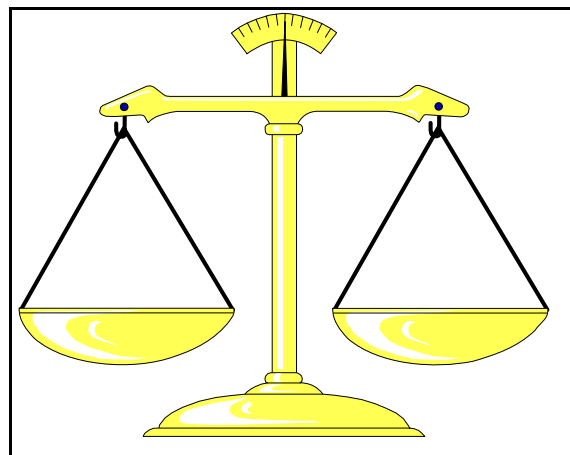
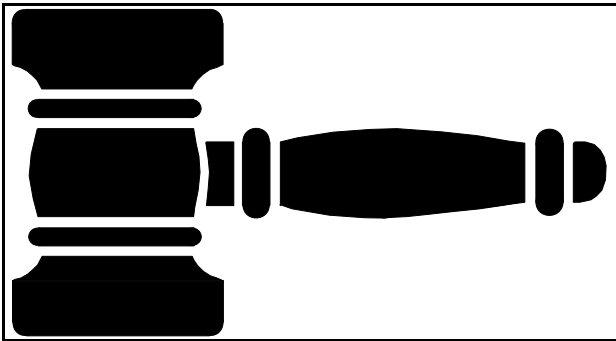


SECTION IV
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LEGAL FUNDAMENTALS

§ 105-271. Official title.

This Subchapter may be cited as the Machinery Act. (1939, c. 310, s. 1; 1971, c. 806, s. 1.)

§ 105-272. Purpose of Subchapter.

The purpose of this Subchapter is to provide the machinery for the listing, appraisal, and assessment of property and the levy and collection of taxes on property by counties and municipalities. It is the intent of the General Assembly to make the provisions of this Subchapter uniformly applicable throughout the State, and to assure this objective no local act to become effective on or after July 1, 1971, shall be construed to repeal or amend any section of this Subchapter in whole or in part unless it shall expressly so provide by specific reference to the section to be repealed or amended. As used in this section, the term "local act" means any act of the General Assembly that applies to one or more counties by name, to one or more municipalities by name, or to all municipalities within one or more named counties. (1939, c. 310, s. 1802; 1971, c. 806, s. 1; 1991, c. 11, s. 1.)

(1) DEFINITIONS

§ 105-273. Definitions.

When used in this Subchapter (unless the context requires a different meaning):

- (1) "Abstract" means the document on which the property of a taxpayer is listed for ad valorem taxation and on which the appraised and assessed values of the property are recorded.
- (2) "Appraisal" means both the true value of property and the process by which true value is ascertained.
- (3) "Assessment" means both the tax value of property and the process by which the assessment is determined.
- (4) Repealed by Session Laws 1973, c. 695, s. 15.
- (4a) "Code" [is] defined in G.S. 105-228.90.
- (5) "Collector" or "tax collector" means any person charged with the duty of collecting taxes for a county or municipality.
- (5a) "Contractor" means a taxpayer who is regularly engaged in building, installing, repairing, or improving real property.
- (6) "Corporation" includes nonprofit corporation and every type of organization having capital stock represented by shares.
- (6a) "Discovered property" includes all of the following:
 - a. Property that was not listed during a listing period.
 - b. Property that was listed but the listing included a substantial understatement.
 - c. Property that has been granted an exemption or exclusion and does not qualify for the exemption or exclusion.
- (6b) "To discover property" means to determine any of the following:
 - a. Property has not been listed during a listing period.
 - b. A taxpayer made a substantial understatement of listed property.

- c. Property was granted an exemption or exclusion and the property does not qualify for an exemption or exclusion.
- (7) "Document" includes book, paper, record, statement, account, map, plat, film, picture, tape, object, instrument, and any other thing conveying information.
- (7a) "Failure to list property" includes all of the following:
 - a. Failure to list property during a listing period.
 - b. A substantial understatement of listed property.
 - c. Failure to notify the assessor that property granted an exemption or exclusion under an application for exemption or exclusion does not qualify for the exemption or exclusion.
- (8) "Intangible personal property" means patents, copyrights, secret processes, formulae, good will, trademarks, trade brands, franchises, stocks, bonds, cash, bank deposits, notes, evidences of debt, leasehold interests in exempted real property, bills and accounts receivable, and other like property.
- (8a) "Inventories" means (i) goods held for sale in the regular course of business by manufacturers, retail and wholesale merchants, and contractors, and (ii) goods held by contractors to be furnished in the course of building, installing, repairing, or improving real property. As to manufacturers, the term includes raw materials, goods in process, and finished goods, as well as other materials or supplies that are consumed in manufacturing or processing, or that accompany and become a part of the sale of the property being sold. The term also includes a modular home as defined in G.S. 105-164.3(21b) that is used exclusively as a display model and held for eventual sale at the retail merchant's place of business. The term also includes crops, livestock, poultry, feed used in the production of livestock and poultry, and other agricultural or horticultural products held for sale, whether in process or ready for sale. The term does not include fuel used in manufacturing or processing, nor does it include materials or supplies not used directly in manufacturing or processing. As to retail and wholesale merchants and contractors, the term includes, in addition to articles held for sale, packaging materials that accompany and become a part of the sale of the property being sold.
- (9) "List" or "listing," when used as a noun, means abstract.
- (10) Repealed by Session Laws 1987, c. 43, s. 1.
- (10a) "Local tax official" includes a county assessor, an assistant county assessor, a member of a county board of commissioners, a member of a county board of equalization and review, a county tax collector, and the municipal equivalents of these officials.
- (10b) "Manufacturer" means a taxpayer who is regularly engaged in the mechanical or chemical conversion or transformation of materials or substances into new products for sale or in the growth, breeding, raising, or other production of new products for sale. The term does not include delicatessens, cafes, cafeterias, restaurants, and other similar retailers that are principally engaged in the retail sale of foods prepared by them for consumption on or off their premises.

- (11) "Municipal corporation" and "municipality" mean city, town, incorporated village, sanitary district, rural fire protection district, rural recreation district, mosquito control district, hospital district, metropolitan sewerage district, watershed improvement district, or other district or unit of local government by or for which ad valorem taxes are levied. The terms also include a consolidated city-county as defined by G.S. 160B-2(1).
- (12) "Person" and "he" include any individual, trustee, executor, administrator, other fiduciary, corporation, limited liability company, unincorporated association, partnership, sole proprietorship, company, firm, or other legal entity.
- (13) 'Real property,' 'real estate,' and 'land' mean not only the land itself, but also buildings, structures, improvements, and permanent fixtures on the land, and all rights and privileges belonging or in any way appertaining to the property. These terms also mean a manufactured home as defined in G.S. 143-143.9(6) if it is a residential structure; has the moving hitch, wheels, and axles removed; and is placed upon a permanent foundation on land owned by the owner of the manufactured home or on land in which the owner of the manufactured home has a leasehold interest pursuant to a lease with a primary term of at least 20 years for the real property on which the manufactured home is affixed and where the lease expressly provides for disposition of the manufactured home upon termination of the lease. A manufactured home as defined in G.S. 143-143.9(6) that does not meet all of these conditions is considered tangible personal property."
- (13a) "Retail Merchant" means a taxpayer who is regularly engaged in the sale of tangible personal property, acquired by a means other than manufacture, processing, or producing by the merchant, to users or consumers.
- (13b) "Substantial understatement" means the omission of a material portion of the value, quantity, or other measurement of taxable property. The determination of materiality in each case shall be made by the assessor, subject to the taxpayer's right to review of the determination by the county board of equalization and review or board of commissioners and appeal to the Property Tax Commission.
- (14) "Tangible personal property" means all personal property that is not intangible and that is not permanently affixed to real property.
- (15) "Tax" and "taxes" include the principal amount of any tax, costs, penalties, and interest imposed upon property tax or dog license tax.
- (16) "Taxing unit" means a county or municipality authorized to levy ad valorem property taxes.
- (17) "Taxpayer" means any 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. For purposes of collecting delinquent ad valorem taxes assessed on real property under G.S. 105-366 through G.S. 105-375, "taxpayer" means the owner of record on the date the taxes become delinquent and any subsequent owner of record of the real property if conveyed after that date.
- (18) "Valuation" means appraisal and assessment.

(19) "Wholesale Merchant" means a taxpayer who is regularly engaged in the sale of tangible personal property, acquired by a means other than manufacture, processing, or producing by the merchant, to other retail or wholesale merchants for resale or to manufacturers for use as ingredient or component parts of articles being manufactured for sale.

(2) JURISDICTION TO TAX

§ 105-274. Property subject to taxation.

(a) All property, real and personal, within the jurisdiction of the State shall be subject to taxation unless it is:

(1) Excluded from the tax base by a statute of statewide application enacted under the classification power accorded the General Assembly by Article V, § 2(2), of the North Carolina Constitution, or

(2) Exempted from taxation by the Constitution or by a statute of statewide application enacted under the authority granted the General Assembly by Article V, § 2(3), of the North Carolina Constitution.

(b) No provision of this Subchapter shall be construed to exempt from taxation any property situated in this State belonging to any foreign corporation unless the context of the provision clearly indicates a legislative intent to grant such an exemption.

Discussion

Once the county assessor determines that the property he is dealing with is personal property, he must establish whether he has jurisdiction i.e., the power to tax the property. The power to tax property or persons extends from the theory that government is providing benefits and protection to the property or the person for which it is entitled to levy a tax to help cover the cost of government. Under the XIV Amendment to the United States Constitution -- the due process of law and equal protection of the law clauses -- states cannot assert jurisdiction over property or persons unless there is some reasonable relationship between the tax imposed and the opportunity, benefits, and protection conferred or afforded by the taxing state. When a state has jurisdiction over property, the property is said to have a taxable situs in that state.

Domicile

The domicile of tangible personal property is the residence of the owner, or the place from which the property may be absent, but where it is expected to return within a reasonable period of time. The domicile state has jurisdiction to tax the property whether or not it is physically located in the state on the tax date. But when tangible property is removed from the owner's domicile state and becomes more or less permanently located in another state, it is taxable there. Jurisdiction in such cases is lost by the domicile state which no longer affords substantial protection to the property. An attempt by the domicile state to tax such property would be in violation of the due process clause of the United States Constitution. (Reference 71 AM JUR 2d @ 664 & 665)

Property in Interstate Commerce

There are cases where property would appear to have a taxable situs in a state but because of Federal Constitutional prohibition, the state does not have jurisdiction over the property.

Under the commerce clause (Article I, Sec. 8, CL3,) states cannot tax property which is in transit in interstate commerce. This prohibition covers property from the time it enters the channels of interstate shipment and continues until the interstate journey has ended. As a general statement, this journey begins when the property is actually turned over to the carrier and ends when it is delivered to the consignee -- either actually or constructively. Most states, including North Carolina, before all inventories were exempted from taxation, extended this prohibition even further by the enactment of "free port" exemptions, which exempted property shipped into the state from outside the state which was held in a public warehouse for further shipment. Thus, this constituted a voluntary extension of the interstate journey.

Delays in interstate transit may create a taxable situs in an intermediate state, depending upon the nature and duration of the delay -- whether it is incidental to the transportation of the property, or to accomplish some ulterior purpose of the owner not connected with such transportation. Property detained in transit to accomplish a particular purpose or object of the owner, other than transportation to its ultimate destination, may be taxed in the state in which it is so detained, as having a taxable situs there.

"Property brought from another state into a state for the purpose of subjecting the same to a manufacturing process in such state, preparatory to its being shipped to markets or customers without the state, is not deemed in transit so as to prevent the acquisition by it or a taxable situs in the state where the manufacturing process takes place." (Reference: 71-AM JUR 2d @ 662)

A manufacturing process represents something more than a cleaning, finishing or dying process. Manufacturing denotes a change in the goods as they enter the process to a different form of finished goods. (Reference: Hanes Dye & Finishing vs. Forsyth County N.C. Supra 1974)

Summary

The county assessor is very much involved in determining jurisdiction over tangible personal property which is physically located in the taxing unit on the tax date and tangible personal property which may have been present but absent for various reasons.

The N. C. Attorney General has addressed this issue and has concluded that the owner's intent is the governing factor in determining jurisdiction or tax situs. A rule of thumb suggested is if the property is physically located at a site on the tax day and the owner expects the property to remain at that site until the next tax day, that situation is sufficient reason to acquire a tax situs at that location. Otherwise, the property would have a tax situs at the domicile of the owner, or if the owner is an individual domiciled in North Carolina, the place at which the owner resides. In the case of a corporation, it is at the place where its principal N.C. place of business is located.

(3) PLACE FOR LISTING PERSONAL PROPERTY

§ 105-304. Place for listing tangible personal property.

(a) Listing Instructions. – This section applies to all taxable tangible personal property that has a tax situs in this State and that is not required by this Subchapter to be appraised originally by the Department of Revenue. The place in this State at which this property is taxable is determined according to the rules provided in this section. The person whose duty it is to list property must list it in the county in which the place of taxation is located, indicating on the abstract the information required by G.S. 105-309(d). If the place of taxation lies within a city or town that requires separate listing under G.S. 105-326(a), the person whose duty it is to list must also list the property for taxation in the city or town.

(a1) Electronic Listing. – The board of county commissioners may, by resolution, provide for electronic listing of personal property in accordance with procedures prescribed by the board. If the board of county commissioners allows electronic listing of personal property, the assessor must publish this information, including the timetable and procedures for electronic listing, in the notice required by G.S. 105-296(c).

(b) Definitions. – The following definitions apply in this section:

(1) Situated. – More or less permanently located.

(2) Business premises. – The term includes, for purposes of illustration, the following: Store, mill, dockyard, piling ground, shop, office, mine, farm, factory, warehouse, rental real estate, place for the sale of property (including the premises of a consignee), and place for storage (including a public warehouse).

(3) Electronic. – Defined in G.S. 66-312.

(c) General Rule. – Except as otherwise provided in subsections (d) through (h) of this section, tangible personal property is taxable at the residence of the owner. For purposes of this section:

(1) The residence of an individual person who has two or more places in this State at which the individual occasionally dwells is the place at which the individual dwelt for the longest period of time during the calendar year immediately preceding the date as of which property is to be listed for taxation.

(2) The residence of a domestic or foreign taxpayer other than an individual person is the place at which its principal North Carolina place of business is located.

(d) Property of Taxpayers With No Fixed Residence in This State. –

(1) Tangible personal property owned by an individual nonresident of this State is taxable at the place in this State at which the property is situated.

(2) Tangible personal property owned by a domestic or foreign taxpayer (other than an individual person) that has no principal office in this State is taxable at the place in this State at which the property is situated.

(e) Farm Products. – Farm products produced in this State, if owned by their producer, are taxable at the place in this State at which they were produced.

(f) Property Situated or Commonly Used at Premises Other Than Owner's Residence. – Subject to the provisions of subsection (e) of this section:

- (1) Tangible personal property situated at or commonly used in connection with a temporary or seasonal dwelling owned or leased by the owner of the personal property is taxable at the place at which the temporary or seasonal dwelling is situated.
- (2) Tangible personal property situated at or commonly used in connection with a business premises hired, occupied, or used by the owner of the personal property (or by the owner's agent or employee) is taxable at the place at which the business premises is situated. Tangible personal property that may be used by the public generally or that is used to sell or vend merchandise to the public falls within the provisions of this subdivision.
- (3) Tangible personal property situated at or commonly used in connection with a premise owned, hired, occupied, or used by a person who is in possession of the personal property under a business agreement with the property's owner is taxable at the place at which the possessor's premise is situated. For purposes of this subdivision, the term "business agreement" means a commercial lease, a bailment for hire, a consignment, or a similar business arrangement.
- (4) In applying the provisions of subdivisions (1), (2), and (3) of this subsection, the temporary absence of tangible personal property from the place at which it is taxable under one of those subdivisions on the day as of which property is to be listed does not affect the application of the rules established in those subdivisions. The presence of tangible personal property at a location specified in subdivision (1), (2), or (3) of this subsection on the day as of which property is to be listed is prima facie evidence that it is situated at or commonly used in connection with that location.

(g) **Decedents.** – The tangible personal property of a decedent whose estate is in the process of administration or has not been distributed is taxable at the place at which it would be taxable if the decedent were still alive and still residing at the place at which the decedent resided at the time of death.

(h) **Beneficial Ownership.** – Tangible personal property within the jurisdiction of the State held by a resident or nonresident trustee, guardian, or other fiduciary having legal title to the property is taxable in accordance with the following rules:

- (1) If any beneficiary is a resident of the State, an amount representing that beneficiary's portion of the property is taxable at the place at which it would be taxable if the beneficiary owned that portion.
- (2) If any beneficiary is a nonresident of the State, an amount representing that beneficiary's portion of the property is taxable at the place at which it would be taxable if the fiduciary were the beneficial owner of the property.

(4) PROPERTY CLASSIFIED AND EXCLUDED FROM TAXATION

§ 105-275. Property classified and excluded from the tax base.

The following classes of property are hereby designated special classes under authority of Article V, Sec. 2(2), of the North Carolina Constitution and shall not be listed, appraised, assessed, or taxed:

- (1) Repealed by Session Laws 1987, c. 813, s. 5.
- (2) Tangible personal property that has been imported from a foreign country through a North Carolina seaport terminal and which is stored at such a terminal while awaiting further shipment for the first 12 months of such storage. (The purpose of this classification is to encourage the development of the ports of this State.)
- (3) Real and personal property owned by nonprofit water or nonprofit sewer associations or corporations.
- (4) Repealed by Session Laws 1987, c. 813, s. 5.
- (5) Vehicles that the United States government gives to veterans on account of disabilities they suffered in World War II, the Korean Conflict, or the Vietnam Era so long as they are owned by:
 - a. A person to whom a vehicle has been given by the United States government or
 - b. Another person who is entitled to receive such a gift under Title 38, section 252, United States Code Annotated.
- (5a) A motor vehicle owned by a disabled veteran that is altered with special equipment to accommodate a service-connected disability. As used in this section, disabled veteran means a person as defined in 38 U.S.C. § 101(2) who is entitled to special automotive equipment for a service-connected disability, as provided in 38 U.S.C. § 3901.
- (6) Special nuclear materials held for or in the process of manufacture, processing, or delivery by the manufacturer or processor thereof, regardless whether the manufacturer or processor owns the special nuclear materials. The terms "manufacture" and "processing" do not include the use of special nuclear materials as fuel. The term "special nuclear materials" includes (i) uranium 233, uranium enriched in the isotope 233 or in the isotope 235; and (ii) any material artificially enriched by any of the foregoing, but not including source material. "Source material" means any material except special nuclear material which contains by weight one twentieth of one percent (0.05%) or more of (i) uranium, (ii) thorium, or (iii) any combination thereof. Provided however, that to qualify for this exemption no such nuclear materials shall be discharged into any river, creek or stream in North Carolina. The classification and exclusion provided for herein shall be denied to any manufacturer, fabricator or processor who permits burial of such material in North Carolina or who permits the discharge of such nuclear materials into the air or into any river, creek or stream in North Carolina if such discharge would contravene in any way the applicable health and safety standards established and enforced by the Department of Environment and Natural

Resources or the Nuclear Regulatory Commission. The most stringent of these standards shall govern.

- (7) Real and personal property that is:
 - a. Owned either by a nonprofit corporation formed under the provisions of Chapter 55A of the General Statutes or by a bona fide charitable organization, and either operated by such owning organization or leased to another such nonprofit corporation or charitable organization, and
 - b. Appropriated exclusively for public parks and drives.
- (8) a. Real and personal property that is used or, if under construction, is to be used exclusively for air cleaning or waste disposal or to abate, reduce, or prevent the pollution of air or water (including, but not limited to, waste lagoons and facilities owned by public or private utilities built and installed primarily for the purpose of providing sewer service to areas that are predominantly residential in character or areas that lie outside territory already having sewer service), if the Department of Environment and Natural Resources or a local air pollution control program for air-cleaning devices located in an area where the Environmental Management Commission has certified a local air pollution control program pursuant to G.S. 143-215.112 furnishes a certificate to the tax supervisor of the county in which the property is situated or to be situated stating that the Environmental Management Commission or local air pollution control program has found that the described property:
 - 1. Has been or will be constructed or installed;
 - 2. Complies with or that plans therefor which have been submitted to the Environmental Management Commission or local air pollution control program indicate that it will comply with the requirements of the Environmental Management Commission or local air pollution control program;
 - 3. Is being effectively operated or will, when completed, be required to operate in accordance with the terms and conditions of the permit, certificate of approval, or other document of approval issued by the Environmental Management Commission or local air pollution control program; and
 - 4. Has or, when completed, will have as its primary rather than incidental purpose the reduction of water pollution resulting from the discharge of sewage and waste or the reduction of air pollution resulting from the emission of air contaminants.
- a1. Sub-subdivision a. of this subdivision shall not apply to an animal waste management system, as defined in G.S. 143-215.10B, unless the Environmental Management Commission determines that the animal waste management system will accomplish all of the following:
 - 1. Eliminate the discharge of animal waste to surface waters and groundwater through direct discharge, seepage, or runoff.
 - 2. Substantially eliminate atmospheric emissions of ammonia.

3. Substantially eliminate the emission of odor that is detectable beyond the boundaries of the parcel or tract of land on which the farm is located.
 4. Substantially eliminate the release of disease-transmitting vectors and airborne pathogens.
 5. Substantially eliminate nutrient and heavy metal contamination of soil and groundwater.
- b. Real or personal property that is used or, if under construction, is to be used exclusively for recycling or resource recovering of or from solid waste, if the Department of Environment and Natural Resources furnishes a certificate to the tax supervisor of the county in which the property is situated stating the Department of Environment and Natural Resources has found that the described property has been or will be constructed or installed, complies or will comply with the rules of the Department of Environment and Natural Resources, and has, or will have as its primary purpose recycling or resource recovering of or from solid waste.
 - c. Tangible personal property that is used exclusively, or if being installed, is to be used exclusively, for the prevention or reduction of cotton dust inside a textile plant for the protection of the health of the employees of the plant, in accordance with occupational safety and health standards adopted by the State of North Carolina pursuant to Article 16 of G.S. Chapter 95. The Department of Revenue shall adopt guidelines to assist the tax supervisors in administering this exclusion.
 - d. Real or personal property that is used or, if under construction, is to be used by a major recycling facility as defined in G.S. 105-129.25 predominantly for recycling or resource recovering of or from solid waste, if the Department of Environment and Natural Resources furnishes a certificate to the tax supervisor of the county in which the property is situated stating the Department of Environment and Natural Resources has found that the described property has been or will be constructed or installed for use by a major recycling facility, complies or will comply with the rules of the Department of Environment and Natural Resources, and has, or will have as a purpose recycling or resource recovering of or from solid waste.
- (9) through (11) Repealed by Session Laws 1987, c. 813, s. 5.
 - (12) Real property owned by a nonprofit corporation or association exclusively held and used by its owner for educational and scientific purposes as a protected natural area. (For purposes of this subdivision, the term "protected natural area" means a nature reserve or park in which all types of wild nature, flora and fauna, and biotic communities are preserved for observation and study.)
 - (13) Repealed by Session Laws 1973, c. 904.
 - (14) Motor vehicles chassis belonging to nonresidents, which chassis temporarily enters the State for the purpose of having a body mounted thereon.

- (15) Upon the date on which each county's next general reappraisal of real property under the provisions of G.S. 105-286(a) becomes effective, standing timber, pulpwood, seedlings, saplings, and other forest growth. (The purpose of this classification is to encourage proper forest management practices and to develop and maintain the forest resources of the State.)
- (16) Non-business Property. – As used in this subdivision, the term "non-business property" means personal property that is used by the owner of the property for a purpose other than the production of income and is not used in connection with a business. The term includes household furnishings, clothing, pets, lawn tools, and lawn equipment. The term does not include motor vehicles, mobile homes, aircraft, watercraft, or engines for watercraft.
- (17) Real and personal property belonging to the American Legion, Veterans of Foreign Wars, Disabled American Veterans, or to any similar veterans organizations chartered by the Congress of the United States or organized and operated on a statewide or nationwide basis, and any post or local organization thereof, when used exclusively for meeting or lodge purposes by said organization, together with such additional adjacent real property as may be necessary for the convenient and normal use of the buildings thereon. Notwithstanding the exclusive-use requirement hereinabove established, if a part of a property that otherwise meets this subdivision's requirements is used for a purpose that would require that it not be listed, appraised, assessed or taxed if the entire property were so used, that part, according to its value, shall not be listed, appraised, assessed or taxed. The fact that a building or facility is incidentally available to and patronized by the general public, so far as there is no material amount of business or patronage with the general public, shall not defeat the classification granted by this section.
- (18) Real and personal property belonging to the Grand Lodge of Ancient, Free and Accepted Masons of North Carolina, the Prince Hall Masonic Grand Lodge of North Carolina, their subordinate lodges and appendant bodies including the Ancient and Arabic Order Nobles of the Mystic Shrine, and the Ancient Egyptian Order Nobles of the Mystic Shrine, when used exclusively for meeting or lodge purposes by said organization, together with such additional adjacent real property as may be necessary for the convenient normal use of the buildings thereon. Notwithstanding the exclusive-use requirement hereinabove established, if a part of a property that otherwise meets this subdivision's requirements is used for a purpose that would require that it not be listed, appraised, assessed or taxed if the entire property were so used, that part, according to its value, shall not be listed, appraised, assessed or taxed. The fact that a building or facility is incidentally available to and patronized by the general public, so far as there is no material amount of business or patronage with the general public, shall not defeat the classification granted by this section.
- (19) Real and personal property belonging to the Loyal Order of Moose, the Benevolent and Protective Order of Elks, the Knights of Pythias, the Odd Fellows, the Woodmen of the World, and similar fraternal or civic orders and

organizations operated for nonprofit benevolent, patriotic, historical, charitable, or civic purposes, when used exclusively for meeting or lodge purposes by the organization, together with as much additional adjacent real property as may be necessary for the convenient normal use of the buildings. Notwithstanding the exclusive-use requirement of this subdivision, if a part of a property that otherwise meets this subdivision's requirements is used for a purpose that would require that it not be listed, appraised, assessed, or taxed if the entire property were so used, that part, according to its value, shall not be listed, appraised, assessed, or taxed. The fact that a building or facility is incidentally available to and patronized by the general public, so far as there is no material amount of business or patronage with the general public, shall not defeat the classification granted by this section. Nothing in this subdivision shall be construed so as to include social fraternities, sororities, and similar college, university, or high school organizations in the classification for exclusion from ad valorem taxes.

- (20) Real and personal property belonging to Goodwill Industries and other charitable organizations organized for the training and rehabilitation of disabled persons when used exclusively for training and rehabilitation, including commercial activities directly related to such training and rehabilitation.
- (21) The first thirty-eight thousand dollars (\$38,000) in assessed value of housing together with the necessary land therefor, owned and used as a residence by a disabled veteran who receives benefits under 38 U.S.C. § 2101. This exclusion shall be the total amount of the exclusion applicable to such property.
- (22) Repealed by Session Laws 1987, c. 813, s. 5.
- (23) Tangible personal property imported from outside the United States and held in a Foreign Trade Zone for the purpose of sale, manufacture, processing, assembly, grading, cleaning, mixing or display and tangible personal property produced in the United States and held in a Foreign Trade Zone for exportation, either in its original form or as altered by any of the above processes.
- (24) Cargo containers and container chassis used for the transportation of cargo by vessels in ocean commerce.

The term "container" applies to those nondisposable receptacles of a permanent character and strong enough for repeated use and specially designed to facilitate the carriage of goods, by one or more modes of transport, one of which shall be by ocean vessels, without intermediate reloadings and fitted with devices permitting its ready handling particularly in the transfer from one transport mode to another.

- (24a) Aircraft that is owned or leased by an interstate air courier, is apportioned under G.S. 105-337 to the air courier's hub in this State, and is used in the air courier's operations in this State. For the purpose of this subdivision, the terms "interstate air courier" and "hub" have the meanings provided in G.S. 105-164.3.

- (25) Tangible personal property shipped into this State for the purpose of repair, alteration, maintenance or servicing and reshipment to the owner outside this State.
- (26) For the tax year immediately following transfer of title, tangible personal property manufactured in this State for the account of a nonresident customer and held by the manufacturer for shipment. For the purpose of this subdivision, the term "nonresident" means a taxpayer having no place of business in North Carolina.
- (27) (28) Repealed by Session Laws 1983, c. 643, s. 1.
- (29) Real 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 prepared and recorded under the provisions of the Conservation and Historic Preservation Agreements Act, Article 4, Chapter 121 of the General Statutes of North Carolina.
- (29a) Land within an historic district held, by a nonprofit corporation organized for historic preservation purposes, for use as a future site for an historic structure that is to be moved to the site from another location. Property may be classified under this subdivision for no more than five years. The taxes that would otherwise be due on land classified under this subdivision shall be a lien on the real property of the taxpayer as provided in G.S. 105-355(a). The taxes shall be carried forward in the records of the taxing unit or units as deferred taxes and shall be payable five years from the fiscal year the exclusion is first claimed unless an historic structure is moved onto the site during that time. If an historic structure has not been moved to the site within five years, then deferred taxes for the preceding five fiscal years shall immediately be payable, together with interest as provided in G.S. 105-360 for unpaid taxes that shall accrue on the deferred taxes as if they had been payable on the dates on which they would originally become due. All liens arising under this subdivision are extinguished upon either the payment of any deferred taxes under this subdivision or the location of an historic structure on the site within the five-year period allowed under this subdivision.
- (30) Repealed by Session Laws 1987, c. 813, s. 5.
- (31) Intangible personal property other than leasehold interests in exempted real property. This subdivision does not affect the taxation of software not otherwise excluded by subdivision (40) of this section.
- (31a) through (31d) Repealed by Session Laws 1997-23, s. 3.
- (32) Recodified as § 105-278.6A by Session Laws 1998-212, s. 29A.18(a), effective for taxes imposed for taxable years beginning on or after July 1, 1998.
- (32a) Inventories owned by contractors.
- (33) Inventories owned by manufacturers.
- (34) Inventories owned by retail and wholesale merchants.

- (35) Severable development rights, as defined in G.S. 136-66.11(a), when severed and evidenced by a deed recorded in the office of the register of deeds pursuant to G.S. 136-66.11(c).
- (36) Real and personal property belonging to the North Carolina Low-Level Radioactive Waste Management Authority created under Chapter 104G of the General Statutes.
- (37) Poultry and livestock and feed used in the production of poultry and livestock.
- (38) Real and personal property belonging to the North Carolina Hazardous Waste Management Commission created under Chapter 130B of the General Statutes.
- (39) Real and personal property that is: (i) owned by a nonprofit corporation organized upon the request of a local government unit for the sole purpose of financing projects for public use, (ii) leased to a unit of local government whose property is exempt from taxation under G.S. 105-278.1, and (iii) used in whole or in part for a public purpose by such unit of local government. If only part of the property is used for a public purpose, only that part is exempt from the tax. This subdivision shall not apply if any distributions are made to members, officers, or directors of the nonprofit corporation.
- (40) Computer software and any documentation related to the computer software. As used in this subdivision, the term "computer software" means any program or routine used to cause a computer to perform a specific task or set of tasks. The term includes system and application programs and database storage and management programs.

The exclusion established by this subdivision does not apply to computer software and its related documentation if the computer software meets one or more of the following descriptions:

- a. It is embedded software. "Embedded software" means computer instructions, known as microcode, that reside permanently in the internal memory of a computer system or other equipment and are not intended to be removed without terminating the operation of the computer system or equipment and removing a computer chip, a circuit, or another mechanical device.
- b. It is purchased or licensed from a person who is unrelated to the taxpayer and it is capitalized on the books of the taxpayer in accordance with generally accepted accounting principles, including financial accounting standards issued by the Financial Accounting Standards Board. A person is unrelated to a taxpayer if (i) the taxpayer and the person are not subject to any common ownership, either directly or indirectly, and (ii) neither the taxpayer nor the person has any ownership interest, either directly or indirectly, in the other. This subdivision does not affect the value or taxable status of any property that is otherwise subject to taxation under this Subchapter.

The provisions of the exclusion established by this subdivision are not severable. If any provision of this subdivision or its application is held invalid, the entire subdivision is repealed.

- (41) Objects of art held by the North Carolina Art Society, Incorporated.
- (42) A vehicle that is offered at retail for short-term lease or rental and is owned or leased by an entity engaged in the business of leasing or renting vehicles to the general public for short-term lease or rental. For the purposes of this subdivision, the term "short-term lease or rental" shall have the same meaning as in G.S. 105-187.1, and the term "vehicle" shall have the same meaning as in G.S. 153A-156(e) and G.S. 160A-215.1(e). A gross receipts tax as set forth by G.S. 153A-156 and G.S. 160A-215.1 is substituted for and replaces the ad valorem tax previously levied on these vehicles.

105-276 TAXATION OF INTANGIBLE PERSONAL PROPERTY

Intangible personal property that is not excluded from taxation under G.S. 105-275 is subject to this Subchapter. The exclusion of a class of intangible personal property from taxation under G.S. 105-275 does not affect the appraisal or assessment of real property and tangible personal property.

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OTHER EXEMPTIONS

§ 105-278.1. Exemption of real and personal property owned by units of government.

(a) Real and personal property owned by the United States and, by virtue of federal law, not subject to State and local taxes shall be exempted from taxation.

(b) Real and personal property belonging to the State, counties, and municipalities is exempt from taxation.

(c) For purposes of this section:

(1) A specified unit of government (federal, State, or local) includes its departments, institutions, and agencies.

(2) By way of illustration but not by way of limitation, the following boards, commissions, authorities, and institutions are units of State government:

a. The State Marketing Authority established by G.S. 106-529.

b. The Board of Governors of the University of North Carolina incorporated under the provisions of G.S. 116-3 and known as "The University of North Carolina."

c. The North Carolina Museum of Art made an agency of the State under G.S. 140-1.

(3) By way of illustration but not by way of limitation, the following boards, commissions, authorities, and institutions are units of local government of this State:

a. An airport authority, board, or commission created as a separate and independent body corporate and politic by an act of the General Assembly.

b. An airport authority, board, or commission created as a separate and independent body corporate and politic by one or more counties or municipalities or combinations thereof under the authority of an act of the General Assembly.

c. A hospital authority created under G.S. 131-93.

d. A housing authority created under G.S. 157-4 or G.S. 157-4.1.

e. A municipal parking authority created under G.S. 160-477.

f. A veterans' recreation authority created under G.S. 165-26.

§ 105-278.3. Real and personal property used for religious purposes.

(a) Buildings, the land they actually occupy, and additional adjacent land reasonably necessary for the convenient use of any such building shall be exempted from taxation if wholly owned by an agency listed in subsection (c), below, and if:

(1) Wholly and exclusively used by its owner for religious purposes as defined in subsection (d)(1), below; or

(2) Occupied gratuitously by one other than the owner and wholly and exclusively used by the occupant for religious, charitable, or nonprofit educational, literary, scientific, or cultural purposes.

(b) Personal property shall be exempted from taxation if wholly owned by an agency listed in subsection (c), below, and if:

(1) Wholly and exclusively used by its owner for religious purposes; or

(2) Gratuitously made available to one other than the owner and wholly and exclusively used by the possessor for religious, charitable, or nonprofit educational, literary, scientific, or cultural purposes.

(c) The following agencies, when the other requirements of this section are met, may obtain exemption for their properties:

- (1) A congregation, parish, mission, or similar local unit of a church or religious body; or
- (2) A conference, association, presbytery, diocese, district, synod, or similar unit comprising local units of a church or religious body.

(d) Within the meaning of this section:

- (1) A religious purpose is one that pertains to practicing, teaching, and setting forth a religion. Although worship is the most common religious purpose, the term encompasses other activities that demonstrate and further the beliefs and objectives of a given church or religious body. Within the meaning of this section, the ownership and maintenance of a general or promotional office or headquarters by an owner listed in subdivision (2) of subsection (c), above, is a religious purpose and the ownership and maintenance of residences for clergy, rabbis, priests or nuns assigned to or serving a congregation, parish, mission or similar local unit, or a conference, association, presbytery, diocese, district, synod, province or similar unit of a church or religious body or residences for clergy on furlough or unassigned, is also a religious purpose. However, the ownership and maintenance of residences for other employees is not a religious purpose for either a local unit of a church or a religious body or a conference, association, presbytery, diocese, district, synod, or similar unit of a church or religious body. Provided, however, that where part of property which otherwise qualifies for the exemption provided herein is made available as a residence for an individual who provides guardian, janitorial and custodial services for such property, or who oversees and supervises qualifying activities upon and in connection with said property, the entire property shall be considered as wholly and exclusively used for a religious purpose.
- (2) A charitable purpose is one that has humane and philanthropic objectives; it is an activity that benefits humanity or a significant rather than limited segment of the community without expectation of pecuniary profit or reward. The humane treatment of animals is also a charitable purpose.
- (3) An educational purpose is one that has as its objective the education or instruction of human beings; it comprehends the transmission of information and the training or development of the knowledge or skills of individual persons.
- (4) A literary purpose is one that pertains to letters or literature, especially writing, publishing, and the study of literature. It includes the literature of the stage and screen as well as the performance or exhibition of works based on literature.
- (5) A cultural purpose is one that is conducive to the enlightenment and refinement of taste acquired through intellectual and aesthetic training, education, and discipline.

(6) A scientific purpose is one that yields knowledge systematically through research, experimentation or other work done in one or more of the natural sciences.

(e) Notwithstanding the exclusive-use requirement of subsection (a), above, if part of a property that otherwise meets that subsection's requirements is used for a purpose that would require exemption if the entire property were so used, the valuation of the part so used shall be exempted from taxation.

(f) The fact that a building or facility is incidentally available to and patronized by the general public, so long as there is no material amount of business or patronage with the general public, shall not defeat the exemption granted by this section.

(g) Notwithstanding the exclusive-use requirement of subsection (a), above, any parking lot wholly owned by an agency listed in subsection (c), above, may be used for parking without removing the tax exemption granted in this section; provided, the total charge for said uses shall not exceed that portion of the actual maintenance expenditures for the parking lot reasonably estimated to have been made on account of said uses. This subsection shall apply beginning with the taxable year that commences on January 1, 1978.

§ 105-278.4. Real and personal property used for educational purposes.

(a) Buildings. – Buildings, the land they actually occupy, and additional land reasonably necessary for the convenient use of any such building shall be exempted from taxation if all of the following requirements are met:

- (1) Owned by either of the following:
 - a. An educational institution; or
 - b. A nonprofit entity for the sole benefit of a constituent or affiliated institution of The University of North Carolina, an institution as defined in G.S. 116-22, a North Carolina community college, or a combination of these;
- (2) The owner is not organized or operated for profit and no officer, shareholder, member, or employee of the owner or any other person is entitled to receive pecuniary profit from the owner's operations except reasonable compensation for services;
- (3) Of a kind commonly employed in the performance of those activities naturally and properly incident to the operation of an educational institution such as the owner; and
- (4) Wholly and exclusively used for educational purposes by the owner or occupied gratuitously by another nonprofit educational institution and wholly and exclusively used by the occupant for nonprofit educational purposes.

(b) Land. – Land (exclusive of improvements); and improvements other than buildings, the land actually occupied by such improvements, and additional land reasonably necessary for the convenient use of any such improvement shall be exempted from taxation if:

- (1) Owned by an educational institution that owns real property entitled to exemption under the provisions of subsection (a), above;
- (2) Of a kind commonly employed in the performance of those activities naturally and properly incident to the operation of an educational institution such as the owner; and

- (3) Wholly and exclusively used for educational purposes by the owner or occupied gratuitously by another nonprofit educational institution (as defined herein) and wholly and exclusively used by the occupant for nonprofit educational purposes.
- (c) Partial Exemption. – Notwithstanding the exclusive-use requirements of subsections (a) and (b), above, if part of a property that otherwise meets the requirements of one of those subsections is used for a purpose that would require exemption if the entire property were so used, the valuation of the part so used shall be exempted from taxation.
- (d) Public Use. – The fact that a building or facility is incidentally available to and patronized by the general public, so long as there is no material amount of business or patronage with the general public, does not defeat the exemption granted by this section.
- (e) Personal Property. – Personal property owned by a church, a religious body, or an educational institution shall be exempted from taxation if:
 - (1) The owner is not organized or operated for profit, and no officer, shareholder, member, or employee of the owner, or any other person is entitled to receive pecuniary profit from the owner's operations except reasonable compensation for services; and
 - (2) Used wholly and exclusively for educational purposes by the owner or held gratuitously by a church, religious body, or nonprofit educational institution other than the owner, and wholly and exclusively used for nonprofit educational purposes by the possessor.
- (f) Definitions. – The following definitions apply in this section:
 - (1) Educational institution. – The term includes a university, a college, a school, a seminary, an academy, an industrial school, a public library, a museum, and similar institutions.
 - (2) Educational purpose. – A purpose that has as its objective the education or instruction of human beings; it comprehends the transmission of information and the training or development of the knowledge or skills of individual persons. The operation of a student housing facility, a student dining facility, a golf course, a tennis court, a sports arena, a similar sport property, or a similar recreational sport property for the use of students or faculty is also an educational purpose, regardless of the extent to which the property is also available to and patronized by the general public.(1973, c. 695, s. 4; 1991 (Reg. Sess., 1992), c. 926, s. 1; 2004-173, s. 1.)

§ 105-278.5. Real and personal property of religious educational assemblies used for religious and educational purposes.

(a) Buildings, the land they actually occupy, and additional adjacent land reasonably necessary for the convenient use of any such building or for the religious educational programs of the owner, shall be exempted from taxation if:

- (1) Owned by a religious educational assembly, retreat, or similar organization;
- (2) No officer, shareholder, member, or employee of the owner, or any other person is entitled to receive pecuniary profit from the owner's operations except reasonable compensation for services; and
- (3) Of a kind commonly employed in those activities naturally and properly incident to the operation of a religious educational assembly such as the owner; and
- (4) Wholly and exclusively used for
 - a. Religious worship or
 - b. Purposes of instruction in religious education.

(b) Notwithstanding the exclusive-use requirement of subsection (a), above, if part of a property that otherwise meets the subsection's requirements is used for a purpose that would require exemption if the entire property were so used, the valuation of the part so used shall be exempted from taxation.

(c) The fact that a building or facility is incidentally available to and patronized by the general public, so long as there is no material amount of business or patronage with the general public, shall not defeat the exemption granted by this section.

(d) Personal property owned by a religious educational assembly, retreat, or similar organization shall be exempted from taxation if it is exclusively maintained and used in connection with real property granted exemption under the provisions of subsection (a) or (b), above.

§ 105-278.6. Real and personal property used for charitable purposes.

(a) Real and personal property owned by:

- (1) A Young Men's Christian Association or similar organization;
- (2) A home for the aged, sick, or infirm;
- (3) An orphanage or similar home;
- (4) A Society for the Prevention of Cruelty to Animals;
- (5) A reformatory or correctional institution;
- (6) A monastery, convent, or nunnery;
- (7) A nonprofit, life-saving, first aid, or rescue squad organization;
- (8) A nonprofit organization providing housing for individuals or families with low or moderate incomes

shall be exempted from taxation if: (i) As to real property, it is actually and exclusively occupied and used, and as to personal property, it is entirely and completely used, by the owner for charitable purposes; and (ii) the owner is not organized or operated for profit.

(b) A charitable purpose within the meaning of this section is one that has humane and philanthropic objectives; it is an activity that benefits humanity or a significant rather than limited segment of the community without expectation of pecuniary profit or reward. The humane treatment of animals is also a charitable purpose.

(c) The fact that a building or facility is incidentally available to and patronized by the general public, so long as there is no material amount of business or patronage with the general public, shall not defeat the exemption granted by this section.

(d) Notwithstanding the exclusive-use requirements of this section, if part of a property that otherwise meets the section's requirements is used for a purpose that would require exemption under subsection (a), above, if the entire property were so used, the valuation of the part so used shall be exempted from taxation.

(e) Real property held by an organization described in subdivision (a)(8) is held for a charitable purpose under this section if it is held for no more than five years as a future site for housing for individuals or families with low or moderate incomes. The taxes that would otherwise be due on real property exempt under this subsection shall be a lien on the property as provided in G.S. 105-355(a). The taxes shall be carried forward in the records of the taxing unit as deferred taxes and shall be payable five years after the tax year the exemption is first claimed unless the organization has constructed low- or moderate-income housing on the site. If this condition has not been met, the deferred taxes for the preceding five fiscal years shall be payable immediately, together with interest as provided in G.S. 105-360 for unpaid taxes that accrues on the deferred taxes as if they had been payable on the dates they would have originally become due. All liens arising under this subsection are extinguished upon one of the following:

(1) Payment of all deferred taxes under this subsection.

(2) Construction by the organization of low- or moderate-income housing on the site within five years after the tax year the exemption is first claimed.

§ 105-278.6A. Qualified retirement facility.

(a) Classification. – Buildings, the land they actually occupy, additional adjacent land reasonably necessary for the convenient use of the buildings, and personal property owned by a qualified

retirement facility and used in the operation of that facility are designated a special class of property under Section 2(2) of Article V of the North Carolina Constitution and are excluded from taxation to the extent provided in this section.

Definitions. – The following definitions apply in this section:

(1) Charity care. – The unreimbursed costs to the facility of providing health care, housing, or other services to a resident who is uninsured, underinsured, or otherwise unable to pay for all or part of the services rendered.

(2) Community benefits. – The unreimbursed costs to the facility of providing the following:

a. Services, including health, recreation, community research, and education activities provided to the community at large, including the elderly.

b. Charitable donations.

c. Donated volunteer services.

d. Donations and voluntary payments to government agencies.

(3) Financial reporting period. – The calendar year or tax year ending prior to the date the retirement facility applies for an exclusion under this section.

(4) Resident revenue. – Annual revenue aid by a resident for goods and services and one

year's share of the initial resident fee amortized in accordance with generally accepted accounting principles.

- (5) Retirement facility. – A community that meets all of the following conditions:
 - a. It is licensed under Article 64 of Chapter 58 of the General Statutes.
 - b. It is designed for elderly residents.
 - c. It includes independent living units for elderly residents.
 - d. It includes a skilled nursing facility or an adult care facility.
- (6) Unreimbursed costs. – The costs a facility incurs for providing charity care or community benefits after subtracting payment or reimbursement received from any source for the care or benefits. Unreimbursed costs include costs paid from funds generated by a program described in subdivision (c)(5) of this section.

(c) Total Exclusion. –

A retirement facility qualifies for total exclusion under this section if it meets all of the following conditions:

- (1) It is exempt from tax under Article 4 of this Chapter and private shareholders do not benefit from its operations.
- (2) All of its revenues, less operating and capital expenses, are applied to providing uncompensated goods and services to the elderly and to the local community, or are applied to an endowment or a reserve for these purposes.
- (3) Its charter provides that in the event of dissolution, its assets will revert or be conveyed to an entity that is organized exclusively for charitable, educational, scientific, or religious purposes, and is an exempt organization under section 501(c)(3) of the Code.
- (5) It has an active program to generate funds through one or more sources, such as gifts, grants, trusts, bequests, endowment, or an annual giving program, to assist the retirement facility in serving persons who might not be able to reside there without financial assistance or subsidy.
- (6) It meets at least one of the following conditions:
 - a. The facility serves all residents without regard to the residents' ability to pay.
 - b. At least five percent (5%) of the facility's resident revenue for the financial reporting period is provided in charity care to its residents, in community benefits, or in both.

(d) Partial Exclusion. – A retirement facility qualifies for a partial exclusion under this subsection if it meets conditions under subdivisions (c)(1) through (c)(5) of this section and at least one percent (1%) of the facility's resident revenue for the financial reporting period is provided in charity care to its residents, in community benefits, or in both. The percentage of the retirement facility's assessed value that is excluded from taxation is the applicable percentage provided in the following table, based on the minimum percentage of the facility's resident revenue that it provides in charity care to its residents, in community benefits, or in both:

Partial Exclusion	Minimum Percentage of Resident Revenue
80%	4%
60%	3%
40%	2%
20%	1%

(e) Application for Exclusion. – The application requirements of G.S. 105-282.1 apply to this section."

§ 105-278.7. Real and personal property used for educational, scientific, literary, or charitable purposes.

(a) Buildings, the land they actually occupy, and additional adjacent land necessary for the convenient use of any such building shall be exempted from taxation if wholly owned by an agency listed in subsection (c), below, and if:

(1) Wholly and exclusively used by its owner for nonprofit educational, scientific, literary, or charitable purposes as defined in subsection (f), below; or

(2) Occupied gratuitously by an agency listed in subsection (c), below, other than the owner, and wholly and exclusively used by the occupant for nonprofit educational, scientific, literary, charitable, or cultural purposes.

(b) Personal property shall be exempted from taxation if wholly owned by an agency listed in subsection (c), below, and if:

(1) Wholly and exclusively used by its owner for nonprofit educational, scientific, literary, or charitable purposes; or

(2) Gratuitously made available to an agency listed in subsection (c), below, other than the owner, and wholly and exclusively used by the possessor for nonprofit educational, scientific, literary, or charitable purposes.

(c) The following agencies, when the other requirements of this section are met, may obtain property tax exemption under this section:

(1) A charitable association or institution,

(2) An historical association or institution,

(3) A veterans' organization or association,

(4) A scientific association or institution,

(5) A literary association or institution,

(6) A benevolent association or institution, or

(7) A nonprofit community or neighborhood organization.

(d) Notwithstanding the exclusive-use requirements of subsection (a), above, if part of a property that otherwise meets the subsection's requirements is used for a purpose that would require exemption if the entire property were so used, the valuation of the part so used shall be exempted from taxation.

(e) The fact that a building or facility is incidentally available to and patronized by the general public, so long as there is no material amount of business or patronage with the general public, shall not defeat the exemption granted by this section.

(f) Within the meaning of this section:

(1) An educational purpose is one that has as its objective the education or instruction of human beings; it comprehends the transmission of information and the training or development of the knowledge or skills of individual persons.

(2) A scientific purpose is one that yields knowledge systematically through research, experimentation, or other work done in one or more of the natural sciences.

(3) A literary purpose is one that pertains to letters or literature, especially writing, publishing, and the study of literature. It includes the literature of the stage and screen as well as the performance or exhibition of works based on literature.

(4) A charitable purpose is one that has humane and philanthropic objectives; it is an activity that benefits humanity or a significant rather than limited segment of the community without

expectation of pecuniary profit or reward. The humane treatment of animals is also a charitable purpose.

(5) A cultural purpose is one that is conducive to the enlightenment and refinement of taste acquired through intellectual and aesthetic training, education, and discipline.

§ 105-278.8. Real and personal property used for charitable hospital purposes.

(a) Real and personal property held for or owned by a hospital organized and operated as a nonstock, nonprofit, charitable institution (without profit to members or their successors) shall be exempted from taxation if actually and exclusively used for charitable hospital purposes.

(b) Notwithstanding the exclusive-use requirements of subsection (a), above, if part of a property that otherwise meets that subsection's requirements is used for a purpose that would require exemption under that subsection if the entire property were so used, the valuation of the part so used shall be exempted from taxation.

(c) Within the meaning of this section, a charitable hospital purpose is a hospital purpose that has humane and philanthropic objectives; it is a hospital activity that benefits humanity or a significant rather than limited segment of the community without expectation of pecuniary profit or reward. However, the fact that a qualifying hospital charges patients who are able to pay for services rendered does not defeat the exemption granted by this section.

(6) APPLICATIONS FOR EXEMPTIONS

§ 105-282.1. Applications for property tax exemption or exclusion; annual review of property exempted or excluded from property tax.

(a) Application. – Every owner of property claiming exemption or exclusion from property taxes under the provisions of this Subchapter has the burden of establishing that the property is entitled to it. If the property for which the exemption or exclusion is claimed is appraised by the Department of Revenue, the application shall be filed with the Department. Otherwise, the application shall be filed with the assessor of the county in which the property is situated. An application must contain a complete and accurate statement of the facts that entitle the property to the exemption or exclusion and must indicate the municipality, if any, in which the property is located. Each application filed with the Department of Revenue or an assessor shall be submitted on a form approved by the Department. Application forms shall be made available by the assessor and the Department, as appropriate.

Except as provided below, an owner claiming an exemption or exclusion from property taxes must file an application for the exemption or exclusion annually during the listing period.

(1) No application required. –

Owners of the following exempt or excluded property do not need to file an application for the exemption or exclusion to be entitled to receive it:

- a. Property exempt from taxation under G.S. 105-278.1 or G.S. 105-278.2.
- b. Special classes of property excluded from taxation under G.S. 105-275(15), (16), (26), (31), (32a), (33), (34), (37), (40), or (42).
- c. Property classified for taxation at a reduced valuation under G.S. 105-277(g) or G.S. 105-277.9.

(2) Single application required. –

An owner of one or more of the following properties eligible to be exempted or excluded from taxation must file an application for exemption or exclusion to receive it. Once the application has been approved, the owner does not need to file an application in subsequent years unless new or additional property is acquired or improvements are added or removed, necessitating a change in the valuation of the property, or there is a change in the use of the property or the qualifications or eligibility of the taxpayer necessitating a review of the exemption or exclusion:

- a. Property exempted from taxation under G.S. 105-278.3, 105-278.4, 105-278.5, 105-278.6, 105-278.7, or 105-278.8.
- b. Special classes of property excluded from taxation under G.S. 105-275(3), (7), (8), (12), (17), (18), (19), (20), (21), (35), (36), (38), (39), or (41) or under G.S. 131A-21.
- c. Special classes of property classified for taxation at a reduced valuation under G.S. 105-277(h), 105-277.1, 105-277.10, 105-277.13, or 105-278.
- d. Property owned by a nonprofit homeowners' association but where the value of the property is included in the appraisals of property owned by members of the association under G.S. 105-277.8.

(a1) Late Application. – Upon a showing of good cause by the applicant for failure to make a timely application, an application for exemption or exclusion filed after the close of the listing

period may be approved by the Department of Revenue, the board of equalization and review, the board of county commissioners, or the governing body of a municipality, as appropriate. An untimely application for exemption or exclusion approved under this subsection applies only to property taxes levied by the county or municipality in the calendar year in which the untimely application is filed.

(b) Approval and Appeal Process. – The Department of Revenue or the assessor to whom an application for exemption or exclusion is submitted must review the application and either approve or deny the application. Approved applications shall be filed and made available to all taxing units in which the exempted or excluded property is situated. If the Department denies an application for exemption or exclusion, it shall notify the taxpayer, who may appeal the denial to the Property Tax Commission. If an assessor denies an application for exemption or exclusion, the assessor must notify the owner of the decision and the owner may to appeal the decision to the board of equalization and review or the board of county commissioners, as appropriate, and from the county board to the Property Tax Commission. If the notice of denial covers property located within a municipality, the assessor shall send a copy of the notice and a copy of the application to the governing body of the municipality. The municipal governing body shall then advise the owner whether it will adopt the decision of the county board or require the owner to file a separate appeal with the municipal governing body. In the event the owner is required to appeal to the municipal governing body and that body renders an adverse decision, the owner may appeal to the Property Tax Commission. Nothing in this subsection shall prevent the governing body of a municipality from denying an application which has been approved by the assessor or by the county board provided the owner's rights to notice and hearing are not abridged. Applications handled separately by a municipality shall be filed in the office of the person designated by the governing body, or in the absence of such designation, in the office of the chief fiscal officer of the municipality.

(c) Discovery of Property. – When an owner of property that may be eligible for exemption or exclusion neither lists the property nor files an application for exemption or exclusion, the assessor or the Department of Revenue, as appropriate, shall proceed to discover the property. If, upon appeal, the owner demonstrates that the property meets the conditions for exemption or exclusion, the body hearing the appeal may approve the exemption or exclusion. Discovery of the property by the Department or the county shall automatically constitute a discovery by any taxing unit in which the property has a taxable situs.

(d) Roster of Exempted and Excluded Property. – The assessor shall prepare and maintain a roster of all property in the county that is granted tax relief through classification or exemption. On or before November 1 of each year, the assessor must send a report to the Department of Revenue summarizing the information contained in the roster. The report must be in the format required by the Department. The assessor must also send the Department a copy of the roster upon the request of the Department. As to affected real and personal property, the roster shall set forth:

- (1) The name of the owner of the property.
- (2) A brief description of the property.
- (3) A statement of the use to which the property is put.
- (4) A statement of the value of the property.
- (5) The total value of exempt property in the county and in each municipality therein.

- (e) Annual Review of Exempted or Excluded Property. – Pursuant to G.S. 105-296(1), the assessor must annually review at least one-eighth of the parcels in the county exempted or excluded from taxation to verify that the parcels qualify for the exemption or exclusion.

Discussion on G.S. 105-282.1(a1) -- Late application

Applications for exemption are required to be filed by the owner of the property during the listing period. The regular listing period is the month of January, but becomes the extended period if the regular listing period is extended by the county board of commissioners or if an individual extension is granted.

There are times when a taxpayer will file an application for exemption after the close of the listing period. G.S. 105-282.1(a1) allows a late application for exemption to be approved if the applicant shows good cause for failure to make a timely application. The county assessor does not have authority to approve a late application. Only the Department of Revenue, the board of equalization and review, the board of county commissioners, or the governing body of a municipality may approve a late application. Any late application must be filed before the end of the calendar year for the tax year in question. An application filed after the end of the calendar year can not be approved.

Discussion on G.S. 105-282.1(c) -- Exemptions and Discoveries

When an owner of property fails to list property as required by G.S. 105-285 the county assessor is required to discover the property for each tax year the property goes unlisted not to exceed the current year plus the five preceding years. If the owner upon appeal of the discovery demonstrates that the property meets the conditions for exemption or exclusion, the hearing body may approve the application. This is true for all years in which property is discovered.

Situations come up where the owner lists and pays taxes on property which would have been exempt if an application had been filed with the county assessor. The owner decides the next year that the property should have been exempt and wants to file a late application in that year for the previous year. The statutes do not allow for an application for exemption to be approved for a previous year if the property has been listed by the owner.

The case of Weyerhaeuser Company vs. Craven County, heard by the North Carolina Court of Appeals in September 1996, addresses the issue. In this case Craven County discovered property for prior years. Pollution abatement equipment was part of the discovery. Under G.S. 105-282.1(c) the county allowed the exemption on the pollution abatement equipment. The taxpayer realized after the discovery was issued that it had listed and paid taxes on other pollution abatement equipment. The taxpayer made application for exemption for prior years and the county denied the application. The North Carolina Property Tax Commission upheld the county's decision and the Court of Appeals agreed. The Court stated "In this case, however, appellant stipulated that it had listed the equipment at issue. Thus G.S. 105-282.1(c) does not apply." This case makes two issues clear: 1) A late application for exemption can only be approved if filed during the calendar year in which the taxes are due. 2) Property that is listed by the owner can not be exempted for prior years under G.S. 105-282.1(c).

(6) DATE PERSONAL PROPERTY IS TO LISTED AND APPRAISED

§ 105-285. Date as of which property is to be listed and appraised.

(a) Annual Listing Required. – All property subject to ad valorem taxation shall be listed annually.

(b) Personal Property; General Rule. – Except as otherwise provided in this Chapter, the value, ownership, and place of taxation of personal property, both tangible and intangible, shall be determined annually as of January 1.

(c) Repealed by Session Laws 1987, c. 813, s. 12.

(d) Real Property. – The value of real property shall be determined as of January 1 of the years prescribed by G.S. 105-286 and G.S. 105-287. The ownership of real property shall be determined annually as of January 1, except in the following situation: When any real property is acquired after January 1, but prior to July 1, and the property was not subject to taxation on January 1 on account of its exempt status, it shall be listed for taxation by the transferee as of the date of acquisition and shall be appraised in accordance with its true value as of January 1 preceding the date of acquisition; and the property shall be taxed for the fiscal year of the taxing unit beginning on July 1 of the year in which it is acquired. The person in whose name such property is listed shall have the right to appeal the listing, appraisal, and assessment of the property in the same manner as that provided for listings made as of January 1.

In the event real property exempt as of January 1 is, prior to July 1, acquired from a governmental unit that by contract is making payments in lieu of taxes to the taxing unit for the fiscal period beginning July 1 of the year in which the property is acquired, the tax on such property for the fiscal period beginning on July 1 immediately following acquisition shall be one half of the amount of the tax that would have been imposed if the property had been listed for taxation as of January 1.

(7) NAME IN WHICH PERSONAL PROPERTY IS TO BE LISTED

§ 105-306. In whose name personal property is to be listed.

(a) Taxable personal property shall be listed in the name of the owner on the day as of which property is to be listed for taxation, and it shall be the duty of the owner to list the property.

(b) If personal property is listed in the name of a person other than the one in whose name it should be listed, and the name of the proper person is later ascertained, the abstract and tax records shall be corrected to list the property in the name in which it should have been listed. The corrected listing shall have the same force and effect as if the personal property had been listed in the name of the proper person in the first instance.

(c) For purposes of this Subchapter:

- (1) The owner of the equity of redemption in personal property subject to a chattel mortgage shall be considered the owner of the property.
- (2) The vendee of personal property under a conditional bill of sale, or under any other sale contract through which title to the property is retained by the vender as security for the payment of the purchase price, shall be considered the owner of the property if he has possession of or the right to use the property.
- (3) Personal property owned by a corporation, partnership, or unincorporated association shall be listed in the name of the corporation, partnership, or unincorporated association.
- (4) Personal property held in connection with a sole proprietorship shall be listed in the name of the owner, and the name and address of the proprietorship shall be noted on the abstract.
- (5) Personal property of which a decedent died possessed, if not under the control of an executor or administrator, shall be listed in the names of the next of kin or legatees if known, but such property may be listed as property of "the next of kin" or "the legatees" of the decedent, without naming them, until they have given the assessor notice of their names and of the division of the estate. It shall be the duty of an executor or administrator having control of personal property to list it in his fiduciary capacity, as required by subdivision (c)(6), below, until he is divested of control of the property.
- (6) Personal property, the title to which is held by a trustee, guardian, or other fiduciary, shall be listed by the fiduciary in his fiduciary capacity except as otherwise provided in this section.
- (7) If personal property is owned by two or more persons who are joint owners, each owner shall list the value of his interest. However, if the joint owners are husband and wife, the property owned jointly shall be listed on a single abstract in the names of both the husband and the wife.
- (8) If the person in whose name personal property should be listed is unknown, or if the ownership of the property is in dispute, the property shall be listed in the name of the person in possession of the property, or if there appears to be no person in possession, in the name of "unknown owner." When the name of the owner is later ascertained, the provisions of subsection (b), above, shall apply.

- (9) Personal property, owned under a time-sharing arrangement but managed by a homeowners association or other managing entity, shall be listed in the name of the managing entity.

(8) LISTING FUNCTION

§ 105-307. Length of listing period; extension; preliminary work.

(a) Listing Period. – Unless extended as provided in this section, the period during which property is to be listed for taxation each year begins on the first business day of January and ends on January 31.

(b) General Extensions. – The board of county commissioners may, by resolution, extend the time during which property is to be listed for taxation as provided in this subsection. Any action by the board of county commissioners extending the listing period must be recorded in the minutes of the board, and notice of the extensions must be published as required by G.S. 105-296(c). The entire period for listing, including any extension of time granted, is considered the regular listing period for the particular year within the meaning of this Subchapter.

- (1) In nonrevaluation years, the listing period may be extended for up to 30 additional days.
- (2) In years of octennial appraisal of real property, the listing period may be extended for up to 60 additional days.
- (3) If the county has provided for electronic listing of personal property under G.S. 105-304, the period for electronic listing of business personal property may be extended up to June 1.

(c) Individual Extensions. – The board of county commissioners shall grant individual extensions of time for the listing of real and personal property upon written request and for good cause shown. The request must be filed with the assessor no later than the ending date of the regular listing period. The board may delegate the authority to grant extensions to the assessor. Extensions granted under this subsection shall not extend beyond April 15. If the county has provided for electronic listing of personal property under G.S. 105-304, the period for electronic listing of business personal property is as provided in subsection (b) of this section.

(d) Preliminary Work. – The assessor may conduct preparatory work before the listing period begins, but may not make a final appraisal of property before the day as of which the value of the property is to be determined under G.S. 105-285.

§ 105-308. Duty to list; penalty for failure.

Every person in whose name any property is to be listed under the terms of this Subchapter shall list the property with the assessor within the time allowed by law on an abstract setting forth the information required by this Subchapter.

In addition to all other penalties prescribed by law, any person whose duty it is to list any property who willfully fails or refuses to list the same within the time prescribed by law shall be guilty of a Class 2 misdemeanor. The failure to list shall be prima facie evidence that the failure was willful.

Any person who willfully attempts, or who willfully aids or abets any person to attempt, in any manner to evade or defeat the taxes imposed under this Subchapter, whether by removal or concealment of property or otherwise, shall be guilty of a Class 2 misdemeanor.

§ 105-309. What the abstract shall contain.

(a) Each person whose duty it is to list property for taxation shall file each year with the assessor a tax list or abstract showing, as of the date prescribed by G.S. 105-285(b), the information required by this section. Subject to the provisions of subdivisions (a)(1) and (a)(2), below, each person whose duty it is to list property for taxation shall file a separate abstract.

- (1) Tenants by the entirety shall file a single abstract listing the real property so held, together with all personal property they own jointly.
- (2) Tenants in common shall file a single abstract listing the real property so held, together with all personal property that they own jointly, unless, as provided in G.S. 105-302(c)(9), the assessor allows them to list their undivided interests in the real property on separate abstracts.

(b) Each abstract shall show the taxpayer's name; residence address; and, if required by the assessor, business address.

- (1) An individual trading under a firm name shall show his name and address and also the name and address of his business firm.
- (2) An unincorporated association shall show both the name and address of the association and the names and addresses of its principal officers.
- (3) A partnership shall show both the name and address of the partnership and the names and addresses of its full partners.

(c) Each tract, parcel, or lot of real property owned or controlled in the county shall be listed in accordance with the following instructions:

- (1) Real property not divided into lots shall be described by giving:
 - a. The township in which located.
 - b. The total number of acres in the tract, or, if smaller than one acre, the dimensions of the parcel.
 - c. The tract name (if any), the names of at least two adjoining landowners, a reference to the tract's designation on any map maintained in the office of the assessor or on file in the office of the register of deeds, or some other description sufficient to identify and locate the property by parol testimony.
 - d. If applicable, the number of acres of:
 1. Cleared land;
 2. Woods and timberland;
 3. Land containing mineral or quarry deposits;
 4. Land susceptible of development for waterpower;
 5. Wasteland.
 - e. The portion of the tract or parcel located within the boundaries of any municipality.
- (2) Real property divided into lots shall be described by giving:
 - a. The township in which located.

- b. The dimensions of the lot.
 - c. The location of the lot, including its street number (if any).
 - d. The lot's designation on any map maintained in the office of the assessor or on file in the office of the register of deeds, or some description sufficient to identify and locate the property by parol testimony.
 - e. The portion of the lot located within the boundaries of any municipality.
- (3) In conjunction with the listing of any real property under subdivisions (c)(1) and (c)(2), above, there shall be given a short description of any buildings and other improvements thereon that belong to the owner of the land.
- (4) Buildings and other improvements having a value in excess of one hundred dollars (\$100.00) that have been acquired, begun, erected, damaged, or destroyed since the time of the last appraisal of property shall be described.
- (5) If some person other than the owner of a tract, parcel, or lot shall own any buildings or other improvements thereon or separate rights (such as mineral, quarry, timber, waterpower, or other rights) therein, that fact shall be specified on the abstract on which the land is listed, together with the name and address of the owner of the buildings, other improvements, or rights.
- a. Buildings, other improvements, and separate rights owned by a taxpayer with respect to the lands of another shall be listed separately and identified so as to indicate the name of the owner thereof and the tract, parcel, or lot on which the buildings or other improvements are situated or to which the separate rights appertain.
 - b. In accordance with the provisions of G.S. 105-302(c)(11), buildings or other improvements or separate rights owned by a taxpayer with respect to the lands of another may be listed either in the name of the owner of the buildings, other improvements, or rights, or in the name of the owner of the land.
- (d) Personal property shall be listed to indicate the township and municipality, if any, in which it is taxable and shall be itemized by the taxpayer in such detail as may be prescribed by an abstract form approved by the Department of Revenue. Personal property shall also be listed to indicate which property, if any, is subject to a tax credit under G.S. 105-151.21.
- (1) If the assessor considers it necessary to obtain a complete listing of personal property, the assessor may require a taxpayer to submit additional information, inventories, or itemized lists of personal property.
 - (2) At the request of the assessor, the taxpayer shall furnish any information the taxpayer has with respect to the true value of the personal property the taxpayer is required to list.
- (e) At the end of the abstract each person whose duty it is to list property for taxation shall sign the affirmation required by G.S. 105-310.
- (f) The notice set out below must appear on each abstract or on an information sheet distributed with the abstract. The abstract or sheet must include the address and telephone number of the assessor below the notice:

"PROPERTY TAX HOMESTEAD EXCLUSION FOR ELDERLY OR PERMANENTLY DISABLED PERSONS."

North Carolina excludes from property taxes a portion of the appraised value of a permanent residence owned and occupied by North Carolina residents aged 65 or older or totally and permanently disabled whose income does not exceed (assessor insert amount). The amount of the appraised value of the residence that may be excluded from taxation is the greater of twenty thousand dollars (\$20,000) or fifty percent (50%) of the appraised value of the residence. Income means the owner's adjusted gross income as determined for federal income tax purposes, plus all moneys received other than gifts or inheritances received from a spouse, lineal ancestor or lineal descendant.

If you received this exclusion in (assessor insert previous year), you do not need to apply again unless you have changed your permanent residence. If you received the exclusion in (assessor insert previous year) and your income in (assessor insert previous year) was above (assessor insert amount), you must notify the assessor. If you received the exclusion in (assessor insert previous year) because you were totally and permanently disabled and you are no longer totally and permanently disabled, you must notify the assessor. If the person receiving the exclusion in (assessor insert previous year) has died, the person required by law to list the property must notify the assessor. Failure to make any of the notices required by this paragraph before June 1 will result in penalties and interest.

If you did not receive the exclusion in (assessor insert previous year) but are now eligible, you may obtain a copy of an application from the assessor. It must be filed by June 1."

(g) Any person who fails to give the notice required by G.S. 105-309(f) shall not only be subject to loss of the exemption, but also to the penalties provided by G.S. 105-312, and also if willful to the penalty provided in G.S. 105-310. For the purpose of determining whether a penalty is levied, whenever a taxpayer has received an exemption under G.S. 105-277.1 for one taxable year but the property of taxpayer is not eligible for the exemption the next year, notice given of that fact to the assessor on or before April 15 shall be considered as timely filed

§ 105-310. Affirmation; penalty for false affirmation.

There shall be annexed to the abstract on which the taxpayer's property is listed the following affirmation, which shall be signed by an individual qualified under the provisions of G.S. 105-311:

Under penalties prescribed by law, I hereby affirm that to the best of my knowledge and belief this listing, including any accompanying statements, inventories, schedules, and other information, is true and complete. (If this affirmation is signed by an individual other than the taxpayer, he affirms that he is familiar with the extent and true value of all the taxpayer's property subject to taxation in this county and that his affirmation is based on all the information of which he has any knowledge.)

Any individual who willfully makes and subscribes an abstract listing required by this Subchapter which he does not believe to be true and correct as to every material matter shall be guilty of a Class 2 misdemeanor.

§ 105-311. Duty to appear for purposes of listing and signing affirmation; use of agents and mail.

(a) Except as otherwise provided in this section, the person whose duty it is to list property for taxation shall appear before the assessor for purposes of listing and shall sign the affirmation required by G.S. 105-310 to be annexed to the completed abstract on which the property is listed.

- (1) In the case of an individual taxpayer who is unable to list his property, a guardian, authorized agent, or other person having knowledge of and charged with the care of the person and property of the taxpayer shall appear for purposes of listing and shall sign the required affirmation in the name of the taxpayer, noting thereon the capacity in which he signs.
- (2) In the case of a corporation, partnership, or unincorporated association, a person specified in subdivision a or subdivision b, below, shall appear for purposes of listing the taxpayer's property and shall sign the required affirmation in the name of the taxpayer, noting thereon the capacity in which he signs, and no other agent shall be permitted to sign the affirmation required on such a taxpayer's abstract:
 - a. A principal officer of the taxpayer or
 - b. A full-time employee of the taxpayer who has been officially empowered by a principal officer of the taxpayer in his behalf to list the taxpayer's property for taxation in the county and to sign the affirmation annexed to the abstract or abstracts on which its property is listed.
- (3) In the case of an individual who is not a resident of the county in which his property is to be listed, the taxpayer shall sign the affirmation required on the abstract on which his property is listed, but he may submit the completed abstract by mail or by an authorized agent.

(b) Any abstract submitted by mail may be accepted or rejected by the assessor in the assessor's discretion. However, the board of county commissioners, with the approval of the Department of Revenue, may by resolution provide for the general acceptance of completed abstracts submitted by mail or submitted electronically. In no event shall an abstract submitted by mail be accepted unless the affirmation on the abstract is signed by the individual prescribed in subsection (a) of this section. An electronic listing may be signed electronically in accordance with the Electronic Commerce Act, Article 11A of Chapter 66 of the General Statutes.

For the purpose of this Subchapter, abstracts submitted by mail are considered filed as of the date shown on the postmark affixed by the United States Postal Service. If no date is shown on the postmark, or if the postmark is not affixed by the United States Postal Service, the abstract is considered filed when received in the office of the assessor. Abstracts submitted by electronic listing are considered filed when received in the office of the assessor. In any dispute arising under this Subchapter, the burden of proof is on the taxpayer to show that the abstract was timely filed.

(9) DISCOVERY OF UNLISTED OR UNDERVALUED PROPERTY

§ 105-312. Discovered property; appraisal; penalty.

(a) Repealed by Session Laws 1991, c. 34, s. 4.

(b) Duty to Discover and Assess Unlisted Property. – It shall be the duty of the assessor to see that all property not properly listed during the regular listing period be listed, assessed and taxed as provided in this Subchapter. The assessor shall file reports of such discoveries with the board of commissioners in such manner as the board may require.

(c) Carrying Forward Real Property. – At the close of the regular listing period each year, the assessor shall compare the tax lists submitted during the listing period just ended with the lists for the preceding year, and he shall carry forward to the lists of the current year all real property that was listed in the preceding year but that was not listed for the current year. When carried forward, the real property shall be listed in the name of the taxpayer who listed it in the preceding year unless, under the provisions of G.S. 105-302, it must be listed in the name of another taxpayer. Real property carried forward in this manner shall be deemed to be discovered property, and the procedures prescribed in subsection (d), below, shall be followed unless the property discovered is listed in the name of the taxpayer who listed it for the preceding year and the property is not subject to appraisal under either G.S. 105-286 or G.S. 105-287 in which case no notice of the listing and valuation need be sent to the taxpayer.

(d) Procedure for Listing, Appraising, and Assessing Discovered Property. – Subject to the provisions of subsection (c), above, and the presumptions established by subsection (f), below, discovered property shall be listed by the assessor in the name of the person required by G.S. 105-302 or G.S. 105-306. The discovery shall be deemed to be made on the date that the abstract is made or corrected pursuant to subsection (e) of this section. The assessor shall also make a tentative appraisal of the discovered property in accordance with the best information available to him.

When a discovery is made, the assessor shall mail a notice to the person in whose name the discovered property has been listed. The notice shall contain the following information:

- (1) The name and address of the person in whose name the property is listed;
- (2) A brief description of the property;
- (3) A tentative appraisal of the property;
- (4) A statement to the effect that the listing and appraisal will become final unless written exception thereto is filed with the assessor within 30 days from date of the notice.

Upon receipt of a timely exception to the notice of discovery, the assessor shall arrange a conference with the taxpayer to afford him the opportunity to present any evidence or argument he may have regarding the discovery. Within 15 days after the conference, the assessor shall give written notice to the taxpayer of his final decision. Written notice shall not be required, however, if the taxpayer signs an agreement accepting the listing and appraisal. In cases in which agreement is not reached, the taxpayer shall have 15 days from the date of the notice to request review of the decision of the assessor by the board of equalization and review or, if that board is not in session, by the board of commissioners. Unless the request for review by the county board is given at the conference, it shall be made in writing to the assessor. Upon receipt of a timely

request for review, the provisions of G.S. 105-322 or G.S. 105-325, as appropriate, shall be followed.

(e) Record of Discovered Property. – When property is discovered, the taxpayer's original abstract (if one was submitted) may be corrected or a new abstract may be prepared to reflect the discovery. If a new abstract is prepared, it may be filed with the abstracts that were submitted during the regular listing period, or it may be filed separately with abstracts designated "Late Listings." Regardless of how filed, the listing shall have the same force and effect as if it had been submitted during the regular listing period.

(f) Presumptions. – When property is discovered and listed to a taxpayer in any year, it shall be presumed that it should have been listed by the same taxpayer for the preceding five years unless the taxpayer shall produce satisfactory evidence that the property was not in existence, that it was actually listed for taxation, or that it was not his duty to list the property during those years or some of them under the provisions of G.S. 105-302 and G.S. 105-306. If it is shown that the property should have been listed by some other taxpayer during some or all of the preceding years, the property shall be listed in the name of the appropriate taxpayer for the proper years, but the discovery shall still be deemed to have been made as of the date that the assessor first listed it.

(g) Taxation of Discovered Property. – When property is discovered, it shall be taxed for the year in which discovered and for any of the preceding five years during which it escaped taxation in accordance with the assessed value it should have been assigned in each of the years for which it is to be taxed and the rate of tax imposed in each such year. The penalties prescribed by subsection (h) of this section shall be computed and imposed regardless of the name in which the discovered property is listed. If the discovery is based upon an understatement of value, quantity, or other measurement rather than an omission from the tax list, the tax shall be computed on the additional valuation fixed upon the property, and the penalties prescribed by subsection (h) of this section shall be computed on the basis of the additional tax.

(h) Computation of Penalties. – Having computed each year's taxes separately as provided in subsection (g), above, there shall be added a penalty of ten percent (10%) of the amount of the tax for the earliest year in which the property was not listed, plus an additional ten percent (10%) of the same amount for each subsequent listing period that elapsed before the property was discovered. This penalty shall be computed separately for each year in which a failure to list occurred; and the year, the amount of the tax for that year, and the total of penalties for failure to list in that year shall be shown separately on the tax records; but the taxes and penalties for all years in which there was a failure to list shall be then totaled on a single tax receipt.

(h1) Repealed by Session Laws 1991, c. 624, s. 8.

(i) Collection. – For purposes of tax collection and foreclosure, the total figure obtained and recorded as provided in subsection (h) of this section shall be deemed to be a tax for the fiscal year beginning on July 1 of the calendar year in which the property was discovered. The schedule of discounts for prepayment and interest for late payment applicable to taxes for the fiscal year referred to in the preceding sentence shall apply when the total figure on the single tax receipt is paid. Notwithstanding the time limitations contained in G.S. 105-381, any property owner who is required to pay taxes on discovered property as herein provided shall be entitled to a refund of any taxes erroneously paid on the same property to other taxing jurisdictions in North

Carolina. Claim for refund shall be filed in the county where such tax was erroneously paid as provided by G.S. 105-381.

(j) Tax Receipts Charged to Collector. – Tax receipts prepared as required by subsections (h) and (i) of this section for the taxes and penalties imposed upon discovered property shall be delivered to the tax collector, and he shall be charged with their collection. Such receipts shall have the same force and effect as if they had been delivered to the collector at the time of the delivery of the regular tax receipts for the current year, and the taxes charged in the receipts shall be a lien upon the property in accordance with the provisions of G.S. 105-355.

(k) Power to Compromise. – After a tax receipt computed and prepared as required by subsections (g) and (h) of this section has been delivered and charged to the tax collector as prescribed in subsection (j), above, the board of county commissioners, upon the petition of the taxpayer, may compromise, settle, or adjust the county's claim for taxes arising therefrom. The board of commissioners may, by resolution, delegate the authority granted by this subsection to the board of equalization and review, including any board created by resolution pursuant to G.S. 105-322(a) and any special board established by local act.

(l) Municipal Corporations. – The provisions of this section shall apply to all cities, towns, and other municipal corporations having the power to tax property. Such governmental units shall designate an appropriate municipal officer to exercise the powers and duties assigned by this section to the assessor, and the powers and duties assigned to the board of county commissioners shall be exercised by the governing body of the unit. When the assessor discovers property having a taxable situs in a municipal corporation, he shall send a copy of the notice of discovery required by subsection (d) to the governing body of the municipality together with such other information as may be necessary to enable the municipality to proceed. The governing board of a municipality may, by resolution, delegate the power to compromise, settle, or adjust tax claims granted by this subsection and by subsection (k) of this section to the county board of equalization and review, including any board created by resolution pursuant to G.S. 105-322(a) and any special board established by local act.

EXAMPLE OF A DISCOVERY

The owner of a business in Spring-County has never listed his business personal property. The business has been operating in the county for the past ten years. The county assessor conducts an audit and finds property valued at \$100,000 which has never been listed. Below is the discovery data which shows the value, taxes and penalties. The discovery is completed and mailed on June 30, 2007.

YEAR	VALUE	TAX RATES	TAXES	PENALTY	PENALTY AMOUNT	TOTAL
2007	100,000	.50	500.00	10%	50.00	550.00
2006	100,000	.60	600.00	20%	120.00	720.00
2005	100,000	.70	700.00	30%	210.00	910.00
2004	100,000	.50	500.00	40%	200.00	700.00
2003	100,000	.55	550.00	50%	275.00	825.00
2002	100,000	.55	550.00	60%	330.00	880.00
TOTALS			3400.00		1185.00	4585.00

Case Problem

Discovery

You have just completed an audit of Shaky's Sporting Goods store, a prominent local retailer. Based on the information discovered in the audit, you are to calculate a tax bill for the amount of the discovery. Assume the date of the discovery is 9/1/07.

Year	2002	2003	2004	2005	2006
	Machinery &	Equipment	Appraised	Values	
Fair Market Value	57,000	47,000	53,000	50,000	65,000
Listed	42,000	67,000	51,000	49,000	54,000
Difference					
			Tax Liability		
Tax Rates	0.8	0.82	0.84	0.86	0.45
Tax					
Penalty %					
Penalty \$					
Total					
Total Tax Due					

(10) APPRAISAL AND VALUATION

§ 105-283. Uniform appraisal standards.

All property, real and personal, shall as far as practicable be appraised or valued at its true value in money. When used in this Subchapter, the words "true value" shall be interpreted as meaning market value, that is, the price estimated in terms of money at which the property would change hands between a willing and financially able buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of all the uses to which the property is adapted and for which it is capable of being used. For the purposes of this section, the acquisition of an interest in land by an entity having the power of eminent domain with respect to the interest acquired shall not be considered competent evidence of the true value in money of comparable land.

§ 105-284. Uniform assessment standard.

(a) Except as otherwise provided in this section, all property, real and personal, shall be assessed for taxation at its true value or use value as determined under G.S. 105-283 or G.S. 105-277.6, and taxes levied by all counties and municipalities shall be levied uniformly on assessments determined in accordance with this section.

(b) The assessed value of public service company system property subject to appraisal by the Department of Revenue under G.S. 105-335(b)(1) shall be determined by applying to the allocation of such value to each county a percentage to be established by the Department of Revenue. The percentage to be applied shall be either:

(1) The median ratio established in sales assessment ratio studies of real property conducted by the Department of Revenue in the county in the year the county conducts a reappraisal of real property and in the fourth and seventh years thereafter; or

(2) A weighted average percentage based on the median ratio for real property established by the Department of Revenue as provided in subdivision (1) and a one hundred percent (100%) ratio for personal property. No percentage shall be applied in a year in which the median ratio for real property is ninety percent (90%) or greater.

If the median ratio for real property in any county is below ninety percent (90%) and if the county assessor has provided information satisfactory to the Department of Revenue that the county follows accepted guidelines and practices in the assessment of business personal property, the weighted average percentage shall be applied to public service company property. In calculating the weighted average percentage, the Department shall use the assessed value figures for real and personal property reported by the county to the Local Government Commission for the preceding year. In any county which fails to demonstrate that it follows accepted guidelines and practices, the percentage to be applied shall be the median ratio for real property. The percentage established in a year in which a sales assessment ratio study is conducted shall continue to be applied until another study is conducted by the Department of Revenue.

(c) Notice of the median ratio and the percentage to be applied for each county shall be given by the Department of Revenue to the chairman of the board of commissioners not later than April 15 of the year for which it is to be effective. Notice shall also be given at the same time to the public service companies whose property values are subject to adjustment under this

section. Either the county or an affected public service company may challenge the real property ratio or the percentage established by the Department of Revenue by giving notice of exception within 30 days after the mailing of the Department's notice. Upon receipt of such notice of exception, the Department shall arrange a conference with the challenging party or parties to review the matter. Following the conference, the Department shall notify the challenging party or parties of its final determination in the matter. Either party may appeal the Department's determination to the Property Tax Commission by giving notice of appeal within 30 days after the mailing of the Department's decision.

- (d) Property that is in a development financing district and that is subject to an agreement entered into pursuant to G.S. 159-108 shall be assessed at its true value or at the minimum value set out in the agreement, whichever is greater.

§ 105-317.1. Appraisal of personal property; elements to be considered.

(a) Whenever any personal property is appraised it shall be the duty of the persons making appraisals to consider the following as to each item (or lot of similar items):

- (1) The replacement cost of the property;
- (2) The sale price of similar property;
- (3) The age of the property;
- (4) The physical condition of the property;
- (5) The productivity of the property;
- (6) The remaining life of the property;
- (7) The effect of obsolescence on the property;
- (8) The economic utility of the property, that is, its usability and adaptability for industrial, commercial, or other purposes; and
- (9) Any other factor that may affect the value of the property.

(b) In determining the true value of taxable tangible personal property held and used in connection with the mercantile, manufacturing, producing, processing, or other business enterprise of any taxpayer, the persons making the appraisal shall consider any information as reflected by the taxpayer's records and as reported by the taxpayer to the North Carolina Department of Revenue and to the Internal Revenue Service for income tax purposes, taking into account the accuracy of the taxpayer's records, the taxpayer's method of accounting, and the level of trade at which the taxpayer does business.

(c) **(Effective for taxes imposed for taxable years beginning on or after July 1, 2003)** A taxpayer who owns personal property taxable in the county may appeal the value, situs, or taxability of the property within 30 days after the date of the initial notice of value. If the assessor does not give separate written notice of the value to the taxpayer at the taxpayer's last known address, then the tax bill serves as notice of the value of the personal property. The notice must contain a statement that the taxpayer may appeal the value, situs, or taxability of the property within 30 days after the date of the notice. Upon receipt of a timely appeal, the assessor must arrange a conference with the taxpayer to afford the taxpayer the opportunity to present any evidence or argument regarding the value, situs, or taxability of the property. Within 30 days after the conference, the assessor must give written notice to the taxpayer of the assessor's final decision. Written notice of the decision is not required if the taxpayer signs an

agreement accepting the value, situs, or taxability of the property. If an agreement is not reached, the taxpayer has 30 days from the date of the notice of the assessor's final decision to request review of that decision by the board of equalization and review or, if that board is not in session, by the board of county commissioners. Unless the request for review is given at the conference, it must be made in writing to the assessor. Upon receipt of a timely request for review, the provisions of G.S. 105-322 or G.S. 105-325, as appropriate, must be followed.

§ 105-296. Powers and duties of assessor.

(a) The county assessor shall have general charge of the listing, appraisal, and assessment of all property in the county in accordance with the provisions of law. He shall perform the duties imposed upon him by law, and he shall have and exercise all powers reasonably necessary in the performance of his duties not inconsistent with the Constitution or the laws of this State.

(b) Within budgeted appropriations, he shall employ listers, appraisers, and clerical assistants necessary to carry out the listing, appraisal, assessing, and billing functions required by law. The assessor may allocate responsibility among such employees by territory, by subject matter, or on any other reasonable basis. Each person employed by the assessor as a real property appraiser or personal property appraiser shall during the first year of employment and at least every other year thereafter attend a course of instruction in his area of work. At the end of the first year of their employment, such persons shall also achieve a passing score on a comprehensive examination in property tax administration conducted by the Department of Revenue.

(c) At least 10 days before the date as of which property is to be listed, he shall advertise in a newspaper having general circulation in the county and post in at least five public places in each township in the county a notice containing at least the following:

- (1) The date as of which property is to be listed.
- (2) The date on which listing will begin.
- (3) The date on which listing will end.
- (4) The times between the date mentioned in subdivision (c)(2), above, and the date mentioned in subdivision (c)(3), above, during which lists will be accepted.
- (5) The place or places at which lists will be accepted at the times established under subdivision (c)(4), above.
- (6) A statement that all persons who, on the date as of which property is to be listed, own property subject to taxation must list such property within the period set forth in the notice and that any person who fails to do so will be subject to the penalties prescribed by law.

If the listing period is extended in any county by the board of county commissioners, the assessor shall advertise in the newspaper in which the original notice was published and post in the same places a notice of the extension and of the times during which and the place or places at which lists will be accepted during the extended period.

(d) through (f) Repealed by Session Laws 1987, c. 43, s. 2.

(g) He shall have power to subpoena any person for examination under oath and to subpoena documents whenever he has reasonable grounds for the belief that such person has knowledge or that such documents contain information that is pertinent to the discovery or

valuation of any property subject to taxation in the county or that is necessary for compliance with the requirements as to what the tax list shall contain. The subpoena shall be signed by the chairman of the board of equalization and review if that board is in session; otherwise, it shall be signed by the chairman of the board of county commissioners. It shall be served by an officer qualified to serve subpoenas. Any person who shall wilfully fail or refuse to appear, produce subpoenaed documents, or testify concerning the subject of the inquiry shall be guilty of a Class 1 misdemeanor.

(h) Only after the abstract has been carefully reviewed can the assessor require any person operating a business enterprise in the county to submit a detailed inventory, statement of assets and liabilities, or other similar information pertinent to the discovery or appraisal of property taxable in the county. Inventories, statements of assets and liabilities, or other information secured by the assessor under the terms of this subsection, but not expressly required by this Subchapter to be shown on the abstract itself, shall not be open to public inspection but shall be made available, upon request, to representatives of the Department of Revenue or of the Employment Security Commission. Any assessor or other official or employee disclosing information so obtained, except as may be necessary in listing or appraising property in the performance of official duties, or in the administrative or judicial proceedings relating to listing, appraising, or other official duties, shall be guilty of a Class 3 misdemeanor and punishable only by a fine not exceeding fifty dollars (\$50.00).

(i) Prior to the first meeting of the board of equalization and review, the assessor may, for good cause, change the appraisal of any property subject to assessment for the current year. Written notice of a change in assessment shall be given to the taxpayer at his last known address prior to the first meeting of the board of equalization and review.

(j) The assessor must annually review at least one eighth of the parcels in the county classified for taxation at present-use value to verify that these parcels qualify for the classification. By this method, the assessor must review the eligibility of all parcels classified for taxation at present-use value in an eight-year period. The period of the review process is based on the average of the preceding three years' data. The assessor may request assistance from the Farm Service Agency, the Cooperative Extension Service, the Division of Forest Resources of the Department of Environment and Natural Resources, or other similar organizations.

The assessor may require the owner of classified property to submit any information, including sound management plans for forestland, needed by the assessor to verify that the property continues to qualify for present-use value taxation. The owner has 60 days from the date a written request for the information is made to submit the information to the assessor. If the assessor determines the owner failed to make the information requested available in the time required without good cause, the property loses its present-use value classification and the property's deferred taxes become due and payable as provided in G.S. 105-277.4(c). If the property loses its present-use value classification for failure to provide the requested information, the assessor must reinstate the property's present-use value classification when the owner submits the requested information within 60 days after the disqualification unless the information discloses that the property no longer qualifies for present-use value classification. When a property's present-use value

classification is reinstated, it is reinstated retroactive to the date the classification was revoked and any deferred taxes that were paid as a result of the revocation must be refunded to the property owner. The owner may appeal the final decision of the assessor to the county board of equalization and review as provided in G.S. 105-277.4(b1).

In determining whether property is operating under a sound management program, the assessor must consider any weather conditions or other acts of nature that prevent the growing or harvesting of crops or the realization of income from cattle, swine, or poultry operations. The assessor must also allow the property owner to submit additional information before making this determination.

(k) He shall furnish information to the Department of Revenue as required by the Department to conduct studies in accordance with G.S. 105-289(h).

(l) The assessor shall annually review at least one-eighth of the parcels in the county exempted or excluded from taxation to verify that these parcels qualify for the exemption or exclusion. By this method, the assessor shall review the eligibility of all parcels exempted or excluded from taxation in an eight-year period. The assessor may require the owner of exempt or excluded property to make available for inspection any information reasonably needed by the assessor to verify that the property continues to qualify for the exemption or exclusion. The owner has 60 days from the date a written request for the information is made to submit the information to the assessor. If the assessor determines that the owner failed to make the information requested available in the time required without good cause, then the property loses its exemption or exclusion. If the property loses its exemption or exclusion for failure to provide the requested information, the assessor must reinstate the property's exemption or exclusion when the owner makes the requested information available within 60 days after the disqualification unless the information discloses that the property is no longer eligible for the exemption or exclusion.

(m) The assessor shall annually review the transportation corridor official maps and amendments to them filed with the register of deeds pursuant to Article 2E of Chapter 136 of the General Statutes. The assessor must indicate on all tax maps maintained by the county or city that portion of the properties embraced within a transportation corridor and must note any variance granted for the property for such period as the designation remains in effect. The assessor must tax the property within a transportation corridor as required under G.S. 105-277.9.

§ 105-299. Employment of experts.

The board of county commissioners may employ appraisal firms, mapping firms or other persons or firms having expertise in one or more of the duties of the assessor to assist the assessor in the performance of these duties. The county may also assign to county agencies, or contract with State or federal agencies for, any duties involved with the approval or auditing of use-value accounts. The county may make available to these persons any information it has that will facilitate the performance of a contract entered into pursuant to this section. Persons receiving this information are subject to the provisions of G.S. 105-289(e) and G.S. 105-259

regarding the use and disclosure of information provided to them by the county. Any person employed by an appraisal firm whose duties include the appraisal of property for the county must be required to demonstrate that he or she is qualified to carry out these duties by achieving a passing grade on a comprehensive examination in the appraisal of property administered by the Department of Revenue. In the employment of these firms, primary consideration must be given to the firms registered with the Department of Revenue pursuant to G.S. 105-289(i). A copy of the specifications to be submitted to potential bidders and a copy of the proposed contract may be sent by the board to the Department of Revenue for review before the invitation or acceptance of any bids. Contracts for the employment of these firms or persons are contracts for personal services and are not subject to the provisions of Article 8, Chapter 143, of the General Statutes.

§ 105-322. County board of equalization and review.

(a) Personnel. – Except as otherwise provided herein, the board of equalization and review of each county shall be composed of the members of the board of county commissioners.

Upon the adoption of a resolution so providing, the board of commissioners is authorized to appoint a special board of equalization and review to carry out the duties imposed under this section. The resolution shall provide for the membership, qualifications, terms of office and the filling of vacancies on the board. The board of commissioners shall also designate the chairman of the special board. The resolution may also authorize a taxpayer to appeal a decision of the special board with respect to the listing or appraisal of his property or the property of others to the board of county commissioners. The resolution shall be adopted not later than the first Monday in March of the year for which it is to be effective and shall continue in effect until revised or rescinded. It shall be entered in the minutes of the meeting of the board of commissioners and a copy thereof shall be forwarded to the Department of Revenue within 15 days after its adoption.

Nothing in this subsection (a) shall be construed as repealing any law creating a special board of equalization and review or creating any board charged with the duties of a board of equalization and review in any county.

(b) Compensation. – The board of county commissioners shall fix the compensation and allowances to be paid members of the board of equalization and review for their services and expenses.

(c) Oath. – Each member of the board of equalization and review shall take the oath required by Article VI, § 7 of the North Carolina Constitution with the following phrase added to it: "that I will not allow my actions as a member of the board of equalization and review to be influenced by personal or political friendships or obligations,". The oath must be filed with the clerk of the board of county commissioners.

(d) Clerk and Minutes. – The assessor shall serve as clerk to the board of equalization and review, shall be present at all meetings, shall maintain accurate minutes of the actions of the board, and shall give to the board such information as he may have or can obtain with respect to the listing and valuation of taxable property in the county.

(e) Time of Meeting. – Each year the board of equalization and review shall hold its first meeting not earlier than the first Monday in April and not later than the first Monday in May. In years in which a county does not conduct a real property revaluation, the board shall complete its duties on or before the third Monday following its first meeting unless, in its

opinion, a longer period of time is necessary or expedient to a proper execution of its responsibilities. Except as provided in subdivision (g)(5) of this section, the board may not sit later than July 1 except to hear and determine requests made under the provisions of subdivision (g)(2), below, when such requests are made within the time prescribed by law. In the year in which a county conducts a real property revaluation, the board shall complete its duties on or before December 1, except that it may sit after that date to hear and determine requests made under the provisions of subdivision (g)(2), below, when such requests are made within the time prescribed by law. From the time of its first meeting until its adjournment, the board shall meet at such times as it deems reasonably necessary to perform its statutory duties and to receive requests and hear the appeals of taxpayers under the provisions of subdivision (g)(2), below."

(f) Notice of Meetings and Adjournment. – A notice of the date, hours, place, and purpose of the first meeting of the board of equalization and review shall be published at least three times in some newspaper having general circulation in the county, the first publication to be at least 10 days prior to the first meeting. The notice shall also state the dates and hours on which the board will meet following its first meeting and the date on which it expects to adjourn; it shall also carry a statement that in the event of earlier or later adjournment, notice to that effect will be published in the same newspaper. Should a notice be required on account of earlier adjournment, it shall be published at least once in the newspaper in which the first notice was published, such publication to be at least five days prior to the date fixed for adjournment. Should a notice be required on account of later adjournment, it shall be published at least once in the newspaper in which the first notice was published, such publication to be prior to the date first announced for adjournment.

(g) Powers and Duties. – The board of equalization and review has the following powers and duties:

(1) Duty to Review Tax Lists. --The board shall examine and review the tax lists of the county for the current year to the end that all taxable property shall be listed on the abstracts and tax records of the county and appraised according to the standard required by G.S. 105-283, and the board shall correct the abstracts and tax records to conform to the provisions of this Subchapter. In carrying out its responsibilities under this subdivision (g)(1), the board, on its own motion or on sufficient cause shown by any person, shall:

- a. List, appraise, and assess any taxable real or personal property that has been omitted from the tax lists.
- b. Correct all errors in the names of persons and in the description of properties subject to taxation.
- c. Increase or reduce the appraised value of any property that, in the board's opinion, has been listed and appraised at a figure that is below or above the appraisal required by G.S. 105-283; however, the board shall not change the appraised value of any real property from that at which it was appraised for the preceding year except in accordance with the terms of G.S. 105-286 and 105-287.
- d. Cause to be done whatever else is necessary to make the lists and tax records comply with the provisions of this Subchapter.
- e. Embody actions taken under the provisions of subdivisions (g)(1) a through (g)(1) d, above, in appropriate orders and have the orders entered in the minutes of the board.

f. Give written notice to the taxpayer at the taxpayer's last known address in the event the board, by appropriate order, increases the appraisal of any property or lists for taxation any property omitted from the tax lists under the provisions of this subdivision (g)(1).

(2) Duty to Hear Taxpayer Appeals. – On request, the board of equalization and review shall hear any taxpayer who owns or controls property taxable in the county with respect to the listing or appraisal of the taxpayer's property or the property of others.

a. A request for a hearing under this subdivision (g)(2) shall be made in writing to or by personal appearance before the board prior to its adjournment. However, if the taxpayer requests review of a decision made by the board under the provisions of subdivision (g)(1), above, notice of which was mailed fewer than 15 days prior to the board's adjournment, the request for a hearing thereon may be made within 15 days after the notice of the board's decision was mailed.

b. Taxpayers may file separate or joint requests for hearings under the provisions of this subdivision (g)(2) at their election.

c. At a hearing under provisions of this subdivision (g)(2), the board, in addition to the powers it may exercise under the provisions of subdivision (g)(3), below, shall hear any evidence offered by the appellant, the assessor, and other county officials that is pertinent to the decision of the appeal. Upon the request of an appellant, the board shall subpoena witnesses or documents if there is a reasonable basis for believing that the witnesses have or the documents contain information pertinent to the decision of the appeal.

d. On the basis of its decision after any hearing conducted under this subdivision (g)(2), the board shall adopt and have entered in its minutes an order reducing, increasing, or confirming the appraisal appealed or listing or removing from the tax lists the property whose omission or listing has been appealed. The board shall notify the appellant by mail as to the action taken on the taxpayer's appeal not later than 30 days after the board's adjournment.

(3) Powers in Carrying Out Duties. – In the performance of its duties under subdivisions (g)(1) and (g)(2), above, the board of equalization and review may exercise the following powers:

a. It may appoint committees composed of its own members or other persons to assist it in making investigations necessary to its work. It may also employ expert appraisers in its discretion. The expense of the employment of committees or appraisers shall be borne by the county. The board may, in its discretion, require the taxpayer to reimburse the county for the cost of any appraisal by experts demanded by the taxpayer if the appraisal does not result in material reduction of the valuation of the property appraised and if the appraisal is not subsequently reduced materially by the board or by the Department of Revenue.

b. The board, in its discretion, may examine any witnesses and documents. It may place any witnesses under oath administered by any member of the board. It may subpoena witnesses or documents on its own motion, and it must do so when a request is made under the provisions of subdivision (g)(2)c, above. A subpoena issued by the board shall be signed by the chair of the board, directed to the witness or to the person having custody of the document, and served by an officer authorized to serve subpoenas. Any person who willfully fails to appear or to produce documents in response to a subpoena or to testify when appearing in response to a subpoena shall be guilty of a Class 1 misdemeanor.

(4) Power to Submit Reports. – Upon the completion of its other duties, the board may submit to the Department of Revenue a report outlining the quality of the reappraisal, any problems it encountered in the reappraisal process, the number of appeals submitted to the board and to the Property Tax Commission, the success rate of the appeals submitted, and the name of the firm that conducted the reappraisal. A copy of the report should be sent by the board to the firm that conducted the reappraisal.

(5) Duty to Change Abstracts and Records

After Adjournment. – Following adjournment upon completion of its duties under subdivisions (g)(1) and (g)(2) of this subsection, the board may continue to meet to carry out the following duties:

- a. To hear and decide all appeals relating to discovered property under G.S. 105-312(d) and (k).
- b. To hear and decide all appeals relating to the appraisal, situs, and taxability of classified motor vehicles under G.S. 105-330.2(b).
- c. To hear and decide all appeals relating to audits conducted under G.S. 105-296(j) and relating to audits conducted under G.S. 105-296(j) and (l) of property classified at present-use value and property exempted or excluded from taxation."
- d. (Effective for taxes imposed for taxable years beginning on or after July 1, 2003)To hear and decide all appeals relating to personal property under G.S. 105-317.1(c).

§ 105-325. Powers of board of county commissioners to change abstracts and tax records after board of equalization and review has adjourned.

(a) After the board of equalization and review has finished its work and the changes it effected or ordered have been entered on the abstracts and tax records as required by G.S. 105-323, the board of county commissioners shall not authorize any changes to be made on the abstracts and tax records except as follows:

- (1) To give effect to decisions of the Property Tax Commission on appeals taken under G.S. 105-290.
- (2) To add to the tax records any valuation certified by the Department of Revenue for property appraised in the first instance by the Department or to give effect to corrections made in such appraisals by the Department.
- (3) Subject to the provisions of subdivisions (a)(3)a and (a)(3)b, below, to correct the name of any taxpayer appearing on the abstract or tax records erroneously; to substitute the name of the person who should have listed property for the name appearing on the abstract or tax records as having listed the property; and to correct an erroneous description of any property appearing on the abstract or tax records.
 - a. Any correction or substitution made under the provisions of this subdivision (a)(3) shall have the same force and effect as if the name of the taxpayer or description of the property had been correctly listed in the first instance, but the provisions of this subdivision (a)(3)a shall not be construed as a limitation on the taxation and penalization of discovered property required by G.S. 105-312.
 - b. If a correction or substitution under this subdivision (a)(3) will adversely affect the interests of any taxpayer, he shall be given written

notice thereof and an opportunity to be heard before the change is entered on the abstract or tax records.

- (4) To correct appraisals, assessments, and amounts of taxes appearing erroneously on the abstracts or tax records as the result of clerical or mathematical errors. (If the clerical or mathematical error was made by the taxpayer, his agent, or an officer of the taxpayer and if the correction demonstrates that the property was listed at a substantial understatement of value, quantity, or other measurement, the provisions of G.S. 105-312 shall apply.)
- (5) To add to the tax records and abstracts or to correct the tax records and abstracts to include property discovered under the provisions of G.S. 105-312 or property exempted or excluded from taxation pursuant to G.S. 105-282.1(a)(4).
- (6) Subject to the provisions of subdivisions (a)(6)a, (a)(6)b, (a)(6)c, and (a)(6)d, below, to appraise or reappraise property when the assessor reports to the board that, since adjournment of the board of equalization and review, facts have come to his attention that render it advisable to raise or lower the appraisal of some particular property of a given taxpayer in the then current calendar year.
 - a. The power granted by this subdivision (a)(6) shall not authorize appraisal or reappraisal because of events or circumstances that have taken place or arisen since the day as of which property is to be listed.
 - b. No appraisal or reappraisal shall be made under the authority of this subdivision (a)(6) unless it could have been made by the board of equalization and review had the same facts been brought to the attention of that board.
 - c. If a reappraisal made under the provisions of this subdivision (a)(6) demonstrates that the property was listed at a substantial understatement of value, quantity, or other measurement, the provisions of G.S. 105-312 shall apply.
 - d. If an appraisal or reappraisal made under the provisions of this subdivision (a)(6) will adversely affect the interests of any taxpayer, he shall be given written notice thereof and an opportunity to be heard before the appraisal or reappraisal shall become final.
- (7) To give effect to decisions of the board of county commissioners on appeals taken under G.S. 105-322(a).

(b) The board of county commissioners may give the assessor general authority to make any changes authorized by subsection (a), above, except those permitted under subdivision (a)(6), above.

(c) Orders of the board of county commissioners and actions of the assessor upon delegation of authority to him by the board that are made under the provisions of this section may be appealed to the Property Tax Commission under the provisions of G.S. 105-290.

Appeal of Personal Property

§ 105-317.1. Appraisal of personal property; elements to be considered.

(c) (Effective for taxes imposed for taxable years beginning on or after July 1, 2003) A taxpayer who owns personal property taxable in the county may appeal the value, situs, or taxability of the property within 30 days after the date of the initial notice of value. If the assessor does not give separate written notice of the value to the taxpayer at the taxpayer's last known address, then the tax bill serves as notice of the value of the personal property. The notice must contain a statement that the taxpayer may appeal the value, situs, or taxability of the property within 30 days after the date of the notice. Upon receipt of a timely appeal, the assessor must arrange a conference with the taxpayer to afford the taxpayer the opportunity to present any evidence or argument regarding the value, situs, or taxability of the property. Within 30 days after the conference, the assessor must give written notice to the taxpayer of the assessor's final decision. Written notice of the decision is not required if the taxpayer signs an agreement accepting the value, situs, or taxability of the property. If an agreement is not reached, the taxpayer has 30 days from the date of the notice of the assessor's final decision to request review of that decision by the board of equalization and review or, if that board is not in session, by the board of county commissioners. Unless the request for review is given at the conference, it must be made in writing to the assessor. Upon receipt of a timely request for review, the provisions of G.S. 105-322 or G.S. 105-325, as appropriate, must be followed.

§ 105-289. Duties of Department of Revenue.

(e) The Department of Revenue may furnish the following information to a local tax official:

- (1) Information contained in a report to it or to any other State department; and
- (2) Information the Department has in its possession that may assist a local tax official in securing complete tax listings, appraising or assessing taxable property, collecting taxes, or presenting information in administrative or judicial proceedings involving the listing, appraisal, or assessment of property.

A local tax official may use information obtained from the Department under this subsection only for the purposes stated in subdivision (2). A local tax official may not divulge or make public this information except as required in administrative or judicial proceedings under this Subchapter. A local tax official who makes improper use of or discloses information obtained from the Department under this subsection is punishable as provided in G.S. 153A-148.1 or G.S. 160A-208.1, as appropriate

The Department may not furnish information to a local tax official pursuant to this subsection unless it has obtained a written certification from the official stating that he is familiar with the provisions this subsection and G.S. 153A-148.1 or G.S. 160A-208.1, as appropriate, and that information obtained from the Department under this subsection will be used only for the purposes stated in subdivision (2).

§ 105-366. Remedies against personal property.

(a) Authority to Proceed against Personal Property; Relation between Remedies against Personal Property and Remedies against Real Property. – All tax collectors shall have authority to proceed against personal property to enforce the collection of taxes as provided in this section and in G.S. 105-367 and 105-368. Any tax collector may, in his discretion, proceed first against personal property before employing the remedies for enforcing the lien for taxes against real property, and he shall proceed first against personal property:

- (1) When directed to do so by the governing body of the taxing unit; or
- (2) When requested to do so by the taxpayer or by a mortgagee or other person holding a lien upon the real property subject to the lien for taxes if the person making the request furnishes the tax collector with a written statement describing the personal property to be proceeded against and giving its location.

No foreclosure of a tax lien on real property may be attacked as invalid on the ground that payment of the tax should have been procured from personal property.

(b) Remedies after Taxes Are Delinquent. – At any time after taxes are delinquent and before the filing of a tax foreclosure complaint under G.S. 105-374 or the docketing of a judgment for taxes under G.S. 105-375, and subject to the provisions of G.S. 105-356 governing the priority of liens, the tax collector may levy upon and sell or attach the following property for failure to pay taxes:

- (1) Any personal property owned by the taxpayer, regardless of the time at which it was acquired and regardless of the existence or date of creation of mortgages or other liens thereon.
- (2) Any personal property transferred by the taxpayer to a relative (which shall mean any parent, grandparent, child, grandchild, brother, sister, aunt, uncle, niece, or nephew, or their spouses, of the taxpayer or his spouse).
- (3) Personal property in the hands of a receiver for the taxpayer. (It shall not be necessary for the tax collector to apply for an order of the court directing payment or authorizing the levy or attachment, but he may proceed as though the property were not in the hands of the receiver, and the tax collector's filing of a claim in a receivership proceeding shall not preclude him from proceeding to levy under G.S. 105-367 or to attach under G.S. 105-368.)
- (4) Personal property of a deceased taxpayer if the levy or attachment is made before final settlement of the estate.
- (5) The stock of goods or fixtures of a wholesale merchant or retailer, as defined in G.S. 105-164.3, in the hands of a purchaser or transferee thereof, or any other personal property of the purchaser or transferee of the property, if the taxes on the goods or fixtures remain unpaid 30 days after the date of the sale or transfer. In the case of other personal property of the purchaser or transferee, the levy or attachment must be made within six months of the sale or transfer.
- (6) Personal property of the taxpayer that has been repossessed by one having a security interest therein so long as the property remains in the hands of the

person who has repossessed it or the person to whom it has been transferred other than by bona fide sale for value.

- (7) Personal property due the taxpayer or to become due to him within the calendar year.
- (8) Personal property of a partner in satisfaction of taxes on partnership property, but only after the tax collector:
 - a. Has sold the taxing unit's lien for taxes against the partnership real property, if any; and
 - b. Exhausted the partnership's personal property through the use of levy and attachment and garnishment; and
 - c. Exercised the authority granted him by G.S. 105-364 in an effort to collect the tax due on the partnership's property.
- (9) Personal property transferred by the taxpayer by any type of transfer other than those mentioned in this subsection (b) and other than by bona fide sale for value if the levy or attachment is made within six months of the transfer.

(c) Remedies Before Taxes Are Delinquent. – If between the date as of which property is to be listed and January 6 of the fiscal year for which the taxes are imposed the tax collector has reasonable grounds for believing that the taxpayer is about to remove his property from the taxing unit or transfer it to another person or is in imminent danger of becoming insolvent, the tax collector may levy on or attach that property or any other personal property of the taxpayer, in the manner provided in G.S. 105-367 and 105-368. If the amount of taxes collected under this subsection has not yet been determined, these taxes shall be computed in accordance with G.S. 105-359 and any applicable discount shall be allowed.

(d) Remedies against Sellers and Purchasers of Stocks of Goods or Fixtures of Wholesale Merchants or Retailers. –

- (1) Any wholesale merchant or retailer, as defined in G.S. 105-164.3, who sells or transfers the major part of its stock of goods, materials, supplies, or fixtures, other than in the ordinary course of business, or who goes out of business, must take the following actions:
 - a. At least 48 hours prior to the date of the pending sale, transfer, or termination of business, give notice to the assessors and tax collectors of the taxing units in which the business is located.
 - b. Within 30 days of the sale, transfer, or termination of business, pay all taxes due or to become due on the transferred property on the first day of September of the current calendar year.
- (2) Any person to whom the major part of the stock of goods, materials, supplies, or fixtures of a wholesale merchant or retailer is sold or transferred, other than in the ordinary course of business, or who becomes the successor in business of a wholesale merchant or retailer shall withhold from the purchase money paid to the merchant an amount sufficient to pay the taxes due or to become due on the transferred property on the first day of September of the current calendar year until the former owner or seller produces either a receipt from the tax collector showing that the taxes have been paid or a certificate that no taxes are due. If the purchaser or successor in business fails to withhold a sufficient amount of the purchase money to pay the taxes as required by this

subsection and the taxes remain unpaid after the 30-day period allowed, the purchaser or successor is personally liable for the amount of the taxes unpaid. This liability may be enforced by means of a civil action brought in the name of the taxing unit against the purchaser or successor in an appropriate trial division of the General Court of Justice in the county in which the taxing unit is located.

- (3) Whenever any wholesale merchant or retailer sells or transfers the major part of its stock of goods, materials, supplies, or fixtures, other than in the ordinary course of business, or goes out of business and the taxes due or to become due on the transferred property on the first day of September of the current calendar year are unpaid, the tax collector, to enforce collection of the unpaid taxes, may do any of the following:
 - a. Levy on or attach any personal property of the seller.
 - b. If the taxes remain unpaid 30 days after the date of the transfer or termination of business, levy on or attach any of the property transferred in the hands of the transferee or successor in business, or any other personal property of the transferee or successor in business, but in either case the levy or attachment must be made within six months of the transfer or termination of business.
- (4) In using the remedies provided in this subsection, the amount of taxes not yet determined shall be computed in accordance with G.S. 105-359, and any applicable discount shall be allowed.

§ 501. Short title [Sec. 1]

This Act may be cited as the "Servicemembers Civil Relief Act". Formerly cited as 50 U.S.C. App. § 510

[Note: The section numbers shown herein are citations to 50 U.S.C. App. §____. If a section appeared in the Soldiers' and Sailors' Civil Relief Act, the former SSCRA section number is shown above the citation. The section numbers from P.L. 108-189 (the text of the SCRA as enacted by Congress) are shown after the section titles in bracketed italics.]

TITLE V - TAXES AND PUBLIC LANDS Formerly cited as 50 U.S.C. App. § 560
§ 561. Taxes respecting personal property, money, credits, and real property [Sec. 501]

(a) **Application**- This section applies in any case in which a tax or assessment, whether general or special (other than a tax on personal income), falls due and remains unpaid before or during a period of military service with respect to a servicemember's--

(1) personal property (including motor vehicles); or

(2) real property occupied for dwelling, professional, business, or agricultural purposes by a servicemember or the servicemember's dependents or employees--

(A) before the servicemember's entry into military service; and

(B) during the time the tax or assessment remains unpaid.

(b) **Sale of property**

(1) **Limitation on sale of property to enforce tax assessment**

Property described in subsection (a) may not be sold to enforce the collection of such tax or assessment except by court order and upon the determination by the court that military service does not materially affect the servicemember's ability to pay the unpaid tax or assessment.

(2) **Stay of court proceedings** - A court may stay a proceeding to enforce the collection of such tax or assessment, or sale of such property, during a period of military service of the servicemember and for a period not more than 180 days after the termination of, or release of the servicemember from, military service.

(c) **Redemption** - When property described in subsection (a) is sold or forfeited to enforce the collection of a tax or assessment, a servicemember shall have the right to redeem or commence an action to redeem the servicemember's property during the period of military service or within 180 days after termination of or release from military service. This subsection may not be construed to shorten any period provided by the law of a State (including any political subdivision of a State) for redemption.

(d) **Interest on tax or assessment** - Whenever a servicemember does not pay a tax or assessment on property described in subsection (a) when due, the amount of the tax or assessment due and unpaid shall bear interest until paid at the rate of 6 percent per year. An additional penalty or interest shall not be incurred by reason of nonpayment. A lien for such unpaid tax or assessment may include interest under this subsection.

(e) **Joint ownership application** - This section applies to all forms of property described in subsection (a) owned individually by a servicemember or jointly by a servicemember and a dependent or dependents.

Formerly cited as 50 U.S.C. App. § 574

§ 571. Residence for tax purposes [Sec. 511]

(a) **Residence or domicile** - A servicemember shall neither lose nor acquire a residence or domicile for purposes of taxation with respect to the person, personal property, or income of the servicemember by reason of being absent or present in any tax jurisdiction of the United States solely in compliance with military orders.

(b) **Military service compensation** - Compensation of a servicemember for military service shall not be deemed to be income for services performed or from sources within a tax jurisdiction of the United States if the servicemember is not a resident or domiciliary of the jurisdiction in which the servicemember is serving in compliance with military orders.

(c) **Personal property**

(1) **Relief from personal property taxes** - The personal property of a servicemember shall not be deemed to be located or present in, or to have a situs for taxation in, the tax jurisdiction in which the servicemember is serving in compliance with military orders.

(2) **Exception for property within member's domicile or residence** - This subsection applies to personal property or its use within any tax jurisdiction other than the servicemember's domicile or residence.

(3) **Exception for property used in trade or business** - This section does not prevent taxation by a tax jurisdiction with respect to personal property used in or arising from a trade or business, if it has jurisdiction.

(4) **Relationship to law of State of domicile** - Eligibility for relief from personal property taxes under this subsection is not contingent on whether or not such taxes are paid to the State of domicile.

(d) **Increase of tax liability** - A tax jurisdiction may not use the military compensation of a nonresident servicemember to increase the tax liability imposed on other income earned by the nonresident servicemember or spouse subject to tax by the jurisdiction.

(e) **Federal Indian reservations** - An Indian servicemember whose legal residence or domicile is a Federal Indian reservation shall be taxed by the laws applicable to Federal Indian reservations and not the State where the reservation is located.

(f) **Definitions** - For purposes of this section:

(1) **Personal property** -The term "personal property" means intangible and tangible property (including motor vehicles).

(2) **Taxation** - The term "taxation" includes licenses, fees, or excises imposed with respect to motor vehicles and their use, if the license, fee, or excise is paid by the servicemember in the servicemember's State of domicile or residence.

(3) **Tax jurisdiction** - The term "tax jurisdiction" means a State or a political subdivision of a State.

Case Problem

EXEMPTION DETERMINATION

You have conducted an audit of J & J Textile Manufacturing Company. During your audit you determine that the company has equipment that was not listed for the last 10 years. You do a discovery on the equipment and send the proper notice to the taxpayer. The taxpayer appeals the discovery and in the process makes application for exemption of pollution abatement equipment for the years under discovery. The taxpayer's request included equipment consisting of fans, blowers, ducts and filters which were installed at the time the building was constructed for the purpose of cleaning the air for the safety of employees' health. The taxpayer listed 40% of this equipment during the years in question, but failed to list the remaining equipment. DENR has certified all the equipment in question as pollution abatement equipment.

Which is the correct answer? Check one.

- A. Disallow exemption.
- B. Allow full exemption
- C. Allow only 60% of the value for exemption.
- D. Assess as real property since exemption does not cover real property.

Explain answer.

Case Problem

SITUS

Situation

Ace Equipment Company in Wake County is leasing highway construction equipment to Beam Construction Company with its principle place of business in Orange County. The equipment moves from one job site to another and normally does not remain at any site more than a year. On January 1, 2007 the equipment was located in Jones County, South Carolina and had been at that location for two months. The lease from Ace to Beam is for three years.

1. From the above information, determine the taxable situs of the equipment as of 1-1-07.

2. Using the same facts as set out above assume the equipment has been located in S. C. for fourteen months and expects to remain there for a period of twenty-four total months; what is the taxable situs? _____

3. The length of the lease is for thirty days subject to renewal every thirty days. Assuming the equipment was in Jones County on November 1, 2006; Orange County on January 1, 2007; and Wake County on February 1, 2007; what is the taxable situs? _____

Case Problem

A DISCOVERY & THE LISTING PERIOD

On March 5, 2007 John Doe Company listed his machinery and equipment that he owned as of January 1, 2007. On the same day, the taxpayer listed, for the first time, a computer that he purchased in 2004. The taxpayer has an extension until April 15, 2007 to make his business personal listing for 2007. The machinery and equipment is valued at \$50,000. The computer was valued at \$12,000 for 2004, \$10,000 for 2005, \$7,000 for 2006, and \$5,500 for 2007. What is the amount of taxes owed for 2007 if a discovery is done on the computer? The tax rate for 2007 is 0.50, the 2006 tax rate is 0.47, and the tax rate for 2005 is 0.45. The discovery was made on March 31, 2007.

What is the amount of taxes due for 2007 if the discovery was made on April 30, 2007?

Case Problem

SECRECY PROVISIONS
TAXING OFFICIALS

The Pitt County Assessor requested and received information from a state income tax return relative to an investigation of a taxpayer's property tax listing. While reviewing the information, the Chairman of the Board of Commissioners and the County Attorney came into his office. The County Assessor, amazed at the amount of property that has not been listed, points this out to his visitors and reviews all information with them including the income tax return information. Later the County Manager came in to discuss the amount of tax that would be invoiced as he had discussed the matter with the County Attorney. He also was allowed to review the income tax return data.

Question.

1. Has the County Assessor improperly disclosed information? _____
2. Has the County Attorney also committed a wrong? _____
3. Has the County Manager done anything that may subject him to any penalties for misuse of information? _____
4. Does the Chairman have the right to review the information? _____

Case Problem

Servicemembers Civil Relief Act

1. A soldier, stationed in North Carolina, owns a car on January 1, 2007. His declared state of residence is not North Carolina. Is the car taxable in North Carolina and why?

2. A soldier, whose declared state of residence is North Carolina, owns a car on January 1, 2007. The soldier is stationed in Kansas for three years. Where is the car taxable?

3. A sailor and his wife, living in North Carolina, own a car jointly on January 1, 2007. His declared state of residence is not North Carolina. Is the car taxable in North Carolina and if so how?

4. A sailor and his wife, living in North Carolina, own two cars on January 1, 2007. Both cars are titled in the name of the sailor. His declared state of residence is not North Carolina. Are the cars taxable in North Carolina?

5. A soldier, stationed in North Carolina, owns a car on January 1, 2007. His declared state of residence is New York, which does not tax automobiles. Is the car taxable in North Carolina and why?