



SENATE BILL 561: Violate Tax Law/Venue/Property Tax.

2017-2018 General Assembly

Committee:		Date:	July 13, 2018
Introduced by:		Prepared by:	Trina Griffin Staff Attorney
Analysis of:	S.L. 2018-98		

OVERVIEW: *S.L. 2018-98 does the following:*

- *Exempts from property tax leasehold interests in exempt property. This change is effective for taxes imposed for taxable years beginning on or after July 1, 2019.*
- *Changes the venue for the prosecution of criminal tax violations from Raleigh to the county where the charged offense occurs. This change becomes effective December 1, 2018, and applies to offenses committed on or after that date.*

CURRENT LAW & BILL ANALYSIS:

Section 1. Conform Treatment of Leasehold Interests in Exempt Property

CURRENT LAW: North Carolina imposes a property tax on a leasehold interest in real property where the real property is exempt from property tax. The property tax on a leasehold interest in exempt real property applies when a unit of government leases property to a private business and when the payments under the lease are below the value of the interest in the real estate.¹ Most county assessors value these leasehold interests as the difference between the fair market value of the leasehold interest and the rent paid under the lease. For example, if the private tenant is paying market rate for the exempt real property owned by a local government, then the leasehold interest has no value because similar leases can be obtained at the same price. If the tenant is paying a bargain rate under the lease, the leasehold interest has value because a similar lease would cost more.

BILL ANALYSIS: Section 1 of the act exempts from property tax a leasehold interest in exempt property.

EFFECTIVE DATE: This section is effective for taxes imposed for taxable years beginning on or after July 1, 2018.

BACKGROUND: A link to a newspaper article about this legislation can be found [here](#).

Section 2. Prosecution of Tax Laws

CURRENT LAW: The North Carolina Department of Revenue's Criminal Investigation Division investigates tax evasion, false tax returns, and failure to file and pay employee withholding taxes. For purposes of legal jurisdiction, a violation of State tax law is committed in part at the Office of the Secretary of the Department of Revenue in Raleigh. In civil matters, the Revenue Division of the Office of the Attorney General represents the Department of Revenue. In criminal matters, typically the Wake County

¹ The only other form of intangible property subject to property tax is certain computer software.

Senate Bill 561

Page 2

District Attorney's Office prosecutes the case on behalf of the Department of Revenue; the Attorney General's Office provides staff to Wake County for this purpose.

BILL ANALYSIS: Section 2 of the act changes the venue for prosecutions of *criminal* tax violations to the county where the charged offense occurs and gives the District Attorney for that county sole jurisdiction to prosecute those violations. It further provides that the Attorney General must have concurrent jurisdiction if the District Attorney requests, in writing, that the Attorney General prosecute the violation. The act makes no change with respect to the venue for civil violations of the tax laws.

EFFECTIVE DATE: This section becomes effective December 1, 2018, and applies to offenses committed on or after that date.