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## **Coates' Canons Blog: Even More Questions & Answers About the Elimination of Privilege License Taxes**

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Local privilege license taxes will be history as of July 1, 2015. I've blogged about their repeal here and here, but lots of interesting questions continue to fill my email inbox. Here are more Q&A's about the disappearance of these taxes and the aftermath.

### ***Will any local privilege license taxes remain in effect after July 1, 2015?***

Yes. Municipal vehicle taxes, municipal taxicab taxes, municipal and county beer and wine taxes, and municipal and county animal taxes will remain, because all of those taxes arise under statutes not affected by the law that repealed the general privilege license tax ("PLT") authority for local governments.

Part XII of S.L. 2014-3 repeals G.S. 153A-152 and G.S. 160A-211 as of July 1, 2015. Those two statutes authorize counties and cities respectively to levy PLTs. Without those two statutes, counties and cities have no authority to levy PLTs unless they can find authority for such a tax elsewhere.

Municipal vehicle taxes for "the use and privileges of the public highways" remain authorized by G.S. 20-97(b) & (c). Every city is authorized to levy a vehicle tax of up to \$5 per vehicle. Cities that operate public transportation systems may levy additional vehicle taxes of \$5 (or up to \$30 with local legislation) to help fund those systems.

Cities looking for additional revenue sources to replace the lost PLT revenue next year might want to consider levying the \$5 vehicle tax if they are not already doing so. These vehicle taxes are collected by the N.C. Division of Motor Vehicles along with property taxes at the time the vehicle is registered.

Similarly, municipal taxicab (and limousine) privilege taxes remain authorized by G.S. 20-97(d). These taxes of \$15 per vehicle may be levied on all taxicabs and limousines operating in the city—in other words, all taxis and limos that pick up or drop off passengers in the city limits. A taxicab company need not have its headquarters in your city to be subject to taxicab taxes in your city.

Local beer and wine privilege license taxes are authorized by G.S. 105-113.77 (city) and G.S. 105-113.78 (county) and G.S. 105-113.79 (city wholesaler). Any business in your jurisdiction selling beer or wine for on-premises or off-premises consumption should be paying the applicable local beer and wine tax.

Finally, let's not forget Fido and Fluffy. Cities and counties will still be able to levy taxes on the "privilege" of keeping domestic animals under G.S. 153A-153 (counties) and G.S. 160A-212 (cities).

If your city is not currently levying any of these taxes and wishes to do so, the governing board will need to adopt a resolution creating the tax. (Local beer and wine taxes are mandatory under the statutes cited above, meaning an ordinance might not be required to levy these taxes. But best practice is for all local taxes to be documented with ordinances.)

### ***Can we continue to collect delinquent PLTs after July 1, 2015?***

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Yes. Although local governments will not be able to levy *new* PLTs after July 1, 2015, they will still be able to collect *old* PLTs that remain unpaid. S.L. 2014-3 did not affect the general tax collection remedies found in G.S. 153A-147 (counties) and G.S. 160A-207 (cities). Attachment and garnishment and levy and sale will still be available to collect delinquent PLTs.

***How can we replace our lost PLT revenue?***

There's no one-size-fits-all answer to this question. Some local governments may raise their property tax rates to account for the lost revenue. Others may cut spending. Others may choose to levy taxes that they have avoided in the past (such as the municipal vehicle tax discussed above, for example). To get a full picture of the revenue sources available to local governments, I recommend you take a look at this comprehensive list by my colleague Kara Millonzi.

***Can we destroy all of our PLT records after the tax disappears on July 1, 2015?***

No. Local governments must comply with the records retention schedules issued by the state Department of Cultural Resources, Division of Archives and Records. These schedules attempt to identify every type of local government record possible and how long each type of record must be retained. Most municipal privilege license tax records must be retained for at least 3 years. (See page 175 of the municipal schedules.)

***Will the elimination of PLTs affect regulations and fees aimed at sexually oriented businesses?***

No. These regulations and fees are authorized independently of PLTs by G.S. 160A-181.1. The same is true for regulations aimed at other types of businesses that are authorized by statutes other than G.S. 153A-152 and G.S. 160A-211. One example: my colleague Trey Allen explains how and why local governments may regulate and charge fees for peddlers independently of PLTs in this post.

***How can we keep track of the businesses in our city for zoning and public safety concerns after PLTs disappear?***

As I discuss in this post, cities and counties are authorized to license and regulate businesses in their jurisdictions under G.S. 153A-134 (counties) and G.S. 160A-194 (cities). These statutes might authorize a business registration system and a minimal registration fee that could help a local government keep track of businesses operating in its jurisdiction. My colleague Trey Allen and I think that is likely the case, but we don't really know for sure because state courts have not opined on the matter.

That said, if a city were to adopt a registration system it would be wise to exempt from that requirement the businesses described in 160A-194(b) and (c): occupations that are licensed by the state (attorneys, doctors, etc.) and mobile ride dispatchers (Uber, Lyft). While we could craft an argument supporting the decision to include these businesses in a registration requirement, we think a conservative approach is best.

Assuming that an annual fee could be charged for this type of regulatory system, that fee should not be viewed as a replacement for lost PLT revenue. Regulatory fees must be tied to the cost of the related regulatory system. I assume that a business registration system that does not involve inspections or background checks would be relatively inexpensive. If so, fees above \$10 or \$20 per business would run the risk of being viewed as unreasonable by a court.

If you have questions about creating such a regulatory system, I recommend contacting my colleague Trey Allen at [tallen@sog.unc.edu](mailto:tallen@sog.unc.edu).

## Links

- [canons.sog.unc.edu/?p=7711](https://canons.sog.unc.edu/?p=7711)
- [canons.sog.unc.edu/?p=7730](https://canons.sog.unc.edu/?p=7730)
- [www.ncga.state.nc.us/EnactedLegislation/SessionLaws/HTML/2013-2014/SL2014-3.html](http://www.ncga.state.nc.us/EnactedLegislation/SessionLaws/HTML/2013-2014/SL2014-3.html)
- [www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=153A-152](http://www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=153A-152)
- [www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=160A-211](http://www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=160A-211)



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- [www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=20-97](http://www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=20-97)
  - [www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=105-113.77](http://www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=105-113.77)
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  - [canons.sog.unc.edu/wp-content/uploads/2014/10/ILGF\\_Guide-to-County-and-Municipal-Revenues\\_-Aug-2014.doc](http://canons.sog.unc.edu/wp-content/uploads/2014/10/ILGF_Guide-to-County-and-Municipal-Revenues_-Aug-2014.doc)
  - [archives.ncdcr.gov/For-Government/Retention-Schedules](http://archives.ncdcr.gov/For-Government/Retention-Schedules)
  - [www.ncdcr.gov/Portals/26/PDF/schedules/schedules\\_revised/municipal.pdf](http://www.ncdcr.gov/Portals/26/PDF/schedules/schedules_revised/municipal.pdf)
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  - [www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=153A-134](http://www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=153A-134)
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