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Division of Property Valuation

DIRECTIVE #99-038

TO: County Appraisers

SUBJECT: Classification – Real Property Used for Mixed Purposes
This Directive Supersedes Directive No. 92-021

This directive is adopted pursuant to the provisions of K.S.A. 79-505, and amendments thereto, and shall be in force and effect from and after the Director's approval date.

Summary

A question has arisen as to how to classify real property subject to mixed uses for property tax purposes. Generally, real property should be classified based upon how it is used on January 1st utilizing information that is reasonably available to the county appraiser. If it appears that the property may be subject to mixed uses, it is prudent to contact the property owner/occupant for further information. Real property with varying uses may be assigned more than one classification. If the uses are so intermingled as to defy classifying identifiable, physical portions of the property, then the property should be classified based upon its predominate use. The county has the discretion to determine the appropriate level of detail to apply for classification purposes; however, we encourage efficient use of local resources. Even when mixed uses are recognized for classification purposes, the market value of the property should continue to be determined based upon its highest and best use.

General Rule: Classify Property on January 1; Certain Exceptions

The county appraiser has the statutory duty to classify real property each year in accordance with K.S.A. 79-1439, which mirrors the classification system in Article 11, Section 1 of the Kansas Constitution. Property should be assessed on an annual basis based upon the property's use on January 1st. Property such as agricultural land, which has seasonal uses typical to the trade that do not necessarily take place on January 1st or on a 12-month basis, shall be classified annually based upon the overall use during the prior year or operating period. Formerly vacant land undergoing construction on January 1st should be classified according to Directive 98-031.

Leasing Accommodations: Residential vs. Commercial

Real property (or portions thereof) with more than two bedrooms furnished to accommodate transient guests shall be classified as commercial property. A transient guest is a person who occupies a room for twenty-eight (28) consecutive days or less. (*See also* Directive 99-039).

Information for Classification

The county appraiser shall annually classify property based upon information that is reasonably available. For example, the county appraiser may classify real property based upon viewing its exterior during the annual final review. Or, the county appraiser may classify commercial property based upon an interior inspection of public areas and/or an interview performed in conjunction with the re-inspection performed every 6 years. (K.S.A. 79-1476).

If the owner or an occupant of the real property provides reliable, detailed information regarding the interior use of real property, the county appraiser may utilize the information to more precisely assess the property, just as the information can be used to more accurately value the property. The county appraiser should keep in mind his or her legal authority to make any changes in value or classification. (Discussed in Directive 92-018).

The county appraiser is not required to annually inspect the interior of every property in the jurisdiction in order to classify the property with a high degree of precision. However, if the county appraiser is aware that a property may have more than one use that could affect classification, it would be prudent to contact the owner for more information.

Real Property Subject to Mixed Uses

If real property is used for more than one purpose, it may have more than one classification. If specific portions of the real property cannot be identified as being used for specific purposes, then the real property should be classified based upon its predominate use. The county has the discretion to determine the appropriate level of detail needed for classification purposes. However, we encourage efficient use of local resources.

Valuation vs. Classification

Even when mixed uses are recognized for purposes of classifying real property, the county appraiser shall continue to determine the fair market value of the real property based upon its highest and best use. *Board of Douglas County Comm'rs v. Cashatt*, 23 K.A.2d 532, 933 P.2d 167 (1997)(property used for residential purposes classified as residential, but valued as commercial, its highest and best use). The exception to this rule is agricultural land, which by law is valued based upon its physical use. (Article 11, Section 12 of the Kansas Constitution, K.S.A. 79-1476, *Board of Johnson County Comm'rs v. Smith*, 18 K.A. 2d 662, 857 P.2d 1386 (1993)).

Approved: February 24, 2000

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