

# Property Classification

Prepared by the Michigan State Tax Commission



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## **Definitions and Introduction**

### **What is Property Classification?**

Michigan Law MCL 211.34c requires that not later than the first Monday in March each year, the local assessor shall classify all assessable property in his or her jurisdictional boundaries according to the definitions contained in this section.

### **How many classifications of property are there?**

Six Real Property Classifications and five Personal Property Classifications:

Residential Real and Residential Personal  
Agricultural Real and Agricultural Personal  
Commercial Real and Commercial Personal  
Industrial Real and Industrial Personal  
Developmental Real  
Timber Cut-over Real  
Utility Personal

### **Does the classification of my property affect my use of the property?**

Classification of property is for equalization purposes and does not affect your use of the property.

### **What is equalization?**

Equalization is the process assessors use to assure uniformity in the level of assessment from one property to another, among the classifications within each assessment jurisdiction, among the cities and townships in each county, and among all of the counties within the State of Michigan.

### **What is the difference between a property's current use and its highest and best use?**

MCL 211.34c defines how a property is to be classified. Property is classified according to its current use. The highest and best use of the property has been, and continues to be, the standard upon which an assessor values property but is not how its classification is determined. These are two different and distinct issues; valuation does not drive the property's classification.

### **Should the classification of the building on leased land be the same as the classification of the land upon which the building is located?**

No. MCL 211.34c indicates:

- a) Buildings on leased land that are used for agricultural purposes are classified as agricultural real property. The classification is not based on the classification of the land on which the building is located.

- b) Buildings on leased land that are used for commercial purposes are classified as commercial real property. The classification is not based on the classification of the land on which the building is located.
- c) Buildings on leased land that are used for industrial or utility purposes are classified as industrial real property. The classification is not based on the classification of the land on which the building is located.
- d) Homes, cottages, and cabins located on leased land are classified as residential real property. The classification is not based on the classification of the land on which the building is located. This is also true of mobile homes that would be assessable as real property to the owner of the land as provided in MCL 211.2a except that the land on which the mobile homes are located is exempt.

**What is the relationship between classification for assessment purposes and zoning?**

While the zoning of a particular property may be an influencing factor, the zoning does not dictate the classification.

**Can a property have more than one classification?**

No. MCL 211.34c (5) states that if the total usage of a parcel includes more than one classification, the assessor shall determine the classification that most significantly influences the total valuation of the parcel.

For example, a parcel of land used for residential purposes that also includes a use that is commercial or agricultural in nature, will be classified by the use that has the greatest influence on the value of the property. The following is a sample calculation on determination of the proper classification of a parcel with multiple uses:

Agricultural Value Calculation:	
67 Tillable Acres at \$980 per acre =	\$65,660 True Cash Value
Equipment Shed	\$10,186 True Cash Value
<b>Total Agricultural Use</b>	<b>\$75,846 True Cash Value</b>
Residential Value Calculation:	
House	\$22,591 True Cash Value
Recreational Value (adds to residential value):	
173 Acres at \$980 per acre	\$169,540 True Cash Value
<b>Total Residential Use:</b>	<b>\$192,131 True Cash Value</b>

**What appeal procedures are available to real and personal property owners that disagree with the assessor’s decision regarding a parcel’s classification?**

Property owners that disagree with the assessor’s decision regarding the property’s classification must file a petition with the March Board of Review to appeal the classification.

**What appeal procedures are available to property owners that disagree with the March Board of Review's decision regarding a parcel's classification?**

To appeal the Board of Review's decision, a property owner must complete and submit a Form 2167 to the State Tax Commission (STC), for each parcel being appealed, by June 30<sup>th</sup> of the current year. An appeal of the decision of the STC is made to Circuit Court.

**What appeal procedures are available to assessors that want to appeal property classification?**

An assessor who wants to appeal a property's classification can appeal to the STC by completing and submitting Form 2167A not later than June 30<sup>th</sup> of the current year. An appeal of the decision of the STC is made to Circuit Court.

**What happens if I disagree with the determination of the State Tax Commission?**

A taxpayer that disagrees with the determination of the State Tax Commission can either file for reconsideration with the STC within 21 days of the determination or file an appeal in Circuit Court. The request for reconsideration must include information not previously submitted to the STC.

**What happens after a classification appeal is sent to the STC?**

Upon receipt of a classification appeal, a response form is sent to either the assessor (when a property owner files) or the property owner (when the assessor files). The assessor or property owner has 30 days to provide a response to the Commission. Those responses, along with the original petition, are reviewed by STC staff. STC staff then make a recommendation to the STC. The STC makes a final determination by reviewing the petition filed, the response provided by the assessor or property owner and the staff recommendation.

**Residential Real Property**

**What type of property is classified residential?**

Platted or unplatted parcels, with or without buildings, and condominium apartments located within or outside a village or city, which are used for or probably will be used for residential purposes are properly classified residential.

Parcels that are used for, or probably will be used for, recreational purposes, such as lake lots and hunting lands, located in an area used predominantly for recreational purposes are properly classified residential.

**Does there have to be a house on the property for it to be classified residential?**

No. As indicated above, the definition of residential property includes parcels with or without buildings.

## **Recreational property is to be classified residential even though there is not a house on the property or I don't live there?**

There is no separate classification for recreational property. Lands whose primary use is for recreational activities such as hunting, fishing, camping, snowmobile use, mushroom hunting, photography, bird watching, and other recreational pursuits are properly classified as residential.

### **What about my cottage or hunting camp?**

A vacation cottage or hunting camp is a recreational property and should be included in the residential classification.

A hunting or fishing camp owned by an individual or a group of individuals is a recreational property. These properties should be included in the residential classification provided a fee is not charged to the users of the property.

### **What about a small apartment building?**

A single housing unit or single structure consisting of four or less subunits is generally included in the residential classification.

### **My house is used as a bed and breakfast. Should the classification be residential or commercial?**

Houses used as Bed and Breakfast establishments are sometimes classified residential and sometimes classified commercial. If the main use of the house is as a private residence and the bed and breakfast is only a minor use, the property should be classified residential. If the primary use is to generate income similar to a motel, the property should be classified commercial.

## **Agricultural Real Property**

### **What type of property is classified Agricultural Real?**

Agricultural real property includes parcels used partially or wholly for agricultural operations, with or without buildings.

### **What if I own a parcel that is contiguous to my farm but it is vacant?**

If a parcel of real property is classified as agricultural real property and is engaged in agricultural operations, any contiguous parcel owned by the same taxpayer, that is a vacant parcel, a wooded parcel, or a parcel on which is located one or more agricultural outbuildings that comprise more than 50% of the taxable value of all buildings on that parcel as indicated by the assessment records for the local tax collecting unit in which that parcel is located, is also classified as agricultural real property.

## **How is contiguity defined?**

Contiguity is not broken by a boundary between local tax collecting units, a section boundary, a road, a right-of-way, or property purchased or taken under condemnation proceedings by a public utility for power transmission lines if the two parcels separated by the purchased or condemned property were a single parcel prior to the sale or condemnation. Contiguity requires that the parcel classified as agricultural real property and the vacant parcel, wooded parcel, or parcel on which is located one or more agricultural outbuildings must be immediately adjacent to each other, without intervening parcels that do not qualify for classification as agricultural real property based on their actual agricultural use.

## **What if the parcels are in different tax collecting units?**

It is the intent of the legislature that the parcel shall be classified as agricultural real property even if the contiguous parcels are located in different local tax collecting units.

## **What is an agricultural outbuilding?**

"Agricultural outbuilding" means a building or other structure primarily used for agricultural operations.

## **What is an agricultural operation?**

Agricultural operations include:

Farming in all aspects that include the cultivating of soil.

Growing and harvesting any agricultural, horticultural, or floricultural commodity.

Dairy farming.

Raising livestock, to include, but not limited to, cattle, sheep, new world camelids, goats, bison, privately owned cervids, ratites, swine, equine, poultry, aquaculture, and rabbits. Livestock does not include dogs and cats.

Raising bees, fish, fur-bearing animals, or poultry.

Operating a game bird hunting preserve licensed under part 417 of the natural resources and environmental protection act.

Farming operations that harvest cervidae on site where not less than 60% of the cervidae were born as part of the farming operation.

Raising, breeding, training, leasing, or boarding horses.

Turf and tree farming.

Performing any practices on a farm incident to, or in conjunction with, farming operations.

Commercial storage, processing, distribution, marketing, or shipping operations are not part of the agricultural classification. Gardening and woodlot/forest management are also not considered agricultural for classification purposes.

### **Are there minimum size requirements to be classified agricultural?**

There are no minimum size or income requirements for the agricultural classification. For instance, viable agricultural operations growing herbs or mushroom crops are possible on just a few acres of land.

### **My property is zoned agricultural so I should automatically be classified agricultural, right?**

Property that is zoned agricultural may not necessarily be classified as agricultural. While the zoning of a particular property may be an influencing factor, the zoning does not dictate the classification.

### **If my property is not classified agricultural does that mean I can't farm anymore?**

The classification of your property has nothing to do with your ability or "right" to farm. Classification is for property tax equalization purposes and does not dictate the use of the property.

### **What is the benefit to my property being classified agricultural?**

Property that is classified agricultural is exempt from certain school taxes (18 mills of school operating) and is the same benefit as a homestead or principle residence exemption.

### **If my property is not classified agricultural is there a way to still be exempt from the 18 mills?**

Yes, your property may be eligible for the Qualified Agricultural Program Exemption. This program is explained in detail in a STC publication available on our Web site at [www.Michigan.gov/statetaxcommission](http://www.Michigan.gov/statetaxcommission). Please note, application for this exemption must be filed with your local assessor and appeals are made to the Michigan Tax Tribunal.

### **If my property is in a federal set aside program, that would cause it to be classified agricultural. Correct?**

The inclusion of some or all of the acreage of a property in a federal set aside program does not necessarily mean that the property should be classified as agricultural.

If the property is in an area of heavy residential or recreational use and the market for agricultural property is limited or nonexistent, the residential classification may be determined as the most appropriate.

If the property is under active cultivation or other agricultural use and the property is in an area of heavy residential or recreational use and the market for agricultural property is limited or nonexistent, developmental may be the appropriate classification.



## **Should property in the PA 116 program be classified agricultural?**

Inclusion of land in the Farmland and Open Space Preservation Act (P.A. 116) does not necessarily mean the property should be classified as agricultural.

There are situations in which a property subject to a farmland development rights agreement could be classified other than agricultural – for example:

A farm in the path of immediate development that has a market value in excess of its value in current use may be classified other than agriculture. The land could be purchased with the intent being for commercial or residential use with the purchaser waiting for the agreement to expire.

A farm with a short period left on the agreement that is in the path of residential development. It could qualify for a residential classification because it probably will be used for residential purposes in the immediate future.

Under certain circumstances the agreement can be relinquished. One of these circumstances is when a local governing body determines that relinquishment is in the public interest and it has been zoned commercial or industrial for the preceding three years.

## **What is the definition of tree farming?**

Tree farming includes growing nursery stock for wholesale or retail markets as well as Christmas trees for the holiday wholesale or retail markets. Tree farming typically incorporates the cultivating of land, planting seedlings, periodic removal of weeds and grasses and protecting the stock from insects, and other harmful pests. Nursery stock includes trees being grown for replanting for a landscaping, erosion control practice, or for stocking or restocking a timber land property.

## **What about a commercial orchard?**

A commercial orchard is an agricultural operation.

## **If I am harvesting for the value of the wood is that tree farming?**

Tree farming does not include a forest or woodlot that will eventually be harvested for the value of the wood as lumber or pulp. Further clarification of the difference between tree farming and forest or woodlands is discussed in Attorney General Opinion Number 5702 dated May 6, 1980 (see appendix).

## **What about Maple Syrup operations?**

Property with a significant number of maple syrup trees is an agricultural use. However the land devoted to the processing and bottling of maple syrup is not part of the agricultural classification. Assessors will refer to MCL 211.34c (5) for guidance regarding multiple classifications on a single parcel. According to MCL 211.9, personal property used in agricultural operations is exempt. Agricultural operations are defined

to include collecting, evaporating, and preparing maple syrup if the owner of the property has \$25,000.00 or less in annual gross wholesale sales.

### **What is included in the definition of raising bees?**

Beekeepers and/or Honey Producers include:

- Hobbyists (less than 25 colonies)
- Sideliners (25 – 300 colonies)
- Commercial (300 or more colonies)

Hobbyists generally produce for themselves, relatives and friends. Sideliners produce honey for sale to consumers and processors. Commercial producers generally produce honey for sale to consumers, processors and distributors of honey and honey products.

### **If I am a hobbyist can my property be classified agricultural?**

While raising bees is an agricultural activity, raising them as a hobby would usually not result in being classified agricultural. Sideliners are generally a unit of other agricultural operations. Commercial producers may best be classified Agricultural although the commercial storage, processing, distribution, marketing or shipping portions of the operation are not agricultural.

### **What is a hobby farm and are they classified agricultural?**

Hobby farms are not generally part of the agricultural class.

“Hobby farms” usually consist of a home, a few acres (in rare occasions many acres), and out buildings. They frequently include the raising of livestock which are being used by the property owner such as horses, a few cows, sheep or goats, chickens for household use (meat and eggs), or a small fishpond. Occasionally excess produce from a garden may be sold to a list of clients or at a roadside stand.

Small orchards and gardens used for family consumption are common on the hobby farm. In many cases the hobby farm may have been a part of a past agricultural operation. The farmstead may have been sold or the land may have been sold, but in any case the property value is mainly in the residential property.

### **What about a captive cervidae operation?**

The raising of captive cervidae for sale as breeding stock or for the sale of the meat to a store is an agricultural activity. Habitat manipulation and the feeding of wild cervidae to encourage cervidae to remain in or visit an area to assist in the viewing and/or hunting of the animals is not an agricultural activity.

## **What if an owner implements a wildlife mitigation action plan?**

Statute indicates that property shall not lose its classification as agricultural real property as a result of an owner or lessee of that property implementing a wildlife risk mitigation action plan. These projects are to assist in the reduction of risk of a spreading a communicable disease between wildlife and livestock and are done with the approval of the Department of Agriculture.

## **Commercial Real Property**

### **How is Commercial Real property defined?**

Platted or unplatted parcels used for commercial purposes, whether wholesale, retail, or service, with or without buildings

Parcels used by fraternal societies

Parcels used as golf courses, boat clubs, or ski areas

Apartment buildings or a complex with more than four units

### **What if I have a small business in my house?**

When a small part of a house is used for a commercial or retail operation, and the house is in a residential area, the property will usually be classified residential.

### **What if my business is in a building that at one time was a residence?**

Many areas have structures that were built for residential use but are now used as commercial, office, or retail space. These parcels should generally be included in the commercial classification.

### **What if my business is on the same property as my home?**

The heavy equipment repair shop of a contractor, logger, or trucker located on the same property as the homestead will require the assessor to determine the value of each use. See MCL 211.34c (5).

This also applies to offices, storage or warehouse facilities, fabrication areas, and retail areas in conjunction with homestead properties.

### **What about a pay to hunt operation?**

If 60% or more of the cervidae were born and raised on site, the property is to be classified agricultural. If less than 60% were born and raised on site, a fee is paid to hunt and this is the predominant use of the property, then it is classified commercial.

**I have a fishing camp where I rent out rooms, gear and boats. Would this property be classified commercial?**

Fish camps that include lodging and/or may include the rental of fishing gear and boats should be classified in the commercial class. If the property includes the owner's residence, the total value of each use must be calculated to determine the proper classification.

If the residence is worth \$200,000 and the commercial uses are worth only half that, the land would be classified residential.

**What about a youth day camp or residential camp?**

Youth activity day camps and residential camps that are not part of an exempt organization should be included in the commercial classification. Examples of this type of property include Eco-adventure camps, nature retreats, sport camps, music camps, and childcare camps. Examples of similar camps that are frequently exempt would be Boy Scout and Girl Scout camps, YMCA day camps, and Church camps.

## **Developmental Real Property**

**What is developmental real property?**

Developmental real property includes parcels of more than five acres without buildings, or more than 15 acres with a market value in excess of its value in use. Developmental real property may include farmland or open space land adjacent to a population center, or farmland that may be subject to competing valuation influences.

**When is this classification typically used?**

The developmental classification is normally used in areas of changing use near significant population centers.

## **Industrial Real Property**

**What is industrial real property?**

Platted or unplatted parcels used for manufacturing and processing purposes, with or without buildings

Parcels used for utilities sites for generating plants, pumping stations, switches, substations, compressing stations, warehouses, rights-of-way, flowage land, and storage areas

Parcels used for removal or processing of gravel, stone or mineral ores, whether valued by the local assessor or by the state geologist

## **Are gravel pits or sand pits industrial classification?**

Gravel and sand pits, as well as stone quarries should be included in the industrial classification.

## **Timber-Cutover Real Property**

### **How is Timber-Cutover real property defined?**

Timber-cutover real property includes parcels that are stocked with forest products of merchantable type and size; cutover forestland with little or no merchantable products; and marsh lands or other barren land.

### **What if I bought the land to hunt or camp on?**

When a typical purchase of this type of land is for residential or recreational uses, the classification shall be changed to residential.

### **How do we decide if our property should be timber-cutover or not?**

In determining if a wooded parcel should be classified as timber-cutover or another classification, you need to look at the use of the property.

Some questions an assessor may ask before determining that a parcel should be classified as timber-cut over are:

Does the property have a history of timber sales?

Does the owner have a written forest management plan?

Does the property owner keep a business journal with records of expenses, receipts, timber additions, and removal?

Does the owner complete IRS Form T (Timber)?

Frequently, an indication that wooded lands should be classified as other than timber-cutover is when there are buildings on the land, such as a home, cottage, or a hunting and fishing camp.

However, this is not always the case. For example, there may be a building on the property that is used to store timber-harvesting equipment. Or the total usage of a parcel may include more than one classification, but the timber-cutover use most significantly influences the total valuation of the parcel.

### **What about marshland or sand dunes?**

Marshlands, sand dunes, and other "barren land" that is in areas that cannot be used for recreational or residential purposes are generally included in the timber-cutover classification.

## **Personal Property Classification**

### **What exemptions are provided for personal property?**

Industrial Personal Property is exempt from the 6 mill State Education Tax and up to 18 mills of local school district operating millage. Commercial Personal Property is exempt from up to 12 mills of local school district operating millage.

### **A leasing company in an Industrial Park is on property zoned Industrial. The majority of the personal property owned by the leasing company is leased to industrial businesses. How should the personal property be classified?**

The classification of a leasing company's personal property is Commercial Personal. The classification of personal property owned by the leasing company is not determined by the lessees using the equipment and not by the zoning of the property.

**Example:** A leasing company leases assessable personal property (photocopiers) to both commercial and industrial property owners. They also lease manufacturing equipment to owners of industrial sites. The classification of property owned by a leasing company is not determined by the classification of the lessees using the equipment.

## **Agricultural Personal Property Classification**

### **What type of property is classified agricultural personal?**

MCL 211.34c (3)(a): Agricultural Personal property includes any agricultural equipment and produce not exempt by law.

### **Is a building on leased land used for agricultural operations classified as agricultural personal property?**

No. MCL 211.34c states that buildings on leased land used for agricultural operations are to be classified as Agricultural Real Property.

### **What is the correct classification of a building on leased land when the building is being used for industrial purposes and the land is classified as agricultural?**

For taxes levied after December 31, 2002, buildings on leased land used for industrial purposes is to be classified as Industrial Real property.

### **Would a building on leased land used for agricultural purposes that is classified agricultural be entitled to the qualified agricultural property exemption?**

Yes. The leased building is devoted to an agricultural use as defined by law and is eligible for the Qualified Agricultural property exemption.

## **Is personal property used in an agricultural operation exempt?**

The personal property actually used in an agricultural operation is exempt. The exemption for agricultural personal property does not require the property be owned or even used by, a farmer. Instead the exemption depends upon the actual use of the personal property.

**Example:** The personal property of a contractor, when providing combine or fertilizing services, and the personal property of leasing companies where the property is actually used exclusively in agricultural operations, may qualify for the exemption.

## **Is the agricultural personal property used in retail sales and food processing exempt?**

Personal property used in retail sales and in food processing does not generally qualify for the exemption. However, the exemption does extend to equipment used in a manner incidental to the farming operation that prepares a crop for market and does not substantially alter the form, shape, or substance of the crop, if not less than 33% of the volume of the crops processed in at least three of the last five years were grown by the Michigan farmer who is the owner or user of the processing equipment.

## **Commercial Personal Property Classification**

### **What type of property is classified commercial personal?**

MCL 211.34c (3) (b): Commercial Personal property includes:

- (i) All equipment, furniture, and fixtures on commercial parcels and inventories not exempt by law.
- (ii) All freestanding outdoor advertising signs and billboards. PA 620 of 2002.
- (iii) Well drilling rigs and other equipment attached to a transporting vehicle but not designed for the operation while the vehicle is moving on the highway.
- (iv) Unlicensed commercial vehicles or commercial vehicles licensed as special mobile equipment or by temporary equipment.

### **What types of businesses would be considered as having a commercial use?**

The following businesses are commercial and would have commercial personal property associated with their respective enterprise: automotive repair, construction company, contractors, concrete providers, data center, distribution center, engineering, excavating, financial service, inspection, installation service, investment service, leasing company, loan service, moving company, packaging, printing service, rental company, repair service, retail, sales, service company, shipping and receiving, storage company, supply, technology support service, transportation, trucking-common carrier, and warehousing.

**Is a building on leased land used for commercial purposes classified as commercial personal property?**

No. MCL 211.34c states that buildings on leased land used for commercial purposes are to be classified as Commercial Real Property.

**Are communication towers on leased land assessed as personal property?**

No. The tower is valued and assessed as a real property improvement. When a communication tower is built on leased land, the owner of the tower is required to report the original construction costs of the tower in the year the tower was built on Section N of the Personal Property Statement, in same way that it would report any other structure on leased land.

**Is a freestanding billboard on leased land classified as Commercial Real property?**

No. MCL 211.34c (3) (ii) states that ALL outdoor advertising signs and billboards shall be classified Commercial Personal Property.

**Industrial Personal Property Classification**

**What type of property is classified as industrial personal?**

MCL 211.34c(3)(c): Industrial Personal Property includes (i) All machinery and equipment, furniture and fixtures, and dies on industrial parcels, and inventories not exempt by law. (ii) Personal property of mining companies valued by the state geologist.

The STC has determined that nuclear fuel is properly classified as Industrial Personal Property.

Pursuant to MCL 211.8, the Legislature has designated wind energy systems as personal property. A wind energy system is defined as: an integrated unit consisting of a wind turbine composed of a rotor, an electrical generator, a control system, an inverter or other power conditioning unit, and a tower, which uses moving air to produce power.

**Is a building on leased land used for industrial purposes classified as Industrial Personal Property?**

No. MCL 211.34c states that buildings on leased land used for industrial or utility purposes are to be classified as Industrial Real Property.

**Residential Personal Property Classification**

**What type of property is classified as residential personal property?**

For taxes levied before January 1, 2003, residential personal property includes a home, cottage, or cabin on leased land, and a mobile home that would be assessable as real



property under section 2a except that the land on which it is located is not assessable because the land is exempt.

**Are homes, cottages and cabins on leased land to be classified as residential personal property?**

No. PA 620 of 2002 has amended the definition of MCL 211.34c to state that homes, cottages, and cabins on leased land are no longer Residential Personal property. For taxes levied after January 1, 2003, homes, cottages, and cabins on leased land are to be classified as Residential Real property. (Note: This is also true of mobile homes that would be assessable as real property to the owner of the land as provided by MCL 211.2a except that the land on which the mobile home is located is exempt.

**Should improvements to a mobile home (such as porches, decks, etc.) located in a licensed mobile home park which is subject to the \$3.00 per month specific tax be treated as a building on leased land?**

Yes. Improvements to a mobile home located within a licensed mobile home park that are not exempt due to the \$3.00 per month specific tax, shall be assessed on the real property roll to the owner of the improvements.

## **Utility Personal Property Classification**

**What type of property is classified as utility personal?**

Utility personal property includes:

- (i) Electric transmission and distribution systems, substation equipment, spare parts, gas distribution systems, and water transmission and distribution systems.
- (ii) Oil wells and allied equipment such as tanks, gathering lines, and field pump units and buildings.
- (iii) Inventories not exempt by law.
- (iv) Gas wells with allied equipment and gathering lines.
- (v) Oil or gas field equipment stored in the open or in warehouses such as drilling rigs, motors, pipes and parts.
- (vi) Gas storage equipment
- (vii) Transmission lines of gas or oil transporting companies.

**Is a building on leased land which is used for utility purposes to be classified as Utility Personal Property?**

No. MCL 211.34c states that buildings on leased land used for utility or industrial purposes shall be classified as Industrial Real Property.

# APPENDIX

STATE OF MICHIGAN  
FRANK J. KELLEY, ATTORNEY GENERAL

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Opinion No. 5702

May 6, 1980

TAXATION:

Ad valorem property taxes--exemption

LOGGING EQUIPMENT:

Exemption of logging equipment

Logging equipment of commercial operators growing or harvesting trees and other timber is not exempt from ad valorem property taxes.

Honorable Russell R. Hellman

State Representative

The Capitol

Lansing, Michigan

Dear Representative Hellman:

You have requested my opinion as to whether or not logging equipment used in the growing or harvesting of trees is exempt from taxation under the general property tax act, 1893 PA 206, MCLA 211.1 et seq; MSA 7.1 et seq.

1893 PA 206, supra, Sec. 1, provides:

'That all property, real and personal, within the jurisdiction of this state, not expressly exempted, shall be subject to taxation.'

In 1893 PA 206, supra, Sec. 9, the legislature has provided for the exemption of certain designated personal property. No specific mention is made of timber or logging operations or the personal property used in connection therewith.

The closest reference to timber or logging operations is contained in 1893 PA 206, Sec. 9, supra, subdivision (j), which deals with property used in agricultural operations and agricultural operations are therein defined as:

'. . . farming in all its branches, including cultivation of the soil, growing and harvesting of an agricultural, horticultural, or floricultural commodity, dairying, raising of livestock, bees, fur-bearing animals, poultry or fish, turf and tree farming, and any practice performed by a farmer or on a farm as an incident to, or in conjunction with, farming operations.'

As is evident, there is no mention of timber or logging operations. The term 'tree farming' as it is used in 1893 PA 206, Sec. 9, supra, does not embrace logging operations. Traditionally, the legislature has observed a distinction between agriculture and forestry. The term 'tree farm' has been limited to orchards and ornamental tree farms. For example, 1893 PA 206, supra, Sec. 7e(1), of the general property tax act [MCLA 211.7e; MSA 7.7(4b)] exempts from real property taxation:

'The value of deciduous and evergreen trees, shrubs . . . growing on agricultural land devoted to agricultural purposes . . .' (Emphasis supplied.)

However, 1893 PA 206, supra, Sec. 7e(1), also provides:

'. . . Nothing herein contained shall affect the taxation of growing timber.'

It is noteworthy that 1893 PA 206, supra, Sec. 7e(1), was added to the general property tax act by 1966 PA 268, and that the same legislature also amended 1893 PA 206, supra, Sec. 9, by means of 1966 PA 205. In framing and enacting both 1966 PA 268 and 1966 PA 205, the legislature had full knowledge of the provisions of each. Reichert v Peoples State Bank for Savings, 265 Mich 668; 252 NW 484 (1934). Thus, the intent of the legislature is clear that the exemption for 'tree farming', which includes the growing of ornamental, Christmas and fruit trees contained in 1893 PA 206, supra, Sec. 7e(1), does not include 'growing of timber' for harvest of lumber or pulp.

It is also necessary to consider two legislative enactments dealing with forest reservations. 1917 PA 86, Sec. 1, MCLA 320.271; MSA 13.201, provides:

'Upon any tract of land not exceeding 160 acres, where at least 1/2 is improved and devoted to agricultural purposes in this state, there may be selected by the owner or owners thereof, as a private forest reservation, a portion thereof not exceeding 1/4 of the total area of said tract . . .' (Emphasis supplied.)

While such lands are exempt from all taxation by 1917 PA 86, Sec. 11, MCLA 320.281; MSA 13.211, but made subject to a stumpage payment for cut timber, the statute contains no exemption from ad valorem property taxes for personal property used in timber or logging operations.

Consideration must also be given to 1925 PA 94, MCLA 320.301 et seq; MSA 13.221 et seq, which provides for the establishment of commercial forest reserves and which are defined as tracts of land 'containing no material natural resources other than forest growth, no portion of which is used for agricultural . . . purposes, . . .'. 1925 PA 94, supra, Sec. 2.

Eligible commercial forest reserve lands are exempt from ad valorem property taxation pursuant to 1925 PA 94, supra, Sec. 5, but are made subject to a specific tax per acre based upon the total millage rate levied in the township. In addition, a stumpage tax is imposed upon the forest products cut as permitted by the act. This statute contains no provision for exemption from ad valorem property tax of timber or logging equipment utilized to remove forest products from the commercial forest reserve.

It is, therefore, my opinion that the answer to your question is in the negative.

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