

Builder's Inventory **Property Tax Deferral**

North Carolina Department of Revenue
Property Tax Division
Lee Harris

Builder's Inventory

- S.L. 2009-308, House Bill 852—Effective for 2010, Repealed in 2013.
- AN ACT TO DEFER A PORTION OF THE PROPERTY TAX DUE ON REAL PROPERTY HELD FOR SALE BY A BUILDER.
- G.S. 105-277.1D—Inventory Property Tax Deferral

Deferment of Taxes

- Taxes are deferred on the residence until a disqualifying event takes place.
- All deferred taxes, with any applicable interest, are due, payable, and delinquent upon a disqualifying event.
- The fiscal year that begins in the calendar year in which the disqualifying event occurs is billed as if the property was not classified for that year.

Notice by Collector

- On or before September 1 of each year, the collector shall notify each builder to whom a tax deferral has previously been granted of the accumulated sum of deferred taxes and interest.

What property qualifies?

- An individual's residence constructed and owned by a builder. (DOES NOT include remodeling or renovating.)
- Must be unoccupied.
- Intended to be sold.
- Certificate of occupancy issued prior to January 1.

Does the term “residence” include manufactured homes and modular homes?

- Yes, in our opinion. It is the opinion of NCDOR that the term “residence” includes manufactured homes and modular homes. They are improvements made to the land by a builder, even though most of the construction was completed at a manufacturing facility. The owner would still have to meet the definition of “builder” and the property must have received a certificate of occupancy.

The benefit is for the residence. Does the term “residence” include detached items?

- Yes, in our opinion. The Property Tax Division recommends including as "residence" the detached garages, pools, gazebos, tennis courts, etc. if located on the dwelling home site and if they were built in conjunction with the dwelling. This is consistent with the definition used for the Elderly/Disabled Exclusion in G.S. 105-277.1(b)(3). Granted, the Elderly/Disabled Exclusion is a different provision in the Machinery Act but it is the only guide that we have.

Does the land qualify?

- No. A builder may only defer the portion of the tax that represents the increase in the value of the property attributable solely to improvements resulting from the construction by the builder of a residence on the property.

Is an annual application required?

- Yes. An annual application is required for each year that the builder wishes to defer taxes.

Absent an exception in G.S. 105-282.1 or a special provision in the specific exemption or exclusion statute itself, an annual application is required.

Is there a separate application for this deferral?

- No. The general exemption/exclusion form AV-10 has been re-designed and includes this deferral. The application asks for the general contractor's license number and a copy of the certificate of occupancy.

Must the owner be a builder?

Yes. The residence must be owned and constructed by a builder.

Must the owner have a general contractor's license?

Yes. The owner must have a general contractor's license.

Who is a builder?

- G.S. 105-273(3a) "Builder" means a taxpayer licensed as a general contractor under G.S. 87-1 and engaged in the business of buying real property, making improvements to it, and then reselling it.
- The owner must be a builder who has a valid general contractor's license.

Must the owner be **the builder** **that built** the improvement?

- Yes. A builder may only defer the portion of the tax attributable solely to improvements resulting from the construction by the builder of a residence on the property.
- In other words, the builder can only defer taxes on improvements built by that builder, which means that builder must be the owner to qualify.

How can the license be verified?

- The license number and holder's name can be verified at this page on the N. C. Licensing Board for General Contractors:

http://www.nclbgc.net/lic_fr.html



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Enter Either

License Number:

or Licensee Name:

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If searching for a licensee name, utilize the following procedure:

To find "Acme And Dunbar Incorporated," you should type "Acme And Dunbar," making sure to capitalize each word. This entry will present a list of all the licensees with the phrase "Acme And Dunbar" contained in the licensee name.

If searching for a license in an individual's name, type the last name, followed by a comma and the first name. For example, "John Doe" would be typed as "Doe, John." Proper capitalization is required.

The North Carolina Licensing Board for General Contractors
3739 National Drive, Suite 225, Raleigh, NC 27612
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Name	Number	Status
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ABC Paving Co., Inc.	13391	Archived
ABC Quality Homes of NC, Inc.	62976	Revoked
Abco Builders, Inc.	6345	Archived
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NUMBER	13490
STATUS	Active
<hr/>	
Name	ABCO, Incorporated
Address	P. O. Box 3298 Wilson, NC 27895-3298
County	Wilson
Telephone	(252) 237-1156
Renewal Date *	January 1, 2010
Limitations	Unlimited
Classifications	Building

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* Date of most recent license renewal on record



North Carolina Licensing Board for General Contractors

Qualifier List

ABCO, Incorporated

Allen, Dewey F.

Allen, James D.

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When is the first year that property is eligible for deferment?

- 2010. The “effective date” language in S.L. 2009-308 reads: “This act is effective for taxes imposed for taxable years beginning on or after July 1, 2010.” That is the General Assembly’s technical way of saying that it is effective for the 2010 tax year.

When is the last year that property is eligible for deferment?

- “The act is repealed effective for taxes imposed for taxable years beginning on or after July 1, 2013.”
- It is clear that if the builder was not receiving the property tax benefit prior to 2013, they cannot receive any benefit for 2013 or later.

What is not as clear?

- “Residences receiving the property tax benefit provided by this act are not affected by the repeal of this act until the occurrence of a disqualifying event.”
- This language can be interpreted in at least two ways.

Is this being clarified?

- The following language has been introduced at the Revenue Laws Study Committee:
- “Notwithstanding the repeal of this act, residences that are receiving the property tax benefit provided by this act in the year immediately prior to the repeal are not affected by the repeal of this act and remain eligible for approval of this benefit for subsequent taxable years until the occurrence of a disqualifying event.”

How to plan?

- The counties would probably be well advised to write their programming code assuming that this proposed revision will be enacted.

What are the disqualifying events?

- A disqualifying event occurs at the EARLIEST of:
 - (1) when the builder transfers the residence,
 - (2) when the residence is occupied by the builder or by someone other than the builder with the builder's consent,

What are the disqualifying events?

(3) five years from the time the improved property was first subject to being listed for taxation by the builder, and

(4) three years from the time the improved property first received the property tax benefit.

**What is the maximum number of
years that a builder can receive
the property tax deferral?**

- Three years.

DQ Issues

- One of the disqualifying events occurs when the builder transfers the residence. Does this mean that any transfer by the builder will be a disqualifying event, even if between related entities?
- Yes. The statute clearly states that a transfer by the builder is a disqualifying event, with no exceptions. If a deed is recorded that transfers the property, with or without consideration, the property will be disqualified.

DQ Issues

- One of the disqualifying events occurs when the builder transfers the residence. Is it a disqualifying event when the property is transferred to the builder?
- No. The property could qualify if the property is transferred to the builder who built the residence.

DQ Issues

- One of the disqualifying events occurs when the residence is occupied by the builder or by someone other than the builder with the builder's consent. Can the property qualify if the property is occupied and then becomes unoccupied again?
- No. Once the property has been occupied, it is disqualified from eligibility.

DQ Issues

- One of the disqualifying events occurs five years from the time the improved property was first subject to being listed for taxation by the builder. Does the five year period start when the completed property was first subject to being listed for taxation?
- The five year period starts when the improved property, whether still under construction or complete, is first subject to being listed. The property is improved once the construction of the improvements begins. The improvements may or may not be complete but they are subject to listing, thus starting the five year period.

What is the starting point for determining when a disqualifying event takes place?

- Transfers—Date of transfer.
- Occupation—Date the property is occupied.
- Listing—For the five years from the time the improved property was first subject to being listed—The starting period is January 1.

What is the starting point for determining when a disqualifying event takes place?

- Benefit—For the three years from the time the improved property first received the property tax benefit—The starting period is July 1 of the fiscal year the benefit was first received.

For example, a taxpayer who qualifies for 2010 would experience a disqualifying event on July 1, 2013, which is three years from July 1, 2010 when the property first received the benefit. This gives the benefit for three years which was the legislative intent.

Question 1

- A builder purchases a lot and house in January 2009. The house was built in 1927 and is in such disrepair that the city classified it as unfit for human habitation in 2005. The builder extensively renovates the house and obtains a C.O. in December 2009.
- **True or False?** The house is eligible for the deferral for the 2010 tax year.
- **FALSE (Deferral not allowed for renovations.)**

Question 2

- A builder purchases a vacant lot in February 2009 and completes construction of a house on the lot in December 2009. The builder lists the property for taxation on January 1, 2010 and obtains a Certificate of Occupancy (“C.O.”) for the house in March 2010.
- **True or False?** The house is eligible for the deferral for the 2010 tax year.
- **FALSE (C.O. not in place as of January 1.)**

Question 3

- A builder applies for and receives the deferral on Parcel B for the 2010 tax year. In February 2011, Parcel B is still on the market and the builder decides to move his family into the home on Parcel B until the property sells.
- **What taxes are immediately delinquent?**
- **2010 taxes**

Question 4

- A builder applies for and receives the deferral on Parcel A for the 2010 tax year. The builder sells Parcel A in September 2010.
- **True or False?** Parcel A is eligible for the deferral for the entire 2010 tax year.
- **FALSE (Taxed as if not classified for that year.)**

Question 5

- In mid-2009, a builder completes construction on a new 45-unit residential condominium building in downtown Raleigh and obtains a C.O. for all of the units. As of January 1, 2010, 15 of the condominium units have been sold.
- **True or False?** The builder may obtain the deferral on the 30 units that have yet to be sold as of January 1, 2010.
- **TRUE (These are still individual's residences.)**