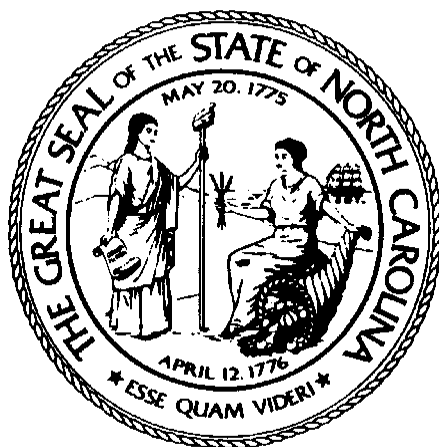


# *Personal Property* *Appraisal and Assessment*

*June 2007*



*North Carolina Department of Revenue*  
*Property Tax Division*

SECTION I  
INTRODUCTION



## **Preface**

This edition of the personal property appraisal manual represents our continued effort to improve the quality of personal property assessment in North Carolina. It is our hope that the use of this manual will be of assistance to all county property appraisers as you undertake the difficult task of personal property valuation. It is our intention to keep this manual as current as possible, and any suggestions or comments you have will be appreciated.

This edition features updated legal, listing, and machinery & equipment appraisal sections. The addition of the Statewide Abstract is also incorporated in this manual. The manual will continue to evolve with each subsequent publication as we learn more about the appraisal of personal property. We would like to recognize the contributions of our former staff members, Roger Ellis and Jim Wagner for their work on the earlier editions of the manual. In addition, we would like to thank all the support staff of our office for their efforts in preparing the manuscript.

North Carolina Department of Revenue  
Property Tax Division

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June 2007

## Introduction

### Appraisal of Personal Property

The listing and appraisal of personal property for ad valorem tax purposes is a complex task which can create a major problem in an assessor's office if not done in a professional manner that promotes uniformity and equity among all business taxpayers.

The appraisal of real property is made easier by the volume of books and trade journals published, as well as the number of courses offered by various appraisal institutes. The valuation of personal property, on the other hand, has not had the benefit of similar treatment. While the subject has not been covered as diligently, the basic rules of appraisal apply to both classes of property.

### Purpose of Manual and Course

The main purpose of the course is to provide an overview of the listing, assessing, and processing of business personal property taxes as they are administered in the day-to-day environment and operation of the local county tax department. Another useful purpose of the business personal property course is to satisfy one of the basic education requirements for county assessors and appraisers pursuant to G.S. 105-294. This course can also help meet the continuing education requirements necessary in order to remain current as a county assessor or appraiser.

The purpose of the manual is to lend written support to the business personal property tax course as it sets out to educate, equip, inform, and provide instruction on the various aspects of personal property taxation. The manual has been developed to provide broad guidance in the appraisal of personal property through the use of generally accepted techniques and procedures. It should be used as a ready resource and reference book to provide guidance in matters concerning personal property. This manual merges accounting principles and accepted appraisal practices into a sound methodology for the mass appraisal of personal property, commonly referred to as "The accounting approach to value."

In summary, the manual is intended to be an overall guide that deals with various classes of personal property used in connection with a business enterprise. It has been developed as a text for instructional purposes and also as a reference guide in the appraisal process. It represents a convenient tool for use by the appraiser in exercising sound appraisal judgment, but it is not intended to cover every situation that may be encountered in the appraisal process.

## Scope of Manual and Table of Contents

This manual covers the following areas:

Section I:	Introduction
Section II:	Definitions and Terms
Section III:	Classification of Real and Personal Property
Section IV:	Legal Requirements in North Carolina
Section V:	Accounting for Appraisers
Section VI:	Listing and Processing
Section VII:	The Appraisal of Personal Property
Section VIII:	The Appraisal of Business Personal Property
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Exemption Letters

Motor Vehicle Forms and letters

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AV-10 – Application for Property Tax Exemption (General)

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Useful Websites

Certification Requirements

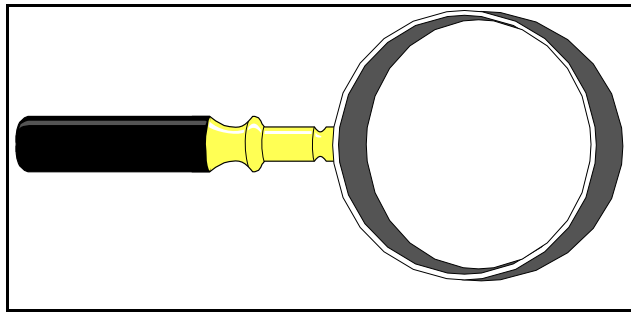
Property Tax Division Contact Information

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Standard on Valuation of Personal Property-IAAO

SECTION II  
DEFINITIONS & TERMS



## GLOSSARY OF TERMS

Absorption costing - A system of product costing in which all costs of production, whether variable or fixed are classed as product costs and identified with the full cost of inventory.

Accumulated depreciation - The sum of all depreciation previously deducted from the historical cost of an asset.

Accrual basis - An accounting method which records all income earned and expenses incurred as of the initial commitment, regardless of whether actual payment has occurred. (See "Cash Basis.")

Ad valorem - Latin meaning "according to value," in common usage an ad valorem tax is a tax levied on property in proportion to the value of the property.

Appraisal - The act of estimating the value of property. An estimate or opinion of value.

Audit - An examination of data or materials with the intent to test and verify the accuracy of financial reports or statements or to obtain complete information necessary to form an opinion as in an appraisal.

Balance sheet - A financial statement as of a specific date detailing the financial condition of a business enterprise, showing assets, liabilities, and capital. (See "Statement of Condition.")

Bill of lading - A carrier's written document acknowledging receipt of goods, listing same, and contracting to deliver such goods to a specified place and party.

Bond - An interest-bearing certificate of a corporation or government, usually secured, promising to pay the holder a fixed amount on a specified maturity date.

Book of original entry - A journal in which business transactions are first recorded and from which ledger entries are made. (Also known as the "Journal.")

Book value - An accounting "value". Usually the undepreciated balance of the historical or original cost of an asset. "Book value" usually reflects an accommodation with income tax regulations, is characterized by frequently- accelerated depreciation, usually does not reflect inflation or appreciation, and rarely bears any resemblance to fair market value.

Business Personal Property - Personal property associated with a business or used in connection with the production of income.

Capital - On the balance sheet or statement of condition, the owners' or stockholders' share of a business enterprise; it is the mathematical difference between assets and liabilities, and will usually be itemized as capital stock, surplus, and undivided profits ("undivided profits" may be variously labeled "undistributed earnings" or "retained earnings.") Also referred to as "owners' equity."

Cash basis - An accounting method which records no transactions until such time as the actual cash receipt or disbursement has taken place. (See "accrual Basis.")

Chattels - An article of personal or movable property, as distinguished from real property; furniture, automobiles, livestock, farm equipment, boats, etc., are chattels.

Consignee - The party in whose possession is placed a consignment or consigned goods.

Consigned inventory - Inventory belonging to another -- the consignor, which is held by the consignee, who will receive payment for the goods when they are sold and then himself will forward his payment to the consignor. The consignment agreement will often stipulate that as between the parties the consignee is responsible for property taxes.

Consignment - A shipment of goods to an agent, with title to the goods remaining with the shipper, or consignor; when the goods are sold the agent, or consignee, forwards payment to the consignor. (See preceding definition.)

Consignor - A party which ships goods to an agent (consignee), and does not relinquish title until receiving payment after the agent has sold the goods.

Consolidated accounting report - A financial statement that combines the income statement and/or balance sheet of a parent company with one or more of its subsidiaries.

Corporation - An artificial legal entity, chartered by the State to engage in business, and having legal powers, rights, privileges, and liabilities distinct from those of its owners and officers as individuals.

Cost - The amount of consideration exchanged for the acquisition of an asset or group of assets.

Cost - capitalized - An accounting term expressing the total consideration expended necessary to acquire asset(s) and which also includes invoice cost, trade-in allowances, sales tax, freight, installation, and construction period interest.

Cost - historical - Original cost new.

Cost - installed - Capitalized cost and other cost necessary to achieve normal utility of assets within an operating unit but does not include maintenance or other operating expense. It should include repairs that extend the life of the asset.

Cost - replacement - The cost to replace a property with something comparable and similar having equivalent utility.

Cost - reproduction - The cost of reproducing a new replica property on the basis of current prices with the same or closely similar material and one having equivalent utility.



Current assets - Cash and other short-term assets that will be converted into cash within the current operating cycle -- usually one year.

Current liabilities - Usually short-term debt -- obligations falling due within a year or less.

Depreciation in appraising - A decrease in the upper limit of value due to physical wear and tear, functional obsolescence, and/or economic obsolescence. A loss in value from all causes.

Depreciation - accounting - The amount of annual expense taken as a reduction of income necessary to recapture the cost of an asset and does not represent actual losses in value.

Direct labor - Labor employed directly in converting raw material into finished goods.

Economic obsolescence - Loss in remaining value due to reasons external to the property.

Fair market value - The price estimated in terms of money at which the property would change hands between a willing and financially able buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of all the uses to which the property is adapted and for which it is capable of being used.

Financial statements - Any written presentation of financial data, including a balance sheet, statement of condition, profit and loss statement, income statement, etc.

Finished goods - Goods having been converted from raw materials into the form in which they will be used or sold.

Fiscal year - A period between annual settlements of financial accounts for presentation; it may or may not coincide with the calendar year. Usually it consists of a twelve month period, but could be less than twelve months.

Fixed assets - Permanent-type assets with an economic life of more than one year, e.g., real estate improvements, manufacturing equipment, motor vehicles.

Floor-planning - A method of financing which ties up a minimum of capital prior to actual sale of the inventory being floor-planned. A merchant signs a floor-planning agreement with a lending institution whereby the lending institution pays the supplier or wholesaler and collects a small down payment from the merchant. The lender holds title to the goods until they are paid for, which is usually the day after they are sold by the merchant.

F.O.B. - Literally, "free on board" -- used in quoting prices of goods at a specific location, not including transportation costs to any other location or installation costs.

Functional obsolescence - A reduction in functional capacity or efficiency -- caused by factors inherent in the property itself. (See Section VIII)

General journal - The book where the first entry for all transactions of a business enterprise are summarized.

Going concern - A concept assuming the continuation of an entity long enough to experience the revenues generated by the assets suspended in the accounts.

Going concern value - The value of a property arrived at by considering the value in place, in use assuming its present use is its highest and best and assuming a transaction between a willing seller and a willing buyer whereby the buyer would continue to operate the property at its present location.

Goodwill - The excess of the consideration paid for a business as a whole over the book value of all the tangible net assets purchased; the excess of value over cost. A salable business asset based on reputation, not physical assets.

Hardware - The physical equipment of a computer system

Historical Cost - The original cost of an item when first purchased; generally "historical" and "original" costs are terms used interchangeably in appraising personal property, however, a distinction may be drawn between historical cost as being the first cost of an item at the time it was first sold, and original cost as being the first cost to the present owner.

Idle Equipment – Equipment that has been taken off production status on a permanent basis and is not used on a day-to-day basis, but is retained based upon its potential. This future potential value is in excess of a disposal or scrap value, but less than a value-in-use based upon its current condition.

Income statement - See "Profit and Loss Statement."

Journal - A book in which business transactions are first recorded, and from which ledger entries are made. (Also known as "Book of Original Entry.")

Journal entry - The first recording of a business transaction.

Leasehold improvements - Real estate improvements to leased property contracted for, installed, and paid for by the lessee; and which may well remain with the real estate, thereby becoming an integral part of the leased fee real estate upon expiration or termination of the current lease, but which are the property of, and should be charged to, the current lessee who installs same. (Examples: lavatories installed by lessee in barber shop, special lighting, interior trim such as floors, wall-covering, dropped ceiling, built-ins, etc., as installed by lessee to an unfinished-on-the-interior "four walls and a roof" type leased building.)

Ledger - A book of final entry, in which journal entries are summarized. (See "General Ledger or General Journal.")

Lessee - One not owning property, who makes periodic payments for the right to use or enjoy the property; e.g., a tenant.

Lessor - The party owning the property, who allows another to take possession, use and/or enjoy the property in return for which he receives periodic payments, and retains full title to the property; e.g., a landlord.

Liability - An amount owed by one party to another, or the representation of such obligation.

Liquidation value - The price which the individual assets of an operating unit or non-operating unit would bring if disassembled, moved from its present location and sold on the open market. Liquidation value should not be used in the going concern concept or in-place in-use concept unless adjustments are made to account for the various value additives necessary to achieve utility of the property in- place, in-use.

Merchandise turnover - The number of times in an accounting period (a year) that the average inventory is sold. (Gross sales divided by the turnover ratio equals the average inventory).

Mortgagee - The lender, the one making the loan and advancing funds to mortgage property.

Mortgagor - The borrower, the one who pledges security (gives a mortgage on property) in return for borrowed funds.

Partnership - A merger of two or more individuals, based on an agreement to combine their labor and resources in a business enterprise and to share profits and losses accordingly.

Percent Good Factor – The product of the trending factors and the straight-line depreciation factors. The percent good factor is used to find the current replacement cost new less depreciation.

Personal property - All tangible property other than real estate. Generally includes movable items, that is, those not permanently attached or affixed to the real estate. In determining whether an item is personal or real, there can be considered the manner in which it is affixed to the real property as well as the intention of the owner with regard to the removal of the asset at the end of a lease period. Also, the purpose for which the property is used such as an industrial plant. If the item can be removed without serious injury to the building or to the item itself, then it could safely be termed as tangible personal property.

Also classified as personal property, but more commonly known as intangible personal property. Intangible personal property may represent tremendous value, however it is usually not subject to physical measurements. Examples of this type of asset are money, stocks and bonds, goodwill, patents, copyrights, trademarks, etc.

Prepaid expenses - Expenditures that will benefit future periods, they are classed as current assets since they will be converted to cash in the next period or if not paid for in advance would require the disbursement of cash in the next period. In the appraisal of personal property, prepaid expenses normally are those miscellaneous office supplies, store, advertising or shipping supplies which will most likely be consumed within the time frame of an accounting period, and which are not classified as, nor included with, normal business inventories.

Profit and loss statement - A financial statement showing income and expenses for a business for an accounting period, and the profit or loss resulting from the related activity.

Physical deterioration - Loss in value due to physical wear and tear.

Raw materials - Goods to be used as component parts of finished goods.

Real estate - The land and appurtenances, including all things not movable in nature and more or less permanently affixed to the land.

Real property - The "bundle of rights" that go with physical ownership of real estate, including the interests, benefits, and rights inherent in same.

Replacement cost - The cost new today to purchase property of like utility as the equipment to be replaced, assuming no physical deterioration and economic obsolescence neither greater nor lesser than the subject property.

Reproduction cost - The cost new today to reproduce, or reconstruct, an exact duplicate or replica of the subject property, containing the same degree of obsolescence.

Residual value - In appraising personal property, a minimum value -- below which no further depreciation is allowed so long as the property is either still in use or capable of use. The residual value is expressed in most cases as a percentage of cost. Residual values should reflect the remaining fair market value.

In manufacturing or production machinery and equipment, the residual fair market value, utilizing a going concern concept, will reflect not only the value of an individual item as may be reflected by the used equipment market, but also the value added for freight, taxes and installation.

Retained earnings - The cumulative undistributed profits of a business enterprise, presented in the capital section of the balance sheet, and also known as undivided profits or undistributed earnings.

Reversionary value - The remaining market value of a property at the time it comes off lease and reverts to the lessor. In applying the income capitalization technique the value of the reversion must usually be estimated.

Salvage value - The remaining value of a piece of property (usually equipment) when it no longer is capable of performing the function or serving the purpose for which it was intended. It is the value of the component parts which may be retained for recycling, reprocessing, or which may be combined with salvageable parts from other comparable property to rebuild a similar piece of property.

Scrap value - See "Salvage Value."

Selling value - The value arrived at through a negotiation process which usually involves consideration for items other than tangible assets such as goodwill, debts, financing, receivables, income tax considerations, cash flow positions, stockholder considerations, etc.

Special Tools – Tools such as jigs, dies, and molds which are specifically designed for the production or processing of particular parts and have no significant utilitarian value and cannot be adapted to further or different use after changes or improvements are made in the model design of the particular part produced by the special tools.

Software - Computer programs and routines that facilitate the programming and operation of a computer.

Sole proprietorship - A business owned entirely by one individual.

Special journals - Journals used to record only transactions of a certain kind, e.g., sales journal, purchase journal, cash journal.

Standard cost - A predetermined cost per unit based on actual experience and management objectives.

Statement of condition - See "Balance Sheet." Also known as "Report of Condition."

Subsidiary ledger - A supporting ledger, containing a summary of similar accounts, the total of which supports a controlling account in the general ledger.

Surplus - One of the capital accounts on the balance sheet, representing the cumulative difference between total par value of issued stock and actual value received.

Trade discount - A discount or deduction from the list price or catalogue price.

Tools, Tooling, or Special Tools - Items primarily used in manufacturing, such as molds, dies, and jigs which are specifically designed for production or processing and have no significant utilitarian value and cannot be adapted to further or different use after changes or improvements are made in the model design of the particular item produced by the special tools. It will be necessary to determine from the particular manufacturer the average life of this category of property. This does not include general-purpose small tools such as wrenches and drills, both hand and power-driven. Notice specific definitions for the following:

Jig- a device used to guide a tool; it usually has the function of clamping and positioning materials during machine processing.

Die- a tool used for cutting out, shaping, punching, forming, or stamping various materials, usually goods in process.

Mold- a hollow form or frame for giving a certain shape to something, usually molten goods in process.

Trending/Indexing - In appraising it is the process of applying percentage adjustments to historical cost data to arrive at a cost to reproduce and becomes the basis for depreciation -- (appreciation factor - inflation factor).

Turnover - See "Merchandise Turnover."

Usufruct - The right to use, enjoy, and benefit from property belonging to another.

Value in exchange - The value of goods, services, or purchasing power which a knowledgeable buyer could reasonably be expected to offer in exchange for property in an arms length transaction.

Value in use - The value of property to its owner or the one who enjoys its use, based on its utility and productivity to that particular person.

Vendee - The person to whom a thing is sold; a buyer.

Vendor - One who sells; a seller.

Work in process - Raw materials which have been partially processed or acted upon, but which are not yet completely converted to the finished product or finished goods; goods in the process of being converted from raw materials to finished goods.

## CASE PROBLEM

### Matching Definitions

Match the correct definition (on the right) to the correct word (on the left). Place the letter at the front of the word/terms.

\_\_\_\_\_ Ad Valorem

\_\_\_\_\_ Appraisal

\_\_\_\_\_ Book Value

\_\_\_\_\_ Business Personal Property

\_\_\_\_\_ Cost-Capitalized

\_\_\_\_\_ Cost-Installed

\_\_\_\_\_ Depreciation in Appraising

\_\_\_\_\_ Depreciation in Accounting

\_\_\_\_\_ Fair Market Value

\_\_\_\_\_ Fixed Assets

\_\_\_\_\_ Lessee

\_\_\_\_\_ Lessor

\_\_\_\_\_ Personal Property

\_\_\_\_\_ Residual Value

A. Long term permanent tangible assets.

B. Costs incurred that are necessary to achieve normal utility of an asset.

C. A minimum value below which no further depreciation is allowed, expressed as a percentage of cost.

D. Estimate or opinion of value

E. The price estimated in terms of money at which the property would change hands between a willing and financially able buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of the property.

F. Property used in connection with the production of income.

G. Typically a landlord who owns property and allows another to take possession of and use or enjoy the property in return for rent payment

H. Latin, meaning "According to value"

I. Annual expense taken as a reduction of income necessary to recapture the cost of an asset.

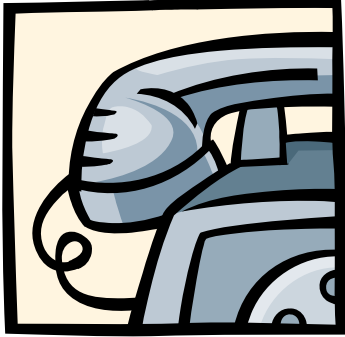
J. All tangible property other than real property.

K. Undepreciated balance of the historical or original cost of an asset.

L. One who makes periodic payments for the right to use or enjoy property they do not own.

M. Accounting term showing the total consideration necessary to acquire an asset.

N. A decrease of value due to physical wear, functional or economic obsolescence.



### SECTION III

## CLASSIFICATION OF REAL AND PERSONAL PROPERTY





## IS THIS REAL... OR PERSONAL?

As we begin our examination of the appraisal of business personal property, we should first define our topic. Business personal property is typically identified as all property used in connection with the production of income that has not been classified as real property. Frequently, it is difficult to draw a fine line between what is treated as real property and what is treated as personal property for property tax purposes. In many cases, the appraiser must rely on the owner's statement of intent. Items that may appear to be permanently attached to realty may not be appraised as realty and should be classified as personalty. In making appraisals of machinery & equipment, a good rule-of-thumb is to classify all property and investments necessary for the operation of the machinery and equipment as personalty.

Examples of items that may appear to be realty but should be considered personal property in certain situations are:

1. Wiring
2. Venting
3. Flooring
4. Special climate control (Heating and air conditioning systems associated with particular equipment or product)
5. Conveyors
6. Boilers and furnaces
7. Shelving and displays
8. Leasehold improvements (owned by lessee)

It is important to remember that there are no absolutes in making the determination of whether assets should be classified as real or personal property. Frequently, the appraiser must examine leases and other documents to determine the intent of the owner of the property. In addition, the appraiser may have to determine how the property is affixed to the realty and also, whether the property is there for the benefit of the process or for the benefit of the employees or the building.

Generally, business personal property includes, but is not limited to, the following categories:

1. Inventories
  - A. Raw materials
  - B. Goods in process of manufacturing
  - C. Finished goods
  - D. Supplies (office, maintenance, janitorial, manufacturing)
  - E. Packaging materials
  - F. Fuels
  - G. Spare parts

2. Depreciable Assets (Fixed Assets)

- A. Machinery and equipment
- B. Office furniture, fixtures, and equipment
- C. Construction work in progress (including interest during construction)
- D. Leasehold improvements
- E. Software packages (tangible)
- F. Tools, dies, molds
- G. Motor vehicles (including mounted equipment)
- H. Pallets and containers

3. Intangible Personal

- A. Leasehold interest in exempt real property

WHY IT IS IMPORTANT

It is most important that all taxable property be assessed only once as either real or personal, and that property is classified as either real or personal uniformly throughout each county. Of slightly lesser importance is whether the property is classified as real or personal property. In other words, however property is classified, the assessor must ensure that all taxable property is uniformly assessed.

When the assessor believes that property has not been assessed, it is then determined if the property has been listed. All taxable personal property must be listed each listing period. Real property is different. Land does not have to be listed at all, but improvements to the land must be listed once during the listing period after they are made. After this initial listing, the improvements do not have to be listed again. Instead the assessor carries these improvements forward each year. This type of system is called a permanent listing system. All counties were required to adopt a permanent listing system for real property by tax year 2004, however many counties adopted permanent listing systems prior that year. After permanent listing systems were adopted in each county, taxpayers were relieved of the duty to list real property in their respective counties. Again, the exception for this is real property improvements. Annually, during the listing period, owners of real property must furnish the assessor with information concerning improvements on real property. Since some real property is now not required to be listed, real versus personal decisions can become very important when a discovery is made. We will discuss discovery procedures in a later section of this manual.

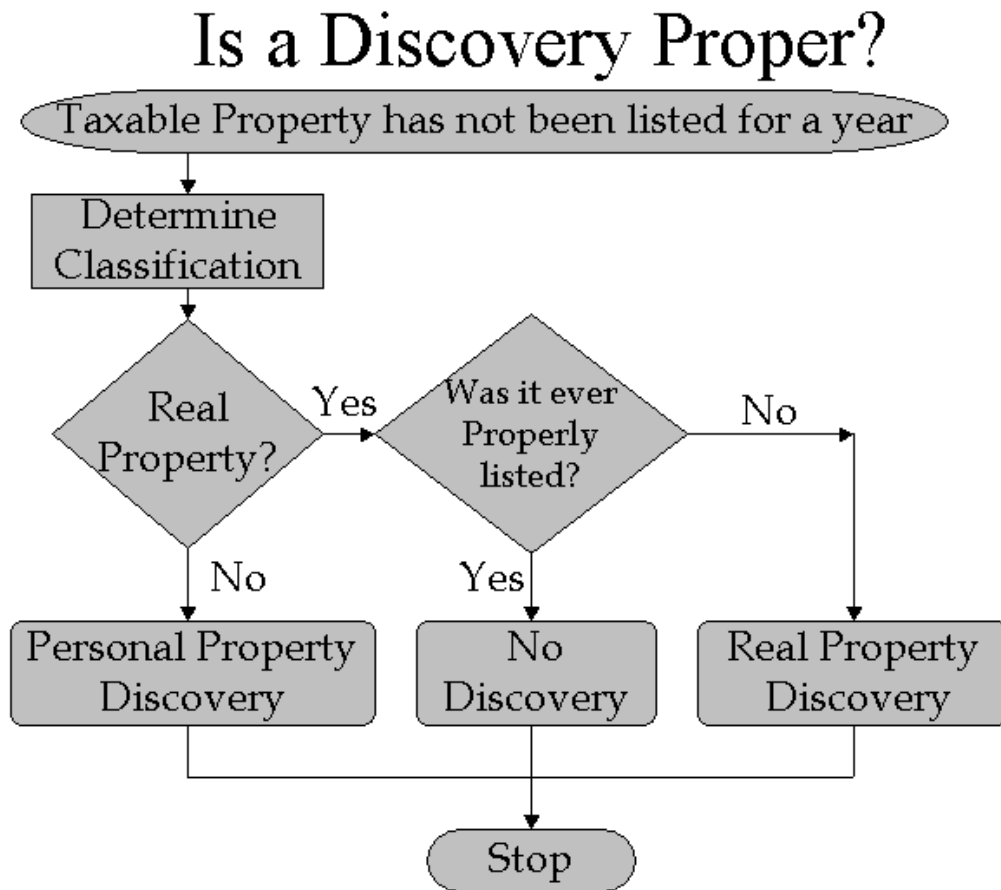
When the assessor determines that property has not been listed, but it is taxable, the following line of questions should be proposed.

- 1) Is it real property?
- 2) No, it is personal property. Do a discovery. Stop here. Don't proceed with the next questions.
- 3) Yes, it is a real property improvement. Was it ever listed?
- 4) No, it was never listed. Do a discovery; all real property improvements are required to be listed at

least once.

5) Yes, it was listed. Should it have been listed more than once? Real property improvements should have been listed every year prior to the adoption of the permanent listing period and may be discovered for those years that they were not listed.

It is easy to see how determining classification of real versus personal property can also determine whether a discovery is proper or not. This can become one of the most controversial questions that an assessor is faced with and is a common issue with Property Tax Commission Appeals. One vital tool that can be used to minimize conflict in this area is properly written guidelines in the county's "schedule of values".



## SCHEDULE OF VALUES

Although this is not a real property course, it is helpful to be familiar with the basics of how real property is appraised. A “schedule of values” is the official document in each county, specific to each county, used to appraise real property for property tax purposes. The schedule of values is divided into different classifications of real property, land and improvements, presented to the public for appeal, and adopted by the county commissioners for each reappraisal. Many of the standards for the appraisal of real property improvements are shown as a price per square foot value. A standard warehouse may have guidelines showing \$9.50 per square foot. An upgraded warehouse, possibly a refrigerated warehouse, may have guidelines showing \$25.50 per square foot. The schedule of values should include a detailed description of what makes the difference in per square foot value between the standard and the upgraded and also what is included in the real property appraisal. Most conflicts arise when a county does not have clear guidelines showing what specifically is appraised as and classified as real property, and what is included in the varying square foot values. An example of real vs. personal guidelines is found at the end of this section.

## LEASEHOLD IMPROVEMENTS

One frequent conflict related to the real versus personal property question arises when a lessee installs property in a leased space, but neither the owner nor the lessee lists the property. Many times this is because each party believes the other is responsible for listing. For example, if a barber installs his barbershop in a strip mall, the improvements that make the leased space a barbershop are typically called leasehold improvements and are assessed as personal property. One way to effectively assess both real and personal property in this situation is to appraise all strip malls as empty space, “four walls and a roof, with concrete floor, minimum lighting and standard HVAC”. If this is the case, then everything else; the barber chairs, partitions between the chairs, additional lavatories, mirrors, dropped ceiling, and other additions to the real property that were needed to create a barbershop from the leased space would all be considered “leasehold improvements”. These improvements would be appraised as personal property since they are not appraised as part of the real property and the owner of the real property does not own the improvements. Since business’s property vary greatly with regards to type, quality, and quantity of additions, this “four walls and a roof” type real property appraisal is usually best for leased retail space. In a single strip mall, a real property appraiser might find a high-end clothing store, a dollar store, a doctor’s office, and a grocery store. This type of real and personal property appraisal is usually best for a mass appraisal system. An office building or warehouse space real property appraisal would probably include more or less than the strip mall real property appraisal. The schedule of values should attempt to address what specific items are included in each real property appraisal and should attempt to address what specific items are considered personal property.

If leasehold improvements are discovered as personal property, the lessee sometimes believes that the property has been assessed as real property, and therefore should not have been listed. In our example above, the barber may think that the county already appraised that section of the strip mall as a barbershop. Many taxpayers are not aware that real property improvements must also be listed. A building permit is not considered a property tax listing, even though many counties learn about

new construction from building permits. Therefore if the property has been recently installed, but not listed, it can be discovered as either real or personal property.

This section cannot possibly refer to all situations, but several guidelines may be helpful to keep in mind when real vs. personal property issues arise.

- 1) Have a guideline in the schedule of values clearly classifying what your county considers as real or personal property
- 2) As a personal property appraiser, become generally familiar with your county's Schedule of Values and discuss real vs. personal property issues with your real property appraisal department.
- 3) Property used as part of a process, or in place for the equipment is generally considered personal property. Special wiring, foundations, and process piping are examples of this and are typically not appraised as real property in the Schedule of Values.
- 4) Property used for the building, or for the comfort of employees is generally considered real property. A building appraised as a refrigerated warehouse will include property that helps keep the interior cool. It is helpful to determine what additional property is included in the refrigerated warehouse schedule.
- 5) The owner's intent is important to consider. If the owner intends property to be permanently attached to the real estate, then that should be taken into account. Paving will not typically be removed and is not intended to be removed; therefore it is almost always a real property improvement. A bank vault is usually permanently affixed, even if it is in a leased space. Even in these cases, it should be clearly noted in the schedule of values.
- 6) It can only be appraised once as real OR personal, but not both.

The appraisal of personal property is an interesting and challenging endeavor. In this section we have introduced several new concepts and as we continue with the following sections of this manual, we will expand on these concepts so the importance of determining real property versus personal property will be more evident. Hopefully, this manual will assist you in making accurate and equitable appraisals for the benefit of your county's government and for the benefit of all of us as property taxpayers.

Case Problem  
CLASSIFICATION - Real vs. Personal

1. First Bank of Charlotte is located in the Odd Fellows Building where space is leased for a period of 20 years. The bank's accounting records reflect the ownership of the following class of assets.

	<u>Real</u>	<u>Personal</u>
1. Office furniture and fixtures	_____	_____
2. Vault door	_____	_____
3. Vault ventilator	_____	_____
4. Safe deposit boxes	_____	_____
5. Counters and shelving	_____	_____
6. Floor carpeting	_____	_____
7. Drive-in window (pneumatic system)	_____	_____
8. Card operated machine	_____	_____
9. Outside brick planters	_____	_____
10. Concrete paving	_____	_____
11. Built-in counters and shelving	_____	_____
12. Bank vault	_____	_____
13. Port-a-vault	_____	_____
14. Special light fixtures	_____	_____
15. Burglar alarm system	_____	_____
16. Wall coverings	_____	_____
17. Computer	_____	_____

Your assignment is to determine which of the above items are to be classified for assessment purposes as real or personal property. For those items that could be either real or personal, be prepared to discuss why you made your choice.

## CLASSIFICATION OF SELECTED ITEMS AS REAL OR PERSONAL

### A General Guide

In general, machinery and equipment used primarily as part of a manufacturing process (process equipment) is taken as Personal Property. Machinery and equipment which is part of the land or building improvement is taken as Real Property.

<u>Item</u>	<u>Real</u>	<u>Personal</u>
Acoustical fire resistant drapes & curtains		XX
Asphalt plants - batch mix, etc., Moveable		XX
Air Conditioning - building air conditioning, including refrigeration equipment, for comfort of occupants, built-in	XX	
Air Conditioning - window units, package units, including, e.g., that used in data processing rooms and in manufacturing processing		XX
Airplanes		XX
ATM machines and shelters for the machines		XX
Auto exhaust systems - flexible tube type		XX
Auto exhaust systems - built-in floor or ceiling	XX	
Bar and bar equipment		XX
Boats and motors - all		XX
Bowling alley lanes		XX
Boiler - primarily for process		XX
Boiler - for service of building	XX	

<u>Item</u>	<u>Real</u>	<u>Personal</u>
Burglar alarms		XX
Car Wash - all equipment		XX
Concrete plant - electronic mixing, Conveyors, tanks, etc.		XX
Construction and grading equipment (non-licensed vehicles, etc.)		XX
Conveyor systems		XX
Coolers (walk-in) - prefab, portable		XX
Coolers (walk-in) - permanent - schedule of values should address these	XX	
Cold storage - built-in cold storage rooms	XX	
Cold storage - refrigeration equipment		XX
Cooling towers - primary use in manufacturing		XX
Cooling towers - primary use for building	XX	
Computers - all		XX
Cooking equipment (restaurant, etc.)		XX
Compressed air systems		XX
Control systems - electronic		XX
Chairs - all types		XX
Dairy processing plants - all process items		XX
Data processing equipment - all items		XX
Diagnostic center equipment (automotive)		XX



<u>Item</u>	<u>Real</u>	<u>Personal</u>
Dock levelers		XX
Drying systems (special heating in process system)		XX
Dumpsters		XX
Dust catchers, control systems, etc.		XX
Desks - all		XX
Electronic control systems (weighing, mixing, etc)		XX
Fire alarm systems		XX
Fans - freestanding		XX
Farm equipment - all		XX
Floors, computer room		XX
Foundations for machinery and equipment		XX
Furnaces - steel mill process, etc., foundry		XX
Furniture and fixtures		XX
Grain bins, not permanently attached to realty		XX
Greenhouses - if permanently affixed	XX	
Greenhouse benches, heating system, etc.		XX
Humidifiers, process		XX
Heating systems, process		XX
Hoppers - metal bin type		XX

<u>Item</u>	<u>Real</u>	<u>Personal</u>
Hospital systems - oxygen, public address, emergency electric, closed T.V. call system, autoclave, etc.		XX
Inventories		XX
Incinerators - moveable, metal type		XX
Industrial piping, process		XX
Irrigation equipment		XX
Kilns - metal tunnel, moveable		XX
Kiln heating system		XX
Leased equipment - lessor or lessee possession		XX
Leasehold improvements		XX
Lighting - yard lighting		XX
Lifts - other than elevator		XX
Law Libraries		XX
Machinery and equipment		XX
Milk handling - milking, cooling, piping, storage		XX
Mineral rights	XX	
Mobile Home – does not meet definition of G.S. 105-273(13)		XX
Mobile Home – meets definition of G.S. 105-273(13)	XX	
Office equipment - all		XX
Ovens - food processing		XX

<u>Item</u>	<u>Real</u>	<u>Personal</u>
Office supplies		XX
Oil company equipment - pumps, supplies, etc.		XX
Power generator systems (auxiliary emergency, etc.)		XX
Portable buildings (greenhouse, construction, etc.)		XX
Package and labeling equipment		XX
Paint spray booths		XX
Piping systems - process piping		XX
Public address systems (intercom, music, etc.)		XX
Pneumatic tube systems		XX
Railroad sidings (other than railroad-owned)		XX
Refrigeration systems - compressors, etc.		XX
Rock crusher		XX
Scales		XX
Scale houses (unless portable)	XX	
Screens, movie-indoor		XX
Screens - drive-in outdoor theater	XX	
Signs (including billboards, etc.)		XX
Speakers- all types, unless addressed in real property schedule		XX
Spray booths (unless built-in)		XX
Seats - theater		XX
Sound projection equipment		XX

<u>Item</u>	<u>Real</u>	<u>Personal</u>
Sound systems		XX
Sprinkler system - fire protection	XX	
Switchboard (motel, etc., - when not owned by utility)		XX
Service station equipment - pumps, tanks, lifts		XX
Tanks - if permanently affixed structure, etc. (e.g., bulk plant)	XX	
Tanks - manufacturing, process, etc.		XX
Tanks - service station underground gasoline		XX
Tunnels - unless part of process system	XX	
Transformer banks		XX
Towers - TV, radio, CATV, cellular, two-way radio, etc.		XX
Towers - microwave and equipment and shelters for equipment	XX	
Telephone system - private		XX
Utility systems - (other than in state-assessed utilities, and other than central heating and cooling for buildings, etc. e.g., motel-owned telephone switchboard systems, private railroad sidings, private water systems, emergency power generating equipment, etc.)		XX
Utility systems - buildings for private systems	XX	
Vacuum system, process		XX
Ventilation systems - building improvement	XX	
Ventilation systems - manufacturing, process, etc.		XX

<u>Item</u>	<u>Real</u>	<u>Personal</u>
Vent fans - freestanding		XX
Water tanks, process equipment		XX
Water coolers - electric		XX
Wells - pumps, motors, equipment		XX
Wiring - power wiring for machinery and equipment		XX
Walls - partitions, portable		XX
Water lines - for process above or below ground		XX

**WAKE COUNTY LIST  
GENERAL CLASSIFICATION OF REAL AND TANGIBLE PERSONAL PROPERTY**

REAL	PERSONAL	DESCRIPTION	.	.	.	.	.	.	.	.	.	.	.	.	.	.
			.	.	.	.	.	.	.	.	.	.	.	.	.	.
XX		AIR CONDITIONING - BUILDING	.	.	.	.	.	.	.	.	.	.	.	.	.	.
	XX	AIR CONDITIONING - MANUFACTURING/PRODUCT	.	.	.	.	.	.	.	.	.	.	.	.	.	.
	XX	AIR CONDITIONING - WINDOW UNITS	.	.	.	.	.	.	.	.	.	.	.	.	.	.
	XX	AIRPLANES	.	.	.	.	.	.	.	.	.	.	.	.	.	.
	XX	ALARM SYSTEMS (SECURITY OR FIRE) & WIRING	.	.	.	.	.	.	.	.	.	.	.	.	.	.
	XX	ASPHALT PLANTS	.	.	.	.	.	.	.	.	.	.	.	.	.	.
	XX	ATM - ALL EQUIP. & SELF STANDING BOOTHES	.	.	.	.	.	.	.	.	.	.	.	.	.	.
XX		AUTO EXHAUST SYSTEMS FOR BUILDING	.	.	.	.	.	.	.	.	.	.	.	.	.	.
	XX	AUTO EXHAUST SYSTEMS FOR EQUIPMENT	.	.	.	.	.	.	.	.	.	.	.	.	.	.
	XX	AWNINGS	.	.	.	.	.	.	.	.	.	.	.	.	.	.
	XX	BALERS (PAPER, CARDBOARD, ETC.)	.	.	.	.	.	.	.	.	.	.	.	.	.	.
	XX	BANK TELLER COUNTERS - SERVICE AREA & RELATED	.	.	.	.	.	.	.	.	.	.	.	.	.	.
	XX	BANK TELLER LOCKERS - MOVEABLE OR BUILT-IN	.	.	.	.	.	.	.	.	.	.	.	.	.	.
	XX	BAR AND BAR EQUIPMENT - MOVEABLE OR BUILT-IN	.	.	.	.	.	.	.	.	.	.	.	.	.	.
	XX	BARNS	.	.	.	.	.	.	.	.	.	.	.	.	.	.
	XX	BILLBOARDS	.	.	.	.	.	.	.	.	.	.	.	.	.	.
	XX	BOATS AND MOTORS - ALL	.	.	.	.	.	.	.	.	.	.	.	.	.	.
XX		BOILER - FOR SERVICE OF BUILDING	.	.	.	.	.	.	.	.	.	.	.	.	.	.
	XX	BOILER - PRIMARILY FOR PROCESS	.	.	.	.	.	.	.	.	.	.	.	.	.	.
	XX	BOWLING ALLEY LANES	.	.	.	.	.	.	.	.	.	.	.	.	.	.
	XX	BROADCASTING EQUIPMENT	.	.	.	.	.	.	.	.	.	.	.	.	.	.
	XX	C-I-P EQUIPMENT	.	.	.	.	.	.	.	.	.	.	.	.	.	.
	XX	CABINETS	.	.	.	.	.	.	.	.	.	.	.	.	.	.
	XX	CABLE TV DISTRIBUTION SYSTEMS	.	.	.	.	.	.	.	.	.	.	.	.	.	.
	XX	CABLE TV EQUIPMENT & WIRING	.	.	.	.	.	.	.	.	.	.	.	.	.	.
	XX	CABLE TV SUBSCRIBER CONNECTIONS	.	.	.	.	.	.	.	.	.	.	.	.	.	.
	XX	CAMERA EQUIPMENT	.	.	.	.	.	.	.	.	.	.	.	.	.	.
	XX	CANOPIES - FABRIC, VINYL, PLASTIC	.	.	.	.	.	.	.	.	.	.	.	.	.	.

XX		CANOPIES - GENERAL																		
XX		CANOPY LIGHTING																		
	XX	CAR WASH - ALL EQUIPMENT, FILTERS & TANKS																		
XX		CARPET - INSTALLED																		
	XX	CATWALKS																		
	XX	CEMENT PLANTS																		
	XX	CHAIRS - ALL TYPES																		
	XX	CLOSED CIRCUIT TV																		
	XX	COLD STORAGE - EQUIPMENT, ROOMS, PARTITIONS																		
	XX	COMPRESSED AIR OR GAS SYSTEMS ( OTHER THAN BLDG HEAT)																		
	XX	COMPUTER ROOM A/C																		
	XX	COMPUTER ROOM RAISED FLOOR																		
	XX	COMPUTER SCANNING EQUIP.																		
	XX	COMPUTERS AND DATA LINES																		
	XX	CONCRETE PLANTS																		
	XX	CONSTRUCTION AND GRADING EQUIPMENT																		
	XX	CONTROL SYSTEMS - BUILDING AND EQUIPMENT																		
	XX	CONVEYOR & MATERIAL HANDLING SYSTEMS																		
	XX	COOLERS - WALK-IN OR SELF-STANDING																		
XX		COOLING TOWERS - PRIMARY USE FOR BUILDING																		
	XX	COOLING TOWERS - PRIMARY USE IN MANUFACTURING																		
	XX	COUNTERS/RECEPTION DESKS - MOVEABLE OR BUILT-IN																		
	XX	DAIRY PROCESSING PLANTS - ALL PROCESS ITEMS, BINS, TANKS																		
	XX	DANCE FLOORS																		
	XX	DATA PROCESSING EQUIPMENT - ALL ITEMS																		
	XX	DELI EQUIPMENT																		
	XX	DESK - ALL																		
	XX	DIAGNOSTIC CENTER EQUIPMENT - MOVEABLE OR BUILT-IN																		
	XX	DISPLAY CASES - MOVEABLE OR BUILT-IN																		
	XX	DOCK LEVELERS																		
	XX	DRAPES & CURTAINS, BLINDS, ETC																		

	XX	DRINKING FOUNTAINS																	
	XX	DRIVE-THRU WINDOWS - ALL																	
	XX	DRYING SYSTEMS - PROCESS OR PRODUCT																	
	XX	DUMPSTERS																	
	XX	DUST CATCHERS, CONTROL SYSTEMS, ETC																	
	XX	ELECTRONIC CONTROL SYSTEMS																	
XX		ELEVATORS																	
XX		ESCALATORS																	
	XX	FARM EQUIPMENT - ALL																	
	XX	FENCING - INSIDE																	
XX		FENCING - OUTSIDE																	
	XX	FLAGPOLE																	
	XX	FOUNDATIONS FOR MACHINERY AND EQUIP.																	
	XX	FREIGHT CHARGES																	
	XX	FUELS - NOT FOR SALE (LIST AS SUPPLIES)																	
	XX	FURNACES - STEEL MILL PROCESS, ETC.																	
	XX	FURNITURE AND FIXTURES																	
XX		GAZEBOS																	
XX		GOLF COURSE AND IMPROVEMENTS (DRAINAGE/IRRIGATION)																	
	XX	GRAIN BINS																	
	XX	GREENHOUSE BENCHES, HEATING SYSTEM, ETC.																	
XX		GREENHOUSES - STRUCTURE IF PERM. AFFIXED																	
	XX	HEATING SYSTEMS, PROCESS																	
	XX	HOPPERS - METAL BIN TYPE																	
	XX	HOSPITAL SYSTEMS, EQUIPMENT & PIPING																	
	XX	HOT AIR BALLOONS																	
	XX	HOTEL/MOTEL TELEVISIONS & WIRING																	
	XX	HUMIDIFIERS - PROCESS																	
	XX	INCINERATORS - EQUIPMENT AND/OR MOVEABLE																	



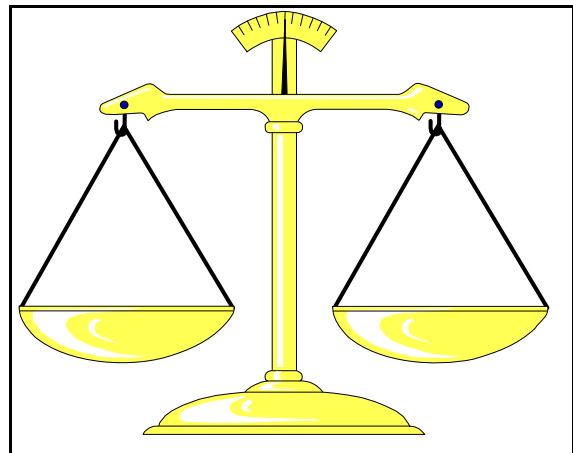
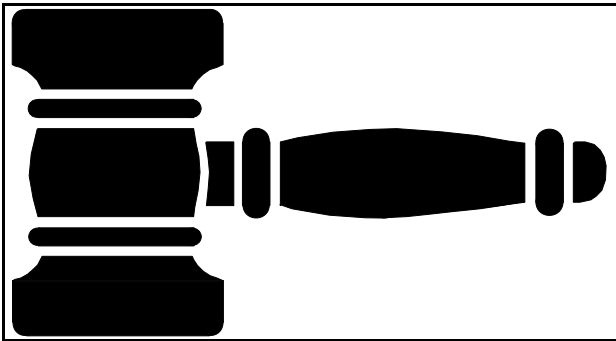
	XX	INDUSTRIAL PIPING - PROCESS																
	XX	INSTALLATION COST																
	XX	IRRIGATION EQUIPMENT																
	XX	KILN HEATING SYSTEM																
	XX	KILNS - METAL TUNNEL OR MOVEABLE																
	XX	LABORATORY EQUIPMENT																
XX		LAGOONS/SETTLING PONDS																
	XX	LAUNDRY BINS																
	XX	LAW & PROFESSIONAL LIBRARIES																
	XX	LEASED EQUIPMENT - LESSOR OR LESSEE POSSESSION																
		LEASEHOLD IMPROVEMENTS (LIST IN DETAIL YEARLY)																
	XX	LIFTS - OTHER THAN ELEVATOR																
	XX	LIGHTING - PORTABLE, MOVEABLE, SPECIAL																
XX		LIGHTING - YARD LIGHTING																
	XX	MACHINERY AND EQUIPMENT																
	XX	MEDICAL EQUIPMENT																
	XX	MILK HANDLING - MILKING, COOLING, PIPING, STORAGE																
XX		MINERAL RIGHTS																
	XX	MIRRORS ( OTHER THAN BATHROOM)																
	XX	MONITORING SYSTEMS BUILDING OR EQUIPMENT																
	XX	NEWSPAPER STANDS																
	XX	NIGHT DEPOSITORY																
	XX	OFFICE EQUIPMENT - ALL																
	XX	OFFICE SUPPLIES (LIST AS SUPPLIES)																
	XX	OIL COMPANY EQUIPMENT - PUMPS, SUPPLIES, ETC.																
	XX	Ovens - PROCESSING/MANUFACTURING																
	XX	OVERHEAD CONVEYOR SYSTEM																
	XX	PACKAGE AND LABELING EQUIPMENT																
	XX	PAGING SYSTEMS																
	XX	PAINT SPRAY BOOTHS																
		PAINTING - NO ADDED VALUE																
	XX	PARTITIONS																

XX		PAVING																	
	XX	PIPING SYSTEMS - PROCESS PIPING																	
	XX	PLAYGROUND EQUIPMENT - ALL																	
	XX	PNEUMATIC TUBE SYSTEMS																	
	XX	PORTABLE BUILDINGS																	
	XX	POWER GENERATOR SYSTEMS (AUXILIARY, EMERGENCY, ETC.)																	
	XX	POWER TRANSFORMERS - EQUIPMENT																	
	XX	PUBLIC ADDRESS SYSTEMS (INTERCOM, MUSIC, ETC.)																	
XX		RAILROAD SIDINGS ( OTHER THAN RAILROAD-OWNED)																	
	XX	REFRIGERATION SYSTEMS - COMPRESSORS, ETC.																	
XX		REPAIRS - BUILDING																	
	XX	REPAIRS - EQUIPMENT (50% COST)																	
	XX	RESTAURANT FURNITURE (INCL. ATTACHED FLOOR OR BLDG.)																	
	XX	RESTAURANT/KITCHEN EQUIP. VENT HOODS, SINKS, ETC. (COMMERCIAL)																	
	XX	RETURNABLE CONTAINERS																	
	XX	ROLL-UP DOORS (INSIDE WALL)																	
XX		ROLL-UP DOORS (OUTSIDE WALL)																	
XX		ROOFING																	
	XX	ROOM DIVIDERS/PARTITIONS - MOVEABLE OR BUILT-IN																	
	XX	ROOMS SELF-CONTAINED OR SPECIAL PURPOSE(WALLS, CEILING, FLOOR)																	
	XX	SAFES WALL OR SELF-STANDING																	
	XX	SALES / USE TAX																	
	XX	SATELLITE DISHES (ALL WIRING & INSTALLATION TO TV & EQUIP.)																	
XX		SCALE HOUSES (UNLESS MOVEABLE)																	
	XX	SCALES																	
	XX	SECURITY SYSTEMS																	
	XX	SERVICE STATIONS EQUIPMENT - PUMPS, TANKS, LIFTS & RELATED																	
XX		SEWER SYSTEMS																	

	XX	SHELVING																		
	XX	SIGNS ALL TYPES INCLUDING ATTACHED TO BUILDING																		
XX		SINKS - BATHROOM																		
	XX	SINKS - KITCHEN AREA																		
	XX	SOFTWARE - CAPITALIZED																		
	XX	SOUND SYSTEMS & PROJECTION EQUIPMENT																		
	XX	SPARE PARTS - LIST AS SUPPLIES																		
	XX	SPEAKERS - BUILT-IN OR FREESTANDING																		
	XX	SPRAY BOOTHS																		
	XX	SPRINKLER SYSTEM - ATTACHED TO PRODUCT STORAGE RACKS																		
XX		SPRINKLER SYSTEM - BUILDING																		
	XX	SUPPLIES (OFFICE & OTHER)																		
XX		SWIMMING POOLS																		
	XX	TANKS (ALL-ABOVE & BELOW GROUND)																		
	XX	TELEPHONE SYSTEMS & WIRING - PRIVATE																		
	XX	THEATRE SCREENS - INDOOR																		
XX		THEATRE SCREENS - OUTDOOR																		
	XX	THEATRE SEATS																		
	XX	TOOLING, DIES, MOLDS																		
	XX	TOWERS - MICROWAVE, EQUIPMENT, WIRING & FOUNDATION																		
	XX	TOWERS - TV, RADIO, CATV, TWO-WAY RADIO, WIRING & FDN																		
	XX	TRANSPORTATION COST - ALL																		
XX		TUNNELS - UNLESS PART OF PROCESS SYSTEM																		
	XX	UPGRADES TO EQUIPMENT																		
	XX	VACUUM SYSTEM, PROCESS																		
XX		VAULT																		
	XX	VAULT DOOR, INNER GATES, VENTS & EQUIP.																		
	XX	VENDING MACHINES																		
	XX	VENT FANS																		
XX		VENTILATION SYSTEMS - GEN'L BUILDING																		
	XX	VENTILATION SYSTEMS - NEEDED FOR MANUFACTURING, PROCESS																		

	XX	VIDEO TAPES/MOVIES/REEL MOVIES																		
XX		WALLCOVERING																		
	XX	WALLS - PARTITIONS, MOVEABLE & ROOM DIVIDERS																		
	XX	WATER COOLERS - ALL																		
	XX	WATER LINES - FOR PROCESS ABOVE OR BELOW GROUND																		
XX		WATER SYSTEM - RESIDENTIAL OR GENERAL BUILDING																		
	XX	WATER TANKS & SYSTEM - FOR PROCESS EQUIPMENT																		
	XX	WHIRLPOOL/JACUZZI/HOT TUBS																		
	XX	WIRING - POWER WIRING FOR MACHINERY AND EQUIP.																		
		Z END OF LIST																		

SECTION IV  
LEGAL REQUIREMENTS



## Legal Outline

1. Definitions G.S. 105-273
2. Jurisdiction to Tax
  - A. Property subject to taxation (General) G.S. 105-274
  - B. Property in interstate commerce (Restrictions) U.S. Constitution
  - C. Property imported from foreign country (Restrictions) U.S. Constitution
  - D. Property of federal land banks (Limitation) U.S. Code Title 12
  - E. Property of production credit associations (Limitation) U.S. Code Title 12
  - F. Property in custom bonded warehouse (Limitation) U.S. Constitution
3. Place for Listing Personal Property - (Tax Situs)
  - A. Duty of owner to declare situs G.S. 105-304(a)
  - B. Situs defined G.S. 105-304(b)
  - C. General rule G.S. 105-304(c)
  - D. Exception to general rule
    1. Business premises:
      - (a) Definitions G.S. 105-304(b)(1)(2)
      - (b) General rule G.S. 105-304(f)(2)
      - (c) Business agreement G.S. 105-304(f)(3)
      - (d) Temporary absence G.S. 105-304(f)(4)
      - (e) Presumption of situs G.S. 105-304(f)(4)
  - E. Property in movement
    1. Intrastate in-transit
    2. Interstate in-transit
4. Property Classified and Excluded from Taxation  
(Legislative Classification Power - N.C. Constitution)
  - A. Imports at seaport terminal G.S. 105-275(2)
  - B. Property of non-profit water & sewer companies G.S. 105-275(3)
  - C. Vehicles given by U.S. Govt. to certain D.A.V.'s G.S. 105-275(5)
  - D. Special nuclear materials G.S. 105-275(6)
  - E. Pollution abatement equipment G.S. 105-275(8)(a)
  - F. Recycling & resource recovery equipment G.S. 105-275(8)(b)

G. Cotton dust prevention equipment in textile plants	G.S. 105-275(8)(c)
H. Standing timber	G.S. 105-275(15)
I. Non-business personal property (with exceptions)	G.S. 105-275(16)
J. Cargo containers & container chassis in ocean commerce	G.S. 105-275(24)
K. Property in stock for repair & alterations	G.S. 105-275(25)
L. Personal property manufactured in this state for non-resident customer (Bill & Hold - transfer of title)	G.S. 105-275(26)
M. Inventories owned by manufacturers	G.S. 105-275(33)
N. Inventories owned by retail & wholesale merchants	G.S. 105-275(34)
O. Computer Software and documentation (restricted)	G.S. 105-275(40)

Property Exempted

P. Units of Government	G.S. 105-278.1
Q. Religious Purposes	G.S. 105-278.3
R. Educational Purposes	G.S. 105-278.4
S. Religious/Educational	G.S. 105-278.5
T. Charitable	G.S. 105-278.6
U. Educational/Scientific/Literary & Charitable	G.S. 105-278.7
V. Charitable Hospital	G.S. 105-278.8
5. <u>Application for Exemptions</u> (Business Personal)	G.S. 105-282.1
A. Exemptions from application	
1. Units of government	G.S. 105-282.1. (1)
2. Vehicles given by U.S. Govt. to certain D.A.V.'s	G.S. 105-275(5)
3. Standing timber	G.S. 105-275(15)
4. Non-business Property	G.S. 105-275(16)
5. Bill and hold goods	G.S. 105-275(26)
6. Money	G.S. 105-275(31)
7. Inventories	G.S. 105-275(32a, 33,34)
8. Computer Software	G.S. 105-275(40)
9. Burial Property	G.S. 105-278.2
B. Exemptions after Initial Application -	
1. Constitutional Exemptions	G.S. 105-278.3-8

- 2. Nonprofit water and sewer companies G.S. 105-275(3)
  - 3. Nonprofit for parks & drives G.S. 105-275(7)
  - 4. Educational & scientific protected natural area G.S. 105-275(12)
  - 5. Nonprofit for public use G.S. 105-275(39)
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## LEGAL FUNDAMENTALS

### § 105-271. Official title.

This Subchapter may be cited as the Machinery Act. (1939, c. 310, s. 1; 1971, c. 806, s. 1.)

### § 105-272. Purpose of Subchapter.

The purpose of this Subchapter is to provide the machinery for the listing, appraisal, and assessment of property and the levy and collection of taxes on property by counties and municipalities. It is the intent of the General Assembly to make the provisions of this Subchapter uniformly applicable throughout the State, and to assure this objective no local act to become effective on or after July 1, 1971, shall be construed to repeal or amend any section of this Subchapter in whole or in part unless it shall expressly so provide by specific reference to the section to be repealed or amended. As used in this section, the term "local act" means any act of the General Assembly that applies to one or more counties by name, to one or more municipalities by name, or to all municipalities within one or more named counties. (1939, c. 310, s. 1802; 1971, c. 806, s. 1; 1991, c. 11, s. 1.)

## (1) DEFINITIONS

### § 105-273. Definitions.

When used in this Subchapter (unless the context requires a different meaning):

- (1) "Abstract" means the document on which the property of a taxpayer is listed for ad valorem taxation and on which the appraised and assessed values of the property are recorded.
- (2) "Appraisal" means both the true value of property and the process by which true value is ascertained.
- (3) "Assessment" means both the tax value of property and the process by which the assessment is determined.
- (4) Repealed by Session Laws 1973, c. 695, s. 15.
- (4a) "Code" [is] defined in G.S. 105-228.90.
- (5) "Collector" or "tax collector" means any person charged with the duty of collecting taxes for a county or municipality.
- (5a) "Contractor" means a taxpayer who is regularly engaged in building, installing, repairing, or improving real property.
- (6) "Corporation" includes nonprofit corporation and every type of organization having capital stock represented by shares.
- (6a) "Discovered property" includes all of the following:
  - a. Property that was not listed during a listing period.
  - b. Property that was listed but the listing included a substantial understatement.
  - c. Property that has been granted an exemption or exclusion and does not qualify for the exemption or exclusion.
- (6b) "To discover property" means to determine any of the following:
  - a. Property has not been listed during a listing period.
  - b. A taxpayer made a substantial understatement of listed property.

- c. Property was granted an exemption or exclusion and the property does not qualify for an exemption or exclusion.
- (7) "Document" includes book, paper, record, statement, account, map, plat, film, picture, tape, object, instrument, and any other thing conveying information.
- (7a) "Failure to list property" includes all of the following:
  - a. Failure to list property during a listing period.
  - b. A substantial understatement of listed property.
  - c. Failure to notify the assessor that property granted an exemption or exclusion under an application for exemption or exclusion does not qualify for the exemption or exclusion.
- (8) "Intangible personal property" means patents, copyrights, secret processes, formulae, good will, trademarks, trade brands, franchises, stocks, bonds, cash, bank deposits, notes, evidences of debt, leasehold interests in exempted real property, bills and accounts receivable, and other like property.
- (8a) "Inventories" means (i) goods held for sale in the regular course of business by manufacturers, retail and wholesale merchants, and contractors, and (ii) goods held by contractors to be furnished in the course of building, installing, repairing, or improving real property. As to manufacturers, the term includes raw materials, goods in process, and finished goods, as well as other materials or supplies that are consumed in manufacturing or processing, or that accompany and become a part of the sale of the property being sold. The term also includes a modular home as defined in G.S. 105-164.3(21b) that is used exclusively as a display model and held for eventual sale at the retail merchant's place of business. The term also includes crops, livestock, poultry, feed used in the production of livestock and poultry, and other agricultural or horticultural products held for sale, whether in process or ready for sale. The term does not include fuel used in manufacturing or processing, nor does it include materials or supplies not used directly in manufacturing or processing. As to retail and wholesale merchants and contractors, the term includes, in addition to articles held for sale, packaging materials that accompany and become a part of the sale of the property being sold.
- (9) "List" or "listing," when used as a noun, means abstract.
- (10) Repealed by Session Laws 1987, c. 43, s. 1.
- (10a) "Local tax official" includes a county assessor, an assistant county assessor, a member of a county board of commissioners, a member of a county board of equalization and review, a county tax collector, and the municipal equivalents of these officials.
- (10b) "Manufacturer" means a taxpayer who is regularly engaged in the mechanical or chemical conversion or transformation of materials or substances into new products for sale or in the growth, breeding, raising, or other production of new products for sale. The term does not include delicatessens, cafes, cafeterias, restaurants, and other similar retailers that are principally engaged in the retail sale of foods prepared by them for consumption on or off their premises.

- (11) "Municipal corporation" and "municipality" mean city, town, incorporated village, sanitary district, rural fire protection district, rural recreation district, mosquito control district, hospital district, metropolitan sewerage district, watershed improvement district, or other district or unit of local government by or for which ad valorem taxes are levied. The terms also include a consolidated city-county as defined by G.S. 160B-2(1).
- (12) "Person" and "he" include any individual, trustee, executor, administrator, other fiduciary, corporation, limited liability company, unincorporated association, partnership, sole proprietorship, company, firm, or other legal entity.
- (13) 'Real property,' 'real estate,' and 'land' mean not only the land itself, but also buildings, structures, improvements, and permanent fixtures on the land, and all rights and privileges belonging or in any way appertaining to the property. These terms also mean a manufactured home as defined in G.S. 143-143.9(6) if it is a residential structure; has the moving hitch, wheels, and axles removed; and is placed upon a permanent foundation on land owned by the owner of the manufactured home or on land in which the owner of the manufactured home has a leasehold interest pursuant to a lease with a primary term of at least 20 years for the real property on which the manufactured home is affixed and where the lease expressly provides for disposition of the manufactured home upon termination of the lease. A manufactured home as defined in G.S. 143-143.9(6) that does not meet all of these conditions is considered tangible personal property."
- (13a) "Retail Merchant" means a taxpayer who is regularly engaged in the sale of tangible personal property, acquired by a means other than manufacture, processing, or producing by the merchant, to users or consumers.
- (13b) "Substantial understatement" means the omission of a material portion of the value, quantity, or other measurement of taxable property. The determination of materiality in each case shall be made by the assessor, subject to the taxpayer's right to review of the determination by the county board of equalization and review or board of commissioners and appeal to the Property Tax Commission.
- (14) "Tangible personal property" means all personal property that is not intangible and that is not permanently affixed to real property.
- (15) "Tax" and "taxes" include the principal amount of any tax, costs, penalties, and interest imposed upon property tax or dog license tax.
- (16) "Taxing unit" means a county or municipality authorized to levy ad valorem property taxes.
- (17) "Taxpayer" means any person whose property is subject to ad valorem property taxation by any county or municipality and any person who, under the terms of this Subchapter, has a duty to list property for taxation. For purposes of collecting delinquent ad valorem taxes assessed on real property under G.S. 105-366 through G.S. 105-375, "taxpayer" means the owner of record on the date the taxes become delinquent and any subsequent owner of record of the real property if conveyed after that date.
- (18) "Valuation" means appraisal and assessment.

(19) "Wholesale Merchant" means a taxpayer who is regularly engaged in the sale of tangible personal property, acquired by a means other than manufacture, processing, or producing by the merchant, to other retail or wholesale merchants for resale or to manufacturers for use as ingredient or component parts of articles being manufactured for sale.

## **(2) JURISDICTION TO TAX**

### **§ 105-274. Property subject to taxation.**

(a) All property, real and personal, within the jurisdiction of the State shall be subject to taxation unless it is:

(1) Excluded from the tax base by a statute of statewide application enacted under the classification power accorded the General Assembly by Article V, § 2(2), of the North Carolina Constitution, or

(2) Exempted from taxation by the Constitution or by a statute of statewide application enacted under the authority granted the General Assembly by Article V, § 2(3), of the North Carolina Constitution.

(b) No provision of this Subchapter shall be construed to exempt from taxation any property situated in this State belonging to any foreign corporation unless the context of the provision clearly indicates a legislative intent to grant such an exemption.

### **Discussion**

Once the county assessor determines that the property he is dealing with is personal property, he must establish whether he has jurisdiction i.e., the power to tax the property. The power to tax property or persons extends from the theory that government is providing benefits and protection to the property or the person for which it is entitled to levy a tax to help cover the cost of government. Under the XIV Amendment to the United States Constitution -- the due process of law and equal protection of the law clauses -- states cannot assert jurisdiction over property or persons unless there is some reasonable relationship between the tax imposed and the opportunity, benefits, and protection conferred or afforded by the taxing state. When a state has jurisdiction over property, the property is said to have a taxable situs in that state.

### **Domicile**

The domicile of tangible personal property is the residence of the owner, or the place from which the property may be absent, but where it is expected to return within a reasonable period of time. The domicile state has jurisdiction to tax the property whether or not it is physically located in the state on the tax date. But when tangible property is removed from the owner's domicile state and becomes more or less permanently located in another state, it is taxable there. Jurisdiction in such cases is lost by the domicile state which no longer affords substantial protection to the property. An attempt by the domicile state to tax such property would be in violation of the due process clause of the United States Constitution. (Reference 71 AM JUR 2d @ 664 & 665)

## **Property in Interstate Commerce**

There are cases where property would appear to have a taxable situs in a state but because of Federal Constitutional prohibition, the state does not have jurisdiction over the property.

Under the commerce clause (Article I, Sec. 8, CL3,) states cannot tax property which is in transit in interstate commerce. This prohibition covers property from the time it enters the channels of interstate shipment and continues until the interstate journey has ended. As a general statement, this journey begins when the property is actually turned over to the carrier and ends when it is delivered to the consignee -- either actually or constructively. Most states, including North Carolina, before all inventories were exempted from taxation, extended this prohibition even further by the enactment of "free port" exemptions, which exempted property shipped into the state from outside the state which was held in a public warehouse for further shipment. Thus, this constituted a voluntary extension of the interstate journey.

Delays in interstate transit may create a taxable situs in an intermediate state, depending upon the nature and duration of the delay -- whether it is incidental to the transportation of the property, or to accomplish some ulterior purpose of the owner not connected with such transportation. Property detained in transit to accomplish a particular purpose or object of the owner, other than transportation to its ultimate destination, may be taxed in the state in which it is so detained, as having a taxable situs there.

"Property brought from another state into a state for the purpose of subjecting the same to a manufacturing process in such state, preparatory to its being shipped to markets or customers without the state, is not deemed in transit so as to prevent the acquisition by it or a taxable situs in the state where the manufacturing process takes place." (Reference: 71-AM JUR 2d @ 662)

A manufacturing process represents something more than a cleaning, finishing or dying process. Manufacturing denotes a change in the goods as they enter the process to a different form of finished goods. (Reference: Hanes Dye & Finishing vs. Forsyth County N.C. Supra 1974)

## **Summary**

The county assessor is very much involved in determining jurisdiction over tangible personal property which is physically located in the taxing unit on the tax date and tangible personal property which may have been present but absent for various reasons.

The N. C. Attorney General has addressed this issue and has concluded that the owner's intent is the governing factor in determining jurisdiction or tax situs. A rule of thumb suggested is if the property is physically located at a site on the tax day and the owner expects the property to remain at that site until the next tax day, that situation is sufficient reason to acquire a tax situs at that location. Otherwise, the property would have a tax situs at the domicile of the owner, or if the owner is an individual domiciled in North Carolina, the place at which the owner resides. In the case of a corporation, it is at the place where its principal N.C. place of business is located.

### **(3) PLACE FOR LISTING PERSONAL PROPERTY**

#### **§ 105-304. Place for listing tangible personal property.**

(a) Listing Instructions. – This section applies to all taxable tangible personal property that has a tax situs in this State and that is not required by this Subchapter to be appraised originally by the Department of Revenue. The place in this State at which this property is taxable is determined according to the rules provided in this section. The person whose duty it is to list property must list it in the county in which the place of taxation is located, indicating on the abstract the information required by G.S. 105-309(d). If the place of taxation lies within a city or town that requires separate listing under G.S. 105-326(a), the person whose duty it is to list must also list the property for taxation in the city or town.

(a1) Electronic Listing. – The board of county commissioners may, by resolution, provide for electronic listing of personal property in accordance with procedures prescribed by the board. If the board of county commissioners allows electronic listing of personal property, the assessor must publish this information, including the timetable and procedures for electronic listing, in the notice required by G.S. 105-296(c).

(b) Definitions. – The following definitions apply in this section:

(1) Situated. – More or less permanently located.

(2) Business premises. – The term includes, for purposes of illustration, the following: Store, mill, dockyard, piling ground, shop, office, mine, farm, factory, warehouse, rental real estate, place for the sale of property (including the premises of a consignee), and place for storage (including a public warehouse).

(3) Electronic. – Defined in G.S. 66-312.

(c) General Rule. – Except as otherwise provided in subsections (d) through (h) of this section, tangible personal property is taxable at the residence of the owner. For purposes of this section:

(1) The residence of an individual person who has two or more places in this State at which the individual occasionally dwells is the place at which the individual dwelt for the longest period of time during the calendar year immediately preceding the date as of which property is to be listed for taxation.

(2) The residence of a domestic or foreign taxpayer other than an individual person is the place at which its principal North Carolina place of business is located.

(d) Property of Taxpayers With No Fixed Residence in This State. –

(1) Tangible personal property owned by an individual nonresident of this State is taxable at the place in this State at which the property is situated.

(2) Tangible personal property owned by a domestic or foreign taxpayer (other than an individual person) that has no principal office in this State is taxable at the place in this State at which the property is situated.

(e) Farm Products. – Farm products produced in this State, if owned by their producer, are taxable at the place in this State at which they were produced.

(f) Property Situated or Commonly Used at Premises Other Than Owner's Residence. – Subject to the provisions of subsection (e) of this section:

- (1) Tangible personal property situated at or commonly used in connection with a temporary or seasonal dwelling owned or leased by the owner of the personal property is taxable at the place at which the temporary or seasonal dwelling is situated.
- (2) Tangible personal property situated at or commonly used in connection with a business premises hired, occupied, or used by the owner of the personal property (or by the owner's agent or employee) is taxable at the place at which the business premises is situated. Tangible personal property that may be used by the public generally or that is used to sell or vend merchandise to the public falls within the provisions of this subdivision.
- (3) Tangible personal property situated at or commonly used in connection with a premise owned, hired, occupied, or used by a person who is in possession of the personal property under a business agreement with the property's owner is taxable at the place at which the possessor's premise is situated. For purposes of this subdivision, the term "business agreement" means a commercial lease, a bailment for hire, a consignment, or a similar business arrangement.
- (4) In applying the provisions of subdivisions (1), (2), and (3) of this subsection, the temporary absence of tangible personal property from the place at which it is taxable under one of those subdivisions on the day as of which property is to be listed does not affect the application of the rules established in those subdivisions. The presence of tangible personal property at a location specified in subdivision (1), (2), or (3) of this subsection on the day as of which property is to be listed is prima facie evidence that it is situated at or commonly used in connection with that location.

(g) **Decedents.** – The tangible personal property of a decedent whose estate is in the process of administration or has not been distributed is taxable at the place at which it would be taxable if the decedent were still alive and still residing at the place at which the decedent resided at the time of death.

(h) **Beneficial Ownership.** – Tangible personal property within the jurisdiction of the State held by a resident or nonresident trustee, guardian, or other fiduciary having legal title to the property is taxable in accordance with the following rules:

- (1) If any beneficiary is a resident of the State, an amount representing that beneficiary's portion of the property is taxable at the place at which it would be taxable if the beneficiary owned that portion.
- (2) If any beneficiary is a nonresident of the State, an amount representing that beneficiary's portion of the property is taxable at the place at which it would be taxable if the fiduciary were the beneficial owner of the property.



#### **(4) PROPERTY CLASSIFIED AND EXCLUDED FROM TAXATION**

##### **§ 105-275. Property classified and excluded from the tax base.**

The following classes of property are hereby designated special classes under authority of Article V, Sec. 2(2), of the North Carolina Constitution and shall not be listed, appraised, assessed, or taxed:

- (1) Repealed by Session Laws 1987, c. 813, s. 5.
- (2) Tangible personal property that has been imported from a foreign country through a North Carolina seaport terminal and which is stored at such a terminal while awaiting further shipment for the first 12 months of such storage. (The purpose of this classification is to encourage the development of the ports of this State.)
- (3) Real and personal property owned by nonprofit water or nonprofit sewer associations or corporations.
- (4) Repealed by Session Laws 1987, c. 813, s. 5.
- (5) Vehicles that the United States government gives to veterans on account of disabilities they suffered in World War II, the Korean Conflict, or the Vietnam Era so long as they are owned by:
  - a. A person to whom a vehicle has been given by the United States government or
  - b. Another person who is entitled to receive such a gift under Title 38, section 252, United States Code Annotated.
- (5a) A motor vehicle owned by a disabled veteran that is altered with special equipment to accommodate a service-connected disability. As used in this section, disabled veteran means a person as defined in 38 U.S.C. § 101(2) who is entitled to special automotive equipment for a service-connected disability, as provided in 38 U.S.C. § 3901.
- (6) Special nuclear materials held for or in the process of manufacture, processing, or delivery by the manufacturer or processor thereof, regardless whether the manufacturer or processor owns the special nuclear materials. The terms "manufacture" and "processing" do not include the use of special nuclear materials as fuel. The term "special nuclear materials" includes (i) uranium 233, uranium enriched in the isotope 233 or in the isotope 235; and (ii) any material artificially enriched by any of the foregoing, but not including source material. "Source material" means any material except special nuclear material which contains by weight one twentieth of one percent (0.05%) or more of (i) uranium, (ii) thorium, or (iii) any combination thereof. Provided however, that to qualify for this exemption no such nuclear materials shall be discharged into any river, creek or stream in North Carolina. The classification and exclusion provided for herein shall be denied to any manufacturer, fabricator or processor who permits burial of such material in North Carolina or who permits the discharge of such nuclear materials into the air or into any river, creek or stream in North Carolina if such discharge would contravene in any way the applicable health and safety standards established and enforced by the Department of Environment and Natural

Resources or the Nuclear Regulatory Commission. The most stringent of these standards shall govern.

- (7) Real and personal property that is:
  - a. Owned either by a nonprofit corporation formed under the provisions of Chapter 55A of the General Statutes or by a bona fide charitable organization, and either operated by such owning organization or leased to another such nonprofit corporation or charitable organization, and
  - b. Appropriated exclusively for public parks and drives.
- (8) a. Real and personal property that is used or, if under construction, is to be used exclusively for air cleaning or waste disposal or to abate, reduce, or prevent the pollution of air or water (including, but not limited to, waste lagoons and facilities owned by public or private utilities built and installed primarily for the purpose of providing sewer service to areas that are predominantly residential in character or areas that lie outside territory already having sewer service), if the Department of Environment and Natural Resources or a local air pollution control program for air-cleaning devices located in an area where the Environmental Management Commission has certified a local air pollution control program pursuant to G.S. 143-215.112 furnishes a certificate to the tax supervisor of the county in which the property is situated or to be situated stating that the Environmental Management Commission or local air pollution control program has found that the described property:
  - 1. Has been or will be constructed or installed;
  - 2. Complies with or that plans therefor which have been submitted to the Environmental Management Commission or local air pollution control program indicate that it will comply with the requirements of the Environmental Management Commission or local air pollution control program;
  - 3. Is being effectively operated or will, when completed, be required to operate in accordance with the terms and conditions of the permit, certificate of approval, or other document of approval issued by the Environmental Management Commission or local air pollution control program; and
  - 4. Has or, when completed, will have as its primary rather than incidental purpose the reduction of water pollution resulting from the discharge of sewage and waste or the reduction of air pollution resulting from the emission of air contaminants.
- a1. Sub-subdivision a. of this subdivision shall not apply to an animal waste management system, as defined in G.S. 143-215.10B, unless the Environmental Management Commission determines that the animal waste management system will accomplish all of the following:
  - 1. Eliminate the discharge of animal waste to surface waters and groundwater through direct discharge, seepage, or runoff.
  - 2. Substantially eliminate atmospheric emissions of ammonia.

3. Substantially eliminate the emission of odor that is detectable beyond the boundaries of the parcel or tract of land on which the farm is located.
  4. Substantially eliminate the release of disease-transmitting vectors and airborne pathogens.
  5. Substantially eliminate nutrient and heavy metal contamination of soil and groundwater.
- b. Real or personal property that is used or, if under construction, is to be used exclusively for recycling or resource recovering of or from solid waste, if the Department of Environment and Natural Resources furnishes a certificate to the tax supervisor of the county in which the property is situated stating the Department of Environment and Natural Resources has found that the described property has been or will be constructed or installed, complies or will comply with the rules of the Department of Environment and Natural Resources, and has, or will have as its primary purpose recycling or resource recovering of or from solid waste.
  - c. Tangible personal property that is used exclusively, or if being installed, is to be used exclusively, for the prevention or reduction of cotton dust inside a textile plant for the protection of the health of the employees of the plant, in accordance with occupational safety and health standards adopted by the State of North Carolina pursuant to Article 16 of G.S. Chapter 95. The Department of Revenue shall adopt guidelines to assist the tax supervisors in administering this exclusion.
  - d. Real or personal property that is used or, if under construction, is to be used by a major recycling facility as defined in G.S. 105-129.25 predominantly for recycling or resource recovering of or from solid waste, if the Department of Environment and Natural Resources furnishes a certificate to the tax supervisor of the county in which the property is situated stating the Department of Environment and Natural Resources has found that the described property has been or will be constructed or installed for use by a major recycling facility, complies or will comply with the rules of the Department of Environment and Natural Resources, and has, or will have as a purpose recycling or resource recovering of or from solid waste.
- (9) through (11) Repealed by Session Laws 1987, c. 813, s. 5.
  - (12) Real property owned by a nonprofit corporation or association exclusively held and used by its owner for educational and scientific purposes as a protected natural area. (For purposes of this subdivision, the term "protected natural area" means a nature reserve or park in which all types of wild nature, flora and fauna, and biotic communities are preserved for observation and study.)
  - (13) Repealed by Session Laws 1973, c. 904.
  - (14) Motor vehicles chassis belonging to nonresidents, which chassis temporarily enters the State for the purpose of having a body mounted thereon.

- (15) Upon the date on which each county's next general reappraisal of real property under the provisions of G.S. 105-286(a) becomes effective, standing timber, pulpwood, seedlings, saplings, and other forest growth. (The purpose of this classification is to encourage proper forest management practices and to develop and maintain the forest resources of the State.)
- (16) Non-business Property. – As used in this subdivision, the term "non-business property" means personal property that is used by the owner of the property for a purpose other than the production of income and is not used in connection with a business. The term includes household furnishings, clothing, pets, lawn tools, and lawn equipment. The term does not include motor vehicles, mobile homes, aircraft, watercraft, or engines for watercraft.
- (17) Real and personal property belonging to the American Legion, Veterans of Foreign Wars, Disabled American Veterans, or to any similar veterans organizations chartered by the Congress of the United States or organized and operated on a statewide or nationwide basis, and any post or local organization thereof, when used exclusively for meeting or lodge purposes by said organization, together with such additional adjacent real property as may be necessary for the convenient and normal use of the buildings thereon. Notwithstanding the exclusive-use requirement hereinabove established, if a part of a property that otherwise meets this subdivision's requirements is used for a purpose that would require that it not be listed, appraised, assessed or taxed if the entire property were so used, that part, according to its value, shall not be listed, appraised, assessed or taxed. The fact that a building or facility is incidentally available to and patronized by the general public, so far as there is no material amount of business or patronage with the general public, shall not defeat the classification granted by this section.
- (18) Real and personal property belonging to the Grand Lodge of Ancient, Free and Accepted Masons of North Carolina, the Prince Hall Masonic Grand Lodge of North Carolina, their subordinate lodges and appendant bodies including the Ancient and Arabic Order Nobles of the Mystic Shrine, and the Ancient Egyptian Order Nobles of the Mystic Shrine, when used exclusively for meeting or lodge purposes by said organization, together with such additional adjacent real property as may be necessary for the convenient normal use of the buildings thereon. Notwithstanding the exclusive-use requirement hereinabove established, if a part of a property that otherwise meets this subdivision's requirements is used for a purpose that would require that it not be listed, appraised, assessed or taxed if the entire property were so used, that part, according to its value, shall not be listed, appraised, assessed or taxed. The fact that a building or facility is incidentally available to and patronized by the general public, so far as there is no material amount of business or patronage with the general public, shall not defeat the classification granted by this section.
- (19) Real and personal property belonging to the Loyal Order of Moose, the Benevolent and Protective Order of Elks, the Knights of Pythias, the Odd Fellows, the Woodmen of the World, and similar fraternal or civic orders and

organizations operated for nonprofit benevolent, patriotic, historical, charitable, or civic purposes, when used exclusively for meeting or lodge purposes by the organization, together with as much additional adjacent real property as may be necessary for the convenient normal use of the buildings. Notwithstanding the exclusive-use requirement of this subdivision, if a part of a property that otherwise meets this subdivision's requirements is used for a purpose that would require that it not be listed, appraised, assessed, or taxed if the entire property were so used, that part, according to its value, shall not be listed, appraised, assessed, or taxed. The fact that a building or facility is incidentally available to and patronized by the general public, so far as there is no material amount of business or patronage with the general public, shall not defeat the classification granted by this section. Nothing in this subdivision shall be construed so as to include social fraternities, sororities, and similar college, university, or high school organizations in the classification for exclusion from ad valorem taxes.

- (20) Real and personal property belonging to Goodwill Industries and other charitable organizations organized for the training and rehabilitation of disabled persons when used exclusively for training and rehabilitation, including commercial activities directly related to such training and rehabilitation.
- (21) The first thirty-eight thousand dollars (\$38,000) in assessed value of housing together with the necessary land therefor, owned and used as a residence by a disabled veteran who receives benefits under 38 U.S.C. § 2101. This exclusion shall be the total amount of the exclusion applicable to such property.
- (22) Repealed by Session Laws 1987, c. 813, s. 5.
- (23) Tangible personal property imported from outside the United States and held in a Foreign Trade Zone for the purpose of sale, manufacture, processing, assembly, grading, cleaning, mixing or display and tangible personal property produced in the United States and held in a Foreign Trade Zone for exportation, either in its original form or as altered by any of the above processes.
- (24) Cargo containers and container chassis used for the transportation of cargo by vessels in ocean commerce.

The term "container" applies to those nondisposable receptacles of a permanent character and strong enough for repeated use and specially designed to facilitate the carriage of goods, by one or more modes of transport, one of which shall be by ocean vessels, without intermediate reloadings and fitted with devices permitting its ready handling particularly in the transfer from one transport mode to another.

- (24a) Aircraft that is owned or leased by an interstate air courier, is apportioned under G.S. 105-337 to the air courier's hub in this State, and is used in the air courier's operations in this State. For the purpose of this subdivision, the terms "interstate air courier" and "hub" have the meanings provided in G.S. 105-164.3.

- (25) Tangible personal property shipped into this State for the purpose of repair, alteration, maintenance or servicing and reshipment to the owner outside this State.
- (26) For the tax year immediately following transfer of title, tangible personal property manufactured in this State for the account of a nonresident customer and held by the manufacturer for shipment. For the purpose of this subdivision, the term "nonresident" means a taxpayer having no place of business in North Carolina.
- (27) (28) Repealed by Session Laws 1983, c. 643, s. 1.
- (29) Real property and easements wholly and exclusively held and used for nonprofit historic preservation purposes by a nonprofit historical association or institution, including real property owned by a nonprofit corporation organized for historic preservation purposes and held by its owner exclusively for sale under an historic preservation agreement prepared and recorded under the provisions of the Conservation and Historic Preservation Agreements Act, Article 4, Chapter 121 of the General Statutes of North Carolina.
- (29a) Land within an historic district held, by a nonprofit corporation organized for historic preservation purposes, for use as a future site for an historic structure that is to be moved to the site from another location. Property may be classified under this subdivision for no more than five years. The taxes that would otherwise be due on land classified under this subdivision shall be a lien on the real property of the taxpayer as provided in G.S. 105-355(a). The taxes shall be carried forward in the records of the taxing unit or units as deferred taxes and shall be payable five years from the fiscal year the exclusion is first claimed unless an historic structure is moved onto the site during that time. If an historic structure has not been moved to the site within five years, then deferred taxes for the preceding five fiscal years shall immediately be payable, together with interest as provided in G.S. 105-360 for unpaid taxes that shall accrue on the deferred taxes as if they had been payable on the dates on which they would originally become due. All liens arising under this subdivision are extinguished upon either the payment of any deferred taxes under this subdivision or the location of an historic structure on the site within the five-year period allowed under this subdivision.
- (30) Repealed by Session Laws 1987, c. 813, s. 5.
- (31) Intangible personal property other than leasehold interests in exempted real property. This subdivision does not affect the taxation of software not otherwise excluded by subdivision (40) of this section.
- (31a) through (31d) Repealed by Session Laws 1997-23, s. 3.
- (32) Recodified as § 105-278.6A by Session Laws 1998-212, s. 29A.18(a), effective for taxes imposed for taxable years beginning on or after July 1, 1998.
- (32a) Inventories owned by contractors.
- (33) Inventories owned by manufacturers.
- (34) Inventories owned by retail and wholesale merchants.

- (35) Severable development rights, as defined in G.S. 136-66.11(a), when severed and evidenced by a deed recorded in the office of the register of deeds pursuant to G.S. 136-66.11(c).
- (36) Real and personal property belonging to the North Carolina Low-Level Radioactive Waste Management Authority created under Chapter 104G of the General Statutes.
- (37) Poultry and livestock and feed used in the production of poultry and livestock.
- (38) Real and personal property belonging to the North Carolina Hazardous Waste Management Commission created under Chapter 130B of the General Statutes.
- (39) Real and personal property that is: (i) owned by a nonprofit corporation organized upon the request of a local government unit for the sole purpose of financing projects for public use, (ii) leased to a unit of local government whose property is exempt from taxation under G.S. 105-278.1, and (iii) used in whole or in part for a public purpose by such unit of local government. If only part of the property is used for a public purpose, only that part is exempt from the tax. This subdivision shall not apply if any distributions are made to members, officers, or directors of the nonprofit corporation.
- (40) Computer software and any documentation related to the computer software. As used in this subdivision, the term "computer software" means any program or routine used to cause a computer to perform a specific task or set of tasks. The term includes system and application programs and database storage and management programs.

The exclusion established by this subdivision does not apply to computer software and its related documentation if the computer software meets one or more of the following descriptions:

- a. It is embedded software. "Embedded software" means computer instructions, known as microcode, that reside permanently in the internal memory of a computer system or other equipment and are not intended to be removed without terminating the operation of the computer system or equipment and removing a computer chip, a circuit, or another mechanical device.
- b. It is purchased or licensed from a person who is unrelated to the taxpayer and it is capitalized on the books of the taxpayer in accordance with generally accepted accounting principles, including financial accounting standards issued by the Financial Accounting Standards Board. A person is unrelated to a taxpayer if (i) the taxpayer and the person are not subject to any common ownership, either directly or indirectly, and (ii) neither the taxpayer nor the person has any ownership interest, either directly or indirectly, in the other. This subdivision does not affect the value or taxable status of any property that is otherwise subject to taxation under this Subchapter.

The provisions of the exclusion established by this subdivision are not severable. If any provision of this subdivision or its application is held invalid, the entire subdivision is repealed.

- (41) Objects of art held by the North Carolina Art Society, Incorporated.
- (42) A vehicle that is offered at retail for short-term lease or rental and is owned or leased by an entity engaged in the business of leasing or renting vehicles to the general public for short-term lease or rental. For the purposes of this subdivision, the term "short-term lease or rental" shall have the same meaning as in G.S. 105-187.1, and the term "vehicle" shall have the same meaning as in G.S. 153A-156(e) and G.S. 160A-215.1(e). A gross receipts tax as set forth by G.S. 153A-156 and G.S. 160A-215.1 is substituted for and replaces the ad valorem tax previously levied on these vehicles.

### **105-276 TAXATION OF INTANGIBLE PERSONAL PROPERTY**

Intangible personal property that is not excluded from taxation under G.S. 105-275 is subject to this Subchapter. The exclusion of a class of intangible personal property from taxation under G.S. 105-275 does not affect the appraisal or assessment of real property and tangible personal property.



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## **OTHER EXEMPTIONS**

### **§ 105-278.1. Exemption of real and personal property owned by units of government.**

(a) Real and personal property owned by the United States and, by virtue of federal law, not subject to State and local taxes shall be exempted from taxation.

(b) Real and personal property belonging to the State, counties, and municipalities is exempt from taxation.

(c) For purposes of this section:

(1) A specified unit of government (federal, State, or local) includes its departments, institutions, and agencies.

(2) By way of illustration but not by way of limitation, the following boards, commissions, authorities, and institutions are units of State government:

a. The State Marketing Authority established by G.S. 106-529.

b. The Board of Governors of the University of North Carolina incorporated under the provisions of G.S. 116-3 and known as "The University of North Carolina."

c. The North Carolina Museum of Art made an agency of the State under G.S. 140-1.

(3) By way of illustration but not by way of limitation, the following boards, commissions, authorities, and institutions are units of local government of this State:

a. An airport authority, board, or commission created as a separate and independent body corporate and politic by an act of the General Assembly.

b. An airport authority, board, or commission created as a separate and independent body corporate and politic by one or more counties or municipalities or combinations thereof under the authority of an act of the General Assembly.

c. A hospital authority created under G.S. 131-93.

d. A housing authority created under G.S. 157-4 or G.S. 157-4.1.

e. A municipal parking authority created under G.S. 160-477.

f. A veterans' recreation authority created under G.S. 165-26.

### **§ 105-278.3. Real and personal property used for religious purposes.**

(a) Buildings, the land they actually occupy, and additional adjacent land reasonably necessary for the convenient use of any such building shall be exempted from taxation if wholly owned by an agency listed in subsection (c), below, and if:

(1) Wholly and exclusively used by its owner for religious purposes as defined in subsection (d)(1), below; or

(2) Occupied gratuitously by one other than the owner and wholly and exclusively used by the occupant for religious, charitable, or nonprofit educational, literary, scientific, or cultural purposes.

(b) Personal property shall be exempted from taxation if wholly owned by an agency listed in subsection (c), below, and if:

(1) Wholly and exclusively used by its owner for religious purposes; or

(2) Gratuitously made available to one other than the owner and wholly and exclusively used by the possessor for religious, charitable, or nonprofit educational, literary, scientific, or cultural purposes.

(c) The following agencies, when the other requirements of this section are met, may obtain exemption for their properties:

- (1) A congregation, parish, mission, or similar local unit of a church or religious body; or
- (2) A conference, association, presbytery, diocese, district, synod, or similar unit comprising local units of a church or religious body.

(d) Within the meaning of this section:

- (1) A religious purpose is one that pertains to practicing, teaching, and setting forth a religion. Although worship is the most common religious purpose, the term encompasses other activities that demonstrate and further the beliefs and objectives of a given church or religious body. Within the meaning of this section, the ownership and maintenance of a general or promotional office or headquarters by an owner listed in subdivision (2) of subsection (c), above, is a religious purpose and the ownership and maintenance of residences for clergy, rabbis, priests or nuns assigned to or serving a congregation, parish, mission or similar local unit, or a conference, association, presbytery, diocese, district, synod, province or similar unit of a church or religious body or residences for clergy on furlough or unassigned, is also a religious purpose. However, the ownership and maintenance of residences for other employees is not a religious purpose for either a local unit of a church or a religious body or a conference, association, presbytery, diocese, district, synod, or similar unit of a church or religious body. Provided, however, that where part of property which otherwise qualifies for the exemption provided herein is made available as a residence for an individual who provides guardian, janitorial and custodial services for such property, or who oversees and supervises qualifying activities upon and in connection with said property, the entire property shall be considered as wholly and exclusively used for a religious purpose.
- (2) A charitable purpose is one that has humane and philanthropic objectives; it is an activity that benefits humanity or a significant rather than limited segment of the community without expectation of pecuniary profit or reward. The humane treatment of animals is also a charitable purpose.
- (3) An educational purpose is one that has as its objective the education or instruction of human beings; it comprehends the transmission of information and the training or development of the knowledge or skills of individual persons.
- (4) A literary purpose is one that pertains to letters or literature, especially writing, publishing, and the study of literature. It includes the literature of the stage and screen as well as the performance or exhibition of works based on literature.
- (5) A cultural purpose is one that is conducive to the enlightenment and refinement of taste acquired through intellectual and aesthetic training, education, and discipline.

(6) A scientific purpose is one that yields knowledge systematically through research, experimentation or other work done in one or more of the natural sciences.

(e) Notwithstanding the exclusive-use requirement of subsection (a), above, if part of a property that otherwise meets that subsection's requirements is used for a purpose that would require exemption if the entire property were so used, the valuation of the part so used shall be exempted from taxation.

(f) The fact that a building or facility is incidentally available to and patronized by the general public, so long as there is no material amount of business or patronage with the general public, shall not defeat the exemption granted by this section.

(g) Notwithstanding the exclusive-use requirement of subsection (a), above, any parking lot wholly owned by an agency listed in subsection (c), above, may be used for parking without removing the tax exemption granted in this section; provided, the total charge for said uses shall not exceed that portion of the actual maintenance expenditures for the parking lot reasonably estimated to have been made on account of said uses. This subsection shall apply beginning with the taxable year that commences on January 1, 1978.

**§ 105-278.4. Real and personal property used for educational purposes.**

(a) Buildings. – Buildings, the land they actually occupy, and additional land reasonably necessary for the convenient use of any such building shall be exempted from taxation if all of the following requirements are met:

- (1) Owned by either of the following:
  - a. An educational institution; or
  - b. A nonprofit entity for the sole benefit of a constituent or affiliated institution of The University of North Carolina, an institution as defined in G.S. 116-22, a North Carolina community college, or a combination of these;
- (2) The owner is not organized or operated for profit and no officer, shareholder, member, or employee of the owner or any other person is entitled to receive pecuniary profit from the owner's operations except reasonable compensation for services;
- (3) Of a kind commonly employed in the performance of those activities naturally and properly incident to the operation of an educational institution such as the owner; and
- (4) Wholly and exclusively used for educational purposes by the owner or occupied gratuitously by another nonprofit educational institution and wholly and exclusively used by the occupant for nonprofit educational purposes.

(b) Land. – Land (exclusive of improvements); and improvements other than buildings, the land actually occupied by such improvements, and additional land reasonably necessary for the convenient use of any such improvement shall be exempted from taxation if:

- (1) Owned by an educational institution that owns real property entitled to exemption under the provisions of subsection (a), above;
- (2) Of a kind commonly employed in the performance of those activities naturally and properly incident to the operation of an educational institution such as the owner; and

- (3) Wholly and exclusively used for educational purposes by the owner or occupied gratuitously by another nonprofit educational institution (as defined herein) and wholly and exclusively used by the occupant for nonprofit educational purposes.
- (c) Partial Exemption. – Notwithstanding the exclusive-use requirements of subsections (a) and (b), above, if part of a property that otherwise meets the requirements of one of those subsections is used for a purpose that would require exemption if the entire property were so used, the valuation of the part so used shall be exempted from taxation.
- (d) Public Use. – The fact that a building or facility is incidentally available to and patronized by the general public, so long as there is no material amount of business or patronage with the general public, does not defeat the exemption granted by this section.
- (e) Personal Property. – Personal property owned by a church, a religious body, or an educational institution shall be exempted from taxation if:
  - (1) The owner is not organized or operated for profit, and no officer, shareholder, member, or employee of the owner, or any other person is entitled to receive pecuniary profit from the owner's operations except reasonable compensation for services; and
  - (2) Used wholly and exclusively for educational purposes by the owner or held gratuitously by a church, religious body, or nonprofit educational institution other than the owner, and wholly and exclusively used for nonprofit educational purposes by the possessor.
- (f) Definitions. – The following definitions apply in this section:
  - (1) Educational institution. – The term includes a university, a college, a school, a seminary, an academy, an industrial school, a public library, a museum, and similar institutions.
  - (2) Educational purpose. – A purpose that has as its objective the education or instruction of human beings; it comprehends the transmission of information and the training or development of the knowledge or skills of individual persons. The operation of a student housing facility, a student dining facility, a golf course, a tennis court, a sports arena, a similar sport property, or a similar recreational sport property for the use of students or faculty is also an educational purpose, regardless of the extent to which the property is also available to and patronized by the general public.(1973, c. 695, s. 4; 1991 (Reg. Sess., 1992), c. 926, s. 1; 2004-173, s. 1.)

**§ 105-278.5. Real and personal property of religious educational assemblies used for religious and educational purposes.**

(a) Buildings, the land they actually occupy, and additional adjacent land reasonably necessary for the convenient use of any such building or for the religious educational programs of the owner, shall be exempted from taxation if:

- (1) Owned by a religious educational assembly, retreat, or similar organization;
- (2) No officer, shareholder, member, or employee of the owner, or any other person is entitled to receive pecuniary profit from the owner's operations except reasonable compensation for services; and
- (3) Of a kind commonly employed in those activities naturally and properly incident to the operation of a religious educational assembly such as the owner; and
- (4) Wholly and exclusively used for
  - a. Religious worship or
  - b. Purposes of instruction in religious education.

(b) Notwithstanding the exclusive-use requirement of subsection (a), above, if part of a property that otherwise meets the subsection's requirements is used for a purpose that would require exemption if the entire property were so used, the valuation of the part so used shall be exempted from taxation.

(c) The fact that a building or facility is incidentally available to and patronized by the general public, so long as there is no material amount of business or patronage with the general public, shall not defeat the exemption granted by this section.

(d) Personal property owned by a religious educational assembly, retreat, or similar organization shall be exempted from taxation if it is exclusively maintained and used in connection with real property granted exemption under the provisions of subsection (a) or (b), above.

**§ 105-278.6. Real and personal property used for charitable purposes.**

- (a) Real and personal property owned by:
- (1) A Young Men's Christian Association or similar organization;
  - (2) A home for the aged, sick, or infirm;
  - (3) An orphanage or similar home;
  - (4) A Society for the Prevention of Cruelty to Animals;
  - (5) A reformatory or correctional institution;
  - (6) A monastery, convent, or nunnery;
  - (7) A nonprofit, life-saving, first aid, or rescue squad organization;
  - (8) A nonprofit organization providing housing for individuals or families with low or moderate incomes

shall be exempted from taxation if: (i) As to real property, it is actually and exclusively occupied and used, and as to personal property, it is entirely and completely used, by the owner for charitable purposes; and (ii) the owner is not organized or operated for profit.

(b) A charitable purpose within the meaning of this section is one that has humane and philanthropic objectives; it is an activity that benefits humanity or a significant rather than limited segment of the community without expectation of pecuniary profit or reward. The humane treatment of animals is also a charitable purpose.

(c) The fact that a building or facility is incidentally available to and patronized by the general public, so long as there is no material amount of business or patronage with the general public, shall not defeat the exemption granted by this section.

(d) Notwithstanding the exclusive-use requirements of this section, if part of a property that otherwise meets the section's requirements is used for a purpose that would require exemption under subsection (a), above, if the entire property were so used, the valuation of the part so used shall be exempted from taxation.

(e) Real property held by an organization described in subdivision (a)(8) is held for a charitable purpose under this section if it is held for no more than five years as a future site for housing for individuals or families with low or moderate incomes. The taxes that would otherwise be due on real property exempt under this subsection shall be a lien on the property as provided in G.S. 105-355(a). The taxes shall be carried forward in the records of the taxing unit as deferred taxes and shall be payable five years after the tax year the exemption is first claimed unless the organization has constructed low- or moderate-income housing on the site. If this condition has not been met, the deferred taxes for the preceding five fiscal years shall be payable immediately, together with interest as provided in G.S. 105-360 for unpaid taxes that accrues on the deferred taxes as if they had been payable on the dates they would have originally become due. All liens arising under this subsection are extinguished upon one of the following:

(1) Payment of all deferred taxes under this subsection.

(2) Construction by the organization of low- or moderate-income housing on the site within five years after the tax year the exemption is first claimed.

#### **§ 105-278.6A. Qualified retirement facility.**

(a) Classification. – Buildings, the land they actually occupy, additional adjacent land reasonably necessary for the convenient use of the buildings, and personal property owned by a qualified

retirement facility and used in the operation of that facility are designated a special class of property under Section 2(2) of Article V of the North Carolina Constitution and are excluded from taxation to the extent provided in this section.

Definitions. – The following definitions apply in this section:

(1) Charity care. – The unreimbursed costs to the facility of providing health care, housing, or other services to a resident who is uninsured, underinsured, or otherwise unable to pay for all or part of the services rendered.

(2) Community benefits. – The unreimbursed costs to the facility of providing the following:

a. Services, including health, recreation, community research, and education activities provided to the community at large, including the elderly.

b. Charitable donations.

c. Donated volunteer services.

d. Donations and voluntary payments to government agencies.

(3) Financial reporting period. – The calendar year or tax year ending prior to the date the retirement facility applies for an exclusion under this section.

(4) Resident revenue. – Annual revenue aid by a resident for goods and services and one

year's share of the initial resident fee amortized in accordance with generally accepted accounting principles.

- (5) Retirement facility. – A community that meets all of the following conditions:
  - a. It is licensed under Article 64 of Chapter 58 of the General Statutes.
  - b. It is designed for elderly residents.
  - c. It includes independent living units for elderly residents.
  - d. It includes a skilled nursing facility or an adult care facility.
- (6) Unreimbursed costs. – The costs a facility incurs for providing charity care or community benefits after subtracting payment or reimbursement received from any source for the care or benefits. Unreimbursed costs include costs paid from funds generated by a program described in subdivision (c)(5) of this section.

(c) Total Exclusion. –

A retirement facility qualifies for total exclusion under this section if it meets all of the following conditions:

- (1) It is exempt from tax under Article 4 of this Chapter and private shareholders do not benefit from its operations.
- (2) All of its revenues, less operating and capital expenses, are applied to providing uncompensated goods and services to the elderly and to the local community, or are applied to an endowment or a reserve for these purposes.
- (3) Its charter provides that in the event of dissolution, its assets will revert or be conveyed to an entity that is organized exclusively for charitable, educational, scientific, or religious purposes, and is an exempt organization under section 501(c)(3) of the Code.
- (5) It has an active program to generate funds through one or more sources, such as gifts, grants, trusts, bequests, endowment, or an annual giving program, to assist the retirement facility in serving persons who might not be able to reside there without financial assistance or subsidy.
- (6) It meets at least one of the following conditions:
  - a. The facility serves all residents without regard to the residents' ability to pay.
  - b. At least five percent (5%) of the facility's resident revenue for the financial reporting period is provided in charity care to its residents, in community benefits, or in both.

(d) Partial Exclusion. – A retirement facility qualifies for a partial exclusion under this subsection if it meets conditions under subdivisions (c)(1) through (c)(5) of this section and at least one percent (1%) of the facility's resident revenue for the financial reporting period is provided in charity care to its residents, in community benefits, or in both. The percentage of the retirement facility's assessed value that is excluded from taxation is the applicable percentage provided in the following table, based on the minimum percentage of the facility's resident revenue that it provides in charity care to its residents, in community benefits, or in both:



Partial Exclusion	Minimum Percentage of Resident Revenue
80%	4%
60%	3%
40%	2%
20%	1%

(e) Application for Exclusion. – The application requirements of G.S. 105-282.1 apply to this section."

**§ 105-278.7. Real and personal property used for educational, scientific, literary, or charitable purposes.**

(a) Buildings, the land they actually occupy, and additional adjacent land necessary for the convenient use of any such building shall be exempted from taxation if wholly owned by an agency listed in subsection (c), below, and if:

(1) Wholly and exclusively used by its owner for nonprofit educational, scientific, literary, or charitable purposes as defined in subsection (f), below; or

(2) Occupied gratuitously by an agency listed in subsection (c), below, other than the owner, and wholly and exclusively used by the occupant for nonprofit educational, scientific, literary, charitable, or cultural purposes.

(b) Personal property shall be exempted from taxation if wholly owned by an agency listed in subsection (c), below, and if:

(1) Wholly and exclusively used by its owner for nonprofit educational, scientific, literary, or charitable purposes; or

(2) Gratuitously made available to an agency listed in subsection (c), below, other than the owner, and wholly and exclusively used by the possessor for nonprofit educational, scientific, literary, or charitable purposes.

(c) The following agencies, when the other requirements of this section are met, may obtain property tax exemption under this section:

(1) A charitable association or institution,

(2) An historical association or institution,

(3) A veterans' organization or association,

(4) A scientific association or institution,

(5) A literary association or institution,

(6) A benevolent association or institution, or

(7) A nonprofit community or neighborhood organization.

(d) Notwithstanding the exclusive-use requirements of subsection (a), above, if part of a property that otherwise meets the subsection's requirements is used for a purpose that would require exemption if the entire property were so used, the valuation of the part so used shall be exempted from taxation.

(e) The fact that a building or facility is incidentally available to and patronized by the general public, so long as there is no material amount of business or patronage with the general public, shall not defeat the exemption granted by this section.

(f) Within the meaning of this section:

(1) An educational purpose is one that has as its objective the education or instruction of human beings; it comprehends the transmission of information and the training or development of the knowledge or skills of individual persons.

(2) A scientific purpose is one that yields knowledge systematically through research, experimentation, or other work done in one or more of the natural sciences.

(3) A literary purpose is one that pertains to letters or literature, especially writing, publishing, and the study of literature. It includes the literature of the stage and screen as well as the performance or exhibition of works based on literature.

(4) A charitable purpose is one that has humane and philanthropic objectives; it is an activity that benefits humanity or a significant rather than limited segment of the community without

expectation of pecuniary profit or reward. The humane treatment of animals is also a charitable purpose.

(5) A cultural purpose is one that is conducive to the enlightenment and refinement of taste acquired through intellectual and aesthetic training, education, and discipline.

**§ 105-278.8. Real and personal property used for charitable hospital purposes.**

(a) Real and personal property held for or owned by a hospital organized and operated as a nonstock, nonprofit, charitable institution (without profit to members or their successors) shall be exempted from taxation if actually and exclusively used for charitable hospital purposes.

(b) Notwithstanding the exclusive-use requirements of subsection (a), above, if part of a property that otherwise meets that subsection's requirements is used for a purpose that would require exemption under that subsection if the entire property were so used, the valuation of the part so used shall be exempted from taxation.

(c) Within the meaning of this section, a charitable hospital purpose is a hospital purpose that has humane and philanthropic objectives; it is a hospital activity that benefits humanity or a significant rather than limited segment of the community without expectation of pecuniary profit or reward. However, the fact that a qualifying hospital charges patients who are able to pay for services rendered does not defeat the exemption granted by this section.

## **(6) APPLICATIONS FOR EXEMPTIONS**

### **§ 105-282.1. Applications for property tax exemption or exclusion; annual review of property exempted or excluded from property tax.**

(a) Application. – Every owner of property claiming exemption or exclusion from property taxes under the provisions of this Subchapter has the burden of establishing that the property is entitled to it. If the property for which the exemption or exclusion is claimed is appraised by the Department of Revenue, the application shall be filed with the Department. Otherwise, the application shall be filed with the assessor of the county in which the property is situated. An application must contain a complete and accurate statement of the facts that entitle the property to the exemption or exclusion and must indicate the municipality, if any, in which the property is located. Each application filed with the Department of Revenue or an assessor shall be submitted on a form approved by the Department. Application forms shall be made available by the assessor and the Department, as appropriate.

Except as provided below, an owner claiming an exemption or exclusion from property taxes must file an application for the exemption or exclusion annually during the listing period.

(1) No application required. –

Owners of the following exempt or excluded property do not need to file an application for the exemption or exclusion to be entitled to receive it:

- a. Property exempt from taxation under G.S. 105-278.1 or G.S. 105-278.2.
- b. Special classes of property excluded from taxation under G.S. 105-275(15), (16), (26), (31), (32a), (33), (34), (37), (40), or (42).
- c. Property classified for taxation at a reduced valuation under G.S. 105-277(g) or G.S. 105-277.9.

(2) Single application required. –

An owner of one or more of the following properties eligible to be exempted or excluded from taxation must file an application for exemption or exclusion to receive it. Once the application has been approved, the owner does not need to file an application in subsequent years unless new or additional property is acquired or improvements are added or removed, necessitating a change in the valuation of the property, or there is a change in the use of the property or the qualifications or eligibility of the taxpayer necessitating a review of the exemption or exclusion:

- a. Property exempted from taxation under G.S. 105-278.3, 105-278.4, 105-278.5, 105-278.6, 105-278.7, or 105-278.8.
- b. Special classes of property excluded from taxation under G.S. 105-275(3), (7), (8), (12), (17), (18), (19), (20), (21), (35), (36), (38), (39), or (41) or under G.S. 131A-21.
- c. Special classes of property classified for taxation at a reduced valuation under G.S. 105-277(h), 105-277.1, 105-277.10, 105-277.13, or 105-278.
- d. Property owned by a nonprofit homeowners' association but where the value of the property is included in the appraisals of property owned by members of the association under G.S. 105-277.8.

(a1) Late Application. – Upon a showing of good cause by the applicant for failure to make a timely application, an application for exemption or exclusion filed after the close of the listing

period may be approved by the Department of Revenue, the board of equalization and review, the board of county commissioners, or the governing body of a municipality, as appropriate. An untimely application for exemption or exclusion approved under this subsection applies only to property taxes levied by the county or municipality in the calendar year in which the untimely application is filed.

(b) Approval and Appeal Process. – The Department of Revenue or the assessor to whom an application for exemption or exclusion is submitted must review the application and either approve or deny the application. Approved applications shall be filed and made available to all taxing units in which the exempted or excluded property is situated. If the Department denies an application for exemption or exclusion, it shall notify the taxpayer, who may appeal the denial to the Property Tax Commission. If an assessor denies an application for exemption or exclusion, the assessor must notify the owner of the decision and the owner may to appeal the decision to the board of equalization and review or the board of county commissioners, as appropriate, and from the county board to the Property Tax Commission. If the notice of denial covers property located within a municipality, the assessor shall send a copy of the notice and a copy of the application to the governing body of the municipality. The municipal governing body shall then advise the owner whether it will adopt the decision of the county board or require the owner to file a separate appeal with the municipal governing body. In the event the owner is required to appeal to the municipal governing body and that body renders an adverse decision, the owner may appeal to the Property Tax Commission. Nothing in this subsection shall prevent the governing body of a municipality from denying an application which has been approved by the assessor or by the county board provided the owner's rights to notice and hearing are not abridged. Applications handled separately by a municipality shall be filed in the office of the person designated by the governing body, or in the absence of such designation, in the office of the chief fiscal officer of the municipality.

(c) Discovery of Property. – When an owner of property that may be eligible for exemption or exclusion neither lists the property nor files an application for exemption or exclusion, the assessor or the Department of Revenue, as appropriate, shall proceed to discover the property. If, upon appeal, the owner demonstrates that the property meets the conditions for exemption or exclusion, the body hearing the appeal may approve the exemption or exclusion. Discovery of the property by the Department or the county shall automatically constitute a discovery by any taxing unit in which the property has a taxable situs.

(d) Roster of Exempted and Excluded Property. – The assessor shall prepare and maintain a roster of all property in the county that is granted tax relief through classification or exemption. On or before November 1 of each year, the assessor must send a report to the Department of Revenue summarizing the information contained in the roster. The report must be in the format required by the Department. The assessor must also send the Department a copy of the roster upon the request of the Department. As to affected real and personal property, the roster shall set forth:

- (1) The name of the owner of the property.
- (2) A brief description of the property.
- (3) A statement of the use to which the property is put.
- (4) A statement of the value of the property.
- (5) The total value of exempt property in the county and in each municipality therein.

- (e) Annual Review of Exempted or Excluded Property. – Pursuant to G.S. 105-296(1), the assessor must annually review at least one-eighth of the parcels in the county exempted or excluded from taxation to verify that the parcels qualify for the exemption or exclusion.

#### **Discussion on G.S. 105-282.1(a1) -- Late application**

Applications for exemption are required to be filed by the owner of the property during the listing period. The regular listing period is the month of January, but becomes the extended period if the regular listing period is extended by the county board of commissioners or if an individual extension is granted.

There are times when a taxpayer will file an application for exemption after the close of the listing period. G.S. 105-282.1(a1) allows a late application for exemption to be approved if the applicant shows good cause for failure to make a timely application. The county assessor does not have authority to approve a late application. Only the Department of Revenue, the board of equalization and review, the board of county commissioners, or the governing body of a municipality may approve a late application. Any late application must be filed before the end of the calendar year for the tax year in question. An application filed after the end of the calendar year can not be approved.

#### **Discussion on G.S. 105-282.1(c) -- Exemptions and Discoveries**

When an owner of property fails to list property as required by G.S. 105-285 the county assessor is required to discover the property for each tax year the property goes unlisted not to exceed the current year plus the five preceding years. If the owner upon appeal of the discovery demonstrates that the property meets the conditions for exemption or exclusion, the hearing body may approve the application. This is true for all years in which property is discovered.

Situations come up where the owner lists and pays taxes on property which would have been exempt if an application had been filed with the county assessor. The owner decides the next year that the property should have been exempt and wants to file a late application in that year for the previous year. The statutes do not allow for an application for exemption to be approved for a previous year if the property has been listed by the owner.

The case of Weyerhaeuser Company vs. Craven County, heard by the North Carolina Court of Appeals in September 1996, addresses the issue. In this case Craven County discovered property for prior years. Pollution abatement equipment was part of the discovery. Under G.S. 105-282.1(c) the county allowed the exemption on the pollution abatement equipment. The taxpayer realized after the discovery was issued that it had listed and paid taxes on other pollution abatement equipment. The taxpayer made application for exemption for prior years and the county denied the application. The North Carolina Property Tax Commission upheld the county's decision and the Court of Appeals agreed. The Court stated "In this case, however, appellant stipulated that it had listed the equipment at issue. Thus G.S. 105-282.1(c) does not apply." This case makes two issues clear: 1) A late application for exemption can only be approved if filed during the calendar year in which the taxes are due. 2) Property that is listed by the owner can not be exempted for prior years under G.S. 105-282.1(c).

## **(6) DATE PERSONAL PROPERTY IS TO LISTED AND APPRAISED**

### **§ 105-285. Date as of which property is to be listed and appraised.**

(a) Annual Listing Required. – All property subject to ad valorem taxation shall be listed annually.

(b) Personal Property; General Rule. – Except as otherwise provided in this Chapter, the value, ownership, and place of taxation of personal property, both tangible and intangible, shall be determined annually as of January 1.

(c) Repealed by Session Laws 1987, c. 813, s. 12.

(d) Real Property. – The value of real property shall be determined as of January 1 of the years prescribed by G.S. 105-286 and G.S. 105-287. The ownership of real property shall be determined annually as of January 1, except in the following situation: When any real property is acquired after January 1, but prior to July 1, and the property was not subject to taxation on January 1 on account of its exempt status, it shall be listed for taxation by the transferee as of the date of acquisition and shall be appraised in accordance with its true value as of January 1 preceding the date of acquisition; and the property shall be taxed for the fiscal year of the taxing unit beginning on July 1 of the year in which it is acquired. The person in whose name such property is listed shall have the right to appeal the listing, appraisal, and assessment of the property in the same manner as that provided for listings made as of January 1.

In the event real property exempt as of January 1 is, prior to July 1, acquired from a governmental unit that by contract is making payments in lieu of taxes to the taxing unit for the fiscal period beginning July 1 of the year in which the property is acquired, the tax on such property for the fiscal period beginning on July 1 immediately following acquisition shall be one half of the amount of the tax that would have been imposed if the property had been listed for taxation as of January 1.

## **(7) NAME IN WHICH PERSONAL PROPERTY IS TO BE LISTED**

### **§ 105-306. In whose name personal property is to be listed.**

(a) Taxable personal property shall be listed in the name of the owner on the day as of which property is to be listed for taxation, and it shall be the duty of the owner to list the property.

(b) If personal property is listed in the name of a person other than the one in whose name it should be listed, and the name of the proper person is later ascertained, the abstract and tax records shall be corrected to list the property in the name in which it should have been listed. The corrected listing shall have the same force and effect as if the personal property had been listed in the name of the proper person in the first instance.

(c) For purposes of this Subchapter:

- (1) The owner of the equity of redemption in personal property subject to a chattel mortgage shall be considered the owner of the property.
- (2) The vendee of personal property under a conditional bill of sale, or under any other sale contract through which title to the property is retained by the vender as security for the payment of the purchase price, shall be considered the owner of the property if he has possession of or the right to use the property.
- (3) Personal property owned by a corporation, partnership, or unincorporated association shall be listed in the name of the corporation, partnership, or unincorporated association.
- (4) Personal property held in connection with a sole proprietorship shall be listed in the name of the owner, and the name and address of the proprietorship shall be noted on the abstract.
- (5) Personal property of which a decedent died possessed, if not under the control of an executor or administrator, shall be listed in the names of the next of kin or legatees if known, but such property may be listed as property of "the next of kin" or "the legatees" of the decedent, without naming them, until they have given the assessor notice of their names and of the division of the estate. It shall be the duty of an executor or administrator having control of personal property to list it in his fiduciary capacity, as required by subdivision (c)(6), below, until he is divested of control of the property.
- (6) Personal property, the title to which is held by a trustee, guardian, or other fiduciary, shall be listed by the fiduciary in his fiduciary capacity except as otherwise provided in this section.
- (7) If personal property is owned by two or more persons who are joint owners, each owner shall list the value of his interest. However, if the joint owners are husband and wife, the property owned jointly shall be listed on a single abstract in the names of both the husband and the wife.
- (8) If the person in whose name personal property should be listed is unknown, or if the ownership of the property is in dispute, the property shall be listed in the name of the person in possession of the property, or if there appears to be no person in possession, in the name of "unknown owner." When the name of the owner is later ascertained, the provisions of subsection (b), above, shall apply.



- (9) Personal property, owned under a time-sharing arrangement but managed by a homeowners association or other managing entity, shall be listed in the name of the managing entity.

## **(8) LISTING FUNCTION**

### **§ 105-307. Length of listing period; extension; preliminary work.**

(a) Listing Period. – Unless extended as provided in this section, the period during which property is to be listed for taxation each year begins on the first business day of January and ends on January 31.

(b) General Extensions. – The board of county commissioners may, by resolution, extend the time during which property is to be listed for taxation as provided in this subsection. Any action by the board of county commissioners extending the listing period must be recorded in the minutes of the board, and notice of the extensions must be published as required by G.S. 105-296(c). The entire period for listing, including any extension of time granted, is considered the regular listing period for the particular year within the meaning of this Subchapter.

- (1) In nonrevaluation years, the listing period may be extended for up to 30 additional days.
- (2) In years of octennial appraisal of real property, the listing period may be extended for up to 60 additional days.
- (3) If the county has provided for electronic listing of personal property under G.S. 105-304, the period for electronic listing of business personal property may be extended up to June 1.

(c) Individual Extensions. – The board of county commissioners shall grant individual extensions of time for the listing of real and personal property upon written request and for good cause shown. The request must be filed with the assessor no later than the ending date of the regular listing period. The board may delegate the authority to grant extensions to the assessor. Extensions granted under this subsection shall not extend beyond April 15. If the county has provided for electronic listing of personal property under G.S. 105-304, the period for electronic listing of business personal property is as provided in subsection (b) of this section.

(d) Preliminary Work. – The assessor may conduct preparatory work before the listing period begins, but may not make a final appraisal of property before the day as of which the value of the property is to be determined under G.S. 105-285.

### **§ 105-308. Duty to list; penalty for failure.**

Every person in whose name any property is to be listed under the terms of this Subchapter shall list the property with the assessor within the time allowed by law on an abstract setting forth the information required by this Subchapter.

In addition to all other penalties prescribed by law, any person whose duty it is to list any property who willfully fails or refuses to list the same within the time prescribed by law shall be guilty of a Class 2 misdemeanor. The failure to list shall be prima facie evidence that the failure was willful.

Any person who willfully attempts, or who willfully aids or abets any person to attempt, in any manner to evade or defeat the taxes imposed under this Subchapter, whether by removal or concealment of property or otherwise, shall be guilty of a Class 2 misdemeanor.

**§ 105-309. What the abstract shall contain.**

(a) Each person whose duty it is to list property for taxation shall file each year with the assessor a tax list or abstract showing, as of the date prescribed by G.S. 105-285(b), the information required by this section. Subject to the provisions of subdivisions (a)(1) and (a)(2), below, each person whose duty it is to list property for taxation shall file a separate abstract.

- (1) Tenants by the entirety shall file a single abstract listing the real property so held, together with all personal property they own jointly.
- (2) Tenants in common shall file a single abstract listing the real property so held, together with all personal property that they own jointly, unless, as provided in G.S. 105-302(c)(9), the assessor allows them to list their undivided interests in the real property on separate abstracts.

(b) Each abstract shall show the taxpayer's name; residence address; and, if required by the assessor, business address.

- (1) An individual trading under a firm name shall show his name and address and also the name and address of his business firm.
- (2) An unincorporated association shall show both the name and address of the association and the names and addresses of its principal officers.
- (3) A partnership shall show both the name and address of the partnership and the names and addresses of its full partners.

(c) Each tract, parcel, or lot of real property owned or controlled in the county shall be listed in accordance with the following instructions:

- (1) Real property not divided into lots shall be described by giving:
  - a. The township in which located.
  - b. The total number of acres in the tract, or, if smaller than one acre, the dimensions of the parcel.
  - c. The tract name (if any), the names of at least two adjoining landowners, a reference to the tract's designation on any map maintained in the office of the assessor or on file in the office of the register of deeds, or some other description sufficient to identify and locate the property by parol testimony.
  - d. If applicable, the number of acres of:
    1. Cleared land;
    2. Woods and timberland;
    3. Land containing mineral or quarry deposits;
    4. Land susceptible of development for waterpower;
    5. Wasteland.
  - e. The portion of the tract or parcel located within the boundaries of any municipality.
- (2) Real property divided into lots shall be described by giving:
  - a. The township in which located.

- b. The dimensions of the lot.
  - c. The location of the lot, including its street number (if any).
  - d. The lot's designation on any map maintained in the office of the assessor or on file in the office of the register of deeds, or some description sufficient to identify and locate the property by parol testimony.
  - e. The portion of the lot located within the boundaries of any municipality.
- (3) In conjunction with the listing of any real property under subdivisions (c)(1) and (c)(2), above, there shall be given a short description of any buildings and other improvements thereon that belong to the owner of the land.
- (4) Buildings and other improvements having a value in excess of one hundred dollars (\$100.00) that have been acquired, begun, erected, damaged, or destroyed since the time of the last appraisal of property shall be described.
- (5) If some person other than the owner of a tract, parcel, or lot shall own any buildings or other improvements thereon or separate rights (such as mineral, quarry, timber, waterpower, or other rights) therein, that fact shall be specified on the abstract on which the land is listed, together with the name and address of the owner of the buildings, other improvements, or rights.
- a. Buildings, other improvements, and separate rights owned by a taxpayer with respect to the lands of another shall be listed separately and identified so as to indicate the name of the owner thereof and the tract, parcel, or lot on which the buildings or other improvements are situated or to which the separate rights appertain.
  - b. In accordance with the provisions of G.S. 105-302(c)(11), buildings or other improvements or separate rights owned by a taxpayer with respect to the lands of another may be listed either in the name of the owner of the buildings, other improvements, or rights, or in the name of the owner of the land.
- (d) Personal property shall be listed to indicate the township and municipality, if any, in which it is taxable and shall be itemized by the taxpayer in such detail as may be prescribed by an abstract form approved by the Department of Revenue. Personal property shall also be listed to indicate which property, if any, is subject to a tax credit under G.S. 105-151.21.
- (1) If the assessor considers it necessary to obtain a complete listing of personal property, the assessor may require a taxpayer to submit additional information, inventories, or itemized lists of personal property.
  - (2) At the request of the assessor, the taxpayer shall furnish any information the taxpayer has with respect to the true value of the personal property the taxpayer is required to list.
- (e) At the end of the abstract each person whose duty it is to list property for taxation shall sign the affirmation required by G.S. 105-310.
- (f) The notice set out below must appear on each abstract or on an information sheet distributed with the abstract. The abstract or sheet must include the address and telephone number of the assessor below the notice:

**"PROPERTY TAX HOMESTEAD EXCLUSION FOR ELDERLY OR PERMANENTLY DISABLED PERSONS."**

North Carolina excludes from property taxes a portion of the appraised value of a permanent residence owned and occupied by North Carolina residents aged 65 or older or totally and permanently disabled whose income does not exceed (assessor insert amount). The amount of the appraised value of the residence that may be excluded from taxation is the greater of twenty thousand dollars (\$20,000) or fifty percent (50%) of the appraised value of the residence. Income means the owner's adjusted gross income as determined for federal income tax purposes, plus all moneys received other than gifts or inheritances received from a spouse, lineal ancestor or lineal descendant.

If you received this exclusion in (assessor insert previous year), you do not need to apply again unless you have changed your permanent residence. If you received the exclusion in (assessor insert previous year) and your income in (assessor insert previous year) was above (assessor insert amount), you must notify the assessor. If you received the exclusion in (assessor insert previous year) because you were totally and permanently disabled and you are no longer totally and permanently disabled, you must notify the assessor. If the person receiving the exclusion in (assessor insert previous year) has died, the person required by law to list the property must notify the assessor. Failure to make any of the notices required by this paragraph before June 1 will result in penalties and interest.

If you did not receive the exclusion in (assessor insert previous year) but are now eligible, you may obtain a copy of an application from the assessor. It must be filed by June 1."

(g) Any person who fails to give the notice required by G.S. 105-309(f) shall not only be subject to loss of the exemption, but also to the penalties provided by G.S. 105-312, and also if willful to the penalty provided in G.S. 105-310. For the purpose of determining whether a penalty is levied, whenever a taxpayer has received an exemption under G.S. 105-277.1 for one taxable year but the property of taxpayer is not eligible for the exemption the next year, notice given of that fact to the assessor on or before April 15 shall be considered as timely filed

**§ 105-310. Affirmation; penalty for false affirmation.**

There shall be annexed to the abstract on which the taxpayer's property is listed the following affirmation, which shall be signed by an individual qualified under the provisions of G.S. 105-311:

Under penalties prescribed by law, I hereby affirm that to the best of my knowledge and belief this listing, including any accompanying statements, inventories, schedules, and other information, is true and complete. (If this affirmation is signed by an individual other than the taxpayer, he affirms that he is familiar with the extent and true value of all the taxpayer's property subject to taxation in this county and that his affirmation is based on all the information of which he has any knowledge.)

Any individual who willfully makes and subscribes an abstract listing required by this Subchapter which he does not believe to be true and correct as to every material matter shall be guilty of a Class 2 misdemeanor.

**§ 105-311. Duty to appear for purposes of listing and signing affirmation; use of agents and mail.**

(a) Except as otherwise provided in this section, the person whose duty it is to list property for taxation shall appear before the assessor for purposes of listing and shall sign the affirmation required by G.S. 105-310 to be annexed to the completed abstract on which the property is listed.

- (1) In the case of an individual taxpayer who is unable to list his property, a guardian, authorized agent, or other person having knowledge of and charged with the care of the person and property of the taxpayer shall appear for purposes of listing and shall sign the required affirmation in the name of the taxpayer, noting thereon the capacity in which he signs.
- (2) In the case of a corporation, partnership, or unincorporated association, a person specified in subdivision a or subdivision b, below, shall appear for purposes of listing the taxpayer's property and shall sign the required affirmation in the name of the taxpayer, noting thereon the capacity in which he signs, and no other agent shall be permitted to sign the affirmation required on such a taxpayer's abstract:
  - a. A principal officer of the taxpayer or
  - b. A full-time employee of the taxpayer who has been officially empowered by a principal officer of the taxpayer in his behalf to list the taxpayer's property for taxation in the county and to sign the affirmation annexed to the abstract or abstracts on which its property is listed.
- (3) In the case of an individual who is not a resident of the county in which his property is to be listed, the taxpayer shall sign the affirmation required on the abstract on which his property is listed, but he may submit the completed abstract by mail or by an authorized agent.

(b) Any abstract submitted by mail may be accepted or rejected by the assessor in the assessor's discretion. However, the board of county commissioners, with the approval of the Department of Revenue, may by resolution provide for the general acceptance of completed abstracts submitted by mail or submitted electronically. In no event shall an abstract submitted by mail be accepted unless the affirmation on the abstract is signed by the individual prescribed in subsection (a) of this section. An electronic listing may be signed electronically in accordance with the Electronic Commerce Act, Article 11A of Chapter 66 of the General Statutes.

For the purpose of this Subchapter, abstracts submitted by mail are considered filed as of the date shown on the postmark affixed by the United States Postal Service. If no date is shown on the postmark, or if the postmark is not affixed by the United States Postal Service, the abstract is considered filed when received in the office of the assessor. Abstracts submitted by electronic listing are considered filed when received in the office of the assessor. In any dispute arising under this Subchapter, the burden of proof is on the taxpayer to show that the abstract was timely filed.

## **(9) DISCOVERY OF UNLISTED OR UNDERVALUED PROPERTY**

### **§ 105-312. Discovered property; appraisal; penalty.**

(a) Repealed by Session Laws 1991, c. 34, s. 4.

(b) Duty to Discover and Assess Unlisted Property. – It shall be the duty of the assessor to see that all property not properly listed during the regular listing period be listed, assessed and taxed as provided in this Subchapter. The assessor shall file reports of such discoveries with the board of commissioners in such manner as the board may require.

(c) Carrying Forward Real Property. – At the close of the regular listing period each year, the assessor shall compare the tax lists submitted during the listing period just ended with the lists for the preceding year, and he shall carry forward to the lists of the current year all real property that was listed in the preceding year but that was not listed for the current year. When carried forward, the real property shall be listed in the name of the taxpayer who listed it in the preceding year unless, under the provisions of G.S. 105-302, it must be listed in the name of another taxpayer. Real property carried forward in this manner shall be deemed to be discovered property, and the procedures prescribed in subsection (d), below, shall be followed unless the property discovered is listed in the name of the taxpayer who listed it for the preceding year and the property is not subject to appraisal under either G.S. 105-286 or G.S. 105-287 in which case no notice of the listing and valuation need be sent to the taxpayer.

(d) Procedure for Listing, Appraising, and Assessing Discovered Property. – Subject to the provisions of subsection (c), above, and the presumptions established by subsection (f), below, discovered property shall be listed by the assessor in the name of the person required by G.S. 105-302 or G.S. 105-306. The discovery shall be deemed to be made on the date that the abstract is made or corrected pursuant to subsection (e) of this section. The assessor shall also make a tentative appraisal of the discovered property in accordance with the best information available to him.

When a discovery is made, the assessor shall mail a notice to the person in whose name the discovered property has been listed. The notice shall contain the following information:

- (1) The name and address of the person in whose name the property is listed;
- (2) A brief description of the property;
- (3) A tentative appraisal of the property;
- (4) A statement to the effect that the listing and appraisal will become final unless written exception thereto is filed with the assessor within 30 days from date of the notice.

Upon receipt of a timely exception to the notice of discovery, the assessor shall arrange a conference with the taxpayer to afford him the opportunity to present any evidence or argument he may have regarding the discovery. Within 15 days after the conference, the assessor shall give written notice to the taxpayer of his final decision. Written notice shall not be required, however, if the taxpayer signs an agreement accepting the listing and appraisal. In cases in which agreement is not reached, the taxpayer shall have 15 days from the date of the notice to request review of the decision of the assessor by the board of equalization and review or, if that board is not in session, by the board of commissioners. Unless the request for review by the county board is given at the conference, it shall be made in writing to the assessor. Upon receipt of a timely

request for review, the provisions of G.S. 105-322 or G.S. 105-325, as appropriate, shall be followed.

(e) Record of Discovered Property. – When property is discovered, the taxpayer's original abstract (if one was submitted) may be corrected or a new abstract may be prepared to reflect the discovery. If a new abstract is prepared, it may be filed with the abstracts that were submitted during the regular listing period, or it may be filed separately with abstracts designated "Late Listings." Regardless of how filed, the listing shall have the same force and effect as if it had been submitted during the regular listing period.

(f) Presumptions. – When property is discovered and listed to a taxpayer in any year, it shall be presumed that it should have been listed by the same taxpayer for the preceding five years unless the taxpayer shall produce satisfactory evidence that the property was not in existence, that it was actually listed for taxation, or that it was not his duty to list the property during those years or some of them under the provisions of G.S. 105-302 and G.S. 105-306. If it is shown that the property should have been listed by some other taxpayer during some or all of the preceding years, the property shall be listed in the name of the appropriate taxpayer for the proper years, but the discovery shall still be deemed to have been made as of the date that the assessor first listed it.

(g) Taxation of Discovered Property. – When property is discovered, it shall be taxed for the year in which discovered and for any of the preceding five years during which it escaped taxation in accordance with the assessed value it should have been assigned in each of the years for which it is to be taxed and the rate of tax imposed in each such year. The penalties prescribed by subsection (h) of this section shall be computed and imposed regardless of the name in which the discovered property is listed. If the discovery is based upon an understatement of value, quantity, or other measurement rather than an omission from the tax list, the tax shall be computed on the additional valuation fixed upon the property, and the penalties prescribed by subsection (h) of this section shall be computed on the basis of the additional tax.

(h) Computation of Penalties. – Having computed each year's taxes separately as provided in subsection (g), above, there shall be added a penalty of ten percent (10%) of the amount of the tax for the earliest year in which the property was not listed, plus an additional ten percent (10%) of the same amount for each subsequent listing period that elapsed before the property was discovered. This penalty shall be computed separately for each year in which a failure to list occurred; and the year, the amount of the tax for that year, and the total of penalties for failure to list in that year shall be shown separately on the tax records; but the taxes and penalties for all years in which there was a failure to list shall be then totaled on a single tax receipt.

(h1) Repealed by Session Laws 1991, c. 624, s. 8.

(i) Collection. – For purposes of tax collection and foreclosure, the total figure obtained and recorded as provided in subsection (h) of this section shall be deemed to be a tax for the fiscal year beginning on July 1 of the calendar year in which the property was discovered. The schedule of discounts for prepayment and interest for late payment applicable to taxes for the fiscal year referred to in the preceding sentence shall apply when the total figure on the single tax receipt is paid. Notwithstanding the time limitations contained in G.S. 105-381, any property owner who is required to pay taxes on discovered property as herein provided shall be entitled to a refund of any taxes erroneously paid on the same property to other taxing jurisdictions in North

Carolina. Claim for refund shall be filed in the county where such tax was erroneously paid as provided by G.S. 105-381.

(j) Tax Receipts Charged to Collector. – Tax receipts prepared as required by subsections (h) and (i) of this section for the taxes and penalties imposed upon discovered property shall be delivered to the tax collector, and he shall be charged with their collection. Such receipts shall have the same force and effect as if they had been delivered to the collector at the time of the delivery of the regular tax receipts for the current year, and the taxes charged in the receipts shall be a lien upon the property in accordance with the provisions of G.S. 105-355.

(k) Power to Compromise. – After a tax receipt computed and prepared as required by subsections (g) and (h) of this section has been delivered and charged to the tax collector as prescribed in subsection (j), above, the board of county commissioners, upon the petition of the taxpayer, may compromise, settle, or adjust the county's claim for taxes arising therefrom. The board of commissioners may, by resolution, delegate the authority granted by this subsection to the board of equalization and review, including any board created by resolution pursuant to G.S. 105-322(a) and any special board established by local act.

(l) Municipal Corporations. – The provisions of this section shall apply to all cities, towns, and other municipal corporations having the power to tax property. Such governmental units shall designate an appropriate municipal officer to exercise the powers and duties assigned by this section to the assessor, and the powers and duties assigned to the board of county commissioners shall be exercised by the governing body of the unit. When the assessor discovers property having a taxable situs in a municipal corporation, he shall send a copy of the notice of discovery required by subsection (d) to the governing body of the municipality together with such other information as may be necessary to enable the municipality to proceed. The governing board of a municipality may, by resolution, delegate the power to compromise, settle, or adjust tax claims granted by this subsection and by subsection (k) of this section to the county board of equalization and review, including any board created by resolution pursuant to G.S. 105-322(a) and any special board established by local act.



**EXAMPLE OF A DISCOVERY**

The owner of a business in Spring-County has never listed his business personal property. The business has been operating in the county for the past ten years. The county assessor conducts an audit and finds property valued at \$100,000 which has never been listed. Below is the discovery data which shows the value, taxes and penalties. The discovery is completed and mailed on June 30, 2007.

<b>YEAR</b>	<b>VALUE</b>	<b>TAX RATES</b>	<b>TAXES</b>	<b>PENALTY</b>	<b>PENALTY AMOUNT</b>	<b>TOTAL</b>
2007	100,000	.50	500.00	10%	50.00	550.00
2006	100,000	.60	600.00	20%	120.00	720.00
2005	100,000	.70	700.00	30%	210.00	910.00
2004	100,000	.50	500.00	40%	200.00	700.00
2003	100,000	.55	550.00	50%	275.00	825.00
2002	100,000	.55	550.00	60%	330.00	880.00
<b>TOTALS</b>			3400.00		1185.00	4585.00

**Case Problem**

Discovery

You have just completed an audit of Shaky's Sporting Goods store, a prominent local retailer. Based on the information discovered in the audit, you are to calculate a tax bill for the amount of the discovery. Assume the date of the discovery is 9/1/07.

Year	2002	2003	2004	2005	2006
	Machinery &	Equipment	Appraised	Values	
Fair Market Value	57,000	47,000	53,000	50,000	65,000
Listed	42,000	67,000	51,000	49,000	54,000
Difference					
			Tax Liability		
Tax Rates	0.8	0.82	0.84	0.86	0.45
Tax					
Penalty %					
Penalty \$					
Total					
Total Tax Due					

## **(10) APPRAISAL AND VALUATION**

### **§ 105-283. Uniform appraisal standards.**

All property, real and personal, shall as far as practicable be appraised or valued at its true value in money. When used in this Subchapter, the words "true value" shall be interpreted as meaning market value, that is, the price estimated in terms of money at which the property would change hands between a willing and financially able buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of all the uses to which the property is adapted and for which it is capable of being used. For the purposes of this section, the acquisition of an interest in land by an entity having the power of eminent domain with respect to the interest acquired shall not be considered competent evidence of the true value in money of comparable land.

### **§ 105-284. Uniform assessment standard.**

(a) Except as otherwise provided in this section, all property, real and personal, shall be assessed for taxation at its true value or use value as determined under G.S. 105-283 or G.S. 105-277.6, and taxes levied by all counties and municipalities shall be levied uniformly on assessments determined in accordance with this section.

(b) The assessed value of public service company system property subject to appraisal by the Department of Revenue under G.S. 105-335(b)(1) shall be determined by applying to the allocation of such value to each county a percentage to be established by the Department of Revenue. The percentage to be applied shall be either:

(1) The median ratio established in sales assessment ratio studies of real property conducted by the Department of Revenue in the county in the year the county conducts a reappraisal of real property and in the fourth and seventh years thereafter; or

(2) A weighted average percentage based on the median ratio for real property established by the Department of Revenue as provided in subdivision (1) and a one hundred percent (100%) ratio for personal property. No percentage shall be applied in a year in which the median ratio for real property is ninety percent (90%) or greater.

If the median ratio for real property in any county is below ninety percent (90%) and if the county assessor has provided information satisfactory to the Department of Revenue that the county follows accepted guidelines and practices in the assessment of business personal property, the weighted average percentage shall be applied to public service company property. In calculating the weighted average percentage, the Department shall use the assessed value figures for real and personal property reported by the county to the Local Government Commission for the preceding year. In any county which fails to demonstrate that it follows accepted guidelines and practices, the percentage to be applied shall be the median ratio for real property. The percentage established in a year in which a sales assessment ratio study is conducted shall continue to be applied until another study is conducted by the Department of Revenue.

(c) Notice of the median ratio and the percentage to be applied for each county shall be given by the Department of Revenue to the chairman of the board of commissioners not later than April 15 of the year for which it is to be effective. Notice shall also be given at the same time to the public service companies whose property values are subject to adjustment under this

section. Either the county or an affected public service company may challenge the real property ratio or the percentage established by the Department of Revenue by giving notice of exception within 30 days after the mailing of the Department's notice. Upon receipt of such notice of exception, the Department shall arrange a conference with the challenging party or parties to review the matter. Following the conference, the Department shall notify the challenging party or parties of its final determination in the matter. Either party may appeal the Department's determination to the Property Tax Commission by giving notice of appeal within 30 days after the mailing of the Department's decision.

- (d) Property that is in a development financing district and that is subject to an agreement entered into pursuant to G.S. 159-108 shall be assessed at its true value or at the minimum value set out in the agreement, whichever is greater.

**§ 105-317.1. Appraisal of personal property; elements to be considered.**

(a) Whenever any personal property is appraised it shall be the duty of the persons making appraisals to consider the following as to each item (or lot of similar items):

- (1) The replacement cost of the property;
- (2) The sale price of similar property;
- (3) The age of the property;
- (4) The physical condition of the property;
- (5) The productivity of the property;
- (6) The remaining life of the property;
- (7) The effect of obsolescence on the property;
- (8) The economic utility of the property, that is, its usability and adaptability for industrial, commercial, or other purposes; and
- (9) Any other factor that may affect the value of the property.

(b) In determining the true value of taxable tangible personal property held and used in connection with the mercantile, manufacturing, producing, processing, or other business enterprise of any taxpayer, the persons making the appraisal shall consider any information as reflected by the taxpayer's records and as reported by the taxpayer to the North Carolina Department of Revenue and to the Internal Revenue Service for income tax purposes, taking into account the accuracy of the taxpayer's records, the taxpayer's method of accounting, and the level of trade at which the taxpayer does business.

(c) **(Effective for taxes imposed for taxable years beginning on or after July 1, 2003)** A taxpayer who owns personal property taxable in the county may appeal the value, situs, or taxability of the property within 30 days after the date of the initial notice of value. If the assessor does not give separate written notice of the value to the taxpayer at the taxpayer's last known address, then the tax bill serves as notice of the value of the personal property. The notice must contain a statement that the taxpayer may appeal the value, situs, or taxability of the property within 30 days after the date of the notice. Upon receipt of a timely appeal, the assessor must arrange a conference with the taxpayer to afford the taxpayer the opportunity to present any evidence or argument regarding the value, situs, or taxability of the property. Within 30 days after the conference, the assessor must give written notice to the taxpayer of the assessor's final decision. Written notice of the decision is not required if the taxpayer signs an

agreement accepting the value, situs, or taxability of the property. If an agreement is not reached, the taxpayer has 30 days from the date of the notice of the assessor's final decision to request review of that decision by the board of equalization and review or, if that board is not in session, by the board of county commissioners. Unless the request for review is given at the conference, it must be made in writing to the assessor. Upon receipt of a timely request for review, the provisions of G.S. 105-322 or G.S. 105-325, as appropriate, must be followed.

**§ 105-296. Powers and duties of assessor.**

(a) The county assessor shall have general charge of the listing, appraisal, and assessment of all property in the county in accordance with the provisions of law. He shall perform the duties imposed upon him by law, and he shall have and exercise all powers reasonably necessary in the performance of his duties not inconsistent with the Constitution or the laws of this State.

(b) Within budgeted appropriations, he shall employ listers, appraisers, and clerical assistants necessary to carry out the listing, appraisal, assessing, and billing functions required by law. The assessor may allocate responsibility among such employees by territory, by subject matter, or on any other reasonable basis. Each person employed by the assessor as a real property appraiser or personal property appraiser shall during the first year of employment and at least every other year thereafter attend a course of instruction in his area of work. At the end of the first year of their employment, such persons shall also achieve a passing score on a comprehensive examination in property tax administration conducted by the Department of Revenue.

(c) At least 10 days before the date as of which property is to be listed, he shall advertise in a newspaper having general circulation in the county and post in at least five public places in each township in the county a notice containing at least the following:

- (1) The date as of which property is to be listed.
- (2) The date on which listing will begin.
- (3) The date on which listing will end.
- (4) The times between the date mentioned in subdivision (c)(2), above, and the date mentioned in subdivision (c)(3), above, during which lists will be accepted.
- (5) The place or places at which lists will be accepted at the times established under subdivision (c)(4), above.
- (6) A statement that all persons who, on the date as of which property is to be listed, own property subject to taxation must list such property within the period set forth in the notice and that any person who fails to do so will be subject to the penalties prescribed by law.

If the listing period is extended in any county by the board of county commissioners, the assessor shall advertise in the newspaper in which the original notice was published and post in the same places a notice of the extension and of the times during which and the place or places at which lists will be accepted during the extended period.

(d) through (f) Repealed by Session Laws 1987, c. 43, s. 2.

(g) He shall have power to subpoena any person for examination under oath and to subpoena documents whenever he has reasonable grounds for the belief that such person has knowledge or that such documents contain information that is pertinent to the discovery or

valuation of any property subject to taxation in the county or that is necessary for compliance with the requirements as to what the tax list shall contain. The subpoena shall be signed by the chairman of the board of equalization and review if that board is in session; otherwise, it shall be signed by the chairman of the board of county commissioners. It shall be served by an officer qualified to serve subpoenas. Any person who shall wilfully fail or refuse to appear, produce subpoenaed documents, or testify concerning the subject of the inquiry shall be guilty of a Class 1 misdemeanor.

(h) Only after the abstract has been carefully reviewed can the assessor require any person operating a business enterprise in the county to submit a detailed inventory, statement of assets and liabilities, or other similar information pertinent to the discovery or appraisal of property taxable in the county. Inventories, statements of assets and liabilities, or other information secured by the assessor under the terms of this subsection, but not expressly required by this Subchapter to be shown on the abstract itself, shall not be open to public inspection but shall be made available, upon request, to representatives of the Department of Revenue or of the Employment Security Commission. Any assessor or other official or employee disclosing information so obtained, except as may be necessary in listing or appraising property in the performance of official duties, or in the administrative or judicial proceedings relating to listing, appraising, or other official duties, shall be guilty of a Class 3 misdemeanor and punishable only by a fine not exceeding fifty dollars (\$50.00).

(i) Prior to the first meeting of the board of equalization and review, the assessor may, for good cause, change the appraisal of any property subject to assessment for the current year. Written notice of a change in assessment shall be given to the taxpayer at his last known address prior to the first meeting of the board of equalization and review.

(j) The assessor must annually review at least one eighth of the parcels in the county classified for taxation at present-use value to verify that these parcels qualify for the classification. By this method, the assessor must review the eligibility of all parcels classified for taxation at present-use value in an eight-year period. The period of the review process is based on the average of the preceding three years' data. The assessor may request assistance from the Farm Service Agency, the Cooperative Extension Service, the Division of Forest Resources of the Department of Environment and Natural Resources, or other similar organizations.

The assessor may require the owner of classified property to submit any information, including sound management plans for forestland, needed by the assessor to verify that the property continues to qualify for present-use value taxation. The owner has 60 days from the date a written request for the information is made to submit the information to the assessor. If the assessor determines the owner failed to make the information requested available in the time required without good cause, the property loses its present-use value classification and the property's deferred taxes become due and payable as provided in G.S. 105-277.4(c). If the property loses its present-use value classification for failure to provide the requested information, the assessor must reinstate the property's present-use value classification when the owner submits the requested information within 60 days after the disqualification unless the information discloses that the property no longer qualifies for present-use value classification. When a property's present-use value

classification is reinstated, it is reinstated retroactive to the date the classification was revoked and any deferred taxes that were paid as a result of the revocation must be refunded to the property owner. The owner may appeal the final decision of the assessor to the county board of equalization and review as provided in G.S. 105-277.4(b1).

In determining whether property is operating under a sound management program, the assessor must consider any weather conditions or other acts of nature that prevent the growing or harvesting of crops or the realization of income from cattle, swine, or poultry operations. The assessor must also allow the property owner to submit additional information before making this determination.

(k) He shall furnish information to the Department of Revenue as required by the Department to conduct studies in accordance with G.S. 105-289(h).

(l) The assessor shall annually review at least one-eighth of the parcels in the county exempted or excluded from taxation to verify that these parcels qualify for the exemption or exclusion. By this method, the assessor shall review the eligibility of all parcels exempted or excluded from taxation in an eight-year period. The assessor may require the owner of exempt or excluded property to make available for inspection any information reasonably needed by the assessor to verify that the property continues to qualify for the exemption or exclusion. The owner has 60 days from the date a written request for the information is made to submit the information to the assessor. If the assessor determines that the owner failed to make the information requested available in the time required without good cause, then the property loses its exemption or exclusion. If the property loses its exemption or exclusion for failure to provide the requested information, the assessor must reinstate the property's exemption or exclusion when the owner makes the requested information available within 60 days after the disqualification unless the information discloses that the property is no longer eligible for the exemption or exclusion.

(m) The assessor shall annually review the transportation corridor official maps and amendments to them filed with the register of deeds pursuant to Article 2E of Chapter 136 of the General Statutes. The assessor must indicate on all tax maps maintained by the county or city that portion of the properties embraced within a transportation corridor and must note any variance granted for the property for such period as the designation remains in effect. The assessor must tax the property within a transportation corridor as required under G.S. 105-277.9.

#### **§ 105-299. Employment of experts.**

The board of county commissioners may employ appraisal firms, mapping firms or other persons or firms having expertise in one or more of the duties of the assessor to assist the assessor in the performance of these duties. The county may also assign to county agencies, or contract with State or federal agencies for, any duties involved with the approval or auditing of use-value accounts. The county may make available to these persons any information it has that will facilitate the performance of a contract entered into pursuant to this section. Persons receiving this information are subject to the provisions of G.S. 105-289(e) and G.S. 105-259

regarding the use and disclosure of information provided to them by the county. Any person employed by an appraisal firm whose duties include the appraisal of property for the county must be required to demonstrate that he or she is qualified to carry out these duties by achieving a passing grade on a comprehensive examination in the appraisal of property administered by the Department of Revenue. In the employment of these firms, primary consideration must be given to the firms registered with the Department of Revenue pursuant to G.S. 105-289(i). A copy of the specifications to be submitted to potential bidders and a copy of the proposed contract may be sent by the board to the Department of Revenue for review before the invitation or acceptance of any bids. Contracts for the employment of these firms or persons are contracts for personal services and are not subject to the provisions of Article 8, Chapter 143, of the General Statutes.

**§ 105-322. County board of equalization and review.**

(a) Personnel. – Except as otherwise provided herein, the board of equalization and review of each county shall be composed of the members of the board of county commissioners.

Upon the adoption of a resolution so providing, the board of commissioners is authorized to appoint a special board of equalization and review to carry out the duties imposed under this section. The resolution shall provide for the membership, qualifications, terms of office and the filling of vacancies on the board. The board of commissioners shall also designate the chairman of the special board. The resolution may also authorize a taxpayer to appeal a decision of the special board with respect to the listing or appraisal of his property or the property of others to the board of county commissioners. The resolution shall be adopted not later than the first Monday in March of the year for which it is to be effective and shall continue in effect until revised or rescinded. It shall be entered in the minutes of the meeting of the board of commissioners and a copy thereof shall be forwarded to the Department of Revenue within 15 days after its adoption.

Nothing in this subsection (a) shall be construed as repealing any law creating a special board of equalization and review or creating any board charged with the duties of a board of equalization and review in any county.

(b) Compensation. – The board of county commissioners shall fix the compensation and allowances to be paid members of the board of equalization and review for their services and expenses.

(c) Oath. – Each member of the board of equalization and review shall take the oath required by Article VI, § 7 of the North Carolina Constitution with the following phrase added to it: "that I will not allow my actions as a member of the board of equalization and review to be influenced by personal or political friendships or obligations,". The oath must be filed with the clerk of the board of county commissioners.

(d) Clerk and Minutes. – The assessor shall serve as clerk to the board of equalization and review, shall be present at all meetings, shall maintain accurate minutes of the actions of the board, and shall give to the board such information as he may have or can obtain with respect to the listing and valuation of taxable property in the county.

(e) Time of Meeting. – Each year the board of equalization and review shall hold its first meeting not earlier than the first Monday in April and not later than the first Monday in May. In years in which a county does not conduct a real property revaluation, the board shall complete its duties on or before the third Monday following its first meeting unless, in its



opinion, a longer period of time is necessary or expedient to a proper execution of its responsibilities. Except as provided in subdivision (g)(5) of this section, the board may not sit later than July 1 except to hear and determine requests made under the provisions of subdivision (g)(2), below, when such requests are made within the time prescribed by law. In the year in which a county conducts a real property revaluation, the board shall complete its duties on or before December 1, except that it may sit after that date to hear and determine requests made under the provisions of subdivision (g)(2), below, when such requests are made within the time prescribed by law. From the time of its first meeting until its adjournment, the board shall meet at such times as it deems reasonably necessary to perform its statutory duties and to receive requests and hear the appeals of taxpayers under the provisions of subdivision (g)(2), below."

(f) Notice of Meetings and Adjournment. – A notice of the date, hours, place, and purpose of the first meeting of the board of equalization and review shall be published at least three times in some newspaper having general circulation in the county, the first publication to be at least 10 days prior to the first meeting. The notice shall also state the dates and hours on which the board will meet following its first meeting and the date on which it expects to adjourn; it shall also carry a statement that in the event of earlier or later adjournment, notice to that effect will be published in the same newspaper. Should a notice be required on account of earlier adjournment, it shall be published at least once in the newspaper in which the first notice was published, such publication to be at least five days prior to the date fixed for adjournment. Should a notice be required on account of later adjournment, it shall be published at least once in the newspaper in which the first notice was published, such publication to be prior to the date first announced for adjournment.

(g) Powers and Duties. – The board of equalization and review has the following powers and duties:

(1) Duty to Review Tax Lists. --The board shall examine and review the tax lists of the county for the current year to the end that all taxable property shall be listed on the abstracts and tax records of the county and appraised according to the standard required by G.S. 105-283, and the board shall correct the abstracts and tax records to conform to the provisions of this Subchapter. In carrying out its responsibilities under this subdivision (g)(1), the board, on its own motion or on sufficient cause shown by any person, shall:

- a. List, appraise, and assess any taxable real or personal property that has been omitted from the tax lists.
- b. Correct all errors in the names of persons and in the description of properties subject to taxation.
- c. Increase or reduce the appraised value of any property that, in the board's opinion, has been listed and appraised at a figure that is below or above the appraisal required by G.S. 105-283; however, the board shall not change the appraised value of any real property from that at which it was appraised for the preceding year except in accordance with the terms of G.S. 105-286 and 105-287.
- d. Cause to be done whatever else is necessary to make the lists and tax records comply with the provisions of this Subchapter.
- e. Embody actions taken under the provisions of subdivisions (g)(1) a through (g)(1) d, above, in appropriate orders and have the orders entered in the minutes of the board.

f. Give written notice to the taxpayer at the taxpayer's last known address in the event the board, by appropriate order, increases the appraisal of any property or lists for taxation any property omitted from the tax lists under the provisions of this subdivision (g)(1).

(2) Duty to Hear Taxpayer Appeals. – On request, the board of equalization and review shall hear any taxpayer who owns or controls property taxable in the county with respect to the listing or appraisal of the taxpayer's property or the property of others.

a. A request for a hearing under this subdivision (g)(2) shall be made in writing to or by personal appearance before the board prior to its adjournment. However, if the taxpayer requests review of a decision made by the board under the provisions of subdivision (g)(1), above, notice of which was mailed fewer than 15 days prior to the board's adjournment, the request for a hearing thereon may be made within 15 days after the notice of the board's decision was mailed.

b. Taxpayers may file separate or joint requests for hearings under the provisions of this subdivision (g)(2) at their election.

c. At a hearing under provisions of this subdivision (g)(2), the board, in addition to the powers it may exercise under the provisions of subdivision (g)(3), below, shall hear any evidence offered by the appellant, the assessor, and other county officials that is pertinent to the decision of the appeal. Upon the request of an appellant, the board shall subpoena witnesses or documents if there is a reasonable basis for believing that the witnesses have or the documents contain information pertinent to the decision of the appeal.

d. On the basis of its decision after any hearing conducted under this subdivision (g)(2), the board shall adopt and have entered in its minutes an order reducing, increasing, or confirming the appraisal appealed or listing or removing from the tax lists the property whose omission or listing has been appealed. The board shall notify the appellant by mail as to the action taken on the taxpayer's appeal not later than 30 days after the board's adjournment.

(3) Powers in Carrying Out Duties. – In the performance of its duties under subdivisions (g)(1) and (g)(2), above, the board of equalization and review may exercise the following powers:

a. It may appoint committees composed of its own members or other persons to assist it in making investigations necessary to its work. It may also employ expert appraisers in its discretion. The expense of the employment of committees or appraisers shall be borne by the county. The board may, in its discretion, require the taxpayer to reimburse the county for the cost of any appraisal by experts demanded by the taxpayer if the appraisal does not result in material reduction of the valuation of the property appraised and if the appraisal is not subsequently reduced materially by the board or by the Department of Revenue.

b. The board, in its discretion, may examine any witnesses and documents. It may place any witnesses under oath administered by any member of the board. It may subpoena witnesses or documents on its own motion, and it must do so when a request is made under the provisions of subdivision (g)(2)c, above. A subpoena issued by the board shall be signed by the chair of the board, directed to the witness or to the person having custody of the document, and served by an officer authorized to serve subpoenas. Any person who willfully fails to appear or to produce documents in response to a subpoena or to testify when appearing in response to a subpoena shall be guilty of a Class 1 misdemeanor.

(4) Power to Submit Reports. – Upon the completion of its other duties, the board may submit to the Department of Revenue a report outlining the quality of the reappraisal, any problems it encountered in the reappraisal process, the number of appeals submitted to the board and to the Property Tax Commission, the success rate of the appeals submitted, and the name of the firm that conducted the reappraisal. A copy of the report should be sent by the board to the firm that conducted the reappraisal.

(5) Duty to Change Abstracts and Records

After Adjournment. – Following adjournment upon completion of its duties under subdivisions (g)(1) and (g)(2) of this subsection, the board may continue to meet to carry out the following duties:

- a. To hear and decide all appeals relating to discovered property under G.S. 105-312(d) and (k).
- b. To hear and decide all appeals relating to the appraisal, situs, and taxability of classified motor vehicles under G.S. 105-330.2(b).
- c. To hear and decide all appeals relating to audits conducted under G.S. 105-296(j) and relating to audits conducted under G.S. 105-296(j) and (l) of property classified at present-use value and property exempted or excluded from taxation."
- d. (Effective for taxes imposed for taxable years beginning on or after July 1, 2003)To hear and decide all appeals relating to personal property under G.S. 105-317.1(c).

**§ 105-325. Powers of board of county commissioners to change abstracts and tax records after board of equalization and review has adjourned.**

(a) After the board of equalization and review has finished its work and the changes it effected or ordered have been entered on the abstracts and tax records as required by G.S. 105-323, the board of county commissioners shall not authorize any changes to be made on the abstracts and tax records except as follows:

- (1) To give effect to decisions of the Property Tax Commission on appeals taken under G.S. 105-290.
- (2) To add to the tax records any valuation certified by the Department of Revenue for property appraised in the first instance by the Department or to give effect to corrections made in such appraisals by the Department.
- (3) Subject to the provisions of subdivisions (a)(3)a and (a)(3)b, below, to correct the name of any taxpayer appearing on the abstract or tax records erroneously; to substitute the name of the person who should have listed property for the name appearing on the abstract or tax records as having listed the property; and to correct an erroneous description of any property appearing on the abstract or tax records.
  - a. Any correction or substitution made under the provisions of this subdivision (a)(3) shall have the same force and effect as if the name of the taxpayer or description of the property had been correctly listed in the first instance, but the provisions of this subdivision (a)(3)a shall not be construed as a limitation on the taxation and penalization of discovered property required by G.S. 105-312.
  - b. If a correction or substitution under this subdivision (a)(3) will adversely affect the interests of any taxpayer, he shall be given written

notice thereof and an opportunity to be heard before the change is entered on the abstract or tax records.

- (4) To correct appraisals, assessments, and amounts of taxes appearing erroneously on the abstracts or tax records as the result of clerical or mathematical errors. (If the clerical or mathematical error was made by the taxpayer, his agent, or an officer of the taxpayer and if the correction demonstrates that the property was listed at a substantial understatement of value, quantity, or other measurement, the provisions of G.S. 105-312 shall apply.)
- (5) To add to the tax records and abstracts or to correct the tax records and abstracts to include property discovered under the provisions of G.S. 105-312 or property exempted or excluded from taxation pursuant to G.S. 105-282.1(a)(4).
- (6) Subject to the provisions of subdivisions (a)(6)a, (a)(6)b, (a)(6)c, and (a)(6)d, below, to appraise or reappraise property when the assessor reports to the board that, since adjournment of the board of equalization and review, facts have come to his attention that render it advisable to raise or lower the appraisal of some particular property of a given taxpayer in the then current calendar year.
  - a. The power granted by this subdivision (a)(6) shall not authorize appraisal or reappraisal because of events or circumstances that have taken place or arisen since the day as of which property is to be listed.
  - b. No appraisal or reappraisal shall be made under the authority of this subdivision (a)(6) unless it could have been made by the board of equalization and review had the same facts been brought to the attention of that board.
  - c. If a reappraisal made under the provisions of this subdivision (a)(6) demonstrates that the property was listed at a substantial understatement of value, quantity, or other measurement, the provisions of G.S. 105-312 shall apply.
  - d. If an appraisal or reappraisal made under the provisions of this subdivision (a)(6) will adversely affect the interests of any taxpayer, he shall be given written notice thereof and an opportunity to be heard before the appraisal or reappraisal shall become final.
- (7) To give effect to decisions of the board of county commissioners on appeals taken under G.S. 105-322(a).

(b) The board of county commissioners may give the assessor general authority to make any changes authorized by subsection (a), above, except those permitted under subdivision (a)(6), above.

(c) Orders of the board of county commissioners and actions of the assessor upon delegation of authority to him by the board that are made under the provisions of this section may be appealed to the Property Tax Commission under the provisions of G.S. 105-290.

## **Appeal of Personal Property**

### **§ 105-317.1. Appraisal of personal property; elements to be considered.**

(c) (Effective for taxes imposed for taxable years beginning on or after July 1, 2003) A taxpayer who owns personal property taxable in the county may appeal the value, situs, or taxability of the property within 30 days after the date of the initial notice of value. If the assessor does not give separate written notice of the value to the taxpayer at the taxpayer's last known address, then the tax bill serves as notice of the value of the personal property. The notice must contain a statement that the taxpayer may appeal the value, situs, or taxability of the property within 30 days after the date of the notice. Upon receipt of a timely appeal, the assessor must arrange a conference with the taxpayer to afford the taxpayer the opportunity to present any evidence or argument regarding the value, situs, or taxability of the property. Within 30 days after the conference, the assessor must give written notice to the taxpayer of the assessor's final decision. Written notice of the decision is not required if the taxpayer signs an agreement accepting the value, situs, or taxability of the property. If an agreement is not reached, the taxpayer has 30 days from the date of the notice of the assessor's final decision to request review of that decision by the board of equalization and review or, if that board is not in session, by the board of county commissioners. Unless the request for review is given at the conference, it must be made in writing to the assessor. Upon receipt of a timely request for review, the provisions of G.S. 105-322 or G.S. 105-325, as appropriate, must be followed.

### **§ 105-289. Duties of Department of Revenue.**

(e) The Department of Revenue may furnish the following information to a local tax official:

- (1) Information contained in a report to it or to any other State department; and
- (2) Information the Department has in its possession that may assist a local tax official in securing complete tax listings, appraising or assessing taxable property, collecting taxes, or presenting information in administrative or judicial proceedings involving the listing, appraisal, or assessment of property.

A local tax official may use information obtained from the Department under this subsection only for the purposes stated in subdivision (2). A local tax official may not divulge or make public this information except as required in administrative or judicial proceedings under this Subchapter. A local tax official who makes improper use of or discloses information obtained from the Department under this subsection is punishable as provided in G.S. 153A-148.1 or G.S. 160A-208.1, as appropriate

The Department may not furnish information to a local tax official pursuant to this subsection unless it has obtained a written certification from the official stating that he is familiar with the provisions this subsection and G.S. 153A-148.1 or G.S. 160A-208.1, as appropriate, and that information obtained from the Department under this subsection will be used only for the purposes stated in subdivision (2).

## **§ 105-366. Remedies against personal property.**

(a) Authority to Proceed against Personal Property; Relation between Remedies against Personal Property and Remedies against Real Property. – All tax collectors shall have authority to proceed against personal property to enforce the collection of taxes as provided in this section and in G.S. 105-367 and 105-368. Any tax collector may, in his discretion, proceed first against personal property before employing the remedies for enforcing the lien for taxes against real property, and he shall proceed first against personal property:

- (1) When directed to do so by the governing body of the taxing unit; or
- (2) When requested to do so by the taxpayer or by a mortgagee or other person holding a lien upon the real property subject to the lien for taxes if the person making the request furnishes the tax collector with a written statement describing the personal property to be proceeded against and giving its location.

No foreclosure of a tax lien on real property may be attacked as invalid on the ground that payment of the tax should have been procured from personal property.

(b) Remedies after Taxes Are Delinquent. – At any time after taxes are delinquent and before the filing of a tax foreclosure complaint under G.S. 105-374 or the docketing of a judgment for taxes under G.S. 105-375, and subject to the provisions of G.S. 105-356 governing the priority of liens, the tax collector may levy upon and sell or attach the following property for failure to pay taxes:

- (1) Any personal property owned by the taxpayer, regardless of the time at which it was acquired and regardless of the existence or date of creation of mortgages or other liens thereon.
- (2) Any personal property transferred by the taxpayer to a relative (which shall mean any parent, grandparent, child, grandchild, brother, sister, aunt, uncle, niece, or nephew, or their spouses, of the taxpayer or his spouse).
- (3) Personal property in the hands of a receiver for the taxpayer. (It shall not be necessary for the tax collector to apply for an order of the court directing payment or authorizing the levy or attachment, but he may proceed as though the property were not in the hands of the receiver, and the tax collector's filing of a claim in a receivership proceeding shall not preclude him from proceeding to levy under G.S. 105-367 or to attach under G.S. 105-368.)
- (4) Personal property of a deceased taxpayer if the levy or attachment is made before final settlement of the estate.
- (5) The stock of goods or fixtures of a wholesale merchant or retailer, as defined in G.S. 105-164.3, in the hands of a purchaser or transferee thereof, or any other personal property of the purchaser or transferee of the property, if the taxes on the goods or fixtures remain unpaid 30 days after the date of the sale or transfer. In the case of other personal property of the purchaser or transferee, the levy or attachment must be made within six months of the sale or transfer.
- (6) Personal property of the taxpayer that has been repossessed by one having a security interest therein so long as the property remains in the hands of the

person who has repossessed it or the person to whom it has been transferred other than by bona fide sale for value.

- (7) Personal property due the taxpayer or to become due to him within the calendar year.
- (8) Personal property of a partner in satisfaction of taxes on partnership property, but only after the tax collector:
  - a. Has sold the taxing unit's lien for taxes against the partnership real property, if any; and
  - b. Exhausted the partnership's personal property through the use of levy and attachment and garnishment; and
  - c. Exercised the authority granted him by G.S. 105-364 in an effort to collect the tax due on the partnership's property.
- (9) Personal property transferred by the taxpayer by any type of transfer other than those mentioned in this subsection (b) and other than by bona fide sale for value if the levy or attachment is made within six months of the transfer.

(c) Remedies Before Taxes Are Delinquent. – If between the date as of which property is to be listed and January 6 of the fiscal year for which the taxes are imposed the tax collector has reasonable grounds for believing that the taxpayer is about to remove his property from the taxing unit or transfer it to another person or is in imminent danger of becoming insolvent, the tax collector may levy on or attach that property or any other personal property of the taxpayer, in the manner provided in G.S. 105-367 and 105-368. If the amount of taxes collected under this subsection has not yet been determined, these taxes shall be computed in accordance with G.S. 105-359 and any applicable discount shall be allowed.

(d) Remedies against Sellers and Purchasers of Stocks of Goods or Fixtures of Wholesale Merchants or Retailers. –

- (1) Any wholesale merchant or retailer, as defined in G.S. 105-164.3, who sells or transfers the major part of its stock of goods, materials, supplies, or fixtures, other than in the ordinary course of business, or who goes out of business, must take the following actions:
  - a. At least 48 hours prior to the date of the pending sale, transfer, or termination of business, give notice to the assessors and tax collectors of the taxing units in which the business is located.
  - b. Within 30 days of the sale, transfer, or termination of business, pay all taxes due or to become due on the transferred property on the first day of September of the current calendar year.
- (2) Any person to whom the major part of the stock of goods, materials, supplies, or fixtures of a wholesale merchant or retailer is sold or transferred, other than in the ordinary course of business, or who becomes the successor in business of a wholesale merchant or retailer shall withhold from the purchase money paid to the merchant an amount sufficient to pay the taxes due or to become due on the transferred property on the first day of September of the current calendar year until the former owner or seller produces either a receipt from the tax collector showing that the taxes have been paid or a certificate that no taxes are due. If the purchaser or successor in business fails to withhold a sufficient amount of the purchase money to pay the taxes as required by this

subsection and the taxes remain unpaid after the 30-day period allowed, the purchaser or successor is personally liable for the amount of the taxes unpaid. This liability may be enforced by means of a civil action brought in the name of the taxing unit against the purchaser or successor in an appropriate trial division of the General Court of Justice in the county in which the taxing unit is located.

- (3) Whenever any wholesale merchant or retailer sells or transfers the major part of its stock of goods, materials, supplies, or fixtures, other than in the ordinary course of business, or goes out of business and the taxes due or to become due on the transferred property on the first day of September of the current calendar year are unpaid, the tax collector, to enforce collection of the unpaid taxes, may do any of the following:
  - a. Levy on or attach any personal property of the seller.
  - b. If the taxes remain unpaid 30 days after the date of the transfer or termination of business, levy on or attach any of the property transferred in the hands of the transferee or successor in business, or any other personal property of the transferee or successor in business, but in either case the levy or attachment must be made within six months of the transfer or termination of business.
- (4) In using the remedies provided in this subsection, the amount of taxes not yet determined shall be computed in accordance with G.S. 105-359, and any applicable discount shall be allowed.



§ 501. Short title [Sec. 1]

**This Act may be cited as the "Servicemembers Civil Relief Act"**. Formerly cited as 50 U.S.C. App. § 510

[Note: The section numbers shown herein are citations to 50 U.S.C. App. §\_\_\_\_. If a section appeared in the Soldiers' and Sailors' Civil Relief Act, the former SSCRA section number is shown above the citation. The section numbers from P.L. 108-189 (the text of the SCRA as enacted by Congress) are shown after the section titles in bracketed italics.]

TITLE V - TAXES AND PUBLIC LANDS Formerly cited as 50 U.S.C. App. § 560  
§ 561. Taxes respecting personal property, money, credits, and real property [Sec. 501]

(a) **Application**- This section applies in any case in which a tax or assessment, whether general or special (other than a tax on personal income), falls due and remains unpaid before or during a period of military service with respect to a servicemember's--

(1) personal property (including motor vehicles); or

(2) real property occupied for dwelling, professional, business, or agricultural purposes by a servicemember or the servicemember's dependents or employees--

(A) before the servicemember's entry into military service; and

(B) during the time the tax or assessment remains unpaid.

(b) **Sale of property**

(1) **Limitation on sale of property to enforce tax assessment**

Property described in subsection (a) may not be sold to enforce the collection of such tax or assessment except by court order and upon the determination by the court that military service does not materially affect the servicemember's ability to pay the unpaid tax or assessment.

(2) **Stay of court proceedings** - A court may stay a proceeding to enforce the collection of such tax or assessment, or sale of such property, during a period of military service of the servicemember and for a period not more than 180 days after the termination of, or release of the servicemember from, military service.

(c) **Redemption** - When property described in subsection (a) is sold or forfeited to enforce the collection of a tax or assessment, a servicemember shall have the right to redeem or commence an action to redeem the servicemember's property during the period of military service or within 180 days after termination of or release from military service. This subsection may not be construed to shorten any period provided by the law of a State (including any political subdivision of a State) for redemption.

(d) **Interest on tax or assessment** - Whenever a servicemember does not pay a tax or assessment on property described in subsection (a) when due, the amount of the tax or assessment due and unpaid shall bear interest until paid at the rate of 6 percent per year. An additional penalty or interest shall not be incurred by reason of nonpayment. A lien for such unpaid tax or assessment may include interest under this subsection.

(e) **Joint ownership application** - This section applies to all forms of property described in subsection (a) owned individually by a servicemember or jointly by a servicemember and a dependent or dependents.

Formerly cited as 50 U.S.C. App. § 574

§ 571. Residence for tax purposes [Sec. 511]

(a) **Residence or domicile** - A servicemember shall neither lose nor acquire a residence or domicile for purposes of taxation with respect to the person, personal property, or income of the servicemember by reason of being absent or present in any tax jurisdiction of the United States solely in compliance with military orders.

(b) **Military service compensation** - Compensation of a servicemember for military service shall not be deemed to be income for services performed or from sources within a tax jurisdiction of the United States if the servicemember is not a resident or domiciliary of the jurisdiction in which the servicemember is serving in compliance with military orders.

(c) **Personal property**

(1) **Relief from personal property taxes** - The personal property of a servicemember shall not be deemed to be located or present in, or to have a situs for taxation in, the tax jurisdiction in which the servicemember is serving in compliance with military orders.

(2) **Exception for property within member's domicile or residence** - This subsection applies to personal property or its use within any tax jurisdiction other than the servicemember's domicile or residence.

(3) **Exception for property used in trade or business** - This section does not prevent taxation by a tax jurisdiction with respect to personal property used in or arising from a trade or business, if it has jurisdiction.

(4) **Relationship to law of State of domicile** - Eligibility for relief from personal property taxes under this subsection is not contingent on whether or not such taxes are paid to the State of domicile.

(d) **Increase of tax liability** - A tax jurisdiction may not use the military compensation of a nonresident servicemember to increase the tax liability imposed on other income earned by the nonresident servicemember or spouse subject to tax by the jurisdiction.

(e) **Federal Indian reservations** - An Indian servicemember whose legal residence or domicile is a Federal Indian reservation shall be taxed by the laws applicable to Federal Indian reservations and not the State where the reservation is located.

(f) **Definitions** - For purposes of this section:

(1) **Personal property** - The term "personal property" means intangible and tangible property (including motor vehicles).

(2) **Taxation** - The term "taxation" includes licenses, fees, or excises imposed with respect to motor vehicles and their use, if the license, fee, or excise is paid by the servicemember in the servicemember's State of domicile or residence.

(3) **Tax jurisdiction** - The term "tax jurisdiction" means a State or a political subdivision of a State.

Case Problem

EXEMPTION DETERMINATION

You have conducted an audit of J & J Textile Manufacturing Company. During your audit you determine that the company has equipment that was not listed for the last 10 years. You do a discovery on the equipment and send the proper notice to the taxpayer. The taxpayer appeals the discovery and in the process makes application for exemption of pollution abatement equipment for the years under discovery. The taxpayer's request included equipment consisting of fans, blowers, ducts and filters which were installed at the time the building was constructed for the purpose of cleaning the air for the safety of employees' health. The taxpayer listed 40% of this equipment during the years in question, but failed to list the remaining equipment. DENR has certified all the equipment in question as pollution abatement equipment.

Which is the correct answer? Check one.

- A. Disallow exemption.
- B. Allow full exemption
- C. Allow only 60% of the value for exemption.
- D. Assess as real property since exemption does not cover real property.

Explain answer.

Case Problem

SITUS

Situation

Ace Equipment Company in Wake County is leasing highway construction equipment to Beam Construction Company with its principle place of business in Orange County. The equipment moves from one job site to another and normally does not remain at any site more than a year. On January 1, 2007 the equipment was located in Jones County, South Carolina and had been at that location for two months. The lease from Ace to Beam is for three years.

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1. From the above information, determine the taxable situs of the equipment as of 1-1-07.  

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2. Using the same facts as set out above assume the equipment has been located in S. C. for fourteen months and expects to remain there for a period of twenty-four total months; what is the taxable situs? \_\_\_\_\_  

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3. The length of the lease is for thirty days subject to renewal every thirty days. Assuming the equipment was in Jones County on November 1, 2006; Orange County on January 1, 2007; and Wake County on February 1, 2007; what is the taxable situs? \_\_\_\_\_  

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## Case Problem

### A DISCOVERY & THE LISTING PERIOD

On March 5, 2007 John Doe Company listed his machinery and equipment that he owned as of January 1, 2007. On the same day, the taxpayer listed, for the first time, a computer that he purchased in 2004. The taxpayer has an extension until April 15, 2007 to make his business personal listing for 2007. The machinery and equipment is valued at \$50,000. The computer was valued at \$12,000 for 2004, \$10,000 for 2005, \$7,000 for 2006, and \$5,500 for 2007. What is the amount of taxes owed for 2007 if a discovery is done on the computer? The tax rate for 2007 is 0.50, the 2006 tax rate is 0.47, and the tax rate for 2005 is 0.45. The discovery was made on March 31, 2007.

What is the amount of taxes due for 2007 if the discovery was made on April 30, 2007?

Case Problem

SECRECY PROVISIONS  
TAXING OFFICIALS

The Pitt County Assessor requested and received information from a state income tax return relative to an investigation of a taxpayer's property tax listing. While reviewing the information, the Chairman of the Board of Commissioners and the County Attorney came into his office. The County Assessor, amazed at the amount of property that has not been listed, points this out to his visitors and reviews all information with them including the income tax return information. Later the County Manager came in to discuss the amount of tax that would be invoiced as he had discussed the matter with the County Attorney. He also was allowed to review the income tax return data.

Question.

1. Has the County Assessor improperly disclosed information? \_\_\_\_\_
2. Has the County Attorney also committed a wrong? \_\_\_\_\_
3. Has the County Manager done anything that may subject him to any penalties for misuse of information? \_\_\_\_\_
4. Does the Chairman have the right to review the information? \_\_\_\_\_

## Case Problem

### Servicemembers Civil Relief Act

1. A soldier, stationed in North Carolina, owns a car on January 1, 2007. His declared state of residence is not North Carolina. Is the car taxable in North Carolina and why?
2. A soldier, whose declared state of residence is North Carolina, owns a car on January 1, 2007. The soldier is stationed in Kansas for three years. Where is the car taxable?
3. A sailor and his wife, living in North Carolina, own a car jointly on January 1, 2007. His declared state of residence is not North Carolina. Is the car taxable in North Carolina and if so how?
4. A sailor and his wife, living in North Carolina, own two cars on January 1, 2007. Both cars are titled in the name of the sailor. His declared state of residence is not North Carolina. Are the cars taxable in North Carolina?
5. A soldier, stationed in North Carolina, owns a car on January 1, 2007. His declared state of residence is New York, which does not tax automobiles. Is the car taxable in North Carolina and why?



SECTION V

ACCOUNTING FOR APPRAISERS



## Asset Accounting for Appraisers

The first question that any competent personal property appraiser should ask concerning a discussion of accounting is, "What is accounting and why should an appraiser know anything about the subject?" Accounting, according to the practitioners, is an activity undertaken to accurately measure the historical performance of a business entity. Accounting is a system that measures business activities and reports the information in the form of financial statements such as the balance sheet, income statement and depreciation schedules.

The most important reason to understand this subject is so that we can recognize the manner in which the information is organized. In the appraisal of real property for example, there is an active market and a readily available source of sales data that will assist the appraiser in determining value. The personal property appraiser, with the exception of motor vehicles and other similar consumer goods, does not have this ready market to assist in the valuation of the subject property. The auditor/appraiser must be able to gain information such as useful life and historical cost from the accounting records of the taxpayer.

The appraiser must also be aware that most business property is acquired by a business which expects to use the equipment for its entire useful economic life. We will find very few companies anxious to trade equipment just to have the newest model available.

For these and other reasons, anyone interested in pursuing a career in the valuation of personal property should have a strong foundation in accounting principles. We will also find many similarities in methodology between the accountant and the appraiser.

## The Accounting Profession

The American Institute of Certified Public Accountants (AICPA) is the national professional organization of CPA's. A CPA is a professional accountant who earns this title through a combination of education, experience and a written national examination.

The accounting profession can be divided into two major areas, public accounting and private accounting. Private accountants work for a single business and perform tasks such as auditing, tax planning and preparation, and management consulting. Public accountants work for the general public and perform services such as general accounting, cost accounting, budgeting, systems design, and internal auditing.

There are guidelines that accountants follow in maintaining financial records for businesses. These guidelines are referred to as the Generally Accepted Accounting Principles (GAAP) and are established by the Financial Accounting Standard Board (FASB). The guidelines and principles are used by accountants to maintain accounting records such as the general ledger, balance sheet, and income statement. We will discuss each of these as we go through this section.

## Basic Accounting Concepts and Principles

The term generally accepted accounting principles is a very broad statement that covers all the principles, concepts and methods used and recognized by accountants. Below are a few of these principles and concepts.

The Entity Concept: This is the most basic concept in accounting and states that an accounting entity is an organization or part of an organization which is set apart from any other organization. Examples of entities are: individuals, sole proprietorships, partnerships and corporations.

The Reliability Principle: States that accounting records and statements must be based on the most reliable data available. The data must be verifiable and capable of being confirmed by any independent observer.

The Cost Principle: States that assets should be recorded at the actual cost paid at the time of acquisition. The actual cost is also sometimes called the historical cost. The actual cost or historical cost may not be the original historical cost of the asset. We will discuss the difference later in this section.

The Going-Concern Concept: Assumes that an entity will remain in operation long enough to use the assets for their intended purpose. The market value of an asset may change over the life of the asset and many times will be different than the actual or historical cost of the asset.

The Stable-Monetary-Unit Concept: Assumes that the dollar's purchasing power is relatively stable. This concept ignores the effect of inflation in the accounting records, therefore the cost of an asset many times does not equal its fair market value.

The Matching Principle: Requires accountants to match expenses against revenues or to subtract the expenses from the revenues in order to determine the net income or loss.

Understanding these principle and concepts will help the appraiser better understand how accountants maintain the financial records and why. It is always important to remember that accounting records are maintained for reasons that may have no relationship to the fair market value of the assets. There are times when the cost data recorded and maintained does not represent the fair market value of the assets. The appraiser must be able to recognize the differences and make adjustments when warranted.

## Basic Accounting

The basic accounting record is the Account. This is a record of the changes that have occurred for a particular asset, liability or equity during a certain time period. The accounts are grouped together in a single book called the ledger. The terms like “booked the asset” “audit the books” and “keeping the books” refers to recording, review and maintaining the ledger. A company will normally have a “chart of accounts” which will list all the accounts found in the general ledger and with a number assigned to each account. These accounts are divided into three major groups represented by the accounting equation below:

$$\mathbf{A=L+C \text{ or assets = liabilities + capital.}}$$

Assets are normally divided into the following accounts:

- Cash
- Notes Receivable
- Accounts Receivable
- Prepaid Expenses
- Land
- Building
- Equipment, Furniture and Fixtures

Liabilities are normally grouped into two major categories:

- Note Payable
- Accounts Payable

Capital or Owner’s Equity is made up of the following:

- Capital
- Withdrawals
- Revenues

The information from these accounts is used to develop the financial statements of the business. The primary financial statements are the (1) balance sheet, (2) income statement, (3) statement of owner’s equity, (4) statement of cash flows and (5) depreciation schedules.

## BALANCE SHEET

A balance sheet is an accounting report indicating the assets, liabilities, and capital accounts of a business as of a specific date. The balance sheet is usually prepared annually in conjunction with the business’ fiscal year. The balance sheet centers around the accounting equation.

## Assets

There are several kinds of assets. Current assets include cash or other accounts that can be easily converted to cash. The cash account is not of interest to the auditor as far as taxation, however these assets may indicate the financial condition of a business when compared to the business' liabilities. Comparing cash and prepaid expenses to notes payable and salaries expense may give the appraiser insight into an economic obsolescence contention by the taxpayer. Other than cash itself, current assets may include accounts receivable, inventory, and prepaid expenses. The inventory section is where the auditor would commonly find inventories of supply items that should appear on the listing form. Such inventories are usually of items located in store rooms or storage cabinets and do not include items at desks or other work stations which are also taxable.

Assets not quite as liquid as current assets may be in the form of investments that generally include stocks and bonds owned by the taxpayer. Investments are not taxable in North Carolina.

Those assets, which we are interested in as appraisers, are fixed assets. In the fixed assets section of the balance sheet, the appraiser will find accounts for land, buildings, furniture and fixtures, machinery and equipment, computers, and vehicles. In North Carolina, we will focus on the personal property component of fixed assets. GAAP requires accountants to report the balance of fixed assets at the lower of cost or market. You will find that accountants capitalize fixed assets at cost rather than market since accountants are not appraisers.

The figures found for fixed assets on the balance sheet reflect the acquisition cost of the assets. The accumulated depreciation represents a write-off of acquisition cost to expense during the period the asset has been owned. The difference between those two figures represents what accountants call book value. Sometimes, an accountant may attempt to be an appraiser and post the net book value figure to the listing form. This is unacceptable since net book value rarely represents fair market value as of the lien date of January 1. Personal property items appearing on the balance sheet may not be categorized in the same manner as reported on the listing. However, the total cost of all taxable items in the balance sheet should equal the total cost reported on the listing form.

Another type of asset found on the balance sheet is intangible assets. Intangible assets are not taxable in North Carolina.

## Liabilities

Liabilities are also found on the balance sheet. Liabilities are usually classified as either current, short-term liabilities, or long term liabilities. Current liabilities include accounts payable, reserves for payroll taxes and accrued wages. Long-term liabilities may include items such as mortgages and notes payable.

## Capital Accounts (Net Worth) (Owner Equity)

The net worth equity, or capital section of the balance sheet identifies the capital stock, common stock and retained earnings.

An example of how the three parts of a balance sheet work together in the  $A=L+C$  equation is the home you might have. The home itself is the asset. The amount owing on the mortgage is a

Balance Sheet							
VALLEY HARDWARE STORE							
December 31, 2006							
Assets				LIABILITIES AND NET WORTH			
<b>CURRENT ASSETS</b>				<b>CURRENT LIABILITIES</b>			
Cash On Hand		3,000		Accounts Payable (Net Due)		40,000	
Bank Balances		80,000		Accounts Payable (Past Due)			
Marketable Securities							
Accounts Receivable - Customers				Notes Payable - Banks		70,000	
Accounts - Current	20,000			Notes Payable - Merchandise			
Accounts - Past Due				Notes Payable - Other			
Total	20,000			Reserve - Federal Taxes			
Less Revenues				Reserve - Other Taxes			
Notes Receivable - Customers		20,000		<b>ACCRUED EXPENSES</b>			
<b>INVENTORY</b>				Salaries & Wages			
Raw Material	30,000				140,000		
Work in Process							
Finished Stock							
Office supplies							
Store supplies							
		30,000		<b>Total Current Liabilities</b>			
<b>OTHER CURRENT ASSETS</b>							
				Mortgage Payable		90,000	
				Long Term Notes		30,000	
Total Current Assets		133,000					
<b>FIXED ASSETS</b>				<b>TOTAL LIABILITIES</b>			
Land	80,000			370,000			
Buildings	212,000			<b>NET WORTH</b>			
Furniture & Fixtures	109,602			Capital Stock			
Computers				Preferred			
Machinery & Equipment	1,261,531			Common			
Leasehold Improvements				Paid in or Capital Surplus			
Total	1,663,133			Retained Earnings			
Less Depreciation	692,321						
<b>OTHER ASSETS</b>							
Loans and Advances		970,812					
Prepaid Expenses	6,000			<b>Total</b>			
				Less Treasury Stock			
				Stockholders Equity			
		6,000					
				<b>NET WORTH</b>			
<b>TOTAL ASSETS</b>		1,109,812		<b>TOTAL LIABILITIES &amp; NET WORTH</b>			
				739,812			
				1,109,812			

liability. The amount you have paid is the capital or net worth. The depreciation on the home would be accounted for in a contra-asset account called accumulated depreciation. We will see accumulated depreciation again in a later section.

INCOME STATEMENT (Statement of Cash Flows, Statements of Operations)

Profit and Loss Statement (Income Statement)						
INCOME						Year Ending 12-31-2006
Sales						\$ 195,256
Total Income						\$ 195,256
COST OF SALES						
Inventory to Begin					\$ 25,000	
Merchandise Purchased					\$ -	
Total					\$ 25,000	
Less Inventory at End					\$ 11,000	
Cost of Sales						\$ 14,000
GROSS PROFIT						\$ 181,256
EXPENSES						
Advertising					\$ 500	
Auto & Trucks					\$ 100	
Bad Debts					\$ 500	
Depreciation					\$ 1,000	
Discounts and Allowances					\$ 50	
Freight, Express, Delivery					\$ 1,000	
General and Miscellaneous					\$ 1,000	
Heat, Light, Power and Water					\$ 1,200	
Insurance					\$ 300	
Interest					\$ 50	
Laundry and Cleaning					\$ 265	
Legal and Accounting					\$ 500	
Office Expense, Printing and Postage					\$ 500	
Repairs					\$ 100	
Rent					\$ 12,000	
Tools Expense					\$ 1,200	
Store Supplies Used					\$ 680	
Office Supplies Used					\$ 960	
Salaries and Wages - Employees					\$ 10,000	
- Officers					\$ 40,000	
Taxes:	F.I.C.A.				\$ 2,500	
	General				\$ 3,000	
	State Sales				\$ 1,250	
	Unemployment				\$ 4,000	
Telephone and Telegraph					\$ 1,000	
Travel and Entertainment					\$ 600	
					\$	
					\$	
Section 179 Assets					\$ 18,000	
					\$	
					\$	
Total Expenses						\$ 102,255
Net Operating Profit or Loss						\$ 79,001
OTHER INCOME						
Total						\$ -
OTHER EXPENSES						
TOTAL NET PROFIT OR LOSS						\$ 79,001

The income statement is a financial statement that summarizes the amount of revenues earned and expenses incurred by a business over a period of time. The period of time is usually the business' fiscal year, but may be for a different period, such as one month. There are several items relating to taxable property that can be found in the income statement.

DEPRECIATION SCHEDULE

Possibly the most useful document to the appraiser is the taxpayer’s depreciation schedule. Here the appraiser will find acquisition year and cost of capitalized fixed assets, which are the tools necessary to appraise the property. The depreciation schedule is used by accountants to calculate the measured expense to be taken within a certain revenue period. The matching principle or theory in accounting requires that expenses are to be recognized in the same period in which revenues are earned. This period is ordinarily one year. In other words, if an asset is expected to have a life of six years then the expense of that asset should be taken against the revenues earned in that six year period. The accountant calculation of life may be different than that of the appraiser.

The accountant measures the asset’s life by IRS standards. These standards may allow rapid write off. With a rapid write off, a greater expense is taken. This reduces net income and therefore, reduces the business’ income tax liability. When allocating this expense, or capitalized cost, several methods are available to the accountant.

Valley Hardware Store									
Depreciation Schedule			31-Dec-06						
Office Furniture & Fixtures									
Kind of Property	Date Acquired	Cost or Basis	Salvage Value	Cost less Salvage	Method Used	Rate or Life	Accum Dep 31-Dec-05	2006 Depr Expense	Accum Dep 31-Dec-06
File Cabinet	1997	\$ 500		\$ 500	SL	8	\$ 500	\$ -	\$ 500
Artwork	2001	\$ 1,000		\$ 1,000	SL	8	\$ 625	\$ 125	\$ 750
Vacuum	2001	\$ 180		\$ 180	SL	8	\$ 113	\$ 23	\$ 135
Stereo	2002	\$ 1,500		\$ 1,500	SL	8	\$ 750	\$ 188	\$ 938
Desk	2003	\$ 1,600	\$ 100	\$ 1,500	SL	8	\$ 563	\$ 188	\$ 750
Furniture	2003	\$ 2,500		\$ 2,500	SL	8	\$ 938	\$ 313	\$ 1,250
Lamp	2003	\$ 100		\$ 100	SL	8	\$ 38	\$ 13	\$ 50
Shredder	2003	\$ 250		\$ 250	SL	8	\$ 94	\$ 31	\$ 125
Desk Set	2004	\$ 100		\$ 100	SL	8	\$ 25	\$ 13	\$ 38
Adding	2004	\$ 50		\$ 50	SL	8	\$ 13	\$ 6	\$ 19
Register	2004	\$ 500		\$ 500	SL	8	\$ 125	\$ 63	\$ 188
Desk	2004	\$ 2,000	\$ 100	\$ 1,900	SL	8	\$ 475	\$ 238	\$ 713
Television	2005	\$ 395		\$ 395	SL	8	\$ 49	\$ 49	\$ 99
Computer	2005	\$ 2,500	\$ 100	\$ 2,400	SL	8	\$ 300	\$ 300	\$ 600
Computer	2006	\$ 2,500	\$ 100	\$ 2,400	SL	8	\$ -	\$ 300	\$ 300
Sofa	2006	\$ 1,670	\$ 20	\$ 1,650	SL	8	\$ -	\$ 206	\$ 206
Display	2006	\$ 500		\$ 500	SL	8	\$ -	\$ 63	\$ 63
10 Desks	2006	\$ 300	\$ 100	\$ 200	SL	8	\$ -	\$ 25	\$ 25
10 Chairs	2006	\$ 100	\$ 25	\$ 75	SL	8	\$ -	\$ 9	\$ 9
10 File Cabinets	2006	\$ 300	\$ 100	\$ 200	SL	8	\$ -	\$ 25	\$ 25
Table	2006	\$ 2,000		\$ 2,000	SL	8	\$ -	\$ 250	\$ 250
Equipment	2006	\$ 10,000		\$ 10,000	SL	8	\$ -	\$ 1,250	\$ 1,250
Sold Display	2006	\$ (1,000)		\$ (1,000)	SL	8	\$ -	\$ (125)	\$ (125)
<b>Total</b>		\$ 29,545	\$ 645	\$ 28,900			\$ 4,606	\$ 3,550	\$ 8,156

## Fixed Assets

The fixed assets of a business entity are those physical assets generally referred to as the property, or the plant & equipment of the operation. We can further define this subject area as the machinery, equipment, furniture & fixtures.

To be classified as a fixed asset the property must meet all of the following criteria:

1. The asset is acquired for use in the business and is not held for resale
2. The asset is long term in nature, which basically means that the asset will not be consumed during a period of less than one accounting cycle.
3. The asset must possess physical substance. While assets such as copyrights and patents are assets of a company, they have no physical substance and are therefore not classified as fixed assets.

Property acquired by a business and meeting the stipulations above, is **Capitalized** by the business. Businesses usually set a **capitalization threshold**. This threshold is a dollar amount used to determine if an asset will be capitalized and placed on the depreciation schedule or treated as an expensed item and the entire cost written off against the revenues for the current year. Any asset costing more than the threshold is capitalized while items costing less than the threshold are expensed. Expensed items are still taxable and should be listed, but are not found on the depreciation schedule. One of the basic tenets of accounting requires the matching of revenues and expenses. Property acquired by a business that is expected to perform a task for a certain period of time must have a portion of the purchase price matched with the income it produces. If a business did not try to match these revenues and expenses, every time there were major increases in capital assets, the company would show a loss. Conversely, any time a company chose not to buy any new property, they would have to pay increased income taxes.

## Cost

The cost of an asset is defined as the cash or cash equivalent price of what is given up in order to obtain the new asset. There can be several different costs that must be included in the capitalized cost of an asset. By industry practice, cost should include any and all costs associated with obtaining the property and bringing it to its anticipated useful purpose. These costs can include, but are not limited to, any combination of the following:

- Invoice Cost
- Freight
- Sales and Excise Tax
- Insurance while in transit
- Special wiring and foundations
- Cost of test runs
- Interest During Construction



## Cost Apportionment (Depreciation)

In order to match the revenues and expenses of a business entity, the accountant must allocate a portion of the capitalized cost of an asset to the accounting period for which the use of the property is benefited. There are several methods available to the accountant to make this allocation. On the next few pages, we will examine a few of the most popular methods of accounting depreciation.

### Straight Line Method

The straight line method assumes the asset will lose its utility on a uniform and even basis. To calculate the annual charge to income for depreciation, the accountant will use the following formula:

$$\text{Annual depreciation} = \frac{\text{Cost} - \text{Salvage Value}}{\text{Useful Economic Life}}$$

The following table demonstrates the depreciation of an asset having a cost of \$6,500, a salvage value of \$1,500 and a useful economic life of five (5) years.

<u>Year#</u>	<u>Book Value</u>	<u>Depreciation Expense</u>	<u>Accumulated Depreciation</u>	<u>Net Book Value</u>
1	6,500	1,000	1,000	5,500
2	5,500	1,000	2,000	4,500
3	4,500	1,000	3,000	3,500
4	3,500	1,000	4,000	2,500
5	2,500	1,000	5,000	1,500 *

\* Salvage Value

### Decreasing Charge Methods

The theory behind the use of the decreasing charge methods is that the asset is likely to suffer greater maintenance and repair costs in the later years of its economic life. In order to match revenues and expenses, the accountant should allocate a larger portion of the asset cost in the early years of use. The two most common methods for making this allocation are the Sum-of-the-years-digits and the Double Declining Balance.

Although the amount of depreciation calculated each year will vary when using the decreasing charge methods, the method of arriving at net book value does not change. In other words, you always begin with the beginning book value, subtract the calculated depreciation expense for that year and the result is the net book value for that year. Net book value will be the beginning book

value for the next year. The accumulated depreciation column is always a running total of the depreciation expense column.

### Double Declining Balance Method

This method allocates the depreciation charge by (A) calculating a straight line depreciation rate, (B) doubling this rate, (C) applying the rate to the cost of the asset less any accumulated depreciation, yet (D) stopping the depreciation at salvage value. In our example, the depreciation schedule would appear as follows:

$$\frac{100\%}{5 \text{ (Life Years)}} = 20\%$$

$$20\% \times 2 = 40\%$$

<u>Year #</u>	<u>Book Value</u>	<u>Factor</u>	<u>Depr. Exp.</u>	<u>Accum. Depr.</u>	<u>Net Book Value</u>
1	6,500	.40	2,600	2,600	3,900
2	3,900	.40	1,560	4,160	2,340
3	2,340	.40	840 *	5,000	1,500
4	1,500	.40	-0-	5,000	1,500
5	1,500	.40	-0-	5,000	1,500

\*You do not depreciate below salvage value

### Sum of the Years Digits

Under this method the years in an asset's life are totaled. This sum becomes the denominator of a series of fractions used in allocating depreciation to the periods in the asset's service life. The numerators of the fraction are the years in the asset's life in reverse order. This method would produce the following depreciation schedule:

<u>Year</u>	<u>Book Value</u>	<u>Fraction</u>	<u>Basis*</u>	<u>Depr. Exp.</u>	<u>Accu. Depr.</u>	<u>Net Book Value</u>
1	6,500	5/15	5,000	1,667	1,667	4,833
2	4,833	4/15	5,000	1,333	3,000	3,500
3	3,500	3/15	5,000	1,000	4,000	2,500
4	2,500	2/15	5,000	667	4,667	1,833
<u>5</u>	1,833	1/15	5,000	333	5,000	1,500 **
15						

\* Cost - Salvage Value

\*\* Salvage Value

### Activity Methods - Units of Production

In some industries, such as mining, it may be more practical to allocate depreciation to units of production rather than to an estimated life. For instance, if an asset costing \$11,500 and salvage value of \$1,500 was purchased to produce an estimated 100,000 widgets and 24,000 widgets were produced within a given year, the depreciation calculation for that particular year would appear as follows:

Cost	=	\$11,500
Less salvage		<u>- 1,500</u>
Depreciable Base		\$10,000 / 100,000 = .10/widget

Year's production =	24,000
Amount of depr./widget	<u>x .10</u>
Year's depreciation	\$ 2,400

There are many other methods of depreciation in use by the accounting community. Many of these methods are used for income tax depreciation and have little value for the personal property appraiser. It would benefit the appraiser to make a study of the various regulations covering income tax methods such as those listed:

- ACRS - Accelerated Cost Recovery Property
- MACRS - Modified Accelerated Cost Recovery Property
- CLADR - Class Life Asset Depreciation Range
- Section 179 Expensed Property



### Repairs, Replacements and Betterments

Expenditures for those repairs and replacements necessary to maintain an asset in a normal good operating condition are considered as repairs. These items do not appear in the asset accounts but do appear in the expense accounts. Repairs may include such items as painting, roof repair, machine reconditioning and replacement of small parts.

Extraordinary repairs and replacements are major expenditures intended to extend the life of the asset beyond the original estimated life years. These items are treated as a reduction of accumulated depreciation, thereby increasing net book value.

Betterments are defined as those expenditures for replacements of assets or portions of assets with improved or superior assets or portions of assets. This replacement is usually intended to make the asset better, more efficient or more productive, but will not necessarily extend the life of the asset. Betterments should be recorded as an addition to the asset bettered and included in the depreciation base.



## **Inventories**

### **Nature of Inventories**

The term inventories is a designation for goods that are held for sale in the normal course of business, as well as for goods that are in production or are to be placed in production. Practically all tangible items fall into this classification at one time or another. Gasoline, oil, and automotive supplies are included in the inventory of a service station; crops and livestock are included in the inventory of a farmer; machinery and equipment are included in the inventory of a manufacturer producing such items for sale.

### **Repeal of the Property Tax on Inventories**

Inventories held for sale in the regular course of business by manufacturers, retail and wholesale merchants, and goods held by contractors to be furnished in the course of building, installing, repairing, or improving real property are exempt from property taxes in North Carolina. Below is a history of the changes that took place from 1985 until current.

### **History:**

THE LAWS APPLICABLE IN DEFINING INVENTORIES OF BOTH "MANUFACTURERS" AND "RETAILERS AND WHOLESALERS" WHICH WERE EFFECTIVE AS OF JANUARY 1, 1986 ARE AS FOLLOWS:

1. G. S. 105-273(8a)

"Inventories" means goods held for sale in the regular course of business, raw materials, goods in process of manufacture or processing, and other goods and materials that are used or consumed in the manufacture or processing of tangible personal property for sale or that accompany and become a part of the property as sold. The term does not include fuel used in manufacturing or processing.

2. (10a) "Manufacturer" means a taxpayer who is regularly engaged, at a manufacturing or processing plant, mill, or factory in this State, in the mechanical or chemical conversion or transformation of materials or substances into new products for sale. The term does not include delicatessens, cafes, cafeterias, restaurants, and other similar retailers that are principally engaged in the retail sale of foods prepared by them for consumption on or off their premises.

3. (13a) "Retail Merchant" means a taxpayer who is regularly engaged in the sale of tangible personal property, acquired by a means other than manufacture, processing, or producing by the merchant, to users or consumers. For the purpose of the classification in G.S. 105-277(i), the term includes a manufacturer who holds property for sale that it did not manufacture or who holds finished goods for sale at a location other than its establishment.

4. (19) "Wholesale Merchant" means a taxpayer who is regularly engaged in the sale of tangible personal property, acquired by a means other than manufacture, processing, or producing by the merchant, to other retail or wholesale merchants for resale or to manufacturers for use as ingredient or component parts of articles being manufactured for sale. For the purpose of the classification in G.S. 105-277(i), the term includes a manufacturer who holds property for sale that it did not manufacture or who holds finished goods for sale at a location other than its establishment.
5. G.S. 105-163.02(e) "Establishment" means a mill or plant in North Carolina at which manufacturing operations are performed, and which constitute an economic unit at a single physical location or site, unless otherwise indicated herein. The word "establishment" includes along with a manufacturing plant all sites in North Carolina where raw materials and/or partially manufactured goods are stored away from the manufacturing plant for use in such manufacturing plant. Two or more plants engaged in different steps of a manufacturing process constitute an establishment if goods must move through each plant before becoming a finished product even though the plants are at different sites in North Carolina. Two or more plants having a common ownership in North Carolina located at different sites and producing the same class or type of products may be deemed at the option of the taxpayer to be a single establishment for the purposes of this Division.

#### **1989 - All poultry and livestock inventories exempted.**

Effective January 1, 1989, G.S. 105-275 was amended by adding a new subdivision (37) which exempts from ad valorem taxation all poultry and livestock, and feed used in the production of poultry and livestock, whether or not held for sale.

#### **1992 - Contractors' inventory exempted.**

Effective January 1, 1992 G.S. 105-273(8a) was amended by adding "and contractors and (ii) goods held by contractors to be furnished in the course of building, installing, repairing, or improving real property".

Effective January 1, 1992 G.S. 105-273(5a) was added which states, "Contractor means a taxpayer who is regularly engaged in building, installing, repairing, or improving real property."

Effective January 1, 1992 G.S. 105-275(32a) was added which adds "inventories owned by contractors" to the list of exempt properties under G.S. 105-275.

#### **1994 Current Statutes Considering Inventories**

The following types of inventories are exempt from property tax in North Carolina.

1. G.S. 105-275(32a) Inventories owned by contractors



2. G.S. 105-275(33) Inventories owned by manufacturers
3. G.S. 105-275(34) Inventories owned by retail and wholesale merchants.

THE LAWS APPLICABLE IN DEFINING INVENTORIES OF BOTH "MANUFACTURERS" AND "RETAILERS AND WHOLESALERS" WHICH ARE CURRENTLY IN EFFECT ARE AS FOLLOWS:

G.S. 105-273

1. (5a) "Contractor" means a taxpayer who is regularly engaged in building, installing, repairing, or improving real property.
2. (8a) "Inventories" means (i) goods held for sale in the regular course of business by manufacturers, retail and wholesale merchants and contractors, and (ii) goods held by contractors to be furnished in the course of building, installing, repairing, or improving real property. As to manufacturers, the term includes raw materials or supplies that are consumed in manufacturing or processing, or that accompany and become a part of the sale of the property being sold. The term also includes a modular home as defined in G.S. 105-164.3(21b) that is used exclusively as a display model and held for eventual sale at the retail merchant's place of business. The term also includes crops, livestock, poultry, feed used in the production of livestock and poultry, and other agricultural or horticultural products held for sale, whether in process or ready for sale. The term does not include fuel used in manufacturing or processing, nor does it include materials or supplies not used directly in manufacturing or processing. As to retail and wholesale merchants, the term includes, in addition to articles held for sale, packaging materials that accompany and become a part of the sale of the property being sold.
3. (10b) "Manufacturer" means a taxpayer who is regularly engaged in the mechanical or chemical conversion or transformation of materials or substances into new products for sale or in the growth, breeding, raising, or other production of new products for sale. The term does not include delicatessens, cafes, cafeterias, restaurants, and other similar retailers that are principally engaged in the retail sale of foods prepared by them for consumption on or off their premises.
4. (13a) "Retail Merchant" means a taxpayer who is regularly engaged in the sale of tangible personal property, acquired by a means other than manufacture, processing, or producing by the merchant, to users or consumers.
5. (19) "Wholesale Merchant" means a taxpayer who is regularly engaged in the sale of tangible personal property, acquired by a means other than manufacture, processing, or producing by the merchant, to other retail or wholesale merchants for resale or to manufacturers for use as ingredient or component parts of articles being manufactured for sale.

## **What are exempt inventories?**

Exempt inventories are "(i) goods held for sale in the regular course of business by manufacturers, retail and wholesale merchants, and contractors, and (ii) goods held by contractors to be furnished in the course of building, installing, repairing, or improving real property." Also included, beginning in 2006, are modular homes as defined in G.S. 105-164.3(21b) used exclusively as display models and held for eventual sale at the retail merchant's place of business. Modular homes are discussed in more detail later in this manual.

The legislature enacted G.S. 105-275(32a), (33) and (34) to exclude "inventory", which was defined in relevant part as "goods held for sale in the regular course of business". The legislature did not exclude all goods held for sale, but only those held for sale in the regular course of business. The following are examples of goods held as inventory which are not exempt.

1. Leased equipment.
2. Leased vehicles or rental vehicles.
3. Supplies used in providing a service.
4. Spare parts.

There have been three recent cases which have helped answer the question of what are exempt inventories. The Moore Buick-Pontiac, Inc. case out of Onslow County was concerned with the taxability of rental cars. In its decision the North Carolina Property Tax Commission employed a "two prong" test to determine if the property was exempt.

**The first prong consisted of determining whether the Taxpayer had bargained away his absolute right to possess and control the property; if so, the property could not be said to be "held for sale". The second prong involved an examination of all surrounding facts and circumstances to determine whether the property, if it was held for sale, was held for sale in the regular course of business by a retail merchant.**

The second case was R.W. Moore Equipment Company, Inc. out of Wake County. This case concerned heavy equipment which was leased out by the owner. The North Carolina Property Tax Commission ruled (and the courts have agreed) that the equipment was not exempt inventory and further stated the following:

**"Inventories", as that term is commonly employed and under the definition set out in G.S. 105-275(33) and (34), is a term clearly distinguishable from capital assets used in a trade or business. A given item (e.g. a drill press, a truck, or a bulldozer) may be either inventory or a capital asset, depending on the use made of that asset by the owner. Indeed, most taxable capital assets start out as someone's (not-taxable) inventory.**

The third case is Cone Mills, Inc. out of Guilford. This case concerns machinery and equipment which had been used by the taxpayer for manufacturing purposes and then removed from production and held for sale or disposition. The North Carolina Property Tax Commission ruled (and the courts have agreed) that the equipment was not exempt inventory and further stated the following:

**To resolve this question we ask: What was the primary purpose for which taxpayer acquired the property? If the taxpayer acquired the equipment and machinery for the primary purpose of using it in the manufacture of textiles, then the equipment and machinery are not goods held for sale in the regular course of business by a wholesale merchant. If the taxpayer acquired the property for the primary purpose of resale, then the property would be excluded from ad valorem taxation.**

The key point is that not all inventory is exempt and the burden is on the taxpayer to prove that he is entitled to an exemption. Copies of the decisions from the three cases above are available from the Ad Valorem Tax Division upon request.

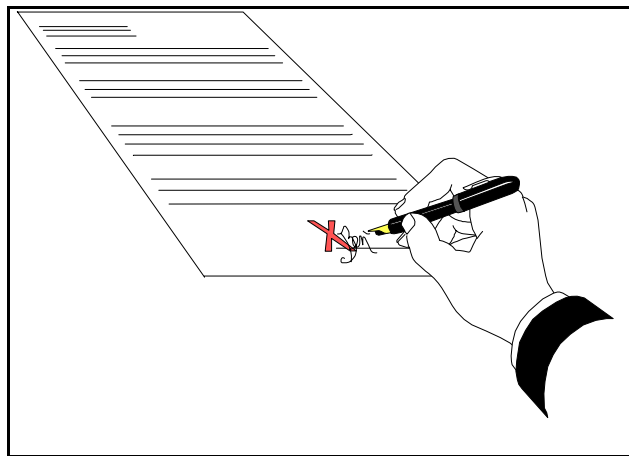
## **Case Problem**

### **Inventory**

Which of the following would not be considered inventory and exempted from property taxes.

1. Goods held for sale at a clothing outlet.
2. Raw materials used in the production of a product.
3. A contractor's materials and goods sold when making service calls.
4. Drill bits and oil used in a tool and die shop.
5. Cars owned by a car dealer used as a demonstrator.
6. A wrecker running a dealer tag, owned by a car dealer, used for service calls.
7. Medical supplies used in the providing medical care in a doctor's office.
8. Singlewide mobile homes for sale on a dealer's lot.
9. Rental movies on DVD.
10. Furniture held rent to own that is also for sale while being rented.
11. Computer software that is capitalized on the taxpayer's books.
12. Equipment owned by a manufacturer after it is no longer being used.
13. Paper or plastic bags used to bag groceries at a grocery store.
14. Modular homes on the dealer's lot used as an office.

SECTION VI  
LISTING AND PROCESSING



The effective personal property appraiser must possess many skills in order to adequately handle his or her duties. One of the most important aptitudes that should be developed is the ability to organize the office and manage the workflow. Most county tax offices are not blessed with excess staff, so it benefits the professional appraiser to work as efficiently as possible.

The best way to make the yearly appraisal and billing cycle flow with as few complications as possible is by having all the information needed by the end of the listing period. To get the most reliable and helpful information, it is critical that the taxpayer is aware of what is required by the appraiser.

### The Abstract

The single most important tool in the appraisal of business personal property is a well designed listing form approved by the Department of Revenue. It has been demonstrated that the use of a good abstract greatly facilitates the overall improvement of business listings. Several counties, as well as this department, early on recognized the need for a uniform abstract. Prior to 2004, the Department of Revenue had a recommended abstract that each county could choose to model their individual forms after. About half of the counties either used the recommended abstract or a close version of it. Beginning in 2004, with the cooperation of several county property tax professionals, there is now a listing form that is accepted in all 100 counties.

The Statewide Uniform Abstract must be accepted by all counties, however some choose to keep their original listing form as well. For those counties, a taxpayer may list on either form. The advantages of having one form available for all counties are numerous:

- 1) The Statewide Uniform Abstract can be updated each year and posted on the Department of Revenue's website at <http://www.dor.state.nc.us/> . This can save printing and mailing costs for some counties.
- 2) Each county can better justify rejecting any listing that is not completed on either the Statewide Uniform Abstract or their own counties listing form.
- 3) Multi-jurisdictional businesses can be familiar with one form rather than having to be familiar with multiple forms for different counties.
- 4) Multi-jurisdictional businesses can count on their listing being accepted and have one source for their form each year.
- 5) Local businesses still can have the choice of using a more familiar county form if one is provided.

The 2007 Uniform State Abstract is shown on the following pages. The form is reviewed each year to determine what changes are needed to make the form more user friendly and more useful for both the county and taxpayers alike.

# 2007

COUNTY OF \_\_\_\_\_ North Carolina

## BUSINESS PERSONAL PROPERTY LISTING

FOR DEPARTMENT USE ONLY		ACCOUNT NUMBER	DATE	TWP	DISTRICT	CITY	PENALTY	VALUE
1	2	3	4	5	6	7		
8	B	D	E	F	TOTAL			

Business Legal Name or Individual's Name

Trade Name or DBA

Address

City

State

Zip

OTHER N.C. COUNTIES WHERE PERSONAL PROPERTY IS LOCATED

CONTACT PERSON FOR AUDIT

ADDRESS & PHONE

CONTACT PERSON FOR PAYMENT & PHONE

PHYSICAL ADDRESS

REAL ESTATE OWNED BY

NAME IN WHICH BUSINESS WAS LISTED LAST YEAR

WHAT IS PRINCIPAL BUSINESS IN THIS COUNTY

STANDARD INDUSTRIAL CLASSIFICATION CODE (SIC #)

NAICS CODE

DATE BUSINESS BEGAN IN THIS COUNTY

DATE BUSINESS (FISCAL) YEAR ENDS

FILL IN APPLICABLE CIRCLE:

- PARTNERSHIP   
  SOLE PROPRIETORSHIP   
  UNINCORPORATED ASSOCIATION  
 CORPORATION   
  OTHER (SPECIFY)

FILL IN APPLICABLE CIRCLE: BUSINESS CATEGORY

- RETAIL   
  WHOLESALE   
  MANUFACTURING  
 SERVICE   
  LEASING/RENTAL   
  FARMING  
 OTHER (SPECIFY)

IF OUT OF BUSINESS COMPLETE THIS SECTION

DATE CEASED

FILL IN APPLICABLE CIRCLE:

- SOLD   
  CLOSED   
  BANKRUPT   
  OTHER

SOLD EQUIPMENT, FIXTURES, SUPPLIES TO

BUYER'S ADDRESS & PHONE

### SCHEDULE A

### PERSONAL PROPERTY - SEE INSTRUCTIONS

YEAR ACQUIRED	GROUP (1) MACHINERY & EQUIPMENT				YEAR ACQUIRED	GROUP (3) OFFICE FURNITURE & FIXTURES			
	PRIOR YR. COST	ADDITIONS	DELETIONS	CURR. YR. COST		PRIOR YR. COST	ADDITIONS	DELETIONS	CURR. YR. COST
2006					2006				
2005					2005				
2004					2004				
2003					2003				
2002					2002				
2001					2001				
2000					2000				
1999					PRIOR				
1998					TOTAL				
1997									
1996									
1995									
1994									
1993									
1992									
1991									
PRIOR									
TOTAL									

### GROUP (4) COMPUTER EQUIPMENT

YEAR ACQUIRED	PRIOR YR. COST	ADDITIONS	DELETIONS	CURR. YR. COST
2006				
2005				
2004				
2003				
PRIOR				
TOTAL				

### GROUP (2) CONSTRUCTION IN PROGRESS

LIST TOTAL OF ALL PERSONAL PROPERTY EXPENDITURES IN CIP ACCOUNT ON JANUARY 1, BUT NOT INCLUDED ABOVE - ITEMIZE IN SCHEDULE G

TOTAL CIP: \$

**DO NOT REMIT THIS FORM TO NC DEPARTMENT OF REVENUE**

County addresses and additional schedules are available at:  
<http://www.dor.state.nc.us/publications/property.html>

Send to appropriate county tax office.

**SCHEDULE A - CONTINUED**

**PERSONAL PROPERTY - SEE INSTRUCTIONS**

YEAR ACQUIRED	GROUP (5) LEASEHOLD IMPROVEMENTS				GROUP (7) SUPPLIES				COST
	PRIOR YR. COST	ADDITIONS	DELETIONS	CURR. YR. COST	1. OFFICE, MAINTENANCE, JANITORIAL, MEDICAL, DENTAL, BARBER AND BEAUTY SUPPLIES	2. FUELS HELD FOR CONSUMPTION	3. REPLACEMENT PARTS AND SPARE PARTS	4. RESTAURANT AND HOTEL ITEMS SUCH AS LINENS, CLEANING SUPPLIES AND COOKWARE NOT LISTED ELSEWHERE IN SCHEDULE A	
2006									
2005									
2004									
2003									
2002									
2001									
2000									
1999									
1998									
1997									
1996									
1995									
1994									
1993									
PRIOR									
TOTAL									

YEAR ACQUIRED	GROUP (8) OTHER - TO BE USED WITH COUNTY APPROVAL			
	PRIOR YR. COST	ADDITIONS	DELETIONS	CURR. YR. COST
2006				
2005				
2004				
2003				
2002				
2001				
2000				
1999				
1998				
1997				
1996				
1995				
1994				
1993				
PRIOR				
TOTAL				

YEAR ACQUIRED	GROUP (6) EXPENSED ITEMS				Capitalization Threshold $\rightarrow$
	PRIOR YR. COST	ADDITIONS	DELETIONS	CURR. YR. COST	
2006					
2005					
PRIOR					
TOTAL					

**SCHEDULE B**

**VEHICULAR EQUIPMENT & MOBILE HOMES OR MOBILE OFFICES**

If you answer yes to any of questions 1-6 below, you must attach the appropriate Schedule which corresponds with the equipment type listed below. If you answer yes to any of questions 1,2, or 3 attach Schedule B-1, attach Schedule B-2 for watercraft, attach Schedule B-3 for Mobile Homes or Mobile Offices, and attach Schedule B-4 for aircraft. Indicate number of short-term rental vehicles owned for question 7.

- Does your business own any Unregistered Motor Vehicles?  YES  NO
- Does your business own any Multi-year or permanently registered Trailers?  YES  NO **If yes attach schedule  $\rightarrow$  B-1**
- Does your business own any special bodies on vehicles?  YES  NO
- Does your business own any watercraft or engines for watercraft?  YES  NO **If yes attach schedule  $\rightarrow$  B-2**
- Does your business own any Mobile Homes or Mobile Offices?  YES  NO **If yes attach schedule  $\rightarrow$  B-3**
- Does your business own any Aircraft?  YES  NO **If yes attach schedule  $\rightarrow$  B-4**
- Does your business own any vehicles held for short-term rental?  YES  NO **Number  $\rightarrow$**

**SCHEDULE C**

**LEASED PROPERTY OR OTHER PROPERTY IN YOUR POSSESSION THAT IS OWNED BY OTHERS**

N.C.G.S. 105-315 AND 105-316 requires every person having custody of taxable tangible personal property that has been entrusted to him by another for any business purpose to furnish a separate list containing name, address and description of this property. If you answer yes to one of the following three questions or are otherwise required to supply this list, **you must return the list or separate Schedule C-1 by January 15.**

- Does your business hold any Leased Property, owned by another party (are you a lessee)?  YES  NO
- Do you have any property used by your business, or in your possession that is owned by others?  YES  NO
- Do you operate a mobile home park, campground, marina, aircraft storage facility or similar business?  YES  NO



**SCHEDULE D****SEPARATELY SCHEDULED PROPERTY**

1. Does your business own any artwork, displays, statues, or other personal property that is separately scheduled for insurance purposes?  YES  NO

Please describe the items and estimated value of items if applicable.

**SCHEDULE E****FARM EQUIPMENT**

Does your business own any tractors and/or other farm equipment?  YES  NO  Cost on schedule A

If so, list and attach separate schedule E-1. If listed by cost on Schedule A, indicate above but still include information on separate schedule E-1.

**SCHEDULE F****INTANGIBLE PERSONAL PROPERTY**

Do you lease or rent real property from exempt owners, such as a church, local, state or federal government, an airport authority, university, or other exempt owner?  YES  NO If yes, include lease information below. Attach additional schedule if necessary.

NAME AND ADDRESS OF OWNER	DESCRIPTION OF PROPERTY	DATE OF LEASE AND LEASE TERM	MONTHLY PAYMENT	ACCT. #

**SCHEDULE G****ACQUISITIONS AND DISPOSALS DETAIL**

Acquisitions and disposals detail of machinery, equipment, furniture and fixtures and computer equipment, and leasehold improvements in the prior year. If there is not enough room below, attach separate Schedule G-1.

ACQUISITIONS - ITEMIZE IN DETAIL	100% ORIGINAL COST	DISPOSALS - ITEMIZE IN DETAIL	YEAR ACQUIRED	100% ORIGINAL COST

**SCHEDULE H****REAL ESTATE IMPROVEMENTS**

During the past calendar year, did your business make improvements and/or other additions to real property, owned by your business? If yes, attach separate schedule H-1 with information on such improvements.  YES  NO

**AFFIRMATION****LISTING FORM MUST BE SIGNED BY A LEGALLY AUTHORIZED PERSON - SEE INSTRUCTIONS**

Under penalties prescribed by law, I hereby affirm that to the best of my knowledge and belief this listing, including any accompanying statements, inventories, schedules, and other information, is true and complete. (If this is signed by an individual other than the taxpayer, he affirms that he is familiar with the extent and true value of all the taxpayer's property subject to taxation in this county and that his affirmation is based on all the information of which he has any knowledge.)

**Listing MUST be signed by the taxpayer, a principal officer of the taxpayer or a FULL-TIME employee of the taxpayer who has been officially empowered by the principal officer to list the property**

\_\_\_\_\_  
Signature Date Preparer Other Than Taxpayer Date

\_\_\_\_\_  
Title Telephone Number Address

\_\_\_\_\_  
Email Address Fax Number

**Any individual who willfully makes and subscribes an abstract listing required by the Subchapter (of the Revenue Laws) which he does not believe to be true and correct as to every material matter shall be guilty of a Class 2 misdemeanor. (Punishable by imprisonment up to 60 days)**

## INSTRUCTIONS – Listings due By January 31.

### Commonly Asked Questions

#### Who must file a listing, and what do I list?

Any individual(s) or business(es) owning or possessing personal property used or connected with a business or other income producing purpose on January 1. Temporary absence of personal property from the place at which it is normally taxable shall not affect this rule. For example, a lawn tractor used for personal use, to mow the lawn at your home is not listed. However, a lawn tractor used as part of a landscaping business in this county must be listed if the lawn tractor is normally in this county, even if it happens to be in another state or county on January 1.

NCGS §105-308 reads that .."any person whose duty it is to list any property who willfully fails or refuses to list the same within the time prescribed by law shall be guilty of a Class 2 misdemeanor. The failure to list shall be prima facie evidence that the failure was willful." A class 2 misdemeanor is punishable by imprisonment of up to 60 days.

#### When and where to list?

**Listings are due on or before January 31.** They must be filed with the County Tax Department. **DO NOT FILE THIS FORM WITH THE NORTH CAROLINA DEPARTMENT OF REVENUE.** This form will not be accepted by the NC Department of Revenue.

A list of county tax office addresses can be found at the NC Department of Revenue's Website. <http://www.dor.state.nc.us/publications/property.html>

As required by state law, late listings will receive a penalty. An extension of time to list may be obtained by sending a written request showing "good cause" to the County Assessor by January 31.

#### How do I list? -- Three important rules:

- (1) Read these INSTRUCTIONS for each schedule or group. Contact your county tax office if you need additional clarification.
- (2) If a Schedule or Group does not apply to you, indicate so on the listing form. **DO NOT LEAVE A SECTION BLANK. DO NOT WRITE "SAME AS LAST YEAR"**. A listing form may be rejected for these reasons and could result in late listing penalties.
- (3) Listings must be filed based on the tax district where the property is physically located. If you have received multiple listing forms, each form must be completed separately.

### INFORMATION SECTION

Complete all sections at the top of the form, whether or not they are specifically addressed in these INSTRUCTIONS. Attach additional sheets if necessary.

- (1) Other N.C. Counties where personal property is located: If your business has property normally located in other counties, list those counties here.
- (2) Contact person for audit: In case the county tax office needs additional information, or to verify the information listed, list the person to be contacted here.
- (3) Physical address: Please note here the location of the property. The actual physical location may be different from the mailing address. Post Office Boxes are not acceptable.
- (4) Principal Business in this County: What does the listed business do? For example: Tobacco Farmer, Manufacture electrical appliances, Laundromat, Restaurant. The **SIC** or **NAICS code** may help describe this information, if you do not know the **SIC** or **NAICS code**, please write "unknown".
- (5) Complete other requested business information. Make any address changes.
- (6) If out of business: If the business we have sent this form to has closed, complete this section and attach any additional information regarding the sale of the property.

#### Schedule A

The year acquired column: The rows which begin "2006" are the rows in which you report property acquired during the calendar year 2006. Other years follow the same format.

Schedule A is divided into eight (8) groups. Each is addressed below. Some counties may have the column "Prior Years Cost" pre-printed. This column should contain the cost information from last year's listing. If it does not, please complete this column, referring back to your last year's listing. List under "Current Year's Cost" the 100% cost of all depreciable personal property in your possession on January 1. Include all fully depreciated assets as well. Round amounts to the nearest dollar. Use the "Additions" and "Deletions" column to explain changes from "Prior Yr. Cost" to "Current Yr. Cost". The "Prior Year's Cost" plus "Additions" minus "Deletions" should equal "Current Years Cost" If there are any additions and/or deletions, please note those under schedule G, Acquisitions and Disposals Detail. If the deletion is a transferred or paid out lease, please note this, and to whom the property was transferred.

**COST** - Note that the cost information you provide must include all costs associated with the acquisition as well as the costs associated with bringing that property into operation. These costs may include, but are not limited to invoice cost, trade-in allowances, freight, installation costs, sales tax, expensed costs, and construction period interest.

The cost figures reported should be historical cost, that is the original cost of an item when first purchased, even if it was first purchased by someone other than the current owner. For example, you, the current owner, may have purchased equipment in 2003 for \$100, but the individual you purchased the equipment from acquired the equipment in 1998 for \$1000. You, the current owner, should report the property as acquired in 1998 for \$1000.

Property should be reported at its actual historical installed cost IF at the retail level of trade. For example, a manufacturer of computers can make a certain model for \$1000 total cost. It is typically available to any retail customer for \$2000. If the manufacturer uses the model for business purposes, he should report the computer at it's cost at the retail level of trade, which is \$2000, not the \$1000 it actually cost the manufacturer. Leasing companies must list property they lease at the retail trade level, even if their actual cost is at the manufacturer or wholesaler level of trade.

#### Group (1) MACHINERY & EQUIPMENT

This is the group used for reporting the cost of all machinery and equipment. This includes all warehouse and packaging equipment, as well as manufacturing equipment, production lines, hi-tech or low-tech. List the total cost by year of acquisition, including fully depreciated assets that are still connected with the business.

For example, a manufacturer of textiles purchased a knitting machine in October 2005 for \$10,000. The sales tax was \$200, shipping charges were \$200, and installation costs were \$200. The total cost that the manufacturer should report is \$10,600, if there were no other costs incurred. The \$10,600 should be added in group (1) to the 2005 current year's cost column.

#### Group (2) Construction in Progress (CIP)

CIP is business personal property which is under construction on January 1. The accountant will typically not capitalize the assets under construction until all of the costs associated with the asset are known. In the interim period, the accountant will typically maintain the costs of the asset in a CIP account. The total of this account represents investment in tangible personal property, and is to be listed with the other capital assets of the business during the listing period. List in detail. If you have no CIP, write "none".

#### Group (3) Office Furniture & Fixtures

This group is for reporting the costs of all furniture & fixtures and small office machines used in the business operation. This includes, but is not limited to, file cabinets, desks, chairs, adding machines, curtains, blinds, ceiling fans, window air conditioners, telephones, intercom systems, and burglar alarm systems.

#### Group (4) Computer Equipment

This group is for reporting the costs of non-production computers & peripherals. This includes, but is not limited to, personal computers, midrange, or mainframes, as well as the monitors, printers, scanners, magnetic storage devices, cables, & other peripherals associated with those computers. This category also includes software that is capitalized and purchased from an unrelated business entity. This does not include high tech equipment such as proprietary computerized point of sale equipment or high tech medical equipment, or computer controlled equipment, or the high-tech computer components that control the equipment. This type of equipment would be included in Group (1) or "other".

#### Group (5) Leasehold Improvements

This group includes real estate improvements to leased property contracted for, installed, and paid for by the lessee which may remain with the real estate, thereby becoming an integral part of the leased fee real estate upon expiration or termination of the current lease, but which are the property of the current lessee who installed it. (Examples are lavatories installed by lessee in a barbershop, special lighting, or dropped ceiling.) If you have no leasehold improvements write "none". Contact the appropriate county to determine if you question if leasehold improvements have already been appraised as real property.

#### Group (6) Expensed Items

This group is for reporting any assets which would typically be capitalized, but due to the business' capitalization threshold, they have been expensed. Section 179 expensed items should be included in the appropriate group (1) through (4). Fill in the blank which asks for your business' "Capitalization Threshold." If you have no expensed items write "none".

#### Group (7) Supplies

Almost all businesses have supplies. These include normal business operating supplies. List the cost on hand as of January 1. Remember, the temporary absence of property on January 1 does not mean it should not be listed if that property is normally present. Supplies that are immediately consumed in the manufacturing process or that become a part of the property being sold, such as packaging materials, or raw materials, for a manufacturer, do not have to be listed. Even though inventory is exempt, supplies are not. Even if a business carries supplies in an inventory account, they remain taxable.

#### Group (8) Other

This group will not be used unless instructed by authorized county tax personnel.

### SCHEDULE B VEHICULAR EQUIPMENT - ATTACH ADDITIONAL SCHEDULES IF NECESSARY

**Motor Vehicles registered with the NC Department of Motor Vehicles as of January 1 do not have to be listed. Please answer the questions on the form to determine if you should complete and attach separate schedules B-1 for certain other vehicles, B-2 for Watercraft or Watercraft engines, B-3 for Mobile Homes or Mobile Offices, or B-4 for Aircraft.**

### SCHEDULE C PROPERTY IN YOUR POSSESSION, BUT OWNED BY OTHERS

If on January 1, you have in your possession any business machines, machinery, furniture, vending equipment, game machines, postage meters, or any other equipment which is loaned, leased, or otherwise held and not owned by you, a complete description and ownership of the property should be reported in this section. This information is for office use only. Assessments will be made to the owner/lessor. If you have already filed the January 15th report required by §105-315, so indicate. If you have none, write "none" in this section. If property is held by a lessee under a "capital lease" where there is a conditional sales contract, or if title to the property will transfer at the end of the lease due to a nominal "purchase upon termination" fee, then the lessee is responsible for listing under the appropriate group.

SCHEDULE D, E, F, G, AND H, please answer the questions provided on the form to determine if you need to complete and attach separate schedules E-1, G-1, or H-1 to the main business personal property listing form.

### AFFIRMATION

If the form is not signed by an authorized person, it will be rejected and could be subject to penalties. This section describes who may sign the listing form.

Listings submitted by mail shall be deemed to be filed as of the date shown on the postmark affixed by the U.S. Postal Service. Any other indication of the date mailed (such as your own postage meter) is not considered and the listing shall be deemed to be filed when received in the office of the tax assessor.

Any person who willfully attempts, or who willfully aids or abets any person to attempt, in any manner to evade or defeat the taxes imposed under this Subchapter (of the Revenue Laws), whether by removal or concealment of property or otherwise, shall be guilty of a Class 2 misdemeanor. (Punishable by imprisonment up to 60 days)



















In the design of this form, careful consideration was given to providing a methodology that prompts the taxpayer to render adequate data. We have found that by asking the right questions in the beginning, we can save a great amount of time in the processing of business personal property listings. Another goal was to include all questions needed by various counties. The general layout of the form is as follows:

**1. Information Block** - this section contains the pertinent information that assists the appraiser in determining the appropriate schedule, situs, business type, contact person, etc. It is beneficial for the taxpayer to accurately complete this section since not enough information can result in the taxpayer failing to receive a notice or a value that is not as accurate if the business is not described precisely.

**2. Schedule A** - This section of the abstract provides a clear and understandable format, if the instructions are followed, for the taxpayer to list his equipment by correct type. The various types of property are organized in the following groups and are further broken down by cost and year acquired.

- Group (1) Machinery and Equipment
- Group (2) Construction in Process
- Group (3) Office Furniture and Fixtures
- Group (4) Computer Equipment
- Group (5) Leasehold Improvements
- Group (6) Expensed Items
- Group (7) Supplies
- Group (8) Other

The “prior year cost” column is to list the costs from the previous year’s listing. Some counties pre-print their forms for each taxpayer so the “prior year cost” column is already completed. A taxpayer can then list any additions to any year’s cost, which is typically caused by transfers from another location, or new purchases if it’s the most current year. More commonly, taxpayers list deletions from a year’s cost, which is usually from the retirement of property and disposals. The prior year’s cost plus any additions, minus any deletions, should equal the current year’s cost. Most businesses either add or remove some property from year to year. For this reason, we recommend that counties reject abstracts showing only “same as last year”.

**3. Schedule B - Vehicular Equipment.** This section of the form asks the taxpayer questions about unregistered motor vehicles, multi-year or permanently registered trailers, special vehicle bodies, watercraft, engines for watercraft, mobile homes or mobile offices that are personal property, aircraft, and short-term rental vehicles. Other than short-term rental vehicles, all of these types of vehicular equipment have special schedules B-1 through B-4 to be completed, if required by the questions asked for each equipment type. This type of listing is more useful because of the appraisal approach preferred for vehicular equipment which is which is, the “market approach”. We’ll discuss all three appraisal methods in a later section. It’s helpful to remember that as of January 1, 1993, North Carolina registered motor vehicles were no longer required to be listed. See G.S. §105-330.

**4. Schedule C** – Leased Property - This section asks the taxpayer questions which, if answered in the affirmative, require the taxpayer to complete a separate Schedule C-1 by January 1 detailing property in the taxpayer’s possession, but owned by others. This schedule can be used to verify that the owner of the property is properly listing it. See G.S. 105-315.

**5. Schedule D** – Separately Scheduled Property – If a business owns artwork, displays, statues, or other personal property that is separately scheduled for insurance purposes, this schedule may be helpful to properly estimate the fair market value of such property since the cost approach may not be as accurate.

**6. Schedule E** – Farm Equipment – If a business, including farms operating for income, owns tractors and/or other farm equipment, it should be indicated in this section and separately listed on schedule E-1. Like vehicular equipment, farm equipment can usually be appraised more accurately using an appraisal method called the “market approach” which requires listing more detail than cost alone. The different approaches to value are discussed in a later section.

**7. Schedule F** – Intangible Personal Property – This section is to require the listing of the only type of intangible personal property that remains taxable, leasehold interest in exempt real property.

**8. Schedule G** – Acquisitions and Disposals Detail – This section is used by the taxpayer to itemize acquisitions and disposals information along with a reminder in the column heading that original cost should be listed.

**9. Schedule H** – Real Estate Improvements - This schedule may prove helpful to your real property department. Counties asking for this information on the business personal property abstract, have shared that they quite often pick up real property improvements from this schedule that would have been missed otherwise.

**10. Affirmation** -- Careful consideration should be given to who is allowed to sign the abstract. An abstract signed improperly must be rejected. See §105-311.

**11. Instructions** -- This is the most important section of the abstract. Although the instructions should be concise as to what is expected in each section of the form, you should make sure you can explain verbally how to list and even provide an example of how to list if requested.

### Electronic Listing

In the 2001 session of the General Assembly, provisions were made for electronic listing. This is not to be confused with a faxed listing, which there are no provisions for. Before electronic listing can be implemented in a county, the board of county commissioners must, by resolution, provide for the electronic listing of business personal property and establish the procedures to be used. The assessor must publish this information, including the timetable and procedures, in the notice required by G.S. 105-296(c).

Other important points to note regarding electronic listing are that the listing period for electronic listing may be extended up to June 1 for both general extensions and individual extensions instead of the normal general extension limit of 30 or 60 days and the normal individual extension limit of April 15. Also, since taxpayers are, in many cases, given more influence on the appraisal method, by selecting the schedule used to appraise the property listed, counties using electronic listing should have a review process to ensure the property is being appraised correctly. If used properly, electronic listing can be a time-saver for both taxpayer and county. We always encourage all counties to evaluate the pros and cons of new procedures and new technology that becomes available. As of the publication date, there are two counties that have successfully implemented electronic listing.

### Roster of Taxpayers

A diligent effort should be made to ensure the completeness and accuracy of the "Tax Roll." All address changes should be made promptly and any returned mail should be investigated immediately. There must also be a consistent effort to add new taxpayers to the list, and to remove taxpayers that have ceased business operations. The appraiser has several sources available to assist in the maintenance of this list. Annually the professional appraiser should consult several of the following:

1. City Directories
2. Telephone Directories
3. Privilege Licenses
4. Sales Tax List
5. Building Permits
6. Leased Equipment Reports from listings
7. UCC forms filed in the Register of Deeds office
8. DMV reports
9. Telephone Calls from new taxpayers
10. Other Taxpayers
11. Tenant Lists from shopping centers
12. Personal Knowledge gained from travel (Drive By)
13. Newspaper, periodical ads etc.
14. Mall & Shopping Center Guides
15. Chamber of Commerce Member list
16. Farm Deferred Applications

### Reports in Aid of Listing

In addition to the sources listed above, the North Carolina General Statutes provide some assistance in obtaining property tax listings. These aids are found in Article 18 of the Machinery Act, and will assist the lister in locating leased property, aircraft, boats, and mobile homes. Some of the more useful reports are described on the following pages.

**§ 105-313. Report of property by multi-county business.**

A taxpayer who is engaged in business in more than one county in this State and who owns real property or tangible personal property in connection with his multi-county business shall, upon the request of the Department of Revenue or the assessor of a county in which part of this business property is situated, file a report with the Department of Revenue stating, as of the dates specified in G.S. 105-285 of any year, the following information:

- (1) The counties in this State in which the taxpayer's business property is situated;
- (2) The taxpayer's investment, on a county by county basis, in his business property situated in this State, categorized as the Department of Revenue or the assessor may require; and
- (3) The taxpayer's total investment in his business property situated in this State, categorized as the Department of Revenue or the assessor may require.

This report shall be subscribed and sworn to by the owner of the property. If the owner is a corporation, partnership, or unincorporated association, the report shall be subscribed and sworn to by a principal officer of the owner who has knowledge of the facts contained in the report.

**§ 105-315. Reports by persons having custody of tangible personal property of others.**

(a) As of January 1, every person having custody of taxable tangible personal property that has been entrusted to him by another for storage, sale, renting, or any other business purpose shall furnish the appropriate assessor the reports required by subdivision (a)(2), below:

- (1) Repealed by Session Laws 1987, c. 813, s. 14.
- (2) For all tangible personal property, except inventories exempt under G.S. 105-275(33) and (34), there shall be furnished to the assessor of the county in which the property is situated a statement showing the name of the owner of the property, a description of the property, the quantity of the property, and the amount of money, if any, advanced against the property by the person having custody of it.

(3) For purposes of illustration, but not by way of limitation, the term "person having custody of taxable tangible personal property" as used in this subsection (a) shall include warehouses, cooperative growers' and marketing associations, consignees, factors, commission merchants, and brokers.

(b) Any person who fails to make the reports required by subsection (a), above, by January 15 in any year shall be liable to the counties in which the property is taxable for a penalty to be measured by any portion of the tax on the property that has not been paid at the time the action to collect this penalty is brought plus two hundred fifty dollars (\$250.00). This penalty may be recovered in a civil action in the appropriate division of the General Court of Justice of the county in which the property is taxable. Upon recovery of this penalty, the tax on the property shall be deemed to be paid.

**§ 105-316. Reports by house trailer park, marina, and aircraft storage facility operators.**

- (a) As of January 1 each year:
  - (1) Every operator of a park or storage lot renting or leasing space for three or more house trailers or mobile homes shall furnish to the assessor of the county in which the park or lot is located the name of the owner of and a description of each house trailer or mobile home situated thereon.

(2) Every operator of a marina or comparable facility renting, leasing, or otherwise providing dockage or storage space for three or more boats, vessels, floating homes, or floating structures shall furnish to the assessor of the county in which the marina or comparable facility is located the name of the owner of and a description of each boat, vessel, floating home, or floating structure for which dockage or storage space is rented, leased, or otherwise provided.

(3) Every operator of a storage facility renting or leasing space for three or more airplanes or other aircraft shall furnish to the assessor of the county in which the storage facility is located the name of the owner of and a description of each airplane or aircraft for which space is rented or leased.

(b) Any person who fails to make any report required by subsection (a), above, by January 15 of any year shall be liable to the county in which the house trailers, mobile homes, boats, vessels, floating homes, floating structures, or airplanes are taxable for a penalty to be measured by any portion of the tax on the personal property that has not been paid at the time the action to collect this penalty is brought, plus two hundred fifty dollars (\$250.00). This penalty may be recovered in a civil action in the appropriate division of the General Court of Justice of the county in which the personal property is taxable. Upon recovery of this penalty, the tax on the personal property shall be deemed to be paid.

### **The Listing Process** **Security**

The listing form itself is a public document. Any additional information that is requested after the listing form is submitted is confidential. For example, if a taxpayer returns their listing with a computer printout attached and the listing form reads, "see attached", the listing form itself and the printout are public documents. If further information is requested, such as balance sheets or income statements, that information is to be kept confidential. If someone other than the taxpayer requests information from a file, only the abstract itself and the cost information provided with it should be shown. At no time should an individual other than office personnel be allowed to freely examine all the listing files. All listing information, confidential or not, should be kept in a locked file cabinet.

### **§ 153A-148.1. Disclosure of certain information prohibited.**

(a) Disclosure Prohibited. - Notwithstanding Chapter 132 of the General Statutes or any other law regarding access to public records, local tax records that contain information about a taxpayer's income or receipts are not public records. A current or former officer, employee, or agent of a county who in the course of service to or employment by the county has access to information about the amount of a taxpayer's income or receipts may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

(1) To comply with a court order or a law.

(2) Review by the Attorney General or a representative of the Attorney General.

(3) To sort, process, or deliver tax information on behalf of the county, as necessary to administer a tax.

(b) Punishment. - A person who violates this section is guilty of a Class 1 misdemeanor. If the person committing the violation is an officer or employee, that person shall be dismissed from

public office or public employment and may not hold any public office or public employment in this State for five years after the violation.

#### Information Provided to a Local Tax Official

As mentioned in the legal section of this manual and in §105-289(e), the Department of Revenue may furnish information to a local tax official to assist in almost any aspect of administering the property tax. However the statute makes it clear that the local tax official may not divulge or make public this information except as required in administrative or judicial proceedings. The punishment for offending this confidentiality requirement is the same as under § 153A-148.1 above.

#### Driver's Privacy Protection Act of 1994

The Federal Driver's Privacy Protection Act of 1994 (US Code Title 18 Chapter 123, Section 2721) closes to the public, except for certain exemptions, the personal information contained in the records of the Division of Motor Vehicles. North Carolina General Statutes have also been amended to parallel the Federal regulation.

Under the Federal Driver's Privacy Protection Act, there are requirements to keep records relating to whom the information is given as well as what information is disclosed under the exemptions to the Act. These records must be kept for five years and if information is disclosed improperly, the individual to whom the information pertains may bring a civil action upon the individual who disclosed the information. Civil penalties are measured by actual damages, but not less than liquidated damages in the amount of \$2,500. Criminal penalties are \$5,000 to the individual who violates the Act, and \$10,000 to the organization. Punitive damages, reasonable attorneys' fees, and other preliminary and equitable relief determined by the court may also be awarded.

Due to these strict penalties and the various exemptions to the Act, The Division of Motor Vehicles has issued a directive to their tag agencies stating that the Division of Motor Vehicles is the appropriate agency to determine if someone qualifies as an exemption to the Act. The Division of Motor Vehicles is the official custodian of the required records and they will be liable if personal information is disclosed improperly.

The Attorney General of North Carolina advises any county questioning what information should be considered confidential under this act to consult with their county attorney. They have further advised our office not to give direction on what specific records are confidential under this act.

There is a copy of a form at the end of this manual that an individual may use to request personal information from DMV. The form may also be found at the Division of Motor Vehicle's vehicle registration section website at:

<http://www.dmv.dot.state.nc.us/VehicleRegistration/forms/mvr605a.pdf>



## Social Security Numbers

The Identity Theft Protection Act of 2005 states the following in G.S. 132-1.10(b)(5).

Governmental units may not communicate or make available to the public a person's social security number or a business entity's tax identification number or other identifying information, including

- Driver's license number
- Checking or savings account number
- Credit or debit card number
- PIN code for a financial transaction card
- Digital signature
- Biometric data
- Fingerprints
- Password
- Number that could be used to access a person's financial resources (other than email name or address, internet account number or internet identification name)

Social Security Numbers (SSNs) arguably are imperative to the performance of a taxing unit's duties. However, there are many legal requirements before a county can request or require a SSN. These requirements are found in both the Identity Theft Protection Act of 2005 and the 2001 State Privacy Act. In order to request a SSN, the taxing unit must:

1. Segregate the number on another form to make it easier to redact in case of a public records request.
2. Advise whether the request for the SSN is mandatory or voluntary.
3. Disclose the authority for requiring the SSN.
4. Must give a statement of purpose (below).
5. Not use the number for any other purpose other than what is given in the statement.
6. Not print the SSN on any other document, unless required by law (Eff. July 1, 2007).

Regarding the statement of purpose, it is the opinion of the School of Government that the following is the only acceptable statement:

*"The social security number will be used to facilitate collection of property taxes if you do not timely and voluntarily pay the taxes. Using the social security number will allow the tax collector to claim payment of an unpaid property tax bill from any state income tax refund that might otherwise be owed to you. Your social security number may be shared with the state for this purpose. In addition, your social security number may be used to attach wages or garnish bank accounts for failure to timely pay taxes."*

Federal law allows political subdivisions of states to require Social Security Numbers on the listing form or other forms where identification of an individual is needed. US Code Title 42, Section 405(c)(2)(C)(i) reads:

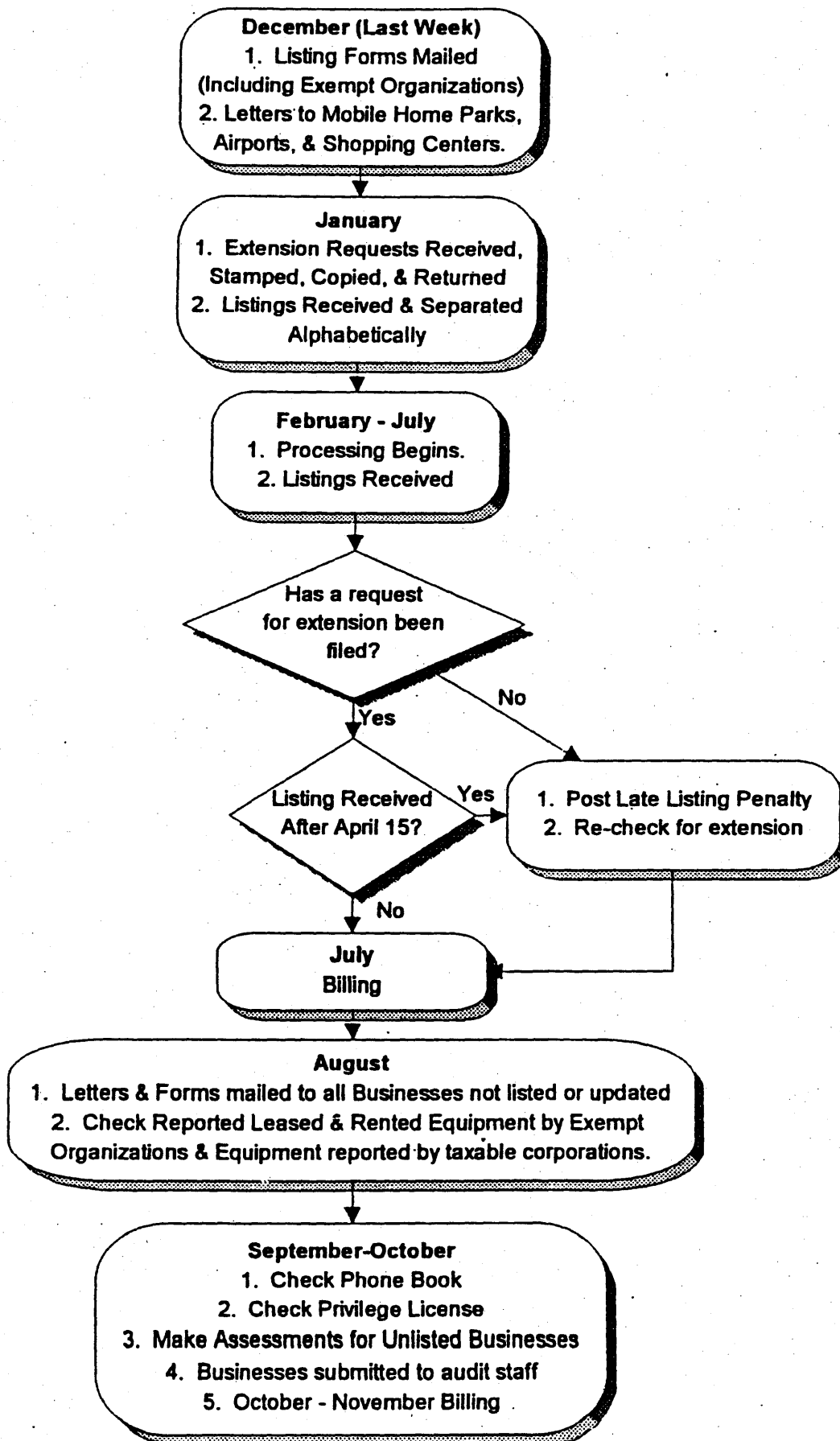
- (i) It is the policy of the United States that any State (or political subdivision thereof) may, in the administration of any tax, general public assistance, driver's license, or motor vehicle registration law within its jurisdiction, utilize the social security account numbers issued by the Commissioner of Social Security for the purpose of establishing the identification of individuals affected by such law, and may require any individual who is or appears to be so affected to furnish to such State (or political subdivision thereof) or any agency thereof having administrative responsibility for the law involved, the social security account number (or numbers, if he has more than one such number) issued to him by the Commissioner of Social Security.

The ability to utilize the social security number for identification purposes is very important to the local tax office. Incorrect or careless management of the number could seriously jeopardize our authority to obtain social security numbers. Because of the stringent requirements necessary to request the SSN, it is no longer asked for on the Statewide Uniform Abstract.

#### Processing the Listings

The quality of the assessment process is a direct result of obtaining complete business property listings. In order to achieve this goal, it is necessary to educate the taxpayer as to what constitutes a complete listing. The most appropriate method to instruct the taxpayer is a systematic review of each abstract as it is received. Any abstract that is found to be deficient must be promptly returned to the taxpayer for correction. An example of a rejection letter is included at the end of this manual.

The flowchart on the next page demonstrates a proper methodology for processing the listings. This procedure may not always suit the needs of every county. However, every county should have some systematic flow of work. Identifying this flow can greatly enhance the efficiency of your office. Counties that rely on computer applications may especially see the benefit from properly organizing the flow of work in their office. The example chart shows general steps of the listing process. Most counties probably incorporate these same steps in some fashion. The following is a brief discussion of each.



### Beginning of listing cycle

1. Near the end of December, listing forms for the following January listing period should be mailed to all existing business accounts and new accounts. Letters should be sent as well to organizations that commonly have lists of property owners in one place such as mobile home parks, marinas, airports, and shopping centers.

Once we begin receiving the listings in January, the first phase is to determine if the listing is complete. If not, then the abstract should be rejected and a letter sent to the taxpayer explaining the reason for the return of the listing and also to establish a strict time frame for return of the completed form. If the listing is rejected, a photocopy of the listing should be made and placed in the file. If the listing is complete, it is filed in the "ready to work" file.

### Extensions

The majority of counties allow business taxpayers additional time to file their property tax returns. Extension requests will begin to be received in January. When a written request for extension is received, a copy should be made and filed. The requesting company should then be notified by letter that their request for extension has been granted or denied.

Any extension requests received after the end of the regular listing period should be denied. A letter should be sent to the requesting taxpayer explaining the requirements to file for extension during the regular listing period and that a listing must be submitted as soon as possible to avoid additional interest and penalties. At this time, a ten percent penalty is warranted. This penalty is actually a discovery under G.S. §105-312 for failure to list. There is actually no provision for a so-called "late listing penalty." By law, no extension may be granted beyond April 15th.

### Appraisal

The appraiser will then determine if the information is sufficient to make his/her appraisal. If no additional data is required, the appraiser determines the assessed value and prepares the assessment notice. A comparison of values is made to those values of prior years. If this review does not indicate any unexplained fluctuations in value categories, the account is finished for the year. If additional data is needed, the appraiser should contact the taxpayer and follow standard office procedures for obtaining the additional information. This may include a contact by mail using one of the suggested letters at the end of this manual, or communication by telephone.

### Leased Equipment Reports

In processing the listings, the appraiser should use some type of system to track all leased property reports. If your county is using the State Abstract, schedule C will serve as a leased property report. Regardless of how you handle the leased equipment reports, you will want to verify that the owner of the personal property has listed the property shown on the report. Special care needs to be given to this matter, as it can be a source of unlisted property. The appraiser should be aware of the frequent confusion between lessee and lessor, as to where the responsibility rests with respect to

listing the property. We frequently find situations where there is a contract between the lessor and lessee that directs the lessee to list and pay the taxes directly. It should be noted however, that the responsibility to list personal property is the duty of the owner, without exception.

The business property appraiser should also make it part of his/her duties to obtain lists of leased property in the possession of exempt organizations such as schools, hospitals, airport authorities, etc. While these organizations may be exempt from Ad Valorem taxation, leased property in their possession is not.

### Non-Listers and Late Listers

One of the most important responsibilities of the professional property appraiser is to make certain that all property having situs in his county is listed for taxes. By keeping a current roster of taxpayers, it is easy to determine who has not listed for the current year. The appraiser should notify these taxpayers in writing as soon as possible after it has been determined that no current listing has been received. Frequently, the non-listers have merely forgotten to list, but it is possible that some of the non-listers have ceased operating or have moved out of the jurisdiction. The appraiser should be very diligent in keeping the tax roll correct.

Any taxpayer not in compliance with the listing requirements should be promptly assessed for taxation using some formula based on prior listings or a reasonable estimate of growth from the prior year. You may be able to estimate a business' personal property value by comparing it with similar businesses in your county that did list correctly. For example, convenience stores of similar age and size would probably have a similar value. Restaurants, doctor's offices, and attorney's offices are other examples of businesses that might be compared. This type of assessment may be the best information you have if the taxpayer will not provide you with a listing or provides you with an incomplete listing. It is helpful if the appraiser is familiar with all businesses in the county when comparing. If a listing is corrected, the procedures found in NCGS 105-312 for a discovery must be carefully followed when correcting an abstract. All of the proper notices and time limits must be followed accordingly for discovered property.

## **Special Listing Situations**

The primary function of the listing process is to obtain complete and accurate listings of personal property in your jurisdiction. We have identified several areas where special attention is warranted. Frequently, taxpayers are confused about how certain property should be listed for ad valorem taxation and confused about how to complete certain sections of the abstract.

### Who is authorized to sign the abstract?

North Carolina law is very precise and clear when describing who may sign an abstract. Any deviation from the requirements should not be allowed. §105-309(e), §105-310, and §105-311 are the statutes indicating who may sign an abstract. For a corporation, partnership, or unincorporated association, only a principal officer of the taxpayer or a full-time employee of the taxpayer who has been officially empowered by a principal officer may sign the abstract. This means a CPA from a hired accounting firm, or a tax representative may not legally sign the abstract. This requirement should be followed strictly since an abstract that is not legally signed is not a legal listing itself and could present problems in the future in case of unforeseen litigation.

### What information is required on the abstract?

North Carolina General Statute §105-306(a) requires the owner to list the property. N.C.G.S. §105-309(d) requires the property listing to be itemized by the taxpayer in such detail as may be prescribed by an abstract or listing form approved by the Department of Revenue. The information provided should reflect original historical installed cost of all assets and should be organized by year acquired. This is the original cost to the original owner, which includes all costs incurred to bring the asset to its anticipated purpose. These costs may include, but are not limited to invoice cost, trade-in allowances, freight, installation costs, sales tax, and construction period interest.

### What types of property go in each category of the abstract?

In general, counties require property to be listed in four or five categories: Machinery and equipment, office furniture and fixtures, computer equipment, leasehold improvements, and supplies. Some counties may allow or require additional or fewer categories.

Supplies include, but are not limited to, costs of cleaning supplies and office supplies. For taxpayers that do not keep an exact inventory of supply cost held on January 1, a common rule of thumb is to list one month's supply or 1/12 of the annual expenditures for supplies.

Leasehold improvements are items usually resembling part of the real property that a lessee adds to the shell of a leased building. This may be a dropped ceiling, special lighting, floor covering, or additional walls. The lessee should list these types of leasehold improvements.

Computer equipment includes the costs of taxable software, PC's, midrange, and mainframe computers and their peripherals. This category does not include computer desks and workstations or high-tech equipment such as fax machines, phone systems, computer controlled equipment, controls

for computer controlled equipment, computer components of equipment, medical equipment or point-of-sale equipment.

Office furniture and fixtures include a wide range of property from desks and chairs, artwork, garbage cans, and plastic plants to fax machines, phone systems, stereo systems, alarm systems, refrigerators, and televisions. These are the items related to the office functions and environment.

Finally, machinery and equipment includes all items related to the primary business. This category might include forklifts, assembly line equipment, overhead cranes, tools, robots, computer controls for a machine, and the machine itself. None of the above examples are intended to serve as complete lists.

#### When can the county reject an abstract?

§105-311(b) gives the county assessor the authority to reject or accept any abstract submitted by mail at his/her discretion. It is the opinion of this office that if an abstract is not received in such detail as described above, the abstract may be rejected by the county, and discovery penalties allowed under §105-312 may be applied if a corrected abstract is not received by the end of the listing period.

#### Examples of reasons an abstract may be rejected:

An abstract is filled out or organized in a way that is not in compliance with the instructions. This may mean that property has been listed either too general with the property not organized by type of property and year acquired, or broken down in too many categories not allowed by the abstract.

The taxpayer did not list on the county's approved listing form or the Statewide Uniform Abstract. §105-309(d) requires that personal property be listed in such detail as prescribed by an abstract form approved by the Department of Revenue. If additional information is sent with the abstract, the abstract still must be completed in such detail, as the county requires.

- The abstract is not signed or is signed incorrectly.
- The abstract reads "same as last year" or similar.
- Essential information is omitted from the taxpayer information section.
- What additional information needs to be sent?

No additional information is needed other than what is asked for in the original abstract. Documents to support the completed abstracts are helpful, but not necessarily required. Assessors have the option to require a more detailed list of personal property. The assessor does have the authority under §105-296, after reviewing the abstract, to require any person operating a business in the county to submit additional detailed information. This additional information is strictly confidential. The assessor also has subpoena power under §105-296(g) to subpoena any person or documents that

might be of assistance to the discovery or valuation of property. We recommend that counties make an informal request for information before using subpoena power.

### Construction in Process

Construction in process (CIP) is a situation where a business entity is involved in the installation of assets that cannot be accomplished during one accounting cycle. The accountant will not capitalize the asset until all of the costs associated with the asset are known. In the interim period, the accountant will typically maintain the costs of the asset in a CIP account. The total of this account represents investment in tangible personal property, and is to be listed with the other capital assets of the business during the listing period. Clear instructions should be provided to taxpayers indicating that CIP is tangible property and is to be listed.

### Expensed Items

Almost every business purchases assets at some time or another that do not require capitalization. Items such as small office machines, calculators, staplers, etc. are purchased and expensed against current operating revenue. While these items usually do not represent substantial value, they are taxable and should be listed. In some cases however, large companies establish a capitalization threshold where only items costing over a certain amount will be capitalized. This threshold can in some situations be \$1,000 or more for larger businesses. Not only should the appraiser be certain that these assets are being listed, he should identify the type of property purchased and the capitalization threshold. We will discuss methods of appraisal of these items in a later section.

Additionally, the appraiser should be aware of a type of expensed asset identified as Section 179 expensed property. Section 179 of the Internal Revenue Code allows a business to expense a limited dollar amount of assets provided they did not purchase over \$430,000 of new assets in their taxable year. The amount that may be expensed varies slightly by year and is as follows:

2000	\$20,000
2001 or 2002	\$24,000

Congress periodically reviews the amount a taxpayer can claim as the annual Section 179 amount. As part of an economic stimulus and tax-reduction package signed into law in May 2003, the expense limit was hiked to \$100,000. A \$2,000 inflation adjustment was added in 2004 and 2005 to make the limit \$102,000. The limit for 2006 was \$108,000. The limit for years 2007-2009 will be indexed for inflation and will be reduced to \$25,000 for year 2010 and after. Lawmakers upped the immediate deduction amount in the hopes it would encourage businesses to invest in new equipment sooner.

The limits to be expensed in the table above for any taxable year shall be reduced (but not below zero) by the amount by which the cost of section 179 property placed in service during 2006 exceeds \$430,000. This \$430,000 limit has increased from prior years also and will be further indexed for inflation for years 2007-2009. The limitation will be reduced to \$200,000 for 2010 and after and will not be indexed for inflation.



The appraiser needs to be aware that this property remains taxable just as all other business personal property, even though this property may not show up in the capital accounts with other taxable property. Taxpayers may inadvertently overlook section 179 assets for listing purposes. Most accounting systems that generate depreciation schedules identify section 179 assets and record the acquisition year and original cost until the time they are actually disposed of by the owner.

### Leased Property

As we have discussed earlier, quite often there is confusion as to who should list property. In all cases the owner bears the responsibility to list and pay taxes on personal property. When we examine leased property, sometimes identification of the owner is difficult to discern. There are basically two types of leases, operating and capital. An operating lease is a true lease. The owner of the property enters into an agreement with a lessee, usually for a specified time and rental. At the end of the lease period, the property is returned to the owner (lessor). At no time is the ownership of property in question.

For ad valorem tax purposes, a capital lease is not really a lease, but is a financing arrangement between the lessor and lessee. For this reason, the lessee, (possessor) is considered to be the owner of the property and has the responsibility to list the property and pay taxes.

If there are questions concerning the classification of leases, the appraiser should use the following tests. FASB Statement No. 13 provides these tests. If the answer to any one of the four questions is yes, then the lease is a capital lease and the lessee is considered the owner for property taxes. If all four questions are answered no, then the property is subject to an operating lease, and the lessor is the owner for property tax purposes.

1. There is a *bargain purchase option* at the end of the lease period. The lessee can be expected to purchase the leased asset and become its legal owner.
2. The ownership (actual title) of the property transfers at the completion of the lease.
3. The lease term is 75% or more of the useful economic life of the leased asset. The lessee uses up most of the leased asset's service potential.
4. The discounted minimum lease payments (MLP) exceed 90% of the original cost of the asset. In effect, the lease payments operate as installment payments for the leased asset.

The final consideration in listing property acquired through a capital lease is the acquisition cost. The property should be listed as an acquisition for the year, which the lease began and for the original purchase price, and not the bargain purchase price. As the lessee will be responsible for listing the property, he may need to contact the lessor for this information.

A helpful case to note is Szabo Food Service, Inc. v. Balentine's, Inc. 285 N.C. 452, 206 S.E. 2d 242 (1974). In the North Carolina Supreme Court's decision, we are given some additional useful guidelines.

Szabo Food Service had leased a building and the premises from J.W. York. Szabo then subleased the property to Balentine's who agreed to operate a restaurant or cafeteria on the premises for a minimum of two years. Balentine's agreed to pay Szabo 10% of their gross receipts each month. If Balentine's continued to pay 10% to Szabo through the end of the lease from York, Szabo would transfer title of the restaurant equipment to Balentine's.

In this case, the Supreme Court reversed the decision of the Court of Appeals that the agreement was a conditional sale. The Supreme Court held that the agreement between the parties was not a conditional sale, or capital lease. The decision states:

..under all the tests for determining whether an agreement is a lease or conditional sale, this contract is a lease. It imposes upon Balentine's no obligation to buy the equipment; no purchase price is specified and no value is placed upon the equipment. Balentine's rent is based solely upon its gross retail sales from the operation of the cafeteria, an amount which has no relation to the value of the equipment. After the two year sublease agreement, Balentine's had the option to terminate their lease at any time.

One of the principal tests for determining whether a contract is one of conditional sale or lease is whether the party is obligated at all events to pay the total purchase price of the property which is the subject of the contract. If the return of the property is either required or permitted the instrument will be held to be a lease; if the so-called lessee is obligated to pay the purchase price, even though it be denominated rental, the contract will be held to be one of sale. Annot., 175 A.L.R. 1366, 1384 (1948). A lease of personal property is substantially equivalent to a conditional sale when the buyer is bound to pay rent substantially equal to the value of the property and has the option of becoming, or is to become, the owner of the property after all the rent is paid.... 8 C.J.S. Bailments § 3(3) (1962).

Therefore, a lease which provides for a certain rent in installments is not a conditional sale if the lessee can terminate the transaction at any time by returning the property, even though the lease also provides that if rent is paid for a certain period, the lessee shall thereupon become the owner of the property.

Looking back on the four tests of a capital lease, we see that the answer would be no to all questions. In addition to those tests, the decision in this case gave us one underlying condition of a capital lease. The Supreme Court stated that the facts of the case were not consistent with the fundamental proposition that to create a security interest (capital lease) the parties must have intended to create one.

## New Owner of an Existing Business

One of the most difficult problems faced by the personal property appraiser is how to treat the purchase of an existing business by a new owner. There are two basic situations in transfers of personal property. The first situation involves the acquisition of the entire operating entity by the purchaser. The purchaser may ultimately merge the operation into the acquiring company or continue to operate the acquisition as an independent subsidiary. In this scenario, the assets should be reported at their original historical installed cost.

The second situation is where the purchaser acquires only the assets of the business where the likelihood is that the assets will be moved to a different location. In listing these assets, adjustments will have to be made to remove the installation and freight that was capitalized initially. The costs of removal and relocation will then be added to the cost of the asset. The appraisal of these assets will be discussed in another section.

## Exemption Applications

All applications for exemption or exclusions are to be filed during the regular listing period. The appraiser should carefully review each application to ensure that only the appropriate property is granted relief from property taxation. We have seen several situations where taxpayers have erroneously extended exemption classification to property which is minimally connected to other exempt property.

## Public Relations

An often overlooked area in the listing and appraisal of personal property is the aspect of public relations. We need to remember that taxation is not popular among our business owners. We need to make every effort to maintain a cordial and professional demeanor in dealing with the general public. Regardless of the attitude of the taxpayer, the professional property appraiser will be polite at all times. It is also beneficial to have a positive attitude. Even though you may feel that you are overworked and underpaid, it is your decision to be in this profession. A positive attitude toward your work will make it more rewarding. The most important aspect of dealing with the general public is not to take what the taxpayer says personally. Frequently the best method of handling the belligerent taxpayer is a smile and a calm demeanor.

There are three situations in which we must interact with the public.

1. Face to Face
2. Telephone
3. In writing; either computer typed or by email

In face-to-face interaction, we need to remember that we only get one chance to make a first impression. Not only will our positive attitude and professional demeanor be important, but we should also make sure that our appearance is appropriate for the job we are doing. In our opinion, if we are to be treated with respect and courtesy by our taxpayers, we should present ourselves in the proper business attire. Equally important in maintaining a professional image is being prepared. When you know that you will be meeting with a taxpayer on a listing or appraisal issue, **do your homework!**

The telephone is another area where we have an opportunity to enhance our professional image. When answering a telephone call, you should first identify yourself to the caller. Enunciate carefully and avoid eating or other behavior the caller may find irritating. Proper telephone etiquette is a must for dealing with the public.

In correspondence with a taxpayer, your writing should be clear and concise. If your skills are weak in this area, many community colleges have courses in business correspondence. One of the most important rules is to always read what you have written. A poorly written letter sends a message to the taxpayer that the county is not employing competent personnel.

#### The Role of the Appraiser in Litigation

If you make enough appraisals, sooner or later you may be asked to testify as to the accuracy of your work. Whenever you are faced with this situation, try to keep the following rules in mind.

1. Do not try to outwit the person asking the questions. Generally you have to remember that the questioner has the advantage and usually has the practice.
2. If you do not know the answer, don't be afraid to say so. More damage is done to good arguments by a witness testifying to things that he/she does not understand.
3. If you make an error on an appraisal or in your testimony, admit that you have made the error. Then provide the correct information.
4. Be prepared. Bring any notes or work papers with you.

## **Case Problem**

### Listing A Business

Using the following accounting records of BDK Manufacturing fill out the listing form found on page 3 of this section.

Balance Sheet  
 BDK Manufacturer of Electrical Equipment  
 December 31, 2006

Assets			LIABILITIES AND NET WORTH		
<b>CURRENT ASSETS</b>			<b>CURRENT LIABILITIES</b>		
Cash On Hand		3,000	Accounts Payable (Net Due)		40,000
Bank Balances		80,000	Accounts Payable (Past Due)		
Marketable Securities			Notes Payable - Banks		77,920
Accounts Receivable - Customers			Notes Payable - Merchandise		
Accounts - Current	20,000		Notes Payable - Other		
Accounts - Past Due			Reserve - Federal Taxes		
Total	20,000		Reserve - Other Taxes		
Less Revenues					
Notes Receivable - Customers		20,000	<b>ACCRUED EXPENSES</b>		
<b>INVENTORY</b>			Salaries & Wages	140,000	
Raw Material	20,000				
Work in Process	6,554				
Finished Stock	4,961				
Supplies	1,200				
		32,715	<b>Total Current Liabilities</b>		257,920
<b>OTHER CURRENT ASSETS</b>			Mortgage Payable		90,000
<b>Total Current Assets</b>		135,715	Long Term Notes		60,000
<b>FIXED ASSETS</b>					
Land	80,000		<b>TOTAL LIABILITIES</b>		407,920
Buildings	412,000		<b>NET WORTH</b>		
Furniture & Fixtures	46,522		Capital Stock		
Computers	22,540		Preferred	524,000	
Machinery & Equipment	1,061,531		Common	327,562	851,562
Leasehold Improvements	40,540		Paid in or Capital Surplus		
Total	1,663,133		Retained Earnings		90,965
Less Depreciation	454,401				
<b>OTHER ASSETS</b>		1,208,732	<b>Total</b>		
Loans and Advances			Less Treasury Stock		
Prepaid Expenses	6,000		<b>Stockholders Equity</b>		
		6,000	<b>NET WORTH</b>		942,527
<b>TOTAL ASSETS</b>		1,350,447	<b>TOTAL LIABILITIES &amp; NET WORTH</b>		1,350,447

BDK Manufacturer of Electrical Equipment  
 Depreciation Schedule

31-Dec-06

<u>Kind of Property</u>	<u>Date Acquired</u>	<u>Cost or Basis</u>	<u>Salvage Value</u>	<u>Cost Less Salvage</u>	<u>Method Used</u>	<u>Rate or Life</u>	<u>Accum Dep 12/31/05</u>	<u>2006 Depr Expense</u>	<u>Accum Dep 12/31/06</u>
<b>Real Property</b>									
Land	1999	80,000							
Buildings	2000	412,000							
Total		492,000							
<b>Mach. &amp; Equip.</b>									
Stamping machine	2000	102,500	1500	101,000	SL	10	60600.00	10100.00	70700.00
Stamping machine	2000	102,500	1500	101,000	SL	10	60600.00	10100.00	70700.00
Folk Lift	2000	10,546	100	10,446	SL	10	6267.60	1044.60	7312.20
Folk Lift	2000	10,546	100	10,446	SL	10	6267.60	1044.60	7312.20
Alex Press	2001	50,752	500	50,252	SL	10	25126.00	5025.20	30151.20
Alex Press	2001	50,752	500	50,252	SL	10	25126.00	5025.20	30151.20
Brady Press	2002	65,895	600	65,295	SL	10	26118.00	6529.50	32647.50
Brady Press	2002	66,985	600	66,385	SL	10	26554.00	6638.50	33192.50
Folk Lift	2003	12,563	100	12,463	SL	10	3738.90	1246.30	4985.20
Folk Lift	2003	12,563	100	12,463	SL	10	3738.90	1246.30	4985.20
Stamping machine	2004	154,785	2000	152,785	SL	10	30557.00	15278.50	45835.50
Stamping machine	2004	154,785	2000	152,785	SL	10	30557.00	15278.50	45835.50
Press	2005	78,564	800	77,764	SL	10	7776.40	7776.40	15552.80
Press	2005	78,564	800	77,764	SL	10	7776.40	7776.40	15552.80
Alex Press	2006	54,615	1000	53,615	SL	10	0.00	5361.50	5361.50
Alex Press	2006	54,616	1000	53,616	SL	10	0.00	5361.60	5361.60
Total		\$ 1,061,531	\$ 13,200	\$1,048,331			\$ 320,804	\$ 104,833	\$ 425,637

**Office Furniture & Fixtures**

File Cabinet	2000	500	50	450	SL	10	270.00	45.00	315.00
Artwork	2000	2,000	100	1,900	SL	10	1140.00	190.00	1330.00
Vacuum	2000	250	18	232	SL	10	139.20	23.20	162.40
Stereo	2000	1,500	15	1,485	SL	10	891.00	148.50	1039.50
Desk	2001	1,600	160	1,440	SL	10	720.00	144.00	864.00
Furniture	2001	2,500	250	2,250	SL	10	1125.00	225.00	1350.00

Lamp	2001	200	10	190	SL	10	95.00	19.00	114.00
Shredder	2002	1,650	25	1,625	SL	10	650.00	162.50	812.50
Desk Set	2002	1,200	10	1,190	SL	10	476.00	119.00	595.00
Adding	2002	50	10	40	SL	10	16.00	4.00	20.00
Register	2003	1,000	50	950	SL	10	285.00	95.00	380.00
Desk	2003	2,000	200	1,800	SL	10	540.00	180.00	720.00
Television	2003	402	50	352	SL	10	105.60	35.20	140.80
Computers	2003	5,500	250	5,250	SL	10	1575.00	525.00	2100.00
Computers	2003	5,500	250	5,250	SL	10	1575.00	525.00	2100.00
Sofa	2004	1,670	150	1,520	SL	10	304.00	152.00	456.00
Display	2004	1,500	50	1,450	SL	10	290.00	145.00	435.00
10 Desks	2005	2,500	50	2,450	SL	10	245.00	245.00	490.00
10 Chairs	2005	500	10	490	SL	10	49.00	49.00	98.00
10 File Cabinets	2005	1,000	50	950	SL	10	95.00	95.00	190.00
Table	2006	2,000	200	1,800	SL	10	0.00	180.00	180.00
Equipment	2006	10,000	1,000	9,000	SL	10	0.00	900.00	900.00
Table	2006	1,000	100	900	SL	10	0.00	90.00	90.00
File Cabinet	2006	500	50	450	SL	10	0.00	45.00	45.00
<b>Total</b>		<b>\$ 46,522</b>	<b>\$ 3,108</b>	<b>\$ 43,414</b>			<b>\$ 10,586</b>	<b>\$ 4,296</b>	<b>\$ 14,882</b>

### Computers

Computer	2002	5000	150	4,850	SL	10	1940.00	485.00	2425.00
PC	2002	2500	100	2,400	SL	10	960.00	240.00	1200.00
PC	2003	2500	100	2,400	SL	10	720.00	240.00	960.00
PC	2003	2500	100	2,400	SL	10	720.00	240.00	960.00
Printer	2003	1540	150	1,390	SL	10	417.00	139.00	556.00
Printer	2004	1200	120	1,080	SL	10	216.00	108.00	324.00
Printer	2004	1500	15	1,485	SL	10	297.00	148.50	445.50
Computer	2005	2800	200	2,600	SL	10	260.00	260.00	520.00
Computer	2005	3000	200	2,800	SL	10	280.00	280.00	560.00
<b>Total</b>		<b>\$ 22,540</b>	<b>\$ 1,135</b>	<b>\$ 21,405</b>			<b>\$ 5,810</b>	<b>\$ 2,141</b>	<b>\$ 7,951</b>

<b>Leasehold Imp.</b>	2004	\$ 40,540	\$ 1,000	\$ 39,540	SL	20	\$ 3,954	\$ 1,977	\$ 5,931
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<b>Totals</b>		<b>\$ 1,663,133</b>	<b>\$ 18,443</b>	<b>\$1,152,690</b>			<b>\$ 341,154</b>	<b>\$ 113,247</b>	<b>\$ 454,401</b>
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BDK Manufacturer of Electrical Equipment  
Profit and Loss Statement (Income Statement)

INCOME	Year Ending 12-31-2006	
Sales		\$ 650,000
Total Income		\$ 650,000
<b>COST OF SALES</b>		
Inventory to Begin	\$ 46,562	
Merchandise Purchased	\$ -	
Total	\$ 46,562	
Less Inventory at End	\$ 32,715	
Cost of Sales		\$ 13,847
GROSS PROFIT		\$ 636,153
<b>EXPENSES</b>		
Advertising	\$ 5,000	
Auto & Trucks	\$ 1,000	
Bad Debts	\$ 5,200	
Depreciation	\$ 113,247	
Discounts and Allowances	\$ 1,500	
Freight, Express, Delivery	\$ 2,000	
General and Miscellaneous	\$ 1,500	
Heat, Light, Power and Water	\$ 95,625	
Insurance	\$ 300	
Interest	\$ 50	
Laundry and Cleaning	\$ 265	
Legal and Accounting	\$ 500	
Office Expense, Printing and Postage	\$ 500	
Repairs	\$ 2,300	
Rent	\$ 12,000	
Tools Expense	\$ 4,200	
Manufacturing Supplies Used	\$ 13,347	
Office Supplies Used	\$ 2,562	
Salaries and Wages - Employees	\$ 95,600	
- Officers	\$ 100,000	
Taxes: F.I.C.A.	\$ 9,780	
General	\$ 11,000	
State Sales	\$ 3,500	
Unemployment	\$ 4,000	
Telephone and Telegraph	\$ 1,000	
Travel and Entertainment	\$ 2,315	
Total Expenses		\$ 488,291
Net Operating Profit or Loss		\$ 147,862
<b>OTHER INCOME</b>		
Total		\$ 147,862
<b>OTHER EXPENSES</b>		
TOTAL NET PROFIT OR LOSS		\$ 147,862



SECTION VII

APPRAISAL OF PERSONAL PROPERTY

## **The Appraisal of Personal Property**

This section covers the appraisal of personal property not used in connection with a business. There are types of personal property that will be discussed in this section that are sometimes used in connection with a business, but are not appraised like other business personal property.

We must first review the definition of personal property. G.S. 105-273 defines tangible personal property as "all personal property that is not intangible and that is not permanently affixed to real property." We must also look at the personal property that is exempted by statute. G.S. 105-275 exempts non-business property with the following definition:

Non-business Property - As used in this subdivision, the term "non-business property" means personal property that is used by the owner of the property for a purpose other than the production of income and is not used in connection with a business. The term does not include motor vehicles, mobile homes, aircraft, watercraft, or engines for watercraft.

The properties not included as non-business property by the above statute are those that we will discuss in this section.

## MANUFACTURED HOMES

Before we can discuss the listing, appraising and assessment of manufactured homes, we must first define the property. Below are definitions found in the North Carolina General Statutes.

### **G.S. 143-143.9(6)**

"Manufactured home" or mobile home" means a structure, transportable in one or more sections, which, in the traveling mode, is eight feet or more in width or is 40 feet or more in length, or when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein.

### **G.S. 105-316.7**

For the purpose of G.S. 105-316.1 through 105-316.8, "mobile home" means a structure that (i) is designed, constructed, and intended for use as a dwelling house, office, place of business, or similar place of habitation and (ii) is capable of being transported from place to place on wheels attached to its frame. It also means a manufactured home as described in G.S. 105-273(13). This definition does not include trailers and vehicles that are required to be registered annually pursuant to Part 3, Article 3 of Chapter 20 of the General Statutes.

### **G.S. 105-164.3(21b) – Sales and Use Tax Definition**

Modular home. – A factory-built structure that is designed to be used as a dwelling, is manufactured in accordance with the specifications for modular homes under the North Carolina State Residential Building Code, and bears a seal or label issued by the Department of Insurance pursuant to G.S. 143-139.1.

The North Carolina Manufactured Housing Institute defines manufactured homes and mobile homes in the following manner;

**Manufactured Home:** Factory-built housing built in compliance with the Federal Manufactured Home Construction and Safety Standards (the HUD code), which became effective June 15, 1976. One or more three dimensional units are transported to the site and installed. In 1980, Congress officially changed all references in federal law and regulations from the term "mobile" to the term "manufactured."

**Mobile Home:** Factory-built housing built prior to the enactment of HUD codes which became effective June 15, 1976. One or more three dimensional units are transported to the site and installed. In the 1960's, many mobile homes were built to a voluntary industry standard of the American National Standards Institute. North Carolina required all mobile homes manufactured, sold, or offered for sale in the state after July 1, 1970 to be built to the ANSL code. Mandatory factory inspection and a "label of compliance" from a state licensed agency were required after September 1, 1971.

It is apparent from the definitions above that the terms mobile home and manufactured home are used interchangeably. Property tax professionals tend to use the term mobile home while the housing industry prefers the term manufactured home. In this section we will use the term manufactured home, and this will include all types of manufactured housing.

The next question is to determine which of these manufactured homes should be appraised and assessed as personal property. G.S. 105-273(13) defines real property and includes the following type of manufactured home as real property:

“...These terms also mean a manufactured home as defined in G.S. 143-143.9(6) if it is a residential structure; has the moving hitch, wheels, and axles removed; and is placed upon a permanent foundation either on land owned by the owner of the manufactured home or on land in which the owner of the manufactured home has a leasehold interest pursuant to a lease with a primary term of at least 20 years for the real property on which the manufactured home is affixed and where the lease expressly provides for disposition of the manufactured home upon termination of the lease. A manufactured home as defined in G.S. 143-143.9(6) that does not meet all of these conditions is considered tangible personal property.”

Before this definition was changed effective January 1, 2003, the language was not clear as to which manufactured homes had to be appraised and assessed as real property and which manufactured homes had to be carried as personal property. Because the statutes were silent or not clear on this issue, there were many different policies across the state. It is now clear that if any of the pertinent requirements are not met, as stated by statute, the home must be considered as tangible personal property and listed accordingly. Stated differently, all of the following requirements must be met for the unit to be considered “real property”:

1. It must be a residential unit.
2. It must have the moving hitch, wheels and axles removed.
3. It must be placed on a permanent foundation.
4. It must be located on land owned by the owner of the unit, or have a 20 year + lease with the land owner.

The most important issue is not whether a manufactured home is real property or personal property, but whether the manufactured home is appraised at its fair market value and appraised in an equitable manner. Each county should list and appraise all manufactured homes according to the market value standard of G.S. 105-283. Maybe even more important is that the policy meets the requirements of G.S. 105-284, the Uniform Assessment Standard.

If the hitch, wheel and axles are not removed from the home, then the home is personal property regardless of the size and type of home.

The Department of Insurance has issued building codes for the installation of manufactured homes. The only foundation required by the building code for a manufactured home is footings and piers.

The footings are either of the poured concrete type or a pre-cast solid concrete pad. The size and dept of the footing depends on the type of home and the location of the home. The Building Code states that “The bottom of all footings shall be below the frost line or a minimum of 4 inches below finished grade, whichever is greater.” The frost line varies across the state and there is a chart in the Building Code that shows the frost line by County. The piers are either single stacked or double stacked. The number and placement of the piers is dictated by the Building Code. It is our opinion that all manufactured homes have a permanent foundation if their installation is in compliance with the Building Code.

Manufactured homes must be located on land owned by the owner of the home or have a 20 year + lease with the land owner in order to be assessed as real property. Prior to the changes of the 2001 N.C. General Assembly, there was little statutory guidance regarding what was real versus personal property as it relates to manufactured housing. What was often relied upon was the language in requests for reappraisal bids (RFP’s), simply stating that all doublewides would be picked up as real property. This practice has greatly contributed to the difficult situation many counties currently face; a large number of manufactured housing units treated as “leasehold real” or carried as leasehold improvements to real property. Under the current law, there are no “leasehold reals” permitted for manufactured housing. All homes located on the land of someone other than the owner of the home should be assessed as personal property. There are many homes across the State, which have been assessed as real and now will have to be assessed as personal property.

Prior to the above changes in the definition a manufactured home located on the land of another and assessed as real property was a lien on the land pursuant to G.S. 105-355. Under the current law, manufactured homes that are located on leased land or on the land of another and don’t meet the definition of real property, will be assessed as personal property and will no longer be a lien on the land on which the home is located.

Modular homes are built under the North Carolina Building Code just like site built homes and should be appraised and assessed as real property. Even those that may be on the land of someone other than the owner of the home should be considered real property. The only difference between the assessment of modular homes and site built homes is the following. A modular home used exclusively as a display model and held for eventual sale at the retail merchant’s place of business is considered exempt inventory under G.S. 105-273(8a).

### **Situs of Manufactured Homes**

While manufactured homes are not as transportable as motor vehicles, they do present a problem for assessors and collectors. The situs rules under G.S. 105-304 apply to manufactured homes. The taxable situs of a manufactured home is determined as of the assessment date. The property is taxable where it is located on January 1 of the tax year in question. Even if the home is moved the next day it is still taxable in the tax jurisdiction were it was located on January 1.

One of the biggest problems with the taxation of manufactured homes comes from the homes being moved before the taxes are paid. If the owner sells a manufactured home and it is moved out of the

taxing county's jurisdiction, collecting the taxes on the home becomes much more difficult. The following statutes are in place to help deal with these situations.

**§ 105-316.1. Tax permit required to move mobile home.**

(a) In order to protect the local taxing units of this State against the nonpayment of ad valorem taxes on mobile homes, it is hereby declared to be unlawful for any person other than a mobile home manufacturer or retailer to remove or cause to be removed any mobile home situated at a premises in this State without first obtaining a tax permit from the tax collector of the county in which the mobile home is situated. The tax permit shall be conspicuously displayed near the license tag on the rear of the mobile home at all times during its transportation. Permits required by G.S. 105-316.1 through 105-316.8 may be obtained at the office of the county tax collector during normal business hours.

(b) Except as provided in G.S. 105-316.4, manufacturers, retailers and licensed carriers of mobile homes shall not be required to obtain the tax permits required by this section. Persons or firms transporting mobile homes shall, however, be responsible for seeing that a proper license tag, and when required under this section, a tax permit, are properly displayed thereon at all times during their transportation.

**§ 105-316.2. Requirements for obtaining permit.**

(a) In order to obtain the permits herein provided, persons other than manufacturers and retailers of mobile homes shall be required to (i) pay all taxes due to be paid by the owner to the county or to any other taxing unit therein; or (ii) show proof to the tax collector that no taxes are due to be paid; or (iii) demonstrate to the tax collector that the removal of the mobile home will not jeopardize the collection of any taxes due or to become due to the county or to any taxing unit therein.

(b) In addition to complying with the provisions of subsection (a) above, owners of mobile homes required to obtain the permits herein provided shall also furnish the following information to the tax collector:

- (1) The name and address of the owner,
- (2) The address or location of the premises from which the mobile home is to be moved,
- (3) The address or location of the place to which the mobile home is to be moved, and
- (4) The name and address of the carrier who is to transport the mobile home.

**§ 105-316.3. Issuance of permits.**

(a) Except as otherwise provided in G.S. 105-316.2 above, no permit required by G.S. 105-316.1 through 105-316.8 shall be issued by the tax collector unless and until all taxes due to be paid by the owner to the county or to any other taxing unit therein, including any penalties or interest thereon, have been paid. Any taxes which have not yet been computed but which will become due during the current calendar year shall be determined as in the case of prepayments.

(b) Upon compliance with the provisions of G.S. 105-316.1 through 105-316.8, the tax collector shall issue, without charge, a permit authorizing the removal of the mobile home. He shall also maintain a record of all permits issued.

**§ 105-316.4. Issuance of permits under repossession.**

Notwithstanding the provisions of G.S. 105-316.2(a) and 105-316.3(a), above, any person who intends to take possession of a mobile home, whether by judicial or non-judicial authority, as a holder of a lien on said mobile home shall apply for, and be issued, the permit herein provided without paying all taxes due to be paid by the owner of the mobile home being repossessed, upon notifying the tax collector of the location in North Carolina to which the mobile home is to be taken. At the time of notification the tax collector shall render to the holder of the lien a statement of taxes due against only the mobile home. Within seven days of the issuance of the permit the applicant shall pay to the tax collector the taxes due as set forth in the statement.

Notwithstanding the foregoing, any applicant who is a nonresident of North Carolina must pay the taxes due as set forth above at the time of notification to the tax collector and application for the permit.

Upon issuance of the permit and the payment of any taxes as prescribed herein, the mobile home shall no longer be subject to levy or attachment of any lien for any other taxes then owed by the owner thereof, whether or not previously determined.

**§ 105-316.5. Form of permit.**

The permit shall be in substantially the form provided by this statute.

**§ 105-316.6. Penalties for violations.**

(a) Any person required by G.S. 105-316.1 through 105-316.8 to obtain a tax permit who fails to do so or who fails to properly display same shall be guilty of a Class 3 misdemeanor. This penalty shall be in addition to any penalties imposed for failure to list property for taxation and interest for failure to pay taxes provided by the general laws of this State.

(b) Any manufacturer or retailer of mobile homes who aids or abets any owner covered by G.S. 105-316.1 through 105-316.8 to defeat in any manner the purpose of G.S. 105-316.1 through 105-316.8 shall be guilty of a Class 3 misdemeanor.

(c) Any person who transports a mobile home from a location in this State for an owner other than a manufacturer or retailer of mobile homes without having properly displayed thereon the tax permit required by G.S. 105-316.1 through 105-316.8 shall be guilty of a Class 3 misdemeanor.

(d) Any law-enforcement officer of this State who apprehends any person violating the provisions of G.S. 105-316.1 through 105-316.8 shall detain such person and mobile home until satisfactory arrangements have been made to meet the requirements of G.S. 105-316.1 through 105-316.8.

**§ 105-316.8. Taxable situs not presumed.**

Nothing in G.S. 105-316.1 through 105-316.8 shall be interpreted so as to subject to taxation any mobile home which does not have a taxable situs within this State under the general rules of law appropriate to such a determination.



## **Listing of Manufactured Homes**

Manufactured homes are required to be listed during the listing period which is the month of January unless the listing period has been extended. The situs, taxability, and value are determined as of that date. The owner of the manufactured home should supply the necessary information for the appraiser to determine the fair market value of the home.

## **The Appraising of Manufactured Homes**

Over 35% of all new home starts in North Carolina are manufactured homes. In many counties across the State the number of new homes starts which are manufactured homes out number those built on site. With the increase in this type of home and the most current change in the law it is essential that all counties become more uniform in the appraising and assessing of manufactured homes. Below is a set of guidelines to help develop more uniformity across the State.

1. All homes that meet the definition provided in 105-273(13) must be appraised and assessed as real property using the county's schedule of values from its last general reappraisal.
2. All homes that do not meet the definition provided in 105-273(13) must be appraised and assessed as personal property.
3. Counties should develop a schedule to appraise all manufactured homes based on the market in their county. This schedule should be part of the real property schedule of values but also be used to assess homes considered as personal property. Below are some factors to consider in developing these schedules:
  - Newer units tend to appreciate over time versus depreciating over time, regardless of whether they have been listed as real property or as personal property. Exceptions might include rental units located in manufactured home parks.
  - Homes built prior to January 15, 1976 were not required to be built according to the Federal HUD Code and tend to have accelerated depreciation, even to the point where the final value approaches that from the TEC schedules.
  - There is no requirement that units listed as personal property must have a change in assessed valuation each year. While it can be reasonably expected that values might change, given the lack of sales data available for personal property, it can be argued that the change is not so easily measurable over a one or two-year period. Thus a schedule for real property units might also see duty for personal property units.
  - Manufactured housing units listed, as real property should be appraised from schedules created specifically for manufactured housing. NOTE: Modular housing can certainly be appraised from the residential schedule of values. In some instances, manufactured housing may be as well, but the schedule should be separate if by nothing more than its title.

4. All manufactured homes, except those older than 1976 and possibly those located in manufactured homes parks, should be measured and listed and placed on a property record card. All additions such as decks, porches, and extra rooms should be appraised according to the developed schedule.
5. The value of those homes assessed as personal property should be reviewed each year and adjusted as the market indicates.
6. Those homes located on the land of someone other than the owner of the home shall be appraised the same as other homes. Any adjustments that are indicated by the market in a county should be recognized by the appraiser. These homes located on the land of another are to be assessed as personal property if they don't meet the definition of real property.

Most of the counties in the state use some type of pricing guide to appraise the manufactured homes in their county. The guides are based on sales of manufactured homes across the country, and there are regional adjustments. The appraising of manufactured homes over the past 25 years has not been given as much attention as other types of more conventional housing. The thinking over this time period was that manufactured homes depreciate each year as they get older and that they do not appreciate, as does real property. The new designs, quality of construction and demand for this type of home is challenging this way of thinking. Sales in counties in this state indicate that many of the newer manufactured homes do in fact appreciate over time and should be appraised like more conventional housing.

Manufactured homes are becoming more like real property than any other type of personal property, and the way they are appraised and assessed needs to be reviewed and changes made. Counties collect information and measure all residential structures that are considered real property. The same effort should be made to measure and collect information on all manufactured homes that are assessed as personal property.

Most manufactured homes have some type of addition such a decks, porches, and extra rooms. If a pricing guide is used to appraise the manufactured homes, these additions are either not picked up or are carried as real property on a separate card. A unit appraisal where everything is picked up and carried on a property record card would show one value for the manufactured home. Each year the property record cards can be compared to the listing to see if the manufactured homes have been listed. Any new manufactured homes can be measured and picked up for the current year. The manufactured homes are still assessed as personal property and reappraised each year. Appraising manufactured homes in this manner will require more resources and staff time, but the appraisals will be more accurate and uniform. As stated earlier the real issue is not "real" versus "personal" but whether the appraisal is correct and uniform.

## **Watercraft**

The Machinery Act makes it clear that all watercraft are subject to ad valorem taxes but does not give a definition for the term watercraft. So we turn to other statutes to find the following definition of "vessel." G.S. 75A-2 defines vessel as:

" every description of watercraft or structure, other than a seaplane on the water, used or capable of being used as a means of transportation or habitation on the water."

With this definition it is clear that all "vessels" are taxable in North Carolina, if located here. This would include the smallest rowboat, the largest yacht and jet skis.

## **Situs of Boats**

Trying to determine which watercraft are taxable in North Carolina and determining where in the state they are taxable is the hardest part of assessing property taxes on watercraft. Boats are very mobile and many have more than one port or docking location during a year. If it is clear that a boat is taxable in North Carolina, the situs rules found in G.S. 105-304 apply the same as for other personal property. The most difficulty comes in trying to determine if a boat is taxable in North Carolina or in another location. We will look at the following three situations concerning the taxable situs of boats.

1. Boats owned by North Carolina residents operated in U.S. waters.
2. Boats owned by non-residents of North Carolina located in North Carolina.
3. Boats owned by North Carolina residents operated in foreign waters.

The domicile of tangible personal property is the residence of the owner. The domicile state has jurisdiction to tax the property whether or not it is physically located in the state on the tax date. When tangible property is removed from the owner's domicile state and becomes more or less permanently located in another state, it is taxable there.

The U.S. Supreme Court stated in *Southern P. Co. v. Kentucky*, 222 U.S. 63,67,56 L.Ed. 96,98,32 S.Ct. 13,14 (1911) "To determine that [a ship] has acquired an actual situs in one port rather than another would involve such grave uncertainty as to result in an entire escape from taxation." In this case, the taxpayer operated seagoing merchant vessels between New York and New Orleans, New York and Galveston, and New Orleans and Havana, Cuba. The taxpayer listed the home port of the vessels as New York, attempting to escape property taxation at its residence in Kentucky. *Id.* The Supreme Court found the situs to be the domicile of the owner, and it said Kentucky's tax was legal. *Id.* at 75, 56 L.Ed. at 101,32 Ct at 18. In this case, the vessel was taxable in Kentucky, even though the vessel could never actually be in Kentucky.

The North Carolina Supreme Court has also addressed the issue in *Billings Transfer Corporation v. County of Davidson*, 276 N.C. 19, 34-35, 170 S.E. 2d 873, 884-885 (1969). In this case the Court ruled that the state of domicile may not tax the tangible personal property of its citizens if the property was permanently located in another state. The Court also ruled that the burden is on the owner of the property to prove that the property has acquired a tax situs in a jurisdiction other than the state of domicile.

Boats owned by North Carolina residents are taxable at the owner's residence unless the owner can prove that the property has acquired a taxable situs at another location.

Boats that are owned by non-residents of North Carolina are taxable by the owner's state of domicile unless the property has acquired a taxable situs in North Carolina.

A county assessor gets a list of boats from a marina in his/her county. After reviewing the list, there are several boats that have not been listed by the owner during the listing period. The owner claims the boats are owned by an out of state corporation and therefore not taxable in North Carolina. The courts have addressed this issue in *Texas Company v. Elizabeth City*, 210 N.C. 454, 187 S.E. 551 (1936). A Delaware Corporation maintained boats in Elizabeth City, North Carolina. The owner used the boats for business purposes. The court ruled that the boats were taxable by Elizabeth City.

It must always be remembered that the domicile state has the right to tax property unless the property has acquired situs in another state. Proving a boat has acquired a situs somewhere other than the state of domicile is difficult. There are no set rules for determining situs between two states. Each case has to be looked at individually. Below is a list of questions which can be asked to help determine the situs of a boat.

1. How much time does the boat stay in the county?
2. Does the owner lease a boat slip in the county?
3. Is the boat used for business purposes in the county?
4. Does the owner pay property tax on the boat in another state?
5. Does the owner of the boat own any real property in the county?
6. Is the boat registered in North Carolina?

" All vessels equipped with propulsion machinery which are in the jurisdiction of the United States must have a number issued by the issuing authority in the State in which the vessel is principally used." 33 C.F.R. Ch. 1 (7-1-91 Edition) Sections 173.11 and 172.15(a) See 46 U.S.C.A. G.S. 12301. The numbers issued are only good for 60 days after a vessel is moved to another state of operation.

7. Is the boat documented by the U.S. Coast Guard?

Merchant vessels over five net tons operating in U.S. waters must be documented. Pleasure vessels over five net tons may be documented.

These are a few questions to ask to try to determine situs of a boat. If you are unsure of the situs of a boat, always tax it until the owner proves otherwise. Many of these boats will escape taxation if only those we are sure of the situs were taxed.

U.S. flagged vessels that operate in international waters or kept in a foreign country are taxable at the owner's state of domicile. Only when these boats acquire a tax situs in a new tax jurisdiction can another state tax them. Since a foreign country can not tax a U.S. flagged vessel, a foreign country can not be another taxing jurisdiction.

### **Listing of Watercraft**

Watercraft are required to be listed during the listing period which is the month of January unless the listing period has been extended. The situs, taxability, and value are determined as of that date. The owner of the watercraft should supply the necessary information for the appraiser to determine the fair market value of the property.

### **Appraising Watercraft**

Most counties use some type of pricing guide to appraise watercraft in North Carolina. These guides are based on sales of boats much like the books used to appraise motor vehicles. The listing of the boats should give the information needed to correctly apply whichever pricing guide is used.

The original historical cost can be listed, trended and depreciated to arrive at market value. However, the cost approach would not be the best method when there are enough sales to use the sales comparison or market approach. The cost approach could be used on unique vessels for which there are not many sales. The cost approach could also be used as a check to be sure the market approach is arriving at fair market value.

## **Aircraft**

As with watercraft the Machinery Act does not give a definition for aircraft, so we must look at other North Carolina statutes for guidance. G.S. 63-1(a)(3) reads "Aircraft means any contrivance now known, or hereafter invented, used or designed for navigation of or flight in the air." This would included the largest jet, smallest plane and even hot air balloons.

## **Situs of Aircraft**

Aircraft, like boats, are very mobile and determining the taxable situs of the property can be difficult. The situs rules of G.S. 105-304 apply to all aircraft that are taxable in North Carolina. The following questions can be asked to assist a county in determining where an aircraft is taxable.

1. How long has the aircraft been located in the county?
2. Does the owner of the aircraft live in the county?
3. Does the owner of the aircraft own real property in the county?
4. Does the owner of the aircraft own or lease a hanger for the aircraft in the county?
5. Does the owner pay taxes in another taxing jurisdiction?
6. Which airports are used by the aircraft and how often?
7. Is the aircraft used by a business located in North Carolina?

The above questions can be used to determine the situs of aircraft in North Carolina as well as if an aircraft is taxable in this State. Like all personal property, aircraft are taxable at the owner's state of domicile unless it acquires a situs in another State. In the *Texas Company v. Elizabeth City*, 210 N.C. 454, 187 S.E. 551 (1936), the Supreme Court held:

The situs of personal property for purposes of taxation is ordinarily the domicile of the owner. Where, however, the owner maintains said property in a jurisdiction other than that of his domicile, in the conduct of his business within such jurisdiction, the situs of said property for purposes of taxation is its actual situs, and not that of his domicile. The exception to the general rule is now universally recognized by the courts, both Federal and state.

Another case *Bassett Furniture Industries, Inc. v. Rockingham County*, 79 N.C. App. 258, 339 S.E. 2d 16, appeal dismissed, 316 N.C. 553 S.E.2d 4 (1986) involved the situs of an airplane. Bassett was a foreign corporation having no principal place of business in North Carolina but owning a jet aircraft hangared in Rockingham County, North Carolina for approximately one year. The Court of Appeals stated the following:

the stipulated facts and evidence presented by Bassett establish that the jet aircraft was "situated" or "more or less permanently located" in Rockingham County on January 1, 1984. Therefore it had a tax situs in Rockingham County on that date. Because the property acquired a tax situs in this State, imposition of the ad valorem tax does not violate the provisions of the Fourteenth Amendment to the U.S. Constitution.

This case is an example of the exception of the general rule of personal property being taxable at the domicile of the owner. As with all property, if you are unsure of the taxability of the property, tax it until the owner proves otherwise.

### **Listing of Aircraft**

Aircraft are required to be listed during the listing period which is the month of January unless the listing period has been extended. The situs, taxability, and value are determined as of that date. The owner of the aircraft should supply the necessary information for the appraiser to determine the fair market value of the property.

### **Appraisal of Aircraft**

Most counties use some type of pricing guide to appraise aircraft in North Carolina. These guides are based on sales much like the books used to appraise motor vehicles. The listing of the aircraft should give the information needed to correctly apply whichever pricing guide is used.

The original historical cost can be listed, trended and depreciated to arrive at market value. However, the cost approach would not be the best method when there are enough sales to use the sales comparison or market approach. The cost approach could be used on unique aircraft for which there are not many sales. The cost approach could also be used as a check to be sure the market approach is arriving at fair market value.

### **§ 105-277.12. Antique airplanes.**

(a) For the purpose of this section, the term "antique airplane" means an airplane that meets all of the following conditions:

- (1) It is registered with the Federal Aviation Administration and is a model year 1954 or older.
- (2) It is maintained primarily for use in exhibitions, club activities, air shows, and other public interest functions.
- (3) It is used only occasionally for other purposes.
- (4) It is used by the owner for a purpose other than the production of income.

(b) Antique airplanes are designated a special class of property under Article V, Sec. 2(2) of the North Carolina Constitution and shall be assessed for taxation in accordance with this section. An antique airplane shall be assessed at the lower of its true value or five thousand dollars (\$5,000).

## **MOTOR VEHICLES**

In 1991 the North Carolina General Assembly passed G.S. 105-330 which made motor vehicles a special class of property. The effective date of the statute was January 1, 1993. This statute totally changes the way taxes on motor vehicles are collected in North Carolina. Below is the current statute which governs the listing, appraising, assessing, and collecting of taxes on motor vehicles.

### **§ 105-330. Definitions.**

The following definitions apply in this Article:

- (1) Classified motor vehicle. A motor vehicle classified under this Article.
- (2) Motor vehicle. Defined in G.S. 20-4.01(23).
- (3) Public service company. Defined in G.S. 105-333(14).

**\*A classified motor vehicle under this section, is a motor vehicle as defined in G.S. 20-4.01(23) which reads, "Every vehicle which is self-propelled and every vehicle designed to run upon the highways which is pulled by a self-propelled vehicle. This shall not include mopeds as defined in G.S. 20-4.01(27)d1."**

### **§ 105-330.1. Classification of motor vehicles.**

(a) Classification. - All motor vehicles other than the motor vehicles listed in subsection (b) of this section are designated a special class of property under authority of Article V, Sec. 2(2) of the North Carolina Constitution. Classified motor vehicles shall be listed and assessed as provided in this Article and taxes on classified motor vehicles shall be collected as provided in this Article.

(b) Exceptions. - The following motor vehicles are not classified under subsection (a) of this section:

- (1) Motor vehicles exempt from registration pursuant to G.S. 20-51.
- (2) Manufactured homes, mobile classrooms, and mobile offices.
- (3) Semi-trailers or trailers registered on a multiyear basis.
- (4) Motor vehicles owned or leased by a public service company and appraised under G.S. 105-335.

**\*Subsection (a) classifies all motor vehicles a special class of property. As of January 1, 1993, we have four classes of property including real, personal, public service company, and classified motor vehicles. Specifically excluded in this classification are motorized farm and construction equipment that are not required to be registered under §20-51 as well as the other listed exceptions (2) through (4).**



**A classified registered motor vehicle will then be identified as all currently registered motor vehicles that have not been excepted by §105-330.1. Motor vehicles that are not registered as of January 1 of each year are to be treated as classified unregistered and are to be listed with all other personal property during the January listing period.**

**Motor vehicles which are not currently registered in North Carolina, but have a situs in North Carolina on the assessment date should be treated as classified unregistered vehicles and listed during the January listing period. This also means vehicles which may be registered in another state, but have a situs in our state, are to be considered unregistered for the purposes of ad valorem taxation.**

### **Gross Receipts Tax and Daily Rental Exemption**

**Senate Bill 1076 became effective July 1, 2000 which exempted motor vehicles held for short term lease or rental and replaced the property tax on these vehicles with a tax on the gross receipts of up to 1.5% from the same vehicles. The gross receipts tax is optional, and may be adopted by ordinance. The exemption is not optional.**

**The specifics of the gross receipts tax on rental vehicles are numerous. Essentially §105-275(42) exempts vehicles whose lease or rental term is less than 365 continuous days and are owned or leased by an entity engaged in the business of leasing or renting vehicles to the general public. These vehicles include those owned by the car rental companies as well as truck rental companies such as U-Haul, Ryder, Penske, Budget, etc. The laws governing the gross receipts procedures are found in §160A-208 for municipalities and §153A-148 for counties.**

**The same administrative provisions of Chapter 105 that apply to the state sales tax on rentals apply to this tax. The most important of those provisions is G.S. 105-164.16, which sets forth reporting and return requirements. Generally, a taxpayer must file a return by the 15<sup>th</sup> of each month showing the receipts and tax for the preceding month. The tax is due when the return is filed. The counties and cities levying the tax must furnish the taxpayer with the forms needed for filing the returns. New G.S. 160A-215.1(a) makes it clear that the gross receipts tax on rentals is in addition to any privilege license tax that a city levies on the same business pursuant to G.S. 160A-211.**

**G.S. 105-260.1 authorizes the Secretary of Revenue to delegate to a deputy or assistant secretary the authority to hold hearings. This statute can be used as authority for the board of commissioners or city council to delegate to the tax collector authority to hear requests from taxpayers for relief from or compromise of penalties and other administrative matters involving collection of this tax. Enforcement of the tax will be governed by article 9 of Chapter 105. Enforcement includes penalties for late filing, late payment, and bad checks. In addition to percentage penalties for failure to file and pay, the corporate charters of corporations and limited liability companies may be suspended by the Secretary of State if the company fails to file a return or pay the tax for 90 days after it is due. Further information on how to**

**implement the gross receipts tax, suggested returns, and other forms can be found at the League of Municipalities website at <http://www.nclm.org/>.**

## **Case Problem**

### Motor Vehicles

G.S. 105-330 designates motor vehicles a special class of property. Which of the following are not considered classified motor vehicles under the current law.

1. Semi-Trailers or trailers registered on a multi-year basis.
2. Manufactured homes, mobile classrooms, and mobile offices.
3. Motor vehicles owned by a public service company.
4. Unregistered motor vehicles.
5. Motor vehicles leased to a public service company.
6. Motor vehicles leased to a town or city.
7. Motor vehicles owned by a church.
8. "U-drive it" passenger vehicles registered under G.S. 20-87(2).
9. An unregistered antique automobile, 40 years old, used for display purposes and parades.
10. A 1935 Ford with historic license plates used only for exhibitions.

**§ 105-330.2. Appraisal, ownership, and situs.**

(a) Date Determined. --The value of a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(1) (registered vehicles) shall be determined as of January 1 of the year the taxes are due. If the value of a new motor vehicle cannot be determined as of that date, the value of that vehicle shall be determined for that year as of the date that model vehicle is first offered for sale at retail in this State.

The ownership, situs, and taxability of a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(1) (registered vehicles) shall be determined annually as of the day on which a new registration is applied for or the day on which the current vehicle registration is renewed, regardless of whether the registration is renewed after it has expired.

The value of a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(2) (unregistered vehicles) shall be determined as of January 1 of the year in which the motor vehicle is required to be listed pursuant to G.S. 105-330.3(a)(2). The ownership, situs, and taxability of a classified motor vehicle listed or discovered pursuant to G.S. 105-330.3(a)(2) (unregistered vehicles) shall be determined as of January 1 of the year in which the motor vehicle is required to be listed.

(b) Value; Appeal. – A classified motor vehicle shall be appraised by the assessor at its true value in money as prescribed by G.S. 105-283. If the assessor considers the sales price of the motor vehicle in determining the true value of the motor vehicle, the assessor must not include any amount for which the taxpayer is liable under Article 5A of this Chapter. The owner of a classified motor vehicle may appeal the appraised value of the vehicle in the manner provided by G.S. 105-312(d) for appeals in the case of discovered property and may appeal the situs or taxability of the vehicle in the manner provided by G.S. 105-381. The owner of a classified motor vehicle must file an appeal of appraised value with the assessor within 30 days after the date of the tax notice prepared pursuant to G.S. 105-330.5. Notwithstanding G.S. 105-312(d), an owner who appeals the appraised value of a classified motor vehicle shall pay the tax on the vehicle when due, subject to a full or partial refund if the appeal is decided in the owner's favor.

(c) The Department of Revenue, acting through the Property Tax Division, and the Department of Transportation, acting through the Division of Motor Vehicles, shall enter into a memorandum of understanding concerning the vehicle identification information, name and address of the owner, and other information that will be required on the motor vehicle registration forms to implement the tax listing and collection provisions of this Article.

**\* The valuation date for registered motor vehicles is the January 1 of the year the taxes are due. Essentially this means for the vehicles registered in or are to be renewed in September, October, November, and December, the value will be determined as of the next January 1. Other vehicles are appraised as of the current January 1. New motor vehicles which were not available on the January 1 valuation date are to be valued as of the date they were first available for sale at retail in North Carolina.**

**For the issue of appraisal, one must look to generally accepted appraisal principles rather than the Machinery Act, which is directive, yet limited in actual appraisal techniques.**

N.C.G.S. §105-330.2(b) directs the assessor to appraise all classified motor vehicles at their true value in money as prescribed by G.S. §105-283. §105-283 reads that "true value" shall be interpreted as meaning market value. Of the three approaches to value, the market approach is the most favorable to rely on in the appraisal of motor vehicles since we have sufficient comparable sales to determine the average selling price of new and used motor vehicles. Many times a taxpayer may want to show a vehicle bill of sale to indicate the value. As professional appraisers we should consider any information that is presented, however we must maintain the January 1 valuation date and realize that a single price paid for a motor vehicle does not always reflect the market value. Also, the market approach is favorable to the cost approach when appraising property if sufficient sales data is available.

The North Carolina and IAAO appraisal guidelines recognize different trade level values. Appraisers recognize three distinct levels of trade: The manufacturing level, the wholesale level, and retail level. Personal property should be assessed at the trade level at which it is found. Only property in the hands of a wholesaler who holds it for sale at the amount for which it would transfer to other wholesalers of like property should be appraised at wholesale value. This type of property is categorized as inventory and is no longer taxable in North Carolina. Motor vehicles in the hands of a dealership are for sale at the retail level of trade and should be appraised accordingly for the end consumer. Many pricing guides are published with both retail and wholesale value. Remembering the definition of market value as being the most probable price that a property would bring between a willing buyer and seller, we are estimating a probable, or average, price, where approximately half of the sales have a higher sales price, and half of the sales have a lower sales price than the average. Obviously, many retail consumers will be able to purchase a vehicle for less than the retail value in pricing guides. Some could even pay close to the actual wholesale value. Even for retail consumers who pay near wholesale price, we as appraisers are bound by law to appraise the property at its market value at the retail level of trade. Even motor vehicles, owned and used by the manufacturer of the motor vehicles must be appraised at the retail level of trade, since they are using the property as the end consumer. Logically, the manufacturer pays far less than retail for their own property.

The language of §105-330.2 indicates that it was the intention of the North Carolina General Assembly for appraisers to value classified motor vehicles at the retail level. As stated above, in the case of new motor vehicles, whose value cannot be determined on the normal January 1 valuation date, the value shall be determined as of the date the vehicle "is first offered for sale at retail in this State." One must ask why the General Assembly included the word "retail" in this law. Had the words "at retail" been left out, appraisers would have been forced to use the value at some other trade level, prior to the vehicle being available to the general public.

For classified registered motor vehicles, ownership, situs, and taxability is determined on the registration renewal or application date regardless of whether the registration is renewed after it has expired.

For example, a registration that was to expire December 31, 2006 is not actually renewed until February 21, 2007. The taxpayer moved in January 2007. The ownership, situs, and taxability are determined February 21, 2007, at the actual renewal. This is the time when the taxpayer will update the renewal information with the DMV, which is the information the Tax County should receive. The value of the vehicle is to be determined as of January 1, 2007, which is the January 1 of the year the taxes are due. The 15-day registration grace period that runs into January of 2007 does not extend the expiration date or change the valuation date.

### Appeals

Valuation appeals are to be handled in the manner of a discovery under §105-312(d). The owner of a classified motor vehicle must file an appeal of value with the assessor within 30 days of the bill date. Upon receipt of a timely exception of value, the assessor shall arrange a conference to hear the taxpayer's evidence or argument regarding the value. At this time, the assessor may make adjustments to the value.

### Making Adjustments at the initial conference

The market value of a particular year, make, and model of a motor vehicle is something that is difficult to agree on. Even the major publications do not agree on what the exact market value is and even they usually vary by hundreds of dollars.

For the appraisal of motor vehicles, the appraisal profession recommends using the market approach. The market approach estimates fair market value by examining sales prices of similar properties to the one being appraised. We recognize the market approach as usually being the most accurate estimate of market value for motor vehicles. All counties use the market approach to appraise motor vehicles for property tax purposes when they use a valuation service or valuation guide. The retail value that most counties actually use is generally LESS than many of the most widely recognized publication's estimate of retail value as of the required appraisal date. Additionally, counties now have a database of sale prices on motor vehicles that is being used to increase the accuracy of motor vehicle appraisals. This sale price information is collected and held by the North Carolina Division of Motor Vehicles. Preliminary results from this database show that, statewide, we are appraising motor vehicles below 100% of fair market value. In other words, in general, motor vehicle values in North Carolina may be lower than they should be.

There are many cases where a taxpayer will submit a recent bill of sale and the price is several hundred or several thousand dollars less than the County's value. We can give several reasons why a taxpayer might pay less than the county's estimate, any of which may or may not apply.

1) The sale price is not close to the appraisal date. N.C.G.S. 105-330.2 requires the county to appraise motor vehicles as of the January 1 of the year the taxes are due. If a motor vehicle is purchased in August of 2007, the due date is December 1, 2007. The county is required to appraise the vehicle as of January 1, 2007. There is a strong possibility that the value is higher

on January 1, 2007 than the purchase date in August. If this is the reason a purchase price is lower than the county's value, no adjustment should be made.

2) The owner of the vehicle paid a lower price than the county's estimate of retail market value, but the vehicle is in average condition. Remember that the market approach is an estimate of market value based on sales of similar properties. If, for example, there are 50 sales of a similar motor vehicle, all of the prices of those 50 sales will not be the same. However, the estimate of market value will be somewhere in that range of the 50 sales prices. The end result is that some of those 50 sales will have prices higher than the actual market value and some of those 50 sales will have prices lower than the actual market value. It is possible that a taxpayer may be able to negotiate a sales price close to a wholesale value or trade-in value, however the current law requires the assessor to appraise all motor vehicles at their retail value, regardless of the actual price paid. Also, keep in mind that the invoices you see are representative of the sales below the county's appraisal. The county rarely receives an appeal where the taxpayer paid more than the county's value, however there are many sales in this category. Sales of new motor vehicles will probably have closer sales prices while sales of used motor vehicles will have wider variations in sale price. If this is the reason a purchase price is lower than the county's value, but the vehicle is in average condition, no adjustment should be made.

3) The sales price on a taxpayer's invoice is lower because the sale was not an arm's length transaction. Reasons which would disqualify a sale as being an "arm's length transaction" are numerous. Examples are, a forced sale or auction sale, the buyer and seller are relatives or related businesses, a trade in allowance was not included in the sale price, one or both of the parties involved in the transaction is governmental, a public utility, church, school, lodge, or other exempt organization, or lending institution. Sales such as these are many times not representative of fair market value, so caution should be taken in using these sales as such. In general, values should not be reduced if this is the reason a sale price is lower than the county's value.

4) The amount on the bill of sale is not an indication of the total consideration paid for the vehicle. If a taxpayer receives \$5000 for a trade in, the \$5000 should be included in the purchase price. As we will discuss in the appraisal section, all costs should be included in the cost basis when determining value. Dealer prep and doc fees may also be part of the total consideration paid when a vehicle is purchased and those costs are part of the purchase price. No owner would logically sell a vehicle, after driving it off the lot, and not attempt to recover all of their costs in an arms length transaction. The property tax is a tax on the fair market value of property. If the fair market value is determined using the sale price, all costs should be included in the cost basis. One exception to this was created in 2005, which is for the highway use tax cost. Tax assessors who use the sales price for appraisal of motor vehicles are prohibited from including any Highway Use Tax for purposes of determining the property tax owed on the vehicle. If fair market value is determined using the market approach, which we recommend, then sales prices of similar vehicles are used, with appropriate adjustments for condition.

**5) The condition of the vehicle is the reason the vehicle's price is lower. The county's estimate of market value is based on a vehicle in average condition. If a taxpayer purchases or owns a vehicle with excessive mileage, body damage, or a worn interior, they likely paid less for the vehicle than they would pay for a vehicle in average condition. In this case, if a taxpayer brings the vehicle to the tax office, during the appeal period, someone with appraisal experience from the tax office should take the time to look at the vehicle and search for a reason to make an adjustment. If a taxpayer will bring a vehicle to the tax office to show the inadequacies of their vehicle, chances are there is something that the appraiser can make an adjustment for. Many times a \$100 reduction for a fallen headliner in the interior, a uniform schedule for reducing values on high mileage vehicles, or a \$200 reduction for a bad scratch or dent in the vehicle's body will be sufficient and will show that the tax office is willing to make adjustments for the proper reasons.**

**Most adjustments are due to the condition of the vehicle that make the appealed vehicle less valuable than an average vehicle of that year and make. By way of example only, these characteristics may include excessive mileage, rust or other body damage, or an excessively worn interior. Keep in mind that it is not unusual for a seven-year-old car to have over 100,000 miles. 15,000-20,000 miles per year is average. There are several publications that give guidelines for mileage deductions and can be used as a standard throughout the county to make mileage adjustments. There should be no deduction for normal wear such as an old battery, worn tires, bug marks or normal dings on a used vehicle.**

#### **After the Initial Conference**

**Within 15 days of the conference the assessor shall give written notice of his decision unless an agreement was reached during the conference. If an agreement was not reached, the taxpayer shall have 15 days from the date of the assessor's decision to request review by the review board (Board of E&R, County Commissioners, or Motor Vehicle Valuation Review Committee). This request for review by the board must be given in writing unless the request is made verbally to the assessor at the conference.**

**Appeals on situs or taxability are to be handled under §105-381, which allows an appeal to be opened within five years after the tax became due. If an apparent error regarding situs, taxability, or ownership was made by either the tax office or by the DMV database, it is best that the error be corrected before an appeal is even filed.**

**A taxpayer who wishes to appeal the value of a classified motor vehicle must pay the tax when due. If the tax is not due at the time of appeal, the taxpayer needs to understand that the tax still must be paid by the due date and they will receive a full or partial refund if the appeal is decided in their favor. If the taxpayer refuses to pay the taxes when due, the appeal process on the taxpayer's vehicle should suspend until the bill is paid. Interest will accrue and all other applicable enforcement remedies should be used.**



**Subsection (c) directs the Property Tax Division and the Division of Motor Vehicles to agree on the information contained on motor vehicle registration forms that the tax departments will need to list, assess, and collect motor vehicle taxes.**

**§ 105-330.3. Assessor's duty to list classified motor vehicles; application for exempt status.**

\***(a) (1) Registered Vehicles.** The assessor shall list, appraise, and assess all taxable classified motor vehicles for county, municipal, and special district taxes each year in the name of the record owner as of the day on which the current vehicle registration is renewed or the day on which a new registration is applied for. The owner of a classified motor vehicle listed pursuant to this subdivision need not list the vehicle as provided in G.S. 105-306; G.S. 105-312 does not apply to classified motor vehicles listed pursuant to this subdivision.

**(2) Unregistered Vehicles.** The owner of a classified motor vehicle who does not register the vehicle or does not renew the registration of the vehicle on or before the expiration date of the current registration shall list the vehicle for taxes by filing an abstract with the assessor of the county in which the vehicle is located on or before January 31 following the date the unregistered vehicle is acquired or, in the case of a registration that is not renewed, January 31 following the date the registration expires, and on or before January 31 of each succeeding year that the vehicle is unregistered. If a classified motor vehicle listed pursuant to this section is registered during the calendar year in which it was listed, it shall be taxed for the fiscal year that opens in the calendar year of listing as an unregistered vehicle. A vehicle required to be listed pursuant to this subdivision that is not listed by January 31 shall be subject to discovery pursuant to G.S. 105-312.

**(b)** The owner of a classified motor vehicle who claims an exemption or exclusion from tax under this Subchapter has the burden of establishing that the vehicle is entitled to the exemption or exclusion. The owner may establish prima facie entitlement to exemption or exclusion of the classified motor vehicle by filing an application for exempt status with the assessor. When an approved application is on file, the assessor shall omit from the tax records classified motor vehicles described in the application.

**(c)** The owner of a classified motor vehicle that has been omitted from the tax records as provided in subsection (b) shall report to the assessor any classified motor vehicle registered in the owner's name or owned by him that does not qualify for exemption or exclusion for the current year. This report shall be made within 30 days after the renewal of registration or initial registration of the vehicle or, for an unregistered vehicle, on or before January 31 of the year in which the vehicle is required to be listed by subdivision (a)(2). A classified motor vehicle that does not qualify for exemption or exclusion but has been omitted from the tax records as provided in subsection (b) is subject to discovery under the provisions of G.S. 105-312, except that in lieu of the penalties prescribed by G.S. 105-312(h) there shall be assessed a penalty of one hundred dollars (\$100.00) for each registration period that elapsed before the disqualification was discovered.

**(d)** The provisions of G.S. 105-282.1 do not apply to classified motor vehicles.

**\*Subsection (a)(1) provides for the assessor's duty to list and appraise all classified, registered motor vehicles in the name of the owner as of the day the registration is renewed or applied for. The owner is not required to list, and therefore, the discovery provision, §105-312, does not apply to classified registered motor vehicles.**

**Unregistered motor vehicles are listed by the owner and assessed in the same manner as other business personal property. A motor vehicle which is unregistered on January 1 is to be treated as classified unregistered for the entire year. Assuming the vehicle has a valid registration during January of the following year, it will be assessed as a classified registered motor vehicle.**

### **Motor Vehicle Dealers**

**Because a motor vehicle dealer is in the business of selling motor vehicles does not necessarily mean that all vehicles owned by the dealership are held for sale. Wreckers and car carriers owned by the dealership are not part of their inventory and must be listed if they carry a dealer plate. It is not uncommon for licensed motor vehicle dealers to allow family members or others to use the dealerships dealer tags on their personal vehicles, for personal use. This can sometimes cause a problem if the dealer insists that the vehicle is inventory "held for sale" and should not be listed. An important part of the inventory definition is that the property must be held for sale during the regular course of business. Some helpful questions to ask the dealer in this situation are:**

- (1) Is the vehicle kept on the sales lot with other vehicles for sale?**
- (2) Is the vehicle readily available at any time to be test driven?**
- (3) When was the last time the vehicle was test driven?**
- (4) Is the vehicle advertised for sale anywhere?**
- (5) What is the current asking price of the vehicle?**

**Sometimes these questions will help the dealer understand the difference between a vehicle used for personal use and one that is actually held for sale in the regular course of business.**

### **Exemptions**

**The exemption treatment under subsection (b) and (c) states that it is the duty of the owner to establish prima facie entitlement to exemption or exclusion by filing an application with the assessor. As a reminder, ownership and taxability is determined at the time of application or renewal. For a vehicle to be exempt, it must meet the ownership and use requirements at the time of application or renewal. For example, a van must be purchased by a church already meeting the requirements of §105-278.3 in order for it to be exempt for that year. An AV-10V must be completed before the van can be exempted. Complete exemption qualifications are discussed in another section of this manual. Since §105-282.1 does not apply to classified motor vehicles, once an application is on file, the exempt motor vehicle remains exempt even if §105-282.1 requires the exemption to be applied for each year. Failure to notify the assessor**

**within 30 days of any change in the use of the property will make the owner of the property subject to a penalty of \$100.00 for each registration period missed.**

**§ 105-330.4. Due date, interest, and enforcement remedies.**

(a) Taxes on a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(2) shall be due on September 1 following the date by which the vehicle was required to be listed. Taxes on a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(1) shall be due each year on the following dates:

(1) For a vehicle registered under the staggered system, taxes shall be due on the first day of the fourth month following the date the registration expires or on the first day of the fourth month following the last day of the month in which the new registration is applied for.

(2) For a vehicle newly registered under the annual system, taxes shall be due on the first day of the fourth month following the date the new registration is applied for. For a vehicle whose registration is renewed under the annual system, taxes shall be due on May 1 following the date the registration expired.

(b) Subject to the provisions of G.S. 105-395.1, interest on unpaid taxes on classified motor vehicles listed pursuant to G.S. 105-330.3(a)(1) accrues at the rate of five percent (5%) for the first month following the date the taxes were due and three-fourths percent (3/4%) for each month thereafter until the taxes are paid, unless the tax notice required by G.S. 105-330.5 is prepared after the date the taxes are due. In that circumstance, the interest accrues beginning the second month following the date of the notice until the taxes are paid. Subject to the provisions of G.S. 105-395.1, interest on delinquent taxes on classified motor vehicles listed pursuant to G.S. 105-330.3(a)(2) accrues as provided in G.S. 105-360(a) and discounts shall be allowed as provided in G.S. 105-360(c).

(b) Unpaid taxes on classified motor vehicles may be collected by levying on the motor vehicle taxed or on any other personal property of the taxpayer pursuant to G.S. 105-366 and G.S. 105-367, or by garnishment of the taxpayer's property pursuant to G.S. 105-368. Notwithstanding the provisions of G.S. 105-366(b), the enforcement measures of levy, attachment, and garnishment may be used to collect unpaid taxes on classified motor vehicles listed pursuant to G.S. 105-330.3(a)(1) at any time after interest accrues. Notwithstanding the provisions of G.S. 105-355, taxes on classified motor vehicles listed pursuant to G.S. 105-330.3(a)(1) do not become a lien on real property owned by the taxpayer.

**\*The due date for a classified motor vehicle registered under the staggered system is the first day of the fourth month following the date the registration expires or on the first day of the fourth month following the last day of the month in which the new registration is applied for. For example, taxes on a vehicle with a March registration would be due July 1.**

**For annual system vehicles whose registration is renewed, taxes shall be due on May 1 following the date the registration expired. For newly registered annual system vehicles, the due date is determined in the same manner as for staggered system vehicles.**

**The remainder of this statute concerns collection procedures for classified registered vehicles. Interest accrues similarly to delinquent taxes on other property. That being 5% the first delinquent month and 3/4% per month thereafter beginning the first day of the month after taxes become due until the taxes are paid. If the date of the tax notice is after the due date, no interest begins until the second month following the date of the notice. This should prevent any bill from going out with interest already added. While all previous enforcement remedies still apply to classified registered motor vehicles, the unpaid taxes on registered motor vehicles are not a lien against any real property owned by the taxpayer.**

**Taxes on unregistered motor vehicles are due on September 1 and payable at par through January 5 just like all other property taxes.**

**§ 105-330.5. Listing and collecting procedures.**

(a) For classified motor vehicles listed pursuant to G.S. 105-330.3(a)(1), upon receiving the registration lists from the Division of Motor Vehicles each month, the Property Tax Division of the Department of Revenue shall prepare a combined tax and registration notice for each vehicle. The combined tax and registration notice shall contain all county and municipal corporation taxes and fees due on the motor vehicle as computed by the assessor in the county of registration. In computing the taxes, the assessor shall appraise the motor vehicle in accordance with G.S. 105-330.2 and shall use the tax rates of the various taxing units in effect on the first day of the month in which the current vehicle registration expires or the new registration is applied for. The tax on the motor vehicle is the product of a fraction and the number of months in the motor vehicle tax year. The numerator of the fraction is the product of the appraised value of the motor vehicle and the tax rate of the various taxing units. The denominator of the fraction is 12. This procedure shall constitute the listing and assessment of each classified motor vehicle for taxation. The combined tax and registration notice shall contain:

- (1) The date of the tax notice.
- (2) The appraised value of the motor vehicle.
- (3) The tax rate of the taxing units.
- (4) A statement that the appraised value of the motor vehicle may be appealed to the assessor within 30 days after the date of the notice.

(a1) When a new registration is obtained for a vehicle registered under the annual system in a month other than December, the assessor shall prorate the taxes due for the remainder of the calendar year. The amount of prorated taxes due is the product of the proration fraction and the taxes computed according to subsection (a). The numerator of the proration fraction is the number of full months remaining in the calendar year following the date the registration is applied for and the denominator of the fraction is 12.

(b) When the tax notice required by subsection (a) is prepared, the county tax collector shall mail a copy of the notice, with appropriate instructions for payment, to the motor vehicle owner. The county may retain the actual cost of collecting municipal and special district taxes collected pursuant to this Article, not to exceed one and one-half percent (1 1/2%) of the amount of taxes collected. The county finance officer shall establish procedures to ensure that tax payments received pursuant to this Article are properly accounted for and taxes due other taxing units are remitted to the units to which they are due at least once each month. Each month, a county shall provide reasonable information to the municipalities and special districts located in it to enable them to account for the tax payments remitted to them.

(b1) Repealed by Session Laws 1995, c. 329, s. 2, effective for taxes imposed for taxable years beginning on or after July 1, 1995.

(c) For classified motor vehicles listed pursuant to G.S. 105-330.3(a)(2), the assessor shall appraise each vehicle in accordance with G.S. 105-330.2. The assessor shall prepare a tax notice for each vehicle before September 1 following the January 31 listing date; the tax notice shall include all county and special district taxes due on the motor vehicle. In computing the taxes, the assessor shall use the tax rates of the taxing units in effect for the fiscal year that begins on July 1 following the January 31 listing date. Municipalities shall list, assess, and tax classified motor vehicles listed pursuant to G.S. 105-330.3(a)(2) as provided in G.S. 105-326, 105-327, and 105-328 and shall send tax notices as provided in this section.

(d) The county shall include taxes on classified motor vehicles listed pursuant to G.S. 105-330.3(a)(1) in the tax levy for the fiscal year in which the taxes become due and shall charge the taxes to the tax collector for that year, unless the tax notice required by subsection (a) is prepared after the date the taxes are due. If that occurs, the county shall include the taxes from that notice in the tax levy for the current fiscal year and shall charge the taxes to the tax collector for that year.

**\*This section details the procedures for the listing and collection of taxes on motor vehicles. The most significant portion of the section requires the county assessor to assess taxes on registered motor vehicles for all municipalities and special districts in the county. Also in subsection (a) is the directive to appraise motor vehicles using the valuation, ownership, and situs rules set forth in §105-330.2 and to use the tax rates in effect when the registration last expired. Even if the taxpayer renews late, the appraiser is to assess the taxes based on the rates in effect when the registration was to be renewed (when it expired). For example, the 2006 tax rates in effect in June 2007 for the various taxing districts would be used to calculate the tax bill for a vehicle purchased or renewed June 7, 2007. When the registration expires June 30, 2008 and if the owner renews the registration late on July 3, 2008, the June 2008 tax rates (2007 rates) would still be used to calculate the next year's bill. Subsection (a) also outlines the minimum requirements for the tax notice.**

**Subsection (a1) provides for the proration of taxes on annual system vehicles that are purchased in a month other than December. The assessor is to prorate the taxes for the remainder of the calendar year. To calculate the tax bill, the assessor must multiply the**

amount of the whole taxes by a proration fraction. For example, an annual system vehicle is purchased in May of 2007. There are seven full months left in 2007. If the amount of the taxes calculated by subsection (a) is \$500.00, then the amount of the bill sent under (a1) would be  $\$500.00 \times 7/12 = \$291.67$ .

Subsection (b) requires the collector to send a notice for each motor vehicle.

Subsection (c) directs the assessor to appraise each unregistered motor vehicle and prepare a notice for each unregistered motor vehicle. Unlike with registered motor vehicles, municipalities are required to list, assess, and tax unregistered motor vehicles.

Subsection (d) instructs the county to include taxes from registered motor vehicles in the tax levy for the fiscal year in which the taxes become due. For example, if the vehicle is a March 2007 renewal/expiration, it is due in July 2007 and those taxes would apply to the 07-08 tax year (typically called the 2007 tax year) even though the prior year, 2006, rate was used to calculate the bill.

**§ 105-330.6. Motor vehicle tax year; transfer of plates; surrender of plates.**

(a) Tax Year - The tax year for a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(1) and registered under the staggered system shall begin on the first day of the first month following the date on which the former registration expires or the new registration is applied for and ends on the last day of the month in which the current registration expires. The tax year for a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(1) and registered under the annual system shall begin on the first day of the first month following the date on which the registration expires or the new registration is applied for and end the following December 31. The tax year for a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(2) shall be the fiscal year that opens in the calendar year in which the vehicle is required to be listed.

(a1) Change in Tax Year. – If the tax year for a classified motor vehicle changes because of a change in its registration for a reason other than the transfer of its registration plates to another classified motor vehicle pursuant to G.S. 20-64, and the new tax year begins before the expiration of the vehicle's original tax year, the taxpayer may receive a credit, in the form of a release, against the taxes on the vehicle for the new tax year. The amount of the credit is equal to a proportion of the taxes paid on the vehicle for the original tax year. The proportion is the number of full calendar months remaining in the original tax year as of the first day of the new tax year, divided by the number of months in the original tax year. To obtain the credit allowed in this subsection, the taxpayer must apply within 30 days after the taxes for the new tax year are due and must provide the county tax collector information establishing the original tax year of the vehicle, the amount of taxes paid on the vehicle for that year, and the reason for the change in registration.

(b) If the owner of a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(1) transfers the registration plates from the listed vehicle to another classified motor vehicle pursuant to G.S. 20-64

during the listed vehicle's tax year, the vehicle to which the plates are transferred is not required to be listed or taxed until the current registration expires or is renewed.

(c) Surrender of Plates. - If the owner of a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(1) either transfers the motor vehicle to a new owner or moves out-of-state and registers the vehicle in another jurisdiction, and the owner surrenders the registration plates from the listed vehicle to the Division of Motor Vehicles, then the owner may apply for a release or refund of taxes on the vehicle for any full calendar months remaining in the vehicle's tax year after the date of surrender. To apply for a release or refund, the owner must present to the county tax collector within one year after surrendering the plates the receipt received from the Division of Motor Vehicles accepting surrender of the registration plates. The county tax collector shall then multiply the amount of the taxes for the tax year on the vehicle by a fraction, the denominator of which is the number of months in the tax year and the numerator of which is the number of full calendar months remaining in the vehicle's tax year after the date of surrender of the registration plates. The product of the multiplication is the amount of taxes to be released or refunded. If the taxes have not been paid at the date of application, the county tax collector shall make a release of the prorated taxes and credit the owner's tax notice with the amount of the release. If the taxes have been paid at the date of application, the county tax collector shall direct an order for a refund of the prorated taxes to the county finance officer, and the finance officer shall issue a refund to the vehicle owner.

**\*This subsection describes the tax year for a classified registered motor vehicle. This is not to be confused with the fiscal year which motor vehicle taxes apply to or the calendar year which is most commonly thought of by most taxpayers. The tax year mainly serves the purpose to determine a period of time a vehicle is physically kept. This is important to calculate the pro-ration of taxes when a registered motor vehicle is transferred to a new owner or a taxpayer moves out of state and the plates are surrendered to DMV. The tax year for classified registered motor vehicles begins the first day of the month following the registration/expiration month and ends the last day of the month in which the current registration expires. A June 2007 registration normally has a tax year of July 1, 2007 to June 30, 2008. If, for various reasons, the registration is not 12 months, the law allows assessment for the number of months of the registration period. The tax year for classified unregistered motor vehicles is the fiscal year that begins in the calendar year in which the motor vehicle is required to be listed.**

The general rule is that pro-ration of motor vehicle taxes can only occur when these three conditions are met.

- (1) The owner must transfer the motor vehicle to a new owner OR Move out-of-state and register the vehicle in another jurisdiction.
- (2) The registration plates must be surrendered to the DMV
- (3) The receipt from the surrender of the plates (FS-20) must be presented to the collector within one year from the surrender of the plates.

If these three conditions are met, the collector shall multiply the amount of the taxes to be pro-rated by a fraction. The numerator is the number of full calendar months remaining in the vehicle's tax year and the denominator is the number of months in the tax year.

**Example**

A motor vehicle with a September 2007 registration is sold and the registration is surrendered to DMV in December 2007. The owner presents the receipt to the collector in February of 2008 and asks for a pro-rated refund. If the amount of the bill is \$235.43, what is the amount to be refunded?

**Tax Year?** October 2007 through September 2008

**Number of months remaining?** 9, January through September.

**Prorated amount?**  $\$235.43 \times 9/12 = \$176.57$

The exception to the general rule to pro-ration of motor vehicle taxes is explained in subsection (a1). This provides that if a motor vehicle tax year described in subsection (a) changes for a reason other than transferring the plates to another vehicle, then the taxpayer may receive a credit, in the form of a release against the taxes for the new year, if applied for within 30 days after the taxes are due for the new tax year. The credit is equal to the number of full overlapping months of the two tax years divided by the number of months in the original tax year and multiplied by the taxes due for the original tax year.

**Example**

Taxpayer has a vehicle with an August expiration and renews August 15, 2007. This creates a bill for \$300 for tax year September 2007 - August 2008. In December the taxpayer cancels insurance, keeps the car in North Carolina, and goes abroad. March 15, 2008 he returns to North Carolina and obtains a new tag for the same vehicle. This creates a new bill for \$250 with a tax year of April 2008-March 2009. There are five overlapping months, April 2008 through August 2008. The taxpayer may apply for a credit in the form of a release of  $5/12 \times \$300$  or \$125 against the new \$250 tax bill. He must apply for the credit before what date?

There is no other provision in the law to release or refund property taxes other than the instances stated above. This includes someone who sells the vehicle but does not turn in the tag.

Subsection (b) clarifies that if a tag is transferred during the tax year to another vehicle, there is no additional listing or assessment required or allowed. This is very positive for taxpayers who purchase a more valuable vehicle shortly after renewing on a less valuable vehicle.



## **Discussion**

**What if the registration on vehicle A is renewed in March. Vehicle A is sold in June and the plates are transferred to vehicle B. Vehicle B is sold and the plates are turned in to DMV in September. Is a proration warranted since the plates turned in from vehicle B are not from the listed vehicle?**

**Vehicle A is renewed. Vehicle B is purchased and the registration is transferred from A to B. New tags are purchased for vehicle A. Do you send another bill for vehicle A?**

**Vehicle A is renewed. Personalized plates are purchased for Vehicle A four months later and the registration year does not change. Do you send another bill if the personalized plate registration shows up on the tape? Do you make an adjustment? What if the registration year does change?**

### **§ 105-330.7. List of delinquents sent to Division of Motor Vehicles.**

On the tenth day of each month the county tax collector shall prepare a list with the name and address of the owner and the vehicle identification number of every classified motor vehicle listed pursuant to G.S. 105-330.3(a)(1) on which taxes remain unpaid on that date and on which taxes became due on the first day of the fourth month preceding that date. The tax collector shall mail that list to the Division of Motor Vehicles. The list shall be in the form and contain the information required by the Division of Motor Vehicles.

### **§ 105-330.8. Deadlines not extended.**

Except as otherwise provided in this Article, the provisions of G.S. 105-395.1 and G.S. 103-5 do not apply to deadlines established in this Article.

### **§ 105-330.9. Antique automobiles.**

(a) For the purpose of this section, the term "antique automobile" means a motor vehicle that meets all of the following conditions:

- (1) It is registered with the Division of Motor Vehicles and has an historic vehicle special license plate under G.S. 20-79.4.
- (2) It is maintained primarily for use in exhibitions, club activities, parades, and other public interest functions.
- (3) It is used only occasionally for other purposes.
- (4) It is owned by an individual.
- (5) It is used by the owner for a purpose other than the production of income and is not used in connection with a business.

(b) Antique automobiles are designated a special class of property under Article V, Sec. 2(2) of the North Carolina Constitution and shall be assessed for taxation in accordance with this section. An antique automobile shall be assessed at the lower of its true value or five hundred dollars (\$500.00).

**\*Registered motor vehicles that are determined to qualify as "antique automobiles" cannot be assessed at a value over \$500.00. The most important qualification and the most simple to verify is the plate type. The plate type is found on the monthly tapes from DMV. A vehicle must be 35 to 49 years old to qualify for an antique (ANT) tag and at least 50 years old to qualify for a horseless carriage (HCR) tag. A vehicle may carry one of these specially coded plates yet still not qualify for the special \$500 valuation. An antique automobile as defined in this section qualifies only if it meets all five of the conditions outlined in this statute. It is our opinion that a vehicle should not be given the special \$500 valuation unless the owner requests the special valuation and completes and signs a questionnaire that would satisfy any questions regarding the above qualifications. An example questionnaire is in Section 9 of this manual.**

**Several taxpayers who have renewed their regular registration are afterwards made aware of the provision for special antique valuation. Since the preparation of the tax notice from the DMV registration lists constitutes the listing and assessment of a classified motor vehicle, and there is no provision to reverse this listing, the owner cannot qualify for antique valuation after a renewal of a regular registration until the owner registers the vehicle as an antique motor vehicle. If the owner cancels the regular registration and applies for a new antique registration, it may create a new bill for the antique registration, but there is no provision to release the original bill, created from the regular renewal.**

**Examples of a vehicle that would not qualify for antique valuation would be:**

- 1) One which is used to promote a business, as "Joe's Paint and Body Shop".**
- 2) Used to drive to work, or used as a regular vehicle.**
- 3) Shown in car shows, but also driven to work regularly. (Some show cars are driven daily)**
- 4) It is always kept in a garage, never shown in exhibitions or used at all.**
- 5) Driven an excessive number of miles for a car to be used only in exhibitions, club activities, parades, and other public interest functions.**

**Other Pertinent Statutes dealing with Motor Vehicles**

**§105-325.1 Special committee for motor vehicle appeals.**

The board of county commissioners may appoint a special committee of its members or other persons to hear and decide appeals arising under G.S. 105-330.2(b). The county shall bear the expense of employing the committee.

**§105-373(h) Relief from collecting taxes on classified registered motor vehicles.**

Commissioners have this authority if it appears to the board that the taxes are uncollectible after one year past due. This includes all municipal and special district taxes charged to the collector. (Summarized, See actual statute for full text)

**§105-321(f) Minimal Taxes.**

Notwithstanding the provisions of G.S. 105-380, the governing body of a taxing unit that collects its own taxes may, by resolution, direct its assessor and tax collector not to collect minimal taxes charged on the tax records and receipts. Minimal taxes are the combined taxes and fees of the taxing unit and any other units for which it collects taxes, due on a tax receipt prepared pursuant to G.S. 105-320 or on a tax notice prepared pursuant to G.S. 105-330.5, in a total original principal amount that does not exceed an amount, up to five dollars (\$5.00), set by the governing body. The amount set by the governing body should be the estimated cost to the taxing unit of billing the taxpayer for the amounts due on a tax receipt or tax notice. Upon adoption of a resolution pursuant to this subsection, the tax collector shall not bill the taxpayer for, or otherwise collect, minimal taxes but shall keep a record of all minimal taxes by receipt number and amount and shall make a report of the amount of these taxes to the governing body at the time of the settlement. These minimal taxes shall not be a lien on the taxpayer's real property and shall not be collectible under Article 26 of this Subchapter. A resolution adopted pursuant to this subsection must be adopted on or before June 15 preceding the first taxable year to which it applies and remains in effect until amended or repealed by resolution of the taxing unit.

Pertinent Statutes in Chapter 20 (Motor Vehicle Section)

**§ 20-50.3. Division to furnish county assessors registration lists.**

On the tenth day of each month the Division shall send to each county assessor a list of vehicles registered under the staggered system for which registration was renewed or a new registration was obtained in that county during the second month preceding that date, with the name and address of each vehicle owner. On the tenth day of March the Division shall send to each county assessor a list of the following vehicles registered under the annual system with the name and address of each vehicle owner:

- (1) Vehicles for which registration was renewed in that county during the period beginning the preceding December 1.
- (2) Vehicles for which a new registration was obtained in that county during the preceding December.

**§ 20-50.4. Division to refuse to register vehicles on which taxes are delinquent and when there is a failure to meet court-ordered child support obligations.**

(a) Delinquent Property Taxes. - Upon receiving the list of motor vehicle owners and motor vehicles sent by county tax collectors pursuant to G.S. 105-330.7, the Division shall refuse to register for the owner named in the list any vehicle identified in the list until either the vehicle owner presents the Division with a paid tax receipt identifying the vehicle for which registration was refused or the county certifies to the Division that the tax has been paid. The Division shall not

refuse to register a vehicle for a person, not named in the list, to whom the vehicle has been transferred in good faith. Where a motor vehicle owner named in the list has transferred the registration plates from the motor vehicle identified in the list to another motor vehicle pursuant to G.S. 20-64 during the first vehicle's tax year, the Division shall refuse registration of the second vehicle until the vehicle owner presents the Division with a paid tax receipt identifying the vehicle from which the plates were transferred or the county certifies to the Division that the tax has been paid. The certification must be in the form and contain the information required by the Division.

**\*The block lists given to the DMV by the counties instructs DMV to refuse to register any vehicle listed until (1) the vehicle owner presents the division with a paid tax receipt or (2) the county certifies to the DMV that the tax has been paid.**

**If a blocked registration is transferred to a second vehicle, DMV must refuse registration of the second vehicle until the tax is paid on the first blocked vehicle.**

**If a blocked vehicle is sold to a new owner, the DMV must allow the new owner to register the vehicle.**

**§ 20-66. Renewal of vehicle registration.**

(i) Property Tax Consolidation. - When the Division receives an application under subsection (a) for the renewal of registration before the current registration expires, the Division shall grant the application if it is made for the purpose of consolidating the property taxes payable by the applicant on classified motor vehicles, as defined in G.S. 105-330. The registration fee for a motor vehicle whose registration cycle is changed under this subsection shall be reduced by a prorated amount. The prorated amount is one-twelfth of the registration fee in effect when the motor vehicle's registration was last renewed multiplied by the number of full months remaining in the motor vehicle's current registration cycle, rounded to the nearest multiple of twenty-five cents.

**\*Some taxpayers may complain about getting their property tax bills at different times throughout the year. The DMV may consolidate the registrations to one month so taxpayers get all their motor vehicle bills in one month.**

## Case Problem

### Motor Vehicle Billing

Jack lives in Anywho County and has a 1998 Ford with a 1-1-2007 value of \$4,000 and a 1-1-2008 value of \$3,000. The Ford has a registration that expires December 31, 2007. Jack moves to New Hanover County and renews the Ford in January of 2008. In June of 2008, Jack trades in his Ford on a 2008 Mercedes with a 1-1-2008 value of \$55,000. Jack went to Carolina, so he elected to turn in the tags from the Ford and purchase new tags for the Mercedes at the time of purchase. He then requested a refund on his Ford taxes July 15<sup>th</sup> and presented his tax receipt to the county.

2007 tax rate - .89

2008 tax rate - .70

What is the due date of the Ford taxes and why?

Which year's value is used to determine the value of the bill on the Ford for the renewal in January, 2008?

What is the amount of the bill on the Ford?

What is the situs of the Ford and why?

Does the bill on the Ford get pro-rated?                      If so, what is the amount of pro-ration?

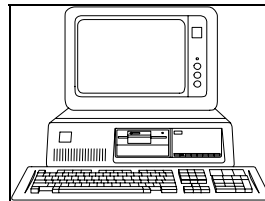
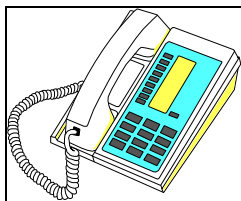
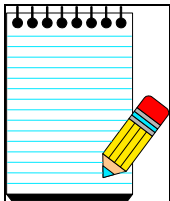
What fiscal year do the taxes on the Ford apply to and why?

Calculate the amount of the bill on the Mercedes.

What fiscal year do the taxes on the Mercedes apply to and why?

## SECTION VIII

### THE APPRAISAL OF BUSINESS PERSONAL PROPERTY



## The Appraisal of Business Personal Property

The objective in the appraisal of business personal property which includes machinery & equipment, is to determine the market value of the property for ad valorem tax purposes. Before we can do this however; we must first determine the elements that constitute value and what appraisal concept we need to use.

### What is Value

The economic concept of value is identified as the relative worth of a commodity when compared to all other substitutes for the commodity, and is affected by scarcity and utility of the property. In the appraisal of personal property, there are many different levels of value, and it is important to consider the reason for determining value. Each of these levels has meaning to the appraiser.

Value in Use - The value of property to its' owner or the one who enjoys its' use, based on the utility and productivity of the property.

Value In Exchange - The most probable value that can be reasonably expected in a sale transaction.

Liquidation Value - The price which the individual assets of an operating unit would bring if dismantled and moved to another location.

Residual Value - A minimum value of property still usable by the owner at which no further depreciation is allowed.

Salvage Value - The value of property when the utility of the property has ended. This is usually the lowest of all of the valuation concepts.

Going Concern Value - The value of property determined by consideration of the business as an operating entity, in an established market and functioning in an efficient and economical manner.

## The North Carolina Legal Requirement

The North Carolina general statutes contained in the Machinery Act require the appraiser to consider certain legal requirements in the valuation of property for ad valorem taxation.

**G.S. 105-283** Provides the standards for appraisal and assessment. The standard requires uniformity in appraising and provides that "all property, real and personal, shall as far as practicable be appraised or valued at its true value in money. **True value** is defined as meaning market value, that is, the price estimated in terms of money at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both

having reasonable knowledge of all the uses to which the property is adapted or which it is capable of being used.

One of the most important cases dealing with property tax in North Carolina is the AMP INC. case which was heard by the North Carolina Supreme Court in 1975. The N. C. Supreme Court in re: Appeal of AMP, Guilford County made the following statements :

1. Implicit in G. S. 105-294 (now G.S. 105-283 ) is the going-concern assumption." The court further stated that failure to assign a going-concern value ignores the provision of law relative to the true value standard provided by G.S. 105-283.
2. However , the mere fact that there is no market for a particular property does not deprive it of "market value," "true value," or "cash value."
3. We believe that the proper valuation standard would be the cost of replacing the inventory, plus labor and overhead. In terms of a formula, this equals replacement cost plus labor and overhead.
4. In order for a taxpayer to rebut the presumption of correctness of an ad valorem tax assessment, he must produce competent, material and substantial evidence that the county tax supervisor used an arbitrary or illegal method of valuation and that the assessment substantially exceeded the true value in money of the property.

**G.S. 105-317.1** Provides a list of elements that the appraiser must consider in appraising personal property.

**105-317.1 Appraisal of personal property; elements to be considered.**

- (a) Whenever any personal property is appraised it shall be the duty of the persons making appraisals to consider the following as to each item (or lot of similar items):
  - (1) The replacement cost of the property;
  - (2) The sale price of similar property;
  - (3) The age of the property;
  - (4) The physical condition of the property;
  - (5) The productivity of the property;
  - (6) The remaining life of the property;
  - (7) The effect of obsolescence on the property;
  - (8) The economic utility of the property, that is, its usability and adaptability for industrial, commercial, or other purposes; and
  - (9) Any other factor that may affect the value of the property.
- (b) In determining the true value of taxable tangible personal property held and used in connection with the mercantile, manufacturing, producing, processing, or other business enterprise of any taxpayer, the persons making the appraisal shall consider



any information as reflected by the taxpayer's records and as reported by the taxpayer to the North Carolina Department of Revenue and to the Internal Revenue Service for income tax purposes, taking into account the accuracy of the taxpayer's records, the taxpayer's method of accounting, and the level of trade at which the taxpayer does business.

The true value standard and elements to be considered in appraising personal property are the primary topics of the following discussions.

### Appraisal

Our function as appraisers is to determine value under the **True Value Standard** required by law. It is our task to consider all of the elements that affect value and determine the true value in money of the property in question.

In making an appraisal of any property, the best method is to examine each item in detail and then determine an appropriate valuation. In the mass appraisal process, this is a luxury few jurisdictions will be able to afford. We must therefore determine what valuation methodology will most accurately determine true market value, provide uniformity, equity, and remain cost effective.

**Highest and Best Use:** Each item of property should be appraised as though it were being put to its perceived most profitable use given probable legal, physical, and financial constraints.

### Approaches To Value

There are three recognized approaches to be considered in the appraisal of property.

- The Income Approach
- The Market Approach
- The Cost Approach

Each of the methods should be considered in the appraisal of personal property. A brief discussion of each method follows.

## Income Approach

There are two commonly used ways to apply the income approach to machinery and equipment valuation. The first is the gross income multiplier method (which is actually more closely related to the comparative sales approach). The appropriate gross income multiplier is calculated by dividing the selling price of items comparable to the subject by their gross rental incomes. By analyzing sales and rentals of equipment comparable to the subject property, a representative multiplier can be developed. The multiplication of this factor by the rental income of the subject item can yield an estimation of value. This is illustrated by the following:

<u>Comparables</u>	<u>Sale Price</u>	<u>Gross Annual Rental</u>	<u>Gross Income Multiplier</u>
A	\$13,000	\$8,666	1.500
B	\$13,500	\$8,800	1.534
C	\$14,000	\$8,917	1.570

Using a gross income multiplier of 1.53, and a gross annual rental of the subject of \$9,800 yields:  
 $\$9,800 \times 1.53 = \underline{\$14,994}$

The gross income multiplier method is simple and easily understood. Care must be taken, however, to choose comparable machines or equipment carefully, since the difference in obsolescence between subject and comparables must be taken into consideration.

The more recognized income approach is to capitalize net income into a determination of value. **The income approach formula is:**

$$\text{Value} = \text{Income} / \text{Rate}$$

To apply this approach, the net income that the item is capable of generating must first be estimated. This involves examining lease terms and expense estimates, including maintenance, insurance, advertising, taxes, and management. This analysis must be done for both the subject property and the comparables. Next, the appraiser must determine the proper capitalization rate to apply to the net income estimate. This step requires the analysis of rates of return on investments, economic life estimates, and property tax rates. The capitalization rate is made up of three components, the discount rate, the recapture rate, and the effective tax rate.

**The discount rate** is the return on the investment and is the investors compensation for their efforts and risk involved in the investment. The discount rate is made up of an interest rate and an equity yield rate. The discount rate is usually determined from the market.

**The recapture rate** is the return of investment which is for capital recovery. In order to determine the recapture rate the appraiser must estimate the years of remaining economic life. Below is an example of how to calculate a recapture rate for a machine with a 5-year remaining economic life.

Years of Remaining Economic Life	Recapture Rate Return on Investment
5 years	$(1/5) = .20$
4 years	$(1/4) = .25$
3 years	$(1/3) = .33$
2 years	$(1/2) = .50$
1 years	$(1/1) = 1.00$

The third part of the capitalization rate is **the effective tax rate**, which is the actual tax rate multiplied by the assessment level of the taxing jurisdiction. If the actual tax rate is 50 cents per \$100 of value and the assessment level of the jurisdiction is 90% the effective tax rate is:  $.50 \times .90 = .45$  or 45 cents per \$100 of value. In North Carolina personal property is assessed at 100% of its appraised value so the actual tax rate and the effective tax rate is the same.

The final step, estimating the value of the item, is accomplished by dividing the net income by the chosen capitalization rate. **The income approach formula is  $V = I/R$ .**

For example, assume that the subject property to be valued is a group of thirteen photocopiers owned by a leasing company. These copiers are all on lease in the same city under two-year net leases of \$1,375 per copier. The lessee pays for all delivery costs, the toner and developer fluids, and paper. In addition to this flat fee, a charge of \$.016 per copy is made, and the machines make an average of 25,000 copies per month each. The cost of operating the machine or the expenses for the year are 12% of gross revenue.

From the illustration above, the total annual rental income generated by these photocopiers is \$214,500 ( $\$1,375/\text{month}/\text{machine} \times 13 \text{ machines} \times 12 \text{ months}$ ) and the total per copy charge is \$62,400 ( $\$.016 \text{ copy} \times 25,000 \text{ copies}/\text{machine}/\text{month} \times 13 \text{ machines} \times 12 \text{ months}$ ), resulting in a gross annual income of \$276,900. Reducing this by 12 percent to account for service, maintenance, and overhead results in a net income of \$243,672 ( $\$276,900 \times 0.88$ ).

The machines have a 10-year life and are three years old (this may be increased by extensive reconditioning) and, due to the type of leasing company, the appropriate discount rate is considered equivalent to the yield on AAA corporate industrial bonds, which currently pay 12.2 percent. The effective property tax rate in this jurisdiction is \$1.20 per \$100.00 of value. These figures result in an overall rate of 0.277 (0.122 discount rate + 0.012 effective tax rate + 0.143 recapture rate).

Using the standard income approach formula of  $V = I/R$ , the value of the subject machines is \$879,680 ( $\$243,672$  divided by 0.277), which represents the present worth of the anticipated income stream.

## Pros and Cons of the Income Approach

### Advantages

Recognizes economics  
Reflects actual investment criteria.  
Can be used to help support the cost approach.

### Disadvantages

Subjectivity of income data  
Requires knowledge of complex financial methods

## **CASE PROBLEM**

### INCOME APPROACH

Boone Copying Company leases photocopiers to businesses across the state. The company has 20 copiers located within your county and receives \$1250/month for the rental of each machine. The expenses for leasing and maintaining these machines are on average around 10% per year. The machines have an eight year life and are three years old. The county tax rate is 50 cents per \$100 of value. What is the appraised value of this property using the income approach and a discount rate of 7%.

## The Market Approach

The market approach assumes that a prudent investor can purchase an operating facility at a reasonable price. Clearly, with the rash of mergers and acquisitions which took place during the 1980's, there is some evidence to support this conclusion.

The market approach when used in the valuation of machinery and equipment is no different than when applied to the appraisal of real property. The key to both rests on the **principle of substitution** which states that no commodity has a value greater than that for which a similar commodity offering similar uses, utility, and function can be purchased within the reasonable time limits that the buyers' market demands. The appraiser must compare the subject property to similar equipment which has recently sold. Any adjustments are made to the comparables, not the subject.

If new equipment being sold today is exactly the same as the subject, the market value of the subject can easily be determined. If the new equipment being sold today is different than the subject, comparisons are more difficult. Unfortunately, certain types of equipment rarely, if ever, are sold in the secondary market and thus no data on this equipment may be available, making the comparative sales approach meaningless. We must also consider the value-in-use concept. Attempting to equate machinery sold as a commodity with machinery installed and in use can lead to an invalid comparison.

Highest and best use, an extremely important concept in real property appraisal, is not as critical in the appraisal of machinery and equipment. Ordinarily, machinery and equipment are designed for specialized functions and also because the property usually is not in a fixed location.

When sufficient data on secondary market sales is available, and the appraiser has a thorough familiarity with the property under appraisal, the comparative sales approach may be the most appropriate, accurate, and reliable method to use in valuing the subject property.

The reliance on sales of comparable equipment requires the adjustment of the selling price for time, physical condition, and obsolescence. The value of the subject property can be determined by an analysis of the sales data with heavier weight given to the most comparable property.

With regard to adjustments for time of sale, they are frequently the reverse of those normally found in real estate -- sales occurring prior to the valuation date will generally require a negative (less than 100 percent) adjustment and those occurring after the valuation date will likely require a positive (greater than 100 percent) time adjustment. This not always the case, but it is especially true when valuing electronic data processing (EDP) and photocopier/duplicator (P/D) equipment, since the tendency has been for new EDP and P/D equipment to become less costly over time.

To illustrate the comparative sales approach, assume that we want to value a 2000 Model B computer that is in average condition as of January 1, 2004. Assume that the market indicates that the time adjustment is 1/2 percent per month and that "good" condition commands a 10 percent

premium while "poor" condition requires a 10 percent deduction. Three sales of comparable Model B computers have been found, as follows:

Sale 1 - Average condition; sold March 1, 2004 for \$971,000.

Sale 2 - Good condition; sold May 1, 2003 for \$1,048,000.

Sale 3 - Poor condition; sold August 1, 2003 for \$983,000.

The adjustments would be made as follows:

<u>Sale</u>	<u>Sale Price</u>	<u>Time Adjustment</u>	<u>Time Adjusted</u>	<u>Condition Adjustment</u>	<u>Adjusted Price</u>
1	971,000	1.00%	980,710	n/a	980,710
2	1,048,000	-4.00%	1,006,080	-10.00%	905,472
3	983,000	-2.50%	958,425	10.00%	1,054,268

Thus, the value of this 2000 Model B computer on January 1, 2004 is estimated at \$980,710, giving most weight in the final analysis to comparable sale 1.

#### Elements to be Considered in the Market Approach

1. Comparability with the subject property
2. Timeliness of the market data
3. Realistic comparisons (i.e. capacity, maintenance)
4. General market conditions
5. Profitability of the seller
6. The real cash price (debt assumed etc.)
7. Sale price should represent going concern value

#### Pros and Cons of the Market Approach

##### Advantages

Reflects current economic conditions

##### Disadvantages

Difficulty in obtaining market data

Number of adjustments

Limited market existence

## Case Problem

### **COMPARATIVE SALES OR MARKET APPROACH TO VALUE**

You are to estimate the value of a subject property using the comparative sales approach. The subject property is a widget making machine owned by Boone, Martin, and Duty.

The machine is a 2005 model and we wish to value it as of January 1, 2007. The subject machine is in average condition as of the valuation date. The subject can produce 200,000 widgets per day.

You have analyzed the market and determined that the time adjustment for date of sale is 1/2 percent per month. You have also determined that a machine in good condition carries a 10% adjustment while a machine in poor condition carries a 15% adjustment. The number of widgets a machine can produce over 200,000 carries a 5% adjustment for each 25,000 widgets over 200,000.

The three sales below are to be used to appraise the subject machine.

Sale #1 Average condition, sold June 1, 2006 for \$750,000: 200,000 widgets per day.

Sale #2 Good condition, sold March 1, 2007 for \$900,000: 225,000 widgets per day.

Sale #3 Poor condition, sold November 1, 2006 for \$750,000: 250,000 widgets per day.



## The Cost Approach

The cost approach is the most effective methodology for the appraisal of personal property. Typically, business machinery and equipment is not traded regularly in the market. Most commercial and industrial property is acquired by a business which intends to use the property for the entire useful economic life of the asset. We seldom find business taxpayers who will purchase new equipment merely to update to the latest model available. For this reason, the cost (accounting method) approach is the recommended method for the valuation of business personal property. In our opinion, for the appraisal of personal property, the cost approach most closely approximates market value.

## Elements to Consider

In using the cost approach, the appraiser must determine four critical elements:

1. The original (historical) installed cost
2. The current replacement cost new (RCN)
3. The useful economic life of the property
4. The loss in value (Depreciation)

## Original Cost

**Cost** is defined in the glossary of terms in this manual as "the amount of consideration exchanged for the acquisition of an asset or group of assets." It is an amount that can typically be found in a business taxpayer's accounting records. In appraising, utilizing the cost approach to value, **historical cost** is used interchangeably with **cost** and **original cost**. However, a distinction should be drawn between historical cost as being the cost of an item at the time it was initially acquired by the original user. Original cost may be the cost to the present owner at a used purchase price. The cost approach, for the purpose of this discussion assumes the use of **historical cost**.

In addition, the appraiser should consider the **installed cost**. This term is defined in the glossary as capitalized cost --invoice cost and all other costs necessary to achieve normal utility of an asset or group of assets within an operating unit, but it does not include maintenance or other operating expenses. Costs such as freight, taxes, installation, interest during construction, and betterments (repairs which extend the useful life of the asset), are costs which should be included in the appraisal and valuation estimate. These costs normally are capitalized by the taxpayer for accounting purposes and are reflected in the asset records. However, the appraiser would need to verify this by an examination of the taxpayer's records.

Another concept which has to be considered in determining what cost to use in appraising business personal property, is **Level of Trade**. There are three levels of trade which property may be at during its life. They are: manufacturer, wholesaler or distributor, and retail. As property moves through each of the levels, the cost of the previous level determines the market value to the buyer. As each level is reached, the cost increases in the form of incremental costs (such as freight,

overhead, handling and installation). In review, as property moves through each of the levels, the lowest level is that of the manufacturer and the highest level is that of the retailer.

Business personal property is appraised at the retail or consumer level of trade. Since inventories are no longer taxable, all taxable property is held at the ultimate consumer or retail level. There are manufacturers who use the products they produce. An example of this would be a computer manufacturer who uses the computers in its offices. The cost that is listed by the manufacturer should be the retail cost of the equipment and not the manufacturer's cost.

Another example of a taxpayer where the appropriate level of trade must be determined is that of leasing companies. Like the computer manufacturer example above, many leasing companies also manufacture the products they lease. The cost listed for the leased equipment should be the cost at which the equipment would be purchased by a **retail** consumer. The leasing company may transfer the equipment from its manufacturing division at a cost less than retail. The leasing company may be a separate entity and purchase the property from its affiliated manufacturing company or from an unaffiliated manufacturer at a wholesale level of trade. In any of these scenarios there would be a level of trade adjustment necessary to provide the correct cost figure to be used in the appraisal. It is important that the appraiser be confident that the cost reported is at the accurate level of trade. If the appraiser has questions as to the reported cost these should be raised with the taxpayer and resolved prior to beginning the appraisal calculations. Third party vendors of the equipment can be consulted to provide information to confirm the correct amount to be listed.

#### Replacement Cost New (RCN)

It has been determined that historical cost represents the first cost of an asset new. The appraiser will also need to know the current cost to replace the asset under examination. This **current replacement cost new** is the cost to replace property with assets which are comparable and have equivalent utility. RCN is not to be confused with **reproduction cost**, which is the cost incurred to construct an exact replica of the item. As a practical matter, reproduction cost is seldom used in the valuation of machinery and equipment. The only significance in the use of reproduction cost data is in the valuation of properties where the "look and feel" can only be maintained by the use of an exact replica.

There are many sources of data available to assist the appraiser with the determination of RCN such as cost manuals, dealer catalogs, quotes from equipment dealers, internet searches, etc. The best source for replacement cost data is found in vendor catalogs. There are, however, serious drawbacks with the dependence on this source.

First, it requires the appraiser to subscribe to a mass of vendor publications on a large variety of commercial and industrial equipment. Secondly, frequently the technology for specific types of equipment has changed to such an extent that it is difficult to find a suitable unit on which a comparison can be made. Additionally, the particular machinery and equipment under appraisal may be out of production. Finally, it is very time consuming for the appraiser to search through

catalogs for every piece of machinery and equipment being appraised even if the information was available, and therefore, would not be economically feasible in the mass appraisal process.

Fortunately, techniques have been developed that track the increases or decreases in the costs of specific types and classes of machinery and equipment which are available to the appraiser.

#### Trending to Arrive at Replacement Cost New

One of the most effective and efficient methods for determining current RCN is the use of indexes. These index factors represent the overall price level changes in various classes of property. The **trending process**, which is defined in the glossary as "the process of applying percentage adjustments to historical cost data to arrive at a cost to replace. This then becomes the basis to which the appraiser applies his estimate of depreciation." For the mass appraiser, trending becomes the most cost efficient methodology to determine RCN.

Trending tables reflecting cost index factors by industry category have been developed by the Property Tax Division of the N. C. Department of Revenue and are enclosed in this appraisal manual. Trending tables are also available from other sources such as Marshall and Swift, American Appraisal Company, Boeckh's, and from trade associations.

The indexes are published by industry type or class of assets. They represent composite percentage adjustments of periodic changes in the sales price of assets as reported by the producers of the assets. For example, an industry that produces restaurant equipment may produce multiple types of restaurant equipment. Some individual sales prices may be increased or decreased differently from others. The overall weighted average increase or decrease in sales price of all assets becomes the restaurant equipment cost index factor. Normally the index factor will increase as the property moves away from the base year. There are however, instances where the index factors have actually decreased.

Replacement cost new tables are valuable for the appraiser as other methods of determining RCN prove impracticable in mass appraisal. The following illustration demonstrates the use of trending factors in determining an estimation of RCN:

Triple S Hotel-Business Listing 2004

<u>Year Acquired</u>	<u>Cost</u>	<u>Index Factor</u>	<u>RCN</u>
2003	\$ 4,000	100	\$ 4,000
2002	10,000	101	10,100
2001	84,000	102	85,680
2000	37,000	104	38,400
1999	20,000	106	21,200
1998	32,000	108	34,560
1997	<u>448,000</u>	109	488,320
	<u>\$635,000</u>	(overall adj. of 7%) <u>increase</u>	<u>\$759,920</u>

Having determined the replacement cost new (RCN) for our equipment through the use of trending tables, we must now modify this cost to reflect the correct value of the equipment in its' current place and condition.

**Note:** The North Carolina valuation methodology is based on the use of trending. Using trending to arrive at estimated RCN satisfies the requirements of G.S.105-317.1(a),(1) & (2).

Depreciation

There is an important distinction between the accountant's and the appraiser's concept of depreciation. The accountant is interested in depreciation as a function of cost apportionment. To the appraiser, accrued depreciation is the difference between replacement cost new of the property being appraised, and its true market value, and represents losses in value from all causes.

There are generally three recognized types of depreciation: (1) Physical deterioration, which results from wear and tear, decay, and structural failures; (2) Functional obsolescence, which results from inadequate design and style or changes in technology; (3) Economic obsolescence, which results from economic forces, such as legislative enactments or changes in supply and demand relationships.

The "classical" approach in measuring depreciation of machinery and equipment is to first determine the economic life, or expected useful life of the equipment. The next step is to determine its remaining economic life which normally is the difference between its expected life and the number of life years which have expired since the year of acquisition and installation.

## Useful Economic Life

The rate of depreciation by which the appraiser arrives at the loss in value from replacement cost new in his appraisal, depends upon the estimated useful life he has selected for an asset or group of assets. The useful economic life is the period over which an asset or group of assets may reasonably be expected to maintain utility in the taxpayer's trade or business. It is not necessarily the expected physical life of the asset, but it is the expected functional or economic life. Anticipated normal physical, functional, and economic depreciation are inherent in most published useful-life guides. Factors affecting useful life schedules as reflected by the Internal Revenue Service Asset Depreciation Range (ADR) are stated in their regulations to include:

- (1) wear, tear, decay or decline from natural causes (physical)
- (2) normal progress of the art (functional)
- (3) normal economic changes (economic)
- (4) current developments within the asset industry (functional)

Abnormal conditions which may be peculiar to a trade or industry, such as climate or other factors which do not represent normal physical, functional or economic conditions must be treated separately by the appraiser in his depreciation adjustment.

When selecting a useful economic life, the appraiser looks at the class of assets being appraised based on industry type. For example, machinery and equipment used to manufacture beer would fall under the category of brewery equipment. Within a brewery, the appraiser may find types of equipment which are not unique to a brewery operation such as material handling equipment, truck washing equipment, vending equipment, etc. Useful-life schedules may reflect a different useful life for the various classes, however, he should adopt the life which supports the dominant class. The supporting equipment probably does not represent a sufficient element of the total value to warrant a separation under the mass-appraisal process. Classes such as computer equipment, office furniture and fixtures, small tools, dies and molds, normally need separate attention in the appraisal. Motor vehicles and mobile construction equipment are generally appraised separately. There are published guides that are useful to the appraiser in the valuation of this type property as it is regularly traded in the market place.

The useful-life schedules as reflected by the Department of Revenue publication, as a rule, represent the mid-point of the asset depreciation ranges extracted from publications of the Internal Revenue Service. The schedules are intended to be used as a guide, and will serve as useful tools in the appraiser's effort to maintain uniformity in the appraisal of personal property within a taxing jurisdiction. If the schedules are applied by all counties, then uniformity will be achieved state-wide. Modifications to the tables may occasionally need to be made in certain cases. This will be the judgment of the appraiser. There may also be classes of property not identified in the schedules. When the appraiser encounters this situation, best judgement should be used.

## Physical Depreciation

Physical depreciation is defined in the glossary as "loss in value due to physical wear and tear." In machinery and equipment such depreciation results from the normal use of the property. In the cost approach to value, using a mass-appraisal methodology, physical depreciation is simply assumed to occur as the equipment ages from original installation date to the appraisal date. Such depreciation is incorporated within the application of depreciation based on the expected useful economic life adopted by the appraiser. To truly measure physical depreciation, the appraiser would be required to physically inspect each item and compare the sales price of comparable items in the market place. As a general rule, machinery and equipment is not traded on a regular basis. Because of this, sufficient data is not normally available to make this comparison. However, at some point, the appraiser should actually visit the location where the equipment is located to observe its' utility and its physical condition. Industry practice is to keep all equipment in good physical condition or to salvage it when it is no longer serviceable. If production equipment is not properly maintained, it will soon become non-productive; a competitive industry can ill afford to operate in this manner.

The appraiser should recognize that additional depreciation may be justified when it can be demonstrated that the physical condition of the equipment is below average as a result of damage or excessive use. In such cases, the specific equipment should be considered and appraised separately.

Since depreciation for appraisal purposes is concerned primarily with loss in value due to physical deterioration, the appraiser must consider whether the deterioration can be reversed.

There are essentially two types of physical deterioration:

- (a) Curable physical
- (b) Incurable physical

Curable physical deterioration is measured by the net cost to cure and is temporary. Incurable physical depreciation occurs when the cost to cure exceeds the value of the property after the repairs have been completed. If the cost to cure would result in a net savings to the owner over the expected remaining life of the equipment, it would be curable. If the cost to cure would result in a net loss over the remaining economic life, the difference between the net loss and cost to cure is incurable.

The investments incurred by property owners which better the property or increase its productive life are usually capitalized and therefore reported in the year that the investment occurred. When utilizing the cost approach, these betterments should be included in the valuation process.

## Economic Obsolescence

Another form of depreciation that the appraiser may need to recognize is economic obsolescence. This represents a loss in value of property due to adverse influences arising from causes external to the machinery and equipment. Examples of this are:

1. Social and legislative changes
2. General economic changes
3. Supply and demand
4. Price changes and profitability

### Functional Obsolescence

Another form of depreciation, which affects the value of machinery and equipment, is functional obsolescence. This is a loss in value due to impairment of functional capacity and is inherent in the equipment itself. Examples of this are:

1. Over capacity
2. Inadequacy or changes in the state of art
3. Poor design

### Residual Value

Frequently, business equipment will continue to have utility beyond its original anticipated useful life. Under the value-in-use (going concern) concept, equipment will retain value regardless of age or condition as long as it is in use. This value is referred to in appraisal as the residual value and usually represents 20-25% of RCN.

## Case Problem

### Cost Approach

Baker Beer and Wine Inc., is in the business of producing strange, but wonderful beverages. Their business personal property listing for the current year is listed below. They also have documented and convinced you that the machinery and equipment suffers functional obsolescence in the amount of 10%. Using the information provided below determine the appraised value of the property.

	Trend Factor	Life	Age
\$1,000,000 in Machinery & Equipment	1.10	10	4
\$ 200,000 in Furniture & Fixtures	1.04	10	2
\$ 100,000 in Computers	1.03	5	3



## **Case Problem**

Appraise the following using the Cost Approach.

- 1) A manufacturer of bicycles purchased an item of equipment 5 years ago at an invoice cost of \$4,500. Taxes were \$250, Freight was \$250, and installation was \$500. The equipment has a 10-year life. The trend factor for the equipment is 1.20.
  
- 2) A restaurant chain purchased a used meat processor. It has been determined that the meat processor has an 8-year life. The cost of the equipment to the restaurant is \$20,000, however the original cost to the original owner was \$30,000. The index factor for the two-year old equipment is 110.
  
- 3) Big Brown Computer Company installed a new assembly line. The assembly line cost \$500,000 to install and begin operations. The assembly line has 6 years remaining in its useful economic life and it is 2 years old. The trend factor, or index factor, is 1.05.
  
- 4) T or F: When appraising property using the Cost Approach, you never need to see the property since you can get cost and useful life information on paper.
  
- 5) T or F: When appraising property using the Cost Approach, the appraiser needs to apply the index factor to the total installed cost first to arrive at Replacement Cost New and then the appraiser depreciates the property according to its useful economic life and its age.
  
- 6) T or F: When using the Cost Index and Depreciation Schedules, provided by the North Carolina Department of Revenue, the appraiser does not need to apply the index factor because the percent good factors provided in the schedules already has the index factor incorporated in them.

The Department of Revenue schedules reflect 25% of original cost as the suggested residual value. The decision to apply the residual percentage to original cost rather than RCN was an attempt to be conservative in the valuation of older equipment and to further recognize obsolescence factors that are brought about through advances in technology in newer equipment. Also, the confidence level in index factors used to arrive at RCN is much less for older equipment as it is difficult to find comparable equipment being manufactured by vendors to determine price trends which are relative.

The Department of Revenue Trending Tables

The percent good tables published by the Department of Revenue for indexing and depreciation can often be confusing unless the appraiser understands the process used to develop the factors. The percent good factor represents a combination of the index factor and the amount of allowable straight-line depreciation based on the vintage year of the asset. It is expressed in this manner to eliminate additional mathematical computations in the appraisal process. The term percent good represents the remaining percentage of replacement value new after depreciation.

The following example demonstrates the computations necessary to incorporate trending and straight-line depreciation into an expression of percent good.

Schedule A - 10 Year Useful Life

Acquisition Year	Straight-Line Depr. - % Good	Trend Factor	Trended % Good Factor
2003	10 - 90	100	90
2002	20 - 80	102	82
2001	30 - 70	104	73
2000	40 - 60	106	64
1999	50 - 50	109	55
1998	60 - 40	111	44
1997	70 - 30	113	34
1996	80 - 20	115	25
1995			25 (Residual)

Pros and Cons of the Cost Approach

Advantages

- Sound Methodology
- Readily available data
- Taxpayers relate well to the concept

Disadvantages

- Difficult to measure depreciation
- Difficult to measure obsolescence

## Case Problem

### SELECTING THE APPROPRIATE SCHEDULE IN APPRAISING

During the listing period, you will receive many listings that may or may not have a good description of the type of business being conducted in your county. Consider the following business types and select the appropriate schedule you would use when appraising the business equipment. Also, be prepared to discuss ways to determine which schedule to use.

	<u>Principle business in county</u>	<u>Schedule</u>
1)	Sawmill	_____
2)	Convenience Store	_____
3)	Body Shop	_____
4)	Physician	_____
5)	Textile Manufacturing	_____
6)	Warehouse	_____
7)	One-hour photo lab	_____
8)	Grocery Store	_____
9)	Photographer	_____
10)	Brake Pad Manufacturing	_____
11)	Pizza Parlor	_____
12)	Internet Service Provider	_____
13)	Satellite Dish Leasing	_____
14)	Laundromat	_____
15)	Lease Security Systems	_____
16)	Granite Quarry	_____
17)	Printing	_____

## **Case Problem**

### Appraising Using the Department of Revenue's Trending Tables

Using the completed listing form located in section six and the Department of Revenue's trending tables located in section nine, appraise the property for 2007.

## Measuring Obsolescence

### Economic Obsolescence

The most common causes of economic obsolescence in machinery and equipment are the changes in market demand for products being manufactured by the equipment and also the general economic conditions that are present. Although economic obsolescence is generally not difficult to identify, the process of translating observed obsolescence into a mathematical estimate of accrued depreciation is difficult. The measurement of loss in value is generally computed by either of the following methods;

1. Market sales comparison of similar equipment, or
2. Capitalization of income losses

In either case, the availability of pertinent data is frequently difficult to obtain.

The shortage of current market data in comparable sales has caused appraisers to search for other ways to quantify economic obsolescence in machinery and equipment. Market data often does not represent true value transactions and at times, include other considerations such as land, buildings and inventories. Most equipment in the used equipment market is there because of liquidation, bankruptcy or other causes which could very well influence the sales price of the equipment. Many observations must be made in using market sales data as indicators of comparable values. It should be noted that many of the sales transactions on used equipment will not reflect true market value and as such, are not appropriate for ad valorem tax valuations.

As has been stated, machinery and equipment derives its value from its ability to generate a normal, profitable income to its owners during the expected useful life of the equipment. When the market demand for a product drops, causing income to be less than normal, the value of the equipment is affected.

If market demand for a product drops, the degree to which the lack of product demand affects the value of the equipment (or the economic obsolescence), can be calculated by analyzing the current operating statements of the business and comparing them to expected statements at normal demand levels.

One method that is useful in measuring the effect of adverse economic conditions on property valuation is to capitalize the net loss caused by the economic situation. This net loss can then be used as a form of additional depreciation. This methodology is demonstrated in the example on page 32 of Section 8.

The table (Present Worth of One Per Period) on the following page shows the present value of the right to receive \$ 1 per period for a given number of periods at a stated interest rate. This table is constructed by subtracting compound interest. Calculators and computers are frequently used today rather than tables or charts.

**Present Value of an Annuity of \$1 Per Period for n Periods**

Number of Payments	4%	5%	6%	7%	8%	9%	10%	12%	14%	15%
1	0.9615	0.9524	0.9434	0.9346	0.9259	0.9174	0.9091	0.8929	0.8772	0.8696
2	1.8861	1.8594	1.8334	1.8080	1.7833	1.7591	1.7355	1.6901	1.6467	1.6257
3	2.7751	2.7232	2.6730	2.6243	2.5771	2.5313	2.4869	2.4018	2.3216	2.2832
4	3.6299	3.5460	3.4651	3.3872	3.3121	3.2397	3.1699	3.0373	2.9137	2.8550
5	4.4518	4.3295	4.2124	4.1002	3.9927	3.8897	3.7908	3.6048	3.4331	3.3522
6	5.2421	5.0757	4.9173	4.7665	4.6229	4.4859	4.3553	4.1114	3.8887	3.7845
7	6.0021	5.7864	5.5824	5.3893	5.2064	5.0330	4.8684	4.5638	4.2883	4.1604
8	6.7327	6.4632	6.2098	5.9713	5.7466	5.5348	5.3349	4.9676	4.6389	4.4873
9	7.4353	7.1078	6.8017	6.5152	6.2469	5.9952	5.7590	5.3282	4.9464	4.7716
10	8.1109	7.7217	7.3601	7.0236	6.7101	6.4177	6.1446	5.6502	5.2161	5.0188
11	8.7605	8.3064	7.8869	7.4987	7.1390	6.8052	6.4951	5.9377	5.4527	5.2337
12	9.3851	8.8633	8.3838	7.9427	7.5361	7.1607	6.8137	6.1944	5.6603	5.4206
13	9.9856	9.3936	8.8527	8.3577	7.9038	7.4869	7.1034	6.4235	5.8424	5.5831
14	10.5631	9.8986	9.2950	8.7455	8.2442	7.7862	7.3667	6.6282	6.0021	5.7245
15	11.1184	10.3797	9.7122	9.1079	8.5595	8.0607	7.6061	6.8109	6.1422	5.8474
16	11.6523	10.8378	10.1059	9.4466	8.8514	8.3126	7.8237	6.9740	6.2651	5.9542
17	12.1657	11.2741	10.4773	9.7632	9.1216	8.5436	8.0216	7.1196	6.3729	6.0472
18	12.6593	11.6896	10.8276	10.0591	9.3719	8.7556	8.2014	7.2497	6.4674	6.1280
19	13.1339	12.0853	11.1581	10.3356	9.6036	8.9501	8.3649	7.3658	6.5504	6.1982
20	13.5903	12.4622	11.4699	10.5940	9.8181	9.1285	8.5136	7.4694	6.6231	6.2593
25	15.6221	14.0939	12.7834	11.6536	10.6748	9.8226	9.0770	7.8431	6.8729	6.4641
30	17.2920	15.3725	13.7648	12.4090	11.2578	10.2737	9.4269	8.0552	7.0027	6.5660
40	19.7928	17.1591	15.0463	13.3317	11.9246	10.7574	9.7791	8.2438	7.1050	6.6418
50	21.4822	18.2559	15.7619	13.8007	12.2335	10.9617	9.9148	8.3045	7.1327	6.6605
60	22.6235	18.9293	16.1614	14.0392	12.3766	11.0480	9.9672	8.3240	7.1401	6.6651

**Depreciation for Economic Obsolescence**  
**Machinery & Equipment Appraisal**

Wankle Widget Company purchased and installed new equipment to be used in its widget constructing and finishing operation in Pitt County. The installed cost of the equipment was \$6,500,000. The building in which the equipment is located is leased.

The income forecast at the time consideration was given to the purchase of this equipment was that a net operating income of \$800,000 could be anticipated annually over the expected useful life of the equipment. The expected useful life was estimated to be 15 years.

Due to a decline in widget production in the last two years, the net operating income in 2006 was only \$500,000. The expectation is that this will remain stable during the remaining life of the equipment. Assuming a discount rate of 8%, the following is an example of the computations involved in calculating the effect of obsolescence.

Economic Obsolescence Analysis

Anticipated net operating income annually	\$800,000	
Actual net operating income annually	<u>500,000</u>	
Loss in net operating income annually	\$300,000	
Remaining economic life of equipment	6 years	(15-9)
Discount rate	8%	
Capitalization factor: (Present value of 1 per period, 6 years)	4.6229	

Computation of Obsolescence

	<u>Less NOR</u>		<u>Capitalization Factor</u>		<u>Eco. Obsol.</u>
(1)	300,000	x	4.6229	=	\$1,386,870

Computation of Value

	Cost installed	\$ 6,500,000
	Index factor	<u>x 1.18</u>
	RCN	\$ 7,670,000
	Depr % Good	<u>x .40</u>
	RCNLND	\$ 3,068,000
(1)	Less economic obs.depr.	<u>(1,386,870)</u>
	Est. true value 1-1-07	\$ 1,681,130

## Functional Obsolescence

Functional obsolescence in machinery and equipment can usually be measured in terms of (1) the impact that the cost of operating a machine has on the income that the equipment yields, (2) the impact of a machine's reduced production capacity or (3) the income that it is capable of yielding.

In the recent past, the textile industry was adversely affected by foreign imports. Foreign competitors have been able to manufacture goods at a lower cost than domestic firms due primarily to lower labor and overhead expenses, and a strong U.S. currency. The net effect was lower prices for the imported goods than domestic firms could offer to the consumer. The result of this situation has encouraged many domestic textile firms to look for ways to cut manufacturing costs in order to compete with imports.

The cost of domestic labor has been a large factor in the cost of manufacturing. In order to reduce this cost, textile firms have been replacing perfectly sound, quality equipment with new state-of-the-art equipment. The new equipment requires less labor to operate but may be more expensive to purchase. A decision to purchase the new equipment usually hinges on the economic factors to be considered such as the overall measurement of cost and cash flow projection, income tax considerations, etc.

### **Depreciation for Functional Obsolescence** **Machinery & Equipment Appraisal**

Central Textile Company is in the business of manufacturing fabric for drapery products. Equipment used in their manufacturing process was purchased and installed at a cost of \$1,500,000. The expected useful life of the equipment was estimated to be 8 years. Present annual labor cost to operate this equipment is \$125,000. New equipment, which is similar to the subject equipment in all respects except that the labor cost to operate is estimated to be only \$100,000 annually, is available in the market place today. Assuming an estimated 8% annual discount rate over the next four years, the measurement of functional obsolescence in the subject equipment is computed as follows:



### Computation of Obsolescence

Excessive labor cost annually	\$ 25,000
Capitalization factor	3.312127
(Present value of 1 per period, 8% discount rate, 4 years remaining life)	
Functional obsolescence	
(25,000 X 3.312)	= \$82,800

### Computation of Value

Cost installed	\$ 1,500,000
% Good	<u>    x .61</u>
(E)Physical value	\$ 915,000
Less funct. obsol.	<u>    (82,800)</u>
(E)True value 1-1	\$ 832,200

This illustration measures the loss in value by capitalizing the annual loss over the remaining estimated useful life of the equipment. The discount rate is the estimated rate of return that could be expected from a normal safe investment in today's market.

The appraiser usually finds himself in a situation of having to rely on information submitted by the taxpayer in measuring functional obsolescence. Careful analysis of this information is important especially in dealing with the equipment which the taxpayer may be using as a comparable. Generally, the new state-of-the-art equipment will have a cost much greater than the replacement cost of the equipment being appraised. If in the example above, the cost of the new equipment had been \$50,000 more than the subject equipment replacement cost estimate, then the obsolescence adjustment would have only been \$32,800. (82,800 - 50,000)

### Computation of Functional Obsolescence by Comparison Method.

	Existing Equipment	New Equipment
Age	5 years	New
Useful Life	10 years	10 years
Historical cost	\$500,000	\$650,000
Index Factor	1.10	NA
Estimated down time	10%	8%
Maximum Production Capacity	5000 units per day	7500 units per day
Actual Production Capacity	4500 units per day	NA

Looking at the information on the two types of equipment, the only items that can be compared as like items are the maximum production capacity and the historical cost. The estimated down time could be looked at, if it was not included in the maximum production capacity numbers. For this

example we assume that the down time is reflected in the capacity numbers. First the appraiser must calculate the investment per unit of production by dividing the cost new of the equipment by the maximum production capacity.

$$\frac{\text{Cost of equipment}}{\text{Production capacity}} = \text{Investment per unit of production}$$

New equipment

$$\frac{\$650,000}{7500 \text{ units}} = \$86.67 \text{ investment per unit of production}$$

Old equipment

$$\frac{\$500,000}{5000 \text{ units}} = \$100.00 \text{ investment per unit of production}$$

$$\frac{\text{New investment per unit of production}}{\text{Old investment per unit of production}} = \text{Factor}$$

$$\frac{\$ 86.67}{\$100.00} = .8667 \text{ or } 86.67\%$$

This means that the old equipment is only 86.67% as efficient as the new. The amount of obsolescence due to a loss of productivity is 13.33% (100 - 86.67). Now the old equipment (subject property) can be appraised.

Cost	\$500,000
Trend factor	<u>x 1.10</u>
RCN	550,000
% Good	<u>x .50</u>
Normal value	275,000
Less Obsol.	<u>x .8667</u>
Value	\$ 238,342

## Case Problem

### **Measuring Functional Obsolescence**

Trinor Corporation, a manufacturer of environmentally safe cartons and containers has recently requested a reduction in value on a portion of its production line equipment. The equipment in question is 5 years old.

The product line of Trinor has been gaining in popularity since the company began 5 years ago. Because of the need for expanded capacity, Trinor recently purchased three new production machines and had them installed.

The three new machines have a production capacity nearly equal to the capacity of the five machines that Trinor started the business with.

Based on this information, Trinor contends that the five older machines have suffered severe functional obsolescence. Trinor has also produced sufficient evidence to show that no improvements can be made to the five machines to increase capacity.

The following facts are known by the appraiser:

#### Existing Equipment

Age 5 years  
Useful life 10 years  
Historical cost (ea) \$374,200 (installed)  
Index factor 1.18  
Estimated down time due to maintenance and malfunction 8%  
Maximum production capacity 8,000 units per day  
Actual average production capacity 7,896 units per day

#### Recently Purchased Equipment

Age New  
Useful life 10 years  
Historical cost (ea) \$432,000  
Estimated down time 6%  
Maximum production capacity 12,000 units per day  
Actual average production capacity (not available)

Please render your opinion of value on the five older machines as of 1/1/07 considering the information available to you.

## Review of Appraisal Concepts

The cost or accounting approach to value is the most common and widely used method of appraisal for business equipment. There is a considerable amount of written material, including past court cases and governmental regulations which relate to, and support the cost approach. The appraiser necessarily relies upon the reporting of cost information by the taxpayer and assumes the taxpayer's accounting conforms with the elements needed in the appraisal process. This is not always the case, and the examination of accounting records should be a periodic task of the appraiser. The audit is a necessary part of an accurate, acceptable and uniform assessment system utilizing the accounting (cost) approach.

The comparative sales approach can on limited occasions be used to compare with values derived from the more traditional cost approach. It sometimes is useful in supporting depreciation for economic or functional obsolescence. When the comparative sales approach is used, the appraiser should be careful to make the proper adjustments to arrive at a comparable value using the going-concern value required by N. C. law (in re AMP case). Machinery and equipment by its nature is not purchased for re-sale. It is purchased for use in connection with a business activity and in most cases will never reach the used equipment market. The equipment that is made available to the used market is usually there because of forced situations such as bankruptcy or liquidation, or as a result of excessive obsolescence.

The income approach to value is probably the least applicable approach to the appraisal of business equipment and is seldom used by personal property appraisers. Very few types of machinery and equipment can be measured in terms of the revenue that they produce for the owner.

## Special Situations in Appraisal

The appraisal of personal property is a complex task which requires extensive knowledge of many different industries. We have encountered several situations which seem to cause many appraisers difficulty. The following is a brief discussion of many of these problem areas.

### New Owner of an Existing Business

There are two types of situations where a new owner will acquire an existing business. The first is a stock transfer, where the purchaser acquires all or a controlling number of outstanding shares in a company. The second situation is where a purchaser acquires only the assets of a company. New owners of an existing business will "book" the assets at their purchase price or some allocation of the purchase price. This new book cost may represent the fair market value of the assets but in many cases it does not. In each case, our first **goal** in making our appraisal is to use the actual historical installed cost whenever possible. There will be situations where this is not a viable alternative.

The appraiser should be especially careful using selling price as the determinant of value. Frequently, sales of operating businesses occur because of operating losses. The profitability of a

business plays an important role in the determination of the selling price in a sale transaction. Any time the new book cost is substantially more or less than the previous year's appraisal, the appraiser should **ask why**. In these situations the following questions should be asked:

- Does the price paid represent fair market value?
- Were all of the assets purchased from the prior owner?
- Have any of the assets been sold by the new owner since the purchase?
- Were the reported costs of the prior owner ever audited?
- What is the purchase price allocation based on?
- Was an appraisal made of the property prior to the sale?
- Was an appraisal made of the property after the sale?
- How many business locations were involved in the purchase?

In many cases the sales price paid and recorded in the accounting records of the owner does not represent fair market value or the appraised value determined by the county last year is not correct. A meeting with the new owner and a visit to the property to review the appraisal of the assets should be made. In these situations the appraiser should use his/her best judgement as to what represents market value.

#### Idle Equipment

Equipment that has been taken off production status on a permanent basis is considered to be idle equipment. This classification should not be confused with equipment that is temporarily idle due to not yet being placed in production (CIP), a downturn in the economy, seasonal production, routine maintenance, etc. Although we recommend in most cases that some additional depreciation adjustment be made to verified idle equipment, there is no firm guideline as to what adjustment should be made to the final value. In determining the amount of adjustment, the county appraiser must review each situation, taking into account all the factors affecting the property such as age, condition, past and future uses, marketability, remaining life, and reasons for the equipment being idle. The appraiser should consider that idle equipment is no longer producing income to the owner, and in making a **going concern** appraisal, some adjustment is usually appropriate.

#### Construction in Progress

The investment in production equipment which has not been placed into operation is typically identified in the taxpayers accounting records as **CIP**. As we have stated earlier, the CIP account represents tangible personal property and is to be listed. Our position with regard to the appraisal of this property is that it should be appraised at 100% of the investment as of the date of the appraisal. The property has suffered no physical wear and tear, therefore no allowance for depreciation is warranted. The appraiser should remember that, while rare, some new equipment may suffer from functional or economic obsolescence and where appropriate, adjustments to value should be made.

### Interest During Construction

Construction projects take time to be completed. During the construction period, the expenditures for the materials, labor, and other resources used in creating the asset must be financed. Financing has a cost. The cost may take the form of explicit interest on borrowed funds, or it may take the form of a return foregone on an alternative use of funds, but regardless of the form it takes, a financing cost is necessarily incurred. This construction period interest, based on the premise that the historical cost of acquiring an asset should include all costs necessarily incurred to bring it to the condition and location necessary for its intended use, should be included in the cost and appraisal of a subject property.

### Inventory and Non-Inventory Items

Frequently there is confusion between what items are inventory and what items should be classified as spare parts and tools. While there is no firm answer to be applied to all cases, as a general rule only property that is immediately consumed in the manufacturing process is an inventory cost. Tools such as drill bits and grinding wheels etc. are tools and should be appraised accordingly. Spare parts held by the owner to be used in repair of that company's equipment are not inventory and should be appraised at **cost**.

The appraiser should remember that some spare parts may suffer from functional or economic obsolescence. It is also possible that spare parts that sit on the shelf for extended periods of time may suffer physical depreciation. Where appropriate, adjustments to value should be made.

Supplies are an item that a taxpayer may consider an inventory item. Examples would include, but not be limited to: cleaning/janitorial supplies, office supplies, oils/lubricants for machinery, fuels held for consumption, medical/dental supplies in a doctor/veterinarian/dental office, barber and beauty supplies, restaurant supplies such as linens/tableware/flatware/glassware not listed in other categories. For property tax purposes, supplies on hand on January 1 are not considered exempt inventory items and should be appraised at **cost**.

Many taxpayers do not keep a perpetual inventory of their supply items or take an actual count at year end of the items that must be listed for property tax purposes. The expenditures for these types of items can be analyzed by examining the accounts in the general ledger. Once the applicable accounts are identified the total expenditures for the year can be determined and a methodology developed to estimate the amount on hand as of January 1. A general rule of thumb is that one month's worth of supplies is a reasonable amount. This would result in listing 1/12 of the annual expenditures. Some taxpayers may be able to provide information that will indicate a different factor is appropriate. The taxpayer is the ultimate best source of information to be used to determine a methodology, but the appraiser must always keep reasonableness in mind.

### Expensed Items

The appraiser should determine what type of property is being purchased and expensed and then determine an acceptable useful life for the property. This category should then be carried only for the useful life of the category and then dropped from the appraisal. For example, if a company purchases and expenses only small office equipment such as staplers, hole punchers etc., a three year life may be appropriate. In this case the appraiser would only consider expensed property for three years. The assumption is that property older than three years will have been discarded.

### Leased Equipment

As a general rule, leased equipment should be appraised at the same rate as owned property. The only exception to this general rule is situations where the lessor is also the manufacturer of the property. Under this situation the manufacturer/lessor may report current retail selling price instead of the actual cost of the property. When making appraisals of this type of property, no index factor should be applied; instead the appraiser should use the straight-line tables.

### Leasehold Improvements

One of the most difficult areas to handle as a personal property appraiser is leasehold improvements. The appraisal of leaseholds is a function of many variables such as, length of lease, type of improvement, abandonment, etc. The best way to appraise leasehold improvements is to identify what type of property it is and appraise it accordingly. Leasehold improvements tend to be more like real property and generally leaseholds are appraised on a 10 to 20 year life or the life of the lease (including all re-lease options) **whichever is longer.**

The most crucial element in the taxation of leaseholds is that they not be double taxed. Real property and personal property appraisers should examine the basis of the leasehold and determine where it should be handled.

## **Public Service Companies**

The North Carolina Department of Revenue is charged by statute with appraising all public service companies. It is very important for the counties to understand which of the public service companies' property the Department appraises and which the counties are to list and appraise. The companies list with the Department the property which is to be appraised by the Department. The Department appraises the property and sends the values to the counties for them to assess and collect the taxes. Below is a definition of each type of property and an explanation of who the property is to be listed with and which property is appraised by the Department and the counties.

### **§ 105-333. Definitions.**

#### **Public service company:**

A railroad company, a pipeline company, a gas company, an electric power company, an electric membership corporation, a telephone company, a telegraph company, a bus line company, an airline company, or a motor freight carrier company. The term also includes any company performing a public service that is regulated by the United States Department of Energy, the United States Department of Transportation, the Federal Communications Commission, the Federal Aviation Agency, or the North Carolina Utilities Commission, except that the term does not include a water company, a radio common carrier company as defined in G.S. 62-119(3), a cable television company, or a radio or television broadcasting company.

#### **Railroad company:**

A company engaged in the business of operating a railroad to, from, within or through this State on rights-of-way owned or leased by the company. It also means a company operating a passenger service on the lines of any railroad located wholly or partly in this State.

### **§ 105-334. Duty to file report; penalty for failure to file.**

(a) Every public service company, whether incorporated under the laws of this State or any other state or any foreign nation, whose property is subject to taxation in this State, shall prepare and deliver to the Department of Revenue each year a report showing (as of January 1) such information with regard to the property it owns and the system property it leases as the Department of Revenue may by regulation prescribe. This report shall be filed on or before the last day of March, and the following affirmation, which shall be annexed to the report, shall be signed by a principal officer of the public service company making the report:

Under penalties prescribed by law, I hereby affirm that to the best of my knowledge and belief this report, including any accompanying statements, inventories, schedules, and other information is true and complete.

(b) Any individual who willfully subscribes a report required by this section which he does not believe to be true and correct as to every material matter shall be guilty of a Class 2 misdemeanor.



(c) For good cause the Department may grant reasonable extensions of time for filing the required reports.

(d) The Department may require any additional reports or information it deems necessary to properly carry out its duties under this Article.

(e) The provisions of G.S. 105-291 and 105-312 are made specifically applicable to all proceedings taken under this Article.

### **Airline Companies**

**Airline Company** - A public service company engaged in the business of transporting passengers or property by aircraft. The company must be a for hire carrier operating within, into, or from this state.

1. The North Carolina Department of Revenue shall appraise the flight equipment owned or leased by an airline company which operates scheduled flights within, into, or from North Carolina.
2. The North Carolina Department of Revenue is also responsible for appraising all of the North Carolina domiciled licensed motor vehicles that are owned or leased by the Airline Company.
3. The counties shall appraise the real property and all other personal property not appraised by the North Carolina Department of Revenue.

### **Bus Line Companies**

**Bus Line Company** - A public service company engaged in the business of transporting passengers or property by motor vehicle over the public highways of this State. The company must be a for hire carrier operating within, into, or from North Carolina. This does not include buses which operate on the public streets of a particular city.

1. The North Carolina Department of Revenue shall appraise all licensed motor vehicles owned or leased to a bus line company.
2. The counties shall appraise all real property and all other personal property not appraised by the North Carolina Department of Revenue.

## **Motor Freight Carrier**

- I. Motor freight carrier - A public service company engaged in the business of transporting property by motor vehicle for hire over the public highways of this state.
- II. The N.C. Department of Revenue is responsible for the listing and appraising of linehaul equipment and motor vehicles owned or leased to a motor freight carrier if the company meets at least one of the following requirements:
  1. Intrastate - companies having at least two terminals inside North Carolina
  2. Interstate - companies having one terminal in North Carolina and one in another state
  3. Companies domiciled in North Carolina which have a terminal in North Carolina and are paying property tax in another state.
  4. Non domiciled North Carolina companies having at least one terminal inside the state.

### III. Locally Assessed Property

The counties are responsible for the listing, appraising and assessing of the following types of property.

1. Motor freight carriers which have only one terminal.
2. A company's trucks which hauls its own products.
3. Real property and all personal property other than licensed motor vehicles.
4. Owner operated vehicles leased to a motor freight carrier should be listed with the counties.

## **Water Companies**

Contribution in Aid of Construction and Acquisition Adjustment should not be included in the valuing of the company.

1. The developer recovers his cost in the water system when he sells the lots.
2. The water system is actually being valued when the county appraises each lot in the subdivision.
3. The equipment, such as pumps, tanks and supplies, should be listed by the water company.

## **Cablevision Companies**

The major components of a cable company are:

1. Headend equipment - all of the amplifying equipment and any other special equipment in the building. (12 year life)
2. Receiving equipment - this is the part of the system that picks up the signal from the satellite. (12 year life)
3. Distribution systems - all of the cable and wiring that runs along the poles or under the ground. (10 year life)
4. Subscriber connections or converter box - this is the box which connects to your television, the box that is usually located on top of your television. (3 year life)
5. Towers - self explanatory (25 year life)

## **Billboards**

The advertising industry is big business all over this state and one of the best methods for advertising is through the use of billboards on major highways, buildings, and other selected areas. Included in Section 9 of this manual, is the current valuation guide being utilized by counties to appraise and value billboards in their respective taxing jurisdictions. At the time this 2007 Personal Property Appraisal Manual was being printed, the Property Tax Division staff was in the process of reviewing and updating the Billboard Structures Valuation Guide to reflect recent cost figures and include new technological advances in this type of personal property. A new billboard valuation guide should be available to counties for the January 1, 2008 valuation date. For purposes of this course, a review of the Billboard Valuation Guide in Section 9 would be appropriate and beneficial to the personal property appraiser.

## USPAP

As a result of abuse in the appraisal process, reputable appraisal organizations realized that providing credible appraisal services is necessary to the general economic well being of society. A genuine social need exists for appraisal services by ethical and competent individuals. Leaders of professional appraisal organizations saw the need for a common set of appraisal standards. Eight US based organizations and the Appraisal Institute of Canada formed a Committee to develop what was to become, in January 1989, the Uniform Standards of Professional Appraisal Practice (USPAP).

The Uniform Standards of Professional Appraisal Practice (USPAP) are the generally accepted standards for professional appraisal practice in North America. USPAP contains standards for all types of appraisal services. Standards are included for real estate, personal property, business and mass appraisal. USPAP was created with the expressed purpose of promoting and preserving public trust and confidence in professional appraisal practice. Congress recognizes USPAP as the generally recognized standards of practice in the appraisal profession and authorized The Appraisal Foundation, through the Appraisal Standards Board, to exercise all authority and power over the content of USPAP.

Although the ASB writes, amends and interprets USPAP, the Board does not enforce USPAP. Through FIRREA (Financial Institutions Reform, Recovery, and Enforcement Act of 1989), the Federal government has mandated that the states enforce real property appraiser's compliance to USPAP. Professional appraisal associations also have the authority to enforce USPAP compliance by their members.

### IAAO, USPAP, and the Standard on Valuation of Personal Property

The International Association of Assessing Officers (IAAO), is a non profit organization that is a recognized leader and respected source for innovation, education, and research in property appraisal with regards to assessment administration and property tax policy. Although there are many other appraisal organizations, such as the Appraisal Institute and the American Society of Appraisers, IAAO is generally considered the leading member organization for assessment professionals.

IAAO requires that all appraisal work performed by its members in the United States and Canada be compliant with USPAP and the IAAO Code of Ethics and Standards of Professional Conduct.

USPAP Standards relevant to the valuation of personal property are:

- Standard 6: Mass Appraisal, Development and Reporting;
- Standard 7: Personal Property Appraisal, Development; and
- Standard 8: Personal Property Appraisal, Reporting.

Standard 6 defines the appropriate form for developing mass appraisal methods and the structure for reporting the results. It states that in developing a mass appraisal, an appraiser must be aware of,

understand, and correctly employ those recognized methods and techniques necessary to produce and communicate credible mass appraisals. Eight rules follow this statement above. These statements, among other items, require the appraiser to follow their state's appraisal laws, emphasize the critical importance of continuing education so appraisers maintain competency, require the appraiser to consider appropriate market information, require the use of generally recognized appraisal techniques, and require the appraiser to not render a mass appraisal in a careless or negligent manner.

Standards 7 and 8 provide guidance on the proper appraisal process to follow so that the results are based on sound conclusions and are well documented. Standard 7 states: In developing a personal property appraisal, an appraiser must identify the problem to be solved and the scope of work necessary to solve the problem and correctly complete research and analysis necessary to produce a credible appraisal. Standard 8 states: In reporting the results of a personal property appraisal, an appraiser must communicate each analysis, opinion, and conclusion in a manner that is not misleading.

IAAO produces additional standards for appraisal. One of those standards is the "Standard on Valuation of Personal Property" and is found in the support materials section of this manual. This standard represents a consensus in the assessing profession relating to personal property appraisal. The standard is advisory in nature and does not replace our statutes or standards adopted by the North Carolina Department of Revenue. However, the Department of Revenue supports this Standard, works closely with IAAO, and recommends reviewing this standard to help establish relevant goals and guidelines in the appraisal and assessment of personal property in your jurisdiction. Although every item in the standard is not applicable in North Carolina, we believe reviewing this standard will demonstrate that this appraisal course follows the standards of appraisal and assessment of personal property in other states and nations.

IAAO, offers several appraisal courses that support and expand on the appraisal fundamentals we have explored in this course. A list of all IAAO courses and information about the organization can be found on their website at [www.iaao.org](http://www.iaao.org).

### The Appraisal Profession

As we discussed at the beginning of the course, an appraisal by itself is nothing more than an opinion of value. The quality of the appraisal determines how useful the opinion of value will be. Appraisal quality is not determined by any single factor, but will be determined by several factors such as the reliability of the data, the appraiser's ethics, experience, and knowledge, and the accuracy of the calculations. The best data available given to an excellent appraiser would result in a poor appraisal if mathematical errors were not corrected. An appraiser can minimize errors by reviewing and by having peers review their appraisals.

After successful completion of this course, The Fundamentals of Listing and Assessing (Machinery Act course), and a written request from the assessor in your jurisdiction, you will be certified by the North Carolina Department of Revenue as a Personal Property Appraiser. This is

the minimum legal requirement for anyone who appraises personal property for the county. Although this is a significant accomplishment by itself, it marks only the beginning of what it means to be an appraiser. Although nothing can replace appraisal experience itself, there are other educational levels to reach for as you continue your appraisal profession. The North Carolina Association of Assessing Officers (NCAAO) offers an appraisal certification for both real and personal property. To achieve this certification, additional coursework and experience is required. The IAAO has several professional designations that demonstrate an appraiser's dedication to education and experience. The Personal Property Specialist (PPS) designation is awarded to IAAO members demonstrating their achievement in personal property appraisal. This is demonstrated by many hours of coursework, writing a demonstration appraisal report or passing an 8-hour case study examination, and passing a final 4-hour master exam. North Carolina statutes require continuing education and the Department of Revenue encourages all appraisers to reach for additional certifications and designations through the NCAAO, IAAO, or other professional appraisal organizations.

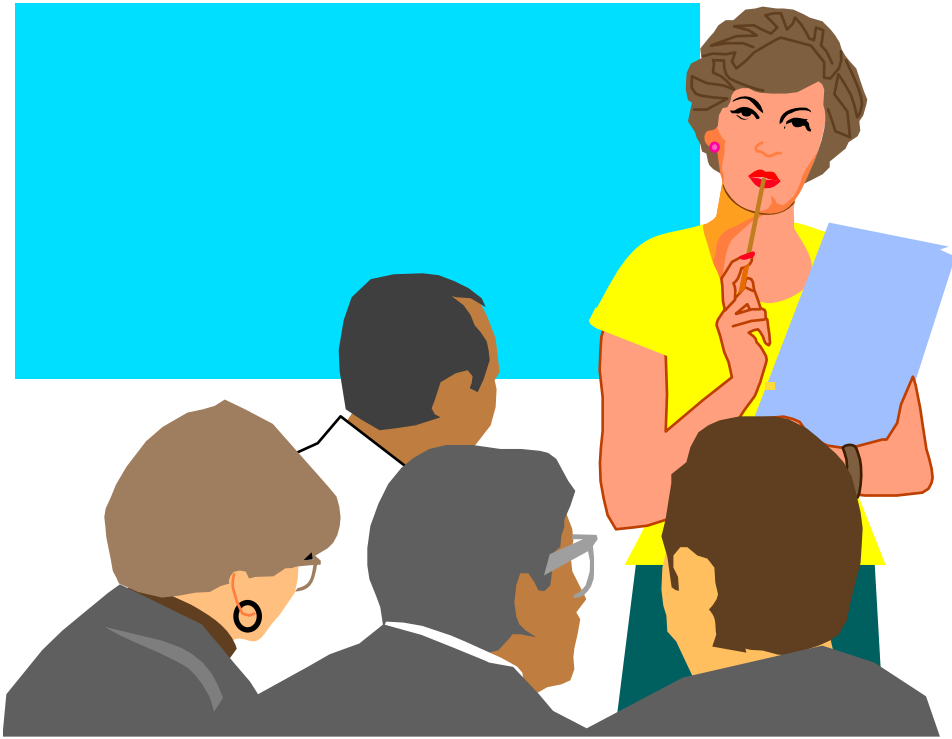
### Summary

The appraisal of business machinery and equipment can be a highly technical undertaking, and fundamental to this is a basic understanding of:

1. The legal requirements
2. Generally recognized appraisal techniques
  - a. cost approach
  - b. market (sales comparison) approach
  - c. income approach
3. Generally accepted accounting principles

The appraiser should also strive to become familiar with the types of property being appraised and the basic operation of the industry in the case of industrial equipment. This can be a difficult task to accomplish due to the large amount of property within a taxing jurisdiction, but it is necessary and well worth the effort.

SECTION IX  
SUPPORT MATERIALS



This section provides support materials related to information contained in the Personal Property Appraisal and Assessment manual. One of those documents is the North Carolina Department of Revenue issued Cost Index and Depreciation Schedules. Click on the following link in order to access the 2007 schedules:

[http://www.dor.state.nc.us/publications/cost\\_archive/07archive/index.html](http://www.dor.state.nc.us/publications/cost_archive/07archive/index.html)