

TITLE 3: TAXATION
CHAPTER 6: PROPERTY TAXES
PART 5: CLASSIFICATION OF PROPERTY

3.6.5.1 ISSUING AGENCY: Taxation and Revenue Department, Joseph M. Montoya Building, 1100 South St. Francis Drive, P.O. Box 630, Santa Fe NM 87504-0630
[8/31/96; 3.6.5.1 NMAC - Rn, 3 NMAC 6.5.1, 4/30/01]

3.6.5.2 SCOPE: The sections under this part apply to all property subject to property taxation under the Property Tax Code, owners and agents of owners of such property and all county officials and personnel of the taxation and revenue department charged with administration of the Property Tax Code.
[8/31/96; 3.6.5.2 NMAC - Rn, 3 NMAC 6.5.2, 4/30/01]

3.6.5.3 STATUTORY AUTHORITY: Section 9-11-6.2 NMSA 1978.
[8/31/96; 3.6.5.3 NMAC - Rn, 3 NMAC 6.5.3, 4/30/01]

3.6.5.4 DURATION: Permanent.
[8/31/96; 3.6.5.4 NMAC - Rn, 3 NMAC 6.5.4, 4/30/01]

3.6.5.5 EFFECTIVE DATE: 8/31/96, unless a later date is cited at the end of a section, in which case the later date is the effective date.
[8/31/96; 3.6.5.5 NMAC - Rn & A, 3 NMAC 6.5.5, 4/30/01]

3.6.5.6 OBJECTIVE: The objective of this part is to interpret, exemplify, implement and enforce the provisions of the Property Tax Code.
[8/31/96; 3.6.5.6 NMAC - Rn, 3 NMAC 6.5.6, 4/30/01]

3.6.5.7 DEFINITIONS: [Reserved]
[8/31/96; 3.6.5.7 NMAC - Rn, 3 NMAC 6.5.7, 4/30/01]

3.6.5.8 CLASSIFICATION OF PROPERTY - MULTIPLE USE PROPERTIES:

A. Property shall be classified as residential or nonresidential in accordance with the definitions found in Section 7-35-2 NMSA 1978.

B. Multiple use properties are properties which contain both residential and non-residential components. Multiple use properties shall be classified according to their individual components if it is possible to separate the property into discrete entities. If it is not feasible to separate a multiple-use property into discrete entities, then that property shall be classified according to the predominant use of the property. Examples: a ranch which can be separated into residential and non-residential components exemplifies a multiple use property divisible into discrete parts. A single building with an apartment and a store, however, generally cannot be separated into its discrete components.

C. Predominant usage of a property may be arrived at by calculating the value of each component through the generally accepted methods of valuation-comparable sales, income or cost-as applicable.
[3/23/83, 12/29/94, 8/31/96; 3.6.5.8 NMAC - Rn & A, 3 NMAC 6.5.8, 4/30/01]

3.6.5.9 [RESERVED]
[3.6.5.9 NMAC - Rn, 3 NMAC 6.5.9, 4/30/01]

3.6.5.10 [RESERVED]
[3.6.5.10 NMAC - Rn, 3 NMAC 6.5.10, 4/30/01]

3.6.5.11 [RESERVED]
[3.6.5.11 NMAC - Rn, 3 NMAC 6.5.11, 4/30/01]

3.6.5.12 LICENSE NOT A FRACTIONAL INTEREST: Because it does not constitute an interest in real property, a license which does not confer the dominion and control necessary to constitute a leasehold is not included within the definition of "fractional interest" as that term is defined in Section 7-36-4 NMSA 1978.

[12/29/94, 8/31/96; 3.6.5.12 NMAC - Rn & A, 3 NMAC 6.5.12, 4/30/01]

3.6.5.13 [RESERVED]

[3.6.5.13 NMAC - Rn, 3 NMAC 6.5.13, 4/30/01]

3.6.5.14 [RESERVED]

[3.6.5.14 NMAC - Rn, 3 NMAC 6.5.14, 4/30/01]

3.6.5.15 PROPERTY SUBJECT TO VALUATION FOR PROPERTY TAXATION PURPOSES

A. CERTAIN DISTRICT PROPERTY EXEMPT:

(1) Section 73-17-22 NMSA 1978 provides that title to all rights and property acquired by any conservancy district shall immediately and by operation of law vest in such district in its corporate name. Further, such property is held for uses and purposes of the district and is exempted from all taxation.

(2) The property of a water and sanitation district formed in accordance with Section 73-21-9 NMSA 1978 is exempt from property taxation because the district is a governmental subdivision of the state.

B. RURAL ELECTRIC COOPERATIVES ARE NOT EXEMPT: Property of rural electric cooperatives, formed pursuant to the Rural Electric Cooperative Act, is not exempted from property taxation by Section 62-15-28 NMSA 1978. Such a property tax exemption is not authorized by the New Mexico Constitution.

C. PERSONAL PROPERTY EXEMPTION FROM EXECUTION NOT APPLICABLE: The exemption from execution granted by Section 42-10-1 or 42-10-2 NMSA 1978 does not apply to taxes imposed pursuant to the Property Tax Code.

D. HOMESTEAD EXEMPTION FROM EXECUTION NOT APPLICABLE: The homestead exemption from execution granted by Section 42-10-9 or 42-10-10 NMSA 1978 does not grant an exemption from taxes imposed pursuant to the Property Tax Code.

E. URBAN RENEWAL, MUNICIPAL PROPERTY EXEMPT:

(1) Section 3-46-37 NMSA 1978 of the Urban Development Law, which provides an exemption from property taxation, is sufficiently supported by Article VIII, Section 3 of the New Mexico Constitution.

(2) When the exemption terminates pursuant to Section 3-46-37 NMSA 1978, the purchaser or lessee which is not a public body is required to report the property in accordance with Section 7-38-8 NMSA 1978 to the county assessor or to the division if the property is to be valued by the department, and the public body is required to report the termination as provided in Section 7-38-15 NMSA 1978.

(3) If the exemption terminates after January 1 of the tax year, the county assessor is required to value the property for the next tax year. No proration of values or taxes is to be made as to this exemption.

F. PROPERTY OWNED BY ANOTHER STATE NOT EXEMPT: Property located within the boundaries of New Mexico which is either fully or partially leased, used or owned by another state is not exempted from taxes imposed by the Property Tax Code solely by reason of the fact that the other state has leased, uses or owns the property.

G. MAUSOLEUMS WITHIN THE DEFINITION OF "CEMETERY": The term "cemetery" as it is used in Article VIII, Section 3 of the New Mexico Constitution includes burial parks for earth interments, mausoleums for vault or crypt interments, crematories and columbariums.

H. NONRESIDENT ACTIVE-DUTY MILITARY PERSONNEL - EXEMPTION FOR CERTAIN PERSONAL PROPERTY: The personal property of active-duty military personnel, except personal property used in or arising from a trade or business, when such personnel are present in New Mexico and are absent from the state of their residence or domicile solely by reason of compliance with military or naval orders, is exempt from the taxes imposed by the Property Tax Code. Manufactured homes owned by active-duty military personnel and rented to another person are personal property used in a trade or business.

I. COMMUNITY WATER ASSOCIATIONS NOT EXEMPT: The property of a community water association formed pursuant to the provisions of the Sanitary Projects Act (Chapter 3, Article 29, NMSA 1978) is not exempted from taxes imposed by the Property Tax Code by reason of the portion of Article VIII, Section 3 of the New Mexico Constitution which exempts from taxation the property of "towns, cities and ... other municipal corporations".

J. INTERCOMMUNITY WATER OR NATURAL GAS SUPPLY ASSOCIATIONS NOT EXEMPT: An intercommunity water or natural gas supply association formed pursuant to the provisions relating to water or natural gas associations (Article 3, Chapter 28, NMSA 1978) is not exempted from taxes imposed by the Property Tax Code by reason of the portion of Article VIII, Section 3 of the New Mexico Constitution which

exempts from taxation the property of “towns, cities and ... other municipal corporations”.

K. EXEMPTIONS FOR PROPERTY USED FOR EDUCATIONAL OR CHARITABLE

PURPOSES: County assessors shall grant exempt status to property contended to be used for educational or charitable purposes pursuant to Article VIII, Section 3 of the New Mexico Constitution if an exemption has been authorized under a ruling or order in force of the department or a ruling of the predecessor property appraisal department issued subsequent to December 11, 1973 and not withdrawn.

L. EXEMPTIONS FOR CHURCH PROPERTY NOT USED FOR COMMERCIAL

PURPOSES:

(1) County assessors shall extend exempt status to property contended to be “all church property not used for commercial purposes” pursuant to Article VIII, Section 3 of the New Mexico Constitution if the exemption has been authorized by a ruling or order of the department in force or by a ruling of the predecessor property appraisal department issued subsequent to December 11, 1973 and not withdrawn.

(2) The county assessor, in other cases, may determine whether the property is church property not used for commercial purposes. The phrase “church property not used for commercial purposes” as used in Article VIII, Section 3 of the New Mexico Constitution means property which is owned by a church and which is required for the use of the church, such as buildings with land they occupy and furnishings therein, used for religious purposes or for residences of the priests, ministers, chaplains, pastors or rabbis, together with adjacent land reasonably necessary for convenient use of such buildings. Land on which it is the intention of a religious society or church to erect a church building, but on which no work of construction has been commenced on January 1 of the tax year, is not within the meaning of “church property” and is not exempted by Article VIII, Section 3 of the New Mexico Constitution.

M. POLLUTION CONTROL REVENUE BOND ACT - PUBLIC UTILITY PROPERTY NOT

EXEMPT: The property of a public utility, with respect to which property the municipality has issued revenue bonds pursuant to the Pollution Control Revenue Bond Act and financed the construction of improvements on the property or financed the acquisition of the property, is not exempted from taxes imposed by the Property Tax Code by reason of Section 3-59-12 NMSA 1978 or Subsection B of Section 7-36-3 NMSA 1978.

N. PROPERTY HELD UNDER COMMUNITY DEVELOPMENT LAW - LESSEE NOT

EXEMPT:

(1) The exemption under Subsection B of Section 3-60-32 NMSA 1978 of property acquired or held by a municipality for purposes of the Community Development Law is sufficiently supported by Article VIII, Section 3 of the New Mexico Constitution, because the property referred to is property of a “city” or a “municipal corporation”.

(2) The exemption terminates when the municipality sells or leases the property to a person not a public body. Therefore, the interest of a lessee that is not a public body in such property is subject to valuation and taxation.

O. CREDIT UNION SHARE INSURANCE CORPORATION - PERSONAL PROPERTY

EXEMPT:

(1) Section 58-12-14 NMSA 1978 of the Credit Union Share Insurance Corporation Act provides that the “corporation” is exempt from all state and local taxation, except in respect to any real estate owned and used by it for its corporate purposes.

(2) This exemption for personal property of the credit union share insurance corporation of this state is sufficiently supported by the last paragraph of Article VIII, Section 3 of the New Mexico Constitution.

P. FLOOD CONTROL ENTITIES - PROPERTY EXEMPT: Section 72-16-97 NMSA 1978 of the Arroyo Flood Control Act, Section 72-17-97 NMSA 1978 of the Las Cruces Arroyo Flood Control Act, Section 72-18-67 NMSA 1978 of the Flood Control District Act and Section 72-19-97 NMSA 1978 of the Southern Sandoval County Flood control Act grant property tax exemptions to certain flood control entities. These exemptions are sufficiently supported by Article VIII, Section 3 of the New Mexico Constitution because the authority or district referred to in these sections as “quasi-municipal corporations” are political subdivisions of the state of New Mexico.

Q. PRIVATE, NON-INDIAN PROPERTY ON INDIAN RESERVATION OR PUEBLO

GRANT NOT EXEMPT: The property of a person who is not a part of or a member of an Indian nation, tribe or pueblo is not exempt from property taxation merely because the property is located on land leased from that Indian nation, tribe or pueblo.

R. PRIVATE LESSEE OF FEDERAL LAND NOT EXEMPT: The property of a private person is not exempt from property taxation when the property is located on land leased from the federal government. The interest of a private lessee under a lease of federal land to construct military housing is subject to property taxation.

S. PERSONAL PROPERTY OF TRIBAL MEMBER: Personal property of a member of an Indian nation, tribe or pueblo is exempt from property taxation if the property is located on January 1 on the tribal territory of the member's Indian nation, tribe or pueblo, except that livestock and construction equipment and machinery owned by the member may be subject to property taxation if located or used outside the tribal territory of the member's Indian nation, tribe or pueblo at any other time.

T. OWNER'S USE OF LEASED PROPERTY: It is the owner's use of leased property that must be educational or charitable in nature to qualify for exemption under Article VIII, Section 3 of the state constitution. For example in a true lease, the lessee's use of the property is immaterial in determining the owner/lessor's use.

U. "OIL AND GAS" INCLUDES LIQUID HYDROCARBONS AND CARBON DIOXIDE: The phrase "oil and gas" as used in Paragraph 2 of Subsection B of Section 7-36-7 NMSA 1978 and 7-36-22 NMSA 1978 includes liquid hydrocarbons and carbon dioxide.

V. OIL, GAS, LIQUID HYDROCARBONS AND CARBON DIOXIDE NOT SEVERED AND SOLD AND OIL AND GAS LEASES NOT SUBJECT TO VALUATION: Oil, natural gas, liquid hydrocarbons and carbon dioxide which have not yet been severed and sold and oil and gas leases and rights to explore for, develop, drill for, severe and sell oil, gas, liquid hydrocarbons and carbon dioxide incident to those leases, are not subject to valuation for property taxation purposes under the Property Tax Code. The oil, natural gas, liquid hydrocarbons and carbon dioxide, upon severance and sale, are subject to valuation and taxation under the Oil and Gas Ad Valorem Production Tax Act. The ad valorem tax levied by that Act is the only ad valorem tax to be levied against oil, natural gas liquid hydrocarbon or carbon dioxide.

W. OIL AND GAS EQUIPMENT OTHER THAN THAT WITHIN THE DEFINITION OF "EQUIPMENT" UNDER SUBSECTION G OF SECTION 7-34-2 NMSA 1978:

(1) Equipment used in the oil and gas industry which does not fall within the definition of "equipment" found in Subsection G of Section 7-34-2 NMSA 1978 of the Oil and Gas Production Equipment Ad Valorem Tax Act is subject to valuation for property taxation purposes under the Property Tax Code.

(2) Drilling rigs are not "equipment" as that term is defined in Subsection G of Section 7-34-2 NMSA 1978.

X. STATE PROPERTY - GENERAL:

(1) As a general matter tax liens existing at the time of acquisition of the property by the state or any of its political subdivisions are extinguished and merged into the title held by the state or its subdivision. An exception to this rule is provided by Article VIII, Section 3 of the state constitution. The tax lien survives whenever a government acquires property by outright purchase or trade and the tax secures payment of principal or interest on bonded indebtedness. Because property acquired by bequest or condemnation is not acquired by outright purchase or trade, the exception does not apply to property acquired through bequest or condemnation.

(2) The exemption for property owned by subdivisions of the state under Article VIII, Section 3 of the state constitution does not require the property to be located within the boundaries of the subdivision. Ownership by the subdivision is sufficient for the exemption.

Y. MORTGAGE FINANCE AUTHORITY PROPERTY: Property of the New Mexico mortgage finance authority is exempt from property taxation as property owned by a state instrumentality. [3/23/83, 12/29/94, 8/31/96; 3.6.5.15 NMAC - Rn & A, 3 NMAC 6.5.15, 4/30/01, A, 6/29/01]

3.6.5.16 CERTAIN PERSONAL PROPERTY EXEMPT FROM PROPERTY TAX

A. PROPERTY SUBJECT TO INTERNAL REVENUE CODE SECTION 179 DEDUCTION:

(1) A deduction claimed under Section 179 of the Internal Revenue Code for federal income tax purposes shall be considered to be depreciation for the purposes of Section 7-36-8 NMSA 1978. Any item of personal property for which the property owner claims a deduction under Section 179 of the Internal Revenue Code is subject to property taxation with respect to each year for which a Section 179 deduction was claimed with respect to that property in the same manner as if the property owner had claimed depreciation with respect to that property.

(2) Example: In March, 1994, Owner purchases for \$5,000 a desktop computer and related equipment for business use. Owner reports federal income tax on a calendar year basis. For the federal income tax year ending December 31, 1994, Owner elects to take advantage of the provisions of Internal Revenue Code Section 179 to fully expense the computer and related equipment. Owner must report the value of the computer and related equipment for the property tax year beginning January 1, 1995, but not for subsequent property tax years.

B. INVENTORIES - EXCEPTION: The phrase "inventory for sale or resale at wholesale, retail or on consignment" as used in Section 7-36-8 NMSA 1978 does not include property used by a person in his profession, business or occupation which may be periodically traded in on new equipment or sold because of obsolescence, but does include motor vehicles as defined in Section 66-1-4.11 NMSA 1978 which are not registered,

but are held for sale or resale at wholesale, retail or on consignment.

C. INVENTORIES - GENERAL: Except for inventories described in Subsection B of Section 7-36-8 NMSA 1978, inventories of tangible personal property held for sale or resale at wholesale, retail or on consignment are exempt from property taxation.

D. ANIMALS WHICH ARE NOT LIVESTOCK: Animals which are not livestock, as defined in Section 7-35-2 NMSA 1978, are tangible personal property. Unless such animals are described in Subsection B of Section 7-36-8 NMSA 1978, the animals are exempt from taxation.

E. INVENTORIES - AIRCRAFT OWNED BY DEALER: Aircraft not registered under the Aircraft Registration Act but owned by a person who holds an aircraft dealer's license, issued pursuant to Section 64-4-12 NMSA 1978 and valid for the property tax year in which the property tax is imposed, are exempt from property taxation by the provisions of Section 64-4-12 NMSA 1978 if the aircraft are held and operated only for sale.

F. INVENTORIES CONNECTED WITH PROPERTY VALUED BY SPECIAL METHOD: Inventories connected with property subject to valuation under one or more of the special methods of valuation described in Sections 7-36-22 through 7-36-25 and 7-36-27 through 7-36-32 NMSA 1978 are not exempt from property taxation under Section 7-36-8 NMSA 1978.

G. INVENTORIES - VEHICLES: Vehicles not registered under the Motor Vehicle Code but owned by a person who holds a license, valid for the property tax year in which the property tax is imposed, as a dealer of vehicles issued pursuant to Section 66-4-2 NMSA 1978 shall be deemed to be registered under the provisions of the Motor Vehicle Code for the purposes of Section 7-36-8 NMSA 1978 if the vehicles are held and operated only for sale. Vehicles deemed to be registered under Subsection G of 3.6.5.16 NMAC are exempt from property taxation.

H. PROPERTY "DEPRECIATED FOR FEDERAL INCOME TAX PURPOSES": For each property tax year, the property tax lien date (January 1) and the statutory deadline for reporting property (last day of February) both occur before the filing dates for federal corporate or individual income taxes for the prior year. Because of this, a property taxpayer must include in the report of property for a property tax year as property depreciated for federal income tax purposes any personal property acquired before the lien date for the property tax year but which will be reported and depreciated on federal income tax returns for any part of the calendar year preceding the property tax lien date.

[3/23/83, 6/10/93, 12/29/94, 8/31/96; 3.6.5.16 NMAC - Rn & A, 3 NMAC 6.5.16, 4/30/01]

3.6.5.17 [RESERVED]

[3.6.5.17 NMAC - Rn, 3 NMAC 6.5.17, 4/30/01]

3.6.5.18 [RESERVED]

[3.6.5.18 NMAC - Rn, 3 NMAC 6.5.18, 4/30/01]

3.6.5.19 [RESERVED]

[3.6.5.19 NMAC - Rn, 3 NMAC 6.5.19, 4/30/01]

3.6.5.20 [RESERVED]

[3.6.5.20 NMAC - Rn, 3 NMAC 6.5.20, 4/30/01]

3.6.5.21 TAXABLE SITUS - ALLOCATION OF VALUE OF PROPERTY

A. INTERESTS IN REAL PROPERTY SUBJECT TO VALUATION FOR PROPERTY TAXATION PURPOSES: Under Section 7-36-7 NMSA 1978, property, except that listed in Subsection B of that section, which has a taxable situs in New Mexico is subject to valuation for property taxation purposes. Therefore, an interest in real property located in New Mexico, having situs in New Mexico by reason of Paragraph (2) of Subsection A of Section 7-36-14 NMSA 1978, is subject to valuation for property taxation purposes.

B. PROPERTY USED TO TRANSPORT PROPERTY HAS SITUS: The phrase "property being transported in interstate commerce that is physically present in the state only while being transported through or over the state" as used in Subparagraph (a) of Paragraph (3) of Subsection A of Section 7-36-14 NMSA 1978 does not include properties used as instrumentalities of interstate commerce, such as railroad engines and cars and commercial aircraft, even though these properties may move in interstate commerce.

C. LIVESTOCK IN FEEDLOTS NOT INCLUDED UNDER FREEPORT PROVISIONS: The terms "warehouse" and "factory" as used in Subparagraph (b) of Paragraph (3) of Subsection A of Section 7-36-14

NMSA 1978, do not include livestock feedlots. Therefore, livestock in New Mexico feedlots are not excepted from the acquisition of taxable situs in New Mexico by reason of Subparagraph (b) of Paragraph (3) of Subsection A of Section 7-36-14 NMSA 1978.

D. ORIGINAL PACKAGE DOCTRINE NOT APPLICABLE UNDER FREEPORT

PROVISIONS: The property referred to in Subparagraph (b) of Paragraph (3) of Subsection A of Section 7-36-14 NMSA 1978 does not acquire taxable situs in this state because while in the warehouse the property is assembled, bound, joined, processed, disassembled, divided, cut, broken in bulk, relabeled or repackaged.

E. OUT OF STATE DESTINATION NOT SPECIFIED OR SPECIFIED IN

ALTERNATIVES:

(1) If the original transportation of the property referred to in Subparagraph (b) of Paragraph (3) of Subsection A Section 7-36-14 NMSA 1978 has ceased and a final destination for the property outside New Mexico has not been specified, the property will be presumed to have a taxable situs in New Mexico. This presumption may be overcome by a showing that:

(a) a final destination for the property, outside the state, has been specified, or

(b) that the property is part of a percentage of property, based on a preceding five-year average, which has been transported outside the state after storage, manufacturing, processing or fabricating.

(2) Final destination for property is specified when information showing alternative destinations, depending on the use of the property or other definite circumstances, is provided.

F. "FARM CROPS" DO NOT INCLUDE SEVERED TIMBER OR LIVESTOCK: The phrase "farm crops" as used in Subparagraph (c) of Paragraph (3) of Subsection A of Section 7-36-14 NMSA 1978 does not include livestock, severed timber or forest products.

G. INTANGIBLE PROPERTY NOT SUBJECT TO VALUATION: Intangible property is not subject to valuation or taxation under the Property Tax Code because it is not within the definition of "property" found in Section 7-35-2 NMSA 1978. Pursuant to 7-37-2 NMSA 1978, tax is imposed only on "property". [3/23/83, 12/29/94, 8/31/96; 3.6.5.21 NMAC - Rn & A, 3 NMAC 6.5.21, 4/30/01, A, 6/29/01]

3.6.5.22 METHODS OF VALUATION FOR PROPERTY TAXATION PURPOSES - GENERAL PROVISIONS

A. INCOME METHOD OF VALUATION - IMPLEMENTATION:

(1) The income method of valuation is a method used to value property by capitalizing its income when the market value method cannot be used due to lack of data on sales of comparable properties and no special method specified in Sections 7-36-20 through 7-36-33 NMSA 1978 is applicable. The value of the property under the income method of valuation is determined by dividing the annual income by the applicable capitalization rate.

(2) Income is predicated on estimated future income which could be realized from the legally permitted highest and best use or uses of the property.

(3) Where sufficient evidence of the rental value of the property being valued is available, the income is based upon the fair rent which can be imputed to the property being valued based upon rent actually received for the property by the owner and upon typical rentals received in the area for similar property in similar use, provided that use is the legally permitted highest and best use. When the property being valued is actually encumbered by a lease, the cash rent or its equivalent considered in determining the fair rent of the property is the amount for which the property would be expected to rent at its legally permitted highest and best use were the rental payment to be renegotiated in the light of conditions as they exist at the time the property is being valued.

(4) Where sufficient evidence as to rental value of the property being valued is not available, the income used is based upon the fair rent which the property being valued reasonably can be expected to yield under prudent management. The imputed fair rent is developed from market information which reflects the probable rental value of the property being valued in the open market at its legally permitted highest and best use.

(5) "Income" as that term is used in Section 3.6.5.22 NMAC is net income or the difference between annual revenue or receipts, actual or imputed, from rental of the property and the annual expenses relating to the property.

(6) "Expenses", as that term is used in Section 3.6.5.22 NMAC, is the outlay or average annual allocation of money or money's worth that can fairly be charged against the revenue or receipts from the property. Expenses are limited to those which are ordinary and necessary in the production of the revenue and receipts from the property and do not include debt retirement, interest on funds invested in the property or income taxes.

B. COST METHODS OF VALUATION - IMPLEMENTATION: Generally, the cost methods of

valuation are methods for valuing improvements or personal property by determining the costs of reproduction or replacement of property with property which is as good as, but no better than, the improvements or personal property being valued. The reproduction or replacement may be duplicate or equally good substitute property. If the improvements or personal property being valued are not in a new condition, the appropriately depreciated value of a new reproduction or replacement, as circumstances justify, is used to determine the value of the used items. In the case of newly constructed improvements, original cost, in an arm's length transaction, is the closest approximation of value. Trending may be used to implement the cost method of valuation.

C. IMPLEMENTATION BY MEANS OF SCHEDULES AND MANUALS: Implementation of the valuation methods authorized in Subsection B of Section 7-36-15 NMSA 1978 may be by means of schedules and manuals approved by the division.

D. IMPROVEMENTS AND RIGHTS NOT VALUED SEPARATELY FROM THE LAND THEY SERVE: Subsection C of Section 7-36-15 NMSA 1978 requires that the improvements and rights listed therein be considered as appurtenances to all land they serve, regardless of whether or not the improvements and rights are owned by the owner or owners of all the land they serve. The value of those rights and improvements are included in the determination of the value of the land served and are not valued separately.

E. PIPELINES USED SOLELY FOR IRRIGATION OR STOCK-WATERING PURPOSES: Pipelines used primarily for irrigation or stock-watering purposes shall not be valued separately from the land they serve, shall be considered as appurtenances to the land they serve and their value shall be included in the determination of value of the land they serve.

F. SUBDIVISIONS - IMPLEMENTATION OF VALUATION METHODS:

(1) The term "subdivision" as used in Section 3.6.5.22 NMAC means "subdivision" as defined by Section 47-6-2 NMSA 1978, except that, for lands within a municipality or the extraterritorial zone of a municipality, the term means "subdivision" as defined in Section 3-20-1 NMSA 1978.

(2) Lots or tracts within a subdivision are valued for property taxation purposes on the basis of sales or other dispositions of comparable unsubdivided property until sales in the subdivision as of January 1 of the tax year have exceeded the percentage specified for the purpose for the class or type of subdivision in applicable schedules, manuals or instructions of the division. Sales of comparable unsubdivided property are adjusted to reflect expenditures made by the developer, such as the addition of roads, utilities and other subdivision improvements and related engineering and similar costs. If the roads within a subdivision have not been dedicated to a municipality or a county, the roads are not valued separately from the land they serve but are included in the value of the land they serve.

(3) After sales within a subdivision have exceeded the specified percentage, the lots or tracts within the subdivision are valued on the basis of sales of comparable lots or tracts in subdivisions or, if that method cannot be used due to the lack of comparable sales data, the income or cost method. Lots in a subdivision which have been sold or disposed of by a developer, but which are owned or held on January 1 of the tax year by the developer because of breach by the consumer of the agreement transferring the developer's interest, shall be considered as lots in which the developer has sold or disposed of his interest for purposes of determining the percentage of sales.

(4) In implementing the market value method of valuation for subdivisions, reference shall be made to disclosure statements filed with the county clerk pursuant to Section 47-6-17 NMSA 1978 of the New Mexico Subdivision Act. The "proposed range of selling or leasing prices, including financing terms" set forth in that statement, however, are not used as a substitute for sales of comparable property in determining value under the market value method of valuation.

G. MARKET VALUE METHOD OF VALUATION - IMPLEMENTATION:

(1) The market value method of valuation is 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. The reliability of this technique is dependent upon:

- (a) the availability of comparable sales data;
- (b) the verification of the sales date;
- (c) the degree of comparability or extent of adjustment necessary for differences in time of sale and time of appraisal; and
- (d) the absence of nontypical conditions affecting the sales price.

(2) "Market value" means a price which a willing and informed buyer, not obligated to buy, would pay a willing and informed seller, not obligated to sell, taking into consideration all uses including the highest and best use to which the property is adapted and might reasonably be applied.

(3) Comparable property is property similar to the property being valued and which recently

has been sold or is currently being offered for sale in the same or similar areas. Similarity to the property being valued is determined by examining the characteristics of the properties being compared to discover likenesses or differences between those properties and the property being valued.

(4) Cash market value reflected by recent sales of comparable property, if there have been such sales, may be relevant for determining market value. Proof of the purchase price alone of the comparable property is not sufficient to fix market value without evidence of the terms and conditions of the sale.

(5) This approach to value may be implemented by means of schedules and manuals approved by the division.

(6) Evidence of the sale price of the property being valued is not sufficient to establish a market value under Section 7-36-15 NMSA 1978 if the evidence of the sales of comparable property indicates the sales price was not the market value.

[3/23/83, 12/29/94, 8/31/96, 3/31/2000; 3.6.5.22 NMAC - Rn & A, 3 NMAC 6.5.22, 4/30/01]

3.6.5.23 RESPONSIBILITY OF COUNTY ASSESSORS TO DETERMINE AND MAINTAIN CURRENT AND CORRECT VALUES OF PROPERTY

A. COST SHARING PROVISIONS IN VALUATION MAINTENANCE CONTRACTS: The department will not enter a contract pursuant to Subsection C of Section 7-36-16 NMSA 1978 which provides for sharing of the costs of valuation maintenance programs with counties unless the department has a report from the secretary of finance and administration showing the amount of county funds available or which could be made available for a valuation maintenance program. In the event the report indicates that the county has available sufficient funds for a valuation maintenance program, the contract will provide for only a minimal amount as the department's share of the program costs.

B. SALES RATIO REPORT: The written report which assessors are required to provide under Subsection E of Section 7-36-16 NMSA 1978 includes "... the relationship of sales prices of property sold to values for property taxation purposes ...". This portion of the report is referred to as the "sales ratio report." The sales ratio report is prepared in accordance with the instructions of the division. In its instruction or by its order to particular county assessors, the division may permit the sales ratio report to be prepared on the basis of sampling. The division instruction will provide for a "uniform sales data card" to be used by each county assessor in recording sales. These cards, or copies of these cards, will be provided the division by the county assessor upon direction by the division.

C. CURRENT AND CORRECT VALUES OF PROPERTY DEFINED: Assessors shall re-appraise properties either once per year (one-year reappraisal cycle), or once every two years (two-year reappraisal cycle). Assessor's may only change the current reappraisal cycle in their respective county after written approval is granted by the director. The phrase "current and correct values of property" as used in Section 7-36-16 NMSA 1978 means:

(1) for residential property purchased in the year prior to the current tax year the phrase means its market value during the year of purchase;

(2) for residential property not purchased in the year prior to the current tax year, when utilizing a one year reappraisal cycle, the phrase means its' market value of the year prior to the current tax year, and

(3) for residential property not purchased in the year prior to the current tax year, and non-residential locally assessed property, when utilizing a two year reappraisal cycle, the phrase means its market value in the tax year 2001 and, for each of the following odd-numbered tax year, its market value during the preceding odd-numbered tax year.

[3/23/83, 11/5/85, 5/10/93, 12/29/94, 8/31/96; 3.6.5.23 NMAC - Rn & A, 3 NMAC 6.5.23, 4/30/01; A, 6/13/03]

3.6.5.24 VALUATION OF RESIDENTIAL PROPERTY-COUNTIES WHOSE RATIO IS 85%:

A. Valuation for property tax year 2001: For counties whose sales ratio for residential property is at least 85 percent for the 2000 property tax year, valuations for residential properties in the county for the 2001 property tax year shall be determined under this subsection.

(1) For residential properties being valued for the first time or that underwent in 2000 a change of ownership, as that term is defined in Section 7-36-21.2 NMSA 1978, use or zoning, the valuation for property taxation purposes for 2001 shall be the property's current and correct value.

(2) For all other residential properties, the valuation for 2001 shall not exceed 106.1 percent of the sum of the property's valuation for property taxation purposes in 1999 plus the contributory value of physical changes made to the property not already recognized in the property record or 103 percent of the sum of the property's valuation for property taxation purposes in 2000 plus the contributory value of physical changes made to the property not already recognized in the property record.

B. Valuation in the 2002 and subsequent property tax years: For counties whose sales ratio for residential property is at least 85% for the 2000 property tax year and, beginning with the property tax year following the property tax year for which the county's sales ratio was at least 85%, for counties whose sales ratio for residential property is less than 85% for property tax year 2000 but whose sales ratio is at least 85% for any subsequent property tax year, the current and correct values of residential property for property tax years subsequent to 2001 shall be:

(1) For a single-family dwelling owned and occupied by an individual who is at least sixty-five years old on the valuation date, who meets the income requirements of Section 7-36-21.3 NMSA 1978 for the property tax year and who has claimed for the property tax year entitlement to the provisions of Section 7-36-21.3 NMSA 1978 in accordance with applicable regulations and instructions, the valuation shall be lesser of (i) the current and correct value of the property or (ii) the valuation of the property either in 2001 if the individual was aged 65 or older in 2001 or, if subsequent to 2001, the year in which the individual's sixty-fifth birthday occurred.

(2) For a residential property that underwent in the prior year a change of ownership, as that term is defined in Section 7-36-21.2 NMSA 1978, use or zoning or is being valued for the first time, the valuation shall be the current and correct value for the property.

(3) For residential property not described in the preceding two subparagraphs, the valuation may not exceed the current and correct value for the property tax year, 103 percent of the sum of the valuation for the property for the preceding year plus the contributory value of any physical changes not already recognized in the property record or 106.1 percent of the sum of the property's valuation for property taxation purposes in the property tax year two years prior plus the contributory value of physical changes made to the property not already recognized in the property record. This includes residential property owned and occupied by individuals sixty-five years of age or older in both the current and the prior property tax years and who, having met the income requirements for the prior property tax year, do not meet the income requirements for the current property tax year.

C. To be eligible for the limitation on valuation pursuant to Section 7-36-21.3 NMSA 1978, the claimant shall complete and submit to the county assessor appropriate forms required by the department. Such forms may require attachment of true copies of New Mexico income tax returns showing the claimant's modified gross income. Failure to submit to the county assessor completed forms, including any required attachments, shall result in denial of eligibility for the valuation limitation pursuant to Section 7-36-21.3 NMSA 1978.

D. If, prior to the setting of property tax rates for the property tax year, the department of finance and administration or the department determines that the valuation maintenance amount for residential property in a jurisdiction exceeds a limit set by Section 7-36-23.2 NMSA 1978, the department shall order the valuations on the affected residential properties to be reduced pro rata by an aggregate amount just sufficient to eliminate the excess. [3.6.5.24 NMAC - N, 4/30/01]

3.6.5.25 SALES RATIO STUDY:

A. The department sales ratio study is prepared on the basis of information provided in the assessors' sales ratio reports or sales data cards referred to in Parts 1 through 7 of Chapter 3.6 NMAC.

B. The sales ratio study shall compare the last assessed value of property prior to the sale of that property, not including any limitation on an increase in value pursuant to Section 7-36-21.2 NMSA 1978, to the sales price of the same property. For example, the 2009 sales ratio study compares the value of property determined by the county assessor for 2008, not including the limitation on increases in value pursuant to Section 7-36-21.2 NMSA 1978, to the sales price of the same property, which sold in 2008.

C. The sales ratio study shall compare the last assessed value of property prior to the sale of that property, including the limitation on an increase in value pursuant to Section 7-36-21.2 NMSA 1978, to the sales price of the same property. For example, the 2009 sales ratio study compares the value of property determined by the county assessor for 2008, including the limitation on increases in value pursuant to Section 7-36-21.2 NMSA 1978, to the sales price of the same property, which sold in 2008.

D. The sales ratio study shall compare the first assessed value of property after its sale, including the limitation on an increase in value pursuant to Section 7-36-21.2 NMSA 1978, to the sales price of the same property. For example, the 2009 sales ratio study compares the value of property determined by the county assessor for 2009, including the limitation on increases in value pursuant to Section 7-36-21.2 NMSA 1978, to the sales price of the same property, which sold in 2008.

[3/23/83, 12/29/94, 8/31/96; 3.6.5.25 NMAC - Rn, 3 NMAC 6.5.25, 4/30/01; A, 9/15/09]

3.6.5.26 REQUESTS BY ASSESSORS FOR TECHNICAL ASSISTANCE SERVICES: Requests by county assessors to the department for technical assistance, such as appraisals by division employees in the valuation

of major industrial or commercial properties, are required to be in writing. The assessor's written request is also required to be signed by at least one member of the board of county commissioners who certifies that the board of county commissioners concurs in the request.

[3/23/83, 12/29/94, 8/31/96; 3.6.5.26 NMAC - Rn & A, 3 NMAC 6.5.26, 4/30/01]

3.6.5.27 SPECIAL METHOD OF VALUATION - LAND USED PRIMARILY FOR AGRICULTURAL PURPOSES

A. APPLICATION FORM FOR VALUATION AS AGRICULTURAL LAND:

(1) Applications by owners of land for valuation pursuant to Section 7-36-20 NMSA 1978 must be on a form which has been approved by the director of the division. The form shall contain the following requirements for information to be provided:

- (a) description of the land;
- (b) the use of the land during the year preceding the year for which the application is made;
- (c) whether the land was held for speculative land subdivision and sale or has been subdivided;
- (d) whether the land was used for commercial purposes of a nonagricultural character;
- (e) whether the land was used for recreational purposes and if so, how; and
- (f) whether the land was leased and if so, who was the lessee, did he report livestock for valuation and what was the lessee's use of the property.

(2) The form, or a separate document, may also contain requirements for providing information as to the owner's farm income and farm expenses reported to the United States internal revenue service for federal income tax purposes.

B. AGRICULTURAL PROPERTY - BURDEN OF DEMONSTRATING USE ON OWNER:

(1) To be eligible for the special method of valuation for land used primarily for agricultural purposes, the owner of the land bears the burden of demonstrating that the use of the land is primarily agricultural. This burden cannot be met without submitting objective evidence that:

- (a) the plants, crops, trees, forest products, orchard crops, livestock, captive deer or elk, poultry or fish which were produced or which were attempted to be produced through use of the land were:
 - (i) produced for sale or subsistence in whole or in part; or
 - (ii) used by others for sale or resale; or
 - (iii) used, as feed, seed or breeding stock, to produce other such products which other products were to be held for sale or subsistence; or
- (b) the use of the land met the requirements for payment or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government; or
- (c) the owner of the land was resting the land to maintain its capacity to produce such products in subsequent years.

(2) The use of land for the lawful taking of game shall not disqualify land from a determination that it is used primarily for agricultural purposes. Any income to the landowner from the use of the landowner's land for the lawful taking of game will not be considered for purposes of determining whether land is used primarily for agricultural purposes.

(a) The taking of game is lawful for purposes of this subsection if it complies with the requirements of NMSA 1978, Chapter 17.

(b) The land is used for the lawful taking of game if the landowner actively participates in the lawful taking of game on the landowner's land or authorizes others to use the landowner's land for the lawful taking of game.

(3) A presumption exists that land is not used primarily for agricultural purposes if income from nonagricultural use of the land exceeds the income from agricultural use of the land.

(4) A homesite is not land used for agricultural purposes and is not to be valued as agricultural land pursuant to Section 7-36-20 NMSA 1978. A "homesite" as that term is used in this section is the site used primarily as a residence, together with any appurtenant lands used for purposes related to residing on the site. It is more than the boundary of the foundation of an improvement used as a residence and includes land on which yards, swimming pools, tennis courts and similar nonagricultural facilities are located but does not include land on which agricultural facilities such as barns, pig pens, corrals, bunk houses, farm equipment sheds and outbuildings are located. A homesite shall be presumed to be a minimum of one acre, unless the property owner

establishes that a portion of the acre allocated to classification as homesite is actually used for agricultural purposes under the conditions of this section. A homesite can exceed one acre if nonagricultural facilities extend beyond one acre.

(5) Once land has been classified as land used primarily for agricultural purposes, no application for that classification is required for any succeeding year so long as the primary use of the land remains agricultural. The land will retain its status for property taxation purposes in every succeeding year as land used primarily for agricultural purposes.

(6) When use of the land changes such that it is no longer used primarily for agricultural purposes, the owner of the land must report the change in use to the county assessor in which the land is located. A report by the owner that land classified as land used primarily for agricultural purposes in the preceding property tax year is not used primarily for agricultural purposes in the current property tax year rebuts the presumptions in Subsection A of Section 7-36-20 NMSA 1978. If subsequently use of the land again becomes primarily agricultural, the owner must apply for classification of the land as land used primarily for agricultural purposes.

(7) When the owner of the land has not reported that the use of the land is no longer primarily for agricultural purposes but the county assessor has evidence sufficient to rebut the presumptions in Subsection A of Section 7-36-20 NMSA 1978, the county assessor must change the classification of the land. In such a case the county assessor must also consider whether the penalty provided by Subsection H of Section 7-36-20 NMSA 1978 should be applied. The owner may protest the change in classification.

C. AGRICULTURAL LAND - MINIMUM SIZE: Tracts or parcels of land of less than one (1) acre, other than tracts or parcels used for the production of orchard crops, poultry or fish, are not used primarily for agricultural purposes. Property used for grazing is only eligible for special valuation as land used primarily for agricultural purposes if the property meets the requirements of Paragraph (1) of Subsection B of this section, is stocked with livestock that are reported to the county assessor for valuation by either the property owner or the owner of the livestock, and contains the minimum number of acres capable of sustaining one animal unit as established in the order issued pursuant to Paragraph (5) of Subsection F of this section. Tracts or parcels of property smaller than the minimum number of acres capable of sustaining one animal unit may qualify as land used primarily for agricultural purposes as grazing land upon application to the county assessor. The county assessor shall consider the following in determining whether the property is eligible for special valuation as land used primarily for agricultural purposes as grazing land:

(1) whether the property owned or leased is of sufficient size and capacity to produce more than one-half of the feed required during the year for the livestock stocked on the property;

(2) the predominant use of the land has been continuous;

(3) the purchase price paid;

(4) whether an effort has been made to care sufficiently and adequately for the land in accordance with accepted commercial agricultural practices;

(5) whether the property has been divided, without regard to whether such division was made pursuant to county or municipality subdivision regulations;

(6) whether the property is eligible for landowner hunting permits issued by the department of game and fish;

(7) whether the property is contiguous to land used primarily for agricultural purposes owned by a member or members of the immediate family of the owner; "immediate family" means a spouse, children, parents, brothers and sisters, and

(8) such other factors as may from time to time become applicable.

D. AGRICULTURAL PRODUCTS DEFINED: The phrase "agricultural products" as it is used in Section 7-36-20 NMSA 1978 and regulations under the Property Tax Code means plants, crops, trees, forest products, orchard crops, livestock, captive deer or elk, wool, mohair, hides, pelts, poultry, fish, dairy products and honey.

E. PRODUCTION CAPACITY OF AGRICULTURAL LAND - IMPLEMENTATION OF VALUATION METHOD:

(1) The production capacity of agricultural land shall be determined by the income method of valuation based on the income derived or capable of being derived from the use of the land for agricultural purposes. If information about income amounts from the use of land for agricultural purposes is unavailable, then income shall be imputed to the land being valued on the basis of income amounts from the use of comparable agricultural lands for agricultural purposes. The comparability of the land used for purposes of imputing income shall be determined on the basis of class. A determination of income from agricultural land is not required to be restricted to income from actual production of agricultural products on the agricultural land, since the basis for determination of value is

on the land's capacity to produce agricultural products.

(2) "Income" as that term is used in this section is generally the average for the preceding five tax years of:

(a) the amount reported for federal income tax purposes on Schedule F of the individual federal income tax return as net farm profit, excluding income and expenses not attributable to the agricultural land being valued; plus

(b) fees for rental of land or machinery less expenses relating thereto; plus

(c) the reasonable value of unpaid labor of the operator or the farm family; less

(d) the expense of depreciation on farm buildings and machinery.

(3) In lieu of calculating income in the manner set forth in Paragraph (2) of Subsection B of this section, income may be determined by either of the following methods.

(a) Income may be determined from reference services such as the New Mexico crop and livestock reporting service, the cooperative extension service, and the agriculture departments of state universities. If a source other than the reported federal farm income, referred to in Paragraph (2) of Subsection E of this section, is used, adjustments should be made to allow for costs allowable on the federal farm income tax return if such costs are not allowed in the income figure provided. Also, income from sources other than the federal farm income return are to be closely matched to the class of agricultural land being valued so that the income properly reflects income from the class of agricultural land being valued.

(b) The division by order may determine annual income from various classes of agricultural land based on the land's capacity to produce agricultural products, as provided in Subsection E of this section. This order or orders, if issued, would be issued before the last day of the tax year preceding the year in which the annual income amounts are to be used.

(4) The capitalization rate to be used in valuing land used primarily for agricultural purposes pursuant to this section may be set by the division by order. This order, if made, will be issued before the last day of the tax year preceding the year in which the capitalization rate is to be used. The division shall review the capitalization rate used at least once every five tax years. In setting the capitalization rate, consideration is given to the current interest rates for government loans, federal land bank loans and production credit association loans.

(5) The capitalization rate is divided into the annual "income" per acre, except for grazing land, to arrive at the value per acre for property taxation purposes of the agricultural land being valued.

F. CLASSES OF AGRICULTURAL LAND:

(1) Pursuant to Section 7-36-20 NMSA 1978, the division shall annually issue an order establishing the carrying capacity of grazing land in accordance with the methods of classification contained in this subsection.

(2) Agricultural land is classified as either:

(a) "irrigated agricultural land", which is all agricultural land receiving supplemental water to that provided by natural rainfall; or

(b) "dryland agricultural land", which is all agricultural land without a supplemental water supply; or

(c) "grazing land" which is all agricultural land which is used solely for the grazing of livestock as established in Subsections B and C above; land the bona fide and primary use of which is the production of captive deer or elk shall be valued as grazing.

(3) All lands that were previously irrigated or dryland meeting the preceding classifications but which are now participating in any of the various crop retirement programs such as the soil bank or acreage set-aside program sponsored by the United States department of agriculture are still to be classified as irrigated or dryland until the program expires from the subject land and clear evidence is shown that a change in land use is occurring, unless there has been a sale of the water rights, the use of which permitted irrigation.

(4) Irrigated and dryland agricultural land is classified using the following sources:

(a) The land capability classification of the natural resources conservation service which is a rating of land according to its ability to produce permanently and the requirements of management to sustain production. It consists of eight (8) different land capability classes. Classes I through IV are considered suitable for cultivation; Classes V through VIII are considered to be not suitable for cultivation. Classes II through VIII are further modified by four (4) subclasses that are used to signify the particular kind of limitation affecting the soil. In addition, there are nine (9) land capability units which are used to indicate a special kind of condition. This system is an interpretative rating that includes not only the physical factors of soil, but the availability of water and the effects of climate. It is designed primarily for soil management and conservation practices. Each land capability description carries with it specific recommendations for farming practices that were developed by actual farming

experience to offset or allow for the existing production-limiting factors of the soil.

(b) Natural land classification of soil by physiographic groups based on their general topographic, or slope, position.

(c) Classification by series and type which is the classification used in the cooperative survey of New Mexico state university and the United States department of agriculture and by the natural resources conservation service and which classify in a series-type grouping.

(d) Soil characteristics shown by the current New Mexico county assessor's agricultural manual.

(e) Weather data. The general weather pattern of an area is usually well known and presents no special problems. However, the possible presence of microclimatic zones should be considered. Weather data can be obtained from the national weather service, agriculture experiments stations, extension service and others connected with growing conditions.

(f) Cost and availability of water. Irrigation districts and other water suppliers boundaries can be obtained from the local conservancy district office or the New Mexico state engineer's office. The supply of water and its cost is to be considered. Electric utility companies often have information on pumping costs and related charges. District taxes, where they are charged, are to be ascertained as well as other water costs. Many areas are subject to charges related to reclamation and drainage; information on such charges must be obtained.

(g) Cropping information. Knowledge of crop production, yields, prices received, costs and cultural practices is essential to many appraisal situations.

(5) The minimum carrying capacity of grazing land will be established in an order of the division by the number of animal units per section (conventionally 640 acres) that the grazing land will support under accepted management practices. The assessor can allocate acreage per animal unit for land parcels that are less than 640 acres as long as the allocation is proportionate and meets the criteria of Subsection C "agricultural land-minimum size" herein. In establishing carrying capacity, the division shall adhere to the definition of livestock in Subsection C of Section 7-35-2 NMSA 1978, as well as utilize the animal unit equivalencies recognized by and information obtained from livestock industry representatives, the bureau of land management, the natural resources conservation service, the forest service, agricultural departments of state universities and the state and federal departments of agriculture shall be used. The division will consider drought and natural conditions which would tend to reduce the carrying capacity of grazing land. The division may establish in each county one or more carrying capacities based on different natural conditions within the county. Economic conditions, such as the market price of livestock, are not taken into consideration in determining carrying capacity of grazing land. The order is issued before the last day of the year preceding the tax year in which it is to be used.

(6) The division, by order, shall determine the values per animal, which values reflect the net income derived or capable of being derived from the use of the land (or fractional interests in real property) used for grazing being valued for the tax year for grazing purposes. These animal values are applied uniformly throughout the state and are calculated in a manner so that the tax ratio is applied. This amount or these amounts shall be reviewed by the division prior to the issuance of the annual order. The annual order is to be issued before the last day of the tax year preceding the tax year in which it is to be used; however, this deadline may be extended by order of the director.

G. IMPROVEMENTS ON AGRICULTURAL LAND - VALUATION: All improvements, other than those specified in Subsection C of Section 7-36-15 NMSA 1978, on land used primarily for agricultural purposes shall be valued separately, using the methods described in Section 7-36-15 NMSA 1978 and regulations thereunder, and the value of these improvements shall be added to the value of the land.

H. VALUATION OF CAPTIVE DEER AND ELK: The department shall establish the value of captive elk and deer under Section 7-36-21 NMSA 1978 and 3.6.5.28 NMAC. For purposes of the department's determination:

- (1) captive deer shall be valued and taxed as sheep; and
- (2) captive elk shall be valued and taxed as cattle.

[3/23/83, 12/29/94, 8/31/96, 12/31/97; 3.6.5.27 NMAC - Rn & A, 3 NMAC 6.5.27, 4/30/01; A, 8/15/06; A, 9/15/09]

3.6.5.28 SPECIAL METHOD OF VALUATION - LIVESTOCK

A. LIVESTOCK OWNERS REPORT: The livestock owners report shall be on a form approved by the director of the division. The report requires the following information:

(1) the number of each class of livestock, by head, owned by the owner and located in New Mexico on January 1 of the tax year, the classes being consistent with those established in the division order referred to in Subsection D of Section 7-36-21 NMSA 1978;

(2) the numbers of each class of livestock, by head, owned by the owner and not located in New Mexico on January 1 but brought into New Mexico and located here for more than twenty days subsequent to January 1, the classes being consistent with those established in the division order referred to in Subsection D of Section 7-36-21 NMSA 1978; and

(3) a statement as to the length of time during the tax year that the livestock are expected to be in New Mexico and their location, such as a feedlot or grazing on pasture, with reference to school district in the county.

B. ISSUING OF ORDER DELEGATED: Authority to issue and sign the order establishing the classes of livestock and the value of each class is delegated to the director.

C. ALLOCATION OF VALUE OF LIVESTOCK:

(1) Livestock that are in New Mexico for a portion of a tax year exceeding twenty days will be valued at a prorated value determined by multiplying by a fraction, the numerator of which is the number of months or portions of a month the livestock are located in New Mexico and the denominator of which is twelve, the value of the livestock determined by the order referred to in Subsection D of Section 7-36-21 NMSA 1978. Therefore, if a head of livestock was in New Mexico for one month and five days during a tax year, the value of the head of livestock would be determined as follows: $2/12 \times \$100$ (value per order) = \$16.67 (value for property tax purposes).

(2) If livestock are imported for an indeterminate time or are exported for an indeterminate time but returned to New Mexico during the tax year and during this time of importation or exportation the cattle are:

(a) located in a feedlot, it shall be presumed that the livestock were in the feedlot for five months;

(b) used for racing, it shall be presumed that the livestock were used for racing for three months; and

(c) used for rodeos, it shall be presumed that the livestock were used for rodeos for one month; these presumptions may be overcome by a showing by the owner of the livestock of the actual time the livestock were or will be in New Mexico.

(3) Livestock, both resident and transient, which range on land in more than one governmental unit shall be allocated among the governmental units on the basis of the proportion of range land in each governmental unit. Therefore, if livestock valued at \$1,000 range on ten acres of land located one-half in X county and one-half in Y county, the value allocated to X county would be \$500 and the value allocated to Y county would be \$500. This allocation may be adjusted to account for a difference in carrying capacity of the grazing land in different governmental units. Values of livestock may also be allocated on the basis of the time they range on land in a governmental unit during the tax year, as that time relates to the total time the livestock are ranged on land in all governmental units in New Mexico.

[3/23/83, 12/29/94, 8/31/96; 3.6.5.28 NMAC - Rn & A, 3 NMAC 6.5.28, 4/30/01]

3.6.5.29 MINERAL PROPERTY - DEFINITIONS AND CLASSIFICATIONS FOR VALUATION PURPOSES

A. MINERAL PROPERTY - MINERAL DEFINED: For purposes of Paragraph (2) of Subsection C of Section 7-36-2 NMSA 1978 and Sections 7-36-22 and 7-36-23 NMSA 1978, a mineral is any lifeless natural substance having sufficient value to be mined, quarried or extracted from the earth, except water, oil and gas.

B. MINERAL PROPERTY - DETERMINATION OF "CLASS ONE NONPRODUCTIVE MINERAL PROPERTY":

(1) If "development expenditures" as defined in Section 616 of the United States Internal Revenue Code of 1986, as amended or renumbered, are attributable to any land held in private ownership in fee during any of the ten years immediately preceding the tax year for which the property is being valued, the property is presumed to contain minerals in commercially workable quantities of such a character as add present value to the land in addition to its value for other purposes. If such property is not mined to the extent specified in Subsection A of Section 7-36-22 NMSA 1978, it is, unless the presumption is rebutted, to be classified as class one nonproductive mineral property under Subsection B of that section.

(2) If the per acre value determined pursuant to Subsection E of Section 7-36-23 NMSA 1978 for real property contended to be class one nonproductive mineral property is less than ten dollars (\$10.00) per acre for the mineral in place, excluding the surface value of the property, the real property does not contain minerals in commercially workable quantities of such a character as add present value to the land in addition to its value for other purposes, is therefore outside the definition of "mineral property" and shall not be valued by the department,

unless the property is held or used in connection with “mineral property”.

C. MINERAL PROPERTY - CERTAIN LEASEHOLD INTERESTS NOT MINERAL PROPERTY: Leasehold interests in mineral lands held by possessory title under the laws of the United States and leasehold or contract mineral rights in mineral lands, the fee of which is vested in the United States or the state, from which no mineral products are severed are not “mineral property” as that phrase is used in Subsection C of Section 7-36-2 NMSA 1978 and Sections 7-36-22, 7-36-23, 7-36-24 and 7-36-25 NMSA 1978 and are not valued by the department and are not to be placed on the tax schedules of any county.
[3/23/83, 12/29/94, 8/31/96; 3.6.5.29 NMAC - Rn & A, 3 NMAC 6.5.29, 4/30/01]

3.6.5.30 SPECIAL METHOD OF VALUATION - MINERAL PROPERTY AND PROPERTY USED IN CONNECTION WITH MINERAL PROPERTY - GENERAL

A. MINERAL PROPERTY - SURFACE VALUE FOR AGRICULTURAL OR OTHER PURPOSES: The valuation methods to be used in determining the “surface value for agricultural or other purposes or class one productive of nonproductive mineral property when the surface interest is held in the same ownership as the mineral interests” as that phrase is used in Paragraph (2) of Subsection B of Section 7-36-23 NMSA 1978 are those methods described in Section 7-36-15 NMSA 1978 and regulations thereunder except that, when the surface is used primarily for agricultural purposes, the land shall be valued in accordance with Section 7-36-20 NMSA 1978 and regulations thereunder. Subsection E of Section 7-36-23 NMSA 1978 applies only as a valuation method for the mineral in place in mineral property determined to be class one nonproductive mineral property.

B. MINERAL PROPERTY - IMPROVEMENTS, ETC., HELD OR USED IN CONNECTION WITH ALL CLASSES OF MINERAL PROPERTY:

(1) The valuation methods to be used in valuing “improvements, equipment, materials, supplies and other personal property held or used in connection with all classes of mineral property” as those terms are used in Paragraph (1) of Subsection B of Section 7-36-23 NMSA 1978 are those methods described in Section 7-36-33 NMSA 1978 and regulations thereunder. Equipment and other personal property used in “construction” as that term is defined in Paragraph (3) of Subsection C of Section 7-36-2 NMSA 1978 shall be valued pursuant to Section 7-36-33 NMSA 1978 and regulations thereunder.

(2) “Improvements,...held or used in connection with all classes of mineral property”, as that phrase is used in Paragraph (1) of Subsection B of Section 7-36-23 NMSA 1978 includes, but is not limited to, improvements constructed on property other than mineral property as defined in Section 7-36-22 NMSA 1978 when those improvements are held or used in connection with any class of mineral property. The value of the land upon which such improvements are constructed is to be a part of the value of the improvements. Therefore, property such as office buildings, company houses and processing facilities affixed to the land which is held or used in connection with any class of mineral property is to be valued by the division either when such improvements are on mineral property or when such improvements are not on mineral property. The methods for valuation of these improvements are those methods described in Section 7-36-33 NMSA 1978 and regulations thereunder. The methods for valuation of the land upon which these improvements are located are those methods described in Section 7-36-15 NMSA 1978 and regulations thereunder.

(3) The valuation of construction work in progress for uncompleted improvements on mineral property subject to valuation under Section 7-36-23 or 7-36-25 NMSA 1978 is fifty percent of the actual amount expended for the uncompleted improvements as of January 1 of the tax year.

C. MINERAL PROPERTY - SAND, GRAVEL AND CALICHE - ANNUAL NET PRODUCTION VALUE: The “annual net production value”, as that phrase is used in Subsection F of Section 7-36-23 NMSA 1978, for sand, gravel and caliche may be reported at a value of fifty cents (\$.50) per ton, without any deductions, at the election of the person reporting this mineral property to the division. If the division determines that a value of fifty cents (\$.50) per ton for this mineral property is less than the annual net production value calculated under Subsection F of Section 7-36-23 NMSA 1978, the division may disallow the election and require reporting of market values, royalties, direct costs, depreciation and other information determined necessary by the division.

D. MINERAL PRODUCT - SCORIA, PUMICE AND CINDERS - ANNUAL NET PRODUCTION VALUE:

(1) The “annual net production value”, as that phrase is used in Subsection F of Section 7-36-23 NMSA 1978, for “construction grade” scoria, pumice and cinders may be reported at a value representing twenty five percent (25%) of the gross selling price, without any deductions, at the election of the person reporting this mineral property to the division. If the division determines that a value represented by twenty five percent (25%) of the gross selling price for this mineral property is less than the annual net production value calculated under

Subsection F of Section 7-36-23 NMSA 1978, the division may disallow the election and require reporting of market values, royalties, direct costs, depreciation and other information determined necessary by the division.

(2) The “annual net production value”, as that phrase is used in Subsection F of Section 7-36-23 NMSA 1978, for “landscape” scoria, pumice and cinders may be reported at a value representing thirty five percent (35%) of the gross selling price, without any deductions, at the election of the person reporting this mineral property to the division. If the division determines that a value represented by thirty five percent (35%) of the gross selling price for this mineral property is less than the annual net production value calculated under Subsection F of Section 7-36-23 NMSA 1978, the division may disallow the election and require reporting of market values, royalties, direct costs, depreciation and other information determined necessary by the division.

(3) For purposes of Section 3.6.5.30 NMAC , the term “construction grade” means all material sold for or used as concrete aggregate and similar purposes. The term “landscape” means all material sold for or used as a decorative material. The terms “scoria” and “cinders”, as used in Section 3.6.5.30 NMAC, do not include “fines” which are the result of sorting certain mineral products.

E. MINERAL PROPERTY - MARKET VALUE:

(1) The phrase “market value” as used in Paragraphs (1) and (2) of Subsection F of Section 7-36-23 NMSA 1978 means the amount for which all mineral production was sold during the year in which net production value is being determined provided, the sale or sales were between willing buyers and willing sellers in the open market in the usual and ordinary course of trade and competition and both sellers and buyers were equally free to bargain. The phrase “market value” includes bonus or subsidiary payments in whatever form they may be received.

(2) If the market value of all or a part of the mineral production, during the year in which net production value is being determined, cannot be determined under the preceding paragraph because the mineral production is not sold, is used or consumed or is not sold under the conditions described in the preceding paragraph, then the market value of the mineral production is that reflected by sales of comparable mineral production and the application of generally accepted appraisal techniques. In using the method of valuation described in this paragraph, the division considers and makes appropriate adjustments to the value reflected by sales of comparable mineral production to account for the existence of a demand for, and the accessibility of a market for, the mineral production. In determining market value under this method, the division also compares the “gross income from the property” determined for federal income tax purposes under Section 613 of the United States Internal Revenue Code of 1986, as amended or renumbered. Section 3.6.5.30 NMAC, however, does not adopt the valuation methods described in United States treasury regulations for Section 613, unless specifically indicated herein.

(3) If the market value of all or a part of the mineral production, during the year in which net production value is being determined, cannot be determined under the methods set forth in the preceding two paragraphs, then market value shall be determined through the use of the “proportionate profits method” as that phrase is described in United States treasury regulations, as amended or renumbered.

F. MINERAL PROPERTY - “PRODUCTION OF ALL MINERALS” AND “TREATING” DEFINED:

(1) The phrase “production of all minerals” as used in Paragraphs (1) and (2) of Subsection F of Section 7-36-23 NMSA 1978 means the mineral when and during the last extraction, milling, treating or reducing on it is performed by or for the account of the owner or operator, irrespective of when the mineral or the mineral in other material may have been mined or when the mineral or mineral in other material may be sold, exchanged, consumed or further processed by or for the account of the owner or operator.

(2) The term “treating” as used in Subparagraph (b) of Paragraph (1) and Subparagraph (b) of Paragraph (2) of Subsection F of Section 7-36-23 NMSA 1978 and Section 3.6.5.30 NMAC means a process which changes a mineral substance removed from the earth by making it easier to handle and eliminating unwanted fractions by any method, whether manipulative, thermal, chemical or electrolytic. “Treating” is not manufacturing. Therefore, activities such as making copper tubing, making steel (but not reducing ore to metallic iron) and manufacturing automobiles are not “treating”.

G. MINERAL PROPERTY - DIRECT COSTS - DEDUCTION GUIDELINES:

(1) The phrase “direct costs” as used in Subparagraph (b) of Paragraph (1) and Subparagraph (b) of Paragraph (2) of Subsection F of Section 7-36-23 NMSA 1978, means the immediate or proximate costs of the activities described in the subsection as opposed to collateral or indirect costs. Evidence that the costs were actually incurred does not, without additional evidence, establish that the costs are direct costs.

(2) “Direct costs...determined under generally accepted accounting principles...” also means variable costs or costs that vary directly with the volume of production, as opposed to indirect costs which means fixed or period costs which are incurred regardless of the volume of production.

(3) Direct costs are required to have been actually incurred during the year in which they are claimed. Direct costs are required to be determined under generally accepted accounting principles and if this test is not met, the consistent application by the taxpayer of accounting principles which are not generally accepted does not qualify the cost as a deduction.

(4) Under generally accepted accounting principles, "direct costs" do not usually include:

(a) salaries of any persons not actually engaged in the extracting, milling, treating, reducing, transporting and selling of the minerals or in the immediate management or superintendence of these activities;

(b) any amounts paid for improvements or the purchase of machinery, equipment, appliances or for construction of mills, reduction works, transportation facilities or other buildings or structures;

(c) any amounts which, under generally accepted accounting principles consistently applied by taxpayer, are capitalized;

(d) property taxes;

(e) income taxes, both state and federal;

(f) sales or gross receipts taxes included in the cost of items which are not deductible as direct costs;

(g) insurance premiums for public liability and property damage insurance, except when this insurance is required by law, such as when taxpayer's trucks are using public highways;

(h) life insurance on executives;

(i) interest on borrowed monies;

(j) depletion of reserves;

(k) mine and mill development costs;

(l) mine and mill "startup" costs, such as calibration of plant and equipment;

(m) exploration costs;

(n) fire and extended coverage insurance;

(o) administrative costs incurred outside New Mexico;

(p) contract costs which are not incurred as "direct costs" for activities described in Subparagraph (b) of Paragraph (1) and Subparagraph (b) of Paragraph (2) of Subsection F of Section 7-36-23 NMSA 1978;

(q) royalties, other than those described in Subparagraph (a) of Paragraph (1) and Subparagraph (a) of Paragraph (2) of Subsection F of Section 7-36-23 NMSA 1978, and Subparagraph (a) of Paragraph (5) of Subsection G of Section 3.6.5.30 NMAC;

(r) franchise taxes;

(s) legal and accounting costs;

(t) dues and contributions;

(u) institutional advertising costs, which are not directly related to selling the mineral but are for the purpose of establishing goodwill; and

(v) other indirect costs.

(5) Under generally accepted accounting principles, "direct costs" do usually include:

(a) royalties paid to labor unions representing employees of the taxpayer if the royalties are direct costs of the activities described in Subparagraphs (b) of Paragraph (1) and Subparagraph (b) of Paragraph (2) of Subsection F of Section 7-36-23 NMSA 1978;

(b) severance and resources excise taxes;

(c) sales or gross receipts taxes included in the cost of items which are deductible as direct costs;

(d) payroll taxes and unemployment taxes, both federal and state, if the payroll services upon which these taxes are imposed are deductible as direct costs;

(e) workman's compensation insurance and employees health and accident insurance for the taxpayer's employees, the costs of whose services are direct costs;

(f) assaying and sampling; and

(g) other direct costs.

H. MINERAL PROPERTY - COSTS OF DEPRECIATION - DEDUCTION GUIDELINES:

The phrase "costs of depreciation" as used in Subparagraphs (c) of Paragraph (1) and Subparagraph (c) of Paragraph (2) of Subsection F of Section 7-36-23 NMSA 1978 means a reasonable allowance for the exhaustion, wear and tear and obsolescence of property actually used in the activities described in those subsections. Property which is not actually used, such as property which is stored or held for future use, is not entitled to the deduction for costs of

depreciation.

I. MINERAL PROPERTY - MICA - ANNUAL NET PRODUCTION VALUE: The “annual net production value”, as that phrase is used in Subsection F of Section 7-36-23 NMSA 1978, for mica may be reported at a value of eight dollars (\$8) per cubic yard, without any deductions, at the election of any person reporting this mineral property to the division. If the division determines that a value of eight dollars (\$8) per cubic yard for this mineral property is less than the annual net production value calculated under Subsection F of Section 7-36-23 NMSA 1978, the division may disallow the election and require reporting of market values, royalties, direct costs, depreciation and other information determined necessary by the division.
[3/23/83, 8/28/86, 10/27/87, 12/29/94, 8/31/96; 3.6.5.30 NMAC - Rn & A, 3 NMAC 6.5.30, 4/30/01, A, 6/29/01]

3.6.5.31 SPECIAL METHOD OF VALUATION - MINERAL PROPERTY AND PROPERTY USED IN CONNECTION WITH MINERAL PROPERTY - POTASH

A. POTASH MINERAL PROPERTY - MARKET VALUE:

(1) The “market value of all mineral production from potash mineral property” as that phrase is used in Subsections B, D, and E of Section 7-36-24 NMSA 1978, means the amount for which all mineral production from potash mineral property was sold during the year prior to the tax year provided that the sale or sales were between willing buyers and sellers in the open market in the usual and ordinary course of trade and competition and both seller and buyer were equally free to bargain. The phrase “all mineral production from potash mineral property” includes minerals produced other than potash.

(2) If the market value of all or a part of the mineral production from potash mineral property for the year prior to the tax year cannot be determined under the preceding paragraph because the mineral production is not sold, is used or consumed or is not sold under the conditions described in Paragraph (1) of Subsection A of Section 3.6.5.31 NMAC, then the market value of the mineral production is that reflected by sales of comparable mineral production from potash mineral property and the application of generally accepted appraisal techniques. In using the method of valuation described in this paragraph, the division considers and makes appropriate adjustments to the value reflected by sales of comparable mineral production from potash mineral property to account for the existence of a demand for, and the accessibility of a market for, the mineral production. In determining market value under this method, the division compares the gross income from the property determined for federal income tax purposes under Section 613 of the United States Internal Revenue Code of 1986, as amended or renumbered. Section 3.6.5.31 NMAC, however, does not adopt the valuation methods described in the United States treasury regulations for Section 613, unless specifically indicated herein.

(3) If the market value of all or a part of the mineral production for the year prior to the tax year cannot be determined under the methods set forth in Paragraphs (1) and (2) of Subsection A of Section 3.6.5.31 NMAC, then the market value is determined through the use of the “proportionate profits method” as that phrase is described in United States treasury regulations, Section 1.613-3, as amended or renumbered.

(4) The market value of muriate of potash and sulphate of potash magnesia “fines” used in the manufacture of potassium sulphate, although subgrade mineral products without a commercial market, is determined on the basis of a computed sales price between that portion of a taxpayer which produces the fines and that portion of the same taxpayer which subsequently processes the fines. This computed sales price is determined by use of a formula which takes into consideration the relevant factors generally used in valuing the fines including, for example, but not as a limitation, the processing costs, mineral content and particle size of the fines.

B. POTASH MINERAL PROPERTY - SURFACE VALUE FOR AGRICULTURAL OR OTHER PURPOSES: The valuation methods used in determining the “surface value for agricultural or other purposes (of property) held in connection with class one productive or nonproductive potash mineral property, when the surface interest is held in the same ownership as the mineral interests”, as that phrase is used in Subsection C of Section 7-36-24 NMSA 1978, are those methods described in Section 7-36-15 NMSA 1978 and regulations thereunder except that, when the surface is used primarily for agricultural purposes, the land shall be valued in accordance with Section 7-36-20 NMSA 1978 and regulations thereunder.

C. POTASH MINERAL PROPERTY - CLASS ONE NONPRODUCTIVE POTASH MINERAL PROPERTY: Class one nonproductive potash mineral property is valued on the basis of the value of the minerals in place on such property in addition to the value determined pursuant to Subsection C of Section 7-36-24 NMSA 1978.

D. POTASH MINERAL PROPERTY - ALLOCATION OF VALUES: The values of potash mineral property are allocated among the governmental units in accordance with Subsection G of Section 7-36-24 NMSA 1978. The surface value for agricultural or other purposes (of property) held in connection with class one productive or nonproductive mineral property and the value of class one nonproductive potash mineral property is

allocated to the governmental unit or units in which the property is located on the basis of the value for those properties determined for the tax year.

[3/23/83, 12/29/94, 8/31/96; 3.6.5.31 NMAC - Rn & A, 3 NMAC 6.5.31, 4/30/01]

3.6.5.32 SPECIAL METHOD OF VALUATION - MINERAL PROPERTY AND PROPERTY USED IN CONNECTION WITH MINERAL PROPERTY - URANIUM

A. URANIUM MINERAL PROPERTY - IMPROVEMENTS, ETC., HELD OR USED IN CONNECTION WITH ALL CLASSES OF URANIUM MINERAL PROPERTY - SURFACE VALUE FOR AGRICULTURAL OR OTHER PURPOSES: The valuation methods used in valuing the property described in Paragraphs (1) and (2) of Subsection B of Section 7-36-25 NMSA 1978 are those methods referred to in Subsections A and B of Section 3.6.5.30 NMAC.

B. URANIUM MINERAL PROPERTY - CLASS ONE NONPRODUCTIVE URANIUM MINERAL PROPERTY: Class one nonproductive uranium mineral property is valued on the basis of the value of the minerals in place of such property in addition to the values determined pursuant to Subsection B of Section 7-36-25 NMSA 1978.

C. URANIUM MINERAL PROPERTY - REQUIREMENT FOR FIFTY PERCENT DEDUCTION: Paragraph (2) of Subsection E of Section 7-36-25 NMSA 1978 allows a fifty percent (50%) deduction for the cost of producing and bringing the output to the surface from an underground mine. Therefore, in the case of strip mining operations, after removal of the overburden, the taxpayer is not entitled to the deduction.

D. URANIUM MINERAL PRODUCTION - APPLICATION OF FIFTY PERCENT DEDUCTION: The fifty percent deduction for the costs of producing and bringing the output to the surface from an underground mine which is found in Paragraph (2) of Subsection E of Section 7-36-25 NMSA 1978 is deducted from a value which is comprised of:

(1) the units of uranium sold times either fifty percent of the taxpayer's average unit sales price or fifty percent of the representative sales price, the prices being determined consistently with Paragraph (2) of Subsection E of Section 7-36-25 NMSA 1978; and

(2) the units of all other minerals sold times fifty percent of the representative sales price of all other minerals produced and saved from the uranium-bearing material not disposed of as ore or solution.

[3/23/83, 12/29/94, 8/31/96; 3.6.5.32 NMAC - Rn & A, 3 NMAC 6.5.32, 4/30/01]

3.6.5.33 SPECIAL METHOD OF VALUATION - MANUFACTURED HOMES

A. MANUFACTURED HOMES - REPORTING FORM:

(1) The information specified below is required to be furnished by manufactured home owners in reporting manufactured homes pursuant to Section 7-36-26 NMSA 1978:

- (a) owner's name and mailing address;
- (b) location of manufactured home, including the county and school district;
- (c) name of the manufacturer;
- (d) model, year and serial number of the manufacturer;
- (e) size and number of axles of manufactured home;
- (f) state registration number;
- (g) number, if any, assigned for property tax purposes;
- (h) date of purchase;
- (i) price paid;
- (j) whether the manufactured home acquired was new or used;
- (k) whether the manufactured home is occupied by the owner or a tenant;
- (l) if rented, the amount of the monthly rent.

(2) The report must be signed by the owner or the owner's authorized representative. Forms containing this information and approved by the director may be used.

B. MANUFACTURED HOMES - VALUATION METHOD: The phrase "initial costs" refers to the fair market value at the time of acquisition of a used manufactured home or the acquisition cost of a new manufactured home. Manufactured homes are classified and valued in accordance with the division's most current manufactured home valuation manual or any generally accepted appraisal method or technique approved by the director.

C. MANUFACTURED HOMES - VALUATION FOR PURPOSES OF MOVEMENT PERMITS: If certificates are requested pursuant to Subsection G of Section 66-7-413 NMSA 1978 for the current tax year and if tax rates have not yet been set or tax bills have not yet been mailed, assessors shall proceed pursuant

to Section 7-38-44 NMSA 1978. If tax rates have not been set, payment of taxes determined on the basis of the prior year's tax rates constitutes full payment of the taxes on the manufactured home for the current tax year.

D. MANUFACTURED HOMES - WHEN VALUED AS REAL PROPERTY

(1) A manufactured home becomes a housing structure that is to be valued and taxed for property taxation purposes as real property when:

(a) the valuation authority has received a request from the owner of a manufactured home that it be taxed as real property;

(b) the tongue and axle have been removed from the manufactured home and the manufactured home has been affixed to a permanent foundation in accordance with Part 14.12.2 NMAC;

(c) the owner of the manufactured home owns the real estate to which the manufactured home has been affixed; and

(d) title to the manufactured home, issued pursuant to the provisions of the Motor Vehicle Code, is deactivated in accordance with Section 18.19.3.16 NMAC and evidence of the deactivation has been provided to the valuation authority.

(2) A housing structure described in Paragraph (1) of this subsection is to be valued in accordance with the applicable provisions of the Property Tax Code and regulation and instructions of the department for valuing real property and not in accordance with the special method of valuation provided in Section 7-36-26 NMSA 1978. If the title to the housing structure as a manufactured home is reactivated in accordance with Section 18.19.3.18 NMAC and not subsequently deactivated by the time property is to be valued for property taxation purposes, the housing structure shall be valued in accordance with the special method of valuation provided in Section 7-36-26 NMSA 1978.

(3) For the first property tax year in which the housing structure is to be valued as real property at a site, the owner must report to the valuation authority the information required to be reported by Subsection A of Section 3.6.5.33 NMAC.

(4) Subsection D of Section 3.6.5.33 NMAC is applicable to valuations made on or after January 1, 1998.

[3/23/83, 12/29/94, 8/31/96, 7/15/98; 3.6.5.33 NMAC - Rn & A, 3 NMAC 6.5.33 & A, 4/30/01; A, 9/30/04]

3.6.5.34 SPECIAL METHOD OF VALUATION - PIPELINES, TANKS, SALES METERS AND PLANTS USED IN THE PROCESSING, GATHERING, TRANSMISSION, STORAGE, MEASUREMENT OR DISTRIBUTION OF OIL, NATURAL GAS, CARBON DIOXIDE OR LIQUID HYDROCARBONS

A. OIL & GAS PIPELINES - VALUATION METHOD:

(1) All pipelines, tanks, sales meters and plants as defined in Section 7-36-27 NMSA 1978 which are used in the processing, gathering, transmission, storage, measurement or distribution of oil, natural gas, carbon dioxide, or liquid hydrocarbons are valued by the division or county assessors in accordance with the valuation methods found in Section 7-36-27 NMSA 1978 and Section 3.6.5.34 NMAC.

(2) PIPELINES, DIRECT CUSTOMER DISTRIBUTION PIPELINES, LARGE INDUSTRIAL SALES METERS, TANKS AND PLANTS.

(a) Pipelines, direct customer distribution pipelines, large industrial sales meters, tanks and plants are valued in accordance with the method described in Subsection D of Section 7-36-27 NMSA 1978.

(b) For purposes of calculating depreciation or related accumulated provision for depreciation, straight line depreciation over the useful life of the property, as determined by the federal energy regulatory commission, is used. Property that does not fall within the federal energy regulatory commission's reporting requirements is assumed to have a useful life of twenty-five (25) years, unless substantial evidence of another useful life is accepted by the division.

(3) For purposes of Subsection B of Section 7-36-27 NMSA 1978, "other justifiable factors" includes, but is not limited to, functional and economic obsolescence.

(a) Functional obsolescence is the loss in value that is caused by functional inadequacies or deficiencies caused by factors within the property, and is a loss in value that is in addition to a loss in value attributable to physical depreciation.

(b) Economic obsolescence is the loss in value that is caused by unfavorable economic influences or factors outside the property, and is a loss in value that is in addition to a loss in value attributable to physical depreciation.

(c) Requests for economic or functional obsolescence must be made at the time the annual report is filed. The request must be supported with sufficient documentation, and must be based on a

situation present at least six (6) months prior to January 1 of the tax year. In addition to other information that may be required pursuant to this section, an economic or functional obsolescence factor must be provided together with documentation to support and demonstrate how the factor was arrived at. Such documentation shall consist of objective evidence demonstrating functional or economic obsolescence such as comparisons to a documented industry standard, to a close competitor or to an engineer's or appraiser's valuation, or any other comparable objective evidence of functional or economic obsolescence.

(d) If requested by the taxpayer, the department shall provide guidance to a taxpayer as to the documents necessary to support a request for obsolescence for a pipeline, customer distribution pipeline, large industrial sales meter, tank or plant as defined in Section 7-36-27 NMSA 1978. Upon request, the department shall name, in addition to the other information required by this section, any specific documentation that would support a request for obsolescence. Such specific documentation may include:

- (i)** a report of audited or FASB writedowns;
- (ii)** partnership agreements and narrative explanations of the mechanism for distributing profits and maintenance responsibilities for the property;
- (iii)** for a functional obsolescence claim, an explanation of how scheduled depreciation will not sufficiently restore the cost of the property before its usefulness is over;
- (iv)** a report comparing the replacement cost new, less physical depreciation, with the value of the property as estimated under an income approach;
- (v)** a report comparing output, or cost of operation or capacity utilization of the property, to output, or cost of operation or capacity utilization of comparison property;
- (vi)** long term strategic plans for the property, including an analysis of market share, barriers to competitive entry and transportation alternatives; and
- (vii)** a report addressing the reasons the taxpayer has not sold or written off the property for which the obsolescence is claimed.

(e) The department shall provide guidance to a taxpayer as to documents necessary to support a request for obsolescence for a pipeline that may be in addition to any documents specified in Subparagraph (d) of this paragraph. Upon request, the department shall name, in addition to the other information required by this section, any specific documentation that would support a request for obsolescence. Such specific documentation may include:

- (i)** reserve estimates and projections made at the time the pipeline was planned and prior to construction;
- (ii)** current reserve estimates and projections;
- (iii)** income projections for the pipeline, including assumptions as to throughput, rates and customers, at the time that the pipeline was planned and prior to construction;
- (iv)** income and expense statements of the pipeline for each of the last three most recent years, including assumptions as to throughput, rates and customers; provided that the statement shall conform to the taxpayer's annual reports, FERC documents; or other audited sources;
- (v)** a statement of actual throughput for the past five years of operation; and
- (vi)** transportation contracts.

(f) In reviewing a request for obsolescence pursuant to Section 7-36-27 NMSA 1978, the department shall determine whether a taxpayer has provided documentation sufficient to establish a reduction in taxable value for functional obsolescence or economic obsolescence. If the department determines the documentation is not sufficient because the taxpayer failed to submit documents required by Subparagraph (c) of this paragraph, the department shall inform the taxpayer of that failure in a notice provided by April 1 or thirty days after the return is filed but no later than April 15 of the tax year. If the taxpayer does not file the report by March 15 of the property tax year, the department shall not be required to furnish a timely notice of deficiency by April 15 of the property tax year. In the case of properties regulated by the federal energy regulatory commission, the notice of deficiency shall be provided to the taxpayer within fifteen days after the filing of the report. Such notice shall list the specific documents that the department would require to support the requested reduction for functional obsolescence or economic obsolescence.

(g) If a taxpayer is notified of a deficiency pursuant to Subparagraph (f) of this paragraph, the taxpayer shall have ten days to correct the deficiency. The department will determine whether the documentation timely submitted by the taxpayer adequately supports the taxpayer's request for obsolescence and cures the deficiency. The department's final valuation of the taxpayer's property will reflect the department's approval or denial of the taxpayer's request for obsolescence.

(h) In order to allocate value to the taxing jurisdiction wherein the property (valued in accordance with the method described in Subsection D of Section 7-36-27 NMSA 1978) is located the following formula is used, where:

- A = Pipe size in inches
- B = Miles of pipe
- C = Inch miles
- D = Total tangible property cost less depreciation (all sizes)
- E = \$ Per inch mile
- F = Inch miles of pipe in taxing jurisdiction
- G = \$ Value of pipe in taxing jurisdiction

(i) $A \times B = C$

(ii) $\frac{D}{\text{Total } C} = E$

(iii) $E \times F = G$; or

(iv) $G = (D / (A \times B)) \times F$

(4) SALES METERS.

(a) The value of sales meters, other than large industrial sales meters, is determined in accordance with the following schedule:

SCHEDULE

Sales Meters	Value per meter
Type I	\$ 52.14
Type II	109.90
Type III	477.35

(b) In preparing the above schedule, all partial statutory exemptions have been considered. Therefore, no such exemptions are allowed in determining net taxable value by means of the above schedule. For purposes of the above schedule, the types of sales meters, other than large industrial sales meters, are:

(i) TYPE I - sales meters with a capacity of less than 250 cubic feet per hour at one-half inch differential. These generally include meters providing residential service.

(ii) TYPE II - sales meters with a capacity from 250 cubic feet to 950 cubic feet per hour at one-half inch differential. These generally include meters providing commercial or public authority service.

(iii) TYPE III - sales meters with a capacity greater than 950 cubic feet per hour at one-half inch differential and those meters providing industrial service with an installed cost including the associated regulator, appurtenances and devices of less than two thousand five hundred dollars (\$2,500.00).

(5) CONSTRUCTION WORK IN PROGRESS.

(a) For those persons who maintain their records in accordance with a uniform system of accounts approved by the federal energy regulatory commission, the total amount entered into the construction work in progress account shall be reported to the assessing authority as construction work in progress.

(b) For other persons, the total of the balances of work orders for pipelines, plants, large industrial sales meters and tanks in the process of construction on the last day of the preceding calendar year, exclusive of land and land rights, is reported to the assessing authority. Construction work in progress is reported as follows:

- (i) total construction work in progress;
- (ii) fifty percent (50%) of the construction work in progress as the value for property taxation purposes; and
- (iii) value of construction work in progress by taxing jurisdiction in which the construction is located.

(c) The value as stated in Item (iii) of Subparagraph (b) of this paragraph is the value reported. No deductions for depreciation or any other purposes apply. Exemptions have been considered. Therefore, the taxable value and the net taxable value are the same.

B. OIL & GAS PIPELINES - NONPIPELINE PROPERTY: Pipelines, tanks, sales meters and

plants which are not used in the conduct of the pipeline business or public utility business, and which are not necessary to the proper functioning of the pipeline business or public utility business, are not subject to valuation by the division and are valued by the county assessor of the county in which the property is located.

C. OIL & GAS PIPELINES - VALUATION OF NONPIPELINE REAL PROPERTY:

Residential housing, office buildings, warehouses and other real property excluded from the definitions of property found in Subsection B of Section 7-36-27 NMSA 1978 but used in the conduct of the pipeline or public utility business are valued in accordance with the method stated in Section 7-36-15 NMSA 1978 and regulations thereunder. The term "pipeline" as defined in Paragraph (5) of Subsection B of Section 7-36-27 NMSA 1978 does not include rights of way, easements and other fractional interests in real property. Therefore, the value of those interests is not included in the valuation determined under this section.

[3/23/83, 8/19/85, 12/29/94, 8/31/96; 3.6.5.34 NMAC - Rn & A, 3 NMAC 6.5.34, 4/30/01; A, 9/15/09]

3.6.5.35 SPECIAL METHOD OF VALUATION - PIPELINES, TANKS, SALES METERS, PLANTS AND HYDRANTS USED IN THE TRANSMISSION, STORAGE, MEASUREMENT OR DISTRIBUTION OF WATER

A. WATER SYSTEMS - DEFINITIONS: As used in Section 7-36-28 NMSA 1978 and regulations thereunder:

(1) "Pipeline" means all pipe, appurtenances to pipe and devices attached to pipe used in systems for the commercial gathering, transmission or distribution of water, except tanks, sales meters, plants and hydrants;

(2) "Tank" means any storage tank, container or reservoir, other than a natural reservoir, used for the storage of water;

(3) "Plant" means any pumping station, purification facility or similar plant which is appurtenant to a pipeline;

(4) "Sales meter" means the meter, regulator and all appurtenances and devices used for measuring the sale of water to customers and includes the service pipe to the customer's property line from the point of connection or tap with the pipeline;

(5) "Hydrant" means a discharge pipe with a valve and a spout at which water may be withdrawn from a pipeline, but excludes hydrants which are not owned by a water pipeline business or public utility;

(6) "Material and supplies" means all materials, supplies and other tangible personal property not otherwise defined, including personal property inventories, to the extent they are excepted from the exemption under Section 7-36-8 NMSA 1978, which are on hand in New Mexico on January 1 of the tax year and used in the conduct of the water pipeline or public utility business for the purpose of transmitting, storing, measuring or distributing water for sale to the consuming public and owned by the water pipeline or public utility business; and

(7) "Property in the process of construction" means all property used in the conduct of the water pipeline or public utility business which is in the process of construction on January 1 of the tax year, other than "commercial water property" as defined in Paragraph (1) of Subsection B of Section 7-36-28 NMSA 1978 which includes certain property "under construction".

B. WATER SYSTEMS - VALUATION METHODS:

(1) "Commercial water property" as defined in Section 7-36-28 NMSA 1978 is valued in accordance with the method stated in Subsection C of Section 7-36-28 NMSA 1978.

(2) "Property in the process of construction" as defined in Paragraph (7) of Subsection A of Section 3.6.5.35 NMAC is valued pursuant to methods specified in Section 7-36-33 NMSA 1978 and regulations thereunder.

(3) "General buildings and improvements" as defined in Paragraph (3) of Subsection B of Section 7-36-28 NMSA 1978 and property (properties) which are not a part of commercial water property but which are used in the conduct of the water pipeline or public utility business is valued pursuant to the methods stated in Section 7-36-15 NMSA 1978 and regulations thereunder.

C. WATER FOR SECONDARY WATER FLOODING: A person engaged in the business of producing, transporting and selling water for use in secondary oil recovery through water flooding is subject to valuation by the department under Section 7-36-28 NMSA 1978.

[3/23/83, 12/29/94, 8/31/96; 3.6.5.35 NMAC - Rn & A, 3 NMAC 6.5.35, 4/30/01, A, 6/29/01]

3.6.5.36 SPECIAL METHOD OF VALUATION - PROPERTY USED FOR THE GENERATION, TRANSMISSION OR DISTRIBUTION OF ELECTRICAL POWER OR ENERGY

A. ELECTRIC PLANT - PROPERTY TO BE VALUED:

(1) Property to be valued as property “used for the generation, transmission or distribution of electrical power or energy” includes property which is used in the conduct of a public utility business and property that is “an electricity generating plant, whether or not owned by a public utility, if all or part of the electricity is generated for ultimate sale to the consuming public”;

(2) For purposes of Subsection B of Section 7-36-29 NMSA 1978, “other justifiable factors” for solar energy technologies includes, but is not limited to, the amount of;

(a) federal investment tax credit received by the property owner of the electric plant for the purchase of solar energy technologies; and

(b) federal grants awarded to a property owner under the 1603 Treasury Program in lieu of the federal investment tax credit for solar energy technologies.

B. ELECTRIC PLANT - DEPRECIATION:

(1) For calculating depreciation or related accumulated provision for depreciation, straight line depreciation over the useful life of the item of property, as determined by federal or state regulatory agencies having jurisdiction, shall be used;

(2) If the property does not fall under federal or state regulatory agency authority, the division establishes the useful life of the property in accordance with its class life under Section 167 of the Internal Revenue Code and regulations thereunder. The land portion of the tangible property costs of the plant is the total actual costs of acquisition of the land as of January 1 of the tax year in which the property is valued.

C. ELECTRIC PLANT - CONSTRUCTION WORK IN PROGRESS: “Construction work in progress” as that phrase is defined in Paragraph (3) of Subsection B of Section 7-36-29 NMSA 1978 is valued in accordance with the valuation method stated in Subsection D of Section 7-36-29 NMSA 1978. Those persons who maintain their records in accordance with a uniform system of accounts approved by state or federal regulatory agencies may use the amount entered on those accounts as construction work in progress as of December 31 of the preceding calendar year as the value of construction work in progress, provided that account is limited to work orders for “electric plant” as defined in Paragraph (2) of Subsection B of Section 7-36-29 NMSA 1978 and Section 3.6.5.36 NMAC.

D. ELECTRIC PLANT - GENERAL BUILDINGS AND IMPROVEMENTS - LAND:

(1) “General buildings and improvements” defined in Paragraph (2) of Subsection B of Section 7-36-29 NMSA 1978 are valued in accordance with the method stated in Section 7-36-15 NMSA 1978, and regulations thereunder;

(2) Land used in the conduct of a public utility business or which is a part of an electricity generating plant, whether or not owned by a public utility, if all or part of the electricity is generated for ultimate sale to the consuming public, is valued in accordance with the valuation methods stated in Section 7-36-15 NMSA 1978, and regulations thereunder.

[3/23/83, 12/29/94, 8/31/96; 3.6.5.36 NMAC - Rn & A, 3 NMAC 6.5.36, 4/30/01; A, 4/16/15]

3.6.5.37 SPECIAL METHOD OF VALUATION - PROPERTY THAT IS PART OF A COMMUNICATIONS SYSTEM

A. COMMUNICATIONS SYSTEMS - MICROWAVE TRANSMISSION: Property that is used in the conduct of the communications business includes all property that is a part of a communications system, including, but not limited to, property which is used for purposes of microwave transmission or reception. It does not include the installation, operation or maintenance of microwave property incidental to the operation and conduct of radio and television broadcasting stations licensed by the federal communications commission, except when microwave transmission or reception is separately sold during the regular course of business, or when a two-way communication link is established and service provided by the link is sold to another person during the regular course of business, such as two-way cable television communications linkage.

B. COMMUNICATIONS SYSTEMS - VALUATION OF PROPERTY NOT “PLANT”: If property does not fall within the definition of “plant”, “construction work in progress” or “materials and supplies” as defined in Paragraphs (4), (5) and (7) of Subsection B of Section 7-36-30 NMSA 1978, then that property is valued pursuant to Section 7-36-15 NMSA 1978 and regulations thereunder.

C. COMMUNICATIONS SYSTEMS - DEPRECIATION AND TANGIBLE PROPERTY COSTS:

(1) For purposes of calculating depreciation or related accumulated provision for depreciation, straight line depreciation over the useful life of the item of property, as defined by federal or state regulatory agencies having jurisdiction, is used.

(2) If property does not fall under federal or state regulatory agency authority, the division

establishes the useful life of said property in accordance with its class life under Section 167 of the Internal Revenue Code and regulations thereunder. The tangible property costs of the portion of the plant comprising land shall be the total actual costs of acquisition of the land as of January 1 of the tax year in which the property is valued.

D. COMMUNICATIONS SYSTEMS - CONSTRUCTION WORK IN PROGRESS: those persons who maintain their records in accordance with a uniform system of accounts approved by a state or federal regulatory agency may use the amounts entered on those accounts as construction work in progress as of December 31 of the preceding calendar year as the value of construction work in progress, provided that the account is limited to work orders for “plant” as defined in Paragraph (4) of Subsection B of Section 7-36-30 NMSA 1978, and regulations thereunder. Land and land rights included in construction work in progress accounts must be reported at the actual cost of acquisition as of January 1 of the tax year in which the property is valued.

E. COMMUNICATIONS SYSTEMS - VALUATION METHOD:

(1) Communications systems property may be valued by applying the unit rule of appraisal at the election of a taxpayer. The unit rule of appraisal is, generally, an appraisal of an integrated property as a whole without reference to the value of its component parts. At the election of a taxpayer, the unit rule of appraisal may be applied using the approaches to value set out in Section 3.6.5.37 NMAC.

(2) Capitalization of Earnings - Capitalization of earnings value is computed as follows: the net operating income derived from the operations of the communications business in all states is divided by a capitalization rate determined for the particular company being valued. The capitalization rate will be determined by the division using the band of investment method, or any other method that is consistent with generally accepted appraisal techniques. The quotient resulting from this division is the capitalized earnings value of the communications business. “Net operating income” as that phrase is used in the first sentence of this paragraph means the expected future gross income of the business from operations after deduction of the operating costs of the business, including taxes and depreciation directly relating to the business. Net operating income is determined after an analysis of the preceding five years' net operating income. In determining net operating income, reference is made to reports which the business is required to make to federal and state regulatory agencies and taxing agencies. The division is not bound, however, by the income information shown on these reports in determining net operating income and may use information acquired from other sources. Net operating income may be adjusted to reflect future earnings ability of construction work in progress.

(3) Market Value of Stock and Debt - Market value of stock and debt is computed as follows:

(a) The market value of all the stock of the business is computed on the basis of the average of the monthly high and low market prices quoted in financial publications for the preceding tax year. If stock of the business is not traded or is not traded in sufficient volume to indicate value, the division may rely on a price earnings ratio, or other methods consistent with generally accepted appraisal techniques to determine the market value of the stock.

(b) The market value of the business' debt and other obligations is determined on the basis of the published quotations for each of the various types of obligations and current liabilities as reflected on the books and records of the business.

(c) The total of the market value of the stock as computed under Subparagraph (a) of this paragraph and the market value of debt and other obligations as computed under Subparagraph (b) of this paragraph produces the total system value of all the communications business property, both tangible and intangible. From this total system value, there is subtracted the value of non-communications property which is not used by the communications company in its communications operations, and the value of intangible property used in its operations. To this net total system value, there is added the value of all leased equipment to produce the total stock and debt value.

(4) Cost less Depreciation and Obsolescence - Cost less depreciation and obsolescence is computed as follows:

(a) The cost of all communications plant in service in all states, less depreciation and amortization as of January 1 of the tax year as reported to the federal communications commission of the United States or other state or federal regulatory agencies having jurisdiction; plus

(b) The cost of all materials and supplies in all states as of January 1 of the tax year; plus

(c) Fifty percent (50%) of the cost or amount expended for “construction work in progress” in all states on January 1 of the tax year, as reported to the federal communications commission, or other state or federal regulatory agencies having jurisdiction. advance payments for work not partially completed or not commenced on January 1 of the tax year, however, may be excluded at one hundred percent (100%) upon a proper showing by the taxpayer.

(d) A deduction for functional or economic obsolescence may, upon presentation of substantial evidence and documentation, be made from the total of the cost computed under Subparagraph (a) of this paragraph.

(e) Functional obsolescence is the loss in value due to functional inadequacies or deficiencies caused by factors within the property.

(f) Economic obsolescence is the loss in value caused by unfavorable economic influences or factors outside the property.

(g) Requests for economic or functional obsolescence adjustments to the cost approach must be made at the time the annual report is filed. The request must be supported with sufficient documentation, and must be based on a situation present at least six (6) months prior to January 1 of the tax year. An economic or functional obsolescence factor must be provided, together with documentation to support and demonstrate how the factor was arrived at. Such documentation shall consist of objective evidence supporting functional or economic obsolescence. Failure to provide enough documentation or proof shall result in denial of an obsolescence adjustment.

(5) The division considers the values computed under the three evidences of value referred to in Paragraphs (2), (3) and (4) of this subsection and, either:

(a) assigns weights, in terms of percentage to each evidence of value, with a total of 100%, on the basis of the evidence which appear to be most indicative of market value, multiplies the values determined under the three evidences of value by the respective weights and adds the three totals to give the total system value of all property used in the conduct of the communications business; or

(b) correlates the values computed under the three evidences of value to determine the total system value of all property used in the conduct of the communications business.

(6) The total system value of all property used in the conduct of the communications business in all states is allocated to New Mexico by multiplying this total value by fractions, the numerators of which are the total gross investment, gross operating revenues, wire miles, and number of access lines of the communications company in New Mexico and the respective denominators of which are the total gross investment, gross operating revenues, wire miles, and number of access lines of the communications company in all states. The products of the multiplication by each of these fractions is considered by the division in determining the proper allocation of the total system value to New Mexico. Use of other factors to compute allocation of the total system value to New Mexico or elimination of one or more of the required factors from consideration may be permitted by order of the director upon good cause shown. The correlated product of the multiplication of the total system value in all states by the fractions is New Mexico's allocated portion of property used in the conduct of the communications business and is the value for property taxation purposes of the communications property used in the conduct of the communications business in New Mexico.

F. COMMUNICATIONS SYSTEMS - ALLOCATIONS OF VALUE WITHIN NEW MEXICO:

(1) Distribution of the value of all communications system property allocated to New Mexico which is valued by the division is accomplished in the following manner:

(a) An equitable portion of the total unit value allocated to New Mexico is computed and distributed to the specific governmental unit or units wherein are located sizeable facilities, such as offices, shops, and other special facilities.

(b) The value computed under Subparagraph (a) of this paragraph is deducted from the total value as determined under Section 3.6.5.37 NMAC, and the remainder is distributed to the governmental unit or units in which the property is located on the basis of the proportion of wire miles and number of access lines in the governmental unit or units compared to the total of wire miles and number of access lines in New Mexico respectively.

(c) The division may vary the distribution methods described in Subparagraphs (a) and (b) of this paragraph to account for unusual or substantial changes in the operations or gross investment of the company within the governmental units.

(2) "Gross investment" as that phrase is used in Section 3.6.5.37 NMAC means the original cost, without deductions of any kind, of all kinds of property used in the conduct of communications business. Reference shall be made to reports made to federal or state regulatory agencies having jurisdiction in determining gross investment.

[3/23/83, 12/13/85, 12/29/89, 12/29/94, 8/31/96; 3.6.5.37 NMAC - Rn & A, 3 NMAC 6.5.37, 4/30/01]

3.6.5.38 SPECIAL METHOD OF VALUATION - OPERATING RAILROAD PROPERTY

A. RAILROADS - PROPERTY TO BE VALUED AS PROPERTY USED BY A RAILROAD COMPANY IN THE OPERATION OF A RAILROAD:

(1) All property owned or leased and used by a railroad in its operation, which is subject to valuation for property tax purposes, is required to be valued except for railway cars with respect to which the railroad is remitting payments to New Mexico under the Railroad Car Company Tax Act. "Property" means tangible property, real or personal.

(2) The following types of property used by a railroad company in the operation of a railroad are to be valued:

(a) "Road property" means all property owned or leased and used by a railroad company in the operation of a railroad and which may be partially or totally carried in accounts for this type of property, as prescribed by the interstate commerce commission of the United States;

(b) "Equipment" means locomotives, cars and other equipment owned or leased and used by a railroad company in the operation of a railroad which may be partially or totally carried in accounts for this type of property, as prescribed by the interstate commerce commission of the United States;

(c) "Material and supplies" means all material and supplies owned or leased and used by a railroad company in the operation of a railroad, the costs of which may be partially or totally carried in accounts or an account of this type of property, as prescribed by the interstate commerce commission of the United States;

(d) "Property in the process of construction" means all property owned or leased and used by a railroad company in the operation of a railroad which is in the process of construction on January 1 of the tax year; and

(e) "Other property" which means any other property not otherwise defined including, but not limited to, real property and tangible personal property used in the conduct of the railroad business.

B. RAILROADS - VALUATION METHOD:

(1) Property defined in Subsection A of Section 7-36-31 NMSA 1978 and Section 3.6.5.38 NMAC is valued by applying the unit value of appraisal to the valuation methods stated in Subsection B of Section 7-36-31 NMSA 1978. The unit rule of appraisal is, generally, an appraisal of an integrated property as a whole without reference to the value of its component parts.

(2) A "railroad business" as that term is used in regulations under Section 7-36-31 NMSA 1978 includes any entity owning a railroad or a railroad company including, but not limited to, holding companies, trustees or receivers.

(3) Capitalized earnings are computed as follows: the net operating income derived from the operations of the railroad business in all states is divided by a capitalization rate determined for the particular railroad being valued. The capitalization rate is determined by the division using the band of investment method. The quotient resulting from this division is the capitalized earnings of the railroad company.

(4) "Net operating income" as that phrase is used in Paragraph (3) of this subsection means the expected future gross income of the railroad business from the operation of a railroad after deduction of the operating cost of the railroad, including taxes and depreciation directly relating to the railroad. Net operating income is determined after an analysis of the preceding five years' net operating income and that operating income is intended to reflect the future earning ability of the railroad business from the operation of the railroad. In determining that operating income, reference is made to reports which the railroad business is required to make to federal and state regulatory agencies and taxing agencies. The division is not bound, however, by the income information shown on these reports in determining net operating income and may use information acquired from other sources.

(5) Market value of stock and debt is computed as follows:

(a) The market value of all of the stock of the railroad business is computed on the basis of the average of the monthly high and low market prices quoted in financial publications for the preceding tax year. If stock of the railroad business is not traded or is not traded in sufficient volume to indicate value, the division may rely on a price earnings ratio or other acceptable appraisal technique to determine the market value of the stock.

(b) The market value of the railroad business' debt and other obligations is determined on the basis of the published quotations for each of the various types of obligations and current liabilities as reflected on the books and records of the railroad business.

(c) The total of the market value of stock as computed under Subparagraph (a) of this paragraph plus the market value of debt and other obligations as computed under Subparagraph (b) of this paragraph produces the total system value of all of the railroad business' property, both tangible and intangible.

From this total system value, there is subtracted the system value of property not used by the railroad business in the operation of a railroad and the system value of intangible property used by the railroad business in the operation of a railroad.

(6) Original cost less depreciation is computed as follows:

(a) Original cost of all road property in all states less depreciation and amortization as reported to the interstate commerce commission of the United States, as of January 1 of the tax year, plus

(b) The original cost of all equipment in all states less depreciation and amortization, as reported to the interstate commerce commission of the United States, as of January 1 of the tax year; plus

(c) The original cost of other property including all leased property in all states, less depreciation and amortization as of January 1 of the tax year; plus

(d) The original cost of any property in the process of construction, in all states, on January 1 of the tax year; the original cost being 50% of the cost or amount expended for such construction work which is partially complete on January 1 of the tax year as shown on the books and records of the business. Advance payments for work not partially completed or not commenced on January 1 of the tax year, however, may be excluded from the original cost of property in the process of construction upon a proper showing by the taxpayer; plus

(e) The original costs of all materials and supplies in all states as of January 1 of the tax year; minus

(f) A deduction for economic obsolescence, functional obsolescence, or both, upon a showing by taxpayer of substantial evidence supporting the deduction from the total of the costs computed under Subparagraphs (a) through (c) of this paragraph. The division may consider the following factors to determine obsolescence:

(i) The actual rate of return on depreciated investment of the subject railroad property as compared to the average rate of return on the depreciated investment of other comparable railroad companies;

(ii) The difference between the system depreciated cost of a railroad business' property and the system capitalized income value of that business;

(iii) The difference between the system depreciated cost of a railroad business' property and the system stock and debt value of that business;

(iv) The "blue chip method", using a "best of the best", "blue chip", or "super blue chip" approach of comparison; or

(v) Any other recognized method which is a generally accepted appraisal technique.

(7) The division considers the values computed under the three evidences of value referred to in Paragraphs (3) through (6) of this subsection and either:

(a) assigns weights, in terms of percentage to each evidence of value with a total of 100%, on the basis of the evidences which appear to be most indicative of market value, multiplies the values determined under the three evidences of value by the respective weights and adds the three totals to give the total system value of all property used in the conduct of the railroad business; or

(b) correlates the values computed under the three evidences of value to determine the total system value of all property used in the conduct of the railroad business.

(8) The total system value of all property used in the conduct of the railroad business in all states is allocated to New Mexico by multiplying this total value by fractions, the numerators of which are the total gross investment, gross operating revenue, gross operating expenses, track miles, tonnage originated or terminated and ton miles of the railroad company in New Mexico and the respective denominators of which are the total gross investment, gross operating revenue, gross operating expense, track miles, tonnage originated or terminated and ton miles of the railroad company in all states. The products of the multiplication by each of these fractions are considered by the division in determining the proper allocation of the total system unit value to New Mexico. Use of other fractions or factors to compute allocation of the total system unit value to New Mexico, or elimination of one or more of the required fractions from consideration, may be permitted by order of the director upon good cause shown. The correlated product of the multiplication of the total system unit value in all states by the fractions is New Mexico's allocated portion of property used in the conduct of the railroad business and is the value for property taxation purposes of the railroad's property used in the conduct of the railroad business in New Mexico. Exemptions authorized by the Property Tax Code are not to be applied until a determination of net taxable value is made.

C. RAILROADS - ALLOCATION OF VALUE WITHIN NEW MEXICO:

(1) Distribution of the value of all property allocated to New Mexico for property taxation purposes used in the railroad business which is valued by the division pursuant to Subsection B of Section 3.6.5.38 NMAC is accomplished in the following manner:

(a) An equitable portion of the total unit value allocated to New Mexico as determined under Subsection B of Section 3.6.5.38 NMAC is computed and distributed to the specific governmental unit or units wherein are located sizeable terminal facilities, such as yards, shops and other special facilities not normally spread along the lines of railroad.

(b) The value computed under Subparagraph (a) of this paragraph is deducted from the total value as determined under Section 3.6.5.38 NMAC, and the remainder is distributed to the governmental unit or units in which the railroad is located on the basis of the proportion of main, branch and spur track miles in the governmental unit or units compared to the total of main, branch and spur track miles of the railroad in New Mexico. In making such allocations, consideration is given to the physical characteristics and traffic density patterns of such track miles.

(c) The division may vary the distribution methods described in Subparagraphs (a) and (b) of this paragraph to account for unusual or substantial changes in the operations or gross investment of the railroad company within the governmental units.

(2) "Gross investment" as that phrase is used in Section 3.6.5.38 NMAC means the original cost, without depreciation or deduction, of any kind of property used in the conduct of a railroad. Reference is made to reports made to federal or state regulatory agencies in determining gross investment.

D. RAILROADS - DETERMINATION OF OPERATING AND NONOPERATING PROPERTY:

(1) To determine if a property is operating property, the division considers the use to which the property is put and whether it is subject to scrutiny by the interstate commerce commission. "Operating property" for purposes of Section 7-36-31 NMSA 1978 means all property, owned, leased, or used, which is reasonably necessary to the maintenance and operation of a railroad company's business.

(2) "Non-operating property" is all property owned or leased from others which is not necessary for the conduct of a railroad company's business.

(3) Non-operating property is valued by the county assessor of the county in which the property is located pursuant to the valuation method stated in Section 7-36-15 NMSA 1978, and regulations thereunder.

E. RAILROADS - DEFINITIONS:

(1) "Best of the best" means a comparison approach in which the appraiser compares eight quality and efficiency factors. The appraiser selects the highest figure for each of the quality and efficiency factors without regard to the make up or operations of any of the railroads.

(2) "Super blue chip" means a comparison approach in which the appraiser compares eight quality and efficiency factors. The appraiser selects the three (3) highest figures for each of the quality and efficiency factors without regard to the make up or operations of any of the railroads.

(3) "Blue chip" means a comparison approach in which the appraiser compares eight quality and efficiency factors. The appraiser selects a complete railroad by analyzing the make up and operations of all railroads and uses this as a standard for comparison. The eight quality and efficiency factors to be used in all three methods are: rate of return, freight traffic density, load factor, transportation performance, operating ratio, gross profit margin, revenue per mile, and transportation ratio.

[3/23/83, 12/13/85, 12/29/94, 8/31/96; 3.6.5.38 NMAC - Rn & A, 3 NMAC 6.5.38, 4/30/01]

3.6.5.39 SPECIAL METHOD OF VALUATION - COMMERCIAL AIRCRAFT

A. COMMERCIAL AIRCRAFT - PROPERTY SUBJECT TO VALUATION -DEFINITIONS:

(1) A "commercial airline company" as that term is used in Section 3.6.5.39 NMAC means an "airline" as that term is used in Paragraph (5) of Subsection B of Section 7-36-2 NMSA 1978 and defined in Section 3.6.5.39 NMAC.

(2) Property valued by the division as commercial aircraft used by commercial airline companies in the operation of their business includes only a portion of the property which is used in the conduct of the airline business. The types of property valued by the division as property used in the conduct of the airline business are listed below, with definitions.

(a) "Commercial aircraft" means any contrivance used or designed for navigation of or flight in the air, including but not limited to airplanes, hydroplanes, helicopters and balloons when this contrivance is used by an airline; however, "commercial aircraft" excludes parachutes and other contrivances used

primarily as safety equipment. Commercial aircraft are valued in accordance with Section 7-36-32 NMSA 1978.

(b) "Equipment" means all personal property other than commercial aircraft and material and supplies used by an airline in the conduct of its airline business, which personal property is located in New Mexico on January 1 of the tax year. Equipment located in New Mexico on January 1 of the tax year is valued in accordance with Section 7-36-33 NMSA 1978.

(c) "Material and supplies" means all material and supplies owned or leased and used by an airline in the conduct of its airline business, which material and supplies are located in New Mexico on January 1 of the tax year. Material and supplies located in New Mexico on January 1 of the tax year are valued in accordance with Section 7-36-33 NMSA 1978.

(d) "Related facilities" means office buildings, terminals, warehouses, shops, residential housing, land and any other real property other than construction work in progress, which property is located in New Mexico on January 1 of the tax year and used by an airline in the conduct of its airline business. Related facilities located in New Mexico on January 1 of the tax year are valued in accordance with Section 7-36-15 NMSA 1978.

(e) "Construction work in progress" means related facilities located in New Mexico on January 1 of the tax year which are in the process of construction. These related facilities are valued as construction work in progress in accordance with Section 7-36-33 NMSA 1978.

B. COMMERCIAL AIRCRAFT - DEPRECIATION ON JET AIRCRAFT: For a jet propelled aircraft, "depreciation computed on a monthly basis" means the accumulated depreciation for the aircraft as reported to the research and special programs administration of the U.S. department of transportation, or to any successor unit or agency, as of January 1 of the tax year.

C. COMMERCIAL AIRCRAFT - ALLOCATION OF NET TAXABLE VALUES:

(1) Allocation of the net taxable values of commercial aircraft to New Mexico and to the governmental units in the state is as follows:

(a) The net taxable value of an airline's commercial aircraft is multiplied by a fraction, the numerator of which is the total ground time of all commercial aircraft of an airline in New Mexico during the preceding tax year and the denominator of which is the total ground time of commercial aircraft of the airline for the preceding tax year. Also, the net taxable value is multiplied by a fraction, the numerator of which is the flight time of all commercial aircraft of an airline over New Mexico during the preceding tax year, and the denominator of which is the total flight time of all commercial aircraft of an airline, exclusive of flight time outside the continental limits of the United States, during the preceding tax year. The product of these two multiplications then is added and the sum divided by two, with the result being the allocation of net taxable values of commercial aircraft of an airline to New Mexico for the tax year.

(b) The net taxable value of commercial aircraft of an airline allocated to New Mexico is further allocated to the governmental units in New Mexico. For each jurisdiction in New Mexico in which the commercial aircraft of the airline landed during the preceding year, the allocation to that jurisdiction is determined by multiplication of the net taxable value allocated to New Mexico by a fraction, the numerator of which is the number of landings by commercial aircraft of the airline in the jurisdiction in New Mexico, and the denominator of which is the total number of landings by commercial aircraft of the airline in New Mexico. The product of this multiplication is the allocation of net taxable value of commercial aircraft of the airline to the jurisdiction.

(2) The net taxable value of "equipment", "material and supplies" and "related facilities" as defined in Subsection A of Section 3.6.5.39 NMAC is allocated to the governmental units in which the property is located.

[3/23/83, 1/8/91, 12/29/94, 8/31/96; 3.6.5.39 NMAC - Rn & A, 3 NMAC 6.5.39, 4/30/01]

3.6.5.40 SPECIAL METHOD OF VALUATION - CERTAIN INDUSTRIAL AND COMMERCIAL PERSONAL PROPERTY

A. GENERAL - CONSTRUCTION WORK IN PROGRESS: The phrase "construction work in progress" as defined in Paragraph (6) of Subsection B of Section 7-36-33 NMSA 1978 and as valued pursuant to Subsection D of Section 7-36-33 NMSA 1978 does not include the value of the land upon which the construction work is in progress. The land is valued pursuant to Section 7-36-15, 7-36-20, 7-36-23 or 7-36-25 NMSA 1978 and regulations thereunder, depending upon the nature and use of land.

B. GENERAL - LARGE OFF-THE-ROAD HIGHWAY CONSTRUCTION EQUIPMENT - CONTRACTORS' MACHINERY AND EQUIPMENT:

(1) The machinery and equipment, except "manufactured homes" and "well drilling rigs" as

defined in Parts 1 through 7 of Chapter 3.6 NMAC, of all resident and nonresident persons engaged in “construction” as that term is defined in Paragraph (3) of Subsection C of Section 7-36-2 NMSA 1978, including such property of such persons whose property is subject to valuation by the county assessor and the division, is reported and valued in accordance with this subsection.

(2) Information required to be reported.

(a) The person reports each item of machinery and equipment owned or leased by that person by county in which the items were used during the preceding tax year and provide the following information with respect to each item:

- (i) make, model and year of manufacture, if available;
- (ii) capacity, if available;
- (iii) serial number, if available;
- (iv) where located by school district and county on January 1 of the tax

year;

- (v) date purchased;
- (vi) “tangible property cost” of the item as that term is defined in

Subsection B of Section 7-36-33 NMSA 1978.

(b) This reporting requirement may be modified by division instruction to permit use of information found in the uniform system of accounts used for reporting by certain persons reporting to state or federal regulatory agencies.

(3) The tangible property cost reported above is multiplied by a percentage, shown in the following schedule, that reflects an “average related accumulated provision for depreciation per unit...and an average of other justifiable factors per unit”. The product of the multiplication is the value of the machinery and equipment for property taxation purposes. The value determined using this procedure may be adjusted upon a sufficient showing to the division of a lesser value. In the case of persons required to report to it, the division may permit valuation on the basis of “book value” upon a showing that “book value” will result in substantially the same value arrived at by application of this procedure. The division may also permit or require valuation on the basis of values found in the uniform system of accounts used by certain persons to report to certain state or federal regulatory agencies.

First calendar year immediately preceding current tax year of use after acquisition or purchase	91.25%
Second year of use after acquisition or purchase	73.75%
Third year of use after acquisition or purchase	56.25%
Fourth year of use after acquisition or purchase	38.75%
Fifth year of use after acquisition or purchase	21.25%
Sixth year and following years after acquisition or purchase	12.50%

(4) Manufactured homes of all resident and nonresident persons engaged in construction is valued and reported pursuant to Section 7-36-26 NMSA 1978 and regulations thereunder.

(5) Well drilling rigs of all resident and nonresident persons engaged in construction are valued pursuant to Section 3.6.5.40 NMAC.

C. GENERAL - CERTAIN PROPERTY OF REGULATED BUSINESSES: Industrial, manufacturing and commercial machinery, equipment and furniture is valued by the division, as a schedule value pursuant to Subsection E of Section 7-36-33 NMSA 1978, at the value shown on the person's reported uniform system of accounts if the property is required to be valued by the division pursuant to Section 7-36-2 NMSA 1978 and it is:

(1) not subject to valuation under the provisions of Sections 7-36-22 through 7-36-32 NMSA 1978;

(2) not valued pursuant to the methods implemented in Subsection B of Section 3.6.5.40 NMAC; and

(3) reported to a state or federal regulatory agency by a person regulated by such agency using a uniform system of accounts.

D. GENERAL - WELL DRILLING RIG UNITS:

(1) A “well drilling rig unit” means all of the component parts of a unit that normally are transported to a site and set up to make a complete rig that is to be used for drilling a well for oil, gas, carbon dioxide, water, geothermal or other minerals. A well drilling rig unit includes, but is not limited to derrick and substructure; crown blocks; traveling block; drilling line; sand line; rotary hose and standpipe; hook; tongs and swivel; elevators; kelly; rotary table; draw works; engine; instrument; slush and mudpumps; generators; electric

lines and accessories; mud tanks; fuel tanks; boilers; feed pump; blowout preventer; tools and supplies; water pumps and lines; drill bits; stairs; railings; dog house; tool joints; and miscellaneous equipment.

(2) "Depth capacity" as that phrase is used in Section 3.6.5.40 NMAC means the maximum depth of a well that the well drilling rig unit is capable of drilling without exceeding its safe operating design limits.

(3) Well drilling rig units are valued using a "schedule value" as that phrase is defined in Subsection B(4) of Section 7-36-33 NMSA 1978 based on drilling capacity. The schedule applicable to well drilling rig units is as follows:

WELL DRILLING RIG UNIT VALUATION SCHEDULE	
Depth Capacity in Feet	Value for Property Taxation Purposes
2,000 - 4,999	\$ 55,840
5,000 - 7,499	111,607
7,500 - 9,999	167,412
10,000 - 12,499	223,215
12,500 - 14,999	279,019
15,000 - 17,999	334,824
18,000 - 19,999	379,466
20,000 - 24,999	491,071
25,000 - 29,999	580,355

E. GENERAL - MINE DEVELOPMENT COSTS: Except for property used in connection with mineral property when the primary production from the mineral property is potash, mine development costs are tangible property costs subject to valuation and taxation under the Property Tax Code. Such include labor, engineering, geological analysis, utility costs and equipment rental fees relating to the development and opening of the mine.

F. GENERAL - CLAIM OF OBSOLESCENCE - BURDEN OF PROOF - THRESHOLD AMOUNT:

(1) A deduction for obsolescence will not be allowed unless the taxpayer proves that functional or economic obsolescence has reduced the value of the property and the connection between the degree of obsolescence and the amount of deduction claimed.

(2) Because the process of determining obsolescence generally is imprecise, no claim for obsolescence will be allowed unless the functional or economic obsolescence exceeds ten percent of the value of the property prior to application of the amount of obsolescence.

G. GENERAL - METHODS OF CALCULATING DEPRECIATION: For purposes of Subsection G of Section 3.6.5.40 NMAC, "salvage value" means the minimum twelve and one-half percent value established by Paragraph (3) of Subsection C of Section 7-36-33 NMSA 1978. To calculate allowable depreciation for any year, first salvage value shall be deducted from the tangible property cost for each item of property. Then the remainder shall be divided by the useful life in order to obtain the allowable depreciation per year for each item. In the alternative, a "percent good" table can be used in lieu of determining the depreciation for each individual asset. If used, a percent good table shall be calculated using straight line depreciation and a half-year convention as defined by the internal revenue service in publication 946.

[3/23/83, 12/29/94, 8/31/96, 3/31/00; 3.6.5.40 NMAC - Rn & A, 3 NMAC 6.5.40, 4/30/01]

3.6.5.41 METHODS OF DETERMINING MARKET VALUE OF AFFORDABLE HOUSING

A. Application for reduced valuation of affordable housing. Not later than the last day of February of the tax year for which a reduced valuation is claimed pursuant to Section 7-36-15(B)(2) NMSA 1978, a property owner shall file an application with the county assessor, in a form prescribed by the division.

B. Value of residential housing property affected by affordable housing subsidies; taxpayer required documents. Except as otherwise provided by this section, an owner of residential property that qualifies for a reduced valuation for a tax year pursuant to Section 7-36-15(B)(2) NMSA 1978 shall submit to the county assessor, not later than the last day of February of that tax year:

(1) a copy of each document that establishes the type, amount and term of the affordable housing subsidy, covenant or encumbrance imposed pursuant to a federal, state or local affordable housing program; or

(2) a copy of the property owner's purchase agreement for the residential housing and a copy of the property owner's real estate closing agreement for the residential housing.

C. County assessor waiver of required documents. A county assessor may waive submission of the documents that an owner of residential housing is required to submit by Subsection B of this section if that

county assessor independently verifies the type, amount and term of each affordable housing subsidy, covenant or encumbrance that results in a decrease in value for the residential housing pursuant to Section 7-36-15(B)(2) NMSA 1978. The county assessor may obtain and verify such information by examining records of the county clerk. The county assessor shall request documents from the property owner as required by Subsection A of this section with respect to an affordable housing subsidy, covenant or encumbrance for which the county clerk has no record.

D. Apartments classified as residential property. Property owners who own apartment buildings classified as residential property shall submit, in addition to documents required by this section, evidence satisfactory to the county assessor, of the amount and source of income per unit, including, but not limited to, federal Title VIII vouchers.

E. Reporting changes in subsequent years. If a property owner receives a reduced valuation with respect to an affordable housing subsidy, covenant or encumbrance pursuant to Section 7-36-15(B)(2) NMSA 1978 for a property tax year, the property owner shall, no later than the last day of February of each subsequent property tax year, report any change in the type, amount and term of any affordable housing subsidy, covenant or encumbrance imposed pursuant to a federal, state or local affordable housing program.

F. Certification of no change. If a property owner receives a reduced valuation with respect to an affordable housing subsidy, covenant or encumbrance pursuant to Section 7-36-15(B)(2) NMSA 1978 for a property tax year, and the type, amount and term of that subsidy, covenant or encumbrance has not changed for five property tax years subsequent to the filing of an application, reported change, or certification of no change pursuant to this section, the property owner shall certify to the county assessor that no such change has occurred during that period. A property owner is not required to file a certification of no change with the county assessor anytime prior to the date that occurs five property tax years after the last application, reported change, or certification of no change is filed with the county assessor.

G. County assessor use of required documents. A county assessor shall use the documents submitted by a property owner in accordance with this section to determine the value of property for property taxation purposes pursuant to Sections 7-36-15 and 7-36-16 NMSA 1978. The county assessor shall use the documents to complete a statement of adjusted value that:

(1) is in a form prescribed by the division; and
(2) contains a calculation of the property owner's equity in the property, in accordance with Section 7-36-15 NMSA 1978, as of the first day of the applicable tax year; that calculation shall account for:

(a) the unencumbered market value of the property for the applicable property tax year; and

(b) any decrease in the value that would be realized by the owner in a sale of the property because of the effects of any affordable housing subsidy, covenant, or encumbrance imposed pursuant to a federal, state or local affordable housing program that restricts the future use of the property or the resale price of the property or would otherwise prohibit the owner from fully benefiting, excluding shared appreciation features, from any enhanced value of the property.

H. Title company provision of documents to property owners. Title companies shall be encouraged to provide documents required in Subsection B of this section to property owners. A county assessor shall request each title company in its county to provide documents required in Subsection B of this section to the county assessor in accordance with applicable laws.

[3.6.5.41 NMAC - N, 1/30/09]

HISTORY 3.6.5 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center: PTD Rule No. 82, Regulations Pertaining to the Property Tax Code, filed 3/23/83.

TRD Rule No. PTC-95, Regulations Pertaining to the Property Tax Code, Sections 7-35-1 to 7-38-90 NMSA 1978, filed 12/29/94.

History of Repealed Material: [RESERVED]

NMAC History:

3 NMAC 6.5, Classification of Property, filed 8/19/96.

3.6.5 NMAC, Classification of Property, filed 4/17/01.