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Local Taxes and Tax Collection

The General Assembly returned to the subject of property tax reform in 2008, one year after creating new tax relief for elderly and disabled homeowners in the form of the "circuit breaker" deferred tax program. Although the highest profile property tax bill may have been the one that modified the schedule for general reappraisals of real property, several others are likely to have a more substantial statewide impact. These include bills that create a new homestead exclusion for disabled veterans and add wildlife conservation land to the list of property eligible for tax deferrals. Other bills make substantial changes to the existing homestead exclusion and circuit breaker programs for elderly and disabled homeowners as well as the ownership requirements for "present use" property. Relatedly, the payment and enforced collection procedure was standardized for what are now seven different tax deferral programs. The General Assembly also added several new narrow classifications and exclusions and revisited the details of the pending combined motor vehicle registration and property tax system, the likely start date of which was postponed by one year to July 2011.

Mandatory General Reappraisals

Amidst news accounts of homeowners being hit with dramatically larger property tax bills in reappraisal years,[1] this summer the General Assembly mandated in S.L. 2008-146 (S 1878) that large counties conduct general reappraisals more frequently when market values diverge from appraisal values by more than 15 percent.

Although permitted to conduct reappraisals more frequently, all North Carolina counties have been required to do so at least every eight years.[2] Beginning in 2009, counties with populations of 75,000 or more are required to conduct reappraisals more frequently than every eight years if the county's "sales assessment ratio"—that is, the ratio of arms-length sales prices to assessed value as calculated annually by the Department of Revenue—drops below .85 or increases to more than 1.15. A reappraisal mandated by a widening gap between market and assessed values must be effective the third year following the notice of the sales assessment ratio or the eighth year following the year of the county's last reappraisal, whichever is sooner.

One of the counties with a population large enough to trigger the bill's requirements is Wake County, which conducted a countywide reappraisal effective January 1, 2008, pursuant to its standard eight-year reappraisal cycle. The county intends for the next reappraisal to be effective January 1, 2016. If, however, the Department of Revenue were to notify Wake County in April 2010, of a sales assessment ratio of .84, Wake County would be required to carry out a countywide reappraisal effective no later than January 1, 2013, three years after the date of the notice. If Wake County's sales assessment ratio remained within the acceptable range until 2014, and the county was then to receive notice of a sales assessment ratio of .84, the county would be permitted to adhere to the eight-year reappraisal schedule because its regularly scheduled reappraisal date of January 1, 2016, would be earlier than January 1, 2017, the mandated reappraisal date three years from the date of the sales assessment ratio notice.

The practical implication of the bill is likely to be minimal. No counties would have been subject to mandatory reappraisal if the bill had been effective for tax year 2008. According to North Carolina Department of Revenue statistics, forty-eight of North Carolina's one hundred counties

1. *News & Observer (Raleigh)*, "Property Tax Bills Land with a Big Thud," K. Butler, M. Dees & S. LaGrone, July 25, 2008 (detailing homeowners' dismay at increased tax bills following Wake County's 2008 general reappraisal).

2. G.S. 105-286(a) [hereinafter G.S.].

had sales assessment ratios as of January 1, 2008, that fell below the bill's .85 threshold.[3] However, of those forty-eight counties, only ten had populations above 75,000.[4] All ten of those counties have general reappraisals scheduled on or before tax year 2011, the year reappraisals would have been mandated if the bill was effective this year.

The same bill that creates the new mandatory reappraisals also instructs the Revenue Laws Study Committee to study the impact of this requirement on staffing needs at the Department of Revenue.

Homestead Exclusions

In 2008 the General Assembly approved a new homestead exclusion for disabled veterans, clarified eligibility issues for the existing elderly or disabled homestead exclusion, and mandated how the two exclusions interact with one another and with co-owners.

Disabled Veterans Homestead Exclusion

Previously, G.S. 105-275(21) excluded from the property tax calculation the first $38,000 in assessed value for the homes of disabled veterans who receive specially adapted housing benefits under 38 U.S.C. 2101. S.L. 2008-107 (H 2436) repeals that provision but creates an increased benefit for an expanded class of disabled veterans. Beginning in the 2009 tax year, honorably discharged veterans with permanent and total disabilities or who receive benefits under 38 U.S.C. 2101 may exclude the first $45,000 in assessed value of their permanent residences from taxation. The surviving unmarried spouse of an eligible veteran may also receive the exclusion. A taxpayer who obtains property tax relief under this new exclusion may not also receive relief under either the elderly and disabled homestead exclusion[5] or the circuit breaker deferred tax program.[6]

A few details regarding the eligibility process for this new benefit bear highlighting. Unlike the elderly or disabled homestead exclusion and the circuit breaker benefit (the two other programs that fall under the newly defined term "property tax relief"), there is no income restriction for property owners who seek the disabled veteran benefit. However, applicants must satisfy both the disability and the discharge requirements. An applicant who does not receive housing benefits under 38 U.S.C. 2101 must provide documentation from the Veterans Administration indicating that the applicant has been found to be permanently and totally disabled; proof that the applicant is receiving disability compensation at the 100 percent level is not sufficient. With regard to discharge status, there is a military distinction between a veteran who has been honorably discharged and one who has been "discharged under honorable conditions." The latter, a lesser status of discharge, does not entitle the veteran to benefits under this new program.

Elderly or Disabled Homestead Exclusion

The 2007 legislation that increased the income eligibility limit for the elderly or disabled homestead exclusion left some doubt as to the correct limit for tax year 2008, the first year that the increased limit was to apply.[7] The General Assembly resolved that uncertainty with a technical correction in S.L. 2008-35 (S 1876), which clarifies that the income limit for 2008 is $25,000.[8] This limit is adjusted each year based on the Social Security cost-of-living index and will rise to $25,600 for tax year 2009.[9] As with the new disabled-veterans' homestead exclusion, S.L. 2008-107 mandates that a taxpayer who receives property tax relief under the elderly or disabled homestead exclusion may not also obtain relief from the veterans' exclusion or the circuit breaker benefit.

Last year, the General Assembly changed the definition of income under this program (and, by reference, under the circuit breaker program) to move from a calculation that began with federal adjusted gross income to one that simply captures all income except gifts and bequests from family members.[10] Because adjusted gross income includes reductions for a number of expenses including student loan interest, alimony, and tuition, the new definition may make it more difficult for some taxpayers to qualify for property tax relief. This year, S.L. 2008-146 instructs the Revenue Laws Study Committee to study the impact of this change.

3. "Sales Assessment Ratio Studies as of January 1, 2008," Property Tax Division, North Carolina Department of Revenue (August 2008). According to this report, the average county sales assessment ratio was .8549, just over the bill's .85 threshold.

4. North Carolina Office of State Budget and Management county population projections as of July 2007, http://www.osbm.state.nc.us/ncosbm/facts_and_figures/socioeconomic_data/population_estimates/county_estimates.shtm (last visited December 10, 2008). According to these projections, thirty-four of North Carolina's one hundred counties had populations greater than 75,000 as of July 2007.

5. G.S. 105.277.1.

6. G.S. 105-277.1B.

7. G.S. 105-277.1(a2).

8. Also proposed but not approved was House Joint Resolution 2326, which was intended to authorize the General Assembly to consider a bill to raise the income limit to $35,000.

9. Memorandum from David D. Duty, Property Tax Division, North Carolina Department of Revenue, to County Assessors (July 1, 2008) (setting forth income eligibility limits for the 2009 homestead exclusion and circuit breaker program).

10. G.S. 105-277.1(b)(1a).

Co-Ownership Rules for the Two Homestead Exclusions

In conjunction with its approval of the new veterans' exclusion in S.L. 2008-107, the General Assembly added language to both that exclusion and the existing elderly or disabled homestead exclusion to clarify how they affect properties owned by more than one taxpayer.

Tenants by the entirety. If at least one spouse meets the relevant exclusion requirements, a husband and wife who live in and own their home as tenants by the entirety may receive *either* the veterans' exclusion or the elderly or disabled homestead exclusion. Spouses who qualify for both exclusions must choose one; they cannot claim benefits under both. Suppose, for example, that a 60-year-old husband and his 65-year-old wife own their residence as tenants by the entirety. If the couple meet the income requirements for the elderly homestead exemption (under $25,000 for 2008), the wife qualifies for that exclusion because she is at least 65 years of age.[11] The couple could apply the full benefits of that exclusion (the greater of 50 percent of their home's assessed value or $25,000) to reduce their property tax bill, with no reduction due to the fact that the husband does not qualify for either of the two homestead exclusions.

Consider the same facts, but assume further that the husband is a qualified disabled veteran. The couple could then choose *either* the $45,000 veterans' homestead exclusion or the elderly homestead exclusion. If their home is appraised for less than $90,000, they would benefit more from the veterans' exclusion of $45,000 than from the elderly homestead exclusion equaling 50 percent of the assessed value. If their home is appraised at more than $90,000, they would benefit more from the elderly homestead exclusion. The couple would not have the option of combining the two exclusions.

All other co-owners. Two general rules apply to co-owners who are not married to each other. A single co-owner may not benefit from more than one exclusion, but different co-owners may choose to benefit from different exclusions for the same property. The fact that one co-owner does not satisfy the requirements for either exclusion does not prohibit other qualified co-owners from receiving exclusion benefits.[12]

When calculating the specific exclusions permitted, three more rules come into play. First, each owner is entitled to the full amount of the exclusion not to exceed his or her proportionate share of the valuation of the property. Second, no part of an exclusion available to one co-owner may be claimed by another co-owner. Third, the total exclusion amount granted to all co-owners may not exceed the greater of (i) the $45,000 veterans' exclusion or (ii) the applicable elderly or disabled exclusion.

11. G.S. 105-277.1(a).

12. Contrast this with the circuit breaker program, which prohibits a co-owner from receiving a tax deferral unless all co-owners are eligible and apply for the same benefit. *See* below and G.S. 105-277.1B(e).

Confusing, to be sure. A few examples may help.

Start with a situation in which only one co-owner is entitled to a homestead exclusion. Suppose two sisters, Maude and Clementine, own as tenants in common (each with a 50 percent interest) a house and .25 acre lot, where they have lived for forty years. The house and lot appraised for $100,000 in the county's last reappraisal. Clementine meets the requirements for the elderly homestead exclusion; Maude does not qualify under either that exclusion or the veterans' homestead exclusion. Clementine is therefore entitled to the full amount of the exclusion not to exceed her proportionate share of the value of the property. The full amount of the exclusion is $50,000 (50 percent of the appraised $100,000 value); this amount equals, but does not exceed, Clementine's 50 percent ownership interest in the property. No part of Clementine's exclusion may be claimed by the other co-owner, Maude.

Now consider a situation in which two co-owners each qualify for the same exclusion. Assume the same facts as above but now Maude also qualifies for the elderly homestead exclusion. The maximum exclusion permitted all co-owners is 50 percent of the assessed value—in this case $50,000—which will be shared equally between Maude and Clementine based on their respective 50 percent ownership shares.[13]

Reducing the value of the home affects the exclusion allocation. Suppose that Maude and Clementine jointly own and reside in a manufactured home appraised for $24,000. The maximum elderly or disabled homestead exclusion under G.S. 105-277.1 is the greater of $25,000 or 50 percent of the value of the residence. In this case, $25,000 is the greater amount. But, a co-owner's exclusion amount may not exceed her interest in the property. If only Clementine were eligible for the homestead exclusion, her exclusion would be limited to her 50 percent ownership interest of $12,000. If Maude were to become eligible for the homestead exclusion, then each sister would be entitled to a $12,000 exclusion, and the entire assessed value of the manufactured home may be excluded from taxation.

What if co-owners qualify for different homestead exclusions? Returning to the above example, assume Maude is a qualified disabled veteran under S.L. 2008-107, Clementine qualifies for the elderly

13. As a practical matter, most assessors do not list interests of tenants in common on separate abstracts or apportion property values among tenants in common. Likewise, the general practice is to send one bill to the tenants in common, without apportioning tax liability. So, in all likelihood, the apportionment issue here is an issue between Maude and Clementine, which does not affect the listing or assessing of the property. The assessed value of the property does not change simply because one or more owners qualify for exclusions. However, ownership and apportionment percentages are of concern to tax collectors. If enforced collection procedures are required, then each owner will be responsible for her share of the taxes minus her portion of the exclusion, both of which are based on her share of ownership.

homestead exclusion under G.S. 105-277.1, and their co-owned home is assessed at $100,000. Under the veteran's exclusion, Maude's maximum exclusion is $45,000. Under the elderly homestead exclusion, Clementine's maximum exclusion is $50,000. The total exclusion granted both co-owners may not exceed the larger of the veterans' homestead exclusion or the elderly homestead exclusion. In this instance, the homestead exclusion is larger, so the total exclusion permitted both Maude and Clementine is $50,000, which again will be split equally based on their equal ownership shares.

As before, if the assessed value of the home changes, so do the calculations. Assume the same facts as in the second example above but reduce the value of Maude and Clementine's home to $80,000. Now, the maximum total exclusion is $45,000, because the veterans' exclusion limit ($45,000) is greater than the elderly homestead exclusion limit (the greater of 50 percent of the value of the home, which is $40,000 in this case, or $25,000). Each sister will be entitled to an exclusion of $22,500, one-half of that maximum amount.

Deferred Property Tax Programs

New "Wildlife Conservation Land" Classification

Prior to the 2008 legislative session, six deferred tax programs provided property tax relief for various types of property deemed inappropriate for standard market value tax assessments:

- historic property,[14]
- non-profit property held as the future site of historic structures,[15]
- elderly and disabled homeowners' property (the circuit breaker benefit),[16]
- agricultural, horticultural, and forestland property,[17]
- working waterfront property,[18] and
- nonprofit property held as the future site of low- and moderate-income housing property.[19]

This year, in S.L. 2008-171 (H 1889) the General Assembly added "wildlife conservation land" to this list and mandated that this type of property benefit from the same present-use valuations already applied to agricultural, horticultural, and forestland property under G.S. 105-277.4.

14. G.S. 105-278.
15. G.S. 105-275(29a).
16. G.S. 105-277.1B.
17. G.S. 105-277.4.
18. G.S. 105-277.14.
19. G.S. 105-278.6(e).

To qualify for the deferred tax benefit, the wildlife conservation property must consist of at least 20 contiguous acres; be owned by an individual, a family business, or a family trust; and be managed under a written wildlife habitat conservation agreement with the North Carolina Wildlife Resources Commission (NCWRC). That agreement must require the owner to protect either one of the species on the NCWRC "protected animal list" or one of several "priority animal habitats, including long-leaf pine forests." The NCWRC is developing the agreement required under this section and will make it available before the law becomes effective for tax year 2010.

Generally, land must be have been owned by the same owner for at least five years before qualifying for the wildlife conservation classification. Continuation exceptions exist for land transferred to a business entity or trust of which the original owner is directly or indirectly a member or beneficiary. (*See* the next section, "Changes to 'Present-Use' Deferred Tax Program") for a more detailed discussion of the direct/indirect ownership issue.) New owners unrelated to the prior owners may also continue eligibility if they continue to use the land for wildlife conservation and they file an application and sign an NCWRC agreement within sixty days of acquiring the property. No more than 100 acres of an owner's land in any one county may be classified under this new benefit.

The benefits of receiving a wildlife conservation land classification are identical to those provided to qualified agricultural land, namely that the property is assessed at a present-use value that is likely to be substantially lower than the true market value. The difference between the taxes that would have been due at market value and the actual taxes assessed at present-use value become a lien on the property. If the property loses eligibility for the classification due to a change in ownership or use, the deferred taxes for the three prior years become immediately due and payable. However, the bill permits land to move between the agriculture, horticulture, and forestland present-use classification and the new wildlife conservation classification without triggering payment of deferred taxes.

Changes to "Present-Use" Deferred Tax Program

The "present-use" deferred tax requirements for agricultural, horticultural, and forest land were amended to recognize common forms of land ownership created for estate-planning and other purposes. S. L. 2008-146 amends G.S. 105-277.2(4) to allow indirect ownership of land by individuals through business entities or trusts in addition to direct ownership. In essence, there now may be multiple layers of trust or business entity ownership, so long as a qualifying individual is ultimately the beneficial owner.

The definition of "business entity" now permits indirect ownership by individuals who are shareholders, partners, or beneficiaries of corporations, partnerships, or trusts, respectively, that are themselves shareholders or

partners of the corporation or partnership that actually owns the land. As before, regardless of whether their ownership is direct or indirect, the individual owners must be actively engaged in farming or be the relative of other individual owners so engaged. The definition of "trust" was similarly changed to permit indirect ownership by individuals who are either (i) beneficiaries of a trust that is itself a beneficiary of the trust that actually owns the land or (ii) shareholders or partners of a corporation or partnership that is itself a beneficiary of the trust that actually owns the land. As before, regardless of whether their ownership is direct or indirect, the individual owners must be either the creator of the original trust or relatives of the creator.

Another important change involves the standardization of payment procedures for all of the deferred tax programs, discussed in more detail below. Previously, G.S. 105-277.4(c) permitted the payment of "deferred taxes for any given year [to be] paid in that year without the qualifying tract of land becoming ineligible for deferred status." This language had been interpreted as requiring termination of present-use eligibility if an owner or other interested party paid deferred taxes from past years. S.L. 2008-35 adds a new provision that explicitly permits the payment of any or all deferred taxes without affecting the property's eligibility for continued tax deferrals.

Finally, S.L. 2008-71 changes the requirements for land eligible for present-use valuation without the standard production and income requirements due to a conservation easement under G.S. 105-277.3(d1). Now, in addition to the requirement that such land be subject to an enforceable easement that qualifies for conservation tax credits, the taxpayer must demonstrate that he or she received no more than 75 percent of the fair market value of the donated property interest in compensation for the easement. For example, if a conservation easement reduces the value of the taxpayer's property from $300,000 to $200,000, then the value of the easement interest is $100,000. In this instance, the taxpayer could not have received more than $75,000 in compensation for the easement to qualify for present-use value under amended G.S. 105-277.3(d1).

Circuit Breaker Modifications

The General Assembly also made several clarifications to the "circuit breaker" tax deferral program for elderly and disabled homeowners that was created in 2007 and takes effect in the 2009 tax year.[20] S.L. 2008-35 eliminates potential confusion in the original law regarding ownership by husband and wife as tenants in the entirety: if at least one of the spouses satisfies the circuit breaker requirements, the property owned under a tenancy in the entirety is eligible for the full tax deferral benefit.

S.L. 2008-35 also clarifies that a taxpayer seeking the circuit breaker benefit must have owned the property for the previous five years in addition to residing there. The bill makes clear that a co-owner who takes full ownership as a result of another owner's death or a spouse who takes ownership through a divorce transfer does not lose circuit breaker eligibility so long as the new owner continues to occupy the property as a permanent residence. That same bill mandates that taxpayers seeking the circuit breaker benefit must reapply annually, to ensure that their income still falls within the statutory limits. Failure to file an application is not a disqualifying event that renders deferred taxes payable, but it does eliminate the deferral benefit for the current year and creates a gap in deferral that must be taken into consideration when the deferred taxes eventually become payable.

As a result of S.L. 2008-35, the circuit breaker program now requires tax collectors rather than tax assessors to annually notify each owner in the program of the "accumulated sum of deferred taxes and interest." It appears that this language will require the tax collector to provide notice of all deferred taxes, despite the fact that the taxpayer will only be liable upon disqualification for payment of the three most recent years of deferrals.

The changes to the multiple ownership provisions of the elderly and disabled homestead exclusion in S.L. 2008-107 also affect the circuit breaker program. Previously, G.S. 105 -277.1(e) mandated that if multiple owners who were not spouses wished to take advantage of the circuit breaker program, they all needed to qualify for both the elderly and disabled exclusion and the circuit breaker benefit. This provision effectively prevented multiple owners who were not spouses from using the circuit breaker benefit unless each of them qualified for the 5 percent ceiling on property taxes. If one of the owners qualified only for the 4 percent circuit breaker ceiling because his or her income was greater than the eligibility limit for the elderly and disabled, none of the owners could take advantage of the circuit breaker benefit. S.L. 2008-107 eliminates that restriction, meaning that when the circuit breaker program becomes effective in tax year 2009, multiple owners may benefit from the circuit breaker program under different ceiling percentages.

S.L. 2008-35 answers the question of how to allocate the taxes owed and deferred under the circuit breaker program between multiple taxing units. When the taxes owed exceed the circuit breaker ceiling, both the taxes paid in the current year and those deferred are allocated among multiple taxing units proportionately based on their tax rates.[21] For example, assume property eligible for the circuit breaker is subject to both Raleigh city taxes and Wake County taxes and that Raleigh's tax rate

20. G.S. 105-277.1B.

21. If the total taxes owed are less than the circuit breaker ceiling, then all taxes from all taxing units are completely deferred and there is no need for an allocation.

is .66 and Wake County's rate is .33. If the taxpayer originally owed $1,000 in total property taxes but was subject to a $700 circuit breaker ceiling on taxes based on his or her income level, he or she would be required to pay only $300 in taxes this year and would defer the remaining $700. Of the $300 that was paid, based on the relative city and county tax rates, two-thirds would go to Raleigh ($200) and one-third would be paid to Wake County ($100). The deferred tax lien and future rollback would be shared between the city and county based on the same proportion.

Finally, S.L. 2008-35 amends the city[22] and county[23] prohibitions against disclosing information relating to a taxpayer's income to permit publishing on a tax record the amount of property taxes deferred under the circuit breaker program. Because a taxpayer's income could be calculated using this information, it could not be disclosed absent these amendments.

Uniform Provisions for Payment and Enforced Collection of Deferred Taxes

To standardize administration of the six existing and one new property tax deferral programs, the General Assembly included in S.L. 2008-35 uniform payment and enforced collection procedures for all seven programs. As before, under new G.S. 105-277.1C all deferred taxes accrue interest as if they had been due and payable without any deferrals.[24] New G.S. 105-277.1C also provides that payment of deferred taxes does not remove the property from the program. Combined with related changes to the present-use continuation provisions in S.L. 2008-146, it is now clear that an eligible farmer may sell land, pay the present-use deferred taxes that are a lien on the property, and still permit the property to remain in the present-use program in the hands of a new owner who intends to continue farming the land without that new owner needing to satisfy the standard four-year ownership requirement.

Relatedly, in S.L. 2008-35 the General Assembly added G.S. 105-365.1 to summarize when and against whom enforced collection remedies may be pursued for various types of taxes owed. Prior to 2006, when a property was transferred before payment of outstanding taxes, the former owner (i.e., the taxpayer in whose name the real property was listed on January 1 preceding the tax year in question) was the taxpayer whose name was advertised in the newspaper for nonpayment of property taxes and whose bank accounts, wages, and personal property were subject to attachment, garnishment, and levy. Two years ago, the General Assembly changed the definition of "taxpayer" in G.S. 105-273(17) to identify the record owner as of the date the taxes became delinquent—not the record owner when the property was listed—as the taxpayer who could be subjected to the various enforced collection remedies.[25] G.S. 105-360(a) states that taxes become delinquent when interest charges begin to accrue on January 6 of the year. Thus, owners who transferred their property before the end of the calendar year were generally off the hook for outstanding property taxes due on property they no longer owned.

However, the 2006 changes left unclear the date on which deferred taxes become delinquent. New G.S. 105-365.1 clarifies that, with one exception, deferred taxes become delinquent on the date that the property is no longer eligible for deferred classification due to a disqualifying event. The one exception applies only to the circuit breaker exclusion when the disqualifying event is the death of the owner, in which case the deferred taxes become delinquent nine months after the owner's death, to allow time for the estate to be settled.

Although new G.S. 105-365.1 is open to interpretation, it likely creates personal liability for both the transferee and the transferor when deferred taxes become due and payable after a disqualifying transfer. G.S. 105-365.1 makes the owner as of the date of delinquency liable for all delinquent taxes, which as described above is generally the date of the disqualifying event. Thus, if the disqualifying event is a sale, the seller could be personally liable because, as of the beginning of the sale date, the seller was still the record owner. G.S. 105-365.1 states further that "any subsequent owners" are also liable for delinquent taxes, meaning that the buyer could be personally liable for the deferred taxes, too. To satisfy the deferred tax obligation after a disqualifying transfer, a tax collector therefore could levy or attach any personal property owned by either the current real property owner or the immediate prior owner. Regardless, a tax collector may always pursue foreclosure remedies against the real property itself.

Low-Income Housing Property Classification

S.L. 2008-146 mandates that beginning in tax year 2009, low-income housing property that is allocated a federal tax credit by the North Carolina Housing Finance Agency must be assessed using the income method, taking into consideration any rent restrictions that apply to the property. This bill codifies a 2001 North Carolina Court of Appeals decision that overruled a county's use of the cost method to appraise an apartment complex financed under a federal tax credit program that limited rental

22. G.S. 153A-148.1(a).

23. G.S. 160A-208.1(a).

24. *See, e.g.,* G.S. 105-277.5(c).

25. Transferees who take ownership subsequent to the date of delinquency may also be subject to enforced collection procedures. For a more detailed analysis of the 2006 changes, *see* Chapter 16 of *North Carolina Legislation 2006*, available at http://www.sog.unc.edu/pubs/nclegis/nclegis2006/index.html (last accessed September 10, 2008).

rates to roughly 25 percent below prevailing market rates.[26] Now, when appraising such property using the required income method, assessors must consider the lower rents available to the property owner but are not permitted to value as income the tax credits made available under the applicable state or federal low-income housing provisions.

Exclusions from Property Tax

S.L. 2008-146 amends G.S. 105-275 to exempt two new categories of property from property tax: prescription drugs that are given to medical providers to dispense for free to their patients and 80 percent of the appraised value of solar energy electric systems. This latter benefit is aimed at commercial solar power generation, as opposed to individual systems that do not provide power to other customers. According to the Department of Revenue, no such systems existed in the state as of 2008, although several are planned in the coming years. Both of these new classifications are effective for tax year 2008, meaning counties that listed and taxed "free sample" drugs as "supplies" for physicians or hospitals for this tax year should amend those tax bills to reflect the new exempt status of those drugs.

Separately, the General Assembly created an exception to the general taxability of leasehold interests in exempt property. S.L. 2008-171 exempts from property tax a leasehold interest in exempt real property that is used to provide affordable housing for employees of the governmental unit that owns the property. This change is also effective for 2008.

Finally, S.L. 2008-144 (S 1852) creates a new method of taxation for heavy machinery used in earth moving, construction, and similar industries and rented on a short-term basis. Similar to the local taxation of rental cars, such heavy equipment is now exempt from property tax but subject to city and county privilege license taxes on a gross receipts basis.

Changes to Combined Motor Vehicle Registration and Property Tax System

The revenue laws technical corrections bill, S.L. 2008-134 (S 1704), made several changes to the pending combination of the state motor vehicle registration and the local motor vehicle property tax collection systems. The most important of these changes is to postpone by one year the likely effective date of the combined system's implementation to the earlier of July 1, 2011, or when the necessary Department of Revenue/Department of Transportation integrated computer system is in place. Previously, the combined system was to take effect on the earlier of July 1, 2010, or when the computer system was in place. Other changes include a clarification that the owners of certain exempt vehicles, such as those owned by the government agencies, need not apply for an exemption from the new system. The bill also creates more specificity regarding the required memorandum of understanding between the Departments of Revenue and Transportation concerning the new combined system. Previously, the departments were required to agree upon appropriate listing, appraisal, and assessment procedures and vehicle and owner information collection procedures. Under the new law, they will also be required to agree upon procedures for the "business practices, accounting and costs" for the required computer system. For all procedures relating to the new combined system, the departments must consult with and obtain the endorsement of the North Carolina Association of County Commissioners and the North Carolina League of Municipalities.

26. *In re* Appeal of The Greens of Pine Glen, Ltd., 147 N.C. App. 221, 555 S.E.2d 612 (2001).

Annexation Refunds

S.L. 2008-134 adds a new section to G.S. Chapter 153A concerning tax refunds after municipal annexations. New G.S. 153A-304.4 mandates that the refund calculations for law enforcement service district taxes be identical to those for other county service district taxes under G.S. 153A-304.1.

Local Occupancy Taxes

Interpretations by the Secretary of Revenue

S.L. 2008-134 makes clear that the Secretary of Revenue's interpretation of a state law is binding upon any local laws that refer to said state law. Primary examples of this type of interaction between state and local laws are the various occupancy taxes approved by county boards and city councils, most of which refer to the statutes authorizing county (G.S. 153A-155) and city (G.S. 160A-215) occupancy taxes. Any interpretations of these two statutes by the Secretary of Revenue will be binding on local occupancy tax laws. Reliance on such an interpretation provides the same protection from liability under the local laws as it would under the state laws.

Accommodations Sold as Part of a Package

S.L. 2008-134 makes identical changes to the statutes generally authorizing county (G.S. 153A-155) and city (G.S. 160A-215) occupancy taxes. The new language requires that accommodations sold as part of a package be priced for occupancy tax purposes pursuant to the "bundled transactions" provisions of G.S. 105-164.4D. If those provisions do not address the type of package sold, the business collecting the occupancy tax may allocate a reasonable price to the accommodations based on its normal business practices.

Cherokee County

S.L. 2008-33 (H 2783) amends Chapter 1055 of the 1983 Session Laws to permit Cherokee County to levy an occupancy tax of up to 3 percent in addition to the 3 percent previously authorized under the uniform administrative provisions of G.S. 153A-155. The 2008 act redefines "net proceeds" to cap the percentage of gross proceeds the county may deduct for the costs of administering and collecting the tax. The amendments also alter the membership composition and terms of the Cherokee County Tourism Development Authority, which receives the net proceeds of the tax. The authority must use at least two-thirds of the funds to promote travel and tourism in the county and the remainder for tourism-related expenditures.

Granville County

S.L. 2008-45 (H 2218) expands membership of the Granville County Tourism Development Authority from five to seven. One of the new members must be appointed by the Granville County Board of Commissioners, the other by the Butner Town Council. Two of the four members appointed by the county commissioners must be the owners or operators of hotels or motels in the county, while the remaining two must be "currently active in the promotion of travel and tourism in the county."

Town of Ahoskie

S.L. 2008-45 amends the Town of Ahoskie occupancy tax to permit the Ahoskie Tourism Development Authority to use two-thirds of the tax proceeds to promote travel and tourism in the *area* and not only in the town.

Town of Leland

S.L. 2008-64 (H 2156) authorizes the Town of Leland to levy an occupancy tax of up to 3 percent pursuant to the uniform administrative provisions of G.S. 160A-215. The act requires the town council to create the Leland Tourism Development Authority and sets forth requirements of authority membership. The town must remit the net proceeds of the new tax to the authority on a quarterly basis, two-thirds of which must be used by the authority to promote travel and tourism in the town and the remainder for tourism-related expenditures.

Local Legislation

Municipal Motor Vehicle Taxes

S.L. 2008-16 (S 1748) amends G.S. 20-97(b), as it applies to the Town of Chapel Hill, to authorize the town to increase its general motor vehicle tax from $15 to $25 per vehicle. Any taxes over $15 per vehicle must be used for public transportation purposes. Including the $5 per vehicle public transportation tax under G.S. 20-97(c), the total motor vehicle tax in Chapel Hill may now reach the $30 per vehicle maximum tax permitted under G.S. 20-97(c).

S.L. 2008-29 (H 2455) amends G.S. 20-97(b), as it applies to the City of Oxford, to permit the city to increase its general motor vehicle tax from $10 to $20 per vehicle beginning in the 2008 tax year.

S.L. 2008-31 (H 2689) extends the sunset on the City of Durham's $5 per vehicle additional motor vehicle tax until June 30, 2009. Under S.L. 2004-103 (H 1700), the authorization for the additional tax was set to expire on June 30, 2008.

Town of Kernersville Tax Collection

S.L. 2008-27 (H 2091) amends the Town of Kernersville's charter, as previously approved under S.L. 1989-381, to permit the town to contract for tax collection services with either Guilford County or Forsyth County, the two counties in which the town is located. Previously, the town could contract only with Forsyth County.

Christopher McLaughlin