
Coates' Canons Blog: Let it Snow!?!? Interest and Inclement Weather

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[UPDATE: The 2018 budget bill included a provision that applies

the “weekend & holiday” rule to extend payment deadlines when a county is the subject of a state disaster declaration by the governor and the county tax offices are closed. See Section 38.9(a) of this session law.]

Facebook postings of icebergs floating off the coast of Nags Head are fake news, but snow and ice is in fact predicted for eastern North Carolina over the next few days. This storm is poorly timed for last-minute taxpayers because the delinquency date for 2017 property taxes is this Saturday, January 6. If taxpayers don't pay their 2017 taxes by Friday, they will accrue 2% interest for the month of January.

The possible collision of ice and interest has caused many county officials to contact me with this question:

If the county tax office is closed on Friday due to inclement weather, may the county move the delinquency date to next week and allow taxpayers to pay their 2017 property taxes without interest on Monday, January 8?

The legal, technical answer is “no.” But the practical answer is “it’s probably okay if your commissioners and attorney sign off on that decision.”

Here’s why the technical answer is no: G.S. 105-395.1 moves a taxpayer deadline to the next business day when that deadline to act falls on day on which the county offices are closed due to a weekend or holiday. Because the deadline to pay 2017 property taxes falls on a Friday this year, the weekend-and-holiday rule would not normally come into play.

However, G.S. 105-395.1 does not authorize moving taxpayer deadlines when offices are closed due to bad weather, fire damage, or any reason other than a weekend or holiday. Combine that omission with the prohibition on waiving interest created by G.S. 105-380/381, and that leads us to the technical answer that counties are not authorized to move interest deadlines because of bad weather.

The result doesn't change even if a state of emergency is declared by the governor or by a local government. Neither our state's chief executive or our local governments are authorized to waive state property tax laws when dealing with natural disasters. (See G.S. 166A-19.31 for a description of the powers granted to counties and municipalities when they declare local states of emergency.)

BUT . . . even if the letter of G.S. 105-395.1 doesn't authorize moving deadlines due to unexpected office closures, the spirit of that statute does. The motivation behind the weekend-and-holiday rule is to give taxpayers one additional day to



perform an action if county offices are closed on the day the deadline to take that action occurs. If this storm closes county offices on Friday, it makes sense that taxpayers should be given until Monday to make payments without interest. (The IRS made a similar move for some federal taxpayers after a big late-winter snow storm earlier this year.)

The decision to extend the payment deadline carries some legal risk. Someone could sue the county and claim that moving the deadline constituted an illegal waiver of interest under G.S. 105-381. If that lawsuit were successful, county commissioners who authorized the move could be held personally responsible for the waived interest payments under G.S. 105-381(c).

I think that legal risk is low. Nevertheless, county tax officials should not make the decision to move the payment deadline on their own. They absolutely need to get approval from their county commissioners, attorney, and/or manager. To be safe, I think the tax collector should ask the commissioners for a formal resolution moving the payment deadline to Monday.

Also remember the postmark rules provides relief to taxpayers regardless of weather closings. Under G.S. 105-360(d), any tax payment submitted by mail that receives a U.S. Postal Service postmark on or before January 5 is considered timely and will not accrue interest regardless of when that payment is actually received by the tax office. Taxpayers worried about the weather should pop their payments in the mail before the flakes begin to fall and they will avoid interest accruals no matter how icy the roads may get later this week.

Links

- canons.sog.unc.edu/wp-content/uploads/2018/01/iceberg.jpg
- www.ncleg.net/Sessions/2017/Bills/Senate/PDF/S99v6.pdf
- www.newsobserver.com/news/local/article192614004.html
- www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=105-395.1
- www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=166A-19.31
- www.forbes.com/sites/kellyphillipserb/2017/03/15/irs-offers-additional-time-for-some-taxpayers-due-to-winter-storm-stella/#2fbfbc395802
- www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=105-381
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