



2015-2016 General Assembly

# HOUSE BILL 533: Modify Present Use Value Exceptions to Disqualification, Sec. 1: Modify Present Use Value Exceptions to Disqualification

**Committee:**  
**Introduced by:**  
**Analysis of:** Sec. 1 of S.L. 2016-76

**Date:** September 12, 2016  
**Prepared by:** Greg Roney  
Staff Attorney

**OVERVIEW:** *Sec. 1 of S.L. 2016-76 pro rates deferred taxes when real property is transferred for less than its fair market value to a nonprofit entity for conservation or historical preservation, the State or a political subdivision of the State, or the United States.*

*This section became effective for taxes imposed for taxable years beginning on or after July 1, 2016.*

**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 in tax computed on present use value versus highest and best use value) 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:** Section 1 of S.L. 2016-76 expands the existing waiver of deferred taxes for gifts of real property for conservation or historic preservation to allow pro rata waivers of deferred taxes for sales at less than fair market value. The act maintains the current requirements that the recipient be either: (1) a nonprofit entity that uses the land for conservation or historical preservation or (2) a governmental entity (i.e., the State, a political subdivision of the State, or the United States).

Specifically, the act pro rates 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 as follows:

- 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 are 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 fair market value minus the present use value.

**EFFECTIVE DATE:** Section 1 of S.L. 2016-76 is effective for taxes imposed for taxable years beginning on or after July 1, 2016.

*Cindy Avrette with the Legislative Analysis Division substantially contributed to this summary.*