

TITLE 3: TAXATION
CHAPTER 6: PROPERTY TAXES
PART 4: VALUATION

3.6.4.1 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; 3.6.4.1 NMAC - Rn, 3 NMAC 6.4.1, 4/30/01]

3.6.4.2 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; 3.6.4.2 NMAC - Rn, 3 NMAC 6.4.2, 4/30/01]

3.6.4.3 STATUTORY AUTHORITY: Section 9-11-6.2 NMSA 1978.
[8/31/96; 3.6.4.3 NMAC - Rn, 3 NMAC 6.4.3, 4/30/01]

3.6.4.4 DURATION: Permanent.
[8/31/96; 3.6.4.4 NMAC - Rn, 3 NMAC 6.4.4, 4/30/01]

3.6.4.5 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; 3.6.4.5 NMAC - Rn & A, 3 NMAC 6.4.5, 4/30/01]

3.6.4.6 OBJECTIVE: The objective of this part is to interpret, exemplify, implement and enforce the provisions of the Property Tax Code.
[8/31/96; 3.6.4.6 NMAC - Rn, 3 NMAC 6.4.6, 4/30/01]

3.6.4.7 DEFINITIONS:

A. As used in Parts 1 through 7 of Chapter 3.6 NMAC the following terms, which are not defined in Section 7-35-2 NMSA 1978, are defined as follows unless limited by another section of Parts 1 through 7 of Chapter 3.6 NMAC:

(1) "Airline." An airline is any business engaged in the transportation by aircraft of persons or property on a regularly scheduled basis.

(2) "Capitalization rate." A capitalization rate is either a market rate of return which shows the rate of return demanded by those who invest in a particular business or an interest rate on borrowed money or a combination of both rates. Acceptable methods of computing a capitalization rate are the market comparison method and the band of investment method. Either method may be used to determine a capitalization rate. The department will approve variations of these methods provided the variations are not inconsistent with generally accepted appraisal principles or techniques.

(3) "Correlation." Correlation is the final step in the appraisal process by which the evidences of value derived are analyzed and a final value determined based on the evidences of value as they relate to the subject property and to each other and, considering the amount and reliability of the data collected as to each evidence of value, the nature of the approach used to determine the evidence of value and the relevancy of the approach used to determine the evidence of value to the subject of the appraisal.

(4) "Microwave." A microwave is an electromagnetic wave between 100 centimeters and one centimeter in length.

(5) "Manufactured home." A "manufactured home" is defined in the Motor Vehicle Code at Section 66-1-4.11 NMSA 1978 and that definition is applicable to the phrase "manufactured home" as used in the Property Tax Code and Property Tax Code regulations.

(a) In determining the length of a manufactured home, the tow bar is included in the length dimension. If the tow bar has been removed, three (3) feet must be added to the length of the manufactured home to obtain the correct length.

(b) A manufactured home is personal property unless it is to be valued as real property in accordance with Subsection D of Section 3.6.5.33 NMAC, in which case it is real property for property taxation purposes.

- (6) "Public utility." A public utility means a public utility as defined in Section 62-3-3 NMSA 1978.
- (7) "Railroad." A railroad is an enterprise created and operated to transport on a fixed track passengers and freight or passengers or freight for rates or tolls without discrimination among those who demand transportation.
- (8) "Trending." The term "trending" means the adjustment of the original cost of property to reflect the present cost of the same or similar property and is accomplished by the application of a factor which reflects the economic inflation or deflation occurring during a given period.

B. The phrase "used in the conduct of the following businesses" or "used in the conduct of a ... business" includes all property which is involved in a business including, but not limited to, property which is leased to or by the business, property which is used even though the work or function facilitated by the property is capable of being contracted to others and property which has a dual function such as being used both in the particular business and an unrelated business.

[3/23/83, 12/29/94, 8/31/96, 7/15/98; 3.6.4.7 NMAC - Rn & A, 3 NMAC 6.4.7, 4/30/01]

3.6.4.8 ALLOCATION OF RESPONSIBILITY FOR VALUATION AND DETERMINING CLASSIFICATION OF PROPERTY FOR PROPERTY TAXATION PURPOSES - COUNTY ASSESSOR AND DEPARTMENT

A. **PIPELINES FOR IRRIGATION PURPOSES NOT EXEMPT:** Although community ditches and their laterals are exempted by Article VIII, Section 3 of the New Mexico Constitution, other irrigation works, water pipeline businesses or public utilities which use pipelines as a means of delivering water are not exempt.

B. **MINERAL RIGHTS AND INTERESTS NOT INCLUDED IN THE DEFINITIONS OF MINERAL PROPERTY:** Mineral rights or interests in minerals, including fractional mineral rights or interests in minerals in lands, which are not "... known to contain minerals in commercially workable quantities of such a character as add present value to the land in addition to its values for other purposes, ..." are not within the definition of "mineral property" found in the Property Tax Code and are not subject to assessment or taxation by the department under Section 7-36-22 NMSA 1978. These rights or interests are not to be placed on the tax schedules of any county as property separate from the surface rights.

C. **CERTAIN SUBSTANCES ARE MINERALS:** Sand, gravel and guano are each defined to be a "mineral" as that term is used in Subsection C of Section 7-36-2 NMSA 1978 and Sections 7-36-22 and 7-36-23 NMSA 1978.

D. **SEVERED MINERAL INTERESTS:**

(1) The owner, lessee or holder of the mineral estate or mineral interest is required to report to the division the mineral property and property held or used in connection with the mineral property when:

- (a) the mineral estate or mineral interest in real property has been severed from the surface interest in the real property by sale, lease or other arrangement; and
- (b) the mineral estate or mineral interest is "mineral property" as defined in Sections 7-36-22 through 7-36-25 NMSA 1978.

(2) The owner of the surface interest in the real property which is not used in connection with the mineral property is not required to report to the division unless the surface interest is held in the same ownership as the mineral interests. The surface interest, however, is required to be valued by the county assessor of the county in which the real property is located.

E. **USE OF CONSTRUCTION EQUIPMENT IN MORE THAN ONE COUNTY:** The phrase "that involves the use during a tax year of the machinery, equipment and other personal property in more than one county" does not limit the department's authority to value machinery, equipment and other personal property which is either moved or not moved between counties. The department's authority to value certain property of certain persons engaged in construction attaches if machinery, equipment and other personal property located in more than one county is used by the contractor in a tax year.

F. **"CONSTRUCTION" AS DISTINGUISHED FROM OTHER SERVICES:** The term "construction" is limited to the activities which are listed in Paragraph (3) of Subsection C of Section 7-36-2 NMSA 1978. "Construction" does not include services that are only incidentally related to a construction project such as renting or leasing construction equipment either with or without the operator, hauling to the construction site, maintenance work, landscape upkeep, or the repair of equipment or appliances.

G. **SPECULATIVE BUILDERS:** A person is "engaged in construction" if the person constructs improvements on real property which the person owns and which improved property is held for sale by the person in the ordinary course of the person's business.

H. **CONSTRUCTION INCLUDES:** The term “construction,” as used in Paragraph (3) of Subsection C of Section 7-36-2 NMSA 1978, includes:

- (1) building prefabricated houses, including modular homes, whether on or off site;
- (2) the painting of structures;
- (3) the installation of sprinkler systems;
- (4) the building of irrigation pipelines; and
- (5) seeding and laying sod in conjunction with a construction project.

I. **CONSTRUCTION DOES NOT INCLUDE:** The term “construction,” as used in Paragraph (3) of Subsection C of Section 7-36-2 NMSA 1978, does not include:

- (1) the installation of carpets;
- (2) the installation of draperies; or
- (3) the seeding of lawns or laying sod not in conjunction with a construction project.

J. **DELEGATION OF AUTHORITY TO THE COUNTY ASSESSOR:**

(1) The director may delegate authority to the county assessor for the valuation of:
(a) single county water utilities, and
(b) single county communications systems.

(2) Delegation is accomplished by issuing an order in the name of the secretary to the county assessor. The order shall contain the following:

- (a) name of company,
- (b) general location of company,
- (c) general description of property to be valued,
- (d) statutes applicable for valuation, and
- (e) the first tax year for which the order is effective.

(3) Upon receipt of the order, the county assessor is responsible for entering the property on the tax schedule, maintaining valuation records regarding the property and valuing the property. Once issued, the order remains in effect as long as the company is located and operates solely in the county. A copy of the order shall be mailed to the taxpayer and instructions on reporting to the county assessor shall be attached.

[3/23/83, 12/13/85, 12/29/94, 8/31/96; 3.6.4.8 NMAC - Rn & A, 3 NMAC 6.4.8, 4/30/01, A, 6/29/01]

HISTORY 3.6.4 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 6.4, Valuation, filed 8/19/96.

3.6.4 NMAC, Valuation, filed 4/17/01.