
Coates' Canons Blog: Property Tax Implications of the New Annexation Law

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Municipal annexations have been the subject of much debate recently. My colleague Frayda Bluestein expertly analyzes S.L. 2011-396 (H.B. 845) the one bill that became law among dozens on the topic introduced during the current legislative session here. My post today focuses on the two major property tax implications of this new law.

First, the law eliminates a major source of tax confusion by requiring that involuntary annexations take effect on June 30, the last day of the fiscal year. Under prior law, annexations could take effect on any day chosen by the municipality's governing board. If an annexation took effect in the middle of the fiscal year, the annexed property was subject to pro-rated municipal property taxes based on the number of full months remaining in the fiscal year. And the delinquency date for these pro-rated taxes depended on whether the annexation took effect before September 1. By requiring the effective date to be June 30, S.L. 2011-396 eliminates both the tax proration and the shifting of delinquency dates for involuntary annexations. But those provisions remain relevant for voluntary annexations, which still can become effective in the middle of the fiscal year.

Second, S.L. 2011-396 and a related law, S.L. 2011-363, give owners of land used for farm purposes, including but not limited to property in the present-use value ("PUV") deferred tax program, the unilateral authority to prevent the annexation of their property. Under prior law, PUV property could be annexed involuntarily but was not subject to city taxes unless and until that property became ineligible for PUV classification. Farmland not in the PUV program received no special annexation treatment.

Here are the details.

June 30 Effective Date

Under prior law fictional Blue Devil City could have involuntarily annexed unincorporated portions of fictional Carolina County effective on October 1, 2011. The annexed property would have been subject to a prorated city tax bill for the 2011-12 year. Because 8 full months (November through June) would have remained in the fiscal year of annexation, the annexed property would have been levied 2/3 of the full 2011-12 city tax bill. Because the annexation would have occurred after September 1, those prorated city tax bills for 2011-12 would have been considered part of the tax levy for the 2012-13 tax year and would not have been delinquent until January 6, 2013. (Actually, the delinquency date for 2012-13 property taxes is January 8, 2013, because January 6, 2013 falls on a Sunday, but we can't blame that quirk on the annexation.)

None of that could happen under the new law. If Blue Devil City were to adopt an involuntary annexation ordinance in the latter half of 2011, the annexation must take effect on June 30, 2012 or June 30, 2013. The timing may be affected by the need for the city to complete the newly required service request and petition processes. (See Frayda's post for more details on these requirements.) Were Blue Devil City's annexation to take effect on June 30, 2012, the city would bill those properties for the full 2012-13 tax levy, which would be delinquent along with all other 2012-13 property taxes on January 8, 2013. The property tax proration procedure described in GS 160A-58.10 still exists but will no longer apply to involuntary annexations; which now must become effective on June 30.

Property tax proration may still be necessary for voluntary annexations, however. Voluntary annexations may take effect immediately upon approval of the annexation ordinance. If a voluntary contiguous annexation does not become effective immediately, the new law creates a default effective date of June 30. Voluntary *non-contiguous* annexations (aka satellite annexations) may still become effective at any date of the board's choosing, so long as that date is within 6 months of the

annexation ordinance.

PUV Property

Under prior law, involuntary annexations were essentially ineffective against property in the PUV program. See GS 160A-49(f1) & (f2). Such property became part of the city for determining its physical borders and for land use regulation purposes, but it did not become subject to city taxes or other regulations unless and until it became ineligible for PUV deferrals. In other words, PUV property could be annexed involuntarily but could not be taxed by the city until it was no longer in the PUV program. This special treatment applied only to PUV property, not to all farmland.

In contrast S.L. 2011-363 permits annexation of all land used for farm purposes, including but not limited to PUV property, only with the consent of the owner. If the owners of the farmland refuse to give their consent, a city may not include that property in an annexation and it will not become part of the city for any purpose. Owners of PUV property that loses its PUV eligibility will still be able to prevent their annexation if the land continues to satisfy the broad definition of that used for “farm purposes.” As a result, the new statutes are likely to create more “doughnut holes” in involuntary annexations and to end the practice of annexing farmland property that is contiguous to the city as a “bridge” to more developed areas that are not contiguous and therefore not eligible for involuntary annexation.

If the owners of farmland property give their written consent then that property may be annexed and will be considered part of the city for all purposes, including the levying of city taxes. If that farmland is in the PUV program, it will be taxed by the city at its reduced present-use value but otherwise will be subject to city taxes and regulations to the same extent as is all other property within the city borders.

Links

- www.ncga.state.nc.us/EnactedLegislation/SessionLaws/HTML/2011-2012/SL2011-396.html
- canons.sog.unc.edu/?p=4494
- www.ncga.state.nc.us/EnactedLegislation/SessionLaws/HTML/2011-2012/SL2011-363.html
- www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=105-277.4
- www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=160A-49
- www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=160A-58.10