



## North Carolina Department of Revenue

Michael F. Easley  
Governor

Reginald S. Hinton  
Secretary

August 19, 2008

### **MEMORANDUM**

TO: County Assessors and Tax Administrators

FROM: David B. Baker, Director  
Property Tax Division

RE: 2008 Property Tax Legislation

We are enclosing a summary of the significant property tax legislation (having state-wide application) enacted by the 2008 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. This year we are not enclosing copies of the chaptered bills. A copy of each bill may be obtained at the following web page.

<http://www.ncga.state.nc.us/>

Our office will be holding four half-day workshops across the State this year to explain changes and discuss the new forms for 2008. We have already sent out information about the locations, dates and times for these workshops.

If you do not serve as the tax collector, please make copies of this memorandum and summary available to the person holding that position in your county.

If you have any questions concerning any of this new legislation, please call our staff at 919-733-7711.

## 2008 PROPERTY TAX LEGISLATION

### Bills Enacted by the 2008 Session of the N.C. General Assembly

#### Ratified House Bills

##### HB 1889

##### **G.S. 105-275(31e) — Leasehold Interest in Exempt Real Property:**

Excludes from taxation a leasehold interest in real property that is exempt under G.S. 105-278.1 and is used to provide affordable housing for employees of the unit of government that owns the property. This exclusion requires a one-time application.

(Effective for taxes imposed for taxable years beginning on or after July 1, 2008; HB 1889, s. 7, S.L. 2008-171.)

**G.S. 105-277.1d(a) — Deferred Tax Programs:** Adds wildlife conservation land to the list of deferred tax programs as enacted in Section 2.2 of S.L. 2008-35

(Effective for taxes imposed for taxable years beginning on or after July 1, 2010; HB 1889, s. 2, S.L. 2008-171.)

**G.S. 105-277.3 — Wildlife Exception:** Provides that when an owner of land classified under this section does not transfer the land and the land becomes eligible for classification under G.S. 105-277.15, no deferred taxes are due. The deferred taxes remain a lien on the land and are payable in accordance with G.S. 105-277.15.

(Effective for taxes imposed for taxable years beginning on or after July 1, 2010; HB 1889, s. 5, S.L. 2008-171.)

##### **G.S. 105-277.3(d1) — Easements on Qualified Conservation Lands Previously Appraised at Use Value:**

Property that is appraised at its present-use value under G.S. 105-277.4(b) shall continue to qualify for appraisal, assessment, and taxation as provided in G.S. 105-277.2 through G.S. 105-277.7 as long as

- (i) the property is subject to an enforceable conservation easement that would qualify for the conservation tax credit provided in G.S. 105-130.34 and G.S. 105-151.12, without regard to actual production or income requirements of this section; and
- (ii) the taxpayer received no more than seventy-five percent (75%) of the fair market value of the donated property interest in compensation.

(Effective for taxes imposed for taxable years beginning on or after July 1, 2010; HB 1889, s. 4, S.L. 2008-171.)

**G.S. 105-277.15 — Taxation of Wildlife Conservation Land:** Provides a present use value system for wildlife conservation land. The land must be managed under a written wildlife habitat conservation agreement with the North Carolina Wildlife Resources Commission that is in effect as of January 1 of the year for which the benefit of this section is claimed and that requires the owner to do one or more of the following:

1. Protect an animal species that lives on the land and, as of January 1 of the year for which the benefit of this section is claimed, is on a North Carolina protected animal list published by the Commission under G.S. 113-333.
2. Conserve any of the following priority animal wildlife habitats: longleaf pine forest, early successional habitat, small wetland community, stream and riparian zone, rock outcrop, or bat cave.

It must have been classified under G.S. 105-277.3 when the wildlife habitat conservation agreement was signed or the owner must demonstrate to both the Wildlife Resources Commission and the assessor that the owner used the land for a purpose specified in the signed wildlife habitat conservation agreement for three years preceding January 1 of the year for which the benefit of this section is claimed. The land has to be at least 20 contiguous acres with no more than 100 acres of an owner's land in a county in the program.

(Effective for taxes imposed for taxable years beginning on or after July 1, 2010; HB 1889, s. 1, S.L. 2008-171.)

**G.S. 105-282.1 — Application for Exemption and Exclusion:** Adds wildlife conservation land to the list of property which only requires a one-time application for exclusion.

(Effective for taxes imposed for taxable years beginning on or after July 1, 2010; HB 1889, s. 3, S.L. 2008-171.)

## **HB 2436**

**G.S. 105-277.1C — Provide a Property Tax Exclusion for Honorably Discharged Disabled Veterans and Their Surviving Spouses:** Provides a property tax exclusion of the first \$45,000 of appraised value of the residence owned and occupied by a honorably discharged disabled veteran or the unmarried surviving spouse of a honorably discharged disabled veteran.

(Effective for taxes imposed for taxable years beginning on or after July 1, 2009; HB 2436, s. 28.11, S.L. 2008-107.)

## **Ratified Senate Bills**

### **SB 1704**

**G.S. 105-275(29) — Nonprofit Historic Preservation Property:** Property and easements wholly and exclusively held and used for nonprofit historic preservation purposes by a nonprofit historical association or institution, including real property owned by a nonprofit corporation organized for historic preservation purposes and held by its owner exclusively for sale under an historic preservation agreement to be prepared and recorded, at the time of sale, under the provisions of the Conservation and Historic Preservation Agreements Act, Article 4, Chapter 121 of the General Statutes of North Carolina.

(Effective for taxes imposed for taxable years beginning on or after July 28, 2008; SB 1704, s. 72, S.L. 2008-134.)

### **G.S. 105-330 — Combined Motor Vehicle Registration and Property Tax System**

**Changes:** Repeals G.S. 105-330.2. Provides that unregistered motor vehicles are subject to a discovery pursuant to G.S. 105-312 unless the vehicle has been taxed as a registered vehicle for the current year. Provides the accounting for the 60% interest of the first month's interest collected on unpaid property taxes on motor vehicles. Provides for a memorandum of understanding to be entered in to by the Division of Motor Vehicles and the Property Tax Division of the Department of Revenue. Delays the effective date of implementation of the Combined Motor Vehicle Registration and Property Tax System until January 1, 2011.

(Effective for taxes imposed for taxable years beginning on or after July 28, 2008; SB 1704, s. 61-66, S.L. 2008-134.)

### **SB 1852**

#### **G.S. 105-259 — Secrecy required of officials; penalty for violation:**

Adds heavy equipment rental tax to the list of information that may be disclosed to a county or city on an annual basis, when the county or city needs the information for the administration of the heavy equipment rental tax.

(Effective on August 2, 2008; SB 1852, s. 4, S.L. 2008-144.)

**G.S. 105-275(42a) — Taxation of Heavy Equipment:** Excludes from taxation heavy equipment on which a gross receipts tax may be imposed under G.S. 153A-156.1 and G.S. 160A-215.2

(Effective for taxes imposed for taxable years beginning on or after July 1, 2009; SB 1852, s. 1, S.L. 2008-144.)

**G.S. 153A-156.1 — Heavy equipment gross receipts tax in lieu of property tax.** Allows a county by resolution to impose a gross receipt tax at the rate of one and two-tenths percent (1.2%) on the gross receipts from the short-term lease or rental of heavy equipment.

(Effective on August 2, 2008; SB 1852, s. 2, S.L. 2008-144.)

**G.S. 160A-215.2 — Heavy equipment gross receipts tax in lieu of property tax.** Allows a city by resolution to impose a gross receipt tax at the rate of eight-tenths percent (0.8%) on the gross receipts from the short-term lease or rental of heavy equipment.

(Effective on August 2, 2008; SB 1852, s. 3, S.L. 2008-144.)

## **SB 1876**

**G.S. 105-273 — Definitions:** Changes the definition of taxpayer to: A person whose property is subject to ad valorem property taxation by any county or municipality and any person who, under the terms of this Subchapter, has a duty to list property for taxation. Makes other technical changes to the definitions throughout G.S. 105-273.

(Effective for taxes imposed for taxable years beginning on or after July 1, 2008; SB 1876, s. 1.1, S.L. 2008-35.)

**G.S. 105-277.1B — Property Tax Homestead Circuit Breaker:** Numerous technical changes were made to the circuit breaker to help with the administration of this new program starting in 2009. The residence has to be owned and occupied for at least five years. A permanent residence owned and occupied by husband and wife as tenants by the entirety is entitled to the full benefit even if only one of the owners meets the requirements. An annual application is required for this program. G.S. 105-282.1(a)(2)e is repealed. G.S. 153A-148.1(a) and G.S. 160A-208.1(a) is amended to allow the following information to be disclosed:

To include on a property tax receipt the amount of property taxes due and the amount of property taxes deferred on a residence classified under G.S. 105-277.1B, the property tax homestead circuit breaker.

(Effective for taxes imposed for taxable years beginning on or after July 1, 2008; SB 1876, s.1.2-1.5, S.L. 2008-35.)

**G.S. 105-277.1C — Uniform Provisions for Payment of Deferred Taxes:** Provides for uniform treatment of all the property tax deferral programs. The following statutes have this statement added concerning when deferred taxes are due:

The deferred taxes for the preceding three fiscal years are due and payable in accordance with G.S. 105-277.1C when the property loses its eligibility for deferral as a result of a disqualifying event.

A disqualifying event is also defined in each of the following statutes:

- G.S. 105-275(29a), historic district property held as future site of historic structure.
- G.S. 105-277.1B, the property tax homestead circuit breaker.
- G.S. 105-277.4(c), present-use value property.
- G.S. 105-277.14, working waterfront property.
- G.S. 105-277.15, wildlife conservation land.
- G.S. 105-278(b), historic property.
- G.S. 105-278.6(e), nonprofit property held as future site of low- or moderate-income housing.

(Effective for taxes imposed for taxable years beginning on or after July 1, 2008; SB 1876, s. 2.1-2.7, S.L. 2008-35.)

**G.S. 105-365.1 — When and Against Whom Collection Remedies May be Used:**

Provides the date of delinquency after which the tax collector may use delinquent tax collection remedies. For a non-deferral tax the delinquency date is the date interest begins. For deferred taxes the delinquency date is the date a disqualifying event occurs except for the death of the owner under the circuit breaker program. Under the circuit breaker program the delinquency date is the first day of the ninth month following the death of the owner.

Also provides who the taxpayer is for the purposes of enforced collection of property tax. For real property it is the owner of record as of the date of delinquency. For personal property it is the owner of record as of January 1 of the calendar year in which the taxes are due. For motor vehicles it is the owner of record as of the date the registration is renewed or applied for.

(Effective for taxes imposed for taxable years beginning on or after July 1, 2008; SB 1876, s.2.8, S.L. 2008-35.)

## **SB 1878**

**G.S. 105-275(44) — Taxation of Drugs Given as Free Samples:** Excludes from taxation free samples of drugs that are required by federal law to be dispensed only on prescription and are given to physicians and other medical practitioners to dispense free of charge in their course of practice.

(Effective for taxes imposed for taxable years beginning on or after July 1, 2008; SB 1878, s. 4, S.L. 2008-146.)

**G.S. 105-275(45) — Taxation of Solar Electric Systems:** Designates solar energy electric systems used directly and exclusively for conversion of solar energy to electricity as a special class of property. Excludes 80% of the appraised value of the solar systems from taxation.

(Effective for taxes imposed for taxable years beginning on or after July 1, 2008; SB 1878, s. 5, S.L. 2008-146.)

**G.S. 105-277.2 — Present Use Value Property Changes:** Changes the present use value law to allow additional forms of ownership to qualify for special tax treatment. Changes the types of business entities and trust which can qualify for present use value. All members of the business entity must be directly or indirectly individuals who are actively engaged in farming agricultural land, horticultural land or forestland. Allows land to immediately qualify without requiring the deferred taxes to be assumed by the new owner as long as the new owner continues to use the land for the purpose for which it was classified under the previous ownership.

(Effective for taxes imposed for taxable years beginning on or after July 1, 2008; SB 1878, s. 2, S.L. 2008-146.)

**G.S. 105-277.16 — Taxation of Low-Income Housing Property:** Designates low-income housing to which the North Carolina Housing Finance Agency allocated a federal tax credit under section 42 of the Code as a special class of property. Requires the assessor to use the income approach as the method of valuation and requires the assessor to take rent restrictions that apply to the property into consideration. The assessor may not consider the income tax credits received under section 42 of the Code in determining the income attributable to the property.

(Effective for taxes imposed for taxable years beginning on or after July 1, 2009; SB 1878, s. 3, S.L. 2008-146.)

**G.S. 105-286 — Time for General Reappraisal of Real Property:** Changes the schedule for general reappraisal of real property for those counties whose population is 75,000 or greater. If the county's sales assessment ratio determined under G.S. 105-289(h) is less than .85 or greater than 1.15 a reappraisal is required to be effective no later than January 1 of the third year following the year the ratio is reported to the county or the eighth year following the year of the county's last reappraisal, which ever is earlier. Removes the Fourth Year Horizontal Adjustments provision from the statutes.

(Effective for taxes imposed for taxable years beginning on or after July 1, 2009; SB 1878, s. 1, S.L. 2008-146.)