

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 237

Finance Committee Substitute Adopted 3/15/95

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, lineal descendant, lineal ancestor, sibling, or  
 16                    stepsibling.  
 17                    b. ~~A lineal ancestor; spouse, lineal descendant, or lineal~~  
 18                    ancestor of a person listed in subparagraph a.  
 19                    For the purpose of this subdivision, an adoptive or adopted relative is a  
 20                    relative.  
 21                    e. ~~A lineal descendant;~~  
 22                    d. ~~A brother or sister, including a stepbrother or stepsister;~~  
 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.~~  
 26                    (6) ~~'Sound management program' means a~~ Sound management  
 27                    program. – A program of production designed to obtain the greatest  
 28                    net return from the land consistent with its conservation and long-term  
 29                    improvement."

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

31                    "**§ 105-277.3. Agricultural, ~~horticultural~~ horticultural, and forestland –**  
 32                    **\*Classifications.**

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

- 36                    (1) Individually owned agricultural land consisting of one or more tracts,  
 37                    one of which consists of at least 10 acres that are in actual production  
 38                    and that, for the three years preceding January 1 of the year for which  
 39                    the benefit of this section is claimed, have produced an average gross  
 40                    income of at least one thousand dollars (\$1,000). Gross income includes  
 41                    income from the sale of the agricultural products produced from the  
 42                    land and any payments received under a governmental soil conservation  
 43                    or land retirement program. Land in actual production includes land

1 under improvements used in the commercial production or growing of  
2 crops, plants, or animals.

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

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

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

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

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

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

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

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

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

40 (c) ~~In addition, property may come within one of the classifications described in~~  
41 ~~subsection (a) above, if decedent.~~

42 Property loses its eligibility for the classifications described in subsection (a) of this  
43 section if ownership of the property passes to anyone other than a relative of the owner or

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

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

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

21 "(c) Property meeting the conditions ~~herein set forth~~ for classification under G.S.  
22 105-277.3 shall be taxed on the basis of the value of the property for its present use. The  
23 difference between the taxes due on the present-use basis and the taxes which would  
24 have been payable in the absence of this classification, together with any interest,  
25 penalties or costs that may accrue thereon, shall be a lien on the real property of the  
26 taxpayer as provided in G.S. 105-355(a). The difference in taxes shall be carried forward  
27 in the records of the taxing unit or units as deferred taxes, but shall not be payable, unless  
28 and until (i) ~~the owner conveys the property to anyone other than a relative of the owner, or (ii)~~  
29 ~~ownership of the property passes to anyone other than a relative by will or intestacy, or (iii)~~  
30 ~~ownership of the property passes to a corporation as defined in G.S. 105-277.2(4)b from anyone~~  
31 ~~other than its principal shareholders or from such a corporation to anyone other than its principal~~  
32 ~~shareholders, or (iv) the property loses its eligibility for the benefit of this ~~classification~~ classification~~ for  
33 some other reason. ~~classification.~~ The tax for the fiscal year that opens in the calendar year  
34 in which a disqualification occurs shall be computed as if the property had not been  
35 classified for that year, and taxes for the preceding three fiscal years which have been  
36 deferred as provided herein, shall immediately be payable, together with interest thereon  
37 as provided in G.S. 105-360 for unpaid taxes which shall accrue on the deferred taxes due  
38 herein as if they had been payable on the dates on which they originally became due. If  
39 only a part of the qualifying tract of land loses its eligibility, a determination shall be  
40 made of the amount of deferred taxes applicable to that part and that amount shall  
41 become payable with interest as provided above. Upon the payment of any taxes deferred  
42 in accordance with this section for the three years immediately preceding a  
43 disqualification, all liens arising under this subsection shall be extinguished."

1           Sec. 4. This act is effective for taxes imposed for taxable years beginning on  
2 or after July 1, 1995. Notwithstanding the provisions of G.S. 105-277.4(a), an  
3 application for the benefit provided in this act for the 1995-96 tax year shall be  
4 considered timely if it is filed on or before September 1, 1995.