

**79-261. Procedure governing classification of property for purposes of exemption under 79-223.** (a)

(1) The provisions of this section are intended to codify the original legislative intent of the 2006 law exempting from ad valorem taxation commercial and industrial machinery and equipment purchased, leased or transported into the state after June 30, 2006, pursuant to K.S.A. 2014 Supp. 79-223, and amendments thereto.

(2) As used in this section, "commercial and industrial machinery and equipment" means property classified within subclass (5) of class 2 of section 1 of article 11 of the constitution of the state of Kansas.

(b) (1) In determining the classification of property for ad valorem tax purposes, the county appraiser shall conform to the definitions of real and personal property in Kansas law and to the factors set forth in the personal property guide devised or prescribed by the director of property valuation pursuant to K.S.A. 75-5105a(b), and amendments thereto.

(2) Where the proper classification of commercial and industrial machinery and equipment is not clearly determined from the definitions of real and personal property provided in Kansas law, the appraiser shall use the three part fixture law test as set forth in the personal property guide prescribed by the director of property valuation pursuant to K.S.A. 75-5105a(b), and amendments thereto, and shall consider the following:

(A) The annexation of the machinery and equipment to the real estate;

(B) the adaptation to the use of the realty to which it is attached and determination whether the property at issue serves the real estate; and

(C) the intention of the party making the annexation, based on the nature of the item affixed; the relation and situation of the party making the annexation; the structure and mode of annexation; and the purpose or use for which the annexation was made.

(3) The basic factors for clarifying items as real or personal property are their designated use and purpose. The determination of whether property is real or personal must be made on a case-by-case basis. All three parts of the three-part fixture test must be satisfied for the item to be classified as real property.

**History:** L. 2014, ch. 140, § 1; July 1.