

New Mexico Property Tax Code

DISCLAIMER

This indexed copy of the New Mexico Property Tax Code was input by the Doña Ana County Assessor's Office in August, 1996. The source document was the Property Tax Code published by the Taxation & Revenue Department, State of New Mexico in September, 1995. It was distributed to county assessors by the Property Tax Division of the Department in early part of 1996.

All information contained herein is believed to be accurate. However, the Doña Ana County Assessor's Office assumes no responsibility for problems resulting from inaccuracies contained in this unofficial copy of the New Mexico Property Tax Code and the user assumes any and all risk in using this copy as provided. It is our wish to provide you with an accurate copy of the Property Tax Code. Please report any discrepancy and/or error to Bob Carter or call at (505) 647-7400.

Official copies of the New Mexico Property Tax Code are available from:

Taxation & Revenue Department
Joseph M. Montoya Building
1100 St. Francis Dr.
P. O. Box 630
Santa Fe, NM 87504-0630

TRD PUBLICATION PTC-95

Regulations pertaining to the Property Tax Code
Sections 7-35-1 TO 7-38-90 NMSA 1978

Introduction

Appendix A

Appendix B

Chapter 7, Article 35

Chapter 7, Article 36

Chapter 7, Article 37

Chapter 7, Article 38

TRD PUBLICATION PTC-95

Introduction

Part of the Taxation and Revenue Department's mission is to provide taxpayers with the information that they need to comply with the revenue laws administered by the Department. As one means of accomplishing this, the Department collects the regulations in force under a particular tax act and publishes them in a standardized format.

TRD Publication PTC-95 contains the regulations issued under the Property Tax Code (Articles 35 through 38, Chapter 7 NMSA 1978) in force on January 1, 1995.

Replacement pages will be issued from time to time incorporating changes in either the regulations or the statutes.

The purpose of the regulations is to interpret and exemplify the Property Tax Code. Most common issues and problems are addressed by these regulations. If a taxpayer finds that a particular problem of concern to that taxpayer is not covered by these regulations, the taxpayer may request a ruling on the issue from the Department. Rulings may be issued with respect to one or a small number of taxpayers in response to a request for a clarification of the tax consequences of a specified set of circumstances not covered by these regulations.

Format of Regulations

A useful way of presenting these regulations is to group them with the statutes to which they pertain. Accordingly the entire Property Tax Code is set out in this publication. Regulations pertaining to each section of the Property Tax Code immediately follow that section. The statutes, regulations and associated material follow this format:

Statute. Statutory material is printed in bold face type and is set off by a solid line before and after the text. This material of course is not part of any regulation. The original issuance of this rule displays the Property Tax Code in effect on January 1, 1995. A citation to the Laws of New Mexico is provided to indicate which version of the statute is displayed. Unless otherwise stated, all citations of statutes are to the New Mexico Statutes Annotated, 1978 (NMSA 1978).

Regulation Number and Title. These are also printed in bold face type. Regulations issued under the Property Tax Code are prefixed by the capital letters "PTC". The article and section number of the statute precede the number of the individual regulation in this general format:

PTC XX-YY:Z, where:

XX = the Article number (35, 36, 37 or 38)

YY = the Section number within the Article

Z = number of the individual regulation under that Section

For example, regulation PTC 35-2:1 follows Section 7-35-2 and PTC 37-7.1:1 follows Section 7-37-7.1.

Additional regulations relating to a particular section are indicated by consecutively higher numbers after the colon. PTC 35-1:3 follows PTC 35-1:2. (Because some issued regulations have been withdrawn, gaps in the number series following the colon may occur.)

Regulation. The body of the regulation is presented in ordinary type. Several of the regulations incorporate examples to further illustrate the intent of the regulation.

Annotations. Material preceded and followed by three asterisks are annotations.

Annotations are not regulations nor are they part of any regulation. Annotations provide information about the regulation which may be helpful to the reader. Generally these indicate the date upon which a regulation became effective and, when applicable, the date upon which any amendment to the regulation became effective. Cross-references to other Department regulations, citations or applicable court decisions and other material may also be included.

Other Laws May Apply:

Not all property subject to property (ad valorem) taxation is taxed under the Property Tax Code. The Copper Production Ad Valorem Tax Act (7-39-1 to 7-39-10) applies to copper-producing properties. The Railroad Car Company Tax Act (7-11-1 to 7-11-6) taxes the earnings of certain railroad cars not owned by railroads instead of subjecting the cars to ad valorem taxation.

Except for the general tax rates imposed by Section 7-37-7, all tax rates are imposed in accordance with laws outside the Property Tax Code.

Additional Information

For additional information about the property tax or these regulations, contact the Taxpayer Information and Policy Office:

Taxation and Revenue Department
P.O. Box 630
Santa Fe NM 87504-0630
(505) 827 - 0939

August 1995

**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.

Article VIII, Section 2. Property Tax Limits; Exceptions.

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 XXI, Section 2. Control of Unappropriated or Indian Iands; 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.**

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.

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 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 such proposition.

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 and 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 members elected to each house of the legislature.

ARTICLE VIII, SECTION 5. HEAD OF FAMILY AND VETERAN EXEMPTIONS

The legislature shall exempt from taxation the property of each head of the family to the amount of two thousand dollars (\$2,000) as follows: In 1989, the legislature shall exempt from taxation eight hundred dollars (\$800), in 1991, one thousand four hundred dollars (\$1,400) and beginning in 1993, two thousand (\$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 who served in such armed forces during any period in which they were or are engaged in armed conflict under orders of the president 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 two thousand dollars (\$2,000). 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 on the claimant.

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.

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.

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 confined 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 as 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
DFA REGULATION 28-10:1 -- Notices of Hearing**

DFA REGULATION 28-10:2 -- Two separate hearings authorized
DFA REGULATION 28-10:3 --Hearings
DFA REGULATION 28-10:4 --Reimbursable costs shall include salaries of Department of Finance and Administration employees
DFA REGULATION 28-10:5 Reimbursement by the county
DFA REGULATION 31-41:1 --Special note, terminology
DFA REGULATION 31-41(A):1 --Transfer of taxes paid to the "Property Tax Suspense Fund"
DFA REGULATION 31-41(B):1 --Investment of Property Tax Suspense Fund
DFA REGULATION 31-42:1 --Taxes receipt and accounted for; DFA manual
DFA REGULATION 31-43:1 --Interest and penalties placed in the county general fund
DFA REGULATION 31-44:1 --Adjustment of current year tax uncollected account
DFA REGULATION 31-63:1 --Distribution of taxes, penalties and interest to the appropriate governmental units
DFA REGULATION 31-63:2 --Receipt to department for delinquent taxes remitted by department to county treasurer
DFA REGULATION 31-69:1 --Installment agreements with the Property Tax Department
DFA REGULATION 31-71(A):1 --Sales of property; amounts remitted to the county treasurer
DFA REGULATION 31-72:1 --No receipt to department
DFA REGULATION 31-73:1 --Department of Finance and Administration manual
DFA REGULATION 31-75:1 --Extensions of deadlines in the Property Tax Code
DFA REGULATION 31-76(B):1 --Receipt of, accounting for and distribution of taxes on omitted property
DFA REGULATION 31-80(B):1 --Refunds resulting from changes in property tax schedules

The notices of hearing sent by the director of the department of finance and administration pursuant to Section 7-35-7, subsections B and E include a statement that county treasurers or their employees may appear at hearings for themselves or by an attorney pursuant to DFA Regulation 28-10:2.

DFA REGULATION 28-10:2 -- TWO SEPARATE HEARINGS AUTHORIZED

There are two separate hearings prescribed pursuant to Section 7-37-7:
a hearing is required on any order that the county treasurer and the board of county commissioners show cause why the county treasurer's functions should not be suspended. Section 7-35-7(B). And
a hearing is required no less than thirty days after the date the secretary of the department of finance and administration receives a written request from the board of county commissioners to terminate a suspension order. Section 7-35-7(E).

DFA REGULATION 28-10:3-- HEARINGS

County treasurers or their employees may appear at hearings pursuant to Section 7-35-7 for themselves or by an attorney and shall be so informed in the notice of hearing and at

the beginning of any hearing. Hearings shall be open to the public and may be postponed or continued at the discretion of the secretary of the Department of Finance and Administration, provided that prior notice of postponements or continuances of the hearing shall be given to the county treasurer and the board of county commissioners.

The secretary may appoint a hearing officer to preside over the hearing.

In hearings before the secretary or secretary's appointee, the Rules of Evidence shall not apply, but in ruling on the admissibility of evidence, the secretary or the secretary's appointee may require reasonable substantiation of statements or records tendered, the accuracy or truth of which is in reasonable doubt.

In hearings before the secretary or the secretary's appointee, the Rules of Civil Procedure shall not apply, but the hearing shall be conducted so that both complaints and defenses are amply and fairly presented. To this end, the secretary or the secretary's appointee shall hear arguments, entertain and dispose of motions, require written expositions of the case as the circumstances justify, and render a decision in accordance with the law and the evidence presented and admitted.

DFA REGULATION 28 10:4-- REIMBURSABLE COSTS SHALL INCLUDE SALARIES OF DEPARTMENT OF FINANCE AND ADMINISTRATION EMPLOYEES

The costs counties are required to reimburse the Department of Finance and Administration, when the Department performs the functions of a suspended county treasurer, shall include the salaries and expenses of Department employees who carry out the functions of the office of a suspended county treasurer.

DFA REGULATION 28-10:5 -- REIMBURSEMENT BY THE COUNTY

The Department of Finance and Administration will take all action necessary to assure reimbursement of costs by the county.

DFA REGULATION 31-41:1-- SPECIAL NOTE, TERMINOLOGY

References to specific accounts, journals and funds in these Department of Finance and Administration regulations for provisions of the Property Tax Code, unless defined in the Code, refer to those accounts, journals and funds as defined or referred to in the manual prepared by the Local Government Division of the Department of Finance and Administration entitled "County Treasurers Accounting Manual", in its most current form as filed with the State Records Center pursuant to the State Rules Act, Sections 14-3-24, 14-3-25, 14-4-3 and 11-4-5 to 14-4-9 NMSA 1978.

DFA REGULATION 31-41(A):1-- TRANSFER OF TAXES PAID TO THE "PROPERTY TAX SUSPENSE FUND"

The county treasurer is required to place in the "Property Tax Suspense Fund" an amount equal to 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.

The amount shall be placed in the "Property Tax Suspense Fund" at the time: (1) service on the treasurer is made of a complaint or petition claiming refund; or (2) in the case of claims for refund when the Secretary of the Department is a party defendant, at the time notice is given by the Director to the treasurer pursuant to subsection B of Section 7-38-40.

The amount shall be taken from the Undistributed Taxes Fund (Current) and transferred to and placed in the "Property Tax Suspense Funds. The amount transferred from the Undistributed Taxes Fund (Current) shall also be deducted from the school and special district affected in the tax cash journal.

On the first working day following December 15 of each tax year, the county treasurer is required to determine: (1) from the district court clerk for the judicial district in which the treasurer's county is located, and (2) from the Property Tax Department, whether any claim for refund has been filed which has not yet been served or for which notice has not yet been given. If such a claim for refund has been filed, the county treasurer shall determine the name of the taxpayer, the date claim was filed and the amount of the claim from the district court clerk or from the Property Tax Department and shall then make the previously described transfer from the Undistributed Taxes Fund (Current) to the "Property Tax Suspense Fund".

If final judgment is less than originally claimed, or if the claim is denied, the difference in the amount placed in the "Property Tax Suspense Fund" and the amount refunded to the taxpayer (which will be the entire amount placed in the Suspense Fund if the claim is denied), will be transferred into the Undistributed Taxes Fund (Current) or Delinquent Undistributed Taxes Fund, depending upon when judgment is entered, and distributed in normal distribution, using the applicable distribution table established for the year for which taxes were paid. Upon the final determination of a claim, the treasurer is to send a copy of the final order to the county assessor and the Director of the Property Tax Department pursuant to Section 7-38-40(E) and make appropriate changes in the property tax schedule pursuant to Section 7-38-77(C).

After transfer of amounts from Undistributed Taxes Fund (Current) to the "Property Tax Suspense Fund" has been accomplished, the balance remaining in the Undistributed Taxes Fund (Current) shall be distributed in accordance with the most current distribution table provided by the Local Government Division of the Department of Finance and Administration. No distribution shall be made until after the 15th of the month following the month of collection.

DFA REGULATION 31-41(B):1-- INVESTMENT OF PROPERTY TAX SUSPENSE FUND

Monies transferred into the Property Tax Suspense Fund must be invested as other county money that is invested. Interest earned on Property Tax Suspense Fund investments will be receipted and credited to the Interest on Property Tax Suspense Fund account.

DFA REGULATION 31-42:1-- TAXES RECEIPTED AND ACCOUNTED FOR; DFA MANUAL

Property taxes, penalties and interest collected by county treasurers shall be receipted and accounted for in accordance with the manual prepared by the Local Government Division of the Department of Finance and Administration entitled "County Treasurers Accounting Manual", in its most current form as filed with the State Records Center pursuant to the State Rules Act, unless this manual conflicts with the law or regulations of the Department of Finance and Administration in which case the law or regulation controls. See also Sections 7-38-43 and 7-38-73 and regulations thereunder.

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 county treasurer. However, the treasurer is not prohibited from mailing receipts or copies of the tax bills marked paid and do so if he wishes.

DFA REGULATION 31-43:1--INTEREST AND PENALTIES PLACED IN THE COUNTY GENERAL FUND

At the time of distributing receipts from collected property taxes, all interest and penalties collected will be placed in the County General Fund without regard to tax year for which paid. 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 the month following the month of collection.

DFA REGULATION 31-44:1 ADJUSTMENT OF CURRENT YEAR TAX UNCOLLECTED ACCOUNT

Differences in amounts paid and amounts shown on the tax schedule as a result of using the prior year's tax rates are to be reflected on the schedule as an additional assessment or a deduction, whichever case applies, and the "current year tax uncollected account" is to be reduced or increased with the notation reduction or addition due to the use of the prior year's tax rates pursuant to Section 7-38-44. This is so that the balance of uncollected taxes will agree with the balance of unpaid tax bills.

DFA REGULATION 31-63:1--DISTRIBUTION OF TAXES, PENALTIES AND INTEREST TO THE APPROPRIATE GOVERNMENTAL UNITS

When the Property Tax Department collects delinquent taxes in total from the taxpayer, the money, including the normal interest and penalties (excluding costs), will be remitted to the county treasurer. When the money is received by the treasurer, the tax bill will be validated as paid, posted in the tax cash journal the same as other tax and the money placed in the Undistributed Delinquent Property Tax Fund. The distribution will be accomplished by the county treasurer as normal distribution of delinquent taxes at time of regular monthly distribution.

DFA REGULATION 31-63:2-- RECEIPT TO DEPARTMENT FOR DELINQUENT TAXES REMITTED BY DEPARTMENT TO COUNTY TREASURER

The treasurer is required to deliver a receipt to the Property Tax Department when he receives remittances of taxes, penalties and interest from the Property Tax Department pursuant to Section 7-38-63.

DFA REGULATION 31-69:1-- INSTALLMENT AGREEMENTS WITH THE PROPERTY TAX DEPARTMENT

Money collected under installment agreements with the Department shall be sent by the Department, at the time the installment agreement is paid in full to the Department or at the time a taxpayer is defaulted on an agreement after making part payment, to the appropriate county treasurer, with identification made by the Department as to school and special district. Upon receipt of the money collected by the Department, the county treasurer shall: (1) validate the tax bill as paid in the manner prescribed in Section 7-38-63; (2) make an entry on the property tax schedule indicating that the delinquent real property taxes, penalties and interest have been paid; (3) post the amount received to the tax cash journal; (4) place the amount in the Undistributed Taxes (delinquent) account; and (5) distribute the amount at the time of monthly distribution of delinquent taxes.

DFA REGULATION 31-71(A):1-- SALES OF PROPERTY; AMOUNTS REMITTED TO THE COUNTY TREASURER

Upon receipt of an amount of money equal to the delinquent taxes due from the Department after the sale of property for delinquent property taxes, the county treasurer shall validate the property tax bill as paid and post to the tax cash journal. The receipt will be to Undistributed Taxes (delinquent). Distribution of this amount will be in the normal monthly distribution for delinquent taxes.

Penalty and interest on this amount is to be deposited in the county general fund.

DFA REGULATION 31-72:1-- NO RECEIPT TO DEPARTMENT

The treasurer is not required to deliver to the Property Tax Department a receipt for payment of delinquent taxes, penalties and interest which he receives from the Department as the result of a sale of property for delinquent taxes.

DFA REGULATION 31-73:1-- DEPARTMENT OF FINANCE AND ADMINISTRATION MANUAL

The receipt of, accounting for and distribution of amounts received under the Property Tax Code by county treasurers shall be in accordance with the manual prepared by the Local Government Division of the Department of Finance and Administration entitled "County Treasurers Accounting Manual", in its most current form as filed with the State Records Center pursuant to the State Rules Act, except in a case where the manual conflicts with the law or regulations of the Department of Finance and Administration, in which case the law or regulations shall control. Withholding, by the Property Tax Department, of amounts of taxes to which the state is entitled to distribution is not permitted.

DFA REGULATION 31-75:1-- EXTENSIONS OF DEADLINES IN THE PROPERTY TAX CODE

Extensions of deadlines in the Property Tax Code are not granted by the Department of Finance and Administration, but by the Director of the Property Tax Department pursuant to Sections 7-38-85 and 7-38-86.

DFA REGULATION 31-76(B):1-- RECEIPT OF, ACCOUNTING FOR AND DISTRIBUTION OF TAXES ON OMITTED PROPERTY

When omitted assessments 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 received for taxes for omitted years prior to current tax year will be considered to be receipts of delinquent taxes.

DFA REGULATION 31-80(B):1-- REFUNDS RESULTING FROM CHANGES IN PROPERTY TAX SCHEDULES

If, as a result of actions authorized under Sections 7-38-77 to 7-38-79, the county assessor or county treasurer makes changes in the property tax schedule which result in a decrease in property tax liability, the county treasurer shall first determine if the taxes were paid; if paid by check, allow ample time for the check to clear the bank; and determine the tax year for which the taxes were paid. The county treasurer shall then, if the excess taxes have been paid:

issue a treasurer's check to the taxpayer in the amount of the excess property taxes paid; enter the amount of the check in the Undistributed Tax Fund for either current or prior years, depending on the tax year involved, and identify the entry by school district; and enter the check in the tax cash account as a negative distribution to the school district which received the distribution when the original distribution was made.

The effect of this procedure will be to reduce the amount of taxes in the Undistributed Tax Fund to be distributed in normal distribution.

No refund of penalty or interest is authorized pursuant to Section 7-38-80(B).

Regulation Pertaining to Chapter 7, Article 35

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

PTC 35-1:1 - SPECIAL NOTE CONCERNING SCOPE AND EFFECTIVE DATE OF REGULATIONS - CITATION OF REGULATIONS

All regulations and rulings pertaining to the Property Tax Code promulgated by the Taxation and Revenue Department prior to the effective date of the regulations included in Taxation and Revenue Department Rule PTC-95 (TRD Rule PTC-95) are superseded by these regulations as to tax liability incurred subsequent to the effective date of these regulations or as to any act done subsequent thereto. If, however, a prior ruling is not changed in substance by a provision of these regulations, such prior ruling shall remain in effect.

The effective date of the original version of each regulation in effect prior to January 1, 1995 is not altered by the filing of TRD Rule PTC-95; the original effective date remains either the date on which the regulation was originally filed with the State Records Center or, if a different effective date was specified by the regulation as originally filed, the date specified in the original filing. Similarly, the effective date of any amendment to a regulation filed prior to January 1, 1995 remains either the date the amendment was filed with the State Records Center or, if a different date was specified by the amendment, the date specified in the filing. The effective date of the adoption of new regulations, or of withdrawals or amendments of pre-existing regulations, made with the filing of TRD Rule PTC-95 is January 1, 1995.

Unless otherwise stated, all citations of statutes in regulations pertaining to the Property Tax Code contained in TRD Rule PTC-95 are to the New Mexico Statutes Annotated, 1978 (NMSA 1978).

In any proceeding initiated under the provisions of the Property Tax Code, regulations issued with respect to the Property Tax Code may be cited solely by reference to the regulation's number. No reference to TRD Rule PTC-95 is necessary. For example, Taxation and Revenue Department Regulation PTC 35-1:1 published in TRD Rule PTC-95 may be cited simply as PTC 35-1:1.

Originally numbered PTD REGULATION 35-1:1, (PTD Rule 82); Amended and Renumbered PTC 35-1:1, December 29, 1994, PTC Rule 95.

PTC 35-1:2 - CONSTRUING THE PROPERTY TAX CODE The Property Tax Code must be read and construed in its entirety.

Originally adopted December 29, 1994, PTC Rule 95.

PTC 35-1:3 - DELEGATION OF AUTHORITY

Except as to duties under Section 7-35-6, Paragraphs (1) and (2) of Section 7-38-90 and where otherwise prohibited by statute and where otherwise specifically reserved in these regulations to the Secretary or the Department, authority for discharging the 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 these regulations 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 these regulations 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 Department to whom the Director in turn delegates the authority.

Where permitted by law, the Secretary may make any necessary and proper delegation to the Director personally, to an employee of the Property Tax Division or to any other member of the Department in addition to those made in the regulations.

The Secretary may require that certain responsibilities or authorities delegated to the Division under this regulation in turn be delegated to other members of the Department.

Any delegation may be oral; it is not required to be in writing.
Originally adopted December 29, 1994, PTC Rule 95.

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

"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;

"director" means the secretary;

"livestock" means cattle, buffalo, horses, mules, sheep, goats, swine and other domestic animals useful to man, excluding ratites;

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

"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;

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

"owner" means an individual in whom is vested any title to property;

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

"property" means tangible property, real or personal;

"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;

"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 7-38-90 NMSA 1978, also includes the deputy secretary or a division director or deputy division director delegated by the secretary;

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

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

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

"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

"tax year" means the calendar year.

Laws 1994, Chapter 9, Sections 1&2 - effective until 1/1/2001

PTC 35-2:1 - MEANING OF "THESE REGULATIONS"

As used in the regulations promulgated by the Secretary under the Property Tax Code, the phrase "these regulations" means the total body of regulations promulgated by the Secretary under the Property Tax Code.

Originally adopted December 29, 1994, PTC Rule 95.

PTC 35-2:2 - MEANING OF "DIRECTOR" AND "DIVISION"

As used in these regulations:

"Director" means the Director of the Property Tax Division of the Taxation and Revenue Department;

"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.

Originally adopted December 29, 1994, PTC Rule 95.

PTC 35-2:3 - 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. 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. Poultry and fish are not "livestock" as that term is defined in Section 7-35-2.

Originally numbered PTD REGULATION 35-2(C):1, PTD Rule 82; Amended and Renumbered PTC 35-2:3, December 29, 1994, PTC Rule 95.

PTC 35-2:4- "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.

See Sections 7-36-20(B) and 7-36-21 NMSA 1978.

Originally adopted 8/10/94 as PTD Regulation 35-2(C):2 (PTD Rule No. 82, Amendment 26); retroactively effective for property tax years beginning on or after 1/1/94. Renumbered PTC 35-2:4, December 29, 1994, PTC Rule 95.

PTC 35-2:5 - NET TAXABLE VALUE - EXAMPLE

The phrase "net taxable value" as defined in Section 7-35-2 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 .333333
Taxable value = \$ 33,333
Less the Head of Household Exemption - \$ 2,000
Net taxable value \$ 31,333

Originally filed as PTD REGULATION 35-2(D): 1, PTD Rule 82; Amended and Renumbered PTC 35-2:5, December 29, 1994, PTC Rule 95.

PTC 35-2:6 - EQUITABLE OWNER IS AN "OWNER"

An "owner" as that term is defined in Section 7-35-2 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.

Originally filed as PTD REGULATION 35-2(F):1, PTD Rule 82; Renumbered PTC 35-2:6, December 29, 1994. PTC Rule 95.

PTC 35-2:7 - LEGAL ENTITY DEFINED

A "legal entity" as that phrase is used in Section 7-35-2 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.

Originally filed as PTD REGULATION 35-2(G): 1, PTD Rule 82; Amended and Renumbered PTC 35-2:7, December 29, 1994, PTC Rule 95.

PTC 35-2:8 - INTANGIBLE PROPERTY EXCLUDED

The term "property" as defined in Section 7-35-2H 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.

Originally filed as PTD REGULATION 35-2(H): 1, PTD Rule 82; Amended and Renumbered PTC 35-2:8, December 29, 1994, PTC Rule 95.

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.

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.

A revolving fund, to be called the "Property Valuation Fund", is created.
The fund shall consist of:

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;

all repayments of outstanding loans made or committed to be made from the special reappraisal fund and the reappraisal loan fund; and
all money appropriated to the fund.

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

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;

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

providing other major technical assistance to a county;

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

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

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.

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.

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.

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:

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

any discretionary distributions made by the board of finance.

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

PTC 35-3:1 - 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:

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;

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;

The assessor's compliance with the training requirement set forth in Section 7-35-5B;

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

The assessor's maintenance of current tax maps and property record cards;

The assessor's allowance or disallowance of exemptions;

A field review by one or more Division employees of the operations of the assessor's office; and

Any other information which may aid the Division in evaluating the county assessor's operation.

See Sections 7-38-87, 7-38-89, 7-38-90 and 7-38-91.

Originally filed as PTD REGULATION 35-3:1, PTD Rule 82; Amended and Renumbered PTC 35-3:1, December 29, 1994, PTC Rule 95.

PTC 35-3:2 - APPROPRIATE TECHNICAL ASSISTANCE

The phrase "appropriate technical assistance" does not require Department attorneys to represent county assessors at hearings.

Originally filed as PTD REGULATION 35-3:2, PTD Rule 82; Amended and Renumbered PTC 35-3:2, December 29, 1994, PTC Rule 95.

PTC 35-3:3 - 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.

Originally filed as PTD REGULATION 35-3:3, PTD Rule 82; Amended and Renumbered PTC 35-3:3, December 29, 1994, PTC Rule 95.

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

PTC 35-4:1 - 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.

Originally filed as PTD REGULATION 35-3:3, PTD Rule 82; Amended and Renumbered PTC 35-3:3, December 29, 1994, PTC Rule 95.

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

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.

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

PTC 35-5:1 - 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.

Originally filed as PTD REGULATION 35-5:1, PTD Rule 82; Amended and Renumbered PTC 35-5:1, December 29, 1994, PTC Rule 95.

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

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.

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.

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.

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.

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 FUNCTIONS.

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.

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.

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.

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.

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.

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 DFA Regulations-Appendix B- regarding hearings and reimbursable costs.

PTC 35-7A: 1 - 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.

Originally filed as PTD REGULATION 35-7(A): 1, PTD Rule 82; Amended and Renumbered PTC 35-7A:1, December 29, 1994, PTC Rule 95.

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

PTC 35-8:1 - 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.

Originally filed as PTD REGULATION 35-8:1, PTD Rule 82; Amended and Renumbered PTC 35-8:1, December 29, 1994, PTC Rule 95.

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

Regulations Pertaining to Chapter 7, Article 36

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

PTC 36-1:1 - ADDITIONAL DEFINITIONS

As used in these regulations the following terms, which are not defined in Section 7-35-2, are defined as follows unless limited by a specific regulation:

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

"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.

"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.

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

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

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.

A manufactured home is personal property unless circumstances exist tending to show an intention to attach the manufactured home permanently to the land on which it is located, and that intention is a factual determination which must be made by the county assessor or the Department based on all the circumstances. If a manufactured home has become immobile by removal of its wheels and placement on a permanent foundation, that tends to show an intention to attach it permanently to the land on which it is located and, thus, that the manufactured home is real property. If a manufactured home has been permanently attached to the land on which it is located, such that it is real property, it is not a "manufactured home".

A "Public utility." A public utility means a public utility as defined in Section 62-3-3.

A "Railroad." A railroad is an enterprise created and operated to transport on a railed track passengers and freight or passengers or freight for rates or tolls without discrimination among those who demand transportation.

"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.

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.

***Originally filed as PTD REGULATION 36-1:1, PTD Rule 82; Amended and Renumbered PTC 36-1:1, December 29, 1994, PTC Rule 95.

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

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.

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:

railroad;

communications system as that term is defined in Section 7-36-30 NMSA 1978;

pipeline;

public utility; and

airline.

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

an electric 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;

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

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:

road, highway, bridge, parking area or related project;

building, fence, stadium or other structure;

airport, subway or similar facility;

park, trail, athletic field, golf course or similar facility;

dam, reservoir, canal, ditch or similar facility;

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;

sewerage, water, gas or other pipeline;

transmission line;

radio, television or other tower;

water, oil or other storage tank;

shaft, tunnel or other mining appurtenance; or

similar work.

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.

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:

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

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.

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

PTC 36-2:1 - 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.

See State ex rel. State Tax Commission v. San Luis Power and Water Co., 51 NM 294, 183 P.2d 605 (1947).

Originally filed as PTD REGULATION 36-2:1, PTD Rule 82; Renumbered PTC 36-2:1, December 29, 1994, PTC Rule 95.

PTC 36-2:2 - 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. These rights or interests are not to be placed on the tax schedules of any county as property separate from the surface rights.

Originally filed as PTD REGULATION 36-2:2; PTD Rule 82; Amended and Renumbered PTC 36-2:2, December 29, 1994, PTC Rule 95.

PTC 36-2:3 - SAND AND GRAVEL ARE MINERALS

Sand and gravel are each defined to be a "Mineral" as that term is used in Sections 7-36-2C(2), 7-36-22 and 7-36-23.

Originally filed as PTD REGULATION 36-2:3; PTD Rule 82; Amended and Renumbered PTC 36-2:3, December 29, 1994, PTC Rule 95.

PTC 36-2:4 - SEVERED MINERAL INTERESTS

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:

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
the mineral estate or mineral interest is "mineral property" as defined in Sections 7-36-22 through 7-36-25.

See PTC 36-2:2

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.

See Sections 7-36-23(B)(2), 7-36-24(C) and 7-36-25(B)(2) NMSA 1978.

Originally filed as PTD REGULATION 36-2:4; PTD Rule 82; Amended and Renumbered PTC 36-2:4, December 29, 1994, PTC Rule 95.

PTC 36-2:5 - 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.

Originally filed as PTD REGULATION 36-2:5; PTD Rule 82; Amended and Renumbered PTC 36-2:5, December 29, 1994, PTC Rule 95.

PTC 36-2:6 - "CONSTRUCTION" AS DISTINGUISHED FROM OTHER SERVICES

The term "construction" is limited to the activities which are listed in Section 7-36-2C(3). "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.

Originally filed as PTD REGULATION 36-2:6; PTD Rule 82; Renumbered PTC 36-2:6, December 29, 1994, PTC Rule 95.

PTC 36-2:7 - 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.

Originally filed as PTD REGULATION 36-2:7; PTD Rule 82; Amended and Renumbered PTC 36-2:7, December 29, 1994, PTC Rule 95.

PTC 36-2:8 - CONSTRUCTION INCLUDES

The term "construction," as used in Section 7-36-2C(3), includes:

building prefabricated houses, including modular homes, whether on or off site;
the painting of structures;
the installation of sprinkler systems;
the building of irrigation pipelines; and
seeding and sodding in conjunction with a construction project.

Originally filed as PTD REGULATION 36-2:8; PTD Rule 82; Amended and Renumbered PTC 36-2:8, December 29, 1994, PTC Rule 95.

PTC 36-2:9 - CONSTRUCTION DOES NOT INCLUDE

The term "construction" as used in Section 7-36-2C(3), does not include:

the installation of carpets;
the installation of draperies; or
the seeding or sodding of lawns not in conjunction with a construction project.

Originally filed as PTD REGULATION 36-2:9; PTD Rule 82; Amended and Renumbered PTC 36-2:9, December 29, 1994, PTC Rule 95.

PTD Regulation 36-2:10, Business of Microwave Transmission Does Not Include, PTD Rule No. 82, filed 3/23/83 was withdrawn 12/29/94, PTC Rule 1995.

PTC 36-2:11- DELEGATION OF AUTHORITY TO THE COUNTY ASSESSOR

The Director may delegate authority to the county assessor for the valuation of:

single county water utilities, and
single county communications systems.

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

name of company,
general location of company,
general description of property to be valued,
statutes applicable for valuation, and
the first tax year for which the order is effective.

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.

Originally filed as PTD REGULATION 36-2:11; PTD Rule 82; Amended and Renumbered PTC 36-2:11, December 29, 1994, PTC Rule 95.

7-36-2.1. CLASSIFICATION OF PROPERTY

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

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

PTC 36-2.1:1 - CLASSIFICATION OF PROPERTY - MULTIPLE USE PROPERTIES

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

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.

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.

Originally filed as PTD REGULATION 36-2.1:1; PTD Rule 82; Amended and Renumbered PTC 36-2.1:1, December 29, 1994, PTC Rule 95.

7-36-3. INDUSTRIAL REVENUE BOND AND POLLUTION CONTROL BOND PROJECT PROPERTY--TAX STATUS

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 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.

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 or the Pollution Control Revenue Bond 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.

The exemptions from property taxation under Subsections A and B of this section are not cumulative.

Laws 1977, Chapter 137, 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 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 INTEREST DEFINITIONS

As used in this section:

"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; "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;

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

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;

a dwelling occupied by a low-income resident in a housing project authorized under the provisions of the Municipal Housing Law; and
those property interests described in Sections 7-36-3, 7-36-3.1 and 7-36-3.2 NMSA 1978;
and

"nonexempt entity" means any person that is not an exempt entity.

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:

improvements of land of an exempt entity if the improvements are owned or leased by a nonexempt entity; these improvements are hereby subjected to valuation for property taxation purposes and to property taxation to be paid by the nonexempt entity; and
property interests of nonexempt entities held under equitable title in the property of exempt entities."

Laws 1995, Chapter 12, Section 8

PTC 36 4:1 - 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.

Originally adopted December 29, 1994, TRD Rule 95.

REPEALED EFFECTIVE JULY 1, 1995, LAWS OF 1995 CHAPTER 12, SECTION 15

7-36-5. FRACTIONAL INTERESTS--LEGISLATIVE FINDINGS AND PURPOSES

In the enactment of Section 7-36-6 NMSA 1978, the legislature finds that:

it has legislative authority and should exercise it to impose the state's property tax on improvements owned or used by a nonexempt entity when the improvements are on the land of an exempt entity;

nonexempt entities having fractional interests in exempt real property of Indian tribes, pueblos and individuals should be treated under the law in the same manner as nonexempt entities having fractional interests in exempt real property of other exempt entities; and

for the purpose of property taxation, and only for that purpose, fractional interests are personal property and are thus subject to exemption by the legislature under the New Mexico constitution.

In the enactment of Section 7-36-6 NMSA 1978, it is the expressed legislative purpose that:

fractional interests of a nonexempt entity in real property of an exempt entity be exempted from property taxation subject to the limitation contained in that section; and
equal treatment under the law be provided to all persons coming within the definition and classification of nonexempt entity.

All of Section 7-36-5 was declared void for vagueness,. See Cutter Flying Service, Inc. v. Property Tax Department, 91 N.M. 215, 572 P.2d 943 (Ct. App. 1977).

REPEALED EFFECTIVE JULY 1, 1995, LAWS OF 1995 CHAPTER 12, SECTION 15 7-36-6. FRACTIONAL INTERESTS--IMPROVEMENTS--PROPERTY TAX STATUS Fractional interests of nonexempt entities in real property of exempt entities are exempt from property taxation under the Property Tax Code. Nothing contained in this section shall affect the liability for tax of improvements located upon the real property of exempt entities.

Second sentence of Section 7-36-6 was declared void for vagueness. See Cutter Flying Service, Inc. v. Property Tax Department, 91 N.M. 215, 572 P.2d 943 (Ct. App. 1977).

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

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.

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

property exempt from property taxation under the federal or state constitution, federal law, the Property Tax Code or other laws, but this does not include property all or a part of the value of which is exempt because of the application of a veteran or head-of-family exemption nor does this provision excuse an owner from any obligations to report his 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;

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

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 1995, Chapter 12, Section 9

PTC 36-7B1:1 - CONSERVANCY DISTRICT PROPERTY EXEMPT

Section 14 73-17-22 (relating to Conservancy Districts) 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.

This exemption is sufficiently supported by Article VIII, Section 3 of the New Mexico Constitution because the conservancy districts, formed pursuant to statutes relating to conservancy districts of New Mexico, are part of the State of New Mexico.

Originally filed as PTD REGULATION 36-7(B)(1):1, PTD Rule 82; Amended and Renumbered PTC 36-7B1:1, December 29, 1994, PTC Rule 95.

PTC 36-7B1:2 - 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. Such a property tax exemption is not authorized by the New Mexico Constitution.

Originally filed as PTD REGULATION 36-7(B)(1):2, PTD Rule 82; Amended and Renumbered PTC 36-7B1:2, December 29, 1994, PTC Rule 95.

PTC 36-7B1:3 - PERSONAL PROPERTY EXEMPTION FROM EXECUTION NOT APPLICABLE

The exemption from execution granted by Section 42-10-1 15 or 42-10-2 does not apply to taxes imposed pursuant to the Property Tax Code.

See Section 42-10-7 NMSA 1978.

Originally filed as PTD REGULATION 36-7(B)(1):3, PTD Rule 82; Amended and Renumbered PTC 36-7B1:3, December 29, 1994, PTC Rule 95.

PTC 36-7B1:5 - HOMESTEAD EXEMPTION FROM EXECUTION NOT APPLICABLE

The homestead exemption from execution granted by Section 15 42-10-9 or 42-10-10 does not grant an exemption from taxes imposed pursuant to the Property Tax Code.

See Section 42-10-11 NMSA 1978.

Originally filed as PTD REGULATION 36-7(B)(1):5, PTD Rule 82; Amended and Renumbered PTC 36-7B1:5, December 29, 1994, PTC Rule 95.

PTC 36-7B1:6 - URBAN RENEWAL, MUNICIPAL PROPERTY EXEMPT

Section 15 3-46-37 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.

When the exemption terminates pursuant to Section 15 3-46-37, the purchaser or lessee which is not a public body is required to report the property in accordance with Section 7-38-8 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.

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.

See Chapter 3, Article 46 NMSA 1978.

Originally filed as PTD REGULATION 36-7(B)(1):6, PTD Rule 82; Amended and Renumbered PTC 36-7B1:6, December 29, 1994, PTC Rule 95.

PTC 36-7B1:7 - 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.

See New Mexico Constitution, Article VIII, Section 3.

Originally filed as PTD REGULATION 36-7(B)(1):7, PTD Rule 82; Renumbered PTC 36-7B1:7, December 29, 1994, PTD Rule 95.

PTC 36-7B1:8 - 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.

Originally filed as PTD REGULATION 36-7(B)(1):8, PTD Rule 82; Renumbered PTC 36-7B1:8, December 29, 1994, PTC Rule 95.

PTD 36-7B1:9 - NONRESIDENT ACTIVE DUTY MILITARY PERSONNEL EXEMPT 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.

See 50 USCA 574, the Soldiers and Sailors Relief Act.

Originally filed as PTD REGULATION 36-7(B)(1):9, PTD Rule 82; Renumbered PTD 36-7B1:9, December 29, 1994, PTC Rule 95.

PTD 36-7B1:10 - 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) 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".

See Sanitary Projects Act: Chapter 3, Article 29 NMSA 1978.

Originally filed as PTD REGULATION 36-7(B)(1):10, PTD Rule 82; Amended and Renumbered PTC 36-7B1:10, December 29, 1994, PTC Rule 95.

PTD 36-7B1:11 - 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) 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".

See Chapter 3, Article 28 NMSA 1978.

Originally filed as PTD REGULATION 36-7(B)(1):11, PTD Rule 82; Amended and Renumbered PTC 36-7B1:11, December 29, 1994, PTC Rule 95.

PTD 36-7B1:12 - 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.

In other cases, in determining whether property is exempt as property used for educational or charitable purposes the county assessor shall consider the following:

The educational and/or charitable use of property must be both a substantial and the primary use of the property as a condition for granting the exemption.

See B.P.O.E. No. 461 v. New Mexico Property Appraisal Department , 83 NM 445, 493 P.2d 411 (1971) and United Veterans Organization v. New Mexico Property Appraisal Department, 84 NM 114, 500 P.2d 199 (Ct. App. 1972).

It is the use of the property by the owners seeking exemption, not their declared objects and purposes which determines the right to exemption.

See Albuquerque Alumni Association of Kappa Kappa Gamma Fraternity v. Tearnay, 37 NM 156, 20 P.2d 267 (1933) and United Veterans Organization v. New Mexico Property Appraisal Department, 84 NM 114, 500 P.2d 199 (Ct. App. 1972)

It is the use of the property by the owner and not the tenant that determines whether an exemption is available. An exemption can be granted to the lessor in a lease situation if:

both the lessor and lessee are charitable organizations; and
the property leased is not used in primarily a profit making or revenue producing arrangement.

See Rutherford v. County Assessor for Bernalillo County, 89 NM 348, 552 P.2d 479 (Ct. App. 1976) and Sisters of Charity v. County of Bernalillo, 93 NM 42, 596 P.2d 255 (1979).

A partial exemption is available for substantial portions of property that are used primarily for educational or charitable purposes.

***See Sisters of Charity v. County of Bernalillo, 93 NM 42, 596 P.2d 255 (1979) and NRA Special Contribution Fund v. Board of City Commissioners, 92 NM 541, 591 P.2d 672 (Ct. App.1978). ***

An exemption is not available where the primary use of the property is found to be for the social and fraternal activities of the organization's members and their families even though the organization may engage in some charitable or educational activities.

See B.P.O.E. No. 461 v. New Mexico Property Appraisal Department, 83 NM 445, 493 P.2d 411 (1971).

A tax exemption is not available for land that is idle, unimproved and not in actual use.

See NRA Special Contribution Fund v. Board of City Commissioners, 92 NM 541, 591 P.2d 672 (Ct.App. 1978).

The public must receive some benefit in return for the granting of the tax exemption.

the phrase "used for educational purposes" means the primary and substantial use of property that embraces systematic instruction in fields of learning from which a substantial public benefit is derived.

"substantial public benefit" means a benefit of real worth and importance to an indefinite class of persons, which benefit comes from the use of the property.

See B.P.O.E. No. 461 v. New Mexico Property Appraisal Department, 83 NM 445, 493 P.2d 411 (1971) and NRA Special Contribution Fund v. Board of County Commissioners, 92 NM 541, 591 P.2d 672 (Ct. App. 1978).

The fact that income from property contended to be used for educational or charitable purposes is not taxed for federal income tax purposes is not conclusive in determining whether or not the property is "used for educational or charitable purposes". If the use of the property is such that the use results in a self-supporting operation, the implication is that the property is not used for charitable purposes.

See NRA Special Contribution Fund v. Board of Commissioners, 92 NM 541, 591 P.2d 672 (Ct. App. 1978) and Mountain View Homes v. State Tax Commission, 77 NM 649, 427 P.2d 13 (1967) but also see Retirement Ranch, Inc. v. Curry County Valuation Protest Board, 89 NM 42, 546 P.2d 1199 (Ct. App. 1976).

Originally filed as PTD REGULATION 36-7(B)(1):12, PTD Rule 82; Amended and Renumbered PTC 36-7B1:12, December 29, 1994, PTC Rule 95.

PTC 36-7B1:13 - EXEMPTIONS FOR CHURCH PROPERTY NOT USED FOR COMMERCIAL PURPOSES

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.

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.

See *Grace, Inc. v. Board of County Commissioners*, 97 NM 260, 639 P.2d 69 (Ct. App. 1981), *Church of the Holy Faith v. State Tax Commission*, 39 NM 403, 48 P.2d 777 (1935) and *Trustees of Property of Protestant Episcopal Church in New Mexico v. State Tax Commission*, 39 NM 419, 48P.2d 786 (1935).

Originally filed as PTD REGULATION 36-7(B)(1):13, PTD Rule 82; Amended and Renumbered PTC 36-7B1:13, December 29, 1994, PTC Rule 95.

PTC 36-7B1:14 - 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 19 3-59-12 or Section 7-36-3B.

See Chapter 3, Article 59 and Section 7-36-3 NMSA 1978.

Originally filed as PTD REGULATION 36-7(B)(1): 14, PTD Rule 82; Amended and Renumbered PTC 36-7B1:14, December 29, 1994, PTC Rule 95.

PTC 36-7B1:15 - PROPERTY HELD UNDER COMMUNITY DEVELOPMENT LAW - LESSEE NOT EXEMPT

The exemption under Section 19 3-60-32B 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".

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.

See Community Development Law: Chapter 3, Article 60 NMSA 1978.

Originally filed as PTD REGULATION 36-7(B)(1): 15, PTD Rule 82; Amended and Renumbered PTC 36-7B1:15, December 29, 1994, PTC Rule 95.

PTD 36-7B1:16 - CREDIT UNION SHARE INSURANCE CORPORATION - PERSONAL PROPERTY EXEMPT

Section 20 58-12-14 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.

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.

See Credit Union Share Insurance Corporation Act: Chapter 58, Article 12 NMSA 1978.

Originally filed as PTD REGULATION 36-7(B)(1):16, PTD Rule 82; Amended and Renumbered PTC 36-7B1:16, December 29, 1994, PTC Rule 95.

PTC 36-7B1:17 - FLOOD CONTROL ENTITIES - PROPERTY EXEMPT

Section 20 72-16-97 of the Arroyo Flood Control Act, Section 72-17-97 of the Las Cruces Arroyo Flood Control Act, Section 72-18-67 of the Flood Control District Act and Section 72-19-97 of the Southern Sandoval County flood control Act grant property 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.

See Arroyo Flood Control Act: Chapter 72, Article 16 NMSA 1978 (especially 72-16-2C, 72-16-22 & 72-16-97) and Las Cruces Arroyo Flood Control Act: Chapter 72, Article 17 NMSA 1978 (especially 72-17-2C, 72-17-22A & 72-17-97).

Originally filed as PTD REGULATION 36-7(B)(1):17, PTD Rule 82; Amended and Renumbered PTC 36-7B1:17, December 29, 1994, PTC Rule 95.

PTC 36-7B1:18 - PRIVATE, NON-INDIAN PROPERTY ON INDIAN RESERVATION OR PUEBLO GRANT NOT EXEMPT

The property of a non-Indian person is not exempt from property taxation when the property is located on land leased from an Indian nation, tribe or pueblo.

Originally adopted December 29, 1994, PTC Rule 95.

PTC 36-7B1:19 - 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.

Originally adopted December 29, 1994, PTC Rule 95.

PTD 36-7B2:1 - "OIL AND GAS" INCLUDES LIQUID HYDROCARBONS AND CARBON DIOXIDE

The phrase "oil and gas" as used in Section 7-36-7B(2) and 7-36-22 includes liquid hydrocarbons and carbon dioxide.

Originally adopted PTD REGULATION 36-7(B)2:1, PTD Rule 82; Amended and Renumbered PTD 36-7B2:1, December 29, 1994, PTD Rule 95.

PTC 36-7B2:2 - 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.

See Sections 7-32-3 and 7-36-22 NMSA 1978 and PTC 36-2:2

Originally adopted PTD REGULATION 36-7(B)2:2, PTD Rule 82; Amended and Renumbered PTC 36-7B2:2, December 29, 1994, PTD Rule 95.

PTD 36-7B2:3 - OIL AND GAS EQUIPMENT OTHER THAN THAT WITHIN THE DEFINITION OF "EQUIPMENT" UNDER SECTION 7-34-2G

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

Drilling rigs are not "equipment" as that term is defined in Section 7-34-2G.

Originally adopted PTD REGULATION 36-7(B)2:3, PTD Rule 82; Amended and Renumbered PTC 36-7B2:3, December 29, 1994, PTC Rule 95.

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

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

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

livestock;

manufactured homes;

aircraft not registered under the Aircraft Registration Act;

private railroad cars, the earnings of which are not taxed under the provisions of the Railroad Car Company Tax Act;

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;

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 other tangible personal property not specified in Paragraphs (1) through (6) of this subsection:

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

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

See Kaiser Steel Corporation v. Revenue Division, 96 NM 117, 628 P.2d 687 (Ct. App. 1981).

PTD Regulation 36-8:1 Intangible Property Not Subject to Valuation, PTD Rule No. 82, filed 3/23/83 and PTD Regulation 36-8:2, Livestock Valued as Tangible Personal Property, PTD Rule No. 82, filed 3/23/83 were both withdrawn 12/29/94.

PTC 36-8:3 - PROPERTY SUBJECT TO INTERNAL REVENUE CODE SECTION 179 DEDUCTION

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 this section. 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.

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.

Originally adopted PTD REGULATION 36-8:3, PTD Rule 82; Renumbered PTD 36-8:3; December 29, 1994, PTC Rule 95.

PTC 36-8:4 - INVENTORIES - EXCEPTION

The phrase "inventory for sale or resale at wholesale, retail or on consignment" as used in Section 7-36-8 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 24 66-1-4.11 which are not registered, but are held for sale or resale at wholesale, retail or on consignment.

Originally adopted PTD REGULATION 36-8:4, PTD Rule 82; Amended and Renumbered PTD 36-8:4; December 29, 1994, PTD Rule 95.

PTC 36-8:5 - INVENTORIES - GENERAL

Except for inventories described in 7-36-8E, inventories of tangible personal property held for sale or resale at wholesale, retail or on consignment are exempt from property taxation.

Originally adopted December 29, 1994, PTC Rule 95.

PTC 36-8:6 - ANIMALS WHICH ARE NOT LIVESTOCK

Animals which are not livestock, as defined in 7-35-2, are tangible personal property. Unless such animals are described in 7-36-8F, the animals are exempt from taxation.

Originally adopted December 29, 1994, PTD Rule 95.

PTD 36-8:7 - 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 24 64-4-12 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 if the aircraft are held and operated only for sale.

Originally adopted December 29, 1994, PTC Rule 95.

PTD 36-8:8 - 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 are not exempt from property taxation under Section 7-36-8.

Originally adopted December 29, 1994, PTD Rule 95.

PTD 36 8:9 - 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 26 66-4-2 shall be deemed to be registered under the provisions of the Motor Vehicle Code for the purposes of Section 7-36-8 if the

vehicles are held and operated only for sale. Vehicles deemed to be registered under this regulation are exempt from property taxation.

Originally adopted December 29, 1994, PTC Rule 95.

Sections 7-36-9, 7-36-10, 7-36-12 and 7-36-13 were repealed by Laws 1993, Chapter 8, Section 2. Section 7-36-11 has been reserved (never enacted).

PTD. Regulation 36-9:2, Inventories of Centrally Assessed Persons, PTD Rule No. 82, filed 3/23/83 and PTD Regulation 36-9:3, Personal Property Used in Producing, Manufacturing and Construction, PTD Rule No. 82, filed 3/23/83 were withdrawn 12/29/94.

PTD. Regulation 36-12:1, Aircraft Dealer's License Constitutes Registration of Certain Aircraft Owned by Licensee, PTD Rule No. 82, filed 3/23/83 was withdrawn 12/29/94.

PTD. Regulation 36-13:1, Private Railroad Cars Exempt from Taxes Imposed by Property Tax Code, PTD Rule No. 82, filed 3/23/83 was withdrawn 12/29/94.

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

Property has a taxable situs in the state if:

it is real property and is located in the state;

it is an interest in real property and the real property is located in the state;

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:

property being transported in interstate commerce that is physically present in the state only while being transported through or over the state;

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

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;

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

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.

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.

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

PTC 36-14:1 - INTERESTS IN REAL PROPERTY SUBJECT TO VALUATION FOR PROPERTY TAXATION PURPOSES

Under Section 7-36-7, 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 Section 7-36-14A(2), is subject to valuation for property taxation purposes.

Originally adopted PTD REGULATION 36-14:1, PTD Rule 82; Renumbered PTD 36-14:1, December 29, 1994, PTD Rule 95.

PTC 36-14:2 - 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 Section 7-36-14A(3)(a) does not include properties used as instrumentalities of interstate commerce, such as rail road engines and cars and commercial aircraft, even though these properties may move in interstate commerce.

See Sections 7-36-31 and 7-36-32 NMSA 1978 and regulations hereunder.

Originally adopted PTD REGULATION 36-14:2, PTD Rule 82; Renumbered PTC 36-14:2, December 29, 1994, PTC Rule 95.

PTC 36-14:3 - LIVESTOCK IN FEEDLOTS NOT INCLUDED UNDER FREEPORT PROVISIONS

The terms "warehouse" and "factory" as used in Section 7-36-14A(3)(b), 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 Section 7-36-14A(3)(b).

Originally adopted PTD REGULATION 36-14:3, PTD Rule 82; Renumbered PTC 36-14:3, December 29, 1994, PTD Rule 95.

PTC 36-14:4 - ORIGINAL PACKAGE DOCTRINE NOT APPLICABLE UNDER FREEPORT PROVISIONS

The "property" referred to in Section 7-36-14A(3)(b) 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.

See New Mexico Constitution, Article VIII, Section 8.

Originally adopted PTD REGULATION 36-14:4, PTD Rule 82; Amended and Renumbered PTD 36-14:4, December 29, 1994, PTC Rule 95.

PTC 36-14:5 - DESTINATION PRESUMED TO BE IN STATE IF ORIGINAL TRANSPORTATION HAS CEASED AND OUT OF STATE DESTINATION HAS NOT BEEN SPECIFIED

If the original transportation of the property referred to in Section 7-36-14A(3)(b) 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 final destination for the property, outside the state, has been specified, or 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.

See *Albuquerque Moving and Storage Company v. Commissioner of Revenue*, 82 NM 45, 475 P.2d 45 (Ct. App. 1970).

Originally adopted PTD REGULATION 36-14:5, PTD Rule 82; Renumbered PTC 36-14:5, December 29, 1994, PTC Rule 95.

PTC 36-14:6 - "FARM CROPS" DO NOT INCLUDE SEVERED TIMBER OR LIVESTOCK

The phrase "farm crops" as used in Section 7-36-14A(3)(c) does not include livestock, severed timber or forest products.

Originally adopted PTD REGULATION 36-14:6, PTD Rule 82; Renumbered PTC 36-14:6, December 29, 1994, PTC Rule 95.

PTC 36-14:7 - 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. Pursuant to 7-37-2, tax is imposed only on property".

Originally adopted December 29, 1994, PTC Rule 95.

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

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.

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 shall apply generally accepted appraisal techniques.

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.

The department shall adopt regulations in accordance with the procedures in Section 7-38-90 NMSA 1978 to implement the methods of valuation authorized in this article of the Property Tax Code.

Laws 1995, Chapter 12, Section 11

PTC 36-15:1 - INCOME METHOD OF VALUATION - IMPLEMENTATION

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 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.

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

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.

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.

"Income" as that term is used in this regulation is net income or the difference between annual revenue or receipts, actual or imputed, from rental of the property and the actual expenses relating to the property.

"Expenses", as that term is used in this regulation, 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. ***Originally adopted PTD REGULATION 36-15:1, PTD Rule 82; Amended and Renumbered PTC 36-15: 1, December 29, 1994, PTC Rule 95.***

PTC 36-15:2 - 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.

See PTC 36-1:1W

Originally adopted PTD REGULATION 36-15:2, PTD Rule 82; Amended and Renumbered PTC 36-15:2, December 29, 1994, PTC Rule 95.

PTC 36-15:3 - IMPLEMENTATION BY MEANS OF SCHEDULES AND MANUALS

Implementation of the valuation methods authorized in Section 7-36-15B may be by means of schedules and manuals approved by the Division.

Originally adopted PTD REGULATION 36-15:3, PTD Rule 82; Amended and Renumbered PTC 36-15:3, December 29, 1994, PTC Rule 95.

PTC 36-15:4 - IMPROVEMENTS AND RIGHTS NOT VALUED SEPARATELY FROM THE LAND THEY SERVE

Section 7-36-15C 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.

Originally adopted PTD REGULATION 36-15:4, PTD Rule 82; Amended and Renumbered PTC 36-15:4, December 29, 1994, PTC Rule 95.

PTC 36-15:5 - 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.

See PTC 36-20:7

Originally adopted PTD REGULATION 36-15:5, PTD Rule 82; Renumbered PTC 36-15:5, December 29, 1994, PTC Rule 95.

PTC 36-15:6 - SUBDIVISIONS - IMPLEMENTATION OF VALUATION METHODS

A "subdivision" as that term is used in this regulation means the division of land in any calendar year into two or more tracts of less than five acres by platting or by metes and bounds description for the purpose of:

sale or lease;
laying out a municipality or any part thereof;
adding to the municipality;
laying out suburban lots; or
re-subdivision.

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.

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.

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 34 47-6-17 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.

See New Mexico Subdivision Act: Chapter 47, Article 6, Sections 1 through 30, 37 & 42 (especially Section 47-6-21 and 47-6-17). Compare Property Appraisal Department v. Ransom, 84 NM 637, 506 P.2d 794 (Ct. App. 1974).

Originally adopted PTD REGULATION 36-15:6, PTD Rule 82; Amended and Renumbered PTC 36-15:6, December 29, 1994, PTC Rule 95.

PTC 36-15:7 - MARKET VALUE METHOD OF VALUATION - IMPLEMENTATION

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:

the availability of comparable sales data;

the verification of the sales date;

the degree of comparability or extent of adjustment necessary for differences in time of sale and time of appraisal; and

the absence of nontypical conditions affecting the sales price.

"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.

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.

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.

This approach to value may be implemented by means of schedules and manuals approved by the Division.

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

See Peterson Properties v. Valencia County Protests Board, 89 NM 239, 549 P.2d 1074 (Ct. App. 1976).

Originally adopted PTD REGULATION 36-15:7, PTD Rule 82; Amended and Renumbered PTC 36-15:7, December 29, 1994, PTC Rule 95.

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

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. 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.

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.

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.

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.

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 must 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 1973, Chapter 258, Section 18

PTC 36-16:1 - COST SHARING PROVISIONS IN VALUATION MAINTENANCE CONTRACTS

The Department will not enter a contract pursuant to Section 7-36-16C 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.

See Section 7-35-3 NMSA 1978

Originally adopted PTD REGULATION 36-16: 1, PTD Rule 82; Amended and Renumbered PTC 36-16:1, December 29, 1994, PTC Rule 95.

PTC 36-16:2 - SALES RATIO REPORT

The written report which assessors are required to provide under Section 7-36-16E 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.

Originally adopted PTD REGULATION 36-16:2, PTD Rule 82; Amended and Renumbered PTC 36-16:2, December 29, 1994, PTC Rule 95.

PTC 36-16:3 - CURRENT AND CORRECT VALUES OF PROPERTY DEFINED

The phrase "current and correct values of property" as used in Section 7-36-16 NMSA 1978 means

for the 1986 and 1987 property tax years, the 1984 valuation level or, if reappraisal to the 1984 valuation level by a county cannot reasonably be expected to be completed by the county by the date valuation notices are required to be sent to the property owners for the 1986 property tax year, the 1980 valuation level;

for the 1988 and 1989 property tax years, the 1986 valuation level;

for the 1990 and 1991 property tax years, the 1988 valuation level;

for the 1992, 1993 and 1994 property tax years, the 1990 valuation level;

for the 1995 and 1996 property tax years, the 1993 valuation level; and

for each two succeeding property tax years, the valuation level in the preceding odd-numbered year.

Originally adopted PTD REGULATION 36-16:3, PTD Rule 82; Renumbered PTC 36-16:3, December 29, 1994, PTC Rule 95.

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

PTC 36-18:1 - SALES RATIO STUDY

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 these regulations.

The sales ratio study compares the values of property determined for property taxation purposes by each county assessor for the year in which the study is prepared with values of the same property as established by sales prices of the same property sold during the year preceding the study. For example, the 1976 sales ratio study compares the values for property taxation purposes of property shown on the counties' 1976 tax schedule with sales of that property which occurred in 1975.

See PTC 36-16:2

Originally adopted PTD REGULATION 36-18:1, PTD Rule 82; Amended and Renumbered PTC 36-18:1, December 29, 1994, PTC Rule 95.

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

PTC 36-19:1 - 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.

Originally adopted PTD REGULATION 36-19:1, PTD Rule 82; Amended and Renumbered PTC 36-19:1, December 29, 1994, PTC Rule 95.

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

The value of land used primarily for agricultural purposes shall be determined on the basis of the land's capacity to produce agricultural products. The burden of demonstrating primary agricultural use is on the owner of the land, and he must produce objective

evidence of bona fide agricultural use for the year preceding the year in which application is made for his land to be valued under this section. The fact that land was devoted to agricultural use in the preceding year is not of itself sufficient evidence to support a finding of bona fide primary agricultural use when there is evidence that the agricultural use was subordinate to another use or purpose of the owner, such as holding for speculative land subdivision and sale, commercial use of a nonagricultural character, recreational use or other nonagricultural purpose.

For the purpose of this section, "agricultural use" means the use of land for the production of plants, crops, trees, forest products, orchard crops, livestock, poultry or fish. The term also includes the 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.

The department shall adopt regulations for determining whether or not land is used primarily for agricultural purposes.

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

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; 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; provide for the consideration of determinations of any other governmental agency concerning the capacity of the same or similar lands to produce agricultural products; assure that land determined under the regulations to have the same or similar production capacity shall be valued uniformly throughout the state; and 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.

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.

The owner of the land must make application to the county assessor in each tax year in which the valuation method of this section is claimed to be applicable to his land. Application shall be made under oath, shall be in a form and contain the information required by department regulations and must be made no later than the last day of February of the tax year. If the owner of the land fails to make the application required by this subsection, the county assessor shall:

if the land was valued under this section in the immediately preceding tax year and if he determines that the land continues to be entitled to valuation under this section, value the

land under this section and impose a penalty for failure to make the required application in an amount equal to fifteen percent of the tax determined to be due on the land for that tax year; or

if the land was valued under this section in the immediately preceding tax year and if he determines that the land is no longer entitled to valuation under this section, value the land in accordance with the applicable provisions of the Property Tax Code and department regulations.

If land is initially valued under Paragraph 2 of this subsection and, due to subsequent action by the county assessor or as a result of a protest, the land is determined to be entitled to valuation as land used primarily for agricultural purposes, the penalty provided in Paragraph 1 of this subsection shall be applied.

Laws 1975, Chapter 165, Section 3

PTC 36-20:1 - AGRICULTURAL PROPERTY - BURDEN OF DEMONSTRATING USE ON OWNER

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:

the plants, crops, trees, forest products, orchard crops, livestock, poultry or fish which were produced or which were attempted to be produced through use of the land were:

produced for sale or home consumption in whole or in part; or

used by others for sale or resale; or

used, as feed, seed or breeding stock, to produce other such products which other products were to be held for sale or home consumption; or

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

the owner of the land was resting the land to maintain its capacity to produce such products in subsequent years.

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.

A homesite is not land used for agricultural purposes and is not to be valued as agricultural land pursuant to Section 7-36-20.

A "homesite" as that term is used in this regulation 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.

Originally adopted PTD REGULATION 36-20: 1, PTD Rule 82; Amended and Renumbered PTC 36-20:1, December 29, 1994, PTC Rule 95.

PTC 36-20:2 - 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.

Originally adopted PTD REGULATION 36-20:2, PTD Rule 82; Amended and Renumbered PTC 36-20:2, December 29, 1994, PTC Rule 95.

PTC 36-20:3 - AGRICULTURAL PRODUCTS DEFINED

The phrase "agricultural products" as it is used in Section 7-36-20 and these regulations means plants, crops, trees, forest products, orchard crops, livestock, wool, mohair, hides, pelts, poultry, fish, dairy products and honey.

Originally adopted PTD REGULATION 36-20:3, PTD Rule 82; Renumbered PTC 36-20:3, December 29, 1994, PTC Rule 95.

PTC 36-20:4 - PRODUCTION CAPACITY OF AGRICULTURAL LAND - IMPLEMENTATION OF VALUATION METHOD

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. The various methods of determining the class of agricultural land are described in these regulations. 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.

"Income" as that term is used in this regulation is generally the average for the preceding five tax years of:

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
fees for rental of land or machinery less expenses relating thereto; plus
the reasonable value of unpaid labor of the operator or the farm family; less
the expense of depreciation on farm buildings and machinery.

In lieu of calculating income in the manner set forth in paragraph B, income may be determined by either of the following methods.

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 the preceding paragraph, 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.

The Division by order may determine annual income from various classes of agricultural land based on the land's capacity to produce agricultural products. This order, if made, shall consider determinations of other governmental agencies concerning the capacity of a particular class of agricultural land to produce agricultural products. Such an order is for the purpose of implementing the valuation method prescribed by Section 7-36-20 and assuring that land classes determined to have the same or similar production capacity are valued uniformly through out the state. This order, 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.

The capitalization rate to be used in valuing land used primarily for agricultural purposes pursuant to this regulation 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.

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.

"Grazing land" as that phrase is used in this regulation is agricultural land which is used for the grazing of livestock. The Division by order determines annually the carrying capacity of each class of grazing land by determining the number of animal units per section that the grazing land will reasonably support. In determining this carrying capacity, the Division considers five sheep or goats to be the equivalent of one animal unit and one cow to be one animal unit. Classes of grazing land by counties, areas within counties, or some natural division instead of individual sections or leases are established in the order. The Division investigation prior to preparation of this order includes analysis of information obtained from livestock industry representatives, the bureau of land management, the soil conservation service, the forest service, agricultural departments of state universities and the state and federal departments of agriculture. The Division takes into consideration drought or natural conditions which would tend to reduce the carrying capacity of grazing land. Economic conditions, such as the market price of livestock, are not taken into consideration in determining carrying capacity of grazing land. The order referred to in this paragraph is issued before the last day of the year preceding the tax year in which it is to be used.

The Division, by order, determines the values per animal unit, 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 unit 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 at least once every five years. The order referred to in this

paragraph 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.

See Sections 7-36-4 and 7-36-6 NMSA 1978.

Originally adopted PTD REGULATION 36-20:4, PTD Rule 82; Amended and Renumbered PTC 36-20:4, December 29, 1994, PTC Rule 95.

PTC 36-20:5 - CLASSIFICATION OF AGRICULTURAL LAND

This regulation contains methods for classifying agricultural land, excluding grazing land as defined in the these regulations. ***See PTC 36-20:4.***

Pursuant to Section 7-36-20D(3) the Division may issue an order dividing the land into specific agricultural land classes. If such an order is issued, it will be in accordance with the methods of classification contained in this regulation. If such an order is not issued for a particular county or part of a county, the county assessor shall follow this regulation in classifying agricultural land in the county.

Agricultural land is classified as either:

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

"dryland agricultural land", which is all agricultural land without a supplemental water supply.

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.

Agricultural land is classified using the following sources:

The land capability classification of the soil conservation service 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.

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

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 Soil Conservation Service and which classify in a series-type grouping.

Soil characteristics shown by the current New Mexico County Assessor's Agricultural Manual.

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. 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.

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

Originally adopted PTD REGULATION 36-20:5, PTD Rule 82; Amended and Renumbered PTC 36-20:5, December 29, 1994, PTC Rule 95.

PTC 36-20:6 - IMPROVEMENTS ON AGRICULTURAL LAND - VALUATION

All improvements, other than those specified in Section 7-36-15C, on land used primarily for agricultural purposes shall be valued separately, using the methods described in Section 7-36-15 and regulations thereunder, and the value of these improvements shall be added to the value of the land.

See PTC regulations 36-15:5 and 36-20:1

Originally adopted PTD REGULATION 36-20:6, PTD Rule 82; Renumbered PTC 36-20:6, December 29, 1994, PTC Rule 95.

PTC 36-20:7 - APPLICATION FORM FOR VALUATION AS AGRICULTURAL LAND

Applications by owners of land for valuation pursuant to Section 7-36-20 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:

Description of the land;

The use of the land during the year preceding the year for which the application is made;
Whether the land was held for speculative land subdivision and sale or has been subdivided;

Whether the land was used for commercial purposes of a nonagricultural character;

Whether the land was used for recreational purposes and if so, how; and

Whether the land was leased and if so, who was the lessee, did he own livestock and what was the lessee's use of the property.

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. ***Originally adopted PTD REGULATION 36-20:7, PTD Rule 82; Renumbered PTC 36-20:7, December 29, 1994, PTC Rule 95.***

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

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

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.

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 7-38-45 NMSA 1978, 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:

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

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.

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.

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

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; 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
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.

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).

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.

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.

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

PTC 36-21:1 - 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:

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 Section 7-36-21D;

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 Section 7-36-21D; and

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.

Originally adopted as PTD REGULATION 36-21(B):1, PTD Rule 82; Amended and Renumbered PTC 36-21:1, December 29, 1994, PTC Rule 95.

PTC 36-21:2 - 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.

Originally adopted December 29, 1994, PTC Rule 95.

PTC 36-21:3 - ALLOCATION OF VALUE OF LIVESTOCK

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 Section 7-36-21D. 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).

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:

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

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

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.

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.

Originally adopted as PTD REGULATION 36-21(E):1, PTD Rule 82; Amended and Renumbered PTC 36-21:3, December 29, 1994, PTC Rule 95.

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:

"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;

"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;

"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

"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

PTC 36-22:1 - MINERAL PROPERTY - MINERAL DEFINED

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

Originally adopted PTD REGULATION 36-22: 1, PTD Rule 82; Amended and Renumbered PTC 36-22:1, December 29, 1994, PTC Rule 95.

PTC 36-22:2 - MINERAL PROPERTY - DETERMINATION OF "CLASS ONE NONPRODUCTIVE MINERAL PROPERTY"

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 Section 7-36-22A, it is, unless the presumption is rebutted, to be classified as class one nonproductive mineral property under Subsection B of that section.

If the per acre value determined pursuant to Section 7-36-23E, 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".

See Section 7-36-2(C)(2) NMSA 1978 and Federal Regulation Section (IRC) 1.616-1.

Originally adopted PTD REGULATION 36-22:2, PTD Rule 82; Amended and Renumbered PTC 36-22:2, December 29, 1994, PTC Rule 95.

PTC 36-22:3 - 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 Sections 7-36-2C, 7-36-22, 7-36-23, 7-36-24 and 7-36-25 and are not valued by the Department and are not to be placed on the tax schedules of any county.

See PTC 36-3:2.

Originally adopted PTD REGULATION 36-22:3, PTD Rule 82; Amended and Renumbered PTC 36-22:3, December 29, 1994, PTC Rule 95.

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

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.

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:

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 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.

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.

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.

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.

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

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: 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;

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

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

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:

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;

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

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.

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.

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

PTC 36-23B:1 - 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 Section 7-36-23B(2) are those methods described in Section 7-36-15 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 and regulations thereunder. Section 7-36-23E applies only as a valuation method for the mineral in place in mineral property determined to be class one nonproductive mineral property.

Originally adopted PTD REGULATION 36-23(B):1, PTD Rule 82; Amended and Renumbered PTC 36-23B:1, December 29, 1994, PTC Rule 95.

PTC 36-23B:2 - MINERAL PROPERTY - IMPROVEMENTS, ETC., HELD OR USED IN CONNECTION WITH ALL CLASSES OF MINERAL PROPERTY

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 Section 7-36-23B(1) are those methods described in Section 7-36-33 and regulations thereunder. Equipment and other personal property used in "construction" as that term is defined in Section 7-36-2C(3) shall be valued pursuant to Section 7-36-33 and regulations thereunder.

"Improvements,... held or used in connection with all classes of mineral property", as that phrase is used in Section 7-36-23B(1) includes, but is not limited to, improvements constructed on property other than mineral property as defined in Section 7-36-22 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 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 and regulations thereunder.

See Section 7-36-2(C)(2) NMSA 1978.

Originally adopted PTD REGULATION 36-23(B):2, PTD Rule 82; Amended and Renumbered PTC 36-23B:2, December 29, 1994, PTC Rule 95.

PTC 36-23F:1 - MINERAL PROPERTY - SAND, GRAVEL AND CALICHE - ANNUAL NET PRODUCTION VALUE

The "annual net production value", as that phrase is used in Section 55 7-36-23F, 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 Section 7-36-23F, the Division may disallow the election and require reporting of market values, royalties, direct costs, depreciation and other information determined necessary by the Division.

Originally adopted PTD REGULATION 36-23(F):1, PTD Rule 82; Amended and Renumbered PTC 36-23F:1, December 29, 1994, PTC Rule 95.

PTC 36-23F:2 - MINERAL PRODUCT - SCORIA, PUMICE AND CINDERS - ANNUAL NET PRODUCTION VALUE

The "annual net production value", as that phrase is used in Section 7-36-23F, 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 Section 7-36-23F, the Division may disallow the election and require reporting of market values, royalties, direct costs, depreciation and other information determined necessary by the Division.

The "annual net production value", as that phrase is used in Section 7-36-23F, 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 Section 7-36-23F, the Division may disallow the election and require reporting of market values, royalties, direct costs, depreciation and other information determined necessary by the Division.

For purposes of this regulation, 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 this regulation, do not include "fines" which are the result of sorting certain mineral products.

See International Minerals and Chemical Corporation v. Property Appraisal Department, 83 NM 402, 492 P.2d 1265 (Ct.App. 1971).

Originally adopted PTD REGULATION 36-23(F):2, PTD Rule 82; Amended and Renumbered PTC 36-23F:2, December 29, 1994, PTC Rule 95.

PTC 36-23F:3 - MINERAL PROPERTY - MARKET VALUE

The phrase "market value" as used in Section 7-36-23F(1) and (2) 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.

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. This regulation, however, does not adopt the valuation methods described in United States Treasury Regulations for Section 613, unless specifically indicated herein.

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.

See Kaiser Steel Corporation v. Property Appraisal Department, 83 NM 251, 490 P.2d 968 (Ct.App. 1971).

Originally adopted PTD REGULATION 36-23(F):3, PTD Rule 82; Amended and Renumbered PTC 36-23F:3, December 29, 1994, PTC Rule 95.

PTC 36-23F:4 - MINERAL PROPERTY - "PRODUCTION OF ALL MINERALS" AND "TREATING" DEFINED

The phrase "production of all minerals" as used in Section 7-36-23F(1) and (2) 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.

The term "treating" as used in Section 7-36-23F(1)(b) and (2)(b) and this regulation 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".

Originally adopted PTD REGULATION 36-23(F):4, PTD Rule 82; Amended and Renumbered PTC 36-23F:4, December 29, 1994, PTC Rule 95.

PTC 36-23F:5 - MINERAL PROPERTY - DIRECT COSTS - DEDUCTION GUIDELINES

The phrase "direct costs" as used in Subparagraphs (1)(b) and (2)(b) of Subsection F of Section 7-36-23, 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.

"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.

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.

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

- 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;
- 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;
- any amounts which, under generally accepted accounting principles consistently applied by taxpayer, are capitalized;
- property taxes;
- income taxes, both state and federal;
- sales or gross receipts taxes included in the cost of items which are not deductible as direct costs;
- 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;
- life insurance on executives;
- interest on borrowed monies;
- depletion of reserves;
- mine and mill development costs;
- mine and mill "startup" costs, such as calibration of plant and equipment;
- exploration costs;
- fire and extended coverage insurance;
- administrative costs incurred outside New Mexico;
- contract costs which are not incurred as "direct costs" for activities described in Section 7-36-23F(1)(b) and (2)(b);
- royalties, other than those described in Section 7-36-23F(1)(a) and (2)(a), and item 1) in paragraph E of this regulation;
- franchise taxes;

legal and accounting costs;
dues and contributions;
institutional advertising costs, which are not directly related to selling the mineral but are for the purpose of establishing goodwill; and
other indirect costs.

Under generally accepted accounting principles, "direct costs" do usually include:
royalties paid to labor unions representing employees of the taxpayer if the royalties are direct costs of the activities described in Section 7-36-23F(1)(b) and (2)(b);
severance and resources excise taxes;
sales or gross receipts taxes included in the cost of items which are deductible as direct costs;
payroll taxes and unemployment taxes, both federal and state, if the payroll services upon which these taxes are imposed are deductible as direct costs;
workman's compensation insurance and employees health and accident insurance for the taxpayer's employees, the costs of whose services are direct costs;
assaying and sampling; and
other direct costs.

Originally adopted PTD REGULATION 36-23(F):5, PTD Rule 82; Amended and Renumbered PTC 36-23F:5, December 29, 1994, PTC Rule 95.

PTC 36-23F:6 - MINERAL PROPERTY - COSTS OF DEPRECIATION - DEDUCTION GUIDELINES

The phrase "costs of depreciation" as used in Section 7-36-23(1)(c) and (2)(c) 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.

Originally adopted PTD REGULATION 36-23(F):6, PTD Rule 82; Amended and Renumbered PTC 36-23F:6, December 29, 1994, PTC Rule 95.

PTC 36-23F:7 -MINERAL PROPERTY - MICA - ANNUAL NET PRODUCTIVE VALUE

The "annual net production value", as that phrase is used in Section 7-36-23F, 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 Section 7-36-23F, the Division may disallow the election and require reporting of market values, royalties, direct costs, depreciation and other information determined necessary by the Division.

Originally adopted PTD REGULATION 36-23(F):7, PTD Rule 82; Amended and Renumbered PTC 36-23F:7, December 29, 1994, PTC Rule 95.

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

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.

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 on from a mine.

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.

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.

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.

The value for property taxation purposes of class one nonproductive potash mineral property shall be determined under Subsection E of Section 7-3C-23 NMSA 1978.

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.

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

PTC 36-24:1 - POTASH MINERAL PROPERTY - MARKET VALUE

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, 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.

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 A of this regulation, 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. This regulation, however, does not adopt the valuation methods described in the United States Treasury Regulations for Section 613, unless specifically indicated herein.

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 A and B of this regulation, 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.

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.

See Kaiser Steel Corporation v. Property Appraisal Department, 83 NM 251, 490 P.2d 968 (Ct.App. 1971) and International Minerals and Chemical Corporation v. Property Appraisal Department, 83 NM 402, 492 P.2d 1265 (Ct.App. 1971).

Originally adopted PTD REGULATION 36-24: 1, PTD Rule 82; Amended and Renumbered PTC 36-24:1, December 29, 1994, PTC Rule 95.

PTC 36-24:2 - 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 Section 7-36-24C, are those methods described in Section 7-36-15 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 and regulations thereunder.

***See PTC 26-2:4 ***

Originally adopted PTD REGULATION 36-24:2, PTD Rule 82; Amended and Renumbered PTC 36-24:2 December 29, 1994, PTC Rule 95.

PTC 36-24:3 - 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 Section 7-36-24C.

Originally adopted PTD REGULATION 36-24:3, PTD Rule 82; Amended and Renumbered PTC 36-24:3, December 29, 1994, PTC Rule 95.

PTC 36-24:4 - POTASH MINERAL PROPERTY - ALLOCATION OF VALUES

The values of potash mineral property are allocated among the governmental units in accordance with Section 7-36-24G. 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.

Originally adopted PTD REGULATION 36-24:4, PTD Rule 82; Amended and Renumbered PTC 36-24:4, December 29, 1994, PTC Rule 95.

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 URANIUM

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.

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:

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 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.

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.

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.

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

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 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.

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 198, Chapter 29, Section 1

PTC 36-25B:1 - 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 are those methods referred to in PTC 36-23B:1 and 36-23B:2.

Originally adopted PTD REGULATION 36-25(B): 1, PTD Rule 82; Amended and Renumbered PTC 36-25B:1, December 29, 1994, PTC Rule 95.

PTC 36-25B:2 - 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 Section 7-36-25B.

Originally adopted PTD REGULATION 36-25(B):2, PTD Rule 82; Amended and Renumbered PTC 36-25B:2, December 29, 1994, PTC Rule 95.

PTC 36-25E:1 - URANIUM MINERAL PROPERTY - REQUIREMENT FOR FIFTY PERCENT DEDUCTION

Section 7-36-25E(2) 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.

Originally adopted PTD REGULATION 36-25(E): 1, PTD Rule 82; Amended and Renumbered PTC 36-25E:1, December 29, 1994, PTC Rule 95.

PTC 36-25E:2 - 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 Section 7-36-25E(2) is deducted from a value which is comprised of:

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 the section; and
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.

Originally adopted PTD REGULATION 36-25(E):2, PTD Rule 82; Amended and Renumbered PTC 36-25E:2, December 29, 1994, PTC Rule 95.

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

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.

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:

the determination of initial cost of a manufactured home based upon classifications of manufactured homes and sales prices for the various classifications; deductions from initial cost for allowable depreciation, which allowances for depreciation shall be developed by the division; and deduction from initial cost of other justifiable factors, including but not limited to functional and economic obsolescence.

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 67 66-6-10 and 66-7-413 NMSA 1978 to assure that accurate records of locations of manufactured homes are maintained.

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).

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.

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.

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

PTC 36-26:1 - MANUFACTURED HOMES - REPORTING FORM

The information specified below is required to be furnished by manufactured home owners in reporting manufactured homes pursuant to Section 7-36-26

Owner's name and mailing address;
Location of manufactured home, including the county and School District;
Name of the manufacturer;
Model, year and serial number of the manufacturer;
Size and number of axles of manufactured home;
State registration number;
Number, if any, assigned for property tax purposes;
Date of purchase;
Price paid;
Whether the manufactured home acquired was new or used;
Whether the manufactured home is occupied by the owner or a tenant;
If rented, the amount of the monthly rent.

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.

Originally adopted PTD REGULATION 36-26:1, PTD Rule 82; Amended and Renumbered PTC 36-26:1, December 29, 1994, PTC Rule 95.

PTC 36-26:2 - 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.

Originally adopted PTD REGULATION 36-26:2, PTD Rule 82; Amended and Renumbered PTC 36-26:2, December 29, 1994, PTC Rule 95.

PTC 36-26:3 - MANUFACTURED HOMES - VALUATION FOR PURPOSES OF MOVEMENT PERMITS

If certificates are requested pursuant to Section 69 66-7-413G 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. 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.

Originally adopted PTD REGULATION 36-26:3, PTD Rule 82; Amended and Renumbered PTC 36-26:3, December 29, 1994, PTC Rule 95.

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

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.

As used in this section:

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

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

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

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

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

"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;

"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;

"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;

"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;

"tank" means any storage tank or container, other than a natural reservoir, for storage that is not a component part of any plant; and

"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 used or available to construct pipelines, plants, large industrial sales meters and tanks but which are not incorporated therein.

Sales meters, other than large industrial sales meters, shall be valued as follows: the department may periodically determine the average tangible property cost of a substantial sample of sales meters in general use in the state; 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 from the foregoing determinations a schedule of value for sales meters for property taxation purposes shall be determined and set forth in a regulation adopted pursuant to Section 7-38-88 NMSA 1978.

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

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

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

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

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.

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.

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

Laws 1985, Chapter 109, Section 5

PTC 36-27:1 - OIL & GAS PIPELINES - VALUATION METHOD

All pipelines, tanks, sales meters and plants as defined in Section 7-36-27 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 and this regulation.

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

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

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.

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

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

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

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. 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. Failure to provide documentation or proof satisfactory to the Director will result in denial of an obsolescence adjustment. In order to allocate value to the taxing jurisdiction wherein the property (valued in accordance with the method described in Section 7-36-27D) is located the following formula is used:

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

$A \times B = C$

$D = E$

Total C

SALES METERS

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

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:

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.

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.

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).

CONSTRUCTION WORK IN PROGRESS.

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.

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:

Total construction work in progress;

Fifty percent (50%) of the construction work in progress as the value for property taxation purposes; and

Value of construction work in progress by taxing jurisdiction in which the construction is located.

The value as stated in subparagraph 2)(b) above 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.

Originally adopted PTD REGULATION 36-27:1, PTD Rule 82; Amended and Renumbered PTC 36-27:1, December 29, 1994, PTC Rule 95.

PTC 36-27:2 - 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.

Originally adopted PTD REGULATION 36-27:2, PTD Rule 82; Amended and Renumbered PTC 36-27:2, December 29, 1994, PTC Rule 95.

PTC 36-27:3 - 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 Section 7-36-27B 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 and regulations thereunder. The term "pipeline" as defined in Section 7-36-27B(5) 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 these regulations.

See Section 7-36-15 NMSA 1978 and PTC 36-27:1.

Originally adopted PTD REGULATION 36-27:3, PTD Rule 82; Amended and Renumbered PTC 36-27:3, December 29, 1994, PTC Rule 95.

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

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.

As used in this section:

"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;

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

"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;

"gallons" means the measurement of water sold;

"revenue" means gross utility operating revenue;

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

"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.

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

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;

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

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;

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;

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;

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.

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.

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

Laws 1975, Chapter 165, Section 9

PTC 36-28:1 - WATER SYSTEMS - DEFINITIONS

As used in Section 7-36-28 and regulations thereunder:

"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;

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

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

"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;

"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;

"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 7-36-9, 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 "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 Section 7-36-28B(1) which includes certain property "under construction".

Originally adopted PTD REGULATION 36-28:1, PTD Rule 82; Amended and Renumbered PTC 36-28:1, December 29, 1994, PTC Rule 95.

PTC 36 28:2 - WATER SYSTEMS - VALUATION METHODS

"Commercial water property" as defined in Section 7-36-28 is valued in accordance with the method stated Section 7-36-28C.

"Property in the process of construction" as defined in PTC 36-28:1, paragraph G is valued pursuant to methods specified in Section 7-36-33 and regulations thereunder.

"General buildings and improvements" as defined in Section 7-36-28B(3) 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 and regulations thereunder.

Originally adopted PTD REGULATION 36-28:2, PTD Rule 82; Amended and Renumbered PTC 36-28:2, December 29, 1994, PTC Rule 95.

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

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

As used in this section:

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

"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;

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

"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 electrical power or energy;

"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;

"other justifiable factors" includes, but is not limited to, functional and economic obsolescence, such as the limitation upon the use of the property based upon the available reserves committed to the property; and

"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.

Electric plant shall be valued as follows:

the department shall determine the tangible property cost of electric plant;

such tangible property cost shall then be reduced by the related accumulated provision for depreciation and any other justifiable factors; and

notwithstanding the foregoing determination of value for property taxation purposes, the value for property taxation purposes of electric plant shall not be less than twenty percent of the tangible property cost of the electric plant.

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.

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

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.

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

Laws 1975, Chapter 165, Section 10

PTC 36-29:1 - ELECTRIC POWER PLANT - PROPERTY TO BE VALUED

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".

See Sections 7-36-2(B) and (C)(1) NMSA 1978.

Originally adopted PTD REGULATION 36-29:1, PTD Rule 82; Amended and Renumbered PTC 36-29:1, December 29, 1994, PTC Rule 95.

PTC 36-29:2 - ELECTRIC POWER PLANT - DEPRECIATION

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.

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.

Originally adopted PTD REGULATION 36-29:2, PTD Rule 82; Amended and Renumbered PTC 36-29:2, December 29, 1994, PTC Rule 95.

PTC 36-29:3 - ELECTRIC POWER PLANT - CONSTRUCTION WORK IN PROGRESS

"Construction work in progress" as that phrase is defined in Section 7-36-29B(3) is valued in accordance with the valuation method stated in Section 7-36-29D. 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 Section 7-36-29B(2) and these regulations.

See PTC 36-29:1.

Originally adopted PTD REGULATION 36-29:3, PTD Rule 82; Amended and Renumbered PTC 36-29:3, December 29, 1994, PTC Rule 95.

PTC 36-29:4 - ELECTRIC POWER PLANT - GENERAL BUILDINGS AND IMPROVEMENTS - LAND

"General buildings and improvements" defined in Section 7-36-29B(2) are valued in accordance with the method stated in Section 7-36-15, and regulations thereunder.

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, and regulations thereunder.

Originally adopted PTD REGULATION 36-29:4, PTD Rule 82; Amended and Renumbered PTC 36-29:4, December 29, 1994, PTC Rule 95.

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

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.

As used in this section:

"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;

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

"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;

"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;

"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;

"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

"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.

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:

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;

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 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.

Communications system property valued under this subsection shall be valued in accordance with Paragraphs (1), (2) and (3) of this subsection:
plant shall be valued in the following manner:
the department shall first establish the tangible property cost of the plant;
from such tangible property cost shall be deducted the related accumulated provision for depreciation and other justifiable factors; and
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;
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
the value of materials and supplies shall be the tangible property cost for such property as of December 31 of the preceding calendar year.
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.
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:

capitalization of earnings;
market value of stock and debt; or
cost less depreciation and obsolescence.

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

PTC 36-30:1 - 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.

See PTC 36-1:1 for definition of "microwave"

Originally adopted PTD REGULATION 36-30:1, PTD Rule 82; Amended and Renumbered PTC 36-30:1, December 29, 1994, PTC Rule 95.

PTC 36-30:2 - 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 7-36-30B(4), (5) and (7), then that property is valued pursuant to Section 7-36-15 and regulations thereunder.

Originally adopted PTD REGULATION 36-30:2, PTD Rule 82; Amended and Renumbered PTC 36-30:2, December 29, 1994, PTC Rule 95.

PTC 36-30:3 - COMMUNICATIONS SYSTEMS - DEPRECIATION AND TANGIBLE PROPERTY COSTS

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.

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.

Originally adopted PTD REGULATION 36-30:3, PTD Rule 82; Amended and Renumbered PTC 36-30:3, December 29, 1994, PTC Rule 95.

PTC 36-30:4 - 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 Section 7-36-30B(4), 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.

Originally adopted PTD REGULATION 36-30:4, PTD Rule 82; Amended and Renumbered PTC 36-30:4, December 29, 1994, PTC Rule 95.

PTC 36-30:5 - COMMUNICATIONS SYSTEMS - VALUATION METHOD

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 this regulation.

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.

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

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.

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.

The total of the market value of the stock as computed under paragraph C 1), above, and the market value of debt and other obligations as computed under paragraph C 2), above, 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.

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

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

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

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 paragraph D 1) above.

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

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

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.

The Division considers the values computed under the three evidences of value referred to in Paragraphs B, C and D of this regulation and, either:

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

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.

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.

Originally adopted PTD REGULATION 36-30:5, PTD Rule 82; Amended and Renumbered PTC 36-30:5, December 29, 1994, PTC Rule 95.

PTC 36-30:6 - COMMUNICATIONS SYSTEMS - ALLOCATIONS OF VALUE
WITHIN NEW MEXICO

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:

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 sizable facilities, such as offices, shops, and other special facilities.

The value computed under Paragraph 1), above, is deducted from the total value as determined under these regulations, 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.

The Division may vary the distribution methods described in Paragraphs 1) and 2), above, to account for unusual or substantial changes in the operations or gross investment of the company within the governmental units.

"Gross investment" as that phrase is used in this regulation 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.

Originally adopted PTD REGULATION 36-30:6, PTD Rule 82; Amended and Renumbered PTC 36-30:6, December 29, 1994, PTC Rule 95.

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

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 right-of-way, sidings and marshaling yards and general buildings and improvements determined not to be an active part of an operating railroad.

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

capitalization of earnings;
market value of stock and debt; or
original cost less depreciation and obsolescence.

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.

Land, land rights other than operating railroad rights-of-way, sidings and marshaling 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.

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.

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

PTC 36-31:1 - RAILROADS - PROPERTY TO BE VALUED AS PROPERTY USED BY A RAILROAD COMPANY IN THE OPERATION OF A RAILROAD

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. The following types of property used by a railroad company in the operation of a railroad are to be valued.

"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;

"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;

"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;

"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

"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.

Originally adopted PTD REGULATION 36-31: 1, PTD Rule 82; Amended and Renumbered PTC 36-31: 1, December 29, 1994, PTC Rule 95.

PTC 36-31:2 - RAILROADS - VALUATION METHOD

Property defined in Section 7-36-31A and these regulations is valued by applying the unit value of appraisal to the valuation methods stated in Section 7-36-31B. 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.

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

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.

"Net operating income" as that phrase is used in paragraph C 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.

Market value of stock and debt is computed as follows:

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.

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.

The total of the market value of stock as computed under paragraph E 1), above, plus the market value of debt and other obligations as computed under paragraph E 2), above, 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.

Original cost less depreciation is computed as follows:

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

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

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

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

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

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 paragraphs F 1) through F 3), above. The Division may consider the following factors to determine obsolescence:

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;

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

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

The "Blue Chip Method", using a "Best of the Best", "Blue Chip", or "Super Blue Chip" approach of comparison; or

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

The Division considers the values computed under the three evidences of value referred to in paragraphs C through F of this regulation and either:

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

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.

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.

Originally adopted PTD REGULATION 36-31:2, PTD Rule 82; Amended and Renumbered PTC 36-31:2, December 29, 1994, PTC Rule 95.

PTC 36-31:3 - RAILROADS - ALLOCATION OF VALUE WITHIN NEW MEXICO

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 PTC 36-31:2 is accomplished in the following manner:

An equitable portion of the total unit value allocated to New Mexico as determined under PTC 36-31:2 is computed and distributed to the specific governmental unit or units wherein are located sizable terminal facilities, such as yards, shops and other special facilities not normally spread along the lines of railroad.

The value computed under paragraph 1), above, is deducted from the total value as determined under these regulations, 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.

The Division may vary the distribution methods described in paragraphs 1) and 2), above, to account for unusual or substantial changes in the operations or gross investment of the railroad company within the governmental units.

"Gross investment" as that phrase is used in this regulation 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.

Originally adopted PTD REGULATION 36-31:3, PTD Rule 82; Amended and Renumbered PTC 36-31:3, December 29, 1994, PTC Rule 95.

PTC 36-31:4 - RAILROADS - DETERMINATION OF OPERATING AND NONOPERATING PROPERTY

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 this section means all property, owned, leased, or used, which is reasonably necessary to the maintenance and operation of a railroad company's business.

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

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, and regulations thereunder.

Originally adopted PTD REGULATION 36-31:4, PTD Rule 82; Amended and Renumbered PTC 36-31:4, December 29, 1994, PTC Rule 95.

PTC 36-31:5 - RAILROADS - DEFINITIONS

"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.

"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.

"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.

Originally adopted PTD REGULATION 36-31:5, PTD Rule 82; Amended and Renumbered PTC 36-31:5, December 29, 1994, PTC Rule 95.

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

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.

The department shall value commercial aircraft as follows:

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

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.

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.

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

PTC 36-32:1 - COMMERCIAL AIRCRAFT - PROPERTY SUBJECT TO VALUATION - DEFINITIONS

"commercial airline company" as that term is used in regulations under Section 7-36-32 means an "airline" as that term is used in Section 7-36-2B(5) and defined in these regulations.

See PTC 36-1:1.

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.

"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.

"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.

"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.

"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.

"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.

Originally adopted PTD REGULATION 36-32:1, PTD Rule 82; Amended and Renumbered PTC 36-32:1, December 29, 1994, PTC Rule 95.

PTC 36-32:2 - 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.

Originally adopted PTD REGULATION 36-32:2, PTD Rule 82; Amended and Renumbered PTC 36-32:2, December 29, 1994, PTC Rule 95.

PTC 36 32:3 - COMMERCIAL AIRCRAFT - ALLOCATION OF NET TAXABLE VALUES

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

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.

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.

The net taxable value of "equipment", "material and supplies", and "related facilities" as defined in PTC 36-32:1, is allocated to the governmental units in which the property is located.

Originally adopted PTD REGULATION 36-32:3, PTD Rule 82; Amended and Renumbered PTC 36-32:3, December 29, 1994, PTC Rule 95.

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

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

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;

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;

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

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

As used in this section:

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

"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;

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

"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;

"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

"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.

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

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

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

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.

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.

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:

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

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 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.

The department shall adopt a schedule value for the following kinds of property:

drilling rigs; and

large off-the-road highway construction equipment.

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.

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

Laws 1982, Chapter 28, Section 51

PTC 36-33:1 - GENERAL - CONSTRUCTION WORK IN PROGRESS

The phrase "construction work in progress" as defined in Section 7-36-33B(6) and as valued pursuant to Section 7-36-33D 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 and regulations thereunder, depending upon the nature and use of land.

Originally adopted PTD REGULATION 36-33:1, PTD Rule 82; Amended and Renumbered PTC 36-33:1, December 29, 1994, PTC Rule 95.

PTC 36-33:2 - GENERAL - LARGE OFF-THE-ROAD HIGHWAY CONSTRUCTION EQUIPMENT - CONTRACTORS' MACHINERY AND EQUIPMENT

The machinery and equipment, except "manufactured homes" and "well drilling rigs" as defined in these regulations, of all resident and nonresident persons engaged in "construction" as that term is defined in Section 7-36-2C(3), including such property of such persons whose property is subject to valuation by the county assessor and the Division, is reported and valued as follows:

Information required to be reported.

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:

Make, model and year of manufacture, if available;

Capacity, if available;

Serial number, if available;

Where located by school district and county on January 1 of the tax year;

Date purchased;

"Tangible property cost" of the item as that term is defined in Section 7-36-33B. 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.

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%

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

Well drilling rigs of all resident and nonresident persons engaged in construction are valued pursuant to these regulations.

Originally adopted PTD REGULATION 36-33:2, PTD Rule 82; Amended and Renumbered PTC 36-33:2, December 29, 1994, PTC Rule 95.

PTD REGULATION 36-33:3 withdrawn December 29, 1994, PTC Rule 95.

PTC 36-33:4 - 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 Section 7-36-33E, 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 and it is:

not subject to valuation under the provisions of Sections 7-36-22 through 7-36-32; not valued pursuant to the methods implemented in PTC 36-33:2 and 36-33:3; and reported to a state or federal regulatory agency by a person regulated by such agency using a uniform system of accounts.

Originally adopted PTD REGULATION 36-33:4, PTD Rule 82; Amended and Renumbered PTC 36-33:4, December 29, 1994, PTC Rule 95.

PTC 36-33:5 - GENERAL - WELL DRILLING RIG UNITS

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.

"Depth capacity" as that phrase is used in this regulation means the maximum depth of a well that the well drilling rig unit is capable of drilling without exceeding its safe operating design limits.

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

WELL DRILLING RIG UNIT VALUATION SCHEDULE Depth Capacity in Feet Value for Property Taxation Purposes

2,000 4,999 \$ 55,840
5,000 7,499 \$ 111,607
7,500 9,999 \$ 167,412
10,000 12,499 \$ 223,215
12,500 14,999 \$ 279,019
15,000 17,999 \$ 334,824
18,000 19,999 \$ 379,466
20,000 24,999 \$ 491,071
25,000 29,999 \$ 580.355

Originally adopted PTD REGULATION 36-33:5, PTD Rule 82; Amended and Renumbered PTC 36-33:5, December 29, 1994, PTC Rule 95.

PTC 36-33:6 - 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.

*** Originally adoption December 24, 1994, PTC Rule 95.***

PTC 36-33:7 - GENERAL - CLAIM OF OBSOLESCENCE - BURDEN OF PROOF - THRESHOLD AMOUNT

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.

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.

Originally adoption December 24, 1994, PTC Rule 95.

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:

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

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

7-37-3. TAX RATIO ESTABLISHED

The tax ratio is thirty-three and one third percent.

Laws 1973, Chapter 258, Section 36

PTC 37-3:1 - APPLICATION OF RATIO

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

See Section 7-35-2(M) NMSA 1978.

Originally adopted PTD REGULATION 27-3:1, PTD Rule 82; Amended and Renumbered PTC 37-3:1, December 29, 1994, PTC Rule 95.

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

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:

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

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

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

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

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.

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

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

a widow or a widower;
a head of household furnishing more than one-half the cost of support of any related person;
a single person, but only one person in a household may qualify as a head of family; or
a member of a condominium association or like entity who pays property tax through the association.

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

PTC 37-4:1 - CLAIMING THE EXEMPTION

Exemptions are claimed by filing proof of eligibility for the head of family exemption with the county assessor.

See Section 7-38-17 NMSA 1978.

Originally adopted PTD REGULATION 37-4:1, PTD Rule 82; Amended and Renumbered PTC 37-4:1, December 29, 1994, PTC Rule 95.

PTC 37-4:2 - 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.

See Sections 7-31-1 and 7-37-7 NMSA 1978.

Originally adopted PTD REGULATION 37-4:2, PTD Rule 82; Amended and Renumbered PTC 37-4:2, December 29, 1994, PTC Rule 95.

PTC 37-4:3 - 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

Originally adopted PTD REGULATION 37-4:3, PTD Rule 82; Amended and Renumbered PTC 37-4:3, December 29, 1994, PTC Rule 95.

PTC 37-4:4 - 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.

Originally adopted PTD REGULATION 37-4:4, PTD Rule 82; Amended and Renumbered PTC 37-4:4, December 29, 1994, PTC Rule 95.

PTC 37-4:5 - 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.

Originally adopted PTD REGULATION 37-4:5, PTD Rule 82; Renumbered PTC 37-4:5, December 29, 1994, PTC Rule 95.

PTC 37-4:6 - 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.

Originally adopted PTD REGULATION 37-4:6, PTD Rule 82; Amended and Renumbered PTC 37-4:6, December 29, 1994, PTC Rule 95.

7-37-5. VETERAN EXEMPTION

Two thousand dollars (\$2,000) 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 a grantor trust established under Sections 671 through 677 of the Internal Revenue Code, as those sections may be amended or renumbered, by a veteran or the veteran's unmarried surviving spouse who is a New Mexico resident. The exemption shall be deducted from taxable value of property to determine net taxable value of property.

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.

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

has been honorably discharged from membership in the armed forces of the United States;

served in the armed forces of the United States on active duty continuously for ninety days, any part of which occurred during a period specified in Paragraph (3) of this subsection; and

served in the armed forces of the United States during one or more of the following periods of armed conflict under orders of the president:

any armed conflict prior to World War I;

World War I which, for the purposes of this section, is defined as the period April 6, 1917 through April 1, 1920;

World War II which, for the purposes of this section, is defined as the period December 7, 1941 through December 31, 1946;
the Korean conflict which, for the purposes of this section, is defined as the period June 27, 1950 through January 31, 1955;
the Vietnam conflict which, for the purposes of this section, is defined as the period August 5, 1964 through May 7, 1975; or
the Persian gulf conflict which, for the purposes of this section, is defined as the period August 2, 1990 through the date upon which the president of the United States or a competent military authority declares the conflict to be ended, but in no case earlier than July 1, 1992.

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 he served during the applicable period for less than ninety days and the reason for not having served for ninety days was a discharge brought about by service-connected disablement. For the purposes of Paragraph (1) of Subsection C of this section, a person has been "honorably discharged" unless he received either a dishonorable discharge or a discharge for misconduct.

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 1992, Chapter 68, Section 1

PTC 37-5:1 - SPECIAL BENEFIT ASSESSMENTS AND CERTAIN TAXES - VETERAN EXEMPTION INAPPLICABLE

The veteran's 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.

See Sections 7-31-1 and 7-37-7 NMSA 1978.

Originally adopted PTD REGULATION 37-5:1, PTD Rule 82; Amended and Renumbered PTC 37-5:1, December 29, 1994, PTC Rule 95.

PTC 37-5:2 - APPLICATION OF VETERAN EXEMPTION - GENERAL

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

Military relationship

The veteran's exemption contained in this section 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.

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.

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.

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

Veteran's interest in property

A veteran who qualifies under this section, 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.

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

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.

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.

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.

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. ***See Dillard v. New Mexico Tax Commission, 53 NM 12, 201 P.2d 345 (1948).***

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. ***See Attorney General Opinion No. 63-148.***

Surviving spouse

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

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.

A surviving spouse of an eligible veteran is, if a subsequent marriage is annulled, entitled to the exemption because annulment restores him or her to the status he or she held before marriage.

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.

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.

Originally adopted PTD REGULATION 37-5:2, PTD Rule 82; Amended and Renumbered PTC 37-5:2, December 29, 1994, PTC Rule 95.

PTC 37-5:3 - APPLICATION OF VETERAN EXEMPTION - CERTAIN TAXES AND FEES OUTSIDE PROPERTY TAX CODE

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

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.

Motor vehicle registration fees. Under Section 66-6-7, 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 this section.

See Attorney General's Letter dated 11/18/74.

Originally adopted December 29, 1994, PTC Rule 95.

PTC 37-5:4 - ARMED CONFLICTS PRIOR TO WORLD WAR I

The following are recognized as armed conflicts prior to World War I:

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

Punitive Expedition into Mexico in 1916.

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.

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.

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.

Originally adopted December 29, 1994, PTC Rule 95.

PTC 37-5:5 - ACTIVITIES WHICH ARE NOT SERVICE IN THE ARMED FORCES

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.

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.

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.

Originally adopted December 29, 1994, PTC Rule 95.

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

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.

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.

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

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.

The following tax rates for the indicated purposes are authorized:

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;

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

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.

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

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;

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

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.

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 51

PTC 37-7:1 - CEDING PROHIBITED

Ceding of authorized rates by one governmental unit to another is prohibited.

Originally adopted PTD REGULATION 37-7:1, PTD Rule 82; Amended and Renumbered PTC 37-7:1, December 29, 1994, PTC Rule 95.

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

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 448B-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 7-344 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:

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

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.

"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;

"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:

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

improvements to existing residential and nonresidential property;

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;

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

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

"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.

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.

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.

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.

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.

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

PTC 37-7.1:1 - RATES SUBJECT TO YIELD CONTROL

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

any rate imposition or benefit assessment specifically exempted by law from the provisions of Section 7-37-7.1;

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

any rate not imposed against the value of the property.

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

the rates for general operating purposes authorized under Subsection B of Section 7-37-7;

the municipal flood control rate authorized by Section 3-41-2;

the special hospital district rate authorized by Section 4-48A-16;

the rates for branch community colleges authorized by Sections 21-14-6 and 21-14-6.1;

the rate for technical and vocational institutes authorized by Section 21-16-12; and

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 to be imposed against Class B property.

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

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 for a "guarantee fund"; and

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

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 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 in such cases would produce a revenue insufficient to meet the purposes of the imposition, possibly impairing contracts. Examples of such rates are:

the assessment for county improvement districts authorized by Section 4-55A-17;

the assessment for drainage districts authorized by Section 73-7-14;

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

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

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

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 to be imposed against Class A property when assessed on a per acre basis.

Originally adopted PTD REGULATION 37-7.1: 1, PTD Rule 82; Amended and Renumbered PTC 37-7.1:1, December 29, 1994, PTC Rule 95.

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

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

PTC 38-1:1 - TAXES IMPOSED UNDER THE PROPERTY TAX CODE - APPLICABILITY OF ADMINISTRATION AND ENFORCEMENT PROVISIONS

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

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.

See Sections 7-35-1 and 7-37-1 NMSA 1978. See also Section 73-16-15, Conservation Districts; Section 4-48-11 and 14, Hospital Levies; Section 72-16-25, Albuquerque Metropolitan Arroyo Flood Control Authority; Section 72-17-26, Las Cruces Metropolitan Arroyo Flood Control Authority; Section 73-9-21, Irrigation Districts; Sections 73-21-18 and 50, Sanitation Districts and Special Districts Procedures NMSA 1978.

Originally adopted PTD REGULATION 38-1:1, PTD Rule 82; Amended and Renumbered PTC 38-1:1, December 29, 1994, PTC Rule 95.

7-38-2. INVESTIGATIVE AUTHORITY AND POWERS

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:

determining whether property is subject to property taxation;
establishing or determining the value of any property for property taxation purposes;
determining the extent of liability for and the amount of any property tax due from any person; and
enforcing any statute administered by the department or administered by county officers under the supervision of the department.

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.

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:

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

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.

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

PTC 38-2:1 - 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.

Originally adopted PTD REGULATION 38-2:1, PTD Rule 82; Amended and Renumbered PTC 38-2:1, December 29, 1994, PTC Rule 95.

PTC 38-2:2 - 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 Section 7-38-2C 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 Section 7-38-2A.

Originally adopted PTD REGULATION 38-2:2, PTD Rule 82; Amended and Renumbered PTC 38-2:2, December 29, 1994, PTC Rule 95.

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

PTC 38-3:1 - 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 Section 7-38-2A. The reports required pursuant to this regulation shall be in addition to any reports otherwise required pursuant to the Property Tax Code.

Originally adopted PTD REGULATION 38-3:1 PTD Rule 82; Amended and Renumbered PTC 38-3:1, December 29, 1994, PTC Rule 95.

PTC 38-3:2 - 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.

Originally adopted PTD REGULATION 38-3:2, PTD Rule 82; Amended and Renumbered PTC 38-3:2, December 29, 1994, PTC Rule 95.

7-38-4. CONFIDENTIALITY OF INFORMATION

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:

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;

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;

to a state district or appellate court or a federal court or county valuation protests board: 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 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;

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

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;

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

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.

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 71

PTC 38-4:1 - INSPECTION OF PUBLIC RECORDS LAW

The provisions of Section 7-38-4 constitute an exception to Section 14-2-1 which provides for the inspection of public records.

Originally adopted PTD REGULATION 38-4:1, PTD Rule 82; Amended and Renumbered PTC 38-4:1, December 29, 1994, PTC Rule 95.

PTC 38 4:2 - 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.

Originally adopted PTD REGULATION 38-4:2, PTD Rule 82; Amended and Renumbered PTC 38-4:2, December 29, 1994, PTC Rule 95.

PTC 38 4:3 - INFORMATION WHICH MAY BE RELEASED BY THE DEPARTMENT

Pursuant to a request in compliance with PTC 38-4:2, 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.

Originally adopted PTD REGULATION 38-4:3, PTD Rule 82; Amended and Renumbered PTC 38-4:3, December 29, 1994, PTC Rule 95.

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

PTC 38-6:1 - EFFECT OF THE PRESUMPTION OF CORRECTNESS

To overcome the presumption of correctness provided in Section 7-38-6, 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.

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.

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

See Peterson Properties v. Valencia County Valuation Protests Board, 89 NM 239, 549 P.2d 1074 (Ct.App. 1976), McConnell v. Bureau of Revenue, 83 NM 386, 492 P.2d 1003 (Ct.App. 1971), Regents of New Mexico College of Agricultural and Mechanical Arts v. Academy of Aviation, Inc., 83 NM 86, 488 P.2d 343, (1971), New Mexico Baptist Foundation v. Bernalillo County Assessor, 93 NM 363, 600 P.2d 309 (Ct.App. 1979) and Bakel v. Bernalillo County Assessor, 95 NM 723, 625 P.2d 1240 (Ct.App. 1980).

Originally adopted PTD REGULATION 38-6:1, PTD Rule 82; Amended and Renumbered PTC 38-6:1, December 29, 1994, PTC Rule 95.

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.

Laws 1973, Chapter 258, Section 471

PTC 38-7:1 - 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. 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.

Originally adopted PTD REGULATION 38-7:1, PTD Rule 82; Amended and Renumbered PTC 38-7:1, December 29, 1994, PTC Rule 95.

PTC 38-7:2 - 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.

Originally adopted PTD REGULATION 38-7:2, PTD Rule 82; Amended and Renumbered PTC 38-7:2, December 29, 1994, PTC Rule 95.

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

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 regulations of the department. The report shall be in a form and contain the information required by regulations 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. 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.

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:

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; 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;

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

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

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.

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 regulations promulgated by the department.

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 regulations of the department.

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

Any person who intentionally refuses to make a report required of him 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).

Any person who fails to make a report required of him 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 he failed to make the required report.

Any person who intentionally refuses to make a report required of him 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 of him 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 he refused or failed to make the required report.

Any 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 amount due for all such jurisdictions.

The civil penalties authorized under Subsections G, 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.

For the purposes of this section:

"improvements" 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
"owner of real property" includes every owner of improvements who does not own the land upon which the improvements are made.
Laws 1991, Chapter 213, Section 1

PTC 38-8:1 - ANNUAL REPORT TO THE DIVISION - FORM AND REQUIRED INFORMATION

The report required by Subsection A of Section 7-38-8 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.

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

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:

the value of the property pursuant to the Property Tax Code and these regulations;
the identification of the property; and
the owner or person in possession of the property.

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

copies of all New Mexico right-of-way maps;
complete legal description of all land parcels which are located in New Mexico, along with plats, if available; and
a statement setting forth, by individual counties, the total acreage of New Mexico real property and right of way.

Originally adopted PTD REGULATION 38-8(A): 1, PTD Rule 82; Amended and Renumbered PTC 38-8:1, December 29, 1994, PTC Rule 95.

PTC 38-8:2 - 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 shall include:

the property owner's name and address;
the description of the property valued such that, if the description were included in a deed to the property, title would pass;
the description of any improvements on the property;
the cost of the land, as evidenced by the most recent sale of the land, and the date of sale;

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

the dates and reason for which the property was not previously subject to valuation; and the date and reason for which the property again became subject to valuation.

Originally adopted PTD REGULATION 38-8(B)(4): 1, PTD Rule 82; Amended and Renumbered PTC 38-8:2, December 29, 1994, PTC Rule 95.

PTC 38-8:3 - REPORTS TO COUNTY ASSESSOR

Reports required under Subsection E of Section 7-38-8 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.

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.

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:

determine the value of the property pursuant to the Property Tax Code and regulations thereunder;

identify the property and its location;

identify the owner or person in possession of the property.

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.

Originally adopted PTD REGULATION 38-8:3, PTD Rule 82; Amended and Renumbered PTC 38-8:3, December 29, 1994, PTC Rule 95.

PTC 38-8:4 - FORM OF STATEMENT OF IMPROVEMENTS

The statement of improvements required by Subsection C of Section 7-38-8 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 Section 7-38-20A 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 regulation 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.

Originally adopted December 29, 1994, PTC Rule 95.

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

PTC 38-8.1:1 - PROPERTY OWNED BY NONGOVERNMENTAL ENTITIES-- PRESUMPTION OF TAXABILITY - CLAIMING OF EXEMPTION

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 regulation with respect to the property.

For the purposes of this regulation:

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

"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.

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:

a description of the property;

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

the legal basis upon which the claim is made;

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

such other information as the Department may require.

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.

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.

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.

If a nongovernmental entity has claimed and been allowed, in substantial compliance with the provisions of this regulation, 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 regulation with respect to that property for the 1991 and subsequent property tax years so long as the eligibility status and ownership do not change.

Originally adopted PTD REGULATION 38-8.1: 1, PTD Rule 82; Amended and Renumbered PTC 38-8.1:1, December 29, 1994, PTC Rule 95.

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

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 must include requirements for comprehensive mapping, the use of uniform property record documents and uniform coding of real property descriptions.

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 1973, Chapter 258, Section 49

PTC 38-9A:1 - DESCRIPTION SUFFICIENTLY ADEQUATE AND ACCURATE TO IDENTITY 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.

Compare contra description requirement under prior law under Block Pitt Investments vs. Assessor of Bernalillo County, 86 NM 589, 526 P2nd 183 (1974).
Originally adopted PTD REGULATION 38-9(A):1, PTD Rule 82; Amended and Renumbered PTC 38-9A: 1, December 29, 1994, PTC Rule 95.

PTC 38-9A:2 - 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. 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 regulation by installation of the required system by the Department pursuant to Section 7-38-10.

Originally adopted PTD REGULATION 38-9(A):2, PTD Rule 82; Amended and Renumbered PTC 38-9A:2, December 29, 1994, PTC Rule 95.

PTC 38-9A:3 - REAL PROPERTY DESCRIPTIONS RECORDED WITH THE COUNTY CLERK

Legal descriptions or plats of real property filed pursuant to Section 14-8-16, 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.

See Section 14-8-16(E) NMSA 1978.

Originally adopted PTD REGULATION 38-9(A):3, PTD Rule 82; Amended and Renumbered PTC 38-9A:3, December 29, 1994, PTC Rule 95.

PTC 38-9A:4 - 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.

Originally adopted PTD REGULATION 38-9(A):4, PTD Rule 82; Renumbered PTC 38-9A:4, December 29, 1994, PTC Rule 95.

PTC 38-9A:5 - 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 regulation. 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.

See Section 47-1-46 NMSA 1978.

Originally adopted PTD REGULATION 38-9(A):5, PTD Rule 82; Amended and Renumbered PTC 38-9A:5, December 29, 1994, PTC Rule 95.

PTC 38-9A:6 - DESCRIPTION BY COORDINATES

Descriptions pursuant to the New Mexico coordinate system established by Sections 47-1-49 through 47-1-56 are adequate descriptions for property taxation purposes, provided they are otherwise adequate pursuant to these regulations. 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.

See Section 47-1-56 NMSA 1978.

Originally adopted PTD REGULATION 38-9(A):6, PTD Rule 82; Amended and Renumbered PTC 38-9A:6, December 29, 1994, PTC Rule 95.

PTC 38-9A:7 - 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 et seq.) provided they are otherwise adequate pursuant to these regulations.

See Section 47-6-3 NMSA 1978.

Originally adopted PTD REGULATION 38-9(A):7, PTD Rule 82; Amended and Renumbered PTC 38-9A:7, December 29, 1994, PTC Rule 95.

PTC 38-9B:1- EFFECT OF SECTION 7-38-9B

The effect of Section 7-38-9B 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 of these regulations do, authorize the use of past practices of description and coding but only to the extent and subject to the conditions stated in those regulations.

Originally Adopted PTD REGULATION 38-9(B): 1, PTD Rule 82; Amended and Renumbered PTC 38-9B:1, December 29, 1994, PTC Rule 95.

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 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 1973, Chapter 258, Section 50

PTC 38-10:1 - 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.

Originally adopted PTD REGULATION 38-10: 1, PTD Rule 82; Amended and Renumbered PTC 38-10:1, December 29, 1994, PTC Rule 95.

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

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.

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

7-38-13. STATEMENT OF DECREASE IN VALUE OF PROPERTY SUBJECT TO LOCAL VALUATION

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.

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

PTD REGULATION 38-13(A):1 withdrawn December 29, 1994

PTC 38-13:2 - STATEMENT OF DECREASE IN VALUE

The statement of decrease in value provided for in Section 7-38-13B 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 Section 7-38-20A 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 regulation 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.

Originally adopted PTD REGULATION 38-13(B):1, PTD Rule 82; Amended and Renumbered PTC 38-13:2, December 29, 1994, PTC Rule 95.

7-38-14. TABULATION OF CONSTRUCTION PERMIT INFORMATION REQUIRED TO BE FURNISHED TO COUNTY ASSESSORS

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.

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.

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

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:

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

the names and addresses of each of the transferors and transferees of the property required to be listed under Paragraph (1) of this subsection.

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:

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

the names and addresses of each of the transferors and transferees of the property listed under Paragraph (1) of this subsection.

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.

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

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:

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;

the description and ownership of the land subject to the order; and

the date that physical possession of the land was or will be assumed by the condemning authority under a preliminary entry order.

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.

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 561

PTC 38-16:1 - PROPERTY ACQUIRED BY THE STATE BY OUTRIGHT PURCHASE OR TRADE

The property of the state is exempt from taxation by Article VIII, Section 3, 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.

See provision, Article VIII, Section 3, supra.

Originally adopted PTD REGULATION 38-16(C):1, PTD Rule 82; Amended and Renumbered PTC 38-16:1 December 29, 1994, PTC Rule 95.

7-38-17. CLAIMING EXEMPTIONS--REQUIREMENTS--PENALTIES

Subject to the requirements of Subsection F of this section, head-of-family exemptions claimed and allowed in the 1974 tax year or veteran exemptions claimed and allowed in the 1982 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 and veteran exemptions allowable under this subsection shall be applied automatically by county assessors in the subsequent tax years.

Subject to the requirements of Subsection F of this section, head-of-family exemptions not claimed and allowed in the 1974 tax year or veteran exemptions not claimed and allowed in the 1982 tax year must be claimed in a subsequent tax year in order to be allowed, but once an exemption is claimed and allowed in a subsequent tax year, it shall apply to all subsequent tax years without further claiming as long as there is no change in eligibility for the exemption and no change in the ownership of the property.

Beginning with the 1983 tax year, other exemptions of real property specified under Section 7-36-7 NMSA 1978 for nongovernmental entities must 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.

Any exemption required to be claimed under this section must be applied for no later than the last day of February of the tax year in which it is required to be claimed in order for it to be allowed for that tax year.

Any 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.

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 New Mexico veterans' service commission to issue certificates of eligibility for veteran 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.

The department shall consult and cooperate with the New Mexico veterans' service commission in the development and promulgation of regulations under Subsection F of this section. The commission shall comply with the promulgated regulations. The commission shall collect a fee of five dollars (\$5.00) for the issuance of a duplicate certificate of eligibility to a veteran.

Any person who violates the provisions of this section by intentionally claiming and receiving the benefit of an exemption to which he is not entitled or who fails to comply with the provisions of Subsection E of this section is guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars (\$1,000). Any county assessor or his employee who knowingly permits a claimant for an exemption to receive the benefit of an exemption to which he 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.

Laws 1982, Chapter 28, Section 10

PTC 38-17:1 - 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 Section 7-38-17F 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 regulation 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.

Originally adopted PTD REGULATION 38-17(F):1, PTD Rule 82; Amended and Renumbered PTC 38-17:1, December 29, 1994, PTC Rule 95.

PTC 38-17:2 - 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 _____ 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: _____

Originally adopted PTD REGULATION 38-17(F):2, PTD Rule 82; Amended and Renumbered PTC 38-17:2, December 29, 1994, PTC Rule 95.

PTC 38-17:3 - VERIFICATION OF THE ISSUANCE OF CERTIFICATES AND THE CLAIMING OF VETERANS EXEMPTIONS

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.

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 regulation PTC 38-17:2. The listing may be transmitted in electronic or optical format if the county assessor accepts that format.

No claim of the veteran exemption shall be allowed by a county assessor unless accompanied by a verified certificate of exemption.

Originally adopted PTD REGULATION 38-17(F):3, PTD Rule 82; Amended and Renumbered PTC 38-17:3, December 29, 1994, PTC Rule 95.

PTC 38-17:4 - VALIDATION OF CERTIFICATE OF ELIGIBILITY BY COUNTY ASSESSOR - PARTIAL OR FULL RELEASE OF CLAIMED EXEMPTION

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.

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.

Originally adopted PTD REGULATION 38-17(F):4, PTD Rule 82; Renumbered PTC 38-17:4, December 29, 1994, PTC Rule 95.

PTC 38-17:5 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, "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.

See PTC 37-4:4, 37-4:5 and 37-4:7.

Originally adopted PTD REGULATION 38-17(F):5, PTD Rule 82; Amended and Renumbered PTC 38-17:5, December 29, 1994, PTC Rule 95.

PTC 38-17:6 - VERIFICATION OF THE DOLLAR AMOUNT OF VETERAN EXEMPTIONS CLAIMED - MULTIPLE CLAIMING

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.

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.

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.

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.

Originally adopted PTD REGULATION 38-17(F):6, PTD Rule 82; Amended and Renumbered PTC 38-17:6, December 29, 1994, PTC Rule 95.

7-38-17.1. PRESUMPTION OF NONRESIDENTIAL CLASSIFICATION-- DECLARATION OF RESIDENTIAL CLASSIFICATION

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.

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.

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:

any additional taxes because of a difference in tax rates imposed against residential and nonresidential property;

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

a civil penalty of five percent of any additional taxes determined to be due under Paragraph (1) of this subsection.

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.

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

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:

Section 7-38-8 NMSA 1978 relating to requirements for reporting property for valuation for property taxation purposes;

Section 7-38-8.1 NMSA 1978 relating to requirements for reporting exempt property;

Section 7-38-13 NMSA 1978 relating to requirements for reporting improvements to real property and to filing statements of decrease in value of property;

Section 7-38-17 NMSA 1978 relating to requirements for claiming veteran, head-of-family and other exemptions; and

Section 7-38-17.1 NMSA 1978 relating to the requirements for declaring residential property and changes in use of property.

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 1982, Chapter 28, Section 11

PTC 38-18:1 - UNIFORM FORM OF NOTICE

The uniform form of notice required by Section 7-38-18 which is to be used by county assessors shall be provided annually by the Division.

Originally adopted PTD REGULATION 38-18(B):1, PTD Rule 82; Amended and Renumbered PTC 38-18:1, December 29, 1994, PTC Rule 95.

PTC 38-18:2 - 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 this section.

Originally adopted PTD REGULATION 38-18(B):2, PTD Rule 82; Amended and Renumbered PTC 38-18:2, December 29, 1994, PTC Rule 95.

7-38-19. VALUATION RECORDS

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.

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.

Valuation records shall contain the information required by the Property Tax Code and regulations of the department.

Except as provided otherwise in Subsection E of this section, valuation records are public records.

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

PTD REGULATION 38-19:1 withdrawn December 29, 1994, PTC Rule 95.

PTD REGULATION 38-19:2 withdrawn December 29, 1994, PTC Rule 95.

PTC 38-19:3 - VETERANS EXEMPTION FROM REGISTRATION FEE FOR A MOTOR VEHICLE

Pursuant to Section 66-6-7 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.

Originally adopted PTD REGULATION 38-19:3, PTD Rule 82; Amended and Renumbered PTC 38-19:3, December 29, 1994, PTC Rule 95.

7-38-20. COUNTY ASSESSOR AND DEPARTMENT TO MAIL NOTICES OF VALUATION

By April 1 of each year, the county assessor shall mail a notice to each property owner informing him of the net taxable value of his property that has been valued for property taxation purposes by the assessor.

By May 1 of each year, the division department shall mail a notice to each property owner informing him of the net taxable value of his property that has been valued for property taxation purposes by the division.

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.

The notice required by this section shall state:

- the property owner's name and address;
- the description or identification of the property valued;
- the classification of the property valued;
- the value set on the property for property taxation purposes;
- the tax ratio;
- the taxable value of the property;
- the amount of any exemptions allowed and a statement of the net taxable value of the property after deducting the exemptions;
- the allocations of net taxable values to the governmental units; and
- 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.

Laws 1981, Chapter 37, Section 70

PTC 38-20:1 - 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.

Originally adopted PTD REGULATION 38-20(D): 1, PTD Rule 82; Amended and Renumbered PTC 38-20:1, December 29, 1994, PTC Rule 95.

7-38-21. PROTESTS--ELECTION OF REMEDIES

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 or a denial of a claim for an exemption either by:

filing a petition of protest with the director or the county assessor as provided in the Property Tax Code; or

filing a claim for refund after paying his taxes as provided in the Property Tax Code.

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 under Paragraph (2) of Subsection A of this section.

A property owner may also protest the application to his property of any administrative fee adopted pursuant to Section 7-38-36.1 NMSA 1978 by filing a claim for refund after paying his taxes as provided in the Property Tax Code.

Laws 1983, Chapter 215, Section 1

PTC 38-21:1 - TIME OF ELECTION OF REMEDIES

The election provided for in Section 7-38-21 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.

Originally adopted PTD REGULATION 38-21:1, PTD Rule 82; Amended and Renumbered PTC 38-21:1, December 29, 1994, PTC Rule 95.

7-38-22. PROTESTING VALUES, CLASSIFICATION, ALLOCATION OF VALUES AND DENIAL OF EXEMPTION DETERMINED BY THE DEPARTMENT

A property owner may protest the value or classification determined by the department for his property for property taxation purposes or the department's allocation of value of his property to a particular governmental unit or the denial of a claim for an exemption by filing a petition with the director. Filing a petition in accordance with this section entitles a property owner to a hearing on his protest.

Petitions shall:

be filed with the department no later than thirty days after the mailing by the department of the notice of valuation;

state the property owner's name and address and the description of the property;

state why the property owner believes the value, classification, the allocation of value or denial of an exemption is incorrect and what he believes the correct value, classification, allocation of value or exemption to be;

state the value, classification, allocation of value or exemption that is not in controversy; and

contain such other information as the department may by regulation require.

The department shall notify the property owner by certified mail of the date, time and place that he may appear before the director to support his petition. The notice shall be mailed at least fifteen days prior to the hearing date.

The director may provide for an informal conference on the protest before the hearing. Laws 1981, Chapter 37, Section 72

PTC 38-22:1 - 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 PTC 38-24: 1 and PTC 38-24:2, paragraphs A and B, are applicable with respect to protests to the Department.

Originally adopted PTD REGULATION 38-22: 1, PTD Rule 82; Amended and Renumbered PTC 38-22:1, December 29, 1994, PTC Rule 95.

PTC 38-22:2 - 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.

Originally adopted PTD REGULATION 38-22:2, PTD Rule 82; Amended and Renumbered PTC 38-22:2, December 29, 1994, PTC Rule 95.

PTC 38-22:3 - HEARING OFFICER CONDUCTS HEARING

The hearing provided for in Subsection C of this section 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.

Originally adopted December 29, 1994, PTC Rule 95.

7-38-23. PROTEST HEARINGS--VERBATIM RECORD--ACTION BY HEARING OFFICER--TIME LIMITATIONS

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 the hearing officer, but the hearings 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 secretary to conduct the hearing.

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.

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 his authorized representative fails, without reasonable justification, to appear at the hearing.

The hearing officer's order shall be in the name of the secretary, 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.

Changes in the valuation records shall clearly indicate that the prior entry has been superseded by an order of the hearing officer.

The department shall maintain a file of all orders made pursuant to this section. The file shall be open for public inspection.

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 1986, Chapter 20, Section 114

PTC 38-23:1 - 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.

Originally adopted PTD REGULATION 38-23(A):1, PTD Rule 82; Amended and Renumbered PTC 38-23:1, December 29, 1994, PTC Rule 95.

PTC 38-23:2 - PROTEST HEARINGS - WITHDRAWAL OF PROTEST - FAILURE TO APPEAR

If, at an informal conference pursuant to Section 7-38-22D, 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.

Originally adopted PTD REGULATION 38-23(A):2, PTD Rule 82; Amended and Renumbered PTC 38-23:2, December 29, 1994, PTC Rule 95.

PTC 38-23:3 - PROTEST HEARINGS - PROCEDURES

The procedures for hearings before the county valuation protests boards found in Section 7-38-27 and regulations thereunder are to be followed in protest hearings before the hearing officer designated by the Secretary.

Originally adopted PTD REGULATION 38-23: 1, PTD Rule 82; Amended and Renumbered PTC 38-23:3, December 29, 1994, PTC Rule 95.

7-38-24. PROTESTING VALUES, CLASSIFICATION, ALLOCATION OF VALUES AND DENIAL OF EXEMPTION DETERMINED BY THE COUNTY ASSESSOR

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 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.

Petitions shall:

be filed with the county assessor no later than thirty days after the mailing by the assessor of the notice of valuation;

state the property owner's name and address and the description of the property;

state why the property owner believes the value, classification, the allocation of value or denial of a claim of an exemption is incorrect and that he believes the correct value, classification, allocation of value or exemption to be; and

state the value, classification, allocation of value or exemption that is not in controversy.

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.

The assessor may provide for an informal conference on the protest before the hearing.

Laws 1981, Chapter 37, Section 73

PTC 38-24:1 - 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:

_____ Signature of Protestant _____

Originally adopted PTD REGULATION 38-24: 1, PTD Rule 82; Amended and Renumbered PTC 38-24:1, December 29, 1994, PTC Rule 95.

PTC 38-24:2 - INFORMAL CONFERENCES

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.

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.

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.

Originally adopted PTD REGULATION 38-24(D):1, PTD Rule 82; Amended and Renumbered PTC 38-24:2, December 29, 1994, PTC Rule 95.

7-38-25. COUNTY VALUATION PROTESTS BOARDS--CREATION--DUTIES--FUNDING

There is created in each county a "county valuation protests board". Each board shall consist of three voting members appointed as follows:

one member shall be a qualified elector of the county and shall be appointed by the board of county commissioners for a term of two years;

one member 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

one member shall be a property appraisal officer employed by the department, assigned by the director and shall be the chairman of the board.

No member of the board appointed under Paragraph (1) or (2) of Subsection A of this section shall hold any elective public office during the term of his appointment nor shall any such member be employed by the state, a political subdivision or a school district during the term of his appointment.

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.

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.

Members of the board 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 all other actual and direct expenses incurred in connection with protest hearings shall be paid by the department.

Laws 1982, Chapter 25, Section 1

PTC 38-25:1 - 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.

Originally adopted PTD REGULATION 38-25(E): 1, PTD Rule 82; Amended and Renumbered PTC 38-25:1, December 29, 1994, PTC Rule 95.

PTC 38-25:2-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.

***Originally adopted PTD REGULATION 38-25(E):2, PTD Rule 82; Amended and Renumbered PTC 38-25:2, December 29, 1994, PTC Rule 95. ***

PTD REGULATION 38-25(E):3 withdrawn December 29, 1994, PTC Rule 95.

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

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.

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.

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.

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.

Changes in the valuation records shall clearly indicate that the prior entry has been superseded by an order of the board.

The assessor shall maintain a file of all orders made by the county valuation protests board. The file shall be open for public inspection.

If an order of a county valuation protests board is appealed under Section 7-38-28 NMSA 1978, the director 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 1982, Chapter 28, Section 14

PTC 38-27:1 - PROTEST HEARINGS - WITHDRAWAL OF PROTEST - FAILURE TO APPEAR

If, at an informal conference pursuant to Section 7-38-24D 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 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.

See PTC 38-24:2 for procedures at informal conferences.

Originally adopted PTD REGULATION 38-27:1, PTD Rule 82; Amended and Renumbered PTC 38-27:1, December 29, 1994, PTC Rule 95.

PTD REGULATION 38-27:2 withdrawn December 29, 1994, PTC Rule 95.

PTC 38-27:3 - PROTEST HEARINGS - DISCOVERY - CONSEQUENCES OF FAILURE TO ALLOW DISCOVERY

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:

infer that the admission, testimony, documents or other evidence sought by discovery would have been adverse to the position of the county assessor;
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;
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
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.

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.

See In the Matter of Miller, 88 NM 492, 542 P.2d 1182 (Ct.App. 1975) and Peterson Properties v. Valencia County Valuation Protests Board, 89 NM 239, 549 P.2d 1074 (Ct.App. 1976).

Originally adopted December 29, 1994, PTC Rule 95.

PTC 38-27:4 - PROTEST HEARINGS - STIPULATIONS OF FACTS SUBMITTED TO THE COUNTY VALUATION PROTESTS BOARD

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.

Statement of material facts concerning the protestant:

Name of protestant

Location of property and description of property

Code Number

Valuation set by assessor

Principal use of the property

Amount of valuation not in controversy (this usually will be the amount the property owner contends is the value of the property).

Protest information in accordance with Section 7-38-24:

Date notice of valuation was mailed

Date petition was filed (copy of petition may be attached)
Why the protestant believes the valuation is incorrect and what he believes the correct valuation to be
Statement of facts supporting what the protestant believes to be the correct valuation (documents may be attached).
Statement of facts supporting the valuation placed on the property by the assessor (documents may be attached).
Relevant correspondence regarding the controversy.
Statement of any additional material facts relating to the controversy.
The format of the stipulation may be as shown in the following example:

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.

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.

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.

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".

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).

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 _____

Originally adopted PTD REGULATION 38-27:3, PTD Rule 82; Amended and Renumbered PTC 38-27:4, December 29, 1994, PTC Rule 95.

PTC 38-27:5 - PROTEST HEARINGS - SPECIAL ACCOMMODATIONS - ADVANCE DISSEMINATION OF PETITION

Any special accommodations or arrangements required under the American with Disabilities Act shall also be determined and made in advance of the hearing.

The petition filed with the county assessor shall be made available to the Board members in advance of the hearing.

Originally adopted December 29, 1994, PTC Rule 95.

PTC 38-27:6 - PROTEST HEARINGS - CONDUCT OF HEARING

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.

Hearings shall be recorded on audio or video tape unless the Board directs recording by stenographic, mechanical or other means.

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.

Originally adopted December 29, 1994, PTC Rule 95.

PTC 38-27:7 - PROTEST HEARINGS - PRELIMINARY MATTERS

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.

The County Valuation Protests Board will confirm that any special accommodations or arrangements required under the Americans with Disabilities Act have been made.

The Board shall inform the protestant of the following.

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. 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.

All testimony will be taken under oath.

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.

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.

Documents introduced into evidence before the Board may be retained by the Board. 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.

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.

If the protestant appeals the decision of the Board, the protestant must pay the costs of preparing the record.

See Peterson Properties v. Valencia County Valuation Protests Board, 89 NM 239, 549 P.2d 1074 (Ct.App. 1976).

Originally adopted December 29, 1994, PTC Rule 95.

PTC 38-27:8 - PROTEST HEARINGS - WITNESSES

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?"

All witnesses may be cross-examined by the adverse party.

Originally adopted December 29, 1994, PTC Rule 95.

PTC 38-27:9 - PROTEST HEARINGS - EVIDENCE

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.

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.

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.

Formal exception to an adverse ruling is not required.

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.

Originally adopted December 29, 1994, PTC Rule 95.

PTC 38-27:10 - 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.

Originally adopted December 29, 1994, PTC Rule 95.

7-38-28. APPEALS FROM ORDERS OF THE DIRECTOR OR COUNTY VALUATION PROTESTS BOARDS

A property owner may appeal an order made by the director or a county valuation protests board by filing with the court of appeals a notice of appeal within thirty days, or such other time prescribed by the Rules of Appellate Procedure, SCRA 1986, of the date the order was made. A copy of the notice of appeal shall be mailed to the director. The appeal shall be on the record made at the hearing or upon a stipulation submitted by both the valuation authority and the property owner and shall not be de novo. The procedure for perfecting an appeal under this section to the court of appeals shall be as provided by the Rules of Appellate Procedure, SCRA 1986.

Upon appeal, the court shall set aside a decision and order of the director or a county valuation protests board only if it is found to be:

arbitrary, capricious or an abuse of discretion;
not supported by substantial evidence in the record taken
otherwise not in accordance with law.

The director shall notify the appropriate county assessor of the decision and order of the court of appeals and shall direct the assessor to take appropriate action to comply with the decision and order.

Laws 1990, Chapter 22, Section 3

PTC 38-28:1 - APPEAL OF COUNTY VALUATION PROTESTS BOARD DECISION

A protestant who wishes to file an appeal a decision of the County. Valuation Protests Board must do so within the time prescribed by the Rules of Appellate Procedure by filing a notice of appeal with the New Mexico Court of Appeals pursuant to this section. The county assessor will be named as appellee.

Originally adopted December 29, 1994, PTC Rule 95.

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

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.

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.

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

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.

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.

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.

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

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 and contain the information required by regulations of the department and shall contain at least the following information:

- the description of the property taxed and, if the property is personal property, its location;
- 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;
- the classification of the property;
- the value of the property determined for property taxation purposes;
- the tax ratio;
- the taxable value of the property;
- the amount of any exemption allowed and a statement of the net taxable value of the property after deducting the exemption;
- the allocations of net taxable value to the governmental units;
- the tax rate in dollars per thousand of net taxable value for all taxes imposed on the property;
- the amount of taxes due on the described property; and
- the amount of any penalties and interest already imposed and due on the described property.

The property tax schedule is a public record and a part of the valuation records.

Laws 1981, Chapter 37, Section 751

PTC 38-35:1 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.

Originally adopted PTD REGULATION 38-35:1, PTD Rule 82; Amended and Renumbered PTC 38-35:1, December 29, 1994, PTC Rule 95.

PTC 38-35:2 - ABSTRACT OF INFORMATION CONTAINING THE PROPERTY TAX SCHEDULE

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.

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 7-38-90.

Originally adopted PTD REGULATION 38-35:2, PTD Rule 82; Amended and Renumbered PTC 38-35:2, December 29, 1994, PTC Rule 95.

7-38-36. PREPARATION AND MAILING OF PROPERTY TAX BILLS

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.

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.

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)

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.

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.

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:

all of the information required to be contained in the property tax schedule;
the amount of property taxes due on each installment, the due dates of the installments and the dates on which taxes become delinquent;
a brief statement of the option available to make prepayments of the property tax due pursuant to Section 7-38-38.2 NMSA 1978;
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;
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;
a statement advising the property owner that the property tax bill is the only notice he will receive for payment of both installments of the tax if no separate notice will be sent with respect to the second installment; and
the amount of any prepayment of the first installment made pursuant to Section 7-38-38.2 NMSA 1978.

Laws 1987, Chapter 166, Section 1

PTC 38-37:1 - 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.

Originally adopted PTD REGULATION 38-37: 1, PTD Rule 82; Amended and Renumbered PTC 38-37:1, December 29, 1994, PTC Rule 95.

PTC 38-37:2 - 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".

Originally adopted PTD REGULATION 38-37:2, PTD Rule 82; Amended and Renumbered PTC 38-37:2, December 29, 1994, PTC Rule 95.

7-38-38. PAYMENT OF PROPERTY TAXES INSTALLMENT DUE DATES-- REFUND IN CASES OF OVERPAYMENTS

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.

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:

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

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

As used in this section:

"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 Ad Valorem Tax Act or money resulting from impositions under Paragraph (3) of Subsection C of Section 7-37-7 NMSA 1978; and

"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.

Prior to the distribution to a revenue recipient of revenue by a county treasurer, the treasurer shall bill the revenue recipient as an administrative charge an amount equal to: in Class "A" counties, three-fourths of one percent of the revenue received, but not to exceed forty percent of the budget of the county assessor for the current fiscal year as approved by the department of finance and administration; and in all other counties, one percent of the revenue received, but not to exceed forty percent of the budget of the county assessor for the current fiscal year as approved by the department of finance and administration.

The "county property valuation fund" is created. All administrative charges shall be collected by the county treasurer and distributed to the county property valuation fund. The revenue recipient may pay the administrative charge from any fund unless otherwise prohibited by law.

Expenditures from the county property valuation fund may be made pursuant to a property valuation program presented by the county assessor and approved by the majority of the county commissioners.

Laws 1990, Chapter 125, Section 71

7-38-38.2. PREPAYMENT OF CERTA

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.

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.

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.

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).

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.

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.

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

7-38-39. PROTESTING VALUES--CLAIM FOR REFUND

After meeting 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 7-38-3C.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

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:

be filed against the director as party defendant if the property was valued by the department or against the county 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;

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;

state the basis of the claim for refund;

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 demand the refund to him of the amount to which he claims entitlement.

The director shall notify the appropriate county treasurer immediately when a claim for refund is filed against the director.

The property owner, the county 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.

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.

Upon the final determination of the property owner's claim filed against the county, the treasurer shall send a copy of the final order to the county assessor 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 1982, Chapter 28, Section 171

PTC 38-40:1 PROTEST IS WAIVER OF RIGHT TO CLAIM FOR REFUND

The initiation of a protest under Section 7-38-22 or 7-38-24 constitutes an unconditional and irrevocable waiver of the right to claim for refund under this section.

See Section 7-38-21 NMSA 1978 and PTC 38-21:1.

Originally adopted PTD REGULATION 38-40: 1, PTD Rule 82; Renumbered PTC 38-40: 1, December 29, 1994, PTC Rule 95.

PTC 38-40:2 - 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.

Originally adopted PTD REGULATION 38-40:2, PTD Rule 82; Amended and Renumbered PTC 38 40:2, December 29, 1994, PTC Rule 95.

7-38-41. PROTESTED PROPERTY TAXES--SUSPENSE FUND--REFUNDS--INTEREST

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.

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.

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.

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.

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

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.

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.

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:

applications of payments to 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;

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

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 1979, Chapter 343, Section 1

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 TAX

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:

proceed immediately to determine the value of the property and send a notice of valuation to the property owner;

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

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.

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.

PTC 38-44:1 - JEOPARDY ASSESSMENT

This section 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 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 are fulfilled.

Originally adopted PTD REGULATION 38-44:1, PTD Rule 82; Amended and Renumbered PTC 38-44:1, December 29, 1994, PTC Rule 95.

PTC 38 44:2 - VALUATION DATE FOR JEOPARDY ASSESSMENT PURPOSES

Section 7-38-7 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. Therefore, no jeopardy assessment shall issue against property not in the state on January 1 of the tax year, except as to livestock.

Originally adopted PTD REGULATION 38-44:2, PTD Rule 82; Amended and Renumbered PTC 38-44:2, December 29, 1994, PTC Rule 95.

PTC 38-44:3 - 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, 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. Petitions of protest to a notice of valuation pursuant

to Section 7-38-44 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.

Originally adopted PTD REGULATION 38-44:3, PTD Rule 82; Amended and Renumbered PTC 38-44:3, December 29, 1994, PTC Rule 95.

7-38-45. SPECIAL PROVISIONS RELATING TO ADMINISTRATION OF TAXES ON LIVESTOCK

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.

Notwithstanding any other provision in the Property Tax Code to the contrary, either the county assessor or the director may:

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;

issue a notice of valuation of livestock at any time after a determination of valuation has been made of livestock for property taxation purposes;

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

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.

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 171

7-38-46. DELINQUENT PROPERTY TAXES

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.

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:

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

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.

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.

Notice of the date when taxes become delinquent must shall 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

PTC 38 46:1 - 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.

Originally adopted PTD REGULATION 38-46:1 PTD Rule 82; Amended and Renumbered PTC 38-46:1, December 29, 1994, PTC Rule 95.

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

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.

Laws 1974, Chapter 92, Section 18

7-38-49. UNPAID PROPERTY TAXES--DISPOSITION 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

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. 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

PTC 38-50:1 - PENALTY IS IN ADDITION TO INTEREST BUT NOT COMPUTED ON INTEREST

The penalty provided for in this section is in addition to any interest imposed pursuant to Section 7-38-49. The penalty is not computed on the interest accrued.

Originally adopted PTD REGULATION 38-50:1, PTD Rule 82; Amended and Renumbered PTC 38-50:1, December 29, 1994, PTC Rule 95.

PTC 38-50:2 - MINIMUM PENALTY APPLICABLE TO EACH INSTALLMENT OF TAXES AND EACH PROPERTY TAX BILL

The minimum penalty provided for in this section is applicable to each of the equal installments of property taxes payable to the county treasurer pursuant to Section 7-38-38 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. 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.

Originally adopted PTD REGULATION 38-50:2, PTD Rule 82; Amended and Renumbered PTC 38-50:2, December 29, 1994, PTC Rule 95.

7-38-51. NOTIFICATION TO PROPERTY OWNER OF DELINQUENT PROPERTY TAX

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:

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
any person other than the owner to whom the tax bill on the property was sent.
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:
a description of the property upon which the property taxes are due;
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;
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
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

PTC 38-51:1 - 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)

You 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) _____ number

and vehicle ide

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.

Originally adopted PTD REGULATION 38-51: 1, PTD Rule 82; Amended and Renumbered PTC 38-51:1, December 29, 1994, PTC Rule 95.

7-38-52. NOTIFICATION TO MOTOR VEHICLE DIVISION OF UNPAID PROPERTY TAXES ON MANUFACTURED HOMES--NOTICE OF FILING CONSTITUTES LIEN ON VEHICLE

In the preparation of the tax delinquency notices, the county treasurer shall ascertain those persons who have failed to pay taxes on manufactured homes.

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.

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.

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.

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

PTC 38-52:1 - 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.

Originally adopted PTD REGULATION 38-52(C):1, PTD Rule 82; Amended and Renumbered PTC 38-52:1, December 29, 1994, PTC Rule 95.

PTC 38-52:2 - 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. 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.

Originally adopted PTD REGULATION 38-52(C):2, PTD Rule 82; Amended and Renumbered PTC 38-52:2, December 29, 1994, PTC Rule 95.

PTC 38-52:3 - EFFECT OF LIEN

Pursuant to Section 66 3-204, 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 constitutes constructive notice of the lien claimed.

Originally adopted PTD REGULATION 38-52(C):3, PTD Rule 82; Amended and Renumbered PTC 38-52:3, December 29, 1994, PTC Rule 95.

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:

contain a statement of the authority for its issuance and service;
identify the property owner, the amount of the delinquent taxes on his personal property and the date on which the taxes were due;
describe the personal property subject to the tax and the demand warrant;
order the person on whom it is served to:

reveal the amount of personal property in his possession that is described in the demand warrant;

state the extent of his and any other person's interest in the personal property;

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

surrender the personal property described in the demand warrant and in his possession;

state the penalties for failure to comply with the terms of the warrant; and

be signed by the county treasurer.

Laws 1974, Chapter 92, Section 21

7-38-55. SURRENDER OF PERSONAL PROPERTY--PENALTY FOR REFUSAL

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 bonafide attachment, execution or other similar process need not be surrendered unless the property is released from the attachment, execution or other similar process.

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

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.

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.

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.

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

The county treasurer must offer for sale all personal property seized by a demand warrant within sixty days of the date it is seized.

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.

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.

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.

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.

Payment must be made in full and must be made immediately after an offer is accepted.

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

Upon receiving payment for the personal property sold, the county treasurer shall execute and deliver a certificate of sale to the purchaser.

A certificate of sale:

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; 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 shall be in a form prescribed by regulation of the department.
Laws 1973, Chapter 258, Section 99

PTC 38-59:1 - 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

Originally adopted PTD REGULATION 38-59:1, PTD Rule 82; Amended and Renumbered PTC 38-59:1, December 29, 1994, PTC Rule 95.

7-38-60. NOTIFICATION TO PROPERTY OWNER OF DELINQUENT TAX

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 description of the property upon which the taxes are due;
- 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;
- a statement that the delinquent tax account will be transferred to the department for collection;
- 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

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 1982, Chapter 28, Section 21

PTC 38-60:1 - 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 one (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 PTC 38-62:1.
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
19 _____	\$ _____	\$ _____	\$ _____	\$ _____
19 _____	\$ _____	\$ _____	\$ _____	\$ _____
19 _____	\$ _____	\$ _____	\$ _____	\$ _____
19 _____	\$ _____	\$ _____	\$ _____	\$ _____
19 _____	\$ _____	\$ _____	\$ _____	\$ _____

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 this section 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

Originally adopted PTD REGULATION 38-60(A):1, PTD Rule 82; Amended and Renumbered PTC 38-60:1, December 29, 1994, PTC Rule 95.

PTC 38-60:2 - 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.

Originally adopted PTD REGULATION 38-60(B):2, PTD Rule 82; Amended and Renumbered PTC 38-60:2, December 29, 1994, PTC Rule 95.

7-38-61. PROPERTY TAXES DELINQUENT FOR MORE THAN TWO YEARS-- TREASURER TO PREPARE DELINQUENCY LIST--NOTATION ON PROPERTY TAX SCHEDULE

By July 1 of each year, the county treasurer shall prepare a property tax delinquency list of all 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 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 1982, Chapter 28, Section 22

PTC 38-61:1 - INFORMATION TO BE CONTAINED IN THE TAX DELINQUENCY LIST

The property tax delinquency list shall contain the following information:

The name and address of the property owner and any other person to whom the tax bill was sent;

A description of the property upon which the taxes are due and the property code number;

A statement of the amount of property taxes due and the date they became delinquent; and

The county name, municipality, town or village, and school district number where the property is located.

At Section 7-35-2, the Property Tax Code defines property as "tangible property, real and personal". Therefore, both real and personal property are to be listed on the tax delinquency list.

Originally adopted PTD REGULATION 38-61:1, PTD Rule 82; Amended and Renumbered PTC 38-61:1, December 29, 1994, PTC Rule 95.

PTC 38-61:2 - DELINQUENCY LIST MAILING DATE REQUIREMENTS

By July 1 of each tax year, the county treasurer shall prepare a property tax delinquency list of all property for which taxes have been delinquent for more than two years. The tax delinquency list shall be mailed to the Division no later than July 15 of each year.

Originally adopted PTD REGULATION 38-61:2, PTD Rule 82; Renumbered PTC 38-61:2, December 29, 1994, PTC Rule 95.

7-38-62. AUTHORITY OF DEPARTMENT TO COLLECT DELINQUENT PROPERTY TAXES AFTER RECEIPT OF TAX DELINQUENCY LIST--USE OF PENALTIES, INTEREST AND COSTS

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. 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. Penalties, interest and costs due received by the

department under 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 1990, Chapter 22, Section 51

PTC 38-62:1 - COUNTY TREASURES ARE AUTHORIZED TO ACT AS AGENT FOR THE DEPARTMENT IN ACCEPTING PAYMENTS

County treasurers are authorized by the Department to act as the Department's agent in accepting payments of taxes, penalties and interest due on property shown on the tax delinquency list prepared in accordance with Section 7-38-61 after its receipt by the Division, unless this agency relationship is revoked by order of the Director. As the Department's agent, however, county treasurers are authorized to accept payment for properties on delinquency lists only if the payment is for all delinquent taxes, penalties and interest due on the property for all delinquent years. Payments which are for less than all delinquent taxes, penalties and interest may not be accepted by the treasurer.

County treasurers are required to notify the Department by the fifth 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.

Originally adopted PTD REGULATION 38-62:1, PTD Rule 82; Amended and Renumbered PTC 38-62:1, December 29, 1994, PTC Rule 95.

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 61

7-38-64. AUTHORITY OF DEPARTMENT TO SELL PERSONAL PROPERTY FOR DELINQUENT TAXES

The department may proceed to seize and sell personal property on which taxes are delinquent at any time after receiving the tax delinquency list. The procedures for seizing and selling personal property by the department shall be the same as those authorized for the county treasurer under Sections 7-38-53 through 7-38-59 NMSA 1978, and all authority given to the county treasurer under those provisions is vested in the director for the purposes of acting under this section. Service of demand warrants issued by the director shall be served by designated employees of the department or any county sheriff.

Laws 1973, Chapter 258, Section 104

7-38-65. COLLECTION OF DELINQUENT TAXES ON REAL PROPERTY--SALE OF REAL PROPERTY

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:

all delinquent taxes, penalties, interest and costs due are paid by the date of the sale; or an installment agreement for payment of all delinquent taxes, penalties, interests and costs due is entered into with the department by the date of the sale pursuant to Section 7-38-68 NMSA 1978.

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 which does take place.

Laws 1990, Chapter 22, Section 7

7-38-66. SALE OF REAL PROPERTY FOR DELINQUENT TAX--NOTICE OF SALE

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, 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:

all delinquent taxes, penalties, interest and costs due are paid by the date of the sale; or an installment agreement for payment of all delinquent taxes, penalties, interest and costs due is entered into with the department by the date of sale in accordance with Section 7-38-68 NMSA 1978.

The notice shall also:

state the amount of taxes, penalties, interest and costs

state the time and place of the sale;

describe the real property that will be sold; and

contain any other information that the department may require by regulation.

At the same time a notice required by Subsection A of this section is sent to the owner of the 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.

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.

Proof by the taxpayer that all delinquent taxes, penalties, interest and costs had been paid prior to the date of sale shall prevent or invalidate the sale.

Proof by the taxpayer that the taxpayer has entered into an 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 timely payments under such agreement are being made shall prevent or invalidate the sale.

Laws 1990, Chapter 22, Section 8

7-38-67. REAL PROPERTY SALE REQUIREMENTS

Real property may 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.

Notice of the sale must be published in a newspaper of general circulation within the county where the real property is located 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 shall include a description of the real property sufficient to permit its identification and location by potential purchasers.

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.

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.

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 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. 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.

Payment shall be made in full by the close of the public auction before an offer may be deemed accepted by the department.

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."

Laws 1995, Chapter 12, Section 12

7-38-68. INSTALLMENT AGREEMENTS

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.

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.

The department may proceed under the Property Tax Code to collect the property taxes, penalties, interest and costs due and unpaid if:

installment payments are not made on or before the dates specified in the agreement;
the property owner fails to pay other property taxes when required; or
any other condition contained in the agreement is not met.

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.

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.

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

PTC 38-68:1 - 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."

Originally adopted PTD REGULATION 38-68(A):1, PTD Rule 82; Amended and Renumbered PTC 38-68:1, December 29, 1994, PTC Rule 95.

PTC 38-68:2 - 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.

Originally adopted PTD REGULATION 38-68(A):2, PTD Rule 82; Amended and Renumbered PTC 38-68:2, December 29, 1994, PTC Rule 95.

PTC 38-68:3 - 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.

Originally adopted PTD REGULATION 38-68(A):3, PTD Rule 82; Amended and Renumbered PTC 38-68:3, December 29, 1994, PTC Rule 95.

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

Upon receiving payment for real property sold for delinquent taxes, the department shall execute and deliver a deed to the purchaser.

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.

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.

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:

the real property was not subject to taxation for the tax years for which the delinquent taxes for which it was sold were imposed;

the department failed to mail the notice required under Section 7-38-66 NMSA 1978 or to receive any required return receipt;

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

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 251

7-38-71. DISTRIBUTION OF AMOUNTS RECEIVED FROM SALE OF PROPERTY

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:

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;

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;

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

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.

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. 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.

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.

PTC 38-71:1 - EXPENSES OF SEIZURE AND SALE ARE IN ADDITION TO "COSTS"

The expenses of seizure and sale referred to in Section 7-38-67 are in addition to the "costs" referred to in Section 7-38-62 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.

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 and shall be distributed accordingly.

Originally adopted PTD REGULATION 38-71:1, PTD Rule 82; Amended and Renumbered PTC 38-71:1, December 29, 1994, PTC Rule 95.

PTC 38-71:2 - PROCEDURES FOR PAYMENT OF EXCESS PROCEEDS FROM THE SALE OF REAL PROPERTY

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, 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.

As used in this regulation, 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.

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.

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.

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.

After completing the requirements of paragraphs A and B above 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.

Originally adopted PTD REGULATION 38-71:2, PTD Rule 82; Amended and Renumbered PTC 38-71:2, December 29, 1994, PTC Rule 95.

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 271

*** (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

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.

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.

A real property sale in violation of this section is void.
Laws 1973, Chapter 258, Section 114

PTC 38-74:1 - "OFFICERS OR EMPLOYEES OF THE STATE OR ANY OF THE 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.

Originally adopted PTD REGULATION 38-74:1, PTD Rule 82; Amended and Renumbered PTC 38-74:1, December 29, 1994, PTC Rule 95.

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

Subject to the limitations contained in the Property Tax Code, 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.

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 1974, Chapter 92, Section 26

See D.F.A. Regulation - Appendix B - regarding tax receipts on omitted property.

PTC 38-76:1 - 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.

Originally adopted PTD REGULATION 38-76: 1, PTD Rule 82; Renumbered PTC 38-76:1, December 29, 1994, PTC Rule 95.

PTC 38-76:2 - OWNERSHIP OF OMITTED PROPERTY

Omitted property, real or personal, shall be valued, listed and the taxes on it collected pursuant to Section 7-30-76, 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.

Originally adopted PTD REGULATION 38-76:2, PTD Rule 82; Renumbered PTC 38-76:2, December 29, 1994, PTC Rule 95.

PTC 38-76:3 - OMITTED PROPERTY - STATUTE OF LIMITATIONS

Section 7-38-81B 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.

See Section 7-35-2(G) NMSA 1978.

Originally adopted PTD REGULATION 38-76:3, PTD Rule 82; Renumbered PTC 38-76:3, December 29, 1994, PTC Rule 95.

PTC 38-76:4 - OMITTED PROPERTY - PENALTY AND INTEREST

Omitted property is subject to penalty and interest pursuant to Sections 7-38-49 and 7-38-50 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.

Originally adopted PTD REGULATION 38-76:4, PTD Rule 82; Amended and Renumbered PTC 38-76:4, December 29, 1994, PTC Rule 95.

PTC 38-76:5 - 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.

See Section 7-38-8 NMSA 1978.

Originally adopted PTD REGULATION 38-76:5, PTD Rule 82; Amended and Renumbered PTC 38-76:5, December 29, 1994, PTC Rule 95.

PTC 38-76:6 - 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.

Originally adopted PTD REGULATION 38-76:6, PTD Rule 82; Renumbered PTC 38-76:6, December 29, 1994, PTC Rule 95.

7-38-77. AUTHORITY TO MAKE CHANGES IN PROPERTY TAX SCHEDULE AFTER ITS DELIVERY TO THE COUNTY TREASURER

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:

by the county treasurer to correct obvious clerical errors in:
the name or address of the property owner or other persons shown on the schedule;
the description of the property subject to property taxation;
the mathematical computation of taxes;
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 taxpayer presents tax receipts showing the payment of taxes by him for any year in which multiple valuations for property taxation purposes are claimed to have been made;
a taxpayer presents evidence of his 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
there is no dispute concerning ownership of the property called to the attention of the treasurer, and he has no actual knowledge of any dispute concerning ownership of the property;
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;
by the department or the order of a court as a result of any proceeding by the division to collect delinquent property taxes under the Property Tax Code;

by a court order entered in an action commenced by a property owner under Section 7-38-78 NMSA 1978;
by the department as authorized under Section 7-38-79 NMSA 1978;
by the department of finance and administration as authorized under Section 7-38-77.1 NMSA 1978; or
as specifically otherwise authorized in the Property Tax Code."
Laws 1995, Chapter 65, Section 1

PTC 38-77:1 - 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 to the exempt entity that has paid property taxes.

Originally adopted PTD REGULATION 38-77:1, PTD Rule 82; Amended and Renumbered PTC 38-77:1, December 29, 1994, PTC Rule 95.

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 ~ DISTRICT COURT TO CHANGE PROPERTY TAX SCHEDULE

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.

Actions brought under this section may not directly challenge the value, classification, allocations of value determined for property taxation purposes or denial of any exemption claimed and must be founded on one or more of the following grounds:

errors in the name or address of the property owner or other person shown on the schedule;

errors in the description of the property for property taxation purposes;

errors in the computation of taxes;

errors in the property tax schedule relating to the payment or nonpayment of taxes;

multiple valuations for property taxation purposes for a single tax year of the same property on the property tax schedule; or errors in the rate of tax set for any governmental unit in which the owner's property is located.

Actions brought under this section shall name the county treasurer as defendant and, if the action is brought under Paragraph (6) of Subsection B of this section, shall also name the secretary of finance and administration as a defendant.

Laws 1981, Chapter 37, Section 80

PTC 38-78:1 - 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.

Originally adopted PTD REGULATION 38-78:1, PTD Rule 82; Amended and Renumbered PTC 38-78:1, December 29, 1994, PTC Rule 95.

7-38-79. CHANGES IN PROPERTY TAX SCHEDULE ORDERED BY THE DEPARTMENT--ACTION BY THE DEPARTMENT IN DISTRICT COURT TO ENFORCE ORDERED CHANGES

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:

- an unprotested determination of value for property taxation purposes;
- an unprotested allocation of values to governmental units;
- an unprotested determination of classification; or
- the application of the tax rates.

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:

- for any of the reasons for which a county treasurer could change the property tax schedule under Section 7-38-77 NMSA 1978; or
- 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 (C) of Subsection B of that section.

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.

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

PTC 38-79:1 - ORDER BY THE DEPARTMENT - PROTEST REMEDY

If the Department enters an order changing the property tax schedule pursuant to Section 7-38-79A, the property owner may protest only pursuant to the claim for refund procedures provided in Section 7-38-39 and 7-38-40.

Originally adopted PTD REGULATION 38-79:1, PTD Rule 82; Amended and Renumbered PTC 38-79:1, December 29, 1994, PTC Rule 95.

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

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.

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

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.

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.

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 120

7-38-81.1. LIMITATION ON ACTIONS FOR COLLECTION OF ANY LEVY OR ASSESSMENT IN THE FORM OF PROPERTY TAX--PRESUMPTION OF PAYMENT AFTER TEN YEARS

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.

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 7-14-1 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.

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".

Laws 1983, Chapter 109, Section 1

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

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.

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.

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

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.

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

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 the code require a different method of notification or mailing, in which case the notice is effective if given in accordance with the provisions of the code.

Laws 1974, Chapter 92, Section 29

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

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.

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

Section 7-38-88 was repealed by Laws 1991, Chapter 166, Section 14.

PTD REGULATION 38-88(D):1 withdrawn December 29, 1994, PTC Rule 95.

7-38-89. VALIDITY OF CERTAIN REGULATIONS--JUDICIAL REVIEW

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.

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.

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.

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.

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:

the entire proceedings;

portions of the proceedings to which the governmental agency and the appellant stipulate;

or

a statement of the case agreed to by the governmental agency and the appellant.

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.

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:

arbitrary, capricious or an abuse of discretion;

not supported by substantial evidence in the record taken as a whole; or

otherwise not in accordance with law.

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

REPEALED EFFECTIVE JULY 1, 1995, LAWS 1995, CHAPTER 31, SECTION 7

7-38-90. ADMINISTRATIVE REGULATIONS, RULINGS, INSTRUCTIONS AND ORDERS--PRESUMPTION OF CORRECTNESS

The secretary is empowered and directed to issue and file as required by law all regulations, rulings, instructions or orders necessary to implement and enforce any provision of the Property Tax Code administered by the department, including all rules and regulations necessary by reason of any alteration of the Property Tax Code. In order to accomplish its purpose, this provision is to be liberally construed.

Directives issued by the secretary shall be in form substantially as follows:

regulations are written statements of the secretary, of general application to taxpayers, interpreting and exemplifying the statutes to which they relate;

rulings are written statements of the secretary, of limited application to one or a small number of taxpayers, interpreting the statutes to which they relate, ordinarily issued in response to a request for clarification of the tax consequences of a specified set of circumstances;

orders are written statements of the secretary to implement his decision after a hearing or administrative procedure; and

instructions are other written statements or directives of the secretary not dealing with the merits of any tax but otherwise in aid of the accomplishment of the duties of the secretary.

To be effective, any ruling or regulation issued by the secretary shall be reviewed by the attorney general or other legal counsel of the department prior to being filed as required by law, and the fact of his review shall be indicated thereon.

To be effective, a regulation shall first be issued as a proposed regulation and filed for public inspection in the office of the secretary. Distribution of the proposed regulation shall be made to all county assessors and to other interested persons, and their comments shall be invited. After the proposed regulation has been on file for not less than sixty days and a public hearing on the proposed action has been held by the secretary or a hearing officer designated by the secretary, the secretary may issue it as a final regulation by filing as required by law.

In addition to filing copies of regulations with the state records center as required by law, the secretary shall maintain in the secretary's office a duplicate official set of current and superseded regulations, a set of current and superseded rulings and additional sets of such regulations and rulings as appear necessary, which duplicate or additional sets shall be available for inspection by the public.

Any regulation, ruling, instruction or order issued by the secretary is presumed to be in proper implementation of the provisions of the laws administered by the department.

In issuing regulations, rulings or orders, the extent to which they have retroactive effect shall be stated. Without such a statement, the regulation, ruling or order will apply prospectively only.

The department shall maintain a file of all current and superseded regulations, rulings and other directives issued with respect to the Property Tax Code. The file shall be open for public inspection.

REPEALED EFFECTIVE JULY 1, 1995, LAWS 1995, CHAPTER 31, SECTION 7

7-38-91. PUBLICATION AND DISTRIBUTION OF REGULATIONS AND RULINGS

The department shall maintain a file of the names of persons interested in regulations and rulings of the department issued under the Property Tax Code. The department shall publish and distribute regulations and rulings to those persons at times convenient to the department. The department may charge a fee for this service to offset the cost of the physical preparation and mailing of the documents, and any amounts collected are appropriated to the department for its operation.

7-38-92. ATTEMPTS TO AVOID 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 (\$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

Updated:

07/29/02 by

Web Weaver

Gary Perez, Doña Ana County Assessor

251 W. Amador Room 106

Las Cruces, New Mexico 88005-2800

Voice: (505) 647-7400 Fax: (505) 647-7418 TDD: (505) 647-7285