**Memorandum**

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| **Identifying Information:** | **Classification for Property Tax Purposes: Not-for-profit Country Clubs** |

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| **Tax Type:** | **Property Tax** |
| **Brief Description:** | **Classification for Property Tax Purposes: Not-for-profit Country Clubs** |
| **Keywords:** |  |
| **Effective Date:** | **06/16/1998** |

**Body:**

**MEMORANDUM**

**TO:** All County Appraisers

**FROM:** Mark S. Beck, Director

**DATE:** June 16, 1998

**SUBJECT:** Classification for Property Tax Purposes: Not-for-profit Country Clubs
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On August 3, 1994, this office issued a memorandum regarding 1994 legislation known then as House Substitute for Senate Bill 157, and now as K.S.A. 79-1439a. The memorandum provided guidelines for the 12% assessment rate provided to the real property of certain not-for-profit organizations. A recent Board of Tax Appeals decision has been issued which directly impacts one of the guidelines provided to counties in the August 3, 1994, memorandum.

Riley County has brought it to our attention that the Board of Tax Appeals recently ruled that those *portions*of the improved real property owned and operated by a 501(c)(7) not-for-profit country club *that were generating a sales tax* should be classified as commercial real property and assessed at 25%. (Manhattan Country Club, Docket No. 97-1460-PR). In the August 3, 1994, memorandum issued by this office (page 4, example 3) counties were instructed to classify this property as “other” and assess it at 30%.

You should be aware that if you classify those portions of a 501(c)(7) organization’s improved real property as “other” *when it is used to generate a sales tax*, the Board of Tax Appeals, on appeal, will likely rule that such property should be assessed at 25% instead. The Board ruled in the recent Riley County case that a country club’s restaurants, meeting and banquet rooms, lounges, snack shops, golf shop, swimming pool and locker rooms should be classified as commercial and assessed at 25%, *because these areas generated a sales tax*.

The Board left the country club’s golf club storage facility, shower and restroom facilities and buildings used to store machinery and equipment in the “other” subclass to be assessed at 30%.

**Board of Tax Appeals Ruling - 501(c)(7) Country Clubs**
**Docket No. 97-1460-PR**

In the case before the Board of Tax Appeals, the 501(c)(7) country club had a club house, a swimming pool, and supporting structures. The county classified this improved real property as “other” and assessed it at 30%, in accordance with this division’s August 3, 1994, memorandum.

The Board’s order indicates that the country club’s club house contained: (1*)* a golf club storagefacility, (2) locker rooms, (3) a golf shop, (4) two restaurants, (5) meeting rooms and (6) a lounge. In its original order, the Board found that the golf shop, the two restaurants and the lounge should be classified as commercial and assessed at 25% by virtue of generating a sales tax.

In its order on reconsideration, the Board further found that the locker rooms and the meeting and banquet rooms should assessed at 25% by virtue of generating a sales tax. Ultimately, the Board held that everything but the golf club storage facility should be classified as commercial.

The Board’s order indicates that the county club’s swimming pool consisted of (1) two pools, (2) a snack bar, (3) showers and (4) restroom facilities. The Board found that the snack bar should be classified as commercial and assessed at 25% by virtue of generating a sales tax. In its order on reconsideration, the Board further found that the swimming pools should also be classified as commercial and assessed at 25% by virtue of generating a sales tax. Ultimately, the Board held that everything but the showers and restroom facilities should be classified as commercial.

The country club also had supporting structures that were used to store machinery and equipment. The Board ruled that the structures should remain in the “other” classification and should continue to be assessed at 30%.

The taxpayer originally asked that the Board assess *all* of its property at 12%, and raised the issue of the 25% commercial property assessment rate only as an alternative request. The Board ruled that it would not be appropriate to assess all the taxpayer’s real property at 12% because K.S.A. 79-1439a only provides the 12% rate to the *land* owned and operated by a 501(c)(7) organization. The Board stated that “*[l]and accommodating buildings or other improvements associated with such land is not given the reduced assessment*.” (Docket No. 97-1460-PR, page 3, paragraph 8).

It should be noted that the classification of the eighteen-hole golf course was not at issue in this case. The county classified the golf course as land qualifying for the not-for-profit assessment rate of 12%, in accordance with this division’s August 4, 1994, memorandum. This division instructed counties to assess such land at 12% because to do otherwise would leave little or nothing left for a country club to have that would qualify for the 12% assessment rate.

**General Reminder**
**Not-for-profit Classification - 12%**

In 1994, the legislature defined the property that would qualify for a 12% assessment rate in K.S.A. 79-1439a. Briefly, the property that qualifies for a 12% assessment rate includes:

1. The *real property* owned and operated by a not-for-profit organization that is exempt from paying federal income tax pursuant to the following sections of the Internal Revenue Code:

a. **501 (c)(3)** (religious, charitable, scientific, educational organizations)
b. **501 (c)(4)** (social welfare organizations)
c. **501 (c)(8)** (recreational clubs)
d. **501 (c)(10)** (lodges)

2. The *real property* owned and operated by a not-for-profit organization that is exempt from paying federal income tax pursuant to section **501(c)(2)** of the Code *when* the real property is *leased*to a not-for-profit organization that is exempt from paying federal income tax pursuant to section **501(c)(8)** of the Code. A 501(c)(2) organization is a corporation organized solely to hold title to property.

3. The *land* owned and operated by a not-for-profit organization that is exempt from paying federal income tax pursuant to section **501(c)(7)** of the Code (clubs) *when* the land is actually and regularly used for recreational purposes, and it is land other than the land accommodating buildings or other improvements.

In order to assure that property qualifies for the 12% assessment rate, a taxpayer should provide a copy of the letter from the Internal Revenue Service certifying that they are exempt from paying federal income tax pursuant to a specific section of the Internal Revenue Code.

**Date Composed: 06/16/1998 Date Modified: 10/09/2001**