

**NOTICE OF INTENDED ACTION
(Proposed Rule)**

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ARC #

Style Approved:

Content Approved: _____

Agency & IAC Number: Revenue—701

IAC Chapter & Title Added or Amended: Chapter 71, “Assessment Practices and Equalization.”

Contact Person: Ed Henderson

Statutory Designee With Rule-making Authority: Director of Revenue

Phone: 281-8457

Date Approved by Designee: May 1, 2009

Publication Date: May 20, 2009

Date of Public Hearing (if any): None

Deadline for Written Comment: June 9, 2009

Summary of Rule/Rule Changes:

The rules are amended to clarify that the assessor must classify property as of the assessment date according to its present use and not according to its highest and best use. Also, when determining the actual value of property as of the assessment date, the assessor shall not base that determination on a speculative highest and best use not supported by current comparable sales. A valuation supported by current comparable sales would not be based on a speculative highest and best use.

Reason for the Rule/Rule Changes:

The portion of the existing rule stating that the assessor is to value property according to its present use and not according to its highest and best use was ruled to be over broad and void by the Polk County District Court decision in Polk County Assessor v. Iowa Department of Revenue, No. CV 6603.

Effect of Rule Adoption/Change: (who, what, when, etc.)

The rule is not expected to change existing classification and valuation procedures of most assessors as it is longstanding policy based on case law that property is to be classified according to its present use and property should not be valued at a speculative highest and best use for assessment purposes. It is presumed that current comparable sales will support the actual value of the property being assessed as of the assessment date.

Is this change mandated by State or Federal Law?

No.

Will anyone be affected by this rule change?

It is not anticipated that anyone will be affected by this rule change.

What are the potential benefits of this rule?

The rule change is not anticipated to have any beneficial or detrimental impact on anyone.

What are the potential costs to the regulated community, or the State of Iowa as a whole, to this rule?

None.

Do any other agencies regulate in this area?

No.

If so, what agencies and what Administrative Code Sections apply?

N/A

What alternatives to direct regulation are available to the agency in the regulating this within the area?

None.

Why were other alternatives not used?

N/A

Does this rule contain a waiver provision?

Yes. If not, why?

Likely areas of public comment:

None anticipated.

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