



County Obligations for Motor Vehicle Property Tax Collection under the “Tag and Tax Together” Program

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On September 1, North Carolina’s Tag and Tax Together program¹ formally launched statewide. Under this program, all vehicle owners in the state will be required to pay property taxes owed on their vehicles at the same time they register those vehicles each year with the state Division of Motor Vehicles (DMV).² Previously, there was a three-month lag between the registration of a vehicle with the DMV and the issuance of a property tax bill by the county in which the vehicle was sited.³

In return for payment of a small transaction fee to the DMV,⁴ counties won’t need to worry about mailing tax bills for the state’s eight million or so registered motor vehicles (RMVs) and should benefit from increased collection rates for taxes on those vehicles.

Counties cannot forget entirely about collecting property taxes on motor vehicles, however. This bulletin focuses on two of the potentially knotty collection problems that remain for RMV taxes in the wake of the Tag and Tax Together program. The first concerns bankruptcy filings by vehicle owners and how the automatic stay that arises in all bankruptcy proceedings affects the ability to require payment of property taxes before a vehicle registration can be issued or renewed. The second is “gap billing,” a term describing the county’s obligation to collect property taxes owed on a vehicle that moves between registered and unregistered status.

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1. The website of the North Carolina Division of Motor Vehicles (DMV) features a page on Tag and Tax Together, complete with a Frequently Asked Questions section. See www.ncdot.gov/dmv/vehicle/tagtax/. The Tag and Tax system was initially created by S.L. 2005-294, a law commonly referred to as “H.B. 1779.” It has been modified (and almost repealed) several times since its passage. See, for example, S.L. 2008-134, S.L. 2009-445, and S.L. 2012-79.

2. Section 20-50.4 of the North Carolina General Statutes (hereinafter G.S.).

3. For more on the old taxation system for registered motor vehicles, see Christopher B. McLaughlin, *The Collection of Taxes on Motor Vehicles*, PROPERTY TAX BULL. No. 160 (Dec. 2010), www.sog.unc.edu/pubs/electronicversions/pdfs/ptb160.pdf.

4. This fee is authorized by G.S. 105-330.5(d).

I. Bankruptcy, the Automatic Stay, and Registration Blocks

When a taxpayer files a bankruptcy petition, an automatic stay immediately arises. This stay generally prohibits creditors, including local government tax collectors, from taking action to collect debts owed by the debtor while the bankruptcy is ongoing.⁵

The presence of the automatic stay raises an important question about North Carolina property tax collections on RMVs: Does a motor vehicle registration block against a taxpayer who has filed for bankruptcy violate the automatic stay?

While this question might have arisen under the former RMV tax system, it takes on even greater importance under the Tag and Tax Together program. Under the old system, county tax collectors were authorized to place a block on the renewal of a vehicle's registration if property taxes owed on the vehicle remained unpaid eight months after the vehicle's registration was issued or renewed.⁶ Under the new RMV tax system, the registration block takes effect immediately; if the vehicle owner does not pay the property taxes on the vehicle, the DMV will not issue a new registration or renew an existing registration for that vehicle.⁷

Concerned about its pending new role in property tax collection, the DMV recently requested a legal opinion from the North Carolina Attorney General on the question posed above. In its response, the Attorney General's office concluded that a registration block for taxes that arose prior to a bankruptcy filing would violate the automatic stay but that blocks for taxes that arose after the filing were permissible.⁸

This opinion partially conflicted with advice on the issue given by the author of this bulletin and by former School of Government faculty members.⁹ But upon further review and research, the Attorney General's advice appears sound. This bulletin explains why.

What Does the Automatic Stay Prohibit?

The automatic stay applies to every bankruptcy debtor under Title 11, Section 362 of the United States Code (hereinafter U.S.C.) and creates a variety of prohibitions on creditors and third parties, two of which are particularly important for the collection of RMV taxes.

The first is the prohibition against "the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title [U.S.C. Title 11], or to recover a claim against the debtor that arose before

5. 11 U.S.C. § 362(a). For more details about bankruptcy and property tax collection, please see Chapter 16 of the author's property tax collection treatise, *Fundamentals of Property Tax Collection Law in North Carolina* (UNC School of Government, 2012), available for purchase at <http://shopping.netsuite.com/s.nl/c.433425/it.A/id.4243/f>.

6. G.S. 105-330.7.

7. G.S. 20-50.4.

8. Letter from Neal Dalton, Special Deputy N.C. Attorney General, to James Forte, Commissioner, N.C. Division of Motor Vehicles (Feb. 26, 2013).

9. Both the author and his predecessor, William A. Campbell, had adopted a more conservative position and recommended against any registration blocks for taxpayers who were involved in pending bankruptcy proceedings regardless of when the taxes at issue arose. See note 5, above, for more details.

the commencement of the case under this title”¹⁰ In plain English, this provision essentially bars all efforts to collect debts that arose prior to the filing of the bankruptcy petition.

The second relevant prohibition is created by Section 362(a)(3) of U.S.C. Title 11, and it bans “any act to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate.” The term “estate” refers to property of the debtor that is under the control of the bankruptcy court. With limited exceptions, the bankruptcy estate includes all of the debtor’s property, including property owed to the debtor but held by other parties (e.g., wages, bank accounts, rents, etc.).¹¹

As a result, Section 362(a)(3) effectively bars a debt collection action that affects any property of the debtor. And because the provision makes no reference to pre- or post-petition debts, it therefore applies to collection efforts for all debts regardless of when they arose.

Read together, Sections 362(a)(1) and 362(a)(3) prohibit two things: (i) “actions” to collect pre-petition debts and (ii) collection efforts for all debts (regardless of when they arose) if those efforts affect the property of the debtor.

What Does This Mean for Registration Blocks When the Taxpayer Is in Bankruptcy?

The answer depends on whether the registration is being blocked for pre-petition taxes or for post-petition taxes.

For bankruptcy purposes, a North Carolina property tax obligation arises on the date the property is listed for taxes.¹² For taxes on registered motor vehicles, the listing date is the date on which the owner renews an existing registration or applies for an initial registration.¹³

Under both the old and the new RMV tax systems, if the taxpayer renews a registration or applies for an initial registration before filing for bankruptcy, then the RMV taxes relating to that registration are considered *pre-petition* taxes. If the renewal or initial registration occurs after a bankruptcy filing, then the related taxes are said to be *post-petition* taxes.

Under the old RMV tax system, the taxes at issue were often of the pre-petition variety due to the lag time between the tax obligation arising and the placement of a registration block many months later. For example, assume that taxpayer Billy Blue Devil renewed his vehicle registration on July 10, 2013. If Billy files for bankruptcy at any point after this date, the taxes relating to that vehicle for 2013–14 will be pre-petition regardless of the fact that the tax collector cannot request a block on the taxpayer’s registration for unpaid taxes until months later.

However, under the new RMV tax system, taxes are payable on the same day the vehicle is registered. This means that most often the RMV taxes will be paid before a bankruptcy filing occurs (in which case the automatic stay is not a concern) or the taxes will arise after a filing and will be *post-petition*.

It seems that there will be only two situations under the new Tag and Tax Together system in which unpaid RMV taxes might be pre-petition:

10. 11 U.S.C. § 362 (a)(1).

11. 11 U.S.C. § 541.

12. *In re Member’s Warehouse*, 991 F.2d 116 (4th Cir. 1991).

13. G.S. 105-330.2.

1. When a taxpayer files bankruptcy after an existing registration expires but before the registration is renewed; and
2. When a taxpayer files bankruptcy after buying a car from a dealer and obtaining a limited registration but before a “regular” full-year registration is obtained.

Here’s an example of the first situation: Tina Tar Heel’s registration expires on October 15, 2013. She files bankruptcy on November 5. On November 15, Tina renews her registration. Because Tina’s 2013–14 RMV taxes arose when her old registration expired, her 2013–14 RMV taxes are pre-petition. For the reasons discussed below, the DMV may not require Tina to pay those taxes when she attempts to renew her registration.¹⁴

In the second situation, when purchasing a vehicle from a dealer the taxpayer has the option of obtaining a limited registration for the new vehicle (good for sixty days) without paying any RMV taxes.¹⁵ To obtain a “regular” registration for the rest of the registration year, the taxpayer will be required to pay the full year of taxes on the vehicle. Those taxes arose at the time the limited registration was issued, however. If the taxpayer files bankruptcy at any point after purchasing the vehicle, the taxes relating to the initial (limited) vehicle registration will be pre-petition and, as discussed below, a registration block would not be permitted. More details on how bankruptcy affects limited registrations are offered at the end of this section.

With that in mind, an analysis of how bankruptcy law affects blocks for pre-petition taxes as compared to those for post-petition taxes is presented below.

Registration Blocks for Pre-Petition Taxes

These kinds of blocks likely violate the automatic stay, as explained below.

U.S.C. Title 11, Section 362(a)(1) prohibits all actions or proceedings to collect pre-petition debt. The consensus among the few courts that have wrestled with this issue is that the placement of a block on the issuance of any type of a license or a registration—or the refusal to take steps to remove a block put in place prior to a bankruptcy filing—is an action under 362(a)(1) and therefore violates the automatic stay.¹⁶

Assuming that North Carolina bankruptcy courts would adopt similar reasoning, a tax collector should not create a registration block for taxes that arise prior to the filing of a bankruptcy petition. If a block is already in place at the time of the bankruptcy filing, the tax collector should ask the DMV to remove that block.

Among the several exceptions to the automatic stay is one for efforts by a government to enforce its “police and regulatory power.”¹⁷ If the registration block for unpaid taxes were to be

14. If the DMV issues Tina a new registration and changes her registration year rather than simply renewing her old registration, then Tina’s taxes would arise at the time the “new” registration is issued and would be post-petition and subject to the registration block. See the section on “gap billing,” below, for more details on when the DMV will change a registration year rather than renew an old registration.

15. G.S. 20-79.1A.

16. *See, e.g.,* Jessamey v. Town of Saugus, 330 B.R. 80 (Bankr. D. Mass 2005) (refusal to lift driver’s license and registration block based on failure to pay pre-petition taxes violates automatic stay); Bertuccio v. Cal. State Contractors License Bd., 414 B.R. 604 (Bankr. N.D. Cal. 2008) (state had affirmative duty to reinstate contractor’s license which was suspended prior to bankruptcy filing for contractor’s failure to pay taxes).

17. 11 U.S.C. § 362(b)(4).

considered a regulatory action and not a debt collection action, it would fall outside of the automatic stay and would be permissible regardless of when the taxes arose.

That said, the police and regulatory power exception most likely does not apply in cases involving blocks for pre-petition taxes. In *Perez v. Campbell*,¹⁸ the U.S. Supreme Court struck down Arizona’s suspension of bankruptcy debtors’ drivers’ licenses based solely on the non-payment of pre-petition judgments based on the negligent operation of their motor vehicles. Ever since, lower courts have refused to apply the police and regulatory exception to governmental actions that are motivated by the government’s “pecuniary interest” rather than by public safety and health concerns. In other words, if the action in question is aimed primarily at helping the government collect a debt, then that action is prohibited by the automatic stay.

North Carolina’s registration block seems to be motivated entirely by pecuniary interests—tax collection—and not by public health and safety interests. The block has no relationship to the vehicle owner’s driving or criminal history; it is based solely on a financial obligation unrelated to the safety of our state’s highways. “If the law looks like a revenue collection measure and operates like a revenue collection measure, the chances are excellent when all is said and done, it is indeed a revenue collection measure.”¹⁹

For additional proof that blocks for pre-petition taxes are impermissible, consider U.S.C. Title 11, Section 525(a). That statute bans “discrimination” by a government in the issuance of licenses or permits based on a debtor’s failure to pay a debt that is dischargeable in bankruptcy. RMV taxes that became delinquent more than a year prior to a bankruptcy filing are generally dischargeable in bankruptcy. If a local government refused to remove a registration block for an old RMV tax, that action would likely violate both the automatic stay and Section 525(a).

Registration Blocks for Post-Petition Taxes

These kinds of blocks are likely permissible under bankruptcy law.

The issue turns on whether a registration block is an “act to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate” under U.S.C. Title 11, Section 362(a)(3). If so, then the block is barred by that section.

Happily for tax collectors, courts generally agree that motor vehicle registrations (along with drivers’ licenses) are privileges and not property. This means that the refusal to issue a vehicle registration for failure to pay post-petition obligations is not an act that affects the property of the debtor and therefore does not violate the automatic stay.²⁰

18. 402 U.S. 637 (1971).

19. *Hoffman v. Clark*, 65 B.R. 985 (Bankr. D.R.I. 1986) (holding that state law requiring payment of delinquent taxes prior to transfer of liquor license was not covered by the “police and regulatory” exception to the automatic stay).

20. *See, e.g., Geiger v. Pennsylvania*, 143 B.R. 30 (Bankr. E.D. Pa. 1992) (refusal to reinstate driver’s license for failure to pay a post-petition debt did not violate automatic stay because driver’s license was not property of the debtor); *In re Thomas*, No. 05-31615, 2007 WL 1079980 (Bankr. N.D. Cal. Apr. 5, 2007) (government could require payment of post-petition parking fines before permitting bankruptcy debtor to renew motor vehicle registration).

The Bottom Line on Blocks

When a county learns that a taxpayer has filed a bankruptcy petition, it should refrain from placing a new registration block on that taxpayer for pre-petition taxes and should remove any existing registration blocks on that taxpayer.

The county is free to place registration blocks on taxpayers in bankruptcy for post-petition taxes. Taxes relating to registration renewals or issuances after a bankruptcy petition is filed are considered to be post-petition taxes.

Under the new Tag and Tax Together system, nearly all RMV taxes will be considered post-petition. As a result, the DMV generally can require payment of RMV taxes at the time of registration regardless of whether the taxpayer has filed for bankruptcy. The only exception to that rule will involve limited registrations for newly purchased vehicles. These registrations are discussed in the next section.

Limited Registrations and Bankruptcy

As mentioned above, when a taxpayer buys a vehicle from a dealer, the taxpayer has the option of obtaining a limited registration good for sixty days without paying any property taxes on that vehicle.²¹ To obtain a “regular” registration for the vehicle when the limited registration expires, the taxpayer will be required to pay to the DMV the full amount of property taxes owed on the vehicle for that tax year.

Taxes on newly purchased vehicles arise at the time the vehicle is initially registered, regardless of whether that initial registration is a limited (sixty-day) registration or a “regular” (full-year) registration. If a taxpayer files for bankruptcy after purchasing a vehicle from a dealer and obtaining a limited registration, then the unpaid taxes on the newly purchased vehicle are considered pre-petition taxes. For the reasons discussed previously, registration blocks are not permitted for pre-petition taxes because of the automatic stay. This means that the DMV may not require payment of property taxes before issuing a “regular” registration if the taxpayer declared bankruptcy at some point after purchasing the vehicle and obtaining a limited registration.

Remember that if the taxpayer declared bankruptcy *before* purchasing the vehicle, then the taxes are considered post-petition and may be subject to a registration block. In that situation, the DMV would be authorized to demand payment of the property taxes before issuing a “regular” registration for the newly purchased vehicle.

The only time a block will not be permitted is when the taxpayer declares bankruptcy *after* purchasing the vehicle but *before* paying the property taxes on the vehicle and obtaining a “regular” registration. Thankfully for the DMV and county tax collectors, this situation is likely to be very rare.

And even when this situation does arise, bankruptcy law prohibits the registration block only for the first year of property taxes. All subsequent property taxes levied on the vehicle will be considered post-petition taxes, for which a block is permitted. For example, assume that Susie Seahawk purchases a new Chevy pick-up truck on November 5, 2013. She does not pay any

21. G.S. 20-79.1A. Note that the taxpayer instead may choose to pay all of the taxes owed on the vehicle at the time of purchase and in return obtain a “regular” registration good for the entire year.

property taxes on the vehicle and receives a limited registration. Susie files for bankruptcy on December 1, 2013, before paying the 2013–14 taxes on her Chevy.

When the county tax collector learns of Susie’s bankruptcy filing, the collector should inform the DMV and request that Susie be permitted to obtain a “regular” registration for the rest of the 2013–14 registration year without paying the 2013–14 property taxes on her Chevy.

If Susie remains in bankruptcy through November 2014, she will be required to pay the 2014–15 taxes on her Chevy before she can renew the registration for 2014–15. Those taxes are considered post-petition and therefore eligible for the registration block. But Susie could not be forced to pay the 2013–14 taxes on her Chevy because those taxes are pre-petition and therefore not eligible for a registration block due to the automatic stay.

Assume Susie’s bankruptcy petition is dismissed in September 2015. The automatic stay ends with the conclusion of the bankruptcy proceeding. When Susie later attempts to renew the registration on her Chevy, the DMV should require her to pay both the 2015–16 and the 2013–14 taxes (plus interest) on the Chevy. If she fails to pay all of those taxes, the DMV should refuse to renew her registration.

Note that the DMV retains responsibility for collecting the 2013–14 RMV taxes on Susie’s Chevy despite the fact that they were not collectible during Susie’s bankruptcy. The Chevy was registered for the entire period in question, and only the DMV has authority to collect taxes on RMVs.²²

II. “Gap Billing” for Unregistered Vehicles

Under the Tag and Tax Together Program, counties remain responsible for collecting taxes on unregistered vehicles. The problem is, when a registration expires on a vehicle and the owner waits months or years to renew that registration, vehicles can move back and forth between registered and unregistered status. That could make it difficult to determine which entity collects which taxes for which time period.

The key question in determining whether it is the DMV or the county that is responsible for collecting property taxes on a vehicle for the period after its registration expires is, “Did the vehicle’s tax year change?”

A vehicle’s tax year corresponds with its registration year and runs for the twelve months following the application for a new registration or the expiration of an existing registration.²³ For example, assume that a taxpayer obtains a new registration for a vehicle in October 2013. That vehicle’s tax and registration years will run from November 2013 to October 2014.

If a vehicle’s tax year does not change following a late registration renewal, then the DMV will normally be responsible for collecting the taxes on the vehicle for the time in between the expiration of the registration and the renewal of that registration. The late renewal relates back to the prior expiration date, and the vehicle is considered registered (and therefore the responsibility of the DMV) for the entire period.

If the vehicle’s tax year does change following a late registration renewal, then the county will likely be responsible for collecting the taxes for the period in between the expiration and the renewal. The renewal is considered a “new” registration that does not relate back to the prior

22. G.S. 105-330.4(c) eliminates county and city collection authority for taxes on RMVs.

23. G.S. 105-330.6(a).

expiration date, meaning the vehicle was unregistered (and therefore the responsibility of the county) for the period from the expiration of the previous registration and the issuance of a new registration.

The DMV's standard practice is to change a vehicle's registration year (and therefore the vehicle's tax year) in two circumstances:

1. Where the vehicle was not drivable at the time the old registration expired or
2. Where it has been more than twelve months since the old registration expired.²⁴

If neither of these circumstances exists, then the vehicle's registration and tax year should remain the same despite a delay in renewing the registration.

Below are a few examples that illustrate these principles. The statutes that apply to the questions posed are G.S. 105-330.3 and -330.4.

Example 1: No Change to Vehicle Tax Year

Billy Blue Devil owns a Ford Fusion with a Durham County registration and tax year that ends on October 31, 2013. He paid the 2012–13 taxes owed on the car, which were \$120. Billy decides not to renew the registration when it expires. But in February 2014 his other car breaks down, and Billy therefore needs to start driving the Ford again. He visits the DMV and renews the registration for the Ford on February 20, 2014. The DMV does not change the registration and tax year for Billy's Ford.

- A. *What taxes must Billy pay when he renews the Ford's registration in February 2014?*
Billy will be required to pay the 2013–14 taxes on the Ford, plus interest. Interest begins to accrue, at a rate of 5 percent, on November 16, 2013, and runs through December 31, 2013; the rate is 0.75 percent each month for January 2014 and February 2014.²⁵
- B. *When will the tax year for the Ford end?*
Billy's late renewal did not change the Ford's tax year. It will run from November 2013 to October 2014.
- C. *Does the county have any responsibility to collect property taxes on Billy's Ford?*
No. Despite Billy's late renewal, for tax purposes the Ford is treated as if it had always been registered. The DMV has sole responsibility for collecting taxes on registered motor vehicles.

24. Based on multiple conversations with officials from the Property Tax Division of the N.C. Department of Revenue and from the DMV.

25. G.S. 105-330.4(b).

Example 2: Car Not Drivable, Vehicle Tax Year Changes

Wanda Wolfpack owns a Chevy Camaro. Her Wake County registration and tax year ends on October 31, 2013. Because her Camaro is not drivable at that time, she does not renew her registration in 2013. In June 2014, Wanda gets the Camaro serviced and registers it with the DMV, which creates a new tax year for the Camaro.

A. *What taxes must Wanda pay when she renews the Camaro’s registration in June 2014?*

Wanda will pay the 2014–15 taxes on the Camaro. No interest is charged because it is not considered a late registration; it is essentially a new registration with a new tax year.

B. *When will the tax year for the Camaro end?*

The new registration and tax year for the Camaro will run from July 2014 to June 2015.

C. *Does the county have any responsibility to collect property taxes on Wanda’s Camaro?*

Yes. Under G.S. 105-330.3(a1), the county is responsible for a “gap bill” to recapture the property taxes for the period between the expiration of Wanda’s prior registration and her new registration. In this case, the gap billing should cover eight months: November 2013 thru June 2014. The tax is prorated based on what the taxes would have been for a full tax year using the tax rate in place at the time the bill is created and the vehicle value as of January 1 for the year in which the registration expired.

Presumably Wake County would learn of Wanda’s new registration and begin to create her gap bill in July 2014. (It might be June 2014, but there likely will be some delay between registration with the DMV and provision of notice to the county). Assume that Wake County’s tax rate as of July 2014 is \$0.60 and the value of Wanda’s Camaro as of January 1, 2013 (the year in which her old registration expired) was \$10,000. A full year of tax would be \$60. Wanda’s prorated gap bill for eight months would therefore be \$40. It would be due on September 1, 2014. If not paid on time, interest would accrue at 5 percent for September and 0.75 percent for every month thereafter.²⁶

D. *What collection remedies may the county use for the gap bill?*

Despite its unusual calculation method, the gap bill is a plain-vanilla personal property bill in terms of collection. Just like it may for any other personal property tax bill, the county may collect a gap bill using attachment and garnishment or levy and sale.²⁷ If the taxpayer also owns real property in the county, foreclosure is an option because the tax lien on real property includes taxes on all personal property listed by the same taxpayer in the same county.²⁸

However, the county may not place a block on the taxpayer’s subsequent motor vehicle registration to collect a gap bill for the period in which the vehicle was unregistered. The

26. G.S. 105-330.3(a1)(2)(e).

27. G.S. 105-366, -367, and -368 provide details for the attachment and garnishment and levy and sale collection remedies.

28. G.S. 105-355(a). Motor vehicles are personal property. However, *registered* motor vehicles are removed from the “regular” property tax collection procedures by G.S. 105-330.4(c) and are therefore not included in the tax lien on real property.

DMV will require payment at the time of registration only of property taxes for the period during which the vehicle was, is, or will be registered.²⁹

Example 3: Unregistered for More Than a Full Fiscal Year, Vehicle Tax Year Changes

Tim Tarheel owns a Toyota Camry. His Buncombe County registration and tax year ends on October 31, 2013. He fails to renew his registration until October 2015, at which time the DMV creates a new tax year for the Camry.

A. *What taxes must Tim pay when he renews the Camry's registration in October 2015?*

Tim will pay the 2015–16 taxes on the Camry. No interest is charged because it is not considered a late registration; it is essentially a new registration with a new tax year.

B. *When will the tax year for the Camry end?*

The new registration and tax year for the Camry will run from November 2015 to October 2016.

C. *Does the county have any responsibility to collect property taxes on Tim's Camry?*

Yes. Just as in Example 2C., above, the county will be required to bill Tim for the months his Camry was not registered.

Tim's Camry was unregistered for twenty-four months—November 2013 through October 2015—meaning the gap bill will be prorated for twenty-four months of taxes. The tax rate will be Buncombe County's tax rate as of the date the gap bill is prepared, which likely would be November 2015. The tax value of the Camry will be the car's tax value as of January 1, 2013, the year in which Tim's prior registration expired. The gap bill would become delinquent and accrue interest on the first day of the second month after the bill is created, at rate of 5 percent for the first month and 0.75 percent for every month thereafter.

D. *Could the county create a discovery bill³⁰ for Tim's Camry?*

Yes, but that would be a much more complicated approach. It would require two different tax bills with different tax values, tax rates, delinquency dates, and interest rates.

The discovery bill would cover the 2014–15 tax year for Tim's failure to list his unregistered Camry as personal property. The bill would use the car's tax value as of January 1, 2014, and Buncombe County's tax rate for the 2014–15 tax year. Discovery penalties of 20 percent (for missing two listing periods, 2014 and 2015) must be added. The bill would become

29. G.S. 20-50.4. While this provision does not make it entirely clear that the DMV can block registration only for taxes on registered motor vehicles, numerous conversations with officials from the DMV and the N.C. Department of Revenue have confirmed this to be true.

30. "Discovery" describes the process by which assessors assess property taxes on property that should have been listed for taxation by taxpayers. The discovery process is governed by G.S. 105-312.

delinquent on January 6, 2016, and accrue interest at the “regular” Machinery Act³¹ rate of 2 percent for the first month and 0.75 percent for every month thereafter.³²

The related gap bill would cover the months the Camry was unregistered prior to and after the 2014–15 tax year (twelve months total: November 2013 through June 2014 and July 2015 through October 2015). It would have the same tax rate, tax value, delinquency date, and interest rate as the gap bill for Tim’s Camry described above—all of which differ from the discovery bill.

G.S. 105-330.3(a1) contemplates the use of a discovery bill when a vehicle remains unregistered for more than a full tax year. That said, experts at the Department of Revenue and this author agree that the better approach in this circumstance is to avoid using the discovery process. The recommended method is a single gap bill prorated for all of the months between expiration and registration, as described above. When the General Assembly reconvenes in 2014, the Department of Revenue will propose technical changes to G.S. 105-330.3 to make the law reflect the recommended (and more simple) method.³³

E. *What collection remedies may the county use for the gap bill and/or the discovery bill?*

The county may rely upon the same remedies used for the gap bill, described above in Example 2D.

31. See generally G.S. Chapter 105, Subchapter II.

32. G.S. 105-312 describes the discovery billing process. G.S. 105-360 creates the interest provisions for non-RMV property taxes.

33. Based on multiple conversations with David Baker, Director, Local Government Division, N.C. Department of Revenue.

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