

North Carolina General Statutes

ARTICLE 12. *Property Subject to Taxation.*

[Editor's Note: The following are only selected sections of Article 12. The Article in its entirety is contained in the official print version of the *North Carolina General Statutes*.]

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

The following definitions apply in G.S. 105-277.3 through G.S. 105-277.7:

- (1) 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 meet the requirements in G.S. 105-277.3(a)(1), and each tract must be under a sound management program.
- (1a) Business entity. - A corporation, a general partnership, a limited partnership, or a limited liability company.
- (2) Forestland. - Land that is a part of a forest unit

that is actively engaged in the commercial growing of trees under a sound management program.

Forestland includes wasteland that is a part of the forest unit, but the wasteland included in the unit shall be appraised under the use-value schedules as wasteland. A forest unit may consist of more than one tract of forestland, but at least one of the tracts must meet the requirements in G.S.

105-277.3(a)(3), and each tract must be under a sound management program.

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

- (4) Individually owned. - Owned by one of the following:

- a. A natural person. For the purpose of this section, a natural person who is an income

beneficiary of a trust that owns land may elect to treat the person's beneficial share of the land as owned by that person. If the person's beneficial interest is not an identifiable share of land but can be established as a proportional interest in the trust income, the person's beneficial share of land is a percentage of the land owned by the trust that corresponds to the beneficiary's proportional interest in the trust income. For the purpose of this section, a natural person who is a member of a business entity, other than a corporation, that owns land may elect to treat the person's share of the land as owned by that person. The person's share is a percentage of the land owned by the business entity that corresponds to the person's percentage of ownership in the entity.

- b. A business entity having as its principal business one of the activities described in subdivisions (1), (2), and (3) and whose members are all natural persons who meet one or more of the following conditions:
 - 1. The member is actively engaged in the business of the entity.
 - 2. The member is a relative of a member who is actively engaged in the business of the entity.
 - 3. The member is a relative of, and

inherited the membership interest from, a decedent who met one or both of the preceding conditions after the land qualified for classification in the hands of the business entity.

c. A trust that was created by a natural person who transferred the land to the trust and each of whose beneficiaries who is currently entitled to receive income or principal meets one of the following conditions:

1. Is the creator of the trust or the creator's relative.
2. Is a second trust whose beneficiaries who are currently entitled to receive income or principal are all either the creator of the first trust or the creator's relatives.

d. A testamentary trust that meets all of the following conditions:

1. It was created by a natural person who transferred to the trust land that qualified in that person's hands for classification under G.S. 105-277.3.
2. At the time of the creator's death, the creator had no relatives as defined in this section as of the date of death.
3. The trust income, less reasonable administrative expenses, is used

exclusively for educational, scientific,
literary, cultural, charitable, or
religious purposes as defined in G.S.
105-278.3(d).

(4a) Member. - A shareholder of a corporation, a partner of a general or limited partnership, or a member of a limited liability company.

(5) Present-use value. - The value of land in its current use as agricultural land, horticultural land, or forestland, based solely on its ability to produce income, using a rate of nine percent (9%) to capitalize the expected net income of the property and assuming an average level of management.

(5a) Relative. - Any of the following:

- a. A spouse or the spouse's lineal ancestor or descendant.
- b. A lineal ancestor or a lineal descendant.
- c. A brother or sister, or the lineal descendant of a brother or sister. For the purposes of this sub-subdivision, the term brother or sister includes stepbrother or stepsister.
- d. An aunt or an uncle.
- e. A spouse of a person listed in paragraphs a. through d.

For the purpose of this subdivision, an adoptive or adopted relative is a relative and the term "spouse" includes a surviving spouse.

(6) Sound management program. - A program of production

designed to obtain the greatest net return from the land consistent with its conservation and long-term improvement. (1973, c. 709, s. 1; 1975, c. 746, s. 1; 1985, c. 628, s. 1; c. 667, ss. 1, 4; 1987, c. 698, s. 1; 1995, c. 454, s. 1; 1995 (Reg. Sess., 1996), c. 646, s. 17; 1998-98, s. 24.)

**§ 105-277.3. Agricultural, horticultural, and forestland -
Classifications.**

(a)Classes Defined. - The following classes of property are designated special classes of property under authority of Section 2(2) of Article V of the North Carolina Constitution and shall be appraised, assessed, and taxed as provided in G.S. 105-277.2 through G.S. 105-277.7.

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

production or growing of crops, plants, or animals.

(2) Horticultural land. - Individually owned

horticultural land consisting of one or more tracts, one of which consists of at least five acres that are in actual production and that, for the three years preceding January 1 of the year for which the benefit of this section is claimed, have met the applicable minimum gross income requirement. Land in actual production includes land under improvements used in the commercial production or growing of fruits or vegetables or nursery or floral products. Land that has been used to produce evergreens intended for use as Christmas trees must have met the minimum gross income requirements established by the Department of Revenue for the land. All other horticultural land must have produced an average gross income of at least one thousand dollars (\$1,000). Gross income includes income from the sale of the horticultural products produced from the land and any payments received under a governmental soil conservation or land retirement program.

(3) Forestland. - Individually owned forestland

consisting of one or more tracts, one of which consists of at least 20 acres that are in actual production and are not included in a farm unit.

(b) Natural Person Ownership Requirements. - In order to come within a classification described in subsection (a) of this section, the land must, if owned by a natural person, also

satisfy one of the following conditions:

- (1) It is the owner's place of residence.
- (2) It has been owned by the current owner or a relative of the current owner for the four years preceding January 1 of the year for which the benefit of this section is claimed.
- (3) At the time of transfer to the current owner, it qualified for classification in the hands of a business entity or trust that transferred the land to the current owner who was a member of the business entity or a beneficiary of the trust, as appropriate.

(b1)Entity Ownership Requirements. - In order to come within a classification described in subsection (a) of this section, the land must, if owned by a business entity or trust, have been owned by the business entity or trust or by one or more of its members or creators, respectively, for the four years immediately preceding January 1 of the year for which the benefit of this section is claimed.

(b2)Exception to Ownership Requirements. - G.S. 105-277.4(c) provides that deferred taxes are payable if land fails to meet any condition or requirement for classification. Accordingly, if land fails to meet an ownership requirement due to a change of ownership, G.S. 105-277.4(c) applies. Despite this failure and the resulting liability for taxes under G.S. 105-277.4(c), the land may qualify for classification in the hands of the new owner if both of the conditions listed in this subsection are met, even if the new owner does not meet all of the ownership

requirements of subsections (b) and (b1) of this section with respect to the land. If the land qualifies for classification in the hands of the new owner under the provisions of this subsection, then the new owner becomes liable for the deferred taxes, and the deferred taxes become payable if the land fails to meet any other condition or requirement for classification.

(1) The land was appraised at its present use value or was eligible for appraisal at its present use value at the time title to the land passed to the new owner.

(2) At the time title to the land passed to the new owner, the new owner acquires the land for the purposes of and continues to use the land for the purposes it was classified under subsection (a) of this section while under previous ownership.

(c) Repealed by Session Laws 1995, c. 454, s. 2.

(d) Exception for Conservation Reserve Program. - Land enrolled in the federal Conservation Reserve Program authorized by 16 U.S.C. § 1381 is considered to be in actual production, and income derived from participation in the federal Conservation Reserve Program may be used in meeting the minimum gross income requirements of this section either separately or in combination with income from actual production. Land enrolled in the federal Conservation Reserve Program shall be assessed as agricultural land if it is planted in vegetation other than trees, or as forestland if it is planted in trees.

(e) Exception for Turkey Disease. - Agricultural land that meets all of the following conditions is considered to be in actual production and to meet the minimum gross income

requirements:

- (1) The land was in actual production in turkey growing within the preceding two years and qualified for present use value treatment while it was in actual production.
- (2) The land was taken out of actual production in turkey growing solely for health and safety considerations due to the presence of Poultry Enteritis Mortality Syndrome among turkeys in the same county or a neighboring county.
- (3) The land is otherwise eligible for present use value treatment. (1973, c. 709, s. 1; 1975, c. 746, s. 2; 1983, c. 821; c. 826; 1985, c. 667, ss. 2, 3, 6.1; 1987, c. 698, ss. 2-5; 1987 (Reg. Sess., 1988), c. 1044, s. 13.1; 1989, cc. 99, 736, s. 1; 1989 (Reg. Sess., 1990), c. 814, s. 29; 1995, c. 454, s. 2; 1997-272, s. 1; 1998-98, s. 22; 2001-499, s. 1.)

§ 105-277.4. Agricultural, horticultural and forestland -

Application; appraisal at use value; appeal; deferred taxes.

(a)Application. - Property coming within one of the classes defined in G.S. 105-277.3 shall be eligible for taxation on the basis of the value of the property in its present use if a timely and proper application is filed with the assessor of the county in which the property is located. The application

shall clearly show that the property comes within one of the classes and shall also contain any other relevant information required by the assessor to properly appraise the property at its present-use value. An initial application shall be filed during the regular listing period of the year for which the benefit of this classification is first claimed, or within 30 days of the date shown on a notice of a change in valuation made pursuant to G.S. 105-286 or G.S. 105-287. A new application is not required to be submitted unless the property is transferred or becomes ineligible for use-value appraisal because of a change in use or acreage.

(b) Appraisal at Present-use Value. - Upon receipt of a properly executed application, the assessor shall appraise the property at its present-use value as established in the schedule prepared pursuant to G.S. 105-317. In appraising the property at its present-use value, the assessor shall appraise the improvements located on qualifying land according to the schedules and standards used in appraising other similar improvements in the county. If all or any part of a qualifying tract of land is located within the limits of an incorporated city or town, or is property annexed subject to G.S. 160A-37(f1) or G.S. 160A-49(f1), the assessor shall furnish a copy of the property record showing both the present-use appraisal and the valuation upon which the property would have been taxed in the absence of this classification to the collector of the city or town. He shall also notify the tax collector of any changes in the appraisals or in the eligibility of the property for the benefit of this classification. Upon a request for a certification pursuant to G.S. 160A-37(f1) or G.S.160A-49(f1),

or any change in the certification, the assessor for the county where the land subject to the annexation is located shall, within 30 days, determine if the land meets the requirements of G.S. 160A-37(f1)(2) or G.S. 160A-49(f1)(2) and report the results of its findings to the city.

(b1)Appeal. - Decisions of the assessor regarding the qualification or appraisal of property under this section may be appealed to the county board of equalization and review or, if that board is not in session, to the board of county commissioners. Decisions of the county board may be appealed to the Property Tax Commission.

(c) Deferred Taxes. - Land meeting the conditions for classification under G.S. 105-277.3 shall be taxed on the basis of the value of the land for its present use. The difference between the taxes due on the present-use basis and the taxes that would have been payable in the absence of this classification, together with any interest, penalties, or costs that may accrue thereon, are a lien on the real property of the taxpayer as provided in G.S. 105-355(a). The difference in taxes shall be carried forward in the records of the taxing unit or units as deferred taxes. The taxes become due and payable when the land fails to meet any condition or requirement for classification. The tax for the fiscal year that opens in the calendar year in which deferred taxes become due is computed as if the land had not been classified for that year, and taxes for the preceding three fiscal years that have been deferred are immediately payable, together with interest as provided in G.S. 105-360 for unpaid taxes. Interest accrues on the deferred taxes

due as if they had been payable on the dates on which they originally became due. If only a part of the qualifying tract of land fails to meet a condition or requirement for classification, a determination shall be made of the amount of deferred taxes applicable to that part and that amount becomes payable with interest as provided above. Upon the payment of any taxes deferred in accordance with this section for the three years immediately preceding a disqualification, all liens arising under this subsection are extinguished. The deferred taxes for any given year may be paid in that year without the qualifying tract of land becoming ineligible for deferred status.

(d) Exceptions. - Notwithstanding the provisions of subsection (c) of this section, if property loses its eligibility for present use value classification solely due to one of the following reasons, no deferred taxes are due and the lien for the deferred taxes is extinguished:

- (1) There is a change in income caused by enrollment of the property in the federal conservation reserve program established under 16 U.S.C. Chapter 58.
- (2) The property is conveyed by gift to a nonprofit organization and qualifies for exclusion from the tax base pursuant to G.S. 105-275(12) or G.S. 105-275(29).
- (3) The property is conveyed by gift to the State, a political subdivision of the State, or the United States.

(e) Repealed by Session Laws 1997-270, s. 3. (1973, c. 709, s. 1; c. 905; c. 906, ss. 1, 2; 1975, c. 62; c. 746, ss. 3-7;

1981, c. 835; 1985, c. 518, s. 1; c. 667, ss. 5, 6; 1987, c. 45, s. 1; c. 295, s. 5; c. 698, s. 6; 1987 (Reg. Sess., 1988), c. 1044, s. 13.2; 1995, c. 443, s. 4; c. 454, s. 3; 1997-270, s. 3; 1998-98, s. 23; 1998-150, s. 1; 2001-499, s. 2.)

§ 105-277.5. Agricultural, horticultural and forestland -

Notice of change in use.

Not later than the close of the listing period following a change which would disqualify all or a part of a tract of land receiving the benefit of this classification, the property owner shall furnish the assessor with complete information regarding such change. Any property owner who fails to notify the assessor of changes as aforesaid regarding land receiving the benefit of this classification shall be subject to a penalty of ten percent (10%) of the total amount of the deferred taxes and interest thereon for each listing period for which the failure to report continues. (1973, c. 709, s. 1; 1975, c. 746, s. 8; 1987, c. 45, s. 1.)

§ 105-277.6. Agricultural, horticultural and forestland -

Appraisal; computation of deferred tax.

(a) In determining the amount of the deferred taxes herein provided, the assessor shall use the appraised valuation established in the county's last general revaluation except for any changes made under the provisions of G.S. 105-287.

(b) In revaluation years, as provided in G.S. 105-286, all

property entitled to classification under G.S. 105-277.3 shall be reappraised at its true value in money and at its present use value as of the effective date of the revaluation. The two valuations shall continue in effect and shall provide the basis for deferred taxes until a change in one or both of the appraisals is required by law. The present use-value schedule, standards, and rules shall be used by the tax assessor to appraise property receiving the benefit of this classification until the next general revaluation of real property in the county as required by G.S. 105-286.

(c) Repealed by Session Laws 1987, c. 295, s. 2. (1973, c. 709, s. 1; 1975, c. 746, ss. 9, 10; 1987, c. 45, s. 1, c. 295, s. 2.)

§ 105-277.7. Use-Value Advisory Board.

The Use-Value Advisory Board is established under the supervision of the Agricultural Extension Service of North Carolina State University. The Board shall annually submit to the Department of Revenue a recommended use-value manual developed in accordance with the guidelines in G.S. 105-289(a)(5). In developing the manual, the Board may consult with federal and State agencies as needed. The Board shall submit to the Department of Revenue recommendations concerning requirements for horticultural land used to produce evergreens intended for use as Christmas trees when requested to do so by the Department.

The Board shall be chaired by the Director of the Agricultural Extension Service of North Carolina State

University and shall consist of the following additional members: a representative of the Department of Agriculture and Consumer Services, designated by the Commissioner of Agriculture; a representative of the Forest Resources Division of the Department of Environment and Natural Resources, designated by the Director of that Division; and a representative of the Agricultural Extension Service at North Carolina Agricultural and Technical State University, designated by the Director of the Extension Service. All members shall serve ex officio. The Agricultural Extension Service at North Carolina State University shall provide clerical assistance to the Board. (1973, c. 709, s. 1; 1975, c. 746, s. 11; 1985, c. 628, s. 2; 1989, c. 727, s. 218(44); c. 736, s. 2; 1997-261, s. 109; 1997-443, s. 11A.119(a).)