

# TAXATION OF MODULARS, MOBILE HOMES, CAMPERS & RV'S

A Presentation for the New Hampshire Tax  
Collector's Assn (NHTCA)  
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## THE BASIC STARTING POINT:



**72:6 Real Estate.** – All real estate, whether improved or unimproved, shall be taxed except as otherwise provided.

**72:7 Buildings, Etc.** – Buildings, mills, wharves, ferries, toll bridges, locks and canals.... are taxable as real estate.

How do you define real estate?

There is no specific statutory definition under New Hampshire law.

Black's Law Dictionary (11th Ed – 2019)



"Real Property- Land and anything growing on, attached to or erected on it, excluding anything that may be severed without injury to the land."

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## New Hampshire Court Rulings:



Taxable real estate includes "fixtures" which are items of personal property that have lost their character as personality and become part of the realty.  
**DirceTV, Inc. vs Town of New Hampton**, 170 N.H. 33 (2017).



Factory machinery may be subject to taxation in rare circumstances where it has special use or multiple uses, independent of and unrelated to process of production that are intimately intertwined with underlying realty.  
**Crown Paper Company vs City of Berlin**, 142 N.H. 563 (1997).

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**New Hampshire Court Rulings (cont.):**






*Rights in a reservoir of water are taxable as real estate. Winnipiseogee Lake Cotton & Woolen Mfg Co vs Gilford, 64 N.H. 337 (1887).*



*"(It is)...the undoubted power of the legislature in this state to make any type of property realty for purposes of taxation, even though it is personally at common law."*



*King Ridge Inc vs Town of Sutton, 115 N.H. 294 (1975) (ski lifts deemed real estate). Kolodny vs Laconia, 96 N.H. 337 (1950).*

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**MODULAR HOUSING (A.K.A PRE-SITE BUILT HOUSING):**



Defined in State Law:

**674:31-a Definition; Presite Built Housing.** – As used in this subdivision, "presite built housing" means any structure designed primarily for residential occupancy which is wholly or in substantial part made, fabricated, formed or assembled in off-site manufacturing facilities in conformance with the United States Department of Housing and Urban Development minimum property standards and local building codes, for installation, or assembly and installation, on the building site. For the purposes of this subdivision, presite built housing shall not include manufactured housing, as defined in RSA 674:31.

This type of housing is generally delivered to a homesite on a flatbed truck and is then lifted into place on a prepared foundation or slab by a crane or similar piece of equipment.

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Pre-site Built Housing (aka Modular Housing) is subject to the provisions of RSA 205-C "Modular Building Standards"



**RSA 205-C (1)**

XI. "Modular building" means any building of closed construction, which is made or assembled in manufacturing facilities off the building site, for installation, or assembly and installation, on the building site. This definition shall not be construed to include any structure labeled in accordance with the Federal Manufactured Housing Construction and Safety Standards Act of 1974, nor shall it include single-wide structures under 750 square feet, provided that they are not for residential or classroom use, nor shall it include any recreational vehicle or park trailer as defined in American National Standards Institute A119.2, Standard for Recreational Vehicles, or A119.5, Standard for Park Trailers, or any building type not subject to the requirements of nationally recognized model building codes.

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Modular buildings are usually placed on land owned by the Owner of the modular building. If not, it would be considered a building "on land of another", and they can be separately assessed and taxed:

**75:2 Distinct Interests.** – Whenever it shall appear to the selectmen that several persons are owners of distinct interests in the same real estate, or that one person is owner of land and another is the owner of any building, timber, or wood standing thereon, or ores or minerals therein, they may, upon request, appraise such interests and assess the same to the owners thereof separately, except as provided in RSA 75:3.



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Or they may be taxed together and assessed to the landowner:

**75:3 Land and Buildings.** – Whenever a person owns or erects a building on land of another both may be taxed together as real estate to the owner of the land, provided a selectman or assessor, before or when taking the inventory, gives notice in writing to the landowner that such building is to be taxed to the landowner as real estate. An affidavit by the selectman or assessor giving the notice that such notice was given shall be evidence of the fact. The owner of the land shall have a lien on such building for the payment of the tax.



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### MANUFACTURED HOUSING (INCLUDING "MOBILE HOME" – RSA 21:46)



Defined in State Law:

**205-A:1 Definitions.** – As used solely in this chapter unless the context specifically requires otherwise:

I. "Manufactured housing" includes, but is not limited to, manufactured housing as defined by RSA 674:31, and also includes any prefabricated dwelling unit which:

- (a) Is designed for long term and continuous residential occupancy;
- (b) Is designed to be moved on wheels, as a whole or in sections; and
- (c) On arrival on the site, is complete and ready for occupancy, except for incidental unpacking, assembly, connection with utilities, and placing on support or permanent structure.

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**674:31 Definition.** – As used in this subdivision, "manufactured housing" means any structure, transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width and 40 body feet or more in length, or when erected on site, is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical heating systems contained therein. Manufactured housing as defined in this section shall not include presite built housing as defined in RSA 674:31-a.

There are separate statutory provisions which govern the installation standards for Manufactured Homes found in **RSA 205-D.**



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Manufactured homes may be installed on land owned by the Owner of the Manufactured Home, or in Manufactured Housing Parks owned by third parties, and governed by the provisions of **RSA 205-A.**



The taxes on a manufactured home can only be assessed to the Owner of the unit itself:

*73:16-a Personal Property on Land of Another.* – ...The tax due upon the manufactured housing shall only be assessed to the owner of the manufactured housing, and not upon the owner of the land upon which the manufactured housing is left.

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Because manufactured housing does have the ability to "relocate", there are specific provisions governing that possibility:

**72:7-a Manufactured Housing.** –

*I. Manufactured housing, as defined in RSA 205-A:1, I, suitable for use for domestic, commercial, or industrial purposes is taxable as real estate in the town in which it is located on April 1 in any year if it was brought into the state on or before April 1 and remains here after June 15 in any year; except that manufactured housing as determined by the commissioner of revenue administration, registered in this state for touring or pleasure and not remaining in any one town, city, or unincorporated place for more than 45 days, except for storage only, shall be exempt from taxation. This paragraph shall not apply to manufactured housing held for sale or storage by an agent or dealer.*

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*I-a. Manufactured housing, as defined in RSA 205-A:1, I, suitable for use for domestic, commercial, or industrial purposes is taxable as real estate in the town, city or unincorporated place to which it is brought and located after April 1 and before the following January 1, provided that said manufactured housing remains in said town, city, or unincorporated place for more than 10 weeks, except for storage only, and further provided a tax has not been assessed on it elsewhere in the state for that year. The tax shall be for the pro rata part of the tax year remaining when said manufactured housing became located in the town, city, or unincorporated place. The selectmen or assessors may so require and it shall be an obligation of the owner to file with the selectmen or assessors a true and correct inventory of the property subject to taxation under this paragraph within 15 days of the location of the manufactured housing in such form as the commissioner of revenue administration may prescribe.*

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*II. There shall be a lien for uncollected taxes upon any manufactured housing suitable for use for domestic, commercial or industrial purposes that has been taxed pursuant to paragraphs I and I-a. Said lien shall take precedence over all other liens and encumbrances upon said manufactured housing and shall continue in force until 1 1/2 years from the assessment of the tax. Such taxes shall be subject to the collection procedures set forth in RSA 80 for real estate taxes.*



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The lien created under **RSA 72:7-a** is "portable" under state law:

*477:44 Buildings; Manufactured Housing. —...An attachment, lien or other encumbrance on manufactured housing, when properly created and recorded as required by law, shall continue to be enforceable until released or discharged notwithstanding the relocation of the manufactured housing within or outside of this state.*

**Relocation Statute-**

*80:2-a Relocation of Buildings or Structures. — No building or structure that is taxed as real estate, except manufactured housing constituting the stock-in-trade of a dealer in the business of selling manufactured housing, shall be moved from the location where it was last taxed unless the owner thereof shall produce and deliver to the person moving the same a receipted tax bill for the tax assessed as of April 1, a certificate from the tax collector of the city or the selectmen of the town that all property taxes owed have been paid in full, or a statement signed by a majority of the board of selectmen or assessors that the same may be relocated without the payment of the assessed taxes.*

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A community cannot prohibit movement as a result of an eviction of the unit from a mobile home park.  
Everett Ashton Inc. vs City of Concord,  
 169 N.H. 40 (2016).



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State law prohibits municipalities from excluding manufactured housing from their community by Zoning or Ordinance. **RSA 674:32. (1993)**. In fact, reasonable opportunities for such housing must be permitted on any residentially zoned lot where stick-built housing is permitted. Id. Such housing can also be made available in manufactured housing parks or subdivisions created for the placement of manufactured housing. Id. It is the allowable choice of the municipality to determine whether it will fulfill its statutory obligation to accommodate manufactured housing on lots where "stick built" housing could go, or in parks, or a combination thereof.  
Pope vs. Town of Hinsdale Planning Board,  
 137 N.H. 233 (1993).



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**RECREATIONAL VEHICLES - CAMPGROUNDS**

In order to determine the real estate tax impact on campers and RV's, one needs to consider the following definitions:



**216-I:1 Definition. –**

**II. "Campsite"** means a parcel of land in a recreational campground or camping park rented for the placement of a tent, recreational vehicle, or a recreational camping cabin for the overnight use of its occupants.

**III. "Campground owner"** means the owner or operator of a recreational campground or camping park, or their agents.

**VII. "Recreational campground or camping park"** means a parcel of land on which 2 or more campsites are occupied or are intended for temporary occupancy for recreational dwelling purposes only, and not for permanent year-round residency...

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**VII-a. "Recreational camping cabin"** means a structure on a campsite, 400 square feet or less, calculated by taking the measurements of the exterior of the cabin, including all siding, corner trim, molding and area enclosed by windows, but not the roof or porch overhang, or log overhang at corners. It shall be designed not for use as a permanent dwelling but as a temporary dwelling for recreational camping and vacation use.

**VIII. "Recreational vehicle"** means any of the following vehicles:



(a) Motorhome or van, which is a portable, temporary dwelling to be used for travel, recreation and vacation, constructed as an integral part of a self-propelled vehicle.

(b) Pickup camper, which is a structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, and vacation.

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(c) Recreational trailer, which is a vehicular, portable structure built on a single chassis, 400 square feet or less when measured at the largest exterior horizontal projections, calculated by taking the measurements of the exterior of the recreational trailer including all siding, corner trim, molding, storage space and area enclosed by windows but not the roof overhang. It shall be designed primarily not for use as a permanent dwelling but as a temporary dwelling for recreational, camping, travel or seasonal use.

(d) Tent trailer, which is a canvas or synthetic fiber folding structure, mounted on wheels and designed for travel, recreation, and vacation purposes.



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A recreational vehicle as defined must be treated as tax exempt if it meets certain additional criteria:

**72:7-d Exemption; Recreational Vehicles. –**

I. (a) For purposes of this chapter, recreational vehicles, as defined in RSA 216-I:1, VIII, having a valid motor vehicle registration and current number plate, having a maximum width of 8 feet and 6 inches while being transported, and located at a "recreational campground or camping park," as those terms are defined in RSA 216-I:1 VII, shall not be taxable as real estate. (emphasis added).

(b) Annually, before April 1, each campground owner, as defined in RSA 216-I:1, III, shall provide the local assessing officials with the name and address for each owner of a recreational vehicle at the campground, and shall identify which of such recreational vehicles at the campground currently meet the criteria described in subparagraph (a).

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II. Notwithstanding RSA 75:3, campground owners shall not be responsible for payment of any taxes imposed on a recreational vehicle located at the campground unless the campground owner is the owner of the recreational vehicle. (emphasis added).



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The campground owner must identify all RV's within the campground, and then identify which ones qualify as non-taxable, i.e. current registration and number plate, and not more than 8'6" wide. Other RV's (ones not registered or wider than 8' 6") may be taxable, but not to the campground owner.

The campground that has "cabins" which would not meet the definition of "Recreational Vehicle" apparently could be taxable as a "building on land of another" subject to the provisions of RSA 75:3 above.

R.V.s which no longer qualify for the exemption, may well be taxable as "buildings" if they meet the standard below. This includes campers that have "constructed" additions.

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**Miscellaneous structures taxed as Buildings**

In Appeal of Town of Pelham, 143 N.H. 536 (1999), the Supreme Court examined the question of what constitutes a "building" subject to taxation. The issue was the assessment of "storage trailers" consisting of truck bodies or former tractor trailer units. The Supreme Court held that the trailers could be taxable as a building if its use is:



- Intended to be more or less permanent, not a temporary structure
- It is more or less completely enclosed
- It is used as a dwelling, storehouse, or shelter
- Is intended to remain stationary.

Applying this definition, the BTLA upheld assessing antique railroad cars as buildings. Nalevanko vs Town of Alstead, BTLA 25627-10-PT.



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**REMEMBER- "Buildings" are taxable as real estate!**

How one "liens" such "real property" is a quandary. The "lien report" is sent to the Registry of Deeds. Transfers of "buildings" is still typically done by recordings, and a title search will generally find a lien against a building on rented land. However, campers that have "morphed" into taxable property, storage trailers which have become buildings, or railroad cars taxed as real estate may require a community to consider filing with the New Hampshire Secretary of State as a "UCC" filing if they want to provide notice to persons who might be purchasing the property on the assumption it was personally.

**This outcome can be avoided by utilizing RSA 75:3 and notifying the underlying landowner that the community intends to assess the building to the landowner.**

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**QUESTIONS?**



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