
Coates' Canons Blog: Two New Property Tax Laws: Part 1

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The General Assembly is still hard at work in Raleigh. While no huge changes to property taxes have arisen yet this session, there are two new laws worth discussing. S.L. 2015-204 creates flexibility for waiving interest on old registered motor vehicle (“RMV”) taxes. S.L. 2015-223 creates an exemption for new, unsold residential and commercial properties (similar but larger in scope to the old deferral for new home inventory that expired in 2013).

Today I'll discuss S.L. 2015-204, the motor vehicle tax law. In the coming weeks I'll tackle S.L. 2015-223, the new construction exemption.

S.L. 2015-204 (Senate Bill 273): Waiving Interest on Old RMV Taxes

Everybody knows that local governments cannot waive interest on property taxes whenever they'd like, right? (If not, read this post.) This new law creates an exception to that (hopefully) well-known prohibition against waiving property tax interest.

S.L. 2015-204 amends G.S. 105-330.4 to authorize a county to “create a uniform policy to allow the reduction or waiver of interest or penalties on delinquent motor vehicle taxes for registered classified motor vehicles for tax years prior to July 1, 2013.”

Remember that the “Tag and Tax Together” program under which the N.C. Division of Motor Vehicles collects property taxes on registered motor vehicles (RMVs) at the time of registration took effect September 1, 2013. As a result, the only taxes to which S.L. 2015-204 applies are those that were levied under the “old” RMV tax system. Seeing as it is now two years later, most RMV taxes levied under the old system have been collected. But for those that remain unpaid, this new law now allows counties to waive some or all of the interest and penalties that have accrued on those old RMV taxes. Interest may not be waived by a county or by the DMV for taxes on RMVs levied under the “new” collection system.

Note that the law does not *require* counties to waive these interest and penalty charges. It says “may,” not “must.” Counties are free to ignore this provision and to continue to grant waivers only when authorized by G.S. 105-381 (meaning only when the interest was levied illegally or due to clerical error.)

If however a county wants to exercise this new authority, it must first adopt a “uniform” policy as to when it will waive interest and penalties on old RMV taxes. The law does not dictate what that policy must be, only that a policy must be in place before a county waives any interest or penalties under the new authority.

This flexibility, rare under the Machinery Act, makes life a bit more difficult for tax collectors. Now tax collectors need to think about subjective policy rather than objective statutory application. What should the policy be under this new law?

There's no right answer to that question. In my view, the best approach is to do nothing. Opening the door for waivers of RMV interest creates more work for the tax staff and more opportunity for taxpayers to complain of unfair treatment—especially those who previously paid interest under the old RMV tax system. I think counties would be wise to continue to apply the traditional standards found in G.S. 105-381 for waivers of all interest on all types of property taxes.

That said, this question is one on which the board of county commissioners should make the final decision. If the board demands that the tax office exercise the new authority to waive interest on old RMV taxes, then the tax collector of course must comply.

In that case, the best policy might be one that waives all interest on all outstanding RMV taxes for all tax years beginning

prior to July 1, 2013. This blanket waiver provides maximum relief for taxpayers and simplifies the process for the tax office. It might annoy taxpayers who recently paid delinquent old RMV taxes with interest, but it would be welcomed with open arms by all taxpayers who have still have these taxes outstanding.

Notice my two recommended courses of action are essentially all or nothing: waive interest for all taxpayers who owe old RMV taxes or don't waive it for any of them (unless required to do so under existing law). While a county could choose some middle ground between those two extremes, doing so would be difficult. I'm not sure how a tax collector could develop fair, easily applied standards to the waiver decision.

Should interest be waived because of economic hardship? Because the taxpayer moved and forgot to update her address? Because he sold the car in question and (incorrectly) assumed tax liability followed the car?

To me, those questions are too subjective to answer without creating lots of taxpayer complaints about unfairness and unequal treatment. From my perspective, it is far better to adopt either the all or the nothing approach.

What about city taxes on RMVs? The new law gives the authority to adopt a policy concerning waiver of interest on old RMV taxes to a county's governing board, not to a city's governing board. It makes no reference to city RMV taxes.

Does this mean that the county has the authority to waive city taxes on RMVs? This would be an unusual result, as nowhere else in the Machinery Act does a decision by one local government affect taxes levied by another local government.

However, remember that under the old RMV taxation system counties were required to collect city taxes on RMV. I think this fact leads to the conclusion that in this instance the county's decision affects both county *and* city taxes on RMVs levied under the old system.

If a county adopts a policy concerning the waiver of interest on old RMV taxes under S.L. 2015-204, that policy must cover both county and city RMV taxes. I don't think a city has the authority to create its own policy under the new law.

Links

- www.ncga.state.nc.us/EnactedLegislation/SessionLaws/HTML/2015-2016/SL2015-204.html
- www.ncga.state.nc.us/EnactedLegislation/SessionLaws/HTML/2015-2016/SL2015-223.html
- canons.sog.unc.edu/?p=692
- canons.sog.unc.edu/?p=6006
- www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=105-330.4
- www.ncdot.gov/dmv/vehicle/tagtax/
- canons.sog.unc.edu/?p=1861