

# **North Carolina Property Tax Exemptions and Exclusions**

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## I. Introduction

Generally, all real and personal property in North Carolina is subject to the property tax unless the General Assembly or the State constitution have exempted the property from taxation or designated it as a special class of property excluded from taxation. Most statutes granting tax exemptions or exclusions are set forth in the Machinery Act, North Carolina's property tax code. See Gen. Stats. § 105-274 to 105-282.

“Statutes exempting specific property from taxation because of the purposes for which the property is held and used...are construed...strictly...against exemption and in favor of taxation.” In re Appeal of Worley, 93 N.C. App. 191, 195, 377 S.E.2d 270, 273 (1989), quoting Harrison v. Guilford County, 218 N.C. 718, 721, 12 S.E.2d 269, 272 (1940). However, “the rule of strict construction...is not meant (to convey) that the statute shall be stintingly or even narrowly construed...but it means that everything shall be excluded from its operation which does not clearly come within the scope of the language used...” Southeastern Baptist Theological Seminary, Inc. v. Wake County, 251 N.C. 775, 112 S.E.2d 528 (1960).

Taxpayers generally must apply to county assessors to justify their claim for property tax exemptions and exclusions. In certain cases, however, the exemption or exclusion does not require application. This outline will summarize the various exemptions and exclusions, the general treatment of these tax preference items and the procedure for applying for them.

## II. Exemptions and Exclusions

The North Carolina Constitution (1) exempts governmental and certain other properties from taxation and (2) also grants the General Assembly broad and exclusive powers to exempt certain property from taxation. Specifically, “(t)he General Assembly may exempt cemeteries

and property held for educational, scientific, literary, cultural, charitable, or religious purposes,” up to \$300 of any personal property, and up to \$1,000 of residential property. N.C. Const., Art.V, Sect. 2(3).

Property tax exemptions must be applied on a State-wide basis, made by general law uniformly applicable in every county, city and town, and other unit of local government, and, other than those exemptions granted under the State Constitution, may be granted only by the General Assembly. Id. To qualify for tax exemption, property must be presently used for exempt purposes, not merely intended for such future use. Worley, 93 N.C. App. at 191, 377 S.E.2d at 270.

In addition to its specific authority to exempt property from taxation, the General Assembly also may “exclude” property from taxation by classifying property as either wholly or partially nontaxable. N.C. Const., Art. V, Sect. 2(2). As with exemptions, property tax exclusions must be enacted on a State-wide basis and be uniformly applicable in every jurisdiction. Thus, for example, the General Assembly may not exclude from tax automobiles in one county but not in others. In addition, the legislature’s classification of property for tax purposes must be based upon reasonable distinctions. See In re Appeal of Champion Int’l Corp., 74 N.C. App. 639, 329 S.E. 2d 691, (only limitation upon the Legislature’s power of classification is that the classification must be founded upon reasonable and not arbitrary distinctions), rev. denied, 314 N.C. 540, 335 S.E. 2d 15 (1985).

There is little practical distinction between a property tax exemption and exclusion. However, the classification is relevant in determining the scope of the General Assembly’s power to remove property from taxation. For example, under the state Constitution’s grant of

exemption authority, the legislature may exempt no more than \$1,000 of residential property from taxation but its powers to “exclude” such property from taxation are not subject to such a cap.

Following is a summary of the classes of property exempt from taxation in North Carolina.

**A. Property belonging to the United States, the State, counties and municipal corporations**

State and local government property is expressly excluded from taxation under the State constitution. N.C. Const., Art.V, Sect. 2(3). This constitutional exemption “is self-executing and requires no legislation to make it effective.” Raleigh Cemetery Association v. City of Raleigh, 235 N.C. 509, 510, 70 S.E.2d 506, 508 (1952). The exemption applies if the government holds either equitable or legal title to the property. Appeal of Appalachian Student Housing Corp., 165 N.C. App. 379, 598 S.E. 2d 701 (2004) (equitable title held by State university as beneficiary of active trust sufficient to show property belonged to State and thus was eligible for exemption).

In addition, all real and personal property owned by the United States of America, the State of North Carolina and any North Carolina county or municipality is exempt from State taxation. Gen. Stat. § 105-278.1. See also Gen. Stat. § 116-16 (“the lands and other property belonging to the University of North Carolina shall be exempt from all kinds of public taxation.”) The statutory exemption is broader than the one under the State constitution and extends to the departments, institutions, agencies, boards, commissions and authorities of such governmental entities, such as county airport and hospital authorities. Any property not subject to state or local taxation under federal law is also exempt. Governmental authorities need not

file an application to qualify for this tax exemption.

The governmental property exemption granted under the State's Constitution applies regardless of whether the property is used for public, as opposed to commercial, or private, purposes. See Appeal of University of North Carolina, 300 N.C. 563, 268 S.E. 2d 472(1980) (UNC property used for the Carolina Inn hotel and other commercial purposes is exempt from property tax based solely upon the fact that the property is owned by the State; the constitutional exemption does not depend on how the property is used).

## **B. Property used for charitable purposes**

Several provisions of the Machinery Act provide preferential tax treatment for property that is used for charitable purposes. Gen. Stats. §§ 105-278.6; 105-278.7; and 105-278.8. Such purposes are defined to include those activities that have humane and philanthropic objectives, that “benefit humanity or a significant rather than limited segment of the community without expectation of pecuniary profit or reward.” The humane treatment of animals also is an activity that qualifies as a use for a charitable purpose. Gen. Stat. §§ 105-278.6(b) and 105-278.7(f)(u).

### **1. Real and personal property used for charitable purposes**

The General Assembly has exempted from property tax real and personal property if it is owned by certain designated nonprofit entities and used for charitable purposes. To qualify, the property owner must be (1) a YMCA or similar organization; (2) a home for the aged, sick or infirm; (3) an orphanage or similar home; (4) a society for the prevention of animal cruelty; (5) a reformatory or correctional institution; (6) a monastery, convent or nunnery; (7) a nonprofit, life-saving, first aid or rescue squad organization; or (8) a nonprofit organization providing housing for individuals or families with low or moderate incomes. Gen. Stat. § 105-278.6a. The fact that

property is owned by one of the entities and listed in the statute does not qualify the property for exemption; the purpose for which the property is used also must be charitable. See In re Appeal of Chapel Hill Residential Retirement Center, Inc., 60 N.C. App. 294, 299 S.E. 2d 782 (1983) (“merely supplying care and attention to elderly persons cannot, alone, constitute charity”) and In re Appeals of Barham, 70 N.C. App. 236, 319 S.E.2d 657 (1984) (residential retirement center operated by nonprofit entity did not qualify for charitable purpose exemption where residents were required to pay large sums of money for the services rendered, only a small percentage of the elderly could participate in the retirement center due to the financial requirements, and the corporation reserved the right to terminate any resident for non-payment of fees despite the center’s “moral commitment” to furnish lifetime care to those residents who had become unable to provide the fees mandated by contract).

If a property meets all requirements for this exemption other than the fact that part of the property is used for a non-qualifying use, the part that is used for a qualifying use shall be exempted from taxation. Gen. Stat. § 105-278.6(d). Furthermore, the fact that a building or facility is incidentally available to and patronized by the general public does not disqualify such property so long as there is no material amount of business or patronage with the general public. Gen. Stat. §105-278.6(c).

Real property may qualify for the charitable use exemption even if it is held for up to five years by a nonprofit organization providing housing for individuals or families with low or moderate incomes as a future site for such purpose. In the event that such housing is not constructed on the site within the five-year period, all taxes (including interest) which would have been due and payable during such period without this exemption shall become due and

payable and shall constitute a lien on the property. Gen. Stat. § 105-278.6(e).

**2. Real and personal property used for educational, scientific, literary, or charitable purposes**

In addition to the charitable purpose exemption available to specific types of nonprofit entities under Gen. Stat. § 105-278.6, the General Assembly has extended an exemption to a broader class of property used for charitable purposes. Under this more expansive exemption, personal property and buildings, the land they actually occupy and additional adjacent land necessary for the convenient use of any such buildings are exempt from taxation, so long as they are used as stated below and are owned by either: (1) a charitable, historical, scientific, literary or benevolent association or institution; (2) a veterans' organization or association; or (3) a non-profit community or neighborhood organization. Gen. Stat. § 105-278.7. To qualify for the exemption, the property must be either: (a) wholly and exclusively used by its owner for non-profit educational, scientific, literary or charitable purposes; or (b) gratuitously occupied or possessed by one of the above-referenced organizations, associations or institutions other than the property owner, and wholly and exclusively used by the possessor for non-profit educational, scientific, literary or charitable purposes. *Id.* The property also may be used by third parties who act as an agent of the owner in furtherance of the owner's exempt purposes and subject to the owner's control. See *In re Appeal of Mecklenburg County*, 69 N.C. App. 133, 316 S.E. 2d 330 (1984) (personal property was used by for-profit contractor in performing scientific studies for the property's nonprofit owner, a scientific association, and the studies were subject to the owner's substantial control; thus, the personal property qualified for tax exemption given that the contractor was acting as the association's agent and in furtherance of its exempt purposes).

If a property meets all requirements for this exemption except that part of the property is

used for a non-qualifying use, the part that is used for a qualifying use shall be exempted from taxation. Gen. Stat. § 105-278.7(d). Also, the fact that a building or facility is incidentally available to and patronized by the general public does not disqualify such property so long as there is no material amount of business or patronage with the general public. Gen. Stat. § 105-278.7(e).

### **3. Real and personal property used for charitable hospital purposes**

Real and personal property held for or owned by a hospital organized and operated as a nonstock, nonprofit, charitable institution is exempt from taxation, provided that such property is actually and exclusively used for charitable hospital purposes. Gen. Stat. § 105-278.8. A charitable hospital is one that has humane and philanthropic objectives and “benefits humanity or a significant rather than limited segment of the community without expectation of pecuniary profit or reward”. Gen. Stat. § 105-278.8(c). See In re Appeal of Foundation Health Systems Corp., 96 N.C. App. 571, 386 S.E.2d 588 (1989) (nonprofit surgical center that provides emergency services to patients without regard to their ability to pay and charges less than market fees is “actually and exclusively used for charitable hospital purposes” and thus was deemed to qualify for the charitable hospital exemption).

The fact that a hospital charges patients who are able to pay for services rendered does not disqualify the hospital from this exemption. In addition, if a property meets all requirements for this exemption other than the fact that part of the property is used for a non-qualifying use, the part that is used for a qualifying use shall be exempted from taxation. Gen. Stat. § 105-278.8(b) and (c).

The exemption applies not only to charitable hospital property used to provide medical

care but also property used for a purpose “reasonably necessary” to accomplish the efficient administration of a charitable hospital. See In re Moses H. Cone Memorial Hospital, 113 N.C. App. 562, 439 S.E.2d 778 (1994) (hospital’s child care facility was reasonably necessary for hospital’s administration given that on-site center was not operated for profit, was operated mainly to aid in the retention and recruitment of hospital employees and its operation was subsidized by the hospital; thus, the charitable hospital exemption applied to the hospital’s on-site child care facility), aff’d, 340 N.C. 93, 455 S.E. 2d. 431 (1995).

### **C. Qualified Retirement Facilities**

Personal property and buildings, the land they actually occupy and additional adjacent land reasonably necessary for the convenient use of such buildings are excluded from taxation to the extent set forth below, so long as: (1) they are owned by a retirement facility for elderly people, containing both independent living units and a skilled nursing or adult care facility, which is licensed by the Commissioner of Insurance as a continuing care retirement community; (2) used in the operation of the facility; (3) the facility is exempt from State income tax; (4) private shareholders do not benefit from the operation of the facility; (5) all revenue of the facility, less operating and capital expenses, is given to the elderly in the form of goods or services; (6) the facility’s charter provides that, upon dissolution, all of its assets will go to an exempt organization under Section 501(c)(3) of the Internal Revenue Code which is organized exclusively for charitable, educational, scientific or religious purposes; and (7) the facility has an active program to generate funds for charity care. Gen. Stat. § 105-278.6A. The General Assembly expanded this exemption to encompass retirement facilities not associated with religious and Masonic organizations after the former exemption, which extended only to

religiously affiliated and Masonic retirement homes, was ruled unconstitutional. See In re Appeal of Springmoor, Inc., 125 N.C. App. 184, 479 S.E.2d 795 (1997), aff'd in part and reversed in part, 348 N.C. 1, 498 S.E.2d 177 (1998) (exemption that was applied only to religious or Masonic entities improperly advanced religion in violation of the federal constitution.).

A total exclusion with respect to the above-referenced property applies if: (a) the facility serves all residents without regard for ability to pay; or (b) at least five percent (5%) of revenue generated from goods and services provided to residents is spent on charity care for residents, community benefits or both. Gen. Stat. § 105-278.6A(c).

A partial exclusion with respect to covered retirement facilities applies if at least one percent (1%) of revenue generated from goods and services provided to residents and part of an initial resident fee is spent on charity care for residents, community benefits or both. If the percentage is: (a) less than two percent (2%), a twenty percent (20%) exclusion applies; (b) less than three percent (3%), a forty percent (40%) exclusion applies; (c) less than four percent (4%), a sixty percent (60%) exclusion applies; and (d) less than five percent (5%), an eighty percent (80%) exclusion applies. Gen. Stat. § 105-278.6A(d).

#### **D. Property used for religious purposes**

Several provisions of the Machinery Act provide preferential tax treatment for property that is used for religious purposes. Gen. Stat. §§ 105-278.3 and 105-278.5.

The Machinery Act defines a religious purpose as one that pertains to practicing, teaching, and setting forth a religion. Gen. Stat. § 105-278.3(d). Although worship is the most common activity that qualifies as use for a religious purpose, other activities that demonstrate

and further the beliefs and objectives of a given church or religious body also qualify. The following activities qualify as use for a religious purpose: (1) the ownership and maintenance of a general or promotional office or headquarters; (2) the ownership and maintenance of residences for clergy, rabbis, priests or nuns assigned to or serving a congregation, parish, mission or similar local unit; and (3) other activities that demonstrate and further the beliefs and objectives of a given church or religious body. The ownership and maintenance of residences for employees other than clergy is not an activity that qualifies as use for a religious purpose. Id.

### **1. Real and personal property used for religious purposes**

Personal property and buildings, the land they actually occupy and additional adjacent land reasonably necessary for the convenient use of any such building are exempt from taxation, so long as they are used as hereinafter stated and are wholly owned by either: (1) a congregation, parish, mission or similar local unit of a church or religious body; or (2) a conference, association, presbytery, diocese, district, synod or similar unit comprising local units of a church or religious body. Gen. Stat. § 105-278.3(c). Such property must be either: (a) wholly and exclusively used by its owner for religious purposes; or (b) occupied or possessed gratuitously by one other than the owner and wholly and exclusively used by such occupant or possessor for religious, charitable or nonprofit educational, literary, scientific or cultural purposes. Gen. Stat. § 105-278.3(b). The exemption applies only to real property consisting of buildings and the land necessary for their convenient use. Thus, the exemption was denied for 50 acres of land owned by a church whose religious tenets prohibited members from worshipping in buildings. Appeal of the Church of Yahshua, 160 N.C. App. 236, 584 S.E.2d 827 (2003). The Court of Appeals' decision reflects the strict reading applied to exemptions under North Carolina law.

Property used for religious purposes are exempt even if it is used at times by third parties for non-exempt purposes as well. See In re Mount Shepherd Methodist Camp, 120 N.C. App. 388, 462 S.E.2d 229 (1995) (religious exemption applied where primary use of camp was to serve spiritual needs of church although non-church groups were allowed to use the camp, sometimes for a fee). In addition, if a property meets all requirements for this exemption other than the fact that part of the property is used for a non-qualifying use, the part that is used for a qualifying use shall be exempted from taxation. Gen. Stat. § 105-278.3(e). The fact that a building or facility is incidentally available to and patronized by the general public, does not disqualify such property so long as there is no material amount of business or patronage with the general public. Gen. Stat. § 105-278.3(f).

The fact that part of property qualifying for exemption is used as a residence for janitorial or caretaking personnel will not cause the property to lose the exemption. In addition, any part of a property which otherwise qualifies but for its use as a parking lot will continue to qualify, provided that the total charge for parking in the lot does not exceed the portion of actual maintenance expenses for the parking lot that are reasonably attributable to religious purposes. Gen. Stat. § 105-278.3(g).

## **2. Real and personal property of religious educational assemblies used for religious and educational purposes**

In addition to the broad exemption above applied to property used for religious purposes, the General Assembly has exempted certain property used for religious educational programs. Buildings, the land they actually occupy and additional adjacent land reasonably necessary for the convenient use of any such building or for the religious educational programs of the owner are exempt from taxation, so long as no one is entitled to receive pecuniary profit (other than

reasonable compensation for services) from the owner's operation of such property and such property is: (1) wholly and exclusively used for religious worship or instruction in religious education; (2) owned by a religious educational assembly, retreat or similar organization; (3) of a kind commonly employed in activities naturally and properly incident to the operation of a religious educational assembly such as the owner. Gen. Stat. § 105-278.5. See also Gen. Stat. § 105-278.4(a)(1) and (e) (exempting property owned by a seminary and certain personal property used for religious education). In addition, personal property exclusively maintained and used in connection with such exempt real property is also exempt, so long as it is owned by a religious educational assembly, retreat or similar organization. Gen. Stat. § 105-278.5(d).

If a property meets all requirements for this exemption other than the fact that part of the property is used for a non-qualifying use, the part that is used for a qualifying use shall be exempted from taxation. Furthermore, the fact that a building or facility is incidentally available to and patronized by the general public does not disqualify such property so long as there is no material amount of business or patronage with the general public. Gen. Stat. § 105-278.5(b) and (c).

#### **E. Property used for educational or scientific purposes**

Certain property used for educational or scientific purpose is exempt from property tax. Gen. Stat. § 105-278.4. The Machinery Act defines an educational purpose as one that has as its objective the education or instruction of human beings and comprehends the transmission of information and the training or development of the knowledge or skills of individual persons. Gen. Stat. § 105-278.3(d)(3) and 105-278.4(f).

The educational purpose exemption applies to vacant land and buildings and other

improvements, along with the land they actually occupy and additional land reasonably necessary for the convenient use of such buildings or improvements, so long as they are: (1) owned by either an educational institution or a nonprofit entity formed for the sole benefit of certain public educational institutions, (2) of a kind commonly employed in activities naturally and properly incident to the operation of an educational institution such as the owner; and (3) wholly and exclusively used for educational purposes by the owner or another non-profit educational institution and wholly and exclusively used for educational purposes. Gen. Stat. § 105-278.4.

In addition, real property owned by a nonprofit entity and “exclusively held and used by its owner for educational and scientific purposes as a protected natural area” is excluded from the property tax base. Gen. Stat. § 105-275(12). A “protected natural area” is property kept in a pristine state without man-made improvements and only passive management. Appeal of North Carolina Forestry Foundation, 35 N.C. App. 414, 242 S.E.2d 492 (1978), aff’d, 296 N.C. 330, 250 S.E.2d 236 (1979).

In determining whether a use qualifies as “educational,” North Carolina courts apply a traditional standard focusing on whether there is present a “formal curriculum that supports defined and assessable student learning outcomes, recognized degrees, qualified faculty, and recognition by peer institutions.” See In re The University for the Study of Human Goodness and Creative Group Work, 159 N.C. App. 85, 582 S.E.2d 645 (2003) (property used as profit-making restaurant formed as a learning laboratory by nonprofit entity promoting community service and group work was not “wholly and exclusively used for educational purposes” and thus not eligible for property tax exemption). See also In re Maharishi Spiritual Center of America,

357 N.C. 152, 579 S.E.2d 249 (2003) (spiritual center whose primary purpose was the practice of teaching meditation was not an educational institution and thus ineligible for exemption) and In re Chapel Hill Day Care Center, Inc., 144 N.C. App. 649, 551 S.E.2d 172 (2001) (nonprofit day care center had primarily custodial, not educational, purpose, although it engaged in some educational activities, and thus was not eligible for exemption). However, property used for functions that are not directly educational but are related to the operation of an educational institution qualifying for the exemption. See In re Appeal of The Atlantic Coast Conference, 112 N.C. App. 1, 434 S.E. 2d 865 (1993) (administrative offices of college athletic conference was used for activities incident to operation of educational institution as required for educational tax exemption), aff'd, 336 N.C. 69, 441 S.E.2d 550 (1994).

If a property meets all of the requirements for this exemption other than the fact that part of the property is used for a non-qualifying use, the part that is used for a qualifying use shall be exempted from taxation. Gen. Stat. § 105-278.4(c). See In re Appeal of Forsyth County Tax Supervisor re Certain Property Owned by Wake Forest University, 51 N.C. App. 516, 277 S.E.2d 91, cert. denied, 303 N.C. 544, 281 S.E.2d 391 (1981) (percentage of college football stadium parking lot leased to and used by for-profit corporation was subject to property tax but the remaining percentage qualified for educational purpose exemption). Furthermore, the fact that a building or facility is incidentally available to and patronized by the general public, does not disqualify such property so long as there is no material amount of business or patronage with the general public. Gen. Stat. § 105-278.4(d). However, ceding control over the management of property for non-exempt purposes disqualifies the property from exemption. For example, the exclusion applied to “a protected natural area” is conditioned on its exclusive use for educational

and scientific purposes. Gen. Stat. § 105-275 (12). The exclusion was denied where a nonprofit foundation permitted a paper company to manage and operate its forest property primarily for commercial uses. In re Appeal of North Carolina Forestry Foundation, 296 N.C. 330, 250 S.E. 2d 236 (1979). Many cases involving the application of educational exemptions turn on whether the property's use is "wholly and exclusively" educational in nature.

Operation of golf courses, tennis courts, sports arenas and similar sport or recreational sport properties for use by students of faculty is a qualifying educational purpose, regardless of the extent to which the property is also available to and patronized by the general public. Gen. Stat. § 105-278.4(f).

In addition, personal property owned by a church, a religious body or a nonprofit educational institution is exempt from taxation, so long as such property is either: (a) used wholly and exclusively for educational purposes by the owner; or (b) gratuitously held by a church, religious body or nonprofit educational institution other than the owner and used for nonprofit educational purposes by such possessor. Gen. Stat. § 105-278.4(e).

#### **F. Property used to protect or enhance the environment**

Several provisions of the Machinery Act provide preferential tax treatment for property that is used to protect or enhance the environment. See Gen. Stat. §§ 105-275(8)a; (real and personal property used for the abatement, reduction or prevention of air or water pollution); 105-275(8)b; (real or personal property used exclusively for recycling or resource recovery of or from solid waste); 105-275(8)c (tangible personal property used exclusively for the prevention or reduction of cotton dust inside textile plants); 105-275(8)d; (real or personal property used predominantly for recycling or resource recovery of or from solid waste by a major recycling

facility); 105-277(g); (buildings equipped with solar energy heating or cooling systems); 105-277.13 (improvements on brownfields); and 105-277.3 through 105-277.7 (agricultural land, horticultural land and forest land appraised at present-use value).

**1. Real and personal property used for the abatement, reduction or prevention of air or water pollution**

Real and personal property used (or to be used, if under construction) exclusively for air cleaning, waste disposal or the abatement, reduction or prevention of air or water pollution is excluded from taxation. If the Department of Environment and Natural Resources or a local air pollution control program certified by the Environmental Management Commission provides a certificate to the county tax supervisor stating that such property: (a) has been (or will be, if under construction) constructed or installed; (b) complies (or will comply, if under construction) with requirements of the Environmental Management Commission or the local air pollution control program, as applicable; (c) is being (or will be, if under construction) effectively operated in accordance with the terms of the approval of the Environmental Management Commission or the local air pollution control program, as applicable; and (d) has (or will have, if under construction) as its primary purpose, the reduction of water pollution due to sewer and waste discharge or the reduction of air pollution due to the emission of air contaminants. Gen. Stat. § 105-275 (8)(a). Property excluded from taxation under this provision of the Machinery Act may include such things as waste lagoons and facilities installed to provide sewer service to areas that are predominantly residential and lie outside of territory already served by sewer.

**2. Real or personal property used exclusively for recycling or resource recovery of or from solid waste**

Real or personal property exclusively used (or to be used, if under construction) for

recycling or resource recovery of or from solid waste is exempt from taxation, so long as the Department of Environment and Natural Resources provides a certificate to the county tax supervisor stating that such property: (a) has been (or will be, if under construction) constructed or installed; (b) complies (or will comply, if under construction) with the rules of the Department of Environment and Natural Resources; and (c) has (or will have, if under construction) as its primary purpose, recycling or resource recovery of or from solid waste. Gen. Stat. § 105-275(8)b.

The exemption covers property used for the processing of refuse or sludge from waste treatment plants and similar wastes produced from industrial processes. The exemption has also been applied to equipment used by a cigarette manufacturer to process tobacco scrap, stems and dust into sheet tobacco for further use in manufacturing tobacco products. R.J. Reynolds Tobacco Co. v. N.C. Dept. of Environment & National Resources, 148 N.C. App. 610, 560 S.E. 2d 163 (2002).

**3. Real or personal property used predominantly for recycling or resource recovery of or from solid waste by a major recycling facility**

Real or personal property predominantly used (or to be used, if under construction) by a “major recycling facility” for recycling or resource recovery of or from solid waste is exempt from taxation, so long as the Department of Environment and Natural Resources provides a certificate to the county tax supervisor stating that such property: (a) has been (or will be, if under construction) constructed or installed for use by a “major recycling facility”; (b) has been (or will be, if under construction) constructed or installed for use by a “major recycling facility”; (c) complies (or will comply, if under construction) with the rules of the Department of Environment and Natural Resources; and (d) has (or will have, if under construction) as a

purpose, recycling or resource recovery of or from solid waste. Gen. Stat. § 105-275(8)d.

A “major recycling facility” is defined as a recycling facility in which the owner will invest at least \$300 million will invest at least will create at least (250) two hundred fifty new full-time jobs, be located in certain counties that have been qualified pursuant to unemployment rates, growth rates and per capita income, and meet certain wage standards that are based on average wages in the county in which the facility is located. Gen. Stat. § 105-129.25 and 105-129.26. The General Assembly amended this exemption in 1998 primarily to apply it to a proposed steel recycling facility to be built by Nucor Corporation in Hertford County.

#### **4. Buildings equipped with solar energy heating or cooling systems**

Buildings equipped with solar energy heating or cooling systems shall be assessed for taxation without regard to the increased value of the building due to such system. Gen. Stat. § 105-277(g). Thus, buildings equipped with solar heating or cooling systems are assessed as if they were equipped with conventional heating or cooling systems.

#### **5. Tangible personal property used exclusively for the prevention or reduction of cotton dust inside textile plants**

Tangible personal property used exclusively for the prevention or reduction of cotton dust inside textile plants for the health of employees is excluded from taxation. Gen. Stat. § 105-275(8)c. Excludable personal property includes items such as safety apparel or other personal protective equipment, power-driven machines that cause a continuous flow of air, and structural support systems that assist such apparel, equipment or machinery. In 2003, the General Assembly added language to the exclusion clarifying that cotton dust control equipment, even when integrated into an air conditioning or ventilation system, is excluded from taxation.

A taxpayer claiming this exemption must include with the exemption application detailed

information required by the Department of Revenue and set forth in Title 17, Chapter 10, Section .0400 of Administrative Code of North Carolina.

## **6. Improvements on brownfields**

A brownfields site is real property that is unused or underused due to actual or potential environmental contamination that is or may be subject to remediation. Gen. Stat. § 130A-310.31. Developers are reluctant to buy and develop such sites due to the potentially liability and cost of environmental remediation that is or may be required. A brownfields agreement, is an agreement that defines and limits such exposure, provided that the developer complies with the terms of the agreement between the owner and the State. The agreements limit property uses to those uses designed to mitigate the effects of the contamination on public health and the environment.

Improvements made on land that is subject to a brownfields agreement between the landowner and the Department of Environment and Natural Resources are entitled to a partial exclusion in accordance with the following schedule during the first five years after such improvements are completed, so long as the improvements are completed after July 1, 2000: (a) during the first year, 90% of the appraised value of the improvement is excluded; (b) during the second year, 75% of the appraised value of the improvement is excluded; (c) during the third year, 50% of the appraised value of the improvement is excluded; (d) during the fourth year, 30% of the appraised value of the improvement is excluded; and (e) during the fifth year, 10% of the appraised value of the improvement is excluded. Gen. Stat. § 105-277.13. The assessor of the county in which such improvement is located will appraise the improvement each year during the five year period.

**G. Agricultural land, horticultural land and forest land appraised at present-use value**

Agricultural land, horticultural land and forest land is taxed based on its present-use value and not its fair market value, if there is a difference. Gen. Stat. § 105-277.4. The additional taxes that would be collected in the absence of this special provision, together with interest from the date such taxes would have otherwise been due, are carried forward for three years, are known as deferred or rollback taxes, constitute a lien on the property and become immediately due and payable as soon as the property fails to qualify for use value taxation. If only part of the tract of land becomes disqualified, the rollback taxes which become immediately due and payable are only the portion of such taxes attributable to the disqualified section of the tract. Gen. Stat. § 105-277.4(c).

To qualify for use value taxation, agricultural land, horticultural land and forest land must be owned by one of the following: (a) a natural person or a trust for the benefit of a natural person; (b) a business entity in the business of owning and operating agricultural land, horticultural land or forest land, the members of which are all natural persons, at least one of whom is actively engaged in the business, is related to someone who is actively engaged in the business or inherited his interest from a relative who was engaged in the business or was related to someone who was engaged in the business; (c) a trust created by a natural person who transferred the land to the trust for the benefit of only the creator of the trust, relatives of the creator of the trust or a second trust for the benefit of only the creator of the trust or relatives of the creator of the trust; or (d) a testamentary trust created by a natural person who had no relatives at his death and transferred land that would have qualified for use value taxation in that person's hands to a trust, the income from which is to be used exclusively for educational,

scientific, literary, cultural, charitable or religious purposes. Gen. Stat. § 105-277.2. Certain other ownership provisions apply. The agricultural exemption is designed to apply to land that is actively farmed by its owners. Hence, for example, the exemption has been denied to a corporation that owned a Cumberland County farm and did not ‘actively engage’ in farming the land but, rather, leased the farm to those who did and made most of its income from the land by selling parts of it to third parties. W.R. Company v. N.C. Property Tax Commission, 48 N.C. App. 245, 269 S.E.2d 636 (1980), cert. denied, 301 N.C. 727, 276 S.E.2d 287 (1981).

County assessors are required to review annually one-eighth of the percent use parcels in the county to verify that they qualify for present-use valuation. Gen. Stat. § 105-296(j).

Agricultural land is land that is 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” as defined in the statute. At least one tract in each farm unit must consist of ten or more acres that are actively engaged in the commercial production or growing of crops, plants or animals and have produced an average gross income of at least one thousand dollars for the immediately preceding three years. Land actively engaged in production includes land under improvements which are actively used in production. Gen. Stat. § 105-277.2(1).

Forestland is land that is part of a forest unit which is actively engaged in the commercial growing of trees under a “sound management program.” At least one tract in each forest unit must consist of twenty or more acres that are actively engaged in the commercial growing of trees and are not included in a farm unit. Gen. Stat. § 105-277.2(2).

Horticultural land is land that is part of a horticultural unit which is actively engaged in the commercial production or growing of fruits, vegetables, nursery products or floral products

under a “sound management program.” At least one tract in each horticultural unit must consist of five or more acres which are actively engaged in the commercial production or growing of fruits, vegetables, nursery products or floral products and have produced an average gross income of at least one thousand dollars for the immediately preceding three years. Land which has been used to produce evergreens for Christmas trees must meet special income requirements established by the Department of Revenue. Land actively engaged in production includes land under improvements which are actively used in production. Gen. Stat. § 105-277.2(3).

#### **H. Other exclusions**

In addition to the tax exclusions and exemptions discussed above, there are over 40 separate classes of property which are completely excluded from the ad valorem tax. See Stat. § 105-275 (listing the exclusions). See Exhibit A. These exclusions include: (1) non-business personal property or property used by the owner for purposes other than the production of income (other than motor vehicles, mobile homes, aircraft, watercraft, and engines for watercraft), i.e. home furnishings; (2) intangible personal property (other than leasehold interests in exempted real property and certain computer software); (3) inventories owned by contractors, manufacturers and retail and wholesale merchants; (4) computer software (other than embedded software and software purchased or licensed from another person and capitalized on the books of the taxpayer); (5) certain foreign imports held in a Foreign Trade Zone for the purpose of sale or improvement; (6) certain domestic exports held in a Foreign Trade Zone for the purpose of sale or improvement; (7) certain foreign imports stored in North Carolina for less than a year while awaiting further shipment; (8) certain cargo containers; (9) certain aircraft owned or leased by an interstate air courier; (10) certain personal property shipped into North Carolina for repair,

alteration or maintenance and reshipment back outside of North Carolina; (11) certain personal property manufactured in North Carolina for a non-resident customer and held in North Carolina for shipment for up to one tax year immediately following the transfer of title; (12) certain real property used for historic preservation; (13) certain development rights which have been severed by a duly recorded deed; (14) poultry, livestock and feed for poultry and livestock; (15) certain vehicles owned for short term leases and rentals by an entity engaged in such business; (16) standing timber, pulpwood, seedlings, saplings and other forest growth; (17) certain real and personal property that is both owned by various types of non-profit associations such as water/sewer associations, various veterans organizations, various Masonic organizations and various charitable organizations, and used for certain enumerated purposes; and (18) real or personal property subject to capital leases entered into by local boards of education and used for school facilities. Gen. Stat. § 105-275.

Other exclusions create various classes of property that are to be taxed at reduced rates or reduced values such exclusions apply to: (1) private water companies (Gen. Stat. § 105-277)(h); (2) certain farm products (including crops and excluding poultry and livestock) (Gen. Stat. § 105-277.01); (3) a homestead for elderly or disabled North Carolinians (discussed below in detail) (Gen. Stat. § 105-277.1); (4) property within certain roadway corridors (Gen. Stat. § 105-277.9); (5) precious metals used in manufacturing (Gen. Stat. § 105-277.10) ; (6) antique airplanes (Gen. Stat. § 105-277.12); (7) historic properties (Gen. Stat. § 105-278) (8) burial properties (Gen. Stat. § 105-278.2); and (9) antique automobiles. (Gen. Stat. § 105-330.9).

After July 1, 2003, the income limit is subject to increase each year based on cost-of-living adjustments for Social Security.

### **III. Procedures for claiming exemptions and exclusions**

The taxpayer has the burden of establishing that certain property is entitled to one of the foregoing exclusions or exemptions. Gen. Stat. § 105-282.1(a). Except for properties listed below requiring either no application or a single application, a taxpayer owning excluded or exempted property must file an application for the relevant exclusion or exemption during the listing period, which generally is the month of January each year. Gen. Stat. §§ 105-282.1(a) and 105-307. The Department of Revenue has developed an exemption application form (Form AV-10) that may be used by taxpayers. The form is available on the Department of Revenue's web page: [www.dor.state.nc.us](http://www.dor.state.nc.us).

Property owners need file only one application to claim an exemption or exclusion for the following types of properties: (1) property used for religious purposes under Section 105-278.3; (2) property used for educational purposes under Section 105-278.4; (3) property used for religious education purposes under Section 105-278.5; (4) property used for charitable purposes under Section 105-278.7; (5) property used for charitable hospital purposes under Section 105-278.8 (6); (6) nonprofit water and sewer association property under Section 105-275(3); (7) property of a nonprofit corporation under Section 105-275(7); (8) property used to reduce air or water pollution under Section 105-275(8); (9) property used as a "protected natural area" described in Section 105-275(12); (10) property belonging to by the American Legion or other veterans organizations described in Section 105-275(17); (11) property belonging to Masonic organizations under Section 105-275(18); property belonging to fraternal and civic orders described in Section 105-275(19); (13) property belonging to Goodwill Industries and other training and rehabilitative organizations for disabled persons under Section 105-275(20); (14)

residential property owned by a disabled veteran as described under Section 105-275 (21); (15) severable development rights under Section 105-275(35); (16) property owned by certain nonprofit corporations and used by state or local governments as described in Section 105-275(39); (17) objects of art held by the North Carolina Art Society, Inc. as provided under Section 105-275(41); (18) certain bond financed health care facility under Section 131A-21; (19) property used by private water companies as described in Section 105-277(h); (20) residential homestead exclusion property as described in Section 105-277.1; (21) precious metals as described in Section 105-277.10; (22) improvements on brownfields properties as described in Section 105-277.13; (23) historic properties described in Section 105-278; and (24) nonprofit Homeowners Association property described in Section 105-277.8. Gen. Stat. § 105-282.1(a)(2).

For these exemptions no subsequent applications need be filed unless property or improvements are added or removed to the subject property necessitating a change in valuation or there is a change in use or the eligibility status of the property owner, these necessitating a review of the exclusion or exemptions. Gen. Stat. § 105-282.1(a)(3).

Taxpayers need not file an application to claim an exemption or exclusion applied to the following types of property: (1) government owned property under Section 105-278.1, (2) burial property under Section 105-278.2; (3) timber under Section 105-275(15); (4) nonbusiness personal property under Section 105-275(16); (5) property manufactured in North Carolina for a foreign purchaser under Section 105-275(26); (6) intangible personal property (other than leaseholds in exempt real property and certain computer software, both of which are taxable) under Section 105-275(31); (7) inventory owned by contractors under Section 105-275(32a); (8) inventory owned by manufacturers under Section 105-275(33); (9) inventory owned by retail and

wholesale merchants under Section 105-275(34), poultry, livestock and feed under Section 105-275(37);(10) certain computer software under Section 105-275(40); (11) rental vehicles under Section 105-275(42); (12) solar heating and air conditioning under Section 105-277(g); and (13) roadway corridor property under Section 105-277.9. Gen. Stat. § 105-282.1(a)(1).

If the property is assessed by the Department of Revenue, the exemption application must be filed with the Department. Otherwise, and as is more commonly the case, the application should be filed with the county assessor of the county where the property is located.

Late applications i.e. those filed after the listing period, may be accepted for good cause shown. Gen. Stat. § 105-282.1(a1). However, late applications only apply to the calendar year during which the application is filed. Therefore, even if a single application is generally required for a certain preferential status, such single application must be timely filed (during the listing period). Otherwise, a subsequent application will need to be filed.

Taxpayers may appeal the assessor's denial of an exemption or exclusion application to the county board of equalization and review, and then to the Property Tax Commission, the North Carolina Court of Appeals and the North Carolina Supreme Court, if necessary. See In re Appeal of K-Mart Corp., 319 N.C. 378, 354 S.E.2d 468 (1987) (although decision of county board of equalization and review to grant or deny an exemption for warehoused goods is a discretionary one, it is reviewable by the Property Tax Commission). If the property in question is located within a municipality, the municipality may make a decision independently of the county with respect to the approval or denial of the application.

In the event that a property owner fails to comply with application procedures and does not properly list the subject property, the assessor may discover the property. If the owner

appeals the discovery and convinces the body hearing the appeal that an exemption or exclusion should apply but for the proper filing of an application, the body hearing the appeal may approve the exemption or exclusion. See In re Appeal of Valley Proteins, Inc., 128 N.C. App. 151, 494 S.E.2d 111(1997) (where taxpayer did not use county's prescribed exemption application form but the county nonetheless received all of the relevant information needed to rule on the application, taxpayer's application was timely filed in a substantial compliance with the statute).

The assessor is required to maintain a roster of all excluded or exempted property. Gen. Stat. § 105-282.1(d). This roster must be sent to the Department of Revenue each year by November 1. The assessor must also make an annual review of one-eighth of the exempted or excluded property in the county, so that he covers all exempted or excluded property at least once every eight years." Gen. Stat. § 105-296(j).

#### **IV. Conclusion**

North Carolina's Constitution and its General Statutes set forth several exemptions and exclusions from ad valorem taxes. Generally, those tax preferences depend upon the use of the property and compliance with exemption application procedures. In determining whether property qualifies for an exemption or exclusion, taxpayers should review carefully the applicable exemption statute and the procedural requirements.

## EXHIBIT A

WEST'S NORTH CAROLINA GENERAL STATUTES ANNOTATED  
CHAPTER 105. TAXATION  
SUBCHAPTER II. LISTING, APPRAISAL, AND ASSESSMENT OF PROPERTY AND  
COLLECTION OF TAXES ON PROPERTY  
ARTICLE 12. PROPERTY SUBJECT TO TAXATION

(Updated through 2006 General Assembly Session)

### § 105-275. Property classified and excluded from the tax base

The following classes of property are hereby designated special classes under authority of Article V, Sec. 2(2), of the North Carolina Constitution and shall not be listed, appraised, assessed, or taxed:

- (1) Repealed by Session Laws 1987, c. 813, s. 5.
- (2) Tangible personal property that has been imported from a foreign country through a North Carolina seaport terminal and which is stored at such a terminal while awaiting further shipment for the first 12 months of such storage. (The purpose of this classification is to encourage the development of the ports of this State.)
- (3) Real and personal property owned by nonprofit water or nonprofit sewer associations or corporations.
- (4) Repealed by Session Laws 1987, c. 813, s. 5.
- (5) Vehicles that the United States government gives to veterans on account of disabilities they suffered in World War II, the Korean Conflict, or the Vietnam Era so long as they are owned by:
  - a. A person to whom a vehicle has been given by the United States government or
  - b. Another person who is entitled to receive such a gift under Title 38, section 252, United States Code Annotated.
- (5a) A motor vehicle owned by a disabled veteran that is altered with special equipment to accommodate a service-connected disability. As used in this section, disabled veteran means a person as defined in 38 U.S.C. § 101(2) who is entitled to special automotive equipment for a service-connected disability, as provided in 38 U.S.C. § 3901.
- (6) Special nuclear materials held for or in the process of manufacture, processing, or delivery by the manufacturer or processor thereof, regardless whether the manufacturer or processor owns the special nuclear materials. The terms "manufacture" and "processing" do not include the use of special nuclear materials as fuel. The term "special nuclear materials" includes (i) uranium 233, uranium enriched in the isotope 233 or in the isotope 235; and (ii) any material artificially enriched by any of the foregoing, but not including source material. "Source material" means any material except special nuclear material which contains by weight one twentieth of one percent (0.05%) or more of (i) uranium, (ii) thorium, or (iii) any combination thereof. Provided however, that to qualify for this exemption no such nuclear materials shall be discharged into any river, creek or stream in North Carolina. The classification and exclusion provided for herein shall be denied to any manufacturer, fabricator or processor who permits burial of such material in North Carolina or who permits the discharge of such nuclear materials into the air or into any river, creek or stream in North Carolina if such discharge would contravene in any way the applicable health and safety standards established and enforced by the Department of Environment and Natural Resources or the Nuclear Regulatory Commission. The most stringent of these standards shall govern.

- (7) Real and personal property that is:
  - a. Owned either by a nonprofit corporation formed under the provisions of Chapter 55A of the General Statutes or by a bona fide charitable organization, and either operated by such owning organization or leased to another such nonprofit corporation or charitable organization, and
  - b. Appropriated exclusively for public parks and drives.
- (8) a. Real and personal property that is used or, if under construction, is to be used exclusively for air cleaning or waste disposal or to abate, reduce, or prevent the pollution of air or water (including, but not limited to, waste lagoons and facilities owned by public or private utilities built and installed primarily for the purpose of providing sewer service to areas that are predominantly residential in character or areas that lie outside territory already having sewer service), if the Department of Environment and Natural Resources or a local air pollution control program for air-cleaning devices located in an area where the Environmental Management Commission has certified a local air pollution control program pursuant to G.S. 143-215.112 furnishes a certificate to the tax supervisor of the county in which the property is situated or to be situated stating that the Environmental Management Commission or local air pollution control program has found that the described property:
  - 1. Has been or will be constructed or installed;
  - 2. Complies with or that plans therefor which have been submitted to the Environmental Management Commission or local air pollution control program indicate that it will comply with the requirements of the Environmental Management Commission or local air pollution control program;
  - 3. Is being effectively operated or will, when completed, be required to operate in accordance with the terms and conditions of the permit, certificate of approval, or other document of approval issued by the Environmental Management Commission or local air pollution control program; and
  - 4. Has or, when completed, will have as its primary rather than incidental purpose the reduction of water pollution resulting from the discharge of sewage and waste or the reduction of air pollution resulting from the emission of air contaminants.
- a1. Sub-subdivision a. of this subdivision shall not apply to an animal waste management system, as defined in G.S. 143-215.10B, unless the Environmental Management Commission determines that the animal waste management system will accomplish all of the following:
  - 1. Eliminate the discharge of animal waste to surface waters and groundwater through direct discharge, seepage, or runoff.
  - 2. Substantially eliminate atmospheric emissions of ammonia.
  - 3. Substantially eliminate the emission of odor that is detectable beyond the boundaries of the parcel or tract of land on which the farm is located.
  - 4. Substantially eliminate the release of disease-transmitting vectors and airborne pathogens.
  - 5. Substantially eliminate nutrient and heavy metal contamination of soil and groundwater.

- b. Real or personal property that is used or, if under construction, is to be used exclusively for recycling or resource recovering of or from solid waste, if the Department of Environment and Natural Resources furnishes a certificate to the tax supervisor of the county in which the property is situated stating the Department of Environment and Natural Resources has found that the described property has been or will be constructed or installed, complies or will comply with the rules of the Department of Environment and Natural Resources, and has, or will have as its primary purpose recycling or resource recovering of or from solid waste.
  - c. Tangible personal property that is used exclusively, or if being installed, is to be used exclusively, for the prevention or reduction of cotton dust inside a textile plant for the protection of the health of the employees of the plant, in accordance with occupational safety and health standards adopted by the State of North Carolina pursuant to Article 16 of G.S. Chapter 95. Notwithstanding the exclusive use requirement of this sub-subdivision, all parts of a ventilation or air conditioning system that are integrated into a system used for the prevention or reduction of cotton dust, except for chillers and cooling towers, are excluded from taxation under this sub-subdivision. The Department of Revenue shall adopt guidelines to assist the tax supervisors in administering this exclusion.
  - d. Real or personal property that is used or, if under construction, is to be used by a major recycling facility as defined in G.S. 105-129.25 predominantly for recycling or resource recovering of or from solid waste, if the Department of Environment and Natural Resources furnishes a certificate to the tax supervisor of the county in which the property is situated stating the Department of Environment and Natural Resources has found that the described property has been or will be constructed or installed for use by a major recycling facility, complies or will comply with the rules of the Department of Environment and Natural Resources, and has, or will have as a purpose recycling or resource recovering of or from solid waste.
- (9) through (11) Repealed by Session Laws 1987, c. 813, s. 5.
  - (12) Real property owned by a nonprofit corporation or association exclusively held and used by its owner for educational and scientific purposes as a protected natural area. (For purposes of this subdivision, the term "protected natural area" means a nature reserve or park in which all types of wild nature, flora and fauna, and biotic communities are preserved for observation and study.)
  - (13) Repealed by Session Laws 1973, c. 904.
  - (14) Motor vehicles chassis belonging to nonresidents, which chassis temporarily enters the State for the purpose of having a body mounted thereon.
  - (15) Upon the date on which each county's next general reappraisal of real property under the provisions of G.S. 105-286(a) becomes effective, standing timber, pulpwood, seedlings, saplings, and other forest growth. (The purpose of this classification is to encourage proper forest management practices and to develop and maintain the forest resources of the State.)
  - (16) Non-business Property. – As used in this subdivision, the term "non-business property" means personal property that is used by the owner of the property for a purpose other than the production of income and is not used in connection with a business. The term includes household furnishings, clothing, pets, lawn tools, and

lawn equipment. The term does not include motor vehicles, mobile homes, aircraft, watercraft, or engines for watercraft.

- (17) Real and personal property belonging to the American Legion, Veterans of Foreign Wars, Disabled American Veterans, or to any similar veterans organizations chartered by the Congress of the United States or organized and operated on a statewide or nationwide basis, and any post or local organization thereof, when used exclusively for meeting or lodge purposes by said organization, together with such additional adjacent real property as may be necessary for the convenient and normal use of the buildings thereon. Notwithstanding the exclusive-use requirement hereinabove established, if a part of a property that otherwise meets this subdivision's requirements is used for a purpose that would require that it not be listed, appraised, assessed or taxed if the entire property were so used, that part, according to its value, shall not be listed, appraised, assessed or taxed. The fact that a building or facility is incidentally available to and patronized by the general public, so far as there is no material amount of business or patronage with the general public, shall not defeat the classification granted by this section.
- (18) Real and personal property belonging to the Grand Lodge of Ancient, Free and Accepted Masons of North Carolina, the Prince Hall Masonic Grand Lodge of North Carolina, their subordinate lodges and appendant bodies including the Ancient and Arabic Order Nobles of the Mystic Shrine, and the Ancient Egyptian Order Nobles of the Mystic Shrine, when used exclusively for meeting or lodge purposes by said organization, together with such additional adjacent real property as may be necessary for the convenient normal use of the buildings thereon. Notwithstanding the exclusive-use requirement hereinabove established, if a part of a property that otherwise meets this subdivision's requirements is used for a purpose that would require that it not be listed, appraised, assessed or taxed if the entire property were so used, that part, according to its value, shall not be listed, appraised, assessed or taxed. The fact that a building or facility is incidentally available to and patronized by the general public, so far as there is no material amount of business or patronage with the general public, shall not defeat the classification granted by this section.
- (19) Real and personal property belonging to the Loyal Order of Moose, the Benevolent and Protective Order of Elks, the Knights of Pythias, the Odd Fellows, the Woodmen of the World, and similar fraternal or civic orders and organizations operated for nonprofit benevolent, patriotic, historical, charitable, or civic purposes, when used exclusively for meeting or lodge purposes by the organization, together with as much additional adjacent real property as may be necessary for the convenient normal use of the buildings. Notwithstanding the exclusive-use requirement of this subdivision, if a part of a property that otherwise meets this subdivision's requirements is used for a purpose that would require that it not be listed, appraised, assessed, or taxed if the entire property were so used, that part, according to its value, shall not be listed, appraised, assessed, or taxed. The fact that a building or facility is incidentally available to and patronized by the general public, so far as there is no material amount of business or patronage with the general public, shall not defeat the classification granted by this section. Nothing in this subdivision shall be construed so as to include social fraternities, sororities, and similar college, university, or high school organizations in the classification for exclusion from ad valorem taxes.
- (20) Real and personal property belonging to Goodwill Industries and other charitable organizations organized for the training and rehabilitation of disabled persons when

used exclusively for training and rehabilitation, including commercial activities directly related to such training and rehabilitation.

- (21) The first thirty-eight thousand dollars (\$38,000) in assessed value of housing together with the necessary land therefor, owned and used as a residence by a disabled veteran who receives benefits under 38 U.S.C. § 2101. This exclusion shall be the total amount of the exclusion applicable to such property.
- (22) Repealed by Session Laws 1987, c. 813, s. 5.
- (23) Tangible personal property imported from outside the United States and held in a Foreign Trade Zone for the purpose of sale, manufacture, processing, assembly, grading, cleaning, mixing or display and tangible personal property produced in the United States and held in a Foreign Trade Zone for exportation, either in its original form or as altered by any of the above processes.
- (24) Cargo containers and container chassis used for the transportation of cargo by vessels in ocean commerce.

The term "container" applies to those nondisposable receptacles of a permanent character and strong enough for repeated use and specially designed to facilitate the carriage of goods, by one or more modes of transport, one of which shall be by ocean vessels, without intermediate reloadings and fitted with devices permitting its ready handling particularly in the transfer from one transport mode to another.

- (24a) Aircraft that is owned or leased by an interstate air courier, is apportioned under G.S. 105-337 to the air courier's hub in this State, and is used in the air courier's operations in this State. For the purpose of this subdivision, the terms "interstate air courier" and "hub" have the meanings provided in G.S. 105-164.3.
- (25) Tangible personal property shipped into this State for the purpose of repair, alteration, maintenance or servicing and reshipment to the owner outside this State.
- (26) For the tax year immediately following transfer of title, tangible personal property manufactured in this State for the account of a nonresident customer and held by the manufacturer for shipment. For the purpose of this subdivision, the term "nonresident" means a taxpayer having no place of business in North Carolina.
- (27), (28) Repealed by Session Laws 1983, c. 643, s. 1.
- (29) Real property and easements wholly and exclusively held and used for nonprofit historic preservation purposes by a nonprofit historical association or institution, including real property owned by a nonprofit corporation organized for historic preservation purposes and held by its owner exclusively for sale under an historic preservation agreement prepared and recorded under the provisions of the Conservation and Historic Preservation Agreements Act, Article 4, Chapter 121 of the General Statutes of North Carolina.
- (29a) Land within an historic district held, by a nonprofit corporation organized for historic preservation purposes, for use as a future site for an historic structure that is to be moved to the site from another location. Property may be classified under this subdivision for no more than five years. The taxes that would otherwise be due on land classified under this subdivision shall be a lien on the real property of the taxpayer as provided in G.S. 105-355(a). The taxes shall be carried forward in the records of the taxing unit or units as deferred taxes and shall be payable five years from the fiscal year the exclusion is first claimed unless an historic structure is moved onto the site during that time. If an historic structure has not been moved to the site within five years, then deferred taxes for the preceding five fiscal years shall immediately be payable, together with interest as provided in G.S. 105-360 for unpaid taxes that shall accrue on the deferred taxes as if they had been payable on the

dates on which they would originally become due. All liens arising under this subdivision are extinguished upon either the payment of any deferred taxes under this subdivision or the location of an historic structure on the site within the five-year period allowed under this subdivision.

- (30) Repealed by Session Laws 1987, c. 813, s. 5.
- (31) Intangible personal property other than leasehold interests in exempted real property. This subdivision does not affect the taxation of software not otherwise excluded by subdivision (40) of this section.
- (31a) through (31d) Repealed by Session Laws 1997-23, s. 3.
- (32) Recodified as § 105-278.6A by Session Laws 1998-212, s. 29A.18(a), effective for taxes imposed for taxable years beginning on or after July 1, 1998.
- (32a) Inventories owned by contractors.
- (33) Inventories owned by manufacturers.
- (34) Inventories owned by retail and wholesale merchants.
- (35) Severable development rights, as defined in G.S. 136-66.11(a), when severed and evidenced by a deed recorded in the office of the register of deeds pursuant to G.S. 136-66.11(c).
- (36) Repealed by Session Laws 2001-474, s. 8, effective November 29, 2001.
- (37) Poultry and livestock and feed used in the production of poultry and livestock.
- (38) Repealed by Session Laws 2001-474, s. 8, effective November 29, 2001.
- (39) Real and personal property that is: (i) owned by a nonprofit corporation organized upon the request of a State or local government unit for the sole purpose of financing projects for public use, (ii) leased to a unit of State or local government whose property is exempt from taxation under G.S. 105-278.1, and (iii) used in whole or in part for a public purpose by the unit of State or local government. If only part of the property is used for a public purpose, only that part is excluded from the tax. This subdivision does not apply if any distributions are made to members, officers, or directors of the nonprofit corporation.
- (39a) A correctional facility, including construction in progress, that is located on land owned by the State and is constructed pursuant to a contract with the State, and any leasehold interest in the land owned by the State upon which the correctional facility is located.
- (40) Computer software and any documentation related to the computer software. As used in this subdivision, the term "computer software" means any program or routine used to cause a computer to perform a specific task or set of tasks. The term includes system and application programs and database storage and management programs.

The exclusion established by this subdivision does not apply to computer software and its related documentation if the computer software meets one or more of the following descriptions:

- a. It is embedded software. "Embedded software" means computer instructions, known as microcode, that reside permanently in the internal memory of a computer system or other equipment and are not intended to be removed without terminating the operation of the computer system or equipment and removing a computer chip, a circuit, or another mechanical device.
- b. It is purchased or licensed from a person who is unrelated to the taxpayer and it is capitalized on the books of the taxpayer in accordance with generally accepted accounting principles, including financial accounting standards issued by the Financial Accounting Standards Board. A person is unrelated to a taxpayer if (i) the taxpayer and the person are not subject to any common

ownership, either directly or indirectly, and (ii) neither the taxpayer nor the person has any ownership interest, either directly or indirectly, in the other.

This subdivision does not affect the value or taxable status of any property that is otherwise subject to taxation under this Subchapter.

The provisions of the exclusion established by this subdivision are not severable. If any provision of this subdivision or its application is held invalid, the entire subdivision is repealed.

- (41) Objects of art held by the North Carolina Art Society, Incorporated.
- (42) A vehicle that is offered at retail for short-term lease or rental and is owned or leased by an entity engaged in the business of leasing or renting vehicles to the general public for short-term lease or rental. For the purposes of this subdivision, the term "short-term lease or rental" shall have the same meaning as in G.S. 105-187.1, and the term "vehicle" shall have the same meaning as in G.S. 153A-156(e) and G.S. 160A-215.1(e). A gross receipts tax as set forth by G.S. 153A-156 and G.S. 160A-215.1 is substituted for and replaces the ad valorem tax previously levied on these vehicles.