
Coates' Canons Blog: Combining Multiple Property Tax Exclusions

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In a North Carolina town, a long-vacant historic mill with environmental contamination has sat empty on the edge of downtown for years. The Town has taken action to see the property transformed. Town staff worked through a brownfields process to clear the major environmental problems associated with the property, and the Town engaged the UNC Development Finance Initiative (DFI) to evaluate the financial feasibility of private development on the site and to attract a developer. Now a developer has proposed an adaptive reuse of the historic building that aligns with the Town's interests. The developer hopes to take advantage of property tax exemptions to make the project work financially and asks whether the property can benefit from both the brownfields exclusion in G.S. 105-277.13 and the historic property exclusion in G.S. 105-278.

In other words, can a single property and a single owner benefit from more than one property tax exclusion at a time?

When this question came to me, I initially thought it would be fairly simple to answer. After much research and discussion, I've discovered that this question is anything but simple. Nor is my answer.

I think it is permissible for the same owner and property to benefit from more than one property tax exclusion simultaneously. But it depends on the exclusions involved. Some exclusions permit simultaneous eligibility, others do not. Different exclusions may apply to different portions of a property. What's more, even if a property may be eligible for multiple exclusions simultaneously the Machinery Act does not provide guidance on the appropriate calculation method. Bottom line: it's possible but complicated.

For the most part, the Machinery Act is silent about whether a property may benefit from multiple exclusions simultaneously. I believe the only instance in which the Machinery Act addresses this issue is in the "property tax relief" exclusions aimed at elderly or disabled homeowners. G.S. 105-277.1(a)(the elderly/disabled homestead exclusion) and G.S. 105-277.1C(a)(the disabled veterans exclusion) both state, "An owner who receives an exclusion under this section may not receive other property tax relief." G.S. 105-277.1(b)(3a) defines the term "property tax relief" to include both the elderly/disabled exclusion and the disabled veterans exclusion plus the circuit breaker exclusion in G.S. 105-277.1B. As a result, a homeowner must pick only one of those three exclusions even if she qualifies for two or three of them.

I don't know of any other exclusions that specifically prohibit doubling (or tripling!) up of exclusions so long as a property and owner qualified for two or more exclusions. In particular, the brownfields exclusion and historic property exclusion that Tyler asked me about don't say anything about simultaneous eligibility.

In my view, if the relevant statutes do not make particular exclusions exclusive of others than I don't see why a taxpayer could not benefit from two or more of those exclusions. As the property tax relief statutes make clear, when the General Assembly wanted to make an exclusion exclusive it did so explicitly in the relevant statute. If the issue were challenged in court, I very much doubt a judge would read an exclusivity provision into a statute that did not contain such language.

The N.C. Department of Revenue disagrees. In their view, a taxpayer may benefit only from one exclusion for any one given tax year. They reach this conclusion in part because none of the exclusion statutes (well, almost none, as I will explain shortly) instruct how to layer multiple exclusions on top of one another.

It's true that in general the Machinery Act doesn't give us guidance about the calculations necessary to apply multiple exclusions to one property. The only exception is (again) found in the "property tax relief" provisions, which include a provision that describes how non-married co-owners of residential property may mix and match the disabled veterans' exclusion and the elderly/disabled exclusion on the same property. That explanation doesn't really help us answer Tyler's question because he asked about one owner benefitting from multiple exclusions. The property tax relief provisions

concern multiple owners each benefitting from a single exclusion. See this blog for more details.

But I don't think the lack of clear guidance about the calculation of multiple simultaneous exclusions should result in a prohibition against multiple simultaneous exclusions. I think it just means we need to work a little harder to figure out the best calculation method.

I see two potentially valid calculation methods for multiple simultaneous exclusions.

One method is to apply the exclusions consecutively: multiply the property's full appraised tax value by the first exclusion percentage, then multiply that result by the second exclusion percentage, and so on. It doesn't matter which exclusion you apply first; the math works out the same. Let's call this the "consecutive" approach.

The second method would be to add the exclusion percentages together and apply that combined percentage to the initial appraised value. If the combined percentage is equal to or greater than 100%, then the property would be completely exempt from taxation. Let's call this the "combined" approach.

In my view, the combined approach is more appropriate than the consecutive approach because it remains consistent with the statutes' mandate to apply the exclusion percentages to the property's full appraised value. The consecutive approach results in the second exclusion percentage (and any subsequent exclusions) being applied to something less than full appraised value. That's not consistent with the exclusion statutes.

The calculation process is further complicated by the fact that some exclusions apply only to land, others only to improvements (buildings), others to both land and improvements. This complication might require us to calculate different exclusion percentages for land as compared to improvements. For example, the brownfields exclusion in GS 105-277.13 applies only to improvements and not to land, while the historic property exclusion in GS 105-278 applies to both.

Let's assume that the tax value of Parcel A is \$100,000, representing an improvement that is appraised at \$60,000 and land appraised at \$40,000. If the owner applies for and receives both the brownfields exclusion and the historic property exclusion, how should the total exclusion for Parcel A be calculated?

The brownfields exclusion provides for a five-year decreasing exclusion percentage, starting at 90% in year one, reducing to 10% in year five, and disappearing in year six. The historic property exclusion is a flat 50% every year for so long as the property continues to qualify as a historic landmark.

Given those details, I think the best calculation process is as follows: For the land, only the 50% historic property exclusion may apply, which reduces the taxable value of the land from \$40,000 to \$20,000. For the improvements, both exclusions may apply so the assessor should use the combined approach discussed above. Adding the 50% historic property exclusion to the 90% first-year brownfields exclusion produces a total exclusion percentage of 140% in year one. Because that total is greater than 100%, the improvements will be completely exempt for the first tax year in which both exclusions apply. For year one, the total taxable value of Parcel A will drop from \$100,000 to \$20,000.

The total exclusion % for Parcel A will change over time as the brownfields exclusion for the improvements reduces over five years (from 90% to 75% to 50% to 30% to 10%) and then disappears entirely in year six. The historic property exclusion for both the land and improvements will remain constant at 50%. Assuming no change in the total appraised value of Parcel A, here is how the exclusions would be calculated for the next six (or more) years:

Year	Land Taxable Value	Improvements Taxable Value	Total Taxable Value
1	\$20,000	\$0	\$20,000
2	\$20,000	\$0	\$20,000
3	\$20,000	\$0	\$20,000
4	\$20,000	\$12,000	\$32,000
5	\$20,000	\$24,000	\$44,000
6 (and future years)	\$20,000	\$30,000	\$50,000

Keep in mind that this is simply how I think the process should work. But my opinion and \$7.25 will get you a triple venti



half sweet, non-fat, caramel macchiato at Starbucks. In other words, my blogs are not binding law. Neither are opinions from the N.C. Department of Revenue. Unless and until the General Assembly amends the Machinery Act to clarify the simultaneous exclusion question or a dispute over this question reaches the North Carolina courts, the decision will be left to county assessors. As usual, my advice is for assessors to be consistent in similar cases regardless of they approach they choose.

[This post was originally published on the SOG's Community and Economic Development blog. Special thanks to my SOG colleague Kirk Boone for his wise input on this issue.]

Links

- www.sog.unc.edu/resources/microsites/development-finance-initiative
- www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=105-277.13
- www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=105-278.3
- www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=105-277.1
- www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=105-277.1C
- www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=105-277.1B
- ced.sog.unc.edu/