

Refunds and Releases

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Carolina County conducts a revaluation effective January 1, 2018.

Tommy TarHeel does not appeal the tax appraisal for his home in 2018 or 2019

In 2020, Tommy learns that in late 2017 his neighbor sold an identical house for \$100,000 less than Tommy's tax appraisal.

Tommy appeals his 2020 tax appraisal.

Poll #1

- Is Tommy permitted to appeal his 2020 tax appraisal that was originally issued by the county in 2018?
- YES
- NO

Poll #2

- If Tommy is permitted to appeal and wins, is he entitled to a refund of any taxes for 2018 and 2019 based on his new, lower appraisal?
- YES
- NO

NCGS 105-380:

No taxes to be released, refunded, or compromised.

- The governing body of a taxing unit is prohibited from releasing, refunding, or compromising taxes levied against any property within its jurisdiction *except as expressly provided in this Subchapter.*
- Personal liability

NCGS 105-381:

Three* Justifications for Release/Refund

1. A tax imposed through clerical error
2. An illegal tax*
3. A tax levied for an illegal purpose*

Appeal vs. Refund/Release

- Appeal:
 - Value judgments or Eligibility for Exemptions
 - Current Year Only
 - BOER / PTC / State Court
- Refund / Release
 - Illegality or Procedural Mistakes by Tax Office
 - Retroactive
 - BOCC / State Court

NCGS 105-381:

Illegal Tax / Tax for Illegal Purpose

- Double taxation
- Tax on property with no situs in taxing unit
- Tax levied for non-public purpose
- Tax levied w/out required referendum
- Tax in excess of statutory cap of \$1.50

NCGS 105-381:

Illegal Tax / Tax for Illegal Purpose

- OVERPAYMENTS

<\$1: keep (*resolution*)

<\$15: apply to next year's taxes (*resolution*)

>\$15: apply to next year's taxes (*taxpayer consent*)

- <https://canons.sog.unc.edu/new-rules-for-small-overpayments-of-property-taxes/>

Illegal Taxes

- Mike has owned his house for 20 years. He and everyone else always thought it was inside the Blue Devil City limits.
- He has paid Blue Devil City taxes for 20 years.
- In 2020 a new survey reveals that his house is not in Blue Devil City.
- May he get a refund for any Blue Devil City taxes?

Poll #3

- May Mike get a refund of Blue Devil City taxes?
 - No
 - Yes, for 20 years of city taxes
 - Yes, for 5 years of city taxes

NCGS 105-381: Clerical Error

- Ammons v. Wake County
 - 127 N.C. App. 426 (1997)
- Assessor tells taxpayer that property would not qualify for PUV
- Taxpayer applies for PUV following year
- E&R grants exemption
- Taxpayer claims “clerical error” for missed year of PUV

NCGS 105-381: Clerical Error Ammons v. Wake County (1997)

- Not a clerical error!
- Was not unintended result
- Was not apparent on the face of the documents or capable of being corrected by reference to the record only
- *Best example:* Transcription error

NCGS 105-381: Clerical Error

- A procedural error that produces and unintended assessment
- Not a judgment error

Judgment Error v. Clerical Error

- Judgment Errors:
 - “My house isn’t worth that much!”
 - “I should have been exempt last year!”
- Clerical Errors:
 - “You taxed me on 5,200 sq. ft. instead of 2,500!”
 - “You applied my tax payment to the wrong account!”

Judgment Error v. Clerical Error

- Judgment Error:
 - Resolve through the assessment appeal process
 - Bd of Equalization & Review (county)
 - Property Tax Commission (state)
 - State Courts
 - Current year only---never retroactive

Judgment Error v. Clerical Error

- Clerical Error:
 - Resolve through Refund & Release (GS 105-381)
 - Tax Collector
 - Bd of County Commissioners / Town Council
 - State Courts
 - Retroactive

NCGS 105-381: Clerical Error

- Taxpayer Error or Tax Office Error?
- Tax must be “imposed due to clerical error”
 - who can impose a tax?

Clerical Error

- The county appraises Roy's house at 25,000 square feet instead of its actual size, 2,500 square feet.
- Roy's mortgage company pays the tax bill in December.
- In January, Roy learns of the size of the bill and complains to the county.

Poll #4

- Is Roy entitled to a refund?
 - YES
 - NO

Mike K. pays his 2020 Durham County taxes in September 2020, forgetting that his mortgage company is escrowing the taxes for him.

Two weeks later he demands a refund, explaining that the mortgage company will pay the taxes in December.

Is a refund justified?

Poll #5

- Is Mike entitled to a refund?
 - YES
 - NO

In December 2020, Big Bank sends a tax payment for parcel #1001.

One week later Big Bank calls and explains that the payment was actually for parcel #1010.

Can the tax office move the payment from parcel #1001 to parcel #1010?

Beginning in 2016, Carolina County taxes Dean for his land, his house, and a detached garage.

Dean has never had a detached garage. He pays the taxes each year.

In 2020, Dean demands a refund for the taxes on the non-existent garage.

Is a refund justified?

Poll #6

- Is Dean entitled to a refund?
- YES
- NO

In 2018 Carolina County assessed Roy's house as if it had a finished 3rd floor.

In 2020 Roy demands a refund of 2018 and 2019 taxes because his house has never had a finished 3rd floor.

Is a refund justified?

Poll #7

- Is Roy entitled to a refund?
- YES
- NO

NCGS 105-381: Authorization for Refund/Release

- Governing Board
- <\$100, may be delegated to:
 - Finance officer
 - Manager
 - Attorney
- “Routine” refunds?

NCGS 105-381: Appeals?

- If board denies refund/release request, taxpayer may sue in **state court**
- No appeal to the PTC
- Must pay tax before suing

NCGS 105-381:

Timeframe for Refunds/Releases

- Release:
 - NO time limit
- Refund:
 - 5 years after tax first due*

NCGS 105-381:

Timeframe for Refunds/Releases

- Dean pays double taxes on his boat for 10 years.
- Asks for refund in February 2020.
- What is earliest year that can be refunded?

More Discussion Questions

- Carolina County conducted a revaluation of real property in 2018. At that time, Tom's house was appraised as Grade A construction and assessed for 5,200 square feet of living space.
- The house actually has only 2,500 square feet of living space
- Tom pays the assessed taxes for 2018 and 2019, but in 2020 he requests that the assessor review his assessment for both the construction grade and the square footage issues.

Poll #7

- Is Tom entitled to a refund?
 - No
 - Yes for both the construction grade and square footage issues
 - Yes but only for the square footage issue

- Dean owns an empty lot on Lake Blue Devil in Doorham County. Since he purchased the lot in 2006, it has been appraised as if it were a buildable lot under Doorham County zoning regulations.
- In February of 2020, Dean applies for a building permit and is rejected because the lot does not meet several requirements for waterfront construction.

- Dean immediately demands that the property tax assessment be reduced to reflect that fact that his lot is not buildable. Under the assumption that the lot was buildable, it had been assessed at \$250,000.
- The assessor adjusts the appraisal for 2020 and future tax years to \$25,000 to reflect the fact that the lot is not buildable.

Poll #8

- Is Dean entitled to a refund of any prior taxes due to his lot being unbuildable?
- YES
- NO

- Maureen the Marine has a home state of record of Texas but has been stationed in Carolina County, NC, since 2010.
- Maureen registered her car in Carolina County immediately after moving here and dutifully paid property taxes on the car each year.

- In 2020, Maureen realizes that she should be exempt from North Carolina personal property taxes under the Servicemembers Civil Relief Act.
- Maureen brings the appropriate documentation to the Carolina County tax office and requests that her tax payments for 2010 through 2020 be refunded.

Poll #9

- Is Maureen the Marine entitled to a refund?
 - No
 - Yes, for 2015 to 2020
 - Yes, for 2010 to 2020

- ABC, Inc. listed 10 large generators for 2018 property taxes.
- In February 2020, ABC, Inc. produces documentation demonstrating that it sold 3 of those generators to a Virginia business in late 2017.

Poll#10

- Is ABC, Inc. entitled to a refund of any of its 2018 personal property taxes?
- YES
- NO

Special Refund Situations

Registered Motor Vehicles

- Prorated refunds under G.S. 105-330.6
- Number of full months remaining in RMV tax year after plates surrendered to DMV
- Must provide DMV receipt (FS20) to county tax office

- The tax year on Billy's Honda Civic runs from April 2020 to March 2021.
- Billy renews his tags and pays the 2020-2021 property taxes on March 15, 2020. The property taxes were \$120.
- In September 2020 Billy sells the Civic. He turns in his tags to the DMV on October 3, 2020 and obtains a receipt.
- Billy visits the county tax office on November 15, 2020 to ask for a refund on his 2020 property taxes for the Civic.

Poll #11

- Is Billy entitled to a refund?
 - No
 - Yes, for the entire \$120 tax bill
 - Yes, for 6/12 of the bill (Oct to March)
 - Yes, for 5/12 of the bill (Nov to March)
 - Yes, for 4/12 of the bill (Dec to March)

Annexations & County Fire Tax Districts

- If property in county fire tax districts annexed by town that provides fire protection, then property automatically removed from county fire tax district
- **Town** owes pro-rated refund of county fire district tax for first year based on # of full months remaining after annexation

Releasing Other Taxes & Fees

- GS 105-381 applies ONLY to property taxes
- May apply GS 105-381 to other taxes and fees but NOT required
- Local governments generally free to develop own refund/release rules for other taxes and fees

Special Rule for Discoveries

GS 105-312(k)

- Governing board may “compromise” (waive) any or all of discovery for ANY REASON
- GS 105-381 does not apply to discoveries

Discovery Compromise/Refund

- Mike receives a discovery bill for a detached garage he built 5 years ago. He pays the full bill including penalties.
- Two weeks later he writes to the BOCC and asks the board to waive the penalties on his discovery bill.

Poll #11

- May the BOCC compromise Mike's discovery penalties under GS 105-312?
- YES
- NO

