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Local Taxes and Tax Collection

The year 2003 was unusually quiet in terms of statewide legislation affecting the levy and collection of taxes by counties, cities, and special districts. This chapter summarizes all such legislation of interest to county assessors and county and city tax collectors. It also addresses a number of local acts.

Listing and Assessment

Tax Increment Financing

S.L. 2003-403 (S 725) submits a constitutional amendment that, if approved, will allow local governments to finance public improvements through a technique known as tax increment financing. The act is discussed in detail in Chapter 14, "Local Government and Local Finance." In a tax increment financing scheme, a local government defines a territorial area within which a project will be built. The assessed value of property within the area at the time of its creation is ascertained. The project is then constructed and the tax revenue resulting from additional assessed value within the area is pledged toward retirement of the debt incurred to finance the project. To ensure that the tax revenue from the project will be sufficient to retire the debt, the financing plan normally provides that the owner of the project must agree to a minimum tax valuation.

The constitutional amendment will be submitted to the voters at the 2004 general election. If it is approved, legislation authorizing use of tax increment financing will take effect. Part of this legislation will amend G.S. 105-284 and 105-277.11 to provide that property in a development financing district will be assessed at the greater of its market value or the minimum value specified in an agreement with the owner as part of the financing package.

Deployed Military Personnel

S.L. 2003-300 (S 936) modifies G.S. 105-307 (length of listing period, extension, preliminary work) with respect to military personnel on active duty in support of Operation Iraqi Freedom on or after January 1, 2003. The act provides that military personnel required to list property during such deployment are allowed ninety days after the end of deployment to do so.

Cotton Dust Abatement Equipment

G.S. 105-275(8)c. classifies and excludes from the tax base equipment exclusively used to prevent or reduce emission of cotton dust inside textile plants. S.L. 2003-284 (H 397) expands this classification to include all parts of a ventilation or air conditioning system that are integrated into a system used to prevent or reduce cotton dust emission, except chillers and cooling towers. This change took effect June 30, 2003. It does not affect 2003–2004 taxes but will apply to exclusion applications filed for 2004–2005 taxes.

Manufactured Homes

The definition of real property in G.S. 105-273(13) contains a special provision concerning manufactured housing: a residential manufactured home is real property if its owner also owns the land on which it is situated and the structure is placed on a permanent foundation and has its moving hitch, wheels, and axles removed. Section 4 of S.L. 2003-400 (H 1006) expands this special provision to include such a structure situated on land in which the structure's owner has a leasehold interest under a lease with a primary term of at least twenty years and the lease expressly provides for disposition of the manufactured home upon termination. This change became effective August 7, 2003. It will affect the listing of manufactured homes for 2004 and future tax years.

Stored Cotton

Section 20 of S.L. 2003-416 (S 97) deletes from G.S. 105-277(d) obsolete provisions concerning the valuation of stored cotton pledged as collateral for a loan incurred to purchase the cotton.

Local Acts

Robeson County. S.L. 2003-201 (S 414) allows Robeson County to delay its required 2004 reappraisal until 2005, but does not change Robeson's place in the normal eight-year cycle. Robeson will still be required to complete its next reappraisal by 2012.

Levy and Collection

Revenue-Neutral Tax Rate

S.L. 2003-264 (S 511) requires county and municipal budget officers to include in the county or city budget a statement of the revenue-neutral property tax rate for budget years in which a general reappraisal of real property has been conducted. The *revenue-neutral rate* is defined as the rate that is estimated to produce property tax revenue for the budget year equal to the revenue that would have been generated by the current tax rate if no reappraisal had been conducted. In computing the rate, the budget officer is directed to include a growth factor equal to the average annual percentage increase in the tax base "due to improvements" since the last general reappraisal. The budget officer is also to adjust the rate to account for annexations, deannexations, mergers, or similar events. The act does not define what is meant by *improvements*. Narrowly construed, that term would cover only new construction. It seems more likely that the intent is to

factor in the average annual change in real property values since the last reappraisal, no matter what the reasons.

S.L. 2003-264 became effective June 26, 2003.

Deployed Military Personnel

S.L. 2003-300 (S 936) modifies G.S. 105-360 (due date, interest for nonpayment of taxes, discounts for prepayment) and G.S. 105-330.4 (due date, interest, and enforcement remedies for tax on motor vehicles) with respect to military personnel on active duty in support of Operation Iraqi Freedom on or after January 1, 2003. The act provides that deadlines for paying taxes at par that occur during such deployment are extended until ninety days after the end of deployment. If a member of the military who takes advantage of the extension fails to pay taxes before the end of the ninety-day extension, interest accrues as if the extension had not been granted. The act became effective July 4, 2003. The act does not specify whether it applies retroactively to taxes that became delinquent after deployment but before July 4, but that seems the better interpretation.

Internet-Based Certification

S.L. 2003-399 (H 972) adds new subsection (e) to G.S. 105-361 to allow counties, cities, and other taxing units to provide an Internet-based alternative to the current method of issuing certificates of taxes and special assessments due. The new procedure is permissive, not mandatory. It is available to any unit that maintains a Web site on which current information on the amount of unpaid taxes, special assessments, penalties, interest, and costs is available. To implement the procedure, the governing body of the unit must adopt an ordinance that allows a person to rely on information obtained from the Web site as if it were a written certificate issued by the collector under the current method. The ordinance may provide for disclaimers to be posted on the Web site pertaining to such matters as the date the information was posted, the date as of which it is current, and any special instructions and procedures for obtaining complete and accurate information. If such disclaimers are not posted on the Web site, the collector may be liable on his or her bond for any loss to the taxing unit caused by incomplete or inaccurate information. The ordinance may also include appropriate procedural provisions enabling the collector to ensure full and accurate payments. A person who relies on Web site information must keep and present a copy of the information as necessary or appropriate, "as if the copy were a certificate issued under subsection (a)." Presumably, this means producing the copy by downloading and printing the information in a format that can be authenticated as having been obtained directly from the Web site.

Release or Refund of Certain Taxes

S.L. 2003-250 (S 450) appears to be aimed at correcting a particular problem with an unidentified county's 2002 revaluation. The act allows a taxing unit to release or refund that portion of 2002–2003 taxes attributable to the erroneous inclusion of a septic or well system in the valuation of property.

Payment of Delinquent Taxes Required for Deed Recordation

G.S. 161-31, a codified local act that applies to certain named counties, authorizes a board of county commissioners, by resolution, to require the register of deeds not to record a deed transferring title to real property unless the county tax collector certifies that there are no delinquent taxes constituting a lien on the property. S.L. 2003-72 (H 393) adds to this act a new subsection (a1) that directs the register of deeds in the affected counties to accept for registration without the collector's certificate a deed submitted under the supervision of a closing attorney that contains the following statement on the face of the deed: "This instrument prepared by: _____, a licensed North Carolina attorney. Delinquent taxes, if any, to be paid by the closing attorney to the county tax collector upon disbursement of closing proceeds."

Three counties have been added to the coverage of G.S. 161-31, bringing the total number of covered counties to forty-eight. They are Duplin (S.L. 2003-354, Section 3 [H 393]); Gates (S.L. 2004-289, Section 6 [H 655]); and Hyde (S.L. 2003-72 [H 393]).

Collecting Unpaid Fees for Water and Sewer Services

S.L. 2003-270 (H 469) applies to Columbus, Davie, Duplin, and Lenoir Counties and all municipalities, water and sewer districts, and service districts wholly or partially therein. The act authorizes the board of county commissioners to adopt an ordinance providing that fees for water or sewer services remaining unpaid for ninety days may be collected in any manner by which delinquent real or personal property may be collected. The ordinance may specifically provide that such unpaid fees constitute a lien on real property, in which case the lien is valid from the time of the filing of a statement of the unpaid fees in the office of the clerk of superior court. The act does not apply to collection of ambulance fees or solid waste collection or disposal fees, both of which are the subject of separate statewide statutes.

Tax Collector Selection

Madison County Collector. S.L. 2003-123 (H 214) repeals local acts making the office of tax collector of Madison County an elective office, effective upon expiration of the term of the incumbent collector or a vacancy in the office for any reason. The effect is to make the office an appointive office to be filled by the board of county commissioners pursuant to G.S. 105-349.

Foreclosure Sales

Section 11 of S.L. 337-2003 (H 394) amends G.S. 105-374(m) to forbid holding a foreclosure sale on a legal holiday “when the courthouse is closed for transactions.” The effect appears to be to allow sales on any legal holiday when the courthouse is open for transactions. The change is effective October 1, 2003.

Occupancy Taxes

Blowing Rock. Section 13 of S.L. 2003-28 (S 497), effective May 1, 2003, authorizes Blowing Rock to levy a 3 percent occupancy tax in addition to the 3 percent tax already authorized by 1987 N.C. Sess. Laws ch. 171. The act also places Blowing Rock under the general occupancy tax administrative provisions of G.S. 160A-215.

Mount Airy. Section 12 of S.L. 2003-28 (S 497), effective May 1, 2003, authorizes Mount Airy to levy an additional occupancy tax of up to 3 percent in addition to the 3 percent tax already authorized by S.L. 1997-410.

New Hanover. S.L. 2003-166 (H 668) makes administrative changes in the New Hanover County occupancy tax that do not affect levy or collection of the tax.

Municipal Vehicle Tax

City of Durham. G.S. 20-97(b) authorizes cities and towns to levy a municipal motor vehicle tax of not more than \$5 per year. S.L. 2003-329 (H 736) increases the maximum levy to \$10 per year for the City of Durham. This act became effective July 18, 2003, and expires July 18, 2004. It therefore appears to authorize an increase in the Durham vehicle tax for the 2003–2004 tax year only.

Studies

S.L. 2003-284 directs the Property Tax Subcommittee of the Revenue Laws Study Committee to study the positive and negative impacts on local government property tax revenues of land acquisition by the state and nonprofit organizations using money from the Clean Water Management Trust Fund and other state funds available for conservation purposes. The subcommittee is directed to report by January 15, 2004.

Technical Corrections

Sections 9 and 10 of S.L. 416-2003 (S 97) make technical corrections to G.S. 105-299 and 105-358(a). Neither change appears to have substantive effect.

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