

GENERAL ASSEMBLY OF NORTH CAROLINA

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SENATE BILL 237  
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Short Title: Use Value Tax Changes.

(Public)

Sponsors:

Referred to:

February 22, 1995

A BILL TO BE ENTITLED  
AN ACT TO CLARIFY THE USE VALUE TAX LAW, TO UPDATE THE LAW TO  
CONFORM TO MODERN FAMILY PROPERTY TRANSACTIONS, AND TO  
EXPAND THE CATEGORY OF RELATIVES WHO MAY QUALIFY FOR USE  
VALUE PROPERTY TRANSFERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-277.2 reads as rewritten:

"§ 105-277.2. **Agricultural, horticultural, and forestland – Definitions.**

~~For the purposes of G.S. 105-277.3 through G.S. 105-277.7 the following definitions shall apply: The following definitions apply in G.S. 105-277.3 through G.S. 105-277.7:~~

(1) 'Agricultural land' means ~~land~~ Agricultural land. – Land that is a part of a farm unit that is actively engaged in the commercial production or growing of crops, plants, or animals under a sound management program. Agricultural land includes woodland and wasteland that is a part of the farm unit, but the woodland and wasteland included in the unit shall be appraised under the use-value schedules as woodland or wasteland. A farm unit may consist of more than one tract of agricultural land, but at least one of the tracts must

1 meet the requirements in G.S. 105-277.3(a)(1), and each tract must be  
2 under a sound management program.

3 (1a) Business entity. – A corporation, a general partnership, a limited  
4 partnership, or a limited liability company.

5 (2) ~~'Forestland' means land~~ Forestland. – Land that is a part of a  
6 forest unit that is actively engaged in the commercial growing of trees  
7 under a sound management program. Forestland includes wasteland  
8 that is a part of the forest unit, but the wasteland included in the unit  
9 shall be appraised under the use-value schedules as wasteland. A  
10 forest unit may consist of more than one tract of forestland, but at  
11 least one of the tracts must meet the requirements in G.S. 105-  
12 277.3(a)(3), and each tract must be under a sound management  
13 program.

14 (3) ~~'Horticultural land' means land~~ Horticultural land. – Land that is a part of a  
15 horticultural unit that is actively engaged in the commercial production  
16 or growing of fruits or vegetables or nursery or floral products under a  
17 sound management program. Horticultural land includes woodland and  
18 wasteland that is a part of the horticultural unit, but the woodland and  
19 wasteland included in the unit shall be appraised under the use-value  
20 schedules as woodland or wasteland. A horticultural unit may consist of  
21 more than one tract of horticultural land, but at least one of the tracts  
22 must meet the requirements in G.S. 105-277.3(a)(2), and each tract must  
23 be under a sound management program.

24 (4) ~~'Individually owned' means owned by:~~ Individually owned. –  
25 Owned by one of the following:

26 a. ~~A natural person; or person.~~ For the purpose of this  
27 section, a natural person who is an income beneficiary of a  
28 trust that owns land may elect to treat the person's beneficial  
29 share of the land as owned by that person. If the person's  
30 beneficial interest is not an identifiable share of land but can be  
31 established as a proportional interest in the trust income, the  
32 person's beneficial share of land is a percentage of the land  
33 owned by the trust that corresponds to the beneficiary's  
34 proportional interest in the trust income. For the purpose of  
35 this section, a natural person who is a member of a business  
36 entity that owns land may elect to treat the person's share of the  
37 land as owned by that person. The person's share is a  
38 percentage of the land owned by the business entity that  
39 corresponds to the person's percentage of ownership in the  
40 entity.

41 b. ~~A corporation~~ business entity having as its principal  
42 business one of the activities described in subdivisions (1), (2),  
43 and (3) and whose ~~shareholders~~ members are all ~~natural persons~~

- 1                    either a natural person actively engaged in the business of the  
 2                    corporation or a relative of a ~~shareholder-member~~ who is  
 3                    actively engaged in the business of the corporation.
- 4                    c. A trust that was created by a natural person who transferred the  
 5                    land to the trust and the beneficiaries of which are all either the  
 6                    creator of the trust or the creator's relatives.
- 7                    (4a) Member. – A shareholder of a corporation, a partner of a general or  
 8                    limited partnership, or a member of a limited liability company.
- 9                    (5) ~~'Present-use value' means the~~ Present-use value. The value of  
 10                    land in its current use as agricultural land, horticultural land, or  
 11                    forestland, based solely on its ability to produce income, using a rate  
 12                    of nine percent (9%) to capitalize the expected net income of the  
 13                    property and assuming an average level of management.
- 14                    (5a) ~~'Relative' means:~~ Relative. – Any of the following:
- 15                    a. ~~Spouse;~~ A spouse or the spouse's lineal ancestor or descendant.  
 16                           b. ~~A lineal ancestor;~~ ancestor or a lineal descendant.  
 17                           c. ~~A lineal descendant;~~ A brother or sister, or the lineal  
 18                    descendant of a brother or sister. For the purposes of this sub-  
 19                    subdivision, the term brother or sister includes stepbrother or  
 20                    stepsister.
- 21                    d. ~~A brother or sister, including a stepbrother or stepsister;~~ An aunt  
 22                    or an uncle.
- 23                    e. ~~An adopted or adoptive child, parent, grandchild, or grandparent;~~  
 24                    ~~or~~
- 25                    f. ~~A spouse of a person listed in paragraphs b. through e.~~ a. through  
 26                    d.
- 27                    For the purpose of this subdivision, an adoptive or adopted relative is a  
 28                    relative and the term 'spouse' includes a surviving spouse.
- 29                    (6) ~~'Sound management program' means a~~ Sound management  
 30                    program. – A program of production designed to obtain the greatest  
 31                    net return from the land consistent with its conservation and long-term  
 32                    improvement."

33                    Sec. 2. G.S. 105-277.3 reads as rewritten:

34                    **"§ 105-277.3. Agricultural, ~~horticultural~~ horticultural, and forestland –**  
 35                    **\*Classifications.**

36                    (a) The following classes of property are hereby designated special classes of  
 37                    property under authority of Article V, Sec. 2(2) of the North Carolina Constitution and  
 38                    shall be appraised, assessed and taxed as hereinafter provided:

- 39                    (1) Individually owned agricultural land consisting of one or more tracts,  
 40                    one of which consists of at least 10 acres that are in actual production  
 41                    and that, for the three years preceding January 1 of the year for which  
 42                    the benefit of this section is claimed, have produced an average gross  
 43                    income of at least one thousand dollars (\$1,000). Gross income includes

1 income from the sale of the agricultural products produced from the  
2 land and any payments received under a governmental soil conservation  
3 or land retirement program. Land in actual production includes land  
4 under improvements used in the commercial production or growing of  
5 crops, plants, or animals.

6 (2) Individually owned horticultural land consisting of one or more tracts,  
7 one of which consists of at least five acres that are in actual production  
8 and that, for the three years preceding January 1 of the year for which  
9 the benefit of this section is claimed, have either:

10 a. Been used to produce evergreens intended for use as Christmas  
11 trees and met the qualifying or gross income requirements  
12 established by the Department of Revenue for the land; or

13 b. Produced an average gross income of at least one thousand  
14 dollars (\$1,000). Gross income includes income from the sale of  
15 the horticultural products produced from the land and any  
16 payments received under a governmental soil conservation or  
17 land retirement program. Land in actual production includes land  
18 under improvements used in the commercial production or  
19 growing of fruits or vegetables or nursery or floral products.

20 (3) Individually owned forestland consisting of one or more tracts, one of  
21 which consists of at least 20 acres that are in actual production and are  
22 not included in a farm unit.

23 (b) In order to come within a classification described in subdivision (a)(1), (2) or  
24 (3), above, the property must, if owned by natural persons, ~~also~~ also satisfy one of the  
25 following conditions:

26 (1) ~~Be~~ It is the owner's place of ~~residence~~; ~~or~~ residence.

27 (2) ~~Have~~ It has been owned by the current owner or a relative of the current  
28 owner for the four years preceding January 1 of the year for which the  
29 benefit of this section is claimed.

30 (3) At the time of transfer to the current owner, it qualified for classification  
31 in the hands of a business entity or trust which transferred the property  
32 to the current owner who was a member of the business entity or a  
33 beneficiary of the trust, as appropriate.

34 If owned by a ~~corporation~~, business entity or trust, the property must have been owned  
35 by the ~~corporation~~ business entity or trust or by one or more of its ~~principal shareholders as~~  
36 ~~defined in G.S. 105-277.2(4)b~~ members, or by one or more of its creators in the case of a  
37 trust, for the four years immediately preceding January 1 of the year for which the benefit  
38 of this section is claimed. Notwithstanding the provisions of G.S. 105-277.2(4)b, above, a  
39 ~~corporation~~ a business entity qualifying for a classification described in G.S. 105-277.3  
40 shall not lose the benefit of the classification by reason of the death of one of ~~the principal~~  
41 ~~shareholders~~ provided its members if the decedent's ownership passes to and remains in a  
42 relative of the ~~decedent~~.

1 (e) ~~In addition, property may come within one of the classifications described in~~  
2 ~~subsection (a) above, if decedent.~~

3 Property loses its eligibility for the classifications described in subsection (a) of this  
4 section if ownership of the property passes to anyone other than a relative of the owner or  
5 passes to or from a business entity or trust from or to anyone other than its members or its  
6 creators or beneficiaries, respectively, except that property does not lose its eligibility if  
7 both of the following conditions are met: (i) it was appraised at its present use value or  
8 was eligible for appraisal at its present use value pursuant to that subsection at the time  
9 title to the property passed to the present owner, and (ii) at the time title to the property  
10 passed to the present owner ~~he~~ owner, ~~the owner~~ owned other property classified under  
11 subsection (a). ~~Classification pursuant to this subsection shall~~ The fact that property may  
12 retain its eligibility because the preceding two conditions were met does not affect any  
13 liability for deferred taxes under G.S. 105-277.4(c) if ~~such~~ those taxes were otherwise due  
14 at the time title passed to the present owner.

15 (d) Enrollment in the federal Conservation Reserve Program authorized by Title  
16 XII of the Food Security Act of 1985 (Pub. L. 99-198), as amended, shall not preclude  
17 eligibility of land for present use value treatment solely on the grounds that the land is no  
18 longer in actual production, and income derived from participation in the federal  
19 Conservation Reserve Program may be used in meeting the minimum income  
20 requirements of this section either separately or in combination with income from actual  
21 production. Land enrolled in the federal Conservation Reserve Program shall be assessed  
22 as agricultural land if it is planted in vegetation other than trees, or as forest land if it is  
23 planted in trees."

24 Sec. 3. G.S. 105-277.4(c) reads as rewritten:

25 "(c) Property meeting the conditions ~~herein set forth~~ for classification under G.S.  
26 105-277.3 shall be taxed on the basis of the value of the property for its present use. The  
27 difference between the taxes due on the present-use basis and the taxes which would  
28 have been payable in the absence of this classification, together with any interest,  
29 penalties or costs that may accrue thereon, shall be a lien on the real property of the  
30 taxpayer as provided in G.S. 105-355(a). The difference in taxes shall be carried forward  
31 in the records of the taxing unit or units as deferred taxes, but shall not be payable, unless  
32 and until (i) ~~the owner conveys the property to anyone other than a relative of the owner,~~ or (ii)  
33 ~~ownership of the property passes to anyone other than a relative by will or intestacy,~~ or (iii)  
34 ~~ownership of the property passes to a corporation as defined in G.S. 105-277.2(4)b from anyone~~  
35 ~~other than its principal shareholders or from such a corporation to anyone other than its principal~~  
36 ~~shareholders,~~ or (iv) ~~the property loses its eligibility for the benefit of this classification for~~  
37 ~~some other reason.~~ classification. The tax for the fiscal year that opens in the calendar year  
38 in which a disqualification occurs shall be computed as if the property had not been  
39 classified for that year, and taxes for the preceding three fiscal years which have been  
40 deferred as provided herein, shall immediately be payable, together with interest thereon  
41 as provided in G.S. 105-360 for unpaid taxes which shall accrue on the deferred taxes due  
42 herein as if they had been payable on the dates on which they originally became due. If  
43 only a part of the qualifying tract of land loses its eligibility, a determination shall be

1 made of the amount of deferred taxes applicable to that part and that amount shall  
2 become payable with interest as provided above. Upon the payment of any taxes deferred  
3 in accordance with this section for the three years immediately preceding a  
4 disqualification, all liens arising under this subsection shall be extinguished."

5           Sec. 4. This act is effective January 1, 1995. Notwithstanding the provisions  
6 of G.S. 105-277.4(a), an application for the benefit provided in this act for the 1995-96  
7 tax year shall be considered timely if it is filed on or before September 1, 1995.