

**Vermont Department of Taxes
Division of Property Valuation and Review
TECHNICAL BULLETIN**

TB-21

TAX: Property

SUBJECT: Removable Greenhouses

ISSUED: 5/3/2000

REFERENCE: 32 V.S.A. § 3618

A greenhouse owned and used by a commercial nursery that is removable without material injury to the underlying realty is business personal property under 32 V.S.A. § 3618. A greenhouse that is affixed to the underlying realty in a manner that would result in material injury to the realty were it to be removed is, in most cases, an improvement to the underlying real estate and its value should be included in the parcel's real property assessment.

Definition

Under Vermont law, business personal property “means tangible personal property of a depreciable nature used or held for use in any trade [or] business . . . conducted for profit including, without limitation . . . fixtures . . . and all personal property used or intended to be used for the production . . . of anything of value. . . . ‘Business personal property’ does not include inventory, or goods and chattels so affixed to real property as to have become part thereof, and which are therefore not severable or removable without material injury to the real property. . . .” 32 V.S.A. § 3618(c)(1).

Analysis

Removable greenhouses owned and used by commercial nurseries are depreciable property used in conducting for-profit businesses. Greenhouses which are anchored to the land through driving a portion of the supporting posts into the soil are not so affixed as to have become a part of the real property. Greenhouses of this type are removable and the removal of the supporting posts does not cause material injury to the real property. Therefore, removable greenhouses that are anchored to the real property through the expedient of driving in a portion of the metal frame structure (much like one would anchor a tent) when used by commercial nurseries are business personal property within the definition of section 3618(c)(1) and are not subject to taxation as real property.

On the other hand, greenhouses that rest on a footing, frost wall, stanchions embedded in concrete or other permanent fixture are annexed to the property in a manner that would result in material injury to the real property were they to be removed. If a greenhouse of this type is

located on a parcel owned by the owner of the greenhouse, the greenhouse is an improvement to the parcel and should be assessed as part of the underlying parcel. If a greenhouse of this type is located on a parcel leased to the owner of the greenhouse, then there are two parcels of real estate: the greenhouse, which is the real property of the greenhouse owner and the leased land, which is the real property of the lessor. 32 V.S.A. § 3608. (“Buildings on leased land or on land not owned by the owner of the buildings shall be set in the list as real estate.”)

This technical bulletin is consistent with the common law treatment of trade fixtures as a category of fixtures which are not subject to real property taxation. The crucial criterion for determining whether an item of personal property which is affixed to real estate retains its chattel character regardless of annexation is one of intent; is it the intent of the parties to the lease to make the chattel property a permanent accession of the freehold? Removable greenhouses are used by commercial nurseries for the purpose of improving the business of the nursery, not to improve the real estate upon which the greenhouses are sited. Indeed, while the components of the greenhouses may have resale or salvage value, in general the greenhouses do not appear to materially increase the saleability or value of the underlying realty.

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