February 1, 2002

MEMORANDUM

TO: County Assessors

FROM: John C. Bailey, Director
Property Tax Division

Re: Manufactured Housing Issues

As amended by the 2001 N.C. General Assembly and effective for listing purposes as of January 1, 2002, G.S. 105-273(13) now reads as follows:

(13) 'Real property,' 'real estate,' and 'land' mean not only the land itself, but also buildings, structures, improvements, and permanent fixtures <u>on the land</u>, and all rights and privileges belonging or in any <u>way</u> appertaining <u>to the property</u>. These terms also mean a manufactured home as defined in G.S. 143-143.9(6) if it is a residential structure; has the moving hitch, wheels, and axles removed; and is placed upon a permanent foundation on land owned by the owner of the manufactured home. <u>A manufactured home as defined in G.S. 143-143.9(6) that does not meet all of these conditions is considered tangible personal property</u>.
(emphasis added by underlining new language)

In addition to the new language underlined above, the words "multi-section" and "enclosed" were removed from the definition. This eliminates the requirements that a manufactured home be multi-sectional and that the permanent foundation be enclosed before it could be appraised as real property. Before this definition was changed the language was clear as to which mobile homes had to be appraised and assessed as real property but was not clear as to which mobile homes had to be carried as personal property. Because the statutes were silent or not clear on this issue, there are many different policies across the state. It is now clear that if any of the pertinent requirements are not met, as stated by statute, it must be considered as tangible personal property and listed accordingly. Stated differently, all of the following requirements must be met for the unit to be considered "real property":

1. It must be a residential unit.
2. It must have the moving hitch, wheels and axles removed.
3. It must be placed on a permanent foundation.
4. It must be located on land owned by the owner of the unit.

Which homes are real?

All manufactured homes which meet the four requirements listed above must be assessed as real property and those which do not must be assessed as personal property. Under this new definition of real property the classification of many of the manufactured homes across the State will change. This would include singlewide units as well as multi-sectional units.

What if the home is not a residential unit but a business unit?

Based on the definition it would be assessed as personal property.

What if the hitch, wheel and axles are not removed from the home?

If these items have not been removed then the home is personal property regardless of the size and type of home.

What is considered a permanent foundation?

The Department of Insurance has issued building codes for the installation of manufactured homes. The only foundation required by the building code for a manufactured home is footings and piers. The footings are either of the poured concrete type or a pre-cast solid concrete pad. The size and depth of the footing depends on the type of home and the location of the home. The Building Code states that "The bottom of all footings shall be below the frost line or a minimum of 4 inches below finished grade, whichever is greater." The frost line varies across the state and there is a chart in the Building Code which shows the frost line by County. The piers are either single stacked or double stacked. The number and placement of the piers are dictated by the Building Code. It is our opinion that all manufactured homes have a permanent foundation if their installation is in compliance with the Building Code. The North Carolina Building Code for manufactured homes can be found at:
www.ncdoi.com/osfm/documents/manufacturedbuilding/mhcode.pdf

What if the home is located on leased land or on the land of someone other than the owner of the home?

Manufactured homes must be located on land owned by the owner of the home in order to be assessed as real property. Prior to the changes of the 2001 N.C. General Assembly, there was little statutory guidance regarding what was real versus personal property as it relates to manufactured housing. What was often relied upon was the language in requests for reappraisal bids (RFP's), simply stating that all doublewides would be picked up as real property. This practice has greatly contributed to the difficult situation many counties currently face; a large number of manufactured housing units treated as "leasehold real" or carried as leasehold improvements to real property. Under the current law, there are no “leasehold reals” permitted for manufactured housing. All homes located on the land of someone other than the owner of the home should be assessed as personal property. There are many homes across the State, which have been assessed as real and now will have to be assessed as personal property.

How does this affect the tax lien and collection remedies?

The same collection remedies that were available before this law change may still be used to collect taxes on manufactured homes. There is an on going issue with manufactured homes and G.S. 105-355, which states:

> Taxes levied on improvements on or separate rights in real property owned by one other than the owner of the land, whether or not listed separately from the land under G.S. 105-302 (c)(11), shall be a lien on both the improvements or rights and on the land.

There is much debate on whether or not a manufactured home located on the land of someone other than the owner of the home and assessed as personal property is a lien on the land. There is no clear requirement in G.S. 105-355 that the “improvements on” real property be assessed as real property in order to become a lien on the land. One could also argue that the term “improvements on” refers to real property only and that taxes on personal property improvements are not a lien on the land. Usually the threat to foreclosure on the land is enough to get the taxes owed on the home paid. Due to the fact that this issue appears to be untested in the courts at this time, care should be taken before an actual foreclose is carried out on land for taxes owed on a manufactured home owned by someone other than the land owner.

What about modular homes?

Modular homes are built under the North Carolina Building Code just like site built homes and should be appraised and assessed as real property. Even those that may be on the land of someone other than the owner of the home should be considered real property.

Valuation Issues:

Under this new definition there are going to be homes which were assessed as personal which now will be assessed as real and there will be homes which were assessed as real which now will be assessed as personal property. The single most important issue is that all these homes be appraised at their fair market value as required by G.S.105-283 regardless of whether they are assessed as real property or personal property.

What about the value of the manufactured homes?

Once the listing decision has been made, valuation must be addressed. All counties are encouraged to develop valuation guides for manufactured housing that facilitate the appraising of the property at its fair market value. Identical units listed as real versus personal have historically reflected vast differences in assessed valuations. Those differences generally grew even more disproportionate over time. Schedules for units listed and appraised as real property have tended to produce higher valuations than those produced for units listed as personal property. It may be advisable to use the same set of schedules for all units regardless of how they are to be listed, real or personal. As with the appraisal of all property the normal appraisal principles such as location, quality, condition, supply and demand, highest and best use, and substitution apply to the appraising of manufactured homes.

What if our schedule of values states that all double wides are to be appraised as real property?

Under this new law only those double wides which meet the four criteria listed in the definition can be assessed as real property. All other double wides are personal property. This does not mean that the value has to change on these units but that the property is treated as personal property from a listing, appraising, assessing and collection standpoint. All double wides on leased land or located on the land of another must be considered personal property. While the law does require that all personal property be appraised each year, there is no requirement that units listed as personal property must have a change in assessed valuation each year. While it can be reasonably expected that values might change, given the lack of sales data available for personal property, it can be argued that the change is not so easily measurable over a one or two-year period. The value of these homes carried as personal property must be reviewed each year and changes made if dictated by the market.

How do we appraise the singlewides which were personal property but are now considered real property?

Most counties have appraised some double wides as real property using a schedule of values from their latest general reappraisal. This same schedule should be used to appraise the singlewides with adjustments made for quality, shape and the fact that these homes are single units. In many cases this will increase the value of the homes. This also will require that these homes be measured and listed like other homes in the county. Once the value is determined for these homes the value would remain the same until the next general reappraisal or any change in value would have to be made under G.S. 105-287.

Manufactured Home Guidelines:

Our office has been studying manufactured home issues for some time now. Over 35% of all new home starts in North Carolina are manufactured homes. In many counties across the State the number of new homes starts which are manufactured homes out number those built on site. With the increase in this type of home and the most current change in the law it is essential that all counties become more uniform in the appraising and assessing of manufactured homes. Below is a set of guidelines to help develop more uniformity across the State.

1. All homes which meet the definition provided in 105-273(13) must be appraised and assessed as real property using the county's schedule of values from its last general reappraisal.

2. All homes which do not meet the definition provided in 105-273(13) must be appraised and assessed as personal property.

3. Counties should develop a schedule to appraise all manufactured homes based on the market in their county. This schedule should be part of the real property schedule of values but also be used to assess homes considered as personal property. Below are some factors to consider in developing these schedules:

   - Newer units tend to appreciate over time versus depreciating over time, regardless of whether they have been listed as real property or as personal property. Exceptions might include rental units located in mobile home parks.
   - Homes built prior to January 15, 1976 were not required to be built according to the Federal HUD Code and tend to have accelerated depreciation, even to the point where the final value approaches that from the TEC schedules.
   - There is no requirement that units listed as personal property must have a change in assessed valuation each year. While it can be reasonably expected that values might change, given the lack of sales data available for personal property, it can be argued that the change is not so easily measurable over a one or two-year period. Thus a schedule for real property units might also see duty for personal property units.
   - Manufactured housing units listed as real property should be appraised from schedules created specifically for manufactured housing. NOTE: Modular housing can certainly be appraised from the residential schedule of values. In some instances, manufactured housing may be as well, but the schedule should be separate and reflect any differences in price per square foot, depreciation, appreciation, and quality of construction.

4. All manufactured homes, except those older than 1976 and possibly those located in mobile homes parks, should be measured and listed and placed on a property record card. All additions such as decks, porches, and extra rooms should be appraised according to the developed schedule. Those meeting the definition of real property should be assessed as such and all others should be assessed as personal.

5. The value of those homes assessed as personal property should be reviewed each year and adjusted as the market indicates.

6. Those homes located on the land of someone other than the owner of the home shall be appraised the same as other homes. Any adjustments which are indicated by the market in a county should be recognized by the appraiser. These homes located on the land of another are to be assessed as personal property.

If you have any questions or need assistance with this matter, please contact David Baker or Kirk Boone at 919-733-7711.