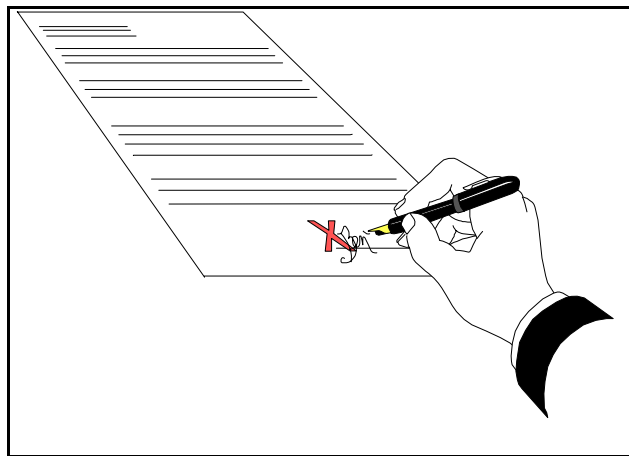


SECTION VI
LISTING AND PROCESSING



The effective personal property appraiser must possess many skills in order to adequately handle his or her duties. One of the most important aptitudes that should be developed is the ability to organize the office and manage the workflow. Most county tax offices are not blessed with excess staff, so it benefits the professional appraiser to work as efficiently as possible.

The best way to make the yearly appraisal and billing cycle flow with as few complications as possible is by having all the information needed by the end of the listing period. To get the most reliable and helpful information, it is critical that the taxpayer is aware of what is required by the appraiser.

The Abstract

The single most important tool in the appraisal of business personal property is a well designed listing form approved by the Department of Revenue. It has been demonstrated that the use of a good abstract greatly facilitates the overall improvement of business listings. Several counties, as well as this department, early on recognized the need for a uniform abstract. Prior to 2004, the Department of Revenue had a recommended abstract that each county could choose to model their individual forms after. About half of the counties either used the recommended abstract or a close version of it. Beginning in 2004, with the cooperation of several county property tax professionals, there is now a listing form that is accepted in all 100 counties.

The Statewide Uniform Abstract must be accepted by all counties, however some choose to keep their original listing form as well. For those counties, a taxpayer may list on either form. The advantages of having one form available for all counties are numerous:

- 1) The Statewide Uniform Abstract can be updated each year and posted on the Department of Revenue's website at <http://www.dor.state.nc.us/> . This can save printing and mailing costs for some counties.
- 2) Each county can better justify rejecting any listing that is not completed on either the Statewide Uniform Abstract or their own counties listing form.
- 3) Multi-jurisdictional businesses can be familiar with one form rather than having to be familiar with multiple forms for different counties.
- 4) Multi-jurisdictional businesses can count on their listing being accepted and have one source for their form each year.
- 5) Local businesses still can have the choice of using a more familiar county form if one is provided.

The 2007 Uniform State Abstract is shown on the following pages. The form is reviewed each year to determine what changes are needed to make the form more user friendly and more useful for both the county and taxpayers alike.

2007

COUNTY OF _____ North Carolina

BUSINESS PERSONAL PROPERTY LISTING

FOR DEPARTMENT USE ONLY		ACCOUNT NUMBER	DATE	TWP	DISTRICT	CITY	PENALTY	VALUE
1	2	3	4	5	6	7		
8	B	D	E	F	TOTAL			

Business Legal Name or Individual's Name

Trade Name or DBA

Address

City

State

Zip

OTHER N.C. COUNTIES WHERE PERSONAL PROPERTY IS LOCATED

CONTACT PERSON FOR AUDIT

ADDRESS & PHONE

CONTACT PERSON FOR PAYMENT & PHONE

PHYSICAL ADDRESS

REAL ESTATE OWNED BY

NAME IN WHICH BUSINESS WAS LISTED LAST YEAR

WHAT IS PRINCIPAL BUSINESS IN THIS COUNTY

STANDARD INDUSTRIAL CLASSIFICATION CODE (SIC #)

NAICS CODE

DATE BUSINESS BEGAN IN THIS COUNTY

DATE BUSINESS (FISCAL) YEAR ENDS

FILL IN APPLICABLE CIRCLE:

- PARTNERSHIP
 SOLE PROPRIETORSHIP
 UNINCORPORATED ASSOCIATION
 CORPORATION
 OTHER (SPECIFY)

FILL IN APPLICABLE CIRCLE: BUSINESS CATEGORY

- RETAIL
 WHOLESALE
 MANUFACTURING
 SERVICE
 LEASING/RENTAL
 FARMING
 OTHER (SPECIFY)

IF OUT OF BUSINESS COMPLETE THIS SECTION

DATE CEASED

FILL IN APPLICABLE CIRCLE:

- SOLD
 CLOSED
 BANKRUPT
 OTHER

SOLD EQUIPMENT, FIXTURES, SUPPLIES TO

BUYER'S ADDRESS & PHONE

SCHEDULE A

PERSONAL PROPERTY - SEE INSTRUCTIONS

YEAR ACQUIRED	GROUP (1) MACHINERY & EQUIPMENT				YEAR ACQUIRED	GROUP (3) OFFICE FURNITURE & FIXTURES			
	PRIOR YR. COST	ADDITIONS	DELETIONS	CURR. YR. COST		PRIOR YR. COST	ADDITIONS	DELETIONS	CURR. YR. COST
2006					2006				
2005					2005				
2004					2004				
2003					2003				
2002					2002				
2001					2001				
2000					2000				
1999					PRIOR				
1998					TOTAL				
1997									
1996									
1995									
1994									
1993									
1992									
1991									
PRIOR									
TOTAL									

YEAR ACQUIRED	GROUP (4) COMPUTER EQUIPMENT			
	PRIOR YR. COST	ADDITIONS	DELETIONS	CURR. YR. COST
2006				
2005				
2004				
2003				
PRIOR				
TOTAL				

GROUP (2) CONSTRUCTION IN PROGRESS

LIST TOTAL OF ALL PERSONAL PROPERTY EXPENDITURES IN CIP ACCOUNT ON JANUARY 1, BUT NOT INCLUDED ABOVE - ITEMIZE IN SCHEDULE G

TOTAL CIP: \$

DO NOT REMIT THIS FORM TO NC DEPARTMENT OF REVENUE

County addresses and additional schedules are available at:
<http://www.dor.state.nc.us/publications/property.html>

Send to appropriate county tax office.

SCHEDULE A - CONTINUED

PERSONAL PROPERTY - SEE INSTRUCTIONS

YEAR ACQUIRED	GROUP (5) LEASEHOLD IMPROVEMENTS				GROUP (7) SUPPLIES				COST
	PRIOR YR. COST	ADDITIONS	DELETIONS	CURR. YR. COST	1. OFFICE, MAINTENANCE, JANITORIAL, MEDICAL, DENTAL, BARBER AND BEAUTY SUPPLIES	2. FUELS HELD FOR CONSUMPTION	3. REPLACEMENT PARTS AND SPARE PARTS	4. RESTAURANT AND HOTEL ITEMS SUCH AS LINENS, CLEANING SUPPLIES AND COOKWARE NOT LISTED ELSEWHERE IN SCHEDULE A	
2006									
2005									
2004									
2003									
2002									
2001									
2000									
1999									
1998									
1997									
1996									
1995									
1994									
1993									
PRIOR									
TOTAL									

YEAR ACQUIRED	GROUP (8) OTHER - TO BE USED WITH COUNTY APPROVAL			
	PRIOR YR. COST	ADDITIONS	DELETIONS	CURR. YR. COST
2006				
2005				
2004				
2003				
2002				
2001				
2000				
1999				
1998				
1997				
1996				
1995				
1994				
1993				
PRIOR				
TOTAL				

YEAR ACQUIRED	GROUP (6) EXPENSED ITEMS <small>Capitalization Threshold</small>			
	PRIOR YR. COST	ADDITIONS	DELETIONS	CURR. YR. COST
2006				
2005				
PRIOR				
TOTAL				

SCHEDULE B

VEHICULAR EQUIPMENT & MOBILE HOMES OR MOBILE OFFICES

If you answer yes to any of questions 1-6 below, you must attach the appropriate Schedule which corresponds with the equipment type listed below. If you answer yes to any of questions 1,2, or 3 attach Schedule B-1, attach Schedule B-2 for watercraft, attach Schedule B-3 for Mobile Homes or Mobile Offices, and attach Schedule B-4 for aircraft. Indicate number of short-term rental vehicles owned for question 7.

- Does your business own any Unregistered Motor Vehicles? YES NO
- Does your business own any Multi-year or permanently registered Trailers? YES NO **If yes attach schedule** B-1
- Does your business own any special bodies on vehicles? YES NO
- Does your business own any watercraft or engines for watercraft? YES NO **If yes attach schedule** B-2
- Does your business own any Mobile Homes or Mobile Offices? YES NO **If yes attach schedule** B-3
- Does your business own any Aircraft? YES NO **If yes attach schedule** B-4
- Does your business own any vehicles held for short-term rental? YES NO Number

SCHEDULE C

LEASED PROPERTY OR OTHER PROPERTY IN YOUR POSSESSION THAT IS OWNED BY OTHERS

N.C.G.S. 105-315 AND 105-316 requires every person having custody of taxable tangible personal property that has been entrusted to him by another for any business purpose to furnish a separate list containing name, address and description of this property. If you answer yes to one of the following three questions or are otherwise required to supply this list, **you must return the list or separate Schedule C-1 by January 15.**

- Does your business hold any Leased Property, owned by another party (are you a lessee)? YES NO
- Do you have any property used by your business, or in your possession that is owned by others? YES NO
- Do you operate a mobile home park, campground, marina, aircraft storage facility or similar business? YES NO

SCHEDULE D**SEPARATELY SCHEDULED PROPERTY**

1. Does your business own any artwork, displays, statues, or other personal property that is separately scheduled for insurance purposes? YES NO

Please describe the items and estimated value of items if applicable.

SCHEDULE E**FARM EQUIPMENT**

Does your business own any tractors and/or other farm equipment? YES NO Cost on schedule A

If so, list and attach separate schedule E-1. If listed by cost on Schedule A, indicate above but still include information on separate schedule E-1.

SCHEDULE F**INTANGIBLE PERSONAL PROPERTY**

Do you lease or rent real property from exempt owners, such as a church, local, state or federal government, an airport authority, university, or other exempt owner? YES NO If yes, include lease information below. Attach additional schedule if necessary.

NAME AND ADDRESS OF OWNER	DESCRIPTION OF PROPERTY	DATE OF LEASE AND LEASE TERM	MONTHLY PAYMENT	ACCT. #

SCHEDULE G**ACQUISITIONS AND DISPOSALS DETAIL**

Acquisitions and disposals detail of machinery, equipment, furniture and fixtures and computer equipment, and leasehold improvements in the prior year. If there is not enough room below, attach separate Schedule G-1.

ACQUISITIONS - ITEMIZE IN DETAIL	100% ORIGINAL COST	DISPOSALS - ITEMIZE IN DETAIL	YEAR ACQUIRED	100% ORIGINAL COST

SCHEDULE H**REAL ESTATE IMPROVEMENTS**

During the past calendar year, did your business make improvements and/or other additions to real property, owned by your business? If yes, attach separate schedule H-1 with information on such improvements. YES NO

AFFIRMATION**LISTING FORM MUST BE SIGNED BY A LEGALLY AUTHORIZED PERSON - SEE INSTRUCTIONS**

Under penalties prescribed by law, I hereby affirm that to the best of my knowledge and belief this listing, including any accompanying statements, inventories, schedules, and other information, is true and complete. (If this is signed by an individual other than the taxpayer, he affirms that he is familiar with the extent and true value of all the taxpayer's property subject to taxation in this county and that his affirmation is based on all the information of which he has any knowledge.)

Listing MUST be signed by the taxpayer, a principal officer of the taxpayer or a FULL-TIME employee of the taxpayer who has been officially empowered by the principal officer to list the property

_____ Signature	_____ Date	_____ Preparer Other Than Taxpayer	_____ Date
_____ Title	_____ Telephone Number	_____ Address	
_____ Email Address	_____ Fax Number		

Any individual who willfully makes and subscribes an abstract listing required by the Subchapter (of the Revenue Laws) which he does not believe to be true and correct as to every material matter shall be guilty of a Class 2 misdemeanor. (Punishable by imprisonment up to 60 days)

INSTRUCTIONS – Listings due By January 31.

Commonly Asked Questions

Who must file a listing, and what do I list?

Any individual(s) or business(es) owning or possessing personal property used or connected with a business or other income producing purpose on January 1. Temporary absence of personal property from the place at which it is normally taxable shall not affect this rule. For example, a lawn tractor used for personal use, to mow the lawn at your home is not listed. However, a lawn tractor used as part of a landscaping business in this county must be listed if the lawn tractor is normally in this county, even if it happens to be in another state or county on January 1.

NCGS §105-308 reads that .."any person whose duty it is to list any property who willfully fails or refuses to list the same within the time prescribed by law shall be guilty of a Class 2 misdemeanor. The failure to list shall be prima facie evidence that the failure was willful." A class 2 misdemeanor is punishable by imprisonment of up to 60 days.

When and where to list?

Listings are due on or before January 31. They must be filed with the County Tax Department. **DO NOT FILE THIS FORM WITH THE NORTH CAROLINA DEPARTMENT OF REVENUE.** This form will not be accepted by the NC Department of Revenue.

A list of county tax office addresses can be found at the NC Department of Revenue's Website. <http://www.dor.state.nc.us/publications/property.html>

As required by state law, late listings will receive a penalty. An extension of time to list may be obtained by sending a written request showing "good cause" to the County Assessor by January 31.

How do I list? -- Three important rules:

- (1) Read these INSTRUCTIONS for each schedule or group. Contact your county tax office if you need additional clarification.
- (2) If a Schedule or Group does not apply to you, indicate so on the listing form. **DO NOT LEAVE A SECTION BLANK. DO NOT WRITE "SAME AS LAST YEAR"**. A listing form may be rejected for these reasons and could result in late listing penalties.
- (3) Listings must be filed based on the tax district where the property is physically located. If you have received multiple listing forms, each form must be completed separately.

INFORMATION SECTION

Complete all sections at the top of the form, whether or not they are specifically addressed in these INSTRUCTIONS. Attach additional sheets if necessary.

- (1) Other N.C. Counties where personal property is located: If your business has property normally located in other counties, list those counties here.
- (2) Contact person for audit: In case the county tax office needs additional information, or to verify the information listed, list the person to be contacted here.
- (3) Physical address: Please note here the location of the property. The actual physical location may be different from the mailing address. Post Office Boxes are not acceptable.
- (4) Principal Business in this County: What does the listed business do? For example: Tobacco Farmer, Manufacture electrical appliances, Laundromat, Restaurant. The **SIC** or **NAICS code** may help describe this information, if you do not know the **SIC** or **NAICS code**, please write "unknown".
- (5) Complete other requested business information. Make any address changes.
- (6) If out of business: If the business we have sent this form to has closed, complete this section and attach any additional information regarding the sale of the property.

Schedule A

The year acquired column: The rows which begin "2006" are the rows in which you report property acquired during the calendar year 2006. Other years follow the same format.

Schedule A is divided into eight (8) groups. Each is addressed below. Some counties may have the column "Prior Years Cost" pre-printed. This column should contain the cost information from last year's listing. If it does not, please complete this column, referring back to your last year's listing. List under "Current Year's Cost" the 100% cost of all depreciable personal property in your possession on January 1. Include all fully depreciated assets as well. Round amounts to the nearest dollar. Use the "Additions" and "Deletions" column to explain changes from "Prior Yr. Cost" to "Current Yr. Cost". The "Prior Year's Cost" plus "Additions" minus "Deletions" should equal "Current Years Cost" If there are any additions and/or deletions, please note those under schedule G, Acquisitions and Disposals Detail. If the deletion is a transferred or paid out lease, please note this, and to whom the property was transferred.

COST - Note that the cost information you provide must include all costs associated with the acquisition as well as the costs associated with bringing that property into operation. These costs may include, but are not limited to invoice cost, trade-in allowances, freight, installation costs, sales tax, expensed costs, and construction period interest.

The cost figures reported should be historical cost, that is the original cost of an item when first purchased, even if it was first purchased by someone other than the current owner. For example, you, the current owner, may have purchased equipment in 2003 for \$100, but the individual you purchased the equipment from acquired the equipment in 1998 for \$1000. You, the current owner, should report the property as acquired in 1998 for \$1000.

Property should be reported at its actual historical installed cost IF at the retail level of trade. For example, a manufacturer of computers can make a certain model for \$1000 total cost. It is typically available to any retail customer for \$2000. If the manufacturer uses the model for business purposes, he should report the computer at it's cost at the retail level of trade, which is \$2000, not the \$1000 it actually cost the manufacturer. Leasing companies must list property they lease at the retail trade level, even if their actual cost is at the manufacturer or wholesaler level of trade.

Group (1) MACHINERY & EQUIPMENT

This is the group used for reporting the cost of all machinery and equipment. This includes all warehouse and packaging equipment, as well as manufacturing equipment, production lines, hi-tech or low-tech. List the total cost by year of acquisition, including fully depreciated assets that are still connected with the business.

For example, a manufacturer of textiles purchased a knitting machine in October 2005 for \$10,000. The sales tax was \$200, shipping charges were \$200, and installation costs were \$200. The total cost that the manufacturer should report is \$10,600, if there were no other costs incurred. The \$10,600 should be added in group (1) to the 2005 current year's cost column.

Group (2) Construction in Progress (CIP)

CIP is business personal property which is under construction on January 1. The accountant will typically not capitalize the assets under construction until all of the costs associated with the asset are known. In the interim period, the accountant will typically maintain the costs of the asset in a CIP account. The total of this account represents investment in tangible personal property, and is to be listed with the other capital assets of the business during the listing period. List in detail. If you have no CIP, write "none".

Group (3) Office Furniture & Fixtures

This group is for reporting the costs of all furniture & fixtures and small office machines used in the business operation. This includes, but is not limited to, file cabinets, desks, chairs, adding machines, curtains, blinds, ceiling fans, window air conditioners, telephones, intercom systems, and burglar alarm systems.

Group (4) Computer Equipment

This group is for reporting the costs of non-production computers & peripherals. This includes, but is not limited to, personal computers, midrange, or mainframes, as well as the monitors, printers, scanners, magnetic storage devices, cables, & other peripherals associated with those computers. This category also includes software that is capitalized and purchased from an unrelated business entity. This does not include high tech equipment such as proprietary computerized point of sale equipment or high tech medical equipment, or computer controlled equipment, or the high-tech computer components that control the equipment. This type of equipment would be included in Group (1) or "other".

Group (5) Leasehold Improvements

This group includes real estate improvements to leased property contracted for, installed, and paid for by the lessee which may remain with the real estate, thereby becoming an integral part of the leased fee real estate upon expiration or termination of the current lease, but which are the property of the current lessee who installed it. (Examples are lavatories installed by lessee in a barbershop, special lighting, or dropped ceiling.) If you have no leasehold improvements write "none". Contact the appropriate county to determine if you question if leasehold improvements have already been appraised as real property.

Group (6) Expensed Items

This group is for reporting any assets which would typically be capitalized, but due to the business' capitalization threshold, they have been expensed. Section 179 expensed items should be included in the appropriate group (1) through (4). Fill in the blank which asks for your business' "Capitalization Threshold." If you have no expensed items write "none".

Group (7) Supplies

Almost all businesses have supplies. These include normal business operating supplies. List the cost on hand as of January 1. Remember, the temporary absence of property on January 1 does not mean it should not be listed if that property is normally present. Supplies that are immediately consumed in the manufacturing process or that become a part of the property being sold, such as packaging materials, or raw materials, for a manufacturer, do not have to be listed. Even though inventory is exempt, supplies are not. Even if a business carries supplies in an inventory account, they remain taxable.

Group (8) Other

This group will not be used unless instructed by authorized county tax personnel.

SCHEDULE B VEHICULAR EQUIPMENT - ATTACH ADDITIONAL SCHEDULES IF NECESSARY

Motor Vehicles registered with the NC Department of Motor Vehicles as of January 1 do not have to be listed. Please answer the questions on the form to determine if you should complete and attach separate schedules B-1 for certain other vehicles, B-2 for Watercraft or Watercraft engines, B-3 for Mobile Homes or Mobile Offices, or B-4 for Aircraft.

SCHEDULE C PROPERTY IN YOUR POSSESSION, BUT OWNED BY OTHERS

If on January 1, you have in your possession any business machines, machinery, furniture, vending equipment, game machines, postage meters, or any other equipment which is loaned, leased, or otherwise held and not owned by you, a complete description and ownership of the property should be reported in this section. This information is for office use only. Assessments will be made to the owner/lessor. If you have already filed the January 15th report required by §105-315, so indicate. If you have none, write "none" in this section. If property is held by a lessee under a "capital lease" where there is a conditional sales contract, or if title to the property will transfer at the end of the lease due to a nominal "purchase upon termination" fee, then the lessee is responsible for listing under the appropriate group.

SCHEDULE D, E, F, G, AND H, please answer the questions provided on the form to determine if you need to complete and attach separate schedules E-1, G-1, or H-1 to the main business personal property listing form.

AFFIRMATION

If the form is not signed by an authorized person, it will be rejected and could be subject to penalties. This section describes who may sign the listing form.

Listings submitted by mail shall be deemed to be filed as of the date shown on the postmark affixed by the U.S. Postal Service. Any other indication of the date mailed (such as your own postage meter) is not considered and the listing shall be deemed to be filed when received in the office of the tax assessor.

Any person who willfully attempts, or who willfully aids or abets any person to attempt, in any manner to evade or defeat the taxes imposed under this Subchapter (of the Revenue Laws), whether by removal or concealment of property or otherwise, shall be guilty of a Class 2 misdemeanor. (Punishable by imprisonment up to 60 days)

In the design of this form, careful consideration was given to providing a methodology that prompts the taxpayer to render adequate data. We have found that by asking the right questions in the beginning, we can save a great amount of time in the processing of business personal property listings. Another goal was to include all questions needed by various counties. The general layout of the form is as follows:

1. Information Block - this section contains the pertinent information that assists the appraiser in determining the appropriate schedule, situs, business type, contact person, etc. It is beneficial for the taxpayer to accurately complete this section since not enough information can result in the taxpayer failing to receive a notice or a value that is not as accurate if the business is not described precisely.

2. Schedule A - This section of the abstract provides a clear and understandable format, if the instructions are followed, for the taxpayer to list his equipment by correct type. The various types of property are organized in the following groups and are further broken down by cost and year acquired.

- Group (1) Machinery and Equipment
- Group (2) Construction in Process
- Group (3) Office Furniture and Fixtures
- Group (4) Computer Equipment
- Group (5) Leasehold Improvements
- Group (6) Expensed Items
- Group (7) Supplies
- Group (8) Other

The “prior year cost” column is to list the costs from the previous year’s listing. Some counties pre-print their forms for each taxpayer so the “prior year cost” column is already completed. A taxpayer can then list any additions to any year’s cost, which is typically caused by transfers from another location, or new purchases if it’s the most current year. More commonly, taxpayers list deletions from a year’s cost, which is usually from the retirement of property and disposals. The prior year’s cost plus any additions, minus any deletions, should equal the current year’s cost. Most businesses either add or remove some property from year to year. For this reason, we recommend that counties reject abstracts showing only “same as last year”.

3. Schedule B - Vehicular Equipment. This section of the form asks the taxpayer questions about unregistered motor vehicles, multi-year or permanently registered trailers, special vehicle bodies, watercraft, engines for watercraft, mobile homes or mobile offices that are personal property, aircraft, and short-term rental vehicles. Other than short-term rental vehicles, all of these types of vehicular equipment have special schedules B-1 through B-4 to be completed, if required by the questions asked for each equipment type. This type of listing is more useful because of the appraisal approach preferred for vehicular equipment which is which is, the “market approach”. We’ll discuss all three appraisal methods in a later section. It’s helpful to remember that as of January 1, 1993, North Carolina registered motor vehicles were no longer required to be listed. See G.S. §105-330.

4. Schedule C – Leased Property - This section asks the taxpayer questions which, if answered in the affirmative, require the taxpayer to complete a separate Schedule C-1 by January 1 detailing property in the taxpayer’s possession, but owned by others. This schedule can be used to verify that the owner of the property is properly listing it. See G.S. 105-315.

5. Schedule D – Separately Scheduled Property – If a business owns artwork, displays, statues, or other personal property that is separately scheduled for insurance purposes, this schedule may be helpful to properly estimate the fair market value of such property since the cost approach may not be as accurate.

6. Schedule E – Farm Equipment – If a business, including farms operating for income, owns tractors and/or other farm equipment, it should be indicated in this section and separately listed on schedule E-1. Like vehicular equipment, farm equipment can usually be appraised more accurately using an appraisal method called the “market approach” which requires listing more detail than cost alone. The different approaches to value are discussed in a later section.

7. Schedule F – Intangible Personal Property – This section is to require the listing of the only type of intangible personal property that remains taxable, leasehold interest in exempt real property.

8. Schedule G – Acquisitions and Disposals Detail – This section is used by the taxpayer to itemize acquisitions and disposals information along with a reminder in the column heading that original cost should be listed.

9. Schedule H – Real Estate Improvements - This schedule may prove helpful to your real property department. Counties asking for this information on the business personal property abstract, have shared that they quite often pick up real property improvements from this schedule that would have been missed otherwise.

10. Affirmation -- Careful consideration should be given to who is allowed to sign the abstract. An abstract signed improperly must be rejected. See §105-311.

11. Instructions -- This is the most important section of the abstract. Although the instructions should be concise as to what is expected in each section of the form, you should make sure you can explain verbally how to list and even provide an example of how to list if requested.

Electronic Listing

In the 2001 session of the General Assembly, provisions were made for electronic listing. This is not to be confused with a faxed listing, which there are no provisions for. Before electronic listing can be implemented in a county, the board of county commissioners must, by resolution, provide for the electronic listing of business personal property and establish the procedures to be used. The assessor must publish this information, including the timetable and procedures, in the notice required by G.S. 105-296(c).

Other important points to note regarding electronic listing are that the listing period for electronic listing may be extended up to June 1 for both general extensions and individual extensions instead of the normal general extension limit of 30 or 60 days and the normal individual extension limit of April 15. Also, since taxpayers are, in many cases, given more influence on the appraisal method, by selecting the schedule used to appraise the property listed, counties using electronic listing should have a review process to ensure the property is being appraised correctly. If used properly, electronic listing can be a time-saver for both taxpayer and county. We always encourage all counties to evaluate the pros and cons of new procedures and new technology that becomes available. As of the publication date, there are two counties that have successfully implemented electronic listing.

Roster of Taxpayers

A diligent effort should be made to ensure the completeness and accuracy of the "Tax Roll." All address changes should be made promptly and any returned mail should be investigated immediately. There must also be a consistent effort to add new taxpayers to the list, and to remove taxpayers that have ceased business operations. The appraiser has several sources available to assist in the maintenance of this list. Annually the professional appraiser should consult several of the following:

1. City Directories
2. Telephone Directories
3. Privilege Licenses
4. Sales Tax List
5. Building Permits
6. Leased Equipment Reports from listings
7. UCC forms filed in the Register of Deeds office
8. DMV reports
9. Telephone Calls from new taxpayers
10. Other Taxpayers
11. Tenant Lists from shopping centers
12. Personal Knowledge gained from travel (Drive By)
13. Newspaper, periodical ads etc.
14. Mall & Shopping Center Guides
15. Chamber of Commerce Member list
16. Farm Deferred Applications

Reports in Aid of Listing

In addition to the sources listed above, the North Carolina General Statutes provide some assistance in obtaining property tax listings. These aids are found in Article 18 of the Machinery Act, and will assist the lister in locating leased property, aircraft, boats, and mobile homes. Some of the more useful reports are described on the following pages.

§ 105-313. Report of property by multi-county business.

A taxpayer who is engaged in business in more than one county in this State and who owns real property or tangible personal property in connection with his multi-county business shall, upon the request of the Department of Revenue or the assessor of a county in which part of this business property is situated, file a report with the Department of Revenue stating, as of the dates specified in G.S. 105-285 of any year, the following information:

- (1) The counties in this State in which the taxpayer's business property is situated;
- (2) The taxpayer's investment, on a county by county basis, in his business property situated in this State, categorized as the Department of Revenue or the assessor may require; and
- (3) The taxpayer's total investment in his business property situated in this State, categorized as the Department of Revenue or the assessor may require.

This report shall be subscribed and sworn to by the owner of the property. If the owner is a corporation, partnership, or unincorporated association, the report shall be subscribed and sworn to by a principal officer of the owner who has knowledge of the facts contained in the report.

§ 105-315. Reports by persons having custody of tangible personal property of others.

(a) As of January 1, every person having custody of taxable tangible personal property that has been entrusted to him by another for storage, sale, renting, or any other business purpose shall furnish the appropriate assessor the reports required by subdivision (a)(2), below:

- (1) Repealed by Session Laws 1987, c. 813, s. 14.
- (2) For all tangible personal property, except inventories exempt under G.S. 105-275(33) and (34), there shall be furnished to the assessor of the county in which the property is situated a statement showing the name of the owner of the property, a description of the property, the quantity of the property, and the amount of money, if any, advanced against the property by the person having custody of it.

(3) For purposes of illustration, but not by way of limitation, the term "person having custody of taxable tangible personal property" as used in this subsection (a) shall include warehouses, cooperative growers' and marketing associations, consignees, factors, commission merchants, and brokers.

(b) Any person who fails to make the reports required by subsection (a), above, by January 15 in any year shall be liable to the counties in which the property is taxable for a penalty to be measured by any portion of the tax on the property that has not been paid at the time the action to collect this penalty is brought plus two hundred fifty dollars (\$250.00). This penalty may be recovered in a civil action in the appropriate division of the General Court of Justice of the county in which the property is taxable. Upon recovery of this penalty, the tax on the property shall be deemed to be paid.

§ 105-316. Reports by house trailer park, marina, and aircraft storage facility operators.

- (a) As of January 1 each year:
 - (1) Every operator of a park or storage lot renting or leasing space for three or more house trailers or mobile homes shall furnish to the assessor of the county in which the park or lot is located the name of the owner of and a description of each house trailer or mobile home situated thereon.

(2) Every operator of a marina or comparable facility renting, leasing, or otherwise providing dockage or storage space for three or more boats, vessels, floating homes, or floating structures shall furnish to the assessor of the county in which the marina or comparable facility is located the name of the owner of and a description of each boat, vessel, floating home, or floating structure for which dockage or storage space is rented, leased, or otherwise provided.

(3) Every operator of a storage facility renting or leasing space for three or more airplanes or other aircraft shall furnish to the assessor of the county in which the storage facility is located the name of the owner of and a description of each airplane or aircraft for which space is rented or leased.

(b) Any person who fails to make any report required by subsection (a), above, by January 15 of any year shall be liable to the county in which the house trailers, mobile homes, boats, vessels, floating homes, floating structures, or airplanes are taxable for a penalty to be measured by any portion of the tax on the personal property that has not been paid at the time the action to collect this penalty is brought, plus two hundred fifty dollars (\$250.00). This penalty may be recovered in a civil action in the appropriate division of the General Court of Justice of the county in which the personal property is taxable. Upon recovery of this penalty, the tax on the personal property shall be deemed to be paid.

The Listing Process **Security**

The listing form itself is a public document. Any additional information that is requested after the listing form is submitted is confidential. For example, if a taxpayer returns their listing with a computer printout attached and the listing form reads, "see attached", the listing form itself and the printout are public documents. If further information is requested, such as balance sheets or income statements, that information is to be kept confidential. If someone other than the taxpayer requests information from a file, only the abstract itself and the cost information provided with it should be shown. At no time should an individual other than office personnel be allowed to freely examine all the listing files. All listing information, confidential or not, should be kept in a locked file cabinet.

§ 153A-148.1. Disclosure of certain information prohibited.

(a) Disclosure Prohibited. - Notwithstanding Chapter 132 of the General Statutes or any other law regarding access to public records, local tax records that contain information about a taxpayer's income or receipts are not public records. A current or former officer, employee, or agent of a county who in the course of service to or employment by the county has access to information about the amount of a taxpayer's income or receipts may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

- (1) To comply with a court order or a law.
- (2) Review by the Attorney General or a representative of the Attorney General.
- (3) To sort, process, or deliver tax information on behalf of the county, as necessary to administer a tax.

(b) Punishment. - A person who violates this section is guilty of a Class 1 misdemeanor. If the person committing the violation is an officer or employee, that person shall be dismissed from

public office or public employment and may not hold any public office or public employment in this State for five years after the violation.

Information Provided to a Local Tax Official

As mentioned in the legal section of this manual and in §105-289(e), the Department of Revenue may furnish information to a local tax official to assist in almost any aspect of administering the property tax. However the statute makes it clear that the local tax official may not divulge or make public this information except as required in administrative or judicial proceedings. The punishment for offending this confidentiality requirement is the same as under § 153A-148.1 above.

Driver's Privacy Protection Act of 1994

The Federal Driver's Privacy Protection Act of 1994 (US Code Title 18 Chapter 123, Section 2721) closes to the public, except for certain exemptions, the personal information contained in the records of the Division of Motor Vehicles. North Carolina General Statutes have also been amended to parallel the Federal regulation.

Under the Federal Driver's Privacy Protection Act, there are requirements to keep records relating to whom the information is given as well as what information is disclosed under the exemptions to the Act. These records must be kept for five years and if information is disclosed improperly, the individual to whom the information pertains may bring a civil action upon the individual who disclosed the information. Civil penalties are measured by actual damages, but not less than liquidated damages in the amount of \$2,500. Criminal penalties are \$5,000 to the individual who violates the Act, and \$10,000 to the organization. Punitive damages, reasonable attorneys' fees, and other preliminary and equitable relief determined by the court may also be awarded.

Due to these strict penalties and the various exemptions to the Act, The Division of Motor Vehicles has issued a directive to their tag agencies stating that the Division of Motor Vehicles is the appropriate agency to determine if someone qualifies as an exemption to the Act. The Division of Motor Vehicles is the official custodian of the required records and they will be liable if personal information is disclosed improperly.

The Attorney General of North Carolina advises any county questioning what information should be considered confidential under this act to consult with their county attorney. They have further advised our office not to give direction on what specific records are confidential under this act.

There is a copy of a form at the end of this manual that an individual may use to request personal information from DMV. The form may also be found at the Division of Motor Vehicle's vehicle registration section website at:

<http://www.dmv.dot.state.nc.us/VehicleRegistration/forms/mvr605a.pdf>

Social Security Numbers

The Identity Theft Protection Act of 2005 states the following in G.S. 132-1.10(b)(5).

Governmental units may not communicate or make available to the public a person's social security number or a business entity's tax identification number or other identifying information, including

- Driver's license number
- Checking or savings account number
- Credit or debit card number
- PIN code for a financial transaction card
- Digital signature
- Biometric data
- Fingerprints
- Password
- Number that could be used to access a person's financial resources (other than email name or address, internet account number or internet identification name)

Social Security Numbers (SSNs) arguably are imperative to the performance of a taxing unit's duties. However, there are many legal requirements before a county can request or require a SSN. These requirements are found in both the Identity Theft Protection Act of 2005 and the 2001 State Privacy Act. In order to request a SSN, the taxing unit must:

1. Segregate the number on another form to make it easier to redact in case of a public records request.
2. Advise whether the request for the SSN is mandatory or voluntary.
3. Disclose the authority for requiring the SSN.
4. Must give a statement of purpose (below).
5. Not use the number for any other purpose other than what is given in the statement.
6. Not print the SSN on any other document, unless required by law (Eff. July 1, 2007).

Regarding the statement of purpose, it is the opinion of the School of Government that the following is the only acceptable statement:

"The social security number will be used to facilitate collection of property taxes if you do not timely and voluntarily pay the taxes. Using the social security number will allow the tax collector to claim payment of an unpaid property tax bill from any state income tax refund that might otherwise be owed to you. Your social security number may be shared with the state for this purpose. In addition, your social security number may be used to attach wages or garnish bank accounts for failure to timely pay taxes."

Federal law allows political subdivisions of states to require Social Security Numbers on the listing form or other forms where identification of an individual is needed. US Code Title 42, Section 405(c)(2)(C)(i) reads:

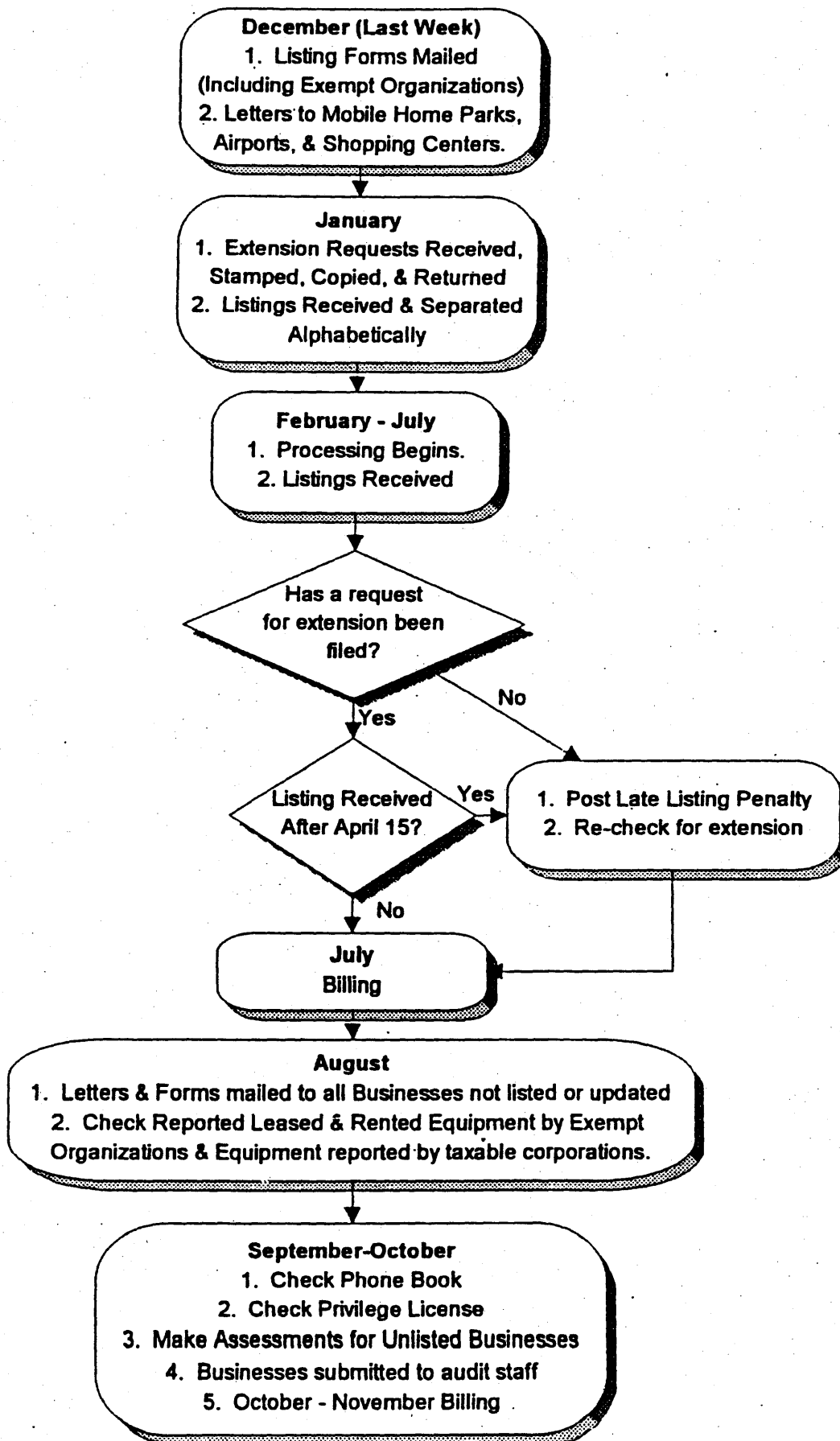
- (i) It is the policy of the United States that any State (or political subdivision thereof) may, in the administration of any tax, general public assistance, driver's license, or motor vehicle registration law within its jurisdiction, utilize the social security account numbers issued by the Commissioner of Social Security for the purpose of establishing the identification of individuals affected by such law, and may require any individual who is or appears to be so affected to furnish to such State (or political subdivision thereof) or any agency thereof having administrative responsibility for the law involved, the social security account number (or numbers, if he has more than one such number) issued to him by the Commissioner of Social Security.

The ability to utilize the social security number for identification purposes is very important to the local tax office. Incorrect or careless management of the number could seriously jeopardize our authority to obtain social security numbers. Because of the stringent requirements necessary to request the SSN, it is no longer asked for on the Statewide Uniform Abstract.

Processing the Listings

The quality of the assessment process is a direct result of obtaining complete business property listings. In order to achieve this goal, it is necessary to educate the taxpayer as to what constitutes a complete listing. The most appropriate method to instruct the taxpayer is a systematic review of each abstract as it is received. Any abstract that is found to be deficient must be promptly returned to the taxpayer for correction. An example of a rejection letter is included at the end of this manual.

The flowchart on the next page demonstrates a proper methodology for processing the listings. This procedure may not always suit the needs of every county. However, every county should have some systematic flow of work. Identifying this flow can greatly enhance the efficiency of your office. Counties that rely on computer applications may especially see the benefit from properly organizing the flow of work in their office. The example chart shows general steps of the listing process. Most counties probably incorporate these same steps in some fashion. The following is a brief discussion of each.



Beginning of listing cycle

1. Near the end of December, listing forms for the following January listing period should be mailed to all existing business accounts and new accounts. Letters should be sent as well to organizations that commonly have lists of property owners in one place such as mobile home parks, marinas, airports, and shopping centers.

Once we begin receiving the listings in January, the first phase is to determine if the listing is complete. If not, then the abstract should be rejected and a letter sent to the taxpayer explaining the reason for the return of the listing and also to establish a strict time frame for return of the completed form. If the listing is rejected, a photocopy of the listing should be made and placed in the file. If the listing is complete, it is filed in the "ready to work" file.

Extensions

The majority of counties allow business taxpayers additional time to file their property tax returns. Extension requests will begin to be received in January. When a written request for extension is received, a copy should be made and filed. The requesting company should then be notified by letter that their request for extension has been granted or denied.

Any extension requests received after the end of the regular listing period should be denied. A letter should be sent to the requesting taxpayer explaining the requirements to file for extension during the regular listing period and that a listing must be submitted as soon as possible to avoid additional interest and penalties. At this time, a ten percent penalty is warranted. This penalty is actually a discovery under G.S. §105-312 for failure to list. There is actually no provision for a so-called "late listing penalty." By law, no extension may be granted beyond April 15th.

Appraisal

The appraiser will then determine if the information is sufficient to make his/her appraisal. If no additional data is required, the appraiser determines the assessed value and prepares the assessment notice. A comparison of values is made to those values of prior years. If this review does not indicate any unexplained fluctuations in value categories, the account is finished for the year. If additional data is needed, the appraiser should contact the taxpayer and follow standard office procedures for obtaining the additional information. This may include a contact by mail using one of the suggested letters at the end of this manual, or communication by telephone.

Leased Equipment Reports

In processing the listings, the appraiser should use some type of system to track all leased property reports. If your county is using the State Abstract, schedule C will serve as a leased property report. Regardless of how you handle the leased equipment reports, you will want to verify that the owner of the personal property has listed the property shown on the report. Special care needs to be given to this matter, as it can be a source of unlisted property. The appraiser should be aware of the frequent confusion between lessee and lessor, as to where the responsibility rests with respect to

listing the property. We frequently find situations where there is a contract between the lessor and lessee that directs the lessee to list and pay the taxes directly. It should be noted however, that the responsibility to list personal property is the duty of the owner, without exception.

The business property appraiser should also make it part of his/her duties to obtain lists of leased property in the possession of exempt organizations such as schools, hospitals, airport authorities, etc. While these organizations may be exempt from Ad Valorem taxation, leased property in their possession is not.

Non-Listers and Late Listers

One of the most important responsibilities of the professional property appraiser is to make certain that all property having situs in his county is listed for taxes. By keeping a current roster of taxpayers, it is easy to determine who has not listed for the current year. The appraiser should notify these taxpayers in writing as soon as possible after it has been determined that no current listing has been received. Frequently, the non-listers have merely forgotten to list, but it is possible that some of the non-listers have ceased operating or have moved out of the jurisdiction. The appraiser should be very diligent in keeping the tax roll correct.

Any taxpayer not in compliance with the listing requirements should be promptly assessed for taxation using some formula based on prior listings or a reasonable estimate of growth from the prior year. You may be able to estimate a business' personal property value by comparing it with similar businesses in your county that did list correctly. For example, convenience stores of similar age and size would probably have a similar value. Restaurants, doctor's offices, and attorney's offices are other examples of businesses that might be compared. This type of assessment may be the best information you have if the taxpayer will not provide you with a listing or provides you with an incomplete listing. It is helpful if the appraiser is familiar with all businesses in the county when comparing. If a listing is corrected, the procedures found in NCGS 105-312 for a discovery must be carefully followed when correcting an abstract. All of the proper notices and time limits must be followed accordingly for discovered property.

Special Listing Situations

The primary function of the listing process is to obtain complete and accurate listings of personal property in your jurisdiction. We have identified several areas where special attention is warranted. Frequently, taxpayers are confused about how certain property should be listed for ad valorem taxation and confused about how to complete certain sections of the abstract.

Who is authorized to sign the abstract?

North Carolina law is very precise and clear when describing who may sign an abstract. Any deviation from the requirements should not be allowed. §105-309(e), §105-310, and §105-311 are the statutes indicating who may sign an abstract. For a corporation, partnership, or unincorporated association, only a principal officer of the taxpayer or a full-time employee of the taxpayer who has been officially empowered by a principal officer may sign the abstract. This means a CPA from a hired accounting firm, or a tax representative may not legally sign the abstract. This requirement should be followed strictly since an abstract that is not legally signed is not a legal listing itself and could present problems in the future in case of unforeseen litigation.

What information is required on the abstract?

North Carolina General Statute §105-306(a) requires the owner to list the property. N.C.G.S. §105-309(d) requires the property listing to be itemized by the taxpayer in such detail as may be prescribed by an abstract or listing form approved by the Department of Revenue. The information provided should reflect original historical installed cost of all assets and should be organized by year acquired. This is the original cost to the original owner, which includes all costs incurred to bring the asset to its anticipated purpose. These costs may include, but are not limited to invoice cost, trade-in allowances, freight, installation costs, sales tax, and construction period interest.

What types of property go in each category of the abstract?

In general, counties require property to be listed in four or five categories: Machinery and equipment, office furniture and fixtures, computer equipment, leasehold improvements, and supplies. Some counties may allow or require additional or fewer categories.

Supplies include, but are not limited to, costs of cleaning supplies and office supplies. For taxpayers that do not keep an exact inventory of supply cost held on January 1, a common rule of thumb is to list one month's supply or 1/12 of the annual expenditures for supplies.

Leasehold improvements are items usually resembling part of the real property that a lessee adds to the shell of a leased building. This may be a dropped ceiling, special lighting, floor covering, or additional walls. The lessee should list these types of leasehold improvements.

Computer equipment includes the costs of taxable software, PC's, midrange, and mainframe computers and their peripherals. This category does not include computer desks and workstations or high-tech equipment such as fax machines, phone systems, computer controlled equipment, controls

for computer controlled equipment, computer components of equipment, medical equipment or point-of-sale equipment.

Office furniture and fixtures include a wide range of property from desks and chairs, artwork, garbage cans, and plastic plants to fax machines, phone systems, stereo systems, alarm systems, refrigerators, and televisions. These are the items related to the office functions and environment.

Finally, machinery and equipment includes all items related to the primary business. This category might include forklifts, assembly line equipment, overhead cranes, tools, robots, computer controls for a machine, and the machine itself. None of the above examples are intended to serve as complete lists.

When can the county reject an abstract?

§105-311(b) gives the county assessor the authority to reject or accept any abstract submitted by mail at his/her discretion. It is the opinion of this office that if an abstract is not received in such detail as described above, the abstract may be rejected by the county, and discovery penalties allowed under §105-312 may be applied if a corrected abstract is not received by the end of the listing period.

Examples of reasons an abstract may be rejected:

An abstract is filled out or organized in a way that is not in compliance with the instructions. This may mean that property has been listed either too general with the property not organized by type of property and year acquired, or broken down in too many categories not allowed by the abstract.

The taxpayer did not list on the county's approved listing form or the Statewide Uniform Abstract. §105-309(d) requires that personal property be listed in such detail as prescribed by an abstract form approved by the Department of Revenue. If additional information is sent with the abstract, the abstract still must be completed in such detail, as the county requires.

- The abstract is not signed or is signed incorrectly.
- The abstract reads "same as last year" or similar.
- Essential information is omitted from the taxpayer information section.
- What additional information needs to be sent?

No additional information is needed other than what is asked for in the original abstract. Documents to support the completed abstracts are helpful, but not necessarily required. Assessors have the option to require a more detailed list of personal property. The assessor does have the authority under §105-296, after reviewing the abstract, to require any person operating a business in the county to submit additional detailed information. This additional information is strictly confidential. The assessor also has subpoena power under §105-296(g) to subpoena any person or documents that

might be of assistance to the discovery or valuation of property. We recommend that counties make an informal request for information before using subpoena power.

Construction in Process

Construction in process (CIP) is a situation where a business entity is involved in the installation of assets that cannot be accomplished during one accounting cycle. The accountant will not capitalize the asset until all of the costs associated with the asset are known. In the interim period, the accountant will typically maintain the costs of the asset in a CIP account. The total of this account represents investment in tangible personal property, and is to be listed with the other capital assets of the business during the listing period. Clear instructions should be provided to taxpayers indicating that CIP is tangible property and is to be listed.

Expensed Items

Almost every business purchases assets at some time or another that do not require capitalization. Items such as small office machines, calculators, staplers, etc. are purchased and expensed against current operating revenue. While these items usually do not represent substantial value, they are taxable and should be listed. In some cases however, large companies establish a capitalization threshold where only items costing over a certain amount will be capitalized. This threshold can in some situations be \$1,000 or more for larger businesses. Not only should the appraiser be certain that these assets are being listed, he should identify the type of property purchased and the capitalization threshold. We will discuss methods of appraisal of these items in a later section.

Additionally, the appraiser should be aware of a type of expensed asset identified as Section 179 expensed property. Section 179 of the Internal Revenue Code allows a business to expense a limited dollar amount of assets provided they did not purchase over \$430,000 of new assets in their taxable year. The amount that may be expensed varies slightly by year and is as follows:

2000	\$20,000
2001 or 2002	\$24,000

Congress periodically reviews the amount a taxpayer can claim as the annual Section 179 amount. As part of an economic stimulus and tax-reduction package signed into law in May 2003, the expense limit was hiked to \$100,000. A \$2,000 inflation adjustment was added in 2004 and 2005 to make the limit \$102,000. The limit for 2006 was \$108,000. The limit for years 2007-2009 will be indexed for inflation and will be reduced to \$25,000 for year 2010 and after. Lawmakers upped the immediate deduction amount in the hopes it would encourage businesses to invest in new equipment sooner.

The limits to be expensed in the table above for any taxable year shall be reduced (but not below zero) by the amount by which the cost of section 179 property placed in service during 2006 exceeds \$430,000. This \$430,000 limit has increased from prior years also and will be further indexed for inflation for years 2007-2009. The limitation will be reduced to \$200,000 for 2010 and after and will not be indexed for inflation.

The appraiser needs to be aware that this property remains taxable just as all other business personal property, even though this property may not show up in the capital accounts with other taxable property. Taxpayers may inadvertently overlook section 179 assets for listing purposes. Most accounting systems that generate depreciation schedules identify section 179 assets and record the acquisition year and original cost until the time they are actually disposed of by the owner.

Leased Property

As we have discussed earlier, quite often there is confusion as to who should list property. In all cases the owner bears the responsibility to list and pay taxes on personal property. When we examine leased property, sometimes identification of the owner is difficult to discern. There are basically two types of leases, operating and capital. An operating lease is a true lease. The owner of the property enters into an agreement with a lessee, usually for a specified time and rental. At the end of the lease period, the property is returned to the owner (lessor). At no time is the ownership of property in question.

For ad valorem tax purposes, a capital lease is not really a lease, but is a financing arrangement between the lessor and lessee. For this reason, the lessee, (possessor) is considered to be the owner of the property and has the responsibility to list the property and pay taxes.

If there are questions concerning the classification of leases, the appraiser should use the following tests. FASB Statement No. 13 provides these tests. If the answer to any one of the four questions is yes, then the lease is a capital lease and the lessee is considered the owner for property taxes. If all four questions are answered no, then the property is subject to an operating lease, and the lessor is the owner for property tax purposes.

1. There is a *bargain purchase option* at the end of the lease period. The lessee can be expected to purchase the leased asset and become its legal owner.
2. The ownership (actual title) of the property transfers at the completion of the lease.
3. The lease term is 75% or more of the useful economic life of the leased asset. The lessee uses up most of the leased asset's service potential.
4. The discounted minimum lease payments (MLP) exceed 90% of the original cost of the asset. In effect, the lease payments operate as installment payments for the leased asset.

The final consideration in listing property acquired through a capital lease is the acquisition cost. The property should be listed as an acquisition for the year, which the lease began and for the original purchase price, and not the bargain purchase price. As the lessee will be responsible for listing the property, he may need to contact the lessor for this information.

A helpful case to note is Szabo Food Service, Inc. v. Balentine's, Inc. 285 N.C. 452, 206 S.E. 2d 242 (1974). In the North Carolina Supreme Court's decision, we are given some additional useful guidelines.

Szabo Food Service had leased a building and the premises from J.W. York. Szabo then subleased the property to Balentine's who agreed to operate a restaurant or cafeteria on the premises for a minimum of two years. Balentine's agreed to pay Szabo 10% of their gross receipts each month. If Balentine's continued to pay 10% to Szabo through the end of the lease from York, Szabo would transfer title of the restaurant equipment to Balentine's.

In this case, the Supreme Court reversed the decision of the Court of Appeals that the agreement was a conditional sale. The Supreme Court held that the agreement between the parties was not a conditional sale, or capital lease. The decision states:

..under all the tests for determining whether an agreement is a lease or conditional sale, this contract is a lease. It imposes upon Balentine's no obligation to buy the equipment; no purchase price is specified and no value is placed upon the equipment. Balentine's rent is based solely upon its gross retail sales from the operation of the cafeteria, an amount which has no relation to the value of the equipment. After the two year sublease agreement, Balentine's had the option to terminate their lease at any time.

One of the principal tests for determining whether a contract is one of conditional sale or lease is whether the party is obligated at all events to pay the total purchase price of the property which is the subject of the contract. If the return of the property is either required or permitted the instrument will be held to be a lease; if the so-called lessee is obligated to pay the purchase price, even though it be denominated rental, the contract will be held to be one of sale. Annot., 175 A.L.R. 1366, 1384 (1948). A lease of personal property is substantially equivalent to a conditional sale when the buyer is bound to pay rent substantially equal to the value of the property and has the option of becoming, or is to become, the owner of the property after all the rent is paid.... 8 C.J.S. Bailments § 3(3) (1962).

Therefore, a lease which provides for a certain rent in installments is not a conditional sale if the lessee can terminate the transaction at any time by returning the property, even though the lease also provides that if rent is paid for a certain period, the lessee shall thereupon become the owner of the property.

Looking back on the four tests of a capital lease, we see that the answer would be no to all questions. In addition to those tests, the decision in this case gave us one underlying condition of a capital lease. The Supreme Court stated that the facts of the case were not consistent with the fundamental proposition that to create a security interest (capital lease) the parties must have intended to create one.

New Owner of an Existing Business

One of the most difficult problems faced by the personal property appraiser is how to treat the purchase of an existing business by a new owner. There are two basic situations in transfers of personal property. The first situation involves the acquisition of the entire operating entity by the purchaser. The purchaser may ultimately merge the operation into the acquiring company or continue to operate the acquisition as an independent subsidiary. In this scenario, the assets should be reported at their original historical installed cost.

The second situation is where the purchaser acquires only the assets of the business where the likelihood is that the assets will be moved to a different location. In listing these assets, adjustments will have to be made to remove the installation and freight that was capitalized initially. The costs of removal and relocation will then be added to the cost of the asset. The appraisal of these assets will be discussed in another section.

Exemption Applications

All applications for exemption or exclusions are to be filed during the regular listing period. The appraiser should carefully review each application to ensure that only the appropriate property is granted relief from property taxation. We have seen several situations where taxpayers have erroneously extended exemption classification to property which is minimally connected to other exempt property.

Public Relations

An often overlooked area in the listing and appraisal of personal property is the aspect of public relations. We need to remember that taxation is not popular among our business owners. We need to make every effort to maintain a cordial and professional demeanor in dealing with the general public. Regardless of the attitude of the taxpayer, the professional property appraiser will be polite at all times. It is also beneficial to have a positive attitude. Even though you may feel that you are overworked and underpaid, it is your decision to be in this profession. A positive attitude toward your work will make it more rewarding. The most important aspect of dealing with the general public is not to take what the taxpayer says personally. Frequently the best method of handling the belligerent taxpayer is a smile and a calm demeanor.

There are three situations in which we must interact with the public.

1. Face to Face
2. Telephone
3. In writing; either computer typed or by email

In face-to-face interaction, we need to remember that we only get one chance to make a first impression. Not only will our positive attitude and professional demeanor be important, but we should also make sure that our appearance is appropriate for the job we are doing. In our opinion, if we are to be treated with respect and courtesy by our taxpayers, we should present ourselves in the proper business attire. Equally important in maintaining a professional image is being prepared. When you know that you will be meeting with a taxpayer on a listing or appraisal issue, **do your homework!**

The telephone is another area where we have an opportunity to enhance our professional image. When answering a telephone call, you should first identify yourself to the caller. Enunciate carefully and avoid eating or other behavior the caller may find irritating. Proper telephone etiquette is a must for dealing with the public.

In correspondence with a taxpayer, your writing should be clear and concise. If your skills are weak in this area, many community colleges have courses in business correspondence. One of the most important rules is to always read what you have written. A poorly written letter sends a message to the taxpayer that the county is not employing competent personnel.

The Role of the Appraiser in Litigation

If you make enough appraisals, sooner or later you may be asked to testify as to the accuracy of your work. Whenever you are faced with this situation, try to keep the following rules in mind.

1. Do not try to outwit the person asking the questions. Generally you have to remember that the questioner has the advantage and usually has the practice.
2. If you do not know the answer, don't be afraid to say so. More damage is done to good arguments by a witness testifying to things that he/she does not understand.
3. If you make an error on an appraisal or in your testimony, admit that you have made the error. Then provide the correct information.
4. Be prepared. Bring any notes or work papers with you.

Case Problem

Listing A Business

Using the following accounting records of BDK Manufacturing fill out the listing form found on page 3 of this section.

Balance Sheet
 BDK Manufacturer of Electrical Equipment
 December 31, 2006

Assets			LIABILITIES AND NET WORTH		
CURRENT ASSETS			CURRENT LIABILITIES		
Cash On Hand		3,000	Accounts Payable (Net Due)		40,000
Bank Balances		80,000	Accounts Payable (Past Due)		
Marketable Securities			Notes Payable - Banks		77,920
Accounts Receivable - Customers			Notes Payable - Merchandise		
Accounts - Current	20,000		Notes Payable - Other		
Accounts - Past Due			Reserve - Federal Taxes		
Total	20,000		Reserve - Other Taxes		
Less Revenues					
Notes Receivable - Customers		20,000	ACCRUED EXPENSES		
INVENTORY			Salaries & Wages	140,000	
Raw Material	20,000				
Work in Process	6,554				
Finished Stock	4,961				
Supplies	1,200				
		32,715			
OTHER CURRENT ASSETS			Total Current Liabilities		257,920
Total Current Assets		135,715	Mortgage Payable		90,000
			Long Term Notes		60,000
FIXED ASSETS					
Land	80,000		TOTAL LIABILITIES		407,920
Buildings	412,000				
Furniture & Fixtures	46,522		NET WORTH		
Computers	22,540		Capital Stock		
Machinery & Equipment	1,061,531		Preferred	524,000	
Leasehold Improvements	40,540		Common	327,562	851,562
Total	1,663,133		Paid in or Capital Surplus		
Less Depreciation	454,401		Retained Earnings		90,965
OTHER ASSETS		1,208,732			
Loans and Advances			Total		
Prepaid Expenses	6,000		Less Treasury Stock		
		6,000	Stockholders Equity		
			NET WORTH		942,527
TOTAL ASSETS		1,350,447	TOTAL LIABILITIES & NET WORTH		1,350,447

BDK Manufacturer of Electrical Equipment
 Depreciation Schedule

31-Dec-06

<u>Kind of Property</u>	<u>Date Acquired</u>	<u>Cost or Basis</u>	<u>Salvage Value</u>	<u>Cost Less Salvage</u>	<u>Method Used</u>	<u>Rate or Life</u>	<u>Accum Dep 12/31/05</u>	<u>2006 Depr Expense</u>	<u>Accum Dep 12/31/06</u>
Real Property									
Land	1999	80,000							
Buildings	2000	412,000							
Total		492,000							
Mach. & Equip.									
Stamping machine	2000	102,500	1500	101,000	SL	10	60600.00	10100.00	70700.00
Stamping machine	2000	102,500	1500	101,000	SL	10	60600.00	10100.00	70700.00
Folk Lift	2000	10,546	100	10,446	SL	10	6267.60	1044.60	7312.20
Folk Lift	2000	10,546	100	10,446	SL	10	6267.60	1044.60	7312.20
Alex Press	2001	50,752	500	50,252	SL	10	25126.00	5025.20	30151.20
Alex Press	2001	50,752	500	50,252	SL	10	25126.00	5025.20	30151.20
Brady Press	2002	65,895	600	65,295	SL	10	26118.00	6529.50	32647.50
Brady Press	2002	66,985	600	66,385	SL	10	26554.00	6638.50	33192.50
Folk Lift	2003	12,563	100	12,463	SL	10	3738.90	1246.30	4985.20
Folk Lift	2003	12,563	100	12,463	SL	10	3738.90	1246.30	4985.20
Stamping machine	2004	154,785	2000	152,785	SL	10	30557.00	15278.50	45835.50
Stamping machine	2004	154,785	2000	152,785	SL	10	30557.00	15278.50	45835.50
Press	2005	78,564	800	77,764	SL	10	7776.40	7776.40	15552.80
Press	2005	78,564	800	77,764	SL	10	7776.40	7776.40	15552.80
Alex Press	2006	54,615	1000	53,615	SL	10	0.00	5361.50	5361.50
Alex Press	2006	54,616	1000	53,616	SL	10	0.00	5361.60	5361.60
Total		\$ 1,061,531	\$ 13,200	\$1,048,331			\$ 320,804	\$ 104,833	\$ 425,637

Office Furniture & Fixtures

File Cabinet	2000	500	50	450	SL	10	270.00	45.00	315.00
Artwork	2000	2,000	100	1,900	SL	10	1140.00	190.00	1330.00
Vacuum	2000	250	18	232	SL	10	139.20	23.20	162.40
Stereo	2000	1,500	15	1,485	SL	10	891.00	148.50	1039.50
Desk	2001	1,600	160	1,440	SL	10	720.00	144.00	864.00
Furniture	2001	2,500	250	2,250	SL	10	1125.00	225.00	1350.00

BDK Manufacturer of Electrical Equipment
Profit and Loss Statement (Income Statement)

INCOME	Year Ending 12-31-2006	
Sales		\$ 650,000
Total Income		\$ 650,000
COST OF SALES		
Inventory to Begin	\$ 46,562	
Merchandise Purchased	\$ -	
Total	\$ 46,562	
Less Inventory at End	\$ 32,715	
Cost of Sales		\$ 13,847
GROSS PROFIT		\$ 636,153
EXPENSES		
Advertising	\$ 5,000	
Auto & Trucks	\$ 1,000	
Bad Debts	\$ 5,200	
Depreciation	\$ 113,247	
Discounts and Allowances	\$ 1,500	
Freight, Express, Delivery	\$ 2,000	
General and Miscellaneous	\$ 1,500	
Heat, Light, Power and Water	\$ 95,625	
Insurance	\$ 300	
Interest	\$ 50	
Laundry and Cleaning	\$ 265	
Legal and Accounting	\$ 500	
Office Expense, Printing and Postage	\$ 500	
Repairs	\$ 2,300	
Rent	\$ 12,000	
Tools Expense	\$ 4,200	
Manufacturing Supplies Used	\$ 13,347	
Office Supplies Used	\$ 2,562	
Salaries and Wages - Employees	\$ 95,600	
- Officers	\$ 100,000	
Taxes: F.I.C.A.	\$ 9,780	
General	\$ 11,000	
State Sales	\$ 3,500	
Unemployment	\$ 4,000	
Telephone and Telegraph	\$ 1,000	
Travel and Entertainment	\$ 2,315	
Total Expenses		\$ 488,291
Net Operating Profit or Loss		\$ 147,862
OTHER INCOME		
Total		\$ 147,862
OTHER EXPENSES		
TOTAL NET PROFIT OR LOSS		\$ 147,862