



Department of State Treasurer

Policy Manual for Local Governments

**Section 50: Property Tax Assessment,
Billing and Collection**

The following section is designed to provide financial professionals an overview of the listing, assessing, billing and collecting process and fiscal processes. Guide to the Listing, Assessment, and Taxation of Property in North Carolina by Shea Riggsbee Denning was the main source of the following materials. Additional discussion and interpretation of general statutes for property tax law and supporting case law can be found in this publication. This section is designed to provide discussion of fiscal policy regarding listing, assessing, billing and collecting for finance staff.

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Executive Summary

The listing, appraisal, and assessment of real and personal property, and the methods by which taxes are levied and collected on such property, represent a major portion of the clerical, accounting, and control activities of municipalities, counties, and other tax-levying governments. Prompt collection of a major portion of each year's tax levy indicates good administrative and fiscal control and should have a positive impact on the unit's credit rating. Rating agencies look favorably on a unit that makes strong efforts to collect funds that are legally owed to it. Higher credit ratings decrease net interest costs on debt, thus reducing a unit's expenditures in that area.

A high percentage of taxes collected results in more revenues for a unit, allowing for increased funding of existing projects and programs, funding of new projects and programs, and may reduce the need to issue debt. Increased tax revenues also bring about increased investment earnings, which in turn increase available revenues even more. Taxpayers that pay their taxes in a timely manner should expect a unit to do everything legally possible to collect taxes from those taxpayers that do not pay their bills. Increased tax collections may allow a unit to reduce the overall tax rate.

The General Statutes are very specific regarding tax listings, appraisals, assessment of property, and collection of taxes. Article 26 of the Machinery Act, Subchapter II, Chapter 105 of the General Statutes, is the primary authoritative source in this area. The North Carolina General Assembly's web site also includes the NC General Statutes [www.ncga.state.nc.us]. Please read the caveats listed and cross check pertinent statutes for legislative changes which may not have been incorporated into the electronic versions of the State laws.

This policy statement sets out matters to be considered by the governing board, the finance officer and staff of the unit of local government in the listing assessment and appraisal of real and personal property. The first section (Part I) discusses the personnel and entities involved and the listing processes. The county tax assessor is the person responsible for the listing and appraisal of all taxable property within the county. Assessors must be certified if hired after 1983; those hired prior to that time may have to meet other requirements. The board of equalization and review, which usually is the county commissioners serving in another capacity, hears and decides appeals from taxpayers concerning the values assigned to their property. The listing process identifies all property to be taxed.

The valuation process is a process by which a value for tax purposes is assigned to all taxable property within the taxing unit. Property is valued at market value, but state law allows some property to be taxed at its present-use value. Personal property is appraised every year. Industry pricing guides are used whenever possible to determine market value. Property owners may appeal the value assigned to their personal property to the board of equalization and review. Real property must be appraised every eight years by law. Counties may appraise it more often if they choose. An appraisal manual must be written, presented to the unit's governing board, discussed at a public hearing, and ultimately be adopted by that board each time a complete appraisal of real property is performed. Adjustments to real property value may be made without a formal appraisal if the change is to correct an error or to recognize a change in value due to something other than normal depreciation, economic conditions, appreciation, or improvements. Property owners may appeal the values assigned to real



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property to the board of equalization and review. It is the assessor's responsibility to determine that all taxable property within the taxing unit has been listed for taxes. When property is located that is not listed or has been undervalued, the property is termed "discovered". All real property listed in the prior tax year is carried forward to the current year and compared to the current year's listing to identify unlisted real property. Various reports must be filed by those businesses that deal in personal property storage and location (e.g., airports, mobile home parks, marinas) to assist units in identifying unlisted personal property. Units also receive monthly listings of vehicles for which the owners have renewed the vehicle registration. Penalties will be assessed to the taxpayer for unlisted or underlisted property that is discovered.

Part II discusses the billing and collections processes as well as the payment of taxes. Tax records are maintained permanently by the taxing unit and must contain certain information as dictated by law. There is no legal requirement that units send tax bills to the taxpayers, but the cost of sending bills is justified by the increased cash flow and collection rate. Tax receipts must be maintained by the unit and are given to the tax collector by September 1, when he or she is charged with the collection of the taxes. The tax collector may not be charged with new taxes until settlement is made for the previous year. The tax collector is responsible for the collection of all taxes levied by the unit. The collector must meet certain legal qualifications and is required to be bonded. The governing board should charge the collector with the collection of the taxes when the tax receipts are given to him or her. With the charge, the tax collector has the authority to use all legal means available to collect the taxes owed. Taxes are due and payable on September 1 and must be paid by January 5 of the fiscal year for which they were levied in order to be current. Interest begins accruing on taxes unpaid on January 6. Discounts on early payments may be allowed at the discretion of the board. Penalties and interest for late payment are determined by law. A lien in favor of the taxing unit is attached to real property at the time the property is listed or should be listed for taxes. The lien for personal property attaches at the time attachment is made through garnishment or levy. Liens on real property are superior to most other liens. Liens on personal property may be superior if the property is being attached for the tax owed on that property. Releases and refunds are similar; releases are made before the tax has been paid, while refunds are made after the tax has been paid. There are specific instances in which releases and refunds may be made. Board members may be held personally responsible if a refund or release is made improperly.

Classified motor vehicles are discussed in Part III. Most procedures regarding listing and assessment of unregistered motor vehicles mirror those for other types of personal property, but procedures for listing and assessing taxes on registered motor vehicles are significantly different.

Part IV addresses the collection of delinquent taxes. It is generally more favorable to proceed against personal property to satisfy a tax claim than to pursue real property, as it is much less expensive to proceed against personal property. Three means of collection against personal property are available: (1) attachment and garnishment, (2) levy, and (3) debt setoff. Attachment and garnishment is used on intangible personal property, such as bank accounts and payroll checks. Levy is used against tangible personal property that may be sold for value. Debt setoff uses an individual's State income tax refund to settle debts owed to a local government (debts are not limited to delinquent property taxes). There are certain legal steps that must be taken in all of these proceedings. In the first two, the unit may recover the



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amount of the tax owed, the penalties, interest, and any costs incurred by the unit in the collection of the tax. If recovery is made under the debt setoff program, the unit will credit the taxpayer's account for the amount collected and, beginning January 1, 2003, may charge an additional \$15 processing fee as a cost of collection. Foreclosure proceedings may be used against real property. There are two types: foreclosure in the nature of an action to foreclose (known as a mortgage-style foreclosure), and *in rem* foreclosure. An attorney is necessary to pursue a mortgage-style foreclosure. Many taxing units that rely on *in rem* foreclosures do so through the work of experienced collectors rather than attorneys.

Part V considers a variety of topics including the levy and collection of school district taxes, the annual settlement and various exemptions and exclusions. A municipality should consider consolidating its tax functions with that of a county, as this normally results in a more efficient means of billing and collecting taxes. Units with lower collection rates also may experience an increase in their collection rates as a result of consolidation. The staff of the Local Government Commission annually issues two reports providing comparative cash and investment information and tax levy information for local units. Units may compare their performance with that of other units or with statewide averages. There are several note disclosures and schedules regarding tax billings and collections that must be presented in the annual financial statements of a unit. The note disclosures discuss taxes receivable, the potential tax revenues from use-valued land, and the allowance for doubtful accounts. The schedules illustrate the collection efforts of the unit for the ten-year period for which collections are being pursued and reconciles collections, revenues and receivables. The schedules also show the current year tax collection percentage that is used to measure the unit's tax collection efforts.

Additional resources are listed in Part VI.



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Part I – Property Tax Administration and the Listing Process

A. Personnel and Entities Involved in Property Tax Administration

This section introduces and discusses the role and qualifications of the participants involved in the administration of property taxes.

1. The Tax Assessor

The county tax assessor is responsible for the listing and appraising of all property within the county. In addition to supervising the listing and appraisal of property that is reported by the owners, the assessor also must work to find any property in the county that is not listed at all or has been undervalued. The assessor also serves as the clerk to the board of equalization and review.

The tax assessor is appointed by the county board of commissioners at its first regular meeting in July and is appointed for either a two or four year term, depending on the candidate's certification status. All assessors must be certified by the State Department of Revenue. Newly appointed assessors have two years to fulfill the requirements for certification, thus the two year term. Candidates not meeting the requirements within the two year time frame are not eligible for reappointment to the position.

The requirements for certification (G.S. 105-294) are that the assessor:

- must be 21 or older;
- must hold a high school diploma or certificate or have five years of reasonably related experience;
- must earn a passing score in four training courses; and
- must pass a comprehensive examination given by the Department of Revenue.

These standards went into effect in 1984; assessors who were certified prior to that time do not have to meet the requirements. Assessors who were appointed prior to 1971 do not have to be certified at all. All assessors, regardless of certification status, must complete 30 hours of professional education every two years to be eligible for reappointment.

Many units of government appoint someone already within the county government to serve as tax assessor. Anyone in county government may hold the position of tax assessor with the exception of a county commissioner.

2. The Tax Collector

The selection of the tax collector is generally governed by G.S. 105-349, unless the process is provided for by a local act or charter. If the local act or charter was in effect prior to July 1, 1971, it is maintained intact by the General Statutes. If a local act or charter was put into effect after July 1, 1971, it must specifically state that it is making a local amendment to G.S. 105-349 in order for the local act or charter to be effective. The office of tax collector is usually an appointed one and may be held by any official or employee of a unit except a member of the governing board or the finance officer [G.S. 105-349(e)]. In certain instances, the finance officer may serve as the tax collector, but **only with the written approval of the Secretary of the Local Government Commission** (emphasis added). **Approval by the Secretary of the Local**



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Government Commission must be requested by the unit and is valid for only one fiscal year. A new approval by the Secretary is required each year.

In order to be appointed tax collector, the selected person must meet certain legal qualifications [G.S. 105-349(b)]. Before the tax receipts for the current year are delivered to the tax collector, the following requirements must have been met: the duplicate receipts for any prepaid taxes must be delivered to the finance officer; the tax collector must have demonstrated to the satisfaction of the finance officer that all prepayments of taxes have been deposited to the credit of the taxing unit; he or she must have made the annual settlement with the board; and he or she must have bond coverage for all taxes for the current year and all prior years that are uncollected. G.S. 105-349(c) requires that all tax collectors be bonded, with the amount determined by the governing board. This statute also stipulates that a tax collector may not collect taxes not covered by his or her bond and may not continue collecting taxes once the bond has expired. G.S. 159-29(b) requires that any officer, employee, or agent of a local government that handles or has in his or her custody more than \$100 of the unit's funds at any time must be bonded individually for an adequate amount. G.S. 159-29(c) offers the alternative of bonding employees under a blanket bond. This section clearly states that a tax collector must have his or her own individual bond; inclusion under the blanket bond is only appropriate if the tax collector receives additional coverage as compared to the tax collector's individual bond.

The tax collector can be removed from office by authority of the Machinery Act [G.S. 105-349(a)] if the collector was not hired or elected under a local statute or act. Collectors can be removed if they do not meet the requirements discussed in the above paragraph. The board also has the authority to remove the collector for "good cause" according to the Machinery Act. The collector must be given notice in writing and given the opportunity to appear and be heard at a public meeting of the board. "Cause" in this case refers to reasons of law and public policy to justify removal. The cause must relate to and affect the administration of the collector's office and must be of a substantial nature that directly affects the public's rights and interests. If the collector was hired under a local act or was elected, the board should seek the advice of its local attorney before any attempt is made to remove the collector from office, especially if the collector is an elected official. There is no general authority in the statutes to remove elected local officials, and it has been held in other states that a board cannot remove an elected official unless specifically authorized to do so by statute.

There is nothing in the statutes that prevents the function of Tax Collector and Tax Assessor being held by the same person. As with any billing and collecting function the internal controls and segregation of duties must be maintained. Tax revenue is normally a major revenue source to most units of governments and lack of proper controls in this area could lead to significant issues.

New systems or major system changes in tax assessing or collecting systems should be thoroughly reviewed before implementation for adequate internal controls. This can be performed by either internal audit staff of the unit or by an independent review from qualified firms.



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3. The Board of Equalization and Review

The board of county commissioners generally serves as the board of equalization and review, which functions as a separate agency of the county. The members must take a different oath from the oath they took to serve as county commissioners. As the board of equalization and review, the commissioners must review the listings and assessed valuations for accuracy and compliance with the standards set by State law (see below). They also must hear any appeals from property owners concerning the values assigned to their property and render decisions on these appeals. Again, they must ensure that the values assigned to property are within the standards set by the State. The board of equalization and review has the authority to employ expert assistance, initiate investigations, and subpoena any persons and records from which needed information can be obtained.

If the board of commissioners so desires, it may appoint a special board of equalization and review. This board has the same powers and responsibilities as a regular board of equalization and review. Special boards must be created by ordinance of the board of commissioners; the ordinance must be passed by the first Monday in March of the year for which it is to be effective.

4. Property Tax Commission

Property owners may appeal decisions of the board of equalization and review to the State Property Tax Commission. This Commission is appointed by the Governor and the General Assembly. The Commission's responsibilities include reviewing the counties' listing and valuation decisions; reviewing each board of commissioners' orders adopting schedules, standards, and rules for use in revaluation programs; and reviewing the North Carolina Department of Revenue's appraisal and assessment of the property owned by public service companies.

B. The Listing Process

The listing process is governed by G.S. 105-301 through G.S. 105-312. There are two major categories for property, real and personal. The process for listing real and personal property are different and are discussed below. The listing is the process from which the property tax billing will be created for county, municipalities and special districts. It is important that this document be complete and accurate. Properties must be accurately identified for special districts, special assessments and municipalities.

All taxable property must be listed in the name of the person who owned it on January 1 of the current year (G.S. 105-308). Normally the listing period is the entire month of January. However, property owners can file for extensions of time to list by filing a written application. Extensions may be granted up to April 15 (G.S. 105-307). The tax listing, or abstract, must contain certain information as dictated by the General Statutes (G.S. 105-309). The information required to be reported on the abstract varies according to the type of property and improvements made upon the property.

Counties most often use tax maps to assist the assessor in determining that all real property is listed for property taxes. The Land Records Management Program in the North Carolina Department of the Secretary of State, telephone 919-807-2206, [www.secretary.state.nc.us/land/default.asp], provides assistance to counties that wish to undertake mapping programs. Ownership records and tract descriptions also are useful in



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determining that all property is properly listed. G.S. 105-303 grants county commissioners broad power to regulate the deed-recording process to facilitate the review of land transfer records. The revaluation process invariably identifies unlisted property and improvements.

G.S. 105-303(b) requires with the approval of the North Carolina Department of Revenue, a permanent listing system. This type of system makes the assessor responsible for listing all real property according to its recorded ownership as of January 1. The taxpayer is then relieved of his or her duty to list real estate, except for information concerning improvements and separate rights (such as mineral or timber rights) that are owned by someone other than the taxpayer.

To assist units in identifying unlisted or underlisted personal property, the General Statutes have granted a variety of powers to governing boards. For example, the statutes require any person having custody of tangible personal property that has been entrusted to him or her for the purpose of storage, sale, rental, or other business purposes, to provide a list of such property to the county assessor. This list should show the name of the owner of the property, a description of the property, the quantity of property, and the amount of money, if any, that has been advanced against the property (G.S. 105-315). This does not apply to inventories exempt under G.S. 105-275(33) and G.S. 105-275(34). G.S. 105-316 requires operators of house trailer parks, marinas, and aircraft storage facilities to provide a list to the county of the owners of the property located in their facilities and a description of the property. This applies only to facilities that lease space for three or more items. Tax permits must be obtained from the tax collector in the county in which the home is located in order to legally move a mobile home (G.S. 105-316.1). All of these statutes were designed to assist units in the listing of tangible personal property.

1. Real Property

Real property is defined as real estate, land, buildings, structures, improvements, and permanent fixtures on the land, as well as all rights and privileges pertaining to the property. All taxable property must be listed for taxation each year by the legal owner of the property on an abstract or property record card. The county assessor is responsible for creating a property record card for all real estate property in the county. This process is called a permanent listing system. Even with the permanent listing system, owners of real property remain responsible for listing buildings and other improvements valued at more than a \$100 that have been acquired, erected, damaged, or destroyed since the time of the last appraisal. The statutes have provided that a penalty equal to 10% of the amount of the tax owed will automatically be assessed against property owners who fail to comply with the listing requirements. It is the tax assessor's responsibility to list all taxable property not listed by the legal owners of such property. Units must have their listing forms approved by the Department of Revenue (G.S. 105-318).

The property record card reflects the owner of record as of the listing date, which is January 1, for all property other than exempt property transferred after January 1 but before July 1.



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2. Personal Property – Other than Registered Motor Vehicles

Owners of taxable personal property other than classified registered motor vehicles must annually list such property on a listing form approved by the Department of Revenue.

The model listing form issued by the Department of Revenue lists eight categories:

- Machinery and equipment,
- Construction in progress,
- Computer equipment,
- Office furniture and fixtures,
- Leasehold improvements,
- Supplies,
- Expensed items, and
- Other Property.

Unregistered motor vehicles, watercraft and aircraft must be listed. Historical cost information for all property must be included on listing form. Note that registered motor vehicles will be covered in a later section within this document.

3. Systems and Information Used to Keep Assessment Up-to-Date

a. Register of Deeds

The Board of Commissioners may require the register of deeds to certify to the assessor the name of the person conveying the property, the name and address of the person to whom the property is conveyed, and other pertinent information. Alternatively, the board of commissioners requires the register of deeds to record the conveyance of real estate after the deed has been presented to the assessor and obtained the necessary information.

b. Review of Building Permits

Building permits are required for most substantial construction or improvement projects. Most Counties have developed systems to update the County assessment from information obtained from building permits. Because few taxpayers are aware or comply with requirement to list improvements to real property the tax assessor can immediately add the value of the improvements to the tax rolls and also avoid discovering improvements and assessing a penalty to the taxpayer.

c. Geographic Information Systems

The duty to create and maintain county tax maps and geographic information systems is commonly assigned to the County tax assessor. At a minimum, tax information is used to create these systems. There should be a reconciliation process between the two systems, providing assurance that both systems records are complete and in sync.

4. Municipalities – Listing

All property must be listed with a county. The listing form (the abstract) also must indicate if the property is located within a municipality or special district. A municipality may then copy the county listing or it may set up its own listing process and records. However, municipalities must accept the property valuations assigned by



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the county (unless the municipality is located in more than one county). For that reason, many municipalities copy the county listings rather than compile their own listings. Municipalities retain the right to determine which specific property should be listed for taxation and which should be granted immunity (as available under State law), even if a municipality copies the county listing.

Municipalities that are located in more than one county are granted special appraisal authority by the statutes (G.S. 105-328) enabling them to assign property values independent of the counties in which they are located if they so desire. If the governing body of a municipality feels that all counties involved have appraised the property in such a way that the same appraisal and assessment standards have been applied to all property within the municipality, then it may simply accept the values assigned to all listed property by the applicable county. If the governing body of the municipality determines that the appraisals do not result in a uniform application of appraisal and assessment standards, the governing board may equalize the appraised values through horizontal (across the board) adjustments. The North Carolina Department of Revenue can assist in this area by using sales-to-assessment ratios to adjust assessed valuations in order to equalize these valuations.

5. Listing Period and Place

a. Listing Period

The listing period is normally the month of January; however the board of commissioners may extend the general listing period up to 30 or 60 days during year of non-reappraisal and reappraisal years respectively. There are advertising requirements for listing periods and any extension periods in G.S. 105-296. The board may also grant individual listing extensions up to April 15 upon written request and good cause shown. This request is normally made to coordinate listing for tax purposes and property tax purposes. In practice, units of government received listings by mail or electronic filings.

b. Listing Place

G.S. 105-301, G.S. 105-304, and G.S. 105-305 discuss the listing place for real and personal property. Except for public service company system property, all taxable real property must be listed in the county where it is located. The property tax record must indicate if it is within any municipal boundaries. Property tax records also track special districts such as fire, special assessment, incremental taxing districts, etc. Intangible property as defined in G.S. 105-273(8) is exempted from taxation. Leasehold interests in exempted real property and software not otherwise excluded from taxation are the only exception and are taxed as intangible personal property. The general rule is that tangible personal property is taxable at the residence of the owner. Personal property within the state that belongs to owners who have no fixed residence in North Carolina is taxable at the place at which it is situated. G.S. 105-304 discusses several exceptions to the general rule. The Service Members' Civil Relief Act also provides specific guidance on taxation for military.

6. Discovery of Taxable Property

It is the tax assessor's duty to "discover" property and see that it is accurately listed, assessed, and taxed. The governing board may require that the assessor file reports with it regarding all discovered property [G.S. 105-312(b)].



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Discoveries normally occur from property that is not timely listed; that a taxpayer made a substantial understatement of listed property; or that property was granted an exemption or exclusion for which it did not qualify. Many counties staff auditors to review taxpayers businesses to ensure proper listing of property and verify exemption and exclusions. A discovery is made on the date the property is listed or the existing listing is corrected. The assessor will make a tentative appraisal and mail notice of the discovery to the person in whose name the discovered property is listed. If the discovery is based on an understatement of value, quantity, or other measurement, the tax will be computed on the additional valuation [G.S. 105-312(g)]. The appraisal will become final unless the taxpayer files a written appeal with the assessor within thirty days from the date of the notice. If the taxpayer files an appeal of the discovery the assessor must set up a conference with the taxpayer, at which the taxpayer presents evidence or case regarding the discovery. The assessor must notify the taxpayer within 15 days of the decision. The taxpayer then has 15 days to file an appeal with the board of equalization and review, or if not in session the board of county commissioners. The request for appeal must be in writing unless the taxpayer makes a request at the appeal conference. During the appeal process, the taxpayer will sometimes want to argue about other tax issues, the assessor should only consider valuation of property that is the subject of discovery.

A penalty of 10% of the amount of the tax resulting from the discovery, plus an additional 10% of the same amount for each subsequent listing period that elapsed before the property was discovered, applies to each year of discovery. Discovered property can be taxed for the year in which it is discovered and the five preceding years. Since penalties are imposed based upon a taxpayer’s failure to properly and timely list taxable property, no penalties are assessed on real property as it is the assessor that bears the responsibility for real property listing.

The following chart illustrates calculating penalties on discovered property:

Year	Value	Tax Rate	Taxes	Penalty	Penalty Amount	Total
2009	275,000.00	0.50	1,375.00	10%	137.50	1,512.50
2008	150,000.00	0.60	900.00	20%	180.00	1,080.00
2007	150,000.00	0.70	1,050.00	30%	315.00	1,365.00
2006	175,000.00	0.50	875.00	40%	350.00	1,225.00
2005	175,000.00	0.55	962.50	50%	481.25	1,443.75
2004	150,000.00	0.55	825.00	60%	495.00	1,320.00
Total	1,075,000.00		5,987.50			7,946.25

The governing board of a city or county is authorized, upon petition of the taxpayer, to compromise, settle, or adjust a city’s or county’s claim for taxes arising from a discovery. The board of county commissioners may, by resolution, delegate its authority to settle taxes on discovered property to the board of equalization and review. Units of governments are strongly recommended to develop policies that treat taxpayers in similar situations equally. An example is, a citizen who appeals undervaluation of business property can be provided 50% relief from penalties for a fist time occurrence if they cooperated with county tax auditors.



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G.S. 105-312(i) states that the taxpayer is required to pay all penalties in the current year as if they were taxes due in the current year. All prepayment discounts and late payment interest charges apply to the penalties as well. The taxpayer is entitled to refunds from other jurisdictions within the State if he or she wrongly paid tax on the discovered property in another jurisdiction. Requests for such refunds should be filed according to G.S. 105-381.

Municipalities that use the county listings should be aware that discoveries take place throughout the year. Municipalities should work with their counties to develop a method by which the municipality may keep its lists up-to-date.

7. The Valuation Process

The appraisal or valuation process is intended to provide a true value of all taxable property. However, the North Carolina Constitution does not contain any instructions on how property should be valued. It simply states that property may be divided into classes and that taxes must be applied uniformly within each class. Thus, all property not specified by the statutes to receive preferential treatment is subject to the same valuation standard. G.S. 105-283 states that "all property, real and personal, shall as far as practicable be appraised or valued at its true value in money." The statute goes on further to state that true value means market value, which is defined as "the price estimated in terms of money at which the property would change hands between a willing and financially able buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of all the uses to which the property is adapted and for which it is capable of being used." There are two exceptions from the market value standard. One is permitted under the current law. G.S. 105-277.2 through G.S. 105-277.6 allows the appraisal of land used for agricultural, horticultural, or forest purposes to be made on the basis of its value in its present use. G.S. 105-277.2 defines present-use value as "the value of land in its current use as agricultural land, horticultural land, or forestland, based solely on its ability to produce income, using a rate of nine percent (9%) to capitalize the expected net income of the property and assuming an average level of management." If the land ceases to be used for one of these purposes or if title to the land passes to someone outside the owner's immediate family, deferred taxes must be paid. This tax is the difference between the tax based on market value and the tax based on the use value for the last three years. Because of the complexity of the transfer requirements and present use qualifications and the potential of legislative changes, the tax collector should consult the updated General Statutes prior to the assessment of deferred taxes. The second exception is public service company property which is assessed by the Department of Revenue based in part on the effective rates of taxation in a given county.

a. Appraisal of Personal Property (Excluding Registered Classified Motor Vehicles)

Registered classified motor vehicles have significantly different listing and assessment procedures and are discussed later in this section. As the value of personal property fluctuates rapidly, personal property is appraised each year as of January 1. Industry pricing guides are available for mobile homes, boats, and aircraft. Machinery and equipment can be valued by applying a standard rate of depreciation to the original cost or by factoring the original cost to current market value and then applying the depreciation factor. Whatever techniques are used, the



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appraiser is required by G.S. 105-317.1 to consider the replacement cost of the property, the sales price of similar property, its age, physical condition, productivity, remaining life, the effect of obsolescence on the property, and its economic utility. The appraiser also may use any information reflected on a taxpayer's tax returns filed with the N.C. Department of Revenue and the Internal Revenue Service, to determine the value of personal property being used for business purposes [G.S. 105-317.1(b)].

b. Appraisal of Real Property

Real property must be appraised every eight years (G.S. 105-286). North Carolina counties are divided into eight groups with a base revaluation year established for each group. However, the statutes do not prohibit a county from reappraising its real property on a more frequent basis. Beginning in 2009, counties with populations of 75,000 or more will be required to conduct reappraisals more frequently than every eight years if the ratio of arms-length sales prices to assessed value as calculated annually by the Department of Revenue drops below 0.85 or increases to more than 1.15. The reappraisal mandated by such a drop or increase 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. If a county has adopted a reappraisal schedule, but is required to have a reappraisal sooner due to its sales assessment ratio, the reappraisal cycle designated in the resolution continues in effect after the mandatory reappraisal unless the county adopts another resolution designating a different date for the county's next reappraisal.

The mass appraisal of a county's real property is a tremendous undertaking. It must be completed in time to determine the necessary tax rate but not so early that the appraised values are out of date by the time they are put into use. The appraisals must be cost-effective. Above all, the appraisal techniques must be uniformly applied in such a manner that they result in accurate estimates of the value of the property. If a county underestimates the market values of its property, it will not only lose tax revenue on those properties, but also on public service properties, as their valuations are reduced if a county's sales assessment ratio (tax value to true market value), as determined by the North Carolina Department of Revenue, is less than 90%.

The statutes require that a schedule of standards, values, and rules be developed and used as the basis for all appraisals [G.S. 105-317(b)(1)]. This appraisal "manual" must be developed, reviewed, and approved by January 1 of the year in which the standards are to be applied. It must be submitted at least 21 days prior to the meeting at which the board will consider it for approval. At the time it is submitted to the board, a copy must be made available for public inspection. A statement also shall be published in a newspaper having general circulation within the county stating that the standards have been submitted and are available for inspection and disclosing the time and place of the public hearing on the standards. This hearing must be held at least seven days prior to the board's approving the standards. Once the board does approve a set of standards, it shall issue an order adopting those standards. This order shall be published for four successive weeks in a newspaper having general circulation within the county, with the last publication



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appearing at least seven days prior to the deadline for taxpayers to appeal the validity of the schedules with the Property Tax Commission. Appeals must be made within 30 days of the first publication of the order adopting the standards. The order must state that the standards have been adopted, that they are available for public inspection in the tax assessor's office, and that taxpayers may appeal them to the Property Tax Commission within 30 days of the first publication of the order [G.S. 105-317(c)].

The appraisal manual is formulated from two basic sources: the local real estate market and nationally developed data on the cost of building construction adjusted to reflect local building costs. The manual primarily consists of lists of characteristics of real property within the county, with a dollar value assigned to each. The manual must provide the value of enough characteristics to enable the appraiser to accurately determine the market value of property without listing so many characteristics that the process becomes lengthy and cumbersome. Furthermore, the values assigned to each characteristic must be accurate in order for the appraiser to arrive at a realistic and reasonable valuation amount.

Special schedules in the form of a manual are developed for land taxed at its present-use value. These are available from the North Carolina Department of Revenue and are prepared by that Department with the assistance of the Use-Value Advisory Board. Use of this manual is not mandatory.

The actual appraisal process begins with the listing of each parcel of land in the county on a listing card (card is not necessarily physical but in most cases electronic). This process does not have to be done by a professional appraiser. The listing card must show all characteristics that will be considered in appraising the parcel [G.S. 105-317(b)]. The characteristics listed must be consistent with the appraisal manual and the listing must be accurate. Once all the information has been recorded, including estimated depreciation on any buildings, a preliminary value is calculated for both the land and any buildings, using only the values found in the appraisal manual. The cards are then taken to the actual property by an appraiser and reviewed. Any adjustments that are necessary are made at that time. The training, experience, and judgment of the appraiser have a great deal of influence on the adjustments made at this point.

Once the review is complete, the property owners are notified of the value assigned to their property. Almost every county in the State allows for informal appeals at this time. The time period for appeal is determined by each county and is at the discretion of the tax assessor. Once this informal appeal process is over, the assessor formally appraises and assesses each parcel. If possible, this should be done prior to January 1 of the year in which the new values will be used. Once the values are formally determined, any appeals by taxpayers must be made to the assessor unless the board of equalization and review has already convened.

c. Public Service Company Property Assessment

Real and personal property owned or leased by a public service company is appraised and assessed at the state rather than county level. Public service companies are defined as railroad, pipeline, gas, electric, electric membership, telephone, telegraph, bus line, airline or motor freight carrier. Property is assessed



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every year. Concern that public service companies were paying a disproportionate share of property taxes since other real property was being reevaluated in some cases every eight years, caused the general assembly to require counties whose median ratio for real property assessments fall below 90% in the year of reappraisal or the fifth or eighth year thereafter, then the valuation of the public service company is reduced by a corresponding percentage. The Department of Revenue must notify the chairperson of the county board of commissioners of the median ratio and the percentage to be applied for each county by April 15 of the year for which it is effective.

d. Appeals to the Board of Equalization and Review

Many assessors provide an informal appeal process to afford taxpayer an opportunity to afford the taxpayers and opportunity to state their objections to an appraisal or assessment or the denial of the request for exemption. If the assessor finds the taxpayer's objection well-founded, the assessor may correct the error in the assessment of the property before the board of equalization and review convenes.

The primary function of the board of equalization and review is to hear and decide valuation appeals. The board must convene by the first Monday in May but may not meet earlier than the first Monday in April (G.S. 105-322). It may not sit any later than July 1 except to hear appeals filed before that date. (In revaluation years, the board may not sit any later than December 1 except to hear appeals filed prior to that date.) Prior to the board convening, it must publish in a newspaper having general circulation in the county the date, hours, place, and purpose of its first meeting. This must be published three times prior to the first meeting, with the first publication appearing at least ten days prior to the first meeting. The board also must indicate in these publications the dates and hours of its second and third meetings and the date on which it expects to adjourn. It also will state that in the event of earlier or later adjournment, it will publish at least once in that same newspaper an announcement of the change in the adjournment date. Should such a notice actually be required, it must appear at least five days prior to the adjournment date if the board is actually going to adjourn earlier than it intended. If the board is going to sit longer than originally intended, the notice must appear at any time prior to the originally announced adjournment date.

Taxpayers may appeal an appraisal by appearing at a scheduled meeting of the board. However, most taxpayers will make an appointment in advance. The proceedings are informal, but the board normally expects specific testimony supporting the taxpayer's claim that the valuation of his or her property is incorrect. This testimony is most likely to come from a professional appraiser who disagrees with the appraised value assigned to the property.

Taxpayers who wish to appeal a decision by the board of equalization and review may do so to the Property Tax Commission. In this capacity, the Property Tax Commission acts as a State board of equalization and review. Again, specific testimony supporting both the county's and the taxpayer's positions will be expected. Further appeals may be made to the North Carolina Court of Appeals only if the taxpayer or the county believes that the Property Tax Commission made



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an error of law. Technically, the Appeals Court decision could be appealed to the North Carolina Supreme Court, but the Supreme Court will only hear a case if a major issue of law is in question.

The board of equalization and review is charged at the local level with considering and ruling upon taxpayer appeals of valuation and exemption or exclusion denials. As a practical matter, most counties notify taxpayers of their decisions within a few weeks after receiving the application informing them if the application has been denied or taxpayer meets the criteria for exemption or exclusion.

e. Adjustments of Property Value in Non-Revaluation Years

The tax assessor may change the valuation of property in a non-revaluation year (G.S. 105-287) in certain circumstances. Changes can be made only to correct clerical or mathematical errors, to correct misapplications of the appraisal standards, or to recognize an increase or decrease in the value of property caused by something other than normal depreciation, economic changes, or improvements. Any changes made by the assessor must be made in accordance with the appraisal manual adopted in the last revaluation year. Any changes in value take effect on January 1 of the year in which they are made and do not affect prior tax years.

f. Tax of Newly Annexed Property

Real and personal property located in a newly annexed area as of the January 1 preceding the beginning of the fiscal year in which the annexation becomes effective is subject to prorated municipal taxes levied for that fiscal year [G.S. 160A-58.10(b)]. The amount of taxes owed is determined by multiplying the amount of tax that would have been owed on the property if it was part of the municipality for the entire fiscal year by the following fraction: the number of full months left in the fiscal year one day after the day the annexation takes effect divided by 12. The lien for the prorated property taxes shall attach to the property on the listing date (January 1) of the fiscal year immediately preceding the fiscal year in which the annexation takes effect. If the annexation becomes effective after June 30 but before September 2, the prorated taxes are due and payable on the first day of September of the fiscal year for which the taxes are levied. If the annexation becomes effective after September 1 and before the following July 1, the prorated taxes shall be due and payable on the first day of September of the next succeeding fiscal year. All prorated taxes are subject to the same means of collection as any other property taxes.



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A. The Billing Process

The billing of property taxes is the culmination of the listing, appraisal, and assessment processes. Various tax records are kept to support the billings, the primary one being the tax book or scroll. The tax scroll provides, for each tax year, the fixed listing of all taxable property within the county. The listing includes a separate entry for each tract, parcel, or group of contiguous lots. Additionally, the tax scroll lists all taxable personal property according to the township or municipality in which it is located.

1. The Tax Records

The form of the tax scroll, book, or combined record must be approved by the Department of Revenue [G.S. 105-319(a)]. The scroll normally shows the property valuations, and the book normally lists the amount of tax due. Many units choose to combine these into one set of records, as determined by the governing body [G.S. 105-319(a)]. The tax records must be prepared separately by the county for each township unless the county board of commissioners says otherwise [G.S. 105-319(b)]. The tax records are prepared in two parts: 1) individual taxpayers and 2) corporations, partnerships, other business firms, unincorporated associations, and other taxpayers other than individuals.

The tax records must list at least the following information according to G.S. 105-319(c):

1. the name of each taxpayer whose property is assessed and listed for valuation, in alphabetical order;
2. assessment of each taxpayer's real property listed for unit-wide taxation (divided into as many categories as the Department of Revenue may prescribe);
3. assessment of each taxpayer's personal property listed for unit-wide taxation (divided into as many categories as the Department of Revenue may prescribe);
4. the total assessed value of each taxpayer's real and personal property listed for unit-wide purposes;
5. the amount of ad valorem tax due by each taxpayer for unit-wide purposes;
6. the amount of any dog license tax due by each taxpayer;
7. the total assessed value of each taxpayer's real and personal property listed for taxation in any special district or subdivision of the unit;
8. the amount of ad valorem tax due by each taxpayer to any special district or subdivision of the unit;
9. the amount of penalties, if any, imposed under G.S. 105-312;
10. the total amount of all taxes and penalties due by each taxpayer to the unit and to special districts and subdivisions of the unit.

Any changes, listings, and assessments made during the time between the closing of the regular listing period and the first meeting of the board of equalization and review, or during the regular listing period, should be entered into the tax records. These records should be submitted to the board of equalization and review at its first meeting.



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Any additions, deletions, or other changes made by the board of equalization and review should be entered into these records as well [G.S. 105-319(d)].

2. Tax Receipts

There is no legal requirement that the taxing authority provide the taxpayer with any kind of bill or notice of taxes due. Because virtually all tax records and receipts are now maintained in a computer format, tax receipts may be printed as needed or displayed on the units website. This eliminates the need to maintain books of printed, multi-part tax receipts. The ease of printing should make it easier for the tax receipt to be used as a notice to the taxpayer that the taxes are due and payable.

Upon an order of the governing body, the tax receipts are delivered to the tax collector on or before the first day of September [G.S. 105-321(c)], assuming the tax collector has made his or her settlement pursuant to G.S. 105-352(b). Before delivery is made, the governing body must adopt and enter into its minutes an order directing the tax collector to collect the taxes charged in the tax records and receipts [G.S. 105-321(b)]. A copy of the order is delivered to the tax collector along with the tax receipts. Failure to deliver this order does not relieve the tax collector of the responsibilities of the position. The tax collector should give the board a receipt for the delivery of the tax receipts.

The form of the tax receipt must be approved by the Department of Revenue and include the following information [G.S. 105-320(a)(1) through G.S. 105-320 (a)(13) and G.S. 105-320(a)(16)]:

1. the name and address of the taxpayer charged with taxes;
2. the assessment of the taxpayer's real property listed for unit-wide taxation;
3. the assessment of the taxpayer's personal property listed for unit-wide taxation;
4. the total assessed value of the taxpayer's real and personal property listed for unit-wide taxation;
5. the total assessed value of the taxpayer's real and personal property listed for taxation in any special district or subdivision of the unit;
6. the rate of tax levied for each unit-wide purpose, the total rate levied for all unit-wide purposes and the rate levied by or for any special district or subdivision of the unit in which the taxpayer's property is subject to taxation. (In lieu of showing this information on the tax receipt, it may be furnished on a separate sheet of paper, properly identified, at the time the official receipt is delivered upon payment);
7. the amount of ad valorem tax due by the taxpayer for unit-wide purposes;
8. the amount of ad valorem tax due by the taxpayer to any special district or subdivision of the unit;
9. the amount of dog license tax due by the taxpayer;
10. the amount of penalties, if any;
11. the total amount of all taxes and penalties due by the taxpayer to the unit and to special districts and subdivisions of the unit;
12. the amount of discount allowed for prepayment of taxes;
13. the amount of interest charged for late payment of taxes;
14. the total assessed value of farm machinery, attachments, and repair parts of individual owners and Subchapter "S" corporations engaged in farming subject to



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the income tax credit in G.S. 105-151.21 and the amount of ad valorem taxes due by an individual farmer or a Subchapter "S" corporation engaged in farming on farm machinery, attachments, and repair parts subject to that credit (this information may be shown on a separate sheet of paper included with the receipt rather than on the receipt itself).

At the time the tax receipts are delivered to the tax collector, a list of all appeals pending before the Property Tax Commission affecting property that has been listed and assessed for taxation within the unit should be provided.

B. The Collection Process

1. The Order of Collection

At the time the tax books and receipts for the current year are turned over to the tax collector, he or she should be given an order of collection by the board. The board is to issue this order, give a copy to the collector, and keep a copy in its meeting minutes. The wording of the order is prescribed in G.S. 105-321(b) and should be followed. The order has the legal force of a judgment. Failure to issue the order does not affect the collector's right and ability to use the collection procedures of attachment and garnishment, levy, and foreclosure. However, it may affect his or her ability to use "*in rem*" foreclosure as a means of collection, and it possibly may affect an out-of-unit attachment. Therefore, issuance of this order is an important process that should not be overlooked. Once the tax books are given to the collector and the current year's levy charged against him or her, the collector is ready to begin collecting taxes.

2. Certificate of Taxes that Constitute a Lien

Buyers and sellers of property and their representatives frequently ask collectors for information on whether an individual owes taxes or the amount of taxes owed on a given parcel of real property.

The Machinery Act requires the tax collector to provide a certificate of the taxes that constitute a lien on specified real property when requested to do so by the following people:

- an owner of the property
- an occupant of the property
- a person having a lien on the property
- a person having a legal interest or estate in the property
- a person or a firm having a contract to purchase or lease the property
- the authorized agent or attorney of anyone in one of the first six categories

When a qualified person relies on a certificate by paying the amount of taxes certified as a lien on the property, by purchasing or leasing the property, or by lending money secured by the property, then a lien will exist against the property in relation to that person only to the extent that taxes and special assessments are stated to be due in the certificate. Although the taxing unit retains the ability to proceed against personal property of the taxpayer for unpaid taxes omitted from the certificate, an erroneous certificate may surrender the county's security for payment.



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C. Payment of Taxes

The statutes dictate that payment of taxes must be made in the national currency. Deeds to property, notes, bonds, or other payments in kind are not acceptable as payment. Taxpayers also may not offset their tax liability with any bill, judgment, claim, or other obligation owed them by the taxing unit (G.S. 105-357). The tax collector may accept checks or electronic payments as payment at his or her own risk. The collector is not required to accept checks. (See the following section for more information on electronic payment of taxes.) Should the collector choose to accept this method of payment, the tax collector shall have the option of issuing the receipt for payment immediately or to withhold the receipt until the check has been collected or the electronic payment is honored by the issuer, i.e. the financial institution issuing the credit card, debit card, or other form of electronic payment [G.S. 105-357(b)]. If a receipt is issued immediately for taxes paid with a check or electronic payment and the item is later returned unpaid or not honored by the issuer, the taxes shall be deemed unpaid and the unit's copies of the tax records changed to show the tax as unpaid. However, the tax collector has the responsibility of presenting the check or electronic payment for payment in a timely manner. If a check is returned or an electronic invoice is not honored by the issuer, the tax collector must notify the taxpayer by certified or registered mail. The tax collector may then use any remedies allowed for the collection of taxes or he or she may bring a civil action on the check or the electronic payment in order to collect the taxes due. Taxpayers may be required to pay a penalty of 10% (minimum penalty of \$25.00, maximum of \$1,000) of the amount of the check for any check returned to the governing unit unpaid [G.S. 105-357(b)(2)]. Certain exceptions apply with regards to the penalty.

The return of a check as unpaid or an electronic payment that is not honored by the issuer also may affect the unit's lien on the property being taxed. If a check is returned or an electronic payment is not honored by the issuer, the unit's lien becomes inferior to the rights of purchasers for value and any persons acquiring liens of record for value if such purchasers or lienholders (1) acquired their rights in good faith, with no knowledge of the return of the check or that the electronic payment was not honored, and (2) after examination of the unit's tax records indicating that the taxes were paid or after examination of the taxpayer's official receipt showing the taxes as paid if such examination was made prior to the taxpayer's written notification that the check was returned unpaid or the electronic payment was not accepted by the issuer [G.S. 105-357(b)(1)].

Units may contract with a bank or other financial institution to accept payment of taxes from taxpayers [G.S. 105-321(e)]. These payments may be for current year or delinquent taxes owed. However, the financial institution should not issue a receipt for the tax payment. Tax receipts should only be issued by the unit's tax collector. The governing board of the local government must require a performance bond from the financial institution in an amount to be determined by the board. If the institution will accept payments in person, the governing board also must publish a timely notice in a newspaper that is circulated within the taxing unit of the institution's contract to collect taxes. If the institution accepts payments only through the mail, then notice is not required to be published.

The governing board of a unit may permit the tax collector to ignore small underpayments or overpayments of taxes. By law, the amount of such under or overpayment may not



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exceed \$1.00 [G.S. 105-357(c)]. If permitted by the board, the tax collector will not attempt to collect amounts underpaid up to \$1.00 or return amounts overpaid up to \$1.00 but will keep track of these amounts by receipt number and amount and report these payments to the governing board as a part of the annual settlement. If the board chooses to allow this practice, (1) it must adopt a resolution stating such before June 15 of the year in which it will apply, (2) it must apply to all taxes levied in previous years, and (3) it must continue in effect until repealed or amended by resolution of the board [G.S. 105-357(c)(1) through G.S. 105-357(c)(3)].

Partial payments of tax should be accepted by the tax collector, unless otherwise instructed by the governing board (G.S. 105-358). Receipts should be given for the partial amount paid. Partial payments are applied first to penalties, then interest, costs, and finally principal. The governing board may set minimum amounts or percentages that will be accepted.

1. Electronic Payments

State legislation has responded to modern banking practices and expanded the payment methods to allow a tax collector to accept credit cards, debit cards, or other forms of electronic fund transfers for the payment of property taxes. The discount fee retained by the card issuer for electronic payments is now seen as a cost of collection and no longer is seen as preventing the tax collector from collecting taxes in their entirety [S.L. 1999-434, amending G.S. 105-357(b)]. The legislation does allow the local governments the option of adding a surcharge to the tax payment which will cover the discount fee charged by the card issuer.

Some local taxing authorities have begun accepting electronic payments through a third party. The third party electronically accepts payments on behalf of the taxing authority. Following are some common or typical characteristics of these arrangements. First, the third party accepting payment on behalf of a taxing authority is acting as the “merchant” in the eyes of the card issuer, and it is the third party that pays the transaction or discount fee to the card issuer. Second, as the third party accepts tax payments from a citizen, a “convenience fee” is added to the amount of taxes due. The citizen is informed of this additional fee and is given several opportunities to accept or reject the transaction. The total of taxes due and the convenience fee is charged to the taxpayer’s credit card, debit card, etc. Third, the total amount of the tax due is timely remitted to the taxing authority’s deposit account by the third party, usually by electronic transfer. The convenience fee is retained by the third party as their profit. This, in turn, allows the third parties to offer these services at little or no cost to the taxing unit.

Electronic collection of property taxes by a third party has been described as, “a practice which is gaining momentum” in North Carolina. There are several federal, state and financial internal control regulations that are designed to protect citizen financial information dealing with identify theft. Units need to make sure they or the persons they contract with are able to comply with these regulations. Significant penalties and fines are associated with these regulations as well as political ramifications. Before investing time and effort into establishing an electronic payment system, the habits of the taxpayers should be considered. The three major methods for receiving electronic payments are ACH (Automated Clearing House), credit cards and



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debit cards. The cost of usage varies significantly (see table below). Before unit decides to offer electronic payments to its citizens, they need to be aware of cost, especially as unit will encourage use of electronic options in order to promote efficiency. The table below shows that to collect 125,000 transactions (25% of 500,000) a unit or its citizens could spend from an estimated \$5,000 to \$2.5 million to collect the same revenues.

The following table is an example of variations in collection fees. This is an example and units should each determine their cost of collections.

Revenue	Cost of Collection		
	ACH = 4 cents	Debit = 30 cents	Credit Card = 2%
Property Tax - Average size of bill \$1,000 Number of bills = 500,000 Assume \$100,000,000 is collected and 25% will be collected electronically - (remember your % of usage will probably go up in the future)	\$5,000	\$37,500	\$2,500,000

Do the citizens take advantage of all the conveniences offered by the local government? Are enough citizens asking for this payment option to make it worth the effort? Is there a reasonable chance that this may increase the overall tax collection rate? Could accepting property taxes electronically improve the collection of relatively small amounts, such as the motor vehicle tax? Will accepting tax payments electronically reduce printing and operational costs so that a taxing unit may maintain the same overall collection rate but with reduced operating costs? Even if a unit determines that collection rates will not increase or collection cost will not be lower with electronic collection methods, many units are finding that their citizens now expect the convenience of electronic payment methods as a method of payment.

Finally, this is a rapidly evolving issue. Taxing authorities wishing to accept electronic payments for taxes due are encouraged to research the latest developments prior to installing a system and to consult with other local governments which may have already implemented such a system.

2. Prepayments

Prepayments of taxes (payments made before the tax receipts are delivered to the tax collector) should be accepted by the tax collector unless the board has authorized another person to receive them. The person accepting the payments must be satisfactorily bonded to receive such payments. No prepayments are required to be accepted by anyone until the annual budget estimate has been filed with the board [G.S. 105-359(b)]. If the final tax due has not been determined at the time the taxpayer makes payment, the tax collector or designated person should estimate the bill to the best of his or her ability. Any subsequent overpayment of tax should be returned to the taxpayer without interest. Any subsequent amount owed by the taxpayer to the unit



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shall be due and the balance due shall be allowed the discount or charged the interest in effect with respect to taxes for the same year at the time the balance is paid [G.S. 105-359(c)]. The governing body of any county or city has the authority to establish a schedule of discounts to be applied to taxes paid prior to the due date. In order to establish a prepayment discount, the governing body of a unit must adopt a resolution, by May 1, specifying the amount(s) of the discount(s) and the time(s) during which they are applicable. The resolution must then be submitted to the Department of Revenue for approval and then published at least once in a newspaper having general circulation within the unit [G.S. 105-360(c)].

3. Due Date for Taxes

Taxes become due and payable on September 1 of the year for which they are levied. Taxes may be paid up through January 5 of the next calendar year without penalty. On January 6, the taxes become delinquent and subject to interest charges. Tax payments submitted by mail are deemed received as of the date of the postmark affixed by the U.S. Postal Service. If there is no postmark, the payment is deemed received when it arrives in the office of the tax collector [G.S. 105-360(d)].

4. Interest

Interest is accrued on payments made after January 5 of the calendar year subsequent to the year for which the taxes were levied. For the period from January 6 to February 1, interest accrues at the rate of 2%. For the period from February 1 until the principal amount, the accrued interest, and the penalties on the taxes are paid, interest shall accrue at the rate of ¾% per month or a fraction thereof [G.S. 105-360(a)].

Interest for Late Payments (other than Registered Motor Vehicles)	
Date Taxes are Paid on	% of Interest charged
September 1 through January 5	0
During remainder of January	2%
During February	2.75%
During March	3.50%
Thereafter*	3.5% + .75% per month
* Plus .75% per month being added on the first day of each month	

5. Creation of Tax Lien

The taxing unit's lien for taxes on real property attaches to the parcel being taxed on January 1. The lien on real property for taxes owed on personal property also attaches on that day, except for motor vehicles taxed on the staggered schedule. The tax on a motor vehicle does not create a lien against the real property of the vehicle's owner. All subsequent penalties, interest, and costs shall be added to the lien and shall attach at that same time. Liens on personal property, including penalties, interest, and costs, shall attach at the time of attachment and garnishment or levy (G.S. 105-355). Tax liens on real property are senior to nearly all other liens, assessments, charges, rights, and claims of any kind, regardless of the claimant and whether such claims were acquired before or after the attachment of the tax lien. The only liens that can take priority over a local property tax lien are previously existing state tax liens. The law



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Part II – Property Tax Administration – Billing and Collection

states that the priority of the lien is not affected by the transfer of title to the real property after the lien has attached, nor is it affected by the death, receivership, or bankruptcy of the owner(s) [G.S. 105-356(a)(3)]. On personal property, the tax lien shall be superior to all liens if it is attached to the property on which the tax is owed. If the lien is attached to property other than that on which tax is owed, the tax lien shall be inferior to all valid liens and perfected security agreements attached prior to it and superior to all valid liens and perfected security agreements attaching after it [G.S. 105-356(b)].

6. Releases and Refunds

The governing board may approve refunds or releases of taxes according to G.S. 105-380. A release refers to the elimination of a tax claim by a unit prior to the bill being paid. Refunds are essentially the same except that they are made after the bill has been paid. In either case, it is the taxpayer who, by protesting the tax claim, initiates the process of obtaining a release or refund. The statutes are quite rigid regarding the refund or release of the tax claim. **Any board member who votes to release or refund taxes in violation of the statutes in this area becomes personally responsible for the amount of the tax, including any costs to recover it [G.S. 105-380(c)].**

G.S. 105-381(a)(1) gives the taxpayer specific defenses to the enforcement of the collection of taxes. These include: (1) a tax imposed through a clerical error; (2) an illegal tax; (3) a tax levied for an illegal purpose.

Examples of specific instances in which releases or refunds should be granted are as follows:

1. The assessed valuation of the property taxed has been reduced under proper exercise of legal authority;
2. The property in question is not taxable by the unit;
3. The property in question has been listed twice;
4. The rate of tax or any part of it has been illegally levied, such as taxes levied for something other than a public purpose, taxes levied without a vote of the people when such a vote was required, or taxes levied in an amount greater than is authorized by the N.C. Constitution, the statutes, or a vote of the people; or
5. The amount of the tax has been erroneously computed through a clerical or mathematical error, resulting in a higher amount owed than is proper.

A taxpayer must file a written request for a release or refund. There is no time limit on the filing of a request for a release other than, as stated earlier, a request for a release can only be filed before the tax is paid. There are statutory limits on the time period in which a request for a refund can be filed. Refunds must be requested within five years of the date the tax first became due or within six months from the date of payment of the tax, whichever is later. Once a request for a refund or release has been filed, the board must review it to determine if the taxpayer has legal grounds for a release or refund. If so, then the request is granted, provided the request for refund has been filed within the allowed time.



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Part III – Classified Motor Vehicles

A. Listing, Billing and Collecting on Classified Motor Vehicles

Most procedures regarding listing and assessment of unregistered motor vehicles mirror those for other types of personal property, but procedures for listing and assessing taxes on registered motor vehicles are significantly different.

The North Carolina Division of Motor Vehicles send to each County a monthly list of motor vehicles registered in each County. Counties then generate a bill for such vehicles (including city and special district taxes if applicable). Taxes are due four months after the date of registration. If taxes are not paid, the Division of Motor Vehicles will prevent the vehicles from being registered until the taxes are paid. The owner of registered classified motor vehicles has no duty to list their vehicles. Motor vehicles are registered under a staggered system over each of the twelve months; therefore, taxes on motor vehicles are levied upon registered motor vehicles on a staggered monthly basis.

By the tenth day of each month the Division of Motor Vehicles (DMV) sends to each county assessor a list of vehicles that have been renewed or newly registered for the second preceding month. For example, the file sent on July 10th will list vehicles registered in May. There are a few vehicles on an annual system that expire in December and the DMV sends those lists to the assessors by March 10th. The assessor then prepares a separate tax notice for each registered and unregistered motor vehicle. The tax notice includes county, city and special district taxes for registered, but city taxes are not required to be included in tax notice for unregistered vehicles. The Tax rate used for motor vehicles is the tax rate in effect on first day of the month in which the new registration was applied for. Existing registrations use the tax rate in effect for the month the registration expired.

The ownership, situs (location for taxing purposes) and taxability (qualifies for exemption) of a registered motor vehicle is determined as of the day on which the vehicle registration is renewed or date new registration is applied for. An owner appeals the situs or taxation by filing a request for refund or release in accordance with G.S. 105-381. A vehicle owner may appeal appraised value of a vehicle but must pay the tax when it comes due, regardless of any pending appeal. Appeal must be filed within 30 days of the date on the tax bill and the assessor must arrange a conference. The assessor must notify the owner within 15 days from the date of the conference of his decision. The taxpayer has 15 days from date of notice of decision to file appeal with board of equalization and review, the board of commissioners, or a special committee appointed by the board of commissioners to hear motor vehicle appeals. Since taxes on registered motor vehicles are due on the first day of the fourth month after the date the current registration expires, vehicles for which the registration expires in September, October, November, and December are valued as of January 1 of the following year. Vehicles registered January through August are valued as of January 1 of the current year.

B. Municipal Vehicle Taxes

Municipalities may levy privilege taxes in accordance with G.S. 20-97(b) and G.S. 20-97(c). The first is a municipal license tax of up to \$5.00 per year on any vehicle resident in the



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city or town. Local Acts allow municipalities to exceed this amount. Municipalities that operate a public transportation system may levy an additional \$5.00 per vehicle tax to be allocated to the public transportation system. The Transportation tax plus any tax levied under G. S. 20-97(b) plus any local legislation can not exceed \$30.00 per year.

C. Collection – Registered Motor Vehicles

Bills are prepared each month from the file sent from DOT. Bills for vehicles under the staggered system are due the first day of the fourth month following the date of the registration expired or following the last day of the month in which the new registration was applied for. If a vehicle expired or was registered in April the taxes are due the following August. Taxes for vehicles registered under the annual system are due May 1. Taxes are included in the levy for the year they become due.

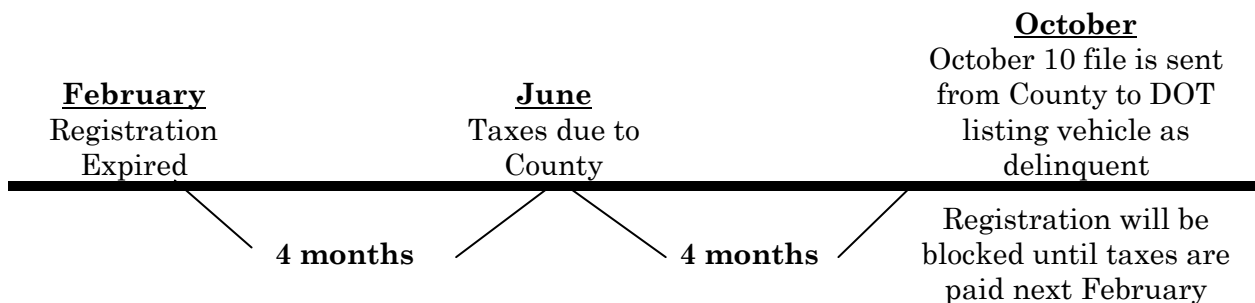
Counties may retain up to 1.5 percent of the taxes they collect for municipalities and special districts. Taxes must be remitted to these units at least once a month.

D. Collection Remedies – Registered Motor Vehicles

Interest begins to accrue one month after the due date at a rate of 5% the first month of delinquency and 0.75 percent per month from then on. If the tax bill was prepared after the due date, the interest begins to accrue the second month after the due date of the bill. The tax collector may use any means of enforcing collection of taxes for personal property, but, unlike taxes on other personal property, the taxes on motor vehicles do not become a lien on the owner’s real property.

An additional remedy for the collection of taxes on classified registered motor vehicles is the authority of the tax collector to request that the Division of Motor Vehicles place a “block” on the registration renewal for a vehicle for which taxes are delinquent. On or before the tenth day of each month, the tax collector must send to the Division of Motor Vehicles a list with the owner’s name, address and the vehicle identification number of each vehicles on which taxes remain unpaid on that date and were due on the first day of the fourth month preceding that date. Once this list is received, the Division of Motor Vehicles will block the registration on those vehicles from being renewed. However, the effectiveness of this remedy is limited by the fact that the taxpayers in question will not be affected by the block until their registrations expire four months later.

Here is an example of the registration block timeline:





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A person to whom a listed vehicle was transferred in good faith may obtain renewal without paying the taxes.

E. Transfer of Vehicle Registrations

The table below outlines the tax years for various motor vehicles, which is used in discussion of transferring registration to other vehicles and persons.

Type of Vehicle	Tax Year
Classified Motor Vehicle – staggered	1st day of month following the date the registration expires or the new registration is applied for
Classified Motor Vehicle – Annual	1st day of the first month following the date the new registration is applied for or following the date the former registration expires and ends December 31.
Unregistered Motor Vehicle	The fiscal year that opens in the calendar year in which the vehicle is require to be listed.

- If a vehicle owner transfers the registration plate from vehicle A to vehicle B during vehicle A’s tax year, vehicle B is not taxed until the current registration expires or is renewed. The owner of vehicle B will not be able to register the vehicle until the taxes are paid on vehicle A.
- A vehicle owner who transfers vehicle to another person and surrenders plates to DMV or moves out of state and registers vehicle in another state during the tax year is entitled to a prorated refund if at least one full month remains in the tax year at the time of transfer. Application for refund must be made to the tax collector within one year after the plate is surrendered.

The refund is calculated as follows:

$$\text{Refund} = \text{Tax Liability} \times \frac{\text{Number of Full Months Remaining in Vehicle Tax Year}}{\text{Total Number of Months in Vehicle Tax Year}}$$

F. Antique Vehicles

Antique vehicles are a special class of property. They are assessed at the lower of market value or \$500. To qualify for the reduced assessment they must meet all four criteria below:

1. Owned by an individual;
2. Registered with FMV and have a historic vehicle special license plate;
3. Vehicle must be maintained primarily for use in exhibitions, club activities, parades and other public interest functions and be used only occasionally for other purposes; and
4. Cannot be used to produce income or in connection with a business.



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G. Registration Consolidation

The DMV must honor request by owners to be billed simultaneously by placing all vehicles own on the same tax year.

H. Integration of Vehicle Registration and Taxation Systems

At the time of this writing Article 22A of General Statutes Chapter 105 requires full integration of the registration and taxation of motor vehicles as of July 1, 2013 or upon the earlier creation of a combined registration renewal and tax collection system within DMV. Under the combined system the Department of Revenue must adopt a schedule of motor vehicle values each year for use by county assessors. Taxes will become due on registered motor vehicles on the date a new registration is applied for or at the end of the grace period following the expiration of a vehicle's current registration. The integrated system makes payment of taxes a prerequisite to issuance and renewal of the registration.

As more details become available closer to implementation, the Local Government Commission will update units.



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Part IV – Collection of Delinquent Taxes

A. When and Against Whom Tax Remedies may be Used

A tax collector may collect a tax using the remedies foreclosure, levy, attachment and garnishment (G.S. 105-366 through G.S. 105-375) on or after the date the tax is delinquent.

A tax is delinquent on the following date:

1. For a tax that is not a deferred tax, the date the tax accrues interest.
2. For a deferred tax, other than a tax described in subdivision (3) of this subsection, the date a disqualifying event occurs.
3. For a deferred tax under G.S. 105-277.1B that lost its eligibility for deferral due to the death of the owner, the first day of the ninth month following the date of death.

For purposes of using the collection remedies of foreclosure, levy, attachment and garnishment provided in G.S. 105-366 through G.S. 105-375 to collect delinquent taxes, the taxing unit shall proceed against property of the following taxpayer:

1. To collect delinquent taxes assessed on real property, the owner of record of property on which tax is due as of the date of delinquency and any subsequent owner of record of the property.
2. To collect delinquent taxes assessed on personal property, the owner of record as of January 1 of the calendar year in which the fiscal year of taxation begins.
3. To collect delinquent taxes assessed on a registered motor vehicle, the owner of record as of the date on which the current vehicle registration is renewed or the date on which a new registration is applied for.

Delinquent taxes can be collected through four different processes: debt setoff, attachment and garnishment, levy, and foreclosure. Each of these is an effective means of collecting taxes, given the proper situation. The tax collector has the authority to use the above remedies by virtue of his or her office, without any other special authority and generally without the assistance of the unit's attorney. With respect to the current fiscal year's taxes, the collector may use these remedies, except the debt setoff program, at any time after taxes are delinquent (January 6) [G.S. 105-366(b)]. See the following pages for a fuller discussion of the available methods. With regards to personal property, the type of property being attached determines which procedure to use. With regards to real property, it is almost always best to proceed against personal property first in order to satisfy the claim. Once this avenue is exhausted, then foreclosure proceedings can be used.

G.S. 105-369 states that on the first Monday (counties) or second Monday (municipalities) in February the tax collector must report to the governing board on the total amount of unpaid taxes that are liens on real property for the current fiscal year. Upon receipt of this report, the governing board must decide at what time it will advertise these liens. Liens may be advertised from March 1 to June 30. Advertising in this case means publication at least once in at least one newspaper of general circulation in the unit and posting of the same list at the courthouse or at the town hall. The selling of liens is no longer permitted.



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Proceedings against personal property may begin at any time after January 5. There are four instances in which the tax collector can proceed against personal property prior to that time: (1) if the collector has reasonable grounds for believing that the taxpayer is about to remove his or her property from the taxing unit; (2) if the collector has reasonable grounds for believing that the taxpayer is about to transfer his or her property to another person; (3) if the collector has reasonable grounds for believing that the taxpayer is about to become insolvent; and (4) whenever a wholesale or retail merchant sells or transfers the major portion of his or her stock of goods, materials, etc., other than in the normal course or business, or goes out of business, and the taxes on the transferred property that will fall due on September 1 are not paid within 30 days of the transfer. In this last instance, the collector's authority expires six months after the date of the transfer, but during that six months, the collector may proceed against the seller, the purchaser or both to satisfy the tax claim [G.S. 105-366(c) and G.S. 105-366(d)].

B. NC Local Government Debt Setoff Clearinghouse

The NC Local Government Debt Setoff Clearinghouse program (the Debt Setoff program) may be used as a collection tool for any legal debt owed to a North Carolina municipality or county by an individual, corporation, or partnership. The discussion is included herein because of its anticipated use as a property tax collection method. See G.S. 105A-1 through G.S. 105A-16 for the enabling legislation.

In the latter part of 2001, the North Carolina Association of County Commissioners and the North Carolina League of Municipalities created and sponsored the framework allowing municipalities and counties to submit information to a third party clearinghouse, and allowing the clearinghouse to intercept State income tax refunds, lottery winnings, and other payments owed to debtors other than wages on behalf of the municipalities and counties. In summary, a municipality or county may submit a claim for a debt(s) totaling \$50 or more to the NC Local Government Debt Setoff Clearinghouse. The debt(s) must be owed to the municipality or county by any person, a term which includes both individuals and corporations, and have occurred because of contract, subrogation, tort, and operation of law or some other legal theory. Delinquent property taxes may be submitted for setoff, as well as delinquent water bills or other amounts owed to a municipality or county. The debt may not be submitted to the clearinghouse until 60 days after the debt has been declared to be delinquent. The submission must include the full name and Social Security number of the debtor. General Statute Chapter 105A establishes the State laws authorizing and regulating the Debt Setoff program. The statutes require that municipalities and counties notify the debtors in writing that the local government intends to use the debt setoff process to recover the amount owed. An appeal process must also be available to the citizens wishing to protest the proposed debt setoff.

Each successful debt setoff match will be charged a \$15 recovery fee, which may be assessed against the taxpayer. If no match is made, there is no charge to the unit or the taxpayer.

A municipality or county planning to participate should consider such factors as who their debtors are, are they likely to be receiving NC income tax refunds, does the unit have the debtors' Social Security number, etc. Also, the municipality or county should remember that State agencies take priority over local agencies if there are competing claims for debt setoff [G.S. 105A-12].



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Additional information on the program is available from the NC Association of County Commissioners [www.ncacc.org], the NC League of Municipalities [www.nclm.org], and the NC Debt Setoff Clearinghouse [www.ncsetoff.org].

C. Attachment and Garnishment

Attachment and garnishment is a legal procedure by which a taxpayer's intangible personal property is seized to pay a tax claim of a unit of local government. Intangible personal property in this context usually consists of bank deposits, wages earned but not yet paid, and rents or other debts owed to the taxpayer. Therefore the property that the tax collector is proceeding against is usually "held" by a third party, called the "garnishee". The attachment and garnishment procedure provides a method whereby the collector notifies the garnishee, usually the taxpayer's financial institution or employer, of the taxpayer's unpaid tax bill, and the financial institution or employer pays to the collector an amount of the taxpayer's money sufficient to pay the taxes (G.S. 105-368). In the tax collection context, attachment and garnishment is the name of a single remedy, although it is a combination of the two separate procedures of attachment (a "freezing" of a taxpayer's property) and garnishment (the paying over of this property by the third party garnishee).

D. Steps in Attachment and Garnishment

The procedures for attachment and garnishment are set out in G.S. 105-368. The following summarizes the steps. One proceeding with attachment and garnishment must carefully review and refer directly to G.S. 105-368 and an attorney consulted, as appropriate, before a unit proceeding with the attachment and garnishment.

1. Prepare three (3) copies of the Notice of Attachment and Garnishment. The Notice must contain the following information [G.S. 105-368(b)]: (a) the name of the taxpayer, the social security number or federal taxpayer identification number (if known), and his or her address; (b) the amount of taxes, penalties, interest, and costs (including fees allowed) and the year or years for which the taxes were imposed; (c) a brief description of the property sought to be attached; (d) the name of the taxing unit or units by which the taxes were levied; and (e) the copy of the applicable law (G.S. 105-366 and G.S. 105-368). Notices for two or more taxpayers may be combined if they are served on the same garnishee but the amount of taxes, penalties, interest, and costs for each taxpayer must be set out separately.
2. Deliver the Notices to the taxpayer and the garnishee. This must be done in person or by registered or certified mail. Delivery is normally made by the tax collector, deputy collector, or county sheriff. Municipal collectors are authorized only to deliver within the corporate limits of the municipality while county collectors are similarly restricted by county lines. If the garnishee is a corporation, delivery must be made to the president or other head, secretary, cashier, treasurer, director, managing agent, or local agent of the corporation. Once delivery is made, the third copy ("return" section on the back of the Notice) is completed by the delivery person and that copy is retained on file by the unit in the tax collector's office. Fees for delivery are set by G.S. 7A-311. The current fee is \$15 each per taxpayer and garnishee. When two or more items are served to a person, only one \$15 fee is charged. The fee is added to the tax bill being collected. The revenue from the fee goes to the department that delivers the Notice. For example,



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if the sheriff's office makes delivery of the Notices, the sheriff's office receives the revenues.

3. The garnishee must respond to the Notice within 10 days, either by remitting the funds with a statement of no defense to the garnishment, or by stating an objection to the garnishment, or by a partial remittance. The garnishee may offer a "defense" to the garnishment, which is simply a legitimate reason that the garnishment is not valid. For example, if the garnishee is a bank and the taxpayer had no accounts with that bank, then the bank would have a defense to the garnishment. The garnishee also may respond with a "set-off" to the garnishment, which is a valid, enforceable claim by the garnishee against the taxpayer. This could include an unpaid loan or advance owed to the garnishee by the taxpayer. The collector must decide whether or not to accept a set-off. If the collector accepts the defense or set-off, he or she notifies the garnishee within 10 days after receiving the garnishee's statement. The collector may accept the defense or set-off in whole or in part. If partial payment is sent, the garnishment is discharged to the extent accepted. The remaining amount is still owed. If the collector rejects the defense or set-off, the collector must notify the garnishee within 10 days of receipt of the garnishee's statement. Then the collector must file copies of the Notice, the garnishee's response, and the collector's objections to the response with the appropriate division of the General Court of Justice. A court action will follow in which the taxing unit will seek a judgment against the garnishee. If the garnishee does not respond to the Notice within 15 days, the collector may file for a similar judgment. If a judgment is awarded to the collector against the garnishee, the garnishee will be liable for the taxes owed and the court costs.

Attaching bank deposits also requires some special procedures. There is no statutory requirement that a bank or savings institution disclose to a tax collector the names of its depositors or the amount each has on deposit. In most cases, a collector who wishes to attach and garnish such deposits can only speculate as to where a delinquent taxpayer maintains an account and serve a Notice upon that financial institution(s). The collector may try using information from the utility department, gathered from checks received for payment of utilities or checks received for payment of building permits. The collector also may serve several duplicate Notices concerning a single taxpayer on all banks in the community on the assumption that the taxpayer has attachable funds in at least one such institution. If the collector has not previously used the remedy of attachment and garnishment, the collector could visit each financial institution's local official to acquaint him or her with the unit's collection program in general and the specific procedures of attachment and garnishment. Banking officials in some communities will respond to polite, informal inquiries as to whether a taxpayer maintains an account and whether the deposit is sufficient to cover the tax claim. If the response is affirmative, the collector then proceeds with serving the Notices in the customary manner.

E. Levy

Levy can best be defined as the seizing of a taxpayer's personal property for future advertisement and sale to the highest bidder, with the proceeds of such a sale applied to the taxpayer's tax bill. G.S. 105-367(a) adopts the levy procedure regularly available through court action to private individuals through General Statute Chapter 1, Article 29B, section 339.41 through Section 339.71. Two important variations on this exist



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for tax collectors. The first is that the levy is made by the tax collector or a duly appointed deputy. The second is that the tax collector does not need to go to court to obtain a judgment and execution against the taxpayer. The governing body's formal order of collection has this effect [G.S. 105-321(b)]. (See also "The Order of Collection" above.) By means of this order, the tax collector or deputy has the authority to levy. The use of law enforcement officers is not necessary but is allowed if the unit's governing board authorizes the tax collector to call upon law enforcement officers for this purpose [G.S. 105-367(b)]. However, the officer(s) must be furnished a written document by the collector that will serve as the "execution" referred to in the statute.

Any tangible personal property listed in G.S. 105-366(b) may be levied upon. This includes personal property held by the taxpayer, personal property transferred by the taxpayer to a relative (as defined in the statute), personal property in the hands of a receiver for the taxpayer, personal property of a deceased taxpayer if the levy is made prior to final settlement of the estate, the stock of goods or fixtures of a wholesale or retail merchant (in specific instances), personal property of the taxpayer that has been repossessed as long as it is still in the hands of the person that repossessed it, personal property of a partner to satisfy a tax claim on the partnership (in certain instances), personal property due to the taxpayer or to become due to him or her within the calendar year, and personal property of a taxpayer that has been transferred by any other means, except by bona fide sale for value, if the levy is made within six months of transfer. Property acquired by the taxpayers since the listing period the previous January also may be levied upon, so the collector should make an effort to learn of any subsequently-acquired property [G.S. 105-366(b)(1)].

F. Steps in Making a Levy

The procedures for making a levy are set out in G.S. 105-367. One proceeding with a levy must carefully review and refer directly to G.S. 105-367 and an attorney consulted, as appropriate, before a unit begins making a levy.

The following summarizes the steps for making a levy:

1. Decide the items upon which to levy. Review the statutes in this area, as the law is very specific on some items [G.S. 105-366(b)]. The two most important factors in selecting an item are: (a) Can it be readily sold in the community? and (b) Can it be safely and inexpensively stored until sold?
2. Prepare four copies of the Notice of Levy and Sale. The property to be levied upon must be described "sufficiently to indicate its nature and quantity" [G.S. 1-339.51(4)].
3. Locate the property, seize it, and serve the taxpayer with a signed copy of the Notice of Levy and Sale.
4. Maintain safe custody of the property. Expenses that are incurred by the unit may be recovered from the proceeds of the sale (G.S. 1-322, G.S. 7A-311, G.S. 1-339.70).
5. Select a sale date and advertise the sale. A copy of the Notice of Levy and Sale must be posted at the county courthouse door at least ten days prior to the sale date (G.S. 1-339.53). Municipal collectors also should post a copy at town hall. If a motor vehicle is being levied upon, the Notice should be posted 20 days prior to the sale date and the Commissioner of Motor Vehicles notified of the levy and sale (G.S. 20-114). The



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Commissioner should be provided with the vehicle identification number and license plate number of each vehicle.

6. Sell the property at a public auction to the highest cash bidder. Sales may be conducted between 10:00 a.m. and 4:00 p.m. on any day except Sunday at a place located within the unit of government's boundaries as designated on the Notice [G.S. 1-339.21 and G.S. 1-339.5]. In municipalities with populations of 5,000 or more, sales can continue until 10:00 p.m.[G.S. 1-339.21(c)]. In other units, sales not completed by 4:00 p.m. can be continued to the next day other than Sunday. Items seized under separate levies may be sold at the same sale. If more than one item is collected from a single taxpayer, all items from that taxpayer may be sold as a group, individually, or some items in a group and some items individually, etc. However, the collector must be careful not to sell more items than is necessary to satisfy the tax claim, including the cost of the sale.
7. Compute the fees owed the unit per G.S. 7A-311. Deliver the property to the purchaser, giving each purchaser a Bill of Sale.
8. Distribute the proceeds of the sale:
 - a. Pay fees and costs to the appropriate office;
 - b. Pay for custody expenses for storage, insurance, and maintenance to the finance officer of the unit making the levy;
 - c. Pay the tax bill, including penalties and interest; and
 - d. Pay any excess to the parties entitled to it, normally the owner(s) of the property. If there are others who claim the excess, the collector should turn the excess over to the Clerk of Superior Court, who will then conduct a proceeding according to G.S. 1-339.71 to determine the reliability of the claims.

Sales may be postponed for a variety of reasons. G.S. 1-339.58 states that a sale may be postponed if (a) there are no bidders; (b) the number of prospective bidders is substantially decreased due to inclement weather or any casualty; (c) numerous other sales have been scheduled for the same day so that it is impracticable to hold the sale in question on the scheduled day; and (d) illness or other good reason or cause. Postponement of the sale must be publicly announced at the time and place of the original sale. A notice of postponement should be posted with the original Notice of Levy and Sale. The notice of postponement should include a statement of postponement, the new sale date, the reason for postponement, and the signature of the officer authorized to hold the sale. The new sale date must be set at the time of postponement and can be no more than six days after the original sale date, excluding Sundays (G.S. 1-339.20 and G.S. 1-339.58).

G. Foreclosure

Foreclosure is the process by which a lien against real property is enforced. It is an expensive measure and is therefore often the method of last resort to collect taxes, after attachment and garnishment; debt setoff and levy have failed to satisfy the tax claim. In fact, there are two cases in which the tax collector is required to proceed against personal property prior to using foreclosure. The first is if the tax collector is so directed by the governing board. The second is if the taxpayer or mortgagee or other person holding a lien on the real property requests that personal property be used first to satisfy the tax claim.



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This request must be made in writing, must describe the personal property to be proceeded against, and must give the location of such property [G.S. 105-366(a)]. It is strongly suggested that units considering the use of foreclosure as a means of tax collection discuss it at length with their attorney prior to initiating any proceedings.

There are two types of foreclosure allowed under North Carolina law, and it is up to the governing body as to which type it will pursue. The first type of foreclosure is described in the statutes as being "in the nature of an action to foreclose a mortgage" (G.S. 105-374). The action is filed in the appropriate division (either district or superior) of the General Court of Justice to foreclose the lien and obtain a court order for sale of the foreclosed property. The unit initiating the foreclosure must be very careful to notify all interested parties that such an action is being filed. The courts are very concerned with protecting all interested parties against loss of property, so the foreclosing unit must be very careful that the proper procedures are followed. Foreclosures "in the nature of an action to foreclose a mortgage" are also expensive to pursue. Extensive title searches must be made to determine that all interested parties are contacted. The procedures are time-consuming and require the work of an attorney. There are often delays in the proceedings. Depending on the amount of taxes owed, foreclosures of this type may not be cost-effective. In light of this fact, the statutes provide for another type of foreclosure - the *in rem* method of foreclosure (G.S. 105-375).

The second type of tax foreclosure is an expedited procedure known as an *in rem* foreclosure. This process requires the governing body wait at least 30 days after the lien advertisement, after which the tax collector files a certificate for each case with the clerk of superior court. The certificate should show the name of the taxpayer, the amount of the unpaid lien, the years for which the tax is owed, and a description of the property. However, the certificate cannot be filed until notice is given to certain persons. At least thirty days before filing the certificate, the tax collector is required to send by registered or certified mail a notice to the record owner as of the date taxes become delinquent, stating that a judgment will be filed against the property. All lienholders on record must be similarly notified [G.S. 105-375(c)].

If the tax collector has not received an indication that the notices were received by all applicable persons, the tax collector must:

1. Make reasonable efforts to locate and notify the taxpayer and all lienholders of record prior to the docketing of the judgment and the issuance of the execution. Reasonable efforts may include posting the notice in a conspicuous place on the property, or, if the property has an address to which mail may be delivered, mailing the notice by first-class mail to the attention of the occupant; and,
2. Have a notice published in a newspaper of general circulation in the county once a week for two consecutive weeks directed to, and naming, all unnotified lienholders and the taxpayer that a judgment will be docketed against the taxpayer.

Once this certification is docketed, the delinquent taxes, interest and costs constitute a valid judgment against the real property. At any time after three months and before two years from the docketing of the judgment, the tax collector may request that an execution of judgment be issued and the property sold by the sheriff to the highest bidder. At least 30 days prior to the sale, additional notice must be given to the taxpayer.



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At any time before the sale, however, any interested party may appear before the clerk of superior court and have the judgment set aside by proving that the tax has been paid or that the lien is invalid. Assuming the judgment is not set aside, notice must be given to the taxpayer and current owner by certified or registered mail, one week before the scheduled sale date. Again, assuming the judgment is not set aside, the sale is conducted like any other execution sale. The purchaser acquires a fee simple title, free and clear of all other interests and claims except liens for taxes or assessments that were not satisfied as a part of the purchase price and judgment. The unit's costs may be recovered as a part of the sale except for the attorney's fees, if incurred. [G.S. 105-375(j)].

Although the constitutionality of the *in rem* process has been questioned over the years, state courts have approved of its use on several occasions, most recently in a July 2010 N.C. Court of Appeals decision (*Da Da Mai v. Carolina Holdings, Inc.*).

Foreclosures are complicated legal proceedings. The above is only a summary of the actions to be taken. The statutes should be carefully reviewed and an attorney consulted, as appropriate, before a unit begins these proceedings. If a unit does not consult the unit attorney prior to an *in rem* foreclosure, all actions, events, correspondence, etc. should be documented and filed to demonstrate that the local government unit is following all statutory requirements.

H. Limitation on Use of Remedies

G.S. 105-378 states that "no county or municipality may maintain an action or procedure to enforce any remedy provided by law for the collection of taxes or the enforcement of any tax liens (whether the taxes or tax liens are evidenced by the original tax receipts, tax sales certificates, or otherwise) unless the action or procedure is instituted within 10 years from the date the taxes became due." As a practical matter, all delinquent taxes outstanding for ten years are usually written off at the end of the tenth year. This practice recognizes (1) that in most cases, the cost to collect taxes 10 years overdue may be excessive and (2) that the taxpayer may raise the "10-year defense" of G.S. 105-378 in order to avoid the tax liability. In addition, the governing board may allow taxes owed by persons on the insolvents list (see "Annual Settlement" below) that are five or more years delinquent to be written off as well [G.S. 105-373(g)]. However, the board and the finance officer should formally approve such an action. By approving the write-off of taxes prior to the end of the tenth year of delinquency, the board is stating that it agrees with the tax collector's determination that the taxpayer is insolvent. Therefore, the board should assure itself that each taxpayer is rightfully being declared insolvent prior to authorizing the write-off of taxes. Prompt collection of taxes by the tax collector can help to reduce the number of taxpayers that appear on the insolvents list and thus reduce the number of write-offs a unit has to make.



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A. Levy and Collection of School District Taxes

If a local school administrative unit or district has voted a tax to provide more funds for its operation, the board of county commissioners is authorized to levy that tax for the school administrative unit (G.S. 115C-511). The tax may be levied for the school current expense fund, for the capital outlay fund, or for both funds.

To facilitate the budgeting process, the county tax assessor must provide the school unit an estimate of the total property to be taxed that lies within the school unit's jurisdiction by April 15. The school unit may then determine the tax rate it wishes to request be levied by the county. The tax rate request should be submitted to the county along with the school unit's annual budget request. (See Section 10 of this manual, Budgeting - County and City School Systems.) The county then determines how much of a tax it is willing to levy, not to exceed the rate requested by the school board. The county then includes the supplemental school tax on its tax bills to those taxpayers affected. The school tax must be shown separately on the bill. The county is responsible for collecting the tax and must remit collections to the school unit within 10 days after the close of each calendar month (G.S. 115C-511). The county may use any and all remedies available to it to collect the tax and may deduct from the tax remitted to the school unit the actual costs to the county of levying, computing, billing, and collecting the additional tax. Partial payments should be divided between the county and the school unit based on the percentage that the county's general tax levy and the school district's levy, respectively, represent to the total tax levy.

B. Annual Settlement

Each year, the tax collector must make a settlement with the governing body with regards to the taxes he or she was charged to collect. The governing board may call for a full settlement at any time, but usually an annual settlement will suffice, unless the tax collector leaves office before the term is over. While a settlement is used to account for the taxes the collector was ordered to collect, it does not relieve him or her of responsibility if a shortage that existed at the time of the settlement is later discovered, nor does it relieve him or her of any criminal liability. The settlement is more than an accounting of the funds. It also provides the board with the opportunity to evaluate the collector's performance and efforts to actually collect the taxes that are owed.

Annual settlements are made between July 1 and the time at which the collector is charged with the current year's tax levy. As stated earlier, other settlements may be called for, especially if the collector resigns or is removed from office at some time other than at the time of the annual settlement.

Prior to the actual accounting for the previous year's taxes (but after July 1), the tax collector must present the board with a list of all "insolvents" owing tax. This list is of "the persons not owning real property whose personal property taxes remain unpaid" (G.S. 105-373). To this list the tax collector shall append his or her statement under oath that he or she has made diligent efforts to collect the taxes due from the persons listed out of their personal property and by other means available to the tax collector for collection. He or she shall report such other information concerning these taxpayers as may be of



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interest to or required by the governing body, including a report of his or her efforts to make collection outside the taxing unit.

The purpose of this report is for the tax collector to demonstrate to the board that he or she has made every possible effort to collect the taxes owed for which the unit does not have a lien on real property. However, the board is not obliged to simply accept these statements as fact. The board has the authority to reject any name on the insolvents list if, in its opinion, the taxpayer is not insolvent. The board also may hold the collector responsible for the amount of tax owed by those persons that it rejects from the insolvents list. Once the board has agreed on the insolvents list, the amount of tax owed by these persons is credited to the tax collector at his or her settlement. The collector also must present a list to the board of all taxes owed that constitute a lien on real property.

The actual "settlement" of funds is a two-step process. First, the charges are calculated to include the following [G.S. 105-373(a)(3)a.]:

1. the total amount of all taxes placed in the collector's hands for collection, including taxes on discoveries, late listings, increased assessments, and values certified by the Property Tax Commission;
2. all late-listing penalties, interest, and costs collected by the tax collector;
3. all interest on taxes collected by the tax collector;
4. any other sums collected or received by the tax collector, including, for example, fees allowed in levy and attachment and garnishment;
5. any fees that the tax collector may have taken for making collections for other taxing units.

Second, the credits are calculated as follows [G.S. 105-373(a)(3)b.]:

1. all sums deposited by the collector to the credit of the unit or for which the proper official has given receipts;
2. releases allowed by the governing board, including refunds and reductions in value;
3. discounts allowed for prepayments, if the principal amounts of such accounts were collected after the books were turned over to the collector;
4. the principal amount of unpaid taxes that constitute liens against real property;
5. the principal amount of unpaid taxes found by the county commissioners to be uncollectible in the current year because the taxpayers who owe them are insolvent;
6. any commissions to which the collector is entitled.

The credits should equal the charges. Any deficiency is the liability of the collector. In addition to civil liability, the collector can be criminally charged with a misdemeanor punishable by fine or imprisonment or both, at the discretion of the court [G.S. 105-373(f)].

C. Exemptions and Exclusions

Certain property is, under the General Statutes, exempt from taxation. Property that is excluded from the tax base does not have to be listed, appraised, assessed, or taxed. For a detailed listing of these special classes of property, see G.S. 105-275. Other certain



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property may be exempt or may be taxed at a reduced rate or assessed at a reduced or special valuation (G.S. 105-277 through G.S. 105-278). Some criteria may have to be met to receive the special tax status. For a detailed discussion of each class, please refer to G.S. 105-278.1 through G.S. 105-278.8.

Generally, every owner of exempted or excluded property must file for the exemption or exclusion annually (G.S. 105-282.1). The application must contain a complete and accurate statement of the facts that entitle the property to the exemption or exclusion and must indicate the municipality, if any, in which the property is located. However, certain exceptions apply to the annual filing rule. Property held by non-profit organizations, fraternal organizations and certain disabled individuals may be excluded from the tax base. See G.S. 105-275 for a listing of property for which the owner is exempted from the filing requirements. Properties owned by the U.S. Government, the State of North Carolina, and the counties and municipalities of the State are exempt from taxation as well. Other property, listed in G.S. 105-275 and G.S. 105-277.4, is not subject to annual filing after the initial filing is made and the exemption or exclusion has been approved, unless new or additional property is acquired or improvements are made, necessitating a change in the valuation of the property, or if there is a change in the use of the property or the qualifications or eligibility of the taxpayer.

As of 2000, the NC General Statutes listed over 60 classes of real or personal property entitled to tax exemption, exclusion, or taxation at a reduced rate. Governing board members should familiarize themselves with what local property receives special tax treatment. The board should be aware of these preferential treatments and consider what effects proposed tax legislation may have upon the local tax base in the future. New governing board members may want to consult with the local tax official to determine to what extent property in the local unit receives preferential tax treatment.

G.S. 105-296(j) requires that the tax assessor must annually review at least one-eighth of the property that is exempt or excluded from taxation in order to verify that the property is being correctly exempted or excluded. The assessor may require the owner of the property to provide any information reasonably needed by the assessor to verify that the exemption or exclusion status is valid.

1. Circuit Breaker Benefit

Effective June 2009 qualifying elderly and disabled homeowners are eligible to apply for tax relief for 2010 by deferring a portion of property taxes assessed against their primary residence.

Qualifying Criteria are as follows:

- a. North Carolina Resident, and
- b. At least 65 years old or are totally and permanently disabled, and
- c. Have an annual income of no more than 150% of the income eligibility limit set for the homestead exclusion, and
- d. Have occupied their property as a permanent residence for at least five years.

A qualifying owner with gross income at or under the homestead exclusion limit may defer taxes on his or her permanent residence to extent taxes exceeds 4% of his or her gross income. If owner has income over, but no more than 150% of income eligibility



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limit, taxes may be deferred on his or her permanent residence for taxes owed that exceed 5% of his gross income.

2. Disabled Veteran Benefit

Beginning in 2009-2010 tax year the first \$45,000 in appraised value of the permanent residence owned and occupied by an honorably discharged veteran or his or her unmarried surviving spouse is excluded from taxation.

D. Consolidating Property Tax Functions between County and Municipalities

Local governments are authorized by G.S. 160A-461 to enter into joint arrangements that include contracts for the billing and collection of property taxes. All units not currently utilizing consolidated tax billing and collection should consider it. Consolidating the tax functions of municipalities and counties should provide a more economical use of personnel and other resources. A single billing and collections office also should simplify taxpayers' efforts to pay and inquire about the status of their taxes. For smaller units, a consolidated tax office should improve their collection percentages, as counties generally are able to enforce tax collections through attachment and garnishment, levy, and foreclosure at a lower cost. However, contracting with a county for tax collection services does not relieve a municipality of its legal responsibility for the taxes it has levied. To be most effective, county tax collectors should periodically provide a listing of delinquent municipal taxpayers to the appropriate municipal officials. Local municipal officials may be able to provide employment information about the delinquent taxpayers to the county tax collector. The local municipality may also have bank account information obtained when the delinquent taxpayer paid a water or electric bill with a check. A cooperative sharing of information should allow a municipality to increase its tax collections. If the county is paid a percentage of taxes collected, the revenue to the county also increases, and the county tax collector now has information which may be useful in collecting delinquent county taxes. In most instances, it would appear that all parties involved would benefit from a consolidated tax billing and collection effort. The smaller the local governments involved, the more effective this cooperation is likely to be. Municipal officials should be aware that because the county tax collector is acting as the municipal tax collector and the county tax collector is authorized by the order of collection, all official actions should begin with the county tax collector.

In February 2001, the staff of the Local Government Commission published Memorandum No. 929, *Results of Municipals and Counties Survey on Consolidating and Billing of Tax Functions*. This memorandum was sent to all counties and municipalities in the State. The results provide some baseline for a "typical" consolidated tax collection arrangement. Because motor vehicle tax collection is specified by the General Statutes, those collection arrangements show little variation from county to county. A copy of the memorandum is available on our web site.

E. LGC's Management of Cash and Taxes Reports

The Local Government Commission staff prepares annually the publications *Management of Cash and Taxes - Counties* and *Management of Cash and Taxes - Municipalities*. These publications provide comparative cash and investment and tax levy information of local governments for the fiscal year. Local government officials are encouraged to compare their own performances to similar units and to statewide averages. Such comparisons may



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identify opportunities for improvement or may document improved performances from previous fiscal years. For those local governments with below average tax collection rates, collection procedures should be reviewed to determine if more effective means of collection are available.

Below is the web site address.

<http://www.nctreasurer.com/lgc/units/unitlistjs.htm>

F. Financial Statement Considerations

Several note disclosures and schedules concerning tax billings and collections are required to be in the unit's financial statements. These disclosures are outlined in Carolina County Illustrative Financial Statements which can be found on the North Carolina State Treasurer's website below.

<http://www.nctreasurer.com/dsthome/StateAndLocalGov/AuditingAndReporting/>



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Part VI – Additional Resources

UNC School of Government

Mail requests to: Publications Office
School of Government
CB #3330 Knapp-Sanders Building
UNC-CH
Chapel Hill, NC 27599-3330

Phone 919-966-4119
Fax 919-962-2707

Web Site <http://www.sog.unc.edu/>

Publications available from the UNC School of Government include:

Guide to the Listing, Assessment, and Taxation of Property, 2009, Shea Riggsbee Denning.

The Property Tax, 2007 Shea Riggsbee Denning and Gary A. Wagner – Article 14 in County and Municipal Government in North Carolina

Property Tax Collection in North Carolina, fourth edition, 1998 and 2000 Supplement, William A. Campbell.

Property Tax Lien Foreclosure Forms & Procedures, sixth edition, 2003, William A. Campbell. (Includes checklist and forms available on CD-ROM)

Property Tax Bulletins, edited by William A. Campbell and Joseph S. Ferrell

Department of State Treasurer

Web Site (Fiscal Management Section, including memos, illustrative financial statements, etc.)

<http://www.nctreasurer.com/dsthome/StateAndLocalGov>



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