



North Carolina Department of Revenue

Pat McCrory
Governor

Lyons Gray
Secretary

November 12, 2015

MEMORANDUM

TO: County Assessors and Tax Administrators

FROM: David B. Baker, Director
Local Government Division

RE: 2015 Local Government Legislation

We are enclosing a summary of the significant local government legislation (having state-wide application) enacted by the 2015 Session of the North Carolina General Assembly. The summary includes the bill number, purpose of the bill, and brief comments as to each ratified bill. A copy of each bill may be obtained at the following web page.

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

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

If you have any questions concerning any of this new legislation, please call our staff at 919-814-1129.

2015 Local Government LEGISLATION

Bills Enacted by the 2015 Session of the N.C. General Assembly

Ratified House Bills

HB 41

G.S. 105-333-339.1. Appraisal of property of public service companies.

This section amends the sections which added mobile telecommunications companies and tower aggregator companies to the list of property which is required to be appraised by the NC Department of Revenue.

(Effective July 1, 2015; HB 41, s. 2.17, S.L. 2015-6.)

HB 97

G.S. 105-524. Distribution of additional sales tax revenue for economic development, public education, and community colleges.

The purpose of this section is to address sales tax leakage that results from the different revenue-raising capacity of local option sales taxes in each taxing jurisdiction. The amount to be distributed is determined under subsection (b) of this section. The amount each county may receive is determined by the county's allocation percentage under Page 426 Session Law 2015-241 House Bill 97 subsection (c) of this section. The General Assembly must periodically review the allocation percentages.

(Effective July 1, 2016; HB 97, s. 32.19, S.L. 2015-241.)

HB 168

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

(3a) "Builder" means a taxpayer engaged in the business of buying real property, making improvements to it, and then reselling it.

G.S. 105-277.02. Certain real property held for sale classified for taxation at reduced valuation.

(a) Residential Real Property. – Residential real property held for sale by a builder is designated a special class of property under authority of Article V, Sec. 2(2) of the North Carolina Constitution. For purposes of this subsection, "residential real property" is real property that is intended to be sold and used as an individual's residence immediately or after construction of a residence, and the term excludes property that is either occupied by a tenant or used for commercial purposes such as residences shown to prospective buyers as models. Any increase in value of this classified property attributable to subdivision of, improvements other than buildings, or the construction of either a new single-family residence or a duplex on the property by the builder is excluded from taxation under this Subchapter as long as the builder continues to hold the property for sale. In no event shall this

exclusion extend for more than three years from the time the improved property was first subject to being listed for taxation by the builder.

(b) Commercial Property. – Commercial real property held for sale by a builder is designated a special class of property under authority of Article V, Sec. 2(2) of the North Carolina Constitution. For purposes of this subsection, "commercial real property" is real property that is intended to be sold and used for commercial purposes immediately or after improvement. Any increase in value of this classified property attributable to subdivision of or other improvements made to the property, by the builder, is excluded from taxation under this Subchapter as long as the builder continues to hold the property for sale. The exclusion authorized by this subsection ends at the earlier of the following:

(1) Five years from the time the improved property was first subject to being listed for taxation by the builder.

(2) Issuance of a building permit.

(3) Sale of the property.

(c) The builder must apply for any exclusion under this section annually as provided in G.S. 105-282.1.

(d) In appraising property classified under this section, the assessor shall specify what portion of the value is an increase attributable to subdivision or other improvement by the builder."

(Effective July 1, 2016; HB 168, s. 2, S.L. 2015-223.)

HB 229

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

(g) The following exceptions apply to the exclusive-use requirement of subsection (a) of this section:

(1) If part, but not all, of a property meets the requirements of subsection (a) of this section, the valuation of the part so used is exempt from taxation.

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

(3) A building and the land occupied by the building is exempt from taxation if it is under construction and intended to be wholly and exclusively used by its owner for religious purposes upon completion. For purposes of this subdivision, a building is under construction starting when a building permit is issued and ending at the earlier of (i) 90 days after a certificate of occupancy is issued or (ii) 180 days after the end of active construction

(Effective July 1, 2015; HB 229, s. 1, S.L. 2015-185.)

HB 912

G.S. 105-275 Exclusion of all property located on Tribal Land.

(48) Real and personal property located on lands held in trust by the United States for the Eastern Band of Cherokee Indians, regardless of ownership.

(Effective July 1, 2016; HB 912, s. 1, S.L. 2015-262.)

Ratified Senate Bills

SB 159

G.S. 105-321 is amended by adding a new subsection to read.

(g) Minimal Refunds. – The governing body of a taxing unit that collects its own taxes may, by resolution, direct the taxing unit not to mail a refund for an overpayment of tax if the refund is less than fifteen dollars (\$15.00). Upon adoption of a resolution pursuant to this subsection, the taxing unit shall keep a record of all minimal refunds by receipt number and amount and shall make a report of the amount of these refunds to the governing body at the time of the settlement and shall implement a system by which payment of the refund may be made to a taxpayer who comes into the office of the taxing unit seeking the refund. Unless the taxpayer requests the minimal refund in person at the office of the taxing unit before the end of the fiscal year in which the refund is due, the taxing unit must implement a system to apply the minimal refund as a credit against the tax liability of the taxpayer for taxes due to the taxing unit for the next succeeding year. An overpayment of tax bears interest at the rate set under G.S. 105-241.21 from the date the interest begins to accrue until a refund is paid or applied in accordance with this section. Interest accrues from the later of the date the tax was paid and the date the tax would have been considered delinquent under G.S. 105-360. A resolution adopted pursuant to this subsection must be adopted on or before June 15 preceding the first taxable year to which it applies and remains in effect until amended or repealed by resolution of the taxing unit.

(Effective October 1, 2015; SB 159, s. 2, S.L. 2015-266.)

SB 273

G.S. 105-330.4. Due date, interest, and enforcement remedies.

(e) Waiver. – Notwithstanding G.S. 105-380, the governing board of a county may adopt a resolution to create a uniform policy to allow the reduction or waiver of interest or penalties on delinquent motor vehicle taxes for registered classified motor vehicles for tax years prior to July 1, 2013.

(Effective August 11, 2015; SB 273, s. 1, S.L. 2015-204.)

SB 513

G.S. 105-277.2. Agricultural, horticultural, and forestland – Definitions.

(1) Agricultural land. – Land that is a part of a farm unit that is actively engaged in the commercial production or growing of crops, plants, or animals under a sound management program. For purposes of this definition, the commercial production or growing of animals includes the rearing, feeding, training, caring, and managing of horses.

(Effective July 1, 2016; SB 513, s. 12, S.L. 2015-263.)

G.S. 105-277.2. Agricultural, horticultural, and forestland – Definitions.

A business entity that meets all of the following conditions:

1. Its principal business is farming agricultural land, horticultural land, or forestland. When determining whether an applicant under G.S. 105-277.4 has as its principal business farming agricultural land, horticultural land, or forestland, the assessor shall presume the applicant's principal business to be farming agricultural land, horticultural land, or forestland if the applicant has been approved by another county for present-use value taxation for a qualifying property located within the other county; provided, however, the presumption afforded the applicant may be rebutted by the assessor and shall have no bearing on the determination of whether the individual parcel of land meets one or more of the classes defined in G.S. 105-277.3(a). If the assessor is able to rebut the presumption, this shall not invalidate the determination that the applicant's principal business is farming agricultural land, horticultural land, or forestland in the other county.

(Effective July 1, 2016; SB 513, s. 12, S.L. 2015-263.)

G.S. 105-277.4. Agricultural, horticultural and forestland – Application; appraisal at use value; appeal; deferred taxes.

(f) The Department shall publish a present-use value program guide annually and make the guide available electronically on its Web site. When making decisions regarding the qualifications or appraisal of property under this section, the assessor shall adhere to the Department's present-use value program guide."

(Effective July 1, 2016; SB 513, s. 12, S.L. 2015-263.)

SB 621

G.S. 105-330.5. Distribution and Collection Fees.

The Property Tax Division of the Department of Revenue or a third-party contractor selected by the Property Tax Division must send a copy of the combined tax and registration notice for a registered classified motor vehicle to the motor vehicle owner, as defined in G.S. 20-4.01. Upon receiving written consent from the motor vehicle owner, the notice required under this subsection may be sent electronically to an e-mail address provided by the motor vehicle owner

(Effective January 1, 2016; SB 621, s. 1, S.L. 2015-108.)

SB 682

An Act to Limit Use of Contingent-Based Contracts for Audit or Assessment Purposes.

Section 6 of S.L. 2012-152, as amended by Section 61.5(b) of S.L. 2012-194, reads as rewritten: "SECTION 6. Sections 1, 3, and 3.1 of this act become effective October 1, 2012. The Treasurer shall not renew any contingency fee-based contracts for these services after October 1, 2012. The Treasurer shall not assign further audits on a contingency fee basis to an auditing firm under a contract that meets all the following conditions: (i) the contract would have been prohibited under this act had the contract been entered into after October 1, 2012, and (ii) the contract allows the assignment of audits on a discretionary basis by the Treasurer. Sections 2, 4, and 5 of this act

become effective July 1, 2013. After July 1, 2013 cities and counties shall not renew any contingency fee-based contracts for these services. After July 1, 2013 cities and counties shall not assign further audits on a contingency fee basis to an auditing firm under a contract that meets all the following conditions: (i) the contract would have been prohibited under this act had the contract been entered into after July 1, 2013, and (ii) the contract allows the assignment of audits on a discretionary basis. The remainder of the act is effective when the act becomes law.

(Effective June 24, 2015; SB 682, s. 1, S.L. 2015-15.)