

NORTH CAROLINA GENERAL ASSEMBLY
1973 SESSION

CHAPTER 1180
HOUSE BILL 1752

AN ACT TO AMEND G.S. 105-304 TO MAKE CLEAR WHERE CERTAIN TANGIBLE PERSONAL PROPERTY IS TO BE LISTED FOR TAXATION AND TO AMEND AND CLARIFY THE STATUTES RELATING TO THE VALUATION OF THE PROPERTY OF PUBLIC SERVICE COMPANIES.

The General Assembly of North Carolina enacts:

Section 1. Subchapter II of Chapter 105 of the General Statutes is hereby amended by:

(a) Deleting subdivision (3) of subsection (f) of G.S. 105-304 and inserting the following two subdivisions in its place:

"(3) Tangible personal property situated at or commonly used in connection with a premise owned, hired, occupied, or used by a person who is in possession of the personal property under a business agreement with the property's owner shall be taxable at the place at which the possessor's premise is situated. For purposes of this subdivision (f)(3), the term 'business agreement' means a commercial lease, bailment for hire, consignment, or similar business arrangement.

(4) In applying the provisions of subdivision (f)(1), (f)(2), and (f)(3), above, the temporary absence of tangible personal property from the place at which it is taxable under one of those subdivisions on the day as of which property is to be listed shall not affect the application of the rules established in those subdivisions. The presence of tangible personal property at a location specified in subdivision (f)(1), (f)(2), or (f)(3) on the day as of which property is to be listed shall be prima facie evidence that it is situated at or commonly used in connection with that location."

(b) Rewriting subdivisions (10), (12), (15) and (17) of G.S. 105-333 to read as follows:

"(10) 'Motor freight carrier' company means a public service company engaged in the business of transporting property by motor vehicle for hire over the public highways of this State as herein provided:

(a) As to interstate carrier companies domiciled in North Carolina, this definition shall include carriers who regularly transport property by tractor trailer to or from one or more terminals owned or leased by the carrier outside this State or two or more terminals inside this State. For purposes of appraisal and allocation only, the definition shall also include a North Carolina interstate carrier which does not have a terminal outside this State but whose operations outside the State are sufficient to require the payment of ad valorem taxes on a portion of the value of the rolling stock of such carrier to taxing units in one or more other states.

(b) As to interstate carrier companies domiciled outside this State, this definition shall include carriers who regularly transport property by tractor trailer to or from one or more terminals owned or leased by the carrier inside this State.

- (c) As to intrastate carrier companies, this definition shall include only those carriers which are engaged in the transportation of property by tractor trailer to or from two or more terminals owned or leased by the carrier in this State.
- (12) 'Nonsystem property' means the real and tangible personal property owned by a public service company but not used in its public service activities.
- (15) 'Railroad company' means a public service company engaged in the business of operating a railroad to, from, within or through this State on rights-of-way owned or leased by the company. It also means a company operating a passenger service on the lines of any railroad located wholly or partly in this State.
- (17) 'System property' means the real property and tangible and intangible personal property used by a public service company in its public service activities. It also means public service company property under construction on the day as of which property is assessed which when completed will be used by the owner in its public service activities."
- (c) Rewriting subdivision (b)(2) of G.S. 105-335 to read as follows:
- "(2) Nonsystem personal property. Each year as of January 1, the Department shall appraise at its true value (as defined in G.S. 105-283) each public service company's nonsystem tangible personal property subject to taxation in this State."
- (d) Rewriting subdivisions (c)(1) and (c)(2) of G.S. 105-335 and renumbering (c)(2) to (c)(3) to read as follows:
- "(1) Bus company rolling stock. Each year as of January 1, the Department shall appraise at its true value (as defined in G.S. 105-283) the rolling stock owned or leased by or operated under the control of each bus line company, which bus line company is domiciled in this State or which is regularly engaged in business in this State.
- (2) Motor freight carrier company rolling stock. Each year as of January 1, the Department shall appraise at its true value (as defined in G.S. 105-283) the rolling stock owned by a motor freight carrier company or leased by a motor freight carrier company and operated by its employees which motor freight carrier company is domiciled in this State or is regularly engaged in business in this State at a terminal owned or leased by the carrier.
- (3) Flight Equipment. Each year, as of January 1, the Department shall appraise at its true value (as defined in G.S. 105-283) the flight equipment owned or leased by or operated under the control of each airline company that is domiciled in the State or that is regularly engaged in business at some airport in this State."
- (e) Rewriting subdivision (c)(2) of G.S. 105-338 to read as follows:
- "(2) The appraised valuation of the rolling stock (other than locally assigned rolling stock) owned or leased by a motor freight carrier company shall be allocated for taxation to each local taxing unit in which the company has a terminal according to the ratio of the tons of freight handled in the calendar year preceding January 1 at the company's terminals within the taxing unit to the total tons of freight handled by the company in this State in the same period. If a North Carolina interstate motor freight carrier company has no terminal outside this State, but has been required to pay ad valorem tax to one or more taxing units outside this State, there shall be allowed a reduction in the North Carolina valuation measured by the ratio of the rolling stock subject to ad valorem taxation outside the State to all of the carrier's rolling stock."
- (f) Rewriting G.S. 105-276 to read as follows:

"§ 105-276. **Taxation of intangible personal property.** — Except for the classes of intangible personal property which have been classified for taxation under Schedule H (G.S. 105-198 through G.S. 105-217) all intangible personal property having a taxable situs in this State shall be subject to the provisions of this Subchapter. The classification of such property for taxation under Schedule H shall not exclude the property from the system property valuation of public service companies under Article 23 provided proper adjustments are made to prevent duplicate taxation."

Sec. 2. This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 5th day of April, 1974.