



North Carolina Department of Revenue

James B. Hunt, Jr.
Governor

September 15, 1997

Muriel K. Offerman
Secretary

MEMORANDUM

TO: County Assessors and Tax Administrators

FROM: John C. Bailey, Director *JCB*
Ad Valorem Tax Division

RE: 1997 Property Tax Legislation

We are enclosing a summary of the significant property tax legislation (having state wide application) enacted by the 1997 Session of the North Carolina General Assembly. The summary includes the bill number, purpose, and comments as to each ratified bill. We are also enclosing copies of the ratified bills.

If you do not serve as "tax collector," please make copies of this memorandum and summary available to the person holding that position in your county. In addition, please provide him/her with copies of any bill applicable to tax collection.

If you have any questions concerning any of these new laws, please feel free to contact our staff at (919) 733-7711.

1997 PROPERTY TAX LEGISLATION

Bills Enacted by the 1997 Session of the N.C. General Assembly

Ratified Senate Bills

S.B. 508: AN ACT TO PROVIDE THAT A TURKEY GROWER SHALL NOT BE DISQUALIFIED FROM USE VALUE TAXATION FOR A TWO-YEAR PERIOD IF THE GROWER'S LAND IS TAKEN OUT OF PRODUCTION SOLELY BECAUSE OF THE PRESENCE OF TURKEY DISEASE IN THE AREA.

This act amends G.S. 105-277.3 to add subsection (e) to prevent turkey growers receiving the use value taxation from being disqualified for a two-year period if the land is taken out of production solely due to the presence of Poult Enteritis Mortality Syndrome. The land must meet all other requirements and must have been in actual production within the preceding two years.

This act is effective for the tax year beginning July 1, 1997.

S.B. 1064: AN ACT TO ALLOW A TAXPAYER WHO PREVAILS IN A PROPERTY TAX APPEAL TO RECEIVE INTEREST ON ANY OVERPAYMENT OF TAX AND TO AUTHORIZE THE LEGISLATIVE RESEARCH COMMISSION TO STUDY VARIOUS PROPERTY TAX ISSUES.

This act adds new GS 105-290(b)(4) to provide for interest to be paid to taxpayers who are successful in an appeal to the Property Tax Commission. The rate of interest to be paid on any overpayment is the rate set by the Secretary of Revenue as the interest rate to be paid on delinquent state taxes. The Secretary has the authority to set the rate twice a year. The rates are set on June 1, to take effect July 1; and on December 1, to take effect on January 1. If no new rate is set the current rate will stay in effect. The Ad Valorem Tax Division will notify the counties of any rate changes. The current rate is 9% and is calculated on a daily basis. The interest will begin to accrue on the date the tax is paid or the date the tax became delinquent, whichever is later. This apparently means that if the tax is paid before January 6, the delinquency date, interest begins to accrue from January 6, but if the tax is paid after January 6, interest begins to accrue from the date of payment and the interest continues to accrue until a refund is paid. The refund date is set by the governing body of the taxing unit, but it can be no sooner than five days after the refund check is mailed. It has been suggested that a governing body adopt a uniform rule that interest is to cease in all cases five days from the date a refund check is mailed.

The Legislative Research Commission did not review any of the property tax issues that they were authorized to study in the bill. We anticipate that the North Carolina Association of Assessing Officers and the North Carolina Association of County Commissioners will strive to have the Commission review exemptions, the present use value program, and other areas of concern prior to the next legislative session.

This act becomes effective July 1, 1997, and applies to appeals made to the Property Tax Commission on or after this date.

(A formula that can be used to calculate the interest is attached for your information.)

Ratified House Bills

H.B. 260: AN ACT TO INCREASE THE CAP ON THE INCOME TAX CREDIT FOR REAL PROPERTY DONATED FOR CONSERVATION PURPOSES, TO ENSURE THAT CONSERVATION AND PRESERVATION AGREEMENTS ARE CONSIDERED IN DETERMINING THE APPRAISED VALUE OF LAND AND IMPROVEMENTS, AND TO ESTABLISH THE CONSERVATION GRANT FUND.

This act amends subsection G.S. 105-287(a)(2a) to include the existence of certain conservation and preservation agreements as reasons to increase or decrease the value of property in non reappraisal years. The act also amends G.S. 105-317(a) to include conservation or preservation agreements as elements to consider in determining the true value of land.

This act is effective July 1, 1997.

H.B. 295: AN ACT TO EXEMPT MOST INTANGIBLE PERSONAL PROPERTY FROM TAX.

This act amends G.S. 105-275 (31) to completely exclude from the tax base all intangible personal property, other than leasehold interest in exempt real property. The tax status of computer software is not affected by this legislation. The act includes language in G.S. 105-276 stating that the amendment "does not affect the appraisal or assessment of real property or tangible personal property." This amendment is to remove any possible impediment to using the income, cost or market approaches for appraising property based on the contention that they may capture the value of a property's inherent intangibles.

This act is effective for taxable years beginning on or after July 1, 1997.

H.B. 529: AN ACT TO PROVIDE THAT DEFERRED TAXES DUE ON CERTAIN PROPERTY THAT IS TAXED AT ITS PRESENT-USE VALUE WILL BE PAID BY THE PERSON TO WHOM THE LAND IS TRANSFERRED IF THE PROPERTY IS TRANSFERRED BECAUSE OF CONDEMNATION.

This act provides that an agency condemning real property under the power of eminent domain must reimburse the owner for all deferred taxes paid by the owner as a consequence of losing use-value status if the owner is a natural person who owns other qualifying property contiguous to the condemned property and it is in actual production. This act does not require any change in the procedures that the counties currently use to collect deferred taxes on property that loses its eligibility. All reimbursements, etc. will be handled by the condemning agency.

This act applies to any land transfers made on or after August 1, 1997.

H.B. 1158: AN ACT TO PROVIDE THAT ANTIQUE AIRPLANES SHALL BE VALUED AT NO MORE THAN FIVE THOUSAND DOLLARS FOR PROPERTY TAX PURPOSES.

This act adds new section G.S. 105-277.12 to define antique airplanes and provide that qualifying airplanes be assessed at the lower of its true value or five thousand dollars (\$5,000) if the ownership and use requirements are met.

This act is effective for tax years beginning on or after July 1, 1998.