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# Inconsistency: From Murphy to Manteo





# Real vs. Personal



# Real vs. Personal

- Difficulty in working appeals due to inconsistency
- Taxpayers who file listings in multiple counties have difficulty filing.



# Issues

- Schedule of Values not clearly defined
- Counties unable to identify what is included in the real property
- Significant Difference in Base rate across the state on real property
- Same Asset being taxed as Real in some counties and personal in others



# Real Property Defined

- **G.S. 105-273**

(13) Real property, real estate, or land. – Any of the following:

- a. The land itself.
- b. Buildings, structures, improvements, or permanent fixtures on land.
- c. All rights and privileges belonging or in any way appertaining to the property.



# Personal Property Defined

- **G.S. 105-273**

(14) Tangible personal property. – All personal property that is not intangible and that is not permanently affixed to real property.



# REAL OR PERSONAL?

Examples of items that may appear to be realty but should be considered personal property in certain situations are:

1. Wiring
2. Venting
3. Flooring

(continued...)





# REAL OR PERSONAL

4. Special climate control (Heating and air conditioning systems associated with particular equipment or product)
5. Conveyors
6. Sprinkler system (product or people)
7. Shelving and displays
8. Leasehold improvements (owned by lessee)



# How do you determine?

- ◎ There are no absolutes in making the determination of whether assets should be classified as real or personal property.
  
- ◎ Consider and Review the following:
  - > Examine leases and other documents to determine the intent of the owner of the property.
  - > How the property is affixed to the realty?
  - > Is there for the benefit of the process or for the benefit of the employees or the building?



# Helpful Hints:

1. Schedule of Values should include information that clearly defines the classification of what your county considers as real or personal property.
2. Personal Property appraiser, should be familiar with your county's Schedule of Values and discuss real vs. personal property issues with your real property appraisal department.



# Helpful Hints:

3. Property used as part of a process, or in place for the equipment is generally considered personal property. Special wiring, foundations, and process piping are examples of this and are typically not appraised as real property in the Schedule of Values.
4. Property used for the building, or for the comfort of employees is generally considered real property.



# Possible Solutions

- Better defined Real & Personal in Schedule of Values
- Statewide Standards on Schedule of Values
- Statewide Real vs. Personal classification
- Counties Utilize Income approach on Real Property



- County Inconsistencies on Leasehold Improvements
- Inconsistencies with counties across the state and how assets are categorized as real or personal
- Difficult for multi county taxpayer to report/list BPP



# Trade Fixtures

- “.....The law allows a tenant who places chattels on leased realty to remove whatever he as affixed to the premises for trade purposes.
- These chattels are called “trade fixtures” and remain personalty of the tenant.”



- Listing of Property for Taxation- Businesses should list improvements made by or for the business to real property or used by the business
- Schedules of Values- Developed in a way that everyone involved can readily determine which assets are considered real and which assets are considered personal





# Leasehold Improvements

- Real Estate improvements to leased property contracted for, installed by, and paid for by the lessee; and which may or may not remain with the real estate, there by becoming an integral part of the leased real estate upon expiration or termination of the current lease, but which are the property of, and should be charged to, the current lessee.



# Two Big Questions

- Are the improvements:
  - Real property, or Personal property?
- Who is the owner of the property?



# Owner Occupied Store

**Personal  
Property**

Real  
Property

Real and Personal Property owned by land owner



# Leased Store

**Personal  
Property**

Real  
Property

Leasehold  
Improvements

Personal Property and Leaseholds owned by the Lessee  
Real Property owned by the land owner



# Are the Leasehold being Double Taxed?

Location	A	B	C
Owned/Leased	Owner Occupied	Leased	Leased
Cost per Sq Ft	\$62.00	\$64.00	\$61.00
BPP Reported	1,447,001	1,477,276	2,361,116
Leasehold Improvements		39,317	105,000



# Question

- How would your county appraise these two buildings the year of the reappraisal?
  - Use the cost approach with the same base rate per sq. foot on both stores or different base rates on the two stores?
  - Use the income on the leased store and the cost on the owner occupied.



# Computer Software

- Computer Software
  1. Definitions
  2. Tangible or Intangible?
  3. Taxable or Exempt
  4. Situs of software
  5. Valuation of software
  6. Canned vs. Custom developed



# Questions?





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Thank you!