Coates' Canons Blog: Tax Collection in Special Tax Districts

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When local governments wish to fund additional services for portions of their jurisdictions beyond those provided elsewhere, they can turn to special tax districts to raise the needed revenue. My finance expert colleague Kara Millonzi recently offered two excellent posts describing the purposes and mechanics of county fire districts and local government special service districts. Today's post focuses of some unique tax collection issues that can arise in these districts.

For instance, what taxes are owed when new territory is added to an existing tax district? How do annexations and incorporations of district territory change the tax obligations of the affected taxpayers? We'll start with a few basic tax collection issues and then move on to these more challenging questions.

Some Basic Truths about Special Tax Districts

Taxes levied in special service districts and rural fire districts apply to *all* taxable property in those districts, including real property, personal property, or registered motor vehicles. The only exceptions to this basic rule are for electricity generating plants and public service company property. Those two types of property are excluded for purposes of taxation from rural fire districts and municipal service districts, respectively.

Property in special tax districts likely will be subject to multiple property taxes at different rates. For example, property within a municipal special service district could be subject to county property taxes at one rate, city property taxes at another rate, and the special service district taxes at a third rate.

That said, each of those rates must apply uniformly to all property within the jurisdiction. The state constitutional requirement (Article V, Section 2) that property taxes be uniform within a jurisdiction applies to district taxes just as it does to general property taxes. As a result, local governments that create tax districts could not choose to levy district taxes only on real property or decide to tax registered motor vehicles at a lower rate than they tax other types of property in the district.

Because district taxes are the equivalent of general property taxes, they are subject to all Machinery Act assessment and collection provisions. District taxes create liens on real property as of January 1 preceding the fiscal year of levy and become delinquent on January 6 of the fiscal year of levy. Once delinquent, district taxes begin accruing interest at the standard rate (2% for the first month, .75% for each additional month) and can be collected using Machinery Act attachment and garnishment, levy and sale, or foreclosure procedures. The tax collector responsible for the local government's general property taxes also will be responsible for all special tax district taxes levied by that government.

Enough of the easy stuff; now on to the more complex issues surrounding tax districts.

How and when are district taxes levied on territory added to an existing tax district?

Kara Millonzi provides the gory details of how changes may be made to the boundaries of tax districts in this excellent bulletin. When boundaries are changed to add territory to a tax district, the affected property will be subject to a *full year* of district taxes for the fiscal year in which the addition became effective. Here's why:

For special service districts, territory may be added only at the beginning of a fiscal year. The new territory will be considered part of the tax district for the entire new year, therefore property owners in the territory will be responsible for the full year of district taxes. In effect, the addition relates to back to the prior January 1, the date on which situs is determined for the coming fiscal year's property taxes.

For rural fire districts, territory can be added to those districts at any time during the fiscal year (assuming the procedural hurdles Kara describes in her bulletin are satisfied, of course). However, G.S. 69-25.12 mandates that the newly added territory will be subject to district taxes "as if said territory had originally been included in the said fire protection district." In other words, the newly added territory will be taxed as if it had been in the district on January 1 preceding the current fiscal year. The property will be subject to a full year of rural fire district taxes regardless of when in the fiscal year the addition becomes effective.

How do annexations affect the taxation of property in county tax districts?

It depends on the purpose of the county district. If the county tax district is organized for a purpose *other than* fire protection or law enforcement services, annexation of a portion of that district does not terminate the district's authority to tax the annexed property.

However, most county tax districts are created to fund fire protection or law enforcement services. When a municipality providing those services annexes territory that is part of a county tax district funding the same services, that territory usually will cease to be part of the county tax district as of the effective date of the annexation. For rural fire districts, the annexed territory *automatically* is removed from the district if the annexing municipality provides fire protection services to its residents. For special service districts providing fire protection or law enforcement services, the annexed territory is removed from the district *unless* the annexing municipality agrees to permit the territory to remain in the district.

When territory is removed from a tax district due to an annexation, the affected taxpayers still owe the county a full year of district taxes. However, the annexing municipality is required to refund to those taxpayers a portion of those district taxes based on the number of full months remaining in the fiscal year.

For example, assume Blue Devil City annexes Tom Tarheel's property effective August 1, 2011. Tom's property was in a county rural fire protection district for which he pays $1,200 in taxes annually. Because Blue Devil City provides fire protection to its residents, Tom's property is automatically removed from the rural fire district as of August 1, 2011, but he will still be responsible for paying the full $1,200 of district taxes for the 2011-2012 fiscal year. In turn, Blue Devil City must pay Tom 10/12 ($1,000) of his district taxes for the current fiscal year because as of the effective date of the August 1, 2011 there were 10 full months of the 2011-2012 fiscal remaining. This refund is due to Tom regardless of whether Tom has paid (or ever pays) his district taxes. The county will retain all Machinery Act collection remedies against Tom if he fails to pay the 2011-2012 district taxes.

What happens when a newly incorporated municipality includes territory in a county tax district?

The local bill passed by the General Assembly creating the new municipality could address this issue. If not, then nobody really knows what should happen, because the statutes are silent on the issue and the courts have yet to offer their opinions. As is usual when I don't know an answer, I defer to my expert colleague Kara Millonzi. In her fire district bulletin Kara concludes that nothing happens automatically. The newly incorporated territory will remain in the county tax district unless and until action is taken to abolish the district or (for rural fire districts) to remove the annexed territory from the district.

Links

- canons.sog.unc.edu/?p=3919
- canons.sog.unc.edu/?p=4591
- www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=69-25.16
- www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=160a-544
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