



North Carolina Department of Revenue

Michael F. Easley
Governor

November 1, 2002

E. Norris Tolson
Secretary

MEMORANDUM

TO: County Assessors and Tax Administrators

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

RE: 2002 Property Tax Legislation

We are enclosing a summary of the significant property tax legislation (having state wide application) enacted by the 2002 Session of the North Carolina General Assembly. The summary includes the bill number, purpose of the bill, and brief 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 this new legislation, please call our staff at (919) 733-7711.

2002 PROPERTY TAX LEGISLATION

Bills Enacted by the 2001 Session of the N.C. General Assembly

Ratified Senate Bills

S.B. 1161: AN ACT TO AMEND THE PRESENT-USE VALUE STATUTES.

This act amends the present-use value statutes, creates a Property Tax Study Subcommittee of the Revenue Laws Study Committee, clarifies the sales and use tax exemption regarding certain agricultural substances, and makes various administrative changes in the tax laws.

Section 1 of the act clarifies that woodland of less than 20 acres that is a part of a qualifying agricultural or horticultural tract is not required to be under a sound management program. Other woodland that has a "highest and best use" as a buffer to diminish wind erosion or protect water quality for adjacent agricultural or horticultural land is not required to be under a sound management program. This section also clarifies that the term "tenants in common" defines a form of individually owned property for use value purposes and that each beneficiary of a family trust must be a natural person to meet the individually owned requirements. The section provides for the Use Value Advisory Board to determine the appropriate capitalization rate for agricultural and horticultural land. The section provides a definition for "Unit" including the requirements that multiple tracts located in different counties be within 50 miles of a qualifying tract and either share the same classification type or use the same equipment or labor force.

Section 2 clarifies that when land enrolled in the use value program transfers to a new owner who intends to continue under the program, the deferred taxes are not collected from the seller and remain a lien on the property. The new owner is required to file an application for use value within 60 days of the transfer, certify that the intent is to continue the use that qualified the property under the use value program, and that the new owner accepts liability for the deferred taxes if the requirements are not met. This section of the law also addresses the issue of conservation easements, taxation of land subject to those easements, and the roll back of taxes when land is placed under a conservation easement. It also insures that the land will continue to be taxed as agricultural or forest land as long as the easement is in place, regardless of the actual use of the land. This section lists factors, that when followed, will demonstrate that agricultural land and horticultural land is operated under a sound management program and clarifies that forestland owners must be in compliance with a written sound management plan to qualify for the program.

Section 3 provides for a taxpayer to file a use value application at any time during the calendar year as a result of a land transfer as long as the application is submitted within 60 days of the date of the property's transfer. The section also clarifies that the failure to have an application approved is grounds for disqualification from the program.

Section 4 of the law modifies the membership of the Use Value Advisory Board and its duties. The new members include a representative of the Farm Bureau, a representative of the North Carolina Association of Assessing Officers, the Director of the Property Tax Division of the Department of Revenue, a representative of the North Carolina Association of County Commissioners, and a representative of the Forestry Association. The Board's duties now include determining expected net incomes per acre for agricultural and horticultural land based on cash rents. The section requires the Board to annually select a capitalization rate between 6% and 7% for converting incomes into values and sets the maximum value of agricultural land at \$1,200 per acre.

Section 5 requires the Department of Revenue to conduct studies of the cash rents in the State and to furnish the results to the N.C. Use Value Advisory Board.

Section 6 clarifies that the assessor must annually review at least one eighth of the use value applications and that the assessor may require a sound management plan for forestland to verify that the property continues to qualify for present-use value taxation.

Section 7 provides county commissioners with the authority to assign duties to county agencies or contract with State or federal agencies to assist with the approval and/or auditing of use-value accounts.

Section 8 creates a property tax subcommittee of the Revenue Laws Study Committee that will examine and may recommend changes to the property tax system. The subcommittee will review all classes of property, including exemptions, exclusions, and present-use value properties and report any recommendations to the Revenue Laws Study Committee.

Sections 9 through 12 of the law address several technical issues relating to the sales tax statutes and have no relevance to property tax.

Sections 1 through 7 of this act are effective for tax years beginning on or after July 1, 2003. Section 8 is effective when the act becomes law.

S.B. 1253: AN ACT TO PROVIDE THAT CERTAIN ANIMAL WASTE MANAGEMENT SYSTEMS SHALL NOT QUALIFY FOR SPECIAL PROPERTY CLASSIFICATION AND EXCLUSION FROM THE TAX BASE PURSUANT TO G.S. 105-275(8) AND TO DIRECT THE REVENUE LAWS STUDY COMMITTEE TO STUDY ISSUES RELATED TO THE TAX EXCLUSION, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

This act excludes certain animal waste management systems from qualifying for special property classification and exclusion from the tax base under G.S. 105-275 (8). Section 1 specifies the criteria on which the Environmental Management commission can exempt an animal waste management system from property taxes.

Section 2 directs the Revenue Laws Study Committee to study issues related to the tax exclusion, as recommended by the Environmental Review Commission.

This act is effective for the tax year beginning on or after July 1, 2002.

Ratified House Bills

H.B. 1402: AN ACT TO ESTABLISH AN ADDRESS CONFIDENTIALITY PROGRAM FOR VICTIMS OF DOMESTIC VIOLENCE, SEXUAL OFFENSE, AND STALKING.

Section 1 of the act establishes the "Address Confidentiality Program" in the Office of the Attorney General to protect the confidentiality of the address of relocated victims of domestic violence, sexual offense, or stalking. Under this program the Attorney General would designate a substitute address for a program participant and act as the agent of the program participant for purposes of receiving and forwarding first-class mail. State and local agencies would use the address designated by the Attorney General as the program participant's substitute address when creating new public records.

The act becomes effective January 1, 2003.

H.B. 1523: AN ACT TO AMEND VARIOUS PROPERTY TAX LAWS.

Section 1 provides that in addition to the interest for nonpayment of taxes and any criminal penalties provided by law for the giving of a worthless check that is returned for insufficient funds or nonexistence of an account, a penalty of the greater of \$25.00 or 10% of the check can be charged.

Section 1.2 provides that a tax collector can reduce or waive the 10% penalty.

Section 2 specifies that a taxpayer who owns personal property has 30 days after the date of the notice of value to appeal the value, situs, or taxability of the property. If the tax bill is the first notice of value for personal property then the bill serves as the

notice of value and must contain a statement that the taxpayer may appeal within 30 days after the date of the notice. The section also requires the assessor to arrange a conference with the appealing taxpayer, and within 30 days after the conference, give the taxpayer a written notice of the assessor's final decision. The written notice is not necessary if the taxpayer signs an agreement accepting the value, situs, or taxability of the property as a result of the conference. If no agreement is reached, the taxpayer has 30 days from the date of the assessor's final decision to request a hearing before the board of equalization and review, or if they are not in session, before the board of county commissioners.

Section 3 adds item (d) to G.S. 105-322(g)(5) to provide that the boards of equalization and review may meet after their adjournment date to hear personal property appeals.

Section 4 rewrites S.L. 2001-506 to change the effective date of the change in G.S. 105-273 (13) which affected the classification of manufactured homes to July 1, 2003.

Section 5(a), (b), and (c) authorizes the Department of Revenue to collect a \$15.00 collection assistance fee on each local debt collected through the Setoff Debt Collection program. The funds are to be forwarded to the North Carolina Local Government Debt Setoff Clearinghouse.

Sections 1 and 1.2 were effective when they became law. Section 2 and 3 are effective for taxes imposed for taxable years beginning on or after July 1, 2003. Section 4 was effective on and after June 30, 2002. Section 5(a), 5(b), and 5(c) become effective January 1, 2003.

H.B. 1533: AN ACT TO AUTHORIZE CERTAIN COUNTIES TO REQUIRE PAYMENT OF DELINQUENT TAXES BEFORE RECORDING DEEDS CONVEYING PROPERTY...

Section 1 rewrites G.S. 161-31 to add Bertie, Clay, Durham, Hertford, Macon, Northampton, Polk, Rutherford, and Transylvania to the list of counties specified in the statute that provide for the board of county commissioners to adopt a resolution requiring the register of deeds to not accept a deed transferring real property unless the county tax collector has certified that no delinquent taxes are owed.