

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 522
SENATE BILL 175

AN ACT TO ALLOW COUNTIES TO COMPROMISE THE ONE HUNDRED DOLLAR PENALTY FOR FAILURE TO LIST A MOTOR VEHICLE AND TO CLARIFY OTHER PROVISIONS OF G.S. 105-312 RELATING TO THE PENALTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-312(g) through (k) reads as rewritten:

"(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), below,~~ subsections (h) and (h1) 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), below,~~ subsections (h) and (h1) 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 including any penalty imposed under subsection (h1) of this section 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) If the discovered property is a motor vehicle and the county ~~accessor~~-assessor determines from records of the Division of Motor Vehicles that the owner of the vehicle falsely certified that he listed the vehicle for property taxes in violation of G.S. 20-50.2(a)(1), the county assessor shall add a penalty of \$100.00 for failure to list that vehicle in that county, which penalty shall be in addition to the penalties imposed by subsection (h). This penalty shall be imposed only for the year in which the discovery is made, regardless of the number of listing periods that elapsed before the motor vehicle was discovered, and regardless of whether the owner of the vehicle falsely

certified that he paid taxes on the vehicle in previous years. The civil penalty in this subsection shall not be imposed if the owner of the vehicle has been criminally punished under G.S. 20-50.2(c) with regard to the same failure to list.

(i) Collection. – For purposes of tax collection and foreclosure, the total figure obtained and recorded as provided in ~~subsection (h), above,~~ subsections (h) and (h1) 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), above,~~ (h), (h1), 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), above,~~ (g), (h), and (h1) 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."

Sec. 2. Effective for taxable years beginning on or after January 1, 1988, and before December 31, 1989, a county may release or refund all or part of the penalty imposed by G.S. 105-312(h1) if it determines that the taxpayer's false certification under that subsection was not made intentionally to avoid payment of the tax. The board of county commissioners may, by resolution, delegate this authority to the county finance officer or another county official.

Sec. 3. Section 2 of this act is effective for taxable years beginning on or after January 1, 1988, and before December 31, 1989; the remainder of this act is effective for taxable years beginning on or after January 1, 1989.

In the General Assembly read three times and ratified this the 30th day of June, 1989.