



HOUSE BILL 533: Modify PUV Exceptions to Disqualification.

2016-2017 General Assembly

Committee:		Date:	June 27, 2016
Introduced by:	Reps. McGrady, Setzer, Jordan, Harrison	Prepared by:	Nicholas Giddings
Analysis of:	Third Edition		Committee Co-Counsel

SUMMARY: *House Bill 533 would waive or pro rate deferred taxes when property is transferred for less than its true value to a nonprofit entity for conservation or historical preservation or to a governmental entity. The bill would also provide taxpayers with a means to contest adverse statute of limitations determinations by the Department of Revenue with the Office of Administrative Hearings.*

Present Use Value Exception

CURRENT LAW: G.S. 105-277.4(a) allows agricultural land, horticultural land, and forestland to be valued for property tax purposes based on its present use (i.e., not its highest and best use). G.S. 105-277.4(c) makes the deferred taxes (i.e., the difference between present use and highest use) a lien on the property. The deferred taxes for the preceding 3 years are due when the property loses its eligibility for deferral.

G.S. 105-277.4(d) eliminates deferred taxes for property conveyed by gift to a nonprofit organization and qualifies for exclusion from the tax base under G.S. 105-275(12) or G.S. 105-275(29).

G.S. 105-275(12) exempts property from tax if:

- Property is owned by a nonprofit corporation organized to receive and administer lands for conservation purposes.
- Property produces no income or produces income that is incidental to the conservation purpose.
- Property is exclusively held and used for one or more of the following purposes:
 - Used for an educational or scientific purpose as a nature reserve or park in which wild nature, flora and fauna, and biotic communities are preserved for observation and study.
 - Managed under a written wildlife habitat conservation agreement with the NC Wildlife Resources Commission.
 - Managed under a forest stewardship plan developed by the Forest Stewardship Program.
 - Used for public access to public waters or trails.
 - Used for protection of water quality and subject to a conservation agreement under the Conservation and Historic Preservation Agreements Act.
 - Held by a nonprofit land conservation organization for sale or transfer to a local, state, or federal government unit for conservation purposes.

G.S. 105-275(29) exempts property from tax if a nonprofit historical association or institution owns property that is wholly and exclusively held and used for nonprofit historic preservation purposes.

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BILL ANALYSIS: House Bill 533 would expand the existing waiver of deferred taxes for gifts of property for conservation or historic preservation to allow pro rata waivers of deferred taxes for sales at less than true value. House Bill 533 maintains the current requirements for the recipient nonprofit entity and for the charitable use of the land. House Bill 533 would also provide a complete or pro-rata waiver if the conveyance is to a governmental entity for less than true value.

Specifically, House Bill 533 would waive deferred taxes if the property loses its eligibility for present use value because the property is conveyed to a nonprofit organization and qualifies for exclusion from property tax under G.S. 105-275(12) or G.S. 105-275(29) or to a governmental entity:

- If the property is conveyed at or below present use value, no deferred taxes are due.
- If the property is conveyed for more than present use value, a portion of the deferred taxes for the preceding 3 years is due equal to the lesser of the following:
 - Amount of the deferred taxes.
 - Deferred taxes multiplied by a fraction:
 - Numerator is the sale price minus the present use value.
 - Denominator is the true value minus the present use value.

Contested Case Hearing on Statute of Limitations Determinations

CURRENT LAW: Generally, a taxpayer may request a refund of any overpayment from the Department of Revenue within three years of the date the original return was due, including any approved extensions, or within two years after the tax was paid, whichever is later. If the Department determines the taxpayer's request is outside the appropriate statute of limitations timeframe, it will issue a notice of denial. If the taxpayer wishes to dispute this denial, they must file a claim in superior court.

BILL ANALYSIS: House Bill 533 would allow a taxpayer whose claim for refund is denied because the claim is filed after the statute of limitations has passed to appeal the determination through the Office of Administrative Hearings. A final decision by the administrative law judge on the denial of refund is subject to judicial review. If it is determined the statute of limitations has not passed, the matter is remanded to the Department to determine whether or not a refund is due.

House Bill 533 would also allow a taxpayer to appeal a past denial of a refund because the statute of limitations has passed if the taxpayer appeals the denial within 60 days of the enactment of this act.

EFFECTIVE DATE: Section 1 of this act would be effective for taxes imposed for taxable years beginning on or after July 1, 2016. The remainder of this act would be effective when it becomes law.