
Coates' Canons Blog: Local Tax Legislation Round-Up

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Just like a box of chocolates, you never know what you're going to get from the General Assembly. The current legislative session is only a couple of months old and already we've gotten booze-filled chocolates, an official herring festival, and maybe even our very own North Carolina currency. (In the spirit of bi-partisanship, I'm pulling for a silver dollar with Dean Smith on one side and Coach K on the other.)

But it hasn't been all coins, candy, and Clupeidae down in Raleigh. The Honorables have made a few changes to local tax laws and proposed a bunch more. Here's a quick round-up of the major legislative action concerning local taxes to date.

Laws:

Board of Equalization and Review: S.L. 2011-3 amends GS 105-378 to prohibit all collection actions for tax assessments that are under appeal to a county board of equalization and review ("BOER"), the first formal stop for appeals of value, situs, ownership, and taxability. Previously, the statute stayed collection actions only for appeals to the state Property Tax Commission ("PTC"), which the second stop for a disgruntled taxpayer after losing before a county BOER. Feedback from assessors suggest that this section of the new law will have little impact because even in a revaluation year the BOER will have acted on all or nearly all taxpayer appeals by the time taxes become delinquent and enforced collections can begin on the following January 6. However, another section of the law mandates that interest be paid (at a rate set bi-annually by the Dept. of Revenue for late state tax refunds) for overpayments due as the result of tax assessments lowered by a BOER. Under existing law, interest was owed only on overpayments due as the result of PTC decisions. Extending the interest obligation to cover BOER decisions likely will affect more taxpayers than will the stay on collection efforts during pending BOER appeals.

Local Option County Land Transfer Taxes, we hardly knew ye. S.L. 2011-18 repeals Article 60 of GS Chapter 105, which the General Assembly added in 2007 to authorize counties to adopt a transfer tax of up to 0.4% on real property deeds. Seeing as voters had rejected the tax in every county that put the matter up for the required referendum, it seems likely this tax will not be missed.

Bills:

Website Advertising of Tax Liens: House Bill 472 would permit local governments to publish "any notice required by law" electronically on their websites in lieu of traditional publication in newspaper advertisements. While the bill does not specifically reference tax lien advertisements, I think it's reasonable to conclude that those advertisements would constitute a "notice required by law." If so, then local governments would be able to save many thousands of dollars in advertisement costs each year by posting the list of delinquent real property taxes on their websites. But remember that those advertisement costs are passed along to the delinquent taxpayers, meaning that the impact on the tax office's bottom line from using website publication instead of newspaper publication may not be substantial.

Increase Income Limits for Residential Property Tax Relief: Each session multiple bills are introduced to raise the income eligibility for the elderly/ disabled homestead exclusion (GS 105-277.1). This session is no exception. House Bill 246 would raise the income cap for this exclusion from \$27,100 to \$35,000. The income cap for the circuit breaker homestead exclusion (GS 105-277.1B), which is set at 150% of the elderly/disabled exclusion cap, would jump from \$40,650 to \$52,500. That change would place the circuit breaker income eligibility above the median household income for 95 of the state's 100 counties and potentially cause a dramatic increase in circuit breaker participation. Currently there are fewer than 200 taxpayers using the circuit breaker statewide.

Homeowners' Association ("HOA") Property: Under current law property owned by an HOA can magically move from one county to another for tax purposes. That odd result would change if House Bill 355 becomes law. GS 105-277.8 presently permits the tax value of HOA property that is held for the common use and benefit of HOA members to be added to the tax value of the members' individually owned real property. Meaning if an HOA in Caswell County owned a mountain house in Ashe County that was held for use by HOA members equally, that mountain house would be added to the Caswell County tax rolls as part of the HOA members' real property assessments and would not be taxed by Ashe County. Similarly, an HOA situated in unincorporated Onslow County could remove the tax value of an HOA-owned beach house in North Topsail Beach from the city tax rolls by adding the value of that house to the county tax assessments on its members' real property. The bill would eliminate these possibilities by requiring that the HOA property to be included in the members' real property tax assessments be contained entirely in the same taxing unit(s) as the members' real property.

In Rem Foreclosure Fees: Regardless of the many hours of work that might be required to prepare a property for an in rem foreclosure sale, a taxing unit currently may add only \$50 to the amount of taxes owed to account for the time and energy invested in the process. House Bill 449 would raise that fee to \$250. Not much, but every penny counts in this economy.

These are just a few of the bills affecting property taxes that have already been filed. More are sure to come before the General Assembly packs up and heads home sometime this summer (or fall!). Stay tuned for more updates.

Links

- canons.sog.unc.edu/wp-content/uploads/2011/04/candy1.jpg
- www.ncga.state.nc.us/sessions/2011/bills/house/html/h90v4.html
- www.ncga.state.nc.us/Sessions/2011/Bills/House/HTML/H286v1.html
- www.ncga.state.nc.us/Sessions/2011/Bills/House/HTML/H301v1.html
- en.wikipedia.org/wiki/Clupeidae
- www.ncga.state.nc.us/EnactedLegislation/SessionLaws/HTML/2011-2012/SL2011-3.html
- www.ncga.state.nc.us/EnactedLegislation/SessionLaws/HTML/2011-2012/SL2011-18.html
- www.ncga.state.nc.us/gascripts/BillLookup/BillLookup.pl?Session=2011&BillID=h472
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