

## Article 8E.

### Excise Tax on Conveyances.

#### **§ 105-228.28. Scope.**

This Article applies to every person conveying an interest in real estate located in North Carolina other than a governmental unit or an instrumentality of a governmental unit. (1967, c. 986, s. 1; 1999-28, s. 1.)

#### **§ 105-228.29. Exemptions.**

This Article does not apply to any of the following transfers of an interest in real property:

- (1) By operation of law.
- (2) By lease for a term of years.
- (3) By or pursuant to the provisions of a will.
- (4) By intestacy.
- (5) By gift.
- (6) If no consideration in property or money is due or paid by the transferee to the transferor.
- (7) By merger, conversion, or consolidation.
- (8) By an instrument securing indebtedness. (1967, c. 986, s. 1; 1999-28, s. 1; 1999-369, s. 5.10(a)-(c).)

#### **§ 105-228.30. Imposition of excise tax; distribution of proceeds.**

(a) An excise tax is levied on each instrument by which any interest in real property is conveyed to another person. The tax rate is one dollar (\$1.00) on each five hundred dollars (\$500.00) or fractional part thereof of the consideration or value of the interest conveyed. The transferor must pay the tax to the register of deeds of the county in which the real estate is located before recording the instrument of conveyance. If the instrument transfers a parcel of real estate lying in two or more counties, however, the tax must be paid to the register of deeds of the county in which the greater part of the real estate with respect to value lies.

The excise tax on instruments imposed by this Article applies to timber deeds and contracts for the sale of standing timber to the same extent as if these deeds and contracts conveyed an interest in real property.

(b) The register of deeds of each county must remit the proceeds of the tax levied by this section to the county finance officer. The finance officer of each county must credit one-half of the proceeds to the county's general fund and remit the remaining one-half of the proceeds, less taxes refunded and the county's allowance for administrative expenses, to the Department of Revenue on a monthly basis. A county may retain two percent (2%) of the amount of tax proceeds allocated for remittance to the Department of Revenue as compensation for the county's cost in collecting and remitting the State's share of the tax. The Department of Revenue shall credit the funds remitted to the Department of Revenue under this subsection to the General Fund. (1967, c. 986, s. 1; 1991, c. 689, s. 338; 1991 (Reg. Sess., 1992), c. 1019, s. 1; 1993 (Reg. Sess., 1994), c. 772, s. 2; 1995, c. 456, s. 3; 1999-28, s. 1; 2000-16, s. 1; 2001-427, s. 14(a); 2011-330, s. 30(b); 2013-360, s. 14.4(a).)

#### **§ 105-228.31. Repealed by Session Laws 1999-28, s. 1.**

#### **§ 105-228.32. Instrument must be marked to reflect tax paid.**

A person who presents an instrument for registration must report to the Register of Deeds the amount of tax due. It is the duty of the person presenting the instrument for registration to report the correct amount of tax due. Before the instrument may be recorded, the Register of Deeds must collect the tax due and mark the instrument to indicate that the tax has been paid and the amount of the tax paid. (1967, c. 986, s. 1; 1969, c. 599, s. 1; 1973, c. 476, s. 193; 1999-28, s. 1; 2009-454, s. 2.)

**§ 105-228.33. Taxes recoverable by action.**

A county may recover unpaid taxes under this Article in an action in the name of the county brought in the superior court of the county. The action may be filed if the taxes remain unpaid more than 30 days after the register of deeds has demanded payment. In such actions, costs of court shall include a fee to the county of twenty-five dollars (\$25.00) for expense of collection. (1967, c. 986, s. 1; 1999-28, s. 1.)

**§ 105-228.34: Repealed by Session Laws 1999-28, s. 1.**

**§ 105-228.35. Administrative provisions.**

Except as otherwise provided in this Article, the provisions of Article 9 of this Chapter apply to this Article. (1967, c. 986, s. 1; 1999-28, s. 1; 2000-170, s. 1.)

**§ 105-228.36: Repealed by Session Laws 1999-28, s. 1.**

**§ 105-228.37. Refund of overpayment of tax.**

(a) Refund Request. – A taxpayer who pays more tax than is due under this Article may request a refund of the overpayment by filing a written request for a refund with the board of county commissioners of the county where the tax was paid. The request must be filed within six months after the date the tax was paid and must explain why the taxpayer believes a refund is due.

(a1) Refunds for Overpayment. – The board of county commissioners may, by resolution, authorize either or both of the county manager or the county finance officer to grant a request for a refund of a tax paid under this Article that is filed within six months after the date the tax was paid. If a refund is granted pursuant to such authority, the refund will be processed in the same manner as if granted by the board of county commissioners as set forth in this section. A taxpayer who requests but is not granted a refund from a county manager or county finance officer may file a written request with the board of county commissioners pursuant to the procedures set forth in this section.

(b) Hearing by County. – A board of county commissioners must conduct a hearing on a request for refund. Within 60 days after a timely request for a refund has been filed and at least 10 days before the date set for the hearing, the board must notify the taxpayer in writing of the time and place at which the hearing will be conducted. The date set for the hearing must be within 90 days after the timely request for a hearing was filed or at a later date mutually agreed upon by the taxpayer and the board. The board must make a decision on the requested refund within 90 days after conducting a hearing under this subsection.

(c) Process if Refund Granted. – If the board of commissioners decides that a refund is due, it must refund the overpayment, together with any applicable interest, to the taxpayer and inform the Department of the refund. The Department may assess the taxpayer for the amount of the refund in accordance with G.S. 105-241.9 if the Department disagrees with the board's decision.

(d) Process if Refund Denied. – If the board of commissioners finds that no refund is due, the written decision of the board must inform the taxpayer that the taxpayer may request a departmental review of the denial of the refund in accordance with the procedures set out in G.S. 105-241.11.

(e) Recording Correct Deed. – Before a tax is refunded, the taxpayer must record a new instrument reflecting the correct amount of tax due. If no tax is due because an instrument was recorded in the wrong county, then the taxpayer must record a document stating that no tax was owed because the instrument being corrected was recorded in the wrong county. The taxpayer must include in the document the names of the grantors and grantees and the deed book and page number of the instrument being corrected.

When a taxpayer records a corrected instrument, the taxpayer must inform the register of deeds that the instrument being recorded is a correcting instrument. The taxpayer must give the register of deeds a copy of the decision granting the refund that shows the correct amount of tax due. The correcting instrument must include the deed book and page number of the instrument being corrected. The register of deeds must notify the county finance officer and the Secretary when the correcting instrument has been recorded.

(f) Interest. – An overpayment of tax bears interest at the rate established in G.S. 105-241.21 from the date that interest begins to accrue. Interest begins to accrue on an overpayment 30 days after the request for a refund is filed by the taxpayer with the board of county commissioners. (2000-170, s. 2; 2007-491, s. 24; 2011-330, s. 30(a); 2022-50, s. 2.1.)

**§§ 105-228.38 through 105-228.89. Reserved for future codification purposes.**