



## North Carolina Department of Revenue

Pat McCrory  
Governor

Lyons Gray  
Secretary

August 9, 2013

### MEMORANDUM

To: County Assessors

From: David B. Baker, Director  
Local Government Division

Re: House Bill 439 (now Session Law 2013-130) Infrastructure Property Tax Deferral Program

During its 2013 session, the General Assembly passed H439, entitled, "An Act to Create an Infrastructure Property Tax Deferral Program." The purpose of this memorandum is to describe the purpose of the program and to assist assessors with the administration of the new law, which became effective as of July 1, 2013.

The Act creates a new section, G.S. 105-277.15A, within the Machinery Act. While there is some relation between the new program and the Present-Use Value program, the Infrastructure program is not a part of PUV, but rather a separate program available for certain properties that are either already in PUV, or have been in PUV within six months prior to application. It appears to be designed to permit a property owner to convert PUV property to a potential industrial park, without losing the property tax benefits of PUV classification.

#### **1. Requirements**

In order to be classified under the Infrastructure program, a property must first meet all of the following requirements:

- a. The property must be at least 100 contiguous acres in size;
- b. The property must be zoned for industrial and/or office use;
- c. There must be no primary building or structure on the property;
- d. There must be no building permit for a primary building or structure issued for the property; **and**
- e. The property must either currently be in the PUV program, or have been in PUV within the six months prior to application.

Qualifying property becomes known as "site infrastructure land."

**2. Benefit of the program**

- Site infrastructure land is taxed as agricultural land (regardless of whether it was in agricultural, horticultural, or forestland PUV).
- The taxes on the difference between the true value of the property, including improvements, and its agricultural PUV value are deferred.
- Land can be in the program for a maximum of 10 years.
- Just as with PUV, the deferred taxes, with interest, remain a lien on the property under G.S. 105-355(a).

**3. Billing for Deferred Taxes (“Rollback”)**

The deferred taxes and interest are due and payable under G.S. 105-277.1F when a disqualifying event occurs. Like with PUV, the current year’s taxes are due as if the property had not been classified for that year; however, the number of prior years’ deferred taxes that are due depends on which disqualifying event occurs:

<b>Disqualifying Event</b>	<b>Deferred Taxes Due (in addition to current)</b>
1. Within five years of entering the program, there must be an investment in improvements to the land that make it suitable for industrial and/or office use, <b>and</b> the investment must be at least equal to the amount of taxes that have been deferred. Failure to make such an investment results in disqualification.	1. Preceding five years
2. If the investment listed in #1, above, has been made, but the land has been in the program for the maximum 10 years.	2. Preceding five years
3. Some or all of the land is rezoned for a use other than industrial and/or office use.	3. All deferred taxes
4. The land is transferred, or a building permit for a primary building or structure is issued.	4. Preceding year

**4. Rollback Exceptions**

Deferred taxes are not due in the following situations, even though they may technically be disqualifying events:

- a) The owner does not transfer the land, and switches back to PUV (**the land must have remained in production during the time it was in the Infrastructure program**)
- b) Part of the land either:
  - i) Is transferred for industrial and/or office use, or
  - ii) Has a building permit issued for a primary building/structure for industrial and/or office use,

**And**, as a result, the remainder of the land no longer meets the 100-acre size requirement. In this situation, deferred taxes are not due, and the remainder can continue to be classified as site infrastructure land without regard to the size requirement.

## **5. Application**

Application is made under the provisions of G.S. 105-282.1. NCDOR Form AV-10 will be updated to include this program under the “Tax Deferment Programs” section. Applications should be made during the listing period, and untimely applications and appeals are handled the same way as with PUV:

“Applications...may be filed after the regular listing period upon a showing of good cause by the applicant for failure to make a timely application, as determined and approved by the board of equalization and review or, if that board is not in session, by the board of county commissioners. An untimely application approved under this subsection applies only to property taxes levied by the county or municipality in the calendar year in which the untimely application is filed. Decisions of the county board may be appealed to the Property Tax Commission.”

**Note:** Since qualification for this program requires the property either to be in PUV, or to have been in PUV during the prior six months, be aware of a potential qualification issue with untimely applications made for properties that are no longer in PUV.

## **6. Reporting Requirements**

- Tax Collectors are required annually (on or before September 1) to notify owners of the accumulated sum of deferred taxes and interest.
- Assessors will need to report to NCDOR annually (on or before June 30) the number and locations of qualified site infrastructure lands in their counties.
- Owners are required to notify the assessor when qualifying property loses its eligibility, or be subject to the penalty listed in G.S. 105-277.5 (same as with PUV).

We do not anticipate that there will be a large number of properties that will qualify for the new program, and there will likely be many counties with no qualifying properties. However, we may not recognize the full impact of the possible interaction between this program and the PUV program until it has been in effect for awhile. We will issue clarifications and update notices to counties as the need arises.

If you have any questions concerning our recommendations or interpretation of the exemption, please do not hesitate to contact our office at 919-814-1129.