



Buncombe County Board of Commissioners

Request for Board Action

Meeting Date: 2/18/2025

New Business

Department: Tax Assessor/Legal **Presenter(s):** Curt Euler

Contact(s): Curt Euler, Interim County Attorney
Eric Cregger, Interim Tax Assessor

Subject: Taxpayer's Tax Refund Request.

Brief Summary:

Delta Express, Inc. and Carolina Transportation, Inc, seek a tax refund for business personal property taxes they claim were erroneously paid due to the property being assessed as a regular business as opposed to a public service company for tax years 2021, 2022 and 2023.

Timeline:

3/12/2021	Delta Express submitted a business personal property tax return
7/26/2021	TMA conducted an audit on Delta's business personal property.
1/4/2022	County issued a discovery letter for unreported assets for Tax years 2018, 2019, 2020 and 2021 based on unreported truck and multiyear tagged trailers. Delta did not appeal the discovery or assessed values.
5/11/2022	Delta filed a 2022 return but failed to list the vehicles in the return. An edits return was filed. Delta did not appeal.
3/17/2023	Delta filed 2023 listing. Same issue in 2022 with unlisted vehicles. Delta did not appeal.
3/19/2024	County uploaded Delta's 2023 listing. Same issue as 2022 and 2023 where Delta did not list the vehicles on the return.
6/21/2024	Department of Revenue confirmed that no public service listing by Delta has been filed with the DOR.
8/6/2024	County notified Delta that their rolling stock would be assessed by the State for 2024. The County removed the IRP and tagged vehicles from the 2024 business personal property listing. No appeal was filed.
1/3/2025	Delta Express requests a tax refund for 2021, 2022 and 2023 tax years.
6/23/2020	County notified Carolina Transportation of the TMA business personal property audit.
7/9/2021	County did a discovery for tax years 2016, 2017, 2018, 2019 and 2020 for unreported IRP tagged trucks and multiyear tagged trailers. Carolina did not appeal.

1/4/2022 County issued a discovery letter for unreported assets for Tax years 2018, 2019, 2020 and 2021 based on unreported truck and multiyear tagged trailers. Delta did not appeal the discovery or assessed values.

5/11/2022 Carolina filed a 2022 return but failed to list the vehicles in the return. Carolina did not appeal.

3/17/2023 Carolina filed 2023 listing. Same issue in 2022 with unlisted vehicles. Carolina did not appeal.

2/9/2024 Carolina notified the County that the State was valuing the rolling stock.

1/3/2025 Carolina requests a tax refund for 2021, 2022 and 2023 business personal property taxes.

Delta and Carolina are requesting that the County refund them the difference between their business personal property listings for 2021, 2022 and 2023 valued as a normal business versus the property being valued as a public service company. The total refund for both companies for the three tax years would be \$216,719.40.

Pursuant to N.C. Gen. Stat. § 105-381, the County Commissioners can only grant a tax refund to a taxpayer if the tax was imposed through a clerical error, an illegal tax or a tax levied for an illegal purpose.

In North Carolina, an illegal tax is a tax imposed by the taxing authority without authority or taxing a property with a valid exemption. The County is allowed to tax tangible personal property. Additionally, overassessment is not one of the three valid defenses pursuant to N.C. Gen. Stat. § 105-381(a)(1).

Pursuant to N.C. Gen. Stat. § 105-334(a), every public service company whose property is subject to taxation in this State shall prepare and deliver to the Department of Revenue each year a report showing (as of January 1) such information with regard to the property it owns and the system property it leases as the Department of Revenue may by regulation prescribe.

Neither Delta nor Carolina filed a public service company return with the DOR for tax years 2021, 2022 and 2023.

Recommended Motion & Requested Action:

It is Staff's recommendation that the Commissioners deny Delta and Carolina's refund request. The County is allowed to assess a tax on business personal property located in the County. Delta and Carolina's failure to file as a public service company with the Department of Revenue for tax years 2021, 2022 and 2023 does not constitute a clerical error or illegal tax under N.C. Gen. Stat. § 105-381.