

Local Privilege License Taxes in NC

Chris McLaughlin
Assistant Professor, UNC SOG
mclaughlin@sog.unc.edu
919.843.9167



What's going on here?



Local PLT's Since 1997

- **Municipalities** (§160A-211):
 - GENERAL authority to levy PLT's on all businesses
 - EXCEPT as limited by 30 repealed Schedule B provisions
- **Counties**(§153A-152):
 - SPECIFIC authority to levy PLT'S on certain businesses
 - ONLY as permitted by 11 repealed Schedule B provisions



Current State PLTs

(All but 7 state PLTs were repealed as of July 1997)

Amusements	3%
Motion Picture Shows	1%
Professionals	\$50
Installment Paper Dealers	.277% of face value of obligations/quarter
Loan agencies, check cashers, pawnbrokers	\$250 per location
Banks	\$30 for each \$1 million in assets
Newsprint publishers	\$15 on each ton that fails to meet the applicable content percentage

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Local Privilege License Taxes in North Carolina

Carolina County Businesses

General Rule:
No Privilege Taxes Without Specific Authorization
G.S. 153A-152

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Local Privilege License Taxes in North Carolina

Carolina County Businesses

Blue Devil City Businesses

Taxes Authorized
(G.S. 160A-211)

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The Key Question

- For Counties:
“Is there a statute that authorizes us to tax this business?”
- For Cities:
“Is there a statute that restricts us from taxing this business?”

How to Tax Target?

- **“General Retail” on all sales . . . except**
 - Bicycles (\$25 max)
 - DVDs (\$25)
 - Computers, calculators (No tax)
 - Ice Cream (\$2.50 max)
 - Motor Oil/Auto Accessories (\$12.50 max)
- **Plus...**
 - Chain Store (\$50)
 - Restaurant (\$42.50)
 - Barber Shop/Beauty Salon (\$2.50 per stylist)
 - Check Cashing (\$100)
 - Vending Machines (????)



Sample City PLT Provisions For Retailers

- Gross Receipts
 - Durham: \$50 up to \$15,000, then 50¢ per \$,1000; no max
 - Charlotte: 60¢ per \$1,000; \$10,000 max tax
- Flat Fee
 - Dunn: \$30 per retailer
- Example: SuperTarget store with \$100M receipts
 - Durham: \$60,000
 - Charlotte: \$10,000
 - Dunn: \$30

**Fun (?)
with Schedule B**

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Peddlers / Itinerant Merchants
GS 105-53 (repealed)

- Peddler: "person who travels from place to place with an inventory of goods" for sale
 - Max Tax: \$25 farm products / vehicle
\$10 on foot
- IM: merchant without "established retail store" who brings goods and sells them in "building, vacant lot, other location"
 - Max Tax: \$100

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Peddlers / Itinerant Merchants
GS 105-53 (repealed)

- Exemptions:
 - Sellers of goods/farm products they produced
 - Non-profits
 - Sellers of books, newspapers, ice, seafood, meat, poultry, eggs, dairy products
 - IM at farmer's market
 - IM at licensed specialty market

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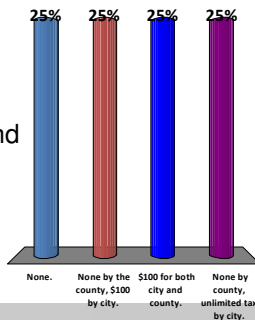
Peddlers / Itinerant Merchants

GS 105-53 (repealed)

- Farmer Brown drives into town each Saturday morning in the summer and fall and sets up a stand in a church parking lot to sell his fruit, veggies, and Duke Blue Devil quilts that his wife makes.
- What privilege license taxes may be levied on Farmer Brown?

Farmer Brown P.L. taxes?

1. None.
2. None by the county, \$100 by city.
3. \$100 for both city and county.
4. None by county, unlimited tax by city.



Specialty Market Operators

GS 105-53 (repealed)

- “person who rents space at a location other than permanent retail store, to others for the purpose of selling goods at retail”
- Max Tax: \$200

Specialty Market Operators *GS 105-53 (repealed)*

- Billy Ray owns an office building downtown. On Saturdays in the spring he rents space in the building's parking lot for vendors to sell farm products and crafts that they produce themselves.
- What privilege license taxes may be levied on Billy Ray?

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Billy Ray P.L. taxes?

1. None.
2. \$200 for both city and county.
3. None for county, \$200 for city.
4. None for county, unlimited for city.

Option	Percentage
1. None.	25%
2. \$200 for both city and county.	25%
3. None for county, \$200 for city.	25%
4. None for county, unlimited for city.	25%

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Are the vendors who rent space from Billy Ray subject to PLTs?

1. No, because Billy Ray pays the tax.
2. Yes, depending on what they sell.

Option	Percentage
1. No, because Billy Ray pays the tax.	50%
2. Yes, depending on what they sell.	50%

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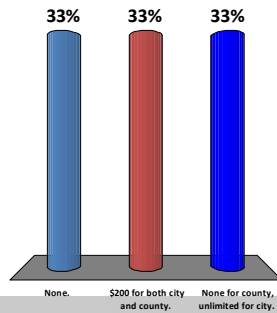
Specialty Market Operators

GS 105-53 (repealed)

- Mary Ellen owns a large art studio downtown. She rent space in her studio to other artists. Every Saturday she opens the studio to the public for art lovers to view and purchase the art produced by Mary Ellen and her tenants.
- What privilege license taxes may be levied on Mary Ellen?

Mary Ellen P.L. taxes?

1. None.
2. \$200 for both city and county.
3. None for county, unlimited for city.



What's going on here?



Three Local Options

1. Criminal Law
2. Zoning
3. Privilege License Taxes

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Different Questions for Counties and Municipalities

- *Counties:*
 - Is there a statute that authorizes us to tax internet sweepstakes?
- *Municipalities:*
 - Is there a statute that prohibits or restricts our taxation of internet sweepstakes?

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The PLT bottom line:

- Counties and municipalities have dramatically different authority to levy PLTs
- Counties:
 - Maximum tax \$5 per computer?
- Cities:
 - The sky may be the limit . . .
 - (unless cell phone minutes being sold?)

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**Repealed GS 105-66.1:
Electronic Video Games**

- “owning or operating machines that play electronic video games when a coin or other thing of value is deposited into the machine”
- Password = “thing of value”?
- \$5 per machine for both counties/cities
- Multiple games per machine?

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Telecommunications Providers

- No privilege license taxes
 - GS 160A-211(d) (cities)
 - GS 153A-152(b) (counties)
- No PLTs on sale of cell phone minutes
- Excludes “internet access service”
 - GS 105-164.3(48)

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3 PLT Options for Cities

1. Existing “service” category
(assuming telephones not involved)
2. Existing (or new) “internet service provider” category
3. New category aimed *only* at sweepstakes businesses

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New “Electronic Gaming” category (Winston-Salem)

- Any business enterprise, whether as a principal or accessory use, where persons utilize electronic machines, including but not limited to computers and gaming terminals to conduct games of chance, including sweepstakes, and where cash, merchandise or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds.

Constitutional Concerns

- Taxes must be “*just and equitable*”
 - Soda v. candy vending
 - Movies v. live performances
 - \$30 “general retail”, \$3,000 sweepstakes?
- Cannot use taxes to eliminate a legal business
 - Flat Rate: \$5,000 per machine? \$1 million?
 - Gross Receipts: 15%? 90%?

Sample City PLTs for Internet Sweepstakes

- *Hendersonville*: **\$2,600 flat fee**
- *Aberdeen (draft)*: **\$2,600 flat fee plus \$300 per machine** for businesses with more than three machines
- *Laurinburg*: **\$2,000 flat fee plus \$2,500 per machine**
- *Kannapolis & Oxford*: **Gross receipts plus \$500 per machine**
- *Lumberton*: **\$5,000 plus \$2,500 per machine**