



SECTION VII

APPRAISAL OF PERSONAL PROPERTY

## **The Appraisal of Personal Property**

This section covers the appraisal of personal property not used in connection with a business. There are types of personal property that will be discussed in this section that are sometimes used in connection with a business, but are not appraised like other business personal property.

We must first review the definition of personal property. G.S. 105-273 defines tangible personal property as "all personal property that is not intangible and that is not permanently affixed to real property." We must also look at the personal property that is exempted by statute. G.S. 105-275 exempts non-business property with the following definition:

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 does not include motor vehicles, mobile homes, aircraft, watercraft, or engines for watercraft.

The properties not included as non-business property by the above statute are those that we will discuss in this section.

## **MANUFACTURED HOMES**

Before we can discuss the listing, appraising and assessment of manufactured homes, we must first define the property. Below are definitions found in the North Carolina General Statutes.

### **G.S. 143-143.9(6)**

"Manufactured home" or mobile home" means a structure, transportable in one or more sections, which, in the traveling mode, is eight feet or more in width or is 40 feet or more in length, or when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein.

### **G.S. 105-316.7**

For the purpose of G.S. 105-316.1 through 105-316.8, "mobile home" means a structure that (i) is designed, constructed, and intended for use as a dwelling house, office, place of business, or similar place of habitation and (ii) is capable of being transported from place to place on wheels attached to its frame. It also means a manufactured home as described in G.S. 105-273(13). This definition does not include trailers and vehicles that are required to be registered annually pursuant to Part 3, Article 3 of Chapter 20 of the General Statutes.

### **G.S. 105-164.3(21b) – Sales and Use Tax Definition**

Modular home. – A factory-built structure that is designed to be used as a dwelling, is manufactured in accordance with the specifications for modular homes under the North Carolina State Residential Building Code, and bears a seal or label issued by the Department of Insurance pursuant to G.S. 143-139.1.

The North Carolina Manufactured Housing Institute defines manufactured homes and mobile homes in the following manner;

**Manufactured Home:** Factory-built housing built in compliance with the Federal Manufactured Home Construction and Safety Standards (the HUD code), which became effective June 15, 1976. One or more three dimensional units are transported to the site and installed. In 1980, Congress officially changed all references in federal law and regulations from the term "mobile" to the term "manufactured."

**Mobile Home:** Factory-built housing built prior to the enactment of HUD codes which became effective June 15, 1976. One or more three dimensional units are transported to the site and installed. In the 1960's, many mobile homes were built to a voluntary industry standard of the American National Standards Institute. North Carolina required all mobile homes manufactured, sold, or offered for sale in the state after July 1, 1970 to be built to the ANSL code. Mandatory factory inspection and a "label of compliance" from a state licensed agency were required after September 1, 1971.

It is apparent from the definitions above that the terms mobile home and manufactured home are used interchangeably. Property tax professionals tend to use the term mobile home while the housing industry prefers the term manufactured home. In this section we will use the term manufactured home, and this will include all types of manufactured housing.

The next question is to determine which of these manufactured homes should be appraised and assessed as personal property. G.S. 105-273(13) defines real property and includes the following type of manufactured home as real 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 either 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.”

Before this definition was changed effective January 1, 2003, the language was not clear as to which manufactured homes had to be appraised and assessed as real property and which manufactured homes had to be carried as personal property. Because the statutes were silent or not clear on this issue, there were many different policies across the state. It is now clear that if any of the pertinent requirements are not met, as stated by statute, the home must be considered as tangible personal property and listed accordingly. Stated differently, all of the following requirements must be met for the unit to be considered “real property”:

1. It must be a residential unit.
2. It must have the moving hitch, wheels and axles removed.
3. It must be placed on a permanent foundation.
4. It must be located on land owned by the owner of the unit, or have a 20 year + lease with the land owner.

The most important issue is not whether a manufactured home is real property or personal property, but whether the manufactured home is appraised at its fair market value and appraised in an equitable manner. Each county should list and appraise all manufactured homes according to the market value standard of G.S. 105-283. Maybe even more important is that the policy meets the requirements of G.S. 105-284, the Uniform Assessment Standard.

If the hitch, wheel and axles are not removed from the home, then the home is personal property regardless of the size and type of home.

The Department of Insurance has issued building codes for the installation of manufactured homes. The only foundation required by the building code for a manufactured home is footings and piers.

The footings are either of the poured concrete type or a pre-cast solid concrete pad. The size and dept of the footing depends on the type of home and the location of the home. The Building Code states that “The bottom of all footings shall be below the frost line or a minimum of 4 inches below finished grade, whichever is greater.” The frost line varies across the state and there is a chart in the Building Code that shows the frost line by County. The piers are either single stacked or double stacked. The number and placement of the piers is dictated by the Building Code. It is our opinion that all manufactured homes have a permanent foundation if their installation is in compliance with the Building Code.

Manufactured homes must be located on land owned by the owner of the home or have a 20 year + lease with the land owner in order to be assessed as real property. Prior to the changes of the 2001 N.C. General Assembly, there was little statutory guidance regarding what was real versus personal property as it relates to manufactured housing. What was often relied upon was the language in requests for reappraisal bids (RFP’s), simply stating that all doublewides would be picked up as real property. This practice has greatly contributed to the difficult situation many counties currently face; a large number of manufactured housing units treated as “leasehold real” or carried as leasehold improvements to real property. Under the current law, there are no “leasehold reals” permitted for manufactured housing. All homes located on the land of someone other than the owner of the home should be assessed as personal property. There are many homes across the State, which have been assessed as real and now will have to be assessed as personal property.

Prior to the above changes in the definition a manufactured home located on the land of another and assessed as real property was a lien on the land pursuant to G.S. 105-355. Under the current law, manufactured homes that are located on leased land or on the land of another and don’t meet the definition of real property, will be assessed as personal property and will no longer be a lien on the land on which the home is located.

Modular homes are built under the North Carolina Building Code just like site built homes and should be appraised and assessed as real property. Even those that may be on the land of someone other than the owner of the home should be considered real property. The only difference between the assessment of modular homes and site built homes is the following. A modular home used exclusively as a display model and held for eventual sale at the retail merchant’s place of business is considered exempt inventory under G.S. 105-273(8a).

### **Situs of Manufactured Homes**

While manufactured homes are not as transportable as motor vehicles, they do present a problem for assessors and collectors. The situs rules under G.S. 105-304 apply to manufactured homes. The taxable situs of a manufactured home is determined as of the assessment date. The property is taxable where it is located on January 1 of the tax year in question. Even if the home is moved the next day it is still taxable in the tax jurisdiction were it was located on January 1.

One of the biggest problems with the taxation of manufactured homes comes from the homes being moved before the taxes are paid. If the owner sells a manufactured home and it is moved out of the

taxing county's jurisdiction, collecting the taxes on the home becomes much more difficult. The following statutes are in place to help deal with these situations.

**§ 105-316.1. Tax permit required to move mobile home.**

(a) In order to protect the local taxing units of this State against the nonpayment of ad valorem taxes on mobile homes, it is hereby declared to be unlawful for any person other than a mobile home manufacturer or retailer to remove or cause to be removed any mobile home situated at a premises in this State without first obtaining a tax permit from the tax collector of the county in which the mobile home is situated. The tax permit shall be conspicuously displayed near the license tag on the rear of the mobile home at all times during its transportation. Permits required by G.S. 105-316.1 through 105-316.8 may be obtained at the office of the county tax collector during normal business hours.

(b) Except as provided in G.S. 105-316.4, manufacturers, retailers and licensed carriers of mobile homes shall not be required to obtain the tax permits required by this section. Persons or firms transporting mobile homes shall, however, be responsible for seeing that a proper license tag, and when required under this section, a tax permit, are properly displayed thereon at all times during their transportation.

**§ 105-316.2. Requirements for obtaining permit.**

(a) In order to obtain the permits herein provided, persons other than manufacturers and retailers of mobile homes shall be required to (i) pay all taxes due to be paid by the owner to the county or to any other taxing unit therein; or (ii) show proof to the tax collector that no taxes are due to be paid; or (iii) demonstrate to the tax collector that the removal of the mobile home will not jeopardize the collection of any taxes due or to become due to the county or to any taxing unit therein.

(b) In addition to complying with the provisions of subsection (a) above, owners of mobile homes required to obtain the permits herein provided shall also furnish the following information to the tax collector:

- (1) The name and address of the owner,
- (2) The address or location of the premises from which the mobile home is to be moved,
- (3) The address or location of the place to which the mobile home is to be moved, and
- (4) The name and address of the carrier who is to transport the mobile home.

**§ 105-316.3. Issuance of permits.**

(a) Except as otherwise provided in G.S. 105-316.2 above, no permit required by G.S. 105-316.1 through 105-316.8 shall be issued by the tax collector unless and until all taxes due to be paid by the owner to the county or to any other taxing unit therein, including any penalties or interest thereon, have been paid. Any taxes which have not yet been computed but which will become due during the current calendar year shall be determined as in the case of prepayments.

(b) Upon compliance with the provisions of G.S. 105-316.1 through 105-316.8, the tax collector shall issue, without charge, a permit authorizing the removal of the mobile home. He shall also maintain a record of all permits issued.

**§ 105-316.4. Issuance of permits under repossession.**

Notwithstanding the provisions of G.S. 105-316.2(a) and 105-316.3(a), above, any person who intends to take possession of a mobile home, whether by judicial or non-judicial authority, as a holder of a lien on said mobile home shall apply for, and be issued, the permit herein provided without paying all taxes due to be paid by the owner of the mobile home being repossessed, upon notifying the tax collector of the location in North Carolina to which the mobile home is to be taken. At the time of notification the tax collector shall render to the holder of the lien a statement of taxes due against only the mobile home. Within seven days of the issuance of the permit the applicant shall pay to the tax collector the taxes due as set forth in the statement.

Notwithstanding the foregoing, any applicant who is a nonresident of North Carolina must pay the taxes due as set forth above at the time of notification to the tax collector and application for the permit.

Upon issuance of the permit and the payment of any taxes as prescribed herein, the mobile home shall no longer be subject to levy or attachment of any lien for any other taxes then owed by the owner thereof, whether or not previously determined.

**§ 105-316.5. Form of permit.**

The permit shall be in substantially the form provided by this statute.

**§ 105-316.6. Penalties for violations.**

(a) Any person required by G.S. 105-316.1 through 105-316.8 to obtain a tax permit who fails to do so or who fails to properly display same shall be guilty of a Class 3 misdemeanor. This penalty shall be in addition to any penalties imposed for failure to list property for taxation and interest for failure to pay taxes provided by the general laws of this State.

(b) Any manufacturer or retailer of mobile homes who aids or abets any owner covered by G.S. 105-316.1 through 105-316.8 to defeat in any manner the purpose of G.S. 105-316.1 through 105-316.8 shall be guilty of a Class 3 misdemeanor.

(c) Any person who transports a mobile home from a location in this State for an owner other than a manufacturer or retailer of mobile homes without having properly displayed thereon the tax permit required by G.S. 105-316.1 through 105-316.8 shall be guilty of a Class 3 misdemeanor.

(d) Any law-enforcement officer of this State who apprehends any person violating the provisions of G.S. 105-316.1 through 105-316.8 shall detain such person and mobile home until satisfactory arrangements have been made to meet the requirements of G.S. 105-316.1 through 105-316.8.

**§ 105-316.8. Taxable situs not presumed.**

Nothing in G.S. 105-316.1 through 105-316.8 shall be interpreted so as to subject to taxation any mobile home which does not have a taxable situs within this State under the general rules of law appropriate to such a determination.

## **Listing of Manufactured Homes**

Manufactured homes are required to be listed during the listing period which is the month of January unless the listing period has been extended. The situs, taxability, and value are determined as of that date. The owner of the manufactured home should supply the necessary information for the appraiser to determine the fair market value of the home.

## **The Appraising of Manufactured Homes**

Over 35% of all new home starts in North Carolina are manufactured homes. In many counties across the State the number of new homes starts which are manufactured homes out number those built on site. With the increase in this type of home and the most current change in the law it is essential that all counties become more uniform in the appraising and assessing of manufactured homes. Below is a set of guidelines to help develop more uniformity across the State.

1. All homes that meet the definition provided in 105-273(13) must be appraised and assessed as real property using the county's schedule of values from its last general reappraisal.
2. All homes that do not meet the definition provided in 105-273(13) must be appraised and assessed as personal property.
3. Counties should develop a schedule to appraise all manufactured homes based on the market in their county. This schedule should be part of the real property schedule of values but also be used to assess homes considered as personal property. Below are some factors to consider in developing these schedules:
  - Newer units tend to appreciate over time versus depreciating over time, regardless of whether they have been listed as real property or as personal property. Exceptions might include rental units located in manufactured home parks.
  - Homes built prior to January 15, 1976 were not required to be built according to the Federal HUD Code and tend to have accelerated depreciation, even to the point where the final value approaches that from the TEC schedules.
  - There is no requirement that units listed as personal property must have a change in assessed valuation each year. While it can be reasonably expected that values might change, given the lack of sales data available for personal property, it can be argued that the change is not so easily measurable over a one or two-year period. Thus a schedule for real property units might also see duty for personal property units.
  - Manufactured housing units listed, as real property should be appraised from schedules created specifically for manufactured housing. NOTE: Modular housing can certainly be appraised from the residential schedule of values. In some instances, manufactured housing may be as well, but the schedule should be separate if by nothing more than its title.

4. All manufactured homes, except those older than 1976 and possibly those located in manufactured homes parks, should be measured and listed and placed on a property record card. All additions such as decks, porches, and extra rooms should be appraised according to the developed schedule.
5. The value of those homes assessed as personal property should be reviewed each year and adjusted as the market indicates.
6. Those homes located on the land of someone other than the owner of the home shall be appraised the same as other homes. Any adjustments that are indicated by the market in a county should be recognized by the appraiser. These homes located on the land of another are to be assessed as personal property if they don't meet the definition of real property.

Most of the counties in the state use some type of pricing guide to appraise the manufactured homes in their county. The guides are based on sales of manufactured homes across the country, and there are regional adjustments. The appraising of manufactured homes over the past 25 years has not been given as much attention as other types of more conventional housing. The thinking over this time period was that manufactured homes depreciate each year as they get older and that they do not appreciate, as does real property. The new designs, quality of construction and demand for this type of home is challenging this way of thinking. Sales in counties in this state indicate that many of the newer manufactured homes do in fact appreciate over time and should be appraised like more conventional housing.

Manufactured homes are becoming more like real property than any other type of personal property, and the way they are appraised and assessed needs to be reviewed and changes made. Counties collect information and measure all residential structures that are considered real property. The same effort should be made to measure and collect information on all manufactured homes that are assessed as personal property.

Most manufactured homes have some type of addition such a decks, porches, and extra rooms. If a pricing guide is used to appraise the manufactured homes, these additions are either not picked up or are carried as real property on a separate card. A unit appraisal where everything is picked up and carried on a property record card would show one value for the manufactured home. Each year the property record cards can be compared to the listing to see if the manufactured homes have been listed. Any new manufactured homes can be measured and picked up for the current year. The manufactured homes are still assessed as personal property and reappraised each year. Appraising manufactured homes in this manner will require more resources and staff time, but the appraisals will be more accurate and uniform. As stated earlier the real issue is not "real" versus "personal" but whether the appraisal is correct and uniform.

## **Watercraft**

The Machinery Act makes it clear that all watercraft are subject to ad valorem taxes but does not give a definition for the term watercraft. So we turn to other statutes to find the following definition of "vessel." G.S. 75A-2 defines vessel as:

" every description of watercraft or structure, other than a seaplane on the water, used or capable of being used as a means of transportation or habitation on the water."

With this definition it is clear that all "vessels" are taxable in North Carolina, if located here. This would include the smallest rowboat, the largest yacht and jet skis.

## **Situs of Boats**

Trying to determine which watercraft are taxable in North Carolina and determining where in the state they are taxable is the hardest part of assessing property taxes on watercraft. Boats are very mobile and many have more than one port or docking location during a year. If it is clear that a boat is taxable in North Carolina, the situs rules found in G.S. 105-304 apply the same as for other personal property. The most difficulty comes in trying to determine if a boat is taxable in North Carolina or in another location. We will look at the following three situations concerning the taxable situs of boats.

1. Boats owned by North Carolina residents operated in U.S. waters.
2. Boats owned by non-residents of North Carolina located in North Carolina.
3. Boats owned by North Carolina residents operated in foreign waters.

The domicile of tangible personal property is the residence of the owner. The domicile state has jurisdiction to tax the property whether or not it is physically located in the state on the tax date. 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.

The U.S. Supreme Court stated in *Southern P. Co. v. Kentucky*, 222 U.S. 63,67,56 L.Ed. 96,98,32 S.Ct. 13,14 (1911) "To determine that [a ship] has acquired an actual situs in one port rather than another would involve such grave uncertainty as to result in an entire escape from taxation." In this case, the taxpayer operated seagoing merchant vessels between New York and New Orleans, New York and Galveston, and New Orleans and Havana, Cuba. The taxpayer listed the home port of the vessels as New York, attempting to escape property taxation at its residence in Kentucky. *Id.* The Supreme Court found the situs to be the domicile of the owner, and it said Kentucky's tax was legal. *Id.* at 75, 56 L.Ed. at 101,32 Ct at 18. In this case, the vessel was taxable in Kentucky, even though the vessel could never actually be in Kentucky.

The North Carolina Supreme Court has also addressed the issue in *Billings Transfer Corporation v. County of Davidson*, 276 N.C. 19, 34-35, 170 S.E. 2d 873, 884-885 (1969). In this case the Court ruled that the state of domicile may not tax the tangible personal property of its citizens if the property was permanently located in another state. The Court also ruled that the burden is on the owner of the property to prove that the property has acquired a tax situs in a jurisdiction other than the state of domicile.

Boats owned by North Carolina residents are taxable at the owner's residence unless the owner can prove that the property has acquired a taxable situs at another location.

Boats that are owned by non-residents of North Carolina are taxable by the owner's state of domicile unless the property has acquired a taxable situs in North Carolina.

A county assessor gets a list of boats from a marina in his/her county. After reviewing the list, there are several boats that have not been listed by the owner during the listing period. The owner claims the boats are owned by an out of state corporation and therefore not taxable in North Carolina. The courts have addressed this issue in *Texas Company v. Elizabeth City*, 210 N.C. 454, 187 S.E. 551 (1936). A Delaware Corporation maintained boats in Elizabeth City, North Carolina. The owner used the boats for business purposes. The court ruled that the boats were taxable by Elizabeth City.

It must always be remembered that the domicile state has the right to tax property unless the property has acquired situs in another state. Proving a boat has acquired a situs somewhere other than the state of domicile is difficult. There are no set rules for determining situs between two states. Each case has to be looked at individually. Below is a list of questions which can be asked to help determine the situs of a boat.

1. How much time does the boat stay in the county?
2. Does the owner lease a boat slip in the county?
3. Is the boat used for business purposes in the county?
4. Does the owner pay property tax on the boat in another state?
5. Does the owner of the boat own any real property in the county?
6. Is the boat registered in North Carolina?

" All vessels equipped with propulsion machinery which are in the jurisdiction of the United States must have a number issued by the issuing authority in the State in which the vessel is principally used." 33 C.F.R. Ch. 1 (7-1-91 Edition) Sections 173.11 and 172.15(a) See 46 U.S.C.A. G.S. 12301. The numbers issued are only good for 60 days after a vessel is moved to another state of operation.

7. Is the boat documented by the U.S. Coast Guard?

Merchant vessels over five net tons operating in U.S. waters must be documented. Pleasure vessels over five net tons may be documented.

These are a few questions to ask to try to determine situs of a boat. If you are unsure of the situs of a boat, always tax it until the owner proves otherwise. Many of these boats will escape taxation if only those we are sure of the situs were taxed.

U.S. flagged vessels that operate in international waters or kept in a foreign country are taxable at the owner's state of domicile. Only when these boats acquire a tax situs in a new tax jurisdiction can another state tax them. Since a foreign country can not tax a U.S. flagged vessel, a foreign country can not be another taxing jurisdiction.

### **Listing of Watercraft**

Watercraft are required to be listed during the listing period which is the month of January unless the listing period has been extended. The situs, taxability, and value are determined as of that date. The owner of the watercraft should supply the necessary information for the appraiser to determine the fair market value of the property.

### **Appraising Watercraft**

Most counties use some type of pricing guide to appraise watercraft in North Carolina. These guides are based on sales of boats much like the books used to appraise motor vehicles. The listing of the boats should give the information needed to correctly apply whichever pricing guide is used.

The original historical cost can be listed, trended and depreciated to arrive at market value. However, the cost approach would not be the best method when there are enough sales to use the sales comparison or market approach. The cost approach could be used on unique vessels for which there are not many sales. The cost approach could also be used as a check to be sure the market approach is arriving at fair market value.

## **Aircraft**

As with watercraft the Machinery Act does not give a definition for aircraft, so we must look at other North Carolina statutes for guidance. G.S. 63-1(a)(3) reads "Aircraft means any contrivance now known, or hereafter invented, used or designed for navigation of or flight in the air." This would included the largest jet, smallest plane and even hot air balloons.

## **Situs of Aircraft**

Aircraft, like boats, are very mobile and determining the taxable situs of the property can be difficult. The situs rules of G.S. 105-304 apply to all aircraft that are taxable in North Carolina. The following questions can be asked to assist a county in determining where an aircraft is taxable.

1. How long has the aircraft been located in the county?
2. Does the owner of the aircraft live in the county?
3. Does the owner of the aircraft own real property in the county?
4. Does the owner of the aircraft own or lease a hanger for the aircraft in the county?
5. Does the owner pay taxes in another taxing jurisdiction?
6. Which airports are used by the aircraft and how often?
7. Is the aircraft used by a business located in North Carolina?

The above questions can be used to determine the situs of aircraft in North Carolina as well as if an aircraft is taxable in this State. Like all personal property, aircraft are taxable at the owner's state of domicile unless it acquires a situs in another State. In the *Texas Company v. Elizabeth City*, 210 N.C. 454, 187 S.E. 551 (1936), the Supreme Court held:

The situs of personal property for purposes of taxation is ordinarily the domicile of the owner. Where, however, the owner maintains said property in a jurisdiction other than that of his domicile, in the conduct of his business within such jurisdiction, the situs of said property for purposes of taxation is its actual situs, and not that of his domicile. The exception to the general rule is now universally recognized by the courts, both Federal and state.

Another case *Bassett Furniture Industries, Inc. v. Rockingham County*, 79 N.C. App. 258, 339 S.E. 2d 16, appeal dismissed, 316 N.C. 553 S.E.2d 4 (1986) involved the situs of an airplane. Bassett was a foreign corporation having no principal place of business in North Carolina but owning a jet aircraft hanged in Rockingham County, North Carolina for approximately one year. The Court of Appeals stated the following:

the stipulated facts and evidence presented by Bassett establish that the jet aircraft was "situated" or "more or less permanently located" in Rockingham County on January 1, 1984. Therefore it had a tax situs in Rockingham County on that date. Because the property acquired a tax situs in this State, imposition of the ad valorem tax does not violate the provisions of the Fourteenth Amendment to the U.S. Constitution.

This case is an example of the exception of the general rule of personal property being taxable at the domicile of the owner. As with all property, if you are unsure of the taxability of the property, tax it until the owner proves otherwise.

### **Listing of Aircraft**

Aircraft are required to be listed during the listing period which is the month of January unless the listing period has been extended. The situs, taxability, and value are determined as of that date. The owner of the aircraft should supply the necessary information for the appraiser to determine the fair market value of the property.

### **Appraisal of Aircraft**

Most counties use some type of pricing guide to appraise aircraft in North Carolina. These guides are based on sales much like the books used to appraise motor vehicles. The listing of the aircraft should give the information needed to correctly apply whichever pricing guide is used.

The original historical cost can be listed, trended and depreciated to arrive at market value. However, the cost approach would not be the best method when there are enough sales to use the sales comparison or market approach. The cost approach could be used on unique aircraft for which there are not many sales. The cost approach could also be used as a check to be sure the market approach is arriving at fair market value.

### **§ 105-277.12. Antique airplanes.**

(a) For the purpose of this section, the term "antique airplane" means an airplane that meets all of the following conditions:

- (1) It is registered with the Federal Aviation Administration and is a model year 1954 or older.
- (2) It is maintained primarily for use in exhibitions, club activities, air shows, and other public interest functions.
- (3) It is used only occasionally for other purposes.
- (4) It is used by the owner for a purpose other than the production of income.

(b) Antique airplanes are designated a special class of property under Article V, Sec. 2(2) of the North Carolina Constitution and shall be assessed for taxation in accordance with this section. An antique airplane shall be assessed at the lower of its true value or five thousand dollars (\$5,000).

## **MOTOR VEHICLES**

In 1991 the North Carolina General Assembly passed G.S. 105-330 which made motor vehicles a special class of property. The effective date of the statute was January 1, 1993. This statute totally changes the way taxes on motor vehicles are collected in North Carolina. Below is the current statute which governs the listing, appraising, assessing, and collecting of taxes on motor vehicles.

### **§ 105-330. Definitions.**

The following definitions apply in this Article:

- (1) Classified motor vehicle. A motor vehicle classified under this Article.
- (2) Motor vehicle. Defined in G.S. 20-4.01(23).
- (3) Public service company. Defined in G.S. 105-333(14).

**\*A classified motor vehicle under this section, is a motor vehicle as defined in G.S. 20-4.01(23) which reads, "Every vehicle which is self-propelled and every vehicle designed to run upon the highways which is pulled by a self-propelled vehicle. This shall not include mopeds as defined in G.S. 20-4.01(27)d1."**

### **§ 105-330.1. Classification of motor vehicles.**

(a) Classification. - All motor vehicles other than the motor vehicles listed in subsection (b) of this section are designated a special class of property under authority of Article V, Sec. 2(2) of the North Carolina Constitution. Classified motor vehicles shall be listed and assessed as provided in this Article and taxes on classified motor vehicles shall be collected as provided in this Article.

(b) Exceptions. - The following motor vehicles are not classified under subsection (a) of this section:

- (1) Motor vehicles exempt from registration pursuant to G.S. 20-51.
- (2) Manufactured homes, mobile classrooms, and mobile offices.
- (3) Semi-trailers or trailers registered on a multiyear basis.
- (4) Motor vehicles owned or leased by a public service company and appraised under G.S. 105-335.

**\*Subsection (a) classifies all motor vehicles a special class of property. As of January 1, 1993, we have four classes of property including real, personal, public service company, and classified motor vehicles. Specifically excluded in this classification are motorized farm and construction equipment that are not required to be registered under §20-51 as well as the other listed exceptions (2) through (4).**

A classified registered motor vehicle will then be identified as all currently registered motor vehicles that have not been excepted by §105-330.1. Motor vehicles that are not registered as of January 1 of each year are to be treated as classified unregistered and are to be listed with all other personal property during the January listing period.

Motor vehicles which are not currently registered in North Carolina, but have a situs in North Carolina on the assessment date should be treated as classified unregistered vehicles and listed during the January listing period. This also means vehicles which may be registered in another state, but have a situs in our state, are to be considered unregistered for the purposes of ad valorem taxation.

### **Gross Receipts Tax and Daily Rental Exemption**

Senate Bill 1076 became effective July 1, 2000 which exempted motor vehicles held for short term lease or rental and replaced the property tax on these vehicles with a tax on the gross receipts of up to 1.5% from the same vehicles. The gross receipts tax is optional, and may be adopted by ordinance. The exemption is not optional.

The specifics of the gross receipts tax on rental vehicles are numerous. Essentially §105-275(42) exempts vehicles whose lease or rental term is less than 365 continuous days and are owned or leased by an entity engaged in the business of leasing or renting vehicles to the general public. These vehicles include those owned by the car rental companies as well as truck rental companies such as U-Haul, Ryder, Penske, Budget, etc. The laws governing the gross receipts procedures are found in §160A-208 for municipalities and §153A-148 for counties.

The same administrative provisions of Chapter 105 that apply to the state sales tax on rentals apply to this tax. The most important of those provisions is G.S. 105-164.16, which sets forth reporting and return requirements. Generally, a taxpayer must file a return by the 15<sup>th</sup> of each month showing the receipts and tax for the preceding month. The tax is due when the return is filed. The counties and cities levying the tax must furnish the taxpayer with the forms needed for filing the returns. New G.S. 160A-215.1(a) makes it clear that the gross receipts tax on rentals is in addition to any privilege license tax that a city levies on the same business pursuant to G.S. 160A-211.

G.S. 105-260.1 authorizes the Secretary of Revenue to delegate to a deputy or assistant secretary the authority to hold hearings. This statute can be used as authority for the board of commissioners or city council to delegate to the tax collector authority to hear requests from taxpayers for relief from or compromise of penalties and other administrative matters involving collection of this tax. Enforcement of the tax will be governed by article 9 of Chapter 105. Enforcement includes penalties for late filing, late payment, and bad checks. In addition to percentage penalties for failure to file and pay, the corporate charters of corporations and limited liability companies may be suspended by the Secretary of State if the company fails to file a return or pay the tax for 90 days after it is due. Further information on how to

**implement the gross receipts tax, suggested returns, and other forms can be found at the League of Municipalities website at <http://www.nclm.org/>.**

## **Case Problem**

### Motor Vehicles

G.S. 105-330 designates motor vehicles a special class of property. Which of the following are not considered classified motor vehicles under the current law.

1. Semi-Trailers or trailers registered on a multi-year basis.
2. Manufactured homes, mobile classrooms, and mobile offices.
3. Motor vehicles owned by a public service company.
4. Unregistered motor vehicles.
5. Motor vehicles leased to a public service company.
6. Motor vehicles leased to a town or city.
7. Motor vehicles owned by a church.
8. "U-drive it" passenger vehicles registered under G.S. 20-87(2).
9. An unregistered antique automobile, 40 years old, used for display purposes and parades.
10. A 1935 Ford with historic license plates used only for exhibitions.

**§ 105-330.2. Appraisal, ownership, and situs.**

(a) Date Determined. --The value of a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(1) (registered vehicles) shall be determined as of January 1 of the year the taxes are due. If the value of a new motor vehicle cannot be determined as of that date, the value of that vehicle shall be determined for that year as of the date that model vehicle is first offered for sale at retail in this State.

The ownership, situs, and taxability of a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(1) (registered vehicles) shall be determined annually as of the day on which a new registration is applied for or the day on which the current vehicle registration is renewed, regardless of whether the registration is renewed after it has expired.

The value of a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(2) (unregistered vehicles) shall be determined as of January 1 of the year in which the motor vehicle is required to be listed pursuant to G.S. 105-330.3(a)(2). The ownership, situs, and taxability of a classified motor vehicle listed or discovered pursuant to G.S. 105-330.3(a)(2) (unregistered vehicles) shall be determined as of January 1 of the year in which the motor vehicle is required to be listed.

(b) Value; Appeal. – A classified motor vehicle shall be appraised by the assessor at its true value in money as prescribed by G.S. 105-283. If the assessor considers the sales price of the motor vehicle in determining the true value of the motor vehicle, the assessor must not include any amount for which the taxpayer is liable under Article 5A of this Chapter. The owner of a classified motor vehicle may appeal the appraised value of the vehicle in the manner provided by G.S. 105-312(d) for appeals in the case of discovered property and may appeal the situs or taxability of the vehicle in the manner provided by G.S. 105-381. The owner of a classified motor vehicle must file an appeal of appraised value with the assessor within 30 days after the date of the tax notice prepared pursuant to G.S. 105-330.5. Notwithstanding G.S. 105-312(d), an owner who appeals the appraised value of a classified motor vehicle shall pay the tax on the vehicle when due, subject to a full or partial refund if the appeal is decided in the owner's favor.

(c) The Department of Revenue, acting through the Property Tax Division, and the Department of Transportation, acting through the Division of Motor Vehicles, shall enter into a memorandum of understanding concerning the vehicle identification information, name and address of the owner, and other information that will be required on the motor vehicle registration forms to implement the tax listing and collection provisions of this Article.

**\* The valuation date for registered motor vehicles is the January 1 of the year the taxes are due. Essentially this means for the vehicles registered in or are to be renewed in September, October, November, and December, the value will be determined as of the next January 1. Other vehicles are appraised as of the current January 1. New motor vehicles which were not available on the January 1 valuation date are to be valued as of the date they were first available for sale at retail in North Carolina.**

**For the issue of appraisal, one must look to generally accepted appraisal principles rather than the Machinery Act, which is directive, yet limited in actual appraisal techniques.**

N.C.G.S. §105-330.2(b) directs the assessor to appraise all classified motor vehicles at their true value in money as prescribed by G.S. §105-283. §105-283 reads that "true value" shall be interpreted as meaning market value. Of the three approaches to value, the market approach is the most favorable to rely on in the appraisal of motor vehicles since we have sufficient comparable sales to determine the average selling price of new and used motor vehicles. Many times a taxpayer may want to show a vehicle bill of sale to indicate the value. As professional appraisers we should consider any information that is presented, however we must maintain the January 1 valuation date and realize that a single price paid for a motor vehicle does not always reflect the market value. Also, the market approach is favorable to the cost approach when appraising property if sufficient sales data is available.

The North Carolina and IAAO appraisal guidelines recognize different trade level values. Appraisers recognize three distinct levels of trade: The manufacturing level, the wholesale level, and retail level. Personal property should be assessed at the trade level at which it is found. Only property in the hands of a wholesaler who holds it for sale at the amount for which it would transfer to other wholesalers of like property should be appraised at wholesale value. This type of property is categorized as inventory and is no longer taxable in North Carolina. Motor vehicles in the hands of a dealership are for sale at the retail level of trade and should be appraised accordingly for the end consumer. Many pricing guides are published with both retail and wholesale value. Remembering the definition of market value as being the most probable price that a property would bring between a willing buyer and seller, we are estimating a probable, or average, price, where approximately half of the sales have a higher sales price, and half of the sales have a lower sales price than the average. Obviously, many retail consumers will be able to purchase a vehicle for less than the retail value in pricing guides. Some could even pay close to the actual wholesale value. Even for retail consumers who pay near wholesale price, we as appraisers are bound by law to appraise the property at its market value at the retail level of trade. Even motor vehicles, owned and used by the manufacturer of the motor vehicles must be appraised at the retail level of trade, since they are using the property as the end consumer. Logically, the manufacturer pays far less than retail for their own property.

The language of §105-330.2 indicates that it was the intention of the North Carolina General Assembly for appraisers to value classified motor vehicles at the retail level. As stated above, in the case of new motor vehicles, whose value cannot be determined on the normal January 1 valuation date, the value shall be determined as of the date the vehicle "is first offered for sale at retail in this State." One must ask why the General Assembly included the word "retail" in this law. Had the words "at retail" been left out, appraisers would have been forced to use the value at some other trade level, prior to the vehicle being available to the general public.

For classified registered motor vehicles, ownership, situs, and taxability is determined on the registration renewal or application date regardless of whether the registration is renewed after it has expired.

For example, a registration that was to expire December 31, 2006 is not actually renewed until February 21, 2007. The taxpayer moved in January 2007. The ownership, situs, and taxability are determined February 21, 2007, at the actual renewal. This is the time when the taxpayer will update the renewal information with the DMV, which is the information the Tax County should receive. The value of the vehicle is to be determined as of January 1, 2007, which is the January 1 of the year the taxes are due. The 15-day registration grace period that runs into January of 2007 does not extend the expiration date or change the valuation date.

### Appeals

Valuation appeals are to be handled in the manner of a discovery under §105-312(d). The owner of a classified motor vehicle must file an appeal of value with the assessor within 30 days of the bill date. Upon receipt of a timely exception of value, the assessor shall arrange a conference to hear the taxpayer's evidence or argument regarding the value. At this time, the assessor may make adjustments to the value.

### Making Adjustments at the initial conference

The market value of a particular year, make, and model of a motor vehicle is something that is difficult to agree on. Even the major publications do not agree on what the exact market value is and even they usually vary by hundreds of dollars.

For the appraisal of motor vehicles, the appraisal profession recommends using the market approach. The market approach estimates fair market value by examining sales prices of similar properties to the one being appraised. We recognize the market approach as usually being the most accurate estimate of market value for motor vehicles. All counties use the market approach to appraise motor vehicles for property tax purposes when they use a valuation service or valuation guide. The retail value that most counties actually use is generally LESS than many of the most widely recognized publication's estimate of retail value as of the required appraisal date. Additionally, counties now have a database of sale prices on motor vehicles that is being used to increase the accuracy of motor vehicle appraisals. This sale price information is collected and held by the North Carolina Division of Motor Vehicles. Preliminary results from this database show that, statewide, we are appraising motor vehicles below 100% of fair market value. In other words, in general, motor vehicle values in North Carolina may be lower than they should be.

There are many cases where a taxpayer will submit a recent bill of sale and the price is several hundred or several thousand dollars less than the County's value. We can give several reasons why a taxpayer might pay less than the county's estimate, any of which may or may not apply.

1) The sale price is not close to the appraisal date. N.C.G.S. 105-330.2 requires the county to appraise motor vehicles as of the January 1 of the year the taxes are due. If a motor vehicle is purchased in August of 2007, the due date is December 1, 2007. The county is required to appraise the vehicle as of January 1, 2007. There is a strong possibility that the value is higher

on January 1, 2007 than the purchase date in August. If this is the reason a purchase price is lower than the county's value, no adjustment should be made.

2) The owner of the vehicle paid a lower price than the county's estimate of retail market value, but the vehicle is in average condition. Remember that the market approach is an estimate of market value based on sales of similar properties. If, for example, there are 50 sales of a similar motor vehicle, all of the prices of those 50 sales will not be the same. However, the estimate of market value will be somewhere in that range of the 50 sales prices. The end result is that some of those 50 sales will have prices higher than the actual market value and some of those 50 sales will have prices lower than the actual market value. It is possible that a taxpayer may be able to negotiate a sales price close to a wholesale value or trade-in value, however the current law requires the assessor to appraise all motor vehicles at their retail value, regardless of the actual price paid. Also, keep in mind that the invoices you see are representative of the sales below the county's appraisal. The county rarely receives an appeal where the taxpayer paid more than the county's value, however there are many sales in this category. Sales of new motor vehicles will probably have closer sales prices while sales of used motor vehicles will have wider variations in sale price. If this is the reason a purchase price is lower than the county's value, but the vehicle is in average condition, no adjustment should be made.

3) The sales price on a taxpayer's invoice is lower because the sale was not an arm's length transaction. Reasons which would disqualify a sale as being an "arm's length transaction" are numerous. Examples are, a forced sale or auction sale, the buyer and seller are relatives or related businesses, a trade in allowance was not included in the sale price, one or both of the parties involved in the transaction is governmental, a public utility, church, school, lodge, or other exempt organization, or lending institution. Sales such as these are many times not representative of fair market value, so caution should be taken in using these sales as such. In general, values should not be reduced if this is the reason a sale price is lower than the county's value.

4) The amount on the bill of sale is not an indication of the total consideration paid for the vehicle. If a taxpayer receives \$5000 for a trade in, the \$5000 should be included in the purchase price. As we will discuss in the appraisal section, all costs should be included in the cost basis when determining value. Dealer prep and doc fees may also be part of the total consideration paid when a vehicle is purchased and those costs are part of the purchase price. No owner would logically sell a vehicle, after driving it off the lot, and not attempt to recover all of their costs in an arms length transaction. The property tax is a tax on the fair market value of property. If the fair market value is determined using the sale price, all costs should be included in the cost basis. One exception to this was created in 2005, which is for the highway use tax cost. Tax assessors who use the sales price for appraisal of motor vehicles are prohibited from including any Highway Use Tax for purposes of determining the property tax owed on the vehicle. If fair market value is determined using the market approach, which we recommend, then sales prices of similar vehicles are used, with appropriate adjustments for condition.

5) The condition of the vehicle is the reason the vehicle's price is lower. The county's estimate of market value is based on a vehicle in average condition. If a taxpayer purchases or owns a vehicle with excessive mileage, body damage, or a worn interior, they likely paid less for the vehicle than they would pay for a vehicle in average condition. In this case, if a taxpayer brings the vehicle to the tax office, during the appeal period, someone with appraisal experience from the tax office should take the time to look at the vehicle and search for a reason to make an adjustment. If a taxpayer will bring a vehicle to the tax office to show the inadequacies of their vehicle, chances are there is something that the appraiser can make an adjustment for. Many times a \$100 reduction for a fallen headliner in the interior, a uniform schedule for reducing values on high mileage vehicles, or a \$200 reduction for a bad scratch or dent in the vehicle's body will be sufficient and will show that the tax office is willing to make adjustments for the proper reasons.

Most adjustments are due to the condition of the vehicle that make the appealed vehicle less valuable than an average vehicle of that year and make. By way of example only, these characteristics may include excessive mileage, rust or other body damage, or an excessively worn interior. Keep in mind that it is not unusual for a seven-year-old car to have over 100,000 miles. 15,000-20,000 miles per year is average. There are several publications that give guidelines for mileage deductions and can be used as a standard throughout the county to make mileage adjustments. There should be no deduction for normal wear such as an old battery, worn tires, bug marks or normal dings on a used vehicle.

#### After the Initial Conference

Within 15 days of the conference the assessor shall give written notice of his decision unless an agreement was reached during the conference. If an agreement was not reached, the taxpayer shall have 15 days from the date of the assessor's decision to request review by the review board (Board of E&R, County Commissioners, or Motor Vehicle Valuation Review Committee). This request for review by the board must be given in writing unless the request is made verbally to the assessor at the conference.

Appeals on situs or taxability are to be handled under §105-381, which allows an appeal to be opened within five years after the tax became due. If an apparent error regarding situs, taxability, or ownership was made by either the tax office or by the DMV database, it is best that the error be corrected before an appeal is even filed.

A taxpayer who wishes to appeal the value of a classified motor vehicle must pay the tax when due. If the tax is not due at the time of appeal, the taxpayer needs to understand that the tax still must be paid by the due date and they will receive a full or partial refund if the appeal is decided in their favor. If the taxpayer refuses to pay the taxes when due, the appeal process on the taxpayer's vehicle should suspend until the bill is paid. Interest will accrue and all other applicable enforcement remedies should be used.

**Subsection (c) directs the Property Tax Division and the Division of Motor Vehicles to agree on the information contained on motor vehicle registration forms that the tax departments will need to list, assess, and collect motor vehicle taxes.**

**§ 105-330.3. Assessor's duty to list classified motor vehicles; application for exempt status.**

\*(a) (1) Registered Vehicles. The assessor shall list, appraise, and assess all taxable classified motor vehicles for county, municipal, and special district taxes each year in the name of the record owner as of the day on which the current vehicle registration is renewed or the day on which a new registration is applied for. The owner of a classified motor vehicle listed pursuant to this subdivision need not list the vehicle as provided in G.S. 105-306; G.S. 105-312 does not apply to classified motor vehicles listed pursuant to this subdivision.

(2) Unregistered Vehicles. The owner of a classified motor vehicle who does not register the vehicle or does not renew the registration of the vehicle on or before the expiration date of the current registration shall list the vehicle for taxes by filing an abstract with the assessor of the county in which the vehicle is located on or before January 31 following the date the unregistered vehicle is acquired or, in the case of a registration that is not renewed, January 31 following the date the registration expires, and on or before January 31 of each succeeding year that the vehicle is unregistered. If a classified motor vehicle listed pursuant to this section is registered during the calendar year in which it was listed, it shall be taxed for the fiscal year that opens in the calendar year of listing as an unregistered vehicle. A vehicle required to be listed pursuant to this subdivision that is not listed by January 31 shall be subject to discovery pursuant to G.S. 105-312.

(b) The owner of a classified motor vehicle who claims an exemption or exclusion from tax under this Subchapter has the burden of establishing that the vehicle is entitled to the exemption or exclusion. The owner may establish prima facie entitlement to exemption or exclusion of the classified motor vehicle by filing an application for exempt status with the assessor. When an approved application is on file, the assessor shall omit from the tax records classified motor vehicles described in the application.

(c) The owner of a classified motor vehicle that has been omitted from the tax records as provided in subsection (b) shall report to the assessor any classified motor vehicle registered in the owner's name or owned by him that does not qualify for exemption or exclusion for the current year. This report shall be made within 30 days after the renewal of registration or initial registration of the vehicle or, for an unregistered vehicle, on or before January 31 of the year in which the vehicle is required to be listed by subdivision (a)(2). A classified motor vehicle that does not qualify for exemption or exclusion but has been omitted from the tax records as provided in subsection (b) is subject to discovery under the provisions of G.S. 105-312, except that in lieu of the penalties prescribed by G.S. 105-312(h) there shall be assessed a penalty of one hundred dollars (\$100.00) for each registration period that elapsed before the disqualification was discovered.

(d) The provisions of G.S. 105-282.1 do not apply to classified motor vehicles.

**\*Subsection (a)(1) provides for the assessor's duty to list and appraise all classified, registered motor vehicles in the name of the owner as of the day the registration is renewed or applied for. The owner is not required to list, and therefore, the discovery provision, §105-312, does not apply to classified registered motor vehicles.**

**Unregistered motor vehicles are listed by the owner and assessed in the same manner as other business personal property. A motor vehicle which is unregistered on January 1 is to be treated as classified unregistered for the entire year. Assuming the vehicle has a valid registration during January of the following year, it will be assessed as a classified registered motor vehicle.**

### **Motor Vehicle Dealers**

**Because a motor vehicle dealer is in the business of selling motor vehicles does not necessarily mean that all vehicles owned by the dealership are held for sale. Wreckers and car carriers owned by the dealership are not part of their inventory and must be listed if they carry a dealer plate. It is not uncommon for licensed motor vehicle dealers to allow family members or others to use the dealerships dealer tags on their personal vehicles, for personal use. This can sometimes cause a problem if the dealer insists that the vehicle is inventory "held for sale" and should not be listed. An important part of the inventory definition is that the property must be held for sale during the regular course of business. Some helpful questions to ask the dealer in this situation are:**

- (1) Is the vehicle kept on the sales lot with other vehicles for sale?**
- (2) Is the vehicle readily available at any time to be test driven?**
- (3) When was the last time the vehicle was test driven?**
- (4) Is the vehicle advertised for sale anywhere?**
- (5) What is the current asking price of the vehicle?**

**Sometimes these questions will help the dealer understand the difference between a vehicle used for personal use and one that is actually held for sale in the regular course of business.**

### **Exemptions**

**The exemption treatment under subsection (b) and (c) states that it is the duty of the owner to establish prima facie entitlement to exemption or exclusion by filing an application with the assessor. As a reminder, ownership and taxability is determined at the time of application or renewal. For a vehicle to be exempt, it must meet the ownership and use requirements at the time of application or renewal. For example, a van must be purchased by a church already meeting the requirements of §105-278.3 in order for it to be exempt for that year. An AV-10V must be completed before the van can be exempted. Complete exemption qualifications are discussed in another section of this manual. Since §105-282.1 does not apply to classified motor vehicles, once an application is on file, the exempt motor vehicle remains exempt even if §105-282.1 requires the exemption to be applied for each year. Failure to notify the assessor**

**within 30 days of any change in the use of the property will make the owner of the property subject to a penalty of \$100.00 for each registration period missed.**

**§ 105-330.4. Due date, interest, and enforcement remedies.**

(a) Taxes on a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(2) shall be due on September 1 following the date by which the vehicle was required to be listed. Taxes on a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(1) shall be due each year on the following dates:

(1) For a vehicle registered under the staggered system, taxes shall be due on the first day of the fourth month following the date the registration expires or on the first day of the fourth month following the last day of the month in which the new registration is applied for.

(2) For a vehicle newly registered under the annual system, taxes shall be due on the first day of the fourth month following the date the new registration is applied for. For a vehicle whose registration is renewed under the annual system, taxes shall be due on May 1 following the date the registration expired.

(b) Subject to the provisions of G.S. 105-395.1, interest on unpaid taxes on classified motor vehicles listed pursuant to G.S. 105-330.3(a)(1) accrues at the rate of five percent (5%) for the first month following the date the taxes were due and three-fourths percent (3/4%) for each month thereafter until the taxes are paid, unless the tax notice required by G.S. 105-330.5 is prepared after the date the taxes are due. In that circumstance, the interest accrues beginning the second month following the date of the notice until the taxes are paid. Subject to the provisions of G.S. 105-395.1, interest on delinquent taxes on classified motor vehicles listed pursuant to G.S. 105-330.3(a)(2) accrues as provided in G.S. 105-360(a) and discounts shall be allowed as provided in G.S. 105-360(c).

(b) Unpaid taxes on classified motor vehicles may be collected by levying on the motor vehicle taxed or on any other personal property of the taxpayer pursuant to G.S. 105-366 and G.S. 105-367, or by garnishment of the taxpayer's property pursuant to G.S. 105-368. Notwithstanding the provisions of G.S. 105-366(b), the enforcement measures of levy, attachment, and garnishment may be used to collect unpaid taxes on classified motor vehicles listed pursuant to G.S. 105-330.3(a)(1) at any time after interest accrues. Notwithstanding the provisions of G.S. 105-355, taxes on classified motor vehicles listed pursuant to G.S. 105-330.3(a)(1) do not become a lien on real property owned by the taxpayer.

**\*The due date for a classified motor vehicle registered under the staggered system is the first day of the fourth month following the date the registration expires or on the first day of the fourth month following the last day of the month in which the new registration is applied for. For example, taxes on a vehicle with a March registration would be due July 1.**

**For annual system vehicles whose registration is renewed, taxes shall be due on May 1 following the date the registration expired. For newly registered annual system vehicles, the due date is determined in the same manner as for staggered system vehicles.**

**The remainder of this statute concerns collection procedures for classified registered vehicles. Interest accrues similarly to delinquent taxes on other property. That being 5% the first delinquent month and 3/4% per month thereafter beginning the first day of the month after taxes become due until the taxes are paid. If the date of the tax notice is after the due date, no interest begins until the second month following the date of the notice. This should prevent any bill from going out with interest already added. While all previous enforcement remedies still apply to classified registered motor vehicles, the unpaid taxes on registered motor vehicles are not a lien against any real property owned by the taxpayer.**

**Taxes on unregistered motor vehicles are due on September 1 and payable at par through January 5 just like all other property taxes.**

**§ 105-330.5. Listing and collecting procedures.**

(a) For classified motor vehicles listed pursuant to G.S. 105-330.3(a)(1), upon receiving the registration lists from the Division of Motor Vehicles each month, the Property Tax Division of the Department of Revenue shall prepare a combined tax and registration notice for each vehicle. The combined tax and registration notice shall contain all county and municipal corporation taxes and fees due on the motor vehicle as computed by the assessor in the county of registration. In computing the taxes, the assessor shall appraise the motor vehicle in accordance with G.S. 105-330.2 and shall use the tax rates of the various taxing units in effect on the first day of the month in which the current vehicle registration expires or the new registration is applied for. The tax on the motor vehicle is the product of a fraction and the number of months in the motor vehicle tax year. The numerator of the fraction is the product of the appraised value of the motor vehicle and the tax rate of the various taxing units. The denominator of the fraction is 12. This procedure shall constitute the listing and assessment of each classified motor vehicle for taxation. The combined tax and registration notice shall contain:

- (1) The date of the tax notice.
- (2) The appraised value of the motor vehicle.
- (3) The tax rate of the taxing units.
- (4) A statement that the appraised value of the motor vehicle may be appealed to the assessor within 30 days after the date of the notice.

(a1) When a new registration is obtained for a vehicle registered under the annual system in a month other than December, the assessor shall prorate the taxes due for the remainder of the calendar year. The amount of prorated taxes due is the product of the proration fraction and the taxes computed according to subsection (a). The numerator of the proration fraction is the number of full months remaining in the calendar year following the date the registration is applied for and the denominator of the fraction is 12.

(b) When the tax notice required by subsection (a) is prepared, the county tax collector shall mail a copy of the notice, with appropriate instructions for payment, to the motor vehicle owner. The county may retain the actual cost of collecting municipal and special district taxes collected pursuant to this Article, not to exceed one and one-half percent (1 1/2%) of the amount of taxes collected. The county finance officer shall establish procedures to ensure that tax payments received pursuant to this Article are properly accounted for and taxes due other taxing units are remitted to the units to which they are due at least once each month. Each month, a county shall provide reasonable information to the municipalities and special districts located in it to enable them to account for the tax payments remitted to them.

(b1) Repealed by Session Laws 1995, c. 329, s. 2, effective for taxes imposed for taxable years beginning on or after July 1, 1995.

(c) For classified motor vehicles listed pursuant to G.S. 105-330.3(a)(2), the assessor shall appraise each vehicle in accordance with G.S. 105-330.2. The assessor shall prepare a tax notice for each vehicle before September 1 following the January 31 listing date; the tax notice shall include all county and special district taxes due on the motor vehicle. In computing the taxes, the assessor shall use the tax rates of the taxing units in effect for the fiscal year that begins on July 1 following the January 31 listing date. Municipalities shall list, assess, and tax classified motor vehicles listed pursuant to G.S. 105-330.3(a)(2) as provided in G.S. 105-326, 105-327, and 105-328 and shall send tax notices as provided in this section.

(d) The county shall include taxes on classified motor vehicles listed pursuant to G.S. 105-330.3(a)(1) in the tax levy for the fiscal year in which the taxes become due and shall charge the taxes to the tax collector for that year, unless the tax notice required by subsection (a) is prepared after the date the taxes are due. If that occurs, the county shall include the taxes from that notice in the tax levy for the current fiscal year and shall charge the taxes to the tax collector for that year.

**\*This section details the procedures for the listing and collection of taxes on motor vehicles. The most significant portion of the section requires the county assessor to assess taxes on registered motor vehicles for all municipalities and special districts in the county. Also in subsection (a) is the directive to appraise motor vehicles using the valuation, ownership, and situs rules set forth in §105-330.2 and to use the tax rates in effect when the registration last expired. Even if the taxpayer renews late, the appraiser is to assess the taxes based on the rates in effect when the registration was to be renewed (when it expired). For example, the 2006 tax rates in effect in June 2007 for the various taxing districts would be used to calculate the tax bill for a vehicle purchased or renewed June 7, 2007. When the registration expires June 30, 2008 and if the owner renews the registration late on July 3, 2008, the June 2008 tax rates (2007 rates) would still be used to calculate the next year's bill. Subsection (a) also outlines the minimum requirements for the tax notice.**

**Subsection (a1) provides for the proration of taxes on annual system vehicles that are purchased in a month other than December. The assessor is to prorate the taxes for the remainder of the calendar year. To calculate the tax bill, the assessor must multiply the**

**amount of the whole taxes by a proration fraction. For example, an annual system vehicle is purchased in May of 2007. There are seven full months left in 2007. If the amount of the taxes calculated by subsection (a) is \$500.00, then the amount of the bill sent under (a1) would be  $\$500.00 \times 7/12 = \$291.67$ .**

**Subsection (b) requires the collector to send a notice for each motor vehicle.**

**Subsection (c) directs the assessor to appraise each unregistered motor vehicle and prepare a notice for each unregistered motor vehicle. Unlike with registered motor vehicles, municipalities are required to list, assess, and tax unregistered motor vehicles.**

**Subsection (d) instructs the county to include taxes from registered motor vehicles in the tax levy for the fiscal year in which the taxes become due. For example, if the vehicle is a March 2007 renewal/expiration, it is due in July 2007 and those taxes would apply to the 07-08 tax year (typically called the 2007 tax year) even though the prior year, 2006, rate was used to calculate the bill.**

**§ 105-330.6. Motor vehicle tax year; transfer of plates; surrender of plates.**

(a) Tax Year - The tax year for a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(1) and registered under the staggered system shall begin on the first day of the first month following the date on which the former registration expires or the new registration is applied for and ends on the last day of the month in which the current registration expires. The tax year for a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(1) and registered under the annual system shall begin on the first day of the first month following the date on which the registration expires or the new registration is applied for and end the following December 31. The tax year for a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(2) shall be the fiscal year that opens in the calendar year in which the vehicle is required to be listed.

(a1) Change in Tax Year. – If the tax year for a classified motor vehicle changes because of a change in its registration for a reason other than the transfer of its registration plates to another classified motor vehicle pursuant to G.S. 20-64, and the new tax year begins before the expiration of the vehicle's original tax year, the taxpayer may receive a credit, in the form of a release, against the taxes on the vehicle for the new tax year. The amount of the credit is equal to a proportion of the taxes paid on the vehicle for the original tax year. The proportion is the number of full calendar months remaining in the original tax year as of the first day of the new tax year, divided by the number of months in the original tax year. To obtain the credit allowed in this subsection, the taxpayer must apply within 30 days after the taxes for the new tax year are due and must provide the county tax collector information establishing the original tax year of the vehicle, the amount of taxes paid on the vehicle for that year, and the reason for the change in registration.

(b) If the owner of a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(1) transfers the registration plates from the listed vehicle to another classified motor vehicle pursuant to G.S. 20-64

during the listed vehicle's tax year, the vehicle to which the plates are transferred is not required to be listed or taxed until the current registration expires or is renewed.

(c) Surrender of Plates. - If the owner of a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(1) either transfers the motor vehicle to a new owner or moves out-of-state and registers the vehicle in another jurisdiction, and the owner surrenders the registration plates from the listed vehicle to the Division of Motor Vehicles, then the owner may apply for a release or refund of taxes on the vehicle for any full calendar months remaining in the vehicle's tax year after the date of surrender. To apply for a release or refund, the owner must present to the county tax collector within one year after surrendering the plates the receipt received from the Division of Motor Vehicles accepting surrender of the registration plates. The county tax collector shall then multiply the amount of the taxes for the tax year on the vehicle by a fraction, the denominator of which is the number of months in the tax year and the numerator of which is the number of full calendar months remaining in the vehicle's tax year after the date of surrender of the registration plates. The product of the multiplication is the amount of taxes to be released or refunded. If the taxes have not been paid at the date of application, the county tax collector shall make a release of the prorated taxes and credit the owner's tax notice with the amount of the release. If the taxes have been paid at the date of application, the county tax collector shall direct an order for a refund of the prorated taxes to the county finance officer, and the finance officer shall issue a refund to the vehicle owner.

**\*This subsection describes the tax year for a classified registered motor vehicle. This is not to be confused with the fiscal year which motor vehicle taxes apply to or the calendar year which is most commonly thought of by most taxpayers. The tax year mainly serves the purpose to determine a period of time a vehicle is physically kept. This is important to calculate the pro-ration of taxes when a registered motor vehicle is transferred to a new owner or a taxpayer moves out of state and the plates are surrendered to DMV. The tax year for classified registered motor vehicles begins the first day of the month following the registration/expiration month and ends the last day of the month in which the current registration expires. A June 2007 registration normally has a tax year of July 1, 2007 to June 30, 2008. If, for various reasons, the registration is not 12 months, the law allows assessment for the number of months of the registration period. The tax year for classified unregistered motor vehicles is the fiscal year that begins in the calendar year in which the motor vehicle is required to be listed.**

The general rule is that pro-ration of motor vehicle taxes can only occur when these three conditions are met.

- (1) The owner must transfer the motor vehicle to a new owner OR Move out-of-state and register the vehicle in another jurisdiction.
- (2) The registration plates must be surrendered to the DMV
- (3) The receipt from the surrender of the plates (FS-20) must be presented to the collector within one year from the surrender of the plates.

If these three conditions are met, the collector shall multiply the amount of the taxes to be pro-rated by a fraction. The numerator is the number of full calendar months remaining in the vehicle's tax year and the denominator is the number of months in the tax year.

**Example**

A motor vehicle with a September 2007 registration is sold and the registration is surrendered to DMV in December 2007. The owner presents the receipt to the collector in February of 2008 and asks for a pro-rated refund. If the amount of the bill is \$235.43, what is the amount to be refunded?

**Tax Year?** October 2007 through September 2008

**Number of months remaining?** 9, January through September.

**Prorated amount?**  $\$235.43 \times 9/12 = \$176.57$

The exception to the general rule to pro-ration of motor vehicle taxes is explained in subsection (a1). This provides that if a motor vehicle tax year described in subsection (a) changes for a reason other than transferring the plates to another vehicle, then the taxpayer may receive a credit, in the form of a release against the taxes for the new year, if applied for within 30 days after the taxes are due for the new tax year. The credit is equal to the number of full overlapping months of the two tax years divided by the number of months in the original tax year and multiplied by the taxes due for the original tax year.

**Example**

Taxpayer has a vehicle with an August expiration and renews August 15, 2007. This creates a bill for \$300 for tax year September 2007 - August 2008. In December the taxpayer cancels insurance, keeps the car in North Carolina, and goes abroad. March 15, 2008 he returns to North Carolina and obtains a new tag for the same vehicle. This creates a new bill for \$250 with a tax year of April 2008-March 2009. There are five overlapping months, April 2008 through August 2008. The taxpayer may apply for a credit in the form of a release of  $5/12 \times \$300$  or \$125 against the new \$250 tax bill. He must apply for the credit before what date?

There is no other provision in the law to release or refund property taxes other than the instances stated above. This includes someone who sells the vehicle but does not turn in the tag.

Subsection (b) clarifies that if a tag is transferred during the tax year to another vehicle, there is no additional listing or assessment required or allowed. This is very positive for taxpayers who purchase a more valuable vehicle shortly after renewing on a less valuable vehicle.

## **Discussion**

**What if the registration on vehicle A is renewed in March. Vehicle A is sold in June and the plates are transferred to vehicle B. Vehicle B is sold and the plates are turned in to DMV in September. Is a proration warranted since the plates turned in from vehicle B are not from the listed vehicle?**

**Vehicle A is renewed. Vehicle B is purchased and the registration is transferred from A to B. New tags are purchased for vehicle A. Do you send another bill for vehicle A?**

**Vehicle A is renewed. Personalized plates are purchased for Vehicle A four months later and the registration year does not change. Do you send another bill if the personalized plate registration shows up on the tape? Do you make an adjustment? What if the registration year does change?**

### **§ 105-330.7. List of delinquents sent to Division of Motor Vehicles.**

On the tenth day of each month the county tax collector shall prepare a list with the name and address of the owner and the vehicle identification number of every classified motor vehicle listed pursuant to G.S. 105-330.3(a)(1) on which taxes remain unpaid on that date and on which taxes became due on the first day of the fourth month preceding that date. The tax collector shall mail that list to the Division of Motor Vehicles. The list shall be in the form and contain the information required by the Division of Motor Vehicles.

### **§ 105-330.8. Deadlines not extended.**

Except as otherwise provided in this Article, the provisions of G.S. 105-395.1 and G.S. 103-5 do not apply to deadlines established in this Article.

### **§ 105-330.9. Antique automobiles.**

(a) For the purpose of this section, the term "antique automobile" means a motor vehicle that meets all of the following conditions:

- (1) It is registered with the Division of Motor Vehicles and has an historic vehicle special license plate under G.S. 20-79.4.
- (2) It is maintained primarily for use in exhibitions, club activities, parades, and other public interest functions.
- (3) It is used only occasionally for other purposes.
- (4) It is owned by an individual.
- (5) It is used by the owner for a purpose other than the production of income and is not used in connection with a business.

(b) Antique automobiles are designated a special class of property under Article V, Sec. 2(2) of the North Carolina Constitution and shall be assessed for taxation in accordance with this section. An antique automobile shall be assessed at the lower of its true value or five hundred dollars (\$500.00).

**\*Registered motor vehicles that are determined to qualify as "antique automobiles" cannot be assessed at a value over \$500.00. The most important qualification and the most simple to verify is the plate type. The plate type is found on the monthly tapes from DMV. A vehicle must be 35 to 49 years old to qualify for an antique (ANT) tag and at least 50 years old to qualify for a horseless carriage (HCR) tag. A vehicle may carry one of these specially coded plates yet still not qualify for the special \$500 valuation. An antique automobile as defined in this section qualifies only if it meets all five of the conditions outlined in this statute. It is our opinion that a vehicle should not be given the special \$500 valuation unless the owner requests the special valuation and completes and signs a questionnaire that would satisfy any questions regarding the above qualifications. An example questionnaire is in Section 9 of this manual.**

**Several taxpayers who have renewed their regular registration are afterwards made aware of the provision for special antique valuation. Since the preparation of the tax notice from the DMV registration lists constitutes the listing and assessment of a classified motor vehicle, and there is no provision to reverse this listing, the owner cannot qualify for antique valuation after a renewal of a regular registration until the owner registers the vehicle as an antique motor vehicle. If the owner cancels the regular registration and applies for a new antique registration, it may create a new bill for the antique registration, but there is no provision to release the original bill, created from the regular renewal.**

**Examples of a vehicle that would not qualify for antique valuation would be:**

- 1) One which is used to promote a business, as "Joe's Paint and Body Shop".**
- 2) Used to drive to work, or used as a regular vehicle.**
- 3) Shown in car shows, but also driven to work regularly. (Some show cars are driven daily)**
- 4) It is always kept in a garage, never shown in exhibitions or used at all.**
- 5) Driven an excessive number of miles for a car to be used only in exhibitions, club activities, parades, and other public interest functions.**

**Other Pertinent Statutes dealing with Motor Vehicles**

**§105-325.1 Special committee for motor vehicle appeals.**

The board of county commissioners may appoint a special committee of its members or other persons to hear and decide appeals arising under G.S. 105-330.2(b). The county shall bear the expense of employing the committee.

**§105-373(h) Relief from collecting taxes on classified registered motor vehicles.**

Commissioners have this authority if it appears to the board that the taxes are uncollectible after one year past due. This includes all municipal and special district taxes charged to the collector. (Summarized, See actual statute for full text)

**§105-321(f) Minimal Taxes.**

Notwithstanding the provisions of G.S. 105-380, the governing body of a taxing unit that collects its own taxes may, by resolution, direct its assessor and tax collector not to collect minimal taxes charged on the tax records and receipts. Minimal taxes are the combined taxes and fees of the taxing unit and any other units for which it collects taxes, due on a tax receipt prepared pursuant to G.S. 105-320 or on a tax notice prepared pursuant to G.S. 105-330.5, in a total original principal amount that does not exceed an amount, up to five dollars (\$5.00), set by the governing body. The amount set by the governing body should be the estimated cost to the taxing unit of billing the taxpayer for the amounts due on a tax receipt or tax notice. Upon adoption of a resolution pursuant to this subsection, the tax collector shall not bill the taxpayer for, or otherwise collect, minimal taxes but shall keep a record of all minimal taxes by receipt number and amount and shall make a report of the amount of these taxes to the governing body at the time of the settlement. These minimal taxes shall not be a lien on the taxpayer's real property and shall not be collectible under Article 26 of this Subchapter. 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.

Pertinent Statutes in Chapter 20 (Motor Vehicle Section)

**§ 20-50.3. Division to furnish county assessors registration lists.**

On the tenth day of each month the Division shall send to each county assessor a list of vehicles registered under the staggered system for which registration was renewed or a new registration was obtained in that county during the second month preceding that date, with the name and address of each vehicle owner. On the tenth day of March the Division shall send to each county assessor a list of the following vehicles registered under the annual system with the name and address of each vehicle owner:

- (1) Vehicles for which registration was renewed in that county during the period beginning the preceding December 1.
- (2) Vehicles for which a new registration was obtained in that county during the preceding December.

**§ 20-50.4. Division to refuse to register vehicles on which taxes are delinquent and when there is a failure to meet court-ordered child support obligations.**

(a) Delinquent Property Taxes. - Upon receiving the list of motor vehicle owners and motor vehicles sent by county tax collectors pursuant to G.S. 105-330.7, the Division shall refuse to register for the owner named in the list any vehicle identified in the list until either the vehicle owner presents the Division with a paid tax receipt identifying the vehicle for which registration was refused or the county certifies to the Division that the tax has been paid. The Division shall not

refuse to register a vehicle for a person, not named in the list, to whom the vehicle has been transferred in good faith. Where a motor vehicle owner named in the list has transferred the registration plates from the motor vehicle identified in the list to another motor vehicle pursuant to G.S. 20-64 during the first vehicle's tax year, the Division shall refuse registration of the second vehicle until the vehicle owner presents the Division with a paid tax receipt identifying the vehicle from which the plates were transferred or the county certifies to the Division that the tax has been paid. The certification must be in the form and contain the information required by the Division.

**\*The block lists given to the DMV by the counties instructs DMV to refuse to register any vehicle listed until (1) the vehicle owner presents the division with a paid tax receipt or (2) the county certifies to the DMV that the tax has been paid.**

**If a blocked registration is transferred to a second vehicle, DMV must refuse registration of the second vehicle until the tax is paid on the first blocked vehicle.**

**If a blocked vehicle is sold to a new owner, the DMV must allow the new owner to register the vehicle.**

**§ 20-66. Renewal of vehicle registration.**

(i) Property Tax Consolidation. - When the Division receives an application under subsection (a) for the renewal of registration before the current registration expires, the Division shall grant the application if it is made for the purpose of consolidating the property taxes payable by the applicant on classified motor vehicles, as defined in G.S. 105-330. The registration fee for a motor vehicle whose registration cycle is changed under this subsection shall be reduced by a prorated amount. The prorated amount is one-twelfth of the registration fee in effect when the motor vehicle's registration was last renewed multiplied by the number of full months remaining in the motor vehicle's current registration cycle, rounded to the nearest multiple of twenty-five cents.

**\*Some taxpayers may complain about getting their property tax bills at different times throughout the year. The DMV may consolidate the registrations to one month so taxpayers get all their motor vehicle bills in one month.**

## **Case Problem**

### **Motor Vehicle Billing**

Jack lives in Anywho County and has a 1998 Ford with a 1-1-2007 value of \$4,000 and a 1-1-2008 value of \$3,000. The Ford has a registration that expires December 31, 2007. Jack moves to New Hanover County and renews the Ford in January of 2008. In June of 2008, Jack trades in his Ford on a 2008 Mercedes with a 1-1-2008 value of \$55,000. Jack went to Carolina, so he elected to turn in the tags from the Ford and purchase new tags for the Mercedes at the time of purchase. He then requested a refund on his Ford taxes July 15<sup>th</sup> and presented his tax receipt to the county.

2007 tax rate - .89

2008 tax rate - .70

What is the due date of the Ford taxes and why?

Which year's value is used to determine the value of the bill on the Ford for the renewal in January, 2008?

What is the amount of the bill on the Ford?

What is the situs of the Ford and why?

Does the bill on the Ford get pro-rated?                      If so, what is the amount of pro-ration?

What fiscal year do the taxes on the Ford apply to and why?

Calculate the amount of the bill on the Mercedes.

What fiscal year do the taxes on the Mercedes apply to and why?