

Department of Revenue
Division of Property Valuation

D-R-A-F-T DIRECTIVE #20-052

Mobile and Manufactured Home Classification

Subject

This directive analyzes the classification of mobile homes and manufactured homes as real or personal property for purposes of K.S.A. 79-340 and the elimination of title provisions of K.S.A. 58-4214.

Analysis

K.S.A. 79-340 provides that for property tax purposes, a mobile or manufactured home is personal property *unless*:

1. The title to the mobile home or manufactured home is vested in the same person or the spouse of such person who holds title to the real property upon which such mobile home or manufactured home is located.

AND

2. Such mobile home or manufactured home has a permanent foundation, such foundation being of a type not removable intact from such real property.

For purposes of K.S.A. 79-340, a permanent foundation "...must be constructed of durable materials; *i.e.* concrete, mortared masonry, or treated wood – and be site built. It shall have attachment points to anchor and stabilize the manufactured home to transfer all loads, herein defined, to the underlying soil or rock," as defined in the U.S. Department of Housing and Urban Development (HUD) publication, *Permanent Foundations Guide for Manufactured Housing*. See <https://www.huduser.gov/portal/publications/destech/permfound.html> (last visited September 8, 2020).

The foregoing criteria governs the classification of mobile homes and manufactured homes for purposes of property taxation as either personal property or real property.

K.S.A. 58-4214 of the Kansas Manufactured Housing Act provides in pertinent part as follows:

Whenever a manufactured home or mobile home is permanently affixed to real property, by placement upon a permanent foundation of a type not removable intact from such real property, the manufactured home or mobile home shall be considered for all purposes an improvement to real property, if the certificate of title which has been issued or is required to be issued for such manufactured home or mobile home pursuant to K.S.A. 58-4204, and amendments thereto, is eliminated pursuant to this section. (Emphasis added.)

As in K.S.A. 79-430, K.S.A. 58-4214 references permanent foundation; however, elimination of title is not a requirement of K.S.A. 79-340. To be clear, K.S.A. 79-340 does not require the elimination of title for a mobile home or manufactured home to be considered real property for purposes of property taxation. It does, however, reinforce the importance of county appraisers' consistent use of the definition of a permanent foundation.

Within the uniform standards code for mobile homes and recreational vehicles is an illustration of the different ways in which a mobile home or manufactured home can be attached to the ground. It clearly makes a differentiation between a permanent foundation and other types of attachments. Tie downs, ground anchors, and piers may be used to attach a mobile home or manufactured home to the ground, but the statutory definition of a real property mobile home or manufactured home for tax purposes relies on a permanent foundation. K.S.A. 75-1227(a) provides in pertinent part:

Except [for provisions not relevant to this illustration] any mobile home which is occupied or inhabited by any person as a dwelling, office or commercial space shall be secured to the ground by tie downs and ground anchors, of a type which has been approved by the secretary pursuant to K.S.A. 75-1229, unless such mobile home is secured to the ground on a permanent foundation. Any such mobile home which is not secured to a permanent foundation shall be placed upon piers in the manner prescribed by this act. (Emphasis added.)

Earlier this year, the director of motor vehicles revised Form TR-63, which is used for the elimination of titles for mobile homes or manufactured homes. These revisions sought to address overlapping determinations within counties, *e.g.* code enforcement, zoning and appraisal, with the overall goal of improving consistency between counties in determining when a mobile home or manufactured home is to be considered real property. These revisions were not intended to change the county appraiser's responsibility to apply the provisions of K.S.A. 79-340 to a mobile home or manufactured home when determining whether it is personal property or real property for purposes of property taxation. However, the county should use the same definition of "a permanent foundation, such foundation being of a type not removeable intact from such real property" for both property tax and title elimination provisions.

This updated version of TR-63 (see below for content) allows the county planning and zoning or county code enforcement official or the county appraiser to sign and date that they certify that the mobile home or manufactured home does or does not have a permanent foundation. The county has discretion on which county official will sign-off on Form TR-63. No special training or certification is necessary for the official signing the title elimination form.

In most counties, it is the county appraiser that determines whether a mobile/manufactured home is real property. In other counties, it is often a zoning/code compliance administrator along with the county appraiser that determines whether a permanent foundation complies with the county's building/zoning codes. For counties with a compliance administrator, it is logical that whoever makes the final determination for county code compliance for a permanent foundation should sign the TR-63. Again, consistency for the determination of a permanent foundation should be the goal of all county offices involved in this decision.

Does the manufactured/mobile home have a permanent foundation, being of a type not removable intact from the real property which meets _____ county's permanent foundation requirements? Yes No

Signature of Official _____ Title _____

Please circle one: County Planning & Zoning County Code Enforcement County Appraiser

Business Phone _____ Business Email _____

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