



# Property Tax Collection on Mobile Homes

Christopher B. McLaughlin

Mobile homes—or manufactured homes, trailers, single-wides, or double-wides, as they are variously known—are constant problems for tax officials. These problems often arise during the listing process, because mobile homes can be reclassified from real property to personal property and back again. Problems also arise during the collection process, in part because mobile homes and their owners sometimes disappear from the taxing unit without notice. This bulletin is intended to reduce the confusion related to this type of property for tax collectors and taxpayers alike.

Although the terms “manufactured home” and “mobile home” are often used interchangeably, they carry distinct technical meanings under the Machinery Act. *Mobile home* is defined as any type of structure that can be moved by attaching wheels to its frame and that is used as an office, dwelling, or similar “place of habitation.”<sup>1</sup> A *manufactured home* is a mobile home that satisfies additional criteria: it must be at least 8 feet wide and 40 feet long when in “traveling mode,” is 320 or more square feet when erected on site, is built on a permanent chassis, and is to be used as a dwelling.<sup>2</sup> Neither definition turns on whether the structure is a single- or double-wide.

All mobile homes—and therefore all manufactured homes—are subject to the moving permit requirement described in Question 3. But only manufactured homes—that is, mobile homes of a certain size that are to be used as residences and not offices—can be listed as real property, and only if they satisfy the requirements described in Question 1.

## 1. Should manufactured homes be listed as real property or personal property?

It depends on the home’s physical characteristics, use, and location. A manufactured home must be listed as real property if it satisfies the criteria included in Section 105-273(13) of the North Carolina General Statutes (hereinafter G.S.), the Machinery Act’s definition of real property:

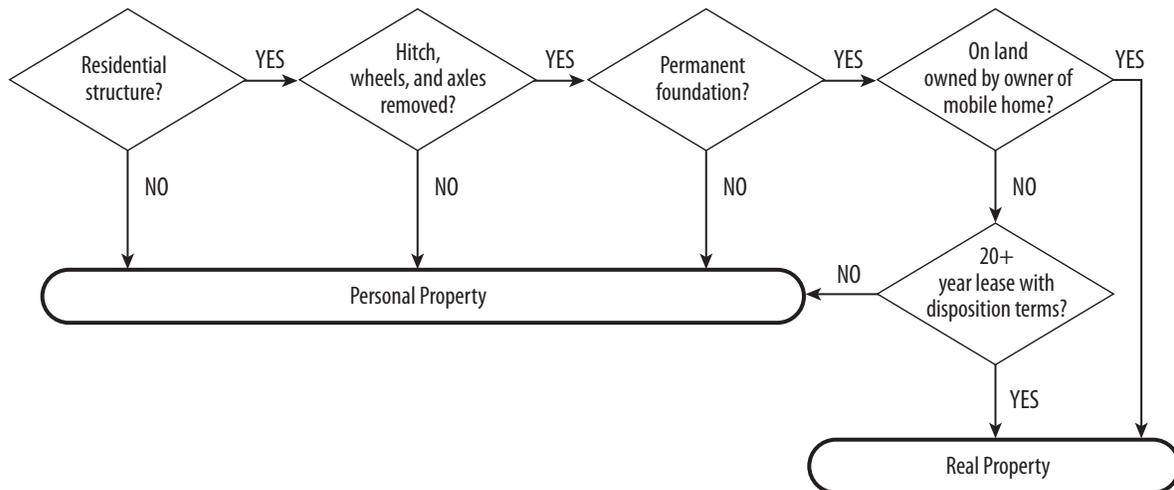
- a. It is a residential structure;
- b. It has the moving hitch, wheels, and axles removed;

---

Christopher B. McLaughlin is a School of Government faculty member who specializes in local taxation. McLaughlin is writing a book to update and replace William A. Campbell’s seminal work, *Property Tax Collection in North Carolina*, the most recent edition of which was published more than a decade ago. This bulletin represents one chapter of the new publication.

1. N.C. GEN. STAT. (hereinafter G.S.) § 105-316.7. Presumably, the only type of movable structure that would *not* constitute a mobile home would be one used for storage and not “habitation.”

2. G.S. 105-273(13) adopts the definition of *manufactured home* used in G.S. 143-143.9(6), one of the statutes concerning manufactured home warranties.

**Figure 1.** Classification of manufactured homes as real or personal property ( G.S. 105-273(13))

- c. It is placed on a permanent foundation; and
- d. It is sited 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 with a term of at least 20 years and the lease provides for the disposition of the home upon the lease's termination.

The four requirements are presented in visual format in figure 1.

Before these requirements were clarified in 2001, many counties listed all double-wide manufactured homes as leasehold improvements, a type of real property, even if they did not satisfy all of the requirements in G.S. 105-273(13).<sup>3</sup> Since the 2001 changes, the fact that a manufactured home is a single-wide or a double-wide should have no bearing on whether it is listed as real or personal property. If all four requirements are met, the manufactured home must be listed as real property. If the manufactured home fails to meet even one of the requirements, it must be listed as personal property.

To be a residential structure, the manufactured home must be intended to be used as a place for someone to live, not just a place for someone to conduct business. The home need not be someone's permanent residence nor must it be the owner's residence. For example, a manufactured home owned by the owner of a mobile home park and rented to families on a monthly basis could qualify as real property. The fact that business might be conducted out of the home would not disqualify it so long as it was also used for residential purposes. For example, if Tom Tarheel lives in a manufactured home but also runs his landscaping business from the home, that home could still qualify as real property.

The requirement that the home's hitch, wheels, and axles be removed is self-explanatory. But the same cannot be said for the requirement that the home be on a "permanent foundation." Exactly what does this mean? The statute provides no explanation, but the Department of Revenue advises that, to be "permanent," a manufactured home's foundation must satisfy the

3. S.L. 2001-506 eliminated the requirement that a manufactured home be "multi-section" to qualify as real property and clarified that all manufactured homes that failed to satisfy all of the requirements in G.S. 105-273(13) must be listed as personal property.

applicable building code requirements, which can vary from county to county.<sup>4</sup> If the foundation has been inspected by the appropriate local government and found to satisfy the building code, then it is permanent. If not, the foundation is not permanent and the manufactured home that sits thereon is personal property, not real property.

The fourth requirement is the one that prevents many manufactured homes from being classified as real property. If the manufactured home sits on land not owned by the owner of the manufactured home, it cannot be listed as real property unless the homeowner has a long-term lease on the land. For example, if Wanda Wolfpack owns a manufactured home that sits on land she owns, the home must be listed as real property if it satisfies the other three requirements. If Wanda's home sits on land owned by her sister, Wilma Wolfpack, the home must be listed as personal property unless Wanda is leasing Wilma's land for a term of at least 20 years and the lease has specific provisions for what happens to the mobile home when the lease ends. If Wanda's home sits on land owned jointly by Wanda and Wilma, the home must be listed as real property if it satisfies the other three requirements. The fact that Wanda owns a joint interest and not an exclusive interest in the property does not disqualify the home from having real property status. But if Wanda's home sits on land owned jointly by Wanda and her husband Walter as tenants by the entirety, the manufactured home could not be listed as real property absent a long-term lease because the owner of the home (Wanda) is different from the owner of the land (the marital couple of Wanda and Walter). Similarly, if Wanda's manufactured home sits on land owned by WW, Inc., a corporation of which Wanda is the only shareholder, the home could not be listed as real property without a long-term lease on the land because Wanda and her corporation are different taxpayers.

Record ownership of mobile homes should be based on documents filed with the N.C. Department of Motor Vehicles (DMV) or the county register of deeds. Mobile homes are titled and registered by the DMV unless and until they satisfy the Machinery Act's definition of real property.<sup>5</sup> Record ownership of a mobile home properly classified as personal property should be based on the DMV title and registration documents. Once a mobile home is properly classified as real property and no longer registered with the DMV, record ownership should be based on the recorded deeds for the land on which the home sits.

## 2. What remedies are available to collect taxes on mobiles homes?

The remedies available depend in large part on whether the mobile home is classified as real or personal property.

If the mobile home is properly classified as real property, the taxes on the mobile home are a lien upon the land on which the home sits. The collector may use the foreclosure remedy against

---

4. Letter from John C. Bailey, Director, Property Tax Division, N.C. Dept. of Revenue, to county assessors (February 1, 2002), referencing building codes for manufactured homes issued by the N.C. Dept. of Insurance that require piers and footings, the depth of which can vary by county based on the frost line.

5. All vehicles "intended to be operated on the highways of this state" must be registered with the Department of Motor Vehicles (DMV). G.S. 20-50. A mobile home with its hitch, wheels, and axles attached is considered a vehicle because it is a "device in, upon, or by which any person or property is or may be transported or drawn upon a highway." G.S. 20-4.01(49). The obligation to register a mobile home can be terminated by filing with the DMV form MVR-46G, an affidavit that the home now satisfies the real property requirements found in G.S. 105-273(13).

the land as well as attachment, garnishment, and levy remedies against the responsible taxpayer's personal property. The responsible taxpayer for taxes on real property is the owner as of the delinquency date, which is January 6 of the fiscal year for which the taxes are levied, plus all subsequent owners.<sup>6</sup>

If the mobile home is properly classified as personal property, the tax collector will be limited to remedies against the responsible taxpayer's personal property. The responsible taxpayer for taxes on personal property is the owner of record on the listing date, which is the previous January 1.<sup>7</sup> If that listing taxpayer also owned real property in the taxing unit, then the tax collector could pursue foreclosure on that real property.<sup>8</sup>

For example, assume that Billy Blue Devil owns a manufactured home that sits on land owned by Suze Seahawk. The home must be listed as personal property in Billy's name and the taxes on the home will not be a lien on Suze's land. The tax collector could not pursue any collection remedies against Suze if the taxes on Billy's home become delinquent. Instead, the tax collector could pursue remedies against Billy's personal property such as a wage garnishment, a bank account attachment, or the seizure and sale of the mobile home or Billy's car. If Billy owned real property elsewhere in the county, the taxes on Billy's manufactured home would be a lien on that property and the tax collector could initiate a foreclosure action against it.

Assume Billy sells the mobile home to Suze in February 2011, when the 2010 taxes on the home are delinquent. Can the tax collector now proceed against Suze's property to collect the delinquent 2010 taxes on the mobile home? No. Billy remains the only responsible taxpayer for the 2010 taxes because he was the listing taxpayer. Billy will also be responsible for the 2011 taxes on the home, because as of January 1, 2011, the home was still properly classified as personal property and Billy was the listing owner. The home will finally be listed in Suze's name for 2012 taxes, assuming she still owns it as of January 1, 2012, when it should be listed as real property if it satisfies the three other requirements. If the 2012 taxes remain unpaid on January 6, 2013, while Suze still owns the land, then Suze will be personally responsible for those taxes. But Suze will never be responsible for the taxes from prior years.

### 3. When is a moving permit required?

To help with tax collection, the Machinery Act requires a person who wishes to move a mobile home to a different property to first obtain a moving permit from the tax collector.<sup>9</sup> If the mobile home is moved to a different site on the same property, no permit is required. But if the mobile home is moved to any other property, even property owned by the same taxpayer, a permit is required.

Manufacturers and retailers of mobile homes are exempt from the permit requirement, except when they are repossessing a previously sold home. (Repossession is discussed in more detail in Question 5.) Thus, when a newly purchased mobile home is moved by the retailer to the buyer's property, no moving permit is required. Also exempt from the moving permit requirement are licensed carriers, the trucking companies that actually transport the homes. Although

6. G.S. 105-365.1(b)(1). For example, the delinquency date for 2011 real property taxes is January 6, 2012.

7. G.S. 105-365.1(b)(2).

8. Taxes on personal property are a lien on all real property owned by the same taxpayer in the same taxing unit. G.S. 105-355(a).

9. G.S. 105-316.1(a).

not required to obtain permits themselves, these carriers are responsible for ensuring that the owners obtain the required permits and can be subject to criminal penalties if the owners fail to do so.<sup>10</sup>

#### 4. What must an applicant do to obtain a moving permit?

An applicant must first do one of three things to obtain a moving permit:

- Pay all property taxes due to be paid by the owner to the county, city, and special districts.
- Provide proof that no taxes are due to be paid.
- Demonstrate that the removal of the mobile home will not jeopardize the collection of any property taxes due or to become due.<sup>11</sup>

Read literally, the first requirement suggests that the only taxes at issue are those owed by the current owner of the mobile home. But this interpretation could allow buyers of mobile homes to obtain moving permits even if many years of taxes remain outstanding on those homes, clearly not the result intended by the Machinery Act or desired by tax collectors.

For example, assume that in February 2011 Mitch Mountaineer buys a mobile home from Fred Fortyniner. Fred owes 2010 taxes on the mobile home and on his boat. Mitch owns no real property and the only taxable personal property he owns is a car, on which no taxes are outstanding. If Mitch wants to move the mobile home, what taxes, if any, must he pay to obtain the necessary moving permit?

If the moving permit statutes were interpreted to require payment only of taxes owed by the current owner of the mobile home, then Mitch could obtain the permit without paying any additional taxes because, as of the date on which the permit is requested, Mitch is the current owner and owes no taxes. The mobile home is not listed in Mitch's name and will not be listed in his name until 2012, meaning as of February 2011 Fred is the responsible taxpayer for the taxes owed on the mobile home.<sup>12</sup>

Most tax collectors would instead require Mitch to pay both 2010 and 2011 taxes on the mobile home, despite the fact that the home was listed in Fred's name for those years. And many tax collectors would require Mitch also to pay the taxes on Fred's boat, because the statute refers to "all taxes due to be paid" by the (presumably former) owner.

Also subject to varying interpretations is the option of demonstrating that the removal of the mobile home will not "jeopardize" the collection of outstanding property taxes. The statute provides no guidance as to when or how a tax collector can make this determination. Most tax collectors err on the side of caution and very rarely, if ever, conclude that removal of a mobile home creates no risk to tax collection.

After paying the taxes, proving that the taxes have been paid, or demonstrating that the removal will not affect the collection of taxes, the applicant must provide his or her name and address, the addresses from which and to which the mobile home is to be moved, and the name and address of the carrier who will transport the home.<sup>13</sup>

10. G.S. 105-316.1(b).

11. G.S. 105-316.2(a).

12. G.S. 105-365.1(b)(2).

13. G.S. 105-316.2(b).

## 5. What are the moving permit requirements when a mobile home is repossessed?

A North Carolina resident taking possession of a mobile home through the enforcement of a lien on that home and planning to move the home to another location in North Carolina can obtain a moving permit without initially paying any taxes.<sup>14</sup> The repossessing party must notify the tax collector of the intent to move the home when applying for the required permit and within seven days must pay all taxes due on the mobile home itself. The repossessing party is not required to pay any other taxes owed by the mobile home's former owner. If the repossessing party is not a resident of North Carolina, it is subject to the same obligations described in Question 4 and must pay the taxes prior to obtaining a permit. The same applies to North Carolina repossessors who intend to move the mobile home out of state.

## 6. How can the tax collector enforce the moving permit requirement?

Not very well, unfortunately. The moving permit statutes do not make a party who moves a mobile home without a moving permit personally liable for the taxes owed on the mobile home. Nor do they make a reposessor liable for the unpaid taxes if it fails to pay them within seven days of the move. As a result, tax collectors may not use Machinery Act collection remedies against new owners or repossessors based solely on their failure to obtain a permit. The statutes do provide for criminal misdemeanor liability for parties that fail to satisfy the moving permit requirements, but it is unclear if anyone has ever been prosecuted for a moving permit violation anywhere in the state.<sup>15</sup> Even if a local district attorney were willing to attempt such a prosecution, the penalties are extremely light: the harshest sentence a first-time offender can receive is a ten-day suspended jail sentence and a \$200 fine.<sup>16</sup>

The most frequent violators of the moving permit requirement are mobile home retailers and financing companies that repossess and move homes on which they have liens without providing notice or payment of outstanding taxes. Often these companies do not have offices in the taxing unit, making it extremely difficult for tax collectors to enforce the companies' Machinery Act obligations. Regardless, it is good practice for tax collectors to seek out these companies and remind them of the criminal sanctions they could face for violating the moving permit requirement.

---

14. G.S. 105-316.4. This exception applies whether the reposessor is acting in reliance on a court order or on the terms of a financing agreement.

15. G.S. 105-316.6 makes it a Class 3 misdemeanor to move a mobile home without a permit.

16. G.S. 15A-1340.23.