

**REVENUE DEPARTMENT[701]**

**Notice of Intended Action**

**Proposing rule making related to classification of multiresidential property and dual property and providing an opportunity for public comment**

The Revenue Department hereby proposes to amend Chapter 71, “Assessment Practices and Equalization,” and Chapter 80, “Property Tax Credits and Exemptions,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 421.14, 421.17(2)“c,” and 427A.1(10).

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 441.21 as amended by 2021 Iowa Acts, House File 418.

*Purpose and Summary*

This proposed rule making is intended to implement 2021 Iowa Acts, House File 418, which eliminates the multiresidential property classification for property tax assessment purposes for assessment years beginning on or after January 1, 2022. The types of property previously classified as multiresidential will be classified as residential property beginning with valuations established on or after January 1, 2022. Additionally, this rule making addresses dual property classification and additional modifications to the rules related to the implementation of House File 418. Finally, this rule making corrects cross-references to the statute providing for the Department’s state appraisal manual to be used by assessors in assessing and valuing all classes of property in the state.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on November 9, 2021. Comments should be directed to:

Nick Behlke  
Department of Revenue  
Hoover State Office Building  
P.O. Box 10457  
Des Moines, Iowa 50306  
Phone: 515.336.9025  
Email: [nick.behlke@iowa.gov](mailto:nick.behlke@iowa.gov)

### *Public Hearing*

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

### *Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend subrule 71.1(1) as follows:

**71.1(1) Responsibility of assessors.** All real estate subject to assessment by city and county assessors shall be classified as provided in this rule. It shall be the responsibility of city and county assessors to determine the proper classification of real estate. There can be only one classification per property under this rule, except as provided for in paragraph 71.1(5)“b.” 71.1(4)“d.” An assessor shall not assign one classification to the land and a different classification to the building or separate classifications to the land or separate classifications to the building. A building or structure on leased land is considered a separate property and may be classified differently than the land upon which it is located. The determination shall be based upon the best judgment of the assessor following the guidelines set forth in this rule and the status of the real estate as of January 1 of the year in which the assessment is made. The assessor shall classify property according to its present use and not according to its highest and best use. See subrule 71.1(9) for an exception to the general rule that property is to be classified according to its use. The classification shall be utilized on the abstract of assessment submitted to the department of revenue pursuant to Iowa Code section 441.45. See rule 701—71.8(428,441).

ITEM 2. Amend subrule 71.1(4) as follows:

**71.1(4) Residential real estate.**

*a. Classification of residential real estate—in general.* Residential real estate shall include all lands and buildings which are primarily used or intended for human habitation containing fewer than three dwelling units, as that term is defined in subparagraph 71.1(5)“a”(5), including those buildings located on agricultural land. Buildings used primarily or intended for human habitation shall include the dwelling as well as structures and improvements used primarily as a part of, or in conjunction with, the dwelling. This includes but is not limited to garages, whether attached or detached, tennis courts, swimming pools, guest cottages, and storage sheds for household goods. “Used in conjunction with” means that the structure or improvement is located on the same parcel, on contiguous parcels, or on a parcel directly across a street or alley as the building or structure containing the dwelling and when marketed for sale would be sold as a unit. Residential real estate located on agricultural land shall include only buildings as defined in this subrule. Buildings for human habitation that are used as commercial ventures, including but not limited to hotels, motels, rest homes, and structures containing three or more separate living quarters, shall not be considered residential real estate. However, regardless of the number

of separate living quarters, multiple housing cooperatives organized under Iowa Code chapter 499A and land and buildings owned and operated by organizations that have received tax-exempt status under Section 501(c)(3) of the Internal Revenue Code, if the rental income from the property is not taxed as unrelated business income under Iowa Code section 422.33(1A), shall be considered residential real estate.

b. *Horizontal property regimes.* An apartment in a horizontal property regime (condominium) referred to in Iowa Code chapter 499B which is used or intended for use for human habitation shall be classified as residential real estate regardless of who occupies the apartment. Existing structures shall not be converted to a horizontal property regime unless building code requirements have been met.

c. *Classification of residential real estate on or after January 1, 2022.* Beginning with valuations established on or after January 1, 2022, residential real estate shall also include:

(1) Property primarily used or intended for human habitation containing two or fewer dwelling units.

(2) Mobile home parks.

(3) Manufactured home communities.

(4) Land-leased communities.

(5) Assisted living facilities.

(6) A parcel primarily used or intended for human habitation containing three or more separate dwelling units. If a portion of such a parcel is used or intended for a purpose that, if the primary use would be classified as commercial property or industrial property, each such portion, including a proportionate share of the land included in the parcel, if applicable, shall be assigned the appropriate classification pursuant to Iowa Code section 441.21(14) "b" and paragraph 71.1(4) "d" below.

(7) For a parcel that is primarily used or intended for use as commercial property or industrial property, that portion of the parcel that is used or intended for human habitation, regardless of the number of dwelling units contained on the parcel, including a proportionate share of the land included in the parcel, if applicable. The portion of such a parcel used or intended for use as commercial property or industrial property, including a proportionate share of the land included in the parcel, if applicable, shall be assigned the appropriate classification pursuant to Iowa Code section 441.21(14) "b" and paragraph 71.1(4) "d" below.

d. *Dual classification.*

(1) For assessment years beginning January 1, 2022, and after, valuations of parcels for which a portion of the parcel satisfies the requirements for classification as residential property under Iowa Code section 441.21(14) "a"(6) or 441.21(14) "a"(7) and subparagraph 71.1(4) "c"(6) or 71.1(4) "c"(7), the assessor shall assign to that portion of the parcel the classification of residential property and to such other portions of the parcel the property classification for which such other portions qualify.

(2) The only permitted combinations of dual classifications are commercial and residential or industrial and residential. The assessor shall assign the classification of residential to that portion of the parcel that satisfies the requirements for the classification of residential property and to such other portions of the parcel the property classification for which such other portions qualify. The assessor shall maintain the valuation and assessment of property with a dual classification on one parcel record.

e. *Section 42 housing.* Property that is rented or leased to low-income individuals and families as authorized by Section 42 of the Internal Revenue Code, and that has not been withdrawn from Section 42 assessment procedures under Iowa Code section 441.21(2) as amended by 2021 Iowa Acts, House File 418, section 2, shall not be classified as residential property.

f. *Short-term leases.* A hotel, motel, inn, or other building where rooms or dwelling units are usually rented for less than one month shall not be classified as residential property.

g. *Definitions.* For purposes of this subrule, the following definitions apply:

"Assisted living facility" means property for providing assisted living as defined in Iowa Code section 231C.2. "Assisted living facility" also includes a health care facility as defined in Iowa Code section 135C.1, an elder group home as defined in Iowa Code section 231B.1, a child foster care facility under Iowa Code chapter 237, or property used for a hospice program as defined in Iowa Code section 135J.1.

“Dwelling unit” means an apartment, group of rooms, or single room which is occupied as separate living quarters or, if vacant, is intended for occupancy as separate living quarters, in which a tenant can live and sleep separately from any other persons in the building.

“Land-leased community” means the same as defined in Iowa Code sections 335.30A and 414.28A.

“Manufactured home community” means the same as a land-leased community.

“Mobile home park” means the same as defined in Iowa Code section 435.1.

ITEM 3. Rescind and reserve subrule **71.1(5)**.

ITEM 4. Amend rule 701—71.3(421,428,441), introductory paragraph, as follows:

**701—71.3(421,428,441) Valuation of agricultural real estate.** Agricultural real estate shall be assessed at its actual value as defined in Iowa Code section 441.21 by giving exclusive consideration to its productivity and net earning capacity. In determining the actual value of agricultural real estate, city and county assessors shall use the Iowa Real Property Appraisal Manual and any other guidelines issued by the department of revenue pursuant to Iowa Code section ~~421.17(18)~~ 421.17(17).

ITEM 5. Amend rule 701—71.4(421,428,441) as follows:

**701—71.4(421,428,441) Valuation of residential real estate.** Residential real estate shall be assessed at its actual value as defined in Iowa Code section 441.21.

In determining the actual value of residential real estate, city and county assessors shall use the appraisal manual issued by the department of revenue pursuant to Iowa Code section ~~421.17(18)~~ 421.17(17) as well as a locally conducted assessment/sales ratio study, an analysis of sales of comparable properties, and any other relevant data available.

This rule is intended to implement Iowa Code sections 421.17, 428.4 and 441.21.

ITEM 6. Amend rule 701—71.5(421,428,441), introductory paragraph, as follows:

**701—71.5(421,428,441) Valuation of commercial real estate.** Commercial real estate shall be assessed at its actual value as defined in Iowa Code section 441.21. In determining the actual value of commercial real estate, city and county assessors shall use the appraisal manual issued by the department of revenue pursuant to Iowa Code section ~~421.17(18)~~ 421.17(17) as well as a locally conducted assessment/sales ratio study, an analysis of sales of comparable properties, and any other relevant data available. In cases involving the valuation of owner-occupied commercial property, the data relating to the financial performance of the owner or the owner’s business, including but not limited to its sales, revenue, expenses, or profits, shall not be considered relevant in determining the property’s actual value.

ITEM 7. Amend rule 701—71.6(421,428,441) as follows:

**701—71.6(421,428,441) Valuation of industrial land and buildings.** Industrial real estate shall be assessed at its actual value as defined in Iowa Code section 441.21.

In determining the actual value of industrial land and buildings, city and county assessors shall use the appraisal manual issued by the department of revenue pursuant to Iowa Code ~~subsection 421.17(18)~~ section 421.17(17), and any other relevant data available.

This rule is intended to implement Iowa Code sections 421.17, 428.4 and 441.21.

ITEM 8. Rescind and reserve subrule **71.12(3)**.

ITEM 9. Rescind and reserve rule **701—71.23(421,428,441)**.

ITEM 10. Amend rule 701—71.24(421,428,441) as follows:

**701—71.24(421,428,441) Valuation of dual classification property.** Real estate with a dual classification of ~~commercial/multiresidential or industrial/multiresidential~~ commercial/residential or industrial/residential shall be assessed at its actual value as defined in Iowa Code section 441.21.

**71.24(1) Allocation of dual classification values.** The assessor shall value as a whole properties that have portions classified as ~~multiresidential~~ residential and portions classified as commercial or industrial using the methodology found in rule 701—71.23(421,428,441). After the assessor has assigned a value to the property, the value shall be allocated between the two classes of property based on the appropriate appraisal methodology. The assessor shall allocate land value proportionately by class.

**71.24(2) Notice of valuation.** The valuation notice issued pursuant to Iowa Code section 441.23 shall include a breakdown of the valuation by class for the current year and the prior year.

**71.24(3) Protest of assessment.** The valuation and assessment of property with a dual classification shall be considered one assessment, and any protest of assessment brought under Iowa Code section 441.37 or subsequent appeal must be made on the entire assessment. Protests of assessments on the valuation of only one class of property are not permitted. The board of review shall review the valuation in total as both classifications are subject to the board's adjustment in any review proceeding. Likewise, any tribunal or court reviewing the board's decision shall base its review on the entire assessment.

This rule is intended to implement Iowa Code sections 421.17, 428.4 and 441.21 as amended by 2013 Iowa Acts, Senate File 295.

ITEM 11. Amend subrule 80.30(8) as follows:

**80.30(8) Property ineligible for credit.** The following are not eligible to receive a business property tax credit or to be part of a property unit that receives the business property tax credit:

*a.* Property that is rented or leased to low-income individuals and families as authorized by Section 42 of the Internal Revenue Code, as amended, and that is subject to assessment procedures relating to Section 42 property under Iowa Code section 441.21, ~~subsection 2,~~ 441.21(2) for the applicable assessment year.

*b.* ~~Property classified as multiresidential under 701—subrule 71.1(5).~~ that is a mobile home park, manufactured home community, land-leased community, or assisted living facility, as those terms are defined in Iowa Code section 441.21(13) as amended by 2021 Iowa Acts, House File 418, section 10, or that is property primarily used or intended for human habitation containing three or more separate dwelling units.