



Buncombe County Board of Commissioners

Request for Board Action

Meeting Date: 8/15/2023

New Business

Department: Tax Assessor/Legal

Presenter(s): Curt Euler

Contact(s): Curt Euler, Staff Attorney & Keith Miller, Tax Assessor

Subject: Taxpayer's Tax Refund Request

Brief Summary: General Electric seeks a tax refund for personal property taxes it claims were erroneously paid due to an illegal tax in the amount of \$279,990 for tax years 2019 and 2020.

Timeline:

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| 1/25/2019 | GE Capital files a listing for tangible personal property (herein "TPP") located at 401 Sweeten Creek Industrial Park (herein "401 SCIP") for tax year 2019 with Buncombe County. |
| 1/25/2019 | GE Industrial files a listing for TPP located at 401 SCIP for tax year 2019 with the County. |
| 3/15/2019 | General Electric Company (herein "GE") files a listing for TPP located at 401 SCIP for tax year 2019 with the County. |
| 8/7/2019 | The Tax Assessor processes each entity's listing and determines assessed value of each entity's TPP. Based on the assessed value, the County sends a tax bill to each entity for 2019. |
| 12/19/2019 | GE Capital pays its tax bill for 2019. |
| 12/19/2019 | GE Industrial pays its tax bill for 2019. |
| 12/27/2019 | GE pays its tax bill for 2019. |
| 1/27/2020 | GE Capital files a listing for TPP located at 401 SCIP for tax year 2020 with the County. |
| 1/27/2020 | GE Industrial files a listing for TPP located at 401 SCIP for tax year 2020 with the County. |
| 3/12/2020 | GE files a listing for TPP located at 401 SCIP for tax year 2020 with the County. |

8/8/2020 The Tax Assessor processes each entity's listing and determines assessed value of the entity's TPP. Based on the assessed value, the County sends a tax bill to each entity for 2020.

12/21/2020 GE pays its tax bill for 2020.

12/28/2020 GE Capital pays its tax bill for 2020.

12/28/2020 GE Industrial pays its tax bill for 2020.

7/19/2023 GE Healthcare Finance Service, LLC, through its attorney, requests a tax refund for TPP taxes paid by GE Capital and GE Industrial for tax years 2019 and 2020.

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.

Based on an audit, in several instances, GE found that GE and GE Capital listed the same TPP on their listings filed with the County for 2019 and 2020. GE also found that in several instances GE and GE Industrial listed the same TPP on their listings for 2019 and 2020 with the County.

GE claims that County taxed the same TPP twice resulting in double taxation and constituted an illegal tax.

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. Furthermore, there is no statute or Appellate Court case that expressly prohibits double taxation based on a taxpayer's listing error for real or personal property.

Additionally, overassessment is not one of the three valid defenses pursuant to N.C. Gen. Stat. § 105-381(a)(1).

Recommended Motion & Requested Action: It is Staff's recommendation that the Commissioners deny GE's refund request. The County is allowed to assess a tax on TPP located in the County. GE's listing errors do not create an illegal tax. Any challenges to the listing or the amount of the tax should have been brought to the Board of Equalization and Review in 2019 and 2020.