



Payment of Property Taxes

Christopher B. McLaughlin

This bulletin discusses the law governing the payment of property taxes, including electronic payments, discounts, interest, and certificates of taxes owed.

1. What is the deadline for mailing property tax bills?

Surprisingly, the Machinery Act does not require that any type of property tax bill be prepared or distributed to taxpayers. For obvious reasons every taxing unit chooses to send bills to its taxpayers, usually in August after the governing board sets its budget and tax rate. But the failure to mail a bill does not affect the underlying tax obligation.

The Machinery Act charges all persons who own real or personal property “with notice that such property is or should be listed for taxation. . . . This notice is conclusively presumed, whether or not such persons have actual notice.”¹ In other words, the fact that a property owner never receives a tax bill does not relieve that property owner from responsibility for taxes on his or her property.²

2. How must property taxes be paid?

The Machinery Act requires property taxes to be paid in “existing national currency,” meaning cash. Taxpayers cannot pay their taxes with deeds to real property, notes, payments in kind (i.e., bartering), or through the forgiveness of an obligation owed to the taxpayer by the taxing unit.³ That said, numerous exceptions exist to this rule.

All local governments are permitted to accept checks and electronic payments, as described in Question 3.⁴ In lieu of payments, all local governments are also permitted to forgive an

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1. N.C. GEN STAT. (hereinafter G.S.) § 105-348.

2. Further, G.S. 105-394 excuses mistakes made by the tax office in the listing, billing, or collection process. For more details about that provision, please see Christopher B. McLaughlin and Stan C. Duncan, “Discovery, Immaterial Irregularity, and the *Morgan* Decision,” *Property Tax Bulletin* No. 147 (March 2009), available online at www.sog.unc.edu/pubs/electronicversions/pdfs/ptb147.pdf.

3. G.S. 105-357(a).

4. G.S. 105-357(b).

obligation arising from “a lease or another contract” between the taxpayer and the taxing unit entered into before the start of the fiscal year for which the taxes were levied.⁵ A few local governments are authorized by local bills or their charters to accept deeds to real property as payment of property taxes and special assessments. These include the city and county of Durham and the cities of Salisbury, Wilmington, and Winston-Salem.⁶

3. What are the rules for accepting checks and electronic payments?

To make payment of tax bills as easy as possible, all local governments now accept checks. A growing number accept credit card payments and electronic fund transfers directly from taxpayers’ bank accounts. Tax offices can charge taxpayers a fee for the use of these electronic payment options.⁷

Most tax collectors immediately issue an official tax payment receipt without waiting for the check or electronic payment to clear. They do so at their own risk. If the check or credit card payment is later denied, the tax lien for the taxes included on that receipt may be unenforceable against lienholders or buyers who relied in good faith on that incorrect receipt.⁸ With this in mind, the tax collector should act quickly after learning that a check or electronic payment has been denied. To eliminate any future good faith reliance on the incorrect tax receipt, the tax collector should immediately issue a corrected receipt to the original taxpayer and to any subsequent buyers or lienholders of the property.

A denied electronic payment triggers a penalty of 10 percent of the payment, with a minimum penalty of \$25 and a maximum of \$1,000.⁹ The penalty is added to the principal amount of taxes owed and accrues interest if it remains unpaid after the delinquency date. The penalties apply to payments “returned or not completed because of insufficient funds or nonexistence of an account of the drawer.”¹⁰ Likely the General Assembly also intended for the penalty to apply when the taxpayer stops payment on a check or electronic payment, because the impact on the tax collector is identical.

5. G.S. 105-357(a). This offset authority was added to the Machinery Act by S.L. 2005-134.

6. 1959 N.C. Sess. Laws ch. 720 (Winston-Salem); 1973 N.C. Sess. Laws ch. 429 (city of Durham); 1985 N.C. Sess. Laws ch. 910 (Farmville, Wilmington, Salisbury, Durham County). See also 1987 N.C. Sess. Laws ch. 740 (Elkin town charter); 1987 N.C. Sess. Laws ch. 262 (Ahoskie town charter); 1989 N.C. Sess. Laws ch. 957 (Reidsville city charter).

7. This includes convenience fees for payment by credit card, which for many years were prohibited by the contractual agreement between the card issuers and governments accepting these payments. In the mid-1990s, credit card issuers began to permit government clients to charge convenience fees for internet transactions. In the past few years, the issuers also began to permit convenience fees for face-to-face transactions, with some restrictions. VISA, for instance, limits government convenience fees for face-to-face transactions to \$3.95. For a more detailed discussion of this issue, see Kara Millonzi’s October 19, 2009, post on *Coates’ Canons*, the School of Government’s Local Government Law blog, <http://sogweb.sog.unc.edu/blogs/localgovt/?p=1051>.

8. G.S. 105-357(b)(1).

9. G.S. 105-357(b)(2). This penalty is exclusive, meaning that the \$25 bad-check penalty imposed under a provision in North Carolina’s version of the Uniform Commercial Code, G.S. 25-3-506, does not apply to checks offered in payment of property taxes.

10. G.S. 105-357(b)(2).

This penalty does not apply to a dishonored check or electronic funds transfer if the taxpayer had sufficient funds in another bank account. The statute does not describe how the taxpayer would prove that funds were available elsewhere, but presumably he or she would have to provide a bank statement or similar financial record. This exception applies only to the dishonored payment penalty, not to interest charges that may accrue due to the delayed payment. If the taxes owed are delinquent, interest would continue to accrue until final payment is received.

Unlike other fees and costs added to property taxes, the tax collector may reduce or waive entirely the penalty for dishonored checks and electronic payments “upon making a record of the reasons therefore.”¹¹ In other words, tax collectors can forgive the penalty for any reason they desire. To avoid allegations of favoritism, the tax collector should make the waiver process as objective as possible by working with the governing board to develop a list of situations, if any, that would justify a waiver of the penalty.

4. Must the tax collector remedy small underpayments or overpayments?

Yes, unless the governing board passes a resolution permitting the tax collector (1) to treat small underpayments as full payments and (2) not to refund small overpayments unless the taxpayer requests a refund by the end of the fiscal year.¹² The overpayment provision applies only to mailed or electronic payments; in-person overpayments should be corrected at the time of payment.

The statute defines *small* as \$1 or less. If the underpayment is more than \$1, the tax collector must pursue collection of the entire outstanding amount. If the overpayment is more than \$1, the tax collector must refund the entire overpayment.

The governing board must adopt the necessary resolution by June 15 for it to be effective for the fiscal year that opens July 1. Once adopted, the resolution applies to all tax payments, even those for prior years’ taxes, and is effective until repealed. Tax collectors subject to such resolutions should keep records of the overpayments and underpayments and account for them in the annual settlement.

5. Must the tax collector pursue collection of minimal tax bills?

Yes, unless the governing board directs its tax officials not to collect minimal taxes, defined as bills for which the combined taxes and fees of the taxing unit and all other taxing units for which it collects total \$5 or less.¹³ As with the underpayment/overpayment resolution, the minimal tax resolution must be adopted by June 15 to be effective for the fiscal year that opens July 1. Once adopted, the resolution is effective until repealed.

11. G.S. 105-358(a). This statute describes the penalty that may be waived or reduced as that “imposed on giving a worthless check,” but this waiver authority likely extends to penalties applied to dishonored electronic payments as well.

12. G.S. 105-357(c).

13. G.S. 105-321(f). The governing board may choose a lower threshold and is in fact expected to set the threshold at “the estimated cost to the taxing unit of billing the taxpayer for the amounts due on a tax receipt or notice.” But in practice most taxing units set their minimal tax threshold at \$5, the maximum permitted by the statute.

The minimal tax threshold applies only to the original principal amount of taxes, not to subsequent interest, fees, or costs. For example, assume a taxpayer's original tax bill was \$100. The taxpayer mails a \$100 payment on January 10, at which time the account has accrued \$2 in interest. The outstanding \$2 in interest must be collected by the tax collector even if a minimal tax resolution is in effect, because the principal taxes originally owed were well over the minimal tax threshold of \$5. And the \$2 underpayment is too large to be forgiven through the process described in Question 4.

6. When do discounts apply and how are they calculated?

A discount is a reduction in a tax obligation in return for payment prior to September 1, the due date for taxes on real and personal property other than registered motor vehicles.¹⁴ Unlike interest charges discussed in Question 8, discounts are optional, not mandatory. Each taxing unit may make its own decision regarding the availability and the amount of discounts.

If a local government wishes to offer discounts, it must accomplish three tasks.¹⁵ First, it must adopt by May 1 an ordinance or resolution specifying the discount amounts and when they apply. Second, it must submit the discount ordinance or resolution to the Department of Revenue for approval.¹⁶ Third, it must publish the discount schedule in a newspaper with "general circulation" in the unit.¹⁷ Once a discount schedule is adopted, it remains in effect for all future tax years unless it is subsequently repealed and must be applied to all payments made during the discount period even if the taxpayer does not request the discount.

The Machinery Act requires that discounts end on September 1 but is silent as to their size or start dates. Most local governments that offer discounts set the rate at 1 or 2 percent and offer them only in July or August or both. If the ordinance or resolution does not indicate when discounts first become available—perhaps the ordinance reads, "A discount of 1% shall apply to all payments made prior to September 1"—then presumably the discount must begin whenever the tax office begins accepting prepayments, as discussed in Question 7.

Discounts are simple to administer when they apply to full payments made after the tax receipts. For example, assume the governing board adopts a 2 percent discount for payments made in August. If Tom Taxpayer wants to pay his \$100 tax obligation on August 15, he will receive a discount of \$2 and be required to pay only \$98 to satisfy his tax obligation in full.

Discounts are more complicated when partial payments are involved. Assume the same facts as above but that Tom mails a payment of \$50 on August 15. Instead of a \$50 balance on his original tax obligation of \$100, the balance should be reduced to \$49 to account for the 2 percent

14. G.S. 105-360(c).

15. G.S. 105-360(c)(1)–(3).

16. G.S. 105-360(c) states that the department may reject the discount schedule if "the discounts or the periods of time for which discounts are allowed are excessive or unreasonable." Presumably the department must review a subsequent increase in a previously approved discount schedule but not a subsequent decrease, because if the department has already determined that a discount at a certain level is not excessive then a discount at a lower level would also be acceptable.

17. For a discussion of the "general circulation" requirement, see Christopher B. McLaughlin, "Advertising Tax Liens," *Property Tax Bulletin* No. 148 (July 2009), www.sog.unc.edu/pubs/electronicversions/pdfs/ptb148.pdf.

discount on his \$50 payment. If Tom pays the balance prior to September 1, he would be entitled to a discount on that payment as well and could satisfy the full tax obligation with a payment of \$48. (The first payment of \$50 plus the second payment of \$48 would equal \$98, the amount owed after applying the 2 percent discount to the original \$100 tax obligation.) If Tom pays the balance on or after September 1, he would not receive the discount on the second payment and would owe \$49.

7. What are prepayments?

Prepayments are payments of taxes made before the tax receipts have been delivered by the governing board to the tax collector for collection.¹⁸ Essentially, prepayments are tax payments made before the final tax rate has been set and before tax bills have been calculated.

Prepayments need not be accepted until the budget officer files the annual budget estimate with the governing board and the board's clerk, which should occur by June 1.¹⁹ At this point, the tax collector will be able to estimate taxpayers' obligations with reasonable accuracy based on the tax rate proposed in the budget estimate.

Prepayments end once the new tax receipts can be calculated, a process that cannot begin until the governing board adopts a tax rate for the new fiscal year. The adoption of a tax rate is subject to several different deadlines. The Government Budget and Fiscal Control Act requires that the tax rate be included in the annual budget ordinance, which must be adopted by July 1, the start of the fiscal year.²⁰ The Machinery Act provides that a property tax must be levied by adoption of a tax rate by August 1²¹ and that the tax receipts must be delivered to the tax collector for collection by September 1 each year.²² That said, there are no statutory penalties for missing these deadlines, and local governments that cannot resolve budget disputes routinely operate under interim budgets without adopting a new tax rate well past these dates.²³ As a result, the prepayment period sometimes stretches into the new fiscal year.

Prepayments are by definition estimates, meaning that the taxpayer's final tax obligation might differ from the prepayment amount. For that reason, a receipt for a prepayment should state that it represents an estimate of the tax obligation and that the lien on real property for the taxes owed will not be released until the final tax obligation is completely satisfied.²⁴

When the final tax obligation is determined, excess prepayments must be refunded to the taxpayer without interest. If taxes remain outstanding, the balance due should reflect the discount or interest applicable at the time the balance is paid.

The following examples illustrate how these rules work in practice. Assume Tina Taxpayer wishes to prepay her 2011 Carolina County property taxes in June 2011. Carolina County offers a 2 percent discount for all tax payments made prior to September 1. Because the county

18. G.S. 105-359(a).

19. G.S. 105-359(b) (acceptance of prepayments); G.S. 159-11(b) (filing of annual budget estimate).

20. G.S. 159-13(a).

21. G.S. 105-347.

22. G.S. 105-321(c).

23. G.S. 159-16 authorizes the use of an interim budget so that the local government can continue to pay ordinary expenses prior to the adoption of the final budget ordinance.

24. G.S. 105-359(d).

commissioners have not yet adopted a final budget and tax rate, the tax collector estimates Tina's 2011 taxes to be \$1,000. Tina pays \$980, which represents the estimated tax less the 2 percent discount. In late July, after the final budget and tax rate is adopted, the tax collector determines that Tina's actual 2011 taxes are \$950. The tax collector must refund \$49, which is the difference between the amount Tina paid (\$980) and her actual tax obligation less the 2 percent discount ($\$950 \times 0.98$, or \$931). Tina is entitled to the discount on her actual taxes because she prepaid the estimated taxes during the discount period.

What happens when the final tax bill is more than the estimated tax prepayment? Consider the above example again, but assume instead that Tina's actual 2011 property taxes turn out to be \$1,100. Tina owes \$100 in additional taxes, because she paid estimated taxes of only \$1,000. (In fact, she paid only \$980 due to the discount, but that payment satisfied \$1,000 of the tax bill.) If she does not pay the \$100 balance by January 5, 2010, it will incur interest, as discussed in Question 8.

8. When does interest accrue and how is it calculated?

For taxes on real property and personal property other than registered motor vehicles, interest begins on January 6 of the fiscal year for which the taxes are levied.²⁵ For example, 2010 property taxes begin accruing interest on January 6, 2011. January 5 is the last day for taxpayers to pay the current fiscal year's tax "at par," meaning without interest, unless January 5 falls on a weekend or holiday. In that situation, the last day to pay taxes at par will be the next business day.²⁶ For example, if January 5 falls on a Saturday, the last day to pay the current fiscal year's property taxes at par is Monday, January 7, and interest begins on Tuesday, January 8.

The Machinery Act sets the interest rate at 2 percent for the first month and 0.75 percent for each additional month.²⁷ Interest is not prorated within a month; that is, the full month's interest charge accrues on the first day of that month. For example, if Terry Taxpayer pays her 2010 taxes on February 1, 2011, she will be charged 2.75 percent interest: 2 percent for January and 0.75 percent for February.

The weekend and holiday rule applies to the accrual of additional months' interest the same as it applies to the initial interest accrual on January 6. If the last day of the month falls on a weekend or holiday, then the taxpayer has until the next business day to pay outstanding taxes without accruing an additional month's interest. For example, if January 31 were to fall on a Saturday, then taxpayers would have until Monday, February 2, to pay delinquent taxes without accruing interest for the month of February.

Because the Machinery Act defines *taxes* as "the principal amount of any property tax or dog license tax and costs, penalties, interest," interest applies to not only the principal taxes owed but also to all costs and penalties relating to those taxes. Penalties such as those for late listing under the discovery provisions²⁸ and for bad checks under the electronic payment provisions²⁹ should be added to the principal taxes owed when calculating interest. The same applies to costs

25. G.S. 105-360(a).

26. G.S. 105-395.1.

27. G.S. 105-360(a)(1), (2).

28. G.S. 105-312(h).

29. See Question 3.

such as those for advertising tax liens³⁰ and for providing notice of attachments and garnishments.³¹ However, interest is not compounded, meaning it does not accrue on previous interest charges.

Partial tax payments must first be applied to penalties, costs, and interest, and then to the principal amount of taxes.³² Assume Tracy Taxpayer owes \$1,000 in taxes, which become delinquent on January 6. Tracy sends the tax office a payment of \$1,000 on January 15. As of that date, Tracy owed \$1,020, the principal amount of taxes plus 2 percent interest for January. The tax collector must apply the \$1,000 payment first to the \$20 interest charge and then to the principal taxes, leaving \$20 in taxes outstanding. If Tracy calls the tax office on May 1 to learn how much is owed, the answer would be \$20.60: \$20 in principal taxes and \$0.60 in interest. The interest would total 3 percent: 0.75 percent for February, March, April, and May.

9. What is the postmark exception for interest and discounts?

Normally, payments must be actually received by the tax office to qualify for a discount or stop the accrual of interest. However, payments made by mail are considered received by the tax office on the postmark date for purposes of calculating discounts and interest.³³ If the payment has no postmark or the postmark does not contain a date, then the payment is considered received when it actually arrives in the tax office.

For example, assume Tony Taxpayer mails his 2010 property tax payment on January 1, 2011. The payment arrives in the county tax office on January 10, with a January 3 postmark. Tony's payment is considered received as of January 3. Interest would not accrue on Tony's account, assuming his payment satisfied the tax obligation in full.

Taxpayers sometimes seek aid from the postmark exception when problems arise with the use of third-party bill-paying services such as those offered through most major banks' websites. Reliance on this provision is misplaced. Consider a tax payment received on January 8 from a bank on behalf of a taxpayer. Unless that payment has a postmark of January 5 or earlier, interest must accrue on the account even if the taxpayer provides proof that the bank deducted the tax payment from the taxpayer's account on January 5 or earlier. The fact that the bank delayed mailing of the payment does not justify a waiver of the interest charge under the postmark exception. The same would be true if the tax payment was deducted from the taxpayer's account on January 4 but sent to the tax office by the bank electronically on January 6 or later. The taxpayer, not the tax office, bears the risk of using a third-party bill payer.

30. G.S. 105-369(d).

31. G.S. 105-368(g). Currently, the fee is \$15 per service, meaning most garnishments and attachments require \$30 in fees: \$15 for service on the taxpayer and \$15 for service on the garnishee (i.e., the bank or employer).

32. G.S. 105-358(b).

33. G.S. 105-360(d).

10. What are the special rules for charging interest on property taxes owed by public service companies?

Public service companies such as airlines, railroad companies, and electric and gas companies are subject to unique listing and appraisal procedures found in Sections 105-333 through 105-344 of the North Carolina General Statutes (hereinafter G.S.). Essentially, public service company property is listed and appraised by the N.C. Department of Revenue and then allocated to the counties.³⁴ Counties and municipalities may then levy taxes on this property as they do all other property in their jurisdictions.

If a public service company “fails or refuses to pay” local property taxes, the taxing unit may bring a civil action against the company in state court after giving the company written notice via certified or registered mail at least fifteen days prior.³⁵ If the taxing unit prevails, the judgment must include attorneys’ fees, a penalty of 50 percent of the taxes owed, and interest on the taxes and penalty at an annual rate of 9 percent from the date the tax was due, which normally would be September 1.

This statute leaves several questions unanswered. When can the taxing unit initiate a collection action? Presumably not until after the taxes become delinquent on January 6, but the statute is silent on this issue. Can the taxing unit use traditional Machinery Act remedies of attachment and garnishment and foreclosure instead of pursuing a civil action? Probably not. The statute does not explicitly make a civil action the exclusive remedy, but the specific collection remedy for public service companies likely trumps the Machinery Act’s general collection remedies. Can the regular Machinery Act interest apply to taxes owed by public service companies? Again, probably not. As with the civil action requirement, the specific interest rules for public service companies likely trump the Machinery Act’s general interest provisions.

11. Can taxpayers rely on statements by the tax office to avoid a tax obligation?

Generally not. Most statements by the tax collector regarding the amount of taxes owed on a particular property do not bind the taxing unit or affect its ability to collect those taxes, even if the tax collector’s statement is inaccurate. Oral statements can never be the basis for avoiding enforcement of a tax lien.³⁶ In two instances written statements by the tax office can affect the enforceability of a tax lien.

The first instance involves a receipt issued for a tax payment made by a check or electronic payment that is later dishonored, discussed in Question 3. The second instance involves a written certification of the taxes owed made by the tax office under G.S. 105-361. Errors in this certificate can extinguish a tax lien and create liability for the tax collector.³⁷

34. For a detailed discussion of this process, see Shea Riggsbee Denning, *A Guide to the Listing, Assessment, and Taxation of Property in North Carolina* (Chapel Hill, N.C.: School of Government, The University of North Carolina at Chapel Hill, 2009), 100–105. (This publication is available for purchase at <http://shopping.netsuite.com/s.nl/c.433425/it.A/id.1907/f.>)

35. G.S. 105-344.

36. G.S. 105-361(d).

37. G.S. 105-361(b).

The Machinery Act grants the right to request a binding certificate of taxes only to individuals or entities who

- own the property,
- occupy the property,
- have a lien on the property,
- have a legal interest or estate in the property,
- are under contract to purchase or lease the property or to provide a loan secured by the property, or
- serve as an authorized agent or attorney for one of the above parties.³⁸

When one of these parties requests a statement of taxes owed, the tax office must provide a binding certificate.³⁹ The statute does not specify the form of this certificate other than requiring that it be in writing. That said, tax offices should develop a form specifically for this purpose and keep copies of all such forms issued. An excellent example of this type of form is included as an appendix. Note that the form includes regular real property taxes as well as deferred taxes, taxes on personal property owned by the same taxpayer in the jurisdiction, and special assessments.

If a party subsequently relies on the certificate, the tax lien for any taxes or special assessments omitted from that certificate is extinguished. The tax obligation remains, but the lien on the real property no longer exists, meaning foreclosure is no longer an option to collect the omitted taxes.

The statute defines reliance to mean one of three actions:

- Paying the taxes and assessments listed on the certificate
- Purchasing or leasing the real property
- Lending money secured by a lien on the real property

For example, assume that Parcel A is owned by Able, who requests a certificate of taxes owed in July 2010. The tax office provides the certificate but fails to include taxes for the 2010 fiscal year.⁴⁰ If Able pays the taxes included on the certificate, then the lien for 2010 taxes is no longer enforceable against Parcel A because Able relied on the certificate by paying the taxes listed on that document. The tax collector will still be able to pursue collection of the 2010 taxes on Parcel A using attachment and garnishment or levy and sale against the *personal* property of whoever owns Parcel A on January 6, 2011 (the delinquency date), and all subsequent owners.⁴¹ But the tax collector may not foreclose on Parcel A to collect the 2010 taxes.

38. G.S. 105-361(1)(a)–(f). Any party may obtain information regarding the amount of property taxes outstanding on a particular parcel under public records law. But only these six types of entities may rely on that information to avoid enforcement of a tax lien.

39. G.S. 105-361(c) establishes a penalty of \$50 for failure to provide the required certificate. But the penalty can be recovered only through a civil action filed by the party requesting the certificate and thus is unlikely ever to apply.

40. G.S. 105-361 makes clear that taxes for the current fiscal year must be included on the certificate. If a certificate is requested before the current year's taxes are finalized, the certificate should include an estimated amount for the current year's taxes along with a notation that the amount has been estimated and is subject to later adjustment.

41. The responsible taxpayer for taxes on real property is the owner of record as of the date of delinquency and all subsequent owners. G.S. 105-365.1(b)(1).

12. Can taxpayers rely on information posted on the tax office website to avoid a tax obligation?

Only if the governing board passes a resolution allowing taxpayers to rely on information on the tax office website as if it were a written certification.⁴² But even then the tax office may post disclaimers on the website limiting the accuracy of the information. For example, the website may state that the information contained therein only reflects transactions up to a certain date. In that case, taxes added to the property in question after the effective date listed on the website would still be a lien on that property even though they were not reflected on the website.

13. Can the register of deeds refuse to register a deed if property taxes are owed on the property being transferred?

Yes, in most counties. As of the 2010 legislative session, sixty-nine counties are authorized to prohibit the register of deeds from accepting a deed transferring real property until the tax collector first certifies that there are no property tax liens on the property that is the subject of the deed.⁴³ This certification must cover all property taxes the tax collector is responsible for collecting, which could include county taxes, municipal taxes, special service district taxes, rural fire district taxes, and supplemental school board taxes. If the county tax collector is not responsible for collecting taxes levied by a municipality, then delinquent taxes owed to that municipality cannot be the basis for the refusal to certify a deed.⁴⁴ The statute makes no reference to liens for special assessments, meaning that outstanding special assessments are not sufficient justification for a tax collector to refuse to certify a deed for registration.

This requirement may be avoided if the closing attorney certifies that he or she will pay the outstanding taxes at closing. The statute does not discuss how the outstanding taxes can be recovered if this does not occur. Certainly the county would retain Machinery Act remedies against the property and its owners. But these remedies might also be used to target the offending attorney based on the attorney's promise to pay.

If the tax collector mistakenly certifies a deed for registration, would that error be binding on the county and extinguish the lien for the omitted taxes? Likely not, because nothing in the deed certification statute indicates that the process affects the existence or enforceability of liens on the property. This provision is intended to limit the authority of the register of deeds, not the tax collector. If a buyer seeks assurance that the property is free from all tax liens, he or she must proceed under the Machinery Act's certification process as described in Question 11.

42. G.S. 105-361(e).

43. G.S. 161-31(b). These sixty-nine counties are Alexander, Anson, Beaufort, Bertie, Burke, Cabarrus, Camden, Carteret, Caswell, Catawba, Cherokee, Chowan, Clay, Cleveland, Currituck, Dare, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Gaston, Gates, Graham, Granville, Greene, Halifax, Harnett, Haywood, Henderson, Hertford, Hyde, Iredell, Jackson, Johnston, Jones, Lee, Lenoir, Lincoln, Macon, Madison, Martin, McDowell, Montgomery, Nash, Northampton, Onslow, Pasquotank, Pender, Perquimans, Person, Pitt, Polk, Robeson, Rockingham, Rowan, Rutherford, Stanly, Surry, Swain, Transylvania, Tyrrell, Vance, Warren, Washington, Wayne, Wilson, and Yadkin.

44. The only exception to this rule is Duplin County. Local bill S.L. 2010-24 authorized Duplin County to adopt a resolution that prohibits the recording of a deed unless the tax collector certifies that all taxes, both county and municipal, have been paid, even if the county does not collect taxes for a particular municipality.

14. Can a local government refuse to issue a building permit if property taxes are owed on the property that is the subject of the permit?

No, unless the local government is one of the twenty that has received such authority under a local bill. As of the 2010 legislative session, only Alexander, Alleghany, Anson, Bertie, Catawba, Chowan, Currituck, Davie, Gates, Greene, Lenoir, Lincoln, Iredell, Stokes, Surry, Tyrrell, Wayne, and Yadkin counties and the towns of Columbia and Edenton had been granted the authority to withhold building permits (or any other type of permit) due to outstanding property taxes.⁴⁵

Currituck County is the only local government authorized to withhold the issuance of a special use permit or conditional use permit under its zoning regulations if the applicant owes delinquent property taxes.⁴⁶

45. G.S. 153A-357(c), as modified by S.L. 2005-433 (Greene, Iredell, Lenoir, Wayne, and Yadkin counties), S.L. 2006-150 (Davie and Lincoln counties), S.L. 2007-58 (Gates County), S.L. 2009-117 (Alexander, Alleghany, Anson, Bertie, Catawba, Chowan, Stokes, Surry, and Tyrrell counties), and S.L. 2010-30 (Currituck County); G.S. 160A-417, as modified by S.L. 2009-68 (towns of Columbia and Edenton).

46. G.S. 153A-340(c2), added to the statutes by S.L. 2010-30 and applicable to Currituck County only.

Appendix

**GASTON COUNTY
OFFICE OF THE TAX COLLECTOR
STATEMENT OF TAXES DUE**

GC STD -1
2010 02 25

Per NCGS 105-361, on the request of any of the persons prescribed in Section(1), below, and upon the condition prescribed by Section (2), below, the tax collector shall furnish a written certificate stating the amount of any taxes and special assessments for the current year and for prior years in his hands for collection (together with any penalties, interest, and costs accrued thereon) including the amount due under G.S. 105-277.4(c) if the property should lose its eligibility for the benefit of classification under G.S. 105-277.2 et seq. that are a lien on a parcel of real property in the taxing unit.

Section 1

I _____, hereby affirm that I am qualified to request a Statement of Taxes Due for the property identified in Section (2) as one of the persons identified below:

Any of the following persons shall be entitled to request the certificate:

- An owner of the real property;
- An occupant of the real property;
- A person having a lien on the real property;
- A person having a legal interest or estate in the real property;
- A person or firm having a contract to purchase or lease the property or a person or firm having contracted to make a loan secured by the property;
- The authorized agent or attorney of Name _____ Phone _____ of any person described above.

Signature _____ Phone _____ Date _____

Section 2

Duty of Person Making Request. — With respect to taxes, the tax collector shall not be required to furnish a certificate unless the person making the request specifies in whose name the real property was listed for taxation on January 1 for each year for which the information is sought. With respect to assessments, the tax collector shall not be required to furnish a certificate unless the person making the request furnishes such identification of the real estate (Parcel ID) as may be reasonably required by the tax collector.

Current Property Information:

Parcel ID _____ Legal Reference: Deed Book / Page _____ / _____ Tax District: _____

Tax Year	Listing Owner (as of Jan 1 for each year)	Parcel ID	Tax Deferral *	Special Assessments	Real Estate Amt	Bus/Individual Personal Amt	Deferred Amt
1. 2009	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	\$ _____	\$ _____	\$ _____
2. 2008	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	\$ _____	\$ _____	\$ _____
3. 2007	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	\$ _____	\$ _____	\$ _____
4. 2006	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	\$ _____	\$ _____	\$ _____
5. 2005	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	\$ _____	\$ _____	\$ _____
6. 2004	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	\$ _____	\$ _____	\$ _____
7. 2003	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	\$ _____	\$ _____	\$ _____
8. 2002	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	\$ _____	\$ _____	\$ _____
9. 2001	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	\$ _____	\$ _____	\$ _____
10. 2000	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	\$ _____	\$ _____	\$ _____
					TOTAL \$	\$ _____	\$ _____

I CERTIFY THAT THE AMOUNT OF TAXES (TOGETHER WITH ANY PENALTIES, INTEREST AND COST ACCURED THEREON) THAT HAVE BEEN MADE A LEIN ON THE REAL PROPERTY IDENTIFIED ABOVE IS \$ _____ THROUGH AND INCLUDING THE MONTH OF _____ YEAR _____. THIS DOES NOT INCLUDE TAXES FOR THE TAX YEAR _____.

Date of Statement: _____ Tax Collector _____

Prepared By: _____
* Tax Deferrals include: Historic District (HD); Circuit Breaker (CB); Builder's Inventory (BI); Present Use Value (PUV); Working Waterfront (WW); Wildlife Conservation (WC); Historic Property (HP); Non-profit low-moderate income housing site (NHS)

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