

PRINCIPAL BUSINESS OF BUSINESS ENTITY

GS 105-277.2.(4)b:

b. A business entity that meets all of the following conditions: 1. Its principal business is farming agricultural land, horticultural land, or forestland. When determining whether an applicant under G.S. 105-277.4 has as its principal business farming agricultural land, horticultural land, or forestland, the assessor shall presume the applicant's principal business to be farming agricultural land, horticultural land, or forestland if the applicant has been approved by another county for present-use value taxation for a qualifying property located within the other county; provided, however, the presumption afforded the applicant may be rebutted by the assessor and shall have no bearing on the determination of whether the individual parcel of land meets one or more of the classes defined in G.S. 105-277.3(a). If the assessor is able to rebut the presumption, this shall not invalidate the determination that the applicant's principal business is farming agricultural land, horticultural land, or forestland in the other county.

Principal business is not defined in the statutes but the term implies that some non-farming/forestry activity is permissible. It seems reasonable that at least 50% of the business must be farming/forestry related, but the statutes do not explicitly make that statement.

A determination of principal business should probably include an analysis of the sources and amounts of income, the amounts and reasons for expenditures, and the amount of personal time and effort expended by the members in the various activities of the business entity. The actual holdings (farming v. non-farming) of the business entity should probably carry significant weight.

While the business entity may state its primary or principal business on corporate documents such as Articles of Incorporation or Annual Reports, this statement is not sufficient to establish the principal business if an analysis of the overall business operation indicates a different actual principal business.

Based on this information, a determination of the principal business of the business entity will have to be made; however, there is not a clearly delineated formula for making this determination. Hopefully, the weight of the evidence will make the decision clear. If not, then it would be advisable to err on the side of taxation as recommended by the courts. The property owner can appeal the decision if desired.

As a result of the NC Farm Act of 2015 [S.L. 2015-263, G.S. 105-277.2(4)(b)(1)], if the applicant has been approved for the Present-use Value Program in another county, the assessor in any other county must presume the principal business of the applicant is Agriculture, Horticulture, or Forestry, unless the assessor has evidence to rebut the presumption.

*Information provided in Present Use Value Program Guide by NC Department of Revenue