



North Carolina Department of Revenue

Beverly Eaves Perdue
Governor

Kenneth R. Lay
Secretary

October 15, 2009

MEMORANDUM

TO: County Assessors and Tax Administrators

FROM: David B. Baker, Director
Property Tax Division

RE: 2009 Property Tax Legislation

We are enclosing a summary of the significant property tax legislation (having state-wide application) enacted by the 2009 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/>

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.

2009 PROPERTY TAX LEGISLATION

Bills Enacted by the 2009 Session of the N.C. General Assembly

Ratified House Bills

HB 215

G.S. 161-31(b) — Payment of Delinquent Property Taxes:

Adds Catawba and Alexander counties to the list of counties authorized to require the payment of delinquent property taxes before recording deeds conveying property.

(Effective July 13, 2009; HB 215, s. 1, S.L. 2009-290.)

HB 563

G.S. 160A-417 — Payment of Delinquent Property Taxes:

Provides that the towns of Columbia and Edenton may prohibit the issuance of a building permit to a delinquent taxpayer.

(Effective June 8, 2009; HB 563, s. 1, S.L. 2009-68.)

HB 852

G.S. 105-273(3a) — Definition of Builder:

Defines "builder" as a taxpayer licensed as a general contractor under G.S. 87-1 and engaged in the business of buying real property, making improvements to it and then reselling it.

(Effective for taxes imposed for taxable years beginning on or after July 1, 2009; Repealed effective for taxes imposed for taxable years beginning July 1, 2013; HB 852, s. 1, S.L. 2009-308.)

G.S. 277.1D — Inventory Property Tax Deferral:

Allows a builder as defined in G.S. 105-273(3a) to defer the taxes on real property improvements of a residence for which a certificate of occupancy authorized by law has been issued. The difference in taxes for the fiscal years preceding the current tax year shall be carried forward in the records of the taxing unit or units as deferred taxes. Taxes are deferred until a disqualifying event takes place. A disqualifying event occurs at the earliest of (i) when the builder transfers the residence, (ii) when the residence is occupied by the builder or by someone other than the builder with the builder's consent, (iii) five years from the time the improved property was first subject to being listed for taxation by the builder, or (iv) three years from the time the improved property first received the property tax benefit provided by this section.

(Effective for taxes imposed for taxable years beginning on or after July 1, 2009; Repealed effective for taxes imposed for taxable years beginning July 1, 2013; HB 862, s. 2, S.L. 2009-308.)

See memo from David Baker dated October 15, 2009.

G.S. 105-277.1F(a) — Tax Deferral:

Adds a new subdivision to read: (2a) G.S. 105-277.1D, the inventory property tax deferral.

(Effective for taxes imposed for taxable years beginning on or after July 1, 2009; Repealed effective for taxes imposed for taxable years beginning July 1, 2013; HB 862, s. 3, S.L. 2009-308.)

HB 1530

G.S. 105-286 — Postpone a 2009 General Reappraisal:

Allows a county to postpone a 2009 reappraisal if the county adopted a resolution to postpone the reappraisal between January 1, 2009 and June 30, 2009. Does not allow a county to go more than eight years between general reappraisals.

(Effective June 18, 2009; HB 1530, s. 1, S.L. 2009-180.)

HB 1586

G.S. 105-277.17 — Clarify the Valuation of Community Land Trust Property:

Adds a new section to clarify the valuation of real property owned by a community land trust developer. The initial appraised value of community land trust property in the year the property first qualifies for classification under this section is the initial investment basis. In subsequent general reappraisals, the value of the community land trust property shall not exceed the sum of the restricted capital gain amount and the initial investment basis.

The restricted capital gain amount is the market value of the community land trust property that would be established for the current general reappraisal if not for this classification adjusted to the maximum sales price permitted pursuant to the resale restrictions effective for a hypothetical sale occurring on the date of reappraisal, if less, and subtracting the initial investment basis and any silent mortgage amount.

(Effective for taxes imposed for taxable years beginning on or after July 1, 2010; HB 1586, s. 1, S.L. 2009-481.)

G.S. 105-278.6(e) — Low or Moderate-Income Housing:

Changes the requirement that an organization has to construct low or moderate housing to require that property owned by the organization be used for low or moderate housing within five years from the first fiscal year the property was classified.

(Effective for taxes imposed for taxable years beginning on or after July 1, 2010; HB 1586, s. 2, S.L. 2009-481.)

G.S. 105-282.1(a)(2)c — Application for Property Tax Exemption or Exclusion:

Adds G.S. 105-277.17 to list of property types that only have to make a one-time application for taxation reduced valuation.

(Effective for taxes imposed for taxable years beginning on or after July 1, 2010; HB 1586, s. 3, S.L. 2009-481.)

Ratified Senate Bills

SB 405

G.S. 105-317.2 — REPORT ON TRANSFERS OF REAL PROPERTY: Adds a new section which requires that before a deed conveying property can be recorded, the following information has to be included in each deed:

- 1) The name of each grantor and grantee and the mailing address of each grantor and grantee.
- (2) A statement whether the property includes the primary residence of a grantor.

Failure to comply with this section does not affect the validity of a duly recorded deed. This section does not apply to deeds of trust, deeds of release, or similar instruments.

(Effective for taxes imposed for taxable years beginning on or after January 1, 2010; SB 405, s. 1, S.L. 2009-454.)

SB 509

G.S. 105-273(6) — Definition of Corporation: Adds a new section which defines a corporation as an organization having capital stock represented by shares or an incorporated, nonprofit organization.

(Effective August 4, 2009; SB 509, s. 20, S.L. 2009-445.)

G.S. 105-275 — Property Classified and Excluded From the Tax Base: Makes technical change to the language.

(Effective August 4, 2009; SB 509, s. 21, S.L. 2009-445.)

G.S. 105-277.1(d) — Homestead Exclusion:

Removes the term “as tenants by the entirety” as it relates to husband and wife. Treats all types of husband and wife ownership the same for the exclusion.

(Effective for taxes imposed for taxable years beginning on or after January 1, 2009; SB 509, s. 22(a), S.L. 2009-445.)

G.S. 105-277.1B — Property Tax Homestead Circuit Breaker: Clarifies the language as follows:

1. Changes the requirement that the owner must owned and occupied the property as a permanent residence for at least five consecutive years to the requirement that the owner has owned the residence for five consecutive years and has occupied the property for at least five years. Makes other technical changes to the ownership and occupancy requirement.
2. Makes it clear that the taxpayer can only defer the principal amount of the tax for the current year.
3. Clears up the deferred taxes language.
4. Makes it clear that the tax collector only has to send notice of deferred taxes to the mailing address of the residence on which the taxes of been deferred.

(Effective for taxes imposed for taxable years beginning on or after January 1, 2009; SB 509, s. 22(b), S.L. 2009-445.)

G.S. 105-277.1C — Disabled Veteran Property Tax Homestead Exclusion:

Clarifies the language as follows:

1. Clarifies the definition of a disabled veteran to include all veterans whose service at separation was honorable or under honorable conditions.
2. Changes the language concerning a surviving spouse to include only those spouses who have not ever remarried.
3. Removes the term “as tenants by the entirety” as it relates to husband and wife. Treats all types of husband and wife ownership the same for the exclusion.
4. Allows a surviving spouse to qualify if the veteran’s death was the result of a service-connected condition even if the veteran did not qualify at the time of death.

See memo from Lee Harris dated August 12, 2009 for more details.

(Effective for taxes imposed for taxable years beginning on or after January 1, 2009; SB 509, s. 22(c), S.L. 2009-445.)

G.S. 105-277.14 — Repealed:

(Effective August 4, 2009; SB 509, s. 23(b), S.L. 2009-445.)

G.S. 105-282.1(a) — Application for Property Tax Exemption or Exclusion:

Adds G.S. 105-275(42) and (44) to list of property types that do not have to make an application for exclusion.

(Effective for taxes imposed for taxable years beginning on or after July 1, 2008; SB 509, s. 23(c), S.L. 2009-445.)

G.S. 105-282.1(a)(2)c — Application for Property Tax Exemption or Exclusion:

Adds G.S. 105-277.14 to list of property types that only have to make a one-time application for taxation reduced valuation.

(Effective for taxes imposed for taxable years beginning on or after July 1, 2009; SB 509, s. 23(d), S.L. 2009-445.)

G.S. 105-282.1(a)(2)c — Application for Property Tax Exemption or Exclusion:

Adds G.S. 105-277.15 to list of property types that only have to make a one-time application for taxation reduced valuation.

(Effective for taxes imposed for taxable years beginning on or after July 1, 2010; SB 509, s. 23(e), S.L. 2009-445.)

G.S. 105-330 — Motor Vehicles:

Makes numerous changes to the listing, appraising, assessing of motor vehicles and changes to the collecting of taxes on motor vehicles. These changes are necessary for the implementation of the combined property tax and motor vehicle registration system which goes into effect July 1, 2011 pursuant to House Bill 1779.

(Effective for July 1, 2011; SB 509, s. 24 & 25, S.L. 2009-445.)

G.S. 105-361(a) — Property Tax Certificate:

Requires the tax collector to furnish a tax certificate stating the amount of any taxes owed on the property and any deferred taxes and interest that would become due if a disqualifying event occurred. This certificate must be given to any person listed in this subsection who meets all the requirements of the subsection.

(Effective August 4, 2009; SB 509, s. 26, S.L. 2009-445.)

G.S. 160A-215.2 — Heavy Equipment Gross Receipts Tax in Lieu of Property Tax:

Requires an ordinance instead of a resolution be in place in order for a gross receipt on heavy equipment to be collected.

(Effective August 4, 2009; SB 509, s. 27, S.L. 2009-445.)