

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

SESSION LAW 2016-76
HOUSE BILL 533

AN ACT TO MODIFY WHEN THE LIEN FOR DEFERRED TAXES ON LAND ELIGIBLE FOR PRESENT-USE VALUE CLASSIFICATION IS EXTINGUISHED IN ORDER TO PROMOTE SALES FOR LAND CONSERVATION USES AND TO ALLOW A TAXPAYER TO CONTEST A DENIAL OF A CLAIM FOR REFUND WHICH THE DEPARTMENT OF REVENUE DETERMINES TO BE OUTSIDE THE STATUTE OF LIMITATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-277.4 reads as rewritten:

"§ 105-277.4. Agricultural, horticultural and forestland. – Application; appraisal at use value; appeal; deferred taxes.

...
(d) ~~Exceptions.~~ Set Exception. – Notwithstanding the provisions of subsection (c) of this section, if property loses its eligibility for present use value classification solely due to ~~one of the following reasons, no deferred taxes are due and the lien for the deferred taxes is extinguished:~~

- (1) ~~There is a change in income caused by enrollment of the property in the federal conservation reserve program established under 16 U.S.C. Chapter 58.58, then no deferred taxes are due and the lien for the deferred taxes is extinguished.~~
- (2) ~~The property is conveyed by gift to a nonprofit organization and qualifies for exclusion from the tax base pursuant to G.S. 105-275(12) or G.S. 105-275(29).~~
- (3) ~~The property is conveyed by gift to the State, a political subdivision of the State, or the United States.~~

(d1) Variable Exception. – Notwithstanding the provisions of subsection (c) of this section, if property loses its eligibility for present-use value classification because the property is conveyed to a nonprofit organization and qualifies for exclusion from the tax base pursuant to G.S. 105-275(12) or G.S. 105-275(29) or to the State, a political subdivision of the State, or the United States, then deferred taxes are due as follows:

- (1) If the property is conveyed at or below present-use value, then no deferred taxes are due, and the lien for the deferred taxes is extinguished.
- (2) If the property is conveyed for more than present-use value, then a portion of the deferred taxes for the preceding three fiscal years is due and payable in accordance with G.S. 105-277.1F. The portion due is equal to the lesser of the amount of the deferred taxes or the deferred taxes multiplied by a fraction, the numerator of which is the sale price of the property minus the present-use value of the property and the denominator of which is the true value of the property minus the present-use value of the property.

...."

SECTION 2.(a) G.S. 105-241.7 is amended by adding a new subsection to read:

"(c1) Action on Request Regarding Statute of Limitations. – When the taxpayer files an amended return or a claim for refund which the Department determines to be outside the statute of limitations, the Department must deny the refund and send the taxpayer a notice of denial."

SECTION 2.(b) G.S. 105-241.15 reads as rewritten:

"§ 105-241.15. Contested case hearing on final determination.



(a) Contest Final Determination. – A taxpayer who disagrees with a notice of final determination issued by the Department may contest the determination by filing a petition for a contested case hearing at the Office of Administrative Hearings in accordance with Article 3 of Chapter 150B of the General Statutes. A taxpayer may file a petition for a contested case hearing only if the taxpayer has exhausted the prehearing remedy. A taxpayer's prehearing remedy is exhausted when the Department issues a final determination after conducting a review and a conference.

(b) Contest Statute of Limitations. – A taxpayer who disagrees with a notice of denial issued by the Department pursuant to G.S. 105-241.7(c1) may contest the statute of limitations determination by filing a petition for a contested case hearing at the office of Administrative Hearings in accordance with Article 3 of Chapter 150B of the General Statutes on the sole issue of whether the statute of limitations bars the taxpayer's claim. A final decision by the administrative law judge regarding the statute of limitations is subject to judicial review under Article 4 of Chapter 150B of the General Statutes and under G.S. 105-241.16. In the event judicial review of the decision is not sought and the final decision is that the taxpayer's claim was not barred by the statute of limitations, then the administrative law judge must remand the matter to the Department for consideration of the substantive issues. In the event judicial review is sought and it is finally determined that the taxpayer's claim was not barred by the statute of limitations, then the matter shall be remanded to the Department for consideration of the substantive issues. Any remand shall be regarded as a new amended return or claim for refund timely filed within the statute of limitations under G.S. 105-241.7(c)."

SECTION 2.(c) Notwithstanding Article 9 of Chapter 105 of the General Statutes, a taxpayer may contest a determination issued prior to the enactment of this section that an amended return or claim for refund was filed outside the statute of limitations if both of the following conditions are met:

- (1) The Department of Revenue determined that the amended return or claim for refund was filed outside the statute of limitations.
- (2) The taxpayer contests the statute of limitations determination in accordance with G.S. 105-241.15(b), as enacted by this act, within 60 days of the enactment of this act. For purposes of this section, a determination by the Department that an amended return or claim for refund was filed outside the statute of limitations is considered to be a notice of denial issued by the Department for purposes of G.S. 105-241.15(b).

SECTION 3. Section 1 of this act is effective for taxes imposed for taxable years beginning on or after July 1, 2016. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 29th day of June, 2016.

s/ Harry Brown
Presiding Officer of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Pat McCrory
Governor

Approved 9:04 a.m. this 30th day of June, 2016