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## Coates' Canons Blog: The July 1 Rule for Property Tax Exemptions

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January 1 is the key date for property tax exemptions. That's the date on which the assessor takes a theoretical snapshot of a property's ownership and use, the two primary criteria for property tax exemption eligibility.

If a property doesn't satisfy the requirements for a particular exemption or exclusion as of January 1, it will be taxable for the coming year. If the property does satisfy those requirements as of January 1 (and the appropriate application is filed), then the property will be exempt for the coming year.

UNLESS (you knew it couldn't be *that* simple) . . . exempt property is transferred to a taxable owner prior to July 1. Then that property is taxable to the new owner for the coming tax year.

July 1, it seems, is just as important as January 1 when it comes to property tax exemptions.

The July 1 rule arises from G.S. 105-285(d). That statute requires property that was exempt as of January 1 to be listed in the name of the "transferee" (the new owner) if it is transferred prior to July 1. In other words, the assessor pretends that the property was owned by the new owner as of January 1 and taxes the property accordingly. The exemption to which the old owner was entitled becomes irrelevant.

Here's how the rule works for a sale of exempt property *prior* to July 1:

Duke University owns Building A that it uses for academic offices and is exempt from Durham County property taxes. It sells that building to a ABC, Inc., private business, on March 1, 2018. Building A should be taxed to ABC, Inc. by Durham County for the 2018-19 tax year that begins on July 1, 2018.

Here's how the rule works for a sale of exempt property *after* July 1:

Duke University owns Building B that it uses for academic offices and is exempt from Durham County property taxes. It sells that building to a ABC, Inc., private business, on August 1, 2018. Building B remains exempt for the 2018-19 tax year. It will first be taxed to ABC, Inc. in the 2019-20 tax year.

Notice that G.S. 105-285(d) uses the term "exempt" and not "excluded." Does that mean the July 1 rule applies only to complete exemptions such as those enjoyed by the government, private schools, religious organizations, charitable entities and the like?

No. Exclusions are also covered by the July 1 rule, according to a 1989 N.C. Attorney General's opinion letter. Opinion letters like that one are not binding law, but it's the best guidance we have unless and until a court addresses the issue. According to the AG, the term "exempt" as used in G.S. 105-285(d) covers "any form of tax preference." The specific exclusion involved in the AG's letter was the elderly & disabled exclusion in G.S. 105-277.1, but its reasoning applies to any and all exclusions.

Here's an example: Willy Wolfpack owns and lives at 123 Main St. in Carolina County. Willy benefits from the disabled veterans' exclusion under G.S. 105-277.1C. Willy passes away on March 1, 2018. Several months later, Willy's will is probated and his daughter Wanda becomes the owner of 123 Main St. Wanda is not eligible for any exemption or exclusion.

Ownership after a death relates back to the date of death regardless of whether that ownership passes thru a will or intestacy laws. That means Wanda's ownership arises as of March 1, 2018. Because that transfer occurred before July

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1, the property at 123 Main St. will be taxable to Wanda, and not Willy, for the 2018-19 tax year. Note that if the county doesn't learn of Willy's death until 2019 or later, it should use the discovery process to recapture the additional taxes that should have been billed for 2018 and subsequent years.

Tax offices must keep the July 1 rule in mind when potential purchasers of property call to learn what taxes are due on a particular property for the coming year. If the transfer in question will occur before July 1, the tax office should inform the potential purchaser that any exemption or exclusion currently on the property will be removed for the coming tax year. Failure to give such information would not eliminate the county's right and obligation to apply the July 1 rule, but it would lead to some very angry taxpayers when they receive unpleasant surprises in their tax bills later that summer.

The July 1 rule is another reason for tax offices to update their ownership records just prior to billing taxes each summer. The tax office should be removing exemptions and exclusions for all properties that were exempt as of January 1 but transferred prior to July 1.

What about those new owners—may they request their own exemptions or exclusions on the newly purchased property? G.S. 105-285(d) states that the new owner has the right to appeal the listing and appraisal of the property as if she owned it on January 1. It seems logical that provision would also grant the new owner the right to apply for an exemption or exclusion as if she owned the property on January 1. Remember that G.S. 105-282.1 permits late exemption applications thru the end of the calendar year for "good cause;" I think the July 1 rule creates good cause.

Assume the same facts as the Willy Wolfpack example, but that new owner (Wanda) is eligible for the elderly and disabled exclusion. I think Wanda should have the right to apply for that exclusion for the 2018-19 tax year once she learns that the property will lose the disabled veterans' exclusion that her father was receiving. If she qualifies, I think the property would then move from the disabled veterans' exclusion (\$45,000 reduction in taxable value) to the elderly and disabled exclusion (50% reduction in taxable value) for the 2018-19 year.

The same would be true if property moves from one fully exempt owner to another. Assume Duke University sells exempt educational property to the Church of the Blue Devil in March 2018. If the Church can demonstrate that it is using the property for religious purposes immediately upon the transfer, then I think that property would remain exempt for 2018-19 despite the sale (albeit under the religious exemption rather than the educational exemption).

## Links

- [www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=105-285](http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=105-285)
- [www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=105-277.1](http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=105-277.1)
- [www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=105-277.1C](http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=105-277.1C)
- [www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=105-282.1](http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=105-282.1)