrictions applicable to real property, that can, within reason, affect the price in negotiations between a willing buyer and a willing seller must be taken into account.

005.02 Cost approach

005.02A The Property Tax Administrator has prescribed the use of the Marshall Valuation Service including associated handbooks as published and updated by the Marshall and Swift Publishing Company in estimating replacement cost new in the cost approach to valuation. It is imperative to the assessment assignment that the assessor/appraiser understands the proper application of these manuals and makes every effort to implement the costing service in such a way as to accurately estimate the replacement cost of the structure(s) subject to the appraisal assignment. When possible, the assessor/appraiser should compare the manual cost estimates against known actual costs either from surveying the builders of similar buildings, or as reflected in the sales of recently constructed improvements, or as reflected in the legal building permits or information statements filed with the city or county. The specific data from each structure should be matched against the manual descriptions of the various styles and construction classes as they compare to the quality and quantity of materials so that the properties are consistently classified. The classification may be used to make the comparisons and adjustments necessary to all three approaches to value.

005.02B An appropriate amount of depreciation should be allowed against the estimate of replacement cost to reflect the physical condition of the structures as observed. The Marshall Valuation Service provides an age-life table in the depreciation section in order to assign an estimate of the physical wear and tear based on the construction class and quality of construction. Additionally the depreciation should reflect obsolescence due to functional disutility inherent in the property.

005.02C The cost approach may not, in every case, provide an accurate value of the affordable housing development. This is due, in part, to the state and federally imposed encumbrances on the affordable housing development such as qualifications on tenants, rents, and transfer of the property. This element of obsolescence which is more difficult to ascertain is the economic or locational obsolescence; that is, the negative effect on value that is inherent in the area not directly related to the physical condition or design of the improvements. The appraiser should be aware of the proper methodology to document the depreciation used in applying age/life tables, measuring functional obsolescence, and in determining the economic obsolescence which is generally reflected in the relationship of income levels associated with the property. The estimate of functional and economic obsolescence should be consistent with and supported by the assumptions and adjustments to the income approach to valuation. The appraiser must determine if there is economic obsolescence which relates to all multi-family and/or single family housing in the area and if there is a different economic obsolescence applicable to the affordable housing projects. Analysis should consider whether the economic obsolescence is a result of local supply and demand or whether it is related to the restrictions imposed by the land use restriction agreements which impose additional conditions on affordable housing developments. This estimate should be correlated and supported by the assumptions and indicated value resulting from a proper application of the income approach to valuation.

005.02C(1) The location of the affordable housing project, coupled with the restrictions on tenant incomes forces (or mandates) owner rents and may cause a greater disparity between affordable housing development's construction cost and its actual or market value. The fact that the development's cost may exceed market value is inherent in certain programs, particularly the LIHTC program. The actual use of affordable housing developments as rent and/or income restricted housing must be taken into consideration. These restrictions constitute a form of economic obsolescence. There are land use restriction agreements on the use of the property that may, in some cases, run for up to 50 years. The appraiser should consider whether the value of the property would be affected if it were sold on the open market.

005.03 Sales comparison approach

005.03A Recent sales of properties comparable to the subject property should be collected and analyzed. Generally, the sales comparison approach is the preferred approach to valuing properties when the value to be determined is actual value or market value as is the case for ad valorem tax purposes in Nebraska. This approach may best be used in the instance where residences are single-family, free-standing structures; however, in the case of affordable housing developments involving large multi-family

complexes and/or single family housing subject to the restrictions of the affordable housing program, the sales comparison approach may not be practical. The burdens on such developments and the restrictions imposed upon the sale of affordable housing properties result in few, if any, examples of comparison sales.

005.04 Income approach

005.04A The income approach (absent sufficient comparable sales) may be the best approach to assess the impact of the restrictions on affordable housing developments, thereby most closely resulting in the determination of actual value for the affordable housing development. The appropriate income approach for use in the appraisal of affordable housing developments is to determine the potential gross income attributable to the property using the lesser of market rent or the Maximum Restricted Rent for the type of property in the county, community, or neighborhood. Allowances for vacancies and collections relative to the type of property being appraised are deducted from the estimate of potential gross income. Typically, allowable expenses are deducted from the estimate of potential gross income to give an indication of the net operating income attributable to ownership of the property. Expenses peculiar to affordable housing should not be over-looked. In many cases, owners of such housing are required to keep detailed records in order to meet state and federal compliance reporting requirements. To the net income from the rental of the property is added net income from other operations. Typically the "other net income" includes income from laundry, vending machines, and rental of garages. This net operating income is capitalized or divided by a rate which reflects the returns to ownership of the type of property common to the area.

005.04B When valuing affordable housing, the direct capitalization method of the income approach is used. Using this approach, the estimated net operating income (NOI) of the affordable housing is divided by an overall capitalization rate to derive an indication of the value of the affordable residential rental property for the assessment year.

005.04C NOI is based on the productive and earning capacity of the affordable housing property utilizing

005.04C(1) Potential gross income reflecting rental income (using the lesser of market rent or Maximum Restricted Rent),

005.04C(2) A normal vacancy/collection allowance,

005.04C(3) Projected annual operating expenses associated with the affordable residential rental property, excluding non-cash items such as depreciation and amortization, but including those actual costs expected to be incurred and paid as required by federal, state or local regulations, provision, and restrictions as applicable to the assessment year, and

005.04C(4) An appropriate provision for replacement reserves.

005.04C(4)a If no separate line item is included for reserves for replacement in the historic income and expense data, then the maintenance and repair categories of the historic expense data should be itemized.

005.04D For properties that have attained a normalized operating history, the NOI results of the prior three years (as represented in the statement variously named as the Income and Loss Statement, the Profit and Loss Statement, the Income Statement, the Actual to Budget Comparison Statement, Balance Sheet, or some name variation of these) may be used to support the estimated NOI used for purposes of applying the direct capitalization method for the year of assessment, provided an appropriate replacement reserve is included in the NOI determination and provided any additional costs required as a result of federal, state, or local regulation or compliance changes for the assessment year are included as an operating expense in the NOI determination. In addition, the assessor may utilize the current year operating budget to develop a measure of NOI for the assessment year.

005.04E The income capitalization method should not be applied in a manner that unfairly ignores the market for similar properties in the area. Rental rates, productivity, and restrictions imposed upon the use of the real property must be considered to determine actual value.

005.04E(1) The capitalization rate is the theoretical risk rate of interest applied in calculating the present value of future returns.

005.04E(2) The capitalization rate to be used with the income approach is a market derived capitalization rate. A market derived capitalization rate takes into account the existence and the value of any low-income housing tax credits relating to the property. A market derived capitalization rate may be determined by the band of investment technique or other generally accepted techniques used to derive the capitalization rate depending upon the data available.

005.04E(3) Once a market derived capitalization rate has been determined, the property tax levy applicable to the property should be loaded onto the capitalization rate.

005.04F One of the following methods may be selected to estimate an income approach valuation for the property.

005.04F(1) Direct capitalization of net operating income utilizing a market derived capitalization rate (with the property tax levy applicable to the property loaded onto the capitalization rate).

(Neb. Rev. Stat. Section 77-112, R.R.S. 2003, and Neb. Rev. Stat. Sections 77-201, 77-1301.01, 77-1311, 77-1330 and 77-1333 R.S. Supp., 2007.)

REG-51-006 RECONCILIATION OF INDICATED VALUES

006.01 The indicated values from each of the approaches should be considered in relationship to the amount of information available to the appraiser, the reliability of that information, how well it is adapted to the appraisal assignment and in which approach the appraiser feels the most appropriate to the appraisal. If sales of comparable properties are lacking and there is little or no income information available, the appraiser may feel more confident in the cost approach. If there is sufficient sales information available, that approach may be the most reliable indication of value. If the appraiser is confident in the estimate of income and the required return to investors, perhaps the income approach is most appropriate. When properties generally sell in the open market in relationship to the income the property has the potential to provide in ownership, the income approach would be the most appropriate.

(Neb. Rev. Stat. Sections 77-102, 77-112, 77-115, 77-121, 77-126, 77-131 and 77-1371, R.R.S., 2003, and Neb. Rev. Stat. Sections 77-103, 77-201, 77-1301.01, 77-1311, 77-1330 and 77-1333, R.S. Supp., 2007.)

REG-51-007 FINAL VALUE ESTIMATE

007.01 The final value estimate is the value determined by the approach in which the appraiser has the most confidence. Typically the cost approach will provide the high end of the range of value and the income approach will produce the low end of the range. Most often the final value estimate will be within the range set by these two value indicators. The final value estimate is never a mathematically calculated averaging of the values arrived at through the three approaches and may not be exactly any of the individual indicated values. The final value estimate acknowledges the limitations on the use of the property agreed to for participation in the programs. This estimate should also be made recognizing the economic incentives for investing in affordable housing projects.

007.02 In determining the final value of the property for tax purposes the appraiser should consider the value most likely to represent the market value of the property yet equitable and proportionate in relationship to properties with similar physical characteristics serving the same function and use.

(Neb. Rev. Stat. Sections 77-102, 77-112, 77-115, 77-121, 77-126, 77-131, and 77-1371, R.R.S. 2003, and Neb. Rev. Stat. Sections 77-103, 77-201, 77-1301.01, 77-1311, 77-1330 and 77-1333, R.S. Supp., 2007.)

NEBRASKA ADMINISTRATIVE CODE

Title 350 - Nebraska Department of Revenue, Property Assessment Division
Chapter 52 - Documentary Stamp Tax Regulations
Effective Date 3/15/09

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Refund of Documentary Stamp Tax Paid	76-906 and 76-908, R.R.S. 2003	012

Title 350 – Nebraska Department of Revenue, Property Assessment Division
Chapter 52 – Documentary Stamp Tax Regulations

REG-52-001 NATURE OF THE DOCUMENTARY STAMP TAX

001.01 The documentary stamp tax is a tax upon the grantor for the privilege of transferring beneficial interest in or legal title to real property located in the state of Nebraska based upon the value of the real property transferred. The tax is due when a deed is offered for recording, unless it is exempt. Payment of this tax or exemption therefrom is evidenced by a stamp the register of deeds affixes to each deed prior to recording. The stamp shall not be subsequently removed from the deed.

(Sections 76-902 and 76-904 through 76-908, R.R.S. 2003, and section 76-901, R.S. Supp., 2005.)

REG-52-002 DEFINITIONS

002.01 Assessed value shall mean the value of the property as reflected in the records of the County Assessor as of the date the deed is offered for recording.

002.02 Current market value shall mean the cash value of the real property based upon a sale between a willing buyer and a willing seller in the ordinary course of trade.

002.03 Deed shall mean every instrument in writing by which any real property or interest therein is created, aliened, mortgaged or assigned, or by which the title to any real property may be affected in law or equity, except last wills and leases for one year or less in time.

002.04 Full actual consideration shall mean the price paid or to be paid for which the real property was sold, whether paid in money or by any other thing of value, valued in its equivalent in cash, including but not limited to liens or mortgages assumed, or to be assumed, satisfaction of debt and other property transferred or to be transferred as part of the selling price. Liens and mortgages, taken subject to are included. Full actual consideration shall be a reasonable approximation of the current market value of the real property. If significantly less than a reasonable approximation of current market value, the consideration shall be treated as nominal. The amount of consideration and whether there is full actual consideration is to be determined as of the date stated on the deed.

002.05 Gift shall mean a voluntary transfer of beneficial interest in or legal title to real property without full actual consideration.

002.06 Nominal consideration shall mean a consideration for the transfer of title to real property bearing no relation to the current market or actual value of the real property. In all circumstances, nominal consideration shall mean that consideration given for the transfer of title to real property which is less than 20 percent of the assessed value of the real property. If the property is agricultural or horticultural land, the assessed value shall be adjusted by a factor of 1.33. If the assessed value is agricultural or horticultural land which has been given special valuation, the special value shall be adjusted to actual value.

002.07 Real property shall mean:

002.07A All real estate and lands, which include city and village lots. In the most general sense, it encompasses the ground, soil, or earth.

002.07B All buildings, which include but are not limited to, buildings or structures designed for habitation, shelter, storage, trade, agriculture, manufacture, business, education, religion, and the like. Building shall mean a structure or edifice enclosing a space within its walls, and usually, but not necessarily, covered with a roof.

002.07C All fixtures except trade fixtures, which include any item of property that is:

002.07C(1) Annexed or physically attached to or incorporated into the real property;

002.07C(2) Applied or adapted to the use or purpose of the real property to which it is attached; and,

002.07C(3) Intended to be annexed to the real property. Intention shall be inferred from the nature and extent of the annexation and adaptation, unless the owner of the item or the owner of the real property provides documentation that the intention is otherwise.

002.07D All improvements, which include any addition made to real property amounting to more than mere repairs or replacements, such as structures or developments like sidewalks, streets, sewers, or utilities.

002.07E Mobile homes, cabin trailers, or similar property, which are used or intended to be used for residential, office, commercial, agricultural, or other similar purposes and which are connected to utilities, such as water, gas, electricity or sewer. The item need not be permanently attached to the real property on which it is located, but shall not be registered for highway use. This term shall not include mobile homes or cabin trailers that are unoccupied and held for sale by a person engaged in the business of selling such property, when such property is at the location of the business.

002.07F Mines, minerals, quarries, mineral springs and wells, oil and gas wells, overriding royalty interests, and production payments with respect to oil or gas leases. For more information, see Mineral Interests Regulations, Chapter 13.

002.07G All privileges pertaining to real property, including, but not limited to, the right to sell, lease, use, give away, or enter and the right to refuse to do any of these. All rights may or may not be vested in the owner or interest holder.

002.07H Improvements on leased land shall mean any item of real property, such as buildings, fixtures, improvements, mobile homes, or cabin trailers, which are located on leased land or leased public land.

002.08 Transfer shall mean any conveyance of beneficial interest in or legal title to real property evidenced by a deed.

002.09 Value shall mean:

002.09A In the case of any deed given for full actual consideration, value shall mean the amount of full actual consideration thereof, paid or to be paid. including the amount of any lien or liens assumed.

002.09B In the case of a deed given for nominal consideration, or without stated consideration, value shall mean the current market value of the real property being transferred, as of the date of the deed.

(Sections 76-902, and 76-904 through 76-908, R.R.S. 2003, and sections 76-901 and 76-903, R.S.Supp., 2005.)

REG-52-003 EXEMPTIONS

003.01 All deeds presented for recordation are presumed taxable unless it clearly appears on the face of the deed or sufficient documentary proof is presented to the register of deeds that the deed falls under an exemption

enumerated in this regulation. Since all deeds are presumed to be taxable, these exemptions should be strictly construed.

003.02 The following shall be exempt from documentary stamp tax:

003.02A Deeds executed and recorded prior to November 18, 1965.

003.02B Deeds transferring real property wherein the United States of America, the State of Nebraska, or any of their agencies, or political subdivisions is a grantor or grantee. Federally chartered savings and loans and banks are not agencies or political subdivisions of the United States of America, and are not exempt. Banks and savings and loan associations chartered by the state are not agencies or political subdivisions of the state, and are not exempt. Some federal and state instrumentalities may be exempt from the documentary stamp tax by virtue of their governing statutes. Proof of eligibility for exemption may be required by the register of deeds before an exemption shall be granted. The proof of eligibility shall be forwarded to the Department of Revenue by the register of deeds.

003.02C Deeds which secure or release a debt or other obligation such as a mortgage, deed of trust, lien, or contract. Deeds which indicate cancellation of a contract right upon default of a land contract merely secure or release the remaining contractual obligation and are exempt. Deeds which convey legal title upon delivery following satisfaction of a contract are transferring title and are taxable. Deeds given by a debtor to a lender in lieu of foreclosure procedures are entitled to this exemption if the existence of the debt appears on record or can otherwise be proven. A trustee's deed conveying real property back to the original grantor indicating payment of the underlying debt or compliance with the terms of the underlying security agreement is exempt. Contractor's deeds are entitled to this exemption.

003.02D Deeds which, without additional consideration, confirm, correct, modify, or supplement a deed previously recorded but which do not extend or limit existing title or interest. Deeds transferring property into a grantor's trust are entitled to this exemption. Deeds transferring property to or from owners as tenants in common from or to the same owners as joint tenants are not entitled to this exemption.

003.02E Deeds between husband and wife, or parent and child, including the child's spouse as a joint tenant or cotenant, without actual consideration therefore. Deeds between parent and son-in-law or daughter-in-law without the inclusion of the parents, son or daughter, as the case may be are not entitled to this exemption. Deeds between step-parent and step-children do not qualify for this exemption unless step-children are legally adopted.

003.02F Deeds to or from a family corporation, partnership, or limited liability company, when all shares of stock of the corporation or interest in the partnership or limited liability company are owned by members of a family, or a trust created for the benefit of a member of that family, related to one another within the fourth degree of kinship according to the rules of civil law, and their spouses for no consideration other than the issuance of stock of the corporation or interest in the partnership or limited liability company to such family members, or the return of the stock to the corporation in partial or complete liquidation of the corporation or deeds in dissolution of the interest in the partnership or limited liability company. In order to qualify for this exemption, the family corporation, partnership, or limited liability company, must transfer the title to the property in its own name and not in the name of individual shareholders, partners, or members.

003.02G Tax deeds.

003.02H Deeds of partition, meaning those deeds between joint tenants or tenants in common by which they divide real property so held among them in severalty each taking a distinct part. In order to qualify for this exemption, the joint tenants or tenants in common must each take a part of the jointly held real property. Exchanges of property between persons who do not hold all of the real property exchanged as joint tenants or tenants in common are not entitled to this exemption. The jointly held real property does not have to be part of a contiguous parcel in order to qualify for this exemption.

003.02I Deeds made pursuant to mergers, consolidations, sales, or transfers of the assets of corporations pursuant to plans of merger or consolidation filed with the office of the Secretary of State. A copy of such plan filed

with the Secretary of State shall be presented to the register of deeds before such exemption shall be granted. Such copies are to be maintained in the office of the register of deeds for a period of three years. Such copies are not required to be filed of record in the office of the register of deeds for purposes of this exemption. Partnerships do not qualify for this exemption. Deeds made pursuant to corporate reorganizations or restructuring do not qualify for this exemption.

003.02J Deeds made by a subsidiary corporation to its parent corporation for no consideration other than the cancellation or surrender of the subsidiary's stock. Partnerships do not qualify for this exemption.

003.02K Cemetery deeds, meaning those deeds for the sale of cemetery plots.

003.02L Mineral deeds. Timber deeds do not qualify for this exemption.

003.02M Deeds executed pursuant to court decrees including deeds executed in accordance with property settlement agreements approved by court decrees in dissolution of marriages. Deeds given in connection with proceedings under the United States Bankruptcy Code are entitled to this exemption. Any deed given involuntarily pursuant to a court decree is entitled to this exemption.

003.02N Land contracts or memoranda thereof.

003.02O Deeds releasing a reversionary interest, a condition subsequent or precedent, a restriction, a covenant, or any other contingent interest.

003.02P Deeds of distribution, meaning those deeds executed by the personal representative conveying to the devisees or heirs of the real property passing by testate or intestate succession.

003.02Q Deeds transferring real property located within the boundaries of a Nebraska Indian reservation when the grantor or grantee is a reservation Indian.

003.02R Deeds transferring real property into a trust where the transfer of the same property would be exempt if the transfer were to be made directly from the grantor to the beneficiary or beneficiaries under the trust. No such exemption shall be granted unless the register of deeds is presented with a signed statement certifying that the transfer of the real property is made under such circumstances as to come within one of the other exemptions specified in this regulation and that evidence supporting the exemption is maintained by the person signing the statement and is available for inspection by the Department of Revenue. The statement must specify the underlying exemption.

003.02S Deeds transferring real property from a trustee to a beneficiary of a trust. Deeds transferring real property from a trustee to a non-beneficiary are subject to the tax whether or not proceeds of the sale are to go to the beneficiary.

003.02T Deeds which convey real property held in the name of any partnership, or limited liability company, which is not a family partnership or limited liability company, to any partner in the partnership, member of the limited liability company, or his or her spouse.

003.02U Leases.

003.02V Easements.

003.02W Deeds which transfer title from a trustee to a beneficiary pursuant to a power of sale exercised by a trustee under a trust deed.

(Section 76-902, R.R.S. 2003 and section 76-901, R.S. Supp., 2005.)

REG-52-004 COLLECTION OF TAX

004.01 The registers of deeds of the various counties of the State of Nebraska shall act as tax collection agents in their respective counties for the Tax Commissioner.

004.02 When a deed is presented for recording, the register of deeds shall perform the following before recording the deed:

004.02A Determine if the deed transfers title to the real property located in his or her county;

004.02B Determine the names of the grantor and the grantee;

004.02C Determine if the Real Estate Transfer Statement, Form 521, is completed and signed by the grantee or his or her authorized agent;

004.02D Determine if the deed is subject to exemption based on information presented by the taxpayer and these regulations;

004.02E Determine the full actual consideration and the current market value of the real property transferred;

004.02F If subject to tax, determine the tax using the full actual consideration or the current market value;

004.02G If subject to tax, collect the tax and enter the amount of the tax in the fee book;

004.02H Affix the stamp if a completed Real Estate Transfer Statement, Form 521 is furnished, and complete the stamp as directed in Reg-52-007.

004.03 The Real Estate Transfer Statement, Form 521, prescribed by the Property Tax Administrator , shall be completed, signed and filed with the register of deeds, by the grantee, purchaser or his or her authorized agent at the time the deed is presented to the register of deeds for recording. This statement may require the recitation of any information contained in the deed, memorandum of contract, or land contract, the total consideration paid, the amount of the total consideration attributable to factors other than the purchase of real estate itself, and other factors which may influence the transaction. The register of deeds shall forward the original copy of the statement to the county assessor. If the grantee or purchaser or his or her authorized agent fails to furnish the statement, the register of deeds shall not record the deed, memorandum of contract, or land contract. The register of deeds shall indicate on the statement the book and page or computer system reference where the deed, memorandum of contract, or land contract is recorded and shall immediately forward the statement to the county assessor. The county assessor shall process the statement according to the instructions of the Property Tax Administrator and shall, when directed, forward the statement to the Property Tax Administrator.

004.04 The register of deeds may use the Real Estate Transfer Statement, Form 521, in determining the full actual consideration paid to the grantor by the grantee for the real estate being transferred that is subject to the tax. If the deed is given for less than full actual consideration, or if the deed has no stated consideration, the current market value of the real estate shall be stated on the Real Estate Transfer Statement, Form 521. If all required information is not supplied on the Real Estate Transfer Statement, Form 521, the register of deeds shall not accept the deed for recordation.

004.05 All deeds are presumed taxable unless it clearly appears on the face of the deed or sufficient documentary proof is presented to the register of deeds that the deed is exempt under Reg-52-003 . Unless the exemption is proved, no deed shall be recorded unless the tax is paid and the stamp affixed. If an exemption is proven, the stamp shall be affixed with the word "exempt" stated on the stamp, and the applicable exemption number stated on the stamp.

004.06When multiple grantors transfer real property, the tax due from each grantor is based upon their respective portion of ownership of the real property.

004.07The liability for the tax is upon the grantor. The tax may be paid by the grantee or any other agent presenting the deed for recordation.

004.08 Any person shall have access to any filed Real Estate Transfer Statement, Form 521, at the office of the county assessor which has been filed on or after January 1, 1995, and which has not been disposed of pursuant to the records retention and disposition schedule as approved by the State Records Administrator.

(Sections 76-214. 76-902, and 76-904 through 76-908, R.R.S. 2003, and sections 76-901 and 76-903, R.S. Supp., 2005.)

REG-52-005 COMPUTATION OF TAX

005.01 The rate of the tax is two dollars and twenty-five cents for each one thousand dollars of value or fraction thereof.

005.02 The table of value promulgated by the Department of Revenue to assist in determining the tax due shall be used by the register of deeds.

005.03 The register of deeds shall maintain records of the documentary stamp tax collected for purposes of audit for three years.

005.04 The register of deeds is responsible for the money collected for the documentary stamp tax, and this money shall not be commingled with county funds but shall be remitted as required in Reg-52-006.

005.05 The register of deeds shall not accept payment of documentary stamp tax in an amount more or less than that indicated by applying the full actual consideration or current market value, as the case may be, to the table in Reg-52-005.02.

005.06 The register of deeds shall not accept payment of documentary stamp tax before the date of the recording of the deed.

(Sections 76-902, and 76-904 through 76-908, R.R.S. 2003, and sections 76-901 and 76-903, R.S. Supp., 2005.)

REG-52-006 REMITTANCE OF TAX

006.01 The register of deeds shall remit, on the Nebraska Documentary Stamp Tax Return, Form 52, the state portion of the tax collected during each calendar month to the Department of Revenue by the fifteenth of the next succeeding month. Copies of all Documentary Stamp Tax Refund Claims, Form 53, shall be included in such remittance if the refund was actually paid during the preceding month.

006.02 From each two dollars and twenty-five cents of tax collected, the register of deeds shall retain fifty cents of the net proceeds of the sale of documentary stamp tax collected to be placed in the county general fund. The remainder of the tax collected is the portion that is to be remitted to the state.

(Sections 76-902, and 76-904 through 76-908, R.R.S. 2003, and sections 76-901 and 76-903, R.S. Supp., 2005.)

REG-52-007 STAMP

007.01 The Department of Revenue shall provide each register of deeds with a stamping device to imprint the stamp directly on each deed. Only the stamp provided by the Department of Revenue shall be used for purposes of the documentary stamp tax act.

007.02 It is the responsibility of the register of deeds to see that each deed offered for recording is clearly and legibly imprinted with the stamp provided by the Department of Revenue. However, this stamp is not complete until the register of deeds has placed the following information on the stamp:

007.02A The initials of the register of deeds or his or her authorized assistant who actually collected the tax or recognized an exemption and placed the stamp upon the deed;

007.02B The date of recording;

007.02C The amount of tax collected or the word exempt and

007.02D The applicable exemption number, if exempt.

007.03 Cancellation of a stamp shall be considered to have occurred when the stamp is imprinted directly on the deed, completed as required in Reg-52-007.02, and the deed is recorded.

007.04 The register of deeds shall be responsible for affixing the stamp in such a manner and color that is capable of reproduction.

(Sections 76-902, and 76-904 through 76-908, R.R.S. 2003, and sections 76-901 and 76 903, R.S. Supp., 2005.)

REG-52-008 DEEDS RECORDED IN MORE THAN ONE COUNTY

008.01 Where a deed transfers real property situated in two or more counties, the register of deeds in each county wherein the deed is offered for recording shall ascertain and compute the documentary stamp tax due for the transfer of the real property located within that county and collect the tax. The register of deeds in each county shall affix the stamp as provided in Reg-52-007 and note on the stamp the affixing county.

(Section 76-906, R.R.S. 1943.)

REG-52-009 EXEMPT PORTIONS

009.01 The transfer by deed of real property from multiple grantors or to multiple grantees, wherein one or more grantor or grantee, as the case may be, is granted an exemption as provided in Reg-52-003, is subject to the tax based upon the proportion of legal title or beneficial interest of the real property transferred by the grantors or to the grantees which are not granted such exemption.

009.02 A transfer of a fractional interest to a grantee not entitled to an exemption is subject to the documentary stamp tax upon that fraction of the value of real property transferred.

009.03 A transfer of a life estate or remainder interest to a grantee not entitled to an exemption is subject to the documentary stamp tax upon that portion of the value of real property transferred. The value of such portion is the present value as determined under the provisions of the Internal Revenue Code and its applicable regulations with respect to life estates or remainder interests. The present value of the life estate or remainder interest is determined under 26 C.F.R. 20.2031-7(1999), or as subsequently revised.

(Sections 76-906 through 76-908, R.R.S. 2003, and section 76-901, R.S. Supp., 2005.)

REG-52-010 DEFICIENCY DOCUMENTARY STAMP TAX PAYMENT

010.01 In the event that the Department of Revenue has reason to believe that an exemption was improperly allowed or that the consideration stated was less than current market value as determined in accordance with these regulations, the Department of Revenue shall investigate the transaction to determine if tax is due. Should the Department of Revenue determine that tax is due, it shall issue a Notice of Deficiency Determination to the grantor. The grantor will be allowed to protest the deficiency determination within thirty days of its issuance. Should the grantor file a protest to the Notice of Deficiency Determination, the Department of Revenue shall hold a hearing under the Administrative Procedures Act to determine the correct tax and collect the same. Should the grantor fail to protest the Notice of Deficiency Determination within thirty days, the Department of Revenue shall immediately proceed to collect the same. When the Department of Revenue has issued a deficiency determination, the register of deeds shall not be permitted a percentage of the proceeds thereafter collected by the Department.

(Section 84-913, R.R.S. 1999, and sections 76-906, 77-369, and 77-375, R.R.S. 2003.)

REG-52-011 DECLARATORY RULING ON EXEMPTION

011.01 Any grantor that claims to be exempt from the tax pursuant to Reg-52-003 and has been denied such exemption by a register of deeds may, prior to filing the deed, file a written petition with the Department of Revenue for a declaratory hearing on the exemption.

011.01A A hearing will be granted only if the grantor requests the same or the Department of Revenue so requires. If a hearing is not granted, the ruling will be made on the basis of the petition of the grantor and other information available to the Department of Revenue.

011.01B The petition of the grantor shall contain the following information:

011.01B(1) Name and address of grantor,

011.01B(2) Name and address of grantee,

011.01B(3) Legal description of real property,

011.01B(4) County in which the real property is located,

011.01B(5) Brief statement of basis of exemption,

011.01B(6) Brief statement of reason for register of deeds‘ refusal to grant exemption.

011.01C The Department of Revenue may request additional information whenever it considers the same to be necessary.

011.01D The declaratory ruling when issued shall be binding between the Department of Revenue and the grantor on the facts stated unless the ruling is altered or set aside by a court.

(Sections 76-906, 2003, 84-912, R.R.S. 1999, and section 76-901, R.S. Supp., 2005.

REG-52-012 REFUND OF DOCUMENTARY STAMP TAX PAID

012.01 Any person paying the documentary stamp tax may claim a refund if the payment of such tax was the result of a misunderstanding or honest mistake of the taxpayer, the result of a clerical error on the part of the register of deeds or the taxpayer, or invalid for any reason. In order to claim a refund, within two years after payment of the tax, the taxpayer shall file, in the office of the register of deeds of the county in which the tax was paid, a Documentary Stamp Tax Refund Claim, Form 53, and evidence in support thereof.

012.02 Within 30 days the register of deeds shall make a recommendation of approval or disapproval and forward all copies of the Documentary Stamp Tax Refund Claim, Form 53, to the Tax Commissioner.

012.03 Within 30 days of such recommendation, the Tax Commissioner shall approve or deny the claim for refund in whole or in part.

012.04 Within ten days of such approval or denial, the Tax Commissioner shall forward a copy of the form showing his or her decision to the last-known address of the taxpayer by certified mail. The Tax Commissioner shall also within ten days of such approval or denial forward to the register of deeds two copies of the form showing his or her decision.

012.05 The register of deeds shall maintain the original refund claim form as a file copy and shall forward the other copy to the Tax Commissioner with the Documentary Stamp Tax Return, Form 52, for the month in which the refund was actually paid.

012.06 Upon approval by the Tax Commissioner of a refund, the register of deeds shall make the refund from documentary stamp tax funds currently on hand.

012.07 After funds are actually refunded from currently collected documentary stamp tax funds, the amount actually refunded shall appear on the monthly return required by Reg-52-006.

012.08 A taxpayer denied a refund under this section in whole or in part may appeal the decision of the Tax Commissioner in the manner and within the time provided by sections 84-917 to 84-919, of the Nebraska Revised Statutes.

(Sections 76-906 and 76-908, R.R.S. 2003.)

NEBRASKA ADMINISTRATIVE CODE

Title 350 - Nebraska Department of Revenue, Property Assessment Division
Chapter 60 - Administrative Reports Regulations
Effective Date 3/15/09

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Title 350 – Nebraska Department of Revenue, Property Assessment Division
Chapter 60 - Administrative Reports Regulations

REG-60-001 PURPOSE

001.01 The purpose of these regulations is to outline basic duties and requirements of assessors and other government officials in filing administrative reports with the Tax Commissioner and Property Tax Administrator.

001.02 The information summarized from the administrative reports is used for, but not limited to, the following purposes: monitoring the assessment practices of the assessor; providing information to the Tax Equalization and Review Commission, the Nebraska Legislature, state agencies, or general public; determining school adjusted values used in calculations of state aid; calculations of state aid to various political subdivisions; calculating the equalization rate for property valued by the state; calculating the state average tax rate for air carriers and car line companies; and, calculating the distributions for air carriers and car line taxes.

(Neb. Rev. Stat. Sections 77-1601, 77-27,136, 77-27,137 and 77-27,139.02, R.R.S. 2003, and Neb. Rev. Stat. Sections 18-2117.01, 77-1504.01, 77-5022, 77-5027 and 77-5029, R.S. Supp., 2006 and Neb. Rev. Stat. Sections 77-684, 77-702, 77-1249, 77-1327 and 77-1514, R.S. Supp., 2007,)

REG-60-002 DEFINITIONS

002.01 Administrative reports shall mean any periodic or summarized information required by the Tax Commissioner and Property Tax Administrator, through statute, regulation, or directive, which is used to perform duties required by law.

002.02 County Abstract of Assessment Report, shall mean the following.

002.02A For real property a summary of the current year's taxable valuations, by class and subclass, for locally assessed real property and other information as required by the Property Tax Administrator. The County Abstract of Assessment Report for Real Property shall consist of the Real Property Abstract, Form 45, the Assessment Practices Survey, the Report of Current Year's Assessed Value for Properties Listed in the State's Sales File and maps of agricultural land market areas and assessor location areas in the county.

002.02B For personal property a summary of the current year's taxable valuations for locally assessed personal property and any other information required by the Property Tax Administrator. For purposes of the Personal Property Abstract Report, the assessor shall include only the locally assessed taxable valuations and shall not include any personal property valuation reported to the county on a Claim for Personal Property Exemption, Forms 775P and 5725X.

002.03 Assessment Practices Survey shall mean the report of information regarding each assessor's office. The information shall include but not be limited to general office staff, resources, specific budgets, appraisal information, mapping information, computer resources, contracted services for administrative or appraisal functions, action plans for appraisal/assessments, and any other information required by the Property Tax Administrator.

002.04 Certificate of Taxes Levied Report (CTL) shall mean the report of the current year valuations, tax rates, and taxes levied for each political subdivision levying a tax in a county. Taxes levied for bonds shall be identified separately from other taxes levied. The CTL report shall include each political subdivision's property tax loss due to homestead exemptions, taxes collected for public power districts, other in-lieu of taxes, valuation and taxes for community redevelopment projects, consolidated tax districts descriptions and rates, tax rate or levy sheets, and any other information required by the Property Tax Administrator.

002.05 Tax Increment Finance Report shall mean a report of any redevelopment plans, which have been approved and are financed either entirely or partially through the use of tax-increment financing, as provided in Neb. Rev. Stat. Section 18-2147. The report shall include a copy of the redevelopment plan and any amendments, if not already filed, including the date of the approval of the plan, the effective date for dividing the ad valorem tax and the boundaries of the redevelopment project.

002.06 School District Taxable Value Report shall mean the report of each school district's current valuations for personal property, centrally assessed, and real property by class or subclass, as required by the Property Tax Administrator.

002.07 Plan of Assessment shall mean the assessor's plan that addresses the level, quality and uniformity of assessment, and shall describe assessment actions to be taken for the following years to assure uniform and proportionate assessments are within the constitutional, statutory, and administrative guidelines as set forth in Nebraska law.

002.08 Average Residential Value Certification shall mean a report of the average assessed value of single family residential property as determined by the assessor after county board of equalization action.

002.09 Homestead Summary Certificate shall mean a report certified by the county treasurer to the Tax Commissioner showing the total tax revenue that will be lost to all political subdivisions within the county in that year, because of the homestead exemption.

002.10 Amended Homestead Summary Certificate shall mean a report certified by the county treasurer to the Tax Commissioner, showing changes in tax loss from the original Homestead Summary Certificate filed in the previous year.

(Neb. Rev. Stat. Sections 18-2117.01, 18-2147, 77-1311, 77-3506.02, 77-3523 and 77-5027, R.S. Supp., 2006 and Neb. Rev. Stat. Sections 77-702, 77-1311.02, 77-1327, 77-1613.01 and 79-1016, R.S. Supp., 2007.)

REG-60-003 REPORTING REQUIREMENTS; ORIGINAL OR AMENDED FILINGS

003.01 The information required on administrative reports shall be reported on the prescribed form or in a format approved by the Tax Commissioner.

003.02 Any administrative report filed with the Tax Commissioner or Property Tax Administrator shall be on the original form or on a clear copy unless submitted electronically, with an original signature of the assessor or other government official required to sign the form. The assessor or government official may retain copies for their records.

003.03 The assessor or other government official required to file a report may, in writing, request to submit a report designed to emulate the Tax Commissioner's prescribed forms. The request shall be submitted annually to the Tax Commissioner and shall be pursuant to procedures set out for each specific report. The Tax Commissioner shall, in writing, approve or disapprove the request. There shall be no changes made to the prescribed reporting forms without written permission from the Tax Commissioner. Changes include, but are not limited to, copy arrangements, spacing, color of ink, order or sort of data.

003.04 Electronic transfer of information, for purposes of filing administrative reports, requires annual approval by the Tax Commissioner and shall be pursuant to procedures set out for each specific report.

003.05 The Tax Commissioner may refuse to accept emulated forms or electronic transfers of information that do not meet the requirements of the specific administrative report or procedure.

003.06 Recertified reports required to be filed pursuant to REG-60-004.02 or REG-60-004.04 shall be filed pursuant to the requirements set out in this REG-60-003 and shall include a written statement as to the specific action for which the recertified report is being filed.

003.07 Amended administrative reports, other than those described in REG-60-003.06, may be made for clerical error. For purposes of this regulation clerical error shall mean transposition of numbers, typographical error, allocation of value or tax to the wrong taxing subdivision, mathematical error, computer malfunction causing programming and printing errors, data entry error, and omission of required information. The assessor or government official shall file a written statement, explaining the reasons for the amended filing due to clerical error.

(Neb. Rev. Stat. Sections 77-128 and 77-1601, R.R.S. 2003, Neb. Rev. Stat. Sections 18-2117.01, 77-1504.01, 77-5027 and 77-5029, R.S. Supp., 2006 and Neb. Rev. Stat. Sections 77-702, 77-1327, 77-1514, 77-1613.01 and 79-1016, R.S. Supp., 2007.)

REG-60-004 DUE DATES AND PENALTIES

004.01 The Tax Commissioner or Property Tax Administrator may require assessors and other government officials to report information in time periods earlier or different than those specified in statute to ensure the proper administration of the law. The Tax Commissioner or Property Tax Administrator may require assessors or other government officials to report additional data on taxable valuations or other features of the property tax as needed to determine the quality and uniformity of assessment practices.

004.02 On or before March 19, the assessor shall complete and certify the County Abstract of Assessment Report for Real Property, to the Property Tax Administrator.

004.02A On or before June 5, any assessor of a county which had valuations of real property adjusted by action of the Tax Equalization and Review Commission shall recertify their County Abstract of Assessment Report for Real Property, to the Property Tax Administrator.

004.02B On or before August 20, any assessor of a county which had valuations of real property adjusted by action of the Tax Equalization and Review Commission, resulting from a petition of a county board of equalization, shall recertify their County Abstract of Assessment Report for Real Property, to the Property Tax Administrator.

004.03 On or before June 15, the assessor shall complete and certify their County Abstract of Assessment Report for Personal Property, to the Property Tax Administrator .

004.04 On or before August 25, the assessor shall complete and certify to the Property Tax Administrator, the School District Taxable Value Report, by property class.

004.05 Annually on or before June 15 the assessor shall develop a three year plan of assessment. The plan of assessment shall be presented each year to the county board of equalization on or before July 31. The plan and any amendments thereto shall be mailed each year to the Department of Revenue, Property Assessment Division on or before October 31.

004.06 On or before December 1, the assessor or county clerk shall complete and certify to the Property Tax Administrator, the Certificate of Taxes Levied Report, for all governmental taxing subdivisions levying a tax for the current year. The report shall include the property tax levy made for (1) principal or interest on bonds issued by the political subdivision; and (2) all other purposes. The assessor shall recertify the Certificate of Taxes Levied Report, due to correction of a tax rate made pursuant to Neb. Rev. Stat. Section 77-1601.

004.07 On or before December 1, each city which has approved one or more redevelopment plans which are financed in whole or in part through the use of tax-increment financing shall provide a report to the Property Tax Administrator on each redevelopment plan as defined in REG-60-002.05.

004.08 On or before December 1, 2004 and every fourth December 1 thereafter, the assessor shall file with the Property Tax Administrator a report containing the following information for that particular year:

004.08A The legal description and the owner of all property located within the county that is owned by state agencies and political subdivisions of the State of Nebraska.

004.08B The legal description, owner and tax status of all leased and unleased property owned by state agencies and political subdivisions of the State of Nebraska that is not being used for a public purpose and is subject to taxation.

004.09 Upon request the assessor shall provide information for the Assessment Practices Survey. The content and time period for collecting such information shall coincide with the needs of the Property Tax Administrator to measure the quality and uniformity of assessment practices and perform other duties required by law.

004.09A The Assessment Practices Survey will be utilized by the Property Assessment Division of the Department of Revenue as an interview document that can be done at different points in time to allow for the gathering of the most accurate information regarding budgetary requests, staffing, appraisal procedures, and other pertinent office data and to identify the exact actions of the assessor for the current assessment year. The Property Assessment Division, will be responsible for the completion and submission of the Assessment Practices Survey to the Property Tax Administrator for inclusion into the Reports and Opinions of the Property Tax Administrator.

004.10 Any administrative report, required to be filed by the assessor or government official with the Tax Commissioner or Property Tax Administrator, shall be considered timely filed if properly completed and bearing a U.S. postmark establishing that the report was mailed on or before its due date. If the final filing date for such report falls on a Saturday, Sunday, or legal holiday, the next business day shall be the final filing date.

004.11 If the assessor fails to timely complete and forward required information they may be subject to corrective actions taken by the Tax Commissioner or Property Tax Administrator, pursuant to Neb. Rev. Stat., Section 77-1330.

004.12 On or before September 1 of each year, after adjustments by the county board of equalization, the assessor shall certify to the Department of Revenue the average assessed value of single family residential property in the county for the current year. The determination shall be made from all real property records containing dwellings, mobile homes and duplexes which are designed for occupancy as single family residential property and any associated land not to exceed one acre. The assessor shall also report to the Department of Revenue the exempt amounts as computed pursuant to Neb. Rev. Stat. Section 77-3501.01.

004.13 On or before November 30 of each year, the county treasurer shall certify to the Tax Commissioner the total tax revenue that will be lost to all political subdivisions because of the homestead exemption in his or her county multiplied by the aggregate sales assessment ratio as calculated by the Property Tax Administrator for all single family residential real property after adjustment by the Tax Equalization and Review Commission.

004.13A The county treasurer may amend the tax loss certification until May 30 of the next succeeding year to show any changes or corrections in the amount of tax that will be lost because of the homestead exemption.

(Neb. Rev. Stat. Section 77-1601, R.R.S. 2003, Neb. Rev. Stat. Sections 49-1201 through 49-1203, R.R.S., 2004, Neb. Rev. Stat. Sections 18-2117.01, 77-1504.01, 77-3506.02, 77-3523, 77-5027 and 77-5029, R.S. Supp., 2006 and Neb. Rev. Stat. Sections 77-702, 77-1311, 77-1327, 77-1330, 77-1514, 77-1613.01 and 79-1016, R.S. Supp., 2007.)

NEBRASKA ADMINISTRATIVE CODE

Title 350 - Nebraska Department of Revenue, Property Assessment Division
Chapter 70 - County Officials Regulations
Effective Date 3/15/09

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Title 350 - Nebraska Department of Revenue, Property Assessment Division
Chapter 70 - County Officials Regulations

REG-70-001 PURPOSE

001.01 The purpose of these regulations is to outline basic duties and requirements for county officials, to promote competent and uniform assessment of all taxable property in Nebraska.

(Neb. Rev. Stat. Section 77-702, R.S. Supp., 2007.)

REG-70-002 DEFINITIONS

002.01 Taxing official shall mean any federal, state, or local government officer or employee who is charged with the duty of auditing, assessing, equalizing, levying, computing , and collecting taxes.

002.02 Assessor shall include a county clerk who is an ex officio assessor. The assessor shall also include the Property Tax Administrator or his or her designee in counties where the assessment function has been assumed by the state. The assessor shall have general supervision over and direction of the uniform assessment of all taxable property in his or her county.

002.03 County board shall include either county commissioners or county supervisors in counties under township organization. The county board shall serve as the county board of equalization

002.04 County clerk shall be the custodian of the seal, records, papers, and proceedings of the county board and the county board of equalization.

(Neb. Rev. Stat. Section 23-1301, R.R.S. 1997, Neb. Rev. Stat. Sections 77-115, 77-116, R.R.S. 2003, Neb. Rev. Stat. Section 77-1501, R.S. Supp., 2006 and Neb. Rev. Stat. Section 77-702, R.S. Supp., 2007.)

REG-70-003 FORMS

003.01 Any tax form, report, claim, tax valuation notice, equalization or exemption protest, petition, appeal or statement required to be filed with or by a political subdivision or the State of Nebraska, shall be considered filed on time if properly completed and signed and postmarked by the U.S. Post Office on or before the filing due date. If the final filing date for such form falls on a Saturday, Sunday, or legal holiday, the next business day shall be the final filing date.

003.01A When any of said documents are sent by either certified or registered mail, the certification or registration date shall be used as the postmarked date.

003.02 There shall be no changes made in the prescribed or approved forms issued by the Tax Commissioner without first obtaining written permission for such changes from the Tax Commissioner. Changes include, but are not limited to, copy arrangements, spacing, color of ink and order or sort of data. The foregoing does not apply to typeface unless the alteration of the typeface alters the spacing.

003.03 The Property Tax Administrator may request that certain completed forms on file with an assessor, county clerk, register of deeds, and county treasurer be forwarded to the Property Tax Administrator.

003.04 For any form filed with a county official, the date the form is filed shall be stamped or written on the form immediately upon receipt thereof by the respective county official.

(Neb. Rev. Stat. Sections 49-1201, 49-1202 and 49-1203, R.R.S. 2004 and Neb. Rev. Stat. Section 77-702, R.S. Supp., 2007.)

REG-70-004 ASSESSOR'S DUTIES AND RESPONSIBILITIES

004.01 The assessor, except the Property Tax Administrator or his or her designee in counties where the assessment function has been assumed by the state, before entering upon the duties of the office, shall take and subscribe an oath to perform the required duties and shall execute a bond as required by Chapter 11, Article 1.

004.02 Any assessor who shall willfully neglect or refuse to perform the duties required by law in the assessment of property for taxation shall be answerable in damages to a political subdivision or any person injured thereby up to the limits of their official bond.

004.03 The assessor shall assess all real and tangible personal property in the county pursuant to the applicable laws of the state and rules and regulations of the Tax Commissioner or Department of Revenue.

004.04 The assessor has general supervision over and direction of the assessment of all real property in his or her county. Additionally, the assessor shall revise the real property assessment records for the correction of errors. In situations where property was assessed as an entity and during a tax year part or parts were separated, the assessor shall apportion to each part its portion of the assessed value for the next regular assessment. The apportioned information shall be used to correct the tax list for the current year.

004.05 It shall be the duty of the various county officials and officers to assist the assessor in the examination of the records of their respective offices and provide any information in their possession that will aid in the assessment of property. Failure of any county official or officer to perform these duties shall be cause for him or her to be deemed guilty of a misdemeanor and subject to a fine of not less than fifty ($50) dollars nor more than five hundred ($500) dollars for each offense.

004.06 On or before August 20, the assessor shall certify the current taxable value of all taxable property within his or her jurisdiction to each governing body or board empowered to levy or certify a tax levy. The assessor shall also certify to the Nebraska Department of Education the current taxable valuation of each school district located in his or her county.

004.07 Along with certifying the taxable value, pursuant to REG-70-004.06, the assessor shall also certify the total valuation attributable to growth to each political subdivision with the exception of sanitary improvement districts that have been in existence for five (5) years or less, all school districts, and all community colleges.

004.07A Real property valuation growth shall include all increases in valuation for a political subdivision because of new construction and improvements, additions to existing buildings and any increase in valuation due to territory annexed by the political subdivision.

004.07B Personal property valuation growth shall include any increase in a political subdivision's combined total valuation for all locally assessed and state assessed personal property for the current year, over that of the prior year. If the current year's total personal property valuation for a political subdivision is less than the prior year, then there is no personal property valuation growth for that particular political subdivision.

004.08 On or before November 20, the assessor shall transcribe the assessments into a book, to be provided at the expense of the county, properly ruled and headed with columns, the description of the lands, number of acres and value, number of city and village lots and their value, taxable value of personal property, delinquent taxes of previous years, the amount of taxes due on the day the first installment is due and the amount of delinquent taxes due on the day the second installment thereof becomes due.

004.09 The assessor shall complete and deliver the tax lists to the county treasurer on or before November 22. Also, the assessor shall transmit a signed warrant to the county treasurer which shall in general terms command the county treasurer to collect taxes mentioned therein according to law.

004.10 The assessor shall attend all meeting of the county board of equalization when such meeting pertain to the assessment or exemption of real and personal property.

004.11 On or before October 1, the assessor shall forward to the Secretary of State, every trust owning agricultural land in the county as shown by the assessment rolls of the county. The listing shall show the names , addresses and the legal descriptions of all agricultural land designated by the assessor as being owned by a trust.

(Neb. Rev. Stat. Sections 23-3205 and 23-3210, R.R.S. 1997, Neb. Rev. Stat. Sections 76-1517, 77-1233.02, 77-1236, 77-1313, 77-1317, 77-1613, 77-1613.01, and 77-1616, R.R.S. 2003, Neb. Rev. Stat. Sections 13-509, 23-3209,77-1301, 77-1311, 77-1315, 77-1501, and 77-1514, R.S. Supp., 2006 and Neb. Rev. Stat. Section 77-702, R.S. Supp.,2007.)

NEBRASKA ADMINISTRATIVE CODE

Title 350 - Nebraska Department of Revenue, Property Assessment Division
Chapter 71 - Education, Certification, and Re-certification Regulations
Effective Date 3/15/09

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Title 350-Nebraska Department of Revenue, Property Assessment Division
Chapter 71-Education, Certification and Re-certification Regulations

REG-71-001 PURPOSE

001.01 The purpose of these regulations is to provide all holders of assessor certificates interested in the assessment process with the skills, knowledge and competence necessary for accurate assessment of property for tax purposes. Such skills, knowledge and competence may be gained through assessment and appraisal training and education programs. These programs provide a vehicle for gaining greater professionalism in their duties by offering a means for state certification.

(Neb. Rev. Stat. Sections 77-414 and 77-702, R.S. Supp., 2007.)

REG-71-002 DEFINITIONS

002.01 Approved course shall mean a course of instruction offered by a provider with knowledge in assessment or appraisal processes, recommended by the Nebraska Assessment Education and Certification Advisory Board and approved by the Property Tax Administrator.

002.02 Provider shall mean the administrator of a course, such as the International Association of Assessing Officers (IAAO).

002.03 Credit hour shall mean one hour of instruction in an approved course.

002.04 Nebraska Assessment Education and Certification Advisory Board shall mean a committee of county and state assessors and representatives from the Department of Revenue, Property Assessment Division as defined in REG-71-003.

002.05 Certification shall mean the original certificate verifying successful completion of an examination administered by the Property Tax Administrator or State Tax Commissioner conferring statutory rights on those holding a certificate.

002.06 Re-certification shall mean a continuation of certification when all requirements of these regulations have been met.

002.07 Certificate holder shall mean any individual who has been certified or re-certified to hold the office of assessor or deputy assessor.

002.08 Year shall mean calendar year.

002.09 Four (4) year period shall mean four (4) calendar years, beginning January 1, of each county assessor election cycle such as 2007, and 2011.

002.10 Evidence of completion shall mean documentation from a provider, instructor or educational institution showing the name of the applicant, education provider, course, course hours and the date(s) of the course, workshop or seminar.

002.11 IAAO shall mean the International Association of Assessing Officers.

002.12 County Assessor Certificate shall mean the certificate that is given to any individual who has successfully completed and passed an examination given by the Property Tax Administrator or the State Tax Commissioner.

002.13 Revocation shall mean the procedure to invalidate a county assessor's certificate.

(Neb. Rev. Stat. Sections 77-414 and 77-702, R.S. Supp., 2007.)

REG-71-003 NEBRASKA ASSESSMENT EDUCATION AND CERTIFICATION ADVISORY BOARD MEMBERS

003.01 Membership on the Advisory Board shall consist of:

003.01A Three county assessors each having a minimum of one hundred-twenty (120) credit hours of approved courses, selected by the executive board of the County Assessors Association of Nebraska;

003.01B One state assessor who has a minimum of one hundred-twenty (120) credit hours of approved courses, selected by the Property Tax Administrator;

003.01C One representative of the Department of Revenue, Property Assessment Division involved in advising, instructing and interpreting property tax law who has a minimum of one hundred-twenty (120) credit hours of approved courses, selected by the Property Tax Administrator;

003.01D The Department of Revenue, Property Assessment Division education coordinator.

003.02 The terms of the members of the Advisory Board shall be as follows:

003.02A The voting members of the Advisory Board shall be appointed for a term of two years;

003.02B The term of the Department of Revenue, Property Assessment Division education coordinator shall be permanent;

003.02B(1) The education coordinator shall be the chairperson and a non-voting member.

003.02C Members may be re-appointed for one additional term. All terms shall commence on July 1.

003.02D If a position, other than the representative of the Department of Revenue, Property Assessment Division or the state assessor, on the Advisory Board is vacated, the executive board of the County Assessors Association of Nebraska shall appoint a new member to complete the term of the original member.

003.02E If the position of the representative of the Department of Revenue, Property Assessment Division or the state assessor is vacated, the Property Tax Administrator shall appoint a new member to complete the term of the original member.

003.03 Duties of the Advisory Board.

003.03A The Advisory Board shall assist the Property Tax Administrator in developing and administering a program of continuing education for assessment officials and individuals interested in the assessment process.

003.03B The Advisory Board shall review and recommend approval or denial to the Property Tax Administrator providers and courses offered that have an emphasis on assessment and appraisal procedures, assessment law, property owner rights and responsibilities, duties of assessment officials and other matters related to the assessment and appraisal of property for property tax purposes.

003.03C The Advisory Board shall review and recommend approval to the Property Tax Administrator regarding the examination for the county assessor certificate.

003.04 The Advisory Board shall meet at least once a year. All board members' expenses for travel, lodging, per diem and other miscellaneous items pertaining to business conducted by the Advisory Board shall be submitted to the Property Tax Administrator for approval and payment by the Department of Revenue.

003.04A The chairperson may schedule an emergency meeting of the Advisory Board pursuant to Neb. Rev. Stat. Section 84-1411.

003.05 All recommendations of the Advisory Board shall be subject to approval by the Property Tax Administrator pursuant to Neb. Rev. Stat. Section 77-414.

(Neb. Rev. Stat. Sections 77-414, 77-702 and 84-1411, R.S. Supp., 2007.)

REG-71-004 CRITERIA

004.01 Criteria for approval of continuing education courses shall be as follows:

004.01A The continuing education courses must contribute to the maintenance and improvement of the quality of assessment and be offered by an approved provider;

004.01B Credit hours for the same continuing education course, or if in the opinion of the Property Tax Administrator as an activity so similar as to be indistinguishable in content, shall be approved only once in each four year period;

004.01C Education courses approved by the Nebraska Real Estate Appraiser Board shall be approved as continuing education courses for continuing education credit.

004.01D To obtain credit for course(s) approved or similar in content offered outside the state of Nebraska, an applicant may request the Property Tax Administrator to approve the course(s) for the appropriate number of hours for re-certification credit.

004.01E Instructors, who are certificate holders, may receive continuing education hours for instructing approved continuing education courses. An instructor may receive one/half (1/2) hour of continuing education credit for each hour of instruction. No course may be counted more than once in a four year period.

004.01F Presentations offered by the Property Tax Administrator at the County Assessors Association of Nebraska workshops and the Nebraska Association of County Officials district meetings shall be approved as a continuing education course for continuing education credit.

004.02 Criteria for approval of providers of assessment courses of study shall be as follows:

004.02A The provider must submit to the Property Tax Administrator a schedule of planned courses including dates and locations of all educational offerings they are seeking approval for at least 90 days prior to the first scheduled class session;

004.02A(1) The Property Tax Administrator may waive the ninety (90) days approval period.

004.02B The provider must submit to the Property Tax Administrator a schedule of planned courses including dates and locations for all educational offerings that have been approved at least fourteen (14) days prior to the first scheduled class session.

004.02C Each provider shall keep attendance records in a manner intended to insure full time attendance by students;

004.02D A document certifying satisfactory completion must be issued by the provider to each student upon completion of the course of study or continuing education activity;

004.02E The Property Tax Administrator shall notify providers seeking approval for courses for certification and educational credit in writing of the approval or disapproval of such courses and shall provide reasons for that determination.

004.0F In the event that a provider shall feel aggrieved as to the Property Tax Administrator's determination of disapproval of a course for continuing education, the provider may file a protest with the Tax Commissioner within thirty (30) days of that determination, pursuant to the Practice and Procedure Regulations, Chapter 90.

(Neb. Rev. Stat. Sections 77-414 and 77-702, R.S. Supp., 2007.)

REG-71-005 ASSESSOR CERTIFICATION

005.01 No person shall be eligible to file for, assume, or be appointed to, or hold the office of county assessor, serve as a deputy assessor, or hold the position of state assessment manager unless he or she holds a County Assessor Certificate issued by the Property Tax Administrator or State Tax Commissioner.

005.02 No person shall be eligible to file for, assume, be appointed to, or hold the office of county clerk acting as ex officio county assessor unless he or she holds a County Assessor Certificate issued by the Property Tax Administrator or State Tax Commissioner.

005.03 In order to obtain a County Assessor Certificate, each person must successfully complete an examination given by the Property Tax Administrator. The examination shall test and determine the qualifications of the person to perform the duties of the assessor. The examination is offered in February, May, August, and November of each year. Successful completion of the examination shall require a grade of seventy (70) percent or higher. The Tax Commissioner shall set the fee for the examination and it shall be based upon the cost to prepare, review, administer, and grade the examination, as well as the cost to prepare and provide the application, study materials, and certificate.

005.04 Beginning January 1, 2003, any certificate holder who desires to retain the certificate shall retake and successfully complete the examination given by the Property Tax Administrator within the last six (6) months of the four (4) year period following the receipt of the certificate, for the first time, or successfully renewing the certificate, or upon achieving the continuing education requirements established for re-certification pursuant to REG-71-006.01.

(Neb. Rev. Stat. Sections 23-1301, 23-3201, 23-3203 and 23-3204, R.R.S. 1997, Neb. Rev. Stat. Sections 77-115, R.R.S. 2003, Neb. Rev. Stat. Section 23-3202, R.S. Supp., 2006 and Neb Rev. Stat. Sections 77-414, 77-421 and 77-702, R.S. Supp., 2007.)

REG-71-006 CERTIFICATE HOLDER RESPONSIBILITIES FOR RE-CERTIFICATION

006.01 All certificate holders must obtain 60 hours of approved continuing education within each four year period to be eligible to receive approval by the Property Tax Administrator for re-certification.

006.01A After January 1, 2003, any individual that becomes a certificate holder during an unexpired four year period must obtain the required continuing education after becoming a certificate holder to receive approval by the Property Tax Administrator for re-certification. The required hours of approved education necessary to obtain re-certification shall be determined as follows:

$$\frac{\text{Number of months remaining in 4 year period}}{48} \times 60 = \text{Required hours for re-certification}$$

For example, if an individual obtains a certificate during March of the fourth year of the four year period, the hours of approved continuing education to be earned after obtaining their certificate to be eligible for re-certification would be 11, determined as follows:

$$\frac{9}{48} \times 60 = 11 \text{ hours}$$

006.01B Any individual that becomes a certificate holder during the last year of an unexpired period will not be required to obtain the continuing education requirements established in REG-71-006.02A.

006.02 Assessor requirements.

006.02A Assessors assuming office on or after January 1, 2003, shall, within four years from the date of assuming the office, complete IAAO Course 101 - Fundamentals of Real Property Appraisal, and IAAO Course 300 - Fundamentals of Mass Appraisal, or the equivalent thereof.

006.02A(1) The Property Tax Administrator shall notify the assessor assuming office, in writing, that they must meet this requirement within their four year period.

006.02B Assessors assuming office on or after January 1, 2003 that have completed the required courses in REG-71-006.02A prior to taking office shall not be required to retake the said courses. Assessors who have taken the required courses must provide evidence of completion to the Property Tax Administrator on forms provided by the Tax Commissioner. All other continuing education requirements by the Property Tax Administrator for re-certification will be required.

006.03 Application process and notification of continuing education.

006.03A All certificate holders when seeking re-certification shall provide to the Property Tax Administrator the following:

006.03A(1) A completed application on a form provided by the Property Tax Administrator; and

006.03A(2) Evidence of the completion of continuing education courses as defined in REG-71-002.10.

006.03A(3) Certificate holders will not need to submit application for credit hours earned at or for presentations offered by the Property Tax Administrator at the County Assessor's Association of Nebraska workshops and the Nebraska Association of County Officials district meetings.

006.04 The Property Tax Administrator shall notify the certificate holder, in writing, of any credit hours that have failed to meet the requirements set in REG-71-004.01 and have been disapproved. The notice shall set forth the reasons for such disapproval.

006.05 In the event that a certificate holder shall feel aggrieved as to the Property Tax Administrator's determination for approval of hours, or the disapproval of credit hours, they may file a protest with the Tax Commissioner within 30 days of that decision pursuant to the Practice and Procedure Regulations, Chapter 90.

006.06 By February 1 of each year, the Property Tax Administrator shall mail to all certificate holders a copy of their completed educational record and of the remaining credit hours of continuing education necessary to achieve re-certification. Notification shall be mailed to the last known address of the certificate holder.

006.06A In the event that a certificate holder does not agree with the number of credit hours of continuing education that the Property Tax Administrator has recorded, he or she shall notify the Property Tax Administrator in writing, of any corrections within 30 days of the February 1 mailing.

(Neb. Rev. Stat. Sections 77-414 and 77-702, R.S. Supp., 2007.)

REG-71-007 CREDIT HOURS

007.01 Attendance is mandatory to receive credit for any continuing education course.

007.02 Partial credit for absences in an emergency may be approved by the Property Tax Administrator based upon the percent of the class attended. For the purposes of this regulation, an emergency shall include those reasons constituting good cause, addressed as follows:

007.02A For purposes of this regulation good cause shall include but not be limited to:

007.02A Injury to or illness or death of an employee or assessor; or

007.02B Injury to or illness or death of a member of the employee or the assessor's family; or

007.02C Other circumstances which would render attendance at the continuing education course a hardship upon the assessor or his or her employee.

007.03 If a course includes an examination, the applicant shall take the examination. A passing grade is not required to receive continuing education credit.

(Neb. Rev. Stat. Sections 77-414 and 77-702, R.S. Supp., 2007.)

REG-71-008 PROPERTY TAX ADMINISTRATOR'S RESPONSIBLITIES

008.01 The Property Tax Administrator shall conduct and contract for programs sufficient to allow certificate holders to meet the continuing education requirements. These programs shall be offered in various places throughout the state and at regular intervals.

008.02 The Property Tax Administrator shall approve providers offering courses on appraisal, assessment, and taxation that will qualify for continuing education courses as required in REG-71-006.

008.03 The Property Tax Administrator shall approve courses on appraisal, assessment, and taxation offered that will qualify for continuing education courses as required in REG-71-006.

008.04 The Property Tax Administrator shall review and approve all applications for continuing education hours to determine if they have met the criteria as established in REG-71-004.01.

(Neb. Rev. Stat. Sections 77-414 and 77-702, R.S. Supp., 2007.)

REG-71-009 EDUCATION RECORDS OF THE PROPERTY TAX ADMINISTRATOR

009.01 The Property Tax Administrator will create and maintain education records for all certificate holders.

009.02 The records kept and maintained under this regulation shall be subject to the Nebraska public records statutes.

(Neb. Rev. Stat. Sections 77-414 and 77-702, R.S. Supp., 2007.)

REG-71-010 RE-CERTIFICATION PROCESS

010.01 The Property Tax Administrator shall review all certificate holders for continuing education hours.

010.02 Upon review of the information relating to continuing education hours for each certificate holder, the Property Tax Administrator shall;

010.02A Notify in writing each certificate holder who has successfully met the continuing education requirements as stated in REG-71-006.01.

010.02B Notify in writing each certificate holder of his or her failure to have met the continuing education requirement as stated in REG-71-006.01. Failure to have met the continuing education requirement will result in the revocation process to be initiated pursuant to REG-71-011.

(Neb. Rev. Stat. Section 77-414, R.S. Supp., 2007.)

REG-71-011 REVOCATION PROCESS

011.01 The Tax Commissioner shall have the power to revoke the assessor's certificate of any certificate holder who is not an assessor, for failure to comply with the continuing education requirements as provided in REG-71-006.01.

011.01A The Tax Commissioner shall notify in writing each certificate holder of his or her intent to revoke their county assessor's certificate for failure to maintain continuing education hours.

011.01B Upon receiving a notice of the Tax Commissioner's intent to revoke an assessor certificate, a certificate holder other than a county assessor, or deputy county assessor may request a hearing with the Tax Commissioner within thirty (30) days of the notice of intent to revoke pursuant to the Practice and Procedures Regulation, Chapter 90.

011.01B(1) The Tax Commissioner shall act upon the evidence presented at the hearing and shall issue a written order. A copy of the Tax Commissioner's written order revoking or suspending the certificate shall be mailed to the person within seven (7) days after the date of the written order. If the Tax Commissioner revokes the assessor certificate, the certificate holder may appeal the Tax Commissioner's written order within thirty (30) days after the date of the order to the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat. Section 77-5013.

011.02 If the certificate holder is a county assessor or deputy county assessor, the Tax Commissioner shall notify in writing the assessor or deputy assessor and the county board that the Tax Commissioner intends to revoke the assessor's certificate for failure to maintain continuing education hours. (See Neb. Stat. Section 77-1330 and Proceedings Instituted by the Department of Revenue Regulations, Chapter 91.)

011.02A Such notice shall be at least thirty (30) days prior to a hearing before the Tax Commissioner regarding whether the assessor or deputy assessor has met the continuing education requirements of this regulation.

011.02B If, based on the evidence presented at hearing, the Tax Commissioner finds that the assessor or deputy assessor has failed to meet the continuing education requirements, the Tax Commissioner shall issue a written order requiring the certificate holder to either attend sufficient continuing education courses to make up the necessary hours, or to retake and pass the assessors certificate examination within six (6) months of the written order. Any continuing education hours required to be attended by the Tax Commissioner's written order may not be applied to the current four (4) year period continuing education credits.

011.02C Upon proof provided by the assessor or deputy assessor of compliance with the Tax Commissioner's written order, the Property Tax Administrator shall issue a renewal certificate to the assessor or deputy assessor.

011.02D If the assessor or deputy assessor fails to comply with the Tax Commissioner's written order, the Tax Commissioner shall institute proceedings to revoke, the certificate held by the assessor or deputy assessor after adequate notice and hearing before the Tax Commissioner.

011.03 At any time during the revocation process of an assessor's certificate the certificate holder may successfully retake the assessor's examination. If the certificate holder provides evidence to the Tax Commissioner of the successful passing of the assessor's examination, the Tax Commissioner shall dismiss the revocation process.

011.04 If a person has his or her certificate finally revoked, he or she shall not be eligible to hold a certificate for five (5) years after the date of revocation.

011.05 The Tax Commissioner shall act upon the hearing and shall issue a written order. The Tax Commissioner's written order may be appealed within thirty days after the date of the written order, to the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat. Section 77-5013.

(Neb. Rev. Stat. Section 77-5013, R.S. Supp., 2006 and Neb. Rev. Stat. Sections 77-414, 77-422, 77-1330 and 77-5007, R.S. Supp., 2007.)

NEBRASKA ADMINISTRATIVE CODE

Title 350 – Nebraska Department of Revenue, Property Assessment Division
Chapter 80 – School Adjusted Valuation Regulations
Effective Date – 7/3/2013

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Definitions	Neb. Rev. Stat. §§18-2103, 18-2147, 77-112, 77-120, 77-702, 77-1327, 77-5027, 79-4,108, 79-1003, and 79-2101.	002
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Appeals or Requests	Neb. Rev. Stat. §§ 77-702, 77-1343, 77-1344, 77-1345, 77-1345.01, 77-1346, 77-1347, 77-5013, 79-1003, and 79-1016.	004

Title 350 – Nebraska Department of Revenue, Property Assessment Division
Chapter 80 – School Adjusted Valuation Regulations

REG-80-001 PURPOSE

001.01 These regulations specify the requirements and procedures of the Property Tax Administrator and Tax Commissioner in establishing the adjusted valuation pursuant to the Tax Equity and Educational Opportunities Support Act, see Neb. Rev. Stat. § 79-1003(2), for each local system and school district in Nebraska. The purpose of school adjusted valuation in the state aid formula is to reflect, as nearly as possible, the fully assessable value for each local system or school district, pursuant to Neb. Rev. Stat. § 79-1016(3).

The Property Tax Administrator determines the assessment level for each local system or school district, relying primarily on two sources of information: a comprehensive ratio study developed in compliance with professionally-accepted mass appraisal techniques; and an ongoing review of assessment practices within each county by the Nebraska Department of Revenue, Property Assessment Division.

The techniques used in the development and use of a ratio study are described in the 2013 Standard on Ratio Studies, issued by the International Association of Assessing Officers (IAAO). This Standard suggests that ratio studies require a statistically reliable sample of sales to represent the level of value for the jurisdiction being measured.

The IAAO publications referred to are available to the public and maintained at the Department's office in Lincoln, Nebraska, for viewing during normal business hours.

Neb. Rev. Stat. §§ 77-702, 79-1003, and 79-1016.

REG-80-002 DEFINITIONS

002.01 Centrally assessed property means property valued by the Division. For purposes of school adjusted value, centrally assessed property includes owned or leased operating property of railroad companies and public service entities.

002.02 Clerical error means transposition of numbers, mathematical error, computer malfunction causing programming and printing errors, data entry error, items of real property other than land identified on the wrong parcel, incorrect ownership, or certification of an incorrect valuation to political subdivisions, pursuant to Neb. Rev. Stat. § 77-128.

002.03 Direct equalization means the process of converting the level of value for a class or subclass of real property into an adjustment factor, and changing the assessed values of real property in the class or subclass to more closely reflect the level of assessment required in Nebraska statutes.

002.04 Division means the Property Assessment Division of the Nebraska Department of Revenue.

002.05 Indirect equalization means the process of estimating the total taxable valuation in a jurisdiction.

002.06 Local system means a learning community, unified system, a Class VI school district and the associate Class I school districts, or a Class II, III, IV, or V school district and any affiliated Class I school districts or portions of Class I school districts.

002.07 Learning community means a political subdivision which shares the territory of member school districts and is governed by a learning community coordinating council. The fiscal year for a learning community is the same as for member school districts. For purposes of state aid calculations, the learning community designation

takes effect in the second full school fiscal year after becoming a learning community and each school fiscal year thereafter, pursuant to Neb. Rev, Stat. § 79-1003(27).

002.07 Redevelopment project value means the assessed value of the taxable real property in a redevelopment project for the year prior to the effective date of the provision dividing the ad valorem tax pursuant to Neb. Rev. Stat. § 18-2147.

002.08 School district means any Class I, II, III, IV, V, or VI school district and a unified system as defined in Neb. Rev. Stat. § 79-4,108.

002.09 Value strata means a grouping of properties with similar assessed values, such as all properties assessed from $0 to $25,000, $25,000 to $50,000, and $50,000 to $100,000.

Neb. Rev. Stat. §§18-2103, 18-2147, 77-112, 77-120, 77-702, 77-1327, 77-5027, 79-4,108, 79-1003, and 79-2101.

REG-80-003 PROCEDURES

003.01 On or before August 25 of each year, the county assessor must certify to the Property Tax Administrator the total taxable value including centrally assessed values, by each school district in the county for the current assessment year on forms prescribed by the Tax Commissioner. The county assessor may amend the filing for changes made to the taxable valuation of the school district in the county if corrections or errors on the original certification are discovered. Amendments must be certified to the Property Tax Administrator on or before September 30.

003.01A Establishment of the school adjusted valuations for real property is based on the level of value as defined in REG-12-002 for each class or subclass, determined from an analysis of the assessment/sales ratio study, assessment practices, or any other studies and information developed by the Property Tax Administrator that are in compliance with professionally-accepted mass appraisal techniques.

003.02 The Property Tax Administrator determines the real property adjustment factors, for purposes of school adjusted valuation.

003.02A For residential property, including rural residential, recreational property, commercial property, industrial property, agricultural residences, farm home site land, agricultural improvements, farm site land, and minerals, the adjustment factor is 96% divided by the level of value for each local system or school district, in whole or in part.

003.02B For agricultural and horticultural land, as defined by Neb. Rev. Stat. § 77-1359, the adjustment factor is 72% divided by the level of value for each local system or school district, in whole or in part.

003.02B(1) For agricultural and horticultural land that receives a special valuation pursuant to Neb. Rev. Stat. § 77-1344, the adjustment factor is 72% of the special valuation as defined in Neb. Rev. Stat. § 77-1343 divided by the level of value for each local system or school district, in whole or in part.

003.02C For centrally assessed real property, the adjustment factor is 96% divided by the level of value for railroad companies and public service entities as determined by the Tax Equalization and Review Commission during the annual statewide equalization proceedings.

003.02D If the level of value cannot be determined for the class or subclass of real property, no adjustment will be made.

003.03 To determine the school adjusted value for real property by class in each local system or school district, the adjustment factors are applied to the total assessed valuation of the class, minus any redevelopment project value of the class, as reported to the Property Tax Administrator by the county assessor. For centrally assessed property, the adjustment factor is applied to the real property and the franchise value portion of the assessed value of railroad companies and public service entities.

003.04 Real property which is part of a redevelopment project value is not adjusted by the Property Tax Administrator, pursuant to Neb. Rev. Stat. § 18-2149.

003.05 To determine the total adjusted valuation by each local system or school district for certification to the Department of Education, the Property Tax Administrator adds to the adjusted real property valuation the total net book value for all taxable personal property, including the net book personal property of railroad companies and public service entities, and any redevelopment project value in each local system or school district.

003.06 The Property Tax Administrator determines the level of value for the local system or school district, by county and by various classes of property, based upon an analysis of assessment/sales ratio studies and other studies developed by the Property Tax Administrator, in compliance with professionally-accepted mass appraisal techniques, as required by Neb. Rev. Stat. § 77-1327.

003.06A Assessment/sales ratio studies are developed pursuant to Neb. Rev. Stat. § 77-1327 and Chapter 12, Sales File Regulations.

003.06B Assessment practice studies are developed pursuant to Neb. Rev. Stat. § 77-5027 and Chapter 17, Report and Opinion Regulations.

003.07 The weighted mean ratio, is the preferred measure of central tendency in determining the assessment level for purposes of school adjusted valuation because of its dollar-weighting feature useful in determining the fully assessable value of a local system or school district. To address the potential influences of high dollar sales in the weighted mean calculation, the Property Tax Administrator may analyze by value strata if it is determined that assessment levels vary among the spectrum of property values.

003.07A The weighted mean ratio is calculated by: (1) totaling the assessed values; (2) totaling the sales prices; and (3) dividing the total assessed values by the total sales prices.

003.08 The Property Tax Administrator will analyze both the assessment practices and statistical information available for each local system or school district in whole or in part within the county to determine if the valuation practices in the district are consistent with the county as a whole. This analysis determines whether the data available to the Property Tax Administrator regarding the level of value and quality of assessment is an adequate representation of the level of value and quality of assessment within each local system or school district in the county.

003.08A If the Property Tax Administrator determines the data regarding the level of value for the county does not adequately represent a particular local system or school district within the county, the Property Tax Administrator will document that information and provide an explanation of the factors led to that conclusion.

003.08B If the data available is sufficient to represent the level of value and quality of assessment for a particular local system or school district, the level of value for the district will be determined based on a comparison to the level of value of the county. If the two measures are reasonably similar, the level of value for the county will be used.

003.08C If, in the opinion of the Property Tax Administrator, the weighted mean ratio does not accurately reflect the assessment level for the class of property in a school district based on his or her knowledge of assessment practices in the county, or if the assessment/sales ratio studies

indicate an unrepresentative sample of sold parcels, the Property Tax Administrator may use an alternative method to determine the assessment level in the local system or school district. Any alternative method adopted by the Property Tax Administrator must rely on professionally-accepted mass appraisal techniques.

Neb. Rev. Stat. §§18-2147, 18-2149, 77-702, 77-1327, 77-1343, 77-1344, 77-1359, 77-5022, 77-5027, 79-1003, and 79-1016.

REG-80-004 APPEALS OR REQUESTS

004.01 On or before November 10, any local system may file with the Tax Commissioner written objections to the adjusted valuations, stating the reasons why the adjusted valuations are not the valuations required by Neb. Rev. Stat. § 79-1016.

004.02 The Tax Commissioner will establish a time for hearing the written objections of each objecting local system at the office of the Tax Commissioner. At the hearing, both parties will be allowed to introduce any evidence that is relevant and necessary for determining the adjusted valuation.

004.03 The burden of proof in the hearings is on the party protesting the Division's determination of adjusted valuation. The Division's determination is presumed correct, unless competent evidence is presented to the contrary. If competent evidence is produced by the protesting party, the reasonableness of the Division's action in determining adjusted valuation becomes one of fact based upon all of the evidence presented.

004.04 In rebutting the presumption that the Division's determination of the adjusted valuation is correct, the protesting party must show by clear and convincing evidence that the Division's determination was the result of a systematic exercise of intentional will or failure of plain duty, and not mere errors of judgment or a difference of opinion.

004.05 Based upon the evidence introduced at the hearing, the Tax Commissioner must enter a written order upholding or changing the adjusted valuations. On or before the following January 1, the Tax Commissioner must certify the order to the Department of Education and mail a copy of the written order to the local system within seven days after the date of the order.

004.06 Any final determination of the Tax Commissioner under this regulation may be appealed within 30 days after the date of the order to the Tax Equalization and Review Commission, pursuant to Neb. Rev. Stat. § 77-5013.

004.07 On or before November 10, any local system or county official may file with the Tax Commissioner a written request for a nonappealable correction of the adjusted valuation due to clerical error or valuation adjustment due to qualification or nonqualification of special valuation for agricultural and horticultural land, pursuant to Neb. Rev. Stat. §§ 77-1343 to 77-1347.01. On or before the following January 1, the Tax Commissioner must approve or deny the request. If approved, the corrected adjusted valuations must be recertified to the Department of Education with a copy forwarded to the local system and county official.

004.08 On or before May 31 of the year following the certification of the adjusted valuations to the Department of Education, any local system or county official may file a nonappealable request with the Tax Commissioner for a correction to the adjusted valuation of a local system or school district. The adjustment may only be based upon corrections to the tax list that changed the assessed valuations of taxable properties within that local system or school district.

004.09 Upon receiving the written request, the Tax Commissioner must notify the county assessor, or multiple county assessors if the school district extends into more than one county, of the request. The Property Tax

Administrator will provide the prescribed forms for the county assessor to report the recertified taxable valuation. The county assessor must file this report within 10 days of the Tax Commissioner's notification.

004.09A The county assessor will determine the recertified valuation by taking the original school district valuation as certified on the tax list for the prior tax year, and adding or subtracting the tax list corrections that have changed the original certified taxable value.

004.10 On or before the following July 31, the Tax Commissioner must approve or deny the request and if approved, certify the corrected adjusted valuations resulting from the action to the Department of Education.

Neb. Rev. Stat. §§ 77-702, 77-1343, 77-1344, 77-1345, 77-1345.01, 77-1346, 77-1347, 77-5013, 79-1003, and 79-1016.

NEBRASKA ADMINISTRATIVE CODE

Title 350-Nebraska Department of Revenue, Property Assessment Division
Chapter 90– Practice and Procedure Regulations
Effective Date 3/15/09

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Title 350 - Nebraska Department of Revenue, Property Assessment Division
Chapter 90 – Practice and Procedure Regulations

REG-90-001 PURPOSE

001.01 The scope and purpose of these regulations is to set forth the procedures to be used and followed in the administrative adjudication of contested cases before the Tax Commissioner or his or her designate. The procedures contained in these regulations shall apply to all matters heard by the Tax Commissioner or his or her designate, with the exception of protests filed by assessors relating to the inclusion of data in the sales file. The procedures relating to the sales file protest process, including notice and hearing, are contained in Sales File Regulations, Chapter 12.

(Neb. Rev. Stat. Sections 84-901 and 84-909.01, R.R.S. 1994, and Neb. Rev. Stat. Sections 77-612, 77-702, 77-802.02 and 77-1330, R.S. Supp., 2007.)

REG-90-002 DEFINITIONS

002.01 Contested case shall mean a proceeding before the Department of Revenue in which the legal rights, duties, or privileges of specific parties are required by law or constitutional right to be determined after a hearing before the Tax Commissioner or his or her designate.

002.02 Corrective order shall mean an order of the Tax Commissioner requiring a county or county assessor to institute measures to comply with the Nebraska Constitution, and statutes, and the rules, regulations, manuals and directives of the Tax Commissioner.

002.03 Ex Parte communication shall mean an oral or written communication which is not on the record in a contested case with respect to which reasonable notice to all parties was not given. Ex parte communications shall not include:

002.03A Communications which do not pertain to the merits of the case;

002.03B Communications required for the disposition of ex parte matters as authorized by law;

002.03C Communications in a rulemaking proceeding; and

002.03D Communications to which all parties have given consent.

002.04 Hearing officer shall mean the person or persons conducting a hearing, contested case or other proceeding pursuant to the Administrative Procedure Act, whether designated as the presiding officer, administrative law judge, or some other title designation.

002.05 Invalidate shall mean to suspend or revoke the assessor's certificate held by a certificate holder for a period of five years.

002.06 Party means the person by or against whom a contested case is brought or a person allowed to intervene in a contested case.

002.07 Person shall mean any individual, organization, corporation, body politic, county or city official, society, community, the public generally, individual, partnership, or association.

002.08 Petition means the initial document filed by or with the Tax Commissioner that sets forth a claim and request for Department action.

002.09 Tax Commissioner or his or her authorized representative and Department shall mean the Department of Revenue unless the context requires otherwise.

002.10 Revocation shall mean to invalidate the assessor's certificate of a certificate holder and render the certificate holder ineligible to hold office for a period of five (5) years.

002.11 Suspend shall mean to cause a temporary interruption, not exceeding five (5) years, in duration of the assessment function of a county or the validity of an assessor's certificate.

(Neb. Rev. Stat. Sections 84-901, 84-912.01, 84-913, 84-914 and 84-915, R.R.S. 1994, Neb. Rev. Stat. Section 84-915.01, R.S. Supp., 2006 and Neb. Rev. Stat. Sections 77-612, 77-702, 77-802.02 and 77-1330, R.S. Supp., 2007.)

REG-90-003 PROHIBITIONS AGAINST EX PARTE COMMUNICATIONS

003.01 Prohibitions; when applicable. The prohibitions found in this section shall apply beginning at the time notice for hearing is given.

003.02 Prohibitions; to whom applicable.

003.02A Parties and public. No party in a contested case or other person outside the Department having an interest in the contested case shall make or knowingly cause to be made an ex parte communication to the Tax Commissioner, hearing officer or Department employee who is or may reasonably be expected to be involved in the decision making process of the contested case.

003.02B Persons in decision making roles. The Tax Commissioner, hearing officer, or Department employee who is or may reasonably be expected to be involved in the decision making process of the contested case shall not make or knowingly cause to be made an ex parte communication to any party in a contested case or other person outside the Department having an interest in the contested case.

003.02C Investigators. Neither the Tax Commissioner nor employee engaged in the investigation or enforcement of a contested case shall make or knowingly cause to be made an ex parte communication to a hearing officer, the Tax Commissioner or employee of the Department who is or may reasonably be expected to be involved in the decision making process of the contested case.

003.03 Disclosure of contacts. The Tax Commissioner, hearing officer or Department employee who is or may reasonably be expected to be involved in the decision making process of the contested case who receives or who makes or knowingly causes to be made an ex parte communication shall file in the record of the contested case:

003.03A All such written communications;

003.03B Memoranda stating the substance of all such oral communications; and

003.03C All written responses and memoranda stating the substance of all oral responses to all the ex parte communications.

003.03D The filing shall be made within two working days of the receipt or making of the ex parte communication. Notice of the filing, with an opportunity to respond, shall be given to all parties of record.

003.03E Filing and notice of filing shall not be considered on the record and reasonable notice for purposes of the definition of ex parte communication.

(Neb. Rev. Stat. Sections 84-901, 84-913, 84-913.04 and 84-914, R.R.S. 1994 and Neb. Rev. Stat. Section 77-702, R.S. Supp., 2007.)

REG-90-004 INTERVENTION IN A CONTESTED CASE

004.01 Intervention in a contested case shall be allowed when the following requirements are met:

004.01A A petition for intervention must be submitted in writing to the hearing officer or designee at least five days prior to the hearing. Copies must be mailed by the petitioner for intervention to all parties named in the hearing officer's notice of hearing;

004.01B The petition must state facts demonstrating that the petitioner's legal rights, duties, privileges, immunities, or other legal interests may be substantially affected by the proceeding or that the petitioner qualifies as an intervenor under any provision of law; and

004.01C The hearing officer or designee must determine that the interest of justice and the orderly and prompt conduct of the proceedings will not be impaired by allowing the intervention.

004.02 The hearing officer or designee may grant a petition for intervention at any time upon determining that the intervention sought is in the interest of justice and will not impair the orderly and prompt conduct of the proceedings.

004.03 If a petitioner qualifies for intervention, the hearing officer or designee may impose conditions upon the intervenor's participation in the proceedings, either at the time intervention is granted or at any subsequent time. Those conditions may include:

004.03A Limiting the intervenor's participation to designated issues in which the intervenor has a particular interest demonstrated by the petition;

004.03B Limiting the intervenor's use of discovery, cross-examination, and other procedures so as to promote the orderly and prompt conduct of the proceedings; and

004.03C Requiring two or more intervenors to combine their presentation of evidence and argument, cross-examination, discovery, and other participation in the proceedings.

004.04 The hearing officer or designee, at least twenty-four (24) hours before the hearing, shall issue an order granting or denying each pending petition for intervention, specifying any conditions and briefly stating the reasons for the order.

004.04A The hearing officer or designee may modify the order at any time, stating the reasons for the modification.

004.04B The hearing officer or designee shall promptly give notice of an order granting, denying, or modifying intervention and to all parties.

(Neb. Rev. Stat. Section 84-912.02, R.R.S. 1994, and Neb. Rev. Stat. Sections 77-612, 77-702, 77-802.02 and 77-1330, R.S. Supp., 2007.)

REG-90-005 COMMENCEMENT OF A CONTESTED CASE

005.01 A contested case before the Tax Commissioner shall begin with the filing of a petition and request for hearing with the Department of Revenue. The petition is the initial document filed by or with the Department that sets forth a claim and request for action on the part of the Tax Commissioner or Department of Revenue.

005.02 The parties to a contested case shall be the petitioner or person by whom a contested case is brought and the respondent or person against whom a contested case is brought.

005.03 A party may appear on his or her own behalf in a contested case proceeding or may be represented by an attorney or other representative as permitted by law.

005.04 The pleadings in a contested case may include a petition, answer, reply, notice, motion, stipulation, objection, order, or other formal written document filed in a proceeding before an agency. Any pleading filed in a contested case shall meet the following requirements:

005.04A The pleading shall contain a heading specifying the name of the agency and the title or nature of the pleading, shall state material factual allegations and state concisely the action the Tax Commissioner is being requested to take, shall contain the name and address of the petitioner, and shall be signed by the party filing the pleading, or when represented by an attorney, the signature of the attorney. In instances where the Department of Revenue provides a form for the purposes of requesting agency action, the use of that form shall satisfy the above-described requirements.

005.04A(1) Attorneys shall also include their address, telephone number and bar number.

005.04A(2) The initial petition shall also contain the name and address of the respondent.

05.04B All pleadings, with the exception of those for which a form prepared by the Department of Revenue are used, shall be made on white, letter-sized (8 ½ x 11) paper and shall be legibly type-written, photostatically reproduced, printed or handwritten. If handwritten, a pleading must be written in ink.

005.05 All pleadings shall be timely filed with the Department of Revenue at its official office in Lincoln, Nebraska. Filing may be accomplished by personal delivery or by first class or certified mail and will be received during regular office hours of the agency. For the purposes of these regulations, a filing is considered timely if it bears a U.S. postmark date on or before the date set forth for filing the pleading by statute, regulation, directive or order of the Tax Commissioner or his or her designate.

005.06 The Department of Revenue shall serve a copy of the petition on each respondent listed in the petition personally or by first-class or certified mail. Each respondent who chooses to file a responsive pleading must do so within thirty (30) days from the date of personal service or the date of agency mailing of the petition.

005.07 All pleadings subsequent to the initial petition shall be served by the party filing such pleading upon all attorneys of record or other representatives of record and upon all unrepresented parties. Service shall be made personally or by first-class or certified mail. Written proof of such service shall be filed with the agency.

005.08 Unless state law provides that a hearing is not required, a hearing date shall be set by the Department of Revenue pursuant to statutory requirements. A written notice of the time and place of hearing and the name of the hearing officer, if known, shall be served by the agency upon all attorneys of record or other representatives of record and upon all unrepresented parties. The notice must include proof of such service and will be filed with the Department of Revenue.

005.09 In computing time prescribed or allowed by this regulation, or by any applicable statute in which the method of computing time is not specifically provided, days will be computed by excluding the day of the act or event and including the last day of the period. If the last day of the period falls on a Saturday, Sunday, or state holiday, the period shall include the next working day. For a filing to be considered timely filed, it shall be personally served or mailed bearing a postmark on or before the applicable filing date.

(Neb. Rev. Stat. Sections 84-901, 84-912.01, 84-912.02 and 84-913, R.R.S. 1994, Neb. Rev. Stat. Section 84-915.01, R.S. Supp., 2006 and Neb. Rev. Stat. Section 77-612, 77-702, 77-802.02 and 77-1330, R.S. Supp., 2007.)

REG-90-006 HEARING OFFICER; CRITERIA

006.01 The Tax Commissioner may delegate to a hearing officer the functions of conducting a prehearing conference and/or hearing and submitting a recommended decision to the Tax Commissioner. However, in any contested case in which the Tax Commissioner is statutorily required to issue an order, the final order shall be issued by the Tax Commissioner.

006.02 A person who has served as investigator, prosecutor, or advocate in a contested case or in its prehearing stage may not serve as hearing officer or assist or advise a hearing officer in the same proceeding except as provided in REG-90-006.04.

006.03 A person who is subject to the authority, direction, or discretion of one who has served as investigator, prosecutor, or advocate in a contested case or in its prehearing stage may not serve as hearing officer or assist or advise a hearing officer in the same manner proceeding except as provided in REG-90-006.04.

006.04 If all parties consent, a person who has served as, or who is subject to the authority, direction, or discretion of one who has served as investigator, prosecutor, or advocate in a contested case or in its prehearing stage may assist a hearing officer in the preparation of orders.

006.05 A person who has participated in a determination of probable cause or other equivalent preliminary determination in a contested case may serve as hearing officer or assist or advise a hearing officer in the same proceeding.

006.06 A person may serve as hearing officer at successive stages of the same contested case.

(Neb. Rev. Stat. Sections 84-901, 84-912.01, 84-912.02, 84-913, 84-913.01, 84-913.02, 84-913.04, 84-914 and 84-915, R.R.S. 1994, Neb. Rev. Stat. Sections 84-913.03 and 84-915.01, R.S. Supp., 2006 and Neb. Rev. Stat. Sections 77-612, 77-702, 77-802.02 and 77-1330, R.S. Supp., 2007.)

REG-90-007 PREHEARING PROCEDURES

007.01 Prehearing conferences and orders. The Tax Commissioner or a hearing officer designated to conduct a hearing may determine, subject to these rules and regulations, whether a prehearing conference will be conducted. If a prehearing conference is not held, the Tax Commissioner or a hearing officer for the hearing may issue a prehearing order, based on the pleadings, to regulate the conduct of the proceedings.

007.01A If a prehearing conference is conducted:

007.01A(1) The Tax Commissioner or hearing officer shall promptly notify the Department of Revenue of the determination that a prehearing conference will be conducted. The Tax Commissioner may assign a hearing officer for the prehearing conference; and

007.01A(2) The Tax Commissioner or hearing officer for the prehearing conference shall set the time and place of the conference and give reasonable written notice to all parties and to all persons who have filed written petitions to intervene in the matter. The Department of Revenue shall give notice to other persons entitled to notice. Such notice shall include the following:

007.01A(2)(a) The names and mailing addresses of all parties and other persons to whom notice is being given by the hearing officer;

007.01A(2)(b) The name, official title, mailing address, and telephone number of any counsel or employee who has been designated to appear for the Department of Revenue;

007.01A(2)(c) The official file or other reference number, the name of the proceeding, and a general description of the subject matter;

007.01A(2)(d) A statement of the time, place, and nature of the prehearing conference;

007.01A(2)(e) A statement of the legal authority and jurisdiction under which the prehearing conference and the hearing are to be held;

007.01A(2)(f) The name, official title, mailing address, and telephone number of the hearing officer for the prehearing conference;

007.01A(2)(g) A statement that a party who fails to attend or participate in a prehearing conference, hearing, or other stage of a contested case or who fails to make a good faith effort to comply with a prehearing order may be held in default under the Administrative Procedure Act; and

007.01A(2)(h) Any other matters that the hearing officer considers necessary to expedite the proceedings.

007.01B The Tax Commissioner or hearing officer shall conduct a prehearing conference, as may be appropriate, to deal with such matter as exploration of settlement possibilities, preparation of stipulations, clarification of issues, rulings on identity and limitation of the number of witnesses, objections to proffers of evidence, determination of the extent to which direct evidence, rebuttal evidence, or cross-examination will be presented in written form and the extent to which telephone, television, or other electronic means will be used as a substitute for proceedings in person, order of presentation of evidence and cross-examination, rulings regarding issuance of subpoenas, discovery orders, and protective orders, and such other matters as will promote the orderly and prompt conduct of the hearing. The Tax Commissioner or hearing officer shall issue a prehearing order incorporating the matters determined at the prehearing conference.

007.01C The Tax Commissioner or hearing officer may conduct all or part of the prehearing conference by telephone, television, or other electronic means if each participant in the conference has an opportunity to participate in, to hear, and, if technically feasible, to see the entire proceeding while it is taking place.

007.02 Discovery in contested cases.

007.02A The Tax Commissioner or hearing officer, at the request of any party or upon the motion of the Tax Commissioner or hearing officer may issue subpoenas, discovery orders, and protective orders pursuant to the rules of civil procedure except as may otherwise be prohibited by law. Subpoenas and orders issued under this subsection may be enforced by the district court.

007.02B Any prehearing motion to compel discovery, motion to quash, motion for protective order or other discovery-related motion shall:

007.02B(1) Quote the interrogatory, request, question, or subpoena at issue, or be accompanied by a copy of the interrogatory, request, subpoena or excerpt of a deposition;

007.02B(2) State the reasons supporting the motion;

007.02B(3) Be accompanied by a statement setting forth the steps or efforts made by the moving party or his or her counsel to resolve by agreement the issues raised and that agreement has not been achieved; and

007.02B(4) Be filed with the Tax Commissioner. The moving party must serve copies of all such motions to all parties to the contested case.

007.02C Other than is provided in REG-90-007.02B(4) above, discovery materials need not be filed with the Tax Commissioner.

007.03 Continuances. The Tax Commissioner or hearing officer may, in his or her discretion, grant extensions of time or continuances of hearings upon the hearing officer's own motion or at the timely request of any party for good cause shown. A party must file a written motion for continuance which states in detail the reasons why a continuance is necessary and serve a copy of the motion on all other parties.

007.03A Good cause. Good cause for an extension of time or continuance may include, but is not limited to, the following:

007.03A(1) Illness of the party, legal counsel or witness;

007.03A(2) A change in legal representation; or,

007.03A(3) Settlement negotiations are underway.

007.04 Amendments.

007.04A A petition may be amended at any time before an answer is filed or is due if notice is given to the respondent or his or her attorney. In all other cases, a petitioner must request permission to amend from the Tax Commissioner or hearing officer.

007.04B The Tax Commissioner or hearing officer may also allow, in his or her discretion, the filing of supplemental pleadings alleging facts material to the case occurring after the original pleadings were filed. The Tax Commissioner or hearing officer may also permit amendment of pleadings where a mistake appears or where amendment does not materially change a claim or defense.

007.05 Informal Disposition. Unless otherwise precluded by law, informal disposition may be made a part of any contested case by stipulation, agreed settlement, consent order, or default.

(Neb. Rev. Stat. Sections 84-901, 84-912.01, 84-912.02, 84-913, 84-913.01, 84-913.02 and 84-914, R.R.S. 1994, Neb. Rev. Stat. Section 84-915.01, R.S. Supp., 2006 and Neb. Rev. Stat. Sections 77-612, 77-702, 77-802.02 and 77-1330, R.S. Supp., 2007.)

REG-90-008 CONDUCTING A CONTESTED CASE HEARING

008.01 Order. At the discretion of the Tax Commissioner or hearing officer, the hearing may be conducted in the following order:

008.01A The hearing is called to order by the Tax Commissioner or hearing officer. Any preliminary motions, stipulations or agreed orders will be heard.

008.01B Each party may be permitted to make an opening statement. Opening statements take place in the same order as the presentation of evidence.

008.01C Presentation of evidence.

008.01C(1) Evidence will be received in the following order:

008.01C(1)(a) Evidence is presented by the petitioner;

008.01C(1)(b) Evidence is presented by the respondent;

008.01C(1)(c) Rebuttal evidence is presented by the petitioner; and

008.01C(1)(d) Surrebuttal evidence is presented by the respondent.

008.01C(2) With regard to each witness who testifies, the following examination may be conducted:

008.01C(2)(a) Direct examination conducted by the party who calls the witness;

008.01C(2)(b) Cross-examination by the opposing party;

008.01C(2)(c) Redirect examination by the party who called the witness;

008.01C(2)(d) Recross-examination by the opposing party.

008.01D After the evidence is presented, each party may have opportunity to make a closing argument. Closing arguments shall be made in the same order as the presentation of evidence. Tax Commissioner or hearing officer may request that the parties submit briefs in lieu of closing arguments.

008.02 Evidence.

008.02A In contested cases the Tax Commissioner or hearing officer may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs and may exclude incompetent, irrelevant, immaterial and unduly repetitious evidence.

008.02B Any party to a hearing before the Tax Commissioner or hearing officer, from which a decision may be appealed to the Tax Equalization and Review Commission, may request that the hearing

be governed by the rules of evidence applicable in the district courts of this state by delivering to the Tax Commissioner at least three days prior to the holding of the hearing a written request therefore and shall be served upon all parties to the contested case. Such request shall include the requesting party's agreement to be liable for the payment of costs incurred thereby and upon any appeal or review thereof, including the cost of court reporting services which the requesting party shall procure for the hearing.

008.02C Documentary evidence may be received in the form of copies or excerpts or incorporated by reference.

008.02D All evidence including records and documents in the possession of the Department of Revenue of which it desires to avail itself shall be made a part of the record in the case. No factual information or evidence other than the record shall be considered in the determination of the case.

008.02E The Tax Commissioner or hearing officer may administer oaths and issue subpoenas pursuant to the rules of civil procedure except as may otherwise be prescribed by law. Subpoenas and orders issued under this subsection may be enforced by the district court.

008.02F The Tax Commissioner or hearing officer shall give effect to the rules of privilege recognized by law.

008.02G The Tax Commissioner or hearing officer may take official notice of cognizable facts and in addition may take official notice of general, technical, or scientific facts within the specialized knowledge of the Tax Commissioner and the rules and regulations adopted and promulgated by the Department of Revenue.

008.02G(1) Parties shall be notified either before or during the hearing or by reference in preliminary reports or otherwise of materials so noticed.

008.02G(2) Parties will be afforded an opportunity to contest facts so noticed.

008.02G(3) The record shall contain a written record of everything officially noticed.

008.02H The Tax Commissioner may utilize his or her experience, technical competence and specialized knowledge in the evaluation of the evidence presented and made part of the record at hearing.

008.03 Conducting the hearing by electronic means. Tax Commissioner or hearing officer may conduct all or part of the hearing by telephone, television, or other electronic means if each participant in the hearing has an opportunity to participate in, to hear, and, if technically feasible, to see the entire proceeding while it is taking place.

008.04 Official record.

008.04A The Department of Revenue shall prepare an official record, which shall include testimony and exhibits, in each contested case, but it shall not be necessary to transcribe the record of the proceedings unless requested for purpose of rehearing or appeal, in which event the transcript and record shall be furnished by the Department of Revenue upon request and tender the cost of preparation.

008.04B The Department of Revenue shall maintain an official record of each contested case under the Administrative Procedures Act for at least four years following the date of the final order.

008.04C The Department of Revenue record shall consist only of the following:

008.04C(1) Notices of all proceedings;

008.04C(2) Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Department of Revenue pertaining to the contested case;

008.04C(3) The record of the hearing before the Tax Commissioner or his or her designee, including all exhibits and evidence introduced during such hearing, a statement of matters officially noticed by the Tax Commissioner or his or her designee during the proceedings, and all proffers of proof and objections and rulings thereon; and

008.04C(4) The final order.

008.04D As provided in 53 NAC 4, Section 002.03, the Tax Commissioner, hearing officer, or employee of the Department of Revenue who is or may reasonably be expected to be involved in the decision making process of the contested case who receives or who makes or knowingly causes to be made an ex parte communication as set forth in that subsection shall make the appropriate filings which shall be included in the official record of the contested case.

008.04E Except to the extent that the Administrative Procedure Act or another statute provides otherwise, the record of the Department of Revenue shall constitute the exclusive basis for any order issued by the Tax Commissioner in contested cases under the act and for judicial review thereof.

008.05 Costs. All costs of a formal hearing shall be paid by the party or parties against whom a final decision is rendered.

(Neb. Rev. Stat. Sections 84-901, 84-912.01, 84-912.01, 84-913, 84-913.02, 84-913.04, 84-914, 84-915 and 84-915.04, R.R.S. 1994, Neb. Rev. Stat. 84-913.03, R.S. Supp., 2006 and Neb. Rev. Stat. Sections 77-612, 77-702, 77-802.02 and 77-1330, R.S. Supp., 2007.)

REG-90-009 DECISION AND ORDER IN A CONTESTED CASE

009.01 Every decision and order adverse to a party to the proceeding, rendered by the Tax Commissioner in a contested case, shall be in writing or stated in the record and shall be accompanied by findings of fact and conclusions of law.

009.02 The decision and order should include:

009.02A The name of the Tax Commissioner and name of the proceeding;

009.02B The time and place of the hearing;

009.02C The names of all parties or their attorneys who entered an appearance at the hearing;

009.02D The findings of fact consisting of a concise statement of the conclusions upon each contested issue of fact;

009.02E The conclusions of law consisting of the applications of the controlling law to the facts found and the legal results arising therefrom; and

009.02F The order consisting of the action taken by the Department of Revenue as a result of the facts found and the legal conclusions arising therefrom.

009.03 Parties to the proceeding shall be notified of the decision and order in person or by mail. A copy of the decision and order and accompanying findings and conclusions shall be delivered or mailed upon request to each party or his or her attorney of record.

(Neb. Rev. Stat. Sections 84-901, 84-912.01, 84-913, 84-914 and 84-915, R.R.S. 1994, Neb. Rev. Stat. Section 84-915.01, R.S. Supp., 2006 and Neb. Rev. Stat. Sections 77-612, 77-702, 77-802.02 and 77-1330, R.S. Supp., 2007.)

REG-90-010 APPEALS

010.01 Any person aggrieved by a final decision in a contested case is entitled to appeal the decision of the Tax Commissioner to the Tax Equalization and Review Commission or to resort to such other means of review as may be provided by law.

010.02 Parties desiring to appeal a decision of the Tax Commissioner must file a petition with the Tax Equalization and Review Commission within thirty days after service of the final decision by the Tax Commissioner. The thirty (30) day period for appeal commences to run from the date of mailing of the notice of order and decision to the parties or their attorneys of record. Service of the petition filed with the Tax Equalization and Review Commission must be made pursuant to the Tax Equalization and Review Commission Act and the rules and regulations of the Commission.

(Neb. Rev. Stat. Section 84-912.03, R.S. Supp., 1999, Neb. Rev. Stat. Sections 77-702 and 77-5014, R.R.S. 2003, Neb. Rev. Stat. Section 84-917, R.S. Supp., 2006 and Neb Rev. Stat. Sections 77-612, 77-684, 77-802.02, 77-1249, 77-1330, 77-5007, 77-5015 and 79-1016, R.S. Supp., 2007.)

NEBRASKA ADMINISTRATIVE CODE

Title 350 - Nebraska Department of Revenue, Property Assessment Division
Chapter 91 – Proceedings Instituted By The Department of Revenue Property Assessment Division
Effective Date 3/15/09

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Title 350 - Nebraska Department of Revenue
Chapter 91 – Proceedings Instituted By The Department of Revenue

REG-91-001 PURPOSE

001.01 The scope and purpose of these regulations is to set forth the types of proceedings that may be instituted by the Department of Revenue acting on behalf of the Tax Commissioner and which are decided by the Tax Commissioner after a hearing conducted by the Tax Commissioner or his or her delegate.

(Neb. Rev. Stat. Sections 77-702 and 77-1330, R.S. Supp., 2007.)

REG-91-002 DEFINITIONS

002.01 Corrective order shall mean a written order of the Tax Commissioner requiring a county or assessor to institute measures to comply with the Nebraska Constitution, and statutes, and the rules, regulations, manuals and directives of the Tax Commissioner and Property Tax Administrator.

002.02 Invalidate shall mean to suspend or revoke the certificate held by a certificate holder for a period of five (5) years.

002.03 Revocation shall mean to invalidate the assessor's certificate of a certificate holder and render the holder ineligible to hold office for a period of five (5) years.

002.04 Suspend shall mean to cause a temporary interruption, not exceeding five (5) years, in duration of the assessment function of a county or the validity of an assessor's certificate.

(Neb. Rev. Stat. Sections 77-421, 77-422, 77-702, 77-707, and 77-1330, R.S. Supp., 2007.)

REG-91-003 PROCEEDINGS TO INVALIDATE ASSESSOR'S CERTIFICATE

003.01 The Tax Commissioner shall have the authority, after notice and a hearing in compliance with this regulation and Practice and Procedure Regulations, Chapter 90, to invalidate the assessor's certificate held by any assessor or deputy assessor who willfully fails or refuses to faithfully perform his or her duties pursuant to the Constitution and laws of the state of Nebraska, any rules, regulations or instructions adopted, promulgated and issued by the Tax Commissioner and Property Tax Administrator and any manuals of assessment adopted by the Tax Commissioner and Property Tax Administrator. For the purposes of these regulations, the term "instructions" as used in this regulation shall include, but not be limited to directives, manuals, instructions, guides or similar materials issued by the Tax Commissioner and Property Tax Administrator or Department of Revenue relating to the duties of assessors.

003.02 Willful failure.

003.02A For the purpose of this regulation, an assessor or deputy assessor has willfully failed or refused to perform duties when he or she has deliberately or intentionally not complied with the constitutional or statutory provisions, or rules, regulations, or other directions, including but not limited to, directives, manuals, guidelines, instructions or other directions developed by the Tax Commissioner and Property Tax Administrator or Department of Revenue delineating the duties of an assessing official in the

state of Nebraska. Willful failure constitutes more than a mere mistake; it contemplates an assessing official having knowledge of his or her duties and choosing not to perform them or to perform them in an incorrect manner.

003.02B Willful failure to comply with state statutes, rules and regulations, and instructions and manuals of the Tax Commissioner and Property Tax Administrator may be justified only where compliance would violate provisions of state law or rules and regulations, or would in fact, based on a preponderance of the evidence, lead to a significant decline in the quality of assessments or would lead to a significant decline in the uniformity and proportionality of assessments.

003.03 Notice. No assessor's certificate shall be invalidated by an order of the Tax Commissioner except after adequate notice and hearing.

003.03A A proceeding instituted by the Department of Revenue to invalidate an assessor's certificate, for the purpose of this regulation, shall be initiated in writing and shall set forth the grounds for the proceeding in a manner reasonably calculated to inform the holder of the certificate of the factual basis for the proceeding and the provisions of the statutes, rules and regulations or other materials issued by the Tax Commissioner and Property Tax Administrator allegedly violated by the assessor.

003.03B Proceedings for the invalidation of an assessor's certificate initiated by the Department of Revenue shall begin with a Petition for Hearing filed with the Tax Commissioner or his or her designate. Such a petition shall be in writing and shall set forth the factual basis for the petition and the provisions of the statutes, rules and regulations or other materials promulgated by the Tax Commissioner and Property Tax Administrator providing for duties with which the holder of the assessor's certificate has willfully failed to comply. The Petition for Hearing shall be reviewed by the Tax Commissioner or his or her designate. If the Petition alleges facts which, if true, would be cause for invalidation of an assessor's certificate, the Tax Commissioner or his or her designate shall issue a Notice of Hearing setting forth a time and place for hearing at least twenty (20) days in advance of hearing. If the petition fails to allege sufficient facts to merit a hearing, the Tax Commissioner or his or her designate shall issue an order dismissing the petition. The Petition for Hearing and Notice of Hearing shall be served pursuant to the Practice and Procedure Regulations, Chapter 90.

(Neb. Rev. Stat. Sections 84-901, 84-912.01, 84-912.03, 84-913, 84-914, 84-915, and 84-917, R.R.S. 1994, Neb. Rev. Stat. Sections 77-5015 and 84-915.01, R.S. Supp., 2006 and Neb Rev. Stat. Sections 77-702, 77-1330, 77-5007 and 77-5014, R.S. Supp., 2007.)

REG-91-004 CONDUCT OF PROCEEDINGS

004.01 Any proceeding to invalidate an assessor's certificate initiated by the Department of Revenue shall be conducted pursuant to Practice and Procedure Regulations, Chapter 90, governing contested cases.

004.02 Burden of Proof.

004.02A The burden of proof in a proceeding to invalidate an assessor's certificate initiated by the Department of Revenue shall be on the Department of Revenue to show, by a preponderance of evidence, that the holder of the assessor's certificate has willfully failed to perform his or her duties under the applicable constitutional or statutory provisions, or the rules, regulations or instructions promulgated by the Tax Commissioner and Property Tax Administrator. For the purposes of these regulations, preponderance of the evidence shall mean evidence which, as a whole, shows that the facts or set of facts sought to be proved is more probable than not.

004.02B In any proceeding to invalidate an assessor's certificate, if the holder of the assessor's certificate seeks to assert that he or she was justified in willfully failing to perform duties required of the holder of an assessor's certificate, such an assertion shall be treated as an affirmative defense. In such instances, the holder of the assessor's certificate shall have the burden of proof to show, by a preponderance of the evidence, that compliance with the state law or rule or regulation alleged by the Department of Revenue to have been violated would lead to a significant decline in the quality of assessments, or a significant decline in the uniformity and proportionality of assessments.

(Neb. Rev. Stat. Sections 84-901, 84-912.02, 84-912.03, 84-913, 84-914, 84-915 and 84-917, R.R.S. 1994, Neb. Rev. Stat. Section 77-5015, R.S. Supp., 2006 and Neb. Rev. Stat. Sections 77-702, 77-1330, 77-5007 and 77-5014, R.S. Supp., 2007.)

REG-91-005 ORDERS

005.01 Following a hearing conducted before the Tax Commissioner or his or her designee, the Tax Commissioner shall issue an order, in writing, determining whether invalidating the assessor's certificate is appropriate, based on the record made at hearing. The Tax Commissioner may not consider evidence not presented at hearing.

005.02 The order shall contain findings of fact and conclusions of law as set forth in Practice and Procedure Regulations, Chapter 90. The order shall be served on the parties or their representatives pursuant to Practice and Procedure Regulations, Chapter 90.

(Neb. Rev. Stat. Sections 84-901, 84-913, 84-913.04, 84-914, 84-915 and 84-917, R.R.S. 1994, Neb. Rev. Stat. Section 84-915.01, R.S. Supp., 2006 and Neb. Rev. Stat. Sections 77-702 and 77-1330, R.S. Supp., 2007.)

REG-91-006 SANCTIONS

006.01 If the Tax Commissioner finds that the holder of the assessor's certificate sought to be invalidated by the Department of Revenue has willfully failed or refused to perform his or her duties, the Tax Commissioner may issue a written order suspending the certificate or indicating an intention to revoke the certificate.

006.01A In determining whether the appropriate sanction is suspension or revocation and in determining the length of any suspension imposed, the Tax Commissioner shall consider the severity of the violations committed by the assessor, the length of time during which such violations occurred, the impact of such violations on the level of value and quality of assessment in the county, the impact of such violations on the uniformity and proportionality of assessments in the county, and whether the certificate holder has previously been determined by the Tax Commissioner, the Tax Equalization and Review Commission or any other administrative agency or court to have violated the Nebraska Constitution, statutes or regulations, manuals or directives of the Tax Commissioner and Property Tax Administrator relating to assessment practices.

006.01B If the Tax Commissioner issues a written order intending to revoke an assessor's certificate, the order shall include a one (1) year probationary period. Such an order may require the certificate holder to correct those practices found by the Property Tax Administrator to violate the Nebraska Constitution, statutes and the regulations, manuals and directives of the Tax Commissioner and Property Tax Administrator.

006.01C The written order shall also schedule a hearing, at the end of the probationary period, to determine whether the certificate holder has successfully met the conditions contained in the order.

006.01D The burden of showing the certificate holder has not successfully met the conditions for the probationary period shall be on the Department of Revenue to show, by a preponderance of the evidence, that such conditions have not been met.

006.01E If the evidence adduced at the hearing following the probationary period indicates the certificate holder has successfully met the terms of the probationary period, the Tax Commissioner shall issue a written order rescinding the potential revocation of the certificate.

006.01F If the evidence adduced at the hearing following the probationary period indicates the certificate holder has not successfully met the terms of the probationary period, the Tax Commissioner shall issue a written order revoking the certificate. Such order shall set forth the date on which such revocation shall take effect.

006.02 In the event that an assessor certificate is invalidated, the office held by the certificate holder shall become vacant. The position of the certificate holder may be filled by the county, or by the state in instances where the holder of the certificate is employed by the state, pursuant to the applicable statutes or regulations dealing with filling vacancies at the county or state level.

006.03 In the event that an assessor's certificate is suspended, the certificate holder shall not be eligible to be elected or appointed to, or hold the office of assessor or serve as deputy assessor during the period of suspension.

006.04 In the event that the certificate held by an assessor or deputy assessor is revoked, the certificate holder shall not be eligible to be elected or appointed to, or hold the office of assessor or serve as deputy assessor for a period of five (5) years from the date of revocation pursuant to the order of the Tax Commissioner.

006.04A A certificate holder whose certificate has been suspended or revoked shall be ineligible to hold his or her position as assessor or deputy assessor not only in the county for which he or she worked at the time of the invalidation of the certificate but also in any other county in the state during the period of revocation or suspension.

006.04B Before the holder of an assessor's certificate that has been invalidated may be eligible to be elected or appointed as an assessor or deputy assessor, or hold the office of county assessor or serve as deputy assessor, he or she must retake and pass the written examination held by the Property Tax Administrator for applicants for certification as assessor. An applicant for re-examination under this section shall be required to pay the applicable examination fee to the Tax Commissioner.

006.04C In order to be re-certified, in addition to retaking and passing the written examination, a certificate holder whose certificate has been invalidated must satisfy the educational requirements of the Education, Certification, and Re-certification Regulation, Chapter 71.

006.04D Upon reinstatement, a certificate holder must maintain the educational requirements as set forth in the Education, Certification, and Re-certification Regulation Chapter 71.

(Neb. Rev. Stat. Section 23-3202, R.S. Supp., 2002 and Neb. Rev. Stat. Sections 77-414, 77-702, and 77-1330, R.S. Supp., 2007.)

REG-91-007 APPEALS

007.01 Any assessor or deputy assessor whose certificate has been invalidated may appeal the decision of the Tax Commissioner to the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat. Section 77-5013 and the rules and regulations promulgated and adopted by the Commission.

007.02 An appeal of the invalidation of an assessor's certificate under this section shall not act as an automatic stay of the order of the Tax Commissioner invalidating the certificate.

(Neb. Rev. Stat. Sections 77-5013 and 77-5015, R.S. Supp., 2006 and Neb. Rev. Stat. Sections 77-702, 77-1330, 77-5007 and 77-5014, R.S. Supp., 2007.)

REG-91-008 CORRECTIVE MEASURES

008.01 The Property Tax Administrator or his or her agent or representative may examine or cause to have examined any books, papers, records, or memoranda of any county relating to the assessment of property to determine compliance with the Nebraska Constitution and statutes as well as any regulations, manuals and directives promulgated and adopted by the Tax Commissioner and Property Tax Administrator.

008.01A The production of records by a county may be required by the Property Tax Administrator by administrative order or summons.

008.01B A willful failure on the part of an assessor or deputy assessor to produce records requested by the Property Tax Administrator shall constitute grounds for the invalidation of the assessor's certificate held by the assessor or deputy assessor failing to produce such records.

008.01C After an examination of the books and records of a county, the Property Tax Administrator shall provide a written report of the results of the examination to the assessor and county board. If the examination indicates a failure to meet the standards contained in the constitution, statutes or rules, regulations, manuals or directives promulgated and adopted by the Tax Commissioner and Property Tax Administrator, the Property Tax Administrator shall, in the report of the examination, set forth the facts and nature of such failures as well as recommend corrective measures the county or assessor should implement to correct those failures.

008.02 Proceeding to Require Corrective Measure

008.02A Following the examination of a county's records and the issuance of a report of the results of the examination, the Property Tax Administrator may seek to order a county to take whatever corrective measures the Property Tax Administrator deems necessary to achieve compliance with the Nebraska Constitution and statutes as well as rules, regulations, manuals or directives promulgated and adopted by the Tax Commissioner and Property Tax Administrator.

008.02B No such corrective measures may be ordered by the Property Tax Administrator except after adequate notice and hearing.

008.03 Notice.

008.03A A proceeding instituted by the Department of Revenue to require a county to institute a corrective order shall be initiated in writing and shall set forth the grounds for the proceeding in a manner reasonably calculated to inform the county of the factual basis for the proceeding, the provisions of the statutes, rules, regulations or other materials that have been violated by the county and the corrective measure sought to be imposed.

008.03B Proceedings for the imposition of a corrective measure shall be initiated by the Department of Revenue and shall begin with a Petition for Hearing filed with the Tax Commissioner. Such a petition shall be in writing and shall set forth the factual basis for the petition, the provisions of the statutes, rules and regulations or other materials promulgated by the Tax Commissioner and Property Tax

Administrator with which the county has failed to comply and the corrective measures recommended by the Department of Revenue. The Petition for Hearing shall be reviewed by the Tax Commissioner or his or her designate. If the Petition alleges facts which, if true, would indicate a failure on the part of the county to comply with the statutes, rules, regulations, directives or manuals relating to property assessment, the Tax Commissioner or his or her designate shall issue a Notice of Hearing setting forth a time and place for hearing at least twenty days in advance of the hearing. If the Petition does not allege sufficient facts to merit the setting of a hearing, the Tax Commissioner shall issue an order dismissing the petition. The Petition for Hearing and Notice of Hearing shall be served pursuant to the Practice and Procedure Regulations, Chapter 90.

008.04 Conduct of Proceedings.

008.04A Any proceeding to require corrective measures on the part of the county shall be conducted pursuant to the Practice and Procedure Regulations, Chapter 90, governing contested cases except as specifically set forth in this regulation.

008.04B Burden of Proof.

008.04B(1) The burden of proof in a proceeding to require a corrective measure initiated by the Department of Revenue shall be on the Department of Revenue to show, by a preponderance of the evidence that the county has failed or neglected to comply with applicable statutes, rules, regulations, manuals or directives relating to property assessment practices. For the purposes of this regulation, preponderance of the evidence shall mean evidence which as a whole shows that the fact or set of facts sought to be proved is more probable than not.

008.04B(2) For the purpose of this regulation, "failed or neglected to comply" shall mean that a provision of a statute, rule, regulation, directive or manual required to be instituted or followed by a county has not been instituted by the county. It shall not require any willfulness or intentional noncompliance on the part of the county through the action or inaction of its employees, agents or representatives before the issuance by the Tax Commissioner of a corrective order to the county.

008.04B(3) In any proceeding to require a corrective order, if the county seeks to assert that it was justified in failing to comply with any provision of statute, rule, regulation, directive or manual, such an assertion shall be treated as an affirmative defense. In such instances, the county shall have the burden of proof to show, by a preponderance of the evidence, that compliance with the state law, rule, regulation, directive or manual alleged by the Department of Revenue not to have been complied with would lead to a significant decline in the quality of assessments, or a significant decline in the uniformity and proportionality of assessments.

008.05 Orders.

008.05A Following a hearing conducted before the Tax Commissioner or his or her delegate, the Tax Commissioner shall issue an order, in writing, determining whether a corrective measure relating to its assessment practices shall be required of a county, based on the record made at the hearing. The Tax Commissioner may not consider evidence not presented at the hearing.

008.05B The order shall contain findings of fact and conclusions of law as set forth in Practice and Procedure Regulations, Chapter 90. The order shall be served on the parties or their representatives pursuant to Practice and Procedure Regulations, Chapter 90.

008.06 Implementation

008.06A If after the hearing, the Property Tax Administrator issues a corrective order to a county that would have an impact on property values in the county, the values resulting from the order shall be placed upon the assessment rolls and used as a basis for taxation for the current year, if deemed possible by the Property Tax Administrator in the order issued requiring the corrective measure. If not ordered by the Property Tax Administrator for the current year, changes in value resulting from a corrective order shall be made in the next calendar year.

008.06A(1) The Property Tax Administrator may extend statutory due dates and filing requirements in order to implement a corrective order in the year in which it was made.

008.06A(2) Current year corrections shall be completed no later than August 10 of the year in which the order is issued.

008.06B Each property owner or lessee that is responsible for paying the property taxes pursuant to Neb. Rev. Stat. Section 77-202.11 shall be notified of the valuations to be used as a result of the corrective order in the same manner as is used for adjustments to value pursuant to Neb. Rev. Stat. Section 77-1315. The valuations resulting from the corrective order may be protested by property owners or lessee that is responsible for paying the property taxes pursuant to Neb. Rev. Stat. Sections 77-202.11 and 77-1502.

008.06C The county to whom the Property Tax Administrator issues a corrective order shall implement the order as directed by the Property Tax Administrator in the order.

008.06C(1) The Property Tax Administrator shall have the right to monitor compliance with the corrective order and to require the production for review and inspection of a county's records to ensure such compliance.

008.06C(2) If a county fails to implement a corrective order, the Department of Revenue may seek to suspend the assessment function of a county and to implement the corrective order with its own personnel.

008.06C(3) In the event that a county fails to implement all or a substantial portion of a corrective order and the Property Tax Administrator has suspended the assessment function of the county pursuant to REG-91-009 and implemented the order with personnel from the Department of Revenue, the cost to the Department of Revenue to implement the order shall be a charge on the county that has failed to implement the order.

008.06C(3)(a) Upon completion of the implementation of the corrective order by the Department of Revenue, the Property Tax Administrator shall notify the county board of the cost to the Department of Revenue of implementing the order and present a demand for payment to the county. For the purposes of this regulation, the costs for which the Department of Revenue may be reimbursed include but are not limited to, wages of Department of Revenue personnel, travel, food and lodging expenses during the course of the implementation of the corrective order, and the cost of materials used in the implementation of the order.

008.06C(3)(b) If a county fails to make payment to the Property Tax Administrator within one hundred twenty (120) days after the start of the next fiscal year, for the Department of Revenue's costs, the Tax Commissioner shall report such nonpayment to the State Treasurer who shall immediately make payment to the Department of Revenue for costs incurred by the Department of Revenue for such corrective measures. Payment by the State Treasurer to the Tax Commissioner shall be

made out of any money to which such county may be entitled under Neb. Rev. Stat. Chapter 66, articles 4 and 6, and Chapter 77, articles 27 and 35.

008.07 Appeals.

008.07A Any county that has been ordered to implement corrective measures by the Property Tax Administrator following notice and a hearing may appeal the decision of the Property Tax Administrator to the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat. Section 77-5013 and the rules and regulations promulgated and adopted by the Commission.

008.07B An appeal of the order of the Property Tax Administrator requiring a county to take corrective measures shall not act as an automatic stay of the order of the Property Tax Administrator.

(Neb. Rev. Stat. Sections 84-901, 84-912.01, 84-912.02, 84-912.03, 84-913, 84-913.01, 84-913.02, 84-913.04, 84-914 and 84-915, R.R.S. 1994, Neb. Rev. Stat. Sections 77-5013, 77-5015, 84-913.03 and 84-915.01, R.S. Supp., 2006 and Neb. Rev. Stat. Sections 77-702, 77-1330, 77-5007 and 77-5014, R.S. Supp., 2007.)

REG-91-009 SUSPENSION OF COUNTY ASSESSMENT AUTHORITY

009.01 The Department of Revenue may institute an action before the Property Tax Administrator to require a county to show cause as to why the Property Tax Administrator should not suspend the assessment authority of a county under the following circumstances:

009.01A The county has not complied with a corrective order issued by the Property Tax Administrator pursuant to REG-91-008 within one year of its issuance.

009.02 Notice. No county shall have its assessment authority suspended by the Property Tax Administrator except after adequate notice and a hearing.

009.02A A proceeding to determine whether the assessment authority of a county shall be initiated by the Department of Revenue in writing and shall set forth the grounds for the proceeding in a manner reasonably calculated to inform the county of the factual basis for the proceeding and the provisions of the statutes, rules and regulations or other materials allegedly violated by the county.

009.02B Proceedings to determine whether a county's assessment authority should be suspended shall begin with a Petition for Show Cause Hearing filed by the Department of Revenue with the Property Tax Administrator. Such petition shall be in writing and shall set forth the factual basis for the petition and the provisions of the statutes, rules and regulations or other materials promulgated by the Property Tax Administrator with which the county has failed to comply. The petition shall be reviewed by the Property Tax Administrator or his or her designate. If the petition alleges facts which, if true, would meet the conditions of REG-91-009.01A the Property Tax Administrator or his or her designate shall issue a Notice of Show Cause Hearing setting forth the time and place for hearing at least twenty (20) days in advance of hearing. If the petition fails to allege facts sufficient to merit the setting of a hearing, the Property Tax Administrator shall issue an order dismissing the petition. The Petition for Hearing and Notice of Show Cause Hearing shall be served pursuant to Practice and Procedure Regulations, Chapter 90.

009.03 Conduct of Proceedings.

009.03A Any proceedings to determine whether to suspend the assessment authority of a county initiated by the Department of Revenue shall be conducted pursuant to the Practice and Procedure Regulations, Chapter 90, governing contested cases.

009.03B Burden of Proof.

009.03B(1) The burden of proof in a show cause proceeding to determine whether a county's assessment authority should be suspended shall be on the county to show, by a preponderance of the evidence, that the county has substantially corrected its failure to comply with the constitution, statutes, rules, regulations, directives or manuals set forth in the Department of Revenue report of its inspection of the county's records or that the county has substantially complied with a corrective order of the Property Tax Administrator.

009.03B(2) For the purposes of this regulation, "substantially corrected" or "substantially complied" shall mean that the county has corrected any failures to comply with its statutory or regulatorily mandated duties or has complied with a corrective order in substantive fashion; mere technical noncompliance shall not serve as grounds for the suspension of a county's assessment authority.

009.04 Orders.

009.04A Following a hearing conducted before the Tax Commissioner or his or her designate, the Tax Commissioner shall issue an order, in writing, determining whether suspending a county's assessment function is appropriate, based on the record made at hearing. The Tax Commissioner may not consider evidence not presented at hearing.

009.04B The order shall contain findings of fact and conclusions of law as set forth in Practice and Procedure Regulations, Chapter 90. The order shall be served on the parties or their representatives pursuant to the Practice and Procedure Regulations, Chapter 90.

009.04C If the record at hearing indicates that the county has met its burden to show it has corrected its failure to comply with the applicable statutory or regulatory provisions set forth in the Department of Revenue's initial report or has complied with the Tax Commissioner's corrective order, the Tax Commissioner's order shall rule in favor of the county and dismiss the Department of Revenue's Petition for Show Cause Hearing.

009.05 Sanctions.

009.05A If the Tax Commissioner finds, based on the record made at hearing, that the county has failed to show it has corrected its failure to comply with the applicable constitutional provisions, statutes, regulations, directives, or manuals or has failed to comply with the Tax Commissioner's corrective order, the Tax Commissioner may issue a written order suspending the assessment authority of the county.

009.05A(1) The Tax Commissioner has the discretion to suspend the assessment authority of a county for a finite or indefinite period. The length of a suspension ordered by the Tax Commissioner shall be based on the severity of the noncompliance with the corrective order on the part of the county, the effort or lack of effort of the county to comply with the order, and any other factor that may impact on the ability of the county to conduct its assessment authority in a manner prescribed by law.

009.05A(2) In the event that the Tax Commissioner suspends the assessment authority of a county indefinitely, he or she shall, in his or her order of suspension, provide for the county to apply to the Tax Commissioner for reinstatement of its assessment authority and that such authority shall be reinstated upon a showing by the county that it has taken the necessary steps to conduct its assessment authority pursuant to constitutional, statutory and regulatory provisions upon reinstatement.

009.05A(3) During the time a county's assessment authority has been suspended by the Tax Commissioner, the Tax Commissioner, through the Department of Revenue, shall succeed to the authority and duties from which the county has been suspended and shall perform the assessment duties of the county. Such performance shall be a charge against the county. Payment for such charges shall be made in the manner described in REG-91-008.06C.

(Neb. Rev. Stat. Sections 84-901, 84-912.01, 84-912.02, 84-912.03, 84-913, 84-913.01, 84-913.02, 84-913.04, 84-914, 84-915, and 84-917, R.R.S. 1994, Neb. Rev. Stat. Sections 77-5015, 84-913.03 and 84-915.01, R.S. Supp., 2005 and Neb. Rev. Stat. Sections 77-702, 77-1330, 77-5007 and 77-5014, R.S. Supp., 2007.)

REG-91-0010 APPEALS

0010.01 Any county whose assessment authority has been suspended may appeal the decision of the Tax Commissioner to the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat. Section 77-5013 and the rules and regulations promulgated and adopted by the Commission.

0010.02 An appeal of the suspension of a county's assessment authority shall not act as an automatic stay of the order of the Tax Commissioner.

(Neb. Rev. Stat. Section 84-915, R.R.S. 1994, Neb. Rev. Stat. Sections 77-5013, 77-5015 and 84-915.01 R.S. Supp., 2006 and Neb. Rev. Stat. Sections 77-702, 77-1330, 77-5007 and 77-5014, R.S. Supp., 2007.)

NEBRASKA ADMINISTRATIVE CODE

Title 350 - Nebraska Department of Property Assessment and Taxation

Chapter 93 - Tax Equalization and Review Commission Order Compliance Audit Regulations

Effective Date 1/3/07

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Title 350 - Nebraska Department of Property Assessment and Taxation
Chapter 93 – Tax Equalization and Review Commission Order Compliance Audit Regulations

REG-93-001 PURPOSE

001.01 The purpose of this regulation is to define terms, responsibilities of parties, and presentation of the audits for compliance by the Property Tax Administrator to the Tax Equalization and Review Commission following hearings for statewide equalization.

The Property Tax Administrator has a statutory obligation to make an examination of the records of any county that has been issued orders by the Tax Equalization and Review Commission following hearings to raise or lower the valuation of any class or subclass of real property to achieve statewide equalization.

On or before June 5 of each year, the county assessor of any county adjusted by an order of the Commission shall recertify the County Abstract of Assessment Report for Real Property to the Property Tax Administrator. The Property Tax Administrator shall audit the records of the county assessor to determine whether the orders were or were not implemented as required pursuant to Neb. Rev. Stat. Section 77-5029. On or before August 1 of each year, the Property Tax Administrator shall certify to the Tax Equalization and Review Commission that any order issued pursuant to Neb. Rev. Stat. Section 77-5028 was or was not implemented by the county *assessor*.

(Neb. Rev. Stat. Section 77-702, R.R.S. 2003 and Neb. Rev. Stat. Sections 77-5028 and 77-5029, R.S. Supp., 2006.)

REG-93-002 DEFINITIONS

002.01 Audit shall mean a systematic investigation or evaluation of procedures or operations for the purpose of determining conformity with prescribed criteria.

002.02 Class or subclass of real property shall mean a collection of properties that share one or more common characteristics that are not found in properties outside the class or subclass.

002.02A For agricultural or horticultural land, class or subclass shall include, but is not limited to, irrigated cropland, dry cropland, grassland, wasteland, nurseries, feedlots, orchards, location, geographic characteristics, and market characteristics that are appropriate for the valuation of a class or subclass of agricultural or horticultural land at seventy-five (75%) percent of its market value. In the case of agricultural or horticultural land subject to special valuation assessment, seventy-five (75%) percent of its special value as if the land were available only for agricultural or horticultural purposes or used without regard to any other purpose or use that could be applied to the land.

002.02B For all other real property, class or subclass shall include, but not be limited to status, parcel type, zoning, location, city size, parcel size, geographic characteristics or market characteristics that are appropriate for the valuation of a class or subclass of real property at one hundred (100%) percent of its market value.

002.03 Market characteristics shall mean the social and economic factors in the market that affect the value of real property.

002.04 Geographic characteristics shall mean the physical characteristics of the earth, land, region, or site that may have an effect on value.

(Neb. Rev. Stat. Section 77-702, R.R.S. 2003 and Neb. Rev. Stat. Sections 77-5028 and 77-5029, R.S. Supp., 2006.)

REG-93-003 PROCEDURES

003.01 After the county assessor has recertified the County Abstract of Assessment Report for Real Property, on or before June 5, following implementation of the order and before August 1 the Property Tax Administrator shall conduct an audit of any county that has been issued orders by the Tax Equalization and Review Commission.

003.02 The audit shall consist of an examination of any documents relating to the class or subclass ordered adjusted by the Tax Equalization and Review Commission.

003.02A The examination shall include but not be limited to the following:

(a) A review of the recertified abstract(s) including assessed value updates compared to the original that was filed with the Property Tax Administrator on or before March 19;

(b) A request for an electronic printout of land valuation tables, copies of electronic or hard copy property record cards displaying the value before the Tax Equalization and Review Commission order and the value after the order;

(c) Evidence that on or before June 1, notice of valuation changes were sent to the owner of record as of May 20, or lessee that is responsible for paying the property taxes pursuant to Neb. Rev. Stat. Section 77-202.11 reflecting the increase or decrease ordered by the Tax Equalization and Review Commission order; and

(d) A summary of the percentage change to a class or subclass between the original abstract that was filed on or before March 19 and the recertified abstract(s).

003.03 The audit shall include a minimum sample of twenty records for each class or subclass ordered adjusted by the Tax Equalization and Review Commission. The records for the affected class or subclass shall be chosen in as random a manner as possible. The Property Tax Administrator has discretion to select additional records if he or she believes further investigation is needed.

003.04 The records chosen for the random sample shall be identified on a worksheet that may be modified as needed to be inclusive of all necessary information to illustrate compliance with the order.

003.05 If after June 1 and prior to June 30 it is discovered that real property has not received the required adjustment as ordered, the county assessor and county board of equalization will be notified in writing by the Property Tax Administrator within seven days after such discovery.

(Neb. Rev. Stat. Section 77-702, R.R.S. 2003 and Neb. Rev. Stat. Sections 77-5028 and 77-5029, R.S. Supp., 2006.)

REG-93-004 FINDINGS

004.01 The Property Tax Administrator auditing a county for compliance with Commission orders shall prepare an audit report of the findings, determining whether the order issued by the Tax Equalization and Review Commission was implemented by the county *assessor*. The audit report shall be certified by the Property Tax Administrator to the Tax Equalization and Review Commission on or before August 1 each year pursuant to Neb. Rev. Stat. Section 77-5029. The report shall include findings regarding all classes or subclasses ordered changed by the Commission. A copy of all worksheets prepared in conjunction with the audit indicating the property records reviewed shall be attached to the report.

004.02 If, during the audit process, a county is discovered to have unacceptable assessment practices that would be evidenced through the examination of books, papers, records, or memoranda relating to the assessment of property, those matters may be addressed by the Property Tax Administrator as set forth in Neb. Rev. Stat. Section 77-1330.

(Neb. Rev. Stat. Section 77-702, R.R.S. 2003 and Neb. Rev. Stat. Sections 77-5028 and 77-5029, R.S. Supp., 2006.)