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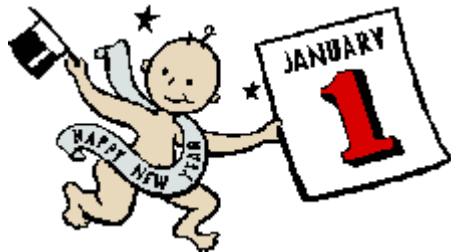
## Coates' Canons Blog: Property Taxes and New Year's Day

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Article: <https://canons.sog.unc.edu/property-taxes-and-new-years-day/>

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New Year's Day is best known for hangovers and college football bowl games.

But among North Carolina property tax professionals, January 1 means even more than the Famous Idaho Potato Bowl (yes, that's an actual game.)

January 1 is listing day, the date on which we take a virtual snapshot of a property's ownership, value, situs, and use (which affects eligibility for exemptions and exclusions). The determinations made as of January 1 control how that property will be taxed (or not) during the coming fiscal year that begins on July 1. G.S. 105-285.

The January 1 listing date is the basis for a key principle of North Carolina property taxes:

*If property is taxable in a particular jurisdiction as of January 1, it will be taxable by that jurisdiction for the entire fiscal year regardless of whether the property is subsequently destroyed, moved, sold, or used for a different purpose.*

This principle means that normally we don't care what happens to the property after January 1; any change to the property will be reflected in the following year's tax bill.

It also means that we (almost) never prorate taxes for a partial year based on changes that occur midyear. The only time we prorate taxes on real property or on (non-motor vehicle) personal property are for annexations that take effect in a month other than June.

As usual, there are special rules for registered motor vehicles. January 1 is the valuation date, but ownership and situs is determined as of the registration or renewal date. G.S. 105-330.2. And we prorate motor vehicle taxes for owners who turn in their license plates mid-year (G.S. 105-330.6) and for gap bills on motor vehicles that move between registered and unregistered status.

But outside of these situations (and one more described in #3 below), January 1 is the controlling date for property tax billing determinations. Here are some examples of this principle in practice:

### 1. Property destroyed after January 1

Billy Blue Devil is a huge Duke football fan. For decades, he suffered through losing seasons and was jealous of his friends who got to root for their teams in New Year's Day bowl games.

Billy's loyalty is finally rewarded in 2015 when the Blue Devils go undefeated and are invited to play in the Rose Bowl. Billy plans a huge party for the game on the night of January 1, 2016, complete with a fireworks display after the Blue Devils (hopefully) win the game.

The game goes well but the fireworks go wrong. Very wrong. After Duke pounds Alabama by 20 points, one of the

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celebratory rockets Billy launches misfires and crashes through his bedroom window. The rocket explodes inside and the resulting fire completely destroys Billy's home by 3:00 a.m. on January 2, 2016.

Happily all of Billy's party guests were outside to watch the firework's display, so nobody is hurt. Billy moves back into his parent's house and spends the next six months watching replays of Duke's amazing season.

Billy is so happy he doesn't even remember about the fire until he receives a 2016 tax bill from Carolina County for his land and his house. He visits the tax office and demands that his tax bill be reduced to reflect the fact that his house burned down on January 2, 2016.

Should Billy's 2016 tax bill be reduced? Absolutely not. The house existed as of January 1, 2016, which means it must be taxed for the full 2016-2017 tax year.

The same would be true of personal property that is destroyed after January 1. Consider a boat moored off of Manteo that sinks to the bottom of the Atlantic Ocean in August 2016. Dare County could not provide any refund or release for the 2016 taxes on that boat because it was sited in the county as of January 1, 2016.

## **2. Property removed from the jurisdiction after January 1**

Tom Tarheel hangs his private jet in Wake County. The jet, painted baby blue and nicknamed "The Fedora" after the coach of Tom's beloved UNC football team, is listed for 2014 taxes with Wake County.

On November 29, 2014, the Tar Heels are trounced by the N.C. State Wolfpack 35 – 7. Tom is distraught and can no longer bear the thought of flying in his baby blue jet ever again. On December 1, 2014, Tom sells his jet to Tammy Tiger, who immediately paints the jet purple and orange and flies it to Clemson, South Carolina, never to return to the Tar Heel state again.

Tommy had not paid the 2014 taxes on the jet. In early February 2015 he receives a notice of attachment from Wake County for those taxes. Tom rushes over to the Wake County tax office and asks that his tax bill be reduced in light of the fact that he sold the jet in midyear. He also asks the tax office to go after the new owner for the remaining taxes.

Should Wake County comply with Tom's requests? Absolutely not.

Tom's jet was sited in Wake County as of January 1, 2014, which means the jet is subject to Wake County taxes for the full 2014-2015 tax year despite the fact the jet is removed from the county prior to the end of that tax year. And personal responsibility for those taxes remains with Tom and not Tammy, because G.S. 105-365.1(b)(2) states that only the listing owner may be held personally responsible for taxes on personal property.

## **3. Property transferred to exempt owner after January 1**

Wanda Wolfpack owns a small house next to the First Baptist Church in Carolina County. She sells it to the church in February 2015. The church immediately begins to use the house as lodging for its pastor. In early March, the church submits an exemption application with the county claiming an exemption for religious property under G.S. 105-278.3.

Is the house now owned by the church eligible for an exemption from 2015-2016 property taxes? No, because the property was owned by a taxable owner (Wanda) as of the listing date, January 1, 2015. Assuming the church uses the property for a religious purpose (which includes lodging for its clergy), the property should be eligible for an exemption for the 2016 tax year but not for the 2015 tax year.

**Exception alert!!!** If property is taxable on January 1, it is taxable for the entire fiscal year. But if real property is exempt on January 1, it still could be taxable for the coming fiscal year. Under G.S. 105-285(d), exempt property transferred to a taxable owner prior to July 1 becomes taxable for the entire fiscal year.

Assume the reverse of the Wanda Wolfpack hypothetical; the church owns exempt real property as of January 1, 2015 and sells it to Wanda in February 2015. G.S. 105-285(d) applies and the property is taxable for 2015-2016 because it was transferred to a taxable owner prior to July 1, 2015.

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This special rule also applies when the real property is partially exempt or partially excluded from taxation as of January 1. For example, if a residence receiving the elderly and disabled exclusion is transferred prior to July 1 to an owner not eligible for that exclusion, then that residence will be taxable for the full fiscal year despite the fact it was partially excluded as of January 1.

Back to the original Wanda example: What if the 2014 taxes on the house were never paid despite the transfer to the church in February 2015? The county could then foreclose on the property or go after bank accounts or other personal property owned by either Wanda or the church. Unlike the personal property tax example above, taxes on real property are a concern for subsequent owners. G.S. 105-365.1(b)(1) makes the owner as of the delinquency date and all subsequent owners personally responsible for the taxes on real property. The 2014 taxes on the house would have become delinquent on January 6, 2015, on which date Wanda still owned the property. Therefore both Wanda and the church could be held personally responsible for delinquent 2014 taxes.

Lastly, a quick note about situs, which is a fancy word for taxable location. While January 1 is the default date for determining situs, the Machinery Act defines situs as the place where the property is "more or less permanently located." G.S. 105-304(b)(1). The fact that a particular property is not in North Carolina on January 1 (think of a private jet used for a holiday ski trip) does not mean that the property cannot have taxable situs in North Carolina. See this blog post for more details: <http://canons.sog.unc.edu/?p=1727>

## Links

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