Coates' Canons Blog: Mind the Gap (Billing)!

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Article: https://canons.sog.unc.edu/mind-gap-billing/

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No, not the gap that subway riders all over the world are warned about at every stop. I mean the gap between the time the NC registration for a motor vehicle expires and a new registration is issued for that same vehicle. During that gap the motor vehicle is unregistered, meaning the county in which that vehicle is located has the obligation to list and tax it as personal property. Gap billing is one of the few remaining county tax obligations for motor vehicles after the DMV took over the collection of property taxes on registered motor vehicles under the Tag & Tax Together program.

Gap billing has been required by G.S. 105-330.3 since Tag & Tax Together went live in 2013. But it was not until January 2017 that the state began providing counties with “gap billing reports” for vehicles whose registrations expired and were later reissued. Earlier this month, the governor signed Session Law 2017-204 (see Part V on page 40 here), which amended G.S. 105-330.3 to simplify the gap billing process and make it conform more closely to “regular” personal property tax bills. Just last week Durham County shared with other counties two gap billing forms (here and here) that they developed in consultation with the DOR. And finally, the DOR reports that very soon they will be helping counties automate the gap billing process. All of which is to say that counties now have the information and the guidance needed to mind the gap and start billing.

Gap bills are one of the very few instances in which property taxes are prorated on a monthly basis. (Two other situations that come to mind are city tax bills in the first year of some annexations and RMV tax refunds under G.S. 105-330.6.) Normally, if personal property is sited in a county as of January 1 then the property is taxed for a full year regardless of whether the property is sold, destroyed or removed from the county during that year. There is no part-year proration.

But all gap bills are prorated based on the number of months the vehicle was unregistered. To calculate the bill, the county should first calculate a full tax bill on the vehicle using the vehicle’s tax value as of January 1 in the year the gap bill is created and the county’s tax rate in effect on the date the gap bill is created. (If the vehicle is also sited in a city or a special tax district, the county should add those tax rates to the calculation.) The county should then divide the full tax bill by 12, to come up with a monthly tax bill, and multiple that figure by the number of months between the expiration of the vehicle’s old registration and the issuance of the vehicle’s new registration.

Here’s an example of that calculation. Tommy TarHeel lives in Blue Devil County. His Toyota Camry initially had a registration that expired in January 2017. Tommy does not obtain a new registration for the Camry until July 2017, at which time the DMV issues a new registration for the vehicle that runs from August 2017 to July 2018. (See my note below about new registrations versus late registrations.) As a result, Tommy’s Camry was unregistered for six months, from February 2017 thru July 2017. Blue Devil County must create a gap bill for those six months.

To calculate that bill, the county must use the Camry's tax value as of January 1, 2017 and the county tax rate that is in effect when the bill is calculated. If the county is calculating the gap bill in the fall of 2017, the relevant tax rate is the rate in effect for the 2017-2018 fiscal year. Assume Tommy's Camry is appraised at $10,000 for 2017 and the county's 2017-2018 tax rate is $.60. A full year tax bill on the Camry would be $60. Divide that by 12 months, and multiple the result by 6 months (the number of months the Camry was unregistered), and Tommy's gap bill is $30.

If Tommy also lived in a municipality, the county would need to do the same calculations using the municipality's 2017-2018 tax rate and add that amount to the gap bill.

Under the new revisions to G.S. 105-330.3, gap bills are subject to (almost) the same due dates and delinquency dates that apply to "regular" personal property tax bills. Tommy's bill would be due on the following September 1 and would become delinquent and accrue interest on the January 6 following the due date. Interest accrues as it does on other personal property tax bills, 2% for the first month and .75% for every month thereafter.

I say "almost" the same dates as regular personal property tax bills because the time until delinquency can be more than a year if the gap bill is created after September 1. Consider Tommy' s gap bill which will be created sometime in the fall of 2017. It will not become due until September 1, 2018 and will not accrue interest until January 6, 2019.

A few unanswered questions remain.

The statute does not specify in which tax levy a gap bill should be included. I think it is best to include the bill in the tax levy for the year in which the gap bill becomes due. In Tommy's case, even though the bill represents taxes levied for 2017 I think his gap bill would become part of the 2018 tax levy because it is not due until September 1, 2018. It doesn't make sense to include it in the 2017 levy because Tommy has no obligation to pay that bill until January 2019. This is similar to how we treat partial-year annexation bills created after September 1 under G.S. 160A-58.10.

Confusingly, G.S. 105-330.3 also requires that a traditional discovery bill under G.S. 105-312 be issued for a vehicle that is unregistered as of January and remains unregistered through the following fiscal year. For example, assume the registration on Wanda Wolfpack's Ford Focus expires in December 2017. She does not get a new registration until September 2019. G.S. 105-330.3 suggests that the county must resolve this issue with two bills: a "regular" discovery bill for July 2018 through June 2019 and then a gap bill for July and August 2019 (and perhaps also for January 2017 to June 2018 to capture all of the months for which the vehicle was unregistered).

I think that approach is wayyyyyy too complicated. It makes more sense simply to create one gap bill under the method described above that covers all of the months the vehicle was unregistered. I don't think counties need to worry about creating discovery bills in addition to gap bills.

Finally, counties need to remember that gap bills are required only when the DMV starts a new registration year for a vehicle that was previously registered. Normally if a taxpayer attempts to renew a registration that expired a few months ago the DMV will simply view that as a late renewal and will charge interest on the registration fee and new taxes but will not start a new registration year. No gap bill would be required because that vehicle technically was never unregistered. From what I've been told, the DMV will start a new registration year only if the vehicle was not drivable during the period it was unregistered or if it has been more than 12 months since the vehicle's registration expired.

Happily the county does not need to get involved in that decision. If a vehicle shows up on the gap billing report, then the county must create a gap bill for that vehicle regardless why the DMV decided to start a new registration year for that vehicle.

Links

- canons.sog.unc.edu/wp-content/uploads/2017/08/mind_gap_2.jpg
- en.wikipedia.org/wiki/Mind_the_gap
- www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=105-330.3

- www.ncga.state.nc.us/EnactedLegislation/SessionLaws/HTML/2017-2018/SL2017-204.html
- canons.sog.unc.edu/wp-content/uploads/2017/08/durham_GAP-Bill-Notice-_Final.doc
- canons.sog.unc.edu/wp-content/uploads/2017/08/durham_Final-GAP-Document-1-002.docx
- www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=105-330.6
- www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=160A-58.10
- www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=105-312