

Taxation and Revenue Department
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**Regulations pertaining to the
PROPERTY TAX CODE
Sections 7-35-1 TO 7-38-93 NMSA 1978**

3.6 NMAC

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APPENDIX A

APPENDIX B

* Two versions of this statute are incorporated into this document. This is a result of the adoption of two separate pieces of legislation (2009) that affect the same statute.

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Regulation Pertaining to
Chapter 7, Article 35

**7-35-1. SHORT.--Articles 35 through 38 of Chapter 7 NMSA 1978 may be cited as the "Property Tax Code".
(Laws 1982, Chapter 28, Section 1)**

3.6.1.8 - SPECIAL NOTE CONCERNING SCOPE AND EFFECTIVE DATE OF RULINGS - CITATION OF STATUTES IN 3 NMAC 6

A. All rulings pertaining to the Property Tax Code issued by the secretary of taxation and revenue prior to the effective date of Parts 1 through 7 of Chapter 3.6 NMAC are superseded by Parts 1 through 7 of Chapter 3.6 NMAC as to tax liability incurred subsequent to the effective date of Parts 1 through 7 of Chapter 3.6 NMAC or as to any act done subsequent thereto. If, however, a prior ruling is not changed in substance by a provision of Parts 1 through 7 of Chapter 3.6 NMAC, such prior ruling shall remain in effect.

B. Unless otherwise stated, all citations of statutes in Parts 1 through 7 of Chapter 3.6 NMAC are to the New Mexico Statutes Annotated, 1978 (NMSA 1978). [8/31/96; 3.6.1.8 NMAC - Rn & A, 3 NMAC 6.1.8, 4/30/01]

3.6.1.9 - CONSTRUING THE PROPERTY TAX CODE

The Property Tax Code must be read and construed in its entirety. [12/29/94, 8/31/96; 3.6.1.9 NMAC - Rn, 3 NMAC 6.1.9, 4/30/01]

3.6.1.10 - DELEGATION OF AUTHORITY

A. Except as to duties under Section 7-35-6 NMSA 1978 and where otherwise prohibited by statute and where otherwise specifically reserved in Parts 1 through 7 of Chapter 3.6 NMAC to the secretary of taxation and revenue or the taxation and revenue department, authority for discharging the taxation and revenue department's duties under the Property Tax Code is delegated either, where indicated, to the director of the property tax division or to that division. When in Parts 1 through 7 of Chapter 3.6 NMAC an authority is assigned to the "director" alone, that constitutes a delegation to the director personally and may not be further delegated by the director. When in Parts 1 through 7 of Chapter 3.6 NMAC an authority is assigned to the division or to the director or the director's delegate, that constitutes a delegation to the director and to any other employee of the taxation and revenue department to whom the director in turn delegates the authority.

B. Where permitted by law, the secretary of taxation and revenue may make any necessary and proper delegation to the director of the property tax division personally, to an employee of the property tax division or to any other member of the department in addition to those made in Parts 1 through 7 of Chapter 3.6 NMAC. The secretary may require that certain responsibilities or authorities delegated to the division under Section 3.6.1.10 NMAC in turn be delegated to other members of the department.

C. Any delegation may be oral; it is not required to be in writing.

[12/29/94, 8/31/96; 3.6.1.10 NMAC - Rn & A, 3 NMAC 6.1.10, 4/30/01]

3.6.1.12 - TAX IDENTIFICATION NUMBER ISSUED BY INTERNAL REVENUE SERVICE

A tax identification number issued by the internal revenue service to individuals not qualified to be issued a social security number will be accepted by the department in lieu of the social security number in all cases in which reporting a social security number is required under the Property Tax Code.

[3/31/98; 3.6.1.12 NMAC - Rn, 3 NMAC 6.1.12, 4/30/01]

7-35-2. DEFINITIONS.--As used in the Property Tax Code:

A. "abandoned real property" means real property:

(1) that is part of a subdivision where the subdivision has a minimum of five thousand lots in delinquency on the department's delinquent property tax list as prepared by the appropriate county treasurer pursuant to Section 7-38-61 NMSA 1978 as of January 1, 2019;

(2) of which the subdivided lots are vacant;

(3) that is part of a subdivision plotted on or before 1980;

(4) the property taxes, penalties and interest of which are delinquent for at least ten years; and

(5) that does not include property with existing homes, businesses or other habitable structures;

B. "department" or "division" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

C. "director" means the secretary;

D. "livestock" means cattle, buffalo, horses, mules, sheep, goats, swine, ratites and other domestic animals useful to humans;

E. "manufactured home" means a manufactured home as that term is defined in Section 66-1-4.11 NMSA 1978;

F. "net taxable value" means the value of property upon which the tax is imposed and is determined by deducting from taxable value the amount of any exemption authorized by the Property Tax Code;

G. "nonresidential property" means property that is not residential property;

H. "owner" means the person in whom is vested any title to property;

I. "person" means an individual or any other legal entity;

J. "property" means tangible property, real or personal;

K. "residential property" means property consisting of one or more dwellings together with appurtenant structures, the land underlying both the dwellings and the appurtenant structures and a quantity of land reasonably necessary for parking and other uses that facilitate the use of the dwellings and appurtenant structures. As used in this subsection, "dwellings" includes both manufactured homes and other structures when used primarily for permanent human habitation, but the term does not include structures when used primarily for temporary or transient human habitation such as hotels, motels and similar structures;

L. "secretary" means the secretary of taxation and revenue and, except for purposes of Section 7-35-6 NMSA 1978 and Paragraphs (1) and (2) of Subsection B of Section 9-11-6.2 NMSA 1978, also includes the deputy secretary or a division director or deputy division director delegated by the secretary;

M. "tax" means the property tax imposed under the Property Tax Code;

N. "taxable value" means the value of property determined by applying the tax ratio to the value of the property determined for property taxation purposes;

O. "tax rate" means the rate of the tax expressed in terms of dollars per thousand dollars of net taxable value of property;

P. "tax ratio" means the percentage established under the Property Tax Code that is applied to the value of property determined for property taxation purposes in order to derive taxable value; and

Q. "tax year" means the calendar year.
(Laws 2018, Chapter 50, Section 1)

3.6.1.7 - DEFINITIONS

A. **"BUFFALO" DEFINED:** The terms "buffalo" and "livestock" include the American bison (*Bison bison*) and any offspring from a crossbreeding of the American bison and domestic cattle.

B. **"DIRECTOR" AND "DIVISION":** As used in Parts 1 through 7 of Chapter 3.6 NMAC:

(1) "Director" means the director of the property tax division of the taxation and revenue department;

(2) "Division" or "property tax division" means the property tax division of the taxation and revenue department, the director of the division or any employee of the division exercising authority lawfully delegated to that employee through the director.

C. **EQUITABLE OWNER IS AN "OWNER":** An "owner" as that term is defined in Section 7-35-2 NMSA 1978 includes, but is not limited to, a person who has equitable ownership of property by reason of being the purchaser or buyer of the property under a conditional sale contract.

D. **INTANGIBLE PROPERTY EXCLUDED FROM "PROPERTY":** The term "property" as defined in Section 7-35-2 NMSA 1978 does not include intangible property including, but not limited to, shares of stock, bonds, bills, notes, checks, drafts, bills of exchange, certificates of deposit, letters of credit and negotiable instruments.

E. **"LEGAL ENTITY" DEFINED:** A "legal entity", as that phrase is used in Section 7-35-2 NMSA 1978 defining "person", includes, but is not limited to, the following: an estate, a trust, a receiver, a cooperative association, a club, a corporation, a company, a firm, a partnership, a joint venture, a limited partnership, a limited liability company, an association and to the extent permitted by law, a state or its political subdivisions, other than New Mexico and its political subdivisions.

F. **"LIVESTOCK" - "OTHER DOMESTIC ANIMALS USEFUL TO MAN":** Classes of livestock and the value of each class are required to be established by order each tax year pursuant to Section 7-36-21 NMSA 1978. Particular classes or types of "domestic animals useful to man" which are named in the order establishing classes of livestock are "livestock" as that term is defined in Section 7-35-2 NMSA 1978. Poultry and fish are not "livestock" as that term is defined in Section 7-35-2 NMSA 1978.

G. **"THESE REGULATIONS":** The phrase "these regulations" means Parts 1

through 7 of Chapter 3.6 NMAC.

[3/23/83, 8/10/94, 12/29/94, 8/31/96; 3.6.1.7 NMAC - Rn & A, 3 NMAC 6.1.7, 4/30/01]

3.6.1.11 - NET TAXABLE VALUE - EXAMPLE

The phrase “net taxable value” as defined in Section 7-35-2 NMSA 1978 is calculated for residential property in the manner shown in the following example:

Value of property upon which property tax is imposed (full value)	\$ 100,000
Times the Tax Ratio	x <u>.333333</u>
Taxable value	\$ 33,333
Less the Head of Household Exemption	<u>- 2,000</u>
Net taxable value	\$ 31,333

[3/23/83, 12/29/94, 8/31/96; 3.6.1.11 NMAC - Rn & A, 3 NMAC 6.1.11, 4/30/01]

7-35-2.1 ADDITIONAL DEFINITION.--As used in the Property Tax Code, "costs" means the expenses incurred by the department in connection with collecting delinquent taxes. As applied to a particular property, "costs" may be, in the discretion of the department, either the sum of the expenses incurred specifically in connection with that property or the uniform charge applied to the class of delinquent properties of which the property is a member. (Laws 1995, Chapter 12, Section 5)

7-35-3. DIRECTOR'S SUPERVISORY POWER OVER COUNTY ASSESSORS--DUTY TO EVALUATE PERFORMANCE AND PROVIDE TECHNICAL ASSISTANCE--PROPERTY VALUATION FUND CREATED.--

A. The director has general supervisory authority over county assessors for the purposes of assuring implementation of and compliance with the provisions of the Property Tax Code and applicable regulations, orders, rulings and instructions of the department. He shall implement procedures for evaluation of the performance of county assessors' functions on a regular basis and shall also provide, subject to the availability of resources within the department and from the property valuation fund created in Subsection B of this section, appropriate technical assistance to county assessors.

B. A revolving fund, to be called the "property valuation fund", is created.

(1) The fund shall consist of:

(a) all money which on January 1, 1975 remained in the special reappraisal fund which was created pursuant to Section 72-2-21.1 NMSA 1953 and the reappraisal loan fund which was created pursuant to Section 72-2-21.11 NMSA 1953;

(b) all repayments of outstanding loans made or committed to be made from the special reappraisal fund and the reappraisal loan fund; and

(c) all money appropriated to the fund.

(2) The fund shall not be used to supplement the general operating budget of the department. The fund may be used by the department for:

(a) providing a county with technical assistance services pursuant to Section 7-36-19 NMSA 1978 in the valuation of major industrial or commercial properties subject to valuation by the assessor;

(b) providing a county with technical assistance services in keeping appraised values current for valuation purposes;

(c) providing other major technical assistance to a county;

(d) installing necessary maps and other increments of the property description system in a county pursuant to Section 7-38-10 NMSA 1978; and

(e) meeting prior commitments for loans of money in the reappraisal loan fund for assistance to a county in which reappraisal has not been completed.

(3) Amounts from the property valuation fund may be expended by the director only after approval by the state board of finance. Approval by the state board of finance, fully setting forth the reasons for the expenditure, must be requested in writing by either the director or the county assessor of the county requesting department assistance. A request by the

county assessor must be concurred in by the board of county commissioners and the director.

(4) Any amount in the property valuation fund not currently needed for the purpose of the fund shall be invested by the state treasurer in such manner and for such times as will make the funds available when needed for the purposes of the fund.

(5) Any amount expended from the property valuation fund shall be reimbursed in full to the fund by the county requesting assistance or to which assistance has been provided; the reimbursement shall not be reduced by the director pursuant to Section 7-35-8 NMSA 1978; and the reimbursement shall be upon terms and conditions prescribed by the director and approved by the state board of finance.

(6) In any county which has not completed reappraisal by June 30, 1977, no political subdivision shall be eligible to receive any funds distributed from the following unless specific appropriations are made by the legislature:

(a) public school fund, supplemental distributions pursuant to Section 22-8-30 NMSA 1978; or

(b) any discretionary distributions made by the board of finance.

(7) There is appropriated to the property valuation fund all money which on January 1, 1975 remained in the special reappraisal fund and the reappraisal loan fund and all repayments of outstanding loans made or committed to be made from the special reappraisal fund and the reappraisal loan fund.

(Laws 1989, Chapter 324, Section 2)

3.6.3.8 - DIRECTOR'S SUPERVISORY POWER OVER COUNTY ASSESSORS - DUTY TO EVALUATE PERFORMANCE AND PROVIDE TECHNICAL ASSISTANCE - PROPERTY VALUATION FUND CREATED

A. **ANNUAL EVALUATION OF ASSESSORS:** The division will conduct, during each calendar year, an evaluation of each county assessor's operations during that calendar year. The evaluation will include, but not be limited to, a review of the performance of the county assessor's functions on the basis of:

(1) The department's copy of the written report the assessor is required to submit to the board of county commissioners pursuant to Section 7-36-16 NMSA 1978;

(2) The assessor's and assessor's employees' possession of, compliance with, and knowledge of regulations, orders, rulings and instructions pertaining to the Property Tax Code, valuation manuals, and cost and valuation schedules;

(3) The assessor's compliance with the training requirement set forth in Subsection B of Section 7-35-5 NMSA 1978;

(4) The assessor's and assessor's employees' attendance at and participation in training programs on the technical, legal and administrative aspects of property taxation;

- (5) The assessor's maintenance of current tax maps and property record cards;
- (6) The assessor's allowance or disallowance of exemptions;
- (7) A field review by one or more division employees of the operations of the assessor's office; and
- (8) Any other information which may aid the division in evaluating the county assessor's operation.

B. **APPROPRIATE TECHNICAL ASSISTANCE:** The phrase “appropriate technical assistance” does not require department attorneys to represent county assessors at hearings.

C. **REQUESTS FOR TECHNICAL ASSISTANCE:** Requests by county assessors for technical assistance in the form of appraisal of property by department employees or mapping by department employees are required to be in writing.

[3/23/83, 12/29/94, 8/31/96; 3.6.3.8 NMAC - Rn & A, 3 NMAC 6.3.8, 4/30/01]

7-35-4. DEPARTMENT TO PROVIDE MANUALS AND OTHER MATERIALS.--The department shall prepare, issue and periodically revise valuation manuals, cost and valuation schedules, bulletins and annotated digests of property tax laws and regulations in handbook form for the use of its employees, the county assessors and their employees and other persons involved in the administration and collection of the property tax. The department shall make the foregoing materials available to members of the public and may charge a fee for the materials to offset the cost of physical preparation. Any amounts collected are appropriated to the department for its operation.

(Laws 1973, Chapter 258, Section 7)

3.6.3.9 - VALUATION MANUALS - COST AND VALUATION SCHEDULES

Department employees, county assessors and their employees are required to use the most current department valuation manuals and cost and valuation schedules. Alternative cost and valuation schedules and alternative valuation manuals may be used with the director's written approval.

[3/23/83, 12/29/94, 8/31/96; 3.6.3.9 NMAC - Rn, 3 NMAC 6.3.9, 4/30/01]

7-35-5. TRAINING PROGRAMS--ATTENDANCE BY ASSESSOR.--

A. The department shall conduct or sponsor special courses of instruction and in-service and intern training programs on the technical, legal and administrative aspects of property taxation. The department may cooperate with educational institutions and appropriate organizations interested in the property valuation or taxation field in the conduct or sponsorship of training programs. The department may reimburse the expenses incurred by assessors and employees of the state and its political subdivisions who attend training programs with the approval of the department.

B. The department shall establish a training program for persons elected or appointed as county assessors who have not held office as a county assessor within the ten years prior to the beginning of the term for which the person was elected or from the date of appointment. The department shall require attendance and satisfactory completion of such a program by such persons elected or appointed after the effective date of this 1991 act.

(Laws 1991, Chapter 166, Section 2)

3.6.3.10 - APPROVAL OF REIMBURSEMENT

Written approval by the director or the director's delegate for reimbursement of expenses incurred by assessors and employees of the state and its political subdivisions who attend training programs conducted or sponsored by the department is required to be obtained in advance of attendance at the training program.

[3/23/83, 12/29/94, 8/31/96; 3.6.3.10 NMAC - Rn, 3 NMAC 6.3.10, 4/30/01]

3.6.3.16 - NEW MEXICO CERTIFIED APPRAISER CERTIFICATION

The purpose of the New Mexico certified appraiser certificate is to recognize professionalism and competency in the valuation of property for property taxation purposes. Certified appraisers may use this designation in conjunction with the valuation of a wide range of property as it is customarily defined in their assessment jurisdiction in accordance with New Mexico property tax division's commitment to excellence. To qualify for certification, the following general educational requirements must be fulfilled.

A. To receive a New Mexico certified appraiser certificate from the New Mexico taxation and revenue department an individual must have received credit for the following qualifying educational courses:

- (1) IAAO Course 101, *fundamentals of real property appraisal* (30 hours);
- (2) IAAO Course 102, *income approach to valuation* (30 hours);
- (3) IAAO Course 300, *fundamentals of mass appraisal* (30 hours); and
- (4) 30 hours of any of the following:
 - (a) IAAO Course 201, *appraisal of land*;
 - (b) IAAO Course 112, *income approach to valuation II*;
 - (c) IAAO Course 311, *residential modeling concepts*;
 - (d) IAAO Course 312, *commercial/industrial modeling concepts*; or

(e) IAAO Course 320, *multiple regression analysis*.

B. To receive qualifying credit for a course, an individual must pass the test with a score of seventy percent or better.

C. Courses taken to satisfy the qualifying educational requirements shall not be repetitive in nature; each course completed shall be credited toward the required number of qualifying education hours, shall represent an increase in appraiser's knowledge and none may be taken online.

D. Courses approved by the New Mexico board of real estate appraisers as qualifying education are allowed but must be at least 30 hours each, not taken online, similar to the above requirements and approved by property tax division prior to the completion of the course.

E. An individual who has received an equivalent real property appraiser certification or licensing from the New Mexico board of real estate appraisers and successfully completed the IAAO Course 300 may seek a waiver of all other educational requirements by submitting a copy of the individual's license/certificate to the property tax division for consideration.

F. An approved IAAO or New Mexico board of real estate appraisers, uniform standards of professional appraisal practice course is highly encouraged at any time during the certification process and for continuing education hours after certification.

G. A minimum of 30 hours of continuing education should be completed every three years by all certified appraisers. Continuing education hours may be completed online and can be IAAO or New Mexico board of real estate appraisers approved courses. Certified appraisers are responsible for maintaining the necessary documentation to demonstrate compliance with the continuing education requirements in this rule.

H. Courses for continuing education credit shall have significant intellectual or practical content and shall deal primarily with matters directly related to appraisal practice or to the ethical obligations of certificate holders. The primary objective of such courses shall be consistent with the taxation and revenue department's charge to protect the public and to increase the professional competency of certificate holders.

[3.6.3.16 NMAC - N, 1/31/14]

**7-35-6. SUSPENSION OF COUNTY ASSESSOR'S FUNCTIONS--
DEPARTMENT'S PERFORMANCE OF COUNTY ASSESSOR'S
FUNCTION.--**

A. If the secretary finds after informal efforts to obtain compliance have failed that a county assessor is not complying with the Property Tax Code or with the regulations, orders, rulings or other administrative directives of the department under the Property Tax Code, the secretary shall notify the county assessor and the board of county commissioners of the county involved by certified mail of the noncompliance and of the action required to remedy the noncompliance.

B. If the failure has not been remedied within sixty days after the notice is mailed, the secretary shall issue an order requiring the county assessor and the board of county commissioners to show cause why the county assessor's functions should not be suspended. The secretary shall set a time and place for a hearing on the order and shall send by certified mail to the county assessor and to the board of county commissioners copies of the order and the notice of the hearing.

C. If the secretary determines after a hearing that a county assessor has failed to comply with the Property Tax Code or regulations, orders, rulings or instructions of the department or of the department of finance and administration pursuant to the Property Tax Code, the secretary may suspend in whole or in part any of the county assessor's functions. The suspension shall be by written order of the secretary and shall continue until the secretary finds that the county assessor is both willing and able to comply with the Property Tax Code and the regulations, orders, rulings or instructions of the department or of the department of finance and administration pursuant to the Property Tax Code.

D. During a suspension, the department succeeds to and shall carry out the functions from which the county assessor has been suspended. The county shall reimburse the department for all costs incurred in performing the functions. In the event that the county does not make reimbursement within a reasonable time, the department, notwithstanding any other provision of law, may obtain reimbursement by retaining ten percent of each distribution or transfer required by law to be made to the county from money collected by the department until the total retained equals the amount to be reimbursed. All amounts received or retained by the department under this subsection are appropriated to the department for its use in carrying out its duties under the Property Tax Code.

E. No less than thirty days after the date of any suspension order, the board of county commissioners may make a written request to the secretary to terminate the suspension order on the grounds that it is no longer justified because of the county assessor's willingness and ability to comply with the Property Tax Code or regulations, orders, rulings or instructions of the department or of the department of finance and administration pursuant to the

Property Tax Code. Upon receipt of a request to terminate a suspension order, the secretary shall set a time and place for a hearing on the request. The date of the hearing shall be not more than thirty days after the receipt of the request, and the secretary shall notify the board of county commissioners and the county assessor of the time and place of the hearing by certified mail. If the secretary determines after a hearing that the county assessor is both willing and able to comply with the Property Tax Code and the regulations, orders, rulings or instructions of the department or of the department of finance and administration pursuant to the Property Tax Code, the secretary shall terminate the suspension by written order, which order must be made within ten days of the hearing. In the absence of such a finding, the secretary shall deny the request for termination of the suspension, which denial must be made by written order within ten days of the hearing. Nothing in this subsection prohibits the secretary from terminating an order of suspension in accordance with Subsection C of this section without a request for a hearing, or a hearing, on the issue of termination of suspension. Repeated requests for the termination of a suspension may be made, but no request may be made less than thirty days after the date of the secretary's denial of a previous request for termination of a suspension.

(Laws 1991, Chapter 166, Section 3)

7-35-7. SUSPENSION OF COUNTY TREASURER'S FUNCTIONS--DEPARTMENT OF FINANCE AND ADMINISTRATION'S PERFORMANCE OF COUNTY TREASURER'S FUNCTION.--

A. If the secretary of finance and administration finds that a county treasurer has failed to comply with the Property Tax Code or regulations, orders, rulings or instructions of the department or of the department of finance and administration, he shall notify the county treasurer and the board of county commissioners by certified mail of the fact and nature of the failure.

B. If the failure has not been remedied within sixty days after the notice is mailed, the secretary of finance and administration shall issue an order requiring the county treasurer and the board of county commissioners to show cause why the county treasurer's functions should not be suspended. The secretary of finance and administration shall set a time and place for a hearing on the order and shall send by certified mail to the county treasurer and to the board of county commissioners copies of the order and the notice of the hearing.

C. If the secretary of finance and administration determines after a hearing that a county treasurer has failed to comply with the Property Tax Code or regulations, orders, rulings or instructions of the department or of the department of finance and administration, the secretary of finance and administration may suspend in whole or in part any of the county treasurer's functions. The suspension shall be by written order of the secretary of finance and administration and shall continue until he finds that the county treasurer is both willing and able to comply with the Property Tax Code and the regulations, orders, rulings or instructions of the department or of the department of finance and administration.

D. During a suspension, the department of finance and administration succeeds to and shall carry out the functions from which the county treasurer has been suspended. The county shall reimburse the department of finance and administration for all costs incurred in performing the functions. All amounts received by the department of finance and administration under this subsection shall be deposited with the state treasurer for credit to the state general fund.

E. No less than thirty days after the date of any suspension order, the board of county commissioners may make a written request to the secretary of finance and administration to terminate the suspension order on the grounds that it is no longer justified because of the county treasurer's willingness and ability to comply with the Property Tax Code or regulations, orders, rulings or instructions of the department or of the department of finance and administration. Upon receipt of a request to terminate a suspension order, the secretary of finance and administration shall set a time and place for a hearing on the request. The date of the hearing shall be not more than thirty days after the receipt of the request, and the secretary of finance and administration shall notify the board of county commissioners and the county treasurer of the time

and place of the hearing by certified mail. If the secretary of finance and administration determines after a hearing that the county treasurer is both willing and able to comply with the Property Tax Code and the regulations, orders, rulings or instructions of the department or of the department of finance and administration, he shall terminate the suspension by written order, which must be made within ten days of the hearing. In the absence of such a finding, he shall deny the request for termination of the suspension, which denial must be made by written order within ten days of the hearing. Nothing in this subsection prohibits the secretary of finance and administration from terminating an order of suspension in accordance with Subsection C of this section without a request for a hearing, or a hearing, on the issue of termination of suspension. Repeated requests for the termination of a suspension may be made, but no request may be made less than thirty days after the date of the secretary of finance and administration's denial of a previous request for termination of a suspension.

F. Copies of suspension orders and orders terminating suspensions shall be sent to the department at the time they are made.
(Laws 1977, Chapter 247, Section 189)

See D.F.A. Regulations-Appendix B-regarding hearings and reimbursable costs.

3.6.3.13 - SECRETARY TO NOTIFY SECRETARY OF DEPARTMENT OF FINANCE AND ADMINISTRATION OF INFORMATION INDICATING NONCOMPLIANCE OF COUNTY TREASURER

The secretary will immediately notify the secretary of finance and administration of any information the secretary acquires indicating that a county treasurer has failed to comply with the Property Tax Code or regulations, orders, rulings, or instructions of the department under the Property Tax Code or of the department of finance and administration. Department employees are required to notify the secretary of any information they acquire indicating such failure to comply by a county treasurer.

[3/23/83, 12/29/94, 8/31/96; 3.6.3.13 NMAC - Rn, 3 NMAC 6.3.13, 4/30/01]

**7-35-8. AUTHORITY FOR DIRECTOR TO REDUCE AMOUNT REQUIRED TO BE REIMBURSED TO DEPARTMENT BY COUNTIES FOR SERVICES PROVIDED BY DEPARTMENT.--When any provision of the Property Tax Code requires a county to reimburse the department for the costs of services provided by the department, the director may reduce the amount required to be reimbursed to less than actual costs of the services.
(Laws 1973, Chapter 258, Section 11)**

3.6.3.15 - REDUCTION OF REIMBURSABLE AMOUNT ONLY AFTER REPORT FROM DEPARTMENT OF FINANCE AND ADMINISTRATION

The secretary will not consider reduction of the amount a county is required to reimburse the department until a report is obtained by the department from the department of finance and administration showing the extent to which county funds are available to make the reimbursement. If county funds are available to reimburse the actual costs of the services, no reduction in the amount required to be reimbursed will be made.

[3/23/83, 12/29/94, 8/31/96; 3.6.3.15 NMAC - Rn, 3 NMAC 6.3.15, 4/30/01]

7-35-10. [DEPARTMENT] TO FURNISH VALUATION SERVICES TO STATE AGENCIES AND POLITICAL SUBDIVISIONS OF THE STATE.--The [department] shall provide, subject to the availability of resources within the [department], assistance services to state agencies and political subdivisions in the valuation of property owned or being considered for purchase by the state or by political subdivisions. Agencies and political subdivisions that are not funded from the state general fund shall reimburse the [department] for the actual cost incurred in the valuation of the property. (Laws 1982, Chapter 28, Section 2)

**7-36-1. PROVISIONS FOR VALUATION OF PROPERTY--
APPLICABILITY.--The provisions of this article apply to and govern the
determination of value of all property subject to valuation for property
taxation purposes under the Property Tax Code.
(Laws 1973, Chapter 258, Section 13)**

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]

7-36-2. ALLOCATION OF RESPONSIBILITY FOR VALUATION AND DETERMINING CLASSIFICATION OF PROPERTY FOR PROPERTY TAXATION PURPOSES--COUNTY ASSESSOR AND DEPARTMENT.--

A. The county assessor is responsible and has the authority for the valuation of all property subject to valuation for property taxation purposes in the county except the property specified by Subsections B and C of this section.

B. The department is responsible and has the authority for the valuation of all property subject to valuation for property taxation purposes and used in the conduct of the following businesses:

- (1) railroad;
- (2) communications system as that term is defined in Section 7-36-30 NMSA 1978;
- (3) pipeline;
- (4) public utility; and
- (5) airline.

C. The department is responsible and has the authority for the valuation of property subject to valuation for property taxation purposes when that property is:

(1) 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) mineral property and property held or used in connection with mineral property as defined in Sections 7-36-22 through 7-36-25 NMSA 1978; or

(3) machinery, equipment and other personal property of all resident and nonresident persons customarily engaged in construction that involves the use during a tax year of the machinery, equipment and other personal property in more than one county. For the purposes of this paragraph, "construction" means leveling or clearing land, excavating earth, drilling wells of any type, including seismograph shot holes or core drilling, or similar work, or building, altering, repairing or demolishing any:

- (a) road, highway, bridge, parking area or related project;
- (b) building, fence, stadium or other structure;
- (c) airport, subway or similar facility;
- (d) park, trail, athletic field, golf course or similar facility;
- (e) dam, reservoir, canal, ditch or similar facility;
- (f) sewerage or water treatment facility, power generating plant, pump station, natural gas compressing station, gas processing plant, coal gasification plant, refinery, distillery or similar facility;
- (g) sewerage, water, gas or other pipeline;
- (h) transmission line;
- (i) radio, television or other tower;

- (j) water, oil or other storage tank;
- (k) shaft, tunnel or other mining appurtenance; or
- (l) similar work.

D. The entity having responsibility and authority for valuing the property described in Subsections A through C of this section shall also have responsibility and authority for classifying that property as either residential or nonresidential under the provisions of Section 7-36-2.1 NMSA 1978.

E. The secretary by regulation may delegate authority to the county assessor for the valuation and classification of property subject to valuation for property taxation purposes for which the department is responsible pursuant to Subsections B through D of this section only if:

(1) the property is held or used in connection with the transmission, storage, measurement or distribution of water and the transmission, storage, measurement and distribution is conducted by a single person entirely within a single county; or

(2) the property is held or used in connection with a communications system as defined in Section 7-36-30 NMSA 1978 and the system operates entirely within a single county.

F. The department is authorized to enter into one or more agreements with each county assessor, subject to approval of each agreement by the appropriate board of county commissioners, under which the county assessor agrees to perform the valuation of property for which the department is responsible under Subsection B of this section but which property is not subject to the special methods of valuation set forth in Sections 7-36-27, 7-36-28 and 7-36-30 through 7-36-32 NMSA 1978.

(Laws 1995, Chapter 12, Section 6)

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]

7-36-2.1. CLASSIFICATION OF PROPERTY.--

A. Property subject to valuation for property taxation purposes shall be classified as either residential property or nonresidential property.

B. The department by regulation, ruling, order or other directive shall provide for the implementation of a classification system and shall include a method for apportioning the value of multiple-use properties between residential and nonresidential components."

(Laws 1995, Chapter 12, Section 7)

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]

7-36-3. INDUSTRIAL REVENUE BOND, POLLUTION CONTROL BOND AND ECONOMIC DEVELOPMENT BOND PROJECT PROPERTY--HEALTH RELATED EQUIPMENT--TAX STATUS.--

A. Property interests of a lessee in project property held under a lease from a county or a municipality under authority of an industrial revenue bond or pollution control revenue bond act or the Statewide Economic Development Finance Act are exempt from property taxation for as long as there is an outstanding bonded indebtedness under the terms of the revenue bonds issued for the acquisition of the project property, but in no event for a period of more than thirty years from the date of execution of the first lease of the project to the lessee by the county or municipality.

B. Property interests of a person, other than a public utility, arising out of the purchase of a project authorized by the Industrial Revenue Bond Act, the County Industrial Revenue Bond Act, the Pollution Control Revenue Bond Act or the Statewide Economic Development Finance Act are exempt from property taxation for as long as the project purchaser remains liable to the project seller for any part of the purchase price, but not to exceed thirty years from the date of execution of the sale agreement.

C. Property interests of a participating health facility in health-related equipment purchased, acquired, leased, financed or refinanced with the proceeds of bonds issued under the Hospital Equipment Loan Act are exempt from property taxation for as long as the participating health facility remains liable for any amount under any lease, loan or other agreement securing the bonds, but not to exceed thirty years from the date the bonds were issued for the health-related equipment.

D. The exemptions from property taxation under this section are not cumulative; provided, however, that the exemptions may be applied consecutively if subsequent exemptions relate to the financing of a new project or new health-related equipment.

(Laws 2006, Chapter 90, Section 1; Laws 2006 Chapter 92, Section 1)

7-36-3.1. METROPOLITAN REDEVELOPMENT PROPERTY--TAX STATUS OF LESSEE'S INTERESTS.--Property interests of a lessee in project property held under a lease with respect to a project authorized by the Metropolitan Redevelopment Code and acquired or held by a municipality prior to January 1, 1986 under the provisions of that code are exempt from property taxation for as long as there is an outstanding bonded indebtedness, but in any event for a period not to exceed ten years from the date of execution of the first lease of the project by the municipality. Property interests of a lessee of or an owner of a substantial beneficial interest in project property acquired or held by a municipality on or after January 1, 1986 with respect to a project authorized by the Metropolitan Redevelopment Code are exempt from property taxation for a period extending from the date of acquisition of the project property by the municipality through December 31 of the year in which the seventh anniversary of that acquisition date occurs.

(Laws 1985, Chapter 225, Section 5)

7-36-3.2. ENTERPRISE ZONE PROPERTY--TAX STATUS OF LESSEE'S INTERESTS.--Property interests of a lessee in project property held under a lease with respect to a project authorized by the Enterprise Zone Act and acquired or held by a local government are exempt from property taxation for a period not to exceed ten years from the date of execution of the first lease of the project by the local government.

(Laws 1993, Chapter 33, Section 16)

7-36-4. FRACTIONAL PROPERTY INTERESTS--DEFINITIONS.--

A. As used in this section:

(1) "fractional interest" means a tangible interest in real property, except for mineral property as defined in Section 7-36-22 NMSA 1978, that is less than the total of the interests existing in the property, but "fractional interest" does not include those property interests described in Sections 7-36-3, 7-36-3.1 and 7-36-3.2 NMSA 1978 nor does it include the lessee's interest under a lease when the term of the lease is more than seventy-five years;

(2) "exempt entity" means any person whose real property is exempt from taxation under the constitution of New Mexico or the Enabling Act (36 Stat. 557, as amended) by reason of ownership;

(3) "exempt property" means property that is exempt from property taxation pursuant to Article 8, Section 3 of the constitution of New Mexico by reason of use;

(4) "improvements" includes surface and subsurface structures, fixtures, transmission lines, pipelines and other works, but "improvements" does not include:

(a) that property either included or specifically excluded under the terms "property used in connection with mineral property" under Section 7-36-23 NMSA 1978, "property used in connection with potash mineral property" under Section 7-36-24 NMSA 1978 and "property used in connection with uranium mineral property" under Section 7-36-25 NMSA 1978;

(b) a dwelling occupied by a low-income resident in a housing project authorized under the provisions of the Municipal Housing Law; and

(c) those property interests described in Sections 7-36-3, 7-36-3.1 and 7-36-3.2 NMSA 1978;

(5) "nonexempt entity" means any person that is not an exempt entity; and

(6) "nonexempt property" means property that is not exempt property.

B. Fractional interests of nonexempt entities in real property of exempt entities are exempt from property taxation under the Property Tax Code, but this exemption shall not apply to the following property:

(1) improvements of land of an exempt entity if the improvements are owned or leased by a nonexempt entity; these improvements are subject to valuation for property taxation purposes and to property taxation to be paid by the nonexempt entity; and

(2) property interests of nonexempt entities held under equitable title in the property of exempt entities.

C. When fractional interests are created in property:

(1) fractional interests that are nonexempt property shall be

reported to the appropriate valuation authority by the fractional interest owners for valuation for property tax purposes if the owner is a nonexempt entity; and

(2) except for fractional interests owned by the United States, an Indian nation, tribe or pueblo, the state of New Mexico or a political subdivision of the state, fractional interests that are owned by a nonexempt entity but are claimed to be exempt property shall be reported by the owner to the appropriate valuation authority for a determination of exemption status and valuation if determined to be nonexempt property.

D. Fractional interests that are nonexempt property shall be valued by the applicable method of valuation pursuant to the Property Tax Code, and if fractional interests that are exempt property have been created, the value of the remaining nonexempt fractional interests shall be determined in the property tax year following the creation of the interests as the value of the property in the property tax year immediately prior to the year in which creation of the fractional interests occurred, increased or decreased by the value directly attributable to the creation of the fractional interests that are exempt property. For subsequent property tax years, the nonexempt fractional interests shall be valued pursuant to the applicable methods of valuation.

(Laws 1998, Chapter 49, Section 1)

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]

7-36-7. PROPERTY SUBJECT TO VALUATION FOR PROPERTY TAXATION PURPOSES.--

A. Except for the property listed in Subsection B of this section or exempt pursuant to Section 7-36-8 NMSA 1978, all property is subject to valuation for property taxation purposes under the Property Tax Code if it has a taxable situs in the state.

B. The following property is not subject to valuation for property taxation purposes under the Property Tax Code:

(1) property exempt from property taxation under the federal or state constitution, federal law, the Property Tax Code or other laws, but:

(a) this does not include property all or a part of the value of which is exempt because of the application of the veteran, disabled veteran or head-of-family exemption;

(b) this provision does not excuse an owner from obligations to report the owner's property as required by regulation of the department adopted under Section 7-38-8.1 NMSA 1978 or to claim its exempt status under Subsection C of Section 7-38-17 NMSA 1978;

(c) this includes property of a museum that: 1) has been granted exemption from the federal income tax by the United States commissioner of internal revenue as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended or renumbered; 2) is used to provide educational services; and 3) grants free admission to each student who attends a public school in the county in which the museum is located; and

(d) this includes property that is operated either as a community to which the Continuing Care Act applies or as a facility licensed by the department of health to operate as a nursing facility, a skilled nursing facility, an adult residential care facility, an intermediate care facility or an intermediate care facility for the developmentally disabled; and is owned by a charitable nursing, retirement or long-term care organization that: 1) has been granted exemption from the federal income tax by the United States commissioner of internal revenue as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended or renumbered; 2) donates or renders gratuitously a portion of its services or facilities; and 3) uses all funds remaining after payment of its usual and necessary expenses of operation, including the payment of liens and encumbrances upon its property, to further its charitable purpose, including the maintenance, improvement or expansion of its facilities;

(2) oil and gas property subject to valuation and taxation under the Oil and Gas Ad Valorem Production Tax Act and the Oil and Gas Production Equipment Ad Valorem Tax Act; and

(3) productive copper mineral property subject to valuation and taxation under the Copper Production Ad Valorem Tax Act; for the

purposes of this section, "copper mineral property" means all mineral property and property held in connection with mineral property when seventy-five percent or more, by either weight or value, of the salable mineral extracted from or processed by the mineral property is copper.
(Laws 2008, Chapter 46, Section 1)

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]

7-36-8. TANGIBLE PERSONAL PROPERTY EXEMPT FROM PROPERTY TAX--EXCEPTIONS.--

A. Except as provided in Subsection B of this section, tangible personal property owned by a person is exempt from property taxation.

B. The following tangible personal property owned by a person is subject to valuation and taxation under the Property Tax Code:

- (1) livestock;**
 - (2) manufactured homes;**
 - (3) aircraft not registered under the Aircraft Registration Act;**
 - (4) private railroad cars, the earnings of which are not taxed under the provisions of the Railroad Car Company Tax Act;**
 - (5) tangible personal property subject to valuation under Sections 7-36-22 through 7-36-25 and 7-36-27 through 7-36-32 NMSA 1978;**
 - (6) vehicles not registered under the provisions of the Motor Vehicle Code and for which the owner has claimed a deduction for depreciation for federal income tax purposes during any federal income taxable year occurring in whole or in part during the twelve months immediately preceding the first day of the property tax year; and**
 - (7) other tangible personal property not specified in Paragraphs (1) through (6) of this subsection:**
 - (a) that is used, produced, manufactured, held for sale, leased or maintained by a person for purposes of the person's profession, business or occupation; and**
 - (b) for which the owner has claimed a deduction for depreciation for federal income tax purposes during any federal income taxable year occurring in whole or in part during the twelve months immediately preceding the first day of the property tax year.**
- (Laws 1995, Chapter 12, Section 10)**
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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]

7-36-14. TAXABLE SITUS--ALLOCATION OF VALUE OF PROPERTY.--

A. Property has a taxable situs in the state if:

- (1) it is real property and is located in the state;**
- (2) it is an interest in real property and the real property is located in the state;**
- (3) it is personal property and is physically present in the state on the date when it is required to be valued for property taxation purposes except for:**
 - (a) property being transported in interstate commerce that is physically present in the state only while being transported through or over the state;**
 - (b) property that is consigned to a warehouse or factory in the state from outside the state for the purpose of storage, manufacturing, processing or fabricating and which is in transit to a final destination outside the state, whether the destination is specified before or after the original transportation begins; or**
 - (c) wool, mohair, hides, pelts and farm crops when owned by the person that originally produced them, but only during the tax year in which produced and the following tax year;**
- (4) it is personal property that is a part of a communications system as that term is defined in Section 7-36-30 NMSA 1978 and, even though not physically present in the state on the date when it is required to be valued for property taxation purposes, it is an integral part of the system and substantial property that is on that date a part of the communications system is physically present in New Mexico; or**
- (5) it is personal property and, even though not physically present in the state on the date when it is required to be valued for property taxation purposes, it is subject to valuation in accordance with the provisions of Section 7-36-31 or 7-36-32 NMSA 1978.**

B. Real property and interests in real property having a taxable situs in the state shall be valued in and have their value allocated to the governmental units in which the real property is located unless a different method of allocation is specified under the Property Tax Code or by regulation of the department.

C. Personal property having a taxable situs in the state shall be valued in and have its value allocated to the governmental units in which the property is located on the date it is required to be valued unless a different method of allocation is specified under the Property Tax Code or by regulation of the department.

(Laws 1985, Chapter 109, Section 4)

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]

7-36-15. METHODS OF VALUATION FOR PROPERTY TAXATION PURPOSES--GENERAL PROVISIONS.--

A. Property subject to valuation for property taxation purposes under this article of the Property Tax Code shall be valued by the methods required by this article of the Property Tax Code whether the determination of value is made by the department or the county assessor. The same or similar methods of valuation shall be used for valuation of the same or similar kinds of property for property taxation purposes.

B. Unless a method or methods of valuation are authorized in Sections 7-36-20 through 7-36-33 NMSA 1978, the value of property for property taxation purposes shall be its market value as determined by application of the sales of comparable property, income or cost methods of valuation or any combination of these methods. In using any of the methods of valuation authorized by this subsection, the valuation authority:

(1) shall apply generally accepted appraisal techniques; and

(2) in determining the market value of residential housing, shall consider 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 benefitting from any enhanced value of the property. As used in this paragraph:

(a) "subsidy, covenant or encumbrance imposed pursuant to a federal, state or local affordable housing program" includes those imposed by a nonprofit entity approved by a governmental entity as a qualifying grantee pursuant to the Affordable Housing Act; and

(b) "residential housing" means any building, structure or portion thereof that is primarily occupied, or designed or intended primarily for occupancy, as a residence by one or more households and any real property that is offered for sale or lease for the construction or location thereon of such a building, structure or portion thereof. "Residential housing" includes congregate housing, manufactured homes, housing intended to provide or providing transitional or temporary housing for homeless persons and common health care, kitchen, dining, recreational and other facilities primarily for use by residents of a residential housing project.

C. Dams, reservoirs, tanks, canals, irrigation wells, installed irrigation pumps, stock-watering wells and pumps, similar structures and equipment used for irrigation or stock-watering purposes, water rights and private roads shall not be valued separately from the land they serve. The foregoing improvements and rights shall be considered as appurtenances to the land they serve, and their value shall be included in the determination of value of the land.

**D. The department shall adopt regulations to implement the methods of valuation authorized in this article of the Property Tax Code.
(Laws 2008, Chapter 77, Section 1)**

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]

3.6.5.41 - 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]

7-36-16. RESPONSIBILITY OF COUNTY ASSESSORS TO DETERMINE AND MAINTAIN CURRENT AND CORRECT VALUES OF PROPERTY.-

A. County assessors shall determine values of property for property taxation purposes in accordance with the Property Tax Code and the regulations, orders, rulings and instructions of the department. Except as limited in Section 7-36-21.2 NMSA 1978, they shall also implement a program of updating property values so that current and correct values of property are maintained and shall have sole responsibility and authority at the county level for property valuation maintenance, subject only to the general supervisory powers of the director.

B. The director shall implement a program of regular evaluation of county assessors' valuation activities with particular emphasis on the maintenance of current and correct values.

C. Upon request of the county assessor, the director may contract with a board of county commissioners for the department to assume all or part of the responsibilities, functions and authority of a county assessor to establish or operate a property valuation maintenance program in the county. The contract shall be in writing and shall include provisions for the sharing of the program costs between the county and the department. The contract must include specific descriptions of the objectives to be reached and the tasks to be performed by the contracting parties. The initial term of any contract authorized under this subsection shall not extend beyond the end of the fiscal year following the fiscal year in which it is executed, but contracts may be renewed for additional one-year periods for succeeding years.

D. The department of finance and administration shall not approve the operating budget of any county in which there is not an adequate allocation of funds to the county assessor for the purpose of fulfilling his responsibilities for property valuation maintenance under this section. If the department of finance and administration questions the adequacy of any allocation of funds for this purpose, it shall consult with the department, the board of county commissioners and the county assessor in making its determination of adequacy.

E. To aid the board of county commissioners in determining whether a county assessor is operating an efficient program of property valuation maintenance and in determining the amount to be allocated to him for this function, the county assessor shall present with his annual budget request a written report setting forth improvements of property added to valuation records during the year, additions of new property to valuation records during the year, increases and decreases of valuation during the year, the relationship of sales prices of property sold to values of the property for property taxation purposes and the current status of the overall property valuation maintenance program in the county. The county assessor shall send a copy of this report to the department.

(Laws 2000, Chapter 10, Section 1)

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

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]

7-36-18. COLLECTION AND PUBLICATION OF PROPERTY VALUATION DATA.--To promote uniformity and measure overall compliance by each county with the Property Tax Code and department valuation regulations, orders, rulings, instructions, schedules and other directives, the department shall prepare and publish annually comprehensive sales-ratio studies comparing the values of property determined for property taxation purposes by each county assessor with the values of the same property as established by sales prices.
(Laws 1973, Chapter 258, Section 19)

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]

7-36-19. VALUATION OF MAJOR INDUSTRIAL AND COMMERCIAL PROPERTIES--SPECIALISTS' SERVICES FURNISHED TO COUNTY ASSESSOR BY DEPARTMENT.--At the request of a county assessor, concurred in by the board of county commissioners, the director may provide a county assessor with technical assistance services in the valuation of major industrial or commercial properties subject to valuation by the assessor. The director shall take into account the ability of the county assessor to value the property with the resources at his disposal when deciding whether the requested services should be furnished. The county shall reimburse the department for the costs incurred in the valuation of the property.
(Laws 1973, Chapter 258, Section 20)

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]

7-36-20. SPECIAL METHOD OF VALUATION--LAND USED PRIMARILY FOR AGRICULTURAL PURPOSES.--

A. The value of land used primarily for agricultural purposes shall be determined on the basis of the land's capacity to produce agricultural products. Evidence of bona fide primary agricultural use of land for the tax year preceding the year for which determination is made of eligibility for the land to be valued under this section creates a presumption that the land is used primarily for agricultural purposes during the tax year in which the determination is made. If the land was valued under this section in one or more of the three tax years preceding the year in which the determination is made and the use of the land has not changed since the most recent valuation under this section, a presumption is created that the land continues to be entitled to that valuation.

B. For the purpose of this section:

(1) "agricultural products" means plants, crops, trees, forest products, orchard crops, livestock, poultry, captive deer or elk, or fish; and

(2) "agricultural use" means the:

(a) use of land for the production of agricultural products;

(b) use of land that meets the requirements for payment or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government;

(c) resting of land to maintain its capacity to produce agricultural products; or

(d) resting of land as the direct result of at least moderate drought conditions as designated by the United States department of agriculture, if the drought conditions occurred in the county within which the land is located for at least eight consecutive weeks during the previous tax year; provided that the land was used in the tax year immediately preceding the previous tax year primarily for a purpose identified pursuant to this paragraph.

C. The department shall adopt rules for determining whether land is used primarily for agricultural purposes. The rules shall provide that the use of land for the lawful taking of game shall not be considered in determining whether land is used primarily for agricultural purposes.

D. The department shall adopt rules for determining the value of land used primarily for agricultural purposes. The rules shall:

(1) specify procedures to use in determining the capacity of land to produce agricultural products and the derivation of value of the land based upon its production capacity;

(2) establish carrying capacity as the measurement of the production capacity of land used for grazing purposes, develop a system of determining carrying capacity through the use of an animal unit concept and

establish carrying capacities for the land in the state classified as grazing land;

(3) provide that land the bona fide and primary use of which is the production of captive deer or elk shall be valued as grazing land and that captive deer shall be valued and taxed as sheep and captive elk shall be valued and taxed as cattle;

(4) provide for the consideration of determinations of any other governmental agency concerning the capacity of the same or similar lands to produce agricultural products;

(5) assure that land determined under the rules to have the same or similar production capacity shall be valued uniformly throughout the state; and

(6) provide for the periodic review by the department of determined production capacities and capitalization rates used for determining annually the value of land used primarily for agricultural purposes.

E. All improvements, other than those specified in Section 7-36-15 NMSA 1978, on land used primarily for agricultural purposes shall be valued separately for property taxation purposes, and the value of these improvements shall be added to the value of the land determined under this section.

F. The owner of the land shall make application to the county assessor in a tax year in which the valuation method of this section is first claimed to be applicable to the land or in a tax year immediately subsequent to a tax year in which the land was not valued under this section. Application shall be made under oath, shall be in a form and contain the information required by department rules and shall be made no later than thirty days after the date of mailing by the assessor of the notice of valuation. Once land is valued under this section, application need not be made in subsequent tax years as long as there is no change in the use of the land.

G. The owner of land valued under this section shall report to the county assessor whenever the use of the land changes so that it is no longer being used primarily for agricultural purposes. This report shall be made on a form prescribed by department rules and shall be made by the last day of February of the tax year immediately following the year in which the change in the use of the land occurs.

H. Any person who is required to make a report under the provisions of Subsection G of this section and who fails to do so is personally liable for a civil penalty in an amount equal to the greater of twenty-five dollars (\$25.00) or twenty-five percent of the difference between the property taxes ultimately determined to be due and the property taxes originally paid for the tax years for which the person failed to make the required report.

(Laws 2015, Chapter 92, Section 1; Applicable to 2016 and subsequent property tax years)

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]

7-36-21. SPECIAL METHOD OF VALUATION--LIVESTOCK.--

A. All livestock located in the state on January 1 of the tax year shall be valued for property taxation purposes as of January 1.

B. All livestock not located in the state on January 1 but brought into the state and located there for more than twenty days subsequent to January 1 shall be valued for property taxation purposes as of the first day of the month following the month in which they have remained in the state for more than twenty days.

C. The owner of livestock subject to valuation for property taxation purposes shall report the livestock for valuation to the county assessor of the county in which they are located on the valuation date specified in Subsections A or B of this section. However, if an importation or movement report is made by the livestock board under the provisions of Section, the owner of livestock is relieved of his responsibility to report the livestock covered by the livestock board report, and that report fulfills the owner's responsibility for reporting the livestock under this section. The owner's report shall be in a form and contain the information required by department regulations and shall be made no later than:

(1) the last day of February for livestock required to be valued as of the first day of January or February of the tax year; or

(2) ten days after the valuation date determined under Subsection B of this section for livestock required to be valued as of dates other than those in Paragraph (1) of this subsection.

D. The department shall establish for each tax year the various classes of livestock and the value of each class. This determination shall be implemented by an order of the director, and the order shall be made no later than December 1 of the year prior to the tax year to which the classification and values apply.

E. The department shall adopt regulations for the allocation of value of livestock, which regulations shall provide for:

(1) a basic allocation formula that prorates value on the basis of the amount of time that livestock are in the state and subject to valuation for property taxation purposes;

(2) determining proration of value under Paragraph (1) of this subsection using estimates of the amount of time that livestock will be in the state to cover those situations in which livestock are imported for an indeterminate time during a tax year or in which resident livestock are exported for an indeterminate time during a tax year but are returned during the same tax year; and

(3) a method of allocating value of livestock, both resident and transient, among different governmental units when the livestock range on land in more than one governmental unit.

F. Any person who intentionally refuses to make a report required

of him under this section or who knowingly makes a false statement in a report required under this section is guilty of a misdemeanor and shall be punished by the imposition of a fine of not more than one thousand dollars (\$1,000).

G. Any person who fails to make a report required of him under this section is liable for a civil penalty in an amount equal to five percent of the property taxes ultimately determined to be due on the property for the tax year or years for which he failed to make the required report.

H. Any person who intentionally refuses to make a report required of him under this section with the intent to evade any tax or who fails to make a report required of him under this section with the intent to evade any tax is liable for a civil penalty in an amount equal to twenty-five percent of the property taxes ultimately determined to be due on the property for the tax year or years for which he refused or failed to make the required report.

I. The civil penalties authorized under Subsections G and H of this section shall be imposed and collected at the time and in the manner that the tax is imposed and collected. In order to assist in the imposition and collection of the penalties, the person having responsibility for determining the value of the property shall make an entry in the valuation records indicating the liability for any penalties due under this section.

(Laws 1975, Chapter 115, Section 1)

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]

7-36-21.2. LIMITATION ON INCREASES IN VALUATION OF RESIDENTIAL PROPERTY.--

A. Residential property shall be valued at its current and correct value in accordance with the provisions of the Property Tax Code; provided that for the 2001 and subsequent tax years, the value of a property in any tax year shall not exceed the higher of one hundred three percent of the value in the tax year prior to the tax year in which the property is being valued or one hundred six and one-tenth percent of the value in the tax year two years prior to the tax year in which the property is being valued. This limitation on increases in value does not apply to:

(1) a residential property in the first tax year that it is valued for property taxation purposes;

(2) any physical improvements, except for solar energy system installations, made to the property during the year immediately prior to the tax year or omitted in a prior tax year; or

(3) valuation of a residential property in any tax year in which:

(a) a change of ownership of the property occurred in the year immediately prior to the tax year for which the value of the property for property taxation purposes is being determined; or

(b) the use or zoning of the property has changed in the year prior to the tax year.

B. If a change of ownership of residential property occurred in the year immediately prior to the tax year for which the value of the property for property taxation purposes is being determined, the value of the property shall be its current and correct value as determined pursuant to the general valuation provisions of the Property Tax Code.

C. To assure that the values of residential property for property taxation purposes are at current and correct values in all counties prior to application of the limitation in Subsection A of this section, the department shall determine for the 2000 tax year the sales ratio pursuant to Section 7-36-18 NMSA 1978 or, if a sales ratio cannot be determined pursuant to that section, conduct a sales-ratio analysis using both independent appraisals by the department and sales. If the sales ratio for a county for the 2000 tax year is less than eighty-five, as measured by the median ratio of value for property taxation purposes to sales price or independent appraisal by the department, the county shall not be subject to the limitations of Subsection A of this section and shall conduct a reassessment of residential property in the county so that by the 2003 tax year, the sales ratio is at least eighty-five. After such reassessment, the limitation on increases in valuation in this section shall apply in those counties in the earlier of the 2004 tax year or the first tax year following the tax year that the county has a sales ratio of eighty-five or higher, as measured by the median ratio of value for property taxation purposes to sales value or independent appraisal by the department.

Thereafter, the limitation on increases in valuation of residential property for property taxation purposes in this section shall apply to subsequent tax years in all counties.

D. The provisions of this section do not apply to residential property for any tax year in which the property is subject to the valuation limitation in Section 7-36-21.3 NMSA 1978.

E. As used in this section, "change of ownership" means a transfer to a transferee by a transferor of all or any part of the transferor's legal or equitable ownership interest in residential property except for a transfer:

(1) to a trustee for the beneficial use of the spouse of the transferor or the surviving spouse of a deceased transferor;

(2) to the spouse of the transferor that takes effect upon the death of the transferor;

(3) that creates, transfers or terminates, solely between spouses, any co-owner's interest;

(4) to a child of the transferor, who occupies the property as that person's principal residence at the time of transfer; provided that the first subsequent tax year in which that person does not qualify for the head of household exemption on that property, a change of ownership shall be deemed to have occurred;

(5) that confirms or corrects a previous transfer made by a document that was recorded in the real estate records of the county in which the real property is located;

(6) for the purpose of quieting the title to real property or resolving a disputed location of a real property boundary;

(7) to a revocable trust by the transferor with the transferor, the transferor's spouse or a child of the transferor as beneficiary; or

(8) from a revocable trust described in Paragraph (7) of this subsection back to the settlor or trustor or to the beneficiaries of the trust.

F. As used in this section, "solar energy system installation" means an installation that is used to provide space heat, hot water or electricity to the property in which it is installed and is:

(1) an installation that uses solar panels that are not also windows;

(2) a dark-colored water tank exposed to sunlight; or

(3) a non-vented trombe wall.

(Laws 2010, Chapter 30, Section 1)

7-36-21.3. LIMITATION ON INCREASE IN VALUE FOR SINGLE-FAMILY DWELLINGS OCCUPIED BY LOW-INCOME OWNERS SIXTY-FIVE YEARS OF AGE OR OLDER OR DISABLED--REQUIREMENTS--PENALTIES.—

A. The valuation for property taxation purposes of a single-family dwelling owned and occupied by a person who is sixty-five years of age or older or disabled and whose modified gross income for the prior taxable year did not exceed the greater of thirty-five thousand dollars (\$35,000) or the amount calculated pursuant to Subsection F of this section shall not be greater than the assessed valuation of the property for property taxation purposes:

(1) for a person sixty-five years of age or older in the tax year in which the owner qualifies and files an application; or

(2) for a person who is disabled in the tax year in which the owner qualified and files an application for the limitation provided by this section.

B. The limitation provided by this section may be claimed by filing proof of eligibility with the county assessor on an application form furnished by the assessor. The application shall be filed no later than thirty days after the date of mailing by the assessor of the notice of valuation. The application form shall be designed by the department and shall provide for proof of age or disability, occupancy and income eligibility. An owner who applies for the limitation of value specified in this section and files proof of income eligibility for the three consecutive years immediately subsequent to the tax year for which the application is made need not claim the limitation for subsequent tax years if there is no change in eligibility. The county assessor shall apply the limitation automatically in subsequent tax years until a change in eligibility occurs.

C. An owner who has claimed and been allowed the limitation of value specified in this section for the three consecutive tax years immediately prior to the 2020 tax year is not required to claim the limitation for subsequent tax years if there is no change in eligibility, unless the county assessor requests updated information on the owner's modified gross income. The county assessor shall apply the limitation automatically in subsequent tax years until a change in eligibility occurs.

D. A person who has had a limitation applied to a tax year and subsequently becomes ineligible for the limitation because of a change in the person's status or income or a change in the ownership of the property against which the limitation was applied shall notify the county assessor of the loss of eligibility for the limitation by the last day of February of the tax year immediately following the year in which loss of eligibility occurs.

E. A person who knowingly violates the provisions of this section by intentionally claiming and receiving the benefit of a limitation to which the person is not entitled or who fails to comply with the provisions of Subsection D of this section shall be liable for all taxes due, interest and a civil penalty of one thousand dollars (\$1,000).

F. For the 2020 tax year and each subsequent tax year, the maximum amount of modified gross income in Subsection A of this section shall be adjusted to account for inflation. The department shall make the adjustment by multiplying thirty-five thousand dollars (\$35,000) by a fraction, the numerator of which is the consumer price index ending during the prior tax

year and the denominator of which is the consumer price index ending in tax year 2019. The result of the multiplication shall be rounded down to the nearest one hundred dollars (\$100), except that if the result would be an amount less than the corresponding amount for the preceding tax year, then no adjustment shall be made.

G. The department shall publish annually the amount determined by the calculation made pursuant to Subsection F of this section and provide the calculated amount to each county assessor no later than December 1 of each tax year.

H. The limitation of value specified in Subsection A of this section does not apply to:

(1) a change in valuation resulting from any physical improvements made to the property during the year immediately prior to the tax year or a change in the permitted use or zoning of the property during the year immediately prior to the tax year; or

(2) a residential property in the first tax year that is valued for property taxation purposes.

I. As used in this section:

(1) "consumer price index" means the consumer price index for all urban consumers published by the United States department of labor for the month ending September 30;

(2) "disabled" means a person who has been determined to be blind or permanently disabled with medical improvement not expected pursuant to 42 USCA 421 for purposes of the federal Social Security Act or is determined to have a permanent total disability pursuant to the Workers' Compensation Act; and

(3) "modified gross income" means "modified gross income" as used in the Income Tax Act.

(Laws 2020, Chapter 73, Section 1)

7-36-22. MINERAL PROPERTY--DEFINITIONS AND CLASSIFICATIONS FOR VALUATION PURPOSES.--As used in this article, "mineral property" does not include oil and gas property or productive copper mineral property and means:

A. "class one productive mineral property", which means mineral lands, all mineral reserves and interests in minerals in mineral lands and all severed mineral products from mineral lands when the mineral lands are held under private ownership in fee and the property is mined or operated in good faith for its mineral values with a reasonable degree of continuity during the year preceding the tax year in which its value is determined and to an extent in keeping with the market demand and conditions affecting the extraction and disposition of the product;

B. "class one nonproductive mineral property", which means mineral lands, all mineral reserves and interests in minerals in mineral lands and all severed mineral products from mineral lands when the mineral lands are held under private ownership in fee and the property is 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 but is not operated so as to fall in the class of class one productive mineral property;

C. "class two mineral property", which means the severed mineral products from mineral lands held by possessory title under the laws of the United States; and

D. "class three mineral property", which means severed mineral products from leasehold or contract mineral rights in mineral lands, the fee of which is vested in the United States or the state.

(Laws 1990, Chapter 125, Section 4)

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]

7-36-23. SPECIAL METHOD OF VALUATION--MINERAL PROPERTY AND PROPERTY USED IN CONNECTION WITH MINERAL PROPERTY--EXCEPTION FOR POTASH AND URANIUM MINERAL PROPERTY AND PROPERTY USED IN CONNECTION WITH POTASH AND URANIUM MINERAL PROPERTY.--

A. The provisions of this section apply to the valuation of all mineral property and property used in connection with mineral property except potash and uranium mineral property and property used in connection with potash and uranium mineral property, the methods of valuation for which are provided in Sections [7-36-24 and 7-36-25 NMSA 1978].

B. The following kinds of property held or used in connection with mineral property shall be valued under the methods of valuation required by the Property Tax Code:

(1) improvements, equipment, materials, supplies and other personal property held or used in connection with all classes of mineral property; "improvements" as used in this section includes surface and subsurface structures, but does not include pits, shafts, drifts and other similar artificial changes in the physical condition of the surface or subsurface of the earth produced solely by the removal or rearrangement of earth or minerals for the purpose of exposing or removing ore from a mine; and

(2) the surface value for agricultural or other purposes of class one productive or nonproductive mineral property when the surface interest is held in the same ownership as the mineral interests.

C. The value for property taxation purposes of class one productive mineral property is an amount equal to three hundred percent of the annual net production value of the mineral property.

D. The value for property taxation purposes of class two and class three mineral property is an amount equal to three hundred percent of the annual net production value.

E. The value for property taxation purposes of class one nonproductive mineral property shall be determined by applying a per acre value to the surface acres of the property being valued. The per acre value of class one nonproductive mineral property shall be determined under regulations adopted by the department, which regulations shall establish a per acre value based upon bonus bids accepted by the commissioner of public lands for the latest one year period in which bonus bids were accepted for the sale of mineral leases, which per acre value may be determined by geographical areas.

F. For purposes of this section, "annual net production value" means either:

(1) the average of five years' net production value from the mineral property for the five years immediately preceding the tax year in which value is being determined, or so much of the period during which the property has been in operation, with each year's net production value being determined by taking the year's market value of production of all minerals,

including any bonus or subsidy payments, and deducting from that value:

(a) any royalties paid or due the United States, the state or any Indian tribe, Indian pueblo or Indian who is a ward of the United States;

(b) the direct costs, exclusive of depreciation, determined under generally accepted accounting principles consistently applied by the taxpayer, of extracting, milling, treating, reducing, transporting and selling the minerals; and

(c) the costs of depreciation, determined under generally accepted accounting principles consistently applied by the taxpayer, of property actually used in the extracting, milling, treating, reducing and transporting of the minerals; or

(2) the net production value from the mineral property for the year immediately preceding the tax year in which value is being determined, with that year's net production value being determined by taking the year's market value of production of all minerals, including any bonus or subsidy payments, and deducting from that value:

(a) any royalties paid or due the United States, the state or any Indian tribe, Indian pueblo or Indian who is a ward of the United States;

(b) the direct costs, exclusive of depreciation, determined under generally accepted accounting principles consistently applied by the taxpayer, of extracting, milling, treating, reducing, transporting and selling the minerals; and

(c) the cost of depreciation, determined under generally accepted accounting principles consistently applied by the taxpayer, of property actually used in the extracting, milling, treating, reducing and transporting of the minerals.

G. Annual net production value shall be determined under Paragraph (1) of Subsection F of this section unless the taxpayer elects to have it determined under Paragraph (2) of that subsection. To be effective, an election must be exercised by written notification to the department at the time the mineral property is reported to the department for valuation in a tax year. Once an election is exercised, a taxpayer may not change from the elected method without the prior approval of the department.

H. The department shall adopt regulations specifying procedures to be followed under, and the details of, the method for valuation of mineral property specified in this section.

(Laws 1975, Chapter 165, Section 4)

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]

7-36-24. SPECIAL METHOD OF VALUATION--MINERAL PROPERTY AND PROPERTY USED IN CONNECTION WITH MINERAL PROPERTY WHEN THE PRIMARY PRODUCTION FROM THE MINERAL PROPERTY IS POTASH.--

A. The provisions of this section apply to valuation of all mineral property and property used in connection with mineral property when the primary production from the mineral property is potash.

B. The value for property taxation purposes of improvements, equipment, materials, supplies and other personal property held or used in connection with all classes of potash mineral property is an amount equal to the market value of all mineral production from the potash mineral property for the prior year, less any royalties paid or due the United States, the state or any Indian tribe, Indian pueblo or Indian who is a ward of the United States. "Improvements" as used in this section includes surface and subsurface structures, but does not include pits, shafts, drifts and other similar artificial changes in the physical condition of the surface or subsurface of the earth produced solely by the removal or rearrangement of earth or minerals for the purpose of exposing or removing ore from a mine.

C. The value for property taxation purposes of the surface value for agricultural or other purposes 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, shall be determined under the methods of valuation required by the Property Tax Code.

D. The value for property taxation purposes of class one productive potash mineral property is an amount equal to fifty percent of the market value of all mineral production from the potash mineral property for the prior year.

E. The value for property taxation purposes of class two and class three potash mineral property is an amount equal to fifty percent of the amount derived by deducting from the market value of all mineral production from the potash mineral property for the prior year any royalties paid or due the United States, the state or any Indian tribe, Indian pueblo or Indian who is a ward of the United States.

F. The value for property taxation purposes of class one nonproductive potash mineral property shall be determined under Subsection E of Section [7-36-23 NMSA 1978].

G. If a taxpayer severs potash in one or more governmental units and processes the severed potash in another governmental unit, the value of all interests in minerals shall be allocated to the governmental unit or units in which the potash is severed, and the value of improvements, equipment, materials, supplies and personal property shall be allocated among the governmental units in which the property is located on the basis of the original cost of the property.

H. The department shall adopt regulations specifying procedures to be followed under, and the details of, the method for valuation of potash

mineral property specified in this section. The department shall also adopt regulations for the allocation of values of potash mineral property among the governmental units.

(Laws 1975, Chapter 165, Section 5)

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]

7-36-25. SPECIAL METHOD OF VALUATION--MINERAL PROPERTY AND PROPERTY USED IN CONNECTION WITH MINERAL PROPERTY WHEN THE PRIMARY PRODUCTION FROM THE MINERAL PROPERTY IS.--

A. The provisions of this section apply to the valuation of all mineral property and property used in connection with mineral property when the primary production from the mineral property is uranium.

B. The following kinds of property held or used in connection with uranium mineral property shall be valued under the methods of valuation required by the Property Tax Code:

(1) improvements, equipment, materials, supplies and other personal property held or used in connection with all classes of uranium mineral property; "improvements", as used in this section, includes surface and subsurface structures, but does not include pits, shafts, drifts or other similar artificial changes in the physical condition of the surface or subsurface of the earth produced solely by the removal or rearrangement of earth or minerals for the purpose of exposing or removing ore from a mine; and

(2) the surface value for agricultural or other purposes of class one productive or nonproductive uranium mineral property when the surface interest is held in the same ownership as the mineral interests.

C. The value for property taxation purposes of class one productive, class two and class three uranium mineral property is the annual net production value of the uranium mineral property.

D. The value for property taxation purposes of class one nonproductive uranium mineral property shall be determined under Subsection E of Section 7-36-23 NMSA 1978.

E. For the purposes of this section, the "annual net production value" means:

(1) the sales price of uranium-bearing material disposed of as ore or solution, less fifty percent of that sales price as a deduction for the cost of producing and bringing the output to the surface and of transporting and selling it; or

(2) in the case of uranium-bearing material not disposed of as ore or solution but processed or beneficiated (other than by sizing and blending), regardless of the form in which the product is actually disposed of, the value of U₃O₈ contained in ore or solution determined on the basis of the U₃O₈ content of the ore or solution at fifty percent of the taxpayer's average unit sales price during the preceding calendar year of U₃O₈ contained in the concentrate form commonly known as "yellowcake" (or, if the uranium concentrate has not been sold in the preceding calendar year, at fifty percent of the representative sales price for U₃O₈ contained in the concentrate form commonly known as "yellowcake" at the place and time of processing or beneficiation into that concentrate), plus fifty percent of the representative sales price of all other minerals produced and saved from such uranium-bearing

material, less fifty percent of the value as a deduction for the cost of producing and bringing the output to the surface from an underground mine.

F. In determining annual net production value of class two and class three uranium mineral property, a deduction may be taken for royalties paid or due the United States, the state or any Indian tribe, Indian pueblo or Indian who is a ward of the United States, but the deduction allowed by this subsection must be subtracted from one hundred percent of the applicable sales price before applying any other reductions in or deductions from that sales price.

(Laws 1982, Chapter 29, Section 1)

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]

7-36-26. SPECIAL METHOD OF VALUATION--MANUFACTURED HOMES.--

A. The owner of a manufactured home subject to valuation for property taxation purposes shall report the manufactured home annually for valuation to the county assessor of the county in which the manufactured home is located on January 1. The report shall be in a form and contain the information required by department regulation and shall be made no later than the last day of February of the tax year in which the property is subject to valuation.

B. The valuation method used for determining the value of manufactured homes for property taxation purposes shall be a cost method applying generally accepted appraisal techniques and shall generally provide for:

(1) the determination of initial cost of a manufactured home based upon classifications of manufactured homes and sales prices for the various classifications;

(2) deductions from initial cost for allowable depreciation, which allowances for depreciation shall be developed by the division; and

(3) deduction from initial cost of other justifiable factors, including but not limited to functional and economic obsolescence.

C. Whether or not the presence of a manufactured home is declared and reported by the owner to a county assessor as required by this section, the county assessor shall determine the value for property taxation purposes of each manufactured home located in the county and subject to valuation. County assessors shall use the information required to be furnished them under Sections 66-6-10 and 66-7-413 NMSA 1978 to assure that accurate records of locations of manufactured homes are maintained.

D. Any person who intentionally refuses to make a report required of him under this section or who knowingly makes a false statement in a report required under this section is guilty of a misdemeanor and shall be punished by the imposition of a fine of not more than one thousand dollars (\$1,000).

E. Any person who fails to make a report required of him under this section is liable for a civil penalty in an amount equal to five percent of the property taxes ultimately determined to be due on the property for the tax year or years for which he failed to make the required report.

F. Any person who intentionally refuses to make a report required of him under this section with the intent to evade any tax or who fails to make a report required of him under this section with the intent to evade any tax is liable for a civil penalty in an amount equal to twenty-five percent of the property taxes ultimately determined to be due on the property for the tax year or years for which he refused or failed to make the required report.

G. The civil penalties authorized under Subsections E and F of this section shall be imposed and collected at the time and in the manner that the tax is imposed and collected. In order to assist in the imposition and collection

of the penalties, the assessor having responsibility for determining the value of the property shall make an entry in the valuation records indicating the liability for any penalties due under this section.

(Laws 1991, Chapter 166, Section 6)

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]

7-36-27. 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. All 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 subject to valuation for property taxation purposes shall be valued in accordance with the provisions of this section.

B. As used in this section:

(1) "construction work in progress" means 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 and equipment, machinery or devices that are used or are available for use to construct pipelines, plants, large industrial sales meters and tanks but that are not incorporated into the pipelines, plants, large industrial sales meters or tanks;

(2) "depreciation" means straight line depreciation over the useful life of the item of property;

(3) "direct customer distribution pipeline" means a low or intermediate pressure distribution system pipeline of four inches or smaller diameter situated in urban areas;

(4) "economic obsolescence" means, with respect to valuation for property taxation purposes, loss in value of a property caused by unfavorable economic influences or factors outside of the property; "economic obsolescence" is a loss in value in addition to a loss in value attributable to physical depreciation;

(5) "functional obsolescence" means, with respect to valuation for property taxation purposes, loss in value of a property caused by functional inadequacies or deficiencies caused by factors within the property; "functional obsolescence" is a loss in value in addition to a loss in value attributable to physical depreciation;

(6) "large industrial sales meter" means a sales meter having an installed tangible property cost in excess of two thousand five hundred dollars (\$2,500);

(7) "other justifiable factors" includes, but is not limited to, functional obsolescence and economic obsolescence;

(8) "pipeline" means all pipe, appurtenances and devices used in systems for gathering, transmission or distribution, but excludes sales meters, a pipeline operated exclusively for and constituting a part of a plant and a direct customer distribution pipeline;

(9) "plant" means any refinery, gasoline plant, extraction plant, purification plant, compressor or pumping station or similar plant,

including all structures, equipment, pipes and other related facilities, excluding residential housing, office buildings and warehouses;

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

(11) "schedule value" means a fixed value of an individual property unit within a mass of similar or like units established by determining the total tangible property cost of a substantial sample of such property and deducting therefrom an average related accumulated provision for depreciation and allocating a proportionate part of the remainder to individual taxable property units;

(12) "tangible property cost" means the actual cost of acquisition or construction of property, excluding construction work in progress, including additions, retirements, adjustments and transfers, but without deduction of related accumulated provision for depreciation, amortization or other purposes and excluding any amount attributable to oil or gas reserves dedicated to such item of property; and

(13) "tank" means any storage tank or container, other than a natural reservoir, for storage that is not a component part of a plant.

C. Sales meters, other than large industrial sales meters, shall be valued as follows:

(1) the department may periodically determine the average tangible property cost of a substantial sample of sales meters in general use in the state;

(2) such average tangible property cost shall then be reduced by the average related accumulated provision for depreciation applicable to the sample of sales meters; and

(3) from the determinations pursuant to Paragraphs (1) and (2) of this subsection, a schedule of value for sales meters for property taxation purposes shall be determined and set forth in a rule adopted by the department.

D. Pipelines, direct customer distribution pipelines, large industrial sales meters, tanks and plants shall be valued as follows:

(1) the valuation authority shall first establish the tangible property cost of each item of property;

(2) from such tangible property cost shall be deducted the related accumulated provision for depreciation and any other justifiable factors that further affect the tangible property value of each item of property; and

(3) notwithstanding the determination of value for property taxation purposes in Paragraphs (1) and (2) of this subsection, the value for property taxation purposes of each item of property valued under this

subsection shall not be less than twenty percent of the tangible property cost of such item of property.

E. Construction work in progress shall be valued at fifty percent of the amount expended and entered upon the accounting records of the taxpayer as of December 31 of the preceding year as construction work in progress.

F. Each item of property having a taxable situs in the state and valued under this section shall have its net taxable value allocated to the governmental units in which the property is located.

G. A reduction in value asserted by a taxpayer as attributable to economic obsolescence or functional obsolescence shall contain an obsolescence factor along with a brief statement of the facts that support the reduction, together with supporting documentation. The documentation may include items such as monthly throughput volumes from the prior year; comparisons to a documented industry standard; comparisons to a close competitor; and an engineer's or appraiser's valuation. The department may adopt rules that include other types of objective evidence of functional obsolescence or economic obsolescence.

H. If the department determines that a taxpayer has not established, based on the brief statement of facts and the supporting documentation provided, that the reduction for functional obsolescence or economic obsolescence is in accordance with the law or rules adopted by the department, the department shall notify the taxpayer of the department's determination in writing setting forth the reasons for its determination and specifying the supporting information that the department requires. The department shall provide the notice 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 and the taxpayer shall then have ten days within which to correct the deficiency.

I. The department shall adopt rules to implement the provisions of this section.

(Laws 2007, Chapter 273, Section 1)

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]

7-36-28. SPECIAL METHOD OF VALUATION--PIPELINES, TANKS, SALES METERS, PLANTS AND HYDRANTS USED IN THE TRANSMISSION, STORAGE, MEASUREMENT OR DISTRIBUTION OF WATER.--

A. Except as provided in Subsection F of this section, all pipelines, tanks, sales meters, plants and hydrants used in the transmission, storage, measurement or distribution of water subject to valuation for property taxation purposes shall be valued in accordance with the provisions of this section.

B. As used in this section:

(1) "commercial water property" means privately owned pipelines, tanks, sales meters, plants, hydrants, materials and supplies, whether in service, in stock or under construction, owned and operated as a utility for the purpose of transmitting, storing, measuring or distributing water for sale to the consuming public, excluding general buildings and improvements;

(2) "depreciation" means straight line depreciation over the useful life of the item of property;

(3) "general buildings and improvements" means buildings of the nature of offices, residential housing, warehouses, shops and associated improvements in general use by the taxpayer but not directly associated with the transmission, storage, measurement or distribution of water;

(4) "gallons" means the measurement of water sold;

(5) "revenue" means gross utility operating revenue;

(6) "closed system" means a commercial water system in which water is gathered primarily by wells and stored in closed reservoirs and tanks; and

(7) "combination system" means a commercial water system in which water is gathered both in open reservoirs and by wells and is stored both in open reservoirs and closed reservoirs and tanks.

C. The value of commercial water property shall be determined as follows:

(1) a factor of two and forty-nine one hundredths per thousand gallons is to be used for a closed system and three and twenty-five one hundredths is to be used for a combination system;

(2) the department shall determine the type of system into which the taxpayer's commercial water properties should be categorized;

(3) the department shall then ascertain the number of thousand gallons sold to consumers by the taxpayer during each of the three immediately preceding calendar years and the taxpayer's revenue from the immediately preceding calendar year;

(4) a simple average of the three-year thousand gallon sales shall be computed and compared to the actual thousand gallons sold to consumers during the immediately preceding calendar year. The higher of

the average thousand gallons or the immediately preceding year's actual thousand gallons shall be the basis for value calculations;

(5) the thousand gallon figure determined in Paragraph (4) of this subsection shall then be multiplied by the appropriate per thousand gallon factor from Paragraph (1) of this subsection. The result of this calculation is the value of commercial water property for property taxation purposes; and

(6) notwithstanding the calculations provided for above, the value of the taxpayer's commercial water property shall not be greater than four and one-half times the revenue derived during the immediately preceding calendar year from the operation of the commercial water property.

D. Each item of property having a taxable situs in the state and valued under this section shall have its net taxable value allocated to the governmental units in which the property is located on the basis of the percentage of the taxpayer's total investment in each governmental unit.

E. The department shall adopt regulations to implement the provisions of this section.

F. Commercial water property owned or sold by a nonprofit mutual domestic water association is exempt from valuation for property taxation purposes.

(Laws 2009, Chapter 246, Section 1)

7-36-28. SPECIAL METHOD OF VALUATION--PIPELINES, TANKS, COLLECTION SYSTEMS, METERS, PLANTS AND HYDRANTS USED IN THE COLLECTION, TRANSMISSION, STORAGE, TREATMENT, DISCHARGE, MEASUREMENT OR DISTRIBUTION OF WATER OR WASTEWATER.--

A. All pipelines, tanks, meters, lift stations, treatment facilities, plants and hydrants used in the collection, transmission, storage, measurement, treatment, discharge or distribution of water or wastewater subject to valuation for property taxation purposes shall be valued in accordance with the provisions of this section.

B. As used in this section:

(1) "commercial water property" means privately owned pipelines, tanks, meters, plants, hydrants, materials and supplies, whether in service, in stock or under construction, owned and operated as a utility for the purpose of transmitting, storing, measuring or distributing water for sale to the consuming public, excluding general buildings and improvements;

(2) "commercial wastewater property" means privately owned pipelines, collection systems, lift stations, meters, treatment facilities, materials and supplies, whether in service, in stock or under construction,

owned and operated as a utility for the purpose of collecting, transmitting, measuring, treating or discharging wastewater used for the purpose of providing wastewater service to the public, excluding general buildings and improvements;

(3) "depreciation" means straight line depreciation over the useful life of the item of property;

(4) "general buildings and improvements" means buildings of the nature of offices, residential housing, warehouses, shops and associated improvements in general use by the taxpayer but not directly associated with the collection, transmission, storage, measurement, treatment, discharge or distribution of water or wastewater;

(5) "gallons" means the measurement of water sold or the measurement of wastewater discharged to a third party's treatment facility or the measurement of wastewater treated and discharged;

(6) "revenue" means gross utility operating revenue;

(7) "closed system" means a commercial water system in which water is gathered primarily by wells and stored in closed reservoirs and tanks; and

(8) "combination system" means a commercial water system in which water is gathered both in open reservoirs and by wells and is stored both in open reservoirs and closed reservoirs and tanks.

C. The value of commercial water property shall be determined as follows:

(1) a factor of two and forty-nine one hundredths per thousand gallons is to be used for a closed system and three and twenty-five one hundredths is to be used for a combination system;

(2) the department shall determine the type of system into which the taxpayer's commercial water properties should be categorized;

(3) the department shall then ascertain the number of thousand gallons sold to consumers by the taxpayer during each of the three immediately preceding calendar years and the taxpayer's water revenue from the immediately preceding calendar year;

(4) a simple average of the three-year thousand gallon sales shall be computed and compared to the actual thousand gallons sold to consumers during the immediately preceding calendar year. The higher of the average thousand gallons or the immediately preceding year's actual thousand gallons shall be the basis for value calculations;

(5) the thousand gallon figure determined in Paragraph (4) of this subsection shall then be multiplied by the appropriate per thousand gallon factor from Paragraph (1) of this subsection. The result of this calculation is the value of commercial water property for property taxation purposes; and

(6) notwithstanding the calculations provided for in Paragraphs (1) through (5) of this subsection, the value of the taxpayer's

commercial water property shall not be greater than four and one-half times the revenue derived during the immediately preceding calendar year from the operation of the commercial water property.

D. The value of commercial wastewater property shall be determined as follows:

(1) a factor of two and forty-nine one hundredths per thousand gallons shall be used;

(2) the department shall then ascertain the number of thousand gallons wastewater discharged to a third party's treatment facility or the number of thousand gallons wastewater treated and discharged during each of the three immediately preceding calendar years and the taxpayer's wastewater revenue from the immediately preceding calendar year;

(3) a simple average of the three-year thousand gallons shall be computed and compared to the actual thousand gallons during the immediately preceding calendar year. The higher of the average thousand gallons or the immediately preceding year's actual thousand gallons shall be the basis for value calculations;

(4) the thousand gallon figure determined in Paragraph (3) of this subsection shall then be multiplied by the factor provided in Paragraph (1) of this subsection. The result of this calculation is the value of commercial wastewater property for property taxation purposes; and

(5) notwithstanding the calculations provided for in this subsection, the value of the taxpayer's commercial wastewater property shall not be greater than four and one-half times the revenue derived during the immediately preceding calendar year from the operation of the commercial wastewater property.

E. Each item of property having a taxable situs in the state and valued pursuant to this section shall have its net taxable value allocated to the governmental units in which the property is located on the basis of the percentage of the taxpayer's total investment in each governmental unit.

F. The department shall adopt regulations to implement the provisions of this section.

(Laws 2009, Chapter 247, Section 1)

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]

7-36-29. SPECIAL METHOD OF VALUATION--PROPERTY USED FOR THE GENERATION, TRANSMISSION OR DISTRIBUTION OF ELECTRIC POWER OR ENERGY.--

A. All property used for the generation, transmission or distribution of electric power or energy subject to valuation for property taxation purposes shall be valued in accordance with the provisions of this section.

B. As used in this section:

(1) "depreciation" means straight line depreciation over the useful life of the item of property;

(2) "electric plant" means all property situated in this state used or useful for the generation, transmission or distribution of electric power or energy, but does not include land, land rights, general buildings and improvements, construction work in progress, materials and supplies and licensed vehicles;

(3) "construction work in progress" means the total of the balances of work orders for an electric plant in process of construction on the last day of the preceding calendar year exclusive of land, land rights and licensed vehicles;

(4) "general buildings and improvements" means buildings of the nature of offices, residential housing, warehouses, shops and associated improvements in general use by the taxpayer and not directly associated with generation, transmission or distribution of electric power or energy;

(5) "materials and supplies" means the cost, including sales, use and excise taxes, and transportation costs to point of delivery in this state, less purchases and trade discounts, of all unapplied material and supplies on hand in this state as of December 31 of the preceding calendar year; and

(6) "tangible property cost" means the actual cost of acquisition or construction of property, including additions, retirements, adjustments and transfers, but without deduction of related accumulated provision for depreciation, amortization or other purposes; "tangible property cost" excludes the cost of property contributed to, or acquired with funds contributed to, a utility by or on behalf of a ratepayer or potential ratepayer for the expansion, improvement or replacement of property used for the transmission or distribution of electric power of the utility.

C. An electric plant shall be valued as follows:

(1) the department shall determine the tangible property cost of the electric plant;

(2) such tangible property cost shall then be reduced by the related accumulated provision for depreciation and any other justifiable factors, including functional and economic obsolescence, such as the limitation on the use of the property based on the available reserves committed to the property; and

(3) notwithstanding the foregoing determination of value for property taxation purposes, the value for property taxation purposes of an

electric plant shall not be less than twenty percent of the tangible property cost of the electric plant.

D. The value of construction work in progress shall be fifty percent of the amount expended and entered upon the accounting records of the taxpayer as of December 31 of the preceding calendar year as construction work in progress.

E. The value of materials and supplies shall be the tangible property cost for such property as of December 31 of the preceding calendar year.

F. Each item of property having a taxable situs in the state and valued under this section shall have its net taxable value allocated to the governmental units in which the property is located.

G. The department shall adopt regulations under Section 72-31-88 NMSA 1953 to implement the provisions of this section.

(Laws 2016, Chapter 49, Section 1)

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]

7-36-30. SPECIAL METHODS OF VALUATION--PROPERTY THAT IS PART OF A COMMUNICATIONS SYSTEM.--

A. All property that is part of a communications system and is subject to valuation for property taxation purposes shall be valued in accordance with the provisions of this section.

B. As used in this section:

(1) "communications system" means a system for the transmission and reception of information by the use of electronic, magnetic or optical means or any combination thereof and which system or any portion thereof is available for use by another person for consideration;

(2) "depreciation" means straight line depreciation over the useful life of the item of property;

(3) "other justifiable factors" includes but is not limited to wear and tear of the property not covered by depreciation, inadequacy, changes in demand and requirements of public authorities attributable to the applicable decrease in value and functional or economic obsolescence;

(4) "plant" means all tangible property located in this state and used or useful for the provision of communication service as reflected by the uniform system of accounting in use by the taxpayer, but does not include construction work in progress or materials and supplies;

(5) "construction work in progress" means the total of the balance of work orders for plant in process of construction on the last day of the preceding calendar year, exclusive of land and land rights;

(6) "tangible property cost" means the actual cost of acquisition or construction of property, including additions, retirements, adjustments and transfers, but without deduction of related accumulated provision for depreciation, amortization or other purposes; and

(7) "materials and supplies" means the cost, including sales, use and excise taxes, and transportation costs to point of delivery in this state, less purchases and trade discounts, of all unapplied materials and supplies on hand in this state as of December 31 of the preceding calendar year.

C. Each taxpayer having property subject to valuation under this section shall elect to have that property valued by the department in accordance with either Subsection D or Subsection F of this section. The election shall be effective for subsequent property tax years unless prior permission of the secretary is obtained to change the election for good cause shown. A taxpayer may not seek permission to change an election unless the prior election has been effective for at least three consecutive property tax years. The secretary shall find that good cause exists to change the election upon a showing satisfactory to the secretary by the taxpayer that:

(1) the net result of all amendments to the property tax statutes and regulations with effective dates commencing within the property tax year has a substantial adverse effect on the valuation for property tax purposes under the alternative elected for the property for that year relative to

what the valuation for property tax purposes would have been under the other alternative in the absence of the amendments;

(2) the net result of all changes in law or circumstances but excluding acquisition or sale of property subject to valuation under this section, including changes which do not affect property tax liability, occurring within the property tax year has a substantial adverse effect on the valuation for property tax purposes under the alternative elected for the property for that year relative to what the valuation for property tax purposes for the property would have been under the other alternative in the absence of the changes; or

(3) changes in property tax statutes or regulations which are effective prior to the property tax year have a substantial adverse effect on the valuation for property tax purposes under the alternative elected for the property relative to what the valuation for property tax purposes would have been under the other alternative.

D. Communications system property valued under this subsection shall be valued in accordance with Paragraphs (1), (2) and (3) of this subsection:

(1) plant shall be valued in the following manner:

(a) the department shall first establish the tangible property cost of the plant;

(b) from such tangible property cost shall be deducted the related accumulated provision for depreciation and other justifiable factors; and

(c) notwithstanding the foregoing determination of value for property taxation purposes, the value for property taxation purposes of the plant shall not be less than twenty percent of the tangible property cost of the plant;

(2) construction work in progress shall have a value for property taxation purposes equal to fifty percent of the actual amounts expended and entered upon the accounting records of the taxpayer as of December 31 of the preceding calendar year for construction work in progress; and

(3) the value of materials and supplies shall be the tangible property cost for such property as of December 31 of the preceding calendar year.

E. Each item of property having a taxable situs in the state and valued under this section shall have its net taxable value allocated to the governmental units in which the property is located.

F. Communications system property valued under this subsection shall be valued using one or more or a combination of the following methods of valuation and applying the unit rule of appraisal to the property:

(1) capitalization of earnings;

(2) market value of stock and debt; or

(3) cost less depreciation and obsolescence.

G. The department shall adopt regulations under Section 7-38-88 NMSA 1978 to implement the provisions of this section. (Laws 1989, Chapter 112, Section 1)

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]

7-36-31. SPECIAL METHOD OF VALUATION--OPERATING RAILROAD PROPERTY.--

A. All property owned or leased and used by an operating railroad in its operation if the operating railroad has operations in New Mexico is subject to valuation for property taxation purposes and shall be valued in accordance with the provisions of this section, except for land and land rights other than operating railroad rights-of-way, sidings and marshalling yards and general buildings and improvements determined not to be an active part of an operating railroad.

B. The [department] shall value operating railroad property using the following methods of valuation and applying the unit rule of appraisal to the property:

- (1) capitalization of earnings;
- (2) market value of stock and debt; or
- (3) original cost less depreciation and obsolescence.

C. The [department] may use one or more, or a combination of, the methods of valuation specified in Paragraphs (1), (2) and (3) of Subsection B of this section in valuing operating railroad property.

D. Land, land rights other than operating railroad rights- of-way, sidings and marshalling yards, general buildings and improvements determined not to be an active part of an operating railroad shall be valued under the provisions of this article of the Property Tax Code applicable to the property.

E. The [department] shall adopt regulations providing for the allocation of net taxable values of operating railroad property to New Mexico and to the governmental units within the state.

F. The [department] shall adopt regulations pursuant to Section 7-38-88 NMSA 1978 to implement the methods of valuation for operating railroad property specified in this section.

(Laws 1985, Chapter 109, Section 7)

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]

7-36-32. SPECIAL METHOD OF VALUATION--COMMERCIAL AIRCRAFT.--

A. All commercial aircraft used by commercial airline companies in the operation of their businesses and subject to valuation for property taxation purposes shall be valued in accordance with the provisions of this section.

B. The department shall value commercial aircraft as follows:

(1) all gasoline engine propeller driven aircraft shall be valued at ten percent of original cost regardless of age; and

(2) all jet propelled aircraft shall have an assumed life of twelve years and shall be valued by deducting from eighty percent of the original cost of the aircraft depreciation computed on a monthly basis, but no aircraft valued under this paragraph shall have computed a value of less than twenty percent of its original cost.

C. The department shall adopt regulations providing for the allocation of net taxable values of commercial aircraft to New Mexico and to the governmental units in the state, which regulations shall include allocation factors related to ground time in New Mexico compared to total ground time within the airline system and flight time over New Mexico compared to total flight time within the airline system, exclusive of flight time outside the continental limits of the United States.

D. The department shall adopt regulations pursuant to Section [7-38-88 NMSA 1978] to implement the method of valuation of commercial aircraft specified in this section.

(Laws 1975, Chapter 165, Section 13)

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]

7-36-33. SPECIAL METHOD OF VALUATION--CERTAIN INDUSTRIAL AND COMMERCIAL PERSONAL PROPERTY.--

A. The following kinds of property shall be valued for property taxation purposes in accordance with the provisions of this section:

(1) all property used in connection with mineral property and defined in Paragraph (1) of Subsection B of Section 7-36-23 NMSA 1978 and Paragraph (1) of Subsection B of Section 7-36-25 NMSA 1978;

(2) all industrial, manufacturing, construction and commercial machinery, equipment, furniture, materials and supplies subject to valuation for property taxation purposes and not subject to valuation under the provisions of Sections 7-36-22 through 7-36-32 NMSA 1978;

(3) all other business personal property subject to valuation for property taxation purposes and not subject to valuation under the provisions of Sections 7-36-22 through 7-36-32 NMSA 1978; and

(4) construction work in progress that includes any of the items of property specified in Paragraphs (1), (2) or (3) of this subsection.

B. As used in this section:

(1) "depreciation" means the straight line method of computing the depreciation allowance over the useful life of the item of property;

(2) "useful life of the item of property" means the "class life" for same or similar kinds of property as defined and used in Section 167 of the United States Internal Revenue Code of 1954, as amended or renumbered;

(3) "other justifiable factors" includes, but is not limited to, functional and economic obsolescence;

(4) "schedule value" means a fixed value of an individual property unit within a mass of similar or like units established by determining the average unit tangible property cost of a substantial sample of such property and deducting therefrom an average related accumulated provision for depreciation per unit and an average of other justifiable factors per unit;

(5) "tangible property cost" means the actual cost of acquisition or construction of property including additions, retirements, adjustments and transfers, but without deduction of related accumulated provision for depreciation, amortization or other purposes; and

(6) "construction work in progress" means the total of the balance of work orders for property in process of construction on the last day of the preceding calendar year but does not include the equipment, machinery or devices used or available to construct such property but not incorporated therein.

C. The value of individual items of property subject to valuation under this section, except construction work in progress, shall be determined as follows:

(1) the valuation authority shall first establish the tangible property cost of each item of property;

(2) from the tangible property cost shall be deducted the related accumulated provision for depreciation and any other justifiable factors; and

(3) notwithstanding the foregoing determination of value for property taxation purposes, the value for property taxation purposes of each item of property valued under this subsection shall never be less than twelve and one-half percent of the tangible property cost of such item of property so long as the property is used and useful in a business activity.

D. Construction work in progress shall be valued at fifty percent of the actual amounts expended and entered upon the accounting records of the taxpayer as of December 31 of the preceding calendar year as construction work in progress.

E. The [department] may establish a schedule value for the same or similar kinds of property to be valued under Subsection C of this section for property taxation purposes. In arriving at a schedule value, the [department] shall:

(1) determine the average unit tangible property cost of a substantial sample of the same or similar kinds of property;

(2) such unit average tangible property cost shall then be reduced by the average related accumulated provision for depreciation per unit applicable to the sample of the same or similar kinds of property and shall then be further reduced by an average of other justifiable factors per unit applicable to the same or similar kinds of property; and

(3) from the foregoing determination, a schedule value for the same or similar kinds of property shall be determined and set forth in a regulation adopted pursuant to Section 7-38-88 NMSA 1978.

F. The [department] shall adopt a schedule value for the following kinds of property:

(1) drilling rigs; and

(2) large off-the-road highway construction equipment.

G. Each item of property having a taxable situs in the state and valued under this section shall have its net taxable value allocated to the governmental unit in which the property is located.

H. The [department] shall adopt regulations under Section 7-38-88 NMSA 1978 to implement the provisions of this section.

(Laws 1982, Chapter 28, Section 5)

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

<u>Depth Capacity in Feet</u>	<u>Value for Property Taxation Purposes</u>
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]

Regulations Pertaining To
Chapter 7, Article 37

7-37-1. PROVISIONS FOR IMPOSITION OF TAX--APPLICABILITY.--The provisions of Chapter 7, Article 37 NMSA 1978 apply to and govern the imposition of the property tax. Except for Sections 7-37-7 and 7-37-7.1 NMSA 1978, the provisions of that article do not apply to:

A. impositions or levies of taxes on specific classes of property authorized by laws outside of the Property Tax Code; and

B. special benefit assessments authorized by laws outside of the Property Tax Code.

(Laws 1986, Chapter 32, Section 7)

7-37-2. IMPOSITION OF THE TAX.--A tax is imposed upon all property subject to valuation for property taxation purposes under Article 36 of Chapter 7 NMSA 1978. The tax shall be imposed at the rates authorized and in the manner and for the purposes specified in this article.

(Laws 1982, Chapter 28, Section 6)

Error! Bookmark not defined.7-37-3. **TAX RATIO ESTABLISHED.--The tax ratio is thirty-three and one-third percent.**
(Laws 1973, Chapter 258, Section 36)

3.6.6.10 - APPLICATION OF TAX RATIO

The tax ratio is applied to the value of property determined for property taxation purposes by dividing that value by three (3). The quotient resulting from this division is the “taxable value” of the property.

[3/23/83, 12/29/94, 8/31/96; 3.6.6.10 NMAC - Rn, 3 NMAC 6.6.10, 4/30/01]

7-37-4. HEAD-OF-FAMILY EXEMPTION.--

A. Up to two thousand dollars (\$2,000) of the taxable value of residential property subject to the tax is exempt from the imposition of the tax if the property is owned by the head of a family who is a New Mexico resident or if the property is held in a grantor trust established under Sections 671 through 677 of the Internal Revenue Code, as those sections may be amended or renumbered, by a head of a family who is a New Mexico resident. The exemption allowed shall be in the following amounts for the specified property tax years:

(1) for the property tax years 1989 and 1990, the exemption shall be eight hundred dollars (\$800);

(2) for the property tax years 1991 and 1992, the exemption shall be one thousand four hundred dollars (\$1,400); and

(3) for the 1993 and subsequent tax years, the exemption shall be two thousand dollars (\$2,000).

B. The exemption shall be deducted from taxable value of property to determine net taxable value of property.

C. The head-of-family exemption shall be applied only if claimed and allowed in accordance with Section 7-38-17 NMSA 1978 and regulations of the department.

D. As used in this section, "head of a family" means an individual New Mexico resident who is either:

(1) a married person, but only one spouse in a household may qualify as a head of a family;

(2) a widow or a widower;

(3) a head of household furnishing more than one-half the cost of support of any related person;

(4) a single person, but only one person in a household may qualify as a head of family; or

(5) a member of a condominium association or like entity who pays property tax through the association.

E. A head of a family is entitled to the exemption allowed by this section only once in any tax year and may claim the exemption in only one county in any tax year even though the claimant may own property subject to valuation for property taxation purposes in more than one county.

(Laws 1993, Chapter 343, Section 1)

3.6.6.11 - HEAD OF FAMILY EXEMPTION

A. CLAIMING THE EXEMPTION: Exemptions are claimed by filing proof of eligibility for the head of family exemption with the county assessor.

B. SPECIAL BENEFIT ASSESSMENTS AND CERTAIN TAXES - EXEMPTION INAPPLICABLE: The head of family exemption is not effective against

impositions or levies of taxes on specific classes of property outside the Property Tax Code and special benefit assessments authorized by laws outside the Property Tax Code, such as conservancy district assessments.

C. **DEPENDENTS NOT REQUIRED:** A claimant is not required to have dependent children or other dependents to be entitled to the benefits of the head-of-family exemption.

D. **ABSENCE FROM STATE:** Mere absence from state does not deprive a taxpayer who is head of a family of the exemption. The qualifying taxpayer may claim the head of family exemption as long as the taxpayer does not establish residence elsewhere and intends to return to New Mexico.

E. **NONRESIDENT PROPERTY OWNER:** A property owner who is not a resident of New Mexico is not entitled to claim head of family exemption on property subject to property tax within New Mexico. A New Mexico resident is a person who is domiciled in New Mexico with a bona fide intention of continuing to reside in New Mexico even though the person may be temporarily absent from New Mexico.

F. **MILITARY PERSON CLAIMING LEGAL RESIDENCE IN ANOTHER STATE:** If a military person claims legal residence in another state for voting and other purposes although he or she physically resides in this state, the person may not claim the head of family exemption because the claim of residence in another state indicates an intent to depart New Mexico.

[3/23/83, 10/24/89, 12/29/94, 8/31/96; 3.6.6.11 NMAC - Rn, 3 NMAC 6.6.11, 4/30/01]

7-37-5. VETERAN EXEMPTION.--

A. Up to four thousand dollars (\$4,000) of the taxable value of property, including the community or joint property of husband and wife, subject to the tax is exempt from the imposition of the tax if the property is owned by a veteran or the veteran's unmarried surviving spouse if the veteran or surviving spouse is a New Mexico resident or if the property is held in a grantor trust established under Sections 671 through 677 of the Internal Revenue Code of 1986, as those sections may be amended or renumbered, by a veteran or the veteran's unmarried surviving spouse if the veteran or surviving spouse is a New Mexico resident. The exemption shall be deducted from the taxable value of the property to determine the net taxable value of the property. The exemption allowed shall be in the following amounts for the specified tax years:

(1) for tax year 2004, the exemption shall be three thousand dollars (\$3,000);

(2) for tax year 2005, the exemption shall be three thousand five hundred dollars (\$3,500); and

(3) for tax year 2006 and each subsequent tax year, the exemption shall be four thousand dollars (\$4,000).

B. The veteran exemption shall be applied only if claimed and allowed in accordance with Section 7-38-17 NMSA 1978 and regulations of the department. For taxpayers who became eligible for a veteran exemption due to the approval of the amendment to Article 8, Section 5 of the constitution of New Mexico in November 2004, a county assessor shall, at the time of determining the net taxable value of the taxpayer's property for the 2005 property tax year, in addition to complying with the provisions of Section 7-38-17 NMSA 1978, determine the net taxable value of the taxpayer's property that would result from the application of the veteran exemption for the 2004 property tax year had the deadline for applying for the veteran exemption in 2004 occurred after the amendment was certified. The veteran exemption for 2004 shall not be credited against the 2005 property value of a taxpayer until the taxpayer has paid in full the taxpayer's property tax liability for the 2004 property tax year.

C. As used in this section, "veteran" means an individual who:

(1) has been honorably discharged from membership in the armed forces of the United States; and

(2) except as provided in this section, served in the armed forces of the United States on active duty continuously for ninety days.

D. For the purposes of Subsection C of this section, a person who would otherwise be entitled to status as a veteran except for failure to have served in the armed forces continuously for ninety days is considered to have met that qualification if the person served for less than ninety days and the

reason for not having served for ninety days was a discharge brought about by service-connected disablement.

E. For the purposes of Subsection C of this section, a person has been "honorably discharged" unless the person received either a dishonorable discharge or a discharge for misconduct.

F. For the purposes of this section, a person whose civilian service has been recognized as service in the armed forces of the United States under federal law and who has been issued a discharge certificate by a branch of the armed forces of the United States shall be considered to have served in the armed forces of the United States.

(Laws 2005, Chapter 230, Section 1)

3.6.6.12 - VETERAN EXEMPTION

A. **PROPERTY TAXES AUTHORIZED BY LAWS OUTSIDE THE PROPERTY TAX CODE AND SPECIAL BENEFIT ASSESSMENTS:** The veteran exemption applies to property taxes imposed by laws other than the Property Tax Code, such as the ad valorem tax on taxable property within a hospital district Section 4-48A-16 NMSA 1978 (1987); the property tax on taxable property within a college district Section 21-2A-5 NMSA 1978 (1995); the property tax on all property subject to taxation within a flood control district Section 72-18-20 NMSA 1978 (1986); and, the general ad valorem tax on all property subject to taxation within a solid waste authority Section 74-10-27 NMSA 1978 (1993). The veteran exemption is not effective against impositions of special benefit assessments authorized by laws outside the Property Tax Code, such as conservancy district assessments.

B. **APPLICATION OF VETERAN EXEMPTION - GENERAL:**

(1) Husband and wife. Where both husband and wife are veterans within the meaning of Subsection C of Section 7-37-5 NMSA 1978, they may between them hold exempt property to the extent of \$4,000.

(2) Military relationship.

(a) The veteran's exemption contained in Section 7-37-5 NMSA 1978 requires that claimant has been honorably discharged from membership in the armed forces of the United States. A person has been "honorably discharged" if he or she has been discharged and has not received either a dishonorable discharge or a discharge for misconduct.

(b) Any veteran who did not serve at least ninety (90) days at any time during any period in which the military forces were engaged in armed conflict is not entitled to the exemption; except that a person who would otherwise be entitled to the status as a veteran except for failure to have served in the armed forces continuously for ninety days is considered to have met that qualification if the person served for less than ninety days and the reason for not having served for that period was a discharge brought about by service-connected disablement.

(c) A veteran does not lose his or her right to a veteran's exemption by re-enlisting immediately after receiving his or her honorable discharge.

(3) Residency. Pursuant to Section 7-37-5 NMSA 1978, it is required that a person be a current New Mexico resident to qualify for the veteran's exemption.

(4) Veteran's interest in property.

(a) A veteran who qualifies under Section 7-37-5 NMSA 1978, who is a life tenant of real estate, is entitled to exemption on taxation on the property in which the veteran is a life tenant.

(b) A veteran cannot claim exemption from taxation on land where the veteran holds no title to the land, either legal or equitable.

(c) If a veteran entitled to claim the exemption owns property on January 1, it remains exempt even though the veteran sells it during the year.

(d) In a joint tenancy in which one of the tenants is a veteran, if the share of a veteran's property is of the value of \$2,000 or more, the veteran's share is entitled to the full \$2,000 exemption.

(e) A veteran who has purchased property on an executory contract with legal title remaining in escrow pending the final payment under the purchase contract is the beneficial owner of the property and is the owner for purposes of taxation and may apply the exemption to the property.

(f) A veteran cannot claim exemption from taxation for his or her spouse's separate property or his or her spouse's portion of community property.

(g) A veteran cannot claim exemption from taxation when the veteran is one of the partners in a partnership, and the partnership owns the property on which the exemption is claimed.

(5) Surviving spouse.

(a) A resident unmarried surviving spouse of a veteran who died in service is entitled to the veteran's exemption.

(b) If a veteran's surviving spouse remarries and thereafter obtains a divorce from the subsequent spouse, he or she does not revert to the status of an unmarried surviving spouse entitled to claim the exemption.

(c) A surviving spouse of an eligible veteran is not, if a subsequent marriage is annulled, entitled to the exemption.

(d) An unmarried surviving spouse of a deceased veteran who is also a veteran may receive a tax exemption as veteran and also as a surviving spouse of a veteran.

(e) An unmarried surviving spouse of a veteran who at the time of the veteran's death was legally separated from the veteran is entitled to the exemption.

C. APPLICATION OF VETERAN EXEMPTION - CERTAIN TAXES AND FEES OUTSIDE PROPERTY TAX CODE:

(1) Aircraft registration fees. The veteran's exemption may not be applied to aircraft registration fees.

(2) Cattle Industry Indemnity Act. The veterans exemption may not be applied to the levy authorized by the Cattle Industry Indemnity Act or to similar taxes or assessments against only livestock or the value of livestock.

(3) Motor vehicle registration fees. Under Section 66-6-7 NMSA 1978, a veteran who has claimed any portion of the veteran's exemption on real or personal property for the year in which the veteran may be liable for the payment of a registration fee for a motor vehicle is not entitled to the reduction in rate for the motor vehicle registration fee. However, if the exemption for motor vehicle registration fees is taken prior to the claiming of the exemption on real and personal property, both exemptions may be claimed to the extent permitted by Section 7-37-5

NMSA 1978.

D. ARMED CONFLICTS PRIOR TO WORLD WAR I: The following are recognized as armed conflicts prior to World War I:

(1) Spanish American War. A Spanish American War veteran, or his or her unmarried surviving spouse is entitled to the exemption provided by Section 7-37-5 NMSA 1978.

(2) Punitive expedition into Mexico in 1916.

(a) Members of the first New Mexico infantry of the New Mexico national guard who served for ninety days or more in the punitive expedition into Mexico in 1916 are entitled to exemption under this statute.

(b) Members of national guards from other states whose outfits were simply engaged in border patrol service and were not officially assigned to the punitive expedition into Mexico in 1916 are not entitled to exemption under this statute.

(c) A veteran of the New Mexico national guard who served in the punitive expedition into Mexico in 1916, or his unmarried surviving spouse, is entitled to the veteran's exemption.

E. ACTIVITIES WHICH ARE NOT SERVICE IN THE ARMED FORCES:

(1) Medical laboratory technician. A medical laboratory technician, subject to orders of the war department, but not in uniform and not given a formal discharge when terminated from hospital service, is a civilian employee and not entitled to the veteran's exemption.

(2) Students army training corps. A claimant is not entitled to the veteran's exemption by reason of his participation in the students army training corps during World War I.

(3) Texas rangers. A Texas ranger who fought in the Indian wars or his or her unmarried surviving spouse is not entitled to veteran tax exemption.

[3/23/83, 12/29/94, 8/31/96; 3.6.6.12 NMAC - Rn & A, 3 NMAC 6.6.12, 4/30/01; A, 9/15/09]

3.6.6.13 - DISABLED VETERAN EXEMPTION

A. PROPERTY TAXES AUTHORIZED BY LAWS OUTSIDE THE PROPERTY TAX CODE AND SPECIAL BENEFIT ASSESSMENTS. The disabled veteran exemption applies to property taxes imposed by laws other than the Property Tax Code, such as the ad valorem tax on taxable property within a hospital district Section 4-48A-16 NMSA 1978 (1987); the property tax on taxable property within a college district Section 21-2A-5 NMSA 1978 (1995); the property tax on all property subject to taxation within a flood control district Section 72-18-20 NMSA 1978 (1986); and, the general ad valorem tax on all property subject to taxation within a solid waste authority Section 74-10-27 NMSA 1978 (1993). The disabled veteran exemption is not effective against impositions of special benefit assessments authorized by laws outside the Property Tax Code, such as conservancy district assessments.

B. RESIDENCY. Section 7-37-5.1 NMSA 1978 requires that the property for which the exemption is claimed must be occupied by the disabled veteran (or the disabled veteran's surviving spouse) as his or her principal place of residence. Therefore, a person claiming the disabled veteran exemption must be a current New Mexico resident to qualify for the exemption.

C. SURVIVING SPOUSE.

(1) A surviving spouse of a disabled veteran may apply for the exemption even if

the disabled veteran did not apply for the exemption during his or her lifetime if the surviving spouse meets the requirements of Subsection C of Section 7-37-5.1 NMSA 1978.

(2) After the disabled veteran's death, his or her resident unmarried surviving spouse is entitled to the disabled veteran exemption if he or she continuously occupies the property, on which the disabled veteran exemption was claimed, as the surviving spouse's principal place of residence.

(3) If a disabled veteran's surviving spouse remarries and thereafter obtains an annulment of the marriage or a divorce from the subsequent spouse, he or she does not revert to the status of an unmarried surviving spouse entitled to claim the disabled veteran exemption.

(4) An unmarried surviving spouse of a disabled veteran who at the time of the disabled veteran's death was legally separated from the veteran is entitled to the disabled veteran exemption.

D. CONTINUOUSLY OCCUPIES PRINCIPAL PLACE OF RESIDENCE.

Subsection B of Section 7-37-5.1 NMSA 1978 provides for an exemption from property tax of a disabled veteran's principal place of residence when it is occupied by the disabled veteran. Subsection C of Section 7-37-5.1 NMSA 1978 allows the surviving spouse of a disabled veteran to claim the exemption if the surviving spouse continues to occupy the property continuously as the surviving spouse's principal place of residence. "Principal place of residence" means the dwelling owned and occupied by the disabled veteran and so much of the land surrounding it, not to exceed five acres, as is reasonably necessary for use of the dwelling as a home and may consist of a part of a multidwelling or a multipurpose building and a part of the land upon which it is built. "Occupy the property continuously" means that the individual is physically present in the residence for a total of 185 days or more in aggregate during the prior year and is domiciled in New Mexico as of January 1 of the property tax year for which the exemption is claimed. The definition of "domicile" in Subsections C and D of 3.3.1.9 NMAC is incorporated herein by reference.

[3.6.6.13 NMAC - N, 9/15/09]

7-37-5.1. DISABLED VETERAN EXEMPTION.--

A. As used in this section:

(1) "disabled veteran" means an individual who:

(a) has been honorably discharged from membership in the armed forces of the United States or has received a discharge certificate from a branch of the armed forces of the United States for civilian service recognized pursuant to federal law as service in the armed forces of the United States; and

(b) has been determined pursuant to federal law to have a one hundred percent permanent and total service-connected disability; and

(2) "honorably discharged" means discharged from the armed forces pursuant to a discharge other than a dishonorable or bad conduct discharge.

B. The property of a disabled veteran, including joint or community property of the veteran and the veteran's spouse, is exempt from property taxation if it is occupied by the disabled veteran as the veteran's principal place of residence. Property held in a grantor trust established under Sections 671 through 677 of the Internal Revenue Code of 1986, as those sections may be amended or renumbered, by a disabled veteran or the veteran's surviving spouse is also exempt from property taxation if the property otherwise meets the requirements for exemption in this subsection or Subsection C of this section.

C. The property of the surviving spouse of a disabled veteran is exempt from property taxation if:

(1) the surviving spouse and the disabled veteran were married at the time of the disabled veteran's death; and

(2) the surviving spouse continues to occupy the property continuously after the disabled veteran's death as the spouse's principal place of residence.

D. Upon the transfer of the principal place of residence of a disabled veteran or of a surviving spouse of a disabled veteran entitled to and granted a disabled veteran exemption, the disabled veteran or the surviving spouse may choose to:

(1) maintain the exemption for that residence for the remainder of the year, even if the residence is transferred during the year; or

(2) remove the exemption for that residence and apply it to the disabled veteran's or the disabled veteran's surviving spouse's new principal place of residence, regardless of whether the exemption was applied for and claimed within thirty days of the mailing of the county assessor's notice of valuation made pursuant to the provisions of Section 7-38-20 NMSA 1978.

E. The exemption provided by this section may be referred to as the "disabled veteran exemption".

F. The disabled veteran exemption shall be applied only if claimed and allowed in accordance with Section 7-38-17 NMSA 1978 and the rules of the department.

G. The veterans' services department shall assist the department and the county assessors in determining which veterans qualify for the disabled veteran exemption.

(Laws 2015, Chapter 126, Section 1; Applicable to taxable years beginning on or after January 1, 2016)

7-37-5.2. VETERANS' ORGANIZATION EXEMPTION.--*The property of a veterans' organization chartered by the United States congress and that is used by a local, state or federal governmental entity for events or by nonprofit community organizations or other veterans' organizations is exempt from property taxation. The exemption provided by this section may be referred to as the "veterans' organization exemption". The veterans' organization exemption shall be applied only if claimed and allowed pursuant to Section 7-38-17 NMSA 1978 and the rules of the department. The veterans' services department shall assist the taxation and revenue department and the county assessors in determining which veterans' organizations qualify for the veterans' organization exemption.*

(Laws 2007, Chapter 167, Section 1 – NEVER BECAME EFFECTIVE)

7-37-5.3.--VETERANS' ORGANIZATION EXEMPTION.--*The property of a veterans' organization chartered by the United States congress and that is used primarily for the benefit of veterans and their families is exempt from property taxation. The exemption provided by this section may be referred to as the "veterans' organization exemption". The veterans' organization exemption shall be applied only if claimed and allowed pursuant to Section 7-38-17 NMSA 1978 and the rules of the department. The veterans' services department shall assist the taxation and revenue department and the county assessors in determining which veterans' organizations qualify for the veterans' organization exemption.*

(Laws 2011, Chapter 102, Section 1)

7-37-5.4.-- PROPERTY OWNED BY A DISABLED VETERAN IS EXEMPT FROM A SPECIAL BENEFIT ASSESSMENT.--

A. Property owned by a disabled veteran, including joint or community property of the veteran and the veteran's spouse, is exempt from the imposition of a special benefit assessment if the property is occupied by the disabled veteran as the veteran's principal place of residence. Property held in a grantor trust established under Sections 671 through 677 of the Internal Revenue Code of 1986, as those sections may be amended or renumbered, by a disabled veteran or the veteran's surviving spouse is also exempt from the imposition of a special benefit assessment if the property otherwise meets the requirements for exemption in this subsection or Subsection B of this section.

B. The property of the surviving spouse of a disabled veteran is exempt from the imposition of a special benefit assessment if:

(1) the surviving spouse and the disabled veteran were married at the time of the disabled veteran's death;

(2) the surviving spouse continues to occupy the property continuously after the disabled veteran's death as the spouse's principal place of residence; and

(3) the surviving spouse has remained unmarried since the time of the disabled veteran's death.

C. For purposes of this section:

(1) "disabled veteran" means an individual who:

(a) has been honorably discharged from membership in the armed forces of the United States or has received a discharge certificate from a branch of the armed forces of the United States for civilian service recognized pursuant to federal law as service in the armed forces of the United States; and

(b) has been determined pursuant to federal law to have a one hundred percent permanent and total service-connected disability;

(2) "honorably discharged" means discharged from the armed forces pursuant to a discharge other than a dishonorable or bad conduct discharge; and

(3) "special benefit assessment" means an assessment or levy authorized by law for benefits, damages, construction, improvements or maintenance on property that is specially benefited by the benefits, damages, construction, improvements or maintenance; and includes an assessment or levy authorized by The Conservancy Act of New Mexico, the Public Improvement District Act, the Tax Increment for Development Act and other similar laws outside the Property Tax Code.

(Laws 2015, Chapter 115, Section 1)

**7-37-6. RATE OF TAX CUMULATIVE--DETERMINATION--
GOVERNMENTAL UNITS' ENTITLEMENT TO TAX.--**

A. The rate of the tax is cumulative and shall be determined for application against any property in a tax year by adding all of the rates authorized by this article and set by the department of finance and administration for the use of the governmental units to which the net taxable value of the property is allocated.

B. Each governmental unit that is authorized a rate under this article is entitled to that portion of the tax collected by applying the governmental unit's rate set for the tax year to the net taxable value of property allocated to the governmental unit.

C. For the purposes of this section and Section [7-37-7 NMSA 1978], the net taxable value of all property subject to the tax is considered allocated to the state when determining or applying tax rates authorized for the use of the state.

(Laws 1973, Chapter 258, Section 39)

7-37-7. TAX RATES AUTHORIZED--LIMITATIONS.--

A. The tax rates specified in Subsection B of this section are the maximum rates that may be set by the department of finance and administration for the use of the stated governmental units for the purposes stated in that subsection. The tax rates set for residential property for county, school district or municipal general purposes or for the purposes authorized in Paragraph (2) of Subsection C of this section shall be the same as the tax rates set for nonresidential property for those governmental units for those purposes unless different rates are required because of limitations imposed by Section 7-37-7.1 NMSA 1978. The department of finance and administration may set a rate at less than the maximum in any tax year. In addition to the rates authorized in Subsection B of this section, the department of finance and administration shall also determine and set the necessary rates authorized in Subsection C of this section. The tax rates authorized in Paragraphs (1) and (3) of Subsection C of this section shall be set at the same rate for both residential and nonresidential property. Rates shall be set after the governmental units' budget- making and approval process is completed and shall be set in accordance with Section 7-38-33 NMSA 1978. Orders imposing the rates set for all units of government shall be made by the boards of county commissioners after rates are set and certified to the boards by the department of finance and administration. The department of finance and administration shall also certify the rates set for nonresidential property in governmental units to the department for use in collecting taxes imposed under the Oil and Gas Ad Valorem Production Tax Act, the Oil and Gas Production Equipment Ad Valorem Tax Act and the Copper Production Ad Valorem Tax Act.

B. The following tax rates for the indicated purposes are authorized:

(1) for the use of each county for general purposes for the 1987 and subsequent property tax years, a rate of eleven dollars eighty-five cents (\$11.85) for each one thousand dollars (\$1,000) of net taxable value of both residential and nonresidential property allocated to the county;

(2) for the use of each school district for general operating purposes, a rate of fifty cents (\$.50) for each one thousand dollars (\$1,000) of net taxable value of both residential and nonresidential property allocated to the school district; and

(3) for the use of each municipality for general purposes for the 1987 and subsequent property tax years, a rate of seven dollars sixty-five cents (\$7.65) for each one thousand dollars (\$1,000) of net taxable value of both residential and nonresidential property allocated to the municipality.

C. In addition to the rates authorized in Subsection B of this section, there are also authorized:

(1) those rates or impositions authorized under provisions of law outside of the Property Tax Code that are for the use of the governmental units indicated in those provisions and are for the stated purpose of paying

principal and interest on a public general obligation debt incurred under those provisions of law;

(2) those rates or impositions authorized under provisions of law outside of the Property Tax Code that are for the use of the governmental units indicated in those provisions, are for the stated purposes authorized by those provisions and have been approved by the voters of the governmental unit in the manner required by law; and

(3) those rates or impositions necessary for the use of a governmental unit to pay a tort or worker's compensation judgment for which a county, municipality or school district is liable, subject to the limitations in Subsection B of Section 41-4-25 NMSA 1978, but no rate or imposition shall be authorized to pay any judgment other than one arising from a tort or worker's compensation claim.

D. The rates and impositions authorized under Subsection C of this section shall be on the net taxable value of both residential and nonresidential property allocated to the unit of government specified in the provisions of the other laws.

(Laws 1990, Chapter 125, Section 5)

3.6.6.14 - TAX RATES AUTHORIZED - LIMITATIONS

A. **CEDING PROHIBITED:** Ceding of authorized rates by one governmental unit to another is prohibited.
[3/23/83, 10/2/92, 12/29/94, 8/31/96; 3.6.6.14 NMAC - Rn & A, 3 NMAC 6.6.14, 4/30/01]

7-37-7.1. ADDITIONAL LIMITATIONS ON PROPERTY TAX RATES.--

A. Except as provided in Subsections D and E of this section, in setting the general property tax rates for residential and nonresidential property authorized in Subsection B of Section 7-37-7 NMSA 1978, the other rates and impositions authorized in Paragraphs (2) and (3) of Subsection C of Section 7-37-7 NMSA 1978, except the portion of the rate authorized in Paragraph (1) of Subsection A of Section 4-48B-12 NMSA 1978 used to meet the requirements of Section 4 of the Statewide Health Care Act, and benefit assessments authorized by law to be levied upon net taxable value of property, assessed value or a similar term, neither the department of finance and administration nor any other entity authorized to set or impose a rate or assessment shall set a rate or impose a tax or assessment that will produce revenue from residential and nonresidential property in a particular governmental unit in excess of a dollar amount derived by multiplying the growth control factor by the revenue due from the imposition on residential and nonresidential property for the prior property tax year in the governmental unit of the rate, imposition or assessment for the specified purpose. The calculation described in this subsection shall be separately applied to residential and nonresidential property. Except as provided in Subsections D and E of this section, no tax rate or benefit assessment that will produce revenue from either class of property in a particular governmental unit in excess of the dollar amount allowed by the calculation shall be set or imposed. The rates imposed pursuant to Sections 7-32-4 and 7-34-4 NMSA 1978 shall be the rates for nonresidential property that would have been imposed but for the limitations in this section. As used in this section, "growth control factor" is a percentage equal to the sum of "percent change I" plus V where:

(1) $V = \frac{(\text{base year value} + \text{net new value})}{\text{base year value}}$

expressed as a percentage, but if the percentage calculated is less than one hundred percent, then V shall be set and used as one hundred percent.

(2) "base year value" means the value for property taxation purposes of all residential and nonresidential property subject to valuation under the Property Tax Code in the governmental unit for the specified purpose in the prior property tax year;

(3) "net new value" means the additional value of residential and nonresidential property for property taxation purposes placed on the property tax schedule in the current year resulting from the elements in Subparagraphs (a) through (d) of this paragraph reduced by the value of residential and nonresidential property removed from the property tax schedule in the current year and, if applicable, the reductions described in Subparagraph (e) of this paragraph:

(a) residential and nonresidential property valued in the current year that was not valued at all in the prior year;

(b) improvements to existing residential and nonresidential property;

(c) additions to residential and nonresidential property or values that were omitted from previous years' property tax schedules even if part or all of the property was included on the schedule, but no additions of values attributable to valuation maintenance programs or reappraisal programs shall be included;

(d) additions due to increases in annual net production values of mineral property valued in accordance with Section 7-36-23 or 7-36-25 NMSA 1978 or due to increases in market value of mineral property valued in accordance with Section 7-36-24 NMSA 1978; and

(e) reductions due to decreases in annual net production values of mineral property valued in accordance with Section 7-36-23 or 7-36-25 NMSA 1978 or due to decreases in market value of mineral property valued in accordance with Section 7-36-24 NMSA 1978; and

(4) "percent change I" means a percent not in excess of five percent that is derived by dividing the annual implicit price deflator index for state and local government purchases of goods and services, as published in the United States department of commerce monthly publication entitled "survey of current business" or any successor publication, for the calendar year next preceding the prior calendar year into the difference between the prior year's comparable annual index and that next preceding year's annual index if that difference is an increase, and if the difference is a decrease, the "percent change I" is zero. In the event that the annual implicit price deflator index for state and local government purchases of goods and services is no longer prepared or published by the United States department of commerce, the department shall adopt by regulation the use of any comparable index prepared by any agency of the United States.

B. If, as a result of the application of the limitation imposed under Subsection A of this section, a property tax rate for residential and nonresidential property authorized in Subsection B of Section 7-37-7 NMSA 1978 is reduced below the maximum rate authorized in that subsection, no governmental unit or entity authorized to impose a tax rate under Paragraph (2) of Subsection C of Section 7-37-7 NMSA 1978 shall impose any portion of the rate representing the difference between a maximum rate authorized under Subsection B of Section 7-37-7 NMSA 1978 and the reduced rate resulting from the application of the limitation imposed under Subsection A of this section.

C. If the net new values necessary to make the computation required under Subsection A of this section are not available for any governmental unit at the time the calculation must be made, the department of finance and administration shall use a zero amount for net new values when making the computation for the governmental unit.

D. Any part of the maximum tax rate authorized for each governmental unit for residential and nonresidential property by Subsection B

of Section 7-37-7 NMSA 1978 that is not imposed for a governmental unit for any property tax year for reasons other than the limitation required under Subsection A of this section may be authorized by the department of finance and administration to be imposed for that governmental unit for residential and nonresidential property for the following tax year subject to the restriction of Subsection D of Section 7-38-33 NMSA 1978.

E. If the base year value necessary to make the computation required under Subsection A of this section is not available for any governmental unit at the time the calculation must be made, the department of finance and administration shall set a rate for residential and nonresidential property that will produce in that governmental unit a dollar amount that is not in excess of the property tax revenue due for all property for the prior property tax year for the specified purpose of that rate in that governmental unit.

F. For the purposes of this section, "nonresidential property" does not include any property upon which taxes are imposed pursuant to the Oil and Gas Ad Valorem Production Tax Act or the Oil and Gas Production Equipment Ad Valorem Tax Act or the Copper Production Ad Valorem Tax Act.

(Laws 1994, Chapter 111, Section 4)

3.6.6.14 - TAX RATES AUTHORIZED - LIMITATIONS

B. RATES SUBJECT TO YIELD CONTROL:

(1) Every rate or imposition authorized under Paragraph (2) or (3) of Subsection C of Section 7-37-7 NMSA 1978 and every benefit assessment authorized by law is subject to the provisions of Section 7-37-7.1 NMSA 1978 except for:

(a) any rate, imposition or benefit assessment specifically exempted by law from the provisions of Section 7-37-7.1 NMSA 1978;

(b) any rate or imposition of an assessment for the payment of a definite amount for a specific benefit;

(c) any rate not imposed against the value of the property.

(2) Example 1: The following rates, impositions and benefit assessments are some of the rates subject to the provisions of Section 7-37-7.1 NMSA 1978:

(a) the rates for general operating purposes authorized under Subsection B of Section 7-37-7 NMSA 1978;

(b) the municipal flood control rate authorized by Section 3-41-2 NMSA 1978;

(c) the special hospital district rate authorized by Section 4-48A-16 NMSA 1978;

(d) the rates for branch community colleges authorized by Sections 21-14-6 and 21-14-6.1 NMSA 1978;

(e) the rate for technical and vocational institutes authorized by Section 21-16-12 NMSA 1978; and

(f) the portion of an assessment for general operations of a conservancy district authorized by Items 3 and 4 of Subsection A of Section 73-18-8 NMSA 1978 to be imposed against Class B property.

(3) Example 2: The following rates, impositions and benefit assessments are not subject to the provisions of Section 7-37-7.1 NMSA 1978 because they are specifically exempted:

(a) rates used to pay principal and interest on public general obligation debt, which includes rates authorized to guarantee payment of indebtedness such as the rate authorized by Section 73-16-42 NMSA 1978 for a “guarantee fund”; and

(b) the portion of the rate authorized for Class A counties in Paragraph (1) of Subsection A of Section 4-48B-12 NMSA 1978 to meet the requirements of the Statewide Health Care Act but the rest of the rate is subject to Section 7-37-7.1 NMSA 1978.

(4) Example 3: Some rates are imposed to pay, or to reimburse a public entity the amount of, a specific sum for a benefit to the persons upon whom the rate is levied. Such impositions are not subject to the provisions of Section 7-37-7.1 NMSA 1978 because the rate necessary is calculated by dividing the fixed amount to be raised by the net taxable value or taxable value of the property against which the rate is imposed. The necessary rate varies inversely with changes in net taxable value or taxable value. Thus the result achieved by yield control is achieved without its application. Further, application of the provisions of Section 7-37-7.1 NMSA 1978 in such cases would produce a revenue insufficient to meet the purposes of the imposition, possibly impairing contracts. Examples of such rates are:

(a) the assessment for county improvement districts authorized by Section 4-55A-17 NMSA 1978;

(b) the assessment for drainage districts authorized by Section 73-7-14 NMSA 1978; and

(c) the assessment for conservancy districts authorized by Item 2 of Subsection A of Section 73-18-8 NMSA 1978 for amounts due under contract with the United States.

(5) Example 4: Rates not subject to the provisions of Section 7-37-7.1 NMSA 1978 because they are imposed on a basis other than the value of the property include:

(a) an assessment for business improvement districts authorized by Section 3-63-13 NMSA 1978 when imposed on a square footage, street frontage or similar basis; and

(b) the portion of an assessment for general operations of a conservancy district authorized by Items 3 and 4 of Subsection A of Section 73-18-8 NMSA 1978 to be imposed against Class A property when assessed on a per acre basis.

[3/23/83, 10/2/92, 12/29/94, 8/31/96; 3.6.6.14 NMAC - Rn & A, 3 NMAC 6.6.14, 4/30/01]

7-37-8. SCHOOL TAX RATES.--No later than August 15 of each year, the state department of public education shall submit to the secretary of finance and administration the property tax rates for the succeeding tax year for each school district and the commission on higher education shall submit to the secretary of finance and administration the property tax rates for the succeeding tax year for each technical and vocational district, area vocational school district, junior college district and branch community college district. The rates required to be submitted pursuant to this section shall separately state by county and by school district the rate to be levied for operational purposes and the rate to be levied for principal and interest on general obligation bonds issued by the district.

(Laws 1988, Chapter 64, Section 1)

Regulations Pertaining To
Chapter 7, Article 38

**7-38-1. APPLICABILITY.--This article applies to the administration and enforcement of all taxes imposed under the Property Tax Code.
(Laws 1973, Chapter 258, Section 41)**

3.6.7.8 - TAXES IMPOSED UNDER THE PROPERTY TAX CODE - APPLICABILITY OF ADMINISTRATION AND ENFORCEMENT PROVISIONS

A. The taxes imposed under the Property Tax Code are those taxes imposed pursuant to Article 37 of Chapter 7, NMSA 1978 and do not include taxes to which the provisions of Article 37 do not apply.

B. The administration and enforcement provisions of this article apply to impositions or levies of taxes on specific classes of property authorized by laws outside the Property Tax Code, special benefit assessments authorized by laws outside the Property Tax Code and to laws outside the Property Tax Code authorizing the imposition of levies to pay tort or workers compensation judgments but only to the extent that laws outside the Property Tax Code so provide.

[3/23/83, 12/29/94, 8/31/96; 3.6.7.8 NMAC - Rn & A, 3 NMAC 6.7.8, 4/30/01]

7-38-2. INVESTIGATIVE AUTHORITY AND POWERS. --

A. The director may issue subpoenas, returnable in not less than ten days, to require the production of any pertinent records or to require any person to appear and testify under oath concerning the subject matter of an inquiry for the purposes of:

(1) determining whether property is subject to property taxation;

(2) establishing or determining the value of any property for property taxation purposes;

(3) determining the extent of liability for and the amount of any property tax due from any person; and

(4) enforcing any statute administered by the department or administered by county officers under the supervision of the department.

B. At any time after the service of a subpoena and prior to its return date, a person to whom a subpoena is issued may file an action in the district court to quash the subpoena on the grounds that it was improperly issued.

C. In order to carry out their respective responsibilities under the Property Tax Code, county assessors and their employees and the director and employees of the department may at reasonable times and after displaying identity credentials:

(1) with the permission of a property owner or his authorized agent, examine those records that relate to the valuation of the property; and

(2) with the permission of a property owner or his authorized agent, enter or inspect any property that is subject to valuation for property taxation purposes.

D. If a person fails to appear, produce records or refuses to testify in response to a subpoena issued under Subsection A [of this section] or if a person refuses permission to allow examination of records, entry or inspection of property authorized under Subsection C [of this section], the director, or the county assessor in the case where he or his employees have been refused examination, entry or inspection, may invoke the aid of the district court by filing an action to require appearance or testimony or to allow examination, entry or inspection. The court may after notice, hearing and good cause shown require the person to appear and testify, to produce records, to allow examination of records or to allow entry or inspection of property. If the person fails to comply with the court's order, the court may punish him for contempt.

(Laws 1973, Chapter 258, Section 42)

3.6.7.9 - INVESTIGATIVE AUTHORITY AND POWERS

A. SUBPOENA POWER IN AID OF COUNTY ASSESSORS: The secretary may issue subpoenas for the purposes of determining whether property is subject to property

taxation, its value and the amount of any property taxes due and in enforcing any statute administered by the division or administered by county officers under the supervision of the division regardless of whether it is the division or the county assessor who is charged by law with the responsibility to determine the value of the property in question.

B. FAILURE TO PERMIT EXAMINATION OF RECORDS OR INSPECTION OF PROPERTY: Refusal by a property owner or the owner's authorized agent to permit lawful examinations of records or inspection of property pursuant to Subsection C of Section 7-38-2 NMSA 1978 may result in the issuance of subpoenas to require the production of records and to require persons to appear and testify under oath pursuant to Subsection A of Section 7-38-2 NMSA 1978.

[3/23/83, 12/29/94, 8/31/96; 3.6.7.9 NMAC - Rn & A, 3 NMAC 6.7.9, 4/30/01]

7-38-3. INFORMATION REPORTS.--For the purpose of establishing or determining the value of property for property taxation purposes, the director may promulgate regulations requiring any property owner or his authorized agent to report information concerning the property to the department or the county assessor at the times and in the manner required by the director. (Laws 1973, Chapter 258, Section 43)

3.6.7.10 - INFORMATION REPORTS

A. PROPERTY OWNER OR OWNER'S AUTHORIZED AGENT TO REPORT INFORMATION CONCERNING THE PROPERTY TO THE DIVISION OR THE COUNTY ASSESSOR: Upon the request of the department or the county assessor for establishing the value of property for property taxation purposes, any property owner or the owner's authorized representative shall report information concerning the property to the division or the county assessor at the times and in the manner requested. Refusal by a property owner or the owner's authorized agent to respond adequately to such a request for information may result in the issuance of subpoenas to require the production of records and to require persons to appear and testify under oath pursuant to Subsection A of Section 7-38-2 NMSA 1978. The reports required pursuant to this subsection shall be in addition to any reports otherwise required pursuant to the Property Tax Code.

B. INFORMATION REPORTS FROM LESSORS: For the purposes of establishing or determining the value of property for property taxation purposes, the department may require in-state or out-of-state lessors of tangible personal property located in New Mexico to provide information reports to the division and to the county assessor of the county in which the property is located. Refusal to submit these reports may result in initiation of enforcement actions authorized under the Property Tax Code.

[3/23/83, 12/29/94, 8/31/96; 3.6.7.10 NMAC - Rn & A, 3 NMAC 6.7.10, 4/30/01]

7-38-4. CONFIDENTIALITY OF INFORMATION. --

A. Except as specifically authorized in this section or as otherwise provided by law, it is unlawful for the secretary, any employee or any former employee of the department to reveal to any person other than the secretary, an employee of the department, a county assessor or an employee of a county assessor any information gained during his employment about a specific property or a property taxpayer gained as a result of a report or information furnished the department or a county assessor by a taxpayer or as a result of an examination of property or records of a taxpayer. Except as specifically authorized in this section or as otherwise provided by law, it is unlawful for any county assessor or any employee or former employee of a county assessor to reveal to any person other than county assessors or their employees or the secretary or an employee of the department any information furnished by the department about a specific property or property owner or any other information gained during that person's employment about a specific property or a specific property taxpayer gained as a result of a report or information furnished the department or a county assessor by a taxpayer or as a result of an examination of property or records of a taxpayer. Information described in this subsection may be released:

(1) that is limited to the information contained in those valuation records that are public records and the identity of the owner or person in possession of the property;

(2) to an authorized representative of another state; provided that the receiving state has entered into a written agreement with the department to use the information for tax purposes only;

(3) to a state district or appellate court or a federal court or county valuation protests board:

(a) in response to an order made in an action relating to taxation in which the state or a governmental unit is a party and in which the information is material to the inquiry; or

(b) in any action in which the department or a county is attempting to enforce the provisions of the Property Tax Code or to collect a property tax or in any matter in which the taxpayer has put the taxpayer's own property valuation or liability for taxes at issue;

(4) to the property owner or a representative authorized in writing by the owner to obtain the information;

(5) if used for statistical purposes in a way that the information revealed is not identified or identifiable as applicable to any property owner or person in possession of the property;

(6) to a representative of the secretary of the treasury or the secretary's delegate pursuant to the terms of a reciprocal agreement entered into with the federal government for exchange of such information; or

(7) to the multistate tax commission or its authorized representative; provided that the information is used for tax purposes only and

is disclosed by the multistate tax commission only to states which have met the requirements of Paragraph (2) of this subsection.

B. The secretary, any employee or any former employee of the department or any other person subject to the provisions of this section who willfully releases information in violation of this section is guilty of a misdemeanor and shall be fined not more than one thousand dollars (\$1,000) or imprisoned for a definite term of less than one year or both. Any person convicted of a violation of this section shall not be employed by the state for a period of five years after the date of conviction.

(Laws 1991, Chapter 166, Section 7)

3.6.7.11 - CONFIDENTIALITY OF INFORMATION

A. INSPECTION OF PUBLIC RECORDS LAW: The provisions of Section 7-38-4 NMSA 1978 constitute an exception to Section 14-2-1 NMSA 1978 which provides for the inspection of public records.

B. REQUESTS FOR INFORMATION: All requests for information, including requests for information to be used for statistical purposes, which may lawfully be released by the department must conform to the requirements of the Inspection of Public Records Act. Requests must be sufficiently specific to identify the property or properties to which the request relates.

C. INFORMATION WHICH MAY BE RELEASED BY THE DEPARTMENT: Pursuant to a request in compliance with Subsection B of 3.6.7.11 NMAC, any information associated with the property required by law to be contained in the valuation records may be released, except as provided otherwise by Subsection E of Section 7-38-19 NMSA 1978.

[3/23/83, 12/29/94, 8/31/96; 3.6.7.11 NMAC - Rn & A, 3 NMAC 6.7.11, 4/30/01]

7-38-6. PRESUMPTION OF CORRECTNESS.--Values of property for property taxation purposes determined by the [department] or the county assessor are presumed to be correct. Determinations of tax rates, classification, allocations of net taxable values of property to governmental units and the computation and determination of property taxes made by the officer or agency responsible therefor under the Property Tax Code are presumed to be correct.

(Laws 1981, Chapter 37, Section 67)

3.6.7.13 - EFFECT OF THE PRESUMPTION OF CORRECTNESS

A. To overcome the presumption of correctness provided in Section 7-38-6 NMSA 1978, the taxpayer has the burden of coming forward with evidence showing that values for property taxation purposes determined by the division or the county assessor or determination of tax rates, classifications, allocations of net taxable values of property to governmental units and the computation and determination of property taxes made by the officer or agency responsible therefor under the Property Tax Code are incorrect. Failure to present evidence tending to dispute the factual correctness of the above determinations in any hearing pursuant to the provisions of the Property Tax Code may result in a denial of relief sought by a taxpayer.

B. Where the only evidence presented by the taxpayer is the purchase price of the property which is the subject of the dispute over value for tax purposes and the evidence of comparable sales indicates the sales price was not the market value, the presumption of correctness of the determination of the division or the county assessor is not overcome.

C. Once the presumption of correctness is overcome, the burden of showing a correct valuation shifts to the division or to the county assessor.

[3/23/83, 12/29/94, 8/31/96; 3.6.7.13 NMAC - Rn & A, 3 NMAC 6.7.13, 4/30/01]

**7-38-7. VALUATION DATE.-- All property subject to valuation for property taxation purposes shall be valued as of January 1 of each tax year, except that livestock shall be valued as of the date and in the manner prescribed under Section 7-36-21 NMSA 1978 and tangible personal property of construction contractors shall be valued as of the date and in the manner prescribed under Section 1 of this act.
(Laws 1997, Chapter 68, Section 2)**

3.6.7.14 - VALUATION DATE

A. TAXABLE STATUS OF PROPERTY FIXED AS OF JANUARY 1 OF EACH YEAR: January 1 of each year is the date which determines the tax status of all property subject to valuation for property taxation purposes, except livestock valued as of the date and in the manner prescribed under Section 7-36-21 NMSA 1978. This status includes determination of whether the property is exempt from property taxation. Therefore, if property is not entitled to exemption from property taxation under the Property Tax Code on January 1 of the tax year, it is not exempted from taxation for that tax year. The sale or transfer of the property to a tax exempt owner at a later date during the tax year does not entitle the property to exemption for that tax year.

B. PROPERTY DESTROYED OR IMPROVED DURING THE YEAR: If property is destroyed or improved during the year, any resulting increase or decrease in valuation will not be reflected until January 1 of the following year, and no correction, reassessment, or proration of taxes is authorized because of such increase or decrease in valuation.
[3/23/83, 12/29/94, 8/31/96; 3.6.7.14 NMAC - Rn & A, 3 NMAC 6.7.14, 4/30/01]

**7-38-7.1. VALUATION DATE--TANGIBLE PERSONAL PROPERTY--
CONSTRUCTION CONTRACTORS.--**

A. All tangible personal property of construction contractors located in the state shall be valued for property taxation purposes as of January 1, except as provided in Subsection B of this section.

B. All tangible personal property of construction contractors not located in the state on January 1 but brought into the state and located there for more than twenty days subsequent to January 1 shall be valued for property taxation purposes as of the first day of the month following the month in which they have remained in the state for more than twenty days.

C. The construction contractor whose tangible personal property is subject to valuation for property taxation purposes shall report the property for valuation to the entity having responsibility for valuation of the property in accordance with Section 7-36-2 NMSA 1978 on the valuation date specified in Subsection A or B of this section and shall include in the report the actual or estimated time period during which the property has been and will be located in the state. The contractor's report shall be in a form and contain the information required by the department regulations and shall be made no later than:

(1) the last day of February for tangible personal property required to be valued as of the first day of January of the tax year; or

(2) ten days after the valuation date determined under Subsection B of this section for tangible personal property required to be valued as of a date other than that in Paragraph (1) of this subsection.

D. The department shall adopt regulations for the allocation of the value of tangible personal property of construction contractors, which regulations shall provide for:

(1) a basic allocation formula that prorates value on the basis of the amount of time that the tangible personal property is in the state and subject to valuation for property taxation purposes;

(2) determining proration of value under Paragraph (1) of this subsection using estimates of the amount of time that the tangible personal property will be in the state to cover those situations in which tangible personal property is imported for an indeterminate time during a tax year; and

(3) a method of allocating the value of the tangible personal property among different governmental units when the tangible personal property is located in more than one governmental unit.

E. Any person who intentionally refuses to make a report required of him under this section or who knowingly makes a false statement in a report required under this section is guilty of a misdemeanor and shall be punished by imposition of a fine of not more than one thousand dollars (\$1,000).

F. Any person who fails to make a report required of him under this

section is liable for a civil penalty in an amount equal to five percent of the property taxes ultimately determined to be due on the property for the tax year or years for which he failed to make the required report.

G. Any person who intentionally refuses to make a report required of him under this section with the intent to evade any tax or who fails to make a report required of him under this section with the intent to evade any tax is liable for a civil penalty in an amount equal to twenty-five percent of the property taxes ultimately determined to be due on the property for the tax year or years for which he refused or failed to make the required report.

H. The civil penalties authorized under Subsections F and G of this section shall be imposed and collected at the time and in the manner that the tax is imposed and collected. In order to assist in the imposition and collection of the penalties, the person having responsibility for determining the value of the property shall make an entry in the valuation records indicating the liability for any penalties due under this section.

(Laws 1997, Chapter 68, Section 1)

7-38-8. REPORTING OF PROPERTY FOR VALUATION--PENALTIES FOR FAILURE TO REPORT.--

A. All property subject to valuation for property taxation purposes by the department shall be reported annually to the department. The report required by this subsection shall be made by the owner of the property or such other person as may be authorized by rules of the department. The report shall be in a form and contain the information required by rules of the department. It shall be made not later than the last day of February in the tax year in which the property is subject to valuation. Claims of economic obsolescence or functional obsolescence on properties not regulated by the federal government shall be made at the time the annual report is filed; however, the department shall accept supplements to the annual report containing claims of economic obsolescence or functional obsolescence on properties regulated by the federal energy regulatory commission or its successor agency at the time the annual commission report becomes available, but no later than April 15 of the tax year or at a later time allowed by an extension granted by the department. In the case of the failure or refusal to file the report required under this subsection, the department shall determine the value of the property subject to valuation from the best information available.

B. Except as provided in Subsection D of this section, all property subject to valuation for property taxation purposes by the county assessor shall be reported as follows:

(1) property valued in the 1974 tax year by the county assessor need not be reported for any subsequent tax year unless required to be reported under Paragraph (3) of this subsection;

(2) property not valued in the 1974 tax year by the county assessor but that becomes subject to valuation by the county assessor in any subsequent tax year shall be reported to the county assessor not later than the last day of February of the tax year in which it becomes subject to valuation, but such property need not be reported for any year subsequent to the year in which initially reported unless required to be reported under Paragraph (3) of this subsection;

(3) property once valued by a county assessor in a tax year, but which is not valued for a year subsequent to the year of initial valuation because it is not subject to valuation for that subsequent year by the county assessor, shall be reported to the county assessor not later than the last day of February in a tax year in which it again becomes subject to valuation by the county assessor; and

(4) reports required under Paragraphs (2) and (3) of this subsection shall be in a form and contain the information required by rules of the department.

C. Not later than the last day of February of each tax year, every owner of real property who made, or caused to be made, in the preceding calendar year improvements costing more than ten thousand dollars (\$10,000) to that real property shall report to the county assessor the property improved, the improvements made, the cost of the improvements and such other information as the department may require.

D. Manufactured homes, livestock and land used for agricultural purposes shall be reported for valuation for property taxation purposes to the county assessor at the times and in the manner prescribed under Sections 7-36-26, 7-36-21 and 7-36-20 NMSA 1978 and rules promulgated by the department.

E. Property subject to valuation by the county assessor for property taxation purposes and improvements to such property that are required to be reported under Subsection C of this section shall be reported to the county assessor of the county in which the property is required to be valued under Section 7-36-14 NMSA 1978. Reports shall be made either by the owner of the property, the owner's authorized agent or any person having control or management of the property and shall be in a form and contain the information required by rules of the department.

F. Reports required by this section shall be made by the declarant under oath, and the secretary, employees of the department, the assessor and the assessor's employees are empowered to administer oaths for this purpose.

G. A person who intentionally refuses to make a report required under the provisions of Subsection A, B or C of this section or who knowingly makes a false statement in a report required under the provisions of Subsection A, B or C of this section is guilty of a misdemeanor and upon conviction shall be punished by the imposition of a fine of not more than one thousand dollars (\$1,000).

H. A person who fails to make a report required under the provisions of Subsection A or B of this section is liable for a civil penalty in an amount equal to five percent of the property taxes ultimately determined to be due on the property for the tax year or years for which the person failed to make the required report.

I. A person who intentionally refuses to make a report required under the provisions of Subsection A or B of this section with the intent to evade any tax or who fails to make a report required under the provisions of Subsection A or B of this section with the intent to evade any tax is liable for a civil penalty in an amount equal to twenty-five percent of the property taxes ultimately determined to be due on the property for the tax year or years for which the person refused or failed to make the required report.

J. A person who is required to make a report under the provisions of Subsection C of this section and who fails to do so is personally liable for a civil penalty in an amount equal to the greater of twenty-five dollars (\$25.00) or twenty-five percent of the difference between the property taxes ultimately

determined to be due and the property taxes originally paid for the tax year or years for which the person failed to make the required report. This penalty shall not be considered a delinquent property tax, and the provisions of the Property Tax Code for the enforcement and collection of delinquent property taxes through the sale of the property do not apply. However, the county treasurer may use all other methods provided by law to collect the property tax or penalty due. Notwithstanding any other provision of the Property Tax Code, amounts collected pursuant to the penalty provided by this subsection shall be distributed among jurisdictions imposing tax on the property in the same proportion as the amount of tax ultimately determined to be due for the jurisdiction bears to the total due for all such jurisdictions.

K. The civil penalties authorized under Subsections H and I of this section shall be imposed and collected at the time and in the manner that the tax is imposed and collected. In order to assist in the imposition and collection of the penalties, the persons having responsibility for determining the value of the property shall make an entry in the valuation records indicating the liability for any penalties due under this section.

L. For the purposes of this section:

(1) "improvement" means the construction of any new structure permanently affixed to the land or the repair, rehabilitation or alteration of an existing structure permanently affixed to the land that, for property used for any commercial purpose, is required or allowed to be capitalized under the Internal Revenue Code and, for other properties, any similar construction, repair, rehabilitation or alteration; and

(2) "owner of real property" includes every owner of improvements who does not own the land upon which the improvements are made.

(Laws 2007, Chapter 273, Section 2)

3.6.7.15 - REPORTING OF PROPERTY FOR VALUATION - PENALTIES FOR FAILURE TO REPORT

A. ANNUAL REPORT TO THE DIVISION - FORM AND REQUIRED INFORMATION:

(1) The report required by Subsection A of Section 7-38-8 NMSA 1978 shall be made by the owner of the property or any other person who has written authorization from the owner to make the report on behalf of the owner.

(2) In the case of mineral property valued pursuant to Sections 7-36-23 through 7-36-25 NMSA 1978, the operator of the mineral property may be required to report the property rather than the owner of the property.

(3) The report shall be made on a form or forms approved by the division and shall contain all information required by the division to determine:

(a) the value of the property pursuant to the Property Tax Code and these regulations;

(b) the identification of the property; and
(c) the owner or person in possession of the property.

(4) The form may require the attachment of copies of reports made to other agencies or departments of the state of New Mexico or agencies or departments of the United States.

(5) Additionally, all railroad companies shall submit, on a yearly basis, a report of operations for the preceding year containing the following information:

(a) copies of all New Mexico right-of-way maps;
(b) complete legal description of all land parcels which are located in New Mexico, along with plats, if available; and

(c) a statement setting forth, by individual counties, the total acreage of New Mexico real property and right of way.

B. PROPERTY NOT VALUED IN THE TAX YEAR WHICH AGAIN BECOMES SUBJECT TO VALUATION - REPORT: The report required under Subsection B of Section 7-38-8 NMSA 1978 shall include:

(1) the property owner's name and address;
(2) the description of the property valued such that, if the description were included in a deed to the property, title would pass;

(3) the description of any improvements on the property;
(4) the cost of the land, as evidenced by the most recent sale of the land, and the date of sale;

(5) the cost of the improvements, as evidenced by the most recent sale of the improvements, and the date of sale;

(6) the dates and reason for which the property was not previously subject to valuation; and

(7) the date and reason for which the property again became subject to valuation.

C. REPORTS TO COUNTY ASSESSOR:

(1) Reports required under Subsection E of Section 7-38-8 NMSA 1978 shall be made either by the owner of the real or personal property or by any other person having written authorization from the owner to report on behalf of the owner.

(2) When reporting property subject to valuation to the county assessor for property tax purposes, the report of or on behalf of the owner shall include, in the case of real property, both a complete legal description of the property and the improvements made to that property and, in the case of personal property, a description of both the personal property and its location sufficient to identify its site and the proper taxing jurisdictions.

(3) A report shall be made on a form or forms approved by the department and shall contain all information required by the department or the county assessor to:

(a) determine the value of the property pursuant to the Property Tax Code and Parts 1 through 7 of Chapter 3.6 NMAC;

(b) identify the property and its location;

(c) identify the owner or person in possession of the property.

(4) A form may require the attachment of copies of reports made to the department, other agencies of the state of New Mexico or to agencies, departments or instrumentalities of the United States.

D. FORM OF STATEMENT OF IMPROVEMENTS: The statement of improvements required by Subsection C of Section 7-38-8 NMSA 1978 must be on a standard preprinted form, prepared and paid for by the county assessor and in form and content prescribed by the director. The standard preprinted form shall be mailed to each person to whom the notice of value is mailed pursuant to Subsection A of Section 7-38-20 NMSA 1978 at the time of the mailing of the notice of value. Any form other than the standard form prescribed by the director and any method of making the form available to property owners other than the method directed by this subsection will be used only after submitting the form, and the method, in writing to the director and receiving written approval from the director for the use of such form and method.

E. LEASED PROPERTY: Property leased under a true lease is to be reported by the owner/lessor of the property. When the form of the document is that of a lease but the transaction is in substance a conditional sale or the document serves primarily to secure a lender's interest in the property, the property shall be reported by the lessee.

[3/23/83, 12/13/85, 10/2/92, 12/29/94, 8/31/96; 3.6.7.15 NMAC - Rn & A, 3 NMAC 6.7.15, 4/30/01, A, 6/29/01]

7-38-8.1. [DEPARTMENT] TO ADOPT REGULATIONS TO REQUIRE REPORTING OF EXEMPT PROPERTY. --The [department] shall adopt regulations to insure that all real property owned by any nongovernmental entity and claimed to be exempt from property taxation under the provisions of Paragraph (1) of Subsection B of Section 7-36-7 NMSA 1978 shall be reported for valuation purposes to the appropriate valuation authority. These regulations shall include provisions for initial reporting of the property and claiming of the exempt status pursuant to Subsection C of Section 7-38-17 NMSA 1978.

(Laws 1982, Chapter 28, Section 8)

3.6.7.16 - PROPERTY OWNED BY NONGOVERNMENTAL ENTITIES - PRESUMPTION OF TAXABILITY - CLAIMING OF EXEMPTION

A. Real property owned by a nongovernmental entity is presumed to be subject to taxation under the provisions of the Property Tax Code unless an exemption has been claimed and allowed in accordance with this section with respect to the property.

B. For the purposes of this section:

(1) "exemption" means an exemption, other than the head-of-family and veteran exemptions authorized under Sections 7-37-4 and 7-37-5 NMSA 1978, from property taxation authorized by the New Mexico Constitution, the Property Tax Code or other law; and

(2) "nongovernmental entity" means a property owner who is not the United States, an Indian nation, tribe or pueblo, the state of New Mexico or a political subdivision of the state of New Mexico or a department, agency or instrumentality of the United States, an Indian nation, tribe or pueblo, the state of New Mexico or a political subdivision of the state of New Mexico.

C. For the 1991 and succeeding property tax years, no exemption shall be allowed for any real property owned by a nongovernmental entity unless a completed "claim for exemption of property - nongovernmental entities" form has been filed with and approved by the valuation authority. The claim form shall provide for the following:

(1) a description of the property;

(2) a description of the owner's activities or tax status for federal purposes if relevant to the claim for exemption;

(3) the legal basis upon which the claim is made;

(4) evidence to support the claim and, if exemption is claimed because the property is used for educational or charitable purposes, evidence that such use is the "primary and substantial use" of the property must be presented; and

(5) such other information as the department may require.

D. A written statement containing all required information may be submitted in lieu of the standard form. The claim must be signed under oath by the property's owner or authorized agent.

E. Once an exemption has been claimed and allowed, a new claim must be submitted

for approval whenever the ownership of the property changes. If no claim is submitted upon change of ownership, the property is subject to valuation and taxation under the Property Tax Code beginning with the property tax year in which the ownership changed if the change occurred on January 1; if ownership changed on a date other than January 1, the property is subject to valuation and taxation beginning with the property tax year immediately following the year in which ownership changed.

F. Once an exemption has been claimed and allowed, no further report need be made to the valuation authority so long as the eligibility and ownership remain unchanged. Should the eligibility status or ownership of the property change, the change shall be reported to the valuation authority not later than the last day of February of the property tax year if the change occurred on January 1; if the change occurred on any other day of the year, the change shall be reported by the last day of February of the year immediately following the year in which the change occurred.

G. If a nongovernmental entity has claimed and been allowed, in substantial compliance with the provisions of this section, an exemption for a property for any property tax year in the period 1983 through 1990 and the eligibility status and ownership of the property have not changed, the nongovernmental entity shall be deemed to have complied with the provisions of this section with respect to that property for the 1991 and subsequent property tax years so long as the eligibility status and ownership do not change.

[10/15/90, 12/29/94, 8/31/96; 3.6.7.16 NMAC - Rn & A, 3 NMAC 6.7.16, 4/30/01]

7-38-9. DESCRIPTION OF PROPERTY FOR PROPERTY TAXATION PURPOSES.--

A. Property shall be described for property taxation purposes by a description sufficiently adequate and accurate to identify it. Real property shall be described under a uniform system of real property description in accordance with regulations of the department. The department shall promulgate regulations establishing a uniform system of real property description to be used by the department and all assessors. The system shall include requirements for a comprehensive mapping or geographic information system, the use of uniform property record documents and uniform coding of real property descriptions.

B. Real property that has been valued for property taxation purposes prior to the effective date of the Property Tax Code by a description consisting of a mere reference to the time and place of filing or recording in the office of the county clerk of any map or other instrument describing the property with sufficient preciseness to permit its identification shall be considered to have been sufficiently described for property taxation purposes. All prior assessments, records and instruments maintained or issued by property taxation officers which describe the property by such a reference are validated and given the same force and effect as if a description of the property had been used that would comply with this section.

(Laws 1999, Chapter 215, Section 1)

3.6.7.17 - DESCRIPTION OF PROPERTY FOR PROPERTY TAXATION PURPOSES

A. **DESCRIPTION SUFFICIENTLY ADEQUATE AND ACCURATE TO IDENTIFY REAL PROPERTY - IMPROVEMENTS MUST BE DESCRIBED:** A description sufficiently adequate and accurate to identify real property is a description such that, if the description were included in a deed, title would pass and which identifies it sufficiently to permit it to be located on the ground and its boundaries determined.

B. **UNIFORM SYSTEM OF REAL PROPERTY DESCRIPTION TO BE USED BY THE DEPARTMENT AND ALL COUNTY ASSESSORS:** The department and all county assessors shall substantially comply with the current "New Mexico mapping manual" prepared by the division pursuant to Section 7-35-4 NMSA 1978. The system described in that manual replaces the "unit tax system" and any other system now in use in any county for the description, indexing or identification of real property. The director may permit, however, a reasonable time for replacement of these other systems. The department may insure substantial compliance with this subsection by installation of the required system by the department pursuant to Section 7-38-10 NMSA 1978.

C. **REAL PROPERTY DESCRIPTIONS RECORDED WITH THE COUNTY CLERK:** Legal descriptions or plats of real property filed pursuant to Section 14-8-16 NMSA 1978, for record in the office of the county clerk, certified as correct by a professional engineer or land surveyor licensed in the state and delivered to the county assessor are, in the case of legal

descriptions, adequate descriptions for property taxation purposes, and in the case of plats, adequate documents for reference in descriptions for property taxation purposes.

D. MAPS PREPARED BY THE STATE ENGINEER PURSUANT TO THE LAND SURVEY ACT OF 1969: Where the state engineer has prepared maps containing a legal description of tracts of land surveyed pursuant to the Land Survey Act of 1969 and assigned each such tract a number, such lands for taxation shall be described by reference to the tract number and map number that designate the land and the date the map was filed and placed on record in the office of the county clerk.

E. DESCRIPTIONS BY REFERENCE TO RECORDED INSTRUMENTS: Descriptions by reference to instruments fully recorded with the county clerk and containing a description of the property sufficiently adequate and accurate to identify it, unless otherwise ordered by the secretary, are adequate descriptions for property taxation purposes when the instruments meet the conditions of this subsection. The instrument containing any such description by reference must show the time and place of filing or recordation of the instrument containing the description referred to, or other similar information, so that the instrument containing the description referred to can be located and identified.

F. DESCRIPTION BY CO-ORDINATES: Descriptions pursuant to the New Mexico coordinate system established by Sections 47-1-49 through 47-1-56 NMSA 1978 are adequate descriptions for property taxation purposes, provided they are otherwise adequate pursuant to Section 3.6.7.17 NMAC. In the event, however, there is a conflict in a legal description where state plane co-ordinates are used to describe any tract of land which in the same document is also described by reference to any subdivision, line or corner of the United States public land surveys, the description based on the public land survey will prevail.

G. SUBDIVISION DESCRIPTIONS BY NUMBER AND PLAT DESIGNATION: Description of parcels by number and plat designation are valid for the purpose of taxation for subdivisions approved pursuant to the New Mexico Subdivision Act (Sections 47-6-1 NMSA 1978 et seq.) provided they are otherwise adequate pursuant to these regulations.

H. EFFECT OF SUBSECTION B OF SECTION 7-38-9 NMSA 1978: The effect of Subsection B of Section 7-38-9 NMSA 1978 is to validate assessments, records and instruments maintained or issued by tax officers prior to the effective date of the Property Tax Code. This provision in no way authorizes the use of past practices of description, mapping or coding after January 1, 1975. However, certain subsections of this section do authorize the use of past practices of description and coding but only to the extent and subject to the conditions stated in those subsections.

I. GEOGRAPHIC INFORMATION SYSTEMS:

- (1) A “geographic information system” consists of three parts:
 - (a) a digitized map or set of maps for the county in a format conforming to standards set by the department, with smart points, lines and areas;
 - (b) a computerized database or databases containing required valuation information for each property in the county; and
 - (c) a set of rules relating the map features to each other and to the property valuation database or databases such that every parcel mapped is identified with a property in the database.

(2) Every county shall have a digitized set of maps for the county in place by June 2002. Every such set shall meet the specifications and standards set by the department for such sets. The department shall review each set to ensure conformance with requirements of this subsection and directives of the director.

(3) Beginning in 2002, every county shall transmit to the department in accordance with instructions of the department but at least annually a copy of the county's digitized county maps and property database. Such copies shall be retained by the department as back-up for the county system until replaced by a subsequent copy.

[3/23/83, 12/29/94, 8/31/96, 2/14/00; 3.6.7.17 NMAC - Rn & A, 3 NMAC 6.7.17, 4/30/01]

**7-38-10. DEPARTMENT MAY INSURE COMPLIANCE WITH MAPPING AND DESCRIPTION OF REAL PROPERTY REGULATIONS BY DEPARTMENTAL INSTALLATION OF REQUIRED SYSTEM--REIMBURSEMENT BY COUNTY OF COSTS INCURRED.--Whenever the director determines that it is necessary to insure compliance with departmental regulations relating to comprehensive mapping or geographic information systems and real property description or to correct county deficiencies in this regard, he shall order the installation by the department of the necessary maps and other increments of the property description system in the county. The director may require the county to reimburse the department for costs incurred by the department in the installation or correction of a property description system.
(Laws 1999, Chapter 215, Section 2)**

3.6.7.18 - INSTALLATION OF REQUIRED SYSTEM BY DEPARTMENT

Tax maps are maps showing the location, shape and size of each parcel of property that the county assessor must value. An identification number is usually applied to each parcel of property to correlate the numbered parcels with the ownership list. Because tax maps are essential to the appraisal process, the department may take whatever action is necessary, including having the maps prepared and installed in a county and billing the county for the costs of preparing and installing, to ensure that every county has adequate tax maps.
[3/23/83, 12/29/94, 8/31/96; 3.6.7.18 NMAC - Rn, 3 NMAC 6.7.18, 4/30/01]

7-38-11. PROPERTY REPORTED IN THE WRONG COUNTY.--If property is reported for valuation for property taxation purposes in a county different from the county in which it is required to be reported by law and the regulations of the department, the county assessor to whom the erroneous report is made shall send a copy of the report to the county assessor of the county in which the report is required to be made and shall, at the same time, notify the person making the erroneous report of his obligation to make the required report to the appropriate county. A person making a report to the wrong county assessor is not relieved of his responsibility to make the required report to the correct county assessor because of the provisions of this section.
(Laws 1973, Chapter 258, Section 51)

7-38-12. PROPERTY TRANSFERS--COPIES OF DOCUMENTS TO BE FURNISHED TO ASSESSOR--PENALTY FOR VIOLATION.

A. Whenever a deed or real estate contract transferring an interest in real property is received by a county clerk for recording, a copy of the deed or real estate contract shall be given to the county assessor by the clerk.

B. A county clerk who willfully fails to comply with this section is guilty of a petty misdemeanor, punishable in accordance with the Criminal Code.

(Laws 1982, Chapter 28, Section 9)

7-38-12.1. RESIDENTIAL PROPERTY TRANSFERS--AFFIDAVIT TO BE FILED WITH ASSESSOR.--

A. After January 1, 2004, a transferor or the transferor's authorized agent or a transferee or the transferee's authorized agent presenting for recording with a county clerk a deed, real estate contract or memorandum of real estate contract transferring an interest in real property classified as residential property for property taxation purposes shall also file with the county assessor within thirty days of the date of filing with the county clerk an affidavit signed and completed in accordance with the provisions of Subsection B of this section.

B. The affidavit required for submission shall be in a form approved by the department and signed by the transferors or their authorized agents or the transferees or their authorized agents of any interest in residential real property transferred by deed or real estate contract. The affidavit shall contain only the following information to be used only for analytical and statistical purposes in the application of appraisal methods:

- (1) the complete names of all transferors and transferees;**
- (2) the current mailing addresses of all transferors and transferees;**
- (3) the legal description of the real property interest transferred as it appears in the document of transfer;**
- (4) the full consideration, including money or any other thing of value, paid or exchanged for the transfer and the terms of the sale including any amount of seller incentives; and**
- (5) the value and a description of personal property that is included in the sale price.**

C. Upon receipt of the affidavit required by Subsection A of this section, the county assessor shall place the date of receipt on the original affidavit and on a copy of the affidavit. The county assessor shall retain the original affidavit as a confidential record and as proof of compliance and shall return the copy marked with the date of receipt to the person presenting the affidavit. The assessor shall index the affidavits in a manner that permits cross-referencing to other records in the assessor's office pertaining to the specific property described in the affidavit. The affidavit and its contents are not part of the valuation record of the assessor.

D. The affidavit required by Subsection A of this section shall not be required for:

- (1) a deed transferring nonresidential property;**
- (2) a deed that results from the payment in full or forfeiture by a transferee under a recorded real estate contract or recorded memorandum of real estate contract;**
- (3) a lease of or easement on real property, regardless of the length of term;**

(4) a deed, patent or contract for sale or transfer of real property in which an agency or representative of the United States, New Mexico or any political subdivision of the state is the named grantor or grantee and authorized transferor or transferee;

(5) a quitclaim deed to quiet title or clear boundary disputes;

(6) a conveyance of real property executed pursuant to court order;

(7) a deed to an unpatented mining claim;

(8) an instrument solely to provide or release security for a debt or obligation;

(9) an instrument that confirms or corrects a deed previously recorded;

(10) an instrument between husband and wife or parent and child with only nominal actual consideration therefor;

(11) an instrument arising out of a sale for delinquent taxes or assessments;

(12) an instrument accomplishing a court-ordered partition;

(13) an instrument arising out of a merger or incorporation;

(14) an instrument by a subsidiary corporation to its parent corporation for no consideration, nominal consideration or in sole consideration of the cancellation or surrender of the subsidiary's stock;

(15) an instrument from a person to a trustee or from a trustee to a trust beneficiary with only nominal actual consideration therefor;

(16) an instrument to or from an intermediary for the purpose of creating a joint tenancy estate or some other form of ownership; or

(17) an instrument delivered to establish a gift or a distribution from an estate of a decedent or trust.

E. The affidavit required by Subsection A of this section shall not be construed to be a valuation record pursuant to Section 7-38-19 NMSA 1978.

F. Prior to November 1, 2003, the department shall print and distribute to each county assessor affidavit forms for distribution to the public upon request.

(Laws 2005, Chapter 24, Section 1)

7-38-12.2. PENALTIES.--

A. A person who intentionally refuses to make a required report within the time period specified under the provisions of Section 7-38-12.1 NMSA 1978 or who knowingly makes a false statement on an affidavit required under the provisions of Section 7-38-12.1 NMSA 1978 is guilty of a misdemeanor and upon conviction shall be punished by the imposition of a fine of not more than one thousand dollars (\$1,000).

B. The secretary, any employee or any former employee of the department or any other person subject to the provisions of Section 7-38-12.1 NMSA 1978 who willfully releases information in violation of that section, except as provided in Section 7-38-4 NMSA 1978 or as part of a protest proceeding as defined in Section 7-38-24 NMSA 1978, is guilty of a misdemeanor and shall be fined not more than one thousand dollars (\$1,000). (Laws 2003, Chapter 118, Section 3)

7-38-13. STATEMENT OF DECREASE IN VALUE OF PROPERTY SUBJECT TO LOCAL VALUATION.--

A. No later than the last day of February of a tax year, any owner of property, subject to valuation by the county assessor, who believes that the value of his property has decreased in the previous tax year, may file with the county assessor a signed statement describing the property affected, the cause and nature of the decrease in value and the amount by which the owner contends the valuation of the property has been decreased. Prior to determining the value of the property, the county assessor or an employee designated by the county assessor must view the property described in the statement. The county assessor shall note on the back of the statement the date the property was viewed, by whom it was viewed and any action taken or to be taken as a result. The provisions of this subsection include a decrease in valuation of property due to a change in ownership, location or existence of personal property subject to local valuation, and in those cases, the assessor or his employee shall verify the alleged change and make an appropriate notation of the date of verification, the person who made it and any action taken or to be taken as a result.

**B. Reports required or authorized under this section to be filed by the owner of property may be filed by the owner's authorized agent.
(Laws 1991, Chapter 213, Section 2)**

3.6.7.21 - STATEMENT OF DECREASE IN VALUE

The statement of decrease in value provided for in Section 7-38-13 NMSA 1978 must be on a standard preprinted form, prepared and paid for by the county assessor and in form and content prescribed by the director. The standard, preprinted form shall be mailed to each person to whom the notice of value is mailed pursuant to Subsection A of Section 7-38-20 NMSA 1978 at the time of the mailing of the notice of value. Any form other than the standard form prescribed by the director and any method of making the form available to property owners other than the method directed by this section must be approved in writing by the director prior to such use. A request must be in writing and include the reason for the proposed use.

[3/23/83, 12/29/94, 8/31/96; 3.6.7.21 NMAC - Rn & A, 3 NMAC 6.7.21, 4/30/01]

7-38-14. TABULATION OF CONSTRUCTION PERMITS--INFORMATION REQUIRED TO BE FURNISHED TO COUNTY ASSESSORS. --

A. By the tenth day of each month, the trade boards operating under the Construction Industries Licensing Act shall furnish the assessor of each county with a tabulation of all permits which they have been issued in the assessor's county in the previous month for all construction projects, the cost of each of which exceeded one thousand dollars (\$1,000). The tabulation shall include the name of the owner of the property for which a permit was issued, the construction location and the cost of the construction project for which the permit was issued. A copy of the tabulation shall be sent to the department.

B. By the tenth day of each month, each county or municipality issuing building permits shall furnish the assessor of the county issuing the permit or the county in which the municipality is located with a tabulation of all building permits issued in the previous month for all construction projects, the cost of each of which exceeded one thousand dollars (\$1,000). The tabulation shall include the name of the owner of the property for which a permit was issued, the construction location and the cost of the construction project for which the permit was issued. A copy of the tabulation shall be sent to the department.

C. Upon receiving the information required to be furnished under this section, the county assessors and the department shall enter any required changes in their valuation or other records.
(Laws 1973, Chapter 258, Section 54)

7-38-15. INFORMATION ON REAL PROPERTY SOLD, PURCHASED, CONTRACTED TO BE SOLD OR PURCHASED, OR EXCHANGED BY GOVERNMENTAL BODIES TO BE SENT TO OR OBTAINED BY THE DEPARTMENT--DEPARTMENT TO COMPILE AND SEND INFORMATION TO COUNTY ASSESSORS. --

A. By the twentieth day of each month, the department shall obtain from appropriate agencies of the United States the following information relating to real property transactions occurring during the preceding month:

(1) a list by legal description of each parcel of real property in the state that was sold, purchased, contracted to be sold or purchased, or exchanged by agencies of the United States government; and

(2) the names and addresses of each of the transferors and transferees of the property required to be listed under Paragraph (1) of this subsection.

B. By the twentieth day of each month, each state agency and the governing body of each of the state's political subdivisions shall report to the department the following information relating to real property transactions occurring during the preceding month:

(1) a list by legal description of each parcel of real property in the state that was sold, purchased, contracted to be sold or purchased, or exchanged by the state agency or the political subdivisions; and

(2) the names and addresses of each of the transferors and transferees of the property listed under Paragraph (1) of this subsection.

C. The information gathered by the department on real property that is subject to local valuation for property taxation purposes shall be compiled and sent immediately to the county assessors of the counties in which the reported property is located. The county assessor receiving the information shall enter any required changes in the valuation or other records and shall also take any action that is required under the Property Tax Code as a result of the receipt of the information.

D. The information gathered by the department on real property that is subject to valuation for property taxation purposes by the department shall be compiled and retained by the department. The department shall enter any required changes in its valuation or other records and shall also take any action that is required under the Property Tax Code as a result of the receipt of the information.

(Laws 1973, Chapter 258, Section 55)

7-38-16. CONDEMNATION PROCEEDINGS--DUTY OF CONDEMNING AUTHORITY TO NOTIFY COUNTY ASSESSOR.--

A. Upon the issuance of a court order making permanent an order of preliminary entry in any condemnation proceeding brought by any governmental authority in this state exercising the power of eminent domain or upon the issuance of a final order of condemnation if no order allowing preliminary entry is issued, the condemning authority shall notify the county assessor of the county in which the land subject to condemnation is situated of:

(1) the fact of the issuance of an order making permanent an order of preliminary entry or an order of final condemnation and the date of the order;

(2) the description and ownership of the land subject to the order; and

(3) the date that physical possession of the land was or will be assumed by the condemning authority under a preliminary entry order.

B. Upon receipt of the notification required under Subsection A, the county assessor shall make appropriate changes in his valuation records to indicate as owner of the land for property taxation purposes the condemning authority as of the date of possession or the date of a final order of condemnation. If the land involved is subject to valuation for property taxation purposes by the department, the county assessor shall notify the department of the changes.

C. This section does not authorize the proration of taxes for a tax year in which ownership changes as a result of condemnation proceedings, but a condemning authority may contract or stipulate with an owner of land subject to condemnation for the proration of the owner's tax liability.

(Laws 1973, Chapter 258, Section 56)

3.6.7.24 - PROPERTY ACQUIRED BY THE STATE BY OUTRIGHT PURCHASE OR TRADE

The property of the state is exempt from taxation by Section 3 of Article VIII, New Mexico Constitution. If property is acquired by the state by outright purchase or trade, where such property was, prior to such transfer, subject to the lien of any tax or assessment for the principal or interest of any bonded indebtedness, the property is not exempt from the lien nor from the payment of the taxes or assessments.

[3/23/83, 12/29/94, 8/31/96; 3.6.7.24 NMAC - Rn & A, 3 NMAC 6.7.24, 4/30/01]

7-38-17. CLAIMING EXEMPTIONS--REQUIREMENTS--PENALTIES.--

A. Subject to the requirements of Subsection E of this section, head-of-family exemptions, veteran exemptions, disabled veteran exemptions or veterans' organization exemptions claimed and allowed in a tax year need not be claimed for subsequent tax years if there is no change in eligibility for the exemption nor any change in ownership of the property against which the exemption was claimed. Head-of-family, veteran and veterans' organization exemptions allowable under this subsection shall be applied automatically by county assessors in the subsequent tax years.

B. Other exemptions of real property specified under Section 7-36-7 NMSA 1978 for nongovernmental entities shall be claimed in order to be allowed. Once such exemptions are claimed and allowed for a tax year, they need not be claimed for subsequent tax years if there is no change in eligibility. Exemptions allowable under this subsection shall be applied automatically by county assessors in subsequent tax years.

C. Except as set forth in Subsection H of this section, an exemption required to be claimed under this section shall be applied for no later than thirty days after the mailing of the county assessor's notices of valuation pursuant to Section 7-38-20 NMSA 1978 in order for it to be allowed for that tax year.

D. A person who has had an exemption applied to a tax year and subsequently becomes ineligible for the exemption because of a change in the person's status or a change in the ownership of the property against which the exemption was applied shall notify the county assessor of the loss of eligibility for the exemption by the last day of February of the tax year immediately following the year in which loss of eligibility occurs.

E. Exemptions may be claimed by filing proof of eligibility for the exemption with the county assessor. The proof shall be in a form prescribed by regulation of the department. Procedures for determining eligibility of claimants for any exemption shall be prescribed by regulation of the department, and these regulations shall include provisions for requiring the veterans' services department to issue certificates of eligibility for veteran and veterans' organization exemptions in a form and with the information required by the department. The regulations shall also include verification procedures to assure that veteran exemptions in excess of the amount authorized under Section 7-37-5 NMSA 1978 are not allowed as a result of multiple claiming in more than one county or claiming against more than one property in a single tax year.

F. The department shall consult and cooperate with the veterans' services department in the development, adoption and promulgation of regulations under Subsection E of this section. The veterans' services department shall comply with the promulgated regulations. The veterans' services department shall collect a fee of five dollars (\$5.00) for the issuance

of a duplicate certificate of eligibility to a veteran or to a veterans' organization.

G. A person who violates the provisions of this section by intentionally claiming and receiving the benefit of an exemption to which the person is not entitled or who fails to comply with the provisions of Subsection D of this section is guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars (\$1,000). A county assessor or the assessor's employee who knowingly permits a claimant for an exemption to receive the benefit of an exemption to which the claimant is not entitled is guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars (\$1,000) and shall also be automatically removed from office or dismissed from employment upon conviction under this subsection.

H. A veteran or the veteran's unmarried surviving spouse who became eligible to receive a property tax exemption due to the expansion of the class of eligible veterans resulting from approval by the electorate in November 2004 of an amendment to Article 8, Section 5 of the constitution of New Mexico shall apply at the time the veteran or the veteran's unmarried surviving spouse applies for the 2005 veteran exemption, to the county assessor of the county in which the property of the veteran or the veteran's unmarried surviving spouse is located to have the veteran exemptions for the 2004 and 2005 property tax years applied to the 2005 taxable value of the property. The same form of documentation required for a veteran's property exemption for property tax year 2005 is required to be presented to the county assessor for property tax year 2004.

(Laws 2011, Chapter 102, Section 2)

3.6.7.25 - CLAIMING EXEMPTIONS - REQUIREMENTS - PENALTIES

A. STATEMENT OF PROOF OF ELIGIBILITY FOR VETERANS AND HEAD-OF-FAMILY EXEMPTION: The statement of proof of eligibility for veterans and head of family exemptions required by Subsection F of Section 7-38-17 NMSA 1978 must be on a standard preprinted form, prepared and paid for by the county assessor and in form and content prescribed by the director. Any form other than the standard form prescribed by the director and any method of making the form available to property owners other than the method directed by this subsection must be approved in writing by the director prior to such use. A request must be in writing and include the reason for the proposed use.

B. ISSUANCE OF CERTIFICATE OF ELIGIBILITY BY THE VETERANS SERVICE COMMISSION: The veterans service commission is required to issue original and duplicate certificates of eligibility for veterans' exemptions in substantially the following form:

TAX EXEMPTION
CERTIFICATE OF ELIGIBILITY
FOR VETERANS

This certifies that _____ (name of veteran) _____ who is living or deceased acquired legal residence in the State of New Mexico on _____ and served in the military forces

of the United States from _____ to _____ and that _____ (name of applicant) _____, (veteran or widow), whose address is:

is entitled to tax exemption benefits in the state of New Mexico under the provisions of Section 7-37-5 NMSA 1978.

This certificate must be presented to the county assessor each time a veteran exemption is claimed, subsequently released, or subsequently claimed. Applicant must be a current New Mexico resident to qualify.

Date: _____

Amount _____:

Character of exemption claimed or granted: _____

Signature of assessor: _____

County: _____

C. VERIFICATION OF THE ISSUANCE OF CERTIFICATES AND THE CLAIMING OF VETERANS EXEMPTIONS:

(1) No certificate of eligibility shall be issued by the veterans service commission unless application therefor has been made in writing in the form provided by the commission and the application is submitted with the appropriate United States department of defense separation form.

(2) A copy of the certificate of eligibility shall be mailed to the county assessor of the county in which the applicant resides by the commission. In lieu of sending a copy of the certificate, the commission may send a listing to the county if the listing contains the information presented on the form prescribed by Subsection B of Section 3.6.7.25 NMAC. The listing may be transmitted in electronic or optical format if the county assessor accepts that format.

(3) No claim of the veteran exemption shall be allowed by a county assessor unless accompanied by a verified certificate of exemption.

D. VALIDATION OF CERTIFICATE OF ELIGIBILITY BY COUNTY ASSESSOR - PARTIAL OR FULL RELEASE OF CLAIMED EXEMPTION:

(1) County assessors are to validate the certificate of eligibility for claimed veteran exemptions by notation on the certificate of the date a veteran exemption is first claimed, dates of subsequent releases of the exemption, dates of subsequent claiming of the exemption and the amount applied in each instance.

(2) If a county assessor for one county issues a partial or full release of a claimed exemption on property located in that county, the amount of the exemption released shall be noted by the assessor on the certificate of eligibility and the certificate is, after this notation and the notations referred to in the preceding paragraph, valid for use in claiming the amount of the exemption released in another county.

E. HEAD-OF-FAMILY AND VETERAN EXEMPTIONS - "RESIDENT" DEFINED: For the purposes of the head-of-family and veteran exemptions provided by Sections 7-37-4 and 7-37-5 NMSA 1978, "a New Mexico resident" means an individual who is domiciled in this state on January 1 of the tax year for which the exemption is claimed. A person is domiciled in New Mexico if he or she is physically present in New Mexico, except for short

absences for reason of health, vacation, visits or temporary work assignments, with a bona fide intention of continuing to live in New Mexico. No person shall be deemed to have acquired or lost residency by reason of presence or absence from New Mexico:

- (1) while employed in the service of the United States or of the state, or
- (2) while a student at any school.

F. VERIFICATION OF THE DOLLAR AMOUNT OF VETERAN EXEMPTIONS CLAIMED - MULTIPLE CLAIMING:

(1) When a veteran's certificate of eligibility is presented to the county assessor for an initial claim in a county, the assessor shall determine if the exemption has been previously claimed in another county. If the exemption has been claimed previously, the county assessor shall verify with the assessor in the other county that the exemption has been released. If the exemption has not been released and a full \$2,000 is being granted in the other county, the assessor shall deny the claim. If the exemption is being partially claimed in the other county, the county assessor determines the amount of exemption which is not being claimed and grant the exemption only for that amount.

(2) The assessor shall prepare a listing of all veteran exemptions being claimed for the first time in the assessor's county. The listing shall include the name and address of the veteran, the certificate number, property against which the exemption is claimed and the dollar amount of the exemption allowed. If the exemption has been previously claimed in another county, the county assessor shall also include in the listing the county in which the exemption was previously claimed, the property against which the exemption is claimed and the dollar amount allowed. The report on veteran exemptions granted for the first time shall be submitted by the county assessor to the department by March 15 of each tax year. In addition, a list of all veteran exemptions granted for the tax year shall be sent to the department by May 1.

(3) The division, upon receipt of the list of veteran exemptions granted for the first time, shall review its files to determine whether the persons have claimed the exemption previously in the same county under the current certificate number or another certificate number. If it is found that more than one certificate is being used, the division will notify the county assessor and the veterans service commission. When there is an indication that the exemption has been previously claimed in another county, the division will review its list of all veteran exemptions granted in the county to determine if the exemption has been dropped.

(4) If the exemption is being claimed in more than one county, the division shall contact each county assessor to verify the amount of exemption being granted to insure that no more than \$2,000 is allowed. If it is found that a veteran exemption of more than \$2,000 has been claimed by an individual, the county assessor or assessors in the counties in which the multiple claims have been filed will be requested by the division to reduce the amount of exemption being granted or to deny the application of the exemption in their county.

[3/23/83, 6/1/83, 12/29/94, 8/31/96; 3.6.7.25 NMAC - Rn & A, 3 NMAC 6.7.25, 4/30/01]

**7-38-17.1. PRESUMPTION OF NONRESIDENTIAL CLASSIFICATION--
DECLARATION OF RESIDENTIAL CLASSIFICATION. --**

A. Property subject to valuation for property taxation purposes for the 1982 and succeeding tax years is presumed to be nonresidential and will be so recorded by the appropriate valuation authority unless the property owner declares the property to be residential. This declaration will be made on a form prescribed by the [department], signed by the owner or his agent and mailed to the valuation authority not later than the last day of February of the property tax year to which it applies. The form for the declaration shall be mailed by the valuation authority to property owners no later than January 31 of each property tax year and shall include the property owner's name and address and the description or identification of the property. It may be included as part of a preliminary notice of valuation form or any other similar form mailed to property owners during the appropriate time period. The valuation authority will take reasonable steps to verify any such declaration. Once the declaration is accepted, the valuation authority will make appropriate entries on the valuation records. Declarations, once accepted by the valuation authority, need not be made in subsequent tax years if there is no change in the use of the property.

B. No later than the last day of February of each tax year, every owner of property subject to valuation for property taxation purposes shall report to the appropriate valuation authority as set out in Section 7-36-2 NMSA 1978 whenever the use of the property changes from residential to nonresidential or from nonresidential to residential. This report will be made on a form prescribed by the [department] and will be signed by the owner of the property or his agent.

C. Any person who violates Subsection A of this section by declaring a property which is nonresidential to be residential or who violates Subsection B of this section by failing to report a change of use from residential to nonresidential shall be liable, for each tax year to which declaration or failure to report applies, for:

(1) any additional taxes because of a difference in tax rates imposed against residential and nonresidential property;

(2) interest, calculated as provided under Section 7-38-49 NMSA 1978, on any additional taxes determined to be due under Paragraph (1) of this subsection; and

(3) a civil penalty of five percent of any additional taxes determined to be due under Paragraph (1) of this subsection.

D. Any person who violates Subsection A of this section by declaring a property which is nonresidential to be residential with the intent to evade any tax or who violates Subsection B of this section by refusing or failing to report a change of use from residential to nonresidential with the intent to evade any tax is guilty of a misdemeanor and shall be punished by the imposition of a fine of not more than one thousand dollars (\$1,000). Any

director, employee of the [department], county assessor or employee of any assessor who knowingly records a property which is nonresidential to be residential is guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars (\$1,000) and shall be automatically removed from office or dismissed from employment upon conviction under this subsection.

E. The civil penalties authorized in Subsection C of this section shall be imposed and collected at the same time and in the same manner that the tax and interest are imposed and collected. The county treasurer is responsible for making entries on the appropriate records indicating amounts due and the date of payment.

(Laws 1981, Chapter 37, Section 68)

7-38-18. PUBLICATION OF NOTICE OF CERTAIN PROVISIONS RELATING TO REPORTING PROPERTY FOR VALUATION AND CLAIMING OF EXEMPTIONS.--

A. Each county assessor shall have a notice published in a newspaper of general circulation within the county at least once a week during the first three full weeks in January of each tax year, which notice shall include a brief statement of the provisions of:

(1) Section 7-38-8 NMSA 1978 relating to requirements for reporting property for valuation for property taxation purposes;

(2) Section 7-38-8.1 NMSA 1978 relating to requirements for reporting exempt property;

(3) Section 7-38-13 NMSA 1978 relating to filing statements of decrease in value of property;

(4) Section 7-38-17 NMSA 1978 relating to requirements for claiming veteran, disabled veteran, head-of-family and other exemptions;

(5) Section 7-38-17.1 NMSA 1978 relating to the requirements for declaring residential property and changes in use of property; and

(6) Section 7-36-21.3 NMSA 1978 relating to requirements for claiming eligibility for the limitation on increases in valuation for property taxation purposes of a single-family dwelling owned and occupied by a person who is sixty-five years of age or older.

B. The department shall develop and issue a uniform form of notice to be used by county assessors to fulfill the requirements of this section.

(Laws 2001, Chapter 321, Section 3)

3.6.7.27 - PUBLICATION OF NOTICE RELATING TO REPORTING PROPERTY FOR VALUATION AND CLAIMING EXEMPTIONS

A. UNIFORM FORM OF NOTICE: The uniform form of notice required by Section 7-38-18 NMSA 1978 which is to be used by county assessors shall be provided annually by the division.

B. REPORTING FORMS: The county assessor is required to have available for use of the public preprinted forms for making the reports and applications for claim of exemption prescribed in the uniform notice required by Section 7-38-18 NMSA 1978.

[3/23/83, 12/29/94, 8/31/96; 3.6.7.27 NMAC - Rn & A, 3 NMAC 6.7.27, 4/30/01]

7-38-19. VALUATION RECORDS. --

A. The county assessor shall maintain a record of the values determined for property taxation purposes on all property within the county subject to valuation under the Property Tax Code, whether the values are determined by the county assessor or the department.

B. The department shall maintain, in addition to the county assessors' records, a record of the values determined for property taxation purposes on all property subject to department valuation under the Property Tax Code.

C. Valuation records shall contain the information required by the Property Tax Code and regulations of the department.

D. Except as provided otherwise in Subsection E of this section, valuation records are public records.

E. Valuation records that contain information regarding the income, expenses other than depreciation, profits or losses associated with a specific property or a property owner or that contain diagrams or other depictions of the interior arrangement of buildings, alarm systems or electrical or plumbing systems are not public records and may be released only in accordance with Paragraphs (2) through (7) of Subsection A of Section 7-38-4 NMSA 1978.

(Laws 1991, Chapter 166, Section 8)

3.6.7.28 - VETERANS EXEMPTION FROM REGISTRATION FEE FOR A MOTOR VEHICLE

Pursuant to Section 66-6-7 NMSA 1978 county assessors, upon receipt of information certified by the director of the motor vehicle division of the taxation and revenue department, are required to note on their valuation records the reduction of a veteran's exemption resulting from the allowance of a reduction from motor vehicle registration fees due to a claim of the exemption on those fees. If the veteran is not the owner of property subject to property tax, the notation is not required to be made.

[3/23/83, 12/29/94, 8/31/96; 3.6.7.28 NMAC - Rn & A, 3 NMAC 6.7.28, 4/30/01]

7-38-20. COUNTY ASSESSOR AND DEPARTMENT TO MAIL NOTICES OF VALUATION.--

A. By April 1 of each year, the county assessor shall mail a notice to each property owner informing the property owner of the net taxable value of the property owner's property that has been valued for property taxation purposes by the assessor and other related information as required by Subsection D of this section.

B. By May 1 of each year, the department shall mail a notice to each property owner informing the property owner of the net taxable value of the property owner's property that has been valued for property taxation purposes by the department and other related information as required by Subsection D of this section.

C. Failure to receive the notice required by this section does not invalidate the value set on the property, any property tax based on that value or any subsequent procedure or proceeding instituted for the collection of the tax.

D. The notice required by this section shall state:

- (1) the property owner's name and address;**
- (2) the description or identification of the property valued;**
- (3) the classification of the property valued;**
- (4) the value set on the property for property taxation purposes;**
- (5) the tax ratio;**
- (6) the taxable value of the property for the previous and current tax years;**
- (7) the tax rate from the previous tax year;**
- (8) the amount of tax from the previous tax year;**
- (9) with respect to residential property, instructions for calculating an estimated tax for the current tax year, which shall be prominently displayed on the front of the notice, and a disclaimer for such instructions similar to the following:
"The calculation of property tax may be higher or lower than the property tax that will actually be imposed.";**
- (10) the amount of any exemptions allowed and a statement of the net taxable value of the property after deducting the exemptions;**
- (11) the allocations of net taxable values to the governmental units;**
- (12) briefly, the eligibility requirements and application procedures and deadline for claiming eligibility for a limitation on increases in the valuation for property taxation purposes of a single-family dwelling owned and occupied by a person sixty-five years of age or older; and**
- (13) briefly, the procedures for protesting the value determined for property taxation purposes, classification, allocation of values to**

governmental units or denial of a claim for an exemption or for the limitation on increases in valuation for property taxation purposes.

E. The county assessor may mail the valuation notice required pursuant to Subsection A of this section to taxpayers with the preceding tax year's property tax bills if the net taxable value of the property has not changed since the preceding taxable year. In this early mailing, the county assessor shall provide clear notice to the taxpayer that the valuation notice is for the succeeding tax year and that the deadlines for protest of the value or classification of the property apply to this mailing date.

(Laws 2012, Chapter 60, Section 1)

3.6.7.29 - FORM OF NOTICE OF VALUE

The notice of valuation required to be mailed by county assessors must be on a standard preprinted form, prepared and paid for by the county assessor and in form and content prescribed by the director. Any form other than the standard form prescribed by the director must be approved in writing by the director prior to such use. A request must be in writing and include the reason for the proposed use.

[3/23/83, 12/29/94, 8/31/96; 3.6.7.29 NMAC - Rn, 3 NMAC 6.7.29, 4/30/01]

7-38-20.1. TEMPORARY PROVISION--ADDITIONAL INSTRUCTIONS TO ASSESSORS AND TREASURERS--SPECIAL REQUIREMENTS FOR 2004 VETERAN EXEMPTION--NEWLY ELIGIBLE VETERANS.--

A. A county assessor shall include with the notice of valuation distributed to property owners for the 2005 property tax year, a notice to taxpayers informing them that:

(1) a taxpayer who is a veteran or the unmarried surviving spouse of a veteran who was not previously eligible for a veteran property tax exemption may be eligible for that exemption due to the change in Article 8, Section 5 of the constitution of New Mexico adopted in November 2004; and

(2) a taxpayer who is eligible for the veteran tax exemption for the 2005 property tax year may also be eligible for the veteran tax exemption for the 2004 property tax year.

B. The taxpayer shall obtain certification from the veterans' services department verifying that the veteran upon whose service the exemption is claimed is eligible for a tax exemption pursuant to Article 8, Section 5 of the constitution of New Mexico for the 2005 property tax year to present to the county assessor. The veterans' services department shall certify the date on which the veteran became honorably discharged from the armed forces of the United States.

C. The county assessor shall determine from the date of discharge from the armed forces of the United States certified by the veterans' services department if the veteran would have been eligible to receive a tax exemption for the 2004 property tax year based on the veteran's date of discharge from the armed forces of the United States and the dates on which the taxpayer took title to the property. A veteran would be eligible if the veteran were discharged on a date prior to the thirtieth day following the date on which the county assessor mailed the notice of valuation in 2004 and had title to the property to which the veteran tax exemption is applied at that time.

D. If a taxpayer, who became eligible for the veteran exemption due to the approval of the amendment to Article 8, Section 5 of the constitution of New Mexico, qualifies for the 2004 and 2005 veteran exemptions and has paid in full the taxpayer's property tax liability for the 2004 property tax year, for the 2005 property tax year only the county assessor shall combine the total of the veteran exemptions for those two property tax years and deduct the combined total from the taxable value of the taxpayer's property to obtain the net taxable value for the 2005 property tax year.

(Laws 2005, Chapter 230, Section 3)

7-38-21. PROTESTS--ELECTION OF REMEDIES.--

A. A property owner may protest the value or classification determined for the property owner's property for property taxation purposes, the allocation of value of the property to a particular governmental unit or a denial of a claim for an exemption or for a limitation on increase in value either by:

(1) filing, as provided in the Property Tax Code, a petition of protest with:

(a) the administrative hearings office; or

(b) the county assessor; or

(2) filing a claim for refund after paying the property owner's taxes as provided in the Property Tax Code.

B. The initiation of a protest under Paragraph (1) of Subsection A of this section is an election to pursue that remedy and is an unconditional and irrevocable waiver of the right to pursue the remedy provided in Paragraph (2) of Subsection A of this section.

C. A property owner may also protest the application to the property owner's property of any administrative fee adopted pursuant to Section 7-38-36.1 NMSA 1978 by filing a claim for refund after paying the property owner's taxes as provided in the Property Tax Code.

(Laws 2015, Chapter 73, Section 19)

3.6.7.30 - TIME OF ELECTION OF REMEDIES

The election provided for in Section 7-38-21 NMSA 1978 is made when the taxpayer files a petition of protest or claim for refund. The taxpayer may not withdraw the protest, then pay the assessment and claim a refund.

[3/23/83, 12/29/94, 8/31/96; 3.6.7.30 NMAC - Rn, 3 NMAC 6.7.30, 4/30/01]

7-38-22. PROTESTING VALUES, CLASSIFICATION, ALLOCATION OF VALUES AND DENIAL OF EXEMPTION DETERMINED BY THE DIVISION.--

A. A property owner may protest the value or classification determined by the division for the property owner's property for property taxation purposes or the division's allocation of value of the property owner's property to a particular governmental unit or the denial of a claim for an exemption by filing a petition with the administrative hearings office. Filing a petition in accordance with this section entitles a property owner to a hearing on the property owner's protest.

B. Petitions shall:

(1) be filed no later than thirty days after the mailing by the division of the notice of valuation;

(2) state the property owner's name and address and the description of the property;

(3) state why the property owner believes the value, classification, allocation of value or denial of an exemption is incorrect and what the property owner believes the correct value, classification, allocation of value or exemption to be;

(4) state the value, classification, allocation of value or exemption that is not in controversy; and

(5) contain such other information as the administrative hearings office may by rule require.

C. The administrative hearings office shall notify the director and the property owner by certified mail of the date, time and place that the parties may appear before the administrative hearings office to present evidence related to the petition. The notice shall be mailed at least fifteen days prior to the hearing date.

D. The director may provide for an informal conference on the protest before the hearing.

(Laws 2015, Chapter 73, Section 70)

3.6.7.31 - PROTESTING VALUES, CLASSIFICATION, ALLOCATION OF VALUES AND DENIAL OF EXEMPTIONS DETERMINED BY THE DEPARTMENT

A. FORM OF PETITION AND INFORMAL CONFERENCES: The form of petition for protesting values and other determinations, with modification to reference the department, and information concerning informal conferences found in Section 3.6.7.33 NMAC, are applicable with respect to protests to the department.

B. POSTMARK DATE IS TIME OF FILING OF PROTEST: In determining the time at which a petition of protest mailed through the United States postal service is "filed with the department", the postmark date shown on the envelope containing the petition shall constitute the date of filing. If the postmark is illegible, the date of mailing shall be presumed to be the date

two business days prior to the date the petition is received by the department. The presumption may be rebutted by a preponderance of evidence showing another date of mailing.

C. **HEARING OFFICER CONDUCTS HEARING:** The hearing provided for in Subsection C of Section 7-38-22 NMSA 1978 will be held before a hearing officer designated by the secretary designated for that purpose in accordance with Subsection A of Section 7-38-23 NMSA 1978.

[3/23/83, 12/29/94, 8/31/96; 3.6.7.31 NMAC - Rn & A, 3 NMAC 6.7.31, 4/30/01]

7-38-23. PROTEST HEARINGS--VERBATIM RECORD--ACTION BY HEARING OFFICER--TIME LIMITATIONS. --

A. Except for the rules relating to discovery, the technical rules of evidence and the Rules of Civil Procedure for the District Courts do not apply at a protest hearing conducted pursuant to the provisions of the Property Tax Code, but the hearing shall be conducted so that an ample opportunity is provided for the presentation of complaints and defenses. All testimony shall be taken under oath. A verbatim record of the hearings shall be made but need not be transcribed unless required for appeal purposes. A hearing officer shall be designated by the chief hearing officer of the administrative hearings office to conduct the hearing.

B. Final action taken by the hearing officer on a petition shall be by written order. The hearing officer's order shall be made within thirty days after the date of the hearing, but this time limitation may be extended by agreement of the department and the protestant. A copy of the order shall be sent immediately by certified mail to the property owner. A copy of the order shall also be sent to the county assessor.

C. All protests shall be decided within one hundred twenty days of the date the protest is filed unless the parties otherwise agree. The protest shall be denied if the property owner or the property owner's authorized representative fails, without reasonable justification, to appear at the hearing.

D. The hearing officer's order shall be in the name of the chief hearing officer, dated, state the changes to be made in the valuation records, if any, and direct the county assessor to take appropriate action. The department shall make any changes in its valuation records required by the order.

E. Changes in the valuation records shall clearly indicate that the prior entry has been superseded by an order of the hearing officer.

F. The department shall maintain a file of all orders made pursuant to this section. The file shall be open for public inspection.

G. If an order of the hearing officer is appealed under Section 7-38-28 NMSA 1978, the department shall immediately notify the appropriate county assessor of the appeal. Notations shall be made in the valuation records of the assessor and the department indicating the pendency of the appeal.

(Laws 2015, Chapter 73, Section 21)

3.6.7.32 - PROTEST HEARINGS - VALUATION DETERMINED BY DEPARTMENT

A. **PROTEST HEARINGS - TAPE RECORDING:** The requirement that a verbatim record be made of protest hearings before the secretary or a hearing officer designated by the secretary is met by recording the hearing with a tape or other recording device. This verbatim record shall be retained by the department until ninety (90) days after the decision and order is made.

B. PROTEST HEARINGS - WITHDRAWAL OF PROTEST - FAILURE TO APPEAR: If, at an informal conference pursuant to Subsection D of Section 7-38-22 NMSA 1978, or at any stage prior to final action by the secretary, a pending protest is fully resolved with no change resulting in the taxpayer's notice of valuation, the protesting taxpayer or the taxpayer's authorized representative must sign a written document, which may be provided by the department, stating that the taxpayer withdraws the protest and the hearing officer designated by the secretary shall vacate the hearing. Failure to sign a written document withdrawing a protest may result in a hearing of the protest. In the absence of a written withdrawal of protest and in the event that a taxpayer fails to appear at a scheduled hearing, the hearing officer may decide the protest against the taxpayer on the basis of the presumption under Section 7-38-6 NMSA 1978.

C. PROTEST HEARINGS - PROCEDURES: The procedures for hearings before the county valuation protests boards found in Section 7-38-27 NMSA 1978 and Section 3.6.7.36 NMAC are to be followed in protest hearings before the hearing officer designated by the secretary.

[3/23/83, 12/29/94, 8/31/96; 3.6.7.32 NMAC - Rn & A, 3 NMAC 6.7.32, 4/30/01]

7-38-24. PROTESTING VALUES, CLASSIFICATION, ALLOCATION OF VALUES AND DENIAL OF EXEMPTION OR LIMITATION ON INCREASE IN VALUE DETERMINED BY THE COUNTY ASSESSOR.--

A. A property owner may protest the value or classification determined by the county assessor for his property for property taxation purposes, the assessor's allocation of value of his property to a particular governmental unit or denial of a claim for an exemption or for a limitation on increase in value by filing a petition with the assessor. Filing a petition in accordance with this section entitles the property owner to a hearing on his protest.

B. Petitions shall:

(1) be filed with the county assessor on or before:

(a) the later of April 1 of the property tax year to which the notice applies or thirty days after the mailing by the assessor of the notice of valuation if the notice was mailed with the preceding year's tax bill in accordance with Section 7-38-20 NMSA 1978;

(b) thirty days after the mailing of a property tax bill on omitted property pursuant to Section 7-38-76 NMSA 1978; or

(c) in all other cases, thirty days after the mailing by the assessor of the notice of valuation;

(2) state the property owner's name and address and the description of the property;

(3) state why the property owner believes the value, classification, allocation of value or denial of a claim of an exemption or of a limitation on increase in value is incorrect and what he believes the correct value, classification, allocation of value or exemption to be; and

(4) state the value, classification, allocation of value or exemption that is not in controversy.

C. Upon receipt of the petition, the county assessor shall schedule a hearing before the county valuation protests board and notify the property owner by certified mail of the date, time and place that he may appear to support his petition. The notice shall be mailed at least fifteen days prior to the hearing date.

D. The county assessor may provide for an informal conference on the protest before the hearing.

(Laws 2003, Chapter 95, Section 1)

3.6.7.33 - PROTESTING VALUES, CLASSIFICATION, ALLOCATION OF VALUES AND DENIAL OF EXEMPTIONS DETERMINED BY THE COUNTY ASSESSOR

A. FORM OF PETITION: The following is an acceptable form of petition for protesting values and other determinations by the county assessor:

To: _____ county assessor

Date: _____

I hereby state that my full name is _____
my address is _____

and I am the owner of the following described property:

Property code no. _____

Legal description _____

I further state that the valuation and/or classification and/or denial of an exemption in regard to my property is incorrect because _____

I believe the correct classification of my property is: _____

I believe the following exemption applies to the property: _____

I believe the total correct valuation of my property is: \$ _____

I further state that the following total amount of valuation: _____, is not in controversy because I agree with that valuation or portion of that valuation placed on my property.

I further state that I received a notice of valuation from the _____ county assessor on the following date: _____.

I state that I understand that the county assessor, upon receipt of this petition, is required to schedule a hearing before the county valuation protest board. I understand that I must provide evidence and/or have witnesses at the hearing. I (do) (do not) request that the _____ county assessor provide for an informal conference with me after setting a hearing on the protest but before the date of the hearing.

Signature of the protestant

..... OR

I hereby withdraw my protest this date: _____, _____, _____
Month Day Year

Signature of Protestant

B. INFORMAL CONFERENCES:

(1) After a protest has been set for hearing, if a taxpayer requests or has requested an informal conference, the assessor may schedule and hold such a conference before the date of the hearing. If an informal conference has not been requested by the taxpayer and the assessor

believes an informal conference prior to hearing would be useful, the assessor may schedule such a conference and require the presence of the taxpayer.

(2) An informal conference is off the record. Although the persons attending the conference may make memoranda of the discussion, statements made at the informal conference shall not be introduced by either party at a hearing or other proceeding. Any tapes or minutes of the conference are for the information and convenience of the parties only and shall have no evidentiary value in any later proceeding. The purpose of the informal conference is to discuss the facts and the legal positions of the assessor and the taxpayer, and it is to be in the nature of either settlement negotiations or a “prehearing (trial) conference” or both.

(3) Informal conferences may be held at the assessor's office or elsewhere as circumstances require. If, at an informal conference a pending protest is fully resolved with no reduction in the valuation shown on the protesting taxpayer's notice of valuation, the protesting taxpayer must sign a written document, which may be provided by the assessor, stating that the taxpayer withdraws the protest. The assessor is to notify the valuation protests board immediately so that the board may vacate the hearing. If the protest is resolved with the assessor agreeing that the taxpayer's notice of valuation is incorrect, then this settlement must be implemented by a written agreement between the assessor and the protesting taxpayer which contains an explanation of the settlement and must be signed by both the taxpayer and assessor. [3/23/83, 12/29/94, 8/31/96; 3.6.7.33 NMAC - Rn, 3 NMAC 6.7.33, 4/30/01]

**7-38-25. COUNTY VALUATION PROTESTS BOARDS --
CREATION--DUTIES-- FUNDING.--**

A. There is created in each county a "county valuation protests board". Each board shall consist of three voting members. Three alternates shall also be appointed to serve as voting members in the absence of a voting member. Voting members and alternates shall be appointed as follows:

(1) one member and one alternate shall be a qualified elector of the county and shall be appointed by the board of county commissioners for a term of two years;

(2) one member and one alternate shall be a qualified elector of the county, shall have demonstrated experience in the field of valuation of property and shall be appointed by the board of county commissioners for a term of two years; and

(3) one member and one alternate shall be a property appraisal officer employed by the department, assigned by the director and shall be the chairman of the board.

B. Members of the board and alternates appointed under Paragraph (1) or (2) of Subsection A of this section shall not hold any elective public office during the term of their appointment nor shall any such member or alternate be employed by the state, a political subdivision or a school district during the term of his appointment.

C. Vacancies occurring on the board shall be filled by the authority making the original appointment and shall be for the unexpired term of the vacated membership.

D. The county valuation protests board shall hear and decide protests of determinations made by county assessors and protested under Section 7-38-24 NMSA 1978.

E. Members of the board and alternates when serving as voting members appointed under Paragraphs (1) and (2) of Subsection A of this section shall be paid as independent contractors at the rate of eighty dollars (\$80.00) a day for each day of actual service. The payment of board members and alternates and all other actual and direct expenses incurred in connection with protest hearings shall be paid by the department.

(Laws 97, Chapter 159, Section 1)

3.6.7.34 - COUNTY VALUATION PROTESTS BOARDS

A. BUDGET ITEM FOR EXPENSES INCURRED IN CONNECTION WITH PROTEST HEARINGS: The department prepares and submits to the legislature, as part of its annual budget, a budget item for the reimbursement of board members, and all other actual and direct expenses incurred in connection with protest hearings. The department may require county assessors to provide information concerning their estimates of the number of protests in their counties and other information which will aid the department in preparing this budget item.

B. LEGAL FEES NOT AUTOMATICALLY INCLUDED IN "ALL OTHER

ACTUAL AND DIRECT EXPENSES INCURRED IN CONNECTION WITH PROTEST HEARINGS”: The phrase “all other actual and direct expenses incurred in connection with protest hearings” does not include any expenses for lawyers hired by the board or by board members, unless such expenses have been approved in writing by the director prior to their having been incurred.

[3/23/83, 12/29/94, 8/31/96; 3.6.7.34 NMAC - Rn, 3 NMAC 6.7.34, 4/30/01]

7-38-26. SCHEDULING OF PROTEST HEARINGS.--Before scheduling a protest hearing, the county assessor shall notify the director and assure that the assigned property appraisal officer board member will be made available. The director may assign a property appraisal officer to act as a member of more than one county valuation protests board. He also may establish and publish schedules for hearings on protests in the various counties to make the most efficient use of assigned property appraisal officers and assure the expeditious determination of protests.

(Laws 1973, Chapter 258, Section 66)

7-38-27. PROTEST HEARINGS--VERBATIM RECORD--ACTION BY COUNTY VALUATION PROTESTS BOARD--TIME LIMITATIONS.--

A. Except for the rules relating to discovery, the technical rules of evidence and the Rules of Civil Procedure for the District Courts do not apply at protest hearings before a county valuation protests board, but the hearing shall be conducted so that an ample opportunity is provided for the presentation of complaints and defenses. All testimony shall be taken under oath. A verbatim record of the hearing shall be made but need not be transcribed unless required for appeal purposes.

B. Final action taken by the board on a petition shall be by written order signed by the chairman or a member of the board designated by the chairman. The order shall be made within thirty days after the date of the hearing, but this time limitation may be extended by agreement of the board and the protestant. A copy of the order shall be sent immediately by certified mail to the property owner. A copy of the order shall also be sent to the director and the county assessor.

C. All protests shall be decided within one hundred eighty days of the date the protest is filed. The protest shall be denied if the property owner or his authorized representative fails, without reasonable justification, to appear at the hearing.

D. The board's order shall be dated, state the changes to be made in the valuation records, if any, and direct the county assessor to take appropriate action. The [department] shall make any changes in its valuation records required by the order.

E. Changes in the valuation records shall clearly indicate that the prior entry has been superseded by an order of the board.

F. The assessor shall maintain a file of all orders made by the county valuation protests board. The file shall be open for public inspection.

G. If an order of a county valuation protests board is appealed under Section 7-38-28 NMSA 1978, the director shall immediately notify the

H. appropriate county assessor of the appeal. Notations shall be made in the valuation records of the assessor and the [department] indicating the pendency of the appeal.

(Laws 1982, Chapter 28, Section 14)

3.6.7.36 - PROTEST HEARINGS - VALUATION DETERMINED BY COUNTY ASSESSOR

A. **PROTEST HEARINGS - WITHDRAWAL OF PROTEST - FAILURE TO APPEAR:** If, at an informal conference pursuant to Subsection D of Section 7-38-24 NMSA 1978 or at any other stage prior to final action by the board, a pending protest is fully resolved with no change resulting the taxpayer's notice of valuation, the protesting taxpayer or the taxpayer's authorized representative must sign a written document, which may be provided by

the assessor, stating that the taxpayer withdraws the protest. The county assessor is to notify the county valuation protests board immediately so that the board may vacate the hearing. Failure to sign the written document withdrawing a protest may result in a hearing of the protest by the board. In the absence of a written withdrawal of protest and in the event that a taxpayer fails to appear at a scheduled hearing before the board, the board may decide the protest against the taxpayer on the basis of the presumption under Section 7-38-6 NMSA 1978.

B. PROTEST HEARINGS - DISCOVERY - CONSEQUENCES OF FAILURE TO ALLOW DISCOVERY:

(1) The protestant has the right to discover relevant and material evidence in the possession of the assessor prior to the protest hearing. If the assessor refuses to permit discovery, the county valuation protests board, for the purpose of resolving issues and disposing of the proceeding without undue delay despite the refusal, may take such action in regard to the refusal as is just, including but not limited to, the following:

(a) infer that the admission, testimony, documents or other evidence sought by discovery would have been adverse to the position of the county assessor;

(b) rule that, for the purposes of the proceeding, the matter or matters concerning which the evidence was sought be taken as established against the position of the county assessor;

(c) rule that the county assessor may not introduce into evidence or otherwise rely, in support of any claim or defense, upon testimony by such party, officer or agent or upon the documents or other evidence discovery of which has been denied; or

(d) rule that the county assessor may not be heard to object to introduction and use of secondary evidence to show what the withheld admission, testimony, documents or other evidence would have shown.

(2) Any such action may be taken by written or oral order issued in the course of the proceeding or by inclusion in the decision of the board. It is the duty of the parties to seek and of the board to grant such of the foregoing means of relief or other appropriate relief.

C. PROTEST HEARINGS - STIPULATIONS OF FACTS SUBMITTED TO THE COUNTY VALUATION PROTESTS BOARD:

(1) This format may be used by assessors and protestants in preparing stipulations to be submitted to the county valuation protests board. The format may be varied to meet particular circumstances. Statements should be made in separate numbered paragraphs.

(a) Statement of material facts concerning the protestant:

(i) Name of protestant

(ii) Location of property and description of property

(iii) Code number

(iv) Valuation set by assessor

(v) Principal use of the property

(vi) Amount of valuation not in controversy (this usually will be the amount the property owner contends is the value of the property).

(b) Protest information in accordance with Section 7-38-24 NMSA 1978:

(i) Date notice of valuation was mailed

(ii) Date petition was filed (copy of petition may be attached)

(iii) Why the protestant believes the valuation is incorrect and what

he believes the correct valuation to be

(c) Statement of facts supporting what the protestant believes to be the correct valuation (documents may be attached).

(d) Statement of facts supporting the valuation placed on the property by the assessor (documents may be attached).

(e) Relevant correspondence regarding the controversy.

(f) Statement of any additional material facts relating to the controversy.

(2) The format of the stipulation may be as shown in the following example:

BEFORE THE HILL COUNTY VALUATION PROTESTS BOARD

In the matter of Smith, Inc.,

Petition No. 8612

STIPULATION OF FACTS

Smith, Inc. (hereinafter called "property owner") by and through its attorney, Richard Doe, hereby stipulates and agrees with Mr. John Doe, Hill County assessor (hereinafter called "assessor"), that the facts and statements set forth below shall be treated as having been conclusively established by competent evidence and further agrees to waive the hearing provided for in Section 7-38-27 NMSA 1978 and let this stipulation constitute the full record of the facts before the Hill County valuation protests board.

1. Property owner owns property in Hill County (insert description of property), code no._____. The assessor placed a value, for property taxation purposes, on the property of \$111,000 improvements and \$111,000 land.

2. The property is used to house the property owner's clothing plant. The value for property taxation purposes of \$5,000 for improvements and \$50,000 for land is not in controversy because the property owner admits this value.

3. The notice of valuation was mailed by the assessor January 15, 1975 and the petition protesting the valuation was filed with the county assessor on February 15, 1975. A copy of the petition is attached and marked Exhibit "A".

4. The property owner believes the value for property taxation purposes is incorrect and believes the correct value for property taxation purposes to be \$5,000 improvements and \$50,000 land. In support of this contention, the property owner presents the following facts which are agreed to by the assessor: (list supporting facts).

5. The assessor presents the following facts in support of the taxable value the assessor has placed on the property: (list supporting facts).

_____	_____
county assessor	property owner
date _____	date _____

D. PROTEST HEARINGS - SPECIAL ACCOMMODATIONS - ADVANCE DISSEMINATION OF PETITION:

(1) Any special accommodations or arrangements required under the American with Disabilities Act shall also be determined and made in advance of the hearing.

(2) The petition filed with the county assessor shall be made available to the board members in advance of the hearing.

E. PROTEST HEARINGS - CONDUCT OF HEARING:

(1) The county valuation protests board has the duty to conduct fair and impartial

hearings, to take all action necessary to avoid delay in the proceedings and to maintain order in the hearings.

(2) Hearings shall be recorded on audio or video tape unless the board directs recording by stenographic, mechanical or other means.

(3) It is suggested that the hearing be so ordered that the protestant first makes an opening statement and then the county assessor makes an opening statement or reserves it for the conclusion of the protestant's presentation. The protestant presents evidence through testimony of witnesses and the introduction of documents. Then the assessor presents evidence in the same manner. The board may allow each party a closing statement.

F. PROTEST HEARINGS - PRELIMINARY MATTERS:

(1) At the beginning of the hearing, the protestant, the protestant's representative or representatives, if any, all other persons present, the property and the amount of valuation in controversy shall be identified. The petition of the protestant filed with the county assessor shall be entered into the record.

(2) The county valuation protests board will confirm that any special accommodations or arrangements required under the Americans with Disabilities Act have been made.

(3) The board shall inform the protestant of the following.

(a) Other than the rules related to discovery, neither the technical rules of evidence nor the Rules of Civil Procedure for the District Courts apply to the board's proceedings.

(b) The legal presumption is in favor of the valuation placed on the property by the county assessor and the protestant has the burden of presenting evidence to overcome this presumption.

(c) All testimony will be taken under oath.

(d) The protestant will have an opportunity to present oral testimony, either the protestant's own or through witnesses, and that anyone testifying on the protestant's behalf is subject to cross-examination by the county assessor or the assessor's representative and that anyone testifying for the county assessor is also subject to cross-examination by the protestant or the protestant's representative. The protestant may call the county assessor or the assessor's employees as witnesses and examine them.

(e) The protestant will have the opportunity to offer into evidence whatever documents the protestant believes necessary. The protestant must have in hand all such documents but copies may be submitted instead of originals.

(f) Documents introduced into evidence before the board may be retained by the board.

(g) A written order deciding the protest will be made within thirty days of the date on which the hearing is concluded. This time limit may not be extended except by agreement of the board and the protestant.

(h) The protestant has the right to appeal the written decision and order of the board in accordance with the Rules of Appellate Procedure. Because the appeal is on the record made at the hearing, all evidence supporting all theories and positions of the protestant must be presented at the hearing.

(i) If the protestant appeals the decision of the board, the protestant must

pay the costs of preparing the record.

G. PROTEST HEARINGS - WITNESSES:

(1) All witnesses must be sworn. They may be sworn by any member of the board or any person assisting the board. All witnesses either party intends to have testify may be sworn in at one time. A form of oath which may be used is: "Do you solemnly swear or affirm that the evidence which you are about to give in the proceedings before this board shall be the truth, and this you do under penalties of perjury?"

(2) All witnesses may be cross-examined by the adverse party.

H. PROTEST HEARINGS - EVIDENCE:

(1) Relevant and material evidence shall be admitted. Irrelevant, immaterial, unreliable or unduly repetitious evidence may be excluded. Immaterial or irrelevant parts of an admissible document shall be segregated and excluded insofar as practicable. The county valuation protests board shall consider all evidence admitted. Board members may use their knowledge and experience to evaluate evidence admitted.

(2) If the protestant and the county assessor have arrived at a stipulation of facts, either party may present the written stipulation to the board. The stipulation shall be signed by both parties or their representatives. The stipulation may present all or a portion of the facts. If all the facts are not agreed to in the stipulation, then either party can establish additional facts at the hearing. If all the facts are stipulated, the board shall note for the record that a stipulation was received, receive oral argument regarding the protest, if any there be, and then take the protest under advisement. The stipulation then is the record of the hearing.

(3) Parties objecting to evidence shall timely and briefly state the grounds relied upon. Rulings of the board on all objections shall appear on the record or in the board's order. Any excluded exhibits, adequately marked for identification, shall be retained in the record so as to be available for consideration by any reviewing authority.

(4) Formal exception to an adverse ruling is not required.

(5) When an objection to a question propounded to a witness is made, the board shall note the objection in the record and allow the testimony. In its discretion, the board shall give appropriate weight to the disputed testimony.

I. PROTEST HEARINGS - DECISION OF BOARD: The county valuation protests board may announce orally its decision immediately after all the evidence is presented or may take the matter under advisement. An oral decision of the board is not binding and may not be appealed. All final decisions of the board must be made by written order. Unless extended by agreement of the board and the protestant, the written order deciding the protest shall be made within thirty days after the date of the hearing.

[3/23/83, 12/29/94, 8/31/96; 3.6.7.36 NMAC - Rn & A, 3 NMAC 6.7.36, 4/30/01]

7-38-28. APPEALS FROM ORDERS OF THE DIRECTOR OR COUNTY VALUATION PROTESTS BOARDS.--

A. A property owner may appeal an order made by a hearing officer or a county valuation protests board by filing an appeal pursuant to the provisions of Section 39-3-1.1 NMSA 1978.

B. The director shall notify the appropriate county assessor of the decision and order of the district court and shall direct the assessor to take appropriate action to comply with the decision and order.

(Laws 2015, Chapter 73, Section 22)

3.6.7.37 - APPEAL OF COUNTY VALUATION PROTESTS BOARD DECISION

A protestant who wishes to file an appeal of a decision of the county valuation protests board must do so within the time prescribed by Section 39-3-1.1 NMSA 1978 by filing a notice of appeal with the district court for the county in which the hearing was held, pursuant to Sections 7-38-28 and 39-3-1.1 NMSA 1978 and Rule 1-074 NMRA 1999. The county assessor will be named as appellee.

[12/29/94, 8/31/96, 10/29/99; 3.6.7.37 NMAC - Rn & A, 3 NMAC 6.7.37, 4/30/01]

7-38-29. RETENTION OF HEARING RECORDS. --Untranscribed verbatim records of protest hearings shall be retained until after transcription, if transcription is required to support an appeal, or until the time for a protestant to appeal an order under Section [7-38-28 NMSA 1978] has expired and the protestant has not appealed.

(Laws 1973, Chapter 258, Section 69)

7-38-30. DEPARTMENT TO ALLOCATE AND CERTIFY VALUATIONS TO COUNTY ASSESSORS. --By June 1 of each year, the department shall certify to each county assessor the value determined by the department for property taxation purposes of all property allocated to governmental units within the county and subject to departmental valuation. In certifying values, the department shall indicate by appropriate notation all property valuations that are the subject of a pending protest and shall include in the notation a statement of the uncontroverted valuation in the pending protests. The certified values shall be entered by the county assessor in his valuation records.

(Laws 1973, Chapter 258, Section 70)

7-38-31. COUNTY ASSESSOR TO CERTIFY NET TAXABLE VALUES TO THE DEPARTMENT. --After receiving the values for property taxation purposes certified to him by the department, the county assessor shall determine the net taxable value for all property allocated to governmental units in the county and subject to valuation for property taxation purposes, whether valued by him or by the department. No later than June 15 of each year, the county assessor shall certify to the department the net taxable values for all property allocated to governmental units in the county and subject to property taxation. The net taxable values of property shall be certified according to governmental units within the county. The assessor's certification shall include a statement of all property valuations that are the subject of a pending protest, whether protested locally or to the department, and a statement of the uncontroverted valuation in the pending protests.

(Laws 1973, Chapter 258, Section 71)

7-38-32. DEPARTMENT TO PREPARE A COMPILATION OF NET TAXABLE VALUES TO BE USED FOR BUDGET--MAKING AND RATE-SETTING. --

A. No later than June 30 of each year, the department shall prepare a compilation of all net taxable values certified to it by the county assessors and shall include in the compilation the information regarding protested values required to be furnished by the assessors to the department. The compilation shall be prepared in a form appropriate for use and shall be used for the purpose of making budgets. The compilation of net taxable values shall be sent immediately to the secretary of finance and administration.

B. No later than August 1 of each year, the department shall prepare an amended compilation of net taxable values and send it immediately to the secretary of finance and administration. This amended compilation shall include final valuations resulting from completed protests and information on pending protests. It shall be used by the department of finance and administration in setting property tax rates.

C. In the budget-making process for local units of government including school districts, the net taxable values from the immediately preceding tax year may be considered for the purpose of estimating available revenue from the current tax year when the compilation of net taxable values certified under Subsection A is incomplete or indefinite due to pending protests. (Laws 1977, Chapter 247, Section 190)

7-38-33. DEPARTMENT OF FINANCE AND ADMINISTRATION TO SET TAX RATES. --

A. No later than September 1 of each year, the secretary of finance and administration shall by written order set the property tax rates for the governmental units sharing in the tax in accordance with the Property Tax Code and the budget of each as approved by the department of finance and administration.

B. A copy of the property tax rate-setting order shall be sent to each board of county commissioners, each county assessor and the department within five days of the date the order is made.

C. Net taxable values from the immediately preceding tax year may be used by the department of finance and administration for the purpose of estimating current tax year revenue in connection with setting tax rates when final net taxable values for the current tax year are incomplete or indefinite due to pending protests.

D. When a rate is set for a governmental unit that is imposing a newly authorized rate pursuant to Section 7-37-7 NMSA 1978 or a newly authorized or a reauthorized rate after an election in which the imposition of the tax was approved by the voters of the unit, the rate shall be at a level that will produce in the first year of imposition revenue no greater than that which would have been produced if the valuation of property subject to the imposition had been the valuation in the tax year in which the increased rate pursuant to Section 7-37-7 NMSA 1978 was authorized by the taxing district or the year in which the voters approved the imposition.

(Laws 1989, Chapter 198, Section 1)

7-38-34. BOARD OF COUNTY COMMISSIONERS TO ORDER IMPOSITION OF THE TAX. --Within five days of receipt of the property tax rate-setting order from the department of finance and administration, each board of county commissioners shall issue its written order imposing the tax at the rates set on the net taxable value of property allocated to the appropriate governmental units. A copy of this order shall be delivered immediately to the county assessor.

(Laws 1973, Chapter 258, Section 74)

7-38-35. PREPARATION OF PROPERTY TAX SCHEDULE BY ASSESSOR. --

A. After receipt of the rate-setting order and the order imposing the tax, but no later than October 1 of each tax year, the county assessor shall prepare a property tax schedule for all property subject to property taxation in the county. This schedule shall be in a form that shall be made available electronically and contain the information required by regulations of the department and shall contain at least the following information:

- (1) the description of the property taxed and, if the property is personal property, its location;
- (2) the property owner's name and address and the name and address of any person other than the owner to whom the tax bill is to be sent;
- (3) the classification of the property;
- (4) the value of the property determined for property taxation purposes;
- (5) the tax ratio;
- (6) the taxable value of the property;
- (7) the amount of any exemption allowed and a statement of the net taxable value of the property after deducting the exemption;
- (8) the allocations of net taxable value to the governmental units;
- (9) the tax rate in dollars per thousand of net taxable value for all taxes imposed on the property;
- (10) the amount of taxes due on the described property; and
- (11) the amount of any penalties and interest already imposed and due on the described property.

B. The property tax schedule is a public record and a part of the valuation records.

(Laws 2007, Chapter 343, Section 1)

3.6.7.44 - PREPARATION OF PROPERTY TAX SCHEDULE BY ASSESSOR

A. **REQUIRED FORM AND INFORMATION AS TO PROPERTY TAX SCHEDULE:** The tax schedule must be on a standard preprinted form, prepared and paid for by the county assessor and must be in a form prescribed by the director. Information required to be contained in the schedule is limited to the information required by the prescribed form. Any form other than the standard form prescribed by the director may be used only after submitting the proposed form in writing to the director and receiving written approval from the director for the use of the proposed form.

B. **ABSTRACT OF INFORMATION CONTAINED IN THE PROPERTY TAX SCHEDULE:**

- (1) On or before October 1 of each year, the county assessor shall prepare and submit to the department and to the county treasurer an abstract of the information contained in

the property tax schedules as to the property in the county subject to property taxation under the Property Tax Code, including property valued by the department. The abstract shall include information showing for each county the valuation of the different kinds of property, taxable values of property, exemptions allowed against the taxable values and net taxable values of property.

(2) Specific information as to the breakdown of kinds of property to be listed and exemption information required shall be provided by instruction and directive of the director, pursuant to Section 9-11-6.2 NMSA 1978.

[3/23/83, 12/29/94, 8/31/96; 3.6.7.44 NMAC - Rn & A, 3 NMAC 6.7.44, 4/30/01]

7-38-36. PREPARATION AND MAILING OF PROPERTY TAX BILLS. --

A. A copy of the property tax schedule prepared by the assessor shall be delivered to the county treasurer on October 1 of each tax year.

B. Upon receipt of the property tax schedule, the county treasurer shall prepare and mail property tax bills to either the owner of the property or any person other than the owner to whom the tax bill is to be sent. Tax bills shall be mailed no later than November 1 of each tax year. The validity of the tax, the time at which the tax is payable or any subsequent proceeding instituted for the collection of the tax is not affected by the failure of a person to receive his tax bill.

C. To obtain the maximum efficiency and coordination between their offices, a county treasurer and a county assessor may stipulate by written agreement that property tax bills be prepared or mailed, or both, by the county assessor. An agreement authorized under this subsection shall include provisions for the allocation of costs of the functions delegated to the county assessor and must be approved by the board of county commissioners.

(Laws 1977, Chapter 211, Section 2)

7-38-36.1. ADMINISTRATIVE FEE TO BE CHARGED IF PROPERTY TAX IS LESS THAN FIVE DOLLARS (\$5.00)

A. If the property tax on property for which a property tax bill is prepared is less than five dollars (\$5.00), the board of county commissioners may, by resolution, charge an administrative fee equal to the difference between the amount of the property tax and five dollars (\$5.00), but no administrative fee shall be charged if there is no tax due. A copy of the resolution shall be sent to the county treasurer who shall collect the fee. This administrative fee shall be separately identified and stated in the property tax bill and shall be included in the total shown in the bill as due.

B. The administrative fee authorized by this section shall be collected and its collection enforced as if the fee were a property tax, except that no interest or penalty shall accrue or be charged because of its nonpayment.

C. The administrative fee authorized by this section shall be distributed to the county general fund when collected and shall not be distributed to the governmental units to which the property tax is distributed pursuant to Section 7-38-43 NMSA 1978.

(Laws 1982, Chapter 21, Section 1)

7-38-37. CONTENTS OF PROPERTY TAX BILL.--Each property tax bill shall be in a form and contain the information required by regulations of the department and shall contain at least the following:

A. all of the information required to be contained in the property tax schedule;

B. the amount of property taxes due on each installment, the due dates of the installments and the dates on which taxes become delinquent;

C. a brief statement of the option available to make prepayments of the property tax due pursuant to Sections 7-38-38.2 and 7-38-38.3 NMSA 1978;

D. a brief statement of the procedure under Section 7-38-39 NMSA 1978 for protesting values for property taxation purposes, classification, allocation of values to governmental units or a denial of a claim for an exemption;

E. a statement of the interest and penalties imposed by law for delinquency in the payment of property taxes and the remedies available against the taxpayer and the property for nonpayment of the amount due;

F. a statement advising the property owner that the property tax bill is the only notice the property owner will receive for payment of both installments of the tax if no separate notice will be sent with respect to the second installment;

G. the amount of any prepayment of the first installment made pursuant to Section 7-38-38.2 NMSA 1978; and H. the total amount of any monthly payments made pursuant to Section 7-38-38.3 NMSA 1978 and a statement of the amount of the final monthly payment necessary to pay the balance of the tax due.

(Laws 2008, Chapter 33, Section 1)

3.6.7.46 - CONTENTS OF PROPERTY TAX BILL

A. REQUIRED FORM AND INFORMATION AS TO PROPERTY TAX BILL: The tax bill must on a standard preprinted form, prepared and paid for by the county treasurer and in form and content prescribed by the director. Any form other than the standard form prescribed by the director will be used only after submitting the form in writing to the director and receiving written approval from the director for the use of such form and method.

B. NOTICE OF SECOND HALF INSTALLMENT: Treasurers may send a reminder notice with respect to the second installment of tax but they are not required to do so. If such a reminder notice is sent, it shall not be labeled or indicated as a "tax bill".

[3/23/83, 12/29/94, 8/31/96; 3.6.7.46 NMAC - Rn, 3 NMAC 6.7.46, 4/30/01]

7-38-38. PAYMENT OF PROPERTY TAXES--INSTALLMENT DUE DATES--REFUND IN CASES OF OVERPAYMENTS. --

A. Unless otherwise provided in the Property Tax Code, property taxes in the amount of ten dollars (\$10.00) or over are payable to the county treasurer in two equal installments due on November 10 of the year in which the tax bill was prepared and mailed and on April 10 of the following year. A board of county commissioners may, by ordinance, provide that property taxes under ten dollars (\$10.00) are due and payable in a single payment on November 10 of the year in which the tax bill was prepared and mailed. No demand for payment of property taxes is necessary.

B. If a taxpayer remits an amount in payment of his property taxes that exceeds the total property tax liability shown on the property tax bill, together with any applicable penalty and interest computed to the date payment is received by the county treasurer, a refund of the amount in excess shall be made to the taxpayer if either of the following conditions are met:

(1) a written request for the refund is made by the taxpayer and received by the county treasurer within sixty days of the date the excess payment is received by the county treasurer; or

(2) the county treasurer on his own initiative determines by June 30 of the year following the year for which taxes are imposed that an excess payment has been made.

(Laws 1987, Chapter 166, Section 2)

7-38-38.1. RECIPIENTS OF REVENUE PRODUCED THROUGH AD VALOREM LEVIES REQUIRED TO PAY COUNTIES ADMINISTRATIVE CHARGE TO OFFSET COLLECTION COSTS.--

A. As used in this section:

(1) "revenue" means money for which a county treasurer has the legal responsibility for collection and which is owed to a revenue recipient as a result of an imposition authorized by law of a rate expressed in mills per dollar or dollars per thousands of dollars of net taxable value of property, assessed value of property or a similar term, including but not limited to money resulting from the authorization of rates and impositions under Subsection B and Paragraphs (1) and (2) of Subsection C of Section 7-37-7 NMSA 1978, special levies for special purposes and benefit assessments, but the term does not include any money resulting from the imposition of taxes imposed under the provisions of the Oil and Gas Ad Valorem Production Tax Act, the Oil and Gas Production Equipment Ad Valorem Tax Act or the Copper Production Ad Valorem Tax Act or money resulting from impositions under Paragraph (3) of Subsection C of Section 7-37-7 NMSA 1978; and

(2) "revenue recipient" means the state and any of its political subdivisions, excluding institutions of higher education located in class A counties and class B counties having more than three hundred million dollars (\$300,000,000) valuation, that are authorized by law to receive revenue.

B. Prior to the distribution to a revenue recipient of revenue received by a county treasurer, the treasurer shall deduct as an administrative charge an amount equal to one percent of the revenue received.

C. The "county property valuation fund" is created. All administrative charges deducted by the county treasurer shall be distributed to the county property valuation fund.

D. Expenditures from the county property valuation fund shall be made pursuant to a property valuation program presented by the county assessor and approved by the majority of the county commissioners.
(Laws 2001, Chapter 173, Section 1)

7-38-38.2. PREPAYMENT OF CERTAIN PROPERTY TAX INSTALLMENTS -- RESOLUTION BY BOARD OF COUNTY COMMISSIONERS. --

A. Each board of county commissioners, by resolution, may as an option to the taxpayer provide for prepayment of property tax due if the tax due is one hundred dollars (\$100) or more.

B. The resolution shall provide for a prepayment of the first installment due pursuant to Section 7-38-38 NMSA 1978 by July 10 in an amount equal to twenty-five percent of the prior year's property tax bill. The amount of prepayment shall be credited against the first installment due.

C. The resolution shall further provide for a prepayment of the second installment due pursuant to Section 7-38-38 NMSA 1978 by January 10 in an amount equal to fifty percent of the second installment due. The amount of the prepayment shall be credited against the second installment due.

D. The resolution shall also provide that persons who are responsible by contract for paying property taxes on behalf of the property owner shall make prepayments as provided in this section if the amount of property tax due for the prior property tax year was at least one hundred dollars (\$100).

E. No penalty and interest shall be applied for failure to pay or for late payment of any optional prepayment of property taxes as authorized by this section. For persons required to make prepayments of property taxes under Subsection D of this section, the date of each prepayment installment shall be deemed to be the date the property tax is due for purposes of applying penalties and interest for failure to pay for late payment of any prepayment.

F. The county treasurer may distribute to the units of government, thirty days following receipt of the prepayment amounts collected, an amount equal to fifty percent of the amounts collected. Distribution shall be made in accordance with the law and regulations of the department of finance and administration.

G. The county shall make a concerted effort to apprise taxpayers of the option provided in this section by publication in a newspaper of general circulation in the county or through other media coverage.

(Laws 1987, Chapter 166, Section 3)

**7-38-38.3. OPTIONAL PREPAYMENT OF PROPERTY TAXES IN MONTHLY PAYMENTS.--A board of county commissioners may by resolution provide property owners the option of making prepayments of property taxes in ten monthly payments beginning June 1 of the year in which the tax bill is prepared and ending March 1 of the following year. The first nine monthly payments shall each be in an amount equal to ten percent of the prior year's property tax bill and the final payment on March 1 shall be in an amount equal to the balance of the tax due, as indicated on the tax bill prepared and mailed pursuant to Sections 7-38-36 and 7-38-37 NMSA 1978; provided that an option otherwise allowed pursuant to this section may not be exercised if taxes are escrowed for the property owner and included in the property owner's monthly mortgage payment.
(Laws 2008, Chapter 33, Section 2)**

**7-38-39. PROTESTING VALUES--CLAIM FOR REFUND. --After receiving his property tax bill and after making payment prior to the delinquency date of all property taxes due in accordance with the bill, a property owner may protest the value or classification determined for his property for property taxation purposes, the allocation of value of his property to a particular governmental unit, the application to his property of an administrative fee adopted pursuant to Section 7-38-36.1 NMSA 1978 or a denial of a claim for an exemption by filing a claim for refund in the district court.
(Laws 1983, Chapter 215, Section 2)**

7-38-40. CLAIMS FOR REFUND--CIVIL ACTION.--

A. Claims for refund shall be filed by the property owner as a civil action in the district court for the county in which the valuation was determined if the property was locally valued or in the district court for Santa Fe county if valued by the department. Claims shall:

(1) be filed against the director as party defendant if the property was valued by the department or against the county assessor as party defendant if the property was valued by the assessor and shall be filed no later than the sixtieth day after the first installment of the property tax for which a claim for refund is made is due;

(2) state the property owner's name and address and the name and address of any person other than the property owner to whom the tax bill was sent;

(3) state the basis of the claim for refund;

(4) state the amount of the refund to which the property owner believes he is entitled, the amount of property taxes admitted as legally due and the property taxes paid; and

(5) demand the refund to him of the amount to which he claims entitlement.

B. The director shall notify the appropriate county treasurer immediately when a claim for refund is filed against the director.

C. The property owner, the county assessor or the director may appeal to the court of appeals from any final decision or order of the district court in a claim for refund case in which they are parties.

D. Upon the final determination of the property owner's claim filed against the director, the director shall send a copy of the final order to the county treasurer and shall order the county assessor to change the valuation records to clearly reflect the final determination of the property owner's claim. The department shall change its valuation records accordingly.

E. Upon the final determination of the property owner's claim filed against the county assessor, the assessor shall send a copy of the final order to the county treasurer and to the director. The county assessor and the department shall change their respective valuation records to clearly reflect the final determination of the property owner's claim.

(Laws 2003, Chapter 292, Section 1)

3.6.7.49 - CLAIMS FOR REFUND - CIVIL ACTION

A. PROTEST IS WAIVER OF RIGHT TO CLAIM FOR REFUND: The initiation of a protest under Section 7-38-22 or 7-38-24 NMSA 1978 constitutes an unconditional and irrevocable waiver of the right to claim for refund under Section 7-38-40 NMSA 1978.

B. COUNTY TREASURER OR ASSESSOR REQUIRED TO FORWARD TO DEPARTMENT COPIES OF CLAIM FOR REFUND PETITIONS OR COMPLAINTS

SERVED ON THEM: When a claim for refund petition or complaint is served on either a county assessor or county treasurer, the county assessor or county treasurer is required to immediately forward a copy of that petition or complaint to the director.

C. **PAYMENT OF TAX REQUIRED.** Payment of the tax due is required to initiate a claim for refund. Because the property owner may elect to pay the tax in installments, payment of all installments due by the time the claim for refund is filed is sufficient to permit the property owner to submit a claim for refund. To preserve the claim for refund with respect to any installments due after the claim for refund was submitted but before a decision is rendered, payment of the installment must be made. The county treasurer must place in the “property tax suspense fund” the portion of any property taxes paid to the county treasurer but not admitted to be due and subject to a claim for refund. If the claim for refund does not admit that any portion of an installment of tax due in the future is due, then the portion of the installment, when paid, must be placed in the “property tax suspense fund”.

[3/23/83, 12/29/94, 8/31/96; 3.6.7.49 NMAC - Rn & A, 3 NMAC 6.7.49, 4/30/01, A, 6/29/01]

**7-38-41. PROTESTED PROPERTY TAXES--SUSPENSE FUND -- REFUNDS
-- INTEREST. --**

A. Each county treasurer shall establish a fund to be known as the "property tax suspense fund". The portion of any property taxes paid to the county treasurer that is not admitted to be due and is the subject of a claim for refund shall be deposited in this fund.

B. The fund shall be invested in interest-earning securities, accounts or deposits that are legal investments for county funds under the law and regulations of the department of finance and administration. The county treasurer shall keep records of interest earned by the investment of the fund.

C. If a property owner's property taxes are reduced as a result of a decrease in value of the property taxed, a change in the classification, a change in the allocation of the value of the property to a particular governmental unit or granting of a claim for an exemption ordered by a court after a claim for refund, the portion of the property taxes in controversy found to be in excess of the amount legally due and paid shall be refunded by the county treasurer to the property owner. The refund shall be made within fifteen days after the county treasurer receives a copy of the final order relating to the protest. The amount of property taxes in controversy found to be legally due and paid shall be distributed to the appropriate governmental units in accordance with the distribution regulations of the department of finance and administration. All payments authorized under this section shall be made from the property tax suspense fund.

D. In addition to the payments authorized under Subsection C of this section, the county treasurer shall pay to the property owner and the governmental units their pro rata share of interest earned by the protested taxes computed by applying the earned interest rate of the fund to the principal amounts of refund and distribution for the period of time from the date of payment into the fund until a date not more than thirty days prior to the date the actual refund payment and distribution payment are made. Payments are considered made on the date a refund payment is mailed or delivered to the property owner and on the date a transfer occurs on the county treasurer's books showing a distribution payment.

E. The department of finance and administration may authorize the transfer of any surplus interest accruing in the property tax suspense fund to the county general fund at the close of the fiscal year.

(Laws 1981, Chapter 37, Section 78)

See D.F.A. Regulations - Appendix B - regarding the "Property Tax Suspense Fund.

7-38-42. COLLECTION AND RECEIPT OF AND ACCOUNTING FOR PROPERTY TAXES--APPLICATION OF RECEIPTS TO DELINQUENT TAXES.--

A. The county treasurer has the responsibility and authority for collection of taxes and any penalties or interest due under the Property Tax Code except for the collection of delinquent taxes, penalties and interest authorized to be collected by the department under Section 7-38-62 NMSA 1978.

B. Property taxes, penalties and interest collected shall be receipted and accounted for in accordance with law and regulations of the department of finance and administration.

C. Any payments received by the treasurer or the department as payments for property taxes, penalties or interest shall be first applied to the oldest outstanding unpaid property taxes, penalties or interest accrued in prior property tax years on the property identified and described in the property tax bill for which payment is tendered or, if the payment cannot be identified with a particular year's property tax bill, then the payment shall be applied first to the oldest liability for property taxes, penalties and interest shown in the treasurer's records under the name of the paying taxpayer. In applying the foregoing requirements for applications of payments and in the adoption of any regulations to implement those provisions, the following additional rules shall apply:

(1) applications of payments to a prior year's delinquent taxes, penalties and interest shall not be made for more than ten years prior to the year of payment unless the treasurer's records show that the property for which taxes are delinquent has been deeded to the state of New Mexico and that property has not been sold by the state pursuant to applicable law;

(2) applications of payments to a prior year's delinquent taxes, penalties and interest shall not be made if:

(a) the prior year for which the delinquent taxes, penalties or interest are due is not the immediately preceding tax year;

(b) the delinquent taxes, penalties or interest are the result of real estate improvements that were omitted from property tax schedules in the prior year and listed and billed pursuant to Section 7-38-76 NMSA 1978;

(c) the current owner was not the owner at the time the improvements were omitted and had no actual notice that the improvements were omitted; and

(d) the payments were made by or on behalf of the current owner;

(3) after application of payment received, if all or part of the payment has been applied to a prior year's delinquent taxes, penalties or interest, the receipting authority shall issue a receipt to the paying taxpayer showing the application of the payment and indicating any balance due for

taxes, penalties or interest to bring the property tax payment status current;
and

(4) the failure of a receipting authority to apply a payment as required under this subsection or the failure to issue a required receipt to the taxpayer of the status of his account shall not relieve the taxpayer of liability for taxes, penalties or interest he would otherwise be required to pay nor does action or inaction by the receipting authority act to estop the collecting authority from taking any action to collect or enforce the payment of taxes, penalties and interest legally due.

(Laws 2003, Chapter 95, Section 2)

See D.F.A. Regulation - Appendix B - regarding tax receipts and accounting.

7-38-43. DISTRIBUTION OF RECEIPTS FROM COLLECTED PROPERTY TAXES, PENALTIES AND INTEREST.--The county treasurer shall distribute the receipts from collected property taxes to each governmental unit in an amount and in a manner determined in accordance with the law and with the regulations of the department of finance and administration. Penalties and interest collected by the county treasurer other than as an agent of the department under Section 7-38-62 NMSA 1978 shall be deposited in the county general fund at the times and in the manner required by regulations of the department of finance and administration. Penalties and interest collected by the county treasurer as agent of the department under Section 7-38-62 NMSA 1978 shall be remitted to the department at the times and in the manner required by regulation of the department of finance and administration. (Laws 1990, Chapter 22, Section 4)

See D.F.A. Regulation - Appendix B - regarding interest and penalty receipts.

7-38-44. SPECIAL PROCEDURES FOR ADMINISTRATION OF TAXES ON PERSONAL PROPERTY WHEN PROBABLE REMOVAL OF PROPERTY FROM STATE WILL JEOPARDIZE COLLECTION OF TAXES.--

A. If the director or a county assessor has reasonable cause to believe that personal property, other than livestock, subject to valuation by him for property taxation purposes in a tax year will be removed from the state or the county, respectively, before the taxes for that year are due and that the removal of the property will jeopardize the collection of the tax, he may, for property subject to valuation by him:

(1) proceed immediately to determine the value of the property and send a notice of valuation to the property owner;

(2) at any time after sending the notice of valuation proceed to determine the taxes due on the property by using the prior year's tax rates if the current year's tax rates have not been set and prepare and mail or deliver a property tax bill to the property owner and proceed to collect the taxes immediately; and

(3) issue a demand warrant and proceed to collect unpaid taxes as delinquent taxes under the provisions of Sections [7-38-53 through 7-38-59 NMSA 1978] if taxes are not paid upon demand.

B. Payment of taxes determined on the basis of the prior year's tax rates under this section constitutes full payment of the taxes on the property involved for the current tax year.

(Laws 1974, Chapter 92, Section 16)

See D.F.A. Regulation - Appendix B - regarding adjustments of uncollected accounts.

3.6.7.53 - PERSONAL PROPERTY - JEOPARDY ASSESSMENTS

A. JEOPARDY ASSESSMENT: Section 7-38-44 NMSA 1978 authorizes the secretary or the county assessor to issue a notice of valuation and a property tax bill simultaneously and immediately proceed to collect, by means of demand warrant pursuant to Section 7-38-54 NMSA 1978 the tax due at any time that the valuation authority has reasonable cause to believe that personal property subject to valuation by the valuation authority for property taxation purposes in a tax year will be removed from the state before the taxes for that year are due and that the removal of the property will jeopardize collection of the tax. Personal property seized pursuant to demand warrant cannot be sold until after the notice requirements of Section 7-38-57 NMSA 1978 are fulfilled.

B. VALUATION DATE FOR JEOPARDY ASSESSMENT PURPOSES: Section 7-38-7 NMSA 1978 fixes January 1 of each year as the date which determines the condition or status of the taxability of all property subject to valuation for property taxation purposes, except livestock which is to be valued as of the date and in the manner prescribed under Section 7-36-21 NMSA 1978. Therefore, no jeopardy assessment shall issue against

property not in the state on January 1 of the tax year, except as to livestock.

C. CONTESTING A NOTICE OF VALUATION ISSUED PURSUANT TO A JEOPARDY ASSESSMENT: In order to contest the value determined for the property pursuant to Section 7-38-44 NMSA 1978, a property owner must pay the tax in the amount shown on the tax bill and file a claim for refund pursuant to Section 7-38-40 NMSA 1978. Petitions of protest to a notice of valuation pursuant to Section 7-38-44 NMSA 1978 do not stay the delivery of the property tax bill or proceedings to collect the tax by demand warrant. Therefore, claim for refund is the only appropriate remedy to contest the value determined pursuant to that section.

[3/23/83, 12/29/94, 8/31/96; 3.6.7.53 NMAC - Rn & A, 3 NMAC 6.7.53, 4/30/01]

7-38-44.1.--SPECIAL PROCEDURES FOR ADMINISTRATION OF TAXES ON REAL PROPERTY DIVIDED OR COMBINED.--

A. For real property subject to valuation for property taxation purposes in a taxable year that is divided or combined, a county shall proceed to determine the taxes due on the property by using the prior year's tax rate, if the current tax rates have not been set, and the prior year's value, if the current year value has not been set, and proceed to immediately collect the taxes, penalties, interest and fees through the taxable year in which the property is divided or combined.

B. A taxpayer shall pay the taxes, penalties, interest and fees due on real property divided or combined through the taxable year in which the property is divided or combined prior to filing a plat.

(Laws 2013, Chapter 119, Section 1)

7-38-45. SPECIAL PROVISIONS RELATING TO ADMINISTRATION OF TAXES ON LIVESTOCK.--

A. The New Mexico livestock board shall furnish to the department who shall forward to the county assessor of each county information obtained by it about the number, name and address of owner, description, movement, origin and destination of livestock being moved into and from any county. All such information shall be sent in duplicate to the county assessor into or from whose county livestock are being moved. Upon receipt of the information, the assessor shall send the duplicate to the department with a notation indicating the date on which it was received. The livestock board report made under this section fulfills the livestock owner's responsibility to make a report of the livestock under Section [7-36-21 NMSA 1978].

B. Notwithstanding any other provision in the Property Tax Code to the contrary, either the county assessor or the director may:

(1) determine the value of livestock for property taxation purposes at any time the livestock are subject to valuation under the Property Tax Code whether or not the owner of the livestock or any other person has reported them for valuation;

(2) issue a notice of valuation of livestock at any time after a determination of valuation has been made of livestock for property taxation purposes;

(3) prepare and deliver a tax bill and collect taxes on livestock at any time after a notice of valuation has been issued when there is reasonable cause to believe that it would jeopardize the collection of the taxes if the regular tax collection cycle in the Property Tax Code [were] followed; and

(4) issue a demand warrant to enforce collection of taxes on livestock as delinquent taxes if there is reasonable cause to believe that the livestock may be moved out of the state prior to the payment of taxes and proceed to collect the taxes as delinquent taxes by sale of the livestock in accordance with Sections [7-38-53 through 7-38-59 NMSA 1978].

C. In the preparation of a tax bill under this section, the assessor or director may determine the tax due on the basis of the prior year's tax rates if the current year's tax rates have not yet been set. Taxes determined on livestock under this section are due when the tax bill is delivered to the owner or the person in charge of the livestock and are delinquent if not paid upon demand. Payment of taxes determined on the basis of the prior year's tax rates constitutes full payment of the taxes on the livestock for the current tax year.

(Laws 1974, Chapter 92, Section 17)

7-38-46. DELINQUENT PROPERTY TAXES.--

A. Property taxes that are not paid within thirty days after the date on which they are due are delinquent unless a timely protest has been made under Sections 7-38-22 and 7-38-24 NMSA 1978, and, in that case, the amount of taxes attributable to the net taxable value of the property that is not in controversy becomes delinquent if not paid within thirty days after the due date.

B. If property taxes would have otherwise been delinquent but for a timely protest having been made under Sections 7-38-22 and 7-38-24 NMSA 1978, property taxes are also delinquent if the property owner:

(1) fails to pay his taxes or to appeal after a decision of a county valuation protests board, the director or a court within the time allowed for an appeal; or

(2) fails to pay his taxes as ordered within ten days after the entry of a final order resulting from a timely protest when that order is not appealable.

C. If a timely protest has been made under Sections 7-38-22 and 7-38-24 NMSA 1978, property taxes are also delinquent if the property owner fails to pay his taxes within thirty days after the date on which they are due if that date is later than the dates determined under Paragraph (1) or (2) of Subsection B of this section.

**D. Notice of the date when taxes become delinquent must be published in a newspaper of general circulation within the county at least once a week for the three weeks immediately preceding the week in which the delinquency date for first and second installments of property taxes due occurs. Each county treasurer shall cause the notice to be published for his county.
(Laws 1982, Chapter 28, Section 18)**

3.6.7.55 - PROTEST HEARING - FAILURE TO APPEAR

If a property owner makes a timely protest but fails without reasonable justification to appear at the hearing, an order will be entered denying the protest, because no evidence has been presented, and declaring that, pursuant to statute, the property taxes involved are delinquent.

[3/23/83, 12/29/94, 8/31/96; 3.6.7.55 NMAC - Rn, 3 NMAC 6.7.55, 4/30/01]

7-38-47. PROPERTY TAXES ARE PERSONAL OBLIGATION OF OWNER OF PROPERTY.--Property taxes imposed are the personal obligation of the person owning the property on the date on which the property was subject to valuation for property taxation purposes, and a personal judgment may be rendered against him for the payment of property taxes that are delinquent together with any penalty and interest on the delinquent taxes. The sale or transfer of property after its valuation date does not relieve the former owner of personal liability for the property taxes imposed for that tax year.
(Laws 1973, Chapter 258, Section 87)

7-38-48. PROPERTY TAXES ARE A LIEN AGAINST REAL PROPERTY FROM JANUARY 1--PRIORITIES--CONTINUANCE OF TAXING PROCESS.--

A. Except as provided in Subsection B of this section, taxes on real property are a lien against the real property from January 1 of the tax year for which the taxes are imposed. The lien runs in favor of the state and secures the payment of taxes on the real property and any penalty and interest that become due. The lien continues until the taxes and any penalty and interest are paid. The lien created by this section is a first lien and paramount to any other interest in the property, perfected or unperfected. The annual taxing process provided for in the Property Tax Code shall continue as to any particular property regardless of prior tax delinquencies or of pending protests, actions for refunds or other tax controversies involving the property, including a sale for delinquent taxes.

B. No lien is created pursuant to Subsection A of this section if:

(1) the tax otherwise creating the lien is not due for the current tax year or the immediately preceding property tax year;

(2) the tax otherwise creating the lien is the result of real estate improvements that were omitted from property tax schedules in a prior year and listed and billed pursuant to Section 7-38-76 NMSA 1978; and

(3) the current owner was not the owner at the time the improvements were omitted and had no actual notice that the improvements were omitted.

(Laws 2003, Chapter 95, Section 3)

**7-38-49. UNPAID PROPERTY TAXES--IMPOSITION OF INTEREST.--If property taxes are not paid for any reason within thirty days after the date they are due, interest on the unpaid taxes shall accrue from the thirtieth day after they are due until the date they are paid. Interest shall accrue at the rate of one percent a month or any fraction of a month. Interest shall accrue whether or not protests have been resolved. However, in the case of a timely protest, interest payable shall be computed on a principal amount equal to the unpaid taxes finally determined to be due upon resolution of the protest. Interest shall not be imposed on interest or on any penalty.
(Laws 1973, Chapter 258, Section 89)**

7-38-50. DELINQUENT TAXES--CIVIL PENALTIES.--

A. If property taxes become delinquent, a penalty of one percent of the delinquent taxes for each month or any portion of a month they remain unpaid shall be imposed, but the total penalty shall not exceed five percent of the delinquent taxes except that, when the penalty determined under the foregoing provisions of this subsection is less than five dollars (\$5.00), the penalty to be imposed shall be five dollars (\$5.00). A county may suspend for a particular tax year application of the minimum penalty requirements of this subsection by resolution of its county commissioners adopted not later than September 1 of that tax year. A copy of any such resolution shall be forwarded to the county treasurer.

B. If property taxes become delinquent because of an intent to defraud by the property owner, fifty percent of the property taxes due or fifty dollars (\$50.00), whichever is greater, shall be added as a penalty.
(Laws 1982, Chapter 28, Section 19)

3.6.7.59 - DELINQUENT TAXES - CIVIL PENALTIES

A. **PENALTY IS IN ADDITION TO INTEREST BUT NOT COMPUTED ON INTEREST:** The penalty provided for in Section 7-38-50 NMSA 1978 is in addition to any interest imposed pursuant to Section 7-38-49 NMSA 1978. The penalty is not computed on the interest accrued.

B. **MINIMUM PENALTY APPLICABLE TO EACH INSTALLMENT OF TAXES AND EACH PROPERTY TAX BILL:** The minimum penalty provided for in Section 7-38-50 NMSA 1978 is applicable to each of the equal installments of property taxes payable to the county treasurer pursuant to Section 7-38-38 NMSA 1978 in the event that each of the equal installments becomes delinquent. The minimum penalty is applicable to each property tax bill mailed by the county treasurer pursuant to Section 7-38-35 NMSA 1978. In the event that more than one bill is mailed to a single taxpayer and the property taxes set forth in those bills become delinquent, the minimum penalty applies to each bill which becomes delinquent.

[3/23/83, 12/29/94, 8/31/96; 3.6.7.59 NMAC - Rn & A, 3 NMAC 6.7.59, 4/30/01]

7-38-51. NOTIFICATION TO PROPERTY OWNER OF DELINQUENT PROPERTY TAXES.--

A. In respect to any tax that is delinquent for more than thirty days as of June 30 of each year, the county treasurer shall mail a notice of delinquency to:

- (1) the owner of the property as shown on the property tax schedule at the address of the owner as shown on the most recent property tax schedule; and**
- (2) any person other than the owner to whom the tax bill on the property was sent.**

B. The notice required by this section shall be in a form and contain the information prescribed by [department] regulations and shall include at least the following:

- (1) a description of the property upon which the property taxes are due;**
- (2) a statement of the amount of property taxes due, the date on which they became delinquent, the rate of accrual of interest and any penalties that may be charged;**
- (3) a statement that if the property taxes due on real property are not paid within three years from the date of delinquency, the real property will be sold and a deed issued by the [department]; and**
- (4) a statement that if property taxes due on personal property are not paid, the personal property may be seized and sold for taxes under authority of a demand warrant.**

(Laws 1982, Chapter 28, Section 20)

3.6.7.60 - FORM OF NOTIFICATION TO PROPERTY OWNER OF DELINQUENT PROPERTY TAXES

The notification of property owners that property taxes are delinquent shall be in substantially the following form and contain the following information. Additional information, including but not limited to, signature of the treasurer may be included in the form.

NOTICE OF DELINQUENT TAXES

TO: (Name of property owner or any person other than the owner to whom the tax bill was sent)

Your are hereby notified by the _____ county treasurer that property taxes upon the following described property in the following amounts became delinquent on _____:

Property description and code no. (include location, vehicle registration ("MH") number and vehicle identification number if a manufactured home)

Amount of tax due \$ _____
Interest due _____
Penalty due _____
Total amount due if paid _____
(If not paid by _____, additional interest and penalty will accrue.)

INTEREST

Pursuant to 7-38-49 NMSA 1978, if property taxes are not paid for any reason within thirty (30) days after the date they are due, interest on the unpaid taxes shall accrue from the thirtieth day after they are due until the date they are paid. Interest shall accrue at the rate of one percent (1%) a month or any fraction of a month.

PENALTY

Pursuant to 7-38-50 NMSA 1978, if property taxes become delinquent, a penalty of one percent (1%) of the delinquent taxes for each month or any portion of a month they remain unpaid shall be imposed, but the total penalty shall not exceed five percent (5%) of the delinquent taxes, except that, when the penalty determined under the foregoing provisions is less than five dollars (\$5.00), the penalty to be imposed shall be five dollars (\$5.00). A county may suspend for a particular tax year application of the minimum penalty requirements by resolution of its county commissioners adopted not later than September 1 of that tax year.

If property taxes become delinquent because of an intent to defraud by the property owner, fifty percent (50%) of the property taxes due or fifty dollars (\$50.00), whichever is greater, shall be added as a penalty.

COLLECTION TRANSFERRED TO PROPERTY TAX DIVISION

If the delinquent tax interest and penalties are not paid by July 1 of the year following the year in which the taxes have been delinquent for more than two years, this property will be placed on a tax delinquency list and forwarded to the property tax division for collection.

REAL PROPERTY

Pursuant to 7-38-65 NMSA 1978, if the property taxes due on real property are not paid within three (3) years from the date of delinquency, the real property will be sold and a deed issued by the property tax division of the New Mexico taxation and revenue department.

PERSONAL PROPERTY

Pursuant to 7-38-53 NMSA 1978, if property taxes due on personal property are not paid, the personal property may be seized and sold for taxes under authority of a demand warrant.

Pursuant to 7-38-52 NMSA 1978, a copy of the delinquency notice of unpaid taxes on a manufactured home was sent to the motor vehicle division of the taxation and revenue department. Upon receipt and filing of the notice by the motor vehicle division, the unpaid taxes, penalty and interest constitute a security interest in and a lien on the vehicle in accordance with Section 66-3-204 NMSA 1978.

[3/23/83, 12/29/94, 8/31/96; 3.6.7.60 NMAC - Rn & A, 3 NMAC 6.7.60, 4/30/01]

7-38-52. NOTIFICATION TO MOTOR VEHICLE DIVISION OF UNPAID PROPERTY TAXES ON MANUFACTURED HOMES--NOTICE OF FILING CONSTITUTES LIEN ON VEHICLE.--

A. In the preparation of the tax delinquency notices, the county treasurer shall ascertain those persons who have failed to pay taxes on manufactured homes.

B. In addition to the information required under Section 7-38-51 NMSA 1978, delinquency notices sent to the persons determined under Subsection A of this section shall include the location and vehicle identification number of the manufactured home.

C. A copy of the delinquency notice of unpaid taxes on a manufactured home shall be sent to the motor vehicle division of the department. Upon receipt and filing of the notice by the motor vehicle division, the unpaid taxes, penalty and interest constitute a security interest in and a lien on the vehicle in accordance with Section 66-3-204 NMSA 1978. The delinquency notice sent to the owner of the manufactured home shall notify the owner of the mailing of the copy of the notification to the motor vehicle division and of the legal effect of the filing of the notice by that division.

D. When the delinquent taxes, penalty and interest are fully paid, the county treasurer shall certify the fact of payment and shall prepare a notification of certified payment. The original notification shall be sent to the motor vehicle division of the department, and a copy shall be sent to the owner of the manufactured home.

E. The lien provided for in this section is in addition to any other remedy available to the state for the collection of delinquent property taxes.
(Laws 1991, Chapter 166, Section 9)

3.6.7.61 - DELINQUENT TAXES - MANUFACTURED HOMES - NOTICE TO MOTOR VEHICLE DIVISION - NOTICE CONSTITUTES LIEN

A. LIEN UPON MANUFACTURED HOMES - REQUIRED INFORMATION: In order to establish a security interest in and a lien upon the manufactured home, the copy of the notice of property tax delinquency must include both the location of the manufactured home and the complete vehicle identification number of the manufactured home. Notices of property tax delinquency on manufactured homes which do not contain the complete vehicle identification number do not contain sufficient information to establish whether or not a manufactured home is registered with the motor vehicle division. Therefore such notices will not be filed and will not constitute a security interest in and a lien upon the vehicle.

B. TITLE TRANSFERS PRIOR TO DELINQUENCY: The receipt and filing by the motor vehicle division of the taxation and revenue department of a copy of the delinquency notice of unpaid taxes on a manufactured home constitutes a security interest in and a lien on the manufactured home in accordance with Section 66-3-204 NMSA 1978. The lien is a charge upon the manufactured home for the payment of the unpaid taxes, penalty and interest on the manufactured home, notwithstanding that the manufactured home changed ownership prior to

the date of the delinquency.

C. **EFFECT OF LIEN:** Pursuant to Section 66-3-204 NMSA 1978, from the date and time of receipt of the delinquency notice by the motor vehicle division of the taxation and revenue department, the unpaid taxes, penalty and interest certified by the county treasurer constitute a lien on and a security interest in the manufactured home on behalf of the state until paid. The lien is valid against holders of prior perfected security interests, attaching creditors and subsequent transferees, and when filed in accordance with Section 66-3-204 NMSA 1978 constitutes constructive notice of the lien claimed.

[3/23/83, 12/29/94, 7/19/94, 8/31/96; 3.6.7.61 NMAC - Rn & A, 3 NMAC 6.7.61, 4/30/01]

7-38-53. COLLECTION OF DELINQUENT PROPERTY TAXES ON PERSONAL PROPERTY--ASSERTION OF CLAIM AGAINST PERSONAL PROPERTY.--A county treasurer may collect delinquent property taxes on personal property by asserting a claim against the owner's personal property for which taxes are delinquent. A claim shall be asserted by service of a demand warrant by the county treasurer, an employee of his office designated by him or the county sheriff upon any person in possession of the personal property subject to the claim.
(Laws 1973, Chapter 258, Section 93)

7-38-54. DEMAND WARRANT--CONTENTS.--A demand warrant shall:

- A. contain a statement of the authority for its issuance and service;
- B. identify the property owner, the amount of the delinquent taxes on his personal property and the date on which the taxes were due;
- C. describe the personal property subject to the tax and the demand warrant;
- D. order the person on whom it is served to:
 - (1) reveal the amount of personal property in his possession that is described in the demand warrant;
 - (2) state the extent of his and any other person's interest in the personal property;
 - (3) reveal the amount and kind of the property owner's personal property described in the demand warrant that are in the possession of other persons; and
 - (4) surrender the personal property described in the demand warrant and in his possession;
- E. state the penalties for failure to comply with the terms of the warrant; and
- F. be signed by the county treasurer.

(Laws 1974, Chapter 92, Section 21)

7-38-55. SURRENDER OF PERSONAL PROPERTY--PENALTY FOR REFUSAL.--

A. Any person in the possession of personal property subject to claim for delinquent taxes and upon whom service of a demand warrant has been made must surrender the personal property to the county treasurer. However, that part of the personal property which is the subject of a bona fide attachment, execution or other similar process need not be surrendered unless the property is released from the attachment, execution or other similar process.

B. Any person who wrongfully fails or refuses to surrender personal property is personally liable for an amount equal to the value of the personal property not surrendered or the amount of the delinquent taxes, penalties and interest on that property, whichever is less.
(Laws 1973, Chapter 258, Section 95)

7-38-56. RELEASE OF PERSONAL PROPERTY SEIZED.--The county treasurer may release all or part of the personal property seized if he determines that the release will facilitate the collection of the delinquent taxes. However, the release does not prevent the assertion of any subsequent claim against the property owner's personal property.
(Laws 1973, Chapter 258, Section 96)

7-38-57. NOTICE OF SALE OF PERSONAL PROPERTY.--

A. As soon as practical after the seizure of personal property but at least ten days before any proposed sale, the county treasurer shall notify the property owner by certified mail of the amount and kind of personal property seized and that the personal property will be sold for delinquent taxes on his personal property unless the taxes, penalties and interest are paid prior to the time of the sale.

B. The notice shall also state the amount of taxes, penalties and interest due, the time and place of the sale and any other information the department may require by regulation.

C. The treasurer shall make a diligent inquiry as to the identity and whereabouts of other persons having an interest in the property seized and provide them with the same notice given the property owner.

D. Failure to receive the notice of sale does not affect the validity of the sale.

(Laws 1974, Chapter 92, Section 22)

7-38-58. PERSONAL PROPERTY SALE REQUIREMENTS.--

A. The county treasurer must offer for sale all personal property seized by a demand warrant within sixty days of the date it is seized.

B. Notice of the sale must be published in a newspaper of general circulation within the county where the personal property is to be sold at least once a week for the three weeks immediately preceding the week of the sale. The notice shall state the time and place of the sale and describe the personal property to be sold. The treasurer shall make a special effort to give notice of the sale to persons with a particular interest in special property and, apart from the requirements stated above, shall advertise the sale in a manner appropriate to the kind of property being sold.

C. Personal property must be sold at public auction either by the treasurer or an auctioneer hired by him. The auction shall be held at a time and place designated by the treasurer.

D. If a property owner's personal property is not sufficiently divisible to enable the treasurer to sell part of it and extinguish the tax delinquency, the treasurer may sell all of the personal property to extinguish the delinquency and return the remaining proceeds to the property owner.

E. Before the sale, the treasurer shall determine a minimum sale price for the personal property. In determining the minimum price, the treasurer shall consider the value of the property owner's interest in the personal property, the amount of delinquent taxes, penalties and interest for which it is being sold and the expenses of the sale. Personal property may not be sold for less than the minimum price unless no offer met the minimum price when it was offered at an earlier public auction.

F. Payment must be made in full and must be made immediately after an offer is accepted.

G. If, prior to the time of the sale, the property owner pays his personal property taxes, penalties and interest due and any costs incurred in preparing for the sale, or makes satisfactory arrangements with the treasurer for the payment of these amounts, the treasurer shall return his personal property to him.

(Laws 1974, Chapter 92, Section 23)

7-38-59. CERTIFICATES OF SALE--EFFECT OF CERTIFICATES OF SALE.--

A. Upon receiving payment for the personal property sold, the county treasurer shall execute and deliver a certificate of sale to the purchaser.

B. A certificate of sale:

(1) is prima facie evidence of the treasurer's right to make the sale and conclusive evidence of the regularity of all proceedings relating to the sale;

(2) transfers all of the former property owner's interest in the personal property as of the date of sale. The purchaser takes the personal property free of any unrecorded or unfiled interests unknown to him at the time of sale; and

(3) shall be in a form prescribed by regulation of the department.

(Laws 1973, Chapter 258, Section 99)

3.6.7.68 - CERTIFICATE OF SALE

The certificate of sale shall be in substantially the following form:

CERTIFICATE OF SALE

This certificate of sale is issued pursuant to Section 7-38-59 NMSA 1978 and has the effect of a certificate of sale provided in that section. This certificate of sale is prima facie evidence of the county treasurer's right to make this sale and conclusive evidence of the regularity of all proceedings relating to this sale.

Under the authority of Section 7-38-58 NMSA 1978, the property described herein was sold at public auction on _____ at _____, New Mexico.

For consideration received in the sum of \$_____, all interests of the delinquent taxpayer, _____, in the property described herein are hereby transferred to the purchaser, _____, who takes the personal property free of any unrecorded or unfiled interest unknown to the purchaser at the time of sale.

Description of property_____.

Done by me this _____ day of _____, 19____, at _____, New Mexico.

County treasurer of _____ County

[3/23/83, 12/29/94, 8/31/96; 3.6.7.68 NMAC - Rn, 3 NMAC 6.7.68, 4/30/01]

7-38-60. NOTIFICATION TO PROPERTY OWNER OF DELINQUENT TAXES.-- By June 10 of each year, the county treasurer shall mail a notice to each property owner of property for which taxes have been delinquent for more than two years. The notice shall be in a form and contain the information prescribed by department regulations and shall include the following:

A. a description of the property upon which the taxes are due;

B. a statement of the amount of property taxes due, the date on which they became delinquent, the rate of accrual of interest and any penalties or costs that may be charged;

C. a statement that the delinquent tax account on real property will be transferred to the department for collection;

D. a statement that if taxes due on real property are not paid within three years from the date of delinquency, the real property will be sold and a deed issued; and

E. a statement that if taxes due on personal property are not paid, the personal property may be seized and sold for taxes under authority of a demand warrant.

(Laws 1997, Chapter 124, Section 1)

3.6.7.69 - NOTIFICATION TO PROPERTY OWNER OF DELINQUENT TAXES

A. **FORM OF NOTIFICATION TO PROPERTY OWNER OF TRANSFER OF DELINQUENT ACCOUNT:** The notice of transfer of delinquent account shall be in substantially the following form but the form may contain additional information including, but not limited to, a statement as to the full amount of taxes owed on the property for years other than the delinquent year:

**NOTICE TO PROPERTY OWNER OF
TRANSFER OF DELINQUENT ACCOUNT**

TO: (Name and address of property owner or any person other than the owner to whom the tax bill was sent)

You are hereby notified by the _____ county treasurer that property taxes upon the following described property in the following amounts for the _____ tax year became delinquent on _____; and that the taxes have been delinquent for more than two (2) years. Pursuant to Sections 7-38-61 and 7-38-62 NMSA 1978, this delinquent account is hereby transferred as of July 1 for collection to the Property Tax Division, Manuel Lujan, Sr. Building, Santa Fe, New Mexico 87504-0630, phone (505) 827-0876. Payment shall be made to the _____ county treasurer as agent for collection of this account pursuant to Section 6.3.7.71 NMAC.

Delinquent Account No. _____ School District No. _____

Property description and code no. (include location, vehicle registration "MH" number and vehicle identification number if a manufactured home):

Tax Year	Amount of Tax Due	Interest Due	Penalty Due	Total
20__	\$ _____	\$ _____	\$ _____	\$ _____
20__	\$ _____	\$ _____	\$ _____	\$ _____
20__	\$ _____	\$ _____	\$ _____	\$ _____
20__	\$ _____	\$ _____	\$ _____	\$ _____
20__	\$ _____	\$ _____	\$ _____	\$ _____

Total due for all years _____

Due by: _____, otherwise, additional interest and penalty will accrue.

INTEREST

Pursuant to 7-38-49 NMSA 1978, if property taxes are not paid for any reason within thirty (30) days after the date they are due, interest on the unpaid taxes shall accrue from the thirtieth day after they are due until the date they are paid. Interest shall accrue at the rate of one percent (1%) a month or any fraction of a month.

PENALTY

Pursuant to 7-38-50 NMSA 1978, if property taxes become delinquent, a penalty of one percent (1%) of the delinquent taxes for each month or any portion of a month they remain unpaid shall be imposed, but the total penalty shall not exceed five percent (5%) of the delinquent taxes except that, when the penalty determined under the forgoing provisions of this subsection is less than five dollars (\$5.00), the penalty to be imposed shall be five dollars (\$5.00). A county may suspend for a particular tax year application of the minimum penalty requirements of Section 7-38-60 NMSA 1978 by resolution of its county commissioners adopted not later than September 1 of that tax year.

If property taxes became delinquent because of an intent to defraud by the property owner, fifty percent (50%) of the property taxes due or fifty dollars (\$50.00), whichever is greater, shall be added as a penalty.

REAL PROPERTY

Pursuant to 7-38-65 NMSA 1978, if the property taxes due on real property are not paid within three (3) years from the date of delinquency, the real property will be sold and a deed issued by the property tax division of the New Mexico taxation and revenue department.

PERSONAL PROPERTY

Pursuant to 7-38-53 NMSA 1978, if property taxes due on personal property are not paid, the personal property may be seized and sold by the division, at any time, for taxes under authority of a demand warrant.

Until sale, property listed on the property tax delinquency list will continue to be assessed and taxed to its owner in the same manner as it would be if it were not listed on the property tax delinquency list.

Date _____ County Treasurer _____

B. LIABILITY FOR TAX ON PROPERTY LISTED ON THE PROPERTY TAX DELINQUENCY LIST: Until sale, property listed on the property tax delinquency list will continue to be assessed and taxed to its owner in the same manner as it would be if it were not listed on the property tax delinquency list.

[3/23/83, 12/29/94, 8/31/96; 3.6.7.69 NMAC - Rn & A, 3 NMAC 6.7.69, 4/30/01]

7-38-61. PROPERTY TAXES DELINQUENT FOR MORE THAN TWO YEARS--TREASURER TO PREPARE DELINQUENCY LIST--NOTATION ON PROPERTY TAX SCHEDULE.--

A. By July 1 of each year, the county treasurer shall prepare a property tax delinquency list of all real property for which taxes have been delinquent for more than two years. The tax delinquency list shall contain the information and be in a form prescribed and submitted by the date required by department regulations. The county treasurer shall record the tax delinquency list in the office of the county clerk. There shall be no recording fee for recordation of the tax delinquency list. The updated final property tax sale list shall be recorded with the office of the county clerk the day following the sale of the property. There shall be no recording fee for recordation of the final property tax sale list.

B. The county treasurer shall make a notation on the property tax schedule indicating that the account has been transferred to the department for collection at the time the tax delinquency list is mailed to the department. (Laws 1997, Chapter 124, Section 2)

3.6.7.70 - PROPERTY TAXES DELINQUENT FOR MORE THAN TWO YEARS - TREASURER TO PREPARE DELINQUENCY LIST

A. INFORMATION TO BE CONTAINED IN THE TAX DELINQUENCY LIST:

(1) The tax delinquency list for real property shall contain the following information:

- (a) The name and address of the real property owner and any other person to whom the tax bill was sent;
- (b) A description of the property upon which the taxes are due and the property code number;
- (c) A statement of the amount of property taxes due and the date they became delinquent; and
- (d) The county name, municipality, town or village, and school district number where the real property is located.

(2) By July 1 of each tax year, the county treasurer shall prepare a property tax delinquency list of all real property for which taxes have been delinquent for more than two years. The tax delinquency list for real property shall contain the required information for real property only.

B. DELINQUENCY LIST DELIVERY REQUIREMENTS: The county treasurer shall deliver or mail the tax delinquency list for real property for the tax year to the division no later than July 15 of each year. The division may require or permit the list to be transmitted electronically.

[3/23/83, 12/31/85, 12/29/94, 8/31/96, 11/30/99; 3.6.7.70 NMAC - Rn, 3 NMAC 6.7.70, 4/30/01]

7-38-62. AUTHORITY OF DEPARTMENT TO COLLECT DELINQUENT PROPERTY TAXES AFTER RECEIPT OF TAX DELINQUENCY LIST-- ALLOWING AN AUTHORIZED COUNTY TREASURER TO ACT AS AN AGENT OF THE DEPARTMENT--USE OF PENALTIES, INTEREST AND COSTS.--

A. After the receipt of the tax delinquency list, the department has the responsibility and exclusive authority to take all action necessary to collect delinquent taxes shown on the list. This authority includes bringing collection actions in the district courts based upon the personal liability of the property owner for taxes as well as the actions authorized in the Property Tax Code for proceeding against the property subject to the tax for collection of delinquent taxes.

B. Payment of delinquent taxes listed and any penalty, interest or costs due in connection with those taxes shall be made to the department if occurring after the receipt by the department of the tax delinquency list; however, the department may authorize county treasurers to act as its agents in accepting payments of taxes, penalties, interest or costs due to the department, including payments made pursuant to an installment agreement authorized by Section 7-38-68 NMSA 1978.

C. Penalties, interest and costs due received by the department pursuant to Subsection B of this section shall be retained by the department for use, subject to appropriation by the legislature, in the administration of the Property Tax Code.

(Laws 2015, Chapter 44, Section 1)

3.6.7.71 - COUNTY TREASURERS ARE AUTHORIZED TO ACT AS AGENT FOR THE DEPARTMENT IN ACCEPTING PAYMENTS

A. County treasurers are authorized by the department to act as the department's agent in accepting payments of taxes, penalties, interest and costs due on property shown on the tax delinquency list prepared in accordance with Section 7-38-61 NMSA 1978 after its receipt by the division, unless this agency relationship is revoked by order of the director.

B. County treasurers are required to notify the department by the 15th day of the month following the month in which payment is accepted of the amount paid and other information necessary for the department to correct the tax delinquency list.

[12/27/83, 12/29/94, 8/31/96; 3.6.7.71 NMAC - Rn & A, 3 NMAC 6.7.71, 4/30/01; A, 4/15/13]

**7-38-63. PAYMENT OF DELINQUENT TAXES TO THE DEPARTMENT--
DISTRIBUTION.--**At the time of payment to the department of delinquent taxes, interest and penalties, the department shall issue a receipt to the property owner for the payment of delinquent taxes, penalties and interest. A duplicate of the receipt shall be mailed to the county treasurer together with a remittance of the property taxes paid. When the county treasurer receives the remittance of the taxes and the duplicate receipt, the treasurer shall make a notation of the payment of the property taxes, penalties and interest on the property tax schedule and shall distribute the property taxes to the appropriate governmental units in accordance with the regulations of the department of finance and administration.

(Laws 1990, Chapter 22, Section 6)

7-38-65. COLLECTION OF DELINQUENT TAXES ON REAL PROPERTY--SALE OF REAL PROPERTY.--

A. If a lien exists by the operation of Section 7-38-48 NMSA 1978, the department may collect delinquent taxes on real property by selling the real property on which the taxes have become delinquent. The sale of real property for delinquent taxes shall be in accordance with the provisions of the Property Tax Code. Real property may be sold for delinquent taxes at any time after the expiration of three years from the first date shown on the tax delinquency list on which the taxes became delinquent. Real property shall be offered for sale for delinquent taxes either within four years after the first date shown on the tax delinquency list on which the taxes became delinquent or, if the department is barred by operation of law or by order of a court of competent jurisdiction from offering the property for sale for delinquent taxes within four years after the first date shown on the tax delinquency list on which the taxes became delinquent, within one year from the time the department determines that it is no longer barred from selling the property, unless:

(1) all delinquent taxes, penalties, interest and costs due are paid by 5:00 p.m. of the day prior to the date of the sale; or

(2) an installment agreement for payment of all delinquent taxes, penalties, interest and costs due is entered into with the department by 5:00 p.m. of the day prior to the date of the sale pursuant to Section 7-38-68 NMSA 1978.

B. Failure to offer property for sale within the time prescribed by Subsection A of this section shall not impair the validity or effect of any sale that does take place.

C. The time requirements of this section are subject to the provisions of Section 7-38-83 NMSA 1978.

D. After January 1, 2014 and subject to the provisions of Subsection A of this section, the department shall annually offer for sale in each county at least one real property listed on that county's property tax delinquency list, unless the director of the property tax division of the department and the county treasurer enter into an agreement to postpone the delinquent property tax sale. The agreement to postpone the delinquent property tax sale shall be executed in writing, and copies shall be sent to the secretary of taxation and revenue and the secretary of finance and administration. That agreement shall state the reason for the postponement and the proposed remedy that will allow the department to conduct the sale in the future.

(Laws 2013, Chapter 155, Section 1)

**7-38-66. SALE OF REAL PROPERTY FOR DELINQUENT TAXES--
NOTICE OF SALE.--**

A. At least twenty days but not more than thirty days before the date of the sale for delinquent taxes, the department shall notify by certified mail, return receipt requested, and, for abandoned real property, an additional letter sent by first class mail, to the address as shown on the most recent property tax schedule, each property owner whose real property will be sold that the owner's real property will be sold to satisfy delinquent taxes, unless:

(1) all delinquent taxes, penalties, interest and costs due are paid by 5:00 p.m. of the day prior to the date of the sale, or, for abandoned real property being sold via an online platform as provided in Subsection D of Section 7-38-67.1 NMSA 1978, all delinquent taxes, penalties, interest and costs due are paid by 5:00 p.m. of the day prior to the date the property is offered on the property tax division's website; or

(2) an installment agreement for payment of all delinquent taxes, penalties, interest and costs due is entered into with the department by 5:00 p.m. of the day prior to the date of sale in accordance with Section 7-38-68 NMSA 1978, or, for abandoned real property sold via an online platform as provided in Subsection D of Section 7-38-67.1 NMSA 1978, an installment agreement for payment of all delinquent taxes, penalties, interest and costs due is entered into with the department in accordance with Section 7-38-68 NMSA 1978 by 5:00 p.m. of the day prior to the date the property is offered on the property tax division's website.

B. The notice shall also:

(1) state the amount of taxes, penalties, interest and costs due;
(2) state the time and place of the sale;
(3) if online, state the date and time the sale begins and expires and the web address of the property tax division's website where the property being sold will be listed;

(4) describe the real property that will be sold;
(5) inform the property owner of the property owner's right to apply for an installment agreement with the department for payment of delinquent taxes, penalties, interest and costs, in accordance with Section 7-38-68 NMSA 1978;

(6) provide information on the name and phone number of the individual in the department the owner can contact to arrange for an installment agreement in accordance with Section 7-38-68 NMSA 1978; and

(7) contain any other information that the department may require by rule.

C. At the same time a notice required by Subsection A of this section is sent to the owner of the real property, a notice containing the information set out in Subsection B of this section shall also be sent to each person holding a lien or security interest of record in the property if an address for such person is reasonably ascertainable through a search of the property

records of the county in which the property is located.

D. Failure of the department to mail a required notice by certified mail, return receipt requested, shall invalidate the sale; provided, however, that return to the department of the notice of the return receipt shall be deemed adequate notice and shall not invalidate the sale.

E. Proof that all delinquent taxes, penalties, interest and costs had been paid by 5:00 p.m. of the day prior to the date of sale shall prevent or invalidate the sale.

F. For abandoned real property sold via an online platform as provided in Subsection D of Section 7-38-67.1 NMSA 1978, proof that the owner has paid all delinquent taxes, penalties, interest and costs due by 5:00 p.m. of the day prior to the date the property is offered on the property tax division's website shall invalidate the sale.

G. Proof that the owner has, by 5:00 p.m. of the day prior to the date of sale, entered into an installment agreement to pay all delinquent taxes, penalties, interest and costs as provided in Section 7-38-68 NMSA 1978 and that timely payments under such agreement are being made shall prevent or invalidate the sale.

H. For abandoned real property sold via an online platform as provided in Subsection D of Section 7-38-67.1 NMSA 1978, proof that the owner has entered into an installment agreement with the department for payment of all delinquent taxes, penalties, interest and costs due in accordance with Section 7-38-68 NMSA 1978 by 5:00 p.m. of the day prior to the date the property is offered on the property tax division's website shall invalidate the sale.

I. The time requirements of this section are subject to the provisions of Section 7-38-83 NMSA 1978.

(Laws 2018, Chapter 50, Section 2)

7-38-67. REAL PROPERTY SALE REQUIREMENTS.--

A. Real property shall not be sold for delinquent taxes before the expiration of three years from the first date shown on the tax delinquency list on which the taxes on the real property became delinquent.

B. Notice of the sale shall be published in a local newspaper within the county where the real property is located or, if there is no local county or municipal newspaper, then a newspaper published in a county contiguous to or near the county in which the real property is located, at least once a week for the three weeks immediately preceding the week of the sale. For more generalized notice, the department may choose to publish notice of the sale also in a newspaper not published within the county and of more general circulation. The notice shall state the time and place of the sale and shall include a description of the real property sufficient to permit its identification and location by potential purchasers.

C. Real property shall be sold at public auction either by the department or an auctioneer hired by the department. The auction shall be held in the county where the real property is located at a time and place designated by the department.

D. If the real property can be divided so as to enable the department to sell only part of it and pay all delinquent taxes, penalties, interest and costs, the department may, with the consent of the owner, sell only a part of the real property.

E. Before the sale, the department shall determine a minimum sale price for the real property. In determining the minimum price, the department shall consider the value of the property owner's interest in the real property, the amount of all delinquent taxes, penalties and interest for which it is being sold and the costs. The minimum price shall not be less than the total of all delinquent taxes, penalties, interest and costs. Real property shall not be sold for less than the minimum price unless no offer met the minimum price when it was offered at an earlier public auction or the property is sold in accordance with the provisions of Subsection H of this section. A sale properly made under the authority of and in accordance with the requirements of this section constitutes full payment of all delinquent taxes, penalties and interest that are a lien against the property at the time of sale, and the sale extinguishes the lien.

F. Payment shall be made in full by the close of the public auction before an offer may be deemed accepted by the department.

G. Real property not offered for sale may be offered for sale at a later sale, but the requirements of this section and Section 7-38-66 NMSA 1978 shall be met in connection with each sale.

H. The board of trustees of a community land grant-merced governed pursuant to the provisions of Chapter 49, Article 1 NMSA 1978 or by statutes specific to the named land grant-merced shall be allowed to match the

highest bid at a public auction, which shall entitle the board of trustees to purchase the property for the amount bid if:

(1) the property is situated within the boundaries of that land grant-merced as shown in the United States patent to the grant;

(2) the bid covers all past taxes, penalties, interest and costs due on the property; and

(3) the land becomes part of the common lands of the land grant-merced.

(Laws 2005 Chapter 211 Section 1)

7-38-67.1. SALE OF ABANDONED REAL PROPERTY--NOTICE OF SALE--REQUIREMENTS.--

A. Abandoned real property may be sold by special sale.

B. Notice of the sale shall be published in a local newspaper within the county where the abandoned real property is located, or in a newspaper published in a county contiguous to or near the county in which the abandoned real property is located, the week immediately preceding the week of the sale. In cases where abandoned real property is offered for sale via an online platform pursuant to Subsection D of this section, the notice of the sale shall be published in a local newspaper within the county where the abandoned real property is located, or in a newspaper published in a county contiguous to or near the county in which the abandoned real property is located, the week immediately preceding the week of the beginning of the continuous online sale. Online sales notices pursuant to this section shall also be published on the property tax division's website. The notice shall:

- (1) state the time and place of the sale;**
- (2) if the sale is made via an online sale pursuant to Subsection D of this section, state the date and time the sale will begin and expire and the property tax division's website where the property being sold will be listed;**
- (3) include the name of the subdivision in which the abandoned real property is located;**
- (4) state the total minimum bid; and**
- (5) provide the phone number of the property tax division and the web address where interested buyers may obtain copies of the list of properties to be sold.**

C. Abandoned real property may be sold at public auction either by the department or an auctioneer hired by the department. The auction shall be held in the county where the abandoned real property is located at a time and place designated by the department.

D. Abandoned real property may be offered for sale via an online platform on the property tax division's website, and notice shall be given pursuant to Subsection B of this section. The sales of abandoned real property listed on the property tax division's website may be continuous until December 31 of the tax year in which the abandoned real property is offered for sale. For subsequent tax years, notice shall be given pursuant to Subsection B of this section before the abandoned real property listed on the property tax division's website can be reoffered for sale.

E. Before the sale, the department shall determine a minimum sale price for the abandoned real property. In determining the minimum price, the department shall consider the amount of all delinquent taxes, penalties, interest and costs for which the abandoned real property is being sold. If the department determines the total amount due is in excess of the sale price that could reasonably be made through public auction, the property tax division

may offer the abandoned real property for less than the total amount of delinquent taxes, penalties, interest and costs due.

F. A sale properly made under the authority of and in accordance with the requirements of this section constitutes full payment of all delinquent taxes, penalties and interest that are a lien pursuant to Section 7-38-48 NMSA 1978 against the abandoned real property at the time of sale, and the sale extinguishes the lien.

G. Payment shall be made in full by the close of the public auction before an offer may be deemed accepted by the department. For abandoned real property sold via an online platform pursuant to Subsection D of this section, payment shall be made in full within one business day of the bid being accepted by the department before an offer may be deemed accepted by the department. Receipt of a bid from a buyer by the department is not acceptance of the bid by the department. The department shall notify the buyer whose bid is accepted by the department, and the one business day payment requirement begins at the time the buyer received notice of acceptance to the buyer whose bid was accepted by the department. Notice of acceptance of a bid sent to a buyer by the department may be sent via email. Failure of a buyer whose bid was accepted by the department and to whom notice was sent by the department to pay the full sales price within one business day invalidates the sale and the property can be reoffered for sale unless the buyer receives an extension to make payment from the department. Requests for time extensions and approvals of time extensions can be made via email.

H. The board of trustees of a community land grant-merced governed pursuant to the provisions of Chapter 49, Article 1 NMSA 1978, or by statutes specific to the named land grant-merced, shall be allowed to exercise the right of first offer to purchase the abandoned real property if:

(1) the abandoned real property offered for sale is situated within the boundaries of that land grant-merced as shown in the United States patent to the grant;

(2) the offer covers all taxes, penalties, interest and costs due on the abandoned real property unless the minimum sales price is reduced below total amounts owed pursuant to Subsection E of this section; and

(3) the land becomes part of the common lands of the land grant-merced.

I. In the event that there is a competing interest in the abandoned real property by prior landholders, such as land grant owners, pueblos or nontaxable entities, the secretary shall determine who has the prevailing right of first offer.

J. The time requirements of this section are subject to the provisions of Section 7-38-83 NMSA 1978.

K. As used in this section, "right of first offer" means the department is obliged to undergo exclusive good faith negotiations with the rights holder before offering abandoned real property for sale to the public.

7-38-68. INSTALLMENT AGREEMENTS.--

A. The [department] may enter into an installment agreement for the payment of all delinquent property taxes, penalties, interest and costs due with respect to either real property or a manufactured home with the owner of the real property or manufactured home whose taxes have become delinquent and whose account for all or part of the delinquent taxes has been transferred for collection to the [department]. Execution of an installment agreement under this section by a property owner is an irrevocable admission of liability for all taxes that are the subject of the agreement. The installment agreement shall be in writing and shall not extend for a period of more than thirty-six months. Interest shall accrue on the unpaid balance during the period of the installment agreement. The rate of interest shall be one percent a month, and no other interest on that portion of the principal representing unpaid taxes shall accrue while an installment agreement is in effect. The [department] shall not enter into an installment agreement with a property owner on or after the date of the initial sale of real property or manufactured home for delinquent taxes whether or not the real property or manufactured home is sold and a deed issued as a result of that sale. The [department] shall promulgate regulations establishing requirements for a minimum down payment and substantially equal monthly payments for installment agreements.

B. An installment agreement prevents any further action to collect the delinquent taxes stated in the agreement as long as the terms of the agreement are met.

C. The [department] may proceed under the Property Tax Code to collect the property taxes, penalties, interest and costs due and unpaid if:

- (1)** installment payments are not made on or before the dates specified in the agreement;
- (2)** the property owner fails to pay other property taxes when required; or
- (3)** any other condition contained in the agreement is not met.

D. For the purpose of computing the time when real property or a manufactured home may be sold for delinquent taxes, the date of original delinquency shall be used when the delinquent taxes have been the subject of an installment agreement that was subsequently breached by the property owner.

E. If an owner of real property or a manufactured home enters into an installment agreement and subsequently breaches the agreement under this section, the [department] shall not enter into another installment agreement with that property owner for the payment of the delinquent taxes that were the subject of the installment agreement.

F. Alphabetically indexed and serially numbered records of installment agreements must be kept in the office of the director and made available for public inspection.

(Laws 1985, Chapter 109, Section 10)

3.6.7.77 - INSTALLMENT AGREEMENTS

A. CIRCUMSTANCES JUSTIFYING AN INSTALLMENT AGREEMENT:

Installment agreements shall not be entered into if the taxpayer can obtain funds from any source to pay the liability, unless approval in writing by the director is obtained and such approval is supported by a written statement of circumstances justifying the installment agreement. To obtain an installment agreement, a taxpayer is required to provide a balance sheet and income statement on forms furnished by the division. Statements submitted by a licensed accountant containing the same information may be accepted in lieu of the division forms. Any such forms or statements must, unless waived in writing by the director, contain the following statement signed by the taxpayer or the taxpayer's agent: "Taxpayer is unable to obtain funds from any source with which to pay currently all the delinquent taxes proposed to be covered by the installment agreement. Under the penalties of perjury, I swear or affirm that the information contained herein and in the attached statement is true and correct as to every material matter."

B. MINIMUM DOWN PAYMENT FOR INSTALLMENT AGREEMENTS:

No installment agreement proposal shall be entered into for the division that involves a down payment of less than twenty (20) percent of all delinquent property taxes, penalties, interest and costs due, unless approval in writing by the director is obtained and such approval is supported by a written statement of the circumstances justifying a lesser down payment.

C. TERMS OF INSTALLMENT AGREEMENTS: Although an installment agreement may extend for a period of thirty-six (36) months, each installment agreement will cover the minimum period in which a taxpayer may reasonably liquidate the liability and shall provide for payment in equal monthly installments, unless approval in writing by the director is obtained and such approval is supported by a written statement of the circumstances justifying payment in other than equal monthly installments.

[3/23/83, 11/5/85, 12/29/94, 8/31/96; 3.6.7.77 NMAC - Rn, 3 NMAC 6.7.77, 4/30/01]

7-38-69. DISTRIBUTION OF AMOUNTS COLLECTED UNDER INSTALLMENT AGREEMENTS.--Amounts collected under installment agreements entered into by the department that represent delinquent taxes shall be remitted to the county treasurer of the county to which the net taxable value of the property is allocated for distribution to the governmental units. Amounts collected that represent penalties, interest and costs shall be retained by the department in accordance with Section 7-38-71 NMSA 1978. Money collected shall be remitted at the times and in the manner required by regulations of the department of finance and administration. When the department has received payment in full of delinquent taxes, penalties, interest and costs paid under an installment agreement, the department shall notify the county treasurer of that fact, and the county treasurer shall make an entry on the property tax schedule indicating that the delinquent property taxes, penalties and interest have been paid.
(Laws 1995, Chapter 12, Section 13)

See D.F.A. Regulation - Appendix B - regarding installment agreements.

7-38-70. ISSUANCE OF DEEDS AS RESULT OF SALE OF REAL PROPERTY FOR DELINQUENT TAXES--EFFECT OF DEEDS--LIMITATION OF ACTION TO CHALLENGE CONVEYANCE.--

A. Upon receiving payment for real property sold for delinquent taxes, the [department] shall execute and deliver a deed to the purchaser.

B. If the real property was sold substantially in accordance with the Property Tax Code, the deed conveys all of the former property owner's interest in the real property as of the date the state's lien for real property taxes arose in accordance with the Property Tax Code, subject only to perfected interests in the real property existing before the date the property tax lien arose.

C. After two years from the date of sale, neither the former real property owner shown on the property tax schedule as the delinquent taxpayer nor anyone claiming through him may bring an action challenging the conveyance.

D. Subject to the limitation of Subsection C of this section, in all controversies and suits involving title to real property held under a deed from the state issued under this section, any person claiming title adverse to that acquired by the deed from the state must prove, in order to defeat the title, that:

(1) the real property was not subject to taxation for the tax years for which the delinquent taxes for which it was sold were imposed;

(2) the [department] failed to mail the notice required under Section 7-38-66 NMSA 1978 or to receive any required return receipt;

(3) he, or the person through whom he claims, had title to the real property at the time of the sale and had paid all delinquent taxes, penalties, interest and costs prior to the sale as provided in Subsection E of Section 7-38-66 NMSA 1978; or

(4) he, or the person through whom he claims, had entered into an installment agreement to pay all delinquent taxes, penalties, interest and costs prior to the sale as provided in Section 7-38-68 NMSA 1978 and that all payments due were made timely.

(Laws 1982, Chapter 28, Section 25)

7-38-71. DISTRIBUTION OF AMOUNTS RECEIVED FROM SALE OF PROPERTY.--

A. Money received by the department from the sale of real or personal property for delinquent property taxes shall be deposited in a suspense fund and distributed as follows:

(1) first, that portion equal to the costs shall be retained by the department for use, subject to appropriation by the legislature, in administration of the Property Tax Code;

(2) second, that portion equal to the penalties and interest due shall be retained by the department for use, subject to appropriation by the legislature, by the department in administration of the Property Tax Code;

(3) third, that portion equal to the delinquent taxes due shall be remitted by the department to the appropriate county treasurer for distribution by the treasurer to the governmental units in accordance with the law and the regulations of the department of finance and administration; and

(4) the balance shall be paid to the former owner of the property sold or to any other person designated by order directed to the department by a court of competent jurisdiction, provided that the department may first apply all or any portion of the balance to be paid against the amount of any property tax, including any penalty and interest related thereto, owed by the person to whom the balance would otherwise be paid.

B. As a condition precedent to payment of the balance of the sale amount received to the former owner of the property, the department may require any person claiming to be entitled to that payment to present sufficient evidence of proof of former ownership of the property to the department. The department shall adopt regulations providing for the procedures to be followed by persons claiming sale proceeds as former owners in those instances where conflicting claims exist or the department requires proof of ownership.

C. If no person claims the balance of sale proceeds, whether the property was sold under the provisions of the Property Tax Code or prior law, as the former owner of the property within two years of the date of the sale and after a reasonable search to determine the former owner is made by the department and no former owner is found, the balance of the sale proceeds shall be considered abandoned property and deposited in accordance with the provisions of the Uniform Unclaimed Property Act.

D. If the balance of proceeds from the sale after paying a higher priority claim under Subsection A of this section is insufficient to pay all of the next priority claim, then the complete balance shall be applied to that next priority claim as partial payment."

(Laws 1995, Chapter 12, Section 14)

See D.F.A. Regulation - Appendix B - regarding amounts remitted to county treasurers.

3.6.7.80 - DISTRIBUTION OF AMOUNTS RECEIVED FROM SALE OF PROPERTY

A. EXPENSES OF SEIZURE AND SALE ARE IN ADDITION TO "COSTS":

(1) The expenses of seizure and sale referred to in Section 7-38-67 NMSA 1978 are in addition to the "costs" referred to in Section 7-38-62 NMSA 1978 and may exceed those costs. Generally, the expenses of seizure and sale refer to the out-of-pocket expenses incurred by the department in seizing and selling a property. Costs are the internal expenses, such as employee wages and benefits, supplies and travel, of the department in carrying out its duties to enforce the property tax through sale of property.

(2) The amount of "costs", however, are a part of the "expenses of seizure and sale" as that phrase is used in Section 7-38-71 NMSA 1978 and shall be distributed accordingly.

B. PROCEDURES FOR PAYMENT OF EXCESS PROCEEDS FROM THE SALE OF REAL PROPERTY:

(1) When the proceeds from the sale of property for delinquent taxes exceed the amount required to be retained by the department plus the amounts required to be remitted to the county treasurer as provided by Subsection A of Section 7-38-71 NMSA 1978, the department will notify by mail the former owners of record of their right to claim a refund of any excess funds from the sale.

(2) As used in this subsection, the term "former owner" means that person whose name appears as the assessed owner of the property on the property tax delinquency list. The term "former owner" also includes any other person whose name is revealed as having an ownership interest in the property through a search of property ownership records at the county clerk's office conducted by the department prior to the public auction sale.

(3) After receiving a completed application for refund and documentation necessary to establish proof of ownership of the property, the department shall determine if a claimant is entitled to receive any excess funds from the sale. The department, at its discretion, may require additional information from the claimant to establish the right of the claimant to the excess funds.

(4) In the event more than one claimant requests a refund of the excess funds, the department shall not refund any funds to any claimant until an order, issued by a court of competent jurisdiction which identifies which claimant is entitled to the refund, has been presented to the department.

(5) Any person with a claim established by lien, mortgage or judgment against the property which was sold may file a claim for the excess funds from the sale by presenting an order directed to the department by a court of competent jurisdiction which establishes that person's right to receive the excess funds.

(6) After completing the requirements of Paragraph (1) of this subsection and after the expiration of two years from the date of sale, the department will deposit any unclaimed excess funds in accordance with the provisions of the Uniform Unclaimed Property Act. Any person having any claim to the excess funds after the funds have been so deposited can make a claim for the funds as provided by the provisions of the Uniform Unclaimed Property Act. Such claims shall be addressed to the Unclaimed Property Unit.

[3/23/88, 9/15/88, 12/29/94, 8/31/96; 3.6.7.80 NMAC - Rn & A, 3 NMAC 6.7.80, 4/30/01]

7-38-72. NOTATION ON PROPERTY TAX SCHEDULE BY COUNTY TREASURER WHEN PROPERTY SOLD FOR DELINQUENT TAXES.-- When the county treasurer receives written notification from the [department] of the sale of property for delinquent taxes, he shall make an entry on the property tax schedule indicating that the delinquent property taxes, penalties and interest are no longer a lien against the property.
(Laws 1982, Chapter 28, Section 27)

See D.F.A. Regulation - Appendix B - regarding tax receipt to Property Tax Division.

7-38-73. DEPARTMENT OF FINANCE AND ADMINISTRATION TO PROMULGATE REGULATIONS REGARDING ACCOUNTING FOR AND DISTRIBUTION OF PROPERTY TAXES COLLECTED.--The department of finance and administration is authorized and directed to promulgate regulations covering the receipt of, accounting for and distribution of amounts received under the Property Tax Code by county treasurers as taxes. The department of finance and administration may provide in these regulations for the withholding of amounts of taxes to which the state is entitled to distribution in those instances when delinquent property taxes are paid to the department, but the regulations shall require that withheld taxes must be credited and shown as paid by the county treasurer on the property tax schedule.
(Laws 1973, Chapter 258, Section 113)

See D.F.A. Regulation - Appendix B - regarding the D.F.A. Administrative Manual.

7-38-74. OFFICERS AND EMPLOYEES ENGAGED IN THE ADMINISTRATION OF THE PROPERTY TAX PROHIBITED FROM BUYING PROPERTY SOLD FOR DELINQUENT PROPERTY TAXES--PENALTIES FOR VIOLATION--SALES OF REAL PROPERTY IN VIOLATION DECLARED VOID.--

A. Officers or employees of the state or of any of its political subdivisions engaged in the administration of the property tax may not, directly or indirectly, acquire an interest in, buy or profit from any property sold by the department for delinquent taxes except that an officer or employee may purchase property sold for delinquent taxes if he is the owner of the property and was the owner of the property at the time the taxes became delinquent.

B. Any officer or employee violating this section is guilty of a fourth degree felony and shall be fined not more than five thousand dollars (\$5,000) or imprisoned for not less than one year nor more than five years, or both. He shall also be automatically removed from office or have his employment terminated upon conviction.

C. A real property sale in violation of this section is void.
(Laws 1973, Chapter 258, Section 114)

3.6.7.83 - "OFFICERS OR EMPLOYEES OF THE STATE OR ANY OF ITS POLITICAL SUBDIVISIONS ENGAGED IN THE ADMINISTRATION OF THE PROPERTY TAX" DEFINED: The phrase "officers or employees of the state or any of its political subdivisions engaged in the administration of the property tax" includes, but is not limited to, members of county valuation protests boards, county commissioners, county assessors and their employees, county treasurers and their employees, the secretary, deputy secretary and assistant secretary of the taxation and revenue department, any member of the secretary's staff; and the director and employees of the division. The phrase does not include state legislators because they are not "engaged in the administration of the property tax" unless they are employed in another governmental capacity.

[3/23/83, 12/29/94, 8/31/96; 3.6.7.83 NMAC - Rn, 3 NMAC 6.7.83, 4/30/01]

7-38-75. EXCEPTION TO PROPERTY TAX DUE DATE.--When, because of provisions of the Property Tax Code, a property tax bill is required or authorized to be prepared and mailed or delivered on or by a date other than the date specified in Section [7-38-36 NMSA 1978], the due date of the property taxes involved shall be the date the property tax bill was mailed or delivered. (Laws 1974, Chapter 92, Section 25)

See D.F.A. Regulation - Appendix B - regarding deadline extension.

7-38-76. PROPERTY SUBJECT TO PROPERTY TAXATION BUT OMITTED FROM PROPERTY TAX SCHEDULES IN PRIOR YEARS.--

A. Subject to the limitations contained in the Property Tax Code and except as provided in Subsection B of this section, county assessors, treasurers and the department have the authority and the duty to enter in the valuation records, list on the property tax schedules, bill for and collect the taxes for all tax years on property that was subject to property taxation but was omitted from property tax schedules and for which taxes have not been paid but would be due except for the omission. Property tax bills shall be prepared and mailed by the county treasurers within thirty days of the date the omitted property is listed on the property tax schedule, and all taxes on omitted property shall be due the date the property tax bill is mailed.

B. Except for taxes due in the current tax year and the immediately preceding tax year, the current owner of the real estate is not liable for a property tax bill mailed pursuant to Subsection A of this section if:

(1) the omitted property is improvements that were placed on the real estate; and

(2) the current owner was not the owner at the time the improvements were omitted and had no actual notice that the improvements were omitted.

C. Nothing in this section relieves the owner of the property at the time the improvements were omitted from being personally liable for the taxes due pursuant to Section 7-38-47 NMSA 1978.

D. The department shall promulgate regulations for the procedures to be followed and the records to be maintained in the administration and collection of taxes on omitted property. The department of finance and administration shall promulgate regulations covering the receipt of, accounting for and distribution of taxes on omitted property. (Laws 2003, Chapter 95, Section 5)

See D.F.A. Regulation - Appendix B - regarding tax receipts on omitted property.

3.6.7.85 - PROPERTY SUBJECT TO TAXATION BUT OMITTED FROM PROPERTY TAX SCHEDULES IN PRIOR YEARS

A. VALUATION OF OMITTED PROPERTY: Omitted property shall be valued, on its discovery, at its value on January 1 of each tax year or years for which it was omitted from property tax schedules.

B. OWNERSHIP OF OMITTED PROPERTY: Omitted property, real or personal, shall be valued, listed and the taxes on it collected pursuant to Section 7-38-76 NMSA 1978, regardless of whether or not it is owned or possessed by the same person as was the owner or person in possession thereof at the time of the omission.

C. OMITTED PROPERTY - STATUTE OF LIMITATIONS: Subsection B of Section 7-38-81 NMSA 1978 provides: "property that has not been included on a property tax schedule may not be subjected to the imposition of property taxes for more than ten (10) tax

years immediately preceding the date of its entry on the property tax schedule". This applies to all property subject to the property tax, meaning all tangible property, real or personal.

D. **OMITTED PROPERTY - PENALTY AND INTEREST:** Omitted property is subject to penalty and interest pursuant to Sections 7-38-49 and 7-38-50 NMSA 1978 only from thirty (30) days after the date the property tax bill on the omitted property is mailed because that is the date all taxes for prior years on omitted property are due.

E. **OMITTED PROPERTY - PENALTY:** Omitted property shall be treated like property the owner of which has failed to make a required report thereof. The person who did not make the report shall be subject to the applicable penalty.

F. **OMITTED PROPERTY - PROCEDURE AFTER VALUATION AND LISTING:** If property was omitted from property tax schedules for a prior tax year, then the tax rate for the prior year in the governmental unit where the property was located shall be applied. Property tax bills shall be prepared and mailed by the county treasurers within thirty (30) days of the date the property is listed on the property tax schedule, and all taxes for prior years on omitted property shall be due the date the property tax bill is mailed.

[3/23/83, 12/29/94, 8/31/96; 3.6.7.85 NMAC - Rn & A, 3 NMAC 6.7.85, 4/30/01]

7-38-77. AUTHORITY TO MAKE CHANGES IN PROPERTY TAX SCHEDULE AFTER ITS DELIVERY TO THE COUNTY TREASURER.--

A. After delivery of the property tax schedule to the county treasurer, the amounts shown on the schedule as taxes due and other information on the schedule shall not be changed except:

(1) by the county treasurer to correct obvious errors in the mathematical computation of taxes;

(2) by the county treasurer to correct obvious errors by the county assessor in:

(a) the name or address of the property owner or other persons shown on the schedule;

(b) the description of the property subject to property taxation, even if the correction results in a change in the amount shown on the schedule as taxes due;

(c) the data entry of the value, classification, allocation of value and limitation on increases in value pursuant to Sections 7-36-21.2 and 7-36-21.3 NMSA 1978 of property subject to property taxation by the county assessor; or

(d) the application of eligible, documented and qualified exemptions;

(3) by the county treasurer to cancel multiple valuations for property taxation purposes of the same property in a single tax year, but only if:

(a) a taxpayer presents tax receipts showing the payment of taxes by the taxpayer for any year in which multiple valuations for property taxation purposes are claimed to have been made;

(b) a taxpayer presents evidence of ownership of the property, satisfactory to the treasurer, as of January 1 of the year in which multiple valuations for property taxation purposes are claimed to have been made; and

(c) there is no dispute concerning ownership of the property called to the attention of the treasurer, and the treasurer has no actual knowledge of any dispute concerning ownership of the property;

(4) by the county treasurer, to correct the tax schedule so that it no longer contains personal property that is deemed to be unlocatable, unidentifiable or uncollectable, after thorough research with verification by the county assessor or appraiser, with notification to the department and the county clerk;

(5) as a result of a protest, including a claim for refund, in accordance with the Property Tax Code, of values, classification, allocations of values determined for property taxation purposes or a denial of a claim for an exemption;

(6) by the department or the order of a court as a result of any

proceeding by the department to collect delinquent property taxes under the Property Tax Code;

(7) by a court order entered in an action commenced by a property owner under Section 7-38-78 NMSA 1978;

(8) by the department as authorized under Section 7-38-79 NMSA 1978;

(9) by the department of finance and administration as authorized under Section 7-38-77.1 NMSA 1978; or

(10) as specifically otherwise authorized in the Property Tax Code.

B. As used in this section, "obvious errors" does not include the method used to determine the valuation for, or a difference of opinion in the value of, the property subject to property taxation.

(Laws 2015, Chapter 39, Section 1; Applicable to taxable years beginning on or after January 1, 2016)

3.6.7.86 - EXEMPTION RESULTING FROM CORRECTION OF OBVIOUS CLERICAL ERROR

If the correction by the county treasurer of name of the property owner or description of the property results in the property being exempt for a particular tax year or years by reason of provision of the New Mexico Constitution as implemented by a provision of the Property Tax Code, the treasurer may refund pursuant to Section 7-38-80 NMSA 1978 to the exempt entity that has paid property taxes.

[3/23/83, 12/29/94, 8/31/96; 3.6.7.86 NMAC - Rn & A, 3 NMAC 6.7.86, 4/30/01]

7-38-77.1. CHANGES IN PROPERTY TAX SCHEDULE ORDERED BY THE DEPARTMENT OF FINANCE AND ADMINISTRATION.--After the delivery of the property tax schedule to the county treasurer for any tax year, the department of finance and administration may order the county treasurer to make changes in the property tax schedule in connection with any property listed on the schedule if the department of finance and administration determines that an error was made in the certification of the tax rates.
(Laws 1995, Chapter 65, Section 3)

7-38-78. ACTION BY PROPERTY OWNER IN DISTRICT COURT TO CHANGE PROPERTY TAX SCHEDULE.--

A. After the delivery of the property tax schedule to the county treasurer for a particular tax year, a property owner may bring an action in the district court requesting a change in the property tax schedule in connection with any property listed on the schedule for property taxation in which the owner claims an interest. The action shall be brought in the district court for the county for which the property tax schedule in question was prepared.

B. Actions brought under this section may not directly challenge the value, classification, allocations of value determined for property taxation purposes, denial of any exemption claimed or method used to determine the valuation for the property subject to property taxation. Actions brought under this section shall be founded on one or more of the following grounds:

(1) errors in the name or address of the property owner or other person shown on the schedule;

(2) errors in the description of the property for property taxation purposes, even if the correction results in a change in the amount shown on the schedule as taxes due;

(3) errors in the computation of taxes;

(4) errors in the property tax schedule relating to the payment or nonpayment of taxes;

(5) multiple valuations for property taxation purposes for a single tax year of the same property on the property tax schedule; or

(6) errors in the rate of tax set for any governmental unit in which the owner's property is located.

C. Actions brought under this section shall name the county treasurer as defendant. An action brought under Paragraph (6) of Subsection B of this section, shall also name the secretary of finance and administration as a defendant.

(Laws 2015, Chapter 39, Section 2; applicable to taxable years beginning on or after January 1, 2016)

3.6.7.87 - COUNTY TREASURER REQUIRED TO FORWARD COPIES OF PETITIONS FOR CORRECTION OF ERRORS SERVED ON THEM TO THE DIVISION

When a petition for correction is served on a county treasurer, the county treasurer is required to immediately forward a copy of that petition to the division.

[3/23/83, 12/29/94, 8/31/96; 3.6.7.87 NMAC - Rn, 3 NMAC 6.7.87, 4/30/01]

7-38-79. CHANGES IN PROPERTY TAX SCHEDULE ORDERED BY THE [DEPARTMENT]--ACTION BY THE [DEPARTMENT] IN DISTRICT COURT TO ENFORCE ORDERED CHANGES.--

A. After the delivery of the property tax schedule to the county treasurer but before the tax bill is mailed for a particular tax year, the [department] may order the county assessor or county treasurer, or both, to make changes in the property tax schedule in connection with any property listed on the schedule if any of the following actions have been taken in a manner that is not in compliance with the provisions of law or applicable regulations of the [department]:

- (1) an unprotested determination of value for property taxation purposes;
- (2) an unprotested allocation of values to governmental units;
- (3) an unprotested determination of classification; or
- (4) the application of the tax rates.

B. After the delivery of the property tax schedule to the county treasurer for a particular tax year, the [department] may order the county assessor or county treasurer, or both, to make changes in the property tax schedule in connection with any property listed on the schedule:

- (1) for any of the reasons for which a county treasurer could change the property tax schedule under Section 7-38-77 NMSA 1978; or
- (2) for any of the reasons for which a district court could order changes in the property tax schedule at the request of a property owner under Section 7-38-78 NMSA 1978 except for the reason specified in Paragraph (6) of Subsection B of that section.

C. Any action taken by the [department] under this section shall be by written order of the director. Copies of the order shall be mailed by certified mail to the property owner, the county assessor and the county treasurer.

D. If the county assessor or county treasurer refuses to make any changes ordered by the [department] under this section, the [department] may bring an action to enforce its order in the district court for the county involved. (Laws 1981, Chapter 37, Section 81)

3.6.7.88 - ORDER BY THE DEPARTMENT - PROTEST REMEDY

If the department enters an order changing the property tax schedule pursuant to Subsection A of Section 7-38-79 NMSA 1978, the property owner may protest only pursuant to the claim for refund procedures provided in Sections 7-38-39 and 7-38-40 NMSA 1978. [3/23/83, 12/29/94, 8/31/96; 3.6.7.88 NMAC - Rn & A, 3 NMAC 6.7.88, 4/30/01]

7-38-80. CHANGES IN PROPERTY TAX SCHEDULES AS RESULT OF TREASURER'S ACTION, DEPARTMENT ORDER OR COURT ORDER-- COLLECTION OF ANY ADDITIONAL PROPERTY TAXES DUE AS RESULT--REFUND OF PROPERTY TAXES PAID ERRONEOUSLY.--

A. If, as a result of actions authorized under Sections [7-38-77 through 7-38-79 NMSA 1978], the county assessor or county treasurer makes changes in the property tax schedule that result in an increase in the tax liability of the property owner, and if a tax bill has already been mailed to the property owner for collection of the taxes on the property in question for the tax year involved, then an additional tax bill shall be prepared and mailed by the county treasurer to the property owner. The date the supplemental tax bill is mailed shall be used for determining the due dates for the collection of any additional property taxes.

B. If, as a result of actions authorized under Sections [7-38-77 through 7-38-79 NMSA 1978], the county assessor or county treasurer makes changes in the property tax schedule that result in a decrease in the property tax liability of the property owner, and if the property taxes on the property for the tax year involved have already been paid, then a refund of any excess property taxes paid shall be made to the property owner. Refunds under this section shall be made by the county treasurer in accordance with regulations of the department of finance and administration.

(Laws 1973, Chapter 258, Section 120)

See D.F.A. Regulation - Appendix B - regarding changes in property tax schedules.

7-38-81. LIMITATION ON ACTIONS FOR COLLECTION OF PROPERTY TAXES--PRESUMPTION OF PAYMENT OF PROPERTY TAXES AFTER TEN YEARS.--

A. Property may not be sold and proceedings may not be initiated for the collection of property taxes that have been delinquent for more than ten years.

B. Property that has not been included on a property tax schedule may not be subjected to the imposition of property taxes for more than ten tax years immediately preceding the date of its entry on the property tax schedule.

C. Property taxes that have been delinquent for more than ten years, together with any penalties and interest, are presumed to have been paid. The county treasurer shall indicate on the property tax schedule that all such property taxes and any penalties and interest have been "presumed paid by act of the legislature".

(Laws 1973, Chapter 258, Section 121)

7-38-81.1. LIMITATION ON ACTIONS FOR COLLECTION OF ANY LEVY OR ASSESSMENT IN THE FORM OF PROPERTY TAXES-- PRESUMPTION OF PAYMENT AFTER TEN YEARS.--

A. Property may not be sold and proceedings may not be initiated for the collection of any levy or assessment in the form of property taxes levied or assessed under the provisions of Sections 73-14-1 through 73-18-43 NMSA 1978 that have been delinquent for more than ten years.

B. Property that has not been included on a property tax schedule or a levy or assessment schedule may not be subjected to the imposition of any levy or assessment in the form of property taxes levied or assessed under the provisions of Sections 73-14-1 through 73-18-43 NMSA 1978 for more than ten tax years immediately preceding the date of its entry on the property tax schedule or levy or assessment schedule.

C. Any levy or assessment in the form of property taxes levied or assessed under the provisions of Sections 73-14-1 through 73-18-43 NMSA 1978 that has been delinquent for more than ten years, together with any penalties and interest, is presumed to have been paid. The county treasurer or appropriate conservancy district officer shall indicate on the property tax schedule or levy or assessment schedule that all such levies or assessments in the form of property taxes and any penalties and interest have been "presumed paid by act of the legislature".

D. The county treasurer may correct the tax schedule so that it no longer contains personal property that is deemed to be unlocatable, unidentifiable or uncollectable, after thorough research with verification by the county assessor or appraiser, with notification to the department and the county clerk.

(Laws 2000, Chapter 32, Section 2)

7-38-82. DUTY OF PERSONS RESPONSIBLE FOR ADMINISTRATION OF PROPERTY TAX TO ASCERTAIN THE NAMES OF OWNERS OF PROPERTY--USE OF TERM "UNKNOWN OWNER" PROHIBITED EXCEPT IN CERTAIN CASES--VALIDITY OF PROCEDURES WHEN NAME OF OWNER IS INCORRECT OR UNKNOWN.--

A. It is the duty of all persons charged with the administration and collection of the property tax to make diligent search and inquiry to determine the correct name and address of the owner of property subject to valuation for property taxation purposes and the imposition of the property tax.

B. The use of the term "unknown owner" in valuation records is prohibited except in those instances where diligent search and inquiry fail to result in the determination of the name of the owner of property.

C. Proceedings for the collection of delinquent property taxes are valid as to property sold for delinquent taxes even though the property owner's name or address shown on the valuation records was incorrect or the property was shown on the valuation records as owned by an "unknown owner".

(Laws 1973, Chapter 258, Section 122)

7-38-83. TIMELINESS.--

A. When the last day for performing an act falls on Saturday, Sunday or a legal state or national holiday, the performance of the act is timely if performed on the next succeeding day which is not a Saturday, Sunday or a legal state or national holiday.

B. All acts required or permitted to be done by mail are timely if postmarked on the required date.

(Laws 1973, Chapter 258, Section 123)

7-38-84. NOTICES--MAILING.--

A. Any notice that is required to be made to a property owner by the Property Tax Code is effective if mailed by regular first class mail to the property owner's last address or to the address of any person other than the owner to whom the tax bill is to be sent as shown by the valuation records unless the provisions of that code require a different method of notification or mailing, in which case the notice is effective if given in accordance with the provisions of that code.

B. If a property owner notifies, in writing or by electronic mail, the county assessor or the county treasurer that the property owner wants to receive notices pursuant to the Property Tax Code by electronic mail rather than by regular first class mail, the county assessor or the county treasurer may thereafter provide such notices to the property owner using an electronic mail address provided by the property owner; provided that the notice is consistent with the requirements of the Electronic Authentication of Documents Act and the Uniform Electronic Transactions Act. A property owner's request to receive notices by electronic mail shall be effective until revoked in writing or by electronic mail to the county assessor and the county treasurer. Wherever the Property Tax Code requires a method of notification or mailing done only by the county assessor or county treasurer, other than by regular first class mail, the notice is effective if given in accordance with the provisions of that code.

**C. An electronic mail address provided by a property owner pursuant to this section shall not be considered a valuation record pursuant to Section 7-38-19 NMSA 1978 and shall be retained by the county assessor as a confidential record that is not subject to inspection pursuant to the Inspection of Public Records Act.
(Laws 2015, Chapter 2, Section 1)**

7-38-85. EXTENSION OF DEADLINES--GENERAL PROVISION.--The director may extend any deadline in the Property Tax Code for a period of time not in excess of six months. However, this section does not permit the extension of deadlines for an individual property owner nor does it permit successive extensions of a deadline for a cumulative period of more than six months. Extensions may be made applicable to one or more counties. Extension of deadlines authorized by this section shall be made by written order of the director, and notice of the extension shall be published in a newspaper of general circulation in each county in the state to which the extension applies once each week for a period of three weeks immediately succeeding the week in which the deadline being extended occurs. When more than one deadline is extended under this section, the notice required to be published may include all extensions, and publication need only be made for the three weeks immediately succeeding the week in which the first deadline being extended occurs.
(Laws 1979, Chapter 59, Section 1)

7-38-86. EXTENSION OF DEADLINES AT REQUEST OF PROPERTY OWNERS.--The director may extend the time by which reports are required to be filed under Subsection A of Section [7-38-8 NMSA 1978] at the written request of the property owner. The request must be received by the department prior to the date by which the required report must be made. Extensions granted under this section shall be by written order of the director and shall be for a period of not more than thirty days. The director shall not grant more than one extension in a tax year for a property owner in respect to the same property.
(Laws 1973, Chapter 258, Section 126)

**7-38-87. ADMINISTRATIVE REGULATIONS--PROMULGATION--
GENERAL PROVISIONS.--**

A. Except for regulations promulgated by the department, regulations authorized or directed to be promulgated under the Property Tax Code may be promulgated by the authorized governmental agency without prior notice or hearing and shall become effective when filed in accordance with the State Rules Act.

B. All regulations promulgated under the Property Tax Code shall be applied prospectively only unless there is a statement in the regulation that it is to have retroactive effect and a statement of the extent of any retroactive effect.

(Laws 1991, Chapter 166, Section 10)

7-38-89. VALIDITY OF CERTAIN REGULATIONS--JUDICIAL REVIEW.--

A. Any person who is or may be adversely affected by the adoption, amendment or repeal of a regulation promulgated by an authorized governmental agency other than the department under Section 7-38-87 NMSA 1978 may appeal that action to the court of appeals. All appeals shall be on the record made at the hearing and must be perfected by filing a notice of appeal in the court of appeals within thirty days after the adoption, amendment or repeal of a regulation is filed pursuant to law.

B. The notice of appeal required to be filed under this section shall include a concise statement of the facts upon which jurisdiction is based, the grounds upon which relief is sought and the relief requested. The notice shall also include a statement that arrangements have been made with the governmental agency for preparation of the record to support his appeal to the court and to provide the governmental agency with a copy. Costs of appeal, including cost of the record, may be charged against the parties by order of the court of appeals in its discretion.

C. Copies of the notice of appeal shall be served upon the governmental agency and proof of service shall be filed with the court in the manner and within the time prescribed by the rules of appellate procedure.

D. The filing of a notice of appeal does not stay the effective date of the action appealed from, but the governmental agency may grant, or the court may order, a stay upon appropriate terms.

E. Within thirty days after the service of the notice of appeal or within such greater time as the court may allow, the governmental agency shall file in the court the original or a certified copy of the record of the proceedings appealed from. The record shall consist of:

- (1) the entire proceedings;
- (2) portions of the proceedings to which the governmental agency and the appellant stipulate; or
- (3) a statement of the case agreed to by the governmental agency and the appellant.

F. If the record is to be of the entire proceedings or portions of the proceedings, it shall be a verbatim written transcript or, if permitted by the court of appeals, it may be an electronic recording. It shall also include copies of documentary evidence admitted at the hearing or during those portions of the hearing that are stipulated to as the record.

G. In any proceeding for judicial review of the adoption, amendment or repeal of a regulation, the court may set aside the action or remand the case to the governmental agency for further proceedings only if it determines that the action is:

- (1) arbitrary, capricious or an abuse of discretion;
- (2) not supported by substantial evidence in the record taken as a whole; or
- (3) otherwise not in accordance with law.

H. If the court determines that the action appealed is free from the errors specified under Paragraphs (1) through (3) of Subsection G of this section, it shall affirm the action.

(Laws 1991, Chapter 166, Section 11)

7-38-92. ATTEMPTS TO EVADE OR DEFEAT THE PROPERTY TAX.-- Any person who willfully attempts to evade the payment of any property tax is guilty of a fourth degree felony. He shall be fined not more than five thousand dollars (\$5,000), or imprisoned for not less than one year nor more than five years, or both.

(Laws 1973, Chapter 258, Section 132)

7-38-93. INTERFERENCE WITH THE ADMINISTRATION OF THE PROPERTY TAX CODE.--Any person who by force, bribe, threat or other corrupt practice obstructs or impedes the administration of the Property Tax Code is guilty of a misdemeanor. He shall be fined not less than two hundred fifty dollars (\$250) nor more than ten thousand dollars (\$10,000), or imprisoned for not less than three months nor more than one year, or both.

(Laws 1973, Chapter 258, Section 133)

Appendix A

NEW MEXICO CONSTITUTIONAL PROVISIONS REGARDING PROPERTY TAX

- Article VIII, Section 1. [Levy to be Proportionate to Value; Uniform and Equal Taxes; Percentage of Value Taxed; Limitation on Annual Valuation Increases.]
- Article VIII, Section 2. [Property Tax Limits; Exception.]
- Article VIII, Section 3. [Tax-Exempt Property.]
- Article VIII, Section 5. [Head of Family and Veteran Exemptions.]
- Article VIII, Section 6. [Assessment of Lands.]
- Article VIII, Section 8. [Exemption of Certain Personalty in Transit Through the State.]
- Article VIII, Section 15. [Property Tax Exemption for Disabled Veterans.]
- Article VIII, Section 16. [Property Tax Exemption for Property of Veterans' Organization Chartered by the United States Congress.]
- Article XXI, Section 2. [Control of Unappropriated or Indian Lands; Taxation of Federal Government, Nonresident and Indian Property.]

ARTICLE VIII, SECTION 1. [LEVY TO BE PROPORTIONATE TO VALUE; UNIFORM AND EQUAL TAXES; PERCENTAGE OF VALUE TAXED; LIMITATION ON ANNUAL VALUATION INCREASES.]

A. Except as provided in Subsection B of this section, taxes levied upon tangible property shall be in proportion to the value thereof, and taxes shall be equal and uniform upon subjects of taxation of the same class. Different methods may be provided by law to determine value of different kinds of property, but the percentage of value against which tax rates are assessed shall not exceed thirty-three and one-third percent.

B. The legislature shall provide by law for the valuation of residential property for property taxation purposes in a manner that limits annual increases in valuation of residential property. The limitation may be applied to classes of residential property taxpayers based on owner-occupancy, age or income. The limitations may be authorized statewide or at the option of a local jurisdiction and may include conditions under which the limitation is applied. Any valuation limitations authorized as a local jurisdiction option shall provide for applying statewide or multi-jurisdictional property tax rates to the value of the property as if the valuation increase limitation did not apply. (As amended November 3, 1914, November 2, 1971 and November 3, 1998.)

ARTICLE VIII - SECTION 2. [PROPERTY TAX LIMITS; EXCEPTION.]

Taxes levied upon real or personal property for state revenue shall not exceed four mills annually on each dollar of the assessed valuation thereof except for the support of the educational, penal and charitable institutions of the state, payment of the state debt and interest thereon; and the total annual tax levy upon such property for all state purposes exclusive of necessary levies for the state debt shall not exceed ten mills; provided, however, that taxes levied upon real or personal tangible property for all purposes, except special levies on specific classes of property and except necessary levies for public debt, shall not exceed twenty mills annually on each dollar of the assessed valuation thereof, but laws may be passed authorizing additional taxes to be levied outside of such limitation when approved by at least a majority of the qualified electors of the taxing district who paid a property tax therein during the preceding year voting on such proposition. (As amended November 3, 1914, September 19, 1933, and November 7, 1967.)

ARTICLE VIII, SECTION 3. [TAX-EXEMPT PROPERTY.]

The property of the United States, the state and all counties, towns, cities and school districts and other municipal corporations, public libraries, community ditches and all laterals thereof, all church property not used for commercial purposes, all property used for educational or charitable purposes, all cemeteries not used or held for private or corporate profit and all bonds of the state of New Mexico, and of the counties, municipalities and districts thereof shall be exempt from taxation.

Provided, however, that any property acquired by public libraries, community ditches and all laterals thereof, property acquired by churches, property acquired and used for educational or charitable purposes, and property acquired by cemeteries not used or held for private, or corporate profit, and property acquired by the Indian service and property acquired by the United States government or by the state of New Mexico by outright purchase or trade, where such property was, prior to such transfer, subject to the lien of any tax or assessment for the principal or interest of any bonded indebtedness shall not be exempt from such lien, nor from the payment of such taxes or assessments.

Exemptions of personal property from ad valorem taxation may be provided by law if approved by a three-fourths majority vote of all the members elected to each house of the legislature. (As amended November 3, 1914, November 5, 1946, and November 7, 1972.)

ARTICLE VIII, SECTION 5. [HEAD OF FAMILY AND VETERAN EXEMPTIONS.]

The legislature shall exempt from taxation the property of each head of the family in the amount of two thousand dollars (\$2,000). The legislature shall also exempt from taxation the property, including the community or joint property of husband and wife, of every honorably discharged member of the armed forces of the United States and the widow or widower of every such honorably discharged member of the armed forces of the United States, in the sum of three thousand dollars (\$3,000) in 2004; three thousand five hundred dollars (\$3,500) in 2005; and four thousand dollars (\$4,000) in 2006 and each subsequent year. Provided, that in every case where exemption is claimed on the ground of the claimant's having served with the armed forces of the United States as aforesaid, the burden of proving actual and bona fide ownership of such property upon which exemption is claimed, shall be upon the claimant. (As amended November 3, 1914, September 20, 1921, September 20, 1949, September 15, 1953, November 6, 1973 and November 8, 1988, November 5, 2002, and November 2, 2004.)

ARTICLE VIII, SECTION 6. [ASSESSMENT OF LANDS.]

Lands held in large tracts shall not be assessed for taxation at any lower value per acre than [than] lands of the same character or quality and similarly situated, held in smaller tracts. The plowing of land shall not be considered as adding value thereto for the purpose of taxation. (As amended November 3, 1914.)

ARTICLE VIII, SECTION 8. [EXEMPTION OF CERTAIN PERSONALTY IN TRANSIT THROUGH THE STATE.]

Personal property which is moving in interstate commerce through or over the state of New Mexico, or which was consigned to a warehouse, public or private, or factory within New Mexico from outside the state for storage in transit to a final destination outside the state of New Mexico, manufacturing, processing or fabricating while in transit to a final destination, whether specified when transportation begins or afterwards, which destination is also outside the state, shall be deemed not to have acquired a situs in New Mexico for purposes of taxation and shall be exempt from taxation. Such property shall not be deprived of such exemption because while in the warehouse the property is assembled, bound, joined, processed, disassembled, divided, cut, broken in bulk, relabeled or repackaged. (As added November 6, 1973.)

ARTICLE VIII, SECTION 15. [PROPERTY TAX EXEMPTION FOR DISABLED VETERANS.]

The legislature shall exempt from taxation the property, including the community or joint property of husband and wife, of every veteran of the armed forces of the United States who has been determined pursuant to federal law to have a one hundred percent permanent and total service-connected disability, if the veteran occupies the property as his principal place of residence. The legislature shall also provide this exemption from taxation for property owned by the widow or widower of a veteran who was eligible for the exemption provided in this section, if the widow or widower continues to occupy the property as his principal place of residence. The burden of proving eligibility for the exemption in this section is on the person claiming the exemption. (As added November 3, 1998; as amended November 5, 2002.)

ARTICLE VIII, SECTION 16. [PROPERTY TAX EXEMPTION FOR PROPERTY OF VETERANS' ORGANIZATION CHARTERED BY UNITED STATES CONGRESS.]

The legislature shall exempt from taxation the property of a veterans' organization chartered by the United States congress and used primarily for veterans and their families. The burden of proving eligibility for the exemption in this section is on the person claiming the exemption. (As added November 2, 2010.)

ARTICLE XXI, SECTION 2. [CONTROL OF UNAPPROPRIATED OR INDIAN LANDS; TAXATION OF FEDERAL GOVERNMENT, NONRESIDENT AND INDIAN PROPERTY.]

The people inhabiting this state do agree and declare that they forever disclaim all right and title to the unappropriated and ungranted public lands lying within the boundaries thereof, and to all lands lying within said boundaries owned or held by any Indian or Indian tribes, the right or title to which shall have been acquired through the United States, or any prior sovereignty; and that until the title of such Indian or Indian tribes shall have been extinguished the same shall be and remain subject to the disposition and under the absolute jurisdiction and control of the congress of the United States; and that the lands and other property belonging to citizens of the United States residing without this state shall never be taxed at a higher rate than the lands and other property belonging to residents thereof; that no taxes shall be imposed by this state upon lands or property therein belonging to or which may hereafter be acquired by the United States or reserved for its use; but nothing herein shall preclude this state from taxing as other lands and property are taxed, any lands and other property outside of an Indian reservation, owned or held by any Indian, save and except such lands as have been granted or acquired as aforesaid, or as may be granted or confirmed to any Indian or Indians under any act of congress; but all such lands shall be exempt from taxation by this state so long and to such extent as the congress of the United States has prescribed or may hereafter prescribe.

APPENDIX B
DEPARTMENT OF FINANCE AND ADMINISTRATION REGULATIONS
[THESE REGULATIONS ARE NOT PART OF THE PROPERTY TAX CODE]

3.6.50.7 - DEFINITIONS:

- A. "Assessor" means a county assessor as defined by Sections 4-39-1 through 4-39-7 NMSA 1978, as amended.
 - B. "Board of finance" means a county board of finance.
 - C. "Delinquent" refers to any payment of taxes that is not paid within thirty days of the date on which they were due.
 - D. "Department" means the department of finance and administration.
 - E. "Forfeiture" funds means cash or property that is subject to forfeiture and is under the Controlled Substances Act, Sections 30-31-34 through Section 30-31-35 NMSA 1978.
 - F. "Local government" means a local public body as defined in Section 6-6-1 NMSA 1978.
 - G. "Local government division" means the local government division of the department of finance and administration.
 - H. "Property tax division" means the property tax division of the taxation and revenue department.
 - I. "Refund" is that portion of property taxes in controversy found to be in excess of the amount legally due.
 - J. "Secretary" means the cabinet secretary of the department of finance and administration.
 - K. "State delinquency list" means the tax delinquency list collected by the property tax division as defined in Section 7-38-62 NMSA 1978.
 - L. "Taxes on omitted property" refers to taxes on property subject to property taxation but was omitted from property tax schedules and for which taxes have not been paid but would be due, except for the omission.
 - M. "Treasurer" means a county treasurer as defined by Sections 4-43-1 through 4-43-4 NMSA 1978, as amended.
- [7/15/98; Recompiled 10/1/01]

3.6.50.8 - TREASURER'S DUTIES:

- A. Section 4-43-2 NMSA 1978 requires the treasurer to keep account of all moneys received and disbursed in the county; keep regular accounts of all warrants drawn on the treasurer and paid; and keep the books, papers and moneys pertaining to his office ready for inspection by the county commissioners at all times. All moneys under the treasurer's control include, but are not limited to: property taxes; property tax penalties and interest; state shared taxes; gross receipts taxes; lodgers' taxes; franchise taxes; licenses and permits; charges for services; fines and forfeits, including forfeiture funds; miscellaneous revenues; other revenues including contributions, donations, investment income, refunds, rents, royalties, insurance

recoveries and inter-governmental grants.

B. Section 6-10-8 NMSA 1978 states the treasurer of each county in the state shall have supervision of the deposit and safekeeping of public money in the county.

C. The treasurer determines how to deposit and invest county funds. That decision must then be approved by the board of county commissioners, sitting as the board of finance.

D. The board of finance must adopt an investment policy and permit the treasurer to make investment decisions that conform to the policy.

[7/15/98; Recompiled 10/1/01]

3.6.50.9 - FINANCIAL REPORTS:

A. Subsection F of Section 6-6-2 NMSA 1978 requires periodic financial reports of all local public bodies. Section 6-6-3 NMSA 1978 requires that every local public body shall make all reports as may be required by the local government division.

B. Every county shall file a financial report on a quarterly basis with the local government division. The first quarter is from July 1st to September 30th; the second quarter is from October 1st to December 31st; the third quarter is from January 1st to March 31st and the fourth quarter is from April 1st to June 30th. The reports are due at the local government division no later than thirty days following the end of the quarter.

C. The local government division may grant a county's written request, if warranted, an extension for filing the quarterly financial report.

D. Monthly financial reports shall be submitted to the county commission and may be requested by the local government division.

E. Quarterly financial reports shall be submitted on the prescribed local government division format, unless the local government division approves submission of similar data handwritten, typed or using the county's current software program.

F. The treasurer's office should work cooperatively with the county managers office or county finance department to ensure that reports are submitted accurately and timely. The reports must include the signatures and titles of the individuals who prepared the reports.

G. Instructions and sample reporting formats of the quarterly financial reports are available in the local government divisions budgeting and financial accounting manual for local governments.

[7/15/98; Recompiled 10/1/01]

3.6.50.10 - SUSPENSION OF COUNTY TREASURERS' FUNCTIONS:

A. The secretary shall follow the procedures set forth in Section 7-35-7 NMSA 1978, as amended, for suspension of treasurers' functions and termination of a suspension order.

B. The costs counties are required to reimburse the department, when the department performs the functions of a suspended treasurer, shall include the salaries and expenses of department employees or contractors who carry out the functions of the office of a suspended treasurer.

C. The department will take all action necessary to assure reimbursement of costs by the county.

[12/31/74, 7/15/98; Recompiled 10/1/01]

3.6.50.11 - PROPERTY TAXES:

A. Section 7-37-7 NMSA 1978, as amended, provides for the maximum property tax rates and their limitations. The authority to impose general purpose tax rates is granted to local governments and shall be done during the budget-making and approval process. The general purpose tax rate imposed by each governmental unit for residential property is the same rate that is imposed for nonresidential property. The local government division shall apply the yield control formula and other tax rate limitations in statute that apply to the imposed tax rates prior to setting the tax rates.

B. Tax rates for school districts and institutions of higher education are set by the state department of education and the commission on higher education, respectively. These rates are certified to the local government division by August 15th of each year.

C. Pursuant to Section 7-38-33 NMSA 1978, the department shall by written order set property tax rates no later than September 1st each year for each county, municipality, special district, school district, institution of higher education and state debt service.

D. Pursuant to Section 7-38-34 NMSA 1978, within five business days of the date of the tax rate order set by the department, the board of county commissioners shall issue by written order imposing the certified tax rates on the net taxable value of property allocated to the appropriate governmental units. Within these five days, it is the responsibility of the county to ensure that the rates set are correct. The local government division must be notified of any errors with regards to the validity of these rates during this five day period.

[7/15/98; Recompiled 10/1/01]

3.6.50.12 - COUNTY PROPERTY VALUATION FUND:

A. The county property valuation fund is created in Section 7-38-38.1 NMSA 1978 and prescribes the method and manner for the collection and distribution of the administrative charge on revenue recipients to offset collection costs.

B. All administrative charges shall be collected by the treasurer and distributed to the county property valuation fund.

C. The assessor's budget for purposes of calculating the forty percent of the amount shall include all appropriations made to the assessor's budget including the county property valuation fund.

D. The treasurer is responsible for collecting the administrative charges and distributing these collections to the county property valuation fund in accordance with statute, relevant county ordinances and stipulated orders.

[7/15/98; Recompiled 10/1/01]

3.6.50.13 - PROTESTED PROPERTY TAXES AND PROPERTY TAX SUSPENSE FUND:

A. The treasurer shall deposit in the property tax suspense fund an amount equal to the portion of any property taxes paid to the treasurer that is not admitted to be due and is the subject of a claim for refund.

B. The property tax suspense fund shall be invested as permitted by Subsection B of Section 7-38-41 NMSA 1978, as amended.

C. All refunds to property owners pursuant to Section 7-38-41 NMSA 1978 shall be

made fifteen days after the treasurer receives a copy of the final order relating to the protest.

D. If final determination in a claim for refund is less than originally claimed, or if the claim is denied, the difference between the amount placed in the property tax suspense fund and the amount refunded to the taxpayer shall be disbursed in the monthly distribution process as stated in subparagraph 15.6 [now Subsection F of 3.6.50.15 NMAC]. Upon the final determination of a claim, the treasurer is to send a copy of the final order to the assessor and the director of the property tax division who shall change their respective valuation records to clearly reflect the final determination.

E. The treasurer is authorized to transfer any surplus interest accrued in the property tax suspense fund to the county general fund, when a case is closed or at the close of the fiscal year.

[12/31/74, 7/15/98; Recompiled 10/1/01]

3.6.50.14 - COLLECTION AND RECEIPT OF PROPERTY TAXES:

A. All property tax payments shall be marked paid and recorded within 48 hours and must be deposited within 72 hours.

B. Property tax receipts or copies of the tax bills marked paid are not required to be mailed to property taxpayers if payment of property taxes, penalties and interest are received by mail. These amounts are sufficiently "receipted" if indication of payment is made on the tax schedule by the treasurer. However, the treasurer is not prohibited from mailing receipts or copies of the tax bills marked paid.

C. Except for accounts on the state delinquency list, any partial payments received by the treasurer for delinquent property taxes, penalties and interest shall be receipted and accounted for in accordance with Section 7-38-42 NMSA 1978.

D. If the treasurer's office is unable to comply with this policy, the treasurer must immediately notify the chairman of the board of finance and the county manager in writing. The notification must include a description of the problem, identification of the cause of the problem, an estimate of the anticipated duration of non-compliance and the proposed remedial action. The notification does not relieve the receipting authority of its statutory duty to collect, record and account for property taxes.

E. Receipting and depositing of revenues other than property tax payments shall be implemented according to policies adopted by the county board of finance.

[12/31/74, 7/15/98; Recompiled 10/1/01]

3.6.50.15 - DISTRIBUTION OF PROPERTY TAXES, PENALTIES AND INTEREST:

A. The treasurer shall distribute the receipts from property tax collections to each governmental unit. All interest and penalties collected shall be deposited in the county general fund without regard to the tax year for which it was paid, other than as an agent of the taxation and revenue department under Section 7-38-62 NMSA 1978.

B. At the time of distributing receipts from property taxes collected as agent for the taxation and revenue department under Section 7-38-62 NMSA 1978, all interest and penalties collected for tax years before 1990 will be placed in the county general fund and all interest and penalties collected for 1990 and subsequent tax years shall be remitted to the taxation and revenue department.

C. The treasurer shall distribute taxes collected for the November 10th installment no earlier than December 15th or later than the 5th working day after December 15th.

D. The treasurer shall distribute taxes collected from the April 10th installment no earlier than May 15th or later than the 5th working day after May 15th.

E. For installment agreements pursuant to Section 7-38-38.2 NMSA 1978, no distribution shall be made earlier than the 15th of the month following the month of collection or later than the 5th working day after the 15th of month following the month of collection.

F. For delinquent taxes, normal distributions shall not be made earlier than the 15th of the month following the month of collection or later than the 5th working day after the 15th of month following the month of collection.

G. Once a county has placed a property on the state delinquency list, the property tax division shall have responsibility and exclusive authority to collect delinquent taxes, interest and penalties for all tax years. However, the property tax division may authorize treasurers to act as its agents in accepting payments of taxes, penalties, interests or costs due.

[2/19/92, 7/15/98; Recompiled 10/1/01]

3.6.50.16 - NOTIFICATION TO PROPERTY OWNER OF DELINQUENT PROPERTY TAXES:

A. In accordance with Section 7-38-51 NMSA 1978, any property tax delinquent more than thirty days as of June 30th of each year, the treasurer shall mail a notice of delinquency to the assessed owner and any person other than the owner to whom the tax bill on the property was sent. This applies to every delinquency and not just those on the state delinquency list.

B. If payment has not been received within 90 days following the written notice of delinquency, the treasurer shall pursue further collection efforts.

C. If the collection rate for a tax year for any jurisdiction in the county falls twenty percent below anticipated collections as of December 31st of that year or June 30th of the following year, the treasurer must immediately notify the board of finance in writing.

[7/15/98; Recompiled 10/1/01]

3.6.50.17 - SALE OF REAL PROPERTY FOR DELINQUENT TAXES

Section 7-38-66 NMSA 1978 states the taxpayer must show proof of the following to prevent or invalidate a sale:

A. All delinquent taxes, penalties, interest and costs had been paid prior to the date of sale shall prevent or invalidate the sale. The treasurers office must be in possession of the funds prior to the time of the sale or the payment must be postmarked prior to the date of the sale.

B. The taxpayer has entered into a written installment agreement to pay all delinquent taxes, penalties, interest and costs prior to the date of sale as provided in Section 7-38-68 NMSA 1978 and that payments are being made in accordance with the terms of such agreement. The installment agreement must be signed by both parties at least the day prior to the date of sale.

[7/15/98; Recompiled 10/1/01]

3.6.50.18 - INSTALLMENT AGREEMENTS OR SALE OF PROPERTY:

A. When the property tax division collects delinquent taxes in total from the taxpayer under installment agreements or sale of property, the money, excluding interest, penalties and costs, will be remitted to the treasurer. When the money is received by the treasurer, the tax bill will be validated as paid. The distribution will be accomplished by the treasurer as the normal distribution of delinquent taxes.

B. Upon receipt of the money from the property tax division, the treasurer shall:

(1) validate the tax bill as paid in the manner prescribed in Section 7-38-63 NMSA 1978;

(2) make a notation of the payment of delinquent property taxes, penalties and interest on the property tax schedule; and

(3) distribute the amount of property taxes to the appropriate governmental units at the time of normal monthly distributions.

[12/31/74, 7/15/98; Recompiled 10/1/01]

3.6.50.19 - TAXES ON OMITTED PROPERTY

When taxes on omitted property are placed on tax schedules, tax bills mailed and money is received for payment of these taxes, the receipting and accounting of the money is the same as for other property taxes. For distribution purposes, all the monies received for taxes on omitted property for years prior to current tax year will be considered to be receipts of delinquent taxes.

[12/31/74; Recompiled 10/1/01]

3.6.50.20 - CHANGES IN THE PROPERTY TAX SCHEDULE:

A. Pursuant to Section 7-38-77.1 NMSA 1978, the department may order the treasurer to make changes in the property tax schedule in connection with any property listed on the schedule if the department determines that an error was made in the certification of tax rates.

B. Upon such a determination, the department will issue a statement to the county commission and treasurer stating the reason for the error along with the amended certificate of tax rates.

[7/15/98; Recompiled 10/1/01]

3.6.50.21 - BANKHEAD-JONES FARM TENANT ACT

Pursuant to the national grasslands and land utilization project receipts for the Bankhead-Jones Farm Tenant Act, the county shall deposit these funds directly into the county road fund for the purpose of maintaining county roads or school bus routes, or both.

[3/30/73, 7/15/98; Recompiled 10/1/01]