



North Carolina Department of Revenue

James B. Hunt, Jr.
Governor

August 25, 1999

Muriel K. Offerman
Secretary

MEMORANDUM

TO: County Assessors and Tax Administrators

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

RE: 1999 Property Tax Legislation

We are enclosing a summary of the significant property tax legislation (having state wide application) enacted by the 1999 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.

1999 PROPERTY TAX LEGISLATION

Bills Enacted by the 1999 Session of the N. C. General Assembly

Ratified Senate Bills

S.B. 55: AN ACT TO MAKE TECHNICAL AND CONFORMING CHANGES TO THE REVENUE LAWS AND RELATED STATUTES.

This act makes technical changes to revenue laws and related statutes. Section 28 clarifies the definition of a motor vehicle found in G.S. 105-164.3(8b). These changes are technical in nature and do not affect the taxation of motor vehicles.

Section 35 of this act repeals the exemption on objects of art held by the North Carolina Art Society, Incorporated provided by G.S. 140-15. This exemption is moved to G.S. 105-275 by adding a new subdivision (41), which exempts the same objects, held by the Society. The act is effective July 22, 1999.

S.B. 325: AN ACT TO MAKE CORRECTIONS AND CONFORMING CHANGES RELATING TO TAXATION OF CONTINUING CARE RETIREMENT HOMES.

Several retroactive changes were made to G.S. 105-278.6A which was enacted last year to serve as a two year temporary measure due to the Supreme Court ruling that G.S. 105-275(32) was unconstitutional. The first change removed the grandfather clause that limited the property tax exemptions to those whose charter or bylaws met certain criteria as they existed on August 15, 1998

The second change was to allow the entity that appoints the board of directors or trustees to be a nonprofit corporation or association. The previous wording limited it to nonprofit corporations only.

The third change allows the appointing entity to be one that is exempt under section 501(c)(3), (8), or (10). The previous wording allowed appointing entities that were exempt under 501(c)(3) only. The two new sections include fraternal beneficiary societies, orders, or associations and domestic fraternal societies, orders, or associations operating under the lodge system.

All of the above changes are effective for taxes imposed for taxable years beginning on or after July 1, 1998. G.S. 105-278.6A will be repealed for taxes imposed for taxable years beginning on or after July 1, 2000 per the original enacting legislation (SB 1366 of the 1998 Regular Session of the 1997 General Assembly).

This act also seeks to discourage taxing units from discovering qualified continuing care retirement centers (CCRCs) by reducing the State reimbursement under G.S. 105-275.2. New subsection (f) is added to G.S. 105-275.2 which requires each county and municipality to report to the Secretary of Revenue, on or before July 15 each year, the amount of taxes it collected on CCRCs, as defined in G.S. 105-278.6A, that were discovered on or after January 1, 1998 for taxable years beginning on or after July 1, 1992. The State reimbursement will be reduced by 110% of the reported amount. This change is effective on and after July 1, 1998 and expires September 1, 2003. A report otherwise due under G.S. 105-275.2(f) on July 15, 1998 is due on July 15, 1999.

The Legislative Research Commission is directed to conduct a comprehensive study of property tax exemptions for nonprofit institutions and shall make a final report of its findings and recommendations to the 2000 Regular Session of the 1999 General Assembly.

S.B. 484: AN ACT CHANGING THE METHOD OF CALCULATING THE RATIO OF PROPERTY TAX COLLECTIONS TO THE TOTAL LEVY FOR LOCAL GOVERNMENT BUDGETING PURPOSES RELATING TO THE REGISTERED MOTOR VEHICLE TAX.

G.S. 159-13(b)(6) requires that the estimated percentage of collection of property taxes shall not be greater than the percentage of the levy actually realized in cash as of June 30 during the preceding fiscal year. This act rewrites G.S. 159-13(b)(6) to exclude from the estimated percentage of collection the taxes levied and collected on registered motor vehicles during the last quarter of the preceding fiscal year. In making this estimate, the motor vehicle taxes due in April, May and June would be excluded. This exclusion is only for budgeting purposes and not for the collector's settlement or for reports filed with the Local Government Commission. This change is effective July 9, 1999 and applies to budget ordinances adopted after July 1, 1999.

S.B. 817: AN ACT TO PROVIDE AN EXCEPTION TO THE LATE LISTING PENALTY FOR CERTAIN REAL PROPERTY IN COUNTIES THAT HAVE NOT ADOPTED PERMANENT LISTING AND TO PHASE IN PERMANENT LISTING IN ALL COUNTIES.

G.S. 105-312(h) is amended to provide that the penalties provided by that section do not apply to real property if there have been no improvements to the property since it was last listed and there has been no change in ownership since it was last listed. Note: The late listing penalty is really just a one-year discovery—10%. This change is effective for taxes imposed for taxable years beginning on or after July 1, 1999. This indicates that the 10% late listing penalties imposed for the 1999-2000 fiscal year are to be released or, if paid, to be refunded if the penalties were imposed for unlisted real properties that had no improvements or change in ownership since the

property was last listed. The provision is repealed effective for taxes imposed for taxable years beginning on or after July 1, 2004.

G.S. 105-303(b) is rewritten to require that all counties must install a permanent listing system and that the permanent listing system must be approved by the Department of Revenue. This change is effective for taxes imposed for taxable years beginning on or after July 1, 2004 which means that the permanent listing system needs to be in place for the January 2004 listing period.

S.B. 1159: AN ACT TO EXPAND THE CIRCUMSTANCES UNDER WHICH THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES MAY ALLOW THE USE OF LAND-USE RESTRICTIONS TO PROTECT PUBLIC HEALTH AT CONTAMINATED SITES.

Two new statutes are added (G.S. 143B-279.9 and 143B-279.10) that allow the owner, operator, or other responsible party to impose restrictions on the current or future use of contaminated real property. The restrictions must be agreed to by the owner, be included in a remedial action plan that has been approved by DENR, and be implemented as part of the remedial action program. Any approved restriction shall be enforced by any owner, operator, or other party responsible for the contaminated site. DENR and local government units having jurisdiction may also enforce the restrictions.

If the remedial action is risk-based or will not require that the site meet current standards, a Notice of Contaminated Site must be approved by DENR and recorded in the Register of Deeds. When a contaminated site that is subject to current or future restrictions is transferred, the deed must state that the property is a contaminated site and reference the Notice by deed book and page number. If the contamination has been eliminated, the owner may request that DENR send a request to the Register of Deeds that the Notice be cancelled.

This act is effective October 1, 1999.

Ratified House Bills

H.B. 56: AN ACT TO ELIMINATE THE USE OF STAMPS TO INDICATE WHETHER THE EXCISE TAX ON CONVEYANCES HAS BEEN PAID AND TO MAKE THE PENALTIES THAT APPLY TO THIS TAX THE SAME AS FOR OTHER TAXES.

The major effect of this legislation is to eliminate the requirement that stamps be used to indicate on the instrument that the real estate conveyance excise tax has been paid. The act resulted in changes to G.S. 105-228.28 through G.S. 105-228.36. Many

counties are currently using automated stamp systems such as meters or adaptations of their existing computer programs to indicate that the excise tax has been paid. However, some are still purchasing actual stamps from the N. C. Department of Revenue. Both were acceptable under the former provisions of the statute.

The revised statute deletes all references to stamps and only requires that before the instrument may be recorded, the Register of Deeds must collect the tax due and mark the instrument to indicate that the tax has been paid and the amount of the tax paid. Stamps will no longer be available from the Department of Revenue after the 1999-2000 fiscal year.

In an ongoing effort of the Legislature to make tax penalties uniform, the provisions of Article 9 of Chapter 105 of the North Carolina General Statutes are applicable to the conveyance tax as of July 1, 2000. This provides that civil penalties applicable to all other State taxes apply to the conveyance tax. Counties also retain the ability to recover unpaid conveyance taxes by filing a lawsuit in superior court.

The provisions of this act are effective July 1, 2000.

H.B. 120: AN ACT TO IMPROVE THE PROCEDURES FOR NOTIFYING OWNERS AND ADVERTISING TAX LIENS ON REAL PROPERTY.

This act becomes effective January 1, 2001.

G.S. 105-369 is rewritten to allow for the following provisions:

After the governing body orders the tax collector to advertise the tax liens and at least 30 days before the advertisement of the tax liens is to be published, the tax collector must send notice by first class mail to the last known address of the owner. The notice must be sent to the owner of record as of December 31 preceding the advertisement and the listing owner (if different) of each affected property.

The notice must state the principal amount of unpaid taxes that are a lien on the parcel and inform the owner(s) that his or her name will be advertised in the delinquent taxes advertisement if the taxes are not paid before the publication date. Failure to mail this notice does not affect the validity of the tax lien or any foreclosure action.

If the listing owner has not transferred the property after January 1 preceding the fiscal year for which the tax liens are being advertised, the listing owner is advertised in alphabetical order. If the listing owner has transferred the property, the name of the record owner as of December 31 preceding the advertisement is advertised in alphabetical order, followed by a notation that includes the name of the listing owner and a statement that the property was transferred.

G.S. 105-375(b) is rewritten to allow that:

The tax collector, as directed by the governing body, may file certificate of taxes as judgment no earlier than 30 days after the tax liens were advertised. This is a change from the original language that allowed the filing no earlier than six months following the advertisement of the tax liens. Under G.S. 105-375(c) the collector is required to send notice to the listing taxpayer at least 30 days before docketing the judgment, effectively creating a minimum 60-day waiting period from the date of advertisement to the date of docketing the judgment.

G.S. 105-375(e) is rewritten to remain consistent with its intent that the waiting period required by G.S. 105-375(b) does not apply to the foreclosure of special assessments.

H.B. 315: AN ACT TO PROVIDE THAT A MOTOR VEHICLE'S PROPERTY TAX VALUE IS DETERMINED AS OF JANUARY 1 PRECEDING THE DUE DATE OF THE TAX AND TO AUTHORIZE THE STOKES COUNTY BOARD OF EQUALIZATION AND REVIEW TO MEET AFTER ITS FORMAL ADJOURNMENT.

Section 1 of this act rewrites G.S. 105-330.2 by changing the valuation date for registered motor vehicles to the January 1 of the year the taxes are due. This means for the vehicles registered in September, October, November, and December, the value would be determined as of the next January 1.

This section is effective for taxes imposed for taxable years beginning on or after July 1, 2000. While the tax year for the June renewals and registrations begins July 1, 2000 and this change applies as of that date, the motor vehicles whose registrations are to be renewed or applied for in September 2000 would be the first motor vehicles valued as of January 1, 2001.

Section 2 of this act authorizes the Stokes County Board of Equalization and Review to meet after adjournment to hear appeals related to discovered property under 105-312(d) and (k), motor vehicles appeals, appeals from audits of present-use value accounts, and audits of exempt or excluded property.

This section applies only to Stokes County and is effective when it becomes law.