

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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**HOUSE BILL 116
Committee Substitute Favorable 4/26/05**

Short Title: Property Tax Changes.

(Public)

Sponsors:

Referred to:

February 9, 2005

A BILL TO BE ENTITLED

1 AN ACT TO CLARIFY PRESENT-USE VALUE ELIGIBILITY, TO AMEND THE
2 PERIOD FOR APPEAL OF A PRESENT-USE VALUE DETERMINATION OR
3 APPRAISAL, TO MODIFY THE TAX YEAR FOR MOTOR VEHICLES THAT
4 ARE TO BE SWITCHED FROM AN ANNUAL SYSTEM OF REGISTRATION
5 TO A STAGGERED SYSTEM EFFECTIVE JANUARY 1, 2006, AND TO APPLY
6 THE SAME PENALTY THAT CURRENTLY APPLIES TO PAYMENTS BY
7 CHECK TO PROPERTY TAX PAYMENTS MADE BY ELECTRONIC
8 PAYMENTS.
9

10 The General Assembly of North Carolina enacts:

11 **SECTION 1.** G.S. 105-277.2(3) reads as rewritten:

12 "(3) Horticultural land. – Land that is a part of a horticultural unit that is
13 actively engaged in the commercial production or growing of fruits or
14 vegetables or nursery or floral products under a sound management
15 program. Horticultural land includes woodland and wasteland that is a
16 part of the horticultural unit, but the woodland and wasteland included
17 in the unit must be appraised under the use-value schedules as
18 woodland or wasteland. A horticultural unit may consist of more than
19 one tract of horticultural land, but at least one of the tracts must meet
20 the requirements in G.S. 105-277.3(a)(2), and each tract must be under
21 a sound management program. If the horticultural land includes less
22 than 20 acres of woodland, then the woodland portion is not required
23 to be under a sound management program. Also, woodland is not
24 required to be under a sound management program if it is determined
25 that the highest and best use of the woodland is to diminish wind
26 erosion of adjacent horticultural land or protect water quality of
27 adjacent horticultural land. Land used to grow horticultural and
28 agricultural crops on a rotating basis or where the horticultural crop is
29 set out or planted and harvested within one growing season, may be

1 treated as agricultural land as described in subdivision (1) of this
2 section when there is determined to be no significant difference in the
3 cash rental rates for the land."

4 **SECTION 2.** G.S. 105-277.2(7) reads as rewritten:

5 "(7) Unit. – One or more tracts of agricultural land, horticultural land, or
6 forestland. Multiple tracts must be under the same
7 ~~ownership~~ownership and be of the same type of classification. If the
8 multiple tracts are located within different counties, they must be
9 within 50 miles of a tract qualifying under G.S. ~~105-277.3(a)~~ and share
10 ~~one of the following characteristics:~~

11 a. ~~Type of classification.~~

12 b. ~~Use of the same equipment or labor force.~~105-277.3(a)."

13 **SECTION 3.** G.S. 105-277.3(b2) reads as rewritten:

14 "(b2) Exception to Ownership Requirements. – Notwithstanding the provisions of
15 subsections (b) and (b1) of this section, land may qualify for classification in the hands
16 of the new owner if all of the conditions listed in either subdivision of this subsection
17 are met, even if the new owner does not meet all of the ownership requirements of
18 subsections (b) and (b1) of this section with respect to the land.

19 (1) Exception for assumption of deferred liability. – If the land qualifies
20 for classification in the hands of the new owner under the provisions of
21 this ~~subsection~~subdivision, then the deferred taxes remain a lien on
22 the land under G.S. 105-277.4(c), the new owner becomes liable for
23 the deferred taxes, and the deferred taxes become payable if the land
24 fails to meet any other condition or requirement for classification.
25 Land qualifies for classification in the hands of the new owner if all of
26 the following conditions are met:

27 (1)a. The land was appraised at its present use value ~~or was eligible~~
28 ~~for appraisal at its present use value~~ at the time title to the land
29 passed to the new owner.

30 (2)b. At the time title to the land passed to the new owner, the new
31 owner acquires the land for the purposes of and continues to use
32 the land for the purposes it was classified under subsection (a)
33 of this section while under previous ownership.

34 (3)c. The new owner has timely filed an application as required by
35 G.S. 105-277.4(a) and has certified that the new owner accepts
36 liability for the deferred taxes and intends to continue the
37 present use of the land.

38 (2) Exception for expansion of existing unit. – If deferred liability is not
39 assumed under subdivision (1) of this subsection, the land qualifies for
40 classification in the hands of the new owner if, at the time title passed
41 to the new owner, the land was being used for the same purpose and
42 was eligible for appraisal at its present-use value as other land already
43 owned by the new owner and classified under subsection (a) of this

1 section. The new owner must timely file an application as required by
2 G.S. 105-277.4(a)."

3 **SECTION 4.** G.S. 105-277.4(b1) reads as rewritten:

4 "(b1) Appeal. – Decisions of the assessor regarding the qualification or appraisal of
5 property under this section may be appealed to the county board of equalization and
6 review or, if that board is not in session, to the board of county commissioners. An
7 appeal must be made within 60 days after the decision of the assessor. If an owner
8 submits additional information to the assessor pursuant to G.S. 105-296(j), the appeal
9 must be made within 60 days after the assessor's decision based on the additional
10 information. Decisions of the county board may be appealed to the Property Tax
11 Commission."

12 **SECTION 5.** G.S. 105-277.7(c)(1) and (c)(5) read as rewritten:

13 "(c) Duties. – The Board must annually submit to the Department of Revenue a
14 recommended use-value manual. In developing the manual, the Board may consult with
15 federal and State agencies as needed. The manual must contain all of the following:

16 (1) The estimated cash rental rates for agricultural lands and horticultural
17 lands for the various classes of soils found in the State. The rental rates
18 must recognize the productivity levels by class of soil or geographic
19 ~~area-area~~, and the crop as either agricultural or horticultural. The rental
20 rates must be based on the rental value of the land to be used for
21 agricultural or horticultural purposes when those uses are presumed to
22 be the highest and best use of the land. The recommended rental rates
23 may be established from individual county studies or from contracts
24 with federal or State agencies as needed.

25 ...

26 (5) Recommendations concerning any changes to the capitalization rate
27 for agricultural land and horticultural land and to the maximum value
28 per acre for the best agricultural land and horticultural land based on a
29 calculation to be determined by the Board. The Board shall annually
30 report these recommendations to the Revenue Laws Study Committee
31 and to the President Pro Tempore of the Senate and the Speaker of the
32 House of Representatives."

33 **SECTION 6.** G.S. 105-289(a)(7) reads as rewritten:

34 "(a) It is the duty of the Department of Revenue:

35 ...

36 (7) To conduct studies of the cash rents for agricultural and horticultural
37 lands on a county or a regional basis, such as the Major Land Resource
38 Area map designated and developed by the U.S. Department of
39 Agriculture. The results of the studies must be furnished to the North
40 Carolina Use-Value Advisory Board. The studies may be conducted on
41 any reasonable basis and timetable that will be reflective of rents and
42 values for each local area based on the productivity of the land."

43 **SECTION 7.** G.S. 105-296(j) and (l) read as rewritten:

1 (j) The assessor must annually review at least one eighth of the parcels in the
2 county classified for taxation at present-use value to verify that these parcels qualify for
3 the classification. By this method, the assessor must review the eligibility of all parcels
4 classified for taxation at present-use value in an eight-year period. The period of the
5 review process is based on the average of the preceding three years' data. The assessor
6 may request assistance from the Farm Service Agency, the Cooperative Extension
7 Service, the Forest Resources Division of the Department of Environment and Natural
8 Resources, or other similar organizations.

9 The assessor may require the owner of classified property to submit any information,
10 including sound management plans for forestland, needed by the assessor to verify that
11 the property continues to qualify for present-use value taxation. The owner has 60 days
12 from the date a written request for the information is made to submit the information to
13 the assessor. If the assessor determines the owner failed to make the information
14 requested available in the time required without good cause, the property loses its
15 present-use value classification and the property's deferred taxes become due and
16 payable as provided in G.S. 105-277.4(c). The If the property loses its present-use value
17 classification for failure to provide the requested information, the assessor must
18 reinstate the property's present-use value classification when the owner submits the
19 requested information within 60 days after the disqualification unless the information
20 discloses that the property no longer qualifies for present-use value classification. When
21 a property's present-use value classification is reinstated, it is reinstated retroactive to
22 the date the classification was revoked and any deferred taxes that were paid as a result
23 of the revocation must be refunded to the property owner. The owner may appeal the
24 final decision of the assessor to the county board of equalization and review as provided
25 in G.S. 105-277.4(b1).

26 In determining whether property is operating under a sound management program,
27 the assessor must consider any weather conditions or other acts of nature that prevent
28 the growing or harvesting of crops or the realization of income from cattle, swine, or
29 poultry operations. The assessor must also allow the property owner to submit
30 additional information before making this determination.

31 ...

32 (l) The assessor shall annually review at least one-eighth of the parcels in the
33 county exempted or excluded from taxation to verify that these parcels qualify for the
34 exemption or exclusion. By this method, the assessor shall review the eligibility of all
35 parcels exempted or excluded from taxation in an eight-year period. The assessor may
36 require the owner of exempt or excluded property to make available for inspection any
37 information reasonably needed by the assessor to verify that the property continues to
38 qualify for the exemption or exclusion. The owner has 60 days from the date a written
39 request for the information is made to submit the information to the assessor. If the
40 assessor determines that the owner failed to make the information requested available in
41 the time required without good cause, then the property loses its exemption or
42 exclusion. If the property loses its exemption or exclusion for failure to provide the
43 requested information, the~~The~~ assessor must reinstate the property's exemption or
44 exclusion when the owner makes the requested information available within 60 days

1 after the disqualification unless the information discloses that the property is no longer
2 eligible for the exemption or exclusion."

3 **SECTION 8.** G.S. 105-330.5(a) reads as rewritten:

4 "(a) For classified motor vehicles listed pursuant to G.S. 105-330.3(a)(1), upon
5 receiving the registration lists from the Division of Motor Vehicles each month, the
6 assessor shall prepare a tax notice for each vehicle; the tax notice shall contain all
7 county, municipal, and special district taxes due on the motor vehicle. In computing the
8 taxes, the assessor shall appraise the motor vehicle in accordance with G.S. 105-330.2
9 and shall use the tax rates of the various taxing units in effect on the first day of the
10 month in which the current vehicle registration expired or the new registration was
11 applied for. The tax on the motor vehicle is the product of a fraction and the number of
12 months in the motor vehicle tax year. The numerator of the fraction is the product of the
13 appraised value of the motor vehicle and the tax rate of the various taxing units. The
14 denominator of the fraction is 12. This procedure shall constitute the listing and
15 assessment of each classified motor vehicle for taxation. The tax notice shall contain:

- 16 (1) The date of the tax notice.
- 17 (2) The appraised value of the motor vehicle.
- 18 (3) The tax rate of the taxing units.
- 19 (4) A statement that the appraised value of the motor vehicle may be
20 appealed to the assessor within 30 days after the date of the notice."

21 **SECTION 9.** G.S. 105-330.6 reads as rewritten:

22 **"§ 105-330.6. Motor vehicle tax year; transfer of plates; surrender of plates.**

23 (a) Tax Year. – The tax year for a classified motor vehicle listed pursuant to
24 G.S. 105-330.3(a)(1) and registered under the staggered system begins on the first day
25 of the first month following the date on which the former registration expires or the new
26 registration is applied for and ends on the last day of the ~~twelfth~~ month following the
27 ~~date on which the registration expires or the new registration is applied for.~~ in which the
28 current registration expires. The tax year for a classified motor vehicle listed pursuant to
29 G.S. 105-330.3(a)(1) and registered under the annual system begins on the first day of
30 the first month following the date on which the registration expires or the new
31 registration is applied for and ends the following December 31. The tax year for a
32 classified motor vehicle listed pursuant to G.S. 105-330.3(a)(2) is the fiscal year that
33 opens in the calendar year in which the vehicle is required to be listed.

34 (a1) Change in Tax Year. – If the tax year for a classified motor vehicle changes
35 because of a change in its registration for a reason other than the transfer of its
36 registration plates to another classified motor vehicle pursuant to G.S. 20-64, and the
37 new tax year begins before the expiration of the vehicle's original tax year, the taxpayer
38 may receive a credit, in the form of a release, against the taxes on the vehicle for the
39 new tax year. The amount of the credit is equal to a proportion of the taxes paid on the
40 vehicle for the original tax year. The proportion is the number of full calendar months
41 remaining in the original tax year as of the first day of the new tax year, divided by
42 ~~12.~~ the number of months in the original tax year. To obtain the credit allowed in this
43 subsection, the taxpayer must apply within 30 days after the taxes for the new tax year
44 are due and must provide the county tax collector information establishing the original

1 tax year of the vehicle, the amount of taxes paid on the vehicle for that year, and the
2 reason for the change in registration.

3 (b) Transfer of Plates. – If the owner of a classified motor vehicle listed pursuant
4 to G.S. 105-330.3(a)(1) transfers the registration plates from the listed vehicle to
5 another classified motor vehicle pursuant to G.S. 20-64 during the listed vehicle's tax
6 year, the vehicle to which the plates are transferred is not required to be listed or taxed
7 until the current registration expires or is renewed.

8 (c) Surrender of Plates. – If the owner of a classified motor vehicle listed
9 pursuant to G.S. 105-330.3(a)(1) either transfers the motor vehicle to a new owner or
10 moves out-of-state and registers the vehicle in another jurisdiction, and the owner
11 surrenders the registration plates from the listed vehicle to the Division of Motor
12 Vehicles, then the owner may apply for a release or refund of taxes on the vehicle for
13 any full calendar months remaining in the vehicle's tax year after the date of surrender.
14 To apply for a release or refund, the owner must present to the county tax collector
15 within one year after surrendering the plates the receipt received from the Division of
16 Motor Vehicles accepting surrender of the registration plates. The county tax collector
17 shall then multiply the amount of the taxes for the tax year on the vehicle by a fraction,
18 the denominator of which is ~~12~~the number of months in the tax year and the numerator
19 of which is the number of full calendar months remaining in the vehicle's tax year after
20 the date of surrender of the registration plates. The product of the multiplication is the
21 amount of taxes to be released or refunded. If the taxes have not been paid at the date of
22 application, the county tax collector shall make a release of the prorated taxes and credit
23 the owner's tax notice with the amount of the release. If the taxes have been paid at the
24 date of application, the county tax collector shall direct an order for a refund of the
25 prorated taxes to the county finance officer, and the finance officer shall issue a refund
26 to the vehicle owner."

27 **SECTION 10.** G.S. 105-357(b)(2) reads as rewritten:

28 "(2) Penalty. – In addition to interest for nonpayment of taxes provided by
29 G.S. 105-360 and in addition to any criminal penalties provided by ~~law~~
30 ~~for the giving of worthless checks,~~law, the penalty for ~~giving~~
31 ~~presenting in payment of taxes a check~~or electronic funds transfer that
32 ~~is returned or not completed~~ because of insufficient funds or
33 nonexistence of an account of the drawer ~~or transferor~~ is twenty-five
34 dollars (\$25.00) or ten percent (10%) of the amount of the check ~~or~~
35 ~~electronic invoice~~, whichever is greater, subject to a maximum of one
36 thousand dollars (\$1,000). This penalty does not apply if the tax
37 collector finds that, when the check ~~or electronic funds transfer~~ was
38 presented for payment, the drawer of the check ~~or transferor of funds~~
39 had sufficient funds in an account at a financial institution in this State
40 to ~~pay the check~~make the payment and, by inadvertence, the drawer of
41 the check ~~or transferor of the funds~~ failed to draw the check ~~or initiate~~
42 ~~a transfer~~ on the account that had sufficient funds. This penalty shall
43 be added to and collected in the same manner as the taxes for which
44 the check ~~or electronic payment~~ was given."

1 **SECTION 11.** Sections 1 through 7 of this act are effective for taxes imposed
2 for taxable years beginning on or after July 1, 2005. Sections 8 and 9 of this act become
3 effective January 1, 2006. The remainder of this act is effective when it becomes law.