



North Carolina Department of Revenue

James B. Hunt, Jr.
Governor

November 3, 1998

Muriel K. Offerman
Secretary

MEMORANDUM

TO: County Assessors and Tax Administrators

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

RE: 1998 Property Tax Legislation

We are enclosing a summary of the significant property tax legislation (having state wide application) enacted by the 1998 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.

1998 PROPERTY TAX LEGISLATION
Bills Enacted by the 1998 Session of the N.C. General Assembly

Ratified Senate Bills

S.B. 1366: AN ACT TO MODIFY THE CURRENT OPERATIONS AND CAPITAL IMPROVEMENTS APPROPRIATIONS ACT OF 1997 AND TO MAKE OTHER CHANGES IN THE BUDGET OPERATION OF THE STATE.

Section 29A.18 of this act recodified G.S. 105-275(32) as G.S. 105-278.6A. G.S. 105-278.6A is called the Continuing Care Retirement Homes Exemption. Subsection (a) of this provision classifies "real and personal property owned by a qualified retirement facility and used in the operation of that facility as a special class of property under Section 2(2) of Article V of the North Carolina Constitution." Because a qualified retirement facility's real and personal property is a special class of property under our State Constitution, it is therefore not subject to taxation and shall not be listed, assessed or taxed. A retirement facility is defined under subsection (b) as a community that:

1. Has its grounds and buildings located at a single site,
2. Is designed for elderly residents,
3. Includes independent living units for elderly residents,
4. Includes a skilled nursing facility or an adult care facility.

A retirement facility qualifies for the benefits of this section if it meets all of the conditions of subsection (c) as follows:

1. Is an entity that is exempt from tax under Article 4 of the North Carolina Revenue Laws and the private shareholders can not profit from its operations,
2. All its revenues, less expenses must be used to provide goods and services to the elderly and local community,
3. Its charter directs that upon dissolution, its assets will revert to a charitable, educational or religious organization that is exempt under section 501(c)(3) of the Code,
4. Its charter or bylaws provide that a majority of the entity's board of directors or trustees are selected by nonprofit corporations. Reference should be made to the charter or bylaw existing as of August 15, 1998,
5. It has an active program to generate funds to assist with providing services for the elderly without financial assistance or subsidy.

Subsection (d) of the act established a Legislative Research Commission to study the history and policy reasons for property tax exemptions of nonprofit entities with a focus on the effect of such exemptions on local governments, taxpayers, and other nonprofit entities.

Subsection (a) of this section is effective for taxes imposed for taxable years beginning on or after July 1, 1998. Notwithstanding the provisions of G.S. 105-282.1(a), an application for exemption filed under subsection (a) above for tax year 1998-1999 is considered timely if filed on or before November 15, 1998. Counties are advised to discontinue any activity to discover the subject property referenced in this act for 1998 and to release or refund any taxes if application is filed under subsection (a).

S.B. 1226: AN ACT TO MAKE TECHNICAL AND CONFORMING CHANGES TO THE REVENUE LAWS AND RELATED STATUTES.

Section 22 of this act amends G.S. 105-277.3 in order to clarify the classification of agricultural land, horticultural land, and forestland as special classes of property under Section 2(2) of Article V of our State Constitution. Subsection (b) was rewritten to clarify the natural person ownership requirements and subsection (b1) was added to clarify the entity ownership requirements. Subsection (b2) was added to provide for an exception to the ownership requirements and reads as follows: "G.S. 105-277.4(c) provides that deferred taxes are payable if land fails to meet any condition or requirement for classification. Accordingly, if land fails to meet an ownership requirement due to change of ownership, G.S. 105-277.4(c) applies." Subsection (b2) further provides for the qualification of land under (b) and (b1) above if certain conditions are met. Subsection (e) is revised to clarify the turkey disease exception for agricultural land. Section 23 of this act amends G.S. 105-277.4(c) to clarify the deferred taxes provision. Section 24 of this act amends G.S. 105-277.2(4)b to clarify the definition of business entity under the present-use value statutes. Section 25 of this act amends G.S. 105-333(14) to clarify the definition of what constitutes a public service company. Section 26 of this act repealed G.S. 105-378(c), and section 27 repealed G.S. 105-395(b).

This act became effective August 14, 1998.

Ratified House Bills

H.B. 1489: AN ACT TO IMPROVE COLLECTION OF LOCAL TAXES BY ALLOWING CERTAIN GOVERNMENT OFFICIALS TO SHARE SPECIFIED TAX INFORMATION AND BY ALLOWING A TAXPAYER TO RECEIVE A RELEASE OR REFUND OF PRORATED VEHICLE PROPERTY TAXES IF THE TAXPAYER MOVES OUT-OF-STATE.

This act amends G.S. 105-259(b) by adding two new subdivisions that allow a regional public transportation authority or a regional transportation authority to obtain certain information from the State concerning taxes on leased vehicles. The bill also allows counties and cities to obtain sales and use tax information from the State for use in the administration of its local tax on prepared food and beverages.

The second part of the bill amends G.S. 105-330.6(c) to allow the county collector to prorate the motor vehicle taxes for an owner who moves out-of-state and registers the vehicle in another jurisdiction. The owner must also surrender the registration plate for the listed vehicle to the DMV. All other requirements of G.S. 105-330.6(c) remain in effect. Counties should request documentation from the owner showing that the owner of the vehicle has moved out-of-state and proof that the vehicle is registered in another jurisdiction.

Since the act became effective on September 14, 1998, any requests for a prorated refund made on or after that date may be granted provided the registration plate was surrendered within 120 days of the effective date.

H.B. 1361: AN ACT TO REVISE THE MUNICIPAL ANNEXATION LAWS AND TO CHANGE THE CRITERIA TO BE CONSIDERED BY THE JOINT LEGISLATIVE COMMISSION ON MUNICIPAL INCORPORATIONS.

This act amends G.S. 105-277.4(b) to include in the appraisal of property at its present-use value property annexed under G.S. 160A-37(f1) or G.S. 160A-49(f1). As amended, G.S. 105-277.4(b) requires a county assessor when requested, to determine within 30 days of the request if the land meets the requirements G.S. 160A-37(f1)(2) or G.S. 160A-49(f1)(2) for certification under G.S. 160A-37(f1) or G.S. 160A-49(f1).

This act became effective November 1, 1998, and applies to annexations adopted on or after that date.