

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 797
Committee Substitute Favorable 5/6/21
PROPOSED SENATE COMMITTEE SUBSTITUTE H797-PCS40654-TMf-19

Short Title: Deed Stamp Tax Refund by Hearing Officer.

(Public)

Sponsors:

Referred to:

May 4, 2021

1 A BILL TO BE ENTITLED
2 AN ACT AUTHORIZING A BOARD OF COUNTY COMMISSIONERS TO DELEGATE TO
3 A HEARING OFFICER THE DETERMINATION OF WHETHER A TAXPAYER HAS
4 OVERPAID THE EXCISE TAX ON CONVEYANCES.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 105-228.37 reads as rewritten:

7 "§ 105-228.37. Refund of overpayment of tax.

8 (a) Refund Request. – A taxpayer who pays more tax than is due under this Article may
9 request a refund of the overpayment by filing a written request for a refund with the board of
10 county commissioners of the county where the tax was paid. The request must be filed within six
11 months after the date the tax was paid and must explain why the taxpayer believes a refund is
12 due.

13 (a1) Hearing Officer. – A board of county commissioners may, by resolution, delegate to
14 a hearing officer the authority to conduct a hearing and determine whether to grant a request for
15 a refund of a tax paid under this Article. The hearing officer must be the county finance officer.
16 All hearings must be conducted by the hearing officer until the board of county commissioners,
17 by resolution, revokes the hearing officer's authority.

18 (b) Hearing by County.—A Hearing. – Either a board of county commissioners or a
19 hearing officer, if authorized under subsection (a1) of this section, must conduct a hearing on a
20 request for refund. Within 60 days after a timely request for a refund has been filed and at least
21 10 days before the date set for the hearing, the board or hearing officer must notify the taxpayer
22 in writing of the time and place at which the hearing will be conducted. The date set for the
23 hearing must be within 90 days after the timely request for a hearing was filed or at a later date
24 mutually agreed upon by the taxpayer and the ~~board~~ board or hearing officer. The board or
25 hearing officer must make a decision on the requested refund within 90 days after conducting a
26 hearing under this subsection.

27 (c) Process if Refund Granted. – If the board of commissioners or hearing officer decides
28 that a refund is due, ~~it~~ the board must refund the overpayment, together with any applicable
29 interest, to the taxpayer and inform the Department of the refund. The Department may assess
30 the taxpayer for the amount of the refund in accordance with G.S. 105-241.9 if the Department
31 disagrees with the board's or hearing officer's decision.

32 (d) Process if Refund Denied. – If the board of commissioners or hearing officer finds
33 that no refund is due, the written decision of the board or hearing officer must inform the taxpayer
34 that the taxpayer may request a departmental review of the denial of the refund in accordance
35 with the procedures set out in G.S. 105-241.11.



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1 (e) Recording Correct Deed. – Before a tax is refunded, the taxpayer must record a new
2 instrument reflecting the correct amount of tax due. If no tax is due because an instrument was
3 recorded in the wrong county, then the taxpayer must record a document stating that no tax was
4 owed because the instrument being corrected was recorded in the wrong county. The taxpayer
5 must include in the document the names of the grantors and grantees and the deed book and page
6 number of the instrument being corrected.

7 When a taxpayer records a corrected instrument, the taxpayer must inform the register of
8 deeds that the instrument being recorded is a correcting instrument. The taxpayer must give the
9 register of deeds a copy of the decision granting the refund that shows the correct amount of tax
10 due. The correcting instrument must include the deed book and page number of the instrument
11 being corrected. The register of deeds must notify the county finance officer and the Secretary
12 when the correcting instrument has been recorded.

13 (f) Interest. – An overpayment of tax bears interest at the rate established in
14 G.S. 105-241.21 from the date that interest begins to accrue. Interest begins to accrue on an
15 overpayment 30 days after the request for a refund is filed by the taxpayer with the board of
16 county commissioners."

17 **SECTION 2.** This act is effective when it becomes law.