
Coates' Canons Blog: Tax bills? We don't need no stinkin' tax bills.

By Chris McLaughlin

Article: <https://canons.sog.unc.edu/tax-bills-we-dont-need-no-stinkin-tax-bills/>

This entry was posted on April 15, 2010 and is filed under Finance & Tax, Property Taxes



With apologies to *The Treasure of the Sierra Madre*, the title of this post accurately

summarizes my usual response when asked about the consequences facing a local government that fails to deliver property tax bills in a timely fashion. N.C. property tax law does not require tax bills, meaning that the absence of a bill generally has no effect on the taxing unit's authority to collect an otherwise valid tax.

GS 105-348 puts all taxpayers on notice that their property may be subject to tax, even if the taxpayers never receive actual notice of the taxes due. Combine that with the "immaterial irregularity" provision in GS 105-394 that excuses most defects in administration of the property tax, and it's clear that local governments can collect all authorized taxes regardless of when or whether they send bills to their taxpayers.

At least I thought that point was clear until I read a recent decision issued by the N.C. Property Tax Commission ("PTC"), the state board that hears taxpayer appeals from assessment decisions by county boards of equalization and review.

In *Eastern North Carolina Episcopal District, Inc* the PTC held that Wake County's failure to send a 2007 property tax bill effectively prevented a church from submitting a timely tax exemption application for that year. (The county used the wrong mailing address for the church.) As a result, the PTC disregarded the requirement that exemption applications be submitted before the close of the calendar year and retroactively granted the church an exemption for 2007 property taxes.

Never before have I read a case in which a valid tax was essentially voided due to the taxing unit's failure to give a taxpayer notice of the tax obligation. Previously, courts have excused far more egregious billing failures by tax offices. For example, two years ago in *In re: Morgan* the N.C. Supreme Court approved the collection of nine years of back taxes, *plus interest*, that had never been assessed or billed because of an oversight by the assessor's office.

The PTC reached its unusual decision after concluding that the church was not aware of its requirement to file an exemption application but that “an application would have been filed within the [2007] calendar year if the [church] had received the tax bill.” I find this conclusion questionable on several grounds.

First, the PTC's decision inappropriately reads a notice requirement into the exemption application procedures where none exists. GS 105-282.1, the statute that creates the application process, makes no reference to an obligation on behalf of a tax office to inform all taxpayers of all of the various application requirements. In circumstances where the General Assembly has concluded that notice of an exemption or exclusion is vital, it has explicitly required tax offices to provide that information to taxpayers. For example, tax collectors must provide annual notice to taxpayers of two residential tax exclusions, the elderly & disabled and the circuit breaker programs. No such notice requirement exists for the religious property tax exclusion. Absent such a requirement, in my view the general principle that taxpayers are on notice of their tax obligations also means that taxpayers are on notice that there may exist opportunities to seek exemptions from those obligations.

Second, it's unclear why the PTC thought that the missing tax bill would have put the church on notice of the application requirement. Wake County's tax bills, like all other bills of which I am aware, makes no reference exemption applications. The tax bill would have reminded the church of its tax obligation, of course, but under GS 105-348 it was already charged with notice of that obligation.

Third, the PTC's conclusion adopts an overly paternalistic approach to this particular taxpayer. The Eastern NC Episcopal District is a collection of A.M.E. Zion churches, most of which own real property and have dealt with tax exemptions in the past. While these churches may not be real estate moguls in the mold of Donald Trump, nor are they babes in the wood when it comes to tax issues.

Regardless, the PTC has spoken. How should tax offices react? Perhaps not at all. A PTC decision technically affects only the tax at issue in that particular dispute. The decisions do not have the same precedential effect as does decisions by North Carolina appellate courts. Even the PTC itself is not bound to honor its prior decisions—the concept of stare decisis does not necessarily apply to the PTC as it does in most courts.

A more cautious approach would be for tax offices to take heed that the current PTC may expect more notice about exemptions be given to taxpayers than explicitly required by the Machinery Act. If a county's listing forms and tax bills do not already contain a reference to exemption application deadlines, tax officials might consider adding one. If a tax office becomes aware of a major property acquisition by an exempt owner, it might consider contacting that owner come December if no exemption application for the new property is submitted.

Links

- [en.wikipedia.org/wiki/The_Treasure_of_the_Sierra_Madre_\(film\)](https://en.wikipedia.org/wiki/The_Treasure_of_the_Sierra_Madre_(film))
- www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_105/GS_105-348.html
- www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_105/GS_105-394.html
- www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_105/GS_105-282.1.html
- www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_105/GS_105-309.html
- en.wikipedia.org/wiki/Stare_decisis