

NORTH CAROLINA GENERAL ASSEMBLY
1977 SESSION

CHAPTER 864
HOUSE BILL 128

AN ACT TO AMEND AND CLARIFY THE PROVISIONS OF THE MACHINERY ACT.

The General Assembly of North Carolina enacts:

Section 1. Subsections (a)(4), (b), (d), (f), (i) and (l) of G.S. 105-312 are hereby rewritten as follows:

"(4) The phrase 'substantial understatement' as used in these definitions shall be interpreted to mean 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 tax supervisor, 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.

(b) Duty to discover and assess unlisted property. It shall be the duty of the tax supervisor to see that all property not properly listed during the regular listing period be listed, assessed and taxed as provided in this Subchapter. The tax supervisor shall file reports of such discoveries with the board of commissioners in such manner as the board may require.

(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 tax supervisor 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 tax supervisor 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 tax supervisor 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 tax supervisor within 30 days from date of the notice.

Upon receipt of a timely exception to the notice of discovery, the tax supervisor 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 tax supervisor 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 tax supervisor 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 tax

supervisor. 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.

(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 tax supervisor first listed it.

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

(l) Application to 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 tax supervisor, and the powers and duties assigned to the board of county commissioners shall be exercised by the governing body of the unit. When the tax supervisor 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."

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.