

Discovery and Immaterial Irregularity Related Statutes

§ 105-273. (Effective for taxes imposed for taxable years before July 1, 2008)

Definitions.

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

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(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.

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(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.

§ 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(a) Repealed by Session Laws 1991, c. 34, s. 4.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 totalled 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. (1939, c. 310, s. 1109; 1971, c. 806, s. 1; 1973, c. 476, s. 193; c. 787; 1977, c. 864; 1981, c. 623, ss. 1, 2; 1987, c. 45, s. 1; c. 743, ss. 1, 2; 1989, c. 522; 1991, c. 34, s. 4; c. 624, s. 8; 1991 (Reg. Sess., 1992), c. 961, s. 12; 1999-297, s. 2.)

§ 105-303. Obtaining information on real property transfers; permanent listing.

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(b) The board of commissioners of each county must install a permanent listing system. Each county must obtain the approval of the Department of Revenue for its permanent listing system. Under such a system the provisions of subdivisions (b)(1) through (b)(4) of this subsection apply.

- (1) The assessor is responsible for listing all real property on the abstracts and tax records each year in the name of the owner of record as of the day as of which property is to be listed under G.S. 105-285.
- (2) Persons whose duty it is to list real property under the provisions of G.S. 105-302 are relieved of that duty, but annually, during the listing period established by G.S. 105-307, these persons must furnish the assessor with the information concerning improvements on and separate rights in real property required by G.S. 105-309(c)(3) through (c)(5).

- (3) The penalties imposed by G.S. 105-308 and 105-312 do not apply to failure to list real property for taxation, but they apply to failure to comply with the provisions of subdivision (b)(2) of this subsection with respect to reporting the construction or acquisition of improvements on and separate rights in real property. In such a case, the penalty prescribed by G.S. 105-312 shall be computed on the basis of the tax imposed on the improvements and separate rights.
- (4) The Department of Revenue may authorize the board of county commissioners to make additional modifications of the listing requirements of this Subchapter, as long as the modifications do not conflict with subdivisions (b)(1) through (b)(3) of this subsection. (1939, c. 310, s. 701; 1971, c. 806, s. 1; 1973, c. 476, s. 193; c. 789; 1987, c. 43, s. 4; c. 45, s. 1; 1999-297, s. 3.)

§ 105-394. Immaterial irregularities.

Immaterial irregularities in the listing, appraisal, or assessment of property for taxation or in the levy or collection of the property tax or in any other proceeding or requirement of this Subchapter shall not invalidate the tax imposed upon any property or any process of listing, appraisal, assessment, levy, collection, or any other proceeding under this Subchapter.

The following are examples of immaterial irregularities:

- (1) The failure of list takers, tax supervisors, or members of boards of equalization and review to take and subscribe the oaths required of them.
- (2) The failure to sign the affirmation required on the abstract.
- (3) The failure to list, appraise, or assess any property for taxation or to levy any tax within the time prescribed by law.
- (4) The failure of the board of equalization and review to meet or to adjourn within the time prescribed by law or to give any required notice of its meetings and adjournment.
- (5) Any defect in the description upon any abstract, tax receipt, tax record, notice, advertisement, or other document, of real or personal property, if the description be sufficient to enable the tax collector or any person interested to determine what property is meant by the description. (In such cases the tax supervisor or tax collector may correct the description on the documents bearing the defective description, and the correct description shall be used in any documents later issued in tax foreclosure proceedings authorized by this Subchapter.)
- (6) The failure of the collector to advertise any tax lien.
- (7) Repealed by Session Laws 1983, c. 808, s. 11.

- (8) Any irregularity or informality in the order or manner in which tax liens on real property are offered for sale.
- (9) The failure to make or serve any notice mentioned in this Subchapter.
- (10) The omission of a dollar mark or other designation descriptive of the value of figures upon any document required by this Subchapter.
- (11) Any other immaterial informality, omission, or defect on the part of any person in any proceeding or requirement of this Subchapter. (1939, c. 310, s. 1715; 1965, c. 192, ss. 1, 2; 1971, c. 806, s. 1; 1983, c. 808, ss. 10, 11.)