Table of Contents – Module 3 Classification

Classification **3**

Introduction to Classification Law 3

Class 1 ..... **4**

Class 1a Residential Homestead 4

Class 1b Blind/Disabled Homestead 5

Class 1c Ma & Pa Resort 13

Class 1d Migrant Housing 16

Class 2 ..... **17**

Class 2a Agricultural 17

Class 2b Rural Vacant Land 25

Class 2c Managed Forest Land 35

Class 2d Private Airport 42

Class 2e Commercial Aggregate Deposit 43

Class 3 ..... **45**

Class 3a Commercial/Industrial 45

Class 3b Employment Property 46

Class 4 ..... **48**

Class 4a Residential Non-Homestead (4+ Units)/Rental Units 48

Class 4b Residential Non-Homestead (1-3 units) 48

Class 4bb Residential Non-Homestead (single unit) 49

Class 4c(1) Seasonal Residential Recreational 49

Class 4c(2) Qualifying Golf Course 51

Class 4c(3) – (i) and (ii) Non-Profit Community Service Oriented Organizations 51

Class 4c(4) Post-Secondary Student Housing 53

Class 4c(5) – (i) and (ii) Manufactured Home Parks/Cooperatives 53

Class 4c(6) Metro Non-Profit Recreational Property 54

Classes 4c(7) and 4c(8) Non-Commercial Aircraft Hangars 54

Class 4c(9) Bed & Breakfast 55

Class 4c(10) Seasonal Restaurant on a Lake 58

Class 4c(11) Marina 59

Class 4c(12) Seasonal Residential Recreational Non-Commercial (Cabin) 64

Class 4d Qualifying Low-Income Rental Property 65

Class 5……. 67

Class 5(1) Unmined Iron Ore 67

Class 5(2) All Other Property 67

Split-Classification…….. 68

Class Rate Tables..... 69

Classification of Property

Introduction to Classification Law

In Minnesota, property is classified according to its use on the annual assessment date of January 2. If a property is improved with a structure, the use of the property is typically quite clear – residential, commercial, industrial, etc. However, if there is not a structure, the use of the property may be less evident.

Except as provided for in class 2b Rural Vacant Land, property that is not improved with a structure and for which there is no identifiable current use must be classified according to its highest and best use permitted under the local zoning ordinance. If the ordinance permits more than one use, the land must be classified according to the highest and best use permitted under the ordinance. If no such ordinance exists, the assessor shall consider the most likely potential use of the unimproved land based upon the use of the surrounding land or land in proximity to the unimproved land.

There are five basic classifications of property, and there are numerous subclasses of property. Each classification will be discussed in this section.

Tax Capacity

As stated in Module 1, the Uniformity Clause of the Minnesota Constitution allows for different classifications of property to be taxed at different rates. Each classification of property has a unique classification rate which is set by the Minnesota Legislature. The Legislature may change these classification rates to accomplish various tax policy objectives. The first step in calculating the tax liability for a property is to determine its tax capacity using the classification rate. Tax capacity is calculated using the following formula:

Taxable Market Value (TMV) x Class Rate = Tax Capacity*

Note:* This **IS NOT the final amount of property taxes payable. It is only the first step in the process and it is meant to illustrate how the classification of a property affects property taxes. There are still several other calculations to be made before a final property tax amount can be determined.

Class 1

Class 1a – Residential Homestead

Real estate which is residential and is used for a homestead purposes is class 1a. The market value of class 1a property must be determined based upon the value of the house, garage, and the land.

In the case of a duplex or triplex where one of the units is used for homestead purposes, the entire property is deemed to be used for homestead purposes and should be classified as class 1a.

For assessment year 2009, for taxes payable in 2010, the first $500,000 of market value of class 1a property has a net class rate of 1.00%. Any market value exceeding $500,000 has a class rate as 1.25%..

Tax Capacity Example:
The tax capacity calculation for class 1a residential homestead property with an EMV of $600,000 would be calculated as follows (Note: a residential homestead with an EMV of $600,000 would not receive the residential homestead market value exclusion):

Class	**TMV**		**Class Rate**		**Tax Capacity**
1a	$500,000	x	1.00%	=	$5,000
1a	$100,000	x	1.25%	=	$1,250
					$6,250 Total Tax Capacity

Class 1b – Residential Blind/Disabled/Surviving Spouse of a Paraplegic Veteran Homestead

Class 1b property includes homestead real estate or homestead manufactured homes homesteaded by:

1. Any person who is blind as defined in section 256D.35, subdivision 4a, or the blind person and the blind person's spouse (property is classified and assessed pursuant to this provision only if the Commissioner of Revenue or county assessor certifies that the homestead occupant satisfies the requirements of this paragraph);
2. Any person who is permanently and totally disabled or the disabled person and the disabled person's spouse (property is classified and assessed pursuant to this provision only if the government agency or income-providing source certifies that the homestead occupant satisfies the disability requirements of this paragraph and the property is not eligible for the Disabled Veterans Homestead Market Value Exclusion); or
3. The surviving spouse of a permanently and totally disabled veteran homesteading a property classified under this provision for the 2007 assessment year for taxes payable in 2008.

Property receiving the Disabled Veterans Homestead Market Value exclusion <u>does not</u> qualify for class 1b.

For assessment year 2009, for taxes payable in 2010, the first $50,000 of taxable market value of class 1b property has a classification rate of 0.45%. The remaining taxable market value has a class rate using the rates for class 1a residential homestead or agricultural homestead, whichever is appropriate.

Tax Capacity Example:
Fred and Wilma are married. Fred is blind. Wilma is not. They own, occupy and homestead their single family home in the city of Bedrock. The property is valued at $100,000. After applying the residential homestead market value exclusion, the TMV is $71,760. The appropriate classification for the property would be:

$50,000 Class 1b	Full Blind Homestead
$21,760 Class 1a	Residential Homestead

Class	TMV		Class Rate		Tax Capacity
1b	$50,000	x	0.45%	=	$225
1a	$21,760	x	1.00%	=	$218.00
					$443 Total Tax Capacity

Up until October 2008, the Minnesota Department of Revenue awarded and maintained the blind and disabled homestead classification. In October 2008, this administration process was turned over to the counties. The information on the following pages is excerpted from a bulletin issued to all counties in September 2008.

Class 1

Definition
Minnesota Statutes, section 273.13, subdivision 22, paragraph (b), provides a reduced class rate for homestead property of any person who qualifies as blind or as permanently and totally disabled. The class 1b blind/disabled homestead is different than other homesteads or classifications because the qualification is specific to a person (and the person's disabling condition), rather than being predicated on the use of the property. As a result, the class 1b homestead follows the blind/disabled individual from one property to another. Class 1b is not an exemption from property taxes. Rather it is a reduced classification rate on the first $50,000 of market value.

Administration Process
Applicants should be notified of their eligibility after the county receives the application. Approved applications will be for the current assessment year for taxes payable the following year. If the application is approved and the taxpayer is accepted into the program, the taxpayer does not need to apply again unless there is a change in eligibility. **There is no annual application.**

Qualification
Minnesota Statutes, section 273.13, subdivision 22, paragraph (b), states:

> *"Class 1b property includes homestead real estate or homestead manufactured homes used for purposes of a homestead by*
> *(1) any person who is blind as defined in section 256D.35, or the blind person and the blind person's spouse;*
> *(2) any person who is permanently and totally disabled or by the disabled person and the disabled person's spouse; or*
> *(3) the surviving spouse of a permanently and totally disabled veteran homesteading a property classified under this paragraph for taxes payable in 2008* [2007 assessment].
> *Property is classified and assessed under clause (2) only if the government agency or income-providing source certifies, upon the request of the homestead occupant, that the homestead occupant satisfies the disability requirements of this paragraph, and that the property is not eligible for the valuation exclusion under subdivision 34 [market value exclusion on homestead property of disabled veterans]…"*
>
> ***Please note:*** The grandfather provision for surviving spouses of disabled veterans provided in clause (3) is only applicable to surviving spouses who were receiving the 1b classification for taxes payable in 2008. **Surviving spouses of paraplegic veterans who did not qualify for this provision (class 1b) for taxes payable in 2008 cannot receive the 1b classification.**

The onset of a person's disability or blindness must have occurred on or before June 30 of the year they are filing for the special homestead classification. If the onset of the disability or blindness occurs after June 30, an applicant will not be approved until the next year.

Blind: Blind, as determined in Minnesota Statutes, section 256D.35, means the condition of a person whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or, if visual acuity is greater than 20/200, the condition is accompanied by limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees. When applying for class 1b an eye doctor's report or letter giving detail of the person's sight must be included. A statement by the individual is not sufficient.

Disabled: For the purposes of 1b classification, permanently and totally disabled describes a condition which is permanent in nature and totally incapacitates a person from working at an occupation which brings the person an income. An individual who is permanently and totally disabled must be receiving payments because of their disability. Payments from a qualifying agency are used as evidence of a disability when determining whether or not a person is eligible for a disabled homestead. However, only providing evidence of a payment is not sufficient. A letter from a qualifying agency stating that an individual <u>is permanently and totally disabled and is eligible</u> to receive disability payments is required.

The following sources are qualifying agencies and commonly pay disability payments (any documentation received must specify that the person is "permanently and totally" disabled):

- Social Security Administration
- Veterans Administration
- Public or private pension plans
- Welfare Supplemental Security Income
- Workers Compensation
- Insurance program

If you receive information attesting to disability from the Veterans Administration, please verify whether the disability is service-connected. If the disability is service-connected, the veteran may qualify for the Disabled Veterans Homestead Market Value Exclusion program. If the disability is not service-connected, but the veteran is still permanently and totally disabled, the class 1b benefits should be applicable. **Note:** Applicants receiving the Disabled Veterans Value Exclusion are not eligible for the 1b classification.

There are no longer income requirements, but to be eligible a person must have a disability income and must be able to provide proof of such income before class 1b (disabled) homestead is granted.

Please remember that any Social Security Numbers, and income and medical information received from class 1b applicants are private data and should be treated as such.

Surviving spouses of paraplegic veterans: Before law changes in 2008, paraplegic veterans were eligible for the class 1b homestead if they were homesteading specially modified housing units. If a veteran qualifying under this scenario predeceased his/her spouse, and the spouse was the owner and homesteader of the modified property, the spouse would continue to receive the reduced

classification until there was a change in ownership. When the Disabled Veterans Market Value Exclusion was signed into law, the class 1b homestead for paraplegic veterans was removed from the law. However, the law does provide for the continuation of 1b classification for the surviving spouses of paraplegic veterans who were qualifying for the 1b homestead for taxes payable in 2008. In other words, if a surviving spouse of a paraplegic veteran had been receiving class 1b blind/disabled homestead for taxes payable in 2008, he/she shall continue the 1b homestead classification so long as he/she owns, occupies, and homesteads the specially-modified housing unit. **Surviving spouses of paraplegic veterans who did not qualify for this provision (class 1b) for taxes payable in 2008 cannot receive the 1b classification.** Additionally, surviving spouses of permanently and totally disabled veterans who receive the disabled veterans' surviving spouses market value exclusion under M.S. 273.13, subdivision 34 are not eligible for this classification.

If, after applying, the county assessor certifies that the class 1b homestead applicant satisfies the necessary requirements, the applicant will receive a reduction in taxes as follows:

- First $50,000 market value has a net class rate of .45 percent of its market value.
- The remaining market value has a class rate using the rates for residential or agricultural homestead property (whichever is appropriate).

When the 1b classification is granted to a qualifying person, there is no need for reapplication so long as the qualifying person continues to properly homestead the property.

If the qualifying person moves to a new location, he/she must notify the county assessor of the change within 30 days and the class 1b status <u>will move with the person to a new homestead</u>. The county assessor must be notified if a property qualifying for a special homestead is sold, if there is a change in occupancy, or if there is a change in status or condition of the occupant that would no longer warrant the special homestead. If a property owner fails to notify the assessor of such a change within 30 days the property owner may be subject to the fraudulent homestead penalties provided in Minnesota Statutes 273.124, subdivision 13, paragraph (h). The property will also lose its current class 1b classification.

Upon death of a person meeting the provisions for the class 1b homestead, the 1b classification expires as of the next assessment and does not extend to a surviving spouse or relative.

In terms of persons qualifying under the provision of being blind or disabled, the qualifying person may own and occupy the home with a spouse and receive a full benefit. For joint ownership with someone other than a spouse, fractional benefits will apply to reflect the fractional ownership.

Relative Homestead: To qualify as class 1b (blind or disabled) on a relative homestead, the qualifying relative occupying the home must be the qualifying blind/disabled person. If a blind/disabled person owns a home and a non-blind/disabled relative is the one that occupies the home, it does not qualify for a class 1b classification.

Class 1b cannot be granted to blind/disabled minor children living with their parents. The homestead is granted to the parents based on their ownership and occupancy of the property. It is not appropriate to grant the reduced class rate for class 1b based on the blindness/disability status of a minor child who lives with them.

Class 1b Blind/ Disabled Homestead Examples

1. A property is receiving a special homestead (blind/disabled) on January 2, 2008. On June 1, 2008, new owners purchase the property and file for a full conventional homestead. The assessor should remove the special homestead and grant a full conventional for assessment year 2008.

2. A property is receiving a regular residential homestead on January 2, 2009. On June 1, 2009, a blind/disabled person purchases the property and files for a special homestead. The assessor should grant the special homestead (class 1b) for assessment year 2009.

3. A person is receiving the 1b class on their home. The person decides to sell his home and buy a new home a few miles away. The property owner must notify the county assessor of the change and the 1b class should be removed from the original property and extended to the newly acquired property.

4. A person receiving the 1b class passes away mid-year. The 1b class should be left on the property for the current assessment year and be removed the next assessment year. However, if the property were sold between the death and the next assessment date, the 1b class should be removed from the property for the current year.

5. A person owns a property and the property is occupied by a blind/disabled relative. The owner does not occupy the property. This property is eligible for the 1b classification. The blind/disabled person occupies the property as a homestead and is a qualifying relative.

Class 1

Frequently Asked Questions

1. **If a property owner receiving the 1b class dies, do the homestead benefits extend to the surviving (non-blind/disabled) spouse? If not, when does the classification change?**

   Answer: No. The 1b class expires with the death of the qualifying property owner. The classification should be removed for the following assessment. For example, if a qualifying individual dies after January 2, 2010, the property should lose the 1b class for the 2011 assessment for taxes payable 2012.

2. **What is the benefit received by a disabled person who owns a home with a spouse? Does it differ from a blind person who owns a home with a spouse?**

   Answer: For either blind or disabled persons who own and occupy a home jointly with their spouses, the full benefit amount is retained. They are still eligible for a reduced class rate on the first $50,000 of the home's taxable market value.

3. **A person is receiving a class 1b homestead on her home and she owns another home that is occupied by a relative. Is the second home eligible for the class 1b homestead as well?**

   Answer: No. In order to qualify as class 1b on a relative homestead the relative living in the home must be the person who qualifies as blind/disabled. If a non-blind/disabled person owns a home which is occupied by a blind/disabled relative, the home occupied by the qualifying blind/disabled person is eligible for a class 1b relative homestead.

4. **A person is certified as being blind in September of 2009 and files for a class 1b special homestead (blind) with the county assessor before October 1, 2009. Should the person be approved for taxes payable the next year?**

   Answer: No. In order to be approved for taxes payable the next year, the onset of blindness must have been on or before June 30 of the current year (the year they file for the special homestead). The application would be held for approval until the 2010 assessment (taxes payable 2011).

   See next page for an additional example of tax capacity calculations on class 1b property.

Example of Tax Calculations on Class 1b Property

A person qualifying for class 1b residential homestead is the sole owner of a residential homestead valued at $200,000. Calculate the Taxes payable in 2008 assuming a net tax capacity tax rate of 100.00%.

Estimated Market Value = $200,000
Taxable Market Value = $180,760

Apply 1b class rate of 0.45% to the first $50,000.

$50,000 X 0.45% = $225.00

The remainder of the value is calculated according to the class rate applied to residential homesteads (1a). The first $500,000 of 1a property has a tax rate of 1.00%.

$130,760 X 1.00% = $1,308

Add the two results to determine the net tax capacity.

$1308.00 + $225.00 = $1,533

This results in a net tax capacity of $1725.00. Multiply the net tax capacity with the net tax capacity tax *rate* to calculate taxes payable in 2008 (net tax capacity tax).

$1,533 X 100.00% = **$1,533**

Applications

The Department of Revenue provided standardized applications that should be used by all counties when administering classification of 1b blind/disabled homesteads. The applications can be customized to fit your county's needs (logo, address, etc.) but the general format should not be altered. The application should look and function the same from county to county.

HIPAA – Health Insurance Portability and Accountability Act: Privacy Rule

We have received several questions concerning certain privacy rules contained within the federal Health Information Portability and Accountability Act (HIPAA) and how these privacy rules may interact with the *Disabled Veteran's Market Value Exclusion* and the *Blind/Disabled Special Homestead*. The main concern was that the HIPAA privacy rules would not allow assessors to make any reference to a person's disability status on the person's tax statements and other tax records that might be viewed by the public. This would have necessitated keeping two separate sets of records; one set for the assessor's office only, and one set that would have any reference to the taxpayer's physical condition removed, which would be viewable to the public.

Class 1

For your office to be subject to the HIPAA regulations, it would need to have been declared a "covered entity" under the HIPAA privacy rules. After discussions with legal professionals and other state agencies, the department has determined that assessors' offices are most likely **not** "covered entities" under the HIPAA privacy rules. Therefore property tax information relating to the blind/disabled classification and disabled veteran's exclusion is public information. However, each county has a privacy officer or data practices specialist who will know what departments in that specific county have been declared to be "covered entities" and therefore subject to HIPAA regulations. You should check with your county's specialist to determine if your office is regulated by HIPAA privacy rules. In the unlikely event that your office is a "covered entity" and subject to HIPAA regulations, you may be limited as to what information you can make public. If this is the case, you may contact the department in order to determine the best way to move forward.

Class 1c ("Ma and Pa Resorts")

Class 1c property is commonly known as the "Ma and Pa Resort" classification. It is commercial use real property that abuts public water (as defined in Minnesota Statutes, section 103G.055, subdivision 15). It is devoted to temporary and seasonal residential occupancy for recreational purposes, but not devoted to commercial purposes for more than 250 days in the year preceding the year of assessment. It includes a portion used as a homestead by the owner, which includes a dwelling occupied as a homestead. The dwelling can be occupied as a homestead by any of the following:

- an owner as sole proprietor;
- a shareholder of a corporation that owns the resort;
- a partner in a partnership that owns the resort; or
- a member of a limited liability company that owns the resort.

As stated in section 103G.055, subdivision 15, a public water body is defined as:

"(a) 'Public waters' means:

(1) water basins assigned a shoreland management classification by the commissioner under sections 103F.201 to 103F.221;

(2) waters of the state that have been finally determined to be public waters or navigable waters by a court of competent jurisdiction;

(3) meandered lakes, excluding lakes that have been legally drained;

(4) water basins previously designated by the commissioner for management for a specific purpose such as trout lakes and game lakes pursuant to applicable laws;

(5) water basins designated as scientific and natural areas under section 84.033;

(6) water basins located within and totally surrounded by publicly owned lands;

(7) water basins where the state of Minnesota or the federal government holds title to any of the beds or shores, unless the owner declares that the water is not necessary for the purposes of the public ownership;

(8) water basins where there is a publicly owned and controlled access that is intended to provide for public access to the water basin;

(9) natural and altered watercourses with a total drainage area greater than two square miles;

(10) natural and altered watercourses designated by the commissioner as trout streams; and

(11) public waters wetlands, unless the statute expressly states otherwise.

(b) Public waters are not determined exclusively by the proprietorship of the underlying, overlying, or surrounding land or by whether it is a body or stream of water that was navigable in fact or susceptible of being used as a highway for commerce at the time this state was admitted to the union."

Class 1c property must have three or more rental units. Rental units are defined as cabins, condos, townhouses, sleeping rooms, or individual camping sites equipped with water and electrical hookups for recreational vehicles.

Class 1

The property must provide recreational activities such as:

- rental of ice fishing houses;
- rental of boats and motors;
- rental of snowmobiles;
- rental of downhill or cross country ski equipment;
- providing marina services;
- providing launch services;
- providing guide services; or
- selling bait and tackle.

Any unit in which the right to use the property is transferred to an individual or entity by deeded interest, or by the sale of shares or stock, no longer qualifies for class 1c even though it may remain available for rent. These units shall be reclassified according to their use as of the next assessment date following the transfer.

For purposes of this clause, property is devoted to a commercial purpose on a specific day if any portion of the property, excluding the portion used exclusively as a homestead, is used for residential occupancy and a fee is charged. A camping pad offered for rent that is part of a property that otherwise qualifies for class 1c is also class 1c, regardless of the term of the rental agreement, as long as the use of the camping pad does not exceed 250 days.

The portion of the property used as a homestead by the owner should be classified as class 1a residential homestead. The remainder of the property is classified as class 1c and the appropriate classification rates are as follows:

- Tier I: The first $600,000 at 0.50% market value.
- Tier II: $600,001-$2,300,000 at 1.00% market value.
- Tier III: Over $2,300,000 at 1.25% market value*

*Any value in Tier III is subject to the state general levy.

Owners of real property desiring classification as 1c must submit a declaration to the assessor's office and provide guest registers or other records, by January 15 of the assessment year, that show which cabins or units were occupied for 250 days or less in the year preceding the assessment year. Those cabins or units and a proportionate share of the land on which they are located will be designated as class 1c.

Non-qualifying cabins or units (those rented for more than 250 days) and a proportionate share of land on which they are located will be designated as class 3a commercial and will be taxed at the corresponding class rates. In addition, the portion of the property operated as a restaurant, gift shop, bar, conference center/meeting room; and other nonresidential facilities that are operated on a commercial basis not directly related to temporary and seasonal residential occupancy for recreational purposes do not qualify for class 1c. This portion of the property should be classified as class 3a commercial, or potentially, class 4c(10) if there is a qualifying seasonal restaurant on a lake.

Tax capacity example:
Tom and Katie are married. They own, occupy, and operate a resort on Gull Lake. The resort units are all occupied for fewer than 250 days per year, and no portion of the property is classified as commercial property. The homestead portion of the property is valued at $250,000 with a taxable market value of $235,260 after the homestead market value exclusion. The remainder of the resort is valued at $2.5 million. The property would be classified as follows:

Class 1a Residential Homestead = $250,000
Class 1c Ma & Pa Resort = $2.5million

The tax capacity for taxes payable in 2010 would be calculated as follows:

Class	**TMV**		**Class Rate**		**Tax Capacity**
1a	$ 235,260	x	1.00%	=	$ 2,353
1c (Tier I)	$ 600,000	x	0.50%	=	$ 3,000
1c (Tier II)	$1,700,000	x	1.00%	=	$17,000
1c (Tier III)	$ 200,000	x	1.25%	=	$ 2,500
					$24,853 **Total Tax Capacity**

Note: In this example, the property would also be subject to the state general tax. For purposes of this example, we are only calculating the net tax capacity, but the value in Tier III will be subject to the state general levy.

In 2011, this statute was modified to allow one class 1c classification and corresponding tiers and tax classification rates to two separate resorts if the following conditions are met:

- one of the properties must be owner-occupied (or occupied by a member of an LLC that owns the property) and qualifying for homestead
- both resort parcels must be located within the same township
- if both parcels are owned by LLCs, each LLC must have identical ownership structures
- all other requirements for 1c classification beyond homestead (i.e., located on public water, used seasonally, provides recreational activities, etc.) must be met

If these requirements are met, the value of both parcels is treated as if it were one class 1c property, with one HGA.

Class 1d – Migrant Housing (structures only)

Class 1d property includes structures only (not land), which meet all of the following criteria:

- The structure is located on property that is otherwise classified as agricultural under section 273.13.
- The structure is occupied exclusively by seasonal farm workers during the time they work on that farm, and the occupants are not charged rent for the privilege of occupying the property, provided that use of the structure for storage of farm equipment and produce does not disqualify the property from classification under this provision.
- The structure meets all applicable health and safety requirements for the appropriate season.
- The structure is not saleable as residential property because it does not comply with local ordinances relating to location in relation to streets or roads (e.g. setback requirements).

The taxable market value of class 1d migrant housing structures has the same class rates as class 1a property. For taxes payable in 2010, the first $500,000 of taxable market value has a class rate of 1.00%, and market value exceeding $500,000 has a class rate of 1.25%.

Tax capacity example:
Farmer McDonald farms 2,000 contiguous acres with the help of several (legal) migrant workers who assist him on a seasonal basis. As part of the workers' compensation, he provides housing for them during the months they are working on the farm. The structure where the workers live has a taxable market value of $130,000. The tax capacity of the structure would be calculated as follows:

Class	**TMV**		**Class Rate**		**Tax Capacity**
1d	$130,000	x	1.00%	=	$1,300
					$1,300 **Total Tax Capacity**

Primary Statutory References: 273.13, 273.1315, 273.124

Class 2

In 2008, the Minnesota Legislature made significant changes regarding the classification of what was once known as "agricultural land." Simply stated, what was once "agricultural land" has now been split into two categories for classification purposes, *class 2a agricultural land* and *class 2b rural vacant land*. Assessors should have made a good-faith effort to separate productive agricultural land from other kinds of land for the 2009 assessment with fine-tuning of the categories to come during future assessments.

The decision on the classification of a property will greatly impact its eligibility for such programs as Green Acres, Rural Preserve, Sustainable Forest, etc. **However,** the classification of a property must be made first, and must be made without regard to special program eligibility implications. The 2a agricultural classification, for example, has specific requirements, while the Green Acres program has other specific and separate eligibility requirements. A property can correctly be classified as agricultural property yet be eligible for Green Acres. The classification (or split-classification) of a property should not be used as a default mechanism for denying Green Acres.

The classification of class 2a agricultural land and class 2b rural vacant land should be based on a visual inspection of the property and the number of acres used for agricultural purposes as defined by statute. A number of factors should be considered by the assessor when visually inspecting the property to determine eligibility for the agricultural classification. In the most subjective cases, the assessor should document the rationale for the classification in case it becomes necessary to defend the decision.

Class 2a –Agricultural Land

Class 2a agricultural land consists of parcels of property, or portions thereof that are agricultural land and buildings.

Class 2a land may be homestead or non-homestead depending on ownership, occupancy and active farming scenarios. The homestead determination is made independently of the classification of the property.

Minnesota Statutes, section 273.13, subdivision 23, provides a number of requirements that must be met in order to be classified as class 2a land:

1. At least 10 contiguous acres must be used to produce agricultural products in the preceding year (or be qualifying land enrolled in an eligible conservation program);
2. The agricultural products are defined by statute; and
3. The agricultural product must be produced for sale.

Assessors may be required to make some subjective decisions to determine if statutory requirements are met before classifying a property as class 2a agricultural land, but the decision should be based on a list of objective factors that are always considered before the decision is finalized. The following is a list of factors that an assessor may consider.

It should also be noted that these factors are based on the preceding year's use of the land. Additionally, the land must be classified as class 2a if all or a portion of the agricultural use of that property is the leasing to, or use by, another person for agricultural purposes.

Classification Factors

1. **AT LEAST 10 CONTIGUOUS ACRES BEING USED TO PRODUCE AGRICULTURAL PRODUCTS FOR SALE.**
   Statute clearly requires that there be at least 10 contiguous acres being used to produce an agricultural product for sale in order to be class 2a agricultural land. "Contiguous" is defined by the dictionary provided by law.com as "connected to or 'next to,' usually meaning adjoining pieces of real estate." This does not mean a property should be classified as agricultural when there is a total of 10 acres if the acres are broken up into small plots.

   In some rare circumstances, reasonable justification may warrant classifying smaller land masses as class 2a agricultural land if the agricultural land on the parcel totals at least 10 acres. To justify the classification in these cases, the assessor must use common sense and professional judgment in considering the following list of criteria:
   - Overall size (number of acres)
   - Number of acres used agriculturally in relation to overall acres
   - Crop being raised and sold on the agricultural acres
   - Composition of agriculturally used acres (contiguous or noncontiguous)
     - Sizes of the noncontiguous portions used agriculturally or nonproductively
     - The locations of the agriculturally used acreage (distance, accessibility, etc.)
     - Whether the configuration of the agriculturally used acreage lend themselves to agricultural production
     - The use of the land separating the noncontiguous agriculturally-used acreage

   Parcel lines or separate legal descriptions do not break up the contiguity of land masses used for agricultural purposes as long as the parcels are in the same ownership.

   Lands that will be deemed "impractical to separate" (i.e. ditches, waterways, etc.) also do not break up the contiguity of the land mass.

2. **PROPERTY IS PRODUCING AN AGRICULTURAL PRODUCT AS DEFINED BY STATUTE.**
   For the purposes of classifying land for property tax purposes, the term ***"agricultural products"*** includes the production for sale of:
   a) livestock, dairy animals, dairy products, poultry and poultry products, fur-bearing animals, horticultural and nursery stock, fruit of all kinds, vegetables, forage, grains, bees, and apiary products by the owner;
   b) fish bred for sale and consumption if the fish breeding occurs on land that is zoned for agricultural use;

c) the commercial boarding of horses, which may include related horse training and riding instruction, if the commercial boarding is done on property that is also used for raising pasture to graze horses or raising or cultivating other agricultural products as defined in (a) above;
d) property that is owned and operated by non-profit organizations used for equestrian activities, excluding racing;
e) game birds and waterfowl that are bred and raised (i) on a game farm licensed under section 97A.105, provided that the annual licensing report required under that section – which must be submitted annually to the assessor by March 30 – indicates that at least 500 birds were raised or used for breeding stock on the property and the owner provides the assessor with the most recent schedule F; or (ii) for use on a shooting preserve that is licensed under Minnesota Statutes, section 97A.115;
f) insects that are primarily bred to be used as food for animals;
g) trees, grown for sale as a crop (e.g. Christmas trees), including short rotation woody crops, and are not harvested and sold for timber, lumber, wood or wood products;
h) maple syrup taken from trees grown by a person who is licensed by the Minnesota Department of Agriculture under Minnesota Statutes, Chapter 28A as a food processor.

Farmed wild animals

The Legislature has designated that certain species of wild animals that are being farmed for certain agricultural purposes are considered to be livestock for sales tax, hunting and wildlife law purposes. The department has taken the position that the following should be considered as livestock for property tax purposes:

- **Farmed cervidae:** Cervidae means members of the cervidae family (including deer, elk, and moose). Farmed cervidae are livestock and are not wild animals for purposes of game farm, hunting, or wildlife laws. Farmed cervidae and their products are farm products and livestock for the purposes of financial transactions and collateral. Raising farmed cervidae is an agricultural production and an agricultural pursuit.
- **Farmed ratitae:** Ratitae means members of the ratitae family (including ostriches, emus, and rheas) that are raised for the purpose of producing fiber, meat, or animal by-products or as breeding stock. Ratitae are livestock and are not wild animals for purposes of hunting or wildlife laws. Ratitae and their products are farm products and livestock for purposes of financial transactions and collateral. Raising farmed ratitae is an agricultural production and an agricultural pursuit.
- **Farmed Llamas:** Llama means a member of the genus lama that is raised for the purpose of producing fiber, meat, or animal by-products or as breeding stock. Llamas are livestock and are not wild animals for the purposes of hunting or wildlife laws. Llamas and their products are farm products and livestock for purposes of financial transactions and collateral. Raising llamas is an agricultural production and an agricultural pursuit.

Primary Statutory References: 17.452, 17.453, 17.454, 17.455, 17.456

3. **<u>AGRICULTURAL PRODUCT IS PRODUCED FOR THE PURPOSE OF SALE.</u>**
   The agricultural product being produced on the land must be produced for the purpose of sale. Although income should not be the sole determining factor, the assessor may want to consider the following factors:
   - Income (Schedule F) from sale of agricultural products (crops, livestock, etc.)
   - How the agricultural products were sold (wildlife food plots do not qualify)
   - Income earned in the past year from the sale of animals
   - The income from the productive acres divided by the number of total acres
   - Rental income from an agricultural lease

If there is a land mass of at least 10 contiguous acres that has been used during the preceding year to produce an agricultural product for sale, it is classified as 2a land. This determination will be made based on the above criteria and factors. Once this determination is made, any land deemed "impractical to separate" and any other smaller land masses of class 2a land on the same parcel may be classified as class 2a land as well. ***(More detailed information about "Impractical to Separate" determinations can be found after the Class 2b information)*** Additionally, once this determination is made, the property becomes eligible for an agricultural homestead (if all homestead requirements are met).

Class 2a land must also contain any property that would otherwise be classified as 2b rural vacant land, but is interspersed with class 2a property. This includes but is not limited to sloughs, wooded wind shelters, acreage abutting ditches, ravines, rock piles, land subject to a setback requirement, and other similar land that is impractical for the assessor to value separately from the rest of the property or that is unlikely to be able to be sold separately from the rest of the property.

<u>Classification of property used of horse breeding and boarding</u>
As part of the Assessment and Classification Practices Report on Property Used for Horse Breeding and Horse Boarding Activities that was issued in January 2010, the department agreed to issue administrative guidelines to all assessors based on the recommendations set forth within that report as well as any 2010 statutory changes in order to allow for a more uniform and equalized assessment of properties used for horse boarding and breeding activities. Those guidelines, which are based on Minnesota Statutes, section 273.13, subdivision 23, paragraph (i)(3) as amended during the 2010 legislative session, are located on the following page.

Guidelines for Classifying Property Used for Horse Breeding and Boarding Activities

1. To be considered class 2a agricultural land, at least 10 contiguous acres must be used for agricultural production (not including the rare exceptions for exclusive or intensive use).

2. An agricultural product must be produced FOR SALE. Use of a product for one's own use or for use by a neighbor, relative, etc. is not considered to be "for sale."

3. Ten acres or more of pasture used to provide feed for horses that are being used by the owners for their own personal/recreational use DOES NOT qualify the property for the agricultural classification – there is not an agricultural product being produced for sale.

4. Ten acres or more of pasture being used to provide feed as part of a commercial boarding operation on the same property DOES qualify the property for the agricultural classification. In addition, horse training and riding instruction related to the commercial boarding may also be included in the agricultural classification if the boarding is done on property that is also used for raising pasture to graze horses or raising or cultivating other agricultural products specified in section 273.13, subdivision 23, paragraph (i), clause (1). It is the expectation that the training and riding instruction related to the commercial boarding is that which is provided to those individuals who are boarding their horses onsite. If the training and riding instruction are provided to the general public (e.g. those who do not board their horses onsite) that portion of the property would be classified as commercial.

5. Land used to produce horses bred or raised for sale should qualify toward the 10-acre requirement for the agricultural classification. However, breeding/selling 1-2 horses is not likely enough to qualify a property for the agricultural class (neither is selling 1-2 cows, 1-2 sheep, etc.) Assessors must use good professional judgment to differentiate between hobby and business enterprises. Assessors may want to ask for additional information such as receipts of sale, Schedule F, etc. to help make this determination.

6. Ten acres or more of pasture being used to feed horses that are being bred/raised for sale DOES qualify for the agricultural classification since there is a product being sold (the horses). The assessor must determine if there is significant production taking place (enough animal units being sold each year) to warrant the agricultural classification.

7. Horses used for personal or recreational use DO NOT enable a property to qualify for the agricultural classification. (There are no agricultural products being produced for sale in this situation.)

8. If a property is used for both breeding horses for sale and commercial boarding, the assessor would classify the entire property as agricultural, assuming there is no other use of the property (e.g. rural vacant land which would be classified as class 2b or a tack shop or event center which would both be classified as class 3a commercial, etc.).

9. Any commercial use of the property such as tack shops, riding lessons for the general public, horse rental (e.g. trail rides, hay rides, or other service typically sold by the hour), conference centers, event centers, etc. must be classified as 3a commercial property.

Class 2

Real Estate of Less Than 10 Acres

Real estate of LESS THAN 10 acres that is **exclusively OR intensively** used for agricultural purposes should be considered to be agricultural land. The law no longer requires both an exclusive and an intensive use. "Exclusively" means the entire parcel, border-to-border is used for an agricultural purpose – there is no house, no cabin, and no other use of the parcel. If there is another use on the property, it is by definition not used exclusively for agricultural purposes.

If a property is less than 10 acres in size and has a residential structure, it must be used for one of the following to be considered an intensive use:

- drying or storage of grain or storage of machinery or equipment used to support agricultural activities on other parcels of property operated by the same farming entity;
- as a nursery, provided that only those acres used to produce nursery stock are considered as agricultural land (land used for parking, retail sales, etc. does not qualify);
- for livestock or poultry confinement, provided that land that is used only for pasturing and grazing does not qualify; OR
- for ***"market farming"*** which means the cultivation of one or more fruits or vegetables or production of animal or other agricultural products for sale to local markets by the farmer or an organization with which the farmer is affiliated.

Additional Information about Agricultural Purposes

"Agricultural purposes" means the raising, cultivation, drying or storage of agricultural products for sale, or the storage of machinery or equipment used in support of agricultural production by the same farm entity. For a property to be classified as agricultural based only on the drying or storage of agricultural products, the products being dried or stored must have been produced by the same farm entity as the entity operating the drying or storage facility. Some examples of activities that would not qualify as agricultural purposes under this section include: grain bins used for storing crops produced by other farmers; buildings used for storing another farmer's machinery; and grain elevators.

Agricultural purposes also includes enrollment in the Reinvest in Minnesota (RIM) program, the federal Conservation Reserve Program (CRP), or a similar state or federal conservation program if the property was classified as agricultural property:

- for the 2002 assessment; or
- in the year prior to its enrollment in the conservation program.

Land should be classified as productive agricultural land even if all or a portion of that property is leased to or used by another person for agricultural purposes. Again, this may affect the homestead designation but may not affect the classification. In addition, the classification must be based on the use of the land and it cannot be based on the market value of any residential structures on that parcel or on contiguous parcels under the same ownership.

This property classification supersedes, for property tax purposes only, any locally administered agricultural policies or land-use restrictions that define minimum or maximum farm acreage requirements.

If a parcel is used for both agricultural purpose and for commercial or industrial purposes including but not limited to:

1. Wholesale and retail sales;
2. Processing of raw agricultural products or other goods;
3. Warehousing or storage of processed goods; and
4. Office facilities for the support of the activities listed above.

For such activities, the assessor shall classify the portion of the property used for productive agricultural purposes as class 2a and the remainder in the class appropriate to its use.

The grading, sorting, and packaging of raw agricultural products for first sale is considered to be an agricultural purpose.

For example, an owner-occupied dairy farm also has several buildings onsite that are used to produce ice cream. The total size of the property is 80 acres. The house, garage and first acre (HGA) occupied by the owner of the property should be classified as class 2a. The portion of the

property used for dairy production should also be classified as class 2a productive agricultural land. The portion of the property used for the production of ice cream including any area used for processing, packaging, freezing, sales, and office space should be classified as class 3a commercial/industrial property.

Similarly, a vineyard may also have several uses. The acres that are used to grow grapes to be used in wine production should be classified as 2a agricultural land while the portion of the property used for wine production, tasting, sales, etc. should be classified as class 3a commercial/industrial.

A greenhouse or other building where horticultural or nursery products are grown that is also used for the purpose of retail sales must be classified as agricultural only if it is primarily used for growing horticultural or nursery stock from seeds, cuttings or roots, and occasionally as a showroom for the retail sale of the products. The use of a greenhouse or building only for the display of already grown horticultural or nursery products does not qualify as an agricultural purpose.

House, Garage and One Acre (HGA)
When assessing farm property, the assessor must determine and list separately on the property records the market value of the HGA. If any farm buildings or structures are located on this acre of land, their market value shall not be included in this separate determination. This allocation is very important and it is used for state aids, referendum market values, property tax refunds, etc. Assessors should take great care in making certain these values are uniform and equalized.

Primary Statutory Reference: 273.13, subdivision 23

Tax capacity example:
Again using the example for migrant housing shown on page 14, Farmer McDonald owns, occupies and farms 2,000 contiguous acres with the help of several (legal) migrant workers who assist him on a seasonal basis. As part of the workers' compensation, he provides housing for them during the months they are working on the farm. The structure where the workers live has a taxable market value of $130,000. The HGA has a taxable market value of $165,000. All of the land has been classified as class 2a agricultural land by the assessor. The excess land has a taxable market value of $4,000,000. The tax capacity of the property is as follows:

Class	TMV		Class Rate		Tax Capacity
2a (HGA)	$ 165,000	x	1.00%	=	$1,650
2a excess land	$1,010,000	x	0.50%	=	$5,050
2a excess land	$2,990,000	x	1.00%	=	$29,900
1d	$ 130,000	x	1.00%	=	$1,300
					$37,900 **Total Tax Cap.**

Primary Statutory References: 273.13, subdivision 23

Class 2b – Rural Vacant Land

Class 2b rural vacant land consists of property that is unplatted, unimproved, rural in character and is not used for agricultural purposes. It also includes land that is used for growing trees for timber, lumber, wood and wood products. The land cannot be improved with a structure unless the structure is a minor, ancillary, non-residential structure as defined by the Commissioner of Revenue.

The Department of Revenue has defined ***minor, ancillary structures*** as sheds or other primitive structures, the aggregate size of which are less than 300 square feet that add minimal value and are not used residentially; provided that the occasional overnight use for hunting or other outdoor activities shall not preclude a structure from being considered a minor, ancillary structure.

If any structure or group of structures totals 300 or more square feet, or if any structure is used residentially on more than an occasional basis, or if there is an improved building site that provides water, sewer, or electrical hook ups for residential purposes, the property must be split classed according to the appropriate use or uses of the property. Some indications that the structure is not a minor, ancillary structure would be the fact that it is designed for residential occupancy and includes kitchen facilities, separate bedroom areas, or gas service.

Any parcel of 20 acres or more in size that is improved with a structure that is not a minor, ancillary structure, must be split-classed with the structure and 10 acres classified according to the use of the structure (residential, seasonal residential recreational, etc.) and the remaining land classified as class 2b rural vacant land.

Tax Capacity Example #1:
Tom owns a 100-acre parcel of wooded land in southeastern Minnesota but lives in Florida. The land does not produce any agricultural products, is not platted and is rural in character. The property has a taxable market value of $1.1 million. The property should be classified as class 2b rural vacant land.

The tax capacity would be calculated as follows:

Class	TMV		Class Rate		Tax Capacity
2b	$1,100,000	x	1.00%	=	$11,000
					$11,000 Total Tax Capacity

Tax Capacity Example #2:
The same situation exists as in example #1 above except that there is a hunting cabin located on the property. The property has a taxable market value of $1,150,000. Ten acres of land plus the cabin must be classified as class 4c(12) seasonal residential recreational-noncommercial. The remainder of the property should be classified as class 2b rural vacant land.

The tax capacity would be calculated as follows:

Class	**TMV**		**Class Rate**		**Tax Capacity**
2b	$1,100,000	x	1.00%	=	$11,000

Class 2b land may qualify as part of an agricultural homestead if it is contiguous to qualifying class 2a productive agricultural land under the same ownership.

Primary Statutory References: 273.13, subdivision 23

Agricultural Homestead 1st Tier Valuation Limits
Beginning with the 2006 assessment, the Commissioner of Revenue annually calculates and certifies the 1st tier limit for agricultural homestead property. For the 2010 assessment, the 1st tier limit is $1,140,000. Beginning with the 2011 assessment, for taxes payable in 2012, the limit will be the product of the 1st tier limit for the preceding assessment year and the ratio of the statewide average taxable market value of agricultural property per deeded acre of farmland in the preceding assessment year to the statewide average taxable marked value of agricultural property per acre of deeded farm land for the second preceding assessment year, rounded to the nearest $10,000.

Ag Homestead	**AY 2005**	**AY 2006**	**AY 2007**	**AY 2008**	**AY 2009**	**AY 2010**	**AY 2011**	**AY 2012**	**AY 2013**
1st Tier Limit (.55%)	$600,000	$690,000	$790,000	---	---	---	---	---	---
1st Tier Limit (.50%)	---	---	---	$890,000	$1,010,000	$1,140,000	$1,210,000		

Impractical to Separate

In September 2009, the department issued a bulletin to all assessors indicating that "interspersed" is commonly defined as being placed at intervals among other things; the word is synonymous with strewn or sprinkled. Therefore, small tracts of land not used for agricultural purposes that are scattered throughout the entire parcel – such as sloughs, wooded wind shelters, grass setback acres abutting ditches, grass setback acres abutting public waters, ravines, rock piles, waterways, ridges pivot points, terraces, ditches, sink/pot holes, and fence lines – are generally considered interspersed and should be classed as 2a land. The term "interspersed" implies that in most cases, the amount of interspersed acres will be a small amount in relation to the total acreage for that parcel.

In 2009, the Legislature also added to the list of examples of what should be considered impractical to separate by including "land subject to a setback requirement." This is understood to be any land prohibited by local requirements/ordinances from being used for agricultural purposes (i.e. setbacks from feedlots, wind turbines, or water frontage, etc.). This land should generally be considered impractical to separate and should be classed as 2a land because the setback prohibits agricultural use.

This legislative language is consistent with language the department developed in 2008 with regard to lakeshore situations. At that time, the department issued the following policy statement:

> "*In most cases according to the DNR, in shore land districts, agricultural areas adjacent to lakes, rivers, and streams a buffer strip of permanent vegetation that is at least 50' wide is required. In the real world, these buffer strips will vary in width based on the topography and pre-existing natural vegetation. To compensate for this and avoid penalizing farms that demonstrate good conservation practices we have developed the following policy regarding lands abutting lakeshore, rivers, and streams.*
>
> *If 50% or more of a contiguous land mass which lies within 400' of the Ordinary High Water Line is in agricultural production, the entire land mass within the 400' will be considered 2a and eligible for consideration for GA.*
>
> *If less than 50% of that land is in agricultural production, only the land actually in production shall be classed as 2a. The nonproductive land should be classified as 2b and therefore ineligible for green acres.*
>
> *If local zoning or shore land ordinances require a lot depth greater than 400' for development, the land area used to calculate the percentage of land in agricultural production shall be extended from the 400' mark to that local depth standard. The 400' delineation should be used in situations where the state or local requirement is less than 400' to provide as much consistency as possible.*
>
> *This policy will allow for substantial irregularities in the shape of the buffer strip yet require the strip to "average out" to 200' or less to qualify as 2a."*

Finally, the Legislature directed assessors to consider whether land would be "unlikely to be able to be sold separately" from the rest of the property. This factor should be given considerably less weight than the other factors in the determination of impractical to separate. A very literal reading of this language could prevent the vast majority of rural vacant lands from being separated as 2b land because of market evidence. This was not the intent of the legislation.

The general rule is contiguous class 2b land masses, 10 acres or more in size, should be considered practical to separate from 2a land, while contiguous land masses less than 10 acres in size should be considered impractical to separate. There can, and will likely be, exceptions to this rule.

Applying the 10-Acre Rule for "Impractical to Separate"

Assessors should be able to easily apply the 10-acre rule in the majority of situations. The contiguous acreage of the non-productive land that has been (or is being identified is first considered. This is land that is not tilled, actively grazed, or mowed for hay.

- If this land mass is 10 acres or more, the assessor would separate it from the class 2a land and classify it as class 2b rural vacant land. It would not be eligible for Green Acres. If the owner applies and meets the other requirements, the 2b land may be eligible for the Rural Preserve Program.
- If this land mass is less than 10 acres, you would not separate it from the class 2a productive land since it would be considered "impractical to separate," and it would be classified as class 2a. It would be eligible for Green Acres (if all other requirements are met).

Exceptions to the 10-Acre Rule for "Impractical to Separate"

As stated earlier the 10-acre rule for "impractical to separate" should work in the majority of situations. However, one rule can only rarely fit all circumstances, and that is the case when determining the classification of land in Minnesota. The state and its lands are too diverse. To account for this diversity and allow for professional judgment and common sense of assessors, the Department of Revenue has developed a list of factors (see below) that assessors should consider if they are justifying a case where the 10-acre rule for "impractical to separate" has not been applied.

Counties should create a policy as to how they will use these factors and how they will document the decisions and rationale used in applying the factors. This policy should be consistent for the county and similar to what is being done in the region. The department's regional representatives can help to coordinate these policies. These factors should help to achieve consistency because assessors will be working from the same set of considerations to determine what is impractical to separate.

Factors for Separating Class 2b Lands

The 10-acre rule should usually provide sufficient guidance for assessors trying to determine whether to separate class 2b lands, but there will obviously be some exceptions.

In cases where the 10-acre rule does not provide sufficient guidance, assessors should consider and utilize the following factors in determining what is practical or impractical to separate:

1. How is "interspersed" a factor?
    a. Size (acreage)/predominance of the class 2b land to the size of the overall parcel
    b. Characteristics (shape, edges, contours, topography) of the 2a and 2b land
    c. Location of the 2b land – in relation to parcel, to class 2a land, to other 2b land

2. How are alternate uses to the land a factor?
    a. Converting the lands to agricultural use
        i. Is it easy/feasible to till the land?
        ii. Is it possible, or impossible?
        iii. For what reason is any land that could be farmed nor being farmed (i.e. is it physically impossible to get machinery there, etc.)?
        iv. Are there economic, legal, or zoning considerations preventing farming the land?

3. How are setback requirements a factor?
    a. Are there setback requirements that prevent farming the land?
        i. What is the size of setback or amount of land required to be set aside?

4. How is "likely to be sold separately" a factor? Remember this factor is given less weight than the others. It should not be the only factor used in making determinations.
    a. Local market considerations –
        i. Has this land sold separately in the past? Is it accessible if sold? Is it usable if sold?
        ii. Instead of selling, are hunting rights to this type of land typically leased?
    b. Does the size, shape, or location of this land result in an unusual land mass for sale or to split?

The following examples illustrate potential exceptions to the 10-acre rule for "impractical to separate" and how to use the above factors in making that determination.

- *Example where less than 10 acres may be considered practical to separate*. A tract of land with a 3 acre wooded area (not used agriculturally) borders tilled land. Other similar wooded land has been split off as residential sites in the past. The 3 acres are less than the 10-acre rule, but it is feasible and legal to split off for residential development, the characteristics of this land (it is a contiguous mass and shaped/located for a residential site), and there is also a history of this type of sale. The 3 acres should be separated and classed according to use, but are not considered class 2a.
- *Example where more than 10 acres may be considered impractical to separate*. An 80-acre parcel of mostly tilled lands includes a strip of land running next to a waterway. This land cannot be tilled because of setback requirements and the topography of the land. It totals 14

acres, which exceeds the 10-acre rule, but it should be considered impractical to separate because of the setback requirements and the fact that the topography of this land makes it not possible to be used for agricultural purposes. The 14 acres should be classified as 2a land.

- *Example where not being "interspersed" may be considered practical to separate.* A 25-acre parcel has 10 acres being tilled and 15 acres not being used for agricultural production. Some of these 15 acres are in contiguous land masses that are larger in size, and others are in one- or two-acre groupings. Because these 15 acres are not a small amount in relation to the total acreage for that parcel, they should not be considered interspersed. The 15 acres should be classified as class 2b land.
- *Example where being "interspersed" may be considered impractical to separate*. An 80-acre parcel has 65 acres being tilled and 15 acres not being used for agricultural production. Some of these 15 acres are in contiguous land masses (all less than 10 acres), but others are in one or two acre groupings. Because these 15 acres are scattered and are a small amount in relation to the total acreage for that parcel they should be considered interspersed, the 15 acres should be classified as class 2a land.
- *Example where acres of certain types of nonproductive land may be considered impractical to separate while other types may be considered practical to separate*. A 40-acre parcel has a 10-acre area of woods not used productively in one corner, a 9-acre ravine that cannot be used productively due to the slope running through its center, and 21 acres being pastured. While there are more than 10 total non-productive acres on this parcel, not all necessarily should be considered practical to separate. The 10-acre woods which are feasible to be split and are in a land mass that is conducive to other uses should be considered practical to separate and be classified according to use (likely class 2b). However, the 9-acre ravine cannot be farmed because of topography and is specifically listed in the statute. It should be considered "impractical to separate" and classified as 2a land (if the ravine was more than 10 acres, the assessor would need to work through the factors to see if it should be an exception to the impractical to separate rule).

<u>Additional Comments on "Impractical to Separate"</u>
Statute lists certain features or types of land that are not physically possible to farm and/or that may be an integral part of the farm. This includes sloughs, wooded wind shelters, acreage abutting ditches, ravines, rock piles, land subject to setback requirement, waterways, ridges, pivot points, terraces, sink/pot holes, and fence lines. When these lands are interspersed with class 2a land, they should not be included in the acreage counts when using the 10-acre rule. Such lands would be impractical to separate and should be classified as 2a land.

Other land that the owner may be choosing not to use agriculturally, but that is not an integral part of the farm, or that is not interspersed with class 2a land should be counted under the 10-acre rule. Classification of such land would need to be determined using the above criteria. An example of this would be food plots left for wildlife. This is a choice the owner makes, and the land would be considered practical to separate and not considered class 2a land.

Class 2a eligibility cannot be created due to lands being considered "impractical to separate" and therefore being included as class 2a land. The property must first have at least 10 acres used for agricultural production before having land included that is "impractical to separate." Similarly, Green Acres eligibility should not be created due to lands being considered "impractical to separate" and therefore being classified as class 2a land. Parcels cannot be eligible for Green Acres if they do not have at least 10 acres used for agricultural purposes to produce an agricultural product for sale.

Split-Classifying Agricultural Property

The first step in classifying property is to identify the acreage that is used for productive agricultural purposes as defined in statute and therefore classified as 2a land. Then assessors should identify the acreage that is used for a different and separate use. If there is no separate use, then the property is classified as class 2a for the productive lands and class 2b for the nonproductive lands, and there is a potential for an agricultural homestead.

If there is an identifiable separate use, then the property is split-classified. In the department's opinion, there are five split-classification options, each dependent on the number of acres in agricultural production (therefore class 2a land). Each option has homestead eligibility implications.

1. If there are at least 10 contiguous acres used for agricultural purposes, those acres are classified as 2a land. The remainder of the land is classified according to its identifiable separate use(s) – potentially class 2b rural vacant lands, class 3a commercial, etc. The class 2a and 2b portions of the property may be eligible for homestead.

Option (2) through (5) apply if there are less than 10 contiguous acres used for agricultural purposes (except in situations covered by the intensive or exclusive provisions in statute or other rare circumstances laid out in this section). If there are less than 10 contiguous acres in agricultural production, no acres will be classified as 2a land and the property is not eligible for agricultural homestead on its own.

2. If the parcel is less than 20 acres in size, unplatted, rural in character, and is not improved with a structure (unless the structure is minor and ancillary[1]), the entire property is classified as 2b rural vacant land. The property on its own is not eligible for any type of homestead. (It could be linked to an agricultural homestead if the parcel is contiguous to class 2a land under the same ownership.)

3. If the parcel is less than 20 acres in size and is improved with a structure (other than a minor or ancillary structure), the property is classified according to the use of the structure. If the

[1] *The department has defined "minor, ancillary structures" as sheds or other primitive structures, the aggregate size of which are less than 300 square feet that add minimal value and are not used residentially; provided that the occasional overnight use for hunting or other outdoor activities shall not preclude a structure from being considered a minor, ancillary structure.*

structure is a residence, the property may be eligible for a residential homestead.

4. If the parcel is 20 or more acres in size and is unplatted, rural in character, and not improved with a structure (unless the structure is minor and ancillary), the entire property is classified as 2b rural vacant land. The property on its own is not eligible for any type of homestead. (It could be linked to an agricultural homestead if the parcel is contiguous to class 2a land under the same ownership.)

5. If the parcel is 20 or more acres in size and is improved with a structure (other than a minor or ancillary structure), the structure and the immediately surrounding 10 acres are classified according to the use of the structure. If the structure is a residence, that portion of the property may be eligible for a residential homestead. The remainder of the property is classified as 2b rural vacant land and on its own is not eligible for any type of homestead.

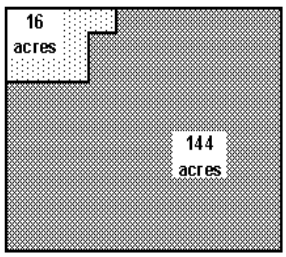
   For options (2) through (5) above, if classification as 2b is not applicable because of enrollment in class 2c Managed Forest Land or some other program, or because another classification is appropriate based on the use of the land, then the appropriate classification should be used in place of class 2b. There may also be instances where three or more different uses of the parcel are identified (for example, a house, 2b land, and commercial use). In these cases, the parcel may have multiple classifications. What this illustrates is that when there are less than 10 contiguous acres used for agricultural purposes, none of the land is classified as 2a (unless it is one of the rare circumstances laid out in this section).

The rationale for saying that no land can be classified as class 2a unless there is first at least 10 contiguous acres in production (except when the intensive or exclusive provisions in statute or other race circumstances apply) is from Minnesota Statutes, section 273.13, subdivision 23. The statute specifically states that class 2a agricultural land is "*contiguous acreage of ten acres or more used during the preceding year for agricultural purposes…*" The statute also includes very specific performance requirements (the production of an agricultural product for sale) that must be met to qualify for the 2a class. These performance requirements became significantly more important when the Legislature created the 2b class for rural vacant lands, ultimately split-classifying every parcel not solely used for agricultural production, or containing lands that are not impractical to separate.

This will likely result in instances where a parcel with some agricultural use, but less than 10 tilled acres, will not be eligible for 2a classification. The department recommends these parcels be classified according to a statutorily-allowable classification – which will likely be class 2b. While the statute prohibits class 2b land being used for agricultural purposes, the department's position is that these lands are not used for agricultural purposes because there are less than 10 acres in production. Thus class 2a would not be appropriate for these lands since they do not have an agricultural use as defined in statute. Class 2b may be appropriate if there are no structures. If there is a structure, then the classification would be based on the use of the structure. For example, a parcel with eight acres and a house would likely all be classified as residential.

Classification Determination Examples:
The following illustrate some potential split-classifications when the rural vacant land (class 2b) classification is applicable.

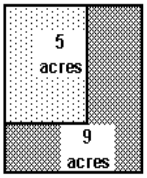
Note: these are simplified examples for illustrative purposes only. They assume the only uses are class 2b rural vacant land or residential when there is a structure on the property. They also assume these parcels are not contiguous to any other parcels under the same ownership. Changing any of these parameters will likely change the results.



Example 1
A 160 acre unimproved parcel with 16 acres being tilled, and 144 acres of woods. This property would be classified as follows:

Since the parcel has at least 10 contiguous acres used for agricultural purposes, you must classify the land according to its use. The 16 acres would be classified as 2a productive land and the 144 acres of woods would be classified as 2b rural vacant land.

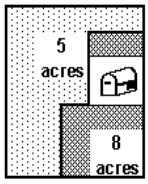
The parcel, on its own, would not be eligible for any homestead.



Example 2
A 14 acre unimproved parcel with 5 acres being tilled, and 9 acres of slough. This property would be classified as follows:

Since the parcel is less than 20 acres, is not improved with any non-minor structures, and does not have at least 10 contiguous acres used for agricultural purposes, you must classify the entire property as 2b rural vacant land.

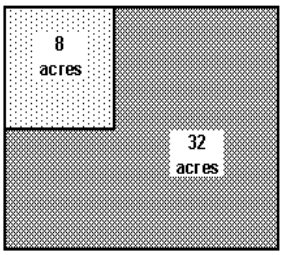
The parcel, on its own, would not be eligible for any homestead.



Example 3
A 14 acre parcel with a residence, 5 acres being tilled, and 8 acres of marsh. This property would be classified as follows:

Since the parcel is less than 20 acres, is improved with a non-minor structure, and does not have at least 10 acres used for agricultural purposes, you must classify the entire property according to the use of the structure.

The parcel would be eligible for a homestead.



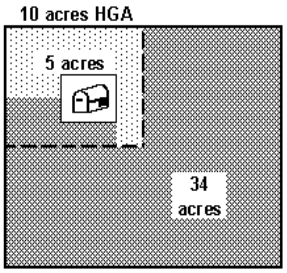
Example 4
A 40 acre unimproved parcel with 8 acres being tilled, and 32 acres of woods. This property would be classified as follows:

Since the parcel is over 20 acres, is not improved with any non-minor structures, and does not have at least 10 contiguous acres in used for agricultural purposes, you must classify the entire property as 2b rural vacant land.

The parcel, on its own, would not be eligible for any homestead.

Class 2

Example 5
A 40 acre parcel with a residence, 5 acres being tilled, and 34 acres of marsh. This property would be classified as follows:



Since the parcel is over 20 acres, contains a non-minor structure, and does not have at least 10 contiguous acres used for agricultural production, you must classify the immediately surrounding 10 acres according to the use of the structure. The remaining acres are classified as 2b rural vacant land.

The 10 acres would be eligible for a residential homestead.

Class 2c – Managed Forest Land

Class 2c property is managed forest land that would otherwise likely be classified as class 2b, but its use is restricted under a forest management plan (FMP). Class 2c land consists of no less than 20 acres and no more than 1,920 acres statewide per taxpayer. The FMP must meet the requirements of Minnesota Statutes, chapter 290C (Sustainable Forest Incentive Act program). However, class 2c land cannot simultaneously be enrolled in the Sustainable Forest Incentive Act program (SFIA). The class rate for 2c property is 0.65% of its taxable market value.

Property owners must apply to the assessor to receive the 2c classification. The appropriate application is form CR-2cMFL-08 which was developed by the Department of Revenue. The Commissioner of Natural Resources must also concur that the land is qualified for 2c classification and shall provide annual verification information. A copy of an applicant's FMP must be attached to their initial application. Property owners must follow the guidelines prescribed by the FMP if they wish to continue to receive the classification. The Department of Natural Resources (DNR) has informed us that the FMPs will eventually list the number of acres that are eligible to receive the 2c classification.

Class 2c land may not be improved with a structure other than a minor, ancillary, non-residential structure (for a description, see footnote in the previous section). Properties that are improved with a structure that is not a minor, ancillary, non-residential structure (e.g. home, cabin, commercial building, etc.) must be split-classified with at least 10 acres being assigned to and centered on the structure. It will be up to the assessor to remove the 10 acres for any structure that does not qualify as a minor, ancillary, non-residential structure. The portion of the property that includes the structure would then be classified based on the use of the structure.

If a property must be split-classified and the resulting forest land is less than 20 acres, the property is not eligible for the 2c classification. For example, if a wooded property is 25 acres in size and there is a single family dwelling that is occupied as homestead by the owner, the property would not qualify for class 2c. The reason is that, after removing 10 acres surrounding the home, only 15 acres of forest property remain, which is short of the statutory minimum of 20 acres to qualify for class 2c.

There may be instances when parcels containing forest land will have more than one use. In these circumstances, the land covered under the FMP should be split-classified as 2c and the remaining land should be classified according to its use. For example, a 360-acre parcel containing 200 acres of agricultural land and 160 acres of forest land that is covered by a FMP should be split-classified. The 200 farmed acres would be classified as 2a agricultural land and the 160 acres of forest would be classified as 2c managed forest land (assuming proper application is made and approved by the appropriate parties).

Noncontiguous forest land can qualify for the 2c classification providing it is covered under the same FMP (there must be at least 20 acres total), under the same ownership, and located on contiguous parcels.

Class 2

When determining eligible acres, follow these steps:

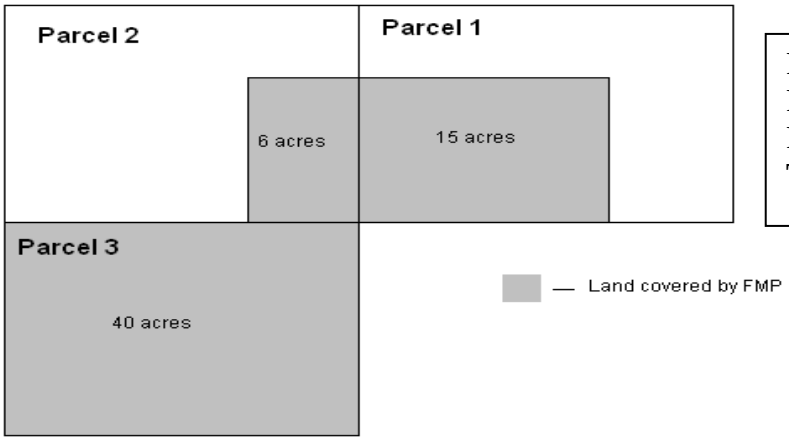
1. Determine what parcels are contiguous and under the same ownership.
2. Determine how many acres of FMP land (must be the same FMP) there are on the contiguous parcels.
3. If the FMP land adds up to at least 20 acres, all contiguous parcels and all eligible FMP land located on those parcels can qualify for the 2c classification.

Generally, any land covered under the forest management plan are "eligible acres" for the 2c classification. **However, any acres that are enrolled in SFIA do not qualify.** Some other land in the FMP might not qualify, such as open water greater than three acres in size or CRP land. The determination of eligible acres should be done on a case-by-case basis.

The Department of Revenue will provide assessors with lists of parcels that are enrolled in SFIA on an annual basis. The Department of Natural Resources will provide county assessors with annual lists of property owners who have registered FMPs in each county. In order to continue to qualify for class 2c, property owners must be listed on the annual list of registered FMPs. It will be the responsibility of the county assessor to verify that any parcels receiving the reduced classification rate for class 2c are not enrolled in SFIA.

The following examples of eligible property are included for illustration purposes. Assume all examples have the same ownership and same forest management plan.

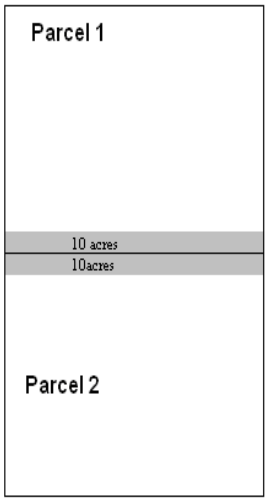
Example 1: Three contiguous parcels covered under the same forest management plan.



Parcel 1 -	15 acres in plan
Parcel 2 -	6 acres in plan
Parcel 3 -	40 acres in plan
Total acres -	**61 acres in plan**

Solution 1: Parcel 1, 2, and 3 would qualify because together they contain over 20 acres of land covered under a forest management plan, and all three parcels are contiguous. All 61 acres in the plan qualify.

Example 2: Two contiguous parcels covered under the same forest management plan.

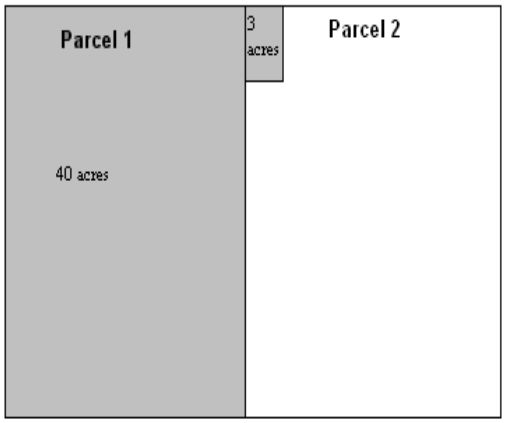


Parcel 1 -	10 acres in plan
Parcel 2 -	10 acres in plan
Total acres -	**20 acres in plan**

— Land covered by FMP

Solution 2: Both parcel 1 and 2 qualify for the 2c classification; there are 20 acres of land with an FMP and the parcels are contiguous. All 20 acres in the plan qualify.

Example 3: Two contiguous parcels covered under the same forest management plan.

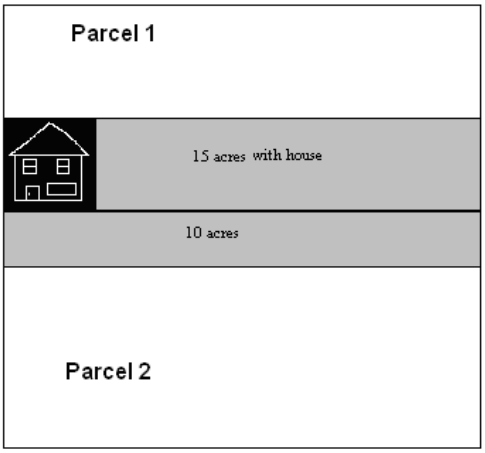


-- Land covered by FMP

Parcel 1 -	40 acres in plan
Parcel 2 -	3 acres in plan
Total acres -	**43 acres in plan**

Solution 3: Both parcel 1 and 2 qualify. There are over 20 acres of FMP land located on contiguous parcels. Even though Parcel 2 only has three acres in the plan it qualifies because it is on a contiguous parcel and has the same forest management plan.

Example 4: Two contiguous parcels covered under the same forest management plan.



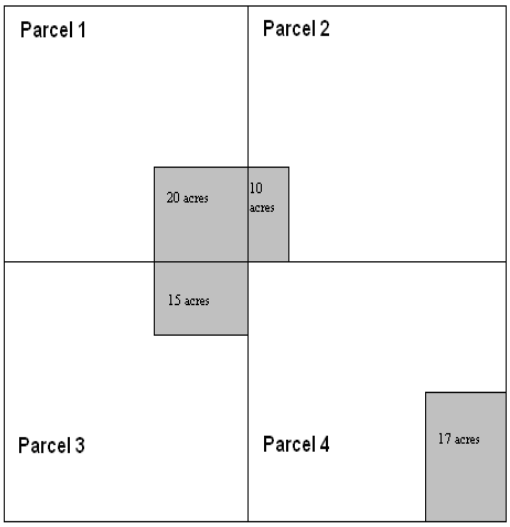
House

Land covered by FMP

Parcel 1 -	15 acres in plan (contains a structure)
Parcel 2 -	10 acres in plan
Total acres -	**25 acres in plan**

Solution 4: Neither parcel 1 or 2 would qualify for the 2c classification. 10 acres must be removed and assigned to the structure, leaving only 15 acres eligible for the 2c classification (5 acres on parcel 1 and 10 acres on parcel 2). There must be at least 20 acres eligible for the 2c classification in order to qualify. Zero acres in the forest management plan would qualify for class 2c.

Example 5: Four contiguous parcels covered under the same forest management plan.

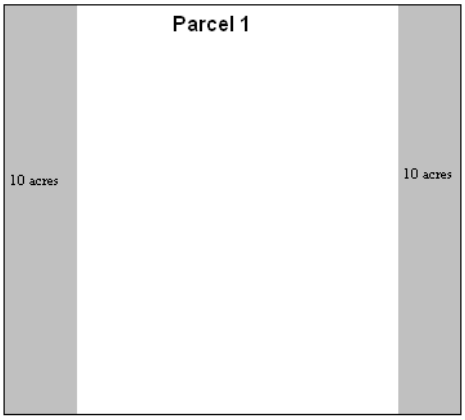


Land covered by FMP

Parcel 1-	20 acres in plan
Parcel 2 -	10 acres in plan
Parcel 3 -	15 acres in plan
Parcel 4 -	17 acres in plan
Total acres -	**62 acres in plan**

Solution 5: All parcels (1,2,3, and 4) would qualify for the 2c classification. All four parcels are contiguous. The sum of the acres covered under a FMP is at least 20. Even though the FMP land on parcel four is not contiguous to the other FMP land, the parcel is contiguous to the other parcels (and has the same FMP), so all 62 acres can qualify.

Example 6: One parcel with forest management plan



Parcel 1- 20 acres in plan – *(two noncontiguous 10 acre tracts)*

Total acres - 20 acres in plan

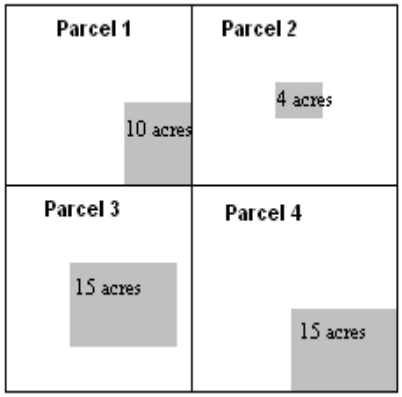
Land covered by FMP

Solution 6: Parcel 1 would qualify. The parcel contains 20 acres of land with an FMP. The FMP land is not contiguous, but it is on the same parcel (or contiguous parcels) and is at least 20 acres. All 20 acres in the plan qualify.

Example 7: Four contiguous parcels covered under the same forest management plan. One non-contiguous parcel with same forest management plan.

-- Land covered by FMP

Parcel 1 -	10 acres in plan
Parcel 2 -	4 acres in plan
Parcel 3 -	15 acres in plan
Parcel 4 -	15 acres in plan
Parcel 5 -	14 acres in plan
Total acres -	**58 acres in plan**



Solution 7: Parcels 1, 2, 3, and 4 would qualify. Parcel 5 would not qualify. Parcel 5 is not contiguous to the other parcels and does not contain 20 acres of FMP land. If parcel 5 had 20 acres of FMP land, it could qualify on its own. 44 acres in the plan qualify.

Frequently Asked Questions

1. **Must a property be classified as class 2b rural vacant land prior to being classified as class 2c managed forest land?**
   Answer: No. Land may have been classified in any number of ways before being enrolled in class 2c. For example, a qualifying tract of land that is located on a lake may have been previously classified as class 4c seasonal residential recreational – non-commercial property. If the owner obtains a FMP, follows its provisions and makes proper application to the assessor, that property may qualify for class 2c.

2. **Can class 2c property qualify for homestead?**
   Answer: We are not aware of a circumstance where class 2c property could qualify for homestead. If there is a structure on a property that is covered by a FMP, and that structure is not a minor, ancillary structure, that portion of the property cannot qualify for class 2c. Rather, 10 acres with the structure must be split and classified according to its use. If the property qualified for homestead, that portion of the property should be classified as class 1a. The remaining property may qualify for class 2c.

3. **If a portion of a property is farmed, can it be eligible for class 2c?**
   Answer: It is possible for a parcel of property to be partially-farmed and be eligible for the 2c classification. Simply farming a portion of a property does not disqualify the remaining portion of the property from being eligible for class 2c. However, any land that is used for agricultural purposes cannot receive the 2c classification. For example, a property owner owns an 80-acre parcel, 30 of which are farmed and 50 of which are wooded. In this case, the 50 acres may qualify for 2c if all other requirements are met. The 30 acres that are farmed are not eligible. *Please be aware that the property in question may benefit more by having the forest land classified as class 2b rural vacant land if it is contiguous to the 2a productive land under the same ownership and the owner meets the requirements for an agricultural homestead. Class 2c property cannot be homesteaded.*

4. **What is a Minnesota Forest Stewardship Plan?**
   Answer: The terms "Minnesota Forest Stewardship Plan" and "forest management plan (FMP)" are interchangeable. The DNR administers a program called the Forest Stewardship Program to promote sustainable forestry. Participants in this program get a "Forest Stewardship Plan" or FMP. They both reference the same thing which is provided by either the DNR or DNR-approved plan writers with the purpose of maintaining the sustainability of forested land.

5. **Does the FMP follow the owner upon sale or is it tied to the owner that enrolled the property?**
   Answer: The FMP is tied to the owner of the land. The DNR has informed us that they would like the FMP to be updated to reflect current ownership. Therefore, if a property is sold or transferred, the FMP must be updated and a new application must be submitted in

order for the new owner to qualify for the 2c classification. The 2c classification should be removed for the next assessment year if the new owner has not submitted a new application containing an updated FMP by that time. *We strongly recommend that assessors send a new application or letter to the new owners informing them that their newly purchased property will only remain classified as class 2c property if they update their FMP and submit a new application.*

6. **Can a parcel of property have both class 2c acres and SFIA acres?**
   Answer: It is possible for a parcel of property to have both 2c acreage and SFIA acreage but the acres cannot overlap. Property covered under a forest management plan can either be in the SFIA program, or be classified as class 2c. However, the actual acres must qualify for each program (SFIA or 2c) on their own and follow the appropriate guidelines. The acreage that will be included in each program must be clearly delineated in the FMP and SFIA covenant.

Tax Capacity Example:
Woody owns a 40-acre tract of property in St. Louis County. There is no residence on the parcel and Woody has made a timely application for class 2c. The DNR has certified that his property meets the requirements for the SFIA program but it is not enrolled in the SFIA program. There is no other use of the property. The parcel is valued at $40,000. The property should be classified as class 2c managed forest land.

The tax capacity is calculated as follows:

Class	**TMV**		**Class Rate**		**Tax Capacity**
2c	$40,000	x	0.65%	=	$260
					$260 **Total Tax Capacity**

Primary Statutory References: 273.13, subdivision 23

Class 2d – Private Airport

Class 2d property is an airport landing area or public access area of a privately owned public-use airport. To qualify for this classification, a privately owned public-use airport must be licensed as a public airport under Minnesota Statutes, section 360.018.

Landing area means that part of a privately owned public-use airport properly cleared, regularly maintained, and made available to the public for use by aircraft and includes runways, taxiways, aprons, and sites upon which landing or navigational aids are situated. A landing area also includes land underlying both the primary surface and the approach surfaces that comply with all of the following:

- The land is properly cleared and regularly maintained for the primary purposes of the landing, taking off, and taxiing of aircraft; but that portion of the land that contains facilities for servicing, repair, or maintenance of aircraft is not included as a landing area.
- The land is part of the airport property.
- The land is not used for commercial or residential purposes.

The land contained in the landing area must be described and certified by the Commissioner of Transportation. This certification is effective until it is modified or until the airport or landing area no longer meets these requirements.

Public access area means property used as an aircraft parking ramp, apron, or storage hangar, or an arrival and departure building in connection with the airport.

Class 2d has a classification rate of 1.00%.

Primary Statutory References: 273.13, subdivision 23

Class 2e – Land with a Commercial Aggregate Deposit

Minnesota Laws 2008, chapter 366, created a new classification of property, Commercial Aggregate Deposit (class 2e) and a new property tax program, the Aggregate Resource Preservation Property Tax Program. Property classified as 2e may be eligible for valuation deferment under the Aggregate Resource Preservation Property Tax Law. The Aggregate Resource Preservation Property Tax Law is discussed in greater detail in Module 2.

Counties may choose to opt-out of the Aggregate Resource Prevention program; by doing so, those counties also opt-out of the 2e classification). The process and requirements for opting-out are described on the next page under County Opt-Out Provisions.

Class 2e land is land with a commercial aggregate deposit that is <u>not actively being mined</u> and that is not otherwise classified as class 2a or 2b.

A ***commercial aggregate deposit*** is a deposit that will yield crushed stone or sand and gravel that is suitable for use as a construction aggregate.

Actively mining means the removal of top soil and overburden in preparation for excavation or the actual excavation of the commercial deposit.

To qualify for the 2e classification, the property must be at least 10 contiguous acres in size and the owner of the property must record an affidavit with the county that contains:

- a legal description of the property;
- a disclosure that the property contains a commercial aggregate deposit that is not actively being mined but is present on the entire parcel enrolled;
- documentation that the conditional use under the county or local zoning ordinance of the property is for mining; and
- documentation that a permit has been issued by the local unit of government or that the mining activity is allowed under local ordinance. The disclosure must include a statement from a registered professional geologist, engineer, or soil scientist delineating the deposit and certifying that it is a commercial aggregate deposit.

When any portion of class 2e land begins to be actively mined (provided that the minimum acreage change is 5 acres even though they all may not begin actual mining), the owner must file a supplemental affidavit within 60 days from the first day any aggregate is removed indicating the number of acres of the property that is being actively mined. These acres will then be classified and valued as commercial property for the next assessment. Any of those acres also enrolled in the Aggregate Resource Preservation Program will no longer be eligible for that program.

Copies of both the original affidavit and all supplemental affidavits must be filed with the county assessor, as well as the local zoning administrator and the Department of Natural Resources' Division of Land and Minerals.

Class 2e property has a class rate of 1.00%.

County Opt-Out Provisions

Every county has the option to opt-out of the Aggregate Resource Preservation program, and in so doing will also have chosen to opt out of the 2e classification provision. At any time before June 1, 2010, a county board may terminate the Aggregate Resource Preservation Property Tax Law within the county by resolution following notice and public hearing. The county has 60 days from receipt of the first application for enrollment under this section to notify the applicant and any subsequent applicants of the county's intent to begin the process of termination of this program in the county.

The county must act on the termination within six months. Upon termination by a vote of the county board, all applications received prior to and during notification of intent to terminate shall be deemed void. If the county board does not act on the termination within six months of notification, all applications for deferment shall be deemed eligible for consideration.

Following the initial 60-day grace period, a termination applies prospectively and does not affect property already enrolled in the program prior to the termination date. A county may reauthorize application of the program by resolution of the county board revoking the termination.

Primary Statutory References: 273.13, subdivision 23

Class 3

Class 3a – Commercial-Industrial and Public Utility, Public Utility Machinery, Real Property Owned in Fee by a Utility for Transmission Line Right-of-Way, Transit Zone

Commercial, industrial, and utility real and personal property is class 3a. For classification purposes, parcels are considered to be contiguous even if they are separated by a road, street, waterway, or other similar intervening type of property. Connections between parcels that consist of power lines or pipelines do not cause parcels to be contiguous.

The class rate of 3a property is generally 1.50% for the first $150,000 in market value, and 2.00% thereafter, with some exceptions as described below:

1. Each parcel of commercial, industrial, or utility real property has a class rate of 1.50% for the first tier (up to $150,000) of market value and 2.00% for the remaining market value. This first tier is known as the "***preferred commercial***" classification.

   Property owners who have contiguous parcels of property that constitute separate businesses that may qualify for the first-tier class rate shall notify the assessor by **July 1** of the assessment year to be eligible for the current assessment year for taxes payable the following year.

   The entire market value of real property owned in fee by a utility for transmission line right-of-way has a class rate of 2.00%.

2. All railroad operating property has a class rate of 1.50% for the first tier (up to $150,000) of market value and 2.00% for the remaining market value. In addition, the following property also has a class rate of 1.50% for the first tier (up to $150,000) of market value and 2.00% of the remaining market value:
   a. All property that is part of an electric generation, transmission or distribution system;
   b. All property that is part of a pipeline system transporting or distributing water, gas, crude oil, or petroleum products; and
   c. All property that is not described in number three below.

   In the case of multiple parcels in one county that are owned by one person or entity, only <u>one</u> first tier amount is eligible for the reduced rate.

3. The entire market value of the following personal property has a class rate of 2.00%:
   a. Tools, implements and machinery of an electric generation, transmission, or distribution system;
   b. Tools, implements and machinery of a pipeline system transporting or distributing water, gas, crude oil, or petroleum products; or
   c. The mains and pipes used in the distribution of steam or hot or chilled water for heating or cooling buildings.

Class 3a property is also subject to the state general tax. However, electric generation attached machinery and airport property that is exempt from city and school district property taxes under Minnesota Statutes, section 473.625, is exempt from the state general property tax (MSP International Airport and St. Paul's Holman Field are exempt under this provision).

Primary Statutory References: 273.13, subdivision 4; 473.625

Tax Capacity Example:
A restaurant (class 3a commercial) has a taxable market value of $500,000. The property qualifies for the preferred commercial classification. The tax capacity is calculated as follows:

Class	TMV		Class Rate		Tax Capacity
3a	$150,000	x	1.5%	=	$2,250
3a	$350,000	x	2.0%	=	$7,000
					$9,250 **Total Tax Capacity**

**Class 3a property is also subject to the state general tax. For the purposes of this example, we are only calculating the net tax capacity.*

Class 3b – Employment Property

Class 3b property is defined as employment property in Minnesota Statutes, section 469.166, subdivision 10, which states in part that:

"(a)...'employment property' means taxable property, excluding lands but including buildings, structures, fixtures, and improvements that satisfy each of the following conditions:

(1) the property is located within an enterprise zone designated according to Minnesota Statutes, section 469.167; and

(2) the property is commercial or industrial property except:

i. a facility the primary purpose of which is one of the following: retail food and beverage services, automobile sales or services, or the provision of recreation or entertainment, or a private or commercial golf course, country club, massage parlor, tennis club, skating facility including roller skating, skateboard, or ice skating, racquet sports facility, including any handball or racquetball court, hot tub facility, suntan facility, or racetrack;

ii. property of a public utility;

iii. property used in the operation of a financial institution

iv. property owned by a fraternal or veterans' organization; or

v. property of a business operating under a franchise agreement that requires the business to be located within the state;

except that, in an enterprise zone designated under section 469.168, subdivision 4, paragraph (a), clause (4), that is not in a city of the first class, employment property includes property used

as a retail food or beverage facility or an automobile sales or service facility, and property described in (v) except for property of a retail food or beverage facility.

(b) In the case of property located in a border city zone, 'employment property' includes land except in the case of employment property that is assessed pursuant to the first clause of the first sentence of section 273.13, subdivision 24, paragraph (b) [formerly enterprise zones].*"*

The 3b classification has very limited application. Enterprise zones as listed in clause (1) above were created to generate jobs and industry in economic hardship areas and to keep existing businesses from moving out of the state by granting income sales and property tax reductions and credits. **Enterprise zone provisions have since expired and are no longer funded.**

However, in 1998, a similar economic development program, Border City Development Zone, was created. The purpose of these zones was to encourage economic development, the revitalization of the designated areas, expansion of the tax base and economic and job creation. Businesses that conduct activity within the zone may qualify for the property tax exemption provided under Minnesota Statutes section 272.0212 (see Exempt Module for additional information), as well as a sales tax exemption. Currently, the only property qualifying for class 3b includes certain property in the Border City Development Zones located in the cities of Ortonville, Dilworth, Moorhead, and East Grand Forks.

Additional information on Border City Development Zone Administration is available in Chapter 13 of the Auditor/Treasurer Manual for Property Tax Administration.

The class rates for 3b property are the same as for class 3a: 1.50% for the first $150,000 of market value and 2.00% for remaining market value over $150,000. Class 3b property is also subject to the state general tax.

Primary Statutory References: Minnesota Statutes, section 273.13, subdivision 24; 469.166, 469.170, 469.1731-469.1735

Class 4

Class 4a – Rental Housing (4 or more units)

Class 4a is residential real estate containing four or more units and used or held for use by the owner or by the tenants or lessees of the owner as a residence for rental periods of 30 days or more, excluding property qualifying for class 4d low-income rental housing.

Class 4a also includes hospitals licensed under Minnesota Statutes, sections 144.50 to 144.56, other than hospitals exempted as public hospitals under Minnesota Statutes, section 272.02, subdivision 4, and contiguous property used for hospital purposes, without regard to whether the property has been platted or subdivided.

The market value of class 4a property has a class rate of 1.25%.

Tax Capacity Example:
A 5-unit apartment building has a taxable market value of $500,000. The tax capacity is calculated as follows:

Class	TMV		Class Rate		Tax Capacity
4a	$500,000	x	1.25%	=	$6,250
					$6,250 **Total Tax Capacity**

Class 4b

Class 4b property includes:

- class 4b(1) - residential real estate containing less than four units that does not qualify as class 4bb, other than seasonal residential recreational;
- class 4b(2) - manufactured homes not classified under any other provision;
- class 4b(3) - a dwelling, garage, and surrounding one acre of property on a non-homestead farm containing two or three units; and
- class 4b(4) - unimproved property that is classified as residential under Minnesota Statutes, section 273.13, subdivision 33 (i.e. the assessor has determined the most probable use to be residential property).

The market value of class 4b property has a class rate of 1.25%.

Tax Capacity Example:
A residential vacant lot has a taxable market value of $50,000. The tax capacity is calculated as follows:

Class	TMV		Class Rate		Tax Capacity
4b(4)	$50,000	x	1.25%	=	$625
					$625 **Total Tax Capacity**

Class 4bb

Class 4bb property includes:

- class 4bb(1) - non-homestead residential real estate containing one unit, other than seasonal residential recreational property; and
- class 4bb(2) - a single-family dwelling, garage, and surrounding one acre of property on a non-homestead farm.

Class 4bb property has the same rates as class 1a: 1.00% for the first $500,000 of market value, and 1.25% for the market value that exceeds $500,000.

Property that has been classified as seasonal residential recreational property at any time during which it has been owned by the current owner or spouse of the current owner cannot qualify for class 4bb per Minnesota Statutes, section 273.13, subdivision 25(c).

Tax Capacity Example:

Bob owns a single family home in St. Paul that has a taxable market value of $200,000. He leases the home to an unrelated party who occupies the property. The property has never been classified as class 4c(12) non-commercial SRR. The property should be classified as class 4bb(1). The tax capacity would be calculated as follows:

Class	**TMV**		**Class Rate**		**Tax Capacity**
4bb(1)	$200,000	x	1.00%	=	$2,000
					$2,000 **Total Tax Capacity**

Class 4c

Class 4c property includes classes 4c(1), 4c(2), 4c(3)(i), 4c(3)(ii), 4c(4), 4c(5)(i), 4c(5)(ii), 4c(6), 4c(7), 4c(8), 4c(9), 4c(10), 4c(11), and 4c(12).

4c(1) Seasonal Residential Recreational – commercial (resorts)

Class 4c(1)

4c(1) property is real property devoted to commercial temporary and seasonal residential occupancy for recreation purposes (resorts)for not more than 250 days in the year preceding the year of assessment. The classification is typically referred to as Seasonal Residential Recreational, or commercial SRR.

To qualify for the 4c commercial resort classification the following requirements are listed in MN Statutes, section 273.13, subdivision 25:

- The property must be devoted to temporary and seasonal residential occupancy for recreation purposes, and not devoted to commercial purposes for more than 250 days in the year preceding the year of assessment.

- The property must contain three or more rental units. A "rental unit" includes a cabin, condominium, townhouse, sleeping room, or individual camping site.

For most properties, the following requirements must be met in addition to the requirements listed above:

i. The property must provide recreational activities such as renting ice fishing houses, boats and motors, snowmobiles, downhill or cross-country ski equipment; provide marina services, launch services, or guide services; or sell bait and fishing tackle.

ii. At least 40 percent of the property's annual gross lodging receipts must be from business conducted during 90 consecutive days.

iii. Additionally, one of the following must be met:

- At least 60 percent of all paid bookings by lodging guests during the year must be for periods of at least two consecutive nights; or
- At least 20 percent of the annual gross receipts must be from charges for rental of fish houses, boats and motors, snowmobiles, downhill or cross-country ski equipment, or charges for marina services, launch services, and guide services, or the sale of bait and fishing tackle.

In 2011, a provision was added which allows the 4c(1) classification to properties in cities or townships with a populations of 2,500 or less that are located outside of the metropolitan area, if the city or township contains a portion of a state trail managed by the Department of Natural Resources. The property must not be devoted to commercial purposes for more than 250 days in the year preceding the year of the assessment; and the property must contain at least three rental units, but less than 20 rental units.

The owner has to designate which units meet the maximum 250 day use requirement and all other units are class 3a commercial. In other words, the property can be split classified. As provided in Minnesota Statutes, section 273.13, subdivision 25:

" In order for a property to qualify for classification under this clause, the owner must submit a declaration to the assessor designating the cabins or units occupied for 250 days or less in the year preceding the year of assessment by January 15 of the assessment year. Those cabins or units and a proportionate share of the land on which they are located must be designated class 4c under this clause as otherwise provided. The remainder of the cabins or units and a proportionate share of the land on which they are located will be designated as class 3a. The owner of property desiring designation as class 4c property under this

clause must provide guest registers or other records demonstrating that the units for which class 4c designation is sought were not occupied for more than 250 days in the year preceding the assessment if so requested."

The following portions of the property are not eligible for 4c(1) classification:

- Restaurant
- Bar
- Gift shop
- Conference centers or meetings rooms not directly related to SRR purposes

The portion of the property used for any of the above purposes must be classified as 3a commercial and taxed at the appropriate corresponding rate.

Commercial-use seasonal residential recreational property not used for commercial purposes has a class rate of 1.00% for the first $500,000 of market value, and 1.25% for market value exceeding $500,000. Class 4c(1) property is also subject to the state general levy at the same tiers and tax rates.

4c(2) - Qualifying Golf Course

A golf course may qualify for this classification if:

- it is open to the public on a daily fee basis. It may charge membership fees or dues, but a membership fee may not be required in order to use the property for golfing, and its green fees for golfing must be comparable for green fees typically charged by municipal courses; and
- it does not discriminate on the basis of gender, per Minnesota Statutes, section 273.112, subdivision 3, paragraph (d).

The market value of public golf courses and indoor recreational property has a class rate of 1.25%.

A structure used as a clubhouse, restaurant, or place of refreshment in conjunction with the golf course is classified as class 3a commercial property.

4c(3)(i) - Non-Profit Community Service Oriented Organization (Non-Revenue)

Class 4c(3)(i) is real property up to a maximum of three acres of land owned by a non-profit community service oriented organization; provided that the property is not used for a revenue-producing activity for more than six days in the calendar year preceding the year of assessment and that the property is not used for residential purposes on either a temporary or permanent basis.

For purposes of this classification, a "non-profit community service oriented organization" means any corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, fraternal, civic, or educational purposes, and which is exempt from federal income taxation pursuant to Section 501(c)(3), (8), (10), or (19) of the Internal Revenue Code.

"Revenue-producing activities" shall include, but not be limited to, property or that portion of the property that is used as: an on-sale intoxicating liquor or 3.2% malt liquor establishment licensed under Chapter 340A; a restaurant open to the public, bowling alley, or retail store; gambling conducted by organizations licensed under Chapter 349; an insurance business, office or other space leased or rented to a lessee or conducts a for-profit enterprise on the premises. Any portion of the property which is used for revenue-producing activities for more than six days in the calendar year preceding the year of assessment shall be assessed as class 3a commercial property, unless it meets the requirements for 4c(3)(ii) classification outlined below. The use of property for social events open exclusively to members and their guests for periods of less than 24 hours, when an admission is not charged nor any revenues are received by the organization shall not be considered a revenue-producing activity.

Class 4c(3)(i) property has a class rate of 1.50%. This class of property does not pay state general tax.

<u>Class 4c(3)(ii) - Non-Profit Community Service Oriented Organization (Donations)</u>
To qualify for this 4c(3)(ii) classification, a non-profit community service oriented organization which has revenue-producing activities for more than six days in a calendar year must make annual charitable contributions and donations in an amount that is at least equal to the property's previous year's property taxes paid (excluding state general taxes), **and** the property must be available to be used for public and community meetings or events for no charge, as appropriate to the size of the facility.

Statute does not limit how an organization raises money (charitable gambling, potluck, concerts, etc.), but it does place limitations on what charitable contributions or donations can be used for. Charitable contributions or donations must go to one or more of the approved sources identified for "lawful gambling purposes."

According to statute only 501(c)(3), (8), (10), or (19) organizations (as defined by the Internal Revenue Code) can qualify. In many instances, when statute does not specifically state something, the department is allowed some administrative flexibility. However, when something is specifically stated in statute the department does not have the authority to expand or contract what is written into the law. Therefore, only 501(c)(3), (8), (10), or (19) organizations can qualify for the 4c(3)(ii) classification.

These properties were originally classified as class 3a commercial property due to the fact that their facilities were used for revenue-producing activities for more than six days per year. To qualify for this classification, the organization must be able to provide proof of charitable donations or contributions at the request of the assessor. The organization must also provide proof of public meetings and events held on the property at the request of the assessor.

Class 4c(3)(ii) property has a classification rate of 1.50%. These properties continue to pay the state general tax. However, they will pay at the SRR rate rather than the class 3a commercial/industrial rate, pursuant to Minnesota Statutes, section 275.025, subdivision 3.

***A note on classes 4c(3)(i) and 4c(3)(ii): In some cases, it may be possible to split-classify a property owned by a qualifying non-profit organization. The following examples are the only types of classification possible on these properties:*

- *4c(3)(i) only*
- *4c(3)(ii) only*
- *4c(3)(i) and 3a split-class*
- *4c(3)(i) and 4c(3)(ii) split-class*

An equal proportion of land and buildings should be split-classed as appropriate. As you will note, it is never an option to split-classify a property as 4c(3)(ii) and 3a.

Class 4c(4) - Post-Secondary Student Housing

Class 4c(4) is post-secondary student housing of not more than one acre of land that is owned by a non-profit corporation organized under Chapter 317A and used exclusively by a student cooperative, sorority, or fraternity for on-campus housing or housing located within two miles of the border of a college campus.

The class rate for 4c(4) property is 1.00%

Class 4c(5)(i) - Manufactured Home Park

Class 4c(5)(i) properties are manufactured home parks as defined in Minnesota Statutes, section 327.14, subdivision 3, not including manufactured home park cooperatives.

The class rate for 4c(5) property is 1.25%.

Class 4c(5)(ii) – Manufactured Home Park Cooperatives

Class 4c(5)(ii) properties are manufactured home park cooperatives which are owned by a corporation or association organized under chapter 308A (cooperatives) or 308B (cooperative associations) and each person who owns a share or shares in the corporation or association is entitled to occupy a lot within the park.

The park as a whole may be eligible for "homestead treatment" which in this case means a reduced classification rate of .75%, if more than 50% of the lots in the park are occupied by shareholders in the cooperative corporation or association and a class rate of 1.00% if 50% or less are so occupied. If the park meets the requirements for homestead treatment, the residential homestead market value credit under section 273.1384 does not apply and the property taxes assessed against the park are not to be included in the determination of taxes payable for rent paid for property tax refund purposes under section 290A.03.

Class 4c(6) - Metro Non-Profit Recreational Property
Class 4c(6) is real property that is actively and exclusively donated to indoor fitness, health, social, recreational and related uses, is owned and operated by a not-for-profit corporation, and is located within the seven-county metropolitan area (counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington excluding the cities of Northfield, Hanover, Rockford, and New Prague).

Class 4c(6) indoor recreational property has a class rate of 1.25%.

Class 4c(7) - Certain Non-Commercial Aircraft Hangars (and land) Located on Leased Land
Class 4c(7) is leased or privately-owned non-commercial aircraft storage hangars that are exempt under Minnesota Statutes, section 272.02, subdivision 8 [public property used for a public purpose] (but taxed under section 272.01, subd. 2 [property leased, loaned, or otherwise made available in connection with a business conducted for profit]), and the land on which they are located provided that:

- the land is on an airport owned or operated by a city, town, county, metropolitan airports commission, or group thereof; and
- the land lease, or any ordinance or signed agreement restricting the use of the land premise, prohibits commercial activity performed at the hangar.
- Note: if the property is leased by an aviation-related business located on an airport owned or operated by a town or a city with a population under 50,000, it is exempt under section 272.01, even if that business is conducted for profit. Please see the chart in Module 5 (Exempt Property) for a full array of tax statuses.

Examples: Bernie owns an airplane hangar located on land that is owned by the airport. Ordinarily, both the land and building would be taxable to Bernie as personal property.

- If it is for Bernie's private use of his jet, it is class 4c(7).
- If it is to store carpet for Bernie's imported rug business, it is class 3a.
- If it is to repair planes, it is for an aviation-related business, and it is exempt under section 272.01, subdivision 2, paragraph (b)(2) if it is a small city airport.

If a hangar classified under this clause is sold, a bill of sale must be filed by the new owner with the assessor of the county where the property is located within 60 days of the sale.

The class rate for 4c(7) property is 1.50%.

Class 4c(8) - Certain Non-Commercial Aircraft Hangars (and land) Located on Private Land
Class 4c(8) is privately-owned non-commercial aircraft storage hangars and the land on which they are located, provided that:

- the land abuts a public airport; and
- the owner of the aircraft storage hangar provides the assessor with a signed agreement restricting the use of the premises prohibiting commercial use or activity from being performed at the hangar.

Note: The exemption provided in section 272.01, subdivision 2, paragraph (b)(2) for aviation-related businesses in towns and small cities DOES NOT apply to property leased from a private individual to conduct aviation-related business.

Examples:
If a private individual owns a hangar on their private land that abuts an airport and they lease the property to someone who repairs planes, it is still taxable to the owner of the property as class 3a commercial property.

If the private individual uses the same hangar for their own use for storage of their personal aircraft, the appropriate classification is class 4c(8).

If the owner uses the hangar to conduct a commercial business, the proper classification would be class 3a commercial.

The class rate for 4c(8) property is 1.50%.

Class 4c(9) - Bed and Breakfast (up to 5 units)
Class 4c(9) is residential real estate, a portion of which is used by the owner for homestead purposes, and that is also a place of lodging, if all of the following criteria are met:

1. rooms are provided for rent to transient guests that generally stay for periods of 14 or fewer days;
2. meals are provided to persons who rent rooms, the cost of which is incorporated in the basic room rate;
3. meals are not provided to the general public except for special events on fewer than seven days in the calendar year preceding the year of assessment; and
4. the owner is the operator of the property.

The market value subject to 4c classification under this definition is limited to five rental units. Any rental units on the property in excess of five must be valued and assessed as class 3a commercial. The portion of the property used for homestead purposes by the owner must be classified as 1a residential homestead.

The class rate for 4c(9) property has a class rate of 1.25% for up to five units. The remainder of the units are taxed at the class 3a commercial class rate.

How to calculate common areas of bed and breakfast properties:

1. Determine the total estimated market value of the parcel (land and buildings).
2. Determine the total estimated market value of the portion of the structure **exclusively** used for homestead purposes.
3. Determine the total estimated market value of the portion of the structure **exclusively** used for Bed and Breakfast purposes.
4. Add the value of the exclusively used homestead portion to the value of the exclusively used Bed and Breakfast portion.
5. Divide the portion of the residence used exclusively for homestead purposes by the sum of step (4). The result is the percentage of exclusively used portion of the house used for homestead purposes.
6. Divide the portion of the residence used exclusively for Bed and Breakfast purposes by the sum of step (4). The result is the percentage of exclusively used portion of the house used for Bed and Breakfast purposes.

(The percentages of use identified by steps (5) and (6), when properly rounded, should equal 100%.)

7. Multiply the percentage determined in step (5) by the total estimated market value of the common area. The result is the amount of common area value to be attributed to the homestead. This same calculation should be applied against the land value to determine the value of the land attributable to the homestead.
8. Multiply the percentage determined in step (6) by the total estimated market value of the common area. The result is the amount of common area value to be attributed to the Bed and Breakfast. This same calculation should be applied against the land value to determine the value of the land attributable to the Bed and Breakfast. The values (the exclusively used Bed and Breakfast portion, the exclusively used homestead portion and the common area) should add up to the total estimated market value identified in step one.

The following example illustrates how this formula works:

Total Bed and Breakfast estimated market value $600,000
Land estimated market value $100,000
Structure estimated market value $500,000

Value of structure used exclusively for homestead purposes.....$75,000
Value of structure used exclusively for B&B purposes $160,000
Total estimated market value (of exclusively used portions).....$235,000

Exclusive homestead value, divided by total value of exclusive portions:
$75,000 / $235,000 = .3191489 or 32%

Exclusive B&B value, divided by total value of exclusive portions:

$160,000 / $235,000= .680851 or 68%

Total structure value	$500,000	
	- 235,000	Value of exclusively used B&B and homestead portion
	$265,000	Value of common area

$265,000 (common area value) X 32% (homestead percentage) = $84,800

$265,000 (common area value) X 68% (B&B percentage) = $180,200

$100,000 (land value) X 32% (homestead percentage) = $32,000 homestead land value

$100,000 (land value) X 68% (B&B percentage) = $68,000 B&B land value

RECAP

Structure value used exclusively for homestead purposes.....$75,000
Common area value used for homestead purposes.....$84,800
Land value used for homestead purposes $32,000
Value of homestead portion to be classed at 1% $191,800

Structure value used exclusively for B&B purposes $160,000
Common area value used for B&B purposes.....$180,200
Land value used for B&B purposes.....$ 68,000
Value of B&B portion homestead to be classed at 1.25%.....$408,200

Total property value $600,000

Tax Capacity Calculation:

$191,800 x 1.00% = $1,918.00
$408,200 x 1.25% = $5,102.50
Total Tax Capacity $7,020.50

Important Notes:

1. New Construction – New construction items added should be included in the applicable class. For example, an addition added to the owner-occupied portion of the property to be used exclusively by the owner, should be added to the value of the owner-occupied homestead portion of the value. If items are added to the common area (e.g. a kitchen upgrade) these items should be apportioned using the method outlined in this bulletin.

2. Market Value Referendum – Class 4c(9) Bed and Breakfast up to five units is subject to market value based referendums as well as any bonding (tax-capacity based) referendums.

3. State General Levy – Only the portion of the property that exceeds 5 Bed and Breakfast units, and is thereby classified as 3a Commercial, is subject to the state general levy.

<u>4c(10) - Seasonal Restaurant on a Lake</u>
Class 4c(10) is defined as real property that is a seasonal restaurant and up to three acres of surrounding land located on a meandered lake. To qualify for 4c(10) classification, a property must have the following characteristics:

- it must **not** be devoted to commercial purposes for more than 250 days ***or*** at least 60 percent of its gross annual receipts (including alcohol sales but excluding gift shop sales) must be from business conducted during four consecutive months;
- the property owner must submit a declaration (proscribed by the Department of Revenue) annually to the assessor by February 1 to be eligible for the same assessment year; and
- the declaration information must be based on sales from the previous year (in other words, declarations received by February 1, 2009 will contain sales information from the 2008 calendar year).

If a restaurant meeting these requirements is located on a parcel which abuts a lake, and is within the 3-acre "footprint" of the lakeshore, the property shall be considered eligible for the 4c(10) classification. Seasonal restaurants on a lake that qualify for the 4c(10) classification will **not** be subject to the state general tax.

The class rate for 4c(10) property is 1.25%.

4c(11) – Marinas

Class 4c(11) property refers to lakeshore and riparian property and adjacent land, not to exceed six acres, that is used as a marina and meets the following criteria:

- must include public water-access to the marina by means of an access ramp or other facility (such as a boat crane) that is either located on the property of the marina or at a publicly owned site that directly abuts the property of the marina;
- the owner must make annual application and declaration to the assessor;
- the classification is limited to no more than 800' of lakeshore; and
- buildings that are used in conjunction with the marina for marina services such as food and beverage services, fuel, boat repairs, or the sale of bait or fishing tackle, must be classified as class 3a commercial property.

To clarify, the following uses/services do not constitute public water-access if these are the only uses/services the marina offers:

1. **Leased boat slips:** Boat slips which are leased to individuals for their own personal use do not constitute public access. When a person leases a boat slip that person becomes a member of the marina and is granted access to the lake/river which is not made available to someone who does not or cannot lease a boat slip.
2. **Boat rentals:** Providing boat rentals does not constitute public access.
3. **Fishing:** Allowing fishing from docks/shore does not constitute public access.
4. **Temporary docking:** Some resorts and restaurants allow boaters access from the water to temporarily dock their boats in order to dine at the resort/restaurant. This does not constitute public access.

The services listed above are provided by many marinas but do not constitute public water-access. According to the law, providing public access to a lake or river means that a marina provides boat launch services, via a ramp or crane, to any person who wishes to launch a boat. A property cannot receive the 4c(11) classification if it does not provide launch services via a public access ramp/crane (or directly abuts a publicly-owned access site to a lake or river).

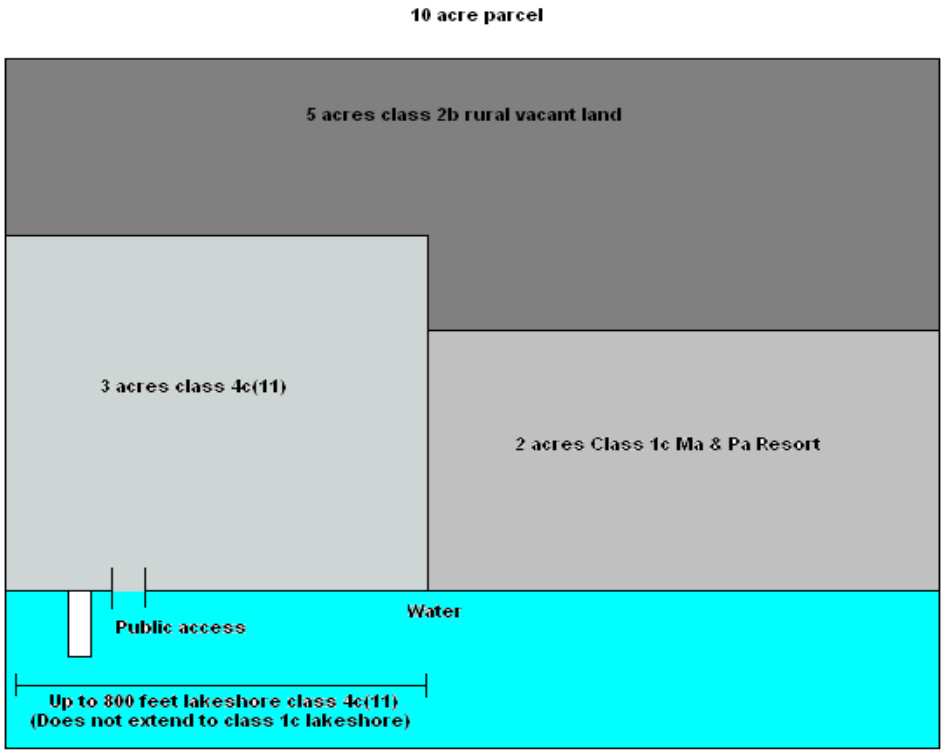
A reasonable, non-restrictive fee may be charged for launch services. The fee is charged to launch a boat and provide upkeep of the launch/landing area; the fee does not make the person a member of a club or group with access to services unavailable to the general public. A note on "reasonable fees" for public access – the law only requires that the marina be made accessible to the public. However, most marinas charge a fee for boat launch services. Therefore, it is the department's opinion that as long as the fee charged is not prohibitive for the market, it would not preclude a marina from qualifying for this classification. For example, a $30 launch fee in Lake of the Woods County might be prohibitive to public access, while a $30 launch fee for Lake Minnetonka might be more appropriate for that market. It is the department's opinion that assessors are in the best position to determine whether the launch fees are excessive for their local markets.

If the marina does, in fact, allow public access via a ramp or crane, the 4c(11) classification may be applied to up to 800 feet of lakeshore and up to 6 acres of property that are used for marina purposes, which would include property used for leased boat slips, boat rentals, etc. **The marina must provide public access via a ramp or crane (or directly abuts a publicly-owned access site to a lake or river) before the 4c(11) class can be applied to any property used for leased boat slips, boat rentals, etc.** The classification cannot be applied to property that is not being used for marina purposes, such as vacant land, woods, cabins, etc. For example, 3 acres of woods, with no discernable use, but adjacent to the marina, should not receive class 4c(11).

The 4c(11) classification is applicable to land only and cannot be applied to any structures. The class rate for class 4c(11) property is 1.00% for the first $500,000 of market value and 1.25% for the remainder. Only the portions of property allowing public access are eligible to receive this classification.

EXAMPLE 1:

A ten-acre parcel contains a marina with public access, resort property, and five acres of woods that are vacant. The portion of the property used for marina purposes takes up 3 acres. Only the land used for marina purposes can receive the 4c(11) classification.

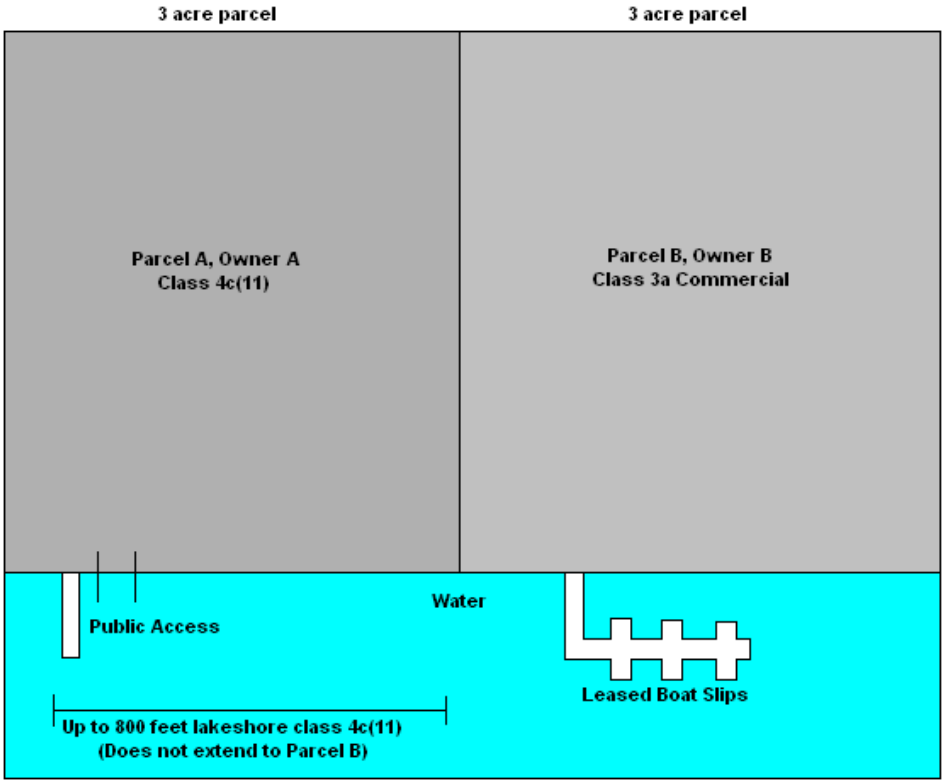


EXAMPLE 2:

Two separate 3-acre parcels are owned by different entities. Parcel A contains a marina that has a public access boat ramp. Parcel B contains a marina that is used for privately leased boat slips and does not offer public access.

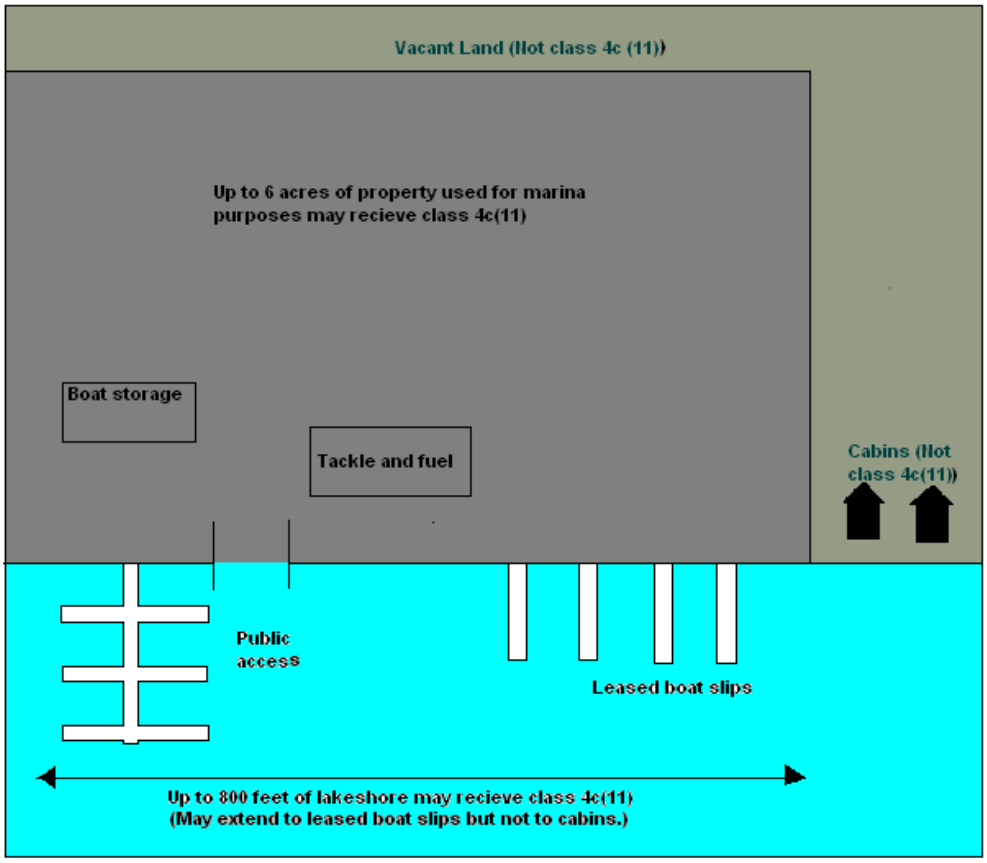
Parcel A would qualify for class 4c(11) on up to 6 acres of land that is used for marina purposes.

Parcel B would not qualify for class 4c(11) because it does not offer public access



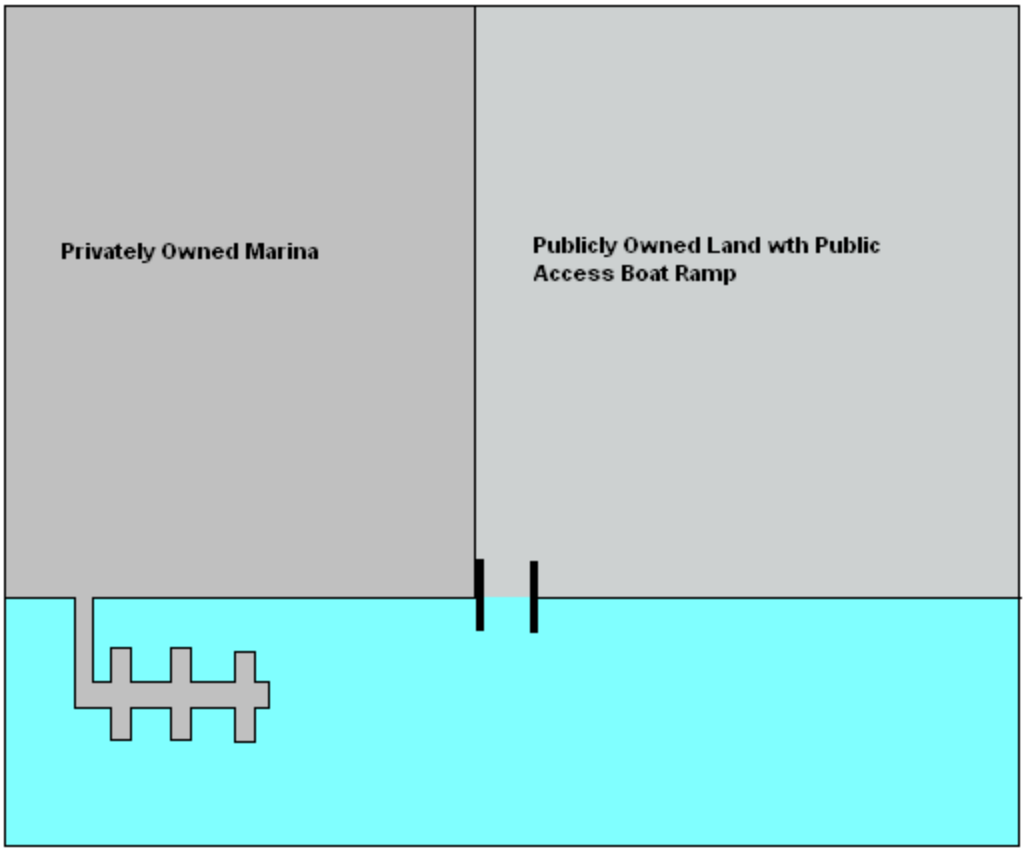
EXAMPLE 3:

The parcel contains a marina with public access and leased boat slips, a resort with rentable cabins, and some rural vacant land. Because the marina offers public access, the 4c(11) classification can be applied to up to 6 acres of land being used for marina purposes, which would include the area and lakeshore used for leased boat slips.



EXAMPLE 4:

This marina could receive the 4c(11) classification because the property directly abuts publicly owned land that contains a public access boat ramp. The 4c(11) classification can be applied to up to 6 acres of land being used for marina purposes, which would include the area and lakeshore used for leased boat slips.



Class 4

4c(12) -- Non-Commercial Seasonal Residential Recreational (cabins)

Non-commercial seasonal residential recreational property, e.g. cabins, is real and personal property devoted to non-commercial temporary and seasonal residential occupancy for recreation purposes.

Non-commercial seasonal residential recreation property (cabins) has a class rate of 1.00% for the first $76,000 of market value, 1.00% for market value exceeding $76,000 up to $500,000, and 1.25% for market value exceeding $500,000. Non-commercial SRR property is also subject to the state general levy at 0.40% for the first $76,000 of market value, 1.00% on market value exceeding $76,000 up to $500,000, and 1.25% on market value exceeding $500,000.

Class 4d – Qualifying Low Income Rental Property

Class 4d is low-income rental housing that has been certified to the assessor by the Minnesota Housing Finance Agency (MHFA). Low-income rental property is entitled to valuation and classification as 4d property if at least 20 percent of the units in the rental housing property meet any of the following qualifications:

- the units are subject to a housing assistance payments contract under section 8 of the United States Housing Act of 1937 as amended;
- the units are rent-restricted and income-restricted units of a qualified low-income housing project receiving tax credits under section 42(g) of the Internal Revenue Code of 1986 as amended;
- the units are financed by the Rural Housing Service of the United States Department of Agriculture and receive payments under the rental assistance program pursuant to section 521(a) of the Housing Act of 1949 as amended; or
- the units are subject to rent and income restrictions under the terms of financial assistance provided to the rental housing property by the federal government, the State of Minnesota, or a local unit of government as evidenced by a document recorded against the property.

The restrictions must require assisted units to be occupied by residents whose household income at the time of initial occupancy does not exceed 60 percent of the greater area or state median income, adjusted for family size, as determined by the United States Department of Housing and Urban Development. The restriction must also require the rents for assisted units not to exceed 30 percent of 60 percent of the greater of area or state median income, adjusted for family size, as determined by the United States Department of Housing and Urban Development, pursuant to Minnesota Statutes, section 273.128, subdivision 1.

Application under this section must be filed my March 31 of the levy year, or at a later date if the Housing Finance Agency deems practicable. The application must be filed with MHFA. It must contain the property tax identification number and evidence that the property meets the requirements for 4d classification. MHFA may charge an application fee approximately equal to the costs of processing and reviewing the applications but not to exceed $10 per unit pursuant to Minnesota Statutes, section 273.128, subdivision 2.

By June 1 of each assessment year, MHFA must certify to the appropriate county or city assessors the specific properties that are qualified for this classification and the number of units in the building that qualify.

If only a portion of the units qualify for 4d classification, only the proportion of qualifying units to the total number of units in the building qualify for 4d classification. The remaining portion of the buildings should be classified by the assessor based on use (typically class 4a apartments). Class 4d also includes the same proportion of land as the qualifying low income rental housing units are to the

total units of the building. For all properties qualifying for class 4d, the market value determined by the assessor must be based on the normal approach to value using normal unrestricted rents.

The class rate for 4d property is 0.75%.

Primary Statutory References: 273.13, subdivision 25, 272.01, 202.02, 273.124, subd. 3a, 273.128; 275.025; 327.14; Chapter 349

Class 5

Class 5(1) – Unmined Iron Ore

Class 5(1) property is unmined iron ore and low-grade iron-bearing formations as defined in Minnesota Statutes, section 273.14. The class rate for 5(1) property is 2.00%, and class 5(1) properties are subject to the state general levy at a rate of 2.00%.

Class 5(2) – All Other

Class 5(2) property is all other property not otherwise classified and not meeting the requirements for class 2b, rural vacant land. Class 5(2) property has a class rate of 2.00%.

Primary Statutory References: Minnesota Statutes, section 273.13; M.S. 273.14

Split-Classification

In some instances, there may be more than one identifiable use of a property. For example, a residential parcel may also contain a commercial establishment, such as a hair salon. In a case such as this, split-classification of the parcel may be appropriate (residential/commercial split-class proportionate to the residential and commercial use of the property and surrounding land).

In some cases a homestead property may have a split-classification with commercial, managed forest land, or other type of classification for which homestead benefits are not applicable. In such cases, it is never appropriate to extend the homestead benefits to any portion(s) of the property which are not used for residential homestead purposes. Please see the Homestead Module (Module 4) for further information.

Examples of split-classifications:

- A 30 acre parcel enrolled in a forest management plan with a cabin on the parcel: 10 acres with the structure would be classified according to use (residential homestead or seasonal residential recreational); 20 acres would be classified as 2c managed forest land.
- An improved property where the second floor of a structure is rented for fee and the first floor is occupied as a residence by the owners: 50% of the structure would be classified as residential homestead and 50% as 3a commercial.
- A 157-acre parcel with two acres leased to the United States Department of Transportation as an airfield and the remainder agriculturally productive: two acres would be classified as 3a commercial and the remaining 155 acres would be classified as 2a agricultural.

Primary Statutory References: Minnesota Statutes, section 273.13

Classification Rates

Class Description	Tiers	Class Rate	State Rate
1a Residential Homestead	First $500,000	1.00%	NA
	Over $500,000	1.25%	NA
1b Blind/Disabled Homestead	First $50,000	0.45%	NA
1c Ma & Pa Resort	First $600,000	0.50%	NA
	$600,000 - $2,300,000	1.00%	NA
	Over $2,300,000	1.25%	1.25%
1d Migrant Housing	(Structures Only) First $500,000	1.00%	NA
	Over $500,000	1.25%	NA
2a Homestead House, Garage, One Acre (HGA)			
	First $500,000	1.00%	NA
	Over $500,000	1.25%	NA
2a/2b 1st Tier Homestead Property			
	First $1,140,000 (2a+2b)	0.50%	NA
2a/2b Farming Entities Excess 1st Tier (Unused From Hmstd)	Unused First $1,140,000	0.50%	NA
2a Agricultural Land (Hmstd Remainder & Non-Hmstd; Includes Structures)		1.00%	NA
2b Rural Vacant Land (Hmstd Rem. & Non-Hmstd; Incl. Minor Ancil. Structures)		1.00%	NA
2c Managed Forest Land		0.65%	NA
2d Private Airport		1.00%	NA
2e Land with a Commercial Aggregate Deposit		1.00%	NA
3a Commercial/Industrial and Public Utility			
	First $150,000	1.50%	1.50%
	Over $150,000	2.00%	2.00%
Electric Generating Public Utility Machinery		2.00%	NA
All Other Public Utility Machinery		2.00%	2.00%
Transmission Line Right-Of-Way (Owned in fee by a utility)		2.00%	2.00%
3b Employment Property (Border City Zones)			
	First $150,000	1.50%	1.50%
	Over $150,000	2.00%	2.00%
4a Apartment (4+ Units, Including Private For-Profit Hospitals)		1.25%	NA
4b(1) Residential Non-Homestead (1-3 Units Not 4bb or SRR)		1.25%	NA
4b(2) Unclassified Manufactured Home		1.25%	NA
4b(3) Ag Non-Homestead (2 or 3 Units, Garage, One Acre)		1.25%	NA
4b(4) Unimproved Residential		1.25%	NA

Classification Rates

Class Description	Tiers	Class Rate	State Rate
4bb(1) Residential Non-Homestead (Single Unit)			
	First $500,000	1.00%	NA
	Over $500,000	1.25%	NA
4bb(2) Ag Non-Homestead (Single Unit, Garage, One Acre)			
	First $500,000	1.00%	NA
	Over $500,000	1.25%	NA
4c(1) Seasonal Residential Recreational (SRR)Commercial (Resort)			
	First $500,000	1.00%	1.00%
	Over $500,000	1.25%	1.25%
4c(2) Qualifying Golf Course		1.25%	NA
4c(3)(i) Non-Profit Comm. Service Oriented Organization (Non-Revenue)		1.50%	NA
4c(3)(ii) Non-Profit Comm. Service Oriented Organization (Donations)		1.50%	1.50%
4c(4) Post-Secondary Student Housing		1.00%	NA
4c(5)(i) Manufactured Home Park		1.25%	NA
4c(5)(ii) MH Park Cooperative (Over 50% Shareholder Occupied)		0.75%	NA
4c(5)(ii) MH Park Cooperative (50% or Less Shareholder Occupied)		1.00%	NA
4c(6) Metro Non-Profit Recreational Property		1.25%	NA
4c(7) Certain Non-Comm Aircraft Hangars and Land: Leased Land		1.50%	NA
4c(8) Certain Non-Comm Aircraft Hangars and Land: Private Land		1.50%	NA
4c(9) Bed and Breakfast (Up To 5 Units)		1.25%	NA
4c(10) Seasonal Restaurant on a Lake		1.25%	NA
4c(11) Marina	First $500,000	1.00%	NA
	Over $500,000	1.25%	NA
4c(12) SRR Non-Commercial (Cabin)			
	First $76,000	1.00%	0.40%
	$76,000 - $500,000	1.00%	1.00%
	Over $500,000	1.25%	1.25%
4d Qualifying Low-Income Rental Housing		0.75%	NA
5(1) Unmined Iron Ore and Low-Grade Iron-Bearing Formations		2.00%	2.00%
5(2) All Other Property Not Otherwise Classified		2.00%	NA