GEORGIA DEPARTMENT OF REVENUE

LOCAL GOVERNMENT SERVICES DIVISION

APPEALS PROCEDURE WORKSHOP

"The statutory materials reprinted or quoted verbatim on the following pages are taken from the Official Code of Georgia Annotated, Copyright 2016 by the State of Georgia, and are reprinted with the permission of the State of Georgia. All rights reserved."

For Educational Purposes Only:

The material within is intended to give the course participant a solid understanding of general principles in the subject area. As such, the material may not necessarily reflect the official procedures and policies of the Georgia Department of Revenue or the Department's official interpretation of the laws of the State of Georgia. The application of applicability to specific situations of the theories, techniques, and approaches discussed herein must be determined on a case-by-case basis.

Revised 7/2016

Table of Contents

Georgia Statutes and General Provisions that pertain to the Appeal Process 6
48-5-1. Legislative intent. 6
48-5-2. Definitions. 6
JUDICIAL DECISIONS 10
Factors to Be Considered 10
GENERAL CONSIDERATION 12
FACTORS TO BE CONSIDERED 14
OPINIONS OF THE ATTORNEY GENERAL 17
RESEARCH REFERENCES 17
Source: 17
48-5-3. Taxable property. 17
48-5-9. Person liable for taxes on property 17
GENERAL CONSIDERATION 18
48-5-10. Returnable property. 18
JUDICIAL DECISIONS 18
48-5-15. Returns of taxable real property 19
48-5-18. Time for making tax returns. 19
48-5-20. Effect of failure to return taxable property; acquisition of real property by transfer; penalty for failure to make timely return. 19
48-5-29. Acquisition of jurisdiction by superior court in ad valorem property tax litigation; payment and distribution of property taxes; excess payments; underpayments. 20
JUDICIAL DECISIONS 21
48-5-41. Property exempt from taxation. 22
48-5-41.1. 25
48-5-41.2. Exemption from taxation of personal property in inventory for business 27
JUDICIAL DECISIONS 28
48-5-299. Ascertainment of taxable property; assessments against unreturned property; penalty for unreturned property; changing real property values established by appeal in prior year. 32
48-5-300. Power to summon witnesses and require production of documents; exempt documents; contempt proceedings. 34
48-5-303. Correction of mistakes in digest; notification of correction. 35
48-5-306. Annual notice of current assessment; contents; posting notice; new assessment description 37
(a) Method of giving annual notice of current assessment to taxpayer 37
(b) Contents of notice. 37
(d) Records and information availability. 39
(e) Description of current assessment. 39
(f) 39

48-5-311. Creation of county boards of equalization; duties; review of assessments; appeals 43
(a) Definition. 43
(a.1) Appeal administrator. 43
(a.2) Establishment of boards of equalization. 43
(b) Qualifications of board of equalization members. 44
(c) Appointment of board of equalization members. 45
(d) Duties and powers of board of equalization members. 46
(e) Appeal. 48
(e.1) Appeals to hearing officer. 54
(f) Nonbinding arbitration. 57
(g) Appeals to the superior court. 59
(g.1) 61
(h) Recording of interviews or hearings. 62
(i) Alternate members of boards of equalization. 62
(j) Disqualification. 63
(k) Compensation of board of equalization members. 63
(l) Military service. 64
(m) Interest. 64
(n) Service of notice. 64
(o) 65
JUDICIAL DECISIONS 65
48-5-314. Confidentiality of taxpayer records; exceptions; penalties. 83
48-5-345. Receipt for digest and order authorizing use; assessment if deviation from proper assessment ratio. 84
48-5-380. Refunds of taxes and license fees by counties and municipalities; time and manner of filing claims and actions for refund; authority to approve or disapprove claims. 84
48-5-450. Contesting tax assessments; filing affidavit of illegality; bond; trial in superior court; appeal. 86
Rules of Evidence 86
24-1-1. Definitions. 86
24-1-2. Object of rules of evidence. 87
24-1-3. Applicability of rules of evidence. 87
24-1-4. Judicial notice. 87
DEPARTMENT OF REVENUE LOCAL GOVERNMENT SERVICES DIVISION RULES AND REGULATIONS CHAPTER 560-11-2 SUBSTANTIVE REGULATIONS 87
560-11-2-.34 County Boards of Equalization--Definitions. 87

560-11-2-.35 County Boards of Equalization--Disqualification. 87
560-11-2-.36 County Boards of Equalization--Chairman. 88
DEPARTMENT OF REVENUE LOCAL GOVERNMENT SERVICES DIVISION RULES AND REGULATIONS CHAPTER 560-11-12 COUNTY BOARD OF EQUALIZATION HEARINGS 89
560-11-12-.01 Applicability of Rules. 89
560-11-12-.02 Nature of the Proceeding; Hearing Procedure; Burden of Proof. 89
560-11-12-.03 Evidence; Official Notice. 90
560-11-12-.04 Continuances and Postponements. 90
560-11-12-.05 Subpoena Forms; Service. 90
560-11-12-.06 Transcripts of Hearing. 91
560-11-12-.07 Case Presentment. 91
560-11-12-.08 Ruling; Decision. 91
560-11-12-.09 Hearing Location. 91
COUNTY HEARING OFFICERS 92
560-11-13-.01 Applicability of Rules. 92
560-11-13-.02 Nature of the Proceeding; Hearing Procedure; Burden of Proof. 92
560-11-13-.03 Evidence; Official Notice. 92
560-11-13-.04 Continuances and Postponements. 93
560-11-13-.05 Subpoena Forms; Service. 93
560-11-13-.06 Transcripts of Hearing. 93
560-11-13-.07 Case Presentment. 94
560-11-13-.08 Ruling; Decision. 94
560-11-13-.09 Hearing Location. 94
560-11-13-.10 Swearing In Witnesses. 95
560-11-13-.11 Hearing Officer Procedural Form. 95
560-11-13-.12 Hearing Officers and the Administrative Procedures Act. 95
560-11-2-.56 Review of County Tax Digest by the State Revenue Commissioner. 96
APPRAISAL PROCEDURES MANUAL 100
560-11-10-.01 Purpose and Scope. 100
560-11-10-.02 Definitions. 101
560-11-10-.08 Personal Property Appraisal. 105
560-11-10-.09 Real Property Appraisal. 118
JUDICIAL DECISIONS 139
Gold Kist, Inc. v. Jones, 231 Ga. 881, 204 S.E.2d 584 (1974) 139
Trustee of Academy v. Bohler, 80 Ga. 159, 7 S.E. 633 (1887) 139
Thomas v. Northeast Ga. Council, Inc, BSA, 241 Ga. 291, 244 S.E.2d 842 (1978) 139
Colvard v. Ridley, 218 Ga. 490, 128 S.E.2d 732 (1962) 139
Rogers v. DeKalb Co Board of Tax Assessors, 247 Ga. 726, 279 S.E.2d 223 (1981) 139
Fulton County v. Strickland, 251 Ga. 473, 306 S.E.2d, 299 (1983) 139
Thorpe v. Benham, 161 Ga. App. 116, 289 S.E.2d 275 (1982). 139
General Consideration 140
Competent Evidence 140
Preponderance of Evidence 140
Presumptive Evidence 141
Board of Equalization Sample Information and Procedure Letter 142

48-5C-1. Definitions; exemption from taxation; allocation and disbursement of proceeds collected by tag agents; fair market value of vehicle appealable; report 145

Georgia Statutes and General Provisions that pertain to the Appeal Process

48-5-1. **Legislative intent.**

The intent and purpose of the tax laws of this state are to have all property and subjects of taxation returned at the value which would be realized from the cash sale, but not the forced sale, of the property and subjects as such property and subjects are usually sold except as otherwise provided in this chapter.

48-5-2. **Definitions.**

As used in this chapter, the term:

(.1) "Arm's length, bona fide sale" means a transaction which has occurred in good faith without fraud or deceit carried out by unrelated or unaffiliated parties, as by a willing buyer and a willing seller, each acting in his or her own self-interest, including but not limited to a distress sale, short sale, bank sale, or sale at public auction.

(1) "Current use value" of bona fide conservation use property means the amount a knowledgeable buyer would pay for the property with the intention of continuing the property in its existing use and in an arm's length, bona fide sale and shall be determined in accordance with the specifications and criteria provided for in subsection (b) of Code Section 48-5-269.

(2) "Current use value" of bona fide residential transitional property means the amount a knowledgeable buyer would pay for the property with the intention of continuing the property in its existing use and in an arm's length, bona fide sale. The tax assessor shall consider the following criteria, as applicable, in determining the current use value of bona fide residential transitional property:

(A) The current use of such property;

(B) Annual productivity; and

(C) Sales data of comparable real property with and for the same existing use.

(3) "Fair market value of property" means the amount a knowledgeable buyer would pay for the property and a willing seller would accept for the property at an arm's length, bona fide sale. The income approach, if data is available, shall be considered in determining the fair market value of income-producing property. Notwithstanding any other provision of this chapter to the contrary, the transaction amount of the most recent arm's length, bona fide sale in any year shall be the maximum allowable fair market value for the next taxable year. With respect to the valuation of equipment, machinery, and fixtures when no ready market exists for the sale of the equipment, machinery, and fixtures, fair market value may be determined by resorting to any reasonable, relevant, and useful information available, including, but not limited to, the original cost of the property, any depreciation or obsolescence, and any increase in value by reason of

inflation. Each tax assessor shall have access to any public records of the taxpayer for the purpose of discovering such information.

(A) In determining the fair market value of a going business where its continued operation is reasonably anticipated, the tax assessor may value the equipment, machinery, and fixtures which are the property of the business as a whole where appropriate to reflect the accurate fair market value.

(B) The tax assessor shall apply the following criteria in determining the fair market value of real property:

(i) Existing zoning of property;

(ii) Existing use of property, including any restrictions or limitations on the use of property resulting from state or federal law or rules or regulations adopted pursuant to the authority of state or federal law;

(iii) Existing covenants or restrictions in deed dedicating the property to a particular use;

(iv) Bank sales, other financial institution owned sales, or distressed sales, or any combination thereof, of comparable real property;

(v) Decreased value of the property based on limitations and restrictions resulting from the property being in a conservation easement;

(vi) Rent limitations, operational requirements, and any other restrictions imposed upon the property in connection with the property being eligible for any income tax credits described in subparagraph (B.1) of this paragraph or receiving any other state or federal subsidies provided with respect to the use of the property as residential rental property; provided, however, that such properties described in subparagraph (B.1) of this paragraph shall not be considered comparable real property for assessment or appeal of assessment of other properties; and

(vii) Any other existing factors provided by law or by rule and regulation of the commissioner deemed pertinent in arriving at fair market value.

(B.1) The tax assessor shall not consider any income tax credits with respect to real property which are claimed and granted pursuant to either Section 42 of the Internal Revenue Code of 1986, as amended, or Chapter 7 of this title in determining the fair market value of real property.

(B.2) In determining the fair market value of real property, the tax assessor shall not include the value of any intangible assets used by a business, wherever located, including patents, trademarks, trade names, customer agreements, and merchandising agreements.

(C) Fair market value of "historic property" as such term is defined in subsection (a) of Code Section 48-5-7.2 means:

(i) For the first eight years in which the property is classified as "rehabilitated historic property," the value equal to the greater of the acquisition cost of the property or the appraised fair market value of the property as recorded in the county tax digest at the time preliminary certification on such property was received by the county board of tax assessors pursuant to subsection (c) of Code Section 48-5-7.2;

(ii) For the ninth year in which the property is classified as "rehabilitated historic property," the value of the property as determined by division (i) of this subparagraph plus one-half of the difference between such value and the current fair market value exclusive of the provisions of this subparagraph; and

(iii) For the tenth and following years, the fair market value of such property as determined by the provisions of this paragraph, excluding the provisions of this subparagraph.

(D) Fair market value of "landmark historic property" as such term is defined in subsection (a) of Code Section 48-5-7.3 means:

(i) For the first eight years in which the property is classified as "landmark historic property," the value equal to the greater of the acquisition cost of the property or the appraised fair market value of the property as recorded in the county tax digest at the time certification on such property was received by the county board of tax assessors pursuant to subsection (c) of Code Section 48-5-7.3;

(ii) For the ninth year in which the property is classified as "landmark historic property," the value of the property as determined by division (i) of this subparagraph plus one-half of the difference between such value and the current fair market value exclusive of the provisions of this subparagraph; and

(iii) For the tenth and following years, the fair market value of such property as determined by the provisions of this paragraph, excluding the provisions of this subparagraph.

(E) Timber shall be valued at its fair market value at the time of its harvest or sale in the manner specified in Code Section 48-5-7.5.

(F) Fair market value of "brownfield property" as such term is defined in subsection (a) of Code Section 48-5-7.6 means:

(i) Unless sooner disqualified pursuant to subsection (e) of Code Section 48-5-7.6, for the first ten years in which the property is classified as "brownfield property," or as this period of preferential assessment may be extended pursuant to subsection (o) of Code Section 48-5-7.6, the value equal to the lesser of the acquisition cost of the property or the appraised fair market value of the property as recorded in the county tax digest at the time application was made to the Environmental Protection Division of the Department of Natural Resources for participation under Article 9 of Chapter 8 of Title 12, the "Georgia Hazardous Site Reuse and Redevelopment Act," as amended; and

(ii) Unless sooner disqualified pursuant to subsection (e) of Code Section 48-5-7.6, for the eleventh and following years, or at the end of any extension of this period of preferential assessment pursuant to subsection (o) of Code Section 48-5-7.6, the fair market value of such

property as determined by the provisions of this paragraph, excluding the provisions of this subparagraph.

(4) "Foreign merchandise in transit" means personal property of any description which has been or will be moved by waterborne commerce through any port located in this state and:

(A) Which has entered the export stream, although temporarily stored or warehoused in the county where the port of export is located; or

(B) Which was shipped from a point of origin located outside the customs territory of the United States and on which United States customs duties are paid at or through any customs district or port located in this state, although stored or warehoused in the county where the port of entry is located while in transit to a final destination.

(5) "Forest land conservation value" of forest land conservation use property means the amount determined in accordance with the specifications and criteria provided for in Code Section 48-5-271 and Article VII, Section I, Paragraph III(f) of the Constitution.

(6) "Forest land fair market value" means the 2008 fair market value of the forest land; provided, however, that when the 2008 fair market value of the forest land has been appealed by a property owner and the ultimate fair market value of the forest land is changed in the appeal process by either the board of assessors, the board of equalization, a hearing officer, an arbitrator, or a superior court judge, then the final fair market value of the forest land shall replace the 2008 fair market value of the forest land. This final fair market value of the forest land shall be used in the calculation of local assistance grants. If local assistance grants have been granted to either a county, a county board of education, or a municipality based on the 2008 fair market value of forest land and subsequently the fair market value of such forest land is reduced on an appeal, then the county or the municipality shall reimburse the state, within 12 months unless otherwise agreed to by the parties, the difference between local assistance grants paid to the county or municipality and the amount which would have been due based on the final fair market value of the forest land. Such 2008 valuation may increase from one taxable year to the next by a rate equal to the percentage change in the price index for gross output of state and local government from the prior year to the current year as defined by the National Income and Product Accounts and determined by the United States Bureau of Economic Analysis and indicated by the Price Index for Government Consumption Expenditures and General Government Gross Output (Table 3.10.4).

JUDICIAL DECISIONS

ANALYSIS

General Consideration

Factors to Be Considered

EXISTING USE OF PROPERTY is not exclusive factor in determining fair market value; assessors are directed to consider also existing zoning of property, existing covenants or restrictions in the deed dedicating the property to a particular use, or any other factors deemed pertinent in arriving at fair market value. Cobb County Bd. of Tax Assessors v. Sibley, 244 Ga. 404, 260 S.E.2d 313 (1979).

Existing use must be employed as a yardstick with which to measure fair market value. Inland Container Corp. v. Paulding County Bd. of Tax Assessors, 220 Ga. App. 878, 470 S.E.2d 702 (1996), overruled on other grounds by Gilmer County Bd. of Tax Assessors v. Spence, 309 Ga. App. 482, 711 S.E.2d 51(2011).

SUFFICIENCY OF EVIDENCE THAT ASSESSORS FAILED TO CONSIDER EXISTING USE OF PROPERTY IN VALUATION. --Evidence is sufficient to support judgment of trial court that assessors failed to consider the existing use of land which is generally categorized as vacant land, not commercial, industrial, or residential subdivision, when assessors, relying on the property's highest and best use, assigned such land a base value according to the district in which the land was located, which value was determined by the sale price of other vacant lands purchased for development, which sales did not accurately reflect the value of other vacant land because such sales were often for special purposes such as schools or parks, or speculative development. Cobb County Bd. of Tax Assessors v. Sibley, 244 Ga. 404, 260 S.E.2d 313 (1979).

"OTHER PERTINENT FACTORS" SHOULD BE CONSIDERED ONLY AFTER FACTORS LISTED IN SECTION. --It is error for a court to approve a valuation which tilts market value in favor of an assumed highest and best use to appear from future speculation and development, rather than first determining the criteria for zoning, existing use, and deed restrictions, if any, at which time other pertinent factors may be considered. Dotson v. Henry County Bd. of Tax Assessors, 155 Ga. App. 557, 271 S.E.2d 691 (1980); Dotson v. Henry County Bd. of Tax Assessors, 161 Ga. App. 257, 287 S.E.2d 696 (1982).

INTENT AS TO USE OF "HIGHEST AND BEST USE" AS FACTOR IN VALUATION. --While under the criterion "any other factors deemed pertinent" the highest and best use may be considered, the General Assembly did not base market value on highest and best use, nor did the General Assembly list highest and best use as a specific criterion. Dotson v. Henry County Bd. of Tax Assessors, 155 Ga. App. 557, 271 S.E.2d 691 (1980).

"HIGHEST AND BEST USE" IS FACTOR ONLY IF IT REFLECTS AMOUNT REALIZED FROM CASH SALE OF THE PROPERTY. That valuation will not be confined to actual use alone, and all criteria added by the General Assembly are to be considered. Dotson v. Henry County Bd. of Tax Assessors, 155 Ga. App. 557, 271 S.E.2d 691 (1980).

"HIGHEST AND BEST USE" IS A MUCH MORE SPECULATIVE ASSIGNED VALUE THAN EXISTING USE. Dotson v. Henry County Bd. of Tax Assessors, 155 Ga. App. 557, 271 S.E.2d 691 (1980).

VALUATION OF INCOME-PRODUCING PROPERTY BY INCOME CAPITALIZATION METHOD. --In considering existing use, when the use is income producing, it would appear that the income capitalization method should at least be considered, this being a standard method of arriving at value. Dotson v. Henry County Bd. of Tax Assessors, 155 Ga. App. 557, 271 S.E.2d 691 (1980).

METHOD FOR FIXING FAIR MARKET VALUE OF LEASEHOLDS. --In fixing the fair market value of a leasehold for tax purposes, the rule of "fair market value of property" should always be applied. Delta Air Lines v. Coleman, 219 Ga. 12, 131 S.E.2d 768, cert. denied, 375 U.S. 904, 84 S. Ct. 195, 11 L. Ed. 2d 145 (1963).

VALUATION OF SEPARATE TAXABLE INTERESTS WHEN TAX LIABILITY DIVIDED AMONG OWNERS. --Existence of separate taxable interests and estates in the same property and determination of their respective fair market values for assessment purposes is necessary only when the tax liability is likewise divided among the owners. Martin v. Liberty County Bd. of Tax Assessors, 152 Ga. App. 340, 262 S.E.2d 609 (1979).

VALUATION OF LEASES. --Assessed value must consider, inter alia: existing zoning, existing use, and "any other factors deemed pertinent in arriving at fair market value." Therefore, a consideration of "existing use" (the current leases) must be employed as a ""yardstick' with which to measure fair market value" not hypothetical non-existing leases. Dougherty County Bd. of Equalization v. Castro Dev. Co., 228 Ga. App. 293, 491 S.E.2d 483 (1997).

VALUATION OF DAIRY FARM CANNOT BE BASED ON SALES FOR SPECULATIVE OR DEVELOPMENT PURPOSES. --When the assessed value of rural acreage used as a dairy farm is based primarily on sales of other property, and all the so-called comparable sales are for speculative or development purposes, with the exception of one which was intended for use as a private airport, the statutory formula has not been properly applied. Dotson v. Henry County Bd. of Tax Assessors, 155 Ga. App. 557, 271 S.E.2d 691 (1980).

CLUB MEMBERSHIP'S RELEVANCY TO VALUATION OF PROPERTY. --Although taxpayers' memberships in a club were not subject to taxation, if a taxpayer relinquished that membership upon sale of the taxpayer's real estate, the buyer could apply for immediate membership, and such an application would normally be granted. Therefore, a county board of

tax assessors would have violated Ga. Const. 1983, Art. VII, Sec. I, Para. III and O.C.G.A. § 48-5-1 if the board excluded the enhanced value of the properties attributable to the right to apply for such memberships from ad valorem taxation because the membership was part of the properties' fair market value. Morton v. Glynn County Bd. of Tax Assessors, 294 Ga. App. 901, 670 S.E.2d 528 (2008).

USE OF A "VALUE IN USE IN PLACE" STANDARD was not an inappropriate method of determining the fair market value of machinery and equipment for taxation purposes. Flambeau Corp. v. Morgan County Bd. of Tax Assessors, 238 Ga. App. 812, 520 S.E.2d 275 (1999).

FEDERAL TAX CREDITS CONSIDERED. --Prior to the statutory amendment contained in O.C.G.A. § 48-5-2(3)(B.1), tax credits under 26 U.S.C. § 42 were properly considered in establishing the fair market value of real estate for property tax purposes. Pine Pointe Hous., L.P. v. Lowndes County Bd. of Tax Assessors, 254 Ga. App. 197, 561 S.E.2d 860 (2002).

HISTORIC PROPERTIES. --O.C.G.A. § 48-5-2(3)(C) defines "fair market value" of property classified as rehabilitated historic property under O.C.G.A. § 48-5-7.2 and sets forth the same test to be used when the county tax receiver or tax commissioner enters the basis or value of a parcel of rehabilitated historic property; thus, O.C.G.A. § 48-5-7.2 did not require that both the rehabilitation process and the Department of Natural Resources final certification process be completed within the two-year period before the owner may have applied for and obtained preferential assessment for the property and a tax board's argument that the board had no value upon which to base the preferential assessment whenever the owner allows the preliminary assessment to lapse upon expiration of the two-year rehabilitation period was without merit. Chatham County Bd. of Tax Assessors v. Emmoth, 278 Ga. 144, 598 S.E.2d 495 (2004).

GENERAL CONSIDERATION

CONSTITUTIONALITY OF UTILIZING OTHER METHODS FOR DETERMINING FAIR MARKET VALUE. --Utilization of different methods for determining fair market value for purposes of taxation creates no infirmity under the United States Constitution or under the state constitution or laws. Dougherty County Bd. of Tax Assessors v. Burt Realty Co., 250 Ga. 467, 298 S.E.2d 475, cert. denied, 463 U.S. 1208, 103 S. Ct. 3540, 77 L. Ed. 2d 1390 (1983).

STATUTE IS NOT UNCONSTITUTIONAL FOR VAGUENESS OF THE TERM "FAIR MARKET VALUE OF PROPERTY." Chilivis v. Backus, 236 Ga. 88, 222 S.E.2d 371 (1976) (see O.C.G.A. § 48-5-2).

DEFINITION OF "FAIR MARKET VALUE OF PROPERTY" IS NOT TOO VAGUE AND INDEFINITE to be enforced. Chilivis v. Kell, 236 Ga. 226, 223 S.E.2d 117, cert. denied, 429 U.S. 891, 97 S. Ct. 249, 50 L. Ed. 2d 174 (1976).

CONSTITUTIONALITY OF THE TERM "FAIR MARKET VALUE OF PROPERTY." --Term "fair market value of property" as defined in this statute is not too vague and indefinite to be enforced, and there is no merit in the constitutional attacks on county ad valorem tax

assessments statutes because of their use of this term. Butts County v. Briscoe, 236 Ga. 233, 223 S.E.2d 199 (1976) (see O.C.G.A. § 48-5-2).

HIGHEST AND BEST USE MAY BE CONSIDERED. --In assessing the fair market value of real property, tax assessors may, when appropriate, consider the "highest and best use" of real property under the statutory criterion allowing "[A]ny other factors deemed pertinent in arriving at a fair market value." Sibley v. Cobb County Bd. of Tax Assessors, 171 Ga. App. 65, 318 S.E.2d 643 (1984).

APPLICABILITY OF 1979 AMENDMENT. --Change made by Ga. L. 1979, p. 5, § 17, is not to the tax year 1979 but to tax years 1980 and thereafter. Monroe County Bd. of Tax Assessors v. Remick, 165 Ga. App. 616, 300 S.E.2d 203 (1983).

SIMULTANEOUS APPLICATION OF LOCAL ACT HOMESTEAD EXEMPTION WAS NOT PRECLUDED. --Although an owner's property qualified for preferential assessment under the Rehabilitated Historic Property Preferential Assessment Act (RHPPA), O.C.G.A. § 48-5-7.2, the owner was allowed to use the effective date of the local Act homestead exemption, Ga. L. 1999, p. 4213, § 1, as the base year for the fair market valuation assessment of the property because the simultaneous application of the RHPPA and the local Act homestead exemption was not precluded. Chatham County Bd. of Tax Assessors v. Bock, 299 Ga. App. 257, 682 S.E.2d 355 (2009).

"FOREIGN MERCHANDISE IN TRANSIT." --Imported stone tile/slab, which was stored at taxpayer's pleasure for sale to anyone who might wish to purchase it, was not "in transit to a final destination" within the contemplation of subparagraph (4)(B) of O.C.G.A. § 48-5-2 and was consequently not exempt from ad valorem taxation under O.C.G.A. § 48-5-5. Seabrook Corp. v. Chatham County Bd. of Equalization, 195 Ga. App. 730, 394 S.E.2d 796 (1990).

Merchandise brought into the United States through the port of Charleston, South Carolina and transported, via land freight carrier to a container freight station in Chatham County, was not "foreign merchandise in transit" and was therefore not exempt from ad valorem taxation. Pier 1 Imports v. Chatham County Bd. of Tax Assessors, 199 Ga. App. 294, 404 S.E.2d 637 (1991).

TRIAL COURT IS CORRECT IN DISREGARDING VALUATION PLACED ON PROPERTY BY BOARD OF TAX ASSESSORS when the chairperson concedes that the chairperson has no knowledge of the existing use of the property, that the existing zoning is not indicative of any use to which the property might reasonably be put, and that the chairperson knows of no other factors, other than the property's general location, which might be pertinent in determining the amount the property would bring at a cash sale. Evans v. Board of Tax Assessors, 168 Ga. App. 792, 310 S.E.2d 562 (1983).

NO DISTINCTION BETWEEN PROPERTY OWNED BY PUBLIC UTILITY CORPORATIONS AND INDIVIDUALS. Ogletree v. Woodward, 150 Ga. 691, 105 S.E. 243 (1920).

DUTY TO RETURN ALL PROPERTY AT FAIR MARKET VALUE IS A STATUTORY MANDATE. --Provision requiring that all property be returned for taxation at the property's fair market value is, undeniably, a statutory mandate. McLennan v. Undercofler, 222 Ga. 302, 149 S.E.2d 705 (1966).

Duty to return all property at fair market value is not supreme, but yields to the duty to avoid discrimination. McLennan v. Undercofler, 222 Ga. 302, 149 S.E.2d 705 (1966); Griggs v. Greene, 230 Ga. 257, 197 S.E.2d 116 (1973).

CONSTRUCTION OF "EXISTING USE OF PROPERTY." --Term "existing use of property" as used in the definition of "fair market value of property" cannot be assigned any particular value since real property is unique and the extent to which existing use affects the property's value is dependent upon a great variety of other factors. Cobb County Bd. of Tax Assessors v. Sibley, 244 Ga. 404, 260 S.E.2d 313 (1979).

CONSTRUCTION WITH OTHER LAW. --Assessments lacked uniformity in failing to follow the mandates of O.C.G.A. § 48-5-2 regarding consideration of "existing use of the property" and "other factors deemed pertinent in arriving at fair market value" and in failing to exempt standing timber under the mandate of O.C.G.A. §§ 48-5-7.1(a)(1) and 48-5-7.5 as set forth in Ga. Const. 1982, Art. VII, Sec. I, Para. III. Leverett v. Jasper County Bd. of Tax Assessors, 233 Ga. App. 470, 504 S.E.2d 559 (1998).

DISCREPANCIES IN TAX EVALUATION ASSESSMENT. --Bankruptcy court found that for the purposes of ad valorem tax on the debtors' equipment that: (1) for 1997, the value was the lowest of the tax assessors' value due to discrepancies in the tax assessors' values; (2) for 1998, the court accepted the value determined by the board of equalization which gave some weight to the debtors' appraiser who considered comparable sales; (3) for 1999, the court took the tax assessors' lowest value as the debtors' appraiser omitted a laser device; and (4) for 2000, the debtors did not challenge the tax assessors' value. In re R-P Packaging, Inc., 278 Bankr. 281 (Bankr. M.D. Ga. 2002).

FACTORS TO BE CONSIDERED

EXISTING USE OF PROPERTY is not exclusive factor in determining fair market value; assessors are directed to consider also existing zoning of property, existing covenants or restrictions in the deed dedicating the property to a particular use, or any other factors deemed pertinent in arriving at fair market value. Cobb County Bd. of Tax Assessors v. Sibley, 244 Ga. 404, 260 S.E.2d 313 (1979).

Existing use must be employed as a yardstick with which to measure fair market value. Inland Container Corp. v. Paulding County Bd. of Tax Assessors, 220 Ga. App. 878, 470 S.E.2d 702 (1996), overruled on other grounds by Gilmer County Bd. of Tax Assessors v. Spence, 309 Ga. App. 482, 711 S.E.2d 51(2011).

SUFFICIENCY OF EVIDENCE THAT ASSESSORS FAILED TO CONSIDER EXISTING USE OF PROPERTY IN VALUATION. --Evidence is sufficient to support judgment of trial court that assessors failed to consider the existing use of land which is generally categorized as vacant land, not commercial, industrial, or residential subdivision, when assessors, relying on the property's highest and best use, assigned such land a base value according to the district in which the land was located, which value was determined by the sale price of other vacant lands purchased for development, which sales did not accurately reflect the value of other vacant land because such sales were often for special purposes such as schools or parks, or speculative development. Cobb County Bd. of Tax Assessors v. Sibley, 244 Ga. 404, 260 S.E.2d 313 (1979).

"OTHER PERTINENT FACTORS" SHOULD BE CONSIDERED ONLY AFTER FACTORS LISTED IN SECTION. --It is error for a court to approve a valuation which tilts market value in favor of an assumed highest and best use to appear from future speculation and development, rather than first determining the criteria for zoning, existing use, and deed restrictions, if any, at which time other pertinent factors may be considered. Dotson v. Henry County Bd. of Tax Assessors, 155 Ga. App. 557, 271 S.E.2d 691 (1980); Dotson v. Henry County Bd. of Tax Assessors, 161 Ga. App. 257, 287 S.E.2d 696 (1982).

INTENT AS TO USE OF "HIGHEST AND BEST USE" AS FACTOR IN VALUATION. --While under the criterion "any other factors deemed pertinent" the highest and best use may be considered, the General Assembly did not base market value on highest and best use, nor did the General Assembly list highest and best use as a specific criterion. Dotson v. Henry County Bd. of Tax Assessors, 155 Ga. App. 557, 271 S.E.2d 691 (1980).

"HIGHEST AND BEST USE" IS FACTOR ONLY IF IT REFLECTS AMOUNT REALIZED FROM CASH SALE OF THE PROPERTY. That valuation will not be confined to actual use alone, and all criteria added by the General Assembly are to be considered. Dotson v. Henry County Bd. of Tax Assessors, 155 Ga. App. 557, 271 S.E.2d 691 (1980).

"HIGHEST AND BEST USE" IS A MUCH MORE SPECULATIVE ASSIGNED VALUE THAN EXISTING USE. Dotson v. Henry County Bd. of Tax Assessors, 155 Ga. App. 557, 271 S.E.2d 691 (1980).

VALUATION OF INCOME-PRODUCING PROPERTY BY INCOME CAPITALIZATION METHOD. --In considering existing use, when the use is income producing, it would appear that the income capitalization method should at least be considered, this being a standard method of arriving at value. Dotson v. Henry County Bd. of Tax Assessors, 155 Ga. App. 557, 271 S.E.2d 691 (1980).

METHOD FOR FIXING FAIR MARKET VALUE OF LEASEHOLDS. --In fixing the fair market value of a leasehold for tax purposes, the rule of "fair market value of property" should always be applied. Delta Air Lines v. Coleman, 219 Ga. 12, 131 S.E.2d 768, cert. denied, 375 U.S. 904, 84 S. Ct. 195, 11 L. Ed. 2d 145 (1963).

VALUATION OF SEPARATE TAXABLE INTERESTS WHEN TAX LIABILITY DIVIDED AMONG OWNERS. --Existence of separate taxable interests and estates in the same property and determination of their respective fair market values for assessment purposes is necessary only when the tax liability is likewise divided among the owners. Martin v. Liberty County Bd. of Tax Assessors, 152 Ga. App. 340, 262 S.E.2d 609 (1979).

VALUATION OF LEASES. --Assessed value must consider, inter alia: existing zoning, existing use, and "any other factors deemed pertinent in arriving at fair market value." Therefore, a consideration of "existing use" (the current leases) must be employed as a ""yardstick' with which to measure fair market value" not hypothetical non-existing leases. Dougherty County Bd. of Equalization v. Castro Dev. Co., 228 Ga. App. 293, 491 S.E.2d 483 (1997).

VALUATION OF DAIRY FARM CANNOT BE BASED ON SALES FOR SPECULATIVE OR DEVELOPMENT PURPOSES. --When the assessed value of rural acreage used as a dairy farm is based primarily on sales of other property, and all the so-called comparable sales are for speculative or development purposes, with the exception of one which was intended for use as a private airport, the statutory formula has not been properly applied. Dotson v. Henry County Bd. of Tax Assessors, 155 Ga. App. 557, 271 S.E.2d 691 (1980).

CLUB MEMBERSHIP'S RELEVANCY TO VALUATION OF PROPERTY. --Although taxpayers' memberships in a club were not subject to taxation, if a taxpayer relinquished that membership upon sale of the taxpayer's real estate, the buyer could apply for immediate membership, and such an application would normally be granted. Therefore, a county board of tax assessors would have violated Ga. Const. 1983, Art. VII, Sec. I, Para. III and O.C.G.A. § 48-5-1 if the board excluded the enhanced value of the properties attributable to the right to apply for such memberships from ad valorem taxation because the membership was part of the properties' fair market value. Morton v. Glynn County Bd. of Tax Assessors, 294 Ga. App. 901, 670 S.E.2d 528 (2008).

USE OF A "VALUE IN USE IN PLACE" STANDARD was not an inappropriate method of determining the fair market value of machinery and equipment for taxation purposes. Flambeau Corp. v. Morgan County Bd. of Tax Assessors, 238 Ga. App. 812, 520 S.E.2d 275 (1999).

FEDERAL TAX CREDITS CONSIDERED. --Prior to the statutory amendment contained in O.C.G.A. § 48-5-2(3)(B.1), tax credits under 26 U.S.C. § 42 were properly considered in establishing the fair market value of real estate for property tax purposes. Pine Pointe Hous., L.P. v. Lowndes County Bd. of Tax Assessors, 254 Ga. App. 197, 561 S.E.2d 860 (2002).

HISTORIC PROPERTIES. --O.C.G.A. § 48-5-2(3)(C) defines "fair market value" of property classified as rehabilitated historic property under O.C.G.A. § 48-5-7.2 and sets forth the same test to be used when the county tax receiver or tax commissioner enters the basis or value of a parcel of rehabilitated historic property; thus, O.C.G.A. § 48-5-7.2 did not require that both the rehabilitation process and the Department of Natural Resources final certification process be completed within the two-year period before the owner may have applied for and obtained preferential assessment for the property and a tax board's argument that the board had no value upon which to base the preferential assessment whenever the owner allows the preliminary assessment to lapse upon expiration of the two-year rehabilitation period was without merit. Chatham County Bd. of Tax Assessors v. Emmoth, 278 Ga. 144, 598 S.E.2d 495 (2004).

OPINIONS OF THE ATTORNEY GENERAL

RESEARCH REFERENCES

ALR. --Taxes: valuing undeveloped mining property as prospect, 2 ALR 1550.
Assessment of corporate property at full value according to law when valuations generally are illegally fixed lower, 3 ALR 1370; 28 ALR 983; 55 ALR 503.
Prospective value as basis of valuation of land for purposes of property taxation, 24 ALR 649.
Method or rule for valuation of leasehold interest for purpose of property taxation, 84 ALR 1310.
Rights appurtenant, easements, restrictions, or charges in respect of land as factors in assessment of real property for property taxation, 108 ALR 829.
Valuation of property for purpose of taxation as affected by variation of tax rates for local or special purposes in different local taxing units, or inclusion of property within particular taxing unit, 119 ALR 1300.
Easement as factor in property taxation, 134 ALR 963.
Discretion of court or referee as to mode of valuation of real property for tax purposes, 152 ALR 611.
Application of "blockage rule" or "blockage discount theory" in determining stock valuation, for purposes of taxation of intangibles, 33 ALR2d 607.
Income or rental value as a factor in evaluation of real property for purposes of taxation, 96 ALR2d 666.
Separate assessment and taxation of air rights, 56 ALR3d 1300.
Situs of tangible personal property for purposes of property taxation, 2 ALR4th 432.
Title Note
Chapter Note

Source: Legal > States Legal - U.S. > Georgia > Find Statutes, Regulations, Administrative Materials & Court Rules > GA - Official Code of Georgia Annotated

48-5-3. **Taxable property.**

All real property including, but not limited to, leaseholds, interests less than fee, and all personal property shall be liable to taxation and shall be taxed, except as otherwise provided by law. Liability of property for taxation shall not be affected by the individual or corporate character of the property owner or by the resident or nonresident status of the property owner.

48-5-9. **Person liable for taxes on property**

Taxes shall be charged against the owner of property if the owner is known and against the specific property itself if the owner is not known. Life tenants and those who own and enjoy the property shall be chargeable with the taxes on the property.

GENERAL CONSIDERATION

STATUTE IS BUT A CODIFICATION OF THE RULINGS OF THE SUPREME COURT in National Bank v. Danforth, 80 Ga. 55, 7 S.E. 546 (1887); Burns v. Lewis, 86 Ga. 591, 13 S.E. 123 (1891); and Wells v. Mayor of Savannah, 87 Ga. 397, 13 S.E. 442 (1891). Lowe v. City of Atlanta, 191 Ga. 76, 11 S.E.2d 891 (1940), later appeal, 194 Ga. 317, 21 S.E.2d 171 (1942) (see O.C.G.A. § 48-5-9).

HISTORY OF LIFE TENANT PROVISION. --Latter part of this statute, referring to life tenants and others, who may own and enjoy property, was taken from the decision in National Bank v. Danforth, 80 Ga. 55, 7 S.E. 546 (1887), written by Mr. Chief Justice Bleckley. Pursley v. Manley, 166 Ga. 809, 144 S.E. 242 (1928) (see O.C.G.A. § 48-5-9).

WHO MAY BE OWNER. --Owner of property must be a natural person, a corporation, or a quasi-person or entity, such as a partnership. The law recognizes no other owners of property. "The estate of A.J. Miller" is not the name of a natural person, and does not import either a partnership or a corporation. Miller v. Brooks, 120 Ga. 232, 47 S.E. 646 (1904).

SECTION DOES NOT APPLY TO ASSESSMENTS FOR LAND DRAINAGE TAXES. Pursley v. Manley, 166 Ga. 809, 144 S.E. 242 (1928) (see O.C.G.A. § 48-5-9).

REAL ESTATE TRANSFER TAX IMPOSED BY ART. 1 OF CH. 6 OF THIS TITLE IS NOT A TAX ON THE PROPERTY AS SUCH, as is the ad valorem tax which is charged against the owner of the property or against the specific property. City of Columbus v. Ronald A. Edwards Constr. Co., 155 Ga. App. 502, 271 S.E.2d 643 (1980).

INSTRUCTIONS. --Since the requested instruction was a correct statement of the law that a life tenant is bound to pay current taxes unless otherwise provided in the deed, and such charge was not adequately given to the jury, the verdict in favor of the life tenant on the issue of back taxes had to be set aside. Clark v. Childs, 253 Ga. 493, 321 S.E.2d 727 (1984).

CITED in Milner v. Bivens, 255 Ga. 49, 335 S.E.2d 288 (1985); Nat'l Tax Funding, L.P. v. Harpagon Co., 277 Ga. 41, 586 S.E.2d 235 (2003); Muscogee County Bd. of Tax Assessors v. Pace Indus., 307 Ga. App. 532, 705 S.E.2d 678 (2011).

48-5-10. **Returnable property.**

All property shall be returned by the taxpayers for taxation to the tax commissioner or tax receiver as provided by law. Each return by a taxpayer shall be for property held and subject to taxation on January 1 next preceding each return.

JUDICIAL DECISIONS

FIRST DAY OF TAX YEAR CONTROLLED BANKRUPTCY DEBTOR'S LIABILITY. --Chapter 13 debtor was liable for property taxes assessed against the property despite the fact that the debtor's lender was granted relief from stay. Under O.C.G.A. §§ 48-2-55 and 48-5-10, the debtor remained personally liable for the taxes because the debtor was the title holder of the

property on the first day of each tax year for which an unsecured priority claim was made. Waddy v. Fulton County Tax Comm'r (In re Waddy), No. 09-64634-WLH, 2010 Bankr. LEXIS 4003 (Bankr. N.D. Ga. Sept. 23, 2010).

CITED in DeKalb County Bd. of Tax Assessors v. W.C. Harris & Co., 248 Ga. 277, 282 S.E.2d 880 (1981); Georgia Marble Co. v. Whitlock, 260 Ga. 350, 392 S.E.2d 881 (1990); Jamestown Assocs. v. Fulton County Bd. of Tax Assessors, 228 Ga. App. 360, 492 S.E.2d 1 (1997); White Cloud Charter, Inc. v. DeKalb County Bd. of Tax Assessors, 238 Ga. App. 805, 520 S.E.2d 708 (1999); Nat'l Tax Funding, L.P. v. Harpagon Co., 277 Ga. 41, 586 S.E.2d 235 (2003); Int'l Auto Processing, Inc. v. Glynn County, 287 Ga. App. 431, 651 S.E.2d 535 (2007); Muscogee County Bd. of Tax Assessors v. Pace Indus., 307 Ga. App. 532, 705 S.E.2d 678 (2011).

48-5-15. **Returns of taxable real property**

(a) All improved and unimproved real property in this state which is subject to taxation shall be returned by the person owning the real property or by his or her agent or attorney to the tax receiver or tax commissioner of the county where the real property is located.

(b) If the real property has a district, number, and section designation, the tax receiver or tax commissioner shall require the person making a return of the real property to return it by district, number, and section designation. If the real property has no designation by district, number, and section, it shall be returned by such description as will enable the tax receiver or tax commissioner to identify it.

(c) No tax receiver or tax commissioner shall receive any return of real property which does not designate the real property as provided in this Code section. The commissioner shall not allow any tax receiver or tax commissioner who receives returns in any manner other than as provided in this Code section any compensation or percentage for his services.

48-5-18. Time for making tax returns.

Each tax commissioner and tax receiver shall open his or her books for the return of real or personal property ad valorem taxes on January 1 and shall close those books on April 1 of each year.

48-5-20. Effect of failure to return taxable property; acquisition of real property by transfer; penalty for failure to make timely return.

(a) (1) Any taxpayer of any county who returned or paid taxes in the county for the preceding tax year and who fails to return his property for taxation for the current tax year as required by this chapter shall be deemed to have returned for taxation the same property as was returned or deemed to have been returned in the preceding tax year at the same valuation as the property was finally determined to be subject to taxation in the preceding year. Each such

taxpayer shall also be deemed to have claimed the same homestead exemption and personal property exemption as allowed in the preceding year.

(2) Any taxpayer of any county who acquired real property by transfer in the preceding tax year for which a properly completed real estate transfer tax form has been filed and the real estate transfer tax required under Article 1 of Chapter 6 of this title has been paid, and where no subdivision of the real property has occurred at the time of transfer, shall be deemed to have returned for taxation the same real property as was acquired by transfer at the same valuation as the real property was finally determined to be subject to taxation in the preceding year. Nothing in this paragraph shall be construed to relieve the taxpayer of the responsibility to file a new timely claim for a homestead exemption and personal property exemption or to file a timely return where improvements have been made to the real property since it was last returned for taxation.

(b) Any penalty prescribed by this title or by any other law for the failure of a taxpayer to return his property for taxation within the time provided by law shall apply only to the property:
(1) Which the taxpayer did not return prior to the expiration of the time for making returns; and
(2) Which the taxpayer has acquired since his last tax return or which represents improvements on existing property since his last return.

(c) Reserved.

48-5-29. Acquisition of jurisdiction by superior court in ad valorem property tax litigation; payment and distribution of property taxes; excess payments; underpayments.

(a) Before the superior court has jurisdiction to entertain any civil action, appeal, or affidavit of illegality filed under this title by any aggrieved taxpayer concerning liability for ad valorem property taxes, taxability of property for ad valorem property taxes, valuation of property for ad valorem taxes, or uniformity of assessments for ad valorem property taxes, the taxpayer shall pay the amount of ad valorem property taxes assessed against the property at issue for the last year for which taxes were finally determined to be due on the property.

(b) Ad valorem taxes due under this Code section shall be paid to the tax collector or tax commissioner of the county where the property is located. If the property is located within any municipality, the portion of the payment due the municipality shall be paid to the officer designated by the municipality to collect ad valorem taxes.

(c) All taxes paid to the county tax collector or tax commissioner under this Code section shall be distributed to the state, county, county schools, and any other applicable taxing districts in the same proportion as the millage rate for each bears to the total millage rate applicable to the property for the current year. If the total millage rate has not been determined for the current year, the distribution shall be made on the basis of the millage rates established for the immediately preceding year.

(d) Any payment made by the taxpayer in accordance with this Code section which is in excess of his finally determined tax liability shall be refunded to the taxpayer. If the amount finally determined to be the tax liability of the taxpayer exceeds the amount paid under this Code section, the taxpayer shall be liable for the amount of the difference between the amount

of tax paid and the amount of tax owed. The amount of difference shall be subject to the interest provided under subsection (g) of Code Section 48-5-311.

JUDICIAL DECISIONS

WHAT TAXES MUST BE PAID TO SATISFY JURISDICTIONAL REQUIREMENT. --Statute supersedes the rule that a taxpayer need only tender the amount of taxes admitted to be due as the taxes become due. North By N.W. Civic Ass'n v. Cates, 241 Ga. 39, 243 S.E.2d 32, cert. denied, 439 U.S. 838, 99 S. Ct. 123, 58 L. Ed. 2d 134 (1978) (see O.C.G.A. § 48-5-29).

Penalties and interest became part of the "ad valorem taxes assessed against the property" such that tender of the past due principal only was insufficient to vest jurisdiction in the superior court for purposes of an ad valorem property tax appeal. Bannister v. Douglas County Bd. of Tax Assessors, 219 Ga. App. 68, 464 S.E.2d 29 (1995).

Trial court order dismissing the taxpayers' appeal of the 2006 ad valorem valuation of certain real property was vacated and the case was remanded to the trial court to determine if the taxpayers had paid a sufficient amount of the 2005 taxes to cure the jurisdictional defect under O.C.G.A. § 48-5-29(a), or whether the defect could no longer be cured. Lake Erma, LLC v. Henry County Bd. of Tax Assessors, 298 Ga. App. 733, 681 S.E.2d 188 (2009), cert. denied, No. S09C1880, 2010 Ga. LEXIS 25 (Ga. 2010).

CURE OF JURISDICTIONAL DEFECT BEFORE MOTION TO DISMISS IS FILED. --When jurisdictional defect, a failure to pay taxes based on the previous year's assessment prior to filing suit, is cured by the time the defendants' motion to dismiss for lack of jurisdiction is filed, the trial court has jurisdiction. Allright Parking of Ga., Inc. v. Joint City-County Bd. of Tax Assessors, 244 Ga. 378, 260 S.E.2d 315 (1979).

STATUTE DOES NOT APPLY TO A COMPLAINT FILED AS A "CLASS RETURN" by taxpayers for the limited purpose of requiring the county board of tax assessors to enter into class arbitration with the taxpayers. A decision in the case will not determine tax liability, taxability of property, valuation of property, or uniformity of assessments for ad valorem property taxes. It merely determines whether the taxpayers may have class arbitration. Callaway v. Carswell, 240 Ga. 579, 242 S.E.2d 103 (1978) (see O.C.G.A. § 48-5-29).

FAILURE TO COMPLY WITH O.C.G.A. § 48-5-29(A). --Trial court did not err in dismissing for lack of jurisdiction the taxpayers' action seeking an interlocutory injunction to prohibit a county tax commissioner from collecting upon tax fi. fas. issued against their personal property based on their failure to pay ad valorem property taxes because the taxpayers were required to comply with O.C.G.A. § 48-5-29(a), but the taxpayers did not pay all of their taxes; the taxpayers could not circumvent the requirement of § 48-5-29(a) by characterizing their complaint as a constitutional "due process" action rather than one arising under the Revenue Code because the complaint was squarely aimed at challenging their ad valorem property tax assessments. Coffman Grading Co. v. Forsyth County, 303 Ga. App. 836, 695 S.E.2d 310 (2010).

Although the trial court correctly held that taxpayers had to pay certain taxes pursuant to O.C.G.A. § 48-5-29(a), the court erred in failing to hold an evidentiary hearing to determine the amount taxpayers owed; because the taxpayers challenged the ad valorem taxes on the property for the years 2004 through 2008, the last year for which taxes were finally determined to be due was 2003, and in order for the trial court to entertain the action, the taxpayers had to

pay an amount equal to the 2003 ad valorem taxes on the property for each of the challenged years, less the value of property already seized. Coffman Grading Co. v. Forsyth County, 303 Ga. App. 836, 695 S.E.2d 310 (2010).

O.C.G.A. § 48-5-29(D) PROVIDES FOR A REFUND WITH INTEREST. Clayton County Bd. of Tax Assessors v. City of Atlanta, 299 Ga. App. 233, 682 S.E.2d 328 (2009).

PROCEDURE PENDING APPEAL. --If, under O.C.G.A. § 48-2-18, a utility had both subsection (c) and subsection (d) appeals proceeding simultaneously, and a local appeal was still pending when the subsection (c) appeal was concluded, the provisions for the payment of taxes during the pendency of an appeal would apply. Telecom*USA, Inc. v. Collins, 260 Ga. 362, 393 S.E.2d 235 (1990).

CITED in Allen v. Board of Tax Assessors, 247 Ga. 568, 277 S.E.2d 660 (1981); Sibley v. Cobb County Bd. of Tax Assessors, 171 Ga. App. 65, 318 S.E.2d 643 (1984).

48-5-41. **Property exempt from taxation.**

(a) The following property shall be exempt from all ad valorem property taxes in this state:

(1)(A) Except as provided in this paragraph, all public property.

(B) No public real property which is owned by a political subdivision of this state and which is situated outside the territorial limits of the political subdivision shall be exempt from ad valorem taxation unless the property is:

(i) Developed by grading or other improvements to the extent of at least 25 percent of the total land area and facilities are located on the property which are actively used for a public or governmental purpose;
(ii) Three hundred acres or less in area;
(iii) Located inside a county embracing all or part of a municipality owning such property; or
(iv) That portion of any real property which has been designated as a watershed by the United States Soil and Water Conservation Service and used as a watershed by the political subdivision owning the property.

(C) Property which is owned by and used exclusively as the general state headquarters of a nonprofit corporation organized for the primary purpose of encouraging cooperation between parents and teachers to promote the education and welfare of children and youth, notwithstanding the fact that such nonprofit corporation may derive income from fees or dues paid by persons, organizations, or associations to affiliate with such nonprofit corporation, shall be considered to be an extension of the public schools of this state and such property shall be considered to be public property within the meaning of this paragraph.

(D) Property which is held by a Georgia nonprofit corporation whose income is exempt from federal income tax pursuant to Section 115 of the Internal Revenue Code of 1986 and held exclusively for the benefit of a county, municipality, or school district shall be considered to be public property within the meaning of this paragraph.

(E) Property which qualifies as a public-private transportation project pursuant to Code Section 32-2-80 which property is owned or leased by the state, a state agency, or another governmental entity and which is developed, operated, or held by a private partner shall be considered to be public property within the meaning of this paragraph.
(2) All places of burial;

(2.1)(A) All places of religious worship; and

(B) All property owned by and operated exclusively as a church, an association or convention of churches, a convention mission agency, or as an integrated auxiliary of a church or convention or association of churches, when such entity is qualified as an exempt religious organization under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and such property is used in a manner consistent with such exemption under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended;

(3) All property owned by religious groups and used only for single-family residences when no income is derived from the property;

(4) All institutions of purely public charity;

(5)(A) All property of nonprofit hospitals used in connection with their operation when the hospitals have no stockholders, have no income or profit which is distributed to or for the benefit of any private person, and are subject to the laws of this state regulating nonprofit or charitable corporations;

(B) Property exempted pursuant to this paragraph shall not include property of a nonprofit hospital held primarily for investment purposes or used for purposes unrelated to:

(i) Providing of patient care;

(ii) Providing and delivery of health care services; or

(iii) Training and education of physicians, nurses, and other health care personnel;

(6) All buildings erected for and used as a college, incorporated academy, or other seminary of learning;

(7) All funds or property held or used as endowment by colleges, nonprofit hospitals, incorporated academies, or other seminaries of learning when the funds or property are not invested in real estate;

(8) When used by or connected with any public library, all the real and personal property of such library and all the real and personal property of any other literary association;

(9) All books, philosophical apparatus, paintings, and statuary of any company or associations which are kept in a public hall and which are not held as merchandise or for purposes of sale or gain;

(10) Reserved;

(11) All property used in or which is a part of any facility which has been installed or constructed at any time for the primary purpose of eliminating or reducing air or water pollution if such facilities have been certified by the Department of Natural Resources as necessary and adequate for the purposes intended;
(12)(A) Property of a nonprofit home for the aged used in connection with its operation when the home for the aged has no stockholders and no income or profit which is distributed to or for the benefit of any private person and when the home is qualified as an exempt organization under the United States Internal Revenue Code, Section 501(c)(3), as amended, and Code Section 48-7-25, and is subject to the laws of this state regulating nonprofit and charitable corporations;
(B) Property exempted by this paragraph shall not include property of a home for the aged held primarily for investment purposes or used for purposes unrelated to the providing of residential or health care to the aged;

(C) For purposes of this paragraph, indirect ownership of such home for the aged through a limited liability company that is fully owned by such exempt organization shall be considered direct ownership;

(13)(A) All property of any nonprofit home for the mentally disabled used in connection with its operation when the home for the mentally disabled has no stockholders and no income or profit which is distributed to or for the benefit of any private person and when the home is qualified as an exempt organization under the United States Internal Revenue Code of 1954, Section 501(c)(3), as amended, and Code Section 48-7-25, and is subject to the laws of this state regulating nonprofit and charitable corporations.

(B) Property exempted by this paragraph shall not include property of a home for the mentally disabled held primarily for investment purposes or used for purposes unrelated to the providing of residential or health care to the mentally disabled;

(14) (A) Property which is owned by and used exclusively as the headquarters, post home, or similar facility of a veterans organization. As used in this paragraph, the term "veterans organization" means any organization or association chartered by the Congress of the United States which is exempt from federal income taxes but only if such organization is a post or organization of past or present members of the armed forces of the United States organized in the State of Georgia with at least 75 percent of the members of which are past or present members of the armed forces of the United States, and where no part of the net earnings of which inures to the benefit of any private shareholder or individual; or

(B) Property which is owned by and used exclusively by any veterans organization which is qualified as a nonprofit organization under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and which has been organized for the purpose of refurbishing and operating historic military aircraft acquired from the federal government and other sources, making such aircraft airworthy, and putting such aircraft on display to the public for educational purposes; and
(15) Property that is owned by an historical fraternal benefit association and which is used exclusively for charitable, fraternal, and benevolent purposes. As used in this paragraph "fraternal benefit association" means any organization qualified as an exempt organization

under the United States Internal Revenue Code of 1954, Section 501(c)(10), as amended, where such organization has a representative form of government and a lodge system with a ritualistic form of work for the meeting of its chapters or other subordinate bodies and whose founding organization received its charter from the General Assembly of Georgia prior to January 1, 1880.

(b) The exemptions provided for in this Code section which refer to colleges, nonprofit hospitals, incorporated academies, or other seminaries of learning shall only apply to those colleges, nonprofit hospitals, incorporated academies, or other seminaries of learning which are open to the general public.

(c) The property exempted by this Code section, excluding property exempted by paragraph (1) of subsection (a) of this Code section, shall not be used for the purpose of producing private or corporate profit and income distributable to shareholders in corporations owning such property or to other owners of such property, and any income from such property shall be used exclusively for religious, educational, and charitable purposes or for either one or more of such purposes and for the purpose of maintaining and operating such religious, educational, and charitable institutions.

(d) (1) Except as otherwise provided in paragraph (2) of this subsection, this Code section, excluding paragraph (1) of subsection (a) of this Code section, shall not apply to real estate or buildings which are rented, leased, or otherwise used for the primary purpose of securing an income thereon and shall not apply to real estate or buildings which are not used for the operation of religious, educational, and charitable institutions. Donations of property to be exempted shall not be predicated upon an agreement, contract, or other instrument that the donor or donors shall receive or retain any part of the net or gross income of the property.

(2) With respect to paragraph (4) of subsection (a) of this Code section, a building which is owned by a charitable institution that is otherwise qualified as a purely public charity and that is exempt from taxation under Section 501(c)(3) of the federal Internal Revenue Code and which building is used by such charitable institution exclusively for the charitable purposes of such charitable institution, and not more than 15 acres of land on which such building is located, may be used for the purpose of securing income so long as such income is used exclusively for the operation of that charitable institution.

48-5-41.1. Exemption of qualified farm products and harvested agricultural products from taxation.

(a) As used in this Code section, the term:

(1) "Family owned farm entity" means a family corporation, a family partnership, a family general partnership, a family limited partnership, a family limited corporation, or a family limited liability company all of the interest of which is owned by one or more natural or naturalized citizens related to each other within the fourth degree of civil reckoning. It shall include an estate of which the devisees or heirs are one or more natural or naturalized citizens related to each other within the fourth degree of civil reckoning. It shall include a trust of which the beneficiaries are

one or more natural or naturalized citizens related to each other within the fourth degree of civil reckoning. Such family owned farm entity must have derived 80 percent or more of its gross income from bona fide agricultural uses within this state within the year immediately preceding the year in which the exemption provided by this Code section is sought.

(2) "Family owned qualified farm products producer" means an individual or family owned farm entity primarily engaged in the direct cultivation of the soil, including soil removed from the land and placed in pots or containers, or operation of land for the production of qualified farm products. A family owned qualified farm products producer shall not include wholesalers, distributors, storage facility owners, manufacturers, processors, or other similar entities that primarily prepare qualified farm products for any intermediate or final market or that primarily operate to move or facilitate the movement of qualified farm products from a producer to any intermediate or final markets.

(3) "Farm products" means only those farm products eligible to qualify for exemption from ad valorem taxation pursuant to the former provisions of paragraph (10) of subsection (a) of Code Section 48-5-41 as it existed prior to January 1, 1999.

(4) "Harvested agricultural products" means only those harvested agricultural products eligible to qualify for exemption from ad valorem taxation pursuant to the former provisions of paragraph

(10) of subsection (a) of Code Section 48-5-41 as it existed prior to January 1, 1999.

(5) "Initial production" means:

(A) When applied to a laying hen, a period beginning at the time the laying hen comes into production at age six months rather than a period beginning when the laying hen is hatched; or

(B) When applied to a brood cow, a period of nine months from the time the brood cow is able to conceive at age 12 months rather than a period beginning when the brood cow is born.

(6) "Producer" means any entity that produces farm products.

(7) "Qualified farm products" means livestock; crops; fruit or nut bearing trees, bushes, or plants; annual and perennial plants; Christmas trees; and plants and trees grown in nurseries for transplantation elsewhere. Qualified farm products shall not include standing timber.

(b) The following property shall be exempt from all ad valorem property taxes in this state:

(1) All farm products grown in this state and remaining in the hands of the producer during the one year beginning immediately after their initial production;

(2) Harvested agricultural products which have a planting-to-harvest cycle of 12 months or less, which are customarily cured or aged for a period in excess of one year after harvesting and before manufacturing, and which are held in this state for manufacturing and processing purposes; and

(3) All qualified farm products grown in this state:

(A) Remaining in the hands of a family owned qualified farm products producer;

(B) Still in their natural and unprocessed condition, unless processed solely for further use in the production of other qualified farm products; and

(C) Not held for direct retail sale by someone other than the original family owned qualified farm products producer.

(c) Farm tractors, combines, and all other farm equipment other than motor vehicles, whether fixed or mobile, which are owned by or held under a lease purchase agreement and directly used in the production of agricultural products by family owned qualified farm products producers shall be exempt from all ad valorem property taxes in this state.

48-5-41.2. Exemption from taxation of personal property in inventory for business

All tangible personal property constituting the inventory of a business shall be exempt from state ad valorem taxation.

48-5-299. (For effective date, see note.) Ascertainment of taxable property; assessments against unreturned personal property; penalty for unreturned property; changing real property values established by appeal in prior year or stipulated by agreement

(a) It shall be the duty of the county board of tax assessors to investigate diligently and to inquire into the property owned in the county for the purpose of ascertaining what real and personal property is subject to taxation in the county and to require the proper return of the property for taxation. The board shall make such investigation as may be necessary to determine the value of any property upon which for any reason all taxes due the state or the county have not been paid in full as required by law. In all cases where the full amount of taxes due the state or county has not been paid, the board shall assess against the owner, if known, and against the property, if the owner is not known, the full amount of taxes which has accrued and which may not have been paid at any time within the statute of limitations. In all cases where taxes are assessed against the owner of property, the board may proceed to assess the taxes against the owner of the property according to the best information obtainable; and such assessment, if otherwise lawful, shall constitute a valid lien against the property so assessed.

(b) (For effective date, see note.) In all cases in which unreturned personal property is assessed by the board after the time provided by law for making tax returns has expired, the board shall add to the assessment of the property a penalty of 10 percent, which shall be included as a part of the taxable value for the year.

(c) (For effective date, see note.) When the value of real property is reduced or is unchanged from the value on the initial annual notice of assessment and such valuation is established as the result of either an appeal decision rendered pursuant to Code Section 48-5-311 or stipulated by agreement of the parties to such an appeal that this subsection shall apply in any year, the valuation so established by appeal decision or agreement may not be increased by the board of tax assessors during the next two successive years, subject to the following exceptions:

(1) This subsection shall not apply to a valuation established by an appeal decision if the taxpayer or his or her authorized representative failed to attend the appeal hearing or provide the board of equalization, hearing officer, or arbitrator with some written evidence supporting the taxpayer's opinion of value;

(2) This subsection shall not apply to a valuation established by an appeal decision or agreement if the taxpayer files a return at a different valuation during the next two successive years;

(3) If the taxpayer files an appeal pursuant to Code Section 48-5-311 during the next two successive years, the board of equalization, hearing officer, or arbitrator may increase or decrease the value of the real property based on the evidence presented by the parties during the appeal process; and

(4) The board of tax assessors may increase or decrease the value of the real property if, after a visual on-site inspection of the property, it is found that there have been substantial additions, deletions, or improvements to such property or that there are errors in the board of tax assessors' records as to the description or characterization of the property, or the board of tax assessors finds an occurrence of other material factors that substantially affect the current fair market value of such property.
(d) When real or personal property is located within a municipality whose boundaries extend into more than one county, it shall be the duty of each board of tax assessors of a county, wherein a portion of the municipality lies, to cooperatively investigate diligently into whether the valuation of such property is uniformly assessed with other properties located within the municipality but outside the county where such property is located. Such investigation shall include, but is not limited to, an analysis of the assessment to sales ratio of properties that have recently sold within the municipality and a comparison of the average assessment level of such properties by the various counties wherein a portion of the municipality lies. The respective boards shall exchange such information as will facilitate this investigation and make any necessary adjustments to the assessment of the real and personal property that is located in their respective counties within the municipality to achieve a uniform assessment of such property throughout the municipality. Any uniformity adjustments pursuant to this subsection shall only apply to the assessment used for municipal ad valorem tax purposes within the applicable county.

JUDICIAL DECISIONS

EFFECTIVE DATE FOR APPLICATION OF SUBSECTION (C). --Taxpayer was not entitled to the protection of subsection (c) of O.C.G.A. § 48-5-299 for a judicial determination setting valuations for years prior to 1995 and its effective date; however, taxpayer would be entitled to such protection as to an appeal establishing the valuation for the tax year 1995, which then would affect 1996 and 1997 as coming under subsection (c). Moreton Rolleston, Jr., Living Trust v. Glynn County Bd. of Tax Assessors, 240 Ga. App. 405, 523 S.E.2d 600 (1999), cert. denied, 2000 Ga. LEXIS 97 (2000).

PURSUANT TO SUBSECTION (C) OF O.C.G.A. § 48-5-299, only those appeals which result in a valuation established by the board of equalization or superior court will prohibit the tax

assessor from changing the value within the next two successive years. Cullum v. Chatham County Bd. of Tax Assessors, 243 Ga. App. 865, 534 S.E.2d 535 (2000).

Because a taxpayer paid taxes based on a lower valuation from the county board of equalization and not based on the value assigned on appeal, the case did not involve a reassessment or a change in valuation of the taxpayer's real property, but rather, the tax assessors merely sought to apply the fair market land value, as determined through the appeals process and automatically returned by the taxpayer, in the two succeeding tax years, a request that fell squarely within O.C.G.A. § 48-5-299(c); thus, the tax assessors did not violate O.C.G.A. § 48-5-299(c) because the assessors did not improperly reassess the value of the taxpayer's property within two years after the appeal established the property's value. Pine Pointe Hous., L. P. v. Bd. of Tax Assessors, 269 Ga. App. 855, 605 S.E.2d 443 (2004).

SUBSECTION (A) OF O.C.G.A. § 48-5-299 EMPOWERS THE BOARD TO AUDIT, at any time within the statute of limitations, prior personalty tax returns and collect taxes over and above those that may have been assessed and paid because the valuation of the personalty by the taxpayer was incorrect, and thus was not "paid in full." Eckerd Corp. v. Coweta County Bd. of Tax Assessors, 228 Ga. App. 94, 491 S.E.2d 173 (1997).

O.C.G.A. § 48-5-306(A) DOES NOT REQUIRE TAX ASSESSORS TO USE ANY DEFINITE SYSTEM OR METHOD but demands only that valuations be just and that the valuations be fairly and justly equalized among the individual taxpayers according to the best information obtainable. Rogers v. DeKalb County Bd. of Tax Assessors, 247 Ga. 726, 279 S.E.2d 223 (1981).

IMPROPER PURPOSE. --Summary judgment for a county board of tax assessors (BTA) in a taxpayer's suit seeking injunctive relief and a writ of mandamus compelling a board of equalization (BOE) to adjudicate its appeal of a reassessment for one tax year was reversed as: (1) there were no objective criteria in place for choosing businesses for audits when the taxpayer was chosen for a four-year audit; (2) there was evidence that the BTA attempted to thwart the taxpayer's statutory right to prompt adjudication of its appeal before the BOE under O.C.G.A. § 48-5-311; and (3) there was a jury question as to whether the audit was begun by an accounting firm or the BTA for an improper purpose in violation of O.C.G.A. § 48-5-299(a). Parisian, Inc. v. Cobb County Bd. of Tax Assessors, 263 Ga. App. 332, 587 S.E.2d 771 (2003).

WHEN BOARD MAY ISSUE NEW ASSESSMENT NOTICE. --Board is empowered by subsection (a) of O.C.G.A. § 48-5-299 to issue a new assessment notice to correct an obvious and undisputed clerical error which occurs when the original valuation figure is entered into the computer, even though the taxpayer has already paid the taxes in full based on the erroneous notice. Barland Co. v. Bartow County Bd. of Tax Assessors, 176 Ga. App. 798, 338 S.E.2d 16 (1985).

AMENDED NOTICES UNAUTHORIZED. --Trial court did not err in ruling that a county board of tax assessors (BOA) lacked authority under O.C.G.A. § 48-5-299(a) to issue two corrected property tax assessment notices that increased the fair market value of taxpayers' property because the BOA's second and third corrected notices were not authorized since the notices were not sent merely to remedy a clerical error but to revise the BOA's view of the proper value of the property during a pending appeal of the prior year valuation; retroactive amendments to

assessments are prohibited absent a clerical error or some other lawful basis. Douglas County Bd. of Assessors v. Denyse, 314 Ga. App. 266, 723 S.E.2d 705 (2012).

PROPERTY CAN'T BE REASSESSED TO AVOID DISPARATE TREATMENT OF OTHER VALUATIONS. --Pursuant to subsection (c) of O.C.G.A. § 48-5-299, the fair market value of property which has been subject to reassessment by the board of equalization or the superior court on appeal cannot be reassessed to avoid disparate treatment of other property valuations because the earlier reassessment appealed from has already determined the property's fair market value in the county. Moreton Rolleston, Jr. Living Trust v. Glynn County Bd. of Tax Assessors, 228 Ga. App. 371, 491 S.E.2d 812 (1997), aff'd in part and vacated in part, 230 Ga. 539, 497 S.E.2d 274 (1998).

REASSESSMENTS BASED ON NEW APPRAISALS NOT AUTHORIZED. --For years prior to the enactment of present O.C.G.A. § 48-2-49, a county board of tax assessors was seeking to collect additional taxes on the basis of a totally new appraisal of the value of realty as improved property. O.C.G.A. § 48-5-299 was not authority for the board's reassessments. Fayette County Bd. of Tax Assessors v. Georgia Utils. Co., 186 Ga. App. 723, 368 S.E.2d 326, cert. denied, 186 Ga. App. 917, 368 S.E.2d 326 (1988).

PROPER ASSESSMENT REQUIRED AS PART OF TAX ENFORCEMENT PROCEEDINGS. --An assessment made in the manner prescribed by law is indispensable in proceedings to enforce the collection of taxes. Colvard v. Ridley, 218 Ga. 490, 128 S.E.2d 732 (1962).

DUTY TO ENSURE JUST AND FAIR VALUATION OF PROPERTY AND PROPORTIONATE DISTRIBUTION OF TAXES. --It is the duty of the board of tax assessors to see that all taxable property within the county is returned and assessed for taxes at the property's just and fair value, and that valuations as between the individual taxpayers are fairly and justly equalized so that each taxpayer shall pay as near as may be only the taxpayer's proportionate share of taxes. Colvard v. Ridley, 218 Ga. 490, 128 S.E.2d 732 (1962).

PROPERTY IN SAME CLASS TO BE VALUED BY SAME STANDARD OR SYSTEM. --Tax assessors must use the same standard or system in determining and fixing taxable value of all property of the same class. Colvard v. Ridley, 218 Ga. 490, 128 S.E.2d 732 (1962).

WHAT VALUATION METHODS AUTHORIZED. --Tax assessors may use any system, method, cadastral survey, books, available lists of valuations of types of property, city valuations or other instruments or other information obtainable, provided such information is the best information available in their fixing of just and fair valuation of the property assessed, and provided that the taxation as between individual taxpayers is justly and fairly equalized. Kight v. Gilliard, 214 Ga. 445, 105 S.E.2d 333 (1958); Colvard v. Ridley, 218 Ga. 490, 128 S.E.2d 732 (1962).

TAX ASSESSORS ARE AUTHORIZED TO FIX FAIR MARKET VALUE FROM THE BEST INFORMATION OBTAINABLE. --This does not require the tax assessors to use any definite system or method, but demands only that the valuations be just and that the valuation be fairly and justly equalized among the individual taxpayers, according to the best information obtainable. Kight v. Gilliard, 214 Ga. 445, 105 S.E.2d 333 (1958); Colvard v. Ridley, 218 Ga. 490, 128 S.E.2d 732 (1962).

USE OF APPRAISALS BY THE BOARD OF TAX ASSESSORS. --Employment of professional tax appraisers and the use of the appraisals by the board of tax assessors does not constitute

an unauthorized delegation of authority by the board. Register v. Langdale, 226 Ga. 82, 172 S.E.2d 620 (1970).

SUBPOENA OF PERSONAL PROPERTY TAX RETURNS by the county board of tax assessors was a proper means of determining unreturned property tax liability. Eckerd Corp. v. Fayette County Bd. of Tax Assessors, 220 Ga. App. 454, 469 S.E.2d 285 (1996).

USE OF CADASTRAL SURVEYS IN EQUALIZING VALUES FOR TAXATION. --Authority granted by Ga. L. 1941, p. 382 and Ga. L. 1951, p. 85 to tax assessors to use information based upon a cadastral survey in equalizing values for taxation is not a substitution of the survey for the discretion of the assessors. Hutchins v. Candler, 209 Ga. 415, 73 S.E.2d 191 (1952).

VALUATIONS NOT VOIDED BY FAILURE TO USE PAST METHODS. --Duties placed on the board of tax assessors do not require the use of any definite system or method, but demand only that the valuations be just and fair and that the valuations be justly and fairly equalized among taxpayers. The failure to use any particular system, method, cadastral survey, book, or other instruments used in the past to derive values would not in any way render void the valuations placed on such property by the assessors. Hutchins v. Williams, 212 Ga. 754, 95 S.E.2d 674 (1956).

WHEN IN REM EXECUTION PROHIBITED. --When the owner of land is known, and the ownership is not doubtful, officers in charge of levying and collecting taxes may not issue an execution in rem against the land. Suttles v. B-X Corp., 212 Ga. 221, 91 S.E.2d 334 (1956).

TAX OFFICIALS MUST USE REASONABLE DILIGENCE TO ASCERTAIN PROPERTY OWNERS. --When land is in possession of known persons, tax officials are without authority to issue an execution in rem against the property since the officials must at all times use reasonable diligence to ascertain the owner thereof. Suttles v. B-X Corp., 212 Ga. 221, 91 S.E.2d 334 (1956).

DUTIES AS TO PROPERTY WHEN OWNER OR POSSESSOR UNKNOWN. --When the tax officials do not know the owner or possessor, it is the officials duty to assess the property and describe the property particularly in a default book kept for that purpose. Suttles v. B-X Corp., 212 Ga. 221, 91 S.E.2d 334 (1956).

MOTOR VEHICLES USED IN INTERSTATE COMMERCE. --Only duty a county board of tax assessors has under O.C.G.A. § 48-5-299 is to investigate and determine if motor vehicles are returned, returned in the correct county, returned in the correct state, or to apportion the ad valorem taxation between states when the vehicle is used in interstate commerce. Fulton County Tax Comm'r v. GMC, 234 Ga. App. 459, 507 S.E.2d 772 (1998).

CHANGE IN VALUATION AFTER JURY ADJUDICATION WAS AUTHORIZED ONLY IF SALE AFFECTED VALUE OF PROPERTY RETAINED. --Declaration that a county could not challenge a previous jury adjudication of property value for two years was proper; while a part of the property was sold after the jury adjudication, a change in valuation under O.C.G.A. § 48-5-299(c) or the relevant rules and regulations was authorized only if the sale affected the value of the property retained by the ownership. DeKalb County v. Wellborn Rd. Common Tenancy, 276 Ga. App. 14, 622 S.E.2d 409 (2005).

RULING AS TO VALUE DID NOT "ESTABLISH" VALUE FOR ADDITIONAL TWO-YEAR PERIOD. --Ruling as to the value of owners' real property, pursuant to O.C.G.A. § 48-5-299(c), did not "establish" the value of the property as contemplated by that provision so as to entitle a taxpayer to an additional two-year period of protection; a trial court's ruling, that a consent judgment setting property value for 1999 froze the value for 2000 and 2001, but not 2002, was proper. Mundell v. Chatham County Bd. of Tax Assessors, 280 Ga. App. 389, 634 S.E.2d 180 (2006).

AGENT'S FAILURE TO PROTECT TAXPAYER FROM UPWARD REASSESSMENT. --In a breach of contract suit brought by a taxpayer against the tax service hired to handle real property assessments regarding an office building, a trial court ruling in favor of the tax service for tax year 2002 was reversed since the taxpayer established that the tax service breached a duty to the taxpayer by failing to protect the taxpayer from an upward reassessment of its property pursuant to O.C.G.A. § 48-5-299(c). However, because the taxpayer failed to show any damage or loss for tax year 2003, the trial court's ruling in favor of the tax service for that year was upheld. AT&T Corp. v. Property Tax Servs., 288 Ga. App. 679, 655 S.E.2d 295 (2007).

AWARD OF ATTORNEY'S FEES WHEN ISSUE WAS "FREEZE" ON PROPERTY VALUE. --Owner was entitled to attorney fees under O.C.G.A. § 48-5-311(g)(4)(B)(ii) in an appeal of a property valuation because the final determination of value on appeal to the trial court was 85 percent or less of the valuation set by the board of tax assessors; it was irrelevant that the owner's appeal to the trial court dealt with a "freeze" of the property value under O.C.G.A. § 48-5-299(c) and not a new determination of value. Fulton County Bd. of Tax Assessors v. Lamb, 298 Ga. App. 618, 680 S.E.2d 656 (2009).

Final property valuation that was set by operation of law pursuant to O.C.G.A. § 48-5-299(c) based on a prior tax year appeal did not preclude an award of attorney's fees and costs under O.C.G.A. § 48-5-311(g)(4)(B)(ii). Fulton County Bd. of Tax Assessors v. LM Atlanta Airport, LLC, 313 Ga. App. 439, 721 S.E.2d 640 (2011).

MANDAMUS RELIEF PROPERLY DENIED SINCE CERTIFICATION OF APPEALS OBTAINED. --Trial court did not err by denying a group of property owners their request for mandamus relief in the nature of finding that the county board of tax assessors certified their property tax appeals because it was undisputed that the tax appeals were physically delivered to the trial court and that it had ruled that such appeals were certified to it, thus, the property owners received the relief sought regarding certification. Newton Timber Co., L.L.L.P. v. Monroe County Bd. of Tax Assessors, 755 S.E.2d 770 (2014).

48-5-299. Ascertainment of taxable property; assessments against unreturned property; penalty for unreturned property; changing real property values established by appeal in prior year.

(a) It shall be the duty of the county board of tax assessors to investigate diligently and to inquire into the property owned in the county for the purpose of ascertaining what real and personal property is subject to taxation in the county and to require the proper return of the property for taxation. The board shall make such investigation as may be necessary to determine the value of any property upon which for any reason all taxes due the state or the county have not been paid in full as required by law. In all cases where the full amount of taxes due the state or county has not been paid, the board shall assess against the owner, if known, and against the property, if the

owner is not known, the full amount of taxes which has accrued and which may not have been paid at any time within the statute of limitations. In all cases where taxes are assessed against the owner of property, the board may proceed to assess the taxes against the owner of the property according to the best information obtainable; and such assessment, if otherwise lawful, shall constitute a valid lien against the property so assessed.

(b)In all cases in which unreturned personal property is assessed by the board after the time provided by law for making tax returns has expired, the board shall add to the assessment of the property a penalty of 10 percent, which shall be included as a part of the taxable value for the year.

(c) When the value of real property is reduced or is unchanged from the value on the initial annual notice of assessment or a corrected annual notice of assessment issued by the board of tax assessors and such valuation ~~is~~ has been established as the result of ~~either~~ an appeal decision rendered by the board of equalization, hearing officer, arbitrator, or superior court pursuant to Code Section 48-5-311 or stipulated by written agreement ~~of the parties to such an appeal that this subsection shall apply in any year~~ signed by the board of tax assessors and taxpayer or taxpayer's authorized representative, the new valuation so established by appeal decision or agreement may not be increased by the board of tax assessors during the next two successive years, unless otherwise agreed in writing by both parties, subject to the following exceptions:

(1) This subsection shall not apply to a valuation established by an appeal decision if the taxpayer or his or her authorized representative failed to attend the appeal hearing or provide the board of equalization, hearing officer, or arbitrator with some written evidence supporting the taxpayer's opinion of value;

(2) This subsection shall not apply to a valuation established by an appeal decision or agreement if the taxpayer files a return at a different valuation during the next two successive years;

(3) ~~If~~ Unless otherwise agree in writing by the parties, if the taxpayer files an appeal pursuant to Code Section 48-5-311 during the next two successive years, the board of tax assessors, the board of equalization, hearing officer, or arbitrator may increase or decrease the value of the real property based on the evidence presented by the ~~parties~~ taxpayer during the appeal process; and

(4) The board of tax assessors may increase or decrease the value of the real property if, after a visual on-site inspection of the property, it is found that there have been substantial additions, deletions, or improvements to such property or that there are errors in the board of tax assessors' records as to the description or characterization of the property, or the board of tax assessors finds an occurrence of other material factors that substantially affect the current fair market value of such property.

(d) When real or personal property is located within a municipality whose boundaries extend into more than one county, it shall be the duty of each board of tax assessors of a county, wherein a portion of the municipality lies, to cooperatively investigate diligently into whether the valuation of such property is uniformly assessed with other properties located within the municipality but outside the county where such property is located. Such investigation shall include, but is not limited to, an analysis of the assessment to sales ratio of properties that have recently sold within the municipality and a comparison of the average assessment level of such properties by the various counties wherein a portion of the municipality lies. The respective boards shall exchange

such information as will facilitate this investigation and make any necessary adjustments to the assessment of the real and personal property that is located in their respective counties within the municipality to achieve a uniform assessment of such property throughout the municipality. Any uniformity adjustments pursuant to this subsection shall only apply to the assessment used for municipal ad valorem tax purposes within the applicable county.

560-11-10-.02 Definitions

(i) Final assessment. "Final assessment" means the assessed value of real property as stated on the Annual Notice of Assessment as approved by the Board of Assessors. Amendments to "Final assessment" for real property are prohibited absent a clerical error or some other lawful basis; and in the case of personal property, the appraisal staff has completed its audit of the personal property pursuant to Rule 560-11-10-.08(4)(d) within the three year statute of limitations.

48-5-300. Power to summon witnesses and require production of documents; exempt documents; contempt proceedings.

(a) (1) Except as otherwise provided in paragraph (2) of this subsection, the county board of tax assessors may issue subpoenas for the attendance of witnesses and may subpoena of any person any books, papers, or documents which may contain any information material to any question relative to the existence or liability of property subject to taxation or to the identity of the owner of property liable to taxation or relevant to other matters necessary to the proper assessment of taxes lawfully due the state or county. Such subpoenas may be issued in the name of the board, shall be signed by any one or more members of the board or by the secretary of the board, and shall be served upon a taxpayer or witness or any party required to produce documents or records five days before the day upon which any hearing by the board is scheduled at which the attendance of the party or witness or the production of such documents is required.

(2) The authority provided for in paragraph (1) of this subsection shall not apply to the following documents or records:

(A) Any income tax records or returns;

(B) Any property appraisals prior to the appeal process;

(C) All insurance policies; or

(D) Any individual tenant sales information.

(b) If any witness subpoenaed by any county board of tax assessors fails or refuses to appear, fails or refuses to answer questions propounded, or fails or refuses to produce any books, papers, or documents required to be produced by an order of the board, except upon a legal excuse which would relieve the witness of the obligation to attend as a witness or to produce such documents before the superior court if lawfully required to do so, the person so failing or refusing shall be guilty of contempt and shall be cited by the board to appear before a judge of

the superior court of the county. The judge of the superior court of the county shall have the same power and jurisdiction to punish the person failing or refusing to comply with the order for contempt and to require and compel the giving of the testimony or the production of the books and records as in cases of contempt committed in the presence of the court and as in cases pending in the court.

48-5-303. Correction of mistakes in digest; notification of correction.

(a) The county board of tax assessors shall have authority to correct factual errors in the tax digest when discovered within three years and when such corrections are of benefit to the taxpayer. Such corrections, after approval of the county board of tax assessors, shall be communicated to the taxpayer and notice shall be provided to the tax commissioner.

(b) If a tax receiver or tax commissioner makes a mistake in the digest which is not corrected by the county board of tax assessors or county board of equalization, the commissioner, with the sanction of the Governor, shall correct the mistake by making the necessary entries in the digest furnished the commissioner. The commissioner shall notify the county governing authority and the tax collector of the county from which the digest comes of the mistake and correction.

48-5

PT-306 (revised Jan 2016)

Lowndes County Board of Assessors
P.O. Box 1126
302 N Patterson Street
First Floor
Valdosta GA 31603-1126
(229)671-2540

Official Tax Matter - 2014 Tax Year

This correspondence constitutes an official notice of ad valorem assessment for the tax year shown above.

Annual Assessment Notice Date: 01/21/2016

Last date to file a written appeal: 03/06/2016

*** This is not a tax bill - Do not send payment ***

County property records are available online at: qpublic.net/ga/lowndes

ALLEN TROY M
2209 SOUTH SHERWOOD DRIVE
P O BOX 2815
VALDOSTA GA 31602-1602

A

The amount of your ad valorem tax bill for the year shown above will be based on the Appraised (100%) and Assessed (40%) values specified in BOX 'B' of this notice. **You have the right to submit an appeal regarding this assessment to the County Board of Tax Assessors.** If you wish to file an appeal, you must do so in writing no later than 45 days after the date of this notice. If you do not file an appeal by this date, your right to file an appeal will be lost. Appeal forms which may be used are available at http://dor.georgia.gov/documents/property-tax-appeal-assessment-form.

At the time of filing your appeal you must select one of the following appeal methods:

(1) County Board of Equalization (value, uniformity, denial of exemption, or taxability)
(2) Arbitration (value)
(3) County Hearing Officer (value or uniformity, on non-homestead real property or wireless personal property valued, in excess of $750,000)

All documents and records used to determine the current value are available upon request. For further information regarding this assessment and filing an appeal, you may contact the county Board of Tax Assessors which is located at P.O. Box 1126 302 N Patterson Street First Floor Valdosta, GA 31603-1126 and which may be contacted by telephone at: (229) 671-2540. **Your staff contacts are MARK LOYD and SHARON ROSS.**

Additional information on the appeal process may be obtained at http://dor.georgia.gov/property-tax-real-and-personal-property

B

Account Number	Property ID Number	Acreage	Tax Dist	Covenant Year	Homestead
18671	0002 001	327.21	02	FLPA:2013	Yes-50

Property Description				
Property Address	2209 SOUTH SHERWOOD DRIVE RD			
	Taxpayer Returned Value	Previous Year Fair Market Value	Current Year Fair Market Value	Current Year Other Value
100% Appraised Value	0	404,324	246,268	199,480
40% Assessed Value	0	161,730	98,507	79,792

Reasons for Assessment Notice

Conservation Use Covenant Application Denied; ACC TEST; MORATORIUM VALUE LIFTED; New Accessory Improvement added.; Value adj for 1-year Arms Length Transaction cap;

C

The estimate of your ad valorem tax bill for the current year is based on the previous or most applicable year's net millage rate and the fair market value contained in this notice. The actual tax bill you receive may be more or less than this estimate. This estimate may not include all eligible exemptions.

Taxing Authority	Other Exempt	Homestead Exempt	Net Taxable	Millage	Estimated Tax
STATE	20608	0	77,899	0.250000	19.47
COUNTY	20608	0	77,899	7.310000	569.44
COUNTY SCHOOL	20608	0	77,899	14.700000	1,145.12
INDUSTRIAL	20608	0	77,899	1.000000	77.90
PARKS	20608	0	77,899	1.250000	97.37
				Total Estimated Tax	1,909.30

48-5-306. Annual notice of current assessment; contents; posting notice; new assessment description

(a) Method of giving annual notice of current assessment to taxpayer. Each county board of tax assessors may meet at any time to receive and inspect the tax returns to be laid before it by the tax receiver or tax commissioner. The board shall examine all the returns of both real and personal property of each taxpayer, and if in the opinion of the board any taxpayer has omitted from such taxpayer's returns any property that should be returned or has failed to return any of such taxpayer's property at its fair market value, the board shall correct the returns, assess and fix the fair market value to be placed on the property, make a note of such assessment and valuation, and attach the note to the returns. The board shall see that all taxable property within the county is assessed and returned at its fair market value and that fair market values as between the individual taxpayers are fairly and justly equalized so that each taxpayer shall pay as nearly as possible only such taxpayer's proportionate share of taxes. The board shall give annual notice to the taxpayer of the current assessment of taxable real property. When any corrections or changes, including valuation increases or decreases, or equalizations have been made by the board to personal property tax returns, the board shall give written notice to the taxpayer of any such changes made in such taxpayer's returns. The annual notice may be given personally by leaving the notice at the taxpayer's dwelling house, usual place of abode, or place of business with some person of suitable age and discretion residing or employed in the house, abode, or business, or by sending the notice through the United States mail as first-class mail to the taxpayer's last known address. The taxpayer may elect in writing to receive all such notices required under this Code section by electronic transmission if electronic transmission is made available by the county board of tax assessors. When notice is given by mail, the county board of tax assessors' return address shall appear in the upper left corner of the face of the mailing envelope and with the United States Postal Service endorsement "Return Service Requested" and the words "Official Tax Matter" clearly printed in boldface type in a location which meets United States Postal Service regulations..

(b) Contents of notice*.*

(1) The annual notice of current assessment required to be given by the county board of tax assessors under subsection (a) of this Code section shall be dated and shall contain the name and last known address of the taxpayer. The annual notice shall conform with the state-wide uniform assessment notice which shall be established by the commissioner by rule and regulation and shall contain:

(A) The amount of the previous assessment;

(B) The amount of the current assessment;

(C) The year for which the new assessment is applicable;

(D) A brief description of the assessed property broken down into real and personal property classifications;

(E) The fair market value of property of the taxpayer subject to taxation and the assessed value of the taxpayer's property subject to taxation after being reduced;

(F) The name, phone number, and contact information of the person in the assessors' office who is administratively responsible for the handling of the appeal and who the taxpayer may contact if the taxpayer has questions about the reasons for the assessment change or the appeals process;

(G) If available, the website address of the office of the county board of tax assessors; and

(H) A statement that all documents and records used to determine the current value are available upon request.

(2) (A) In addition to the items required under paragraph (1) of this subsection, the notice shall contain a statement of the taxpayer's right to an appeal and an estimate of the current year's taxes for all levying authorities which shall be in substantially the following form:
"The amount of your ad valorem tax bill for this year will be based on the appraised and assessed values specified in this notice. You have the right to appeal these values to the county board of tax assessors. At the time of filing your appeal you must select one of the following options:

(i) An appeal to the county board of equalization with appeal to the superior court;

(ii) To arbitration without an appeal to the superior court; or

(iii) For a parcel of nonhomestead property with a fair market value in excess of $750,000.00, or for one or more account numbers of wireless property as defined in subparagraph (e.1)(1)(B) of Code Section 48-5-311 with an aggregate fair market value in excess of $750,000.00, to a hearing officer with appeal to the superior court.

If you wish to file an appeal, you must do so in writing no later than 45 days after the date of this notice. If you do not file an appeal by this date, your right to file an appeal will be lost. For further information on the proper method for filing an appeal, you may contact the county board of tax assessors which is located at: (insert address) and which may be contacted by telephone at: (insert telephone number)."

(B) (For effective date, see note.) The notice shall also contain the following statements in bold print:

"The estimate of your ad valorem tax bill for the current year is based on the previous or most applicable year's millage rate and the fair market value contained in this notice. The actual tax bill you receive may be more or less than this estimate. This estimate may not include all eligible exemptions."

(3) The annual notice required under this Code section shall be mailed no later than July 1; provided, however, hat the annual notice required under this Code section may be sent later than July 1 for the purpose of notifying property owners of corrections and mapping changes.

(c) Posting notice on certain conditions. In all cases where a notice is required to be given to

a taxpayer under subsection (a) of this Code section, if the notice is not given to the taxpayer personally or if the notice is mailed but returned undelivered to the county board of tax assessors, then a notice shall be posted in front of the courthouse door or shall be posted on the website of the office of the county board of tax assessors for a period of 30 days. Each posted notice shall contain the name of the owner liable to taxation, if known, or, if the owner is unknown, a brief description of the property together with a statement that the assessment has been made or the return changed or altered, as the case may be, and the notice need not contain any other information. The judge of the probate court of the county shall make a certificate as to the posting of the notice. Each certificate shall be signed by the judge and shall be recorded by the county board of tax assessors in a book kept for that purpose. A certified copy of the certificate of the judge duly authenticated by the secretary of the board shall constitute prima-facie evidence of the posting of the notice as required by law.

(d) Records and information availability. Notwithstanding the provisions of Code Section 50-18-71, in the case of all public records and information of the county board of tax assessors pertaining to the appraisal and assessment of real property:

(1) The taxpayer may request, and the county board of tax assessors shall provide within ten business days, copies of such public records and information, including, but not limited to, a description of the methodology used by the board of tax assessors in setting the property's fair market value, all documents reviewed in making the assessment, the address and parcel identification number of all real property utilized as qualified comparable properties, and all factors considered in establishing the new assessment, at a uniform copying fee not to exceed 25 cent(s) per page;

(2) No additional charges or fees may be collected from the taxpayer for reasonable search, retrieval, or other administrative costs associated with providing such public records and information; and

(3) (A) The superior courts of this state shall have jurisdiction in law and in equity to entertain actions against the board of tax assessors to enforce compliance with the provisions of this subsection.

(B) In any action brought to enforce the provisions of this subsection in which the court determines that either party acted without substantial justification either in not complying with this subsection or in instituting the litigation, the court shall, unless it finds that special circumstances exist, assess in favor of the complaining party reasonable attorney's fees and other litigation costs reasonably incurred. Whether the position of the complaining party was substantially justified shall be determined on the basis of the record as a whole which is made in the proceeding for which fees and other expenses are sought.

(e) Description of current assessment. The notice required by this Code section shall be accompanied by a simple, nontechnical description of the basis for the current assessment.

(f) The commissioner shall promulgate such rules and regulations as may be necessary for the administration of this Code section.

PT-311-A (Revised Jan 2015)

APPEAL OF ASSESSMENT FOR DIGEST YEAR :

Appeal No: _____

Name		Home Phone	
Address		Work Phone	
Address		Email Address	
City	State	Zip	

Property / Appeal Type (Check One)

☐ Real ☐ Personal ☐ Motor Vehicle ☐ Manufactured Home

Property ID Number		Account Number	
Property Description			

Specify Grounds for Appeal:

Check all that apply

- Value ☐
- Uniformity ☐
- Taxability ☐
- Exemption Denied ☐
- Breach of Covenant ☐
- Denial of Covenant ☐

Owner's value assertion (required)

You must select only one of the following options:

- ☐ BOE:appeal to the county board of equalization with appeal to the superior court (*any / all grounds*)
- * ☐ ARBITRATION: to arbitration with an appeal to the superior court (valuation is only grounds that may be appealed to arbitration)
- ☐ HEARING OFFICER: for (1) nonhomestead real property (and contiguous real property) or (2) wireless personal property account(s) with a FMV in excess of $750,000, to a hearing officer with appeal to superior court (value and uniformity only)
- * ☐ SC: Directly to Superior Court (requires consent of BOA) (any / all grounds)

* Additional Cost / Fees May apply

Property Owner Comments

Property Class ☐ Residential ☐ Commercial ☐ Industrial ☐ Agricultural ☐ Other:

Signature of Property Owner or Agent Date

NOTE: If the appeal form is signed by an agent, a letter of authorization must accompany the filing of the appeal.

Agent's Address: Agent's Phone #

Agent's Email Address:

NOTE: Filing of this document will create a review of the county's assessment. Reasonable notice is herein provided that an onsite inspection of the subject property by a member of the county appraisal staff may be performed.

Assessors Use Only

	Previous Year Value	Taxpayer's Returned Value	Current Year Value
100%			
40%			

Date Received: Received By:

PT-311-I (Rev 2015)

APPEAL PROCESS GRID (revised pursuant to HB202)

BOARD OF TAX ASSESSORS (BTA)

PROPERTY OWNER IS MAILED ANNUAL NOTICE OF ASSESSMENT. (O.C.G.A.48-5-306)

PROPERTY OWNER FILES WRITTEN APPEAL WITHIN 45 DAYS OF DATED NOTICE.

PROPTERTY OWNER MUST ELECT METHOD OF APPEAL (1) BOARD OF EQUALIZATION, (2) HEARING OFFICER, OR (3) ARBITRATION.

APPEAL HEARINGS ARE OPEN TO THE PUBLIC AND MAY BE RECORDED.

IF ARBITRATION IS ELECTED - SKIP THE NEXT FEW STEPS AND GO DIRECTLY TO ARBITRATION BOX.

IF BOARD OF EQUALIZATION OR HEARING OFFICER IS ELECTED - HAVE STAFF APPRAISER REVIEW PROPERTY VALUE AND ANY OWNER CONCERNS MENTIONED IN LETTER OF APPEAL. (Within 180 days for Board of Equalization AND within 90 days for Hearing Officer)

IF BTA CHANGES THE VALUE, THE PROPERTY OWNER (IF DISSATISFIED) MAY CONTINUE APPEAL TO BOARD OF EQUALIZATION OR HEARING OFFICER WITHIN 30 DAYS AFTER NOTIFICATION

IF BTA DOES NOT CHANGE VALUE, APPEAL IS AUTOMATICALLY FORWARDED TO BOE OR TO HEARING OFFICER. HOWEVER, IF BOTH PARTIES AGREE, THE APPEAL MAY GO DIRECTLY TO SUPERIOR COURT.

BOARDS OF EQUALIZATION

Any Property
Value, Uniformity, Taxability, Denial Of Exemption

THE APPEAL ADMINISTRATOR HAS OVERSIGHT & SUPERVISION REGARDING SCHEDULING HEARINGS, GIVING NOTICE OF HEARINGS AND DECISIONS TO PROPERTY OWNERS AND BTA.

PROPERTY OWNER OR AUTHORIZED AGENT MAY APPEAR TO PRESENT CASE

THE BOARD OF EQUALIZATION SHALL RENDER DECISION AT THE CONCLUSION OF THE HEARING

PROPERTY OWNER NOTIFIED IN WRITING OF DECISION

OCGA 48-5-299(c) APPLIES.

DECISION CAN BE APPEALED TO SUPERIOR COURT BY EITHER PARTY

HEARING OFFICER

Non-homestead Real Property and Wireless Personal Property $750,000
Value and Uniformity

THE APPEAL ADMINISTRATOR HAS OVERSIGHT & SUPERVISION REGARDING ASSISTANCE SCHEDULING HEARINGS, GIVING NOTICE OF HEARINGS AND DECISIONS TO PROPERTY OWNERS AND BTA.

PROPERTY OWNER OR AUTHORIZED AGENT MAY APPEAR TO PRESENT CASE

THE HEARING OFFICER SHALL RENDER DECISION AT THE CONCLUSION OF THE HEARING

PROPERTY OWNER AND BTA NOTIFIED IN WRITING OF DECISION.

OCGA 48-5-299(c) APPLIES.

DECISION CAN BE APPEALED TO SUPERIOR COURT BY EITHER PARTY

ARBITRATION

Any Property - Value

BTA MUST SEND ACKNOWLEDGEMENT OF RECEIPT TO TAXPAYER WITHING 10-DAYS.

WITHIN 45 DAYS OF RECEIVING ACKNOWLEDGEMENT OF RECEIPT FROM BTA, THE TAXPAYER MUST PROVIDE A CERTIFIED APPRAISAL.

THE TAXPAYER IS RESPONSIBLE FOR THE COST OF CERTIFIED APPRAISAL.

WITHIN 45 DAYS OF RECEIVING THE TAXPAYER'S CERTIFIED APPRAISAL, THE BTA MUST ACCEPT THE TAXPAYER'S APPRAISAL VALUE OR REJECT AND CERTIFY THE APPEAL TO THE APPEAL ADMINISTRATOR.

WITHIN 15 DAYS OF FILING WITH THE APPEAL ADMINISTRATOR, THE JUDGE SHALL ISSUE AN ORDER AUTHORIZING ARBITRATION

WITHIN 30 DAYS, THE ARBITRATOR SCHEDULES HEARING.

THE ARBITRATOR SHALL RENDER DECISION AT THE CONCLUSION OF THE HEARING.

WHICHEVER PARTY VALUE NOT CLOSEST TO ARBITRATOR VALUE MUST PAY THE COST OF THE ARBITRATOR.

OCGA 48-5-299(c) APPLIES.

DECISION CAN BE APPEALED TO SUPERIOR COURT BY EITHER PARTY

SUPERIOR COURT

THE APPEAL TO SUPERIOR COURT IS A JURY TRIAL AND APPELLANT MAY WISH TO CONSIDER ENGAGING AN ATTORNEY.

APPEAL MUST BE FILED WITH BOARD OF TAX ASSESSORS BY THE OWNER OR HIS/HER ATTORNEY; SETTLEMENT CONFERENCE HELD WITHIN 30 DAYS OF NOTICE SENT BY BTA.

APPELLANT PAYS $25 FILING FEE.

PT311W. Rev 2010

APPEAL WAIVER AND RELEASE

Date: _____ PIN _____

Owner: _____ Address _____

_____

_____

I the undersigned after consulting with all parties do hereby cease and waive any appeal filed with the _____ County Board of Tax Assessors for tax year _____ and do not wish to pursue any further action for this year.

Signed: _____ Date: _____
(Taxpayer or Taxpayer's Agent)

Both parties (County and taxpayer) agree that:

• the fair market value to be	$ _____	
• the property to be:	☐ taxable	☐ not taxable
• the property to be assessed:	☐ uniform	☐ not uniform
• the property for homestead exemption sought:	☐ qualifies	☐ does not qualify
• the property for the special assessment sought:	☐ qualifies	☐ does not qualify
• a breach of covenant:	☐ has occurred	☐ has not occurred

Approved by board of tax assessors:

Signed: _____ Date: _____
(Chairman)

Copy to be mailed to property owner, original to filed in the appeal file.

Date Mailed to Property Owner: _____

48-5-311. Creation of county boards of equalization; duties; review of assessments; appeals

(a) Definition.

As used in this Code section, the term "appeal administrator" means the clerk of the superior court.

(a.1) Appeal administrator.

(1) The appeal administrator is vested with administrative authority in all other matters governing the conduct and business of the boards of equalization so as to provide oversight and supervision of such boards.

(2) It shall be the duty of the appeal administrator to receive any complaint filed with respect to the official actions of any member of a county board of equalization regarding technical competency, compliance with state law and regulations, or rude or unprofessional conduct or behavior toward any member of the public and to forward such complaint to the grand jury for investigation. Following an investigation, the grand jury shall issue a written report of its findings, which shall include such evaluations, judgments, and recommendations as it deems appropriate. The findings of the report may be grounds for removal of a member of the board of equalization by the grand jury for failure to perform the duties required under this Code section.

(a.2) Establishment of boards of equalization.

(1) Except as otherwise provided in this subsection, there is established in each county of this state a county board of equalization to consist of three members and three alternate members appointed in the manner and for the term set forth in this Code section. In those counties having more than 10,000 parcels of real property, the county governing authority, by appropriate resolution adopted on or before November 1 of each year, may elect to have selected one additional county board of equalization for each 10,000 parcels of real property in the county or for any part of a number of parcels in the county exceeding 10,000 parcels.

(1.1) The grand jury shall be authorized to conduct a hearing following its receipt of the report of the appeal administrator under paragraph (2) of subsection (a.1) of this Code section and to remove one or more members of the board of equalization for failure to perform the duties required under this Code section.

(2) Notwithstanding any part of this subsection to the contrary, at any time the governing authority of a county makes a request to the grand jury of the county for additional alternate members of boards of equalization, the grand jury shall appoint the number of alternate members so requested to each board of equalization, such number not to exceed a maximum of 21 alternate members for each of the boards. The alternate members of the boards shall be duly qualified and authorized to serve on any of the boards of equalization of the county. The members of each board of equalization may designate a chairperson and two vice

chairpersons of each such board of equalization. The appeal administrator shall have administrative authority in all matters governing the conduct and business of the boards of equalization so as to provide oversight and supervision of such boards and scheduling of appeals. Any combination of members or alternate members of any such board of equalization of the county shall be competent to exercise the power and authority of the board. Any person designated as an alternate member of any such board of equalization of the county shall be competent to serve in such capacity as provided in this Code section upon appointment and taking of oath.

(3) Notwithstanding any provision of this subsection to the contrary, in any county of this state having a population of 400,000 or more according to the United States decennial census of 1990 or any future such census, the governing authority of the county, by appropriate resolution adopted on or before November 1 of each year, may elect to have selected one additional county board of equalization for each 10,000 parcels of real property in the county or for any part of a number of parcels in the county exceeding 10,000 parcels. In addition to the foregoing, any two members of a county board of equalization of the county may decide an appeal from an assessment, notwithstanding any other provisions of this Code section. The decision shall be in writing and signed by at least two members of the board of equalization; and, except for the number of members necessary to decide an appeal, the decision shall conform to the requirements of this Code section.

(4) The governing authorities of two or more counties may by intergovernmental agreement establish regional boards of equalization for such counties which shall operate in the same manner and be subject to all of the requirements of this Code section specified for county boards of equalization. The intergovernmental agreement shall specify the manner in which the members of the regional board shall be appointed by the grand jury of each of the counties, shall specify which appeal administrator shall have oversight over and supervision of such regional board, and shall provide for funding from each participating county for the operations of the appeal administrator as required by subparagraph (d)(4)(C.1) of this Code section. All hearings and appeals before a regional board shall be conducted in the county in which the property which is the subject of the hearing or appeal is located.

(b) Qualifications of board of equalization members.

(1) Each person who is, in the judgment of the appointing grand jury, qualified and competent to serve as a grand juror, who is the owner of real property located in the county where such person is appointed to serve, or, in the case of a regional board of equalization, is the owner of real property located in any county in the region where such person is appointed to serve, and who is at least a high school graduate shall be qualified, competent, and compellable to serve as a member or alternate member of the county board of equalization. No member of the governing authority of a county, municipality, or consolidated government; member of a county or independent board of education; member of the county board of tax assessors; employee of the county board of tax assessors; or county tax appraiser shall be competent to serve as a member or alternate member of the county board of equalization.

(2) (A) Each person seeking to be appointed as a member or alternate member of a county board of equalization shall, not later than immediately prior to the time of his or her appointment under subsection (c) of this Code section, file with the clerk of the superior court a uniform application form which shall be a public record. The Council of Superior Court Clerks of Georgia created under Code Section 15-6-50.2 shall design the form which indicates the

applicant's education, employment background, experience, and qualifications for such appointment.
(B) (i) Within the first year after a member's initial appointment to the board of equalization each member shall satisfactorily complete not less than 40 hours of instruction in appraisal and equalization processes and procedures, as prepared and required by the commissioner pursuant to Code Section 48-5-13.

(ii) On or after January 1, 2016, following the completion of each term of office, a member shall, within the first year of appointment to the subsequent term of office, complete satisfactorily not less than 20 hours of instruction in appraisal and equalization processes and procedures, as prepared and required by the commissioner for newly appointed members.

(iii) No person shall be eligible to hear an appeal as a member of a board of equalization unless, prior to hearing such appeal, such person shall satisfactorily complete the 20 hours of instruction in appraisal and equalization processes and procedures required under the applicable provisions of division (i) or (ii) of this subparagraph.

(iv) The failure of any member to fulfill the requirements of the applicable provisions of division (i) or (ii) of this subparagraph shall render such member ineligible to serve on the board; and the vacancy created thereby shall be filled in the same manner as other vacancies on the board are filled.

(C) (i) Any person appointed to a board of equalization shall be required to complete annually a continuing education requirement of at least eight hours of instruction in appraisal and equalization procedures, as prepared and required by the commissioner pursuant to Code Section 48-5-13.

(ii) The failure of any member to fulfill the requirements of division (i) of this subparagraph shall render such member ineligible to serve on the board; and the vacancy created thereby shall be filled in the same manner as other vacancies on the board are filled.

(c) Appointment of board of equalization members.

(1) Except as provided in paragraph (2) of this subsection, each member and alternate member of the county board of equalization shall be appointed for a term of three calendar years next succeeding the date of such member or such alternate member's selection. Each term shall begin on January 1.

(2) The grand jury in each county at any term of court preceding November 1 of 1991 shall select three persons who are otherwise qualified to serve as members of the county board of equalization and shall also select three persons who are otherwise qualified to serve as alternate members of the county board of equalization. The three individuals selected as alternates shall be designated as alternate one, alternate two, and alternate three, with the most recent appointee being alternate number three, the next most recent appointee being alternate number two, and the most senior appointee being alternate number one. One member and one alternate shall be appointed for terms of one year, one member and one alternate shall be appointed for two years, and one member and one alternate shall be

appointed for three years. Each year thereafter, the grand jury of each county shall select one member and one alternate for three-year terms.

(3) If a vacancy occurs on the county board of equalization, the individual designated as alternate one shall then serve as a member of the board of equalization for the unexpired term. If a vacancy occurs among the alternate members, the grand jury then in session or the next grand jury shall select an individual who is otherwise qualified to serve as an alternate member of the county board of equalization for the unexpired term. The individual so selected shall become alternate member three, and the other two alternates shall be redesignated appropriately.

(4) Within five days after the names of the members and alternate members of the county board or boards of equalization have been selected, the clerk of the superior court shall cause such appointees to appear before the clerk of the superior court for the purpose of taking and executing in writing the oath of office. The clerk of the superior court may utilize any means necessary for such purpose, including, but not limited to, telephonic or other communication, regular first-class mail, or issuance of and delivery to the sheriff or deputy sheriff a precept containing the names of the persons so selected. Within ten days of receiving the precept, the sheriff or deputy sheriff shall cause the persons whose names are written on the precept to be served personally or by leaving the summons at their place of residence. The summons shall direct the persons named on the summons to appear before the clerk of the superior court on a date specified in the summons, which date shall not be later than December 15.

(5) Each member and alternate member of the county board of equalization, on the date prescribed for appearance before the clerk of the superior court and before entering on the discharge of such member and alternate member's duties, shall take and execute in writing before the clerk of the superior court the following oath:

"I, , agree to serve as a member of the board of equalization of the County of and will decide any issue put before me without favor or affection to any party and without prejudice for or against any party. I will follow and apply the laws of this state. I also agree not to discuss any case or any issue with any person other than members of the board of equalization except at any appeal hearing. I shall faithfully and impartially discharge my duties in accordance with the Constitution and laws of this state, to the best of my skill and knowledge. So help me God.

Signature of member or alternate member"

In addition to the oath of office prescribed in this paragraph, the presiding or chief judge of the superior court or the appeal administrator shall charge each member and alternate member of the county board of equalization with the law and duties relating to such office.

(d) Duties and powers of board of equalization members.

(1) The county board of equalization shall hear and determine appeals from assessments and denials of homestead exemptions as provided in subsection (e) of this Code section.

(2) If, in the course of determining an appeal, the county board of equalization finds reason to believe that the property involved in an appeal or the class of property in which is included the property involved in an appeal is not uniformly assessed with other property included in the digest, the board shall request the respective parties to the appeal to present relevant information with respect to that question. If the board determines that uniformity is not present, the board may order the county board of tax assessors to take such action as is necessary to obtain uniformity, except that, when a question of county-wide uniformity is considered by the board, the board may recommend a partial or total county-wide revaluation only upon a determination by a majority of all the members of the board that the clear and convincing weight of the evidence requires such action. The board of equalization may act pursuant to this paragraph whether or not the appellant has raised the issue of uniformity.

(3) The board shall establish procedures which comply strictly with the regulations promulgated by the commissioner pursuant to subparagraph (e)(1)(D) of this Code section for the conducting of appeals before the board. The procedures shall be entered into the minutes of the board, and a copy of the procedures shall be made available to any individual upon request.

(4) (A) The appeal administrator shall have oversight over and supervision of all boards of equalization of the county and hearing officers. This oversight and supervision shall include, but not be limited to, requiring appointment of members of county boards of equalization by the grand jury; giving the notice of the appointment of members and alternates of the county board of equalization by the county grand jury as required by Code Section 15-12-81; collecting the names of possible appointees; collecting information from possible appointees as to their qualifications; presenting the names of the possible appointees to the county grand jury; processing the appointments as required by paragraph (4) of subsection (c) of this Code section, including administering the oath of office to the newly appointed members and alternates of the county board of equalization as required by paragraph (5) of such subsection; instructing the newly appointed members and alternates as to the training they must receive and the operations of the county board of equalization; presenting to the grand jury of the county the names of possible appointees to fill vacancies as provided in paragraph (3) of such subsection; maintaining a roster of board members and alternates, maintaining a record showing that the board members and alternates completed training, keeping attendance records of board members and alternates for the purpose of payment for service, and maintaining the uniform application forms and keeping a record of the appointment dates of board members and alternates and their terms in office; and informing the county board of equalization that it must establish by regulation procedures for conducting appeals before the board as required by paragraph (3) of this subsection. Oversight and supervision shall also include the scheduling of board hearings, assistance in scheduling hearings before hearing officers, and giving notice of the date, time, and place of hearings to the taxpayers and the county board of tax assessors and giving notice of the decisions of the county board of equalization or hearing officer to the taxpayer and county board of tax assessors as required by division (e)(6)(D)(i) of this Code section.

(B) The county governing authority shall provide any resources to the appeal administrator that are required to be provided by paragraph (7) of subsection (e) of this Code section.

(C) The county governing authority shall provide to the appeal administrator facilities and secretarial and clerical help for appeals pursuant to subsection (e.1) of this Code section.

(C.1) The operations of the appeal administrator under this Code section shall, for budgeting purposes, constitute a distinct budget unit within the county budget that is separate from the operations of the clerk of the superior court. The appeal administrator budget unit shall contain a separate line item for the compensation of the appeal administrator for the performance of duties required under this Code section as well as separate line items for resources, facilities, and personnel as specified under subparagraphs (B) and (C) of this paragraph.

(D) The appeal administrator shall maintain any county records of all notices to the taxpayer and the taxpayer's attorney, of certified receipts of returned or unclaimed mail, and from the hearings before the board of equalization and before hearing officers for 12 months after the deadline to file any appeal to the superior court expires. If an appeal is not filed to the superior court, the appeal administrator is authorized to properly destroy any records from the hearings before the county board of equalization or hearing officers but shall maintain records of all notices to the taxpayer and the taxpayer's attorney and certified receipts of returned or unclaimed mail for 12 months. If an appeal to the superior court is filed, the appeal administrator shall file such appeal and records in the civil action that is considered open by the clerk of superior court for such appeal, and such records shall become part of the record on appeal in accordance with paragraph (2) of subsection (g) of this Code section.

(e) Appeal.

(1) (A) Any taxpayer or property owner as of the last date for filing an appeal may elect to file an appeal from an assessment by the county board of tax assessors to:

(i) The county board of equalization as to matters of taxability, uniformity of assessment, and value, and, for residents, as to denials of homestead exemptions pursuant to paragraph (2) of this subsection;

(ii) An arbitrator as to matters of value pursuant to subsection (f) of this Code section;

(iii) A hearing officer as to matters of value and uniformity of assessment for a parcel of nonhomestead real property with a fair market value in excess of $750,000.00 as shown on the taxpayer's annual notice of current assessment under Code Section 48-5-306, and any contiguous nonhomestead real property owned by the same taxpayer, pursuant to subsection (e.1) of this Code section; or

(iv) A hearing officer as to matters of values or uniformity of assessment of one or more account numbers of wireless property as defined in subparagraph (e.1)(1)(B) of this Code section with an aggregate fair market value in excess of $750,000.00 as shown on the taxpayer's annual notice of current assessment under Code Section 48-5-306, pursuant to subsection (e.1) of this Code section.
(A.1) The commissioner shall establish by rule and regulation a uniform appeal form that the taxpayer may use. Such uniform appeal form shall require the initial assertion of a valuation of the property by the taxpayer.

(B) In addition to the grounds enumerated in subparagraph (A) of this paragraph, any taxpayer

having property that is located within a municipality, the boundaries of which municipality extend into more than one county, may also appeal from an assessment on such property by the county board of tax assessors to the county board of equalization, to a hearing officer, or to arbitration as to matters of uniformity of assessment of such property with other properties located within such municipality, and any uniformity adjustments to the assessment that may result from such appeal shall only apply for municipal ad valorem tax purposes.

(B.1) The taxpayer or his or her agent or representative may submit in support of his or her appeal an appraisal given, signed, and certified as such by a real property appraiser as classified by the Georgia Real Estate Commission and the Georgia Real Estate Appraisers Board which was performed not later than nine months prior to the date of assessment. The board of tax assessors shall consider the appraisal upon request. Within 45 days of the receipt of the taxpayer's appraisal, the board of tax assessors shall notify the taxpayer or his or her agent or representative of acceptance of the appraisal or shall notify the taxpayer or his or her agent or representative of the reasons for rejection.

(B.2) The taxpayer or his or her agent or representative may submit in support of his or her appeal the most current report of the sales ratio study for the county conducted pursuant to Code Section 48-5-274. The board of tax assessors shall consider such sales ratio study upon request of the taxpayer or his or her agent or representative.

(B.3) Any assertion of value by the taxpayer on the uniform appeal form made to the board of tax assessors shall be subject to later amendment or revision by the taxpayer by submission of written evidence to the board of tax assessors.

(B.4) If more than one property of a taxpayer is under appeal, the board of equalization, arbitrator, or hearing officer, as the case may be, shall, upon request of the taxpayer, consolidate all such appeals in one hearing and shall announce separate decisions as to each parcel or item of property. Any appeal from such a consolidated hearing to the superior court as provided in subsection (g) of this Code section shall constitute a single civil action and, unless the taxpayer specifically so indicates in the taxpayer's notice of appeal, shall apply to all such parcels or items of property.

(B.5) Within ten days of a final determination of value under this Code section and the expiration of the 30 day appeal period provided by subsection (g) of this Code section, or, as otherwise provided by law, with no further option to appeal, the county board of tax assessors shall forward such final determination of value to the tax commissioner.

(C) Appeals to the county board of equalization shall be conducted in the manner provided in paragraph (2) of this subsection. Appeals to a hearing officer shall be conducted in the manner specified in subsection (e.1) of this Code section. Appeals to an arbitrator shall be conducted in the manner specified in subsection (f) of this Code section. Such appeal proceedings shall be conducted between the hours of 8:00 A.M. and 7:00 P.M. on a business day. Following the notification of the taxpayer of the date and time of such taxpayer's scheduled hearing, the taxpayer shall be authorized to exercise a one-time option of changing the date and time of the taxpayer's scheduled hearing to a day and time acceptable to the taxpayer and the county board of tax assessors. The appeal administrator shall grant additional extensions to the

taxpayer or the county board of tax assessors for good cause shown, or by agreement of the parties.

(D) The commissioner, by regulation, shall adopt uniform procedures and standards which shall be followed by county boards of equalization, hearing officers, and arbitrators in determining appeals. Such rules shall be updated and revised periodically and reviewed no less frequently than every five years. The commissioner shall publish and update annually a manual for use by county boards of equalization, arbitrators, and hearing officers.

(2) (A) Appeal to board of equalization. An appeal shall be effected by e-mailing, if the county board of tax assessors has adopted a written policy consenting to electronic service, by mailing to, or by filing with the county board of tax assessors a notice of appeal within 45 days from the date of mailing the notice pursuant to Code Section 48-5-306. A written objection to an assessment of real property received by a county board of tax assessors stating the location of the real property and the identification number, if any, contained in the tax notice shall be deemed a notice of appeal by the taxpayer under the grounds listed in paragraph (1) of this subsection. A written objection to an assessment of personal property received by a county board of tax assessors giving the account number, if any, contained in the tax notice and stating that the objection is to an assessment of personal property shall be deemed a notice of appeal by the taxpayer under the grounds listed in paragraph (1) of this subsection. The county board of tax assessors shall review the valuation or denial in question, and, if any changes or corrections are made in the valuation or decision in question, the board shall send a notice of the changes or corrections to the taxpayer pursuant to Code Section 48-5-306. Such notice shall also explain the taxpayer's right to appeal to the county board of equalization as provided in subparagraph (C) of this paragraph if the taxpayer is dissatisfied with the changes or corrections made by the county board of tax assessors.

(B) If no changes or corrections are made in the valuation or decision, the county board of tax assessors shall send written notice thereof to the taxpayer, to any authorized agent or representative of the taxpayer who the taxpayer has requested that such notice be sent, and to the county board of equalization which notice shall also constitute the taxpayer's appeal to the county board of equalization without the necessity of the taxpayer's filing any additional notice of appeal to the county board of tax assessors or to the county board of equalization. The county board of tax assessors shall also send or deliver all necessary papers to the county board of equalization. If, however, the taxpayer and the county board of tax assessors execute a signed agreement as to valuation, the appeal shall terminate as of the date of such signed agreement.

(C) If changes or corrections are made by the county board of tax assessors, the board shall notify the taxpayer in writing of such changes. The commissioner shall develop and make available to county boards of tax assessors a suitable form which shall be used in such notification to the taxpayer. The notice shall be sent by regular mail properly addressed to the address or addresses the taxpayer provided to the county board of tax assessors and to any authorized agent or representative of the taxpayer who the taxpayer has requested that such notice be sent. If the taxpayer is dissatisfied with such changes or corrections, the taxpayer shall, within 30 days of the date of mailing of the change notice, notify the county board of tax assessors to continue the taxpayer's appeal to the county board of equalization by e-mailing, if the county board of tax assessors has adopted a written policy consenting to electronic service, or by mailing to or filing with the county board of tax assessors a written notice of continuance.

The county board of tax assessors shall send or deliver the notice of appeal and all necessary papers to the county board of equalization.

(D) The written notice to the taxpayer required by this paragraph shall contain a statement of the grounds for rejection of any position the taxpayer has asserted with regard to the valuation of the property. No addition to or amendment of such grounds as to such position shall be permitted before the county board of equalization.

(3) (A) In each year, the county board of tax assessors shall review the appeal and notify the taxpayer of any corrections or changes within 180 days after receipt of the taxpayer's notice of appeal. If the county board of tax assessors fails to respond to the taxpayer within such 180 day period, the property valuation asserted by the taxpayer on the property tax return or the taxpayer's notice of appeal shall become the assessed fair market value for the taxpayer's property for the tax year under appeal. If no such assertion of value was submitted by the taxpayer, the appeal shall be forwarded to the county board of equalization.

(B) In any county in which the number of appeals exceeds a number equal to or greater than 3 percent of the total number of parcels in the county or the sum of the current assessed value of the parcels under appeal is equal to or greater than 3 percent of the gross tax digest of the county, the county board of tax assessors shall be granted an additional 180 day period to make its determination and notify the taxpayer. The county board of tax assessors shall notify each affected taxpayer of the additional 180 day review period provided in this subparagraph by mail or electronic communication, including posting notice on the website of the county board of tax assessors if such a website is available. Such additional period shall commence immediately following the last day of the 180 days provided for under subparagraph (A) of this paragraph. If the county board of tax assessors fails to review the appeal and notify the taxpayer of any corrections or changes not later than the last day of such additional 180 day period, the most recent property tax valuation asserted by the taxpayer on the property tax return or on appeal shall prevail and shall be deemed the value established on such appeal unless a time extension is granted under subparagraph (C) of this paragraph. If no such assertion of value was submitted by the taxpayer, the appeal shall be forwarded to the county board of equalization.

(C) Upon a sufficient showing of good cause by reason of unforeseen circumstances proven to the commissioner prior to the expiration of the additional 180 day period provided for under subparagraph (B) of this paragraph, the commissioner shall be authorized to provide for a time extension beyond the end of such additional 180 day period. The duration of any such time extension shall be specified in writing by the commissioner and shall also be posted on the website of the county board of tax assessors if such a website is available. If the county board of tax assessors fails to make its review and notify the taxpayer and the taxpayer's attorney not later than the last day of such time extension, the most recent property tax valuation asserted by the taxpayer on the property tax return or on the taxpayer's notice of appeal shall prevail and shall be deemed the value established on such appeal. If no such assertion of value was submitted by the taxpayer, the appeal shall be forwarded to the county board of equalization. In addition, the commissioner shall be authorized to require additional training or require such other remediation as the commissioner may deem appropriate for failure to meet the deadline imposed by the commissioner under this subparagraph.

(4) The determination by the county board of tax assessors of questions of factual characteristics of the property under appeal, as opposed to questions of value, shall be prima-facie correct in any appeal to the county board of equalization. However, the board of tax assessors shall have the burden of proving its opinions of value and the validity of its proposed assessment by a preponderance of evidence.

(5) The county board of equalization shall determine all questions presented to it on the basis of the best information available to the board.

(6) (A) Within 15 days of the receipt of the notice of appeal, the county board of equalization shall set a date for a hearing on the questions presented and shall so notify the taxpayer and the county board of tax assessors in writing. Such notice shall be sent by first-class mail to the taxpayer and to any authorized agent or representative of the taxpayer who the taxpayer has requested that such notice be sent. Such notice shall be transmitted by e-mail to the county board of tax assessors if such board has adopted a written policy consenting to electronic service, and, if it has not, then such notice shall be sent to such board by first-class mail or intergovernmental mail. Such written notice shall advise each party that he or she may request a list of witnesses, documents, or other written evidence to be presented at the hearing by the other party, which shall be provided to the requesting party not less than seven days prior to the time of the hearing. Any failure to comply with this requirement shall be grounds for an automatic continuance or for exclusion of such witness, documents, or other written evidence. A taxpayer may appear before the board of equalization concerning any appeal in person, by his or her authorized agent or representative, or both. The taxpayer shall specify in writing to the board of equalization the name of any such agent or representative prior to any appearance by the agent or representative before the board.

(B) Within 30 days of the date of notification to the taxpayer of the hearing required in this paragraph but not earlier than 20 days from the date of such notification to the taxpayer, the county board of equalization shall hold such hearing to determine the questions presented.

(C) If more than one property of a taxpayer is under appeal, the board of equalization shall, upon request of the taxpayer, consolidate all such appeals in one hearing and announce separate decisions as to each parcel or item of property. Any appeal from such a consolidated board of equalization hearing to the superior court as provided in this subsection shall constitute a single civil action, and, unless the taxpayer specifically so indicates in his or her notice of appeal, shall apply to all such parcels or items of property.

(D) (i) The board of equalization shall announce its decision on each appeal at the conclusion of the hearing held in accordance with subparagraph (B) of this paragraph before proceeding with another hearing. The decision of the county board of equalization shall be in writing, shall be signed by each member of the board, shall specifically decide each question presented by the appeal, shall specify the reason or reasons for each such decision as to the specific issues of taxability, uniformity of assessment, value, or denial of homestead exemptions depending upon the specific issue or issues raised by the taxpayer in the course of such taxpayer's appeal, shall state that with respect to the appeal no member of the board is disqualified from acting by virtue of subsection (j) of this Code section, and shall certify the date on which notice of the decision is given to the parties. Notice of the decision shall be delivered by hand to each party, with written receipt, or given to each party by sending a copy of the decision by registered or certified mail or statutory overnight delivery to the appellant and by filing the

original copy of the decision with the county board of tax assessors. Each of the three members of the county board of equalization must be present and must participate in the deliberations on any appeal. A majority vote shall be required in any matter. All three members of the board shall sign the decision indicating their vote.

(ii) Except as otherwise provided in subparagraph (g)(4)(B) of this Code section, the county board of tax assessors shall use the valuation of the county board of equalization in compiling the tax digest for the county for the year in question and shall indicate such valuation as the previous year's value on the property tax notice of assessment of such taxpayer for the immediately following year rather than substituting the valuation which was changed by the county board of equalization.

(iii) (I) If the county's tax bills are issued before an appeal has been finally determined, the county board of tax assessors shall specify to the county tax commissioner the lesser of the valuation in the last year for which taxes were finally determined to be due on the property or 85 percent of the current year's value, unless the property in issue is homestead property and has been issued a building permit and structural improvements have occurred, or structural improvements have been made without a building permit, in which case, it shall specify 85 percent of the current year's valuation as set by the county board of tax assessors. Depending on the circumstances of the property, this amount shall be the basis for a temporary tax bill to be issued; provided, however, that a nonhomestead owner of a single property valued at $2 million or more may elect to pay the temporary tax bill which specifies 85 percent of the current year's valuation; or, such owner may elect to pay the amount of the difference between the 85 percent tax bill based on the current year's valuation and the tax bill based on the valuation from the last year for which taxes were finally determined to be due on the property in conjunction with the amount of the tax bill based on valuation from the last year for which taxes were finally determined to be due on the property, to the tax commissioner's office. Only the amount which represents the difference between the tax bill based on the current year's valuation and the tax bill based on the valuation from the last year for which taxes were finally determined to be due will be held in an escrow account by the tax commissioner's office. Once the appeal is concluded, the escrowed funds shall be released by the tax commissioner's office to the prevailing party. The taxpayer may elect to pay the temporary tax bill in the amount of 100 percent of the current year's valuation if no substantial property improvement has occurred. The county tax commissioner shall have the authority to adjust such tax bill to reflect the 100 percent value as requested by the taxpayer. Such tax bill shall be accompanied by a notice to the taxpayer that the bill is a temporary tax bill pending the outcome of the appeal process. Such notice shall also indicate that upon resolution of the appeal, there may be additional taxes due or a refund issued.

(II) For the purposes of this Code section, any final value that causes a reduction in taxes and creates a refund that is owed to the taxpayer shall be paid by the tax commissioner to the taxpayer, entity, or transferee who paid the taxes with interest, as provided in subsection (m) of this Code section.
(III) For the purposes of this Code section, any final value that causes an increase in taxes and creates an additional billing shall be paid to the tax commissioner as any other tax due along with interest, as provided in subsection (m) of this Code section.

(7) The appeal administrator shall furnish the county board of equalization necessary facilities

and administrative help. The appeal administrator shall see that the records and information of the county board of tax assessors are transmitted to the county board of equalization. The county board of equalization shall consider in the performance of its duties the information furnished by the county board of tax assessors and the taxpayer.

(8) If at any time during the appeal process to the county board of equalization and after certification by the county board of tax assessors to the county board of equalization, the county board of tax assessors and the taxpayer mutually agree in writing on the fair market value, then the county board of tax assessors, or the county board of equalization, as the case may be, shall enter the agreed amount in all appropriate records as the fair market value of the property under appeal, and the appeal shall be concluded. The provisions in subsection (c) of Code Section 48-5-299 shall apply to the valuation unless otherwise waived by both parties.

(e.1) Appeals to hearing officer.

(1) (A) For any dispute involving the value or uniformity of a parcel of nonhomestead real property with a fair market value in excess of $750,000.00 as shown on the taxpayer's annual notice of current assessment under Code Section 48-5-306, at the option of the taxpayer, an appeal may be submitted to a hearing officer in accordance with this subsection. If such taxpayer owns nonhomestead real property contiguous to such qualified nonhomestead real property, at the option of the taxpayer, such contiguous property may be consolidated with the qualified property for purposes of the hearing under this subsection.

(B) (i) As used in this subparagraph, the term "wireless property" means tangible personal property or equipment used directly for the provision of wireless services by a provider of wireless services which is attached to or is located underneath a wireless cell tower or at a network data center location but which is not permanently affixed to such tower or data center so as to constitute a fixture.

(ii) For any dispute involving the values or uniformity of one or more account numbers of wireless property as defined in this subparagraph with an aggregate fair market value in excess of $750,000.00 as shown on

The taxpayer's annual notice of current assessment under Code Section 48-5-306, at the option of the taxpayer, an appeal may be submitted to a hearing officer in accordance with this subsection.

(2) Individuals desiring to serve as hearing officers and who are either state certified general real property appraisers or state certified residential real property appraisers as classified by the Georgia Real Estate Commission and the Georgia Real Estate Appraisers Board for real property appeals or are designated appraisers by a nationally recognized appraiser's organization for wireless property appeals shall complete and submit an application, a list of counties the hearing officer is willing to serve, disqualification questionnaire, and resume and be approved by the Georgia Real Estate Commission and the Georgia Real Estate Appraisers Board to serve as a hearing officer. Such board shall annually publish a list of qualified and approved hearing officers for Georgia.

(3) The appeal administrator shall furnish any hearing officer so selected the necessary facilities.

(4) An appeal shall be effected by e-mailing, if the county board of tax assessors has adopted a written policy consenting to electronic service, or by filing with the county board of tax assessors a notice of appeal to a hearing officer within 45 days from the date of mailing the notice of assessment pursuant to Code Section 48-5-306. A written objection to an assessment of real property or wireless property received by a county board of tax assessors stating the taxpayer's election to appeal to a hearing officer and showing the location of the real property or wireless property contained in the assessment notice shall be deemed a notice of appeal by the taxpayer.

(5) The county board of tax assessors may for no more than 90 days review the taxpayer's written appeal, and if changes or corrections are made by the county board of tax assessors, the board shall notify the taxpayer in writing of such changes. Within 30 days of the county board of tax assessors' mailing of such notice, the taxpayer may notify the county board of tax assessors in writing that the changes or corrections made by the county board of tax assessors are not acceptable, in which case, the county board of tax assessors shall, within 30 days of the date of mailing of such taxpayer's notification, send or deliver all necessary papers to the appeal administrator and mail a copy to the taxpayer or, alternatively, forward the appeal to the board of equalization if so elected by the taxpayer and such election is included in the taxpayer's notification that the changes are not acceptable. If, after review, the county board of tax assessors determines that no changes or corrections are warranted, the county board of tax assessors shall notify the taxpayer of such decision. The taxpayer may elect to forward the appeal to the board of equalization by notifying the county board of tax assessors within 30 days of the mailing of the county board of tax assessor's notice of no changes or corrections. Upon the expiration of 30 days following the mailing of the county board of tax assessors' notice of no changes or corrections, the county board of tax assessors shall certify the notice of appeal and send or deliver all necessary papers to the appeal administrator for the appeal to the hearing officer, or board of equalization if elected by the taxpayer, and mail a copy to the taxpayer.

(6) (A) The appeal administrator shall randomly select from such list a hearing officer who shall have experience or expertise in hearing or appraising the type of property that is the subject of appeal to hear the appeal, unless the taxpayer and the county board of tax assessors mutually agree upon a hearing officer from such list. The appeal administrator shall notify the taxpayer and the taxpayer's attorney in compliance with subsection (o) of this Code section of the name of the hearing officer and transmit a copy of the hearing officer's disqualification questionnaire and resume provided for under paragraph (2) of this subsection. The hearing officer, in conjunction with all parties to the appeal, shall set a time and place to hear evidence and testimony from both parties. The hearing shall take place in the county where the property is located, or such other place as mutually agreed to by the parties and the hearing officer. The hearing officer shall provide electronic or written notice to the parties personally or by registered or certified mail or statutory overnight delivery not less than ten days before the hearing. Such written notice shall advise each party that documents or other written evidence to be presented at the hearing by a party must be provided to the other party not less than seven days prior to the time of the hearing and that any failure to comply with this requirement shall be grounds for an automatic continuance or for exclusion of such documents or other written evidence.

(B) If the appeal administrator, after a diligent search, cannot find a qualified hearing officer

who is willing to serve, the appeal administrator shall transfer the certification of the appeal to the county or regional board of equalization and notify the taxpayer and the taxpayer's attorney in compliance with subsection (o) of this Code section and the county board of tax assessors of the transmittal of such appeal.

(7) The hearing officer shall swear in all witnesses, perform the powers, duties, and authority of a county or regional board of equalization, and determine the fair market value of the real property or wireless property based upon the testimony and evidence presented during the hearing. Any issues other than fair market value and uniformity raised in the appeal shall be preserved for appeal to the superior court. The board of tax assessors shall have the burden of proving its opinion of value and the validity of its proposed assessment by a preponderance of evidence. At the conclusion of the hearing, the hearing officer shall notify both parties of the decision verbally and shall either send both parties the decision in writing or deliver the decision by hand to each party, with written receipt.

(8) The taxpayer or the board of tax assessors may appeal the decision of the hearing officer to the superior court as provided in subsection (g) of this Code section.

(9) If, at any time during the appeal under this subsection, the taxpayer and the county board of tax assessors execute a signed written agreement on the fair market value and any other issues raised: the appeal shall terminate as of the date of such signed agreement; the fair market value as set forth in such agreement shall become final; and subsection (c) of Code Section 48-5-299 shall apply.

(9.1) The provisions contained in this subsection may be waived at any time by written consent of the taxpayer and the county board of tax assessors.

(10) Each hearing officer shall be compensated by the county for time expended in considering appeals. The compensation shall be paid at a rate of not less than $75.00 per hour for the first hour and not less than $25.00 per hour for each hour thereafter as determined by the county governing authority or as may be agreed upon by the parties with the consent of the county governing authority. Compensation pursuant to this paragraph shall be paid from the county treasury upon certification by the hearing officer of the hours expended in hearing of appeals. The attendance at any training required by the commissioner shall be part of the qualifications of the hearing officer, and any nominal cost of such training shall be paid by the hearing officer.

(11) The commissioner shall promulgate rules and regulations for the proper administration of this subsection, including, but not limited to, qualifications; training, including an eight-hour course on Georgia property law, Georgia evidence law, preponderance of evidence, burden of proof, credibility of the witnesses, and weight of evidence; disqualification questionnaire; selection; removal; an annual continuing education requirement of at least four hours of instruction in recent legislation, current case law, and updates on appraisal and equalization procedures, as prepared and required by the commissioner; and any other matters necessary to the proper administration of this subsection. The failure of any hearing officer to fulfill the requirements of this paragraph shall render such officer ineligible to serve. Such rules and regulations shall also include a uniform appeal form which shall require the initial assertion of a valuation of the property by the taxpayer. Any such assertion of value shall be subject to later revision by the taxpayer based upon written evidence. The commissioner shall seek input from all interested parties prior to such promulgation.

(12) If the county's tax bills are issued before the hearing officer has rendered his or her decision on property which is on appeal, a temporary tax bill shall be issued in the same manner as otherwise required under division (e)(6)(D)(iii) of this Code section.

(13) Upon determination of the final value, the temporary tax bill shall be adjusted as required under division (e)(6)(D)(iii) of this Code section.

(f) Nonbinding arbitration.

(1) As used in this subsection, the term "certified appraisal" means an appraisal or appraisal report given, signed, and certified as such by a real property appraiser as classified by the Georgia Real Estate Commission and the Georgia Real Estate Appraisers Board.

(2) At the option of the taxpayer, an appeal shall be submitted to nonbinding arbitration in accordance with this subsection.

(3) (A) Following an election by the taxpayer to use the arbitration provisions of this subsection, an arbitration appeal shall be effected by the taxpayer by e-mailing, if the county board of tax assessors has adopted a written policy consenting to electronic service, or by filing a written notice of arbitration appeal with the county board of tax assessors. The notice of arbitration appeal shall specifically state the grounds for arbitration. The notice shall be filed within 45 days from the date of mailing the notice pursuant to Code Section 48-5-306. Within ten days of receipt of a taxpayer's notice of arbitration appeal, the board of tax assessors shall send to the taxpayer an acknowledgment of receipt of the appeal and a notice that the taxpayer shall, within 45 days of the date of transmittal of the acknowledgment of receipt of the appeal, provide to the county board of tax assessors for consideration a copy of a certified appraisal. Failure of the taxpayer to provide such certified appraisal within such 45 days shall terminate the appeal unless the taxpayer within such 45 day period elects to have the appeal immediately forwarded to the board of equalization. Prior to appointment of the arbitrator and within 45 days of the acknowledgment of the receipt of the appeal, the taxpayer shall provide a copy of the certified appraisal as specified in this paragraph to the county board of tax assessors for consideration. Within 45 days of receiving the taxpayer's certified appraisal, the county board of tax assessors shall either accept the taxpayer's appraisal, in which case that value shall become final, or the county board of tax assessors shall reject the taxpayer's appraisal by sending within ten days of the date of such rejection a written notification by certified mail of such rejection to the taxpayer and the taxpayer's attorney of record in compliance with subsection (o) of this Code section, in which case the county board of tax assessors shall certify within 45 days the appeal to the appeal administrator of the county in which the property is located along with any other papers specified by the person seeking arbitration under this subsection, including, but not limited to, the staff information from the file used by the county board of tax assessors. In the event the taxpayer is not notified of a rejection of the taxpayer's appraisal within such ten-day period, the taxpayer's appraisal value shall become final. In the event that the county board of tax assessors neither accepts nor rejects the value set out in the certified appraisal within 45 days after the receipt of the certified appraisal, then the certified appraisal shall become the final value. All papers and information certified to the appeal administrator shall become a part of the record on arbitration. At the time of certification of the appeal, the county board of tax assessors shall serve the taxpayer and the taxpayer's attorney of record in compliance with

subsection (o) of this Code section, if any, or employee with a copy of the certification along with any other papers specified by the person seeking arbitration along with the civil action file number assigned to the appeal, if any. Within 15 days of filing the certification to the appeal administrator, the presiding or chief judge of the superior court of the circuit in which the property is located shall issue an order authorizing the arbitration.

(B) At any point, the county board of tax assessors and the taxpayer may execute a signed, written agreement establishing the fair market value without entering into or completing the arbitration process. The fair market value as set forth in such agreement shall become the final value.

(C) The arbitration shall be conducted pursuant to the following procedure:

(i) The county board of tax assessors shall, at the time the appeal is certified to the appeal administrator under subparagraph (A) of this paragraph, provide to the taxpayer a notice of a meeting time and place to decide upon an arbitrator, to occur within 60 days after the date of sending the rejection of the taxpayer's certified appraisal. Following the notification of the taxpayer of the date and time of the meeting, the taxpayer shall be authorized to exercise a one-time option of changing the date and time of the meeting to a date and time acceptable to the taxpayer and the county board of tax assessors. If the parties agree, the matter shall be submitted to a single arbitrator chosen by the parties. If the parties cannot agree on the single arbitrator, the arbitrator may be chosen by the presiding or chief judge of the superior court of the circuit in which the property is located within 30 days after the filing of a petition by either party;

(ii) In order to be qualified to serve as an arbitrator, a person shall be classified as a state certified general real property appraiser or state certified residential real property appraiser pursuant to the rules and regulations of the Georgia Real Estate Commission and the Georgia Real Estate Appraisers Board and shall have experience or expertise in appraising the type of property that is the subject of the arbitration;

(iii) The arbitrator, within 30 days after his or her appointment, shall set a time and place to hear evidence and testimony from both parties. The arbitrator shall provide written notice to the parties personally or by registered or certified mail or statutory overnight delivery not less than ten days before the hearing. Such written notice shall advise each party that documents or other written evidence to be presented at the hearing by a party must be provided to the other party not less than seven days prior to the time of the hearing and that any failure to comply with this requirement, unless waived by mutual written agreement of such parties, shall be grounds for a continuance or for exclusion of such documents or other written evidence. The arbitrator, in consultation with the parties, may adjourn or postpone the hearing. Following notification of the taxpayer of the date and time of the hearing, the taxpayer shall be authorized to exercise a one-time option of changing the date and time of the hearing to a date and time acceptable to the taxpayer and the county board of tax assessors. The presiding or chief judge of the superior court of the circuit in which the property is located may direct the arbitrator to proceed promptly with the hearing and the determination of the appeal upon application of any party. The hearing shall occur in the county in which the property is located or such other place as may be agreed upon in writing by the parties;

(iv) At the hearing, the parties shall be entitled to be heard, to present documents, testimony,

and other matters, and to cross-examine witnesses. The arbitrator may hear and determine the controversy upon the documents, testimony, and other matters produced notwithstanding the failure of a party duly notified to appear;

(v) The arbitrator shall maintain a record of all pleadings, documents, testimony, and other matters introduced at the hearing. The arbitrator or any party to the proceeding may have the proceedings transcribed by a court reporter;

(vi) The provisions of this paragraph may be waived at any time by written consent of the taxpayer and the board of tax assessors;

(vii) At the conclusion of the hearing, the arbitrator shall render a decision regarding the fair market value of the property subject to nonbinding arbitration;

(viii) In order to determine the fair market value, the arbitrator may consider the final value for the property submitted by the county board of tax assessors at the hearing and the final value submitted by the taxpayer at the hearing. The taxpayer shall be responsible for the cost of any appraisal by the taxpayer's appraiser;

(ix) The arbitrator shall consider the final value submitted by the county board of tax assessors, the final value submitted by the taxpayer, and evidence supporting the values submitted by the county board of tax assessors and the taxpayer. The arbitrator shall determine the fair market value of the property under appeal. The arbitrator shall notify both parties of the decision verbally and shall either send both parties the decision in writing or deliver the decision by hand to each party, with written receipt;

(x) If the taxpayer's value is closest to the fair market value determined by the arbitrator, the county shall be responsible for the fees and costs of such arbitrator. If the value of the board of tax assessors is closest to the fair market value determined by the arbitrator, the taxpayer shall be responsible for the fees and costs of such arbitrator; and

(xi) The board of tax assessors shall have the burden of proving its opinion of value and the validity of its proposed assessment by a preponderance of evidence.

(4) If the county's tax bills are issued before an arbitrator has rendered his or her decision on property which is on appeal, a temporary tax bill shall be issued in the same manner as otherwise required under division (e)(6)(D)(iii) of this Code section.

(5) Upon determination of the final value, the temporary tax bill shall be adjusted as required under division (e)(6)(D)(iii) of this Code section.

(g) Appeals to the superior court.

(1) The taxpayer or the county board of tax assessors may appeal decisions of the county board of equalization, hearing officer, or arbitrator, as applicable, to the superior court of the county in which the property lies. By mutual written agreement, the taxpayer and the county board of tax assessors may waive an appeal to the county board of equalization and initiate an appeal under this subsection. A county board of tax assessors shall not appeal a decision of

the county board of equalization, arbitrator, or hearing officer, as applicable, changing an assessment by 20 percent or less unless the board of tax assessors gives the county governing authority a written notice of its intention to appeal, and, within ten days of receipt of the notice, the county governing authority by majority vote does not prohibit the appeal. In the case of a joint city-county board of tax assessors, such notice shall be given to the city and county governing authorities, either of which may prohibit the appeal by majority vote within the allowed period of time.

(2) An appeal by the taxpayer as provided in paragraph (1) of this subsection shall be effected by e-mailing, if the county board of tax assessors has adopted a written policy consenting to electronic service, or by mailing to or filing with the county board of tax assessors a written notice of appeal. An appeal by the county board of tax assessors shall be effected by giving notice to the taxpayer. The notice to the taxpayer shall be dated and shall contain the name and the last known address of the taxpayer. The notice of appeal shall specifically state the grounds for appeal. The notice shall be mailed or filed within 30 days from the date on which the decision of the county board of equalization, hearing officer, or arbitrator is delivered pursuant to subparagraph (e)(6)(D), paragraph (7) of subsection (e.1), or division (f)(3)(C)(ix) of this Code section. Within 45 days of receipt of a taxpayer's notice of appeal and before certification of the appeal to the superior court, the county board of tax assessors shall send to the taxpayer notice that a settlement conference, in which the county board of tax assessors and the taxpayer shall confer in good faith, will be held at a specified date and time which shall be no later than 30 days from the notice of the settlement conference, and notice of the amount of the filing fee, if any, required by the clerk of the superior court. The taxpayer may exercise a one-time option to reschedule the settlement conference to a different date and time acceptable to the taxpayer, but in no event later than 30 days from the date of the notice. If at the end of the 45 day review period the county board of tax assessors elects not to hold a settlement conference, then the appeal shall terminate and the taxpayer's stated value shall be entered in the records of the board of tax assessors as the fair market value for the year under appeal and the provisions of subsection (c) of Code Section 48-5-299 shall apply to such value. If the taxpayer chooses not to participate in the settlement conference, he or she may not seek and shall not be awarded fees and costs at such time when the appeal is settled in superior court. If at the conclusion of the settlement conference the parties reach an agreement, the settlement value shall be entered in the records of the county board of tax assessors as the fair market value for the tax year under appeal and the provisions of subsection (c) of Code Section 48-5-299 shall apply to such value. If at the conclusion of the settlement conference the parties cannot agree on a fair market value, then written notice shall be provided to the taxpayer that the filing fees must be paid by the taxpayer to the clerk of the superior court within ten days of the date of the conference, with a copy of the check delivered to the county board of tax assessors. Notwithstanding any other provision of law to the contrary, the amount of the filing fee for an appeal under this subsection shall be $25.00. An appeal under this subsection shall not be subject to any other fees or additional costs otherwise required under any provision of Title 15 or under any other provision of law. Immediately following payment of such $25.00 filing fee by the taxpayer to the clerk of the superior court, the clerk shall remit the proceeds thereof to the governing authority of the county which shall deposit the proceeds into the general fund of the county. Within 30 days of receipt of proof of payment to the clerk of the superior court, the county board of tax assessors shall certify to the clerk of the superior court the notice of appeal and any other papers specified by the person appealing including, but not limited to, the staff information from the file used by the county board of tax assessors, the county board of equalization, the hearing officer, or the arbitrator. All papers and information certified to the clerk shall become a part of the record on appeal to the superior court. At the

time of certification of the appeal, the county board of tax assessors shall serve the taxpayer and his or her attorney of record, if any, with a copy of the notice of appeal and with the civil action file number assigned to the appeal. Such service shall be effected in accordance with subsection (b) of Code Section 9-11-5. No discovery, motions, or other pleadings may be filed by the county board of tax assessors in the appeal until such service has been made.

(3) The appeal shall constitute a de novo action. The board of tax assessors shall have the burden of proving its opinions of value and the validity of its proposed assessment by a preponderance of evidence. Upon a failure of the board of tax assessors to meet such burden of proof, the court may, upon motion or sua sponte, authorize the finding that the value asserted by the board of tax assessors is unreasonable and authorize the determination of the final value of the property.

(4) (A) The appeal shall be placed on the court's next available jury or bench trial calendar, at the taxpayer's election, following the filing of the appeal unless continued by the court. If only questions of law are presented in the appeal, the appeal shall be heard as soon as practicable before the court sitting without a jury. Each hearing before the court sitting without a jury at the taxpayer's election shall be held within 30 days following the date on which the appeal is filed with the clerk of the superior court.

(B) (i) The county board of tax assessors shall use the valuation of the county board of equalization, the hearing officer, or the arbitrator, as applicable, in compiling the tax digest for the county.

(ii) (I) If the final determination of value on appeal is less than the valuation thus used, the tax commissioner shall be authorized to adjust the taxpayer's tax bill to reflect the final value for the year in question.

(II) If the final determination of value on appeal causes a reduction in taxes and creates a refund that is owed to the taxpayer, it shall be paid by the tax commissioner to the taxpayer, entity, or transferee who paid the taxes with interest, as provided in subsection (m) of this Code section.

(III) If the final determination of value on appeal is 85 percent or less of the valuation set by the county board of equalization, hearing officer, or arbitrator as to any real property, the taxpayer, in addition to the interest provided for in subsection (m) of this Code section, shall recover costs of litigation and reasonable attorney's fees incurred in the action. Any appeal of an award of attorney's fees by the county shall be specifically approved by the governing authority of the county.
(iii) If the final determination of value on appeal is greater than the valuation set by the county board of equalization, hearing officer, or arbitrator, as applicable, causes an increase in taxes, and creates an additional billing, it shall be paid to the tax commissioner as any other tax due along with interest, as provided in subsection (m) of this Code section.

(g.1) The provisions in subsection (c) of Code Section 48-5-299 shall apply to the valuation, unless otherwise waived in writing by both parties, as to:

(1) The valuation established or announced by any county board of equalization, arbitrator, hearing officer, or superior court; and

(2) Any written agreement or settlement of valuation reached by the county board of tax assessors and the taxpayer as permitted by this Code section.

(h) Recording of interviews or hearings.

(1) In the course of any assessment, appeal, or arbitration, or any related proceeding, the taxpayer shall be entitled to:

(A) Have an interview with an officer or employee, that is authorized to discuss tax assessments of the board of tax assessors relating to the valuation of the taxpayer's property subject to such assessment, appeal, arbitration, or related proceeding, and the taxpayer may record the interview at the taxpayer's expense and with equipment provided by the taxpayer, and no such officer or employee of the board of tax assessors may refuse to participate in an interview relating to such valuation for reason of the taxpayer's choice to record such interview; and

(B) Record, at the taxpayer's expense and with equipment provided by the taxpayer, all proceedings before the board of equalization or any hearing officer.

(2) The interview referenced in subparagraph (A) of paragraph (1) of this subsection shall be granted to the taxpayer within 30 calendar days from the postmark date of the taxpayer's written request for the interview, and the interview shall be conducted in the office of the board of assessors. The time and date for the interview, within such 30 calendar day period, shall be mutually agreed upon between the taxpayer and the taxing authority. The taxing authority may extend the time period for the interview an additional 30 days upon written notification to the taxpayer.

(3) The superior courts of this state shall have jurisdiction to enforce the provisions of this subsection directly and without the issue being first brought to any administrative procedure or hearing. The taxpayer shall be awarded damages in the amount of $100.00 per occurrence where the taxpayer requested the interview, in compliance with this subsection, and the board of assessors failed to timely comply; and, the taxpayer shall be entitled to recover reasonable attorney's fees and expenses of litigation incurred in any action brought to compel such interview.

(i) Alternate members of boards of equalization.

(1) Alternate members of the county board of equalization in the order in which selected shall serve:
(A) As members of the county board of equalization in the event there is a permanent vacancy on the board created by the death, ineligibility, removal from the county, or incapacitating illness of a member or by any other circumstances. An alternate member who fills a permanent vacancy shall be considered a member of the board for the remainder of the unexpired term; or

(B) In any appeal for which an alternate member is selected for service by the appeal administrator.

(2) A hearing panel shall consist of no more than three members at any time, one of whom shall serve as the presiding member for the purpose of the hearing.

(j) Disqualification.

(1) No member of the county board of equalization and no hearing officer shall serve with respect to any appeal concerning which he or she would be subject to a challenge for cause if he or she were a member of a panel of jurors in a civil case involving the same subject matter.

(2) The parties to an appeal to the county board of equalization or to a hearing officer shall file in writing with the appeal, in the case of the person appealing, or, in the case of the county board of tax assessors, with the certificate transmitting the appeal, questions relating to the disqualification of members of the county board of equalization or hearing officer. Each question shall be phrased so that it can be answered by an affirmative or negative response. The members of the county board of equalization or hearing officer shall, in writing under oath within two days of their receipt of the appeal, answer the questions and any question which may be adopted pursuant to subparagraph (e)(1)(D) of this Code section. Answers of the county board of equalization or hearing officers shall be part of the decision of the board or hearing officer and shall be served on each party by first-class mail. Determination of disqualification shall be made by the judge of the superior court upon the request of any party when the request is made within two days of the response of the board or hearing officer to the questions. The time prescribed under subparagraph (e)(6)(A) of this Code section shall be tolled pending the determination by the judge of the superior court.

(k) Compensation of board of equalization members.

(1) Each member of the county board of equalization shall be compensated by the county per diem for time expended in considering appeals. The compensation shall be paid at a rate of not less than $25.00 per day and shall be determined by the county governing authority. The attendance at required approved appraisal courses shall be part of the official duties of a member of the board, and he or she shall be paid for each day in attendance at such courses and shall be allowed reasonable expenses necessarily incurred in connection with such courses. Compensation pursuant to this paragraph shall be paid from the county treasury upon certification by the member of the days expended in consideration of appeals or attending approved appraisal courses.

(2) Each member of the county board of equalization who participates in online training provided by the department shall be compensated by the county at the rate of $25.00 per day for each eight hours of completed training. A member shall certify under oath and file an affidavit with the appeal administrator stating the number of hours required to complete such training and the number of hours which were actually completed. The appeal administrator shall review the affidavit and, following approval thereof, shall notify the county governing authority. The Council of Superior Court Clerks of Georgia shall develop and make available an appropriate form for such purpose. Compensation pursuant to this paragraph shall be paid from the county treasury following approval of the appeal administrator of the affidavit filed under this paragraph.

(l) Military service.

In the event of the absence of an individual from such individual's residence because of duty in the armed forces, the filing requirements set forth in paragraph (3) of subsection (f) of this Code section shall be tolled for a period of 90 days. During this period, any member of the immediate family of the individual, or a friend of the individual, may notify the tax receiver or the tax commissioner of the individual's absence due to military service and submit written notice of representation for the limited purpose of the appeal. Upon receipt of this notice, the tax receiver or the tax commissioner shall initiate the appeal.

(m) Interest.

(1) For the purposes of this Code section, any final value that causes a reduction in taxes and creates a refund that is owed to the taxpayer shall be paid by the tax commissioner to the taxpayer, entity, or transferee who paid the taxes within 60 days from the date of the final determination of value. Such refund shall include interest at the same rate specified in Code Section 48-2-35 which shall accrue from the due date of the taxable year in question or the date paid, whichever is later, through the date on which the final determination of value was made. In no event shall the amount of such interest exceed $150.00 for homestead property or $5,000.00 for nonhomestead property. Any refund paid after the sixtieth day shall accrue interest from the sixty-first day until paid with interest at the same rate specified in Code Section 48-2-35. The interest accrued after the sixtieth day and forward shall not be subject to the limits imposed by this subsection. The tax commissioner shall pay the tax refund and any interest for the refund from current collections in the same proportion for each of the levying authorities for whom the taxes were collected.

(2) For the purposes of this Code section, any final value that causes an increase in taxes and creates an additional billing shall be paid to the tax commissioner as any other tax due. After the tax bill notice has been mailed out, the taxpayer shall be afforded 60 days from the date of the postmark to make full payment of the adjusted bill. Once the 60 day payment period has expired, the bill shall be considered past due and interest shall accrue from the original billing due date as specified in Code Section 48-2-40 without limit until the bill is paid in full. Once past due, all other fees, penalties, and late and collection notices shall apply as prescribed in this chapter for the collection of delinquent taxes.

(n) Service of notice.

A notice of appeal to a board of tax assessors under subsection (e), (e.1), (f), or (g) of this Code section shall be deemed filed as of the date of the United States Postal Service postmark, receipt of delivery by statutory overnight delivery, or, if the board of tax assessors has adopted a written policy consenting to electronic service, by transmitting a copy to the board of tax assessors via e-mail in portable document format using all e-mail addresses provided by the board of tax assessors. Service by mail, statutory overnight delivery, or electronic transmittal is complete upon such service. Proof of service may be made within 45 days of receipt of the annual notice of current assessment under Code Section 48-5-306 to the taxpayer by certificate of the taxpayer, the taxpayer's attorney, or the taxpayer's employee by written admission or by affidavit. Failure to make proof of service shall not affect the validity of service.

(o) When a taxpayer authorizes an agent, representative, or attorney in writing to act on the taxpayer's behalf, and a copy of such written authorization is provided to the county board of tax assessors, all notices required to be provided to the taxpayer under this Code section, including those regarding hearing times, dates, certifications, notice of changes or corrections, or other official actions, shall be provided to the taxpayer and the authorized agent, representative, or attorney. Upon agreement by the county board of tax assessors and the taxpayer's agent, representative, or attorney, notices required by this Code section to be sent to the taxpayer or the taxpayer's agent, representative, or attorney may be sent by e-mail. The failure to comply with this subsection with respect to a notice required under this Code section shall result in the tolling of any deadline imposed on the taxpayer under this Code section with respect to that notice.

JUDICIAL DECISIONS

ANALYSIS

General Consideration

Qualifications of Members

Appeals

1. In General

2. Notice of Appeal

3. Appeals to Board of Equalization

4. Appeals to Superior Court

GENERAL CONSIDERATION

CONSTITUTIONALITY OF BOARD OF EQUALIZATION'S JUDICIAL POWERS. --Even if the General Assembly has vested some judicial powers in the county boards of equalization, such action is not violative of Ga. Const. 1945, Art. VI, Sec. I, Para. I (see Ga. Const. 1983, Art. VI, Sec. I, Para. I). Tax Assessors v. Chitwood, 235 Ga. 147, 218 S.E.2d 759 (1975).

STATUTE DOES NOT DENY DUE PROCESS OR EQUAL PROTECTION. Webb v. Board of Tax Assessors, 235 Ga. 790, 221 S.E.2d 810 (1976) (see O.C.G.A. § 48-5-311).

NOTICE, HEARING, AND APPEAL PROVISIONS COMPORT WITH DUE PROCESS REQUIREMENTS. --Statute provides for ample notice and a hearing, and the statute also provides for an appeal to the superior court, which constitutes a de novo action. Therefore, the statute does not violate the due process clause of the state and federal Constitutions. Webb v. Board of Tax Assessors, 235 Ga. 790, 221 S.E.2d 810 (1976) (see O.C.G.A. § 48-5-311).

PRE- AND POST-DEPRIVATION REMEDIES MET DUE PROCESS REQUIREMENTS. --With respect to a challenge to a tax re-valuation of property, a pre-deprivation remedy under O.C.G.A. § 48-5-311(e)(6)(D)(iii)(I), allowing a taxpayer to pay less than the full amount of the tax assessed, and a post-deprivation remedy under § 48-5-311(e)(6)(D)(iii)(II), allowing a refund in the event the tax assessor lost in the appeals process, met federal and state due process requirements. Hooten v. Thomas, 297 Ga. App. 487, 677 S.E.2d 670 (2009).
DENIAL OF THE TAXPAYER'S HEARING PROVIDED FOR BY THIS STATUTE VIOLATES THE TAXPAYER'S DUE PROCESS RIGHTS. Ward v. Landrum, 140 Ga. App. 497, 231 S.E.2d 347 (1976) (see O.C.G.A. § 48-5-311).

PROCEDURE DESCRIBED IN THIS STATUTE SATISFIES REQUIREMENTS OF DUE PROCESS AND EQUAL PROTECTION, insofar as these require notice and an opportunity to be heard. Griggs v. Greene, 230 Ga. 257, 197 S.E.2d 116 (1973) (see O.C.G.A. § 48-5-311).

STATUTE MEETS CONSTITUTIONAL DUE PROCESS REQUIREMENTS so long as the statute affords a review by an unbiased board. Stewart County v. Thompson, 224 Ga. 303, 161 S.E.2d 877 (1968) (see O.C.G.A. § 48-5-311).

LOSS OF RIGHT TO HEARING NOT DENIAL OF DUE PROCESS WHEN DUE TO TAXPAYER'S ACTION. --Allowing taxpayer's right to a hearing on the assessment of the taxpayer's property to be cut off by passage of time, or the independent action of other parties, violates the taxpayer's due process rights unless caused by culpable or negligent conduct on the part of the taxpayer. Ward v. Landrum, 140 Ga. App. 497, 231 S.E.2d 347 (1976) (see O.C.G.A. § 48-5-311).

REPRESENTATION BEFORE BOARD. --Agreement in which a company committed itself to represent a taxpayer's interests before the board of equalization was not void as constituting the unauthorized practice of law. Grand Partners Joint Venture I v. Realtax Resource, Inc., 225 Ga. App. 409, 483 S.E.2d 922 (1997).

SECTION CONCERNS AND AFFECTS BOTH THE PUBLIC INTEREST AND THE INTEREST OF THE TAXPAYER. --Public has an interest in the proper administration of the revenue laws and the solvency of its fisc, while the taxpayer is entitled to know promptly and precisely the extent of the taxpayer's tax liability. Lackey v. DeKalb County, 156 Ga. App. 309, 274 S.E.2d 705 (1980) (see O.C.G.A. § 48-5-311).

STATUTE SETS FORTH REMEDY OF TAXPAYER SEEKING UNIFORMITY OF ASSESSMENT. --Procedure for securing uniformity in tax assessments in a county was former Code 1933, § 92-6911 (see O.C.G.A. § 48-5-306) placed upon county tax assessors, and if their action displeases a taxpayer, the taxpayer's remedy was arbitration as provided in former Code 1933, § 92-6912 (see O.C.G.A. § 48-5-311). Grafton v. Turner, 227 Ga. 809, 183 S.E.2d 458 (1971).

TAXPAYERS HAVE AN ADEQUATE AND COMPLETE REMEDY AT LAW for the contention that the taxpayers tax digest lacks the uniformity required under the Constitution of Georgia. Tax Assessors v. Chitwood, 235 Ga. 147, 218 S.E.2d 759 (1975); Chilivis v. Backus, 236 Ga. 88, 222 S.E.2d 371 (1976); Gordon County Bd. of Tax Assessors v. Aldon Indus., 237 Ga. 527, 228 S.E.2d 905 (1976).

ADEQUATE REMEDY AT LAW PROVIDED BY STATUTE. --Taxpayers were not entitled to injunctive relief in a class action against a county board of tax assessors alleging that spot reappraisals violated the taxpayers' constitutional right to equal protection under 42 U.S.C. § 1983 since O.C.G.A. § 48-5-311 provided an adequate remedy at law. Glynn County Bd. of Tax Assessors v. Haller, 273 Ga. 649, 543 S.E.2d 699 (2001).

PROVISIONS OF O.C.G.A. § 9-11-17(A) regarding dismissal for failure to prosecute in the name of a real party in interest apply to O.C.G.A. § 48-5-311. Spencer v. Lamar County Bd. of Tax Assessors, 202 Ga. App. 742, 415 S.E.2d 332 (1992).

APPOINTMENTS SUBJECT TO O.C.G.A. § 15-12-81. --Trial court did not err in granting a citizen's motion for a writ of mandamus compelling a superior court clerk's compliance, with respect to the appointments of county board of equalization (BOE) members, with the public notice requirements of O.C.G.A. § 15-12-81 because there was no error in granting mandamus to require the clerk to comply with her mandatory duties under § 15-12-81; because BOE members are appointed by the grand jury, O.C.G.A. § 48-5-311(c)(2), their appointments are plainly subject to the provisions of § 15-12-81. Everetteze v. Clark, 286 Ga. 11, 685 S.E.2d 72 (2009).

PROCEDURES CONTEMPLATE FINDINGS AS TO FAIR MARKET VALUE. --Statutory design of appeal to the county board of equalization and then to the superior court contemplates that findings as to fair market value shall be made. Hodsdon v. Duckett, 135 Ga. App. 922, 219 S.E.2d 634 (1975).

WHEN TAX ASSESSORS FAIL TO USE SAME STANDARD IN ASSESSING PROPERTY OF SAME CLASS as affirmatively shown by facts alleged in a petition for injunctive relief and declaration of illegality of tax assessment, there is no merit in the contention that the plaintiffs have an adequate and complete remedy by arbitration (now hearing and trial) under this statute. Colvard v. Ridley, 218 Ga. 490, 128 S.E.2d 732 (1962) (see O.C.G.A. § 48-5-311).

VALUATION OF PROPERTY MAY BE CHANGED IN SUBSEQUENT YEARS EVEN IF NOT FURTHER IMPROVED. --Mere fact that property had been assessed for taxes at a certain value after arbitration (now appeal) under this statute in a previous tax year would not prevent the taxing authorities from fixing the valuation different for a succeeding year, even though no improvements had been made on the property since the arbitration (now appeal). Hutchins v. Williams, 212 Ga. 754, 95 S.E.2d 674 (1956) (see O.C.G.A. § 48-5-311).

NO PARTY ESTOPPED FROM CHALLENGING COURT JURISDICTION WHEN MATERIAL TO PARTY'S INTEREST. --Fact that taxpayer objected to assessment and invoked arbitration does not estop the taxpayer from attacking an award in equity as void since the court was without jurisdiction of the subject matter. Such a judgment is void and may be attacked collaterally as a mere nullity in any court by any party when it becomes material to that party's interest. Montgomery v. Suttles, 191 Ga. 781, 13 S.E.2d 781 (1941) (see O.C.G.A. § 48-5-311).

EFFECT OF SUBSEQUENT AMENDMENTS ON OTHER LAWS. --Special law which incorporated the pre-1972 version of this statute was not repealed implicitly or explicitly by the subsequent 1972 enactment. Boynton v. Lenox Square, Inc., 232 Ga. 456, 207 S.E.2d 446 (1974) (see O.C.G.A. § 48-5-311).

WHEN A LOCAL LAW INCORPORATES THIS STATUTE USING THE LANGUAGE "AS AMENDED," the law is not construed to include future amendments, but only those made prior to the passage of the local law. Medical Ass'n v. Joint City, 132 Ga. App. 188, 207 S.E.2d 673 (1974) (see O.C.G.A. § 48-5-311).
DETERMINATION OF UNIFORM ASSESSMENT. --Pursuant to O.C.G.A. § 48-5-311, the requirement that property be "uniformly assessed" means that the property be assessed uniformly with other property included in the county's own tax digest. Williams v. DeKalb County Bd. of Tax Assessors, 249 Ga. 164, 289 S.E.2d 235 (1982).
In determining whether a county board of tax assessors has "uniformly assessed" the value of certain property pursuant to O.C.G.A. § 48-5-311, it is not significant that the board of tax assessors of a neighboring county might have assessed it differently, and thus trial court did not err in excluding taxpayer's evidence of the neighboring county's tax digest. Williams v. DeKalb County Bd. of Tax Assessors, 249 Ga. 164, 289 S.E.2d 235 (1982).

JURISDICTION TO ORDER EQUALIZATION. --Superior Court had jurisdiction to order equalization of tax digests and, no appeal having been taken from the order, the court could enjoin the county tax commissioner from collecting taxes until such time as the county board of tax assessors had complied with the order. Wallace v. Meyer, 260 Ga. 253, 394 S.E.2d 350 (1990).

NOTICE OF APPEAL TO EQUALIZATION BOARD DID NOT RAISE ISSUE OF UNIFORMITY. --Notice of appeal to board of equalization stating that assessment in question reflected unrealistic values which had been placed on referenced property did not raise issue of uniformity or equalization of the assessment and could not be raised for first time on appeal to superior court. DeKalb County Bd. of Tax Assessors v. Kendall, Inc., 164 Ga. App. 374, 295 S.E.2d 345 (1982).

NO DEFAULT JUDGMENT FOR FAILURE TO FILE DEFENSIVE PLEADINGS ON APPEAL. --Appeal procedure outlined in subsection (f) of O.C.G.A. § 48-5-311 does not contemplate the filing of a "complaint" or "answer," and a default judgment will not lie for failure to file defensive pleadings in a de novo hearing on appeal in the superior court from a property evaluation. Rogers v. DeKalb County Bd. of Tax Assessors, 247 Ga. 726, 279 S.E.2d 223 (1981).

NO TAKINGS CLAIM. --Taxpayers did not have a takings claim under 42 U.S.C. § 1983 because the procedures of O.C.G.A. § 48-5-380 or O.C.G.A. § 48-5-311 provide adequate remedies. Brian Realty Corp. v. DeKalb County, 229 Ga. App. 209, 493 S.E.2d 595 (1997).

PROMPT ADJUDICATION REQUIRED. --Summary judgment for a county board of tax assessors (BTA) in a taxpayer's suit seeking injunctive relief and a writ of mandamus compelling a board of equalization (BOE) to adjudicate its appeal of a reassessment for one tax year was reversed as: (1) there were no objective criteria in place for choosing businesses for audits when the taxpayer was chosen for a four-year audit; (2) there was evidence that the BTA attempted to thwart the taxpayer's statutory right to prompt adjudication of its appeal before the BOE under O.C.G.A. § 48-5-311; and (3) there was a jury question as to whether the audit was begun by an accounting firm or the BTA for an improper purpose in violation of O.C.G.A. § 48-5-299(a). Parisian, Inc. v. Cobb County Bd. of Tax Assessors, 263 Ga. App. 332, 587 S.E.2d 771 (2003).

TIME WITHIN WHICH TO ACCEPT OR REJECT TAXPAYER'S APPRAISAL. --Because O.C.G.A. § 48-5-311(f)(3)(A) specifies the effect of the failure of the board of assessors to accept or reject the taxpayer's appraisal within 45 days, that language must be enforced. Fulton County Bd. of Tax Assessors v. Fast Evictions, LLC, 314 Ga. App. 178, 723 S.E.2d 461 (2012).

BOARD OF TAX ASSESSORS FAILED TO TIMELY REJECT TAXPAYER'S APPRAISALS. --Trial court did not err by deciding that a county board of tax assessors failed to timely reject a taxpayer's certified appraisals of the taxpayer's real property pursuant to O.C.G.A. § 48-5-311(f)(3)(A) because the board completely failed to show when the board made the board's decision to reject the appraisals; the board notified the taxpayer that the board rejected the taxpayer's appraisal and adopted a different recommended value 53 days after the taxpayer submitted the appraisal, but there was no indication in the record of when the board made the board's decision. Fulton County Bd. of Tax Assessors v. Fast Evictions, LLC, 314 Ga. App. 178, 723 S.E.2d 461 (2012).

ISSUANCE OF QUO WARRANTO IMPROPER. --Trial court erred in granting a citizen a writ of quo warranto revoking county board of equalization (BOE) members' appointments because, although BOE members were public officers subject to quo warranto, the citizen's petition for a writ of quo warranto was subject to dismissal when the citizen did not seek leave of court prior to filing the complaint. Everetteze v. Clark, 286 Ga. 11, 685 S.E.2d 72 (2009).

CITED in Board of Tax Assessors v. Clary, 161 Ga. App. 828, 290 S.E.2d 110 (1982); Stoddard v. Board of Tax Assessors, 163 Ga. App. 499, 295 S.E.2d 170 (1982); Noble v. Joint City-County Bd. of Tax Assessors, 672 F.2d 872 (11th Cir. 1982); Monroe County Bd. of Tax Assessors v. Remick, 165 Ga. App. 616, 300 S.E.2d 203 (1983); Richmond County Bd. of Tax Assessors v. Richmond Bonded Whse. Corp., 173 Ga. App. 278, 325 S.E.2d 891 (1985); Haldi v. DeKalb County Bd. of Tax Assessors, 178 Ga. App. 521, 344 S.E.2d 236 (1986); Stoddard v. Grady County Bd. of Tax Assessors, 190 Ga. App. 445, 379 S.E.2d 234 (1989); Colonial Pipeline Co. v. Collins, 921 F.2d 1237 (11th Cir. 1991); Gwinnett County v. Ackerman/Indian Trail Ass'n, 198 Ga. App. 723, 402 S.E.2d 794 (1991); Inland Container Corp. v. Paulding County Bd. of Tax Assessors, 220 Ga. App. 878, 470 S.E.2d 702 (1996); Fulton County Tax Comm'r v. GMC, 234 Ga. App. 459, 507 S.E.2d 772 (1998); White Cloud Charter, Inc. v. DeKalb County Bd. of Tax Assessors, 238 Ga. App. 805, 520 S.E.2d 708 (1999); Interstate N. Sporting Club v. Cobb County Bd. of Tax Assessors, 250 Ga. App. 221, 551 S.E.2d 91 (2001); Fulton County Bd. of Tax Assessors v. Harmon Bros. Charter Serv., 261 Ga. App. 534, 583 S.E.2d 179 (2003); Ferdinand v. City of East Point, 288 Ga. App. 152, 653 S.E.2d 529 (2007); In re Powell-Garvey Co., 2006 Bankr. LEXIS 5095 (Bankr. S.D. Ga. June 13, 2006).

QUALIFICATIONS OF MEMBERS

MEMBERS MUST BE FAIR, DISINTERESTED, AND IMPARTIAL. --In addition to other statutory qualifications, since an arbitrator (now member of board of equalization) acts in a quasi-judicial capacity, the arbitrator must possess the judicial qualifications of fairness, disinterestedness, and impartiality. Hill v. Board of Tax Equalizers, 227 Ga. 145, 179 S.E.2d 243 (1971).

WHEN DISQUALIFICATION FOR RELATIONSHIP MUST BE SOUGHT. --Contention that a member of the board of tax equalizers was disqualified because of relationship to the defendant came too late when made at the jury trial. Statute sets the method for objection on this ground. Murray v. Richardson, 134 Ga. App. 676, 215 S.E.2d 715 (1975) (see O.C.G.A. § 48-5-311).

APPEALS

1. IN GENERAL

CHALLENGE TO CONSTITUTIONALITY OF SYSTEM. --O.C.G.A. § 48-5-311 provided a plain and adequate remedy at law to a taxpayer's challenge that a county's tax assessment and appraisal system deprived the taxpayer of due process of law, equal protection of the law, and lacked uniformity as required under the provisions of the Constitution of Georgia. Vann v. DeKalb County Bd. of Tax Assessors, 186 Ga. App. 208, 367 S.E.2d 43, cert. denied, 186 Ga. App. 919, 367 S.E.2d 43 (1988); Arnold v. Gwinnett County Bd. of Tax Assessors, 207 Ga. App. 759, 429 S.E.2d 146 (1993).

Taxpayer, whose challenge to the constitutionality of the board's methodology for assessing taxes is inextricably bound to the basic issue of uniformity of assessment of real property located within the county, may appeal under the provisions of subsection (e) and (f) (now (g)) of O.C.G.A. § 48-5-311 "as to matters of taxability, uniformity of assessment, and value." Vann v. DeKalb County Bd. of Tax Assessors, 186 Ga. App. 208, 367 S.E.2d 43, cert. denied, 186 Ga. App. 919, 367 S.E.2d 43 (1988).

To assert the taxpayer's constitutional issue before the superior court in a de novo appeal, the taxpayer must have timely raised the issue before the board of equalization. Vann v. DeKalb County Bd. of Tax Assessors, 186 Ga. App. 208, 367 S.E.2d 43, cert. denied, 186 Ga. App. 919, 367 S.E.2d 43 (1988).

Even though the statutes providing for ad valorem taxation of motor vehicles do not specifically provide for apportionment, the statutes are not unconstitutional since the assessment of value may be challenged through the appeal procedure of O.C.G.A. § 48-5-311 and the owner thereby has the opportunity to establish that a vehicle has acquired a tax situs in another state. East W. Express, Inc. v. Collins, 264 Ga. 774, 449 S.E.2d 599 (1994).

EXEMPTION DENIAL NOT SUBJECT TO FEDERAL LAW SUIT. --Denial of an exemption of a portion of taxability was not subject to suit under 42 U.S.C. § 1983. Gwinnett County Bd. of Tax Assessors v. Network Publications, Inc., 208 Ga. App. 15, 429 S.E.2d 696 (1993).

APPEALS PROCESS WAS EFFICIENT, PLAIN, AND SPEEDY. --Appeals process of O.C.G.A. § 48-5-311 was "efficient" in addition to being "plain" and "speedy" both on its face and as applied to the instant taxpayers. Accordingly, the case was barred by the Tax Injunction Act of 1937, 28 U.S.C. § 1341, since the case sought a federal court injunction over a state tax assessment when a "plain, speedy, and efficient" remedy existed under state law. Amos v. Glynn County Bd. of Tax Assessors, 347 F.3d 1249 (11th Cir. 2003).

BURDEN OF PROOF IS ON THE TAXPAYERS, when the taxpayers are the parties who initiate an appeal to the superior court. Hawkins v. Grady County Bd. of Tax Assessors, 180 Ga. App. 834, 350 S.E.2d 790 (1986).

PROCEDURES MUST BE FOLLOWED. --Corporate taxpayers were barred from seeking refunds pursuant to O.C.G.A. § 48-5-380 of ad valorem taxes paid on vehicles with tax situses in other states because the taxpayers failed to follow the appeal procedures provided by O.C.G.A. § 48-5-311. DeKalb County v. Genuine Parts Co., 225 Ga. App. 376, 484 S.E.2d 57 (1997).

County and the county tax commission were entitled to summary judgment as a matter of law in an action filed by a trucking company seeking a refund for ad valorem taxes the company paid, as it was undisputed at trial that the company failed to timely file for either an apportionment in two subject years, as required by Ga. Comp. R. & Regs. r. 560-11-7-.02, and that the company did not appeal the company's ad valorem assessment within 45 days of the assessment in either year, pursuant to O.C.G.A. § 48-5-311; furthermore, O.C.G.A. § 48-5-380, which allowed a taxpayer to seek a refund up to three years after paying an erroneous or illegal tax, did not apply. Trans Link Motor Express, Inc. v. Dougherty County, 265 Ga. App. 10, 592 S.E.2d 859 (2003).

WHETHER AN APPEAL IS PROCEDURALLY DEFECTIVE IS A JUDICIAL DECISION, not a clerical determination, and the County Board of Tax Assessors should have certified the taxpayer's appeal to the superior court instead of concluding that the notice of appeal was defective. Fulton County Bd. of Tax Assessors v. Boyajian, 271 Ga. 881, 525 S.E.2d 687 (2000).

TIME PERIODS DIRECTORY ONLY. --Provisions of paragraph (e)(3) and subparagraphs (e)(6)(A) and (e)(6)(B) of O.C.G.A. § 48-5-311 are directory rather than mandatory because a county board of equalization can become so swamped with appeals that the board cannot hear all pending cases within such short statutory time periods. Moreton Rolleston, Jr., Living Trust v. Glynn County Bd. of Tax Assessors, 240 Ga. App. 405, 523 S.E.2d 600 (1999), cert. denied, 2000 Ga. LEXIS 97 (2000).

If the county board of equalization, in the exercise of due diligence and with reasonable justification for delay, sets a hearing at the earliest available date, which date falls outside of the statutory time period, there has been substantial compliance with O.C.G.A. § 48-5-311. Moreton Rolleston, Jr., Living Trust v. Glynn County Bd. of Tax Assessors, 240 Ga. App. 405, 523 S.E.2d 600 (1999), cert. denied, 2000 Ga. LEXIS 97 (2000).

EXCUSABLE DELAY WAS PROPERLY FOUND. --Because a county board of tax assessors certified appeals filed by 16 taxpayers to the superior court notifying the Clerk of the Court that the clerk was required to assign these appeals for trial at the first term following the filing of the appeals, any requirement that the taxpayers had to also make demand for trial at the first term was clearly redundant and, therefore, unnecessary; thus, the trial court properly found that an excusable delay from obtaining a trial at the first term was shown, warranting denial of the board's motion to dismiss the appeals. Glynn County Bd. of Tax Assessors v. Paulding, 270 Ga. App. 851, 608 S.E.2d 317 (2004).

NO PRESUMPTION OF CORRECTNESS ATTACHES TO ASSESSMENTS of the property of taxpayers who take an appeal to the superior court. Hawkins v. Grady County Bd. of Tax Assessors, 180 Ga. App. 834, 350 S.E.2d 790 (1986).

COURT NOT BOUND BY BOARD OF EQUALIZATION VALUATION. --Trial court's ruling in a tax appeal that the tax value for the property was limited to the value set by the board of

equalization was error because O.C.G.A. § 48-5-311(g)(3) provided that tax appeals to the superior court were de novo actions, and thus the trial court's determination of value in the tax appeal was not restricted to the valuation of the board of equalization; the dicta in Gwinnett County Bd. of Tax Assessors v. Ackerman/Indian Trail Assn., 198 Ga. App. 723, 402 S.E.2d 794 (Ga. Ct. App. 1991), was disapproved to the extent that the opinion conflicted with the holding that a tax appeal required a trial de novo, regardless of which party filed the appeal, and that the trial court was not bound by the board of equalization's findings. Fulton County Bd. of Tax Assessors v. NABISCO, 296 Ga. App. 884, 676 S.E.2d 41 (2009).

RELATION TO OTHER LAW. --O.C.G.A. § 48-5-7.2(e) expressly requires a tax board, upon denying an application for preferential assessment, to notify the applicant in the same manner that notices of assessment are given pursuant to O.C.G.A. § 48-5-306, and appeals from the denial of an application for preferential assessment by the board of tax assessors shall be made in the same manner that other property tax appeals are made pursuant to O.C.G.A. § 48-5-311; in light of a tax board's failure to provide an applicant with the proper statutory notice, the board's argument that the applicant failed to exhaust the applicant's administrative remedies was without merit. Chatham County Bd. of Tax Assessors v. Emmoth, 278 Ga. 144, 598 S.E.2d 495 (2004).

APPEAL PROCESS UNDER § 48-5-380 DISTINGUISHED. --While the appeal process of O.C.G.A. § 48-5-311 is available to address any asserted error in an ad valorem real property tax assessment, the refund process established by O.C.G.A. § 48-5-380 is intended only to correct errors of fact or law which have resulted in erroneous or illegal taxation. Gwinnett County v. Gwinnett I Ltd. Partnership, 265 Ga. 645, 458 S.E.2d 632 (1995).

TAXPAYER NEED NOT COMPLY WITH THE APPEAL PROCEDURE PROVIDED IN SUBSECTION (E) OF O.C.G.A. § 48-5-311 PRIOR TO PROCEEDING UNDER O.C.G.A. § 48-5-380. Marconi Avionics, Inc. v. DeKalb County, 165 Ga. App. 628, 302 S.E.2d 384 (1983).

APPEAL TO BOARD REQUIRED FOR JUDICIAL REVIEW. --When the appellant and the board of tax assessors entered into a stipulation that the board of equalization would adopt the position of the board of tax assessors, therefore eliminating the need to appeal to the board of equalization, and then the appellant filed an appeal to the superior court, a judgment rendered by the superior court would be reversed for lack of subject-matter jurisdiction because jurisdiction cannot be conferred by agreement or consent. Barland Co. v. Bartow County Bd. of Tax Assessors, 172 Ga. App. 61, 322 S.E.2d 316 (1984).

Superior Court properly dismissed taxpayer's action questioning the validity of a second tax assessment which was issued to correct an earlier assessment for the same tax year since the case was subject to appeal to and decision by the county board of equalization. Dean v. Fulton County Bd. of Tax Assessors, 218 Ga. App. 760, 463 S.E.2d 64 (1995).

Property owners improperly challenged a tax re-valuation by a county in a Georgia trial court because the owners had an adequate remedy at law pursuant to O.C.G.A. § 48-5-311 in an appeal to a county board of tax equalization (BOE) as the BOE had to first address procedural errors and errors in methodology to value the property under § 48-5-311(e)-(g); constitutional claims, such as claims of the uniformity of assessment under Ga. Const. 1983, Art. VII, Sec. I, Para. III also had to be addressed first before the BOE. Hooten v. Thomas, 297 Ga. App. 487, 677 S.E.2d 670 (2009).

EXHAUSTION OF ADMINISTRATIVE REMEDIES PREREQUISITE. --Because the superior court should not have exercised the court's equitable jurisdiction when the property owners

failed to exhaust their administrative remedies under O.C.G.A. § 48-5-311 through the county board of equalization, the superior court's judgment for declaratory relief in favor of the property owners at summary judgment was reversed; instead, the superior court should have dismissed the property owners' suit for failing to state a claim. Chatham County Bd. of Assessors v. Jepson, 261 Ga. App. 771, 584 S.E.2d 22 (2003).

When a taxpayer challenged an assessment, but paid the taxes, the taxpayer could not bring an action in the courts for a declaratory judgment to determine the validity of the assessment until the taxpayer exhausted the taxpayer's statutory administrative options under either O.C.G.A. § 48-5-311 or O.C.G.A. § 48-5-380. Wilmington Trust Co. v. Glynn County, 265 Ga. App. 704, 595 S.E.2d 562 (2004).

TRIAL COURT HAD JURISDICTION of taxpayer's action to find reassessments invalid for failure of the county board of tax assessors to follow provisions of O.C.G.A. § 48-5-311 requiring a response to the taxpayer's assessment appeal. Moreton Rolleston, Jr. Living Trust v. Glynn County Bd. of Tax Assessors, 228 Ga. App. 371, 491 S.E.2d 812 (1997), aff'd in part and vacated in part, 230 Ga. 539, 497 S.E.2d 274 (1998).

DENIAL OF DISMISSAL MOTION NO GROUND FOR REVERSAL WHEN TAXPAYER ATTEMPTING TO OVERTURN BOARD'S DECISION. --When a taxpayer files a "motion to dismiss" in the superior court based on the failure of the board of equalization to set a hearing date on the taxpayer's appeal within 15 days of receipt of the taxpayer's notice of appeal from the decision of the board of tax assessors, which decision the taxpayer is attempting to overturn, the denial of the motion to dismiss is favorable to the taxpayer and establishes no ground for reversal of the trial court's judgment. Williamson v. DeKalb County Bd. of Tax Assessors, 168 Ga. App. 47, 308 S.E.2d 55 (1983).

RIGHT TO APPEAL PENALTY ASSESSMENT. --Assessment of a penalty for a breach of a conservation use covenant is an assessment for which a property owner has the right to appeal pursuant to O.C.G.A. § 48-5-311. Oconee County Bd. of Tax Assessors v. Thomas, 282 Ga. 422, 651 S.E.2d 45 (2007).

COSTS AND EXPENSES ON APPEAL. --Taxpayer was not entitled to costs and expenses for having to appear at the hearing of the county board of equalization on the taxpayer's initial appeal and for having to appeal to the superior court in order to have the board rule on the taxpayer's request. Hulse v. Joint City-County Bd. of Assessors, 219 Ga. App. 309, 464 S.E.2d 890 (1995).

Trial court erred in awarding a property owner $7,515.00 in attorney fees under O.C.G.A. § 48-5-311(g)(4)(B)(ii) against a county board of tax assessors after a jury valued the property in question substantially lower than the board's valuation; the record did not support the trial court's conclusion that the property was returned for taxation by operation of law pursuant to O.C.G.A. § 48-5-20(a)(2), and the board did not waive the board's objection to the fees, because the trial court did not hold a hearing on the issue of the attorney's fees, O.C.G.A. § 9-11-46(a), and the board therefore did not have an opportunity to object to the award. Fulton County Bd. of Tax Assessors v. Butner, 258 Ga. App. 68, 573 S.E.2d 100 (2002).

As a taxpayer did not pay the prior year's taxes, the taxes paid by the taxpayer for the prior year were deemed the taxpayer's tax return for the tax year under O.C.G.A. § 48-5-20(a)(2), so the taxpayer was not required to file a separate tax return on the taxpayer's property, and the taxpayer's late return was a nullity; therefore, upon the taxpayer's successful appeal of an

assessment of the taxpayer's property, an award of costs and attorneys fees was mandatory under O.C.G.A. § 48-5-311(g)(4)(B)(ii). Simmons v. Bd. of Tax Assessors, 268 Ga. App. 411, 602 S.E.2d 213 (2004).

Owner was entitled to attorney fees under O.C.G.A. § 48-5-311(g)(4)(B)(ii) in an appeal of a property valuation because the final determination of value on appeal to the trial court was 85 percent or less of the valuation set by the board of tax assessors; it was irrelevant that the owner's appeal to the trial court dealt with a "freeze" of the property value under O.C.G.A. § 48-5-299(c) and not a new determination of value. Fulton County Bd. of Tax Assessors v. Lamb, 298 Ga. App. 618, 680 S.E.2d 656 (2009).

Order awarding a city attorney fees pursuant to O.C.G.A. § 48-5-311(g)(4)(B)(ii) in the city's appeal of a county's tax assessment of the city's property was error because § 48-5-311(g)(4)(B)(ii) only applied when there was a final determination of value on appeal, and the city's appeal related not to value, but to taxability; valuation was not an issue, and, thus, the city did not satisfy the condition precedent to an award of fees under § 48-5-311(g)(4)(B)(ii). O.C.G.A. § 48-5-311(g)(4)(B)(ii) did not permit an award of attorney fees or litigation costs when, as here, the sole issue was taxability. Clayton County Bd. of Tax Assessors v. City of Atlanta, 299 Ga. App. 233, 682 S.E.2d 328 (2009).

Final property valuation that was set by operation of law pursuant to O.C.G.A. § 48-5-299(c) based on a prior tax year appeal did not preclude an award of attorney's fees and costs under O.C.G.A. § 48-5-311(g)(4)(B)(ii). Fulton County Bd. of Tax Assessors v. LM Atlanta Airport, LLC, 313 Ga. App. 439, 721 S.E.2d 640 (2011).

APPLICABILITY TO CHALLENGE TO MULTI-YEAR AUDIT. --Taxpayer was not required to file an appeal pursuant to O.C.G.A. § 48-5-311 contesting the denial of the taxpayer's reduction in the value of the taxpayer's merchandise for one tax year as the taxpayer was no longer challenging the taxpayer's property tax assessment for one tax year, but was seeking to avoid a multi-year audit that the taxpayer attributed to an improper motive. Parisian, Inc. v. Cobb County Bd. of Tax Assessors, 263 Ga. App. 332, 587 S.E.2d 771 (2003).

Trial court erred in awarding costs and attorney fees to the taxpayers after the jury valued their improved real property, as the jury's valuation figure was 85.8 percent and the applicable statute provided that the valuation figure had to be 85 percent or less of the equalization board's figure in order for an award of costs and attorney fees to be permitted; the trial court erred because the court deducted the undisputed value of an improvement on the land from the jury's verdict, but a proper valuation of the fair market value of the property dictated that the value of that improvement be included in determining whether the valuation was 85 percent or less of the equalization board's valuation for the purpose of awarding fees and costs. Stephens County Bd. of Tax Assessors v. Shirley, 263 Ga. App. 743, 589 S.E.2d 263 (2003).

VALUE TO BE DETERMINED BY ARBITRATOR. --In a taxpayer's appeal from a real estate tax valuation assessment, the trial court erred in holding that the value of a parcel of real property was the value set out in the taxpayer's appraisal since within 45 days of receiving the taxpayer's certified appraisal, the county board of tax assessors voted to reject the taxpayer's appraisal value, and within another 45 days, the board certified the appeal in compliance with O.C.G.A. § 48-5-311(f)(3)(A). Thus, the value remained to be determined by an arbitrator in accordance with the procedures set out in § 48-5-311(f). Fulton County Bd. of Tax Assessors v. Greenfield Inv. Group, LLC, 313 Ga. App. 195, 721 S.E.2d 128 (2011).

2. NOTICE OF APPEAL

THE 30 DAY LIMIT IN PARAGRAPH (G)(2) OF O.C.G.A. § 48-5-311 APPLIES TO BOARDS OF ASSESSORS as well as to taxpayers. Stoddard v. Cone, 250 Ga. 852, 301 S.E.2d 641 (1983).

Failure of the board of tax assessors to give 30-day notice of appeal to taxpayers deprived the superior court of jurisdiction and such failure was not an amendable or curable defect. Fulton County Bd. of Tax Assessors v. CPS Four Hundred, Ltd., 213 Ga. App. 1, 443 S.E.2d 645 (1994).

FAILURE TO FILE NOTICE WITH BOARD OF TAX ASSESSORS OR TO STATE GROUNDS FOR APPEAL WARRANTS DISMISSAL. --When a landowner seeks to appeal the county tax assessor's assessed valuation of the landowner's property, but the notice of appeal is not filed with the board of tax assessors and does not state the grounds for appeal, the superior court does not err in dismissing the landowner's complaint to enjoin the county tax commissioner from selling the landowner's property because of unpaid taxes. Davis v. Holland, 251 Ga. 86, 303 S.E.2d 455 (1983).

TAX ASSESSORS MUST CERTIFY NOTICE OF APPEAL. --O.C.G.A. § 48-5-311 did not give a board of tax assessors the discretion to refuse to certify a notice of appeal based on the taxpayer's failure to be present at the hearing. Fulton County Bd. of Tax Assessors v. Jones, 264 Ga. 828, 452 S.E.2d 99 (1995).

FAILURE TO NOTIFY TAXPAYERS OF RIGHT TO APPEAL. --County's recalculations of taxpayers' homestead exemptions involved the value of the exemptions, bringing the taxpayers within O.C.G.A. § 48-5-49, which permitted an appeal under O.C.G.A. § 48-5-311. Since the county had not given the taxpayers notice under O.C.G.A. § 48-5-306 of the taxpayers' right to appeal, the taxpayers were entitled to equitable relief requiring the county to: (1) provide taxpayers with proper notice of and the right to appeal changes in the homestead exemptions; (2) stop collecting taxes referenced in bills sent without proper notice; and (3) refund any tax money collected based on bills issued without such notice. Fulton County Bd. of Tax Assessors v. Marani, 299 Ga. App. 580, 683 S.E.2d 136 (2009), cert. denied, No. S09C2072, 2010 Ga. LEXIS 18 (Ga. 2010).

SUFFICIENCY OF NOTICE. --Superior court erred in granting a county's motion to dismiss a taxpayer's appeal when, although the taxpayer had not offered an explanation as to the basis for the taxpayer's appeal, the board of tax assessors thereafter certified the case to the superior court and, in connection with the docketing of the case in that court, the taxpayer filed a form in which the taxpayer stated that the taxpayer was filing the appeal "under Ga. Code No. 48-5-311 ... regarding taxability and value." Vaughters v. DeKalb County Bd. of Tax Assessors, 198 Ga. App. 589, 402 S.E.2d 340 (1991).

Because the taxpayers' notice of appeal of the valuation of their property was filed with the County Board of Tax Assessors (BTA) and the trial court on the same day, which was within the statutory time limitation of O.C.G.A. § 48-5-311(g)(2), the BTA received the required notice initiating the taxpayers' appeal; filing the notice in the trial court did not render the notice ineffective. Fulton County Bd. of Tax Assessors v. Love, 296 Ga. App. 613, 676 S.E.2d 256 (2009).

NOTICE PROVISIONS TO BE STRICTLY CONSTRUED. --When a reassessment notice was properly mailed to a taxpayer pursuant to O.C.G.A. § 48-5-306 and the taxpayer's request for a

late appeal was denied by the board of tax assessors, the taxpayers were not entitled to declaratory relief or to mandamus because O.C.G.A. § 48-5-311 prescribes a time limit for filing appeals, the appeal was not filed within that period, and the board was powerless to extend the period. Dillard v. Denson, 243 Ga. App. 458, 533 S.E.2d 101 (2000).

LIBERAL READING OF NOTICE OF APPEAL. --Trial court erred in dismissing taxpayers' appeal, where, although the taxpayers' enumerated errors to the superior court were not clearly defined, a liberal reading of the notice of appeal indicated that the taxpayers were challenging the assessed value of their property based on an alleged error in computation. Andrew v. DeKalb County Bd. of Tax Assessors, 194 Ga. App. 274, 390 S.E.2d 115 (1990).

3. APPEALS TO BOARD OF EQUALIZATION

JUDICIAL POWER TO DETERMINE TAXABILITY IS VESTED IN THE BOARD OF EQUALIZATION. Bouy v. Kiley, 238 Ga. 47, 230 S.E.2d 861 (1976).

AUTHORITY TO REMEDY DEFICIENCIES IN AD VALOREM TAX DIGEST. --General Assembly has invested county boards of tax equalization with ample authority to remedy deficiencies in an ad valorem tax digest. The board is authorized to order the entire digest recompiled if such action is necessary to obtain uniformity. Tax Assessors v. Chitwood, 235 Ga. 147, 218 S.E.2d 759 (1975).

SCOPE OF BOARD'S AUTHORITY TO REDRESS GRIEVANCES AS TO TAX ASSESSMENTS. --County board of equalization has full authority to fashion an adequate and appropriate legal remedy to redress grievances of taxpayers regarding the valuation of individual parcels of land and the uniformity of the county tax assessments. Tax Assessors v. Chitwood, 235 Ga. 147, 218 S.E.2d 759 (1975); Chilivis v. Kell, 236 Ga. 226, 223 S.E.2d 117, cert. denied, 429 U.S. 891, 97 S. Ct. 249, 50 L. Ed. 2d 174 (1976).

TIME FOR APPEAL BEGINS TO RUN ON THE DAY NOTICE IS RECEIVED BY THE TAXPAYER. Hamilton v. Edwards, 245 Ga. 810, 267 S.E.2d 246 (1980).

EXTENSION OF TIME FOR APPEAL NOT WITHIN AUTHORITY OF BOARD OF TAX ASSESSORS. --There is no power or authority given the board of tax assessors or any members thereof to extend the period in which an appeal may be filed by the taxpayer, and the attempted extension of the time for filing such an appeal is void. Tift v. Tift County Bd. of Tax Assessors, 234 Ga. 155, 215 S.E.2d 3 (1975).

SUFFICIENCY OF STATEMENT OF GROUNDS FOR APPEAL. --Letter expressing no more than dissatisfaction with an assessment does not specifically state the grounds for appeal. Ledbetter Trucks, Inc. v. Floyd County Bd. of Tax Assessors, 143 Ga. App. 323, 238 S.E.2d 440 (1977), rev'd on other grounds, 240 Ga. 791, 242 S.E.2d 596 (1978).

EXCUSE FROM FILING NOTICE OF APPEAL. --Prior communications with a firm employed by the board of tax assessors to assist the board in making valuations do not excuse taxpayers from complying with the requirement for filing a notice of appeal from the official notice given by the board of tax assessors. Peagler v. Georgetown Assocs., 232 Ga. 848, 209 S.E.2d 186 (1974).

NECESSITY FOR APPELLANT TO RAISE ISSUE OF NONUNIFORMITY. --County board of equalization may fashion a remedy in light of evidence that there is a lack of uniformity of property assessment within the county. Such nonuniformity within the county need not be raised by an appellant before the county board of equalization. The board need only find reason to believe that property is not uniformly assessed. Therefore, a taxpayer who in good faith returns the taxpayer's property at the property's fair market value and does not have the taxpayer's return changed would seem to be entitled to present evidence to the county board of equalization that there is a lack of uniformity within the county. Adams v. Smith, 415 F. Supp. 787 (N.D. Ga. 1976), aff'd, 568 F.2d 1232 (5th Cir. 1978).

SPECIFICATION OF REASONS FOR UNIFORMITY DETERMINATION. --After the taxpayer raised the issue of uniformity of taxation in the taxpayer's appeal, the county board of equalization was required to specifically decide the issue and to specify the reasons for the board's determination. Hulse v. Joint City-County Bd. of Assessors, 219 Ga. App. 309, 464 S.E.2d 890 (1995).

ERRORS IN THE HEARING BEFORE THE BOARD OF EQUALIZATION ARE WAIVED IF NOT OBJECTED TO at the equalizers' hearing. Murray v. Richardson, 134 Ga. App. 676, 215 S.E.2d 715 (1975).

CHALLENGE OF PROCEDURE FOR CARRYING ASSESSMENTS FORWARD FROM ONE YEAR TO THE NEXT. --When a taxpayer challenges the procedure used by the county tax officials in carrying forward assessments from one year to the next, rather than attacking the validity of the tax digest or the amount of the assessment, the taxpayer is not required to appeal to the county board of equalization. Smith v. Day, 237 Ga. 48, 226 S.E.2d 588 (1976).

4. APPEALS TO SUPERIOR COURT

APPLICABILITY OF CH. 11, T. 9 TO APPEALS TO SUPERIOR COURT. --An appeal brought under former Code 1933, § 92-6912 (see O.C.G.A. § 48-5-311) to the superior court from a county tax assessment was a "complaint" pursuant to Ga. L. 1966, p. 609 § 3 (see O.C.G.A. § 9-11-3), which was required to be answered by responsive pleading pursuant to Ga. L. 1966, p. 609, § 12 (see O.C.G.A. § 9-11-12). Hall County Bd. of Tax Assessors v. Reed, 142 Ga. App. 556, 236 S.E.2d 532 (1977).

APPROVAL OF APPEAL NOT REQUIRED. --O.C.G.A. § 48-5-311 does not require a county or city governing authority to vote to approve an appeal by the board of tax assessors; the plain meaning of the Code section is that the governing authority be notified of appeals by the board of tax assessors from assessment changes of 15 percent or less so that, within 10 days of receipt of such notice, the governing authority may choose to prohibit the appeal by majority vote. Hall County Bd. of Tax Assessors v. Peachtree Doors, Inc., 214 Ga. App. 613, 448 S.E.2d 476 (1994).

APPEALS MUST BE RECEIVED, NOT MERELY MAILED, WITHIN TIME LIMIT. --Although mailed within 30 days of date on which decision of board of equalization was sent by registered mail, appeal from the board's decision was not timely because the appeal was not received

until two days after expiration of the 30-day time limit imposed by statute. Camden County Bd. of Tax Assessors v. Proctor, 155 Ga. App. 650, 271 S.E.2d 902 (1980).

AMENDMENT OF NOTICE OF APPEAL TO SUPERIOR COURT. --Since the policy of the law is in favor of deciding tax appeals on the merits, even at the expense of procedural technicalities, Ga. L. 1972, p. 624, § 1 (see O.C.G.A. § 5-6-48 (b)), which allowed amendments of notices of appeal from superior courts, also applied to notices of appeal to the superior courts from administrative boards. Mundy v. Clayton County Tax Assessors, 146 Ga. App. 473, 246 S.E.2d 479 (1978).

While the notice of appeal that the board of tax assessors sent to the taxpayer was insufficient to perfect the appeal of the board of tax assessors to the superior court because it did not specifically state the grounds for the appeal, the superior court erred in dismissing the appeal; the superior court should have allowed the board of assessors to cure the defect by amending the notice of appeal since notices of appeal could be amended and a policy existed to decide tax appeals on their merits. Fulton County Bd. of Tax Assessors v. Layton, 261 Ga. App. 356, 582 S.E.2d 520 (2003).

JURY TRIAL REQUIRED FOR QUESTIONS OF FACTS. --When questions of fact are presented by such an appeal, the law requires a de novo investigation by trial before a jury. Hall County Bd. of Tax Assessors v. Reed, 142 Ga. App. 556, 236 S.E.2d 532 (1977).

CLERK'S DUTY TO SET APPEAL FOR FIRST TERM. --When it is the express command of a statute that appeal cases be tried by a jury at first term after the appeal has been entered, it would appear to be the duty of the clerk to place the appeal upon the trial calendar for the first term after docketing. McCauley v. Bd. of Tax Assessors, 243 Ga. 844, 257 S.E.2d 266 (1979).

DISMISSAL OF APPEALS NOT HEARD DURING FIRST TERM FOLLOWING FILING. --Dismissal of appeal on the ground that the appeal was not brought to trial at the first term is proper when the appellant fails to request that the appeal be placed at the head of the calendar and given the preference to which it is entitled under the law. The provision of this statute, requiring the appeal from the board's decision to be heard before a jury at the first term following the filing of the appeal, concerns and affects both the public interest and the interest of the taxpayer since the public has an interest in the proper administration of the revenue laws and the solvency of its fisc, while the taxpayer is entitled to know promptly and precisely the extent of the taxpayer's tax liability. Thus, dismissal will result from a failure to obtain a trial at the first term unless a reasonable excuse is shown. DeKalb County Bd. of Tax Assessors v. Stone Mountain Indus. Park, 147 Ga. App. 503, 249 S.E.2d 318 (1978).

DEFAULT JUDGMENT WILL NOT LIE FOR FAILURE TO FILE DEFENSIVE PLEADINGS in a de novo hearing on appeal in the superior court from a property evaluation. Hall County Bd. of Tax Assessors v. Reed, 142 Ga. App. 556, 236 S.E.2d 532 (1977).

UNDER GA. L. 1966, P. 609, § 55 AND GA. L. 1967, P. 226, § 24 (SEE O.C.G.A. § 9-11-55) IN CONJUNCTION WITH FORMER CODE 1933 § 92-6912 (SEE O.C.G.A. § 48-5-311) AN APPEAL DID NOT AUTOMATICALLY BECOME IN DEFAULT upon failure to timely file responses, when the statutory design contemplated that findings as to fair market value shall be made. Hall County Bd. of Tax Assessors v. Reed, 142 Ga. App. 556, 236 S.E.2d 532 (1977).

NO AUTOMATIC DEFAULT WHERE UNLIQUIDATED DAMAGES INVOLVED. --Under Ga. L. 1966, § 55 and Ga. L. 1967, p. 226, § 24 (see O.C.G.A. § 9-11-55) a case did not automatically become in default upon the failure to timely file responses if the action involves unliquidated damages. Hall County Bd. of Tax Assessors v. Reed, 142 Ga. App. 556, 236 S.E.2d 532 (1977).

HAVING FAILED TO APPEAL FROM THE DECISION OF THE BOARD OF EQUALIZATION, a party could not at a later date successfully institute an original action in the superior court to raise the issue of taxability. Bouy v. Kiley, 238 Ga. 47, 230 S.E.2d 861 (1976).
Failure of limited liability companies (LLC) to satisfy the requirement of O.C.G.A. § 48-5-311(e)(2)(A) barred any further right to appeal because the letters and returns the LLCs' representative submitted months before the assessment notices were mailed did not excuse the LLCs from complying with the requirement of O.C.G.A. § 48-5-311(e)(2)(A) that a taxpayer mail or file a notice of appeal within 30 days from the date of mailing the notice pursuant to O.C.G.A. § 48-5-306; because the LLCs failed to comply with O.C.G.A. § 48-5-311(e) so as to effectuate an appeal to the county board of equalization, the LLCs' appeals to the superior court should have been dismissed. Hall County Bd. of Tax Assessors v. Avalon Hills Partners, LLC, 307 Ga. App. 520, 705 S.E.2d 674 (2010).

SCOPE OF SUPERIOR COURT'S JURISDICTION ON APPEAL. --Only those decisions of the board of equalization on questions presented to the board or incident thereto may be relitigated in the superior court. Camp v. Boggs, 240 Ga. 127, 239 S.E.2d 530 (1977).
Trial court properly dismissed a taxpayer's appeal from a purported denial of a homestead exemption on grounds that the court lacked subject matter jurisdiction over the case as the taxpayer failed to show both an application for and the denial of a homestead exemption, and failed to exhaust any and all of the applicable administrative remedies under O.C.G.A. § 48-5-311. Carter v. Fayette County, 287 Ga. App. 175, 651 S.E.2d 108 (2007).

WHEN APPELLANT RAISES ONLY A QUESTION OF VALUE BEFORE THE BOARD OF EQUALIZATION, appellant cannot raise a new claim of uniformity for the first time on appeal to the superior court. Camp v. Boggs, 240 Ga. 127, 239 S.E.2d 530 (1977).

OBJECTIONS WAIVED ON APPEAL IF NOT BROUGHT BEFORE BOARD. --Matters of taxability, uniformity of assessment, and value must be raised before the county board of equalization in order to raise the matters on appeal to the superior court, notwithstanding that the action in superior court is de novo. Williams v. DeKalb County Bd. of Tax Assessors, 249 Ga. 164, 289 S.E.2d 235 (1982).

WHEN ISSUES NOT RAISED BEFORE BOARD MAY BE RAISED BEFORE SUPERIOR COURT. --When a taxpayer appeals an assessment of the board of tax assessors to the board of equalization, and from the decision of the latter to the superior court for a de novo hearing, the taxpayer is not permitted to raise in the superior court appeal issues which were not raised in the original appeal to the board of equalization. However, when the original appeal to the board of equalization is not included in the record, and when it is not contended that such original appeal failed to raise the question of valuation, an appellant is not estopped in an appeal to the superior court from an adverse decision of the board of equalization from urging at the de novo hearing that the valuation set is excessive. Mundy v. Clayton County Tax Assessors, 146 Ga. App. 473, 246 S.E.2d 479 (1978).

WHEN A BOARD OF EQUALIZATION FAILS TO ANSWER SOME OF THE QUESTIONS SUBMITTED BY TAXPAYER, such failure should be enumerated as error on a de novo appeal. Accordingly, relief by way of injunction or mandamus is inappropriate because a taxpayer must raise the issue before the board and exhaust the taxpayer's remedies by the statutorily provided appeal. Wilkes v. Redding, 242 Ga. 78, 247 S.E.2d 872 (1978).

BURDEN OF PROOF IN SUPERIOR COURT IS ON PARTY INITIATING APPEAL TO THAT COURT. --Because the nonprofit charitable institution had already carried the institution's burden of proving entitlement to a charitable exemption, the burden of proof showing that the institution was not entitled to the exemption on an appeal was on the board of tax assessors. Bd. of Tax Assessors v. Baptist Vill., Inc., 269 Ga. App. 848, 605 S.E.2d 436 (2004).

ADMISSIBILITY OF HEARING PROCEEDINGS ON APPEAL TO SUPERIOR COURT. --What transpired at the hearing would not be admissible if objected to in the de novo investigation at trial before jury. Murray v. Richardson, 134 Ga. App. 676, 215 S.E.2d 715 (1975).

REFERENCES TO PRIOR PROCEEDINGS AND PROCEDURES SHOULD BE OMITTED, as the references have no relevance in a de novo matter. Weeks v. Gwinnett County Bd. of Tax Equalization, 139 Ga. App. 37, 227 S.E.2d 865 (1976), overruled on other grounds by Gilmer County Bd. of Tax Assessors v. Spence, 309 Ga. App. 482, 711 S.E.2d 51 (2011).

EVIDENTIARY WEIGHT GIVEN TO FINDINGS OF FACT BY THE BOARD OF TAX ASSESSORS. --Board of tax assessors' findings of fact are not deemed prima facie correct on appeals to the superior court, but are evidence which the jury may consider, along with other evidence, in resolving the issue before the jury. Weeks v. Gwinnett County Bd. of Tax Equalization, 139 Ga. App. 37, 227 S.E.2d 865 (1976), overruled on other grounds by Gilmer County Bd. of Tax Assessors v. Spence, 309 Ga. App. 482, 711 S.E.2d 51 (2011).

REQUEST FOR CERTIFICATION FROM TAX CONSULTING FIRM. --Nothing in the language of O.C.G.A. § 48-5-311 prohibits a tax consulting firm from writing a letter to the board of tax assessors requesting certification of an appeal to superior court. Interstate N. Sporting Club v. Cobb County Bd. of Tax Assessors, 250 Ga. App. 221, 551 S.E.2d 91 (2001).

NO PRESUMPTION OF CORRECTNESS ATTACHES TO THE ASSESSMENTS OF THE BOARD OF EQUALIZATION on appeal to the superior court. Hodsdon v. Duckett, 135 Ga. App. 922, 219 S.E.2d 634 (1975).

EXERCISE OF EQUITABLE POWERS UNNECESSARY. --An appeal before a county board of equalization provides an adequate remedy at law for the determination of county taxpayers' questions, making unnecessary the exercise of the equitable powers of the superior court. Wilkes v. Redding, 242 Ga. 78, 247 S.E.2d 872 (1978).

MANDAMUS AND ACTIONS IN EQUITY NOT AUTHORIZED. --Board of equalization is the appropriate forum for deciding a taxpayer's constitutional and procedural issues as well as questions of uniformity, valuation, and taxability; therefore, an action in equity and mandamus in the superior court raising those issues is unauthorized. Wilkes v. Redding, 242 Ga. 78, 247 S.E.2d 872 (1978).

ASSESSMENT OF PROPERTY TAXES. --Judgment setting the value for improved residential real property owned by the property owners at $ 291,000 was appropriate because an appraiser gave expert opinion testimony that the fair market value of the property was $291,000 and other expert witnesses opined that the county employed appraisal methods in ways that systemically produced incorrect or arbitrary estimates of fair market value for residential properties. Gilmer County Bd. of Tax Assessors v. McHugh, 309 Ga. App. 145, 709 S.E.2d 311 (2011).

PROPERTY OWNERS' CHALLENGES TO TAX ASSESSMENT IN SUPERIOR COURT. --There was no merit in the Gilmer County Board of Tax Assessor's claim that the superior court erred in allowing the property owners to challenge the uniformity of the tax assessment. The property owners did not base the owners' uniformity challenge solely upon the amount of taxes paid by the specific developer who owned property within the owners' subdivision; the owners also based the owners' challenge upon the amount of taxes paid by numerous other taxpayers in the county to whose properties the property owners contended an absorption rate had been misapplied. Gilmer County Bd. of Tax Assessors v. McHugh, 309 Ga. App. 145, 709 S.E.2d 311 (2011).

PAYMENT OF FILING FEES. --Superior court had jurisdiction to hear the taxpayers' appeal of the county equalization board's decision that found the county board of tax assessors' tax assessment of their property was based on the fair market value of that property as the taxpayers' filed a timely notice of appeal pursuant to O.C.G.A. § 48-5-311(g)(2) and the county board of tax assessors certified their appeal; the fact that the taxpayers did not file their filing fee until after the deadline had passed for filing the notice of appeal did not deprive the superior court of jurisdiction since the statute did not require that the superior court filing fee also be received within the time for filing a timely notice of appeal and the county board of tax assessors was entitled to certify the appeal even without receiving that fee, although the fee was, in fact, later received. Fayette County Bd. of Tax Assessors v. Oddo, 261 Ga. App. 707, 583 S.E.2d 537 (2003).

COSTS. --When the owner of commercial property successfully appealed an assessment of the property's value by a board of equalization, and the value determined on appeal was less than 80 percent of the value assessed by the board, the taxpayer was entitled to an award of costs, including attorney fees and litigation costs because O.C.G.A. § 48-5-311(g)(4)(B)(ii) became effective prior to the assessment. Pulaski County Bd. of Tax Assessors v. JFS Props., 274 Ga. App. 520, 618 S.E.2d 151 (2005).

ATTORNEY FEE AWARDS. --When taxpayers challenging an assessment filed an appeal from the verdict of the first jury that tried the case, it was error, following retrial, to deny the taxpayers attorney fees in connection with the appeal from the first jury verdict. "Action" in O.C.G.A. § 48-5-311(g)(4)(B)(ii) does not limit recovery to attorney fees incurred in the trial court. Buckler v. DeKalb County Bd. of Tax Assessors, 288 Ga. App. 332, 654 S.E.2d 184 (2007).

Taxpayer was entitled to an award of attorney fees of $37,475 under O.C.G.A. § 48-5-311(g)(4)(B)(ii) because the jury's valuation of the taxpayer's property was less than 85 percent of the value assessed by the county board of assessors. Although the county later lowered the property's value, the taxpayer had already appealed three times from the original value, and the attorney's fee amendment was intended to ensure that valuations were accurate from the

outset. Fulton County Bd. of Tax Assessors v. White, 302 Ga. App. 512, 691 S.E.2d 341 (2010).

Tax assessor waived the assessor's argument that the company was not entitled to attorney fees under O.C.G.A. § 48-5-311(g)(4)(B)(ii) on the grounds that the bank failed to file a property tax return or that the bank was the real party in interest. Fulton County Bd. of Assessors v. Calliope Props., LLC, 312 Ga. App. 875, 720 S.E.2d 312 (2011).

AWARD OF ATTORNEY FEES APPROVED ON APPEAL. --Because the value was less than 85 percent of the valuation set by the board of assessors, the trial court awarded the owner its attorney fees under O.C.G.A. § 48-5-311(g)(4)(B)(ii). The amount of the fee award was within the range of the evidence adduced at the hearing, and the award was not manifestly unreasonable on its face. Fulton County Bd. of Assessors v. Calliope Props., LLC, 315 Ga. App. 405, 727 S.E.2d 198 (2012).

DISMISSAL OF APPEAL HELD ERRONEOUS. --Command stated under O.C.G.A. § 48-5-311(g)(4)(A), specifically, that non-jury trials in appeals from a board of equalization to the superior court were to be held within 40 days of filing, was directory rather than mandatory, making erroneous the superior court's dismissal of the appeals upon a failure to hold a hearing within that time period. Jasper County Bd. of Tax Assessors v. Thomas, 289 Ga. App. 38, 656 S.E.2d 188 (2007).

OPINIONS OF THE ATTORNEY GENERAL

GEORGIA OPEN MEETINGS LAW applies to proceedings both of a county board of tax assessors and of a county board of equalization. 1995 Op. Att'y Gen. No. U95-22.

PERSONS HOLDING OFFICE AS MEMBERS OF A COUNTY BOARD OF EQUALIZATION BY VIRTUE OF A ONE-YEAR APPOINTMENT UNDER PRIOR LAW, FORMER CODE 1933, § 91A-1449(C), CONTINUE IN OFFICE until their successors can be "commissioned and qualified." As the current statute, O.C.G.A. § 48-5-311(c), provides no mechanism to appoint for a term beginning prior to January 1, 1984, current members thus hold over in office until such time after December 31, 1983, as their successor is commissioned and qualified. 1983 Op. Att'y Gen. No. U83-30.

PROPERTY SOLD UNDER BOND FOR TITLE. --Purchaser/possessor of a piece of property under a bond for title can be subjected to ad valorem taxation for that parcel and once the Board of Tax Assessors chooses to assess the property against the occupant, and not the seller of the property, the occupant should receive the tax notices required by O.C.G.A. § 48-5-306, and be treated as "the taxpayer" entitled to appeal under O.C.G.A. § 48-5-311. 1989 Op. Att'y Gen. U89-17.

COST OF APPEAL TO SUPERIOR COURT. --Appellants contesting a decision rendered by a county board of equalization in superior court must pay the advance court cost deposit set forth in O.C.G.A. §§ 9-15-4 and 15-6-77. 1985 Op. Att'y Gen. No. U85-17, following 1974 Op. Att'y Gen. U74-46.

EFFECT OF LATE NOTICE FROM BOARD OF TAX ASSESSORS. --When county tax assessors make a change in property valuation and send out notice thereof in which the date set for a hearing is more than ten days after the mailing of the notice, such notice is not a notice of final assessment, but only of a proposed assessment. 1970 Op. Att'y Gen. No. U70-141.

PAYMENT OF AD VALOREM PROPERTY TAXES WOULD NOT PREJUDICE A TAXPAYER'S APPEAL brought pursuant to former Code 1933, § 92-6912 (see O.C.G.A. § 48-5-311). If successful in such an appeal, the taxpayer would be entitled to a refund under former Code 1933, Ch. 92-39A (see O.C.G.A. § 48-5-380). 1975 Op. Att'y Gen. No. 75-55.

COST OF APPEAL TO SUPERIOR COURT. --Party who files notice of appeal to the superior court bears burden of cost deposit under former Code 1933, §§ 24-2727 and 24-3406 (see O.C.G.A. §§ 9-15-4 and 15-6-77). 1974 Op. Att'y Gen. No. U74-46.

POSSIBILITY OF CONFLICT OF INTEREST BETWEEN THE GRAND JURY AND COUNTY BOARD OF EQUALIZATION would not constitute a disqualification for service upon either body, but would be a question for the court at the time of jury selection. 1973 Op. Att'y Gen. No. U73-111.

RESEARCH REFERENCES

AM. JUR. 2D. --72 Am. Jur. 2d, State and Local Taxation, §§ 726, 735.

C.J.S. --50A C.J.S., Juries, §§ 367, 473, 483 et seq., 494, 495. 84 C.J.S., Taxation, §§ 682 et seq., 753 et seq.

ALR. --Notice to property owners of increase in assessment or valuation by board of equalization or review, 24 ALR 331; 84 ALR 197.
Construction and application of statute prohibiting or restricting reassessment after assessment and payment of taxes, 85 ALR 107.
Power of board of tax review to receive evidence as to assessable value, without notice to taxpayer, 113 ALR 990.
Standing of one taxpayer to complain of underassessment or nonassessment of property of another for state and local taxation, 9 ALR4th 428.

48-5-314. Confidentiality of taxpayer records; exceptions; penalties.

(a) (1) All records of the county board of tax assessors which consist of materials other than the return obtained from or furnished by an ad valorem taxpayer shall be confidential and shall not be subject to inspection by any person other than authorized personnel of appropriate tax administrators. As an illustration of the foregoing, materials which are confidential shall include, but shall not be limited to, taxpayers' accounting records, profit and loss statements, income and expense statements, balance sheets, and depreciation schedules. Such information shall remain confidential when it is made part of an appeal file. Nothing in this Code section, however, shall prevent any disclosure necessary or proper to the collection of any tax in any administrative or court proceeding.

(2) Records which consist of materials containing information gathered by personnel of the county board of tax assessors, such as field cards, shall not be confidential and are subject to inspection at all times during office hours. The provisions of this paragraph shall not remove the confidentiality of materials such as are specified in paragraph (1) of this subsection.

(3) Failure of the county board of tax assessors to make available records which are not confidential as provided in paragraph (2) of this subsection shall be a misdemeanor.

(b) Any person who knowingly and willfully furnishes information which is confidential under this Code section to a person who is not authorized by law to receive such information shall upon conviction be subject to a civil penalty not to exceed $1,000.00.

48-5-345. **Receipt for digest and order authorizing use; assessment if deviation from proper assessment ratio.**

(a)(1) Upon the determination by the commissioner that a county tax digest is in proper form, that the property therein that is under appeal is within the limits of Code Section 48-5-304, and that the digest is accompanied by all documents, statistics, and certifications required by the commissioner, including the number, overall value and percentage of total real property parcels of appeals in each county to the boards of equalization, arbitration, hearing officer, and superior court, and the number of taxpayers' failure to appear at any hearing, for the prior tax year, the commissioner shall issue a receipt for the digest and enter an order authorizing the use of said digest for the collection of taxes. All statistics and certifications regarding real property appeals provided to the commissioner under this paragraph shall be made publicly available on the Department of Revenue website.

(2) Nothing in this subsection shall be construed to prevent the superior court from allowing the new digest to be used as the basis for the temporary collection of taxes under Code Section 48-5-310.

(b) Each year the commissioner shall determine if the overall assessment ratio for each county, as computed by the state auditor under paragraph (8) of subsection (b) of Code Section 48-5-274, deviates substantially from the proper assessment ratio as provided in Code Section 48-5-7, and if such deviation exists, the commissioner shall assess against the county governing authority additional state tax in an amount equal to the difference between the amount the state's levy of one-quarter of a mill would have produced if the digest had been at the proper assessment ratio and the amount the digest that is actually used for collection purposes will produce. The commissioner shall notify the county governing authority annually of the amount so assessed and this amount shall be due and payable not later than five days after all appeals have been exhausted or the time for appeal has expired or the final date for payment of taxes in the county, whichever comes latest, and shall bear interest at the rate specified in Code Section 48-2-40 from the due date.

48-5-380. **Refunds of taxes and license fees by counties and municipalities; time and manner of filing claims and actions for refund; authority to approve or disapprove claims.**

As provided in this Code section, each county and municipality shall refund to taxpayers any and all taxes and license fees:
(1) Which are determined to have been erroneously or illegally assessed and collected from the taxpayers under the laws of this state or under the resolutions or ordinances of any county or municipality; or

(2) Which are determined to have been voluntarily or involuntarily overpaid by the taxpayers.

(a.1) If property owners have been billed and have remitted property tax payments to either a county or a municipality based on the fair market value of the land and subsequently the fair market value of such land is reduced on an appeal, then the county or the municipality shall reimburse the property owner the difference between tax remitted and the final tax owed for each year in which the incorrect fair market value of the land was used in the calculations.
(b) Any taxpayer from whom a tax or license fee was collected who alleges that such tax or license fee was collected illegally or erroneously may file a claim for a refund with the governing authority of the county or municipality at any time within one year or, in the case of taxes, three years after the date of the payment of the tax or license fee to the county or municipality. The claim for refund shall be in writing and shall be in the form and shall contain the information required by the appropriate governing authority. The claim shall include a summary statement of the grounds upon which the taxpayer relies. In the event the taxpayer desires a conference or hearing before the governing authority in connection with any claim for a refund, the taxpayer shall so specify in writing in the claim. If the claim conforms to the requirements of this Code section, the governing authority shall grant a conference at a time specified by the governing authority. The governing authority shall consider information contained in the taxpayer's claim for a refund and such other information as is available. The governing authority shall approve or disapprove the taxpayer's claim and shall notify the taxpayer of its action. In the event any claim for refund is approved, the governing authority shall proceed under subsection (a) of this Code section to give effect to the terms of that subsection. No refund provided for in this Code section shall be assignable. Submitting a request for refund to the governing authority is not a prerequisite to bringing suit.

(c) The filing of a request for a refund with the governing authority under subsection (b) of this Code section shall act to stay the time period for initiating suit for a refund. Following the filing of a request for refund with the governing authority, no suit may be commenced until the earlier of the governing authority's denial of the request for refund or the expiration of 90 days from the date of filing the claim. Alternatively, any taxpayer may forgo requesting a refund from the governing authority under subsection (b) of this Code section and elect to proceed directly to filing suit.

(d) Any refunds approved or allowed under this Code section shall be paid from funds of the county, the municipality, the county board of education, the state, or any other entity to which the taxes or license fees were originally paid. Refunds shall be paid within 60 days of the approval of the taxpayer's claim or within 60 days of the entry of a final decision in any action for a refund.

(e) The governing authority of any county, by resolution, and the governing authority of any municipality, by ordinance, shall adopt rules and regulations governing the administration of this Code section and may delegate the administration of this Code section, including the

approval or disapproval of claims where the reason for the claim is based on an obvious clerical error, to an appropriate department in local government. In disputed cases where there is no obvious error, the approval or disapproval of claims may not be delegated by the governing authority.

(f) Nothing contained in subsections (b) or (c) of this Code section shall be deemed the exclusive remedy to seek a refund nor deprive taxpayers of the right to seek a refund mandated by subsection (a) by any other cause of action available at law or equity.

(g) Under no circumstances may a suit for refund be commenced more than five years from the date of the payment of taxes or fees at issue.

48-5-450. **Contesting tax assessments; filing affidavit of illegality; bond; trial in superior court; appeal.**

Any owner who contests the assessment of an ad valorem tax against a motor vehicle may purchase the license plate without payment of the ad valorem tax, and any owner who contests the assessment of an ad valorem tax against a mobile home may secure a decal for the year in question, by filing with the tax collector or tax commissioner an affidavit of illegality to the assessment together with a surety bond issued by a surety company authorized to do business in this state or, in lieu of such bond, a bond approved by the clerk of the superior court of the county or a cash bond. Whatever bond is filed shall be in an amount equal to the tax and any penalties and interest which may be found to be due. The bond shall be made payable to the tax collector or tax commissioner and shall be conditioned upon the payment of taxes and penalties ultimately found to be due. The affidavit of illegality and the bond shall be transferred immediately by the tax collector or tax commissioner to the superior court, shall be filed in the superior court, and shall be tried as affidavits of illegality are tried in tax cases. Any owner who contests the value assessment of a motor vehicle or mobile home may appeal such assessed value as provided for in Code Section 48-5-311, insofar as applicable.

Rules of Evidence

24-1-1. Definitions.

As used in this title, the term:

(1) "Competent evidence" means evidence which is admissible.
(2) "Cumulative evidence" means evidence which is additional to other evidence already obtained.
(3) "Direct evidence" means evidence which immediately points to the question at issue.
(4) "Indirect evidence" or "circumstantial evidence" means evidence which only tends to establish the issue by proof of various facts, sustaining by their consistency the hypothesis claimed.
(5) "Preponderance of evidence" means that superior weight of evidence upon the issues involved, which, while not enough to free the mind wholly from a reasonable doubt, is yet sufficient to incline a reasonable and impartial mind to one side of the issue rather than to the other.

(6) "Presumptive evidence" means evidence which consists of inferences drawn by human experience from the connection of cause and effect and from observations of human conduct.
(7) "Sufficient evidence" means evidence which is satisfactory for the purpose.

24-1-2. Object of rules of evidence.

The object of all legal investigation is the discovery of truth. The rules of evidence are framed with a view to this prominent end, seeking always for pure sources and the highest evidence.

24-1-3. Applicability of rules of evidence.

The rules of evidence shall be the same in all courts and in all trials unless otherwise expressly provided by statute.

24-1-4. Judicial notice.

The existence and territorial extent of states, their forms of government, symbols of nationality, the laws of nations, all laws and resolutions of the General Assembly and the journals of each branch thereof as published by authority, the laws of the United States and of the several states thereof as published by authority, general customs of merchants, the admiralty and maritime courts of the world and their seals, the political constitution and history of our own government as well as the local divisions of our own state, the seals of the several departments of the government of the United States and of the several states of the Union, and all similar matters of public knowledge shall be judicially recognized without the introduction of proof.

DEPARTMENT OF REVENUE LOCAL GOVERNMENT SERVICES DIVISION RULES AND REGULATIONS CHAPTER 560-11-2 SUBSTANTIVE REGULATIONS

560-11-2-.34 County Boards of Equalization--Definitions.

(1) Uniform Appeal Form' referred to O.C.G.A. § 48-5-311 shall be known as form PT-311.
(2) Taxability' under O.C.G.A. § 48-5-311 shall mean whether property is exempt from ad valorem taxation as provided under law.
(3) Uniformity of Assessment' under O.C.G.A. § 48-5-311 shall have the meaning as provided for in the Georgia Constitution, Article VII, Section I, Paragraph III.
(4) Value' under O.C.G.A. § 48-5-311 shall mean the fair market value as defined in O.C.G.A. § 48-5-2(3).

560-11-2-.35 County Boards of Equalization--Disqualification.

(1) Before any appeal is heard by the members of a County Board of Equalization, each member of the Board shall certify, either verbally or in writing to all other members of the Board hearing the appeal, that he or she is not disqualified from hearing the appeal by virtue of the requirements as provided in O.C.G.A. § 48-5-311(j).
(2) Pursuant to O.C.G.A. § 48-5-311(j), either party to the appeal may ask that those members of the Board hearing the appeal, to answer questions relating to his or her ability to serve as a member of the Board for that particular appeal, such as:
(a) Are you related by blood or marriage to the appellant in this case, or to any member of the Board of Tax Assessors or its staff?
(b) Are you related by blood or marriage to any person duly appointed to represent the appellant or the county's board of tax assessors in this case?
(c) Are you employed, or is any member of your immediate family employed, by the parties in this case?
(d) Do you have any financial or legal interest in the property subject to appeal in this case?
(e) Have you formed any opinion that precludes you from setting a valuation on the property in question in accordance with Georgia law, which requires all property to be appraised at its fair market value, or from equalizing the assessments at 40% of fair market value?
(f) Have you discussed the facts of this appeal with anyone other than a fellow Board of Equalization member?
(g) Do you know of any other reason that you cannot render a fair and just decision regarding the property in question?
(3) The members of a Board of Equalization shall answer all such questions under the previously taken oath pursuant to O.C.G.A. § 48-5-311(c)(5).
(4) The Judge of Superior Court shall make necessary determinations of disqualification on the request of either party made as required by law.

Authority Ga. L. 1937-38, Extra Sess., pp.77, et. Seq., as amended; GA. O.C.G.A. Secs. 48-5-311, 92-8405, 8406, 8409, 8427, Ga. L. 1972, pp. 1095, et seq. Effective August 7, 1973.
Administrative History. Original Rule was filed on July 18, 1973; effective August 7, 1973. Repealed: New Rule of same title adopted. F. Mar. 16, 2011; eff. Apr. 5, 2011.

560-11-2-.36 County Boards of Equalization--Chairman.

(1) Prior to a hearing of the Board of Equalization, the members of each Board of Equalization may designate one of its members to serve as Chairman. The Appeal Administrator shall decide which hearings each regular and alternate member of the Board of Equalization shall preside over.
(2) The Chairman shall be responsible for certifying all documents with respect to any matter heard by the Board. The Chairman shall have the authority to sign on behalf of the Board any notifications setting the location of a hearing and the hearing's date(s).
(3) The Chairman shall have the authority to administer oaths, grant continuances, and reprimand or exclude from the hearing any person for any improper conduct.
Authority: O.C.G.A. Secs. 48-2-12, 48-5-311.

DEPARTMENT OF REVENUE LOCAL GOVERNMENT SERVICES DIVISION RULES AND REGULATIONS CHAPTER 560-11-12 COUNTY BOARD OF EQUALIZATION HEARINGS

560-11-12-.01 Applicability of Rules.

(1) The rules in this Chapter shall apply to and govern ad valorem tax assessment appeal hearings held by the county boards of equalization including those formed by intergovernmental agreement.
(2) The actions, decisions and orders of a county's board of equalization are:
(a) Subject to the appeals procedures as provided in this section.
(b) Empowered to exercise the same degree of authority and perform the same actions as hearing officers under O.C.G.A. § 50-13-13.

Authority O.C.G.A. Secs. 48-2-7, 48-2-12, 48-5-311(e)(1)(D).
History. Original Rule entitled "Applicability of Rules" adopted. F. Mar. 16, 2011; eff. Apr. 5, 2011.

560-11-12-.02 Nature of the Proceeding; Hearing Procedure; Burden of Proof.

The hearings held under these Regulations shall only be as formal as is necessary to preserve order and be compatible with the principles of justice.
(1) Parties shall have the right to be represented by legal counsel.
(2) The parties have a right to obtain, not less than seven (7) days prior to the date of the hearing, the documentary evidence and the names and addresses of the witnesses to be used at the hearing by making a written request to the Board of Equalization and to the other party not less than 10 days prior to the date of the hearing. Any such documentary evidence or witnesses not provided upon a timely written request may be excluded from the hearing at the discretion of the Board of Equalization.
(3) The parties shall also have the right to respond and present evidence on all issues involved and to cross examine all witnesses.
(4) The standard of proof on all issues in the hearing shall be a preponderance of the evidence. A preponderance of the evidence is established when one party's evidence is of greater weight or is more convincing than the evidence offered in opposition to it, in that, the evidence, when taken as a whole, shows that the fact in dispute has been proven by one party to be more probable than not.
(5) When a hearing is being held regarding a county's board of tax assessors' tax assessment, the county board of tax assessors shall have the burden of proof in regards to value, not taxability.
(a) If a hearing is being held regarding a property tax exemption, then the party seeking the property tax exemption shall have the burden of proving entitlement.
(6) The county board of tax assessors shall present its case first, unless a taxpayer elects to present first.
Authority O.C.G.A. Secs. 48-2-7, 48-2-12.

560-11-12-.03 Evidence; Official Notice.

(1) The rules of evidence in hearings covered by this Chapter shall be substantially as follows:
(a) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded;
1. The rules of evidence as applied in the trial of civil non-jury cases in the superior courts shall be followed as far as practicable.
2. Evidence not admissible under superior court rules may be admitted when necessary to discover facts not reasonably understood from the previously admitted evidence.
3. Except where precluded by statute, if the evidence presented it is of a type commonly relied upon by reasonably prudent persons, the county board of equalization has discretion as to whether to admit the evidence or not.
(b) Documentary evidence may be received in the form of copies or excerpts if the original is not readily available;
1. Upon request, parties shall be given an opportunity to compare the copy with the original or have it established as documentary evidence according to the rules of evidence applicable to the superior courts of Georgia;
(c) A party may conduct such cross-examination as required for a full and true disclosure of the facts;
(d) Official notice may be taken of judicially recognizable facts and generally recognized technical facts or records within the agency's specialized knowledge.
1. The parties shall be notified of any material so noticed and shall be afforded the opportunity to contest such material at the hearing.

560-11-12-.04 Continuances and Postponements.

(1) Matters set for hearing may be continued or postponed within the sound discretion of the Board of Equalization upon timely motion by either party.
(2) The Board of Equalization may on its own motion continue or postpone the hearing.
Authority O.C.G.A. Secs. 48-2-7, 48-2-12.

560-11-12-.05 Subpoena Forms; Service.

(1) Either party may obtain subpoena forms from Clerk of Superior Court by making a timely request.
(2) Service, proof of service and enforcement of subpoenas shall be as provided by Georgia law and shall be the responsibility of the party requesting the subpoena.
Authority O.C.G.A. Secs. 48-2-7, 48-2-12.

560-11-12-.06 Transcripts of Hearing.

(1) Any party may request that the hearing be conducted before a court reporter, or recorded in audio and/or video.
(2) The request shall be in writing and include an agreement by the requesting party that he or she shall pay the costs incurred by the request or that he or she shall procure at his or her own cost and on his or her own initiative, the court reporting or recording services for the hearing.
(3) Regardless of who makes the arrangements or requests the transcript, or tape or video record be made, the original transcript, or tape or video record of the proceedings shall be submitted to the board of equalization chairman prior to the close of the hearing record if the transcript, or tape or video is to be made part of the record.

Authority O.C.G.A. Secs. 48-2-7, 48-2-12.
History. Original Rule entitled "Transcripts of Hearing" adopted. F. Mar. 16, 2011; eff. Apr. 5, 2011.

560-11-12-.07 Case Presentment.

In accordance with the Georgia Administrative Procedure Act, a party shall be entitled to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

Authority O.C.G.A. Secs. 48-2-7, 48-2-12, 50-13-13.
History. Original Rule entitled "Case Presentment" adopted. F. Mar. 16, 2011; eff. Apr. 5, 2011.

560-11-12-.08 Ruling; Decision.

(1) The decision of the County Board of Equalization shall clearly state the Board of Equalization's ruling regarding the property's value, uniformity, or taxability, where applicable.
(2) The decision of the County Board of Equalization shall be rendered pursuant to O.C.G.A. § 48-5-311 (e)(6)(D)(i).
(3) When a taxpayer authorizes an agent, representative, or attorney in writing to act on the taxpayer's behalf, the decision of the County Board of Equalization shall be provided to such agent, representative, or attorney pursuant to O.C.G.A. § 48-5-311(o).
Authority O.C.G.A. Secs. 48-2-7, 48-2-12, 48-5-311.

560-11-12-.09 Hearing Location.

A hearing conducted by a county's board of equalization under this Chapter, shall be held in the county where the property is located unless all parties agree to hold the hearing at a mutually agreed upon location.

.

COUNTY HEARING OFFICERS

560-11-13-.01 Applicability of Rules.

(1) The rules in this Chapter shall apply to and govern ad valorem tax assessment appeal hearings held by a county hearing officer, pursuant to O.C.G.A. § 48-5-311(3)(iii) & (e.1).
(2) The actions, decisions and orders of a county hearing officer are subject to the appeals procedures as provided in this section and O.C.G.A. § 48-5-311.
(3) The county hearing officer is empowered to exercise the same degree of authority and perform the same actions as hearing officers under O.C.G.A. § 50-13-13.

Authority O.C.G.A. Secs. 48-2-7, 48-2-12, 48-5-311.
History. Original Rule entitled "Applicability of Rules" adopted. F. Mar. 16, 2011; eff. Apr. 5, 2011.

560-11-13-.02 Nature of the Proceeding; Hearing Procedure; Burden of Proof.

The hearings held under these Regulations shall only be as formal as is necessary to preserve order and be compatible with the principles of justice.
(1) Parties shall have the right to be represented by legal counsel. Parties shall also have the right to obtain the appearance of witnesses and documentary evidence, provided that written notice is filed with the county hearing officer and the other party at least seven (7) days prior to a scheduled hearing.
(2) The parties shall also have the right to respond and present evidence on all issues involved and to cross-examine all witnesses.
(3) The standard of proof on all issues in the hearing shall be a preponderance of the evidence. A preponderance of the evidence is established when one party's evidence is of greater weight or is more convincing than the evidence offered in opposition to it, in that, the evidence, when taken as a whole, shows that the fact in dispute has been proven by one party to be more probable than not.
(4) When a hearing is being held regarding a county's board of tax assessors' tax assessment, the county board of tax assessors shall have the burden of proof in regards to fair market value and the validity of proposed assessment, not taxability.
(a) If a hearing is being held regarding a property tax exemption, then the party seeking the property tax exemption shall have the burden of proving entitlement.
(5) The county board of tax assessors shall present its case first, unless a taxpayer elects to present first and the hearing officer, in his or her discretion, allows it.

560-11-13-.03 Evidence; Official Notice.

(1) The rules of evidence in hearings covered by this Chapter shall be substantially as follows:
(a) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded;
1. The rules of evidence as applied in the trial of civil non-jury cases in the superior courts shall be followed as far as practicable.
2. Evidence not admissible under superior court rules may be admitted when necessary to discover facts not reasonably understood from the previously admitted evidence.

3. Except where precluded by statute, if the evidence presented it is of a type commonly relied upon by reasonably prudent persons, a hearing officer has discretion as to whether to admit the evidence or not.
(b) Documentary evidence may be received in the form of copies or excerpts if the original is not readily available;
1. Upon request, parties shall be given an opportunity to compare the copy with the original or have it established as documentary evidence according to the rules of evidence applicable to the superior courts of Georgia;
(c) A party may conduct such cross-examination as required for a full and true disclosure of the facts;
(d) Official notice may be taken of judicially recognizable facts and generally recognized technical facts or records within the agency's specialized knowledge.
1. The parties shall be notified of any material so noticed and shall be afforded the opportunity to contest such material at the hearing.

560-11-13-.04 Continuances and Postponements.

(1) Matters set for hearing may be continued or postponed within the sound discretion of the county hearing officer upon timely motion by either party.
(2) The county hearing officer may on his own motion continue or postpone the hearing.

Authority O.C.G.A. Secs. 48-2-7, 48-2-12.
History. Original Rule entitled "Continuances and Postponements" adopted. F. Mar. 16, 2011; eff. Apr. 5, 2011.

560-11-13-.05 Subpoena Forms; Service.

(1) Either party may obtain subpoena forms from the county hearing officer by making a timely request.
(2) Service, proof of service and enforcement of subpoenas shall be as provided by Georgia law and shall be the responsibility of the party requesting the subpoena.

560-11-13-.06 Transcripts of Hearing.

(1) Any party may request that the hearing be conducted before a court reporter, or recorded in audio and/or video.
(2) The request shall be in writing and include an agreement by the requesting party that he or she shall pay the costs incurred by the request or that he or she shall procure at his or her own cost and on his or her own initiative, the court reporting or recording services for the hearing.
(3) Regardless of who makes the arrangements or requests the transcript, or tape or video record be made, the original transcript, or tape or video record of the proceedings shall be submitted to the county hearing officer prior to the close of the hearing record if the transcript, or tape or video is to be made part of the record.

560-11-13-.07 Case Presentment.

In accordance with the Georgia Administrative Procedure Act, a party shall be entitled to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

560-11-13-.08 Ruling; Decision.

(1) The decision of the county hearing officer shall clearly state the ruling regarding the property's value and uniformity, where applicable.
(2) The decision of the county hearing officers shall be rendered pursuant to O.C.G.A. § 48-5-311 (e.1)(1).
(3) When a taxpayer authorizes an attorney in writing to act on the taxpayer's behalf, the decision of the county hearing officer shall be provided to such attorney pursuant to O.C.G.A. § 48-5-311(o).

560-11-13-.09 Hearing Location.

A hearing conducted by a county hearing officer under this Chapter, shall be held in the county where the property is located unless all parties agree to hold the hearing at a mutually agreed upon location.

560-11-13-.10 Swearing In Witnesses.

(1) Before a witness is allowed to testify at a hearing, the witness must first be sworn-in by swearing or affirming to tell the truth.
(a) The county hearing officer shall be responsible for swearing in all witnesses and must administer the following oath:
"Do you swear or affirm to tell the truth, the whole truth, and nothing but the truth, so help you God?"

Authority O.C.G.A. Sec. 48-5-311.
History. Original Rule entitled "Swearing in Witnesses" adopted. F. Mar. 16, 2011; eff. Apr. 5, 2011

560-11-13-.11 Hearing Officer Procedural Form.

A county hearing officer shall follow the procedures as outlined in Hearing Officer Procedure Form-1 when conducting an administrative hearing under this Chapter.

Authority O.C.G.A. Sec. 48-5-311.
History. Original Rule entitled "Hearing Officer Procedural Form" adopted. F. Mar. 16, 2011; eff. Apr. 5, 2011.

560-11-13-.12 Hearing Officers and the Administrative Procedures Act.

The Administrative Procedures Act is not applicable, but where referenced in this Chapter, the Administrative Procedures Act was used as a guideline for the Regulations in order to ensure due process.

Authority O.C.G.A. Secs. 48-2-7, 48-5-311.
History. Original Rule entitled "Hearing Officers and the Administrative Procedures Act" adopted. F. May 9, 2011; eff. May 29, 2011.

560-11-2-.56 Review of County Tax Digest by the State Revenue Commissioner.

(1) General.

(a) County boards of tax assessors are required by the State Constitution and state law to continuously maintain assessments of property that are reasonably uniform and that are based on fair market value as defined in § 48-5-2 (except as otherwise stated in § 48-5-6 and § 48-5-7(c.3)). The Department is required by law to periodically review the county digests to determine if the digests are in compliance with such laws.

(b) This Regulation imposes no additional requirements on the county boards of tax assessors. It merely sets forth the statistical and other methods that are used by the Department in making its determination. The Department does not determine when to revalue property. Each county board of tax assessors determines for itself when it believes a revaluation of property is necessary for legal compliance. Failure to revalue property shall not in and of itself be a basis for assessment of any penalty.

(c) Any digest submitted shall be reviewed utilizing information established by the State Auditor to determine whether or not the county tax digest is in accordance with the uniformity requirements of § 48-5-343.

(2) Review of County Tax Digest by the State Revenue Commissioner.

(a) County Notification: In the event a county fails to meet the standards set forth in paragraphs (c) through (k) of subparagraph (2) of this Regulation, the Commissioner shall immediately notify the county. The notification shall include the findings of the State Auditor regarding assessment bias and assessment ratio, and any additional information the Commissioner believes would be of assistance to the county board of tax assessors to establish uniform values.

(b) Property Classes: For purposes of this regulation the real and personal property of each county shall be classified into five classes of property:

1. Residential (including Residential Transitional and Historic);
2. Agricultural (including Preferential, Conservation Use, Environmentally Sensitive)
3. Commercial;
4. Industrial; (including Brownfield)
5. Utility.

(c) Average Level of Assessment: The Commissioner shall maintain uniformity among the classes of property by setting standards for the average level of assessment for each.

(d) Standard For Level of Assessment: The standard for level of assessment for all classes of property will be in compliance with the Code if the upper limit of a ninety-five percent confidence interval about the average level of assessment, as established by the State Auditor, is equal to or greater than thirty-six percent, or the lower limit of a ninety-five percent confidence interval about the average level of assessment as established by the State Auditor, is less than forty-four percent.

(e) Uniformity Within a Class of Property: The average assessment variance for each class of property shall be ensured by the coefficient of dispersion of the sample for each class, as established by the State Auditor.

(f) Standard for Uniformity: The standard for uniformity will be deemed to have been met if the resulting coefficient does not exceed fifteen percent for the residential class of property or twenty percent for the non-residential classes of property.

(g) Residential Class of Property: If the State Auditor adds non-residential observations to the residential sample to determine statistics applicable to the residential class of property, the standard of uniformity for the residential class of property shall be the same as for the non-residential classes of property.

(h) Assessment Bias: The level of assessment bias within each class of property shall be measured by the price-related differential as established by the State Auditor. It shall be deemed to be in compliance if the resulting price-related differential is in the range of 0.95 to 1.10, inclusive.

(i) Magnitude of Deficiency: If a class of property constitutes ten percent or less of the assessed value of the total digest, and does not meet the uniformity requirements the Commissioner may approve the digest if, in his judgment, the approval will not substantially violate the concept of uniformity and equalization.

(j) Overall Average Assessment: The overall average assessment ratio for the county shall be the weighted mean of the average level of assessment of the classes of property as established by the State Auditor.

(k) Deviation of Overall Average Assessment: If the overall average assessment ratio is less than thirty-six percent, the digest shall be deemed to deviate substantially from the proper assessment ratio. The Commissioner shall assess against the county governing authority additional state tax in an amount equal to the difference between the amount the state's levy of one-quarter mill would have produced if the digest had been at the proper assessment ratio, and the amount the digest actually used for collection purposes would produce.

(3) Digest Review by Department.

(a) County boards of tax assessors are required by the State Constitution and state law to continuously maintain assessments of property that are reasonably uniform and that are based on fair market value. The Department is required by law to periodically review the county digests to determine if the digests are in compliance with such laws.

(b) The Department does not determine when to revalue property. Each county board of tax assessors determines for itself when all classes of property should be valued in accordance with § 48-5-299(a). This regulation imposes no additional requirements on the county boards of tax assessors. The Department's digest review cycle is only established to validate that counties are meeting the 40% of fair market value requirement of § 48-5-7, and no particular period or schedule of revaluations is required of the counties by the

Department for approval of a county digest. Failure to revalue property shall not in and of itself be a basis for assessment of any penalty.

(c) The digest review cycle for each county commencing January 1, 2008, shall be as follows:

1. January 1, 2010 and every third January 1 thereafter for the following counties:

Atkinson, Bacon, Baker, Baldwin, Barrow, Bibb, Bulloch, Carroll, Chattahoochee, Cherokee, Clarke, Clinch, Coffee, Dougherty, Emanuel, Fannin, Fayette, Franklin, Fulton, Gilmer, Glascock, Glynn, Gordon, Greene, Hall, Haralson, Irwin, Jasper, Jenkins, Johnson, Lumpkin, McIntosh, Meriwether, Murray, Muscogee, Newton, Oglethorpe, Paulding, Peach, Pickens, Pike, Putnam, Randolph, Screven, Stewart, Sumter, Tattnall, Tift, Toombs, Turner, Twiggs, Union and Wheeler.

2. January 1, 2008 and every third January 1 thereafter for the following counties:

Bartow, Bleckley, Brooks, Calhoun, Candler, Chatham, Chattooga, Cobb, Colquitt, Cook, Crawford, Dawson, Douglas, Early, Echols, Effingham, Forsyth, Grady, Gwinnett, Habersham, Harris, Hart, Henry, Houston, Jones, Lamar, Lanier, Laurens, Lee, Liberty, Lincoln, Long, Lowndes, Macon, Madison, Marion, McDuffie, Monroe, Montgomery, Pierce, Polk, Rockdale, Spalding, Taliaferro, Terrell, Treutlen, Upson, Ware, Warren, Wayne, Wilcox, Wilkes and Worth.

3. January 1, 2009 and every third January 1 thereafter for the following counties:

Appling, Banks, Ben Hill, Berrien, Brantley, Bryan, Burke, Butts, Camden, Catoosa, Charlton, Clay, Clayton, Columbia, Coweta, Crisp, Dade, Decatur, DeKalb, Dodge, Dooly, Elbert, Evans, Floyd, Hancock, Heard, Jackson, Jeff Davis, Jefferson, Miller, Mitchell, Morgan, Oconee, Pulaski, Quitman, Rabun, Richmond, Schley, Seminole, Stephens, Talbot, Taylor, Telfair, Thomas, Towns, Troup, Walker, Walton, Washington, Webster, White, Whitfield and Wilkinson.

(4) If all three of the following circumstances exist, the Commissioner may require the county tax receiver or tax commissioner to submit the digest being used for the collection of taxes. That digest may be reviewed by the Commissioner to determine if the valuations are reasonably uniform and equalized between and within counties and to determine if any grants should be withheld or any specific penalty assessed:

(a) The county tax receiver or tax commissioner has failed to submit the digest by the due date and has exhausted any extensions of the due date granted by the Commissioner;

(b) The county governing authority has successfully petitioned the superior court under § 48-5-310 to authorize the temporary collection of taxes on the basis of a temporary digest; and

(c) The property under appeal or subject to appeal is less than the maximum allowable under § 48-5-304(a).

(5) Appeal of Assessment: Any assessment by the Commissioner of additional state tax due from a county when the overall average assessment ratio deviates substantially from the

proper assessment ratio of all classes of property may be appealed by the county governing authority within thirty days of the county governing authority's receipt of the Commissioner's additional assessment in the manner specified in §§ 48-5-348 and 48-5-349.2. The right of appeal does not encompass a challenge to the validity of the State Auditor's information.

CHAPTER 560-11-10

APPRAISAL PROCEDURES MANUAL

560-11-10-.01 Purpose and Scope.

(1) Purpose. This appraisal procedures manual has been developed in accordance with Code section 48-5-269.1 which directs the Revenue Commissioner to adopt by rule,subject to Chapter 13 of Title 50, the "Georgia Administra tive Procedure Act," and maintain an appropriate procedural manual for use by the county property appraisal staff in appraising tangible real and personal property for ad valorem tax purposes.

(2) Specific procedures. In order to facilitate the mass appraisal process, specific procedures are provided within this Chapter which are designed to arrive at a basic appraisal value of real and personal property. These specific procedures are designed to provide fair market value under normal circumstances. When unusual circumstances are affecting value, they should be considered. In all instances, the appraisal staff will apply Georgia law and generally accepted appraisal practices to the basic appraisal values required by this manual and make any further valuation adjustments necessary to arrive at the fair market values.

(3) Board of tax assessors. The county board of tax assessors shall require the appraisal staff to observe the procedures in this manual when performing their appraisals. The county board of tax assessors may not adopt local procedures that are in conflict with Georgia law or the procedures required by this manual. The county board of tax assessors must consider the appraisal staff information in the performance of their duties. In each instance, however, the assessment placed on each parcel of property shall be the assessment established by the county board of tax assessors as provided in Code section 48-5-306.

(4) Other appraisal procedures. The appraisal staff may use those generally accepted appraisal practices set forth in the Uniform Standards of Professional Appraisal Practice, published by the Appraisal Foundation, and the standards published by the International Association of Assessing Officers, as they may be amended from time to time, to the extent such practices do not conflict with this manual and Georgia law.

560-11-10-.02 Definitions.

(1) Definitions. When used in this Chapter, the definitions found in this Rule shall apply.

(a) Absorption rate. "Absorption rate" means the rate at which the real estate market can absorb real property of a given type.

(b) Appraiser. "Appraiser" means a member of the county appraisal staff, who serves the board of tax assessors and whose position was created pursuant to Part 1 of Article 5 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated. This term does not limit its meaning to a single appraiser and may mean one or more members of the county appraisal staff.

(c) Basic cost approach. "Basic cost approach" means a cost approach procedure, used in the mass appraisal of personal property, which uses standard estimates of the most common factors affecting the value of such property. The basic cost approach is intended to provide a uniform estimate of personal property value.

(d) Depreciation. "Depreciation" means the loss of value due to any cause. It is the difference between the market value of a structural improvement or piece of equipment and its reproduction or replacement cost as of the date of valuation. Depreciation is divided into three categories, physical deterioration, functional obsolescence, and economic obsolescence. Depreciation may be further characterized as curable or incurable depending upon the difficulty or practicality of restoring the lost value through repair or maintenance.

(e) Economic life. "Economic life" means the period during which property may reasonably be expected to perform the function for which it was designed or intended.

(f) Economic obsolescence. "Economic obsolescence" means a form of depreciation that measures a loss of value from negative influence external to the real or personal property. It results when the desirability or useful life of real or personal property is impaired due to forces such as changes in optimum use, legislative enactment that restricts or impairs productivity, and changes in supply and demand relationships. Economic obsolescence is normally incurable.

(g) Effective age. "Effective age" means the age of an improvement to property as compared with other property performing like functions. It is the actual age less the age that has been taken off by face-lifting, structural reconstruction, removal of functional inadequacies, modernization of equipment, and similar repairs and overhauls. It is an age that reflects a true remaining life for the property, taking into account the typical life expectancy of buildings or equipment of its class and usage.

(h) Fair market value. "Fair market value" means fair market value as defined in Code section 48-5-2 (3).

(I) Final assessment. "Final assessment" means the assessed value of real property as stated on the Annual Notice of Assessment as approved by the Board of Assessors. Amendments to "Final assessment" for real property are prohibited absent a clerical error or some other lawful basis; and in the case of personal property, the appraisal staff has completed its audit of the personal property pursuant to Rule 560-11-10-.08(4)(d) within the three year statute of limitations.

(j) Functional obsolescence. "Functional obsolescence" means a form of depreciation that measures a loss of value from a design deficiency or appearance in the market of a more innovative design. Some functional obsolescence may be curable and some functional obsolescence may be incurable.

(k) Inventory. "Inventory" means goods held for sale or lease or furnished under contracts for service; also, raw materials, work in process or materials used or consumed in a business.

(l) Large acreage tract. "Large acreage tract" means a rural land tract that is greater in acreage than the small acreage break point.

(m) Mass appraisal. "Mass appraisal" means the process of valuing a universe of properties as of a given date using standard methodology, employing common data and allowing for statistical testing.

(n) Most Recent Arms Length Sale. As referenced in OCGA 48-5-2(3), transactions must occur prior to the statutory date of valuation to become eligible for the value limitations imposed in 48-5-2(3). Furthermore, where the exchange of property is defined as an arm's length transaction, the sum of the value of the exchanged real estate property components, land and improvements, in the year following the property exchange shall not exceed the transaction's sale price adjusted for non-real estate values such as but not limited to, timber, personal property, etc. The adjustment to the value of the real estate shall remain in effect for at least the digest year following the transaction. With respect to changes in the exchanged real estate property components since the time of exchange (sale date), the value of new improvements, value of additions to existing improvements (footprint of exchanged structure has been altered), major remodeling or renovations to existing structures (footprint of exchanged structure has not been altered), and adjustments to land due to consolidation of tracts, new surveys, zoning changes, land use changes, etc. shall be added to the sales price adjusted values. In the event an exchanged real estate property structure is renovated or remodeled, the term major shall be construed such that both the property owner and BOA would reasonably conclude a major renovation/remodeling has occurred. If either party, acting reasonably, could debate that the renovation/remodeling effort was not major in nature, the renovation/remodeling effort does not qualify and shall not be added to the sales price adjusted values. Any modifications made to the exchanged real estate property after the sale date that result in a lower value of the exchanged property shall be considered in the final valuation of property for the digest.

(o) Original cost. "Original cost" means, in the case of machinery, equipment, furniture, personal fixtures, and trade fixtures in the hands of the final user, all the direct costs associated with acquiring, transporting and installing such property at the site where it is to be used. This includes the cost of the property to the property owner, the cost of transporting the property to its present site, the cost of any on-site assembly or customized modification of the property, the cost of installing the property, the cost of installing personal fixtures and trade fixtures necessary

for the proper operation of the property, and any sales or use tax paid on the property. Original cost is equivalent to original cost new if the property owner was the first to put the personal property into service.

(p) Original cost new. "Original cost new" means, in the case of machinery, equipment, furniture, personal fixtures, and trade fixtures in the hands of the final user, all the direct costs associated with acquiring, transporting and installing such property at the site where it is to be used. This includes the historical cost of the property at the time it was first put into service new, the cost of transporting the property to its present site, the cost of any on-site assembly or customized modification of the property, the cost of installing the property, the cost of installing personal fixtures and trade fixtures necessary for the proper operation of the property, and any sales or use tax paid on the property. Original cost new is equivalent to original cost if the property owner was the first to put the personal property into service.

(q) Paired sales analysis. "Paired sales analysis" means the comparing of the sale prices of similar properties, some with and some without a particular characteristic, in order to determine what portion of the difference in sales price might be attributable to such characteristic.

(r) Personal fixtures. "Personal fixtures" means personal property that has been set-up or installed on land or in a building or in a group of buildings and is not permanently attached to such land or buildings. A consideration for whether personal property is a personal fixture is whether its removal would cause significant damage to such property or to the real property on which it has been set-up or installed. The term personal fixtures shall not include trade fixtures. Personal fixtures are classified as personal property. Examples of personal fixtures are desks, shelving, display cases and gondolas.

(s) Personal property. "Personal property" means tangible personal property that may be seen, weighed, measured, felt, or touched or which is in any other manner perceptible to the senses. Personal property shall include trade fixtures. For the purposes of this Rule, personal property shall not include the capital stock of all corporations; money, notes, bonds, accounts, or other credits, secured or unsecured; patent rights, copyrights, franchises, and any other classes and kinds of property defined by law as intangible personal property.

(t) Physical deterioration. "Physical deterioration" means a form of depreciation that measures the loss of utility of real or personal property over time from wear and tear, age, and exposure to the elements. Some physical deterioration may be curable and some physical deterioration may be incurable.

(u) Ready market. "Ready market" means a market, possibly global, where exchanges of machinery, equipment, personal fixtures and trade fixtures occur with such regularity and under such conditions as to provide a reliable measure of fair market value. Five conditions that may indicate a ready market are: the items of personal property being sold within the market are reasonable substitutes for each other; there are an adequate number of buyers and sellers of the personal property in the market, no one of whom can measurably affect price; there is an absence of artificial restraints and unusual incentives in the market; the item of personal property is reasonably free to be moved where it will receive the greatest return and buyers are reasonably free to buy where the price is lowest; and buyers and sellers are knowledgeable and informed about market conditions.

(v) Real estate. "Real estate" means the physical parcel of land, improvements to the land, improvements attached to the land, real fixtures and appurtenances such as easements.

(w) Real fixtures. "Real fixtures" means personal property that has been installed or attached to land or a building or group of buildings and is intended to remain permanently in its place. A consideration for whether personal property is a real fixture is whether its removal would cause significant damage to such property or to the real property to which it is attached. The term real fixtures shall not include trade fixtures. Real fixtures are classified as real property. Examples of real fixtures are plumbing, heating and cooling, and lighting fixtures.

(x) Real property. "Real property" means the bundle of rights, interests, and benefits connected with the ownership of real estate. Real property does not include the intangible benefits associated with the ownership of real estate, such as the goodwill of a going business concern.

(y) Replacement cost. "Replacement cost" for real property means the cost required to construct a similar structure with like utility as the subject property using modern design, materials, and workmanship. Replacement cost for personal property means the current cost of a similar new item having the nearest equivalent utility as the subject property.

(z) Reproduction cost. "Reproduction cost" for real property means the cost required to construct an identical or exact replica structure of the subject property. Reproduction cost for personal property means the current cost of duplicating an identical new item.

(aa) Residual value. "Residual value" means the value of personal property that is at the end of its normally expected economic life but still in use.

(bb) Rural land. "Rural land" means any land that normally lies outside corporate limits, planned subdivisions, commercial sites, and industrial sites.

(cc) Salvage value. "Salvage value" means the value of personal property that is at the end of its normally expected economic life and has been taken out of use.

(dd) Small acreage break point. "Small acreage break point" means the point, expressed as a number of acres, at which the slope of a trend line, drawn through the plotted qualified sales of rural land on a graph, reflects a distinct and pronounced change. Such graph uses the dollars per acre on the vertical axis and numbers of acres on the horizontal axis. The small acreage break point should show the point below which the market factors of accessibility and desirability of the land primarily influence value, and above which the productivity of the soil and suitability for timber growth primarily influence value.

(ee) Small acreage tract. "Small acreage tract" means a rural land tract that is equal to or smaller in acres than the small acreage break point.

(ff) Tax situs. "Tax situs" means the location of personal property for ad valorem tax purposes.

(gg) Trade fixtures. "Trade fixtures" means fixtures that are owned and temporarily installed or attached to a rented space or building by a tenant and used in conducting a business. For

personal property to be classified as trade fixtures the lease or rental agreement has to show intent for the fixtures to be removed by the owner at the termination of the lease. Fixtures that revert to the landlord when the lease is terminated are not trade fixtures. Property shall not be classified as a trade fixture when the cost of removal, or damage that removal would cause to the realty, or to the fixture itself, clearly indicates that a tenant is unlikely to remove such fixture at the termination of the lease. Trade fixtures shall be classified as personal property.

(hh) Transitional real property. "Transitional real property" means any real property that is undergoing a change in use, such as residential, agricultural, commercial, or industrial, and has not been firmly established in its new use. Change in use may be evidenced by recent zoning changes, purchase by a known developer, affidavits of intent, or close proximity to property exposed to these market factors.

(ii) Trend. "Trend" means an observable tendency of behavior such as stable economic direction over extended periods despite temporary fluctuations.

560-11-10-.08 Personal Property Appraisal.

(1) Personal property identification. The appraisal staff shall identify personal property, determine its taxability, and classify it for addition to the county ad valorem tax digest in accordance with this paragraph.

(a) Distinguishing personal property. The appraiser shall be required to correctly identify personal property and distinguish it from real property where the proper valuation procedures, as set forth in this Rule, may be followed.

1. Examples. As used in this Chapter, personal property shall be that property defined in Rule 560-11-10-.02(1)(r). This Rule shall provide illustrations to assist the appraiser in the proper interpretation of the definition. However, these illustrations should not be construed in a manner that conflicts with the definition. Examples of personal property are tangible items such as aircraft; boats and motors; inventories of retail stock, finished manufactured or processed goods, goods in process, raw materials and supplies; furniture, personal fixtures, trade fixtures, machinery and equipment.

2. Identification of trade fixtures. When property the appraiser believes is a trade fixture has not been returned by the tenant, the appraiser shall require the tenant to produce their lease agreement and shall carefully review the agreement before making a recommendation to the board of tax assessors regarding the classification of the property in question. The appraiser shall inform the tenant that they may redact, at their option, any information relating to the payments that are required by the lease agreement.

(b) Assessment date. Code section 48-5-10 provides that each return by a property owner shall be for property held and subject to taxation on January 1 of the tax year. The appraisal staff shall base their decisions regarding the taxability, tax situs, uniform assessment, and valuation of personal property on the circumstances of such property on January 1 of the tax year for which the assessment is being prepared. When personal property is transferred to a new owner or converted to a new use, the circumstances of such property on January 1 shall nevertheless be considered as controlling.

(c) Freeport exemptions.

1. Mailing applications. The appraisal staff shall, by U. S. mail, send a new freeport exemption application to any person, firm or corporation that was approved for freeport exemption by the

board of tax assessors for the tax year proceeding the tax year for which the application is to be made. The application provided by the appraisal staff shall be deposited with the local post office no later than the 15th day after the official who is responsible for receiving returns has opened the books for returns. The failure of the appraisal staff to comply with this requirement shall not relieve a person, firm or corporation from the responsibility to timely file a freeport application.

2. Reviewing applications. The appraisal staff shall, upon receipt of a freeport application, reconcile the figures reported on such form to any inventory totals that may have been returned by the property owner. The appraisal staff may obtain relevant information as is available from financial records or other records of the property owner when needed to reconcile the figures reported on the application. Once the appraisal staff has completed the reconciliation of the freeport application, they shall forward the application and their recommendations, along with any supporting documentation, to the board of tax assessors. When the appraisal staff recommends the freeport application be denied, in whole or in part, they shall include the reasons for their recommendation.

(d) Tax situs. The appraisal staff shall inquire into the proper tax situs of personal property before preparing the proposed assessment to ensure that the property owner is made subject to only those taxes that may legally be levied. The tax situs inquiry shall be sufficiently specific to determine whether the property is subject to tax by each of the authorities authorized to levy taxes in the county.

1. General tax situs. Unless otherwise provided in subparagraph (d) of this paragraph, the appraisal staff shall consider the tax situs of personal property to be as provided in this subparagraph.

(i) Tax situs of personal property of Georgia residents. The appraisal staff shall consider the tax situs of personal property owned by a Georgia resident as being the domicile of the owner unless such property has acquired a business situs elsewhere. The appraisal staff shall consider the tax situs of personal property owned by a Georgia resident and used in connection with a business as being the location of the business. In making the determination of tax situs, the appraisal staff shall consider such factors as the principal location of the personal property, the base from which its operations normally originate and whether the personal property is connected with some business enterprise that is situated more or less permanently in the county, as distinguished from an enterprise whose location is merely transitory or temporary. When personal property used in connection with a business is moved about in such a manner that it is not predominantly located during the year in one place, the appraisal staff shall consider the headquarters of the business as the tax situs.

(ii) Tax situs of personal property of non-residents. The appraisal staff shall consider the tax situs of personal property owned by non-residents as being where the property is located. The appraisal staff shall recommend to the board of tax assessors a "no tax situs" status for any personal property owned by a nonresident who does not maintain a place of business in Georgia and who gives the personal property to a commercial printer in Georgia for printing services to be performed in Georgia.

2. Tax situs of boats. In accordance with Code section 48-5-16 (d), the appraisal staff shall consider the tax situs of a boat to be the tax district wherein lies the domicile of the owner, even when the boat is located within another tax district in the county. When the boat is functionally located for recreational or convenience purposes for 184 days or more in a county other than where the owner is domiciled, the appraisal staff shall consider the tax situs of the boat to be where it is functionally located.

3. Tax situs of aircraft. In accordance with Code section 48-5-16 (e), the appraisal staff shall consider the tax situs of an aircraft to be the tax district wherein lies the domicile of the owner,

even when the aircraft is located within another tax district in the county. When the aircraft's primary home base is in a county other than where the owner is domiciled, the appraisal staff shall consider the tax situs of the aircraft to be where it is principally hangered or tied down and out of which its flights normally originate.

4. Tax situs of foreign merchandise in transit. The appraisal staff shall recommend to the board of tax assessors a "no tax situs" status for foreign merchandise that is in transit through this state. The recommendation of "no tax situs" shall be made regardless of the fact that while the foreign merchandise is in the warehouse it is assembled, bound, joined, processed, disassembled, divided, cut, broken in bulk, relabeled, or repackaged. The grant of "no tax situs" status shall be liberally construed. In deciding whether goods are foreign, the appraisal staff shall determine if the point of origin is a non-domestic shipping port. In deciding whether goods are in transit, the appraisal staff shall consider whether the interruption in the transport of the goods may be characterized as having a business purpose or advantage, rather than just being an incidental interruption in the continuity of transit.

(e) Assessments of personal property used on state contracts. Under Code section 50-17-29 (e)(1), the appraisal staff shall not propose an assessment upon the personal property of any contractor or subcontractor as a condition to or result of the performance of a contract, work, or services by such contractor or subcontractor in connection with any project being constructed, repaired, remodeled, enlarged, serviced, or destroyed for, or on behalf of, the state or any of its agencies, boards, bureaus, commissions, and authorities. The appraisal staff shall inquire into the nature of the use of such property and prepare their proposed assessment in accordance with this Subparagraph.

1. Personal property located in headquarters' county. When the tax situs of the personal property being used on state projects is in the same county as where the property owner's permanent business headquarters and administrative offices are located, and such property is not used exclusively for the state projects contemplated by Code section 50-17-29 (e)(1), the appraisal staff shall not apportion their proposed assessment of the property. When such property is used exclusively for such state projects, such property is made exempt by Code section 50-17-29 (e)(1) from ad valorem taxation by the county and the appraisal staff shall treat such property as exempt property is treated.

2. Personal property not located in headquarters' county. When the tax situs of the personal property being used on state projects is in a county other than where the property owner's permanent business headquarters and administrative offices are located, and such property would not be located in the county absent the state projects, then the appraisal staff shall apportion their proposed assessment of such property as follows: The exempt portion of the personal property being used on state projects shall be that pro rata portion of the total value of such property that represents the percentage the contractor or subcontractor can reasonably demonstrate is likely to represent the portion of their business that will result from state projects during the tax year. The appraisal staff may consider the percentage of income, production output, or time attributable to state projects during the preceding year. The appraisal staff shall consider any information submitted by the property owner regarding the basis for the apportionment. The appraisal staff shall not apportion the personal property when the property owner fails to provide reasonable evidence necessary to determine the portion of the property owner's business that will result from state projects during the year.

(f) Partial assessments. Unless specifically provided by law and this Rule, the appraisal staff shall not prepare a partial appraisal based on the fact that personal property is owned or used during the year in a manner that would make it exempt part of the year and taxable part of the year.

(2) Classification. The appraisal staff shall classify personal property as provided in Rule 560-11-2-.21 for inclusion in the county tax digest.

(3) Return of personal property. In accordance with Code section 48-5-299 (a), the appraisal staff, on behalf of the board of tax assessors, shall investigate diligently and inquire into the property owned in the county for the purpose of ascertaining what real and tangible personal property is subject to taxation in the county and to require the proper return of the property for taxation. The appraisal staff shall make such investigation as may be necessary to determine the value of any property upon which for any reason all taxes due the state or the county have not been paid in full as required by law. In all cases where taxes are assessed against the owner of property, the appraisal staff shall prepare a proposed assessment on the property according to the best information obtainable.

(a) Information sources. The appraisal staff should develop and maintain information sources for the discovery of unreturned personal property.

(b) Returns. Property owners shall use Department of Revenue authorized return forms when returning personal property. No other forms shall be provided for this purpose to property owners by the county official responsible for receiving returns unless previously approved in writing by the Revenue Commissioner.

1. Authorized return forms. The returns described in this subparagraph shall be authorized for use when returning personal property.

(i) Form PT-50P. The return form PT-50P, entitled "Business Personal Property Tax Return," may be used for the return of business personal property when the property owner is not eligible or does not desire to file an application for freeport exemption.

(ii) Form PT-50PF. The return form PT-50PF, entitled "Business Personal Property Tax Return / Application for Freeport Exemption," may be used for the return of business personal property and simultaneous application for freeport exemption.

(iii) Form PT-50MA. The return form PT-50MA, entitled "Marine / Aircraft Personal Property Tax Return," may be used for the return of boats or aircraft.

2. Obtaining returns from receiver. Each year, after the deadline for filing returns, the appraisal staff shall secure the returns from the official responsible for receiving returns on or before the tenth day following such deadline.

3. Automatic returns. In accordance with Code section 48-5-20, the appraisal staff shall deem any property owner that does not file a return by the deadline as returning for taxation the same property as was returned or deemed to have been returned in the preceding tax year at the same valuation as the property was finally determined to be subject to taxation in the preceding year.

(c) Reporting schedules. Property owners shall use Department of Revenue authorized reporting schedules when reporting supporting information for authorized return forms. No other reporting schedules shall be provided for this purpose to property owners by the county official responsible for reviewing returns unless previously approved in writing by the Revenue Commissioner. A property owner may attach other schedules or documents that provide further support for the value they have placed on their personal property return. The appraisal staff shall consider all additional information submitted by the property owner with the return and reporting schedules. The reporting schedules required by Rule 560-11-10-.08(3)(c) and appropriate for the type of personal property being returned and any other information submitted with the return by the property owner are made confidential by Code section 48-5-314 and shall be treated as such by the appraisal staff. The appraisal staff shall not consider as fully returned any property that is omitted, misrepresented, or undervalued on the supporting reporting schedules and accompanying property owner documents, as these provide the basis for the

property owner's declarations of value on the return and are necessary for the board of assessors to carry out their responsibility under Code section 48-5-299 to, through their appraisal staff, ascertaining what personal property is subject to taxation in the county and to require the proper return of the property for taxation.

1. Authorized reporting schedules. The reporting schedules described in this subparagraph shall be authorized for use when reporting information to support the return of personal property.

(i) Schedule A. The reporting schedule entitled "Schedule A" may be used to list and describe any furniture, trade fixtures, personal fixtures, machinery and equipment that is included on the property owner's return.

(ii) Schedule B. The reporting schedule entitled "Schedule B" may be used to list and describe any inventory that is included on the property owner's return.

(iii) Schedule C. The reporting schedule entitled "Schedule C" may be used to list and describe any construction in progress that is included on the property owner's return.

(iv) Schedule D. The reporting schedule entitled "Schedule D" may be used to list and describe any boats or aircraft that are included on the property owner's return.

(4) Verification. The appraisal staff shall review and audit the returns in accordance with policies and procedures set by the county board of tax assessors consistent with Georgia law and this Rule.

(a) Omissions and undervaluations. If not otherwise prohibited by law or this Rule, the appraisal staff shall recommend an additional assessment to the board of tax assessors when any review or audit reveals that a property owner has omitted from their return any property that should be returned or has failed to return any of their property at its fair market value. The appraisal staff shall recommend a reduced assessment to the board of tax assessors when any review or audit reveals that a property owner has overstated the amount of personal property subject to taxation.

(b) Reassessments. The appraisal staff shall recommend to the board of tax assessors a new assessment when the property owner has omitted personal property from their return or failed to return personal property at its fair market value, when such omission or undervaluation has been discovered by an audit conducted pursuant to Rule 560-11-10-.08(4)(d). The appraisal staff shall not be precluded from conducting such an audit merely because a change of assessment has been made on the personal property as a result of a review conducted pursuant to Rule 560-11-10-.08(4)(c). However, the appraisal staff may not recommend to the board of tax assessors a reassessment of the same personal property for which an audit has been conducted pursuant to Rule 560-11-10-.08(4)(d) and a final assessment has already been made by the board.

(c) Review. The purpose of a review is to determine if a property owner has correctly and fully completed their return and reporting schedules. It is based upon the good-faith disclosures of the property owner and information that is readily ascertainable by the appraisal staff. The review of an owner's return may consist of, but is not limited to, an analysis of any improper omissions or inclusions, improperly applied or omitted depreciation, and improperly applied or omitted inflation or deflation of the value of the owner's property. The examination should include a comparison of the current return information with return information from prior years. The appraiser should contact the owner or their agent by an on-site visit, telephone call, or

written correspondence to attempt to resolve any questionable items. Returns with unresolved discrepancies, unexpected values, or incomplete information should be escalated to an audit.

(d) Audits. The purpose of an audit is to gather information that will allow the appraiser to make an accurate determination of the fair market value of the property owned by the property owner and subject to taxation. An audit is an examination of the records of the property owner to make an independent determination of the fair market value of such property where such determination does not solely depend upon the good-faith disclosures of the property owner and information that is readily ascertainable by the appraisal staff. The appraisal staff shall perform, consistent with Georgia Law and policies that are established by the board of tax assessors, audits of the records of the property owners to verify the returns of personal property. These audits may take place at any time within the seven-year statute of limitations, which begins on the date the personal property was required by law to be returned.

1. Scope of audit. The audit may be an advanced desk audit of certain additional property owner records that are voluntarily submitted or obtained by subpoena from the property owner or a complex on-site detailed audit of the property owner's books and records combined with a physical inspection of the personal property. The documents the appraisal staff should secure include, but are not limited to, schedules A, B, and C of form PT-50P; a balance sheet or other type of financial record that for a particular location reflects the business' book value as of January 1 of the tax year being audited; a ledger of capitalized personal property items held on January 1 of the tax year being audited; and an income statement.

(i) Use of subpoena. The appraiser should request the board of tax assessors to subpoena, within the limitations of their subpoena powers, any existing documents the property owner fails to provide voluntarily, when these documents are deemed by the appraiser to be critical to the audit. Since the appraiser may not request a subpoena for documents that do not presently exist in the format needed, the appraiser should seek existing documents held by the property owner and solicit the owner's voluntary cooperation in obtaining these documents.

2. Contracts with auditing specialists. The appraiser shall secure non-disclosure statements from any contracted audit specialist to ensure that such specialist shall conform with the confidentiality provisions of Code section 48-5-314 and shall not disclose the property owner's confidential records to unauthorized persons or use such confidential records for purposes other than the county's review for ad valorem tax purposes of the tax return and supporting documentation. The appraisal staff shall provide a copy of such non-disclosure statement to the property owner upon such owner's request. The appraiser shall not recommend to the board of tax assessors any contract or agreement with an audit specialist that provides for such specialist to contingently share a percentage of the tax collected as a result of any audits such specialist may perform.

(i) Notice to property owner. The lead appraiser shall ensure the property owner is sent a notice they have been selected for an audit of their personal property holdings for ad valorem tax purposes. The notice shall, at a minimum, indicate the following: the purposes and goals of the audit and the law authorizing the audit; the name of the lead appraiser who is primarily responsible for the conduct of the audit; the names of the members of the audit team that will be performing the audit; the number of years that will be audited; a description of the type records that should be made available; a description of how the audit will be conducted; the range of dates desired for the audit; and contact information should the property owner wish to contact the lead appraiser. The notice shall contain a statement that the lead appraiser will be contacting the property owner by telephone to establish the date and time of the audit and to determine the availability and location of records. At the conclusion of the audit, if there is sufficient evidence to warrant a recommended change of assessment, the lead appraiser shall have prepared a list of preliminary audit findings and provide such list to the property owner to afford them an opportunity to meet and discuss the findings and view any supporting schedules

and documents relied upon by the individuals conducting the audit. After any such meeting requested by the property owner, the lead appraiser shall have prepared the final audit report and proposed assessment and provide a copy to the property owner and the board of tax assessors.

(e) Audit selection criteria. The appraisal staff shall recommend to the board of tax assessors a review and audit selection criteria, and the appraisal staff shall follow such criteria when adopted by the board. The criteria should be designed to maximize the number of personal property returns that may be reviewed or audited with existing resources. The criteria should be fair, unbiased, and developed consistent with the requirements of Code section 48-5-299. All personal property accounts should be reviewed or audited at least once every three years.

(f) Property owner records. The appraisal staff should first endeavor to obtain the records necessary to substantiate the information returned or reported by the property owner through the voluntary cooperation of the property owner. When such voluntary cooperation is not forthcoming, and the records requested from the property owner are believed by the appraiser to be critical to a proper appraisal of the personal property, the appraiser may request that the board of tax assessors issue an appropriate subpoena for such records. The appraiser may request that the board of tax assessors issue an appropriate subpoena for the testimony of any individuals the appraiser believes poses knowledge critical to determination of the fair market value of the property owner's personal property.

1. Record types. The types of records the appraisal staff may request the board of tax assessors to issue subpoenas for include, but are not limited to, the following: chart of accounts, general ledger, detailed subsidiary ledgers, journals of original entry, balance sheet, income statement, annual report, Securities Exchange Commission Form 10K. The types of records the appraisal staff may not request the board of tax assessors to issue subpoenas for include the following:

(i) Income tax returns. Forms and schedules authorized by the Internal Revenue Service or the revenue collecting agencies of the several states for use in filing income tax returns to those agencies;

(ii) Property appraisals. A property appraisal that the property owner has obtained prior to any appeal that is filed as a result of a change of assessment being made to the property owner's personal property;

(iii) Insurance policies. An insurance policy that may contain valuation estimates of the insured personal property; or

(iv) Tenant sales information. A rent roll or document containing the individual tenant sales information on the property owner's rented or leased personal property.

(5) Valuation procedures. The appraisal staff shall follow the provisions of this paragraph when performing their appraisals. Irrespective of the valuation approach used, the final results of any appraisal of personal property by the appraisal staff shall in all instances conform to the definition of fair market value in Code section 48-5-2 and this Rule.

(a) General procedures. The appraisal staff shall consider the sales comparison, cost, and income approaches in the appraisal of personal property. The degree of dependence on any one approach will change with the availability of reliable data and type of property being appraised.

1. Information presented by property owner. The appraisal staff shall consider any timely information presented by the property owner that may have reasonable relevance to the

appraisal of the owner's personal property. The appraisal staff shall consider the effect of any factors discovered during the review or audit of the return or directly presented by the property owner that may reduce the value of the owner's personal property, including, but not limited to all forms of depreciation, shrinkage, theft and damage.

2. Selection of approach. With respect to machinery, equipment, personal fixtures, and trade fixtures, the appraisal staff shall use the sales comparison approach to arrive at the fair market value when there is a ready market for such property. When no ready market exists, the appraiser shall next determine a basic cost approach value. When the appraiser determines that the basic cost approach value does not adequately reflect the physical deterioration, functional or economic obsolescence, or otherwise is not representative of fair market value, they shall apply the approach or combination of approaches to value that, in their judgment, results in the best estimate of fair market value. All adjustments to the basic cost approach shall be documented to the board of tax assessors.

3. Rounding. The appraisal staff may express the final fair market value estimate to the board of tax assessors in numbers that are rounded to the nearest hundred dollars.

(b) Special procedures. The appraisal staff shall observe the procedures in this Subparagraph when appraising inventory and construction in process.

1. Valuation of inventory. When appraising inventory, the appraisal staff shall consider the value of inventory to consist of all the charges incurred from its original state as raw material to its final resting place for ultimate consumption, including such items as freight and other overhead charges, with the exception of the cost of the final sale The appraisal staff shall also consider factors contributing to any loss of value including, but not limited to, obsolescence, shrinkage, theft and damage.

2. Construction in progress. Property owners who are constructing or installing a large piece or line of production equipment may be required by generally accepted accounting principles to accrue the total costs associated with such equipment in a holding account until the construction or installation is complete and the equipment is ready for production, at which time, the property owner is permitted by such principles to post the total cost to a fixed asset account, taking appropriate depreciation. If such holding account is maintained by the property owner, the appraisal staff shall consider the total cost reported in the property owner's holding account when appraising such property. Construction in progress shall be appraised in the same manner as other similar personal property taking into account that there may be little or no physical deterioration on such property and that the fair market value may be diminished due to the incomplete state of construction. If comparable sales information of personal property under construction is generally not available and there is no other specific evidence to measure the probable loss of value if the property is sold in an incomplete state of construction, the appraisal staff may multiply the identified total cost of construction by a uniform market risk factor of .75.

3. Overhauls. When appraising machinery, equipment, furniture, personal fixtures, and trade fixtures, the appraisal staff shall consider the cost of all expenditures, both direct and indirect, relating to any efforts to overhaul an asset to modernize, rebuild, or otherwise extend the useful life of such asset. The following procedure is to be used by the appraisal staff to estimate the value of an overhauled asset: An adjustment to the original cost of the asset is made to reflect the cost of the components that have been replaced. The cost of the overhaul is divided by an index factor representing the accumulated inflation or deflation from the year of acquisition of the asset on which the overhaul was performed to the year of the overhaul. This amount is then subtracted from the original cost of the asset being overhauled. The remainder is then multiplied by the composite conversion factor for the year of the original acquisition as specified in Rule 560-11-10-.08(5)(f)(4)(iii) of this section. The current year's composite conversion factor is then

applied to the cost of the overhaul, and these two figures are combined to represent the estimate of value for the overhauled asset.

(c) Level of trade. The appraisal staff shall recognize three distinct levels of trade: the manufacturing level, the wholesale level, and the retail level. The appraiser shall take into account the incremental costs that are added to a product as it advances from one level to another that may increase its value as a final product. The appraisal staff shall value the property at its level of trade.

(d) Ready markets. When the appraiser lacks sufficient evidence to demonstrate the existence of a ready market, he or she shall consider any evidence submitted by the property owner demonstrating that a ready market is available. When the property owner cannot prove the existence of a reliable ready market, the appraiser may use other valuation approaches as authorized by law and Rule560-11-10-.08(5).

1. Liquidation sales. The appraisal staff should recognize that those liquidation sales that do not represent the way personal property is normally bought and sold may not be representative of a ready market. For such sales, the appraisal staff should consider the structure of the sale, its participants, the purchasers, and other salient facts surrounding the sale. After considering this information, the appraisal staff may disregard a sale in its entirety, adjust it to the appropriate level of trade, or accept it at face value.

(e) Sales comparison approach. The sales comparison approach uses the sales of comparable properties to estimate the value of the subject property being appraised.

1. Widely used pricing guides. The appraisal staff should make a reasonable effort to obtain and use generally accepted pricing guides that are published and widely used within the market. When using such a guide to estimate the comparative sales approach value, the appraiser shall begin with the listed retail price and then make any value adjustments as provided in the guide instructions, based on the best information available about the subject property being appraised.

2. Lesser-known pricing guides. The property owner may submit, and the appraisal staff shall consider, lesser known publications, periodicals and price lists of the specific types of personal property being returned. Such lists should be regularly consulted by buyers of the type personal property reported, and should list prices at which sellers, who regularly deal in the types of property reported, typically offer such property for sale.

(i) Validation of lesser pricing guides. In all cases where unpublished, unrecognized, or unverified sales data are submitted by the property owner, the steps the appraiser may take to validate such data include, but are not limited to, the following:

(I) Arm's length transactions. as defined in OCGA 48-5-2(.1): "'Arm's length, bona fide sale' means a transaction which has occurred in good faith without fraud or deceit carried out by unrelated or unaffiliated parties, as by a willing buyer and a willing seller, each acting in his or her own self-interest, including but not limited to a distress sale, short sale, bank sale, or sale at public auction." Transactions where the lien holder receives or repossesses the property, and deed under power of sale transactions are not to be applied as an arm's length transaction.

(II) Representativeness. Verify that the sales data submitted is either all-inclusive or has been randomly selected, so as to be unbiased and fairly represent the market for the personal property being appraised. This may be accomplished by contacting known dealers of the subject personal property to determine whether other significant market data exists that supports the data submitted by the property owner.

(III) Financing. Adjust the sale price of the subject property for non-conventional financing.

(IV) Time of sale. Adjust the sale price of the subject property for the date of sale in order to estimate the value as of the January 1 assessment date.

(V) Discounts. Adjust the sale price to remove trade and cash discounts.

(VI) Comparability. Adjust the sale price of the subject property for characteristics of the subject not found in the sales to which it is being compared, such as condition, use, and extra or missing features.

3. Other factors. To finalize the sales comparison approach, the appraiser shall consider any other factors, appropriate to the approach, which may be affecting the value. When the comparative sales approach is used as the basis for the appraisal of personal property, the appraiser shall not make further adjustments to the value to reflect economic obsolescence, functional obsolescence, or inflation.

(f) Cost approach. The cost approach arrives at an estimate of value by taking the replacement or reproduction cost of the personal property and then reducing this cost to allow for physical deterioration, functional and economic obsolescence.

1. General procedure. In applying the cost approach to personal property during a review or audit of a return, the appraiser shall identify the year acquired, and total acquisition costs, including installation, freight, taxes, and fees. The acquisition costs shall then be adjusted for inflation and deflation and then depreciated as appropriate to reflect current market values.

2. Book value. The appraiser should recognize that the appraisal and accounting practices for depreciating personal property might differ. Accounting practices provide for recovery of the cost of an asset, whereas appraisal practices strive to estimate the fair market value related to the current market. The appraiser should consider depreciation in the forms of physical deterioration, functional obsolescence, and economic obsolescence, which may not necessarily be reflected in the book value. The appraiser should consider that accounting practices of property owners might also differ.

3. Valuation as a whole. The appraiser may arrange the individual items of personal property into groups with similar valuation characteristics and value such group as a whole when the itemized appraisals of each item of personal property will not add substantially to the accuracy of the determination of the cost approach value.

4. Basic cost approach. The appraisal staff shall determine the basic cost approach value of machinery, equipment, furniture, personal fixtures, and trade fixtures using the following uniform four-step valuation procedures: Determine the original cost new of the item of personal property to the property owner; determine the uniform economic life group for the item of personal property; and multiply the original cost new times the uniform composite conversion factor appropriate for the economic life group and actual age of the item of personal property. Then determine a salvage value of any item of personal property when it is taken out of use at the end of its expected economic life.

(i) Original cost new. The appraisal staff shall determine the original cost new of the item of machinery, equipment, furniture, personal fixtures, and trade fixtures. Any real improvements to the real property, including real fixtures that had to be installed for the proper operation of the property, shall be included in the appraisal of the real property and not included in the basic cost approach value of the personal property. Those portions of transportation costs and installation costs that do not represent normal and customary costs for the type personal property being

appraised shall be excluded from the original cost new when determining the basic cost approach value.

(ii) Economic life groups. When determining the basic cost approach value of machinery, equipment, furniture, personal fixtures, and trade fixtures, the appraisal staff shall separate the individual items of property into four economic life groupings that most reasonably reflect the normal economic life of such property as specified in this subparagraph. The appraiser shall use Table B-1 and B-2 of Publication 946 of the U.S. Treasury Department Internal Revenue Service, as revised in 1998, to classify the individual asset into the appropriate economic life group. For property that does not appear in such publication, the appraisal staff may determine the appropriate economic life group based on the best information available, including, but not limited to, the property owner's history of purchases and disposals.

(I) Group I. The appraisal staff shall place into Group I any assets that have a typical economic life between five and seven years.

(II) Group II. The appraisal staff shall place into Group II any assets that have a typical economic life between eight and twelve years.

(III) Group III. The appraisal staff shall place into Group III any assets that have a typical economic life of thirteen years or more.

(IV) Group IV. The appraisal staff shall place into Group IV any assets that have a typical economic life of four years or less. The appraisal staff shall also place into Group IV those assets classified as Asset Class 00.12 in Publication 946 of the U.S. Treasury Internal Revenue Service, Table B-1, as revised in 1998.

(iii) Composite conversion factors. The appraisal staff shall, in accordance with this Rule, use the composite conversion factors as provided in this subparagraph and apply the appropriate factor to the original cost new of personal property to arrive at the basic cost approach value. The last composite conversion factor in each economic life group shall not be trended and shall represent the residual value.

(I) Group I composite conversion factors. The following composite conversion factors shall be applied to Group I assets to arrive at the basic cost approach value for years one through seven: Y1-.87, Y2-.74, Y3-.58, Y4-.43, Y5-.32, Y6-.26, Y7-.21. Thereafter the residual composite conversion factor shall be .20.

(II) Group II composite conversion factors. The following composite conversion factors shall be applied to Group II assets to arrive at the basic cost approach value for years one through eleven: Y1-.92, Y2-.85, Y3-.78, Y4-.70, Y5-.63, Y6-.54, Y7-.44, Y8-.34, Y9-.28, Y10-.25, Y11-.25. Thereafter the residual composite conversion factor shall be .20.

(III) Group III composite conversion factors. The following composite conversion factors shall be applied to Group III assets to arrive at the basic cost approach value for years one through sixteen: Y1-.95, Y2-.91, Y3-.87, Y4-.82, Y5-.79, Y6-.75, Y7-.70, Y8-.63, Y9-.57, Y10-.52, Y11-.47, Y12-.41, Y13-.35, Y14-.31, Y15-.29, Y16-.28. Thereafter the residual composite conversion factor shall be .20.

(IV) Group IV composite conversion factors. The following composite conversion factors shall be applied to Group IV assets to arrive at the basic cost approach value for years one through three: Y1-.67, Y2-.54, Y3-.31. Thereafter the residual composite conversion factor shall be .10.

(iv) Basic cost approach value. The basic cost approach value shall be determined by multiplying the composite conversion factor times the original cost new of operating machinery, equipment, furniture, personal fixtures, and trade fixtures.

(v) Salvage value. Once personal property is taken out of service at or after the end of its typical economic life, it shall be considered salvage until disposed of and the appraiser shall determine a basic cost approach value by taking ten percent of the original cost new of such property. The basic cost approach value for property withdrawn from active use but retained as backup equipment shall be one-half the basic cost approach value otherwise applicable for such property.

5. Further depreciation to basic cost approach value.

(i) Physical deterioration. The appraiser shall consider any evidence presented by the property owner demonstrating physical deterioration that is unusual for the type of personal property being appraised.

(ii) Functional obsolescence. The appraisal staff shall consider any evidence presented by the property owner demonstrating functional obsolescence for the type of personal property being appraised. One method the appraisal staff may use to determine the amount of functional obsolescence is to trend the original cost new for inflation to arrive at the reproduction cost new, and then deduct the cost of a newer replacement model with similar or improved functionality.

(iii) Economic obsolescence. The appraisal staff shall consider any evidence presented by the property owner demonstrating economic obsolescence for the type of personal property being appraised. One method the appraisal staff may use to determine the amount of economic obsolescence is to capitalize the difference between the economic rent of an item of personal property before and after the occurrence of the adverse economic influence.

(g) Income approach. The income approach to value estimates the value of personal property by determining the current value of the projected income stream. This approach is most applicable to machinery, equipment, furniture, personal fixtures, and trade fixtures. The approach should only consider the income directly attributable to the personal property being valued and not the income attributable to the real or intangible personal property forming the same business. The appraisal staff may use one of the following methods when using the income approach for the appraisal of applicable personal property:

1. Straight-line capitalization method. The straight-line capitalization method estimates the income approach value of personal property by computing the investment necessary to produce the net income attributable to the personal property. In essence, it is determined by first computing the potential gross income for a subject property by taking the monthly rent, when that is the rental basis, and multiplying that total by twelve months. The potential gross income is then adjusted to a net operating income by subtracting any expenses that legitimately represent the costs necessary for production of that income. The net operating income will represent the amount of revenue left after operating expenses that is available to return the investment, pay property tax on the property, and return a profit to the owner.

(i) Income and expense analysis. While complete data is not required on each individual property, there must be sufficient data to develop typical unit rents, typical collection loss ratios, and typical expense ratios for various type properties. Income and expense figures used in the income approach must reflect current market conditions and typical management. Actual figures may be used when they meet this criterion. When actual figures are not available or appear to be unrepresentative, typical figures should be used. Income and expense analysis builds upon the following important components: typical unit rent, potential gross rent, collection loss, typical gross income, typical expenses, and typical net income. Excluded are expenses such as depreciation charges, debt service, income taxes, and business expenses not associated with the property.

(ii) Capitalization. Capitalization involves the conversion of typical net income into an estimate of value. The estimated income is divided by the capitalization rate to arrive the estimated income approach value. The capitalization rate consists of three components. The discount rate, the recapture rate, and the effective tax rate. The discount rate represents the amount of return a prudent investor could reasonably expect on an investment in the subject property. The recapture rate represents the return of the potential investment. The effective tax rate represents the portion of the income stream allocated to pay resulting ad valorem taxes on the property.

(I) Discount rate. The appraiser should calculate the appropriate discount rate through a method known as the band of investment. The band of investment represents the weighted-average cost of the money needed to purchase the applicable personal property. The appraiser determines the percentage of the cost typically borrowed and multiplies this percentage times the typical cost of borrowing. The appraiser then determines the remaining percentage of the cost typically contributed by an investor and multiplies this percentage times the expected rate of return to the investor. An analysis of similar properties might reveal the discount rate typical for a property of a given type.

(II) Recapture rate. The appraiser should calculate the recapture rate by dividing one by the number of years remaining in the economic life of the subject property. The resulting percentage is the current year's recapture rate.

(III) Effective tax rate. The appraiser should calculate the effective tax rate by multiplying the forty percent assessment level times the tax rate in the jurisdiction in which the subject property is located. The effective tax rate is included in the capitalization rate because market value is yet unknown and property taxes can be addressed as a percentage of that unknown value in lieu of their inclusion as an expense in calculation of net annual income.

2. Direct sales analysis method. The direct sales analysis method estimates the income approach value of personal property by computing the relationship between income and sales data. This relationship is expressed as a factor. The method represents a blend of the sales comparison and income approaches because it involves application of income data in conjunction with sales data. Sales of items similar to the subject property are divided by the gross rents, for which they or identical properties are leased, to develop gross income multipliers. A gross income multiplier is selected as typical for the market, and multiplied against the gross income of the subject, or that of an identical property, to result in an estimated value. Limiting the income to rental income only produces a gross rental multiplier.

(i) Gross income or rent multiplier. The appraiser should compute the gross income multiplier by dividing the typical gross income on the personal property by the typical sales price of the personal property. The appraiser should compute the gross rent multiplier by dividing the typical gross rent on the personal property by the typical sales price of the personal property. The appraiser must identify the specific item of personal property to be valued and determine the typical gross income as gross income is determined in Rule 560-11-10-.08(5)(g)(1)(i). The item is then stratified according to its typical use. Typical use strata may include, but are not limited to, office equipment, light-duty manufacturing equipment, heavy-duty manufacturing equipment, retail sales equipment, furniture, personal fixtures, trade fixtures, restaurant equipment, or any other stratum the appraiser believes will have similar sensitivity to market fluctuations as the subject item. The appraiser may develop an individual multiplier on a single item of personal property when there are sufficient sales and rent information. This multiplier may then be used for similar items of personal property for which there may be limited sales and rent information. The income approach value estimate is computed by multiplying the estimated gross income times the gross income multiplier or the gross rent times the gross rent multiplier.

(l) Adjustments. Income data and sales prices used in the development of income multipliers should be reasonably current. Older sales may be matched against recent income figures when the sales are adjusted for time. Sales must also be adjusted for financing, condition, optional equipment, and level-of-trade.

(6) Final estimate of fair market value. After completing all calculations, considering the information supplied by the property owner, and considering the reliability of sales, cost, income and expense information, the appraiser will correlate any values indicated by those approaches to value that are deemed to have been appropriate for the subject property and form their opinion of the fair market value. The appraisal staff shall present the resulting proposed assessment, along with all supporting documentation, to the board of tax assessors for an assessment to be made by that board.

560-11-10-.09 Real Property Appraisal.

(1) Real property - Introduction. The appraisal staff shall follow the provisions of this Rule when performing their appraisals of real property. Irrespective of the valuation approach used, the result of any appraisal of real property by the appraisal staff shall conform to the definition of fair market value.

(a) General valuation procedures. The appraisal staff shall consider the sales comparison, cost, and income approaches in the appraisal of real property. The degree of dependence on any one approach will change with the availability of reliable data and type of property being appraised. The appraisal staff may express the final fair market value estimate to the board of tax assessors in numbers that are rounded to the nearest hundred dollars.

(b) Real property identification. The appraisal staff shall identify real property, determine its taxability, and classify it for addition to the county ad valorem tax digest in accordance with this subparagraph.

1. Distinguishing real property. The appraiser shall be required to correctly identify real property and distinguish it from personal property where the proper valuation procedures, as set forth in this Rule, may be followed.

(i) Real property examples. As used in this Rule, real property shall be that property defined in Rule 560-11-10-.02(1)(w). This Rule shall provide illustrations to assist the appraiser in the proper interpretation of the definition. However, these illustrations should not be construed in a manner that conflicts with the definition. Examples of real property are tangible items such as land, all improvements attached to land, real fixtures, and leasehold interests in real property.

(ii) Identification of real fixtures. When property the appraiser believes to be a real fixture has not been returned by the landlord, the appraiser shall require the landlord to produce their lease agreement and shall carefully review the agreement before making their recommendation to the board of tax assessors regarding the classification and taxability of the property in question. The appraiser shall inform the landlord that they may redact, at their option, any information relating to the payments that are required by the lease agreement.

2. Assessment date. Code section 48-5-10 provides that each return by a property owner shall be for property held and subject to taxation on January 1 of the tax year. The appraisal staff shall base their decisions regarding the taxability, uniform assessment, and valuation of real

property on the circumstances of such property on January 1 of the tax year for which the assessment is being prepared. When real property is transferred to a new owner or converted to a new use, the circumstances of such property on January 1 shall nevertheless be considered as controlling.

3. Classification. The appraisal staff shall classify real property as provided in Rule 560-11-2-.21 for inclusion in the county tax digest. Real property may be further stratified and categorized as appropriate for aggregating comparable properties for an appraisal.

(2) Return of real property. In accordance with Code section 48-5-299 (a), the appraisal staff, on behalf of the board of tax assessors, shall investigate diligently and inquire into the property owned in the county, for the purpose of ascertaining what real and tangible personal property is subject to taxation in the county and to require the proper return of the property for taxation. The appraisal staff shall make such investigation as may be necessary to determine the value of any property upon which for any reason all taxes due the state or the county have not been paid in full as required by law. In all cases where taxes are assessed against the owner of property, the appraisal staff shall prepare a proposed assessment on the property according to the best information obtainable.

(a) Information sources. The appraisal staff should develop and maintain information sources for the discovery of unreturned real property.

(b) Returns. The county appraisal staff shall review the returns in accordance with policies and procedures set by the county board of tax assessors consistent with Georgia law and this Rule. Each year, after the deadline for filing returns, the appraisal staff shall secure the returns from the official responsible for receiving returns on or before the tenth day following such deadline.

1. New returns. Department of Revenue form PT-50R is authorized for use by property owners when returning real property. No other form shall be provided for this purpose to property owners by the county official responsible for receiving returns unless previously approved in writing by the Revenue Commissioner.

2. Automatic returns. In accordance with Code section 48-5-20, the appraisal staff shall deem any property owner that does not file a return by the deadline as returning for taxation the same property as was returned or deemed to have been returned in the preceding tax year at the same valuation as the property was finally determined to be subject to taxation in the preceding year.

3. Real estate transfer declaration forms. The Department of Revenue has established Form PT-61 for owners to declare the real estate transfer tax due when property is transferred from one owner to another. The appraisal staff shall review all PT-61 forms filed with the clerk of superior court to discover new owners of property and to ascertain if their property has been returned for taxation. When a property owner acquires real property by transfer in the preceding tax year and does not file a return on such property for the current tax year, the appraisal staff shall follow the procedures of this subparagraph to determine if the newly acquired property has been properly returned for taxation.

(i) When real estate transfer tax declaration form properly completed. For the purposes of subparagraph (2)(b)(3) of this Rule, the PT-61 form shall be deemed properly completed when all applicable information required by the instructions on the form has been entered on the form,

it has been signed by the new owner and filed in quadruplicate with the clerk of superior court. A PT-61 form shall not be deemed properly completed when the appraisal staff determines any of the required information on the form is omitted, false, or misleading.

(ii) When transferred property deemed returned. When a property owner acquires by transfer real property that has not been subdivided from the preceding tax year, and such owner properly completes a real estate transfer tax PT-61 form and pays any real estate transfer tax that may be due as provided in Article 1 of Chapter 6 of Title 48 of the Code, the appraisal staff shall deem the owner as having returned the property acquired by transfer at the same value finally determined to be applicable to such property for the preceding year.

(iii) When transferred property deemed unreturned. The appraisal staff shall not deem as returned any property:

(I) That is an improvement made since January 1 of the preceding tax year to property that has been transferred;

(II) That has been transferred and for which the real estate transfer tax PT-61 form has not been properly completed;

(III) That has been transferred and for which the real estate transfer tax PT-61 form has not been filed with the clerk of superior court on or before the deadline for returning property in the year following the year the property is transferred; and

(IV) That has been transferred and for which the real estate transfer tax has not been paid.

(c) Reassessments. The appraisal staff may not recommend to the board of tax assessors a reassessment of the same real property for which a final assessment has already been made by the board. For the purposes of this subsection, the appraisal staff shall presume that a final assessment on real property includes both the land and any improvements to the land.

1. Recently appealed real property. In the two tax years following an appeal, the appraisal staff may not recommend an increase of assessment for the sole purpose of changing the valuation established or decision rendered in an appeal to the board of equalization, hearing officer, arbitration, or superior court. Rather a new appraisal must be accompanied by an on-site inspection to determine the occurrence of any substantial additions, deletions, or improvements to such property, errors in the appraisal staff's records or material factors that substantially affect the current fair market value of such property since the appeal was heard that established the value of the property. The appraisal staff may recommend, consistent with the provisions of this subparagraph, to the board of tax assessors a change of assessment on the property that was the subject of the appeal when an appraisal based on current market conditions indicates the value has changed substantially from the value established by the recent appeal. Such appraisal shall be accompanied by a written statement attesting to the fact that an appraiser has conducted the required on-site inspection of the subject property and setting forth the reasons why the appraiser believes that a change of assessment is authorized under Code section 48-5-299(c) and this subparagraph. The written statement shall attest to at least one of the following: substantial additions, deletions, or improvements to such property has occurred since January 1 of the appeal year; an error has been discovered in the property records regarding the description or characteristics of the subject property; or an occurrence of other material factors that substantially affect the current fair market value of the subject property. With respect to the term 'substantial'; when making determinations of whether to increase a recently appealed property the appraiser shall consider the subject property components since the time of appeal (appeal hearing date), such as the value of new improvements, value of additions to existing improvements (footprint of exchanged structure has been altered), major remodeling or renovations to existing structures (footprint of exchanged structure has not been altered), and adjustments to land due to consolidation of tracts, new surveys, zoning changes, land use

changes. In the event an appealed property is renovated or remodeled, the term 'substantial' shall be construed such that both the property owner and BOA would reasonably conclude a major renovation/remodeling has occurred. Any modifications made to the appealed property after the appeal hearing date that result in a lower value of the appealed property shall be considered in the final valuation of property for the subsequent January 1 assessment.

(d) Collecting and maintaining property information. The appraisal staff shall keep a record of information relevant to the ownership and valuation of all real property in the county and shall follow the procedures in this subparagraph when collecting and maintaining such real property data.

1. Description of property information. The type of information the appraisal staff shall maintain includes, but is not limited to, property ownership, location, size, use, physical characteristics, sales prices, construction costs, rents, and operating expenses to the extent such information is available. The appraisal staff shall, consistent with this subparagraph, recommend to the board of tax assessors a uniform policy regarding the information to be included in their records.

(i) Geographic information. Cadastral maps or computerized geographic information systems are to be maintained by the appraisal staff for all real property located in the county. In the event the county governing authority has established a separate mapping office and the maps maintained by such office conform with the requirements of this subparagraph, the appraisal staff may provide relevant information to such mapping office and still be in compliance with this subparagraph. Minimum mapping specifications shall include the following: all streets and roads plotted and identified; property lines delineated for each real property parcel; unique parcel identifier for each parcel; and physical dimensions or acreage estimate for each parcel. The appraisal staff shall use the parcel identifiers to link the real property records to the maps. The appraisal staff shall notify the Revenue Commissioner of all proposed changes to existing parcel-numbering systems before implementing such changes.

(ii) Sales information. The appraisal staff shall maintain a record of all sales of real property that are available and occur within the county. The appraisal staff should also familiarize themselves with overall market trends within their immediate geographical area of the state. They should collect and analyze sales data from other jurisdictions having market and usage conditions similar to their county for consideration when insufficient sales exist in the county to evaluate a property type, especially large acreage tracts. The Real Estate Transfer Tax document, Department of Revenue Form PT-61, shall be a primary record source. However, the appraisal staff may also review deeds of transfer and security deeds recorded in the Office of the Superior Court Clerk, and probated wills recorded in the Office of the Probate Judge to maintain a record of relevant information relating to the sale or transfer of real property. Records required to be maintained shall include at a minimum the following information: map and parcel identifier; sale date; sale price; buyer's name; seller's name; deed book and page number; vacant or improved; number of acres or other measure of the land; representativeness of sale using the confirming criteria provided in Rule 560-11-2-.56 (1)(d); any income and expense information reasonably available from public records; property classification as provided in Rule 560-11-2-.21, and; when available, the appraised value for the tax year immediately following the year in which the sale occurred

(iii) Property characteristics. The appraisal staff shall maintain a record of real property characteristics. This record shall include, but not be limited to, sufficient property characteristics to classify and value the property. In addition, the following criteria may be considered when determining which characteristics should be gathered and maintained: factors that influence the market in the location being considered; requirements of the valuation approach being

employed; digest classification and stratification; requirements of other governmental and private users; and marginal benefits and costs of collecting and maintaining each property characteristic.

(iv) Land and location characteristics. The appraisal staff shall maintain a record of the land and location characteristics. The record should include, but not be limited to, location, frontage, width, depth, shape, size, topography, landscaping, slope, view, drainage, hydrology, off-site improvements, soil condition, soil productivity, zoning, absorption, nuisances, use, covenants, neighborhood, corner influence, proximity to recreational water, and quality of access.

(v) Improvement characteristics. The appraisal staff shall maintain a record of the characteristics of the improvements to land. The record shall include, but not be limited to, the location, size, actual use, design, construction quality, construction materials, age and observed condition.

2. Collecting property information. The appraisal staff shall, consistent with the policies of the board of tax assessors and this subparagraph, physically inspect properties when necessary to gather the information required by Rule 560-11-10-.09(2)(d).

(i) Field inspections. The appraisal staff shall develop and present to the board of tax assessors for approval procedures that provide for periodic field inspections to identify properties and ensure that property characteristics information is complete and accurate. The procedures shall include guidelines for the physical inspection of the property by either appraisers or specially trained data collectors. The format should be designed for standardization, consistency, objectivity, completeness, easy use in the field, and should facilitate later entry into a computer assisted mass appraisal system, when one is used. When interior information is required, the procedures shall include guidelines on how and when to seek access to the property along with alternative procedures when such access is not permitted or feasible.

3. Maintaining property characteristics information. The appraisal staff shall systematically update the property characteristics information in response to changes brought about by new construction, new parcels, remodeling, demolition, and destruction. The appraisal staff shall physically measure and update their records to reflect all such changes to real properties in the county.

4. Records retention schedules. The appraisal staff shall develop, in accordance with the provisions of Code section 50-18-99, records retention schedules for each series of documents maintained in their office and have such schedules approved by the board of tax assessors before submitting the schedules to the State Records Committee for official approval pursuant to Code section 50-18-92.

(i) Building permits. In counties that issue building permits, no appraisal shall be based solely on declarations of proposed construction cost made by the person obtaining such building permits.

(ii) Aerial photographs. New aerial photographs should be compared to previous aerial photographs, if such photographs exist, to discover new or previously unrecorded construction.

(iii) Field review frequency. All real property parcels should be physically reviewed at least once every three years to ascertain that property information records are current.

(3) Land valuation. The appraisal staff shall estimate land values by use of the sales comparison or income approach to value as provided in this subparagraph giving preference to the sales comparison approach when adequate land sales are available. The appraisal staff

shall identify and describe the property, collect site-specific information, make a study of trends and factors influencing value and obtain a physical measurement of the site. Once the subject is analyzed, the appraisal staff shall classify the land for valuation. Once land values have been estimated, such appraisals should be regularly reviewed and updated.

(a) Land analysis and stratification. The appraisal staff shall appraise land separately from the improvements both to consider the trends and factors affecting each and to arrive at a separate assessment for the digest. In no event, however, may the separate appraisals of the land and improvements exceed the fair market value of the land and improvements when considered as a whole. For appraisal purposes, land shall be separated into different categories based on its use and sales within the market.

1. Site analysis. The appraisal staff shall utilize the trends and factors affecting the value of the subject property, such as its accessibility and desirability. The existing zoning, existing use, existing covenants and use restrictions in the deed and in law shall be applied. The other factors the appraiser shall apply include, but are not limited to, environmental, economic, governmental, and social factors. Site-specific information that may be considered includes, but is not limited to, location, frontage, width, depth, shape, size, topography, landscaping, slope, view, drainage, hydrology, off-site improvements, soil condition, soil productivity, zoning, absorption, nuisances, use, covenants, neighborhood, corner influence, proximity to recreational water, and the quality of access.

2. Market research and verification. The appraisal staff shall build and maintain an up-to-date file system of qualified sales as provided in Rule 560-11-10-.09(2)(d)(1)(ii). Other preferred information to be considered is the motivations of the buyer and seller, as obtained from actual interviews of the parties to the sales. Adjustments to the sales to be considered by the appraiser include, but are not limited to, time of sale; location; physical characteristics; partial interest not conveyed; trades or exchanges included; personal property included; leases assumed; incomplete or unbuilt community property; atypical financing; existing covenants; deed restrictions; environmental, economic, governmental and social factors affecting the sale property and the subject parcel. These adjusted qualified sales may then be used to appraise the subject property.

(b) Acreage tract valuation. The appraisal staff shall determine the small acreage break point to differentiate between small acreage tracts and large acreage tracts and develop or acquire schedules for the valuation of each. When this small acreage break point cannot easily be determined, the appraisal staff shall recommend to the board of tax assessors a reasonable break point of not less than five acres nor more than twenty-five acres. The base land schedules should be applicable to all land types in a county. The documentation prepared by the appraisal staff should clearly demonstrate how the land schedule is applied and explain its limitations.

1. Small acreage tract valuation schedule. After the appraisal staff has performed the site analysis, as provided in Rule 560-11-10-.09(3)(a)(1), they shall analyze the market to identify groups of comparable properties that may be combined in the valuation process, as provided in Rule 560-11-10-.09(4)(b)(3). The appraisal staff shall then analyze the sales to establish a representative base price per acre, and adjustment factors for reflecting value added by the characteristics discovered in the site analysis. Using such base value and the adjustment factors, the appraisal staff shall develop the small acreage schedule for all acreage levels through the small acreage break point.

2. Large acreage tract valuation schedule. After the appraisal staff has performed the site analysis, as provided in Rule 560-11-10-.09(3)(a)(1), they shall analyze the market to identify groups of comparable properties that may be combined in the valuation process, as provided in Rule 560-11-10-.09(4)(b)(3). The appraisal staff shall then analyze the sales to establish a representative benchmark price per acre, and adjustment values for reflecting incremental value associated with different productivity levels, sizes, and locations, as discovered in the site analysis. Using such benchmark values and adjustment values, the appraisal staff shall develop the large acreage schedule for all acreage levels above the small acreage break point.

(i) Land productivity values. The appraisal staff should analyze sales of large acreage tracts to extract the value of all improvements, crop allotments, standing timber, and any other factors that influence the value above the base land value. The appraisal staff should then stratify the sales into two categories of open land and woodland. The base land values should be further stratified into up to nine productivity grades for each category of land, with grade one being the best, using the productivity classifications of the United States Department of Agriculture Natural Resources Conservation Service, where available. Where soil productivity information is not available, the appraisal staff may consult with the local United States Department of Agriculture Natural Resources Conservation Service Supervisor. Alternately, the appraisal staff may use any acceptable means by which to determine soil productivity grades including, but not limited to, aerial and infrared photography, historical soil productivity information, and present use. The appraisal staff should analyze sales within the strata and determine benchmark values for as many productivity grades as possible. The missing strata values are then determined by extrapolating between grades. In the absence of sufficient benchmark values, a system of productivity factors may be developed from crop or timber production based on ratings provided by the United States Department of Agriculture Natural Resources Conservation Service.

(ii) Pond values. The appraisal staff should analyze sales of large acreage tracts containing ponds to extract the value of ponds. The appraisal staff should develop up to three grades of ponds based upon the quality of construction with regard to the dam, the amount of tree clearing within the pond body, and the nature of the waterline around the pond.

(iii) Location and size adjustments. The appraisal staff should plot sales on an index map of the county where trends in sales prices based on size and location may be analyzed. From this analysis, the appraisal staff should develop adjustments for each homogeneous market area, which are based on a tract's location within the county. Within each identified homogeneous market area, sales should also be analyzed to develop adjustment factors for ranges of tract sizes where the market reflects a relationship between the value per acre and the number of acres in a tract. Such factors should be calculated to the fourth decimal place and should extend from the small acreage break point to the tract acreage point where size no longer appears to have a significant impact on the price paid per acre. The appraiser should select an acreage point between these two points that represents a typical agricultural use tract size and assign it an index factor value of 1.0000. Such adjustments should be supported by clearly identifiable changes in selling prices per acre. Finally, large acreage tracts that have sold within the most recent 24 months, unless no such sale has occurred in which case the look back period should be 48 months, should be appraised using the schedule of adjustment factors and a sales ratio study performed to test for uniformity and conformity of the schedule to Rule 560-11-2-.56, and if the schedule thus conforms, the adjustments shall then be applied to all other large acreage tracts that are within the scope of the schedule being tested.

(iv) Adjustments for absorption When insufficient large tract sales are available to create a reliable schedule of factors, the appraisal staff may use comparable sales to develop values for the size tracts for which comparables exist, and then adjust these values for larger tracts by (1) estimating a rate of absorption for the smaller tracts for which data exists, (2) dividing the large tract into smaller, marketable sections, (3) developing a sales schedule with estimated income

by year reflecting the absorption rate and the value characteristics of each of the smaller tracts, (4) discounting the income schedule to the present using an appropriate discount rate, and (5) summing the resulting values to arrive at an estimated value for the property.

(v) Standing Timber Value Extraction. When determining the market value of land underlying standing timber, where such standing timber is taxed in accordance with Code section 48-5-7.5, the appraiser shall not rely exclusively on the sales prices of such land that has recently had the timber harvested. Rather he or she shall also consider sales of land with standing timber after the value of such standing timber has been determined in accordance with this subparagraph and deducted from the selling price.

(I) Determine timber value from buyer and seller. For all types of timber, the value of the standing timber on recently sold land should be determined from reliable information from the buyer and seller clearly segregating the value of the standing timber from the underlying land. In the absence of such information, the appraiser may use one of the following methods to determine the value of the standing timber if in his or her judgment the results are reasonably consistent with other sales where buyer and seller information is known:

I. Calculate value of merchantable timber. For all types of merchantable timber, the value of the standing timber may be determined by multiplying estimated volumes by product class, such as softwood and hardwood pulpwood, chip and saw logs, saw timber, poles, posts, and fuel wood, of timber on the property by prices for each product class as obtained from the table of weighted average prices paid for harvested timber applicable to the year during which the sale occurred and prepared by the Commissioner pursuant to paragraph (g) of Code section 48-5-7.5. For the purposes of this subparagraph, merchantable timber shall include stands that have been in production for more than fifteen years. Estimated volumes by product class may be obtained by one of the following methods: reliable information from the buyer or seller or from specially trained data collectors who have estimated volumes from a visual on-site inspection or from an aerial survey.

II. Calculate value of pre-merchantable planted pine timber. For pre-merchantable planted pine timber, the value of the standing timber may be determined by estimating the value of the timber at the age of merchantability and then prorating this value to the actual age of the pre-merchantable stand. The appraiser may arrive at this estimate using the following steps:

A. For each applicable timber product class, multiply the estimated tons of timber volume yield per acre for each product class at the age of merchantability times the locally prevailing timber price per ton of such product classes. Sum the individual results of the timber product class calculations into a single result.

(A) In the absence of reliable locally prevailing timber price per ton information, the appraiser may use timber price per ton from the table of weighted average prices paid for harvested timber prepared by the Commissioner pursuant to paragraph (g) of Code section 48-5-7.5.

(B) In the absence of specific yield information to the contrary, the appraiser may estimate timber volume yields at an average yield of 52.2 tons per acre or preferably by using the land productivity classifications established by Rule 560-11-10-.09(3)(b)(2)(i) and the following tables of estimated yields of fully stocked planted timber stands at age fifteen, and then adjusting the yields according to the actual stocking density of the timber stand.

Loblolly Pine – Lower Coastal Plain

Georgia Tax Productivity Rating	Georgia Tax Adjusted Site Index Range	Site Index Used For Growth Projections	Tons/ Acre @ Age 15	Pulpwood	Chip-n-Saw
1	90 – 101	96	139	125	14
2	85 – 89	87	110	99	11
3	81 – 84	83	98	88	10
4	80	80	90	81	9
5	75 – 79	77	81	73	8
6	70 – 74	72	69	66	3
7	60 – 69	65	53	51	2
8	10 – 59	45	19	19	0
9	0 - 9	0	0	-	-

Loblolly Pine – Upper Coastal Plain

Georgia Tax Productivity Rating	Georgia Tax Adjusted Site Index Range	Site Index Used For Growth Projections	Tons/ Acre @ Age 15	Pulpwood	Chip-n-Saw
1	90 – 101	96	129	116	13
2	85 – 89	87	103	93	10
3	81 –	83	93	84	9

	84				
4	80	80	85	77	8
5	75 – 79	77	78	70	8
6	70 – 74	72	67	63	4
7	60 – 69	65	52	49	3
8	10 – 59	45	18	18	0
9	0 - 9	0	0	-	-

Loblolly Pine – Piedmont

Georgia Tax Productivity Rating	Georgia Tax Adjusted Site Index Range	Site Index Used For Growth Projections	Tons/ Acre @ Age 15	Pulpwood	Chip-n-Saw
1	90 – 101	96	123	111	12
2	85 – 89	87	98	88	10
3	81 – 84	83	88	79	9
4	80	80	81	73	8
5	75 – 79	77	74	66	8
6	70 – 74	72	62	59	3
7	60 – 69	65	48	46	2
8	10 – 59	45	17	17	0
9	0 - 9	0	0	-	-

Slash Pine – Lower Coastal Plain

Georgia Tax Productivity Rating	Georgia Tax Adjusted Site Index Range	Site Index Used For Growth Projections	Tons/ Acre @ Age 15	Pulpwood	Chip-n-Saw
1	90 – 101	96	155	139	16
2	85 – 89	87	114	103	11
3	81 – 84	83	98	88	10
4	80	80	87	78	9
5	75 – 79	77	77	69	8
6	70 – 74	72	61	58	3
7	60 – 69	65	42	40	2
8	10 – 59	45	11	11	0
9	0 - 9	0	0	-	-

Slash Pine – Upper Coastal Plain

Georgia Tax Productivity Rating	Georgia Tax Adjusted Site Index Range	Site Index Used For Growth Projections	Tons/ Acre @ Age 15	Pulpwood	Chip-n-Saw
1	90 –	96	150	135	1

	101				5
2	85 – 89	87	113	102	11
3	81 – 84	83	99	89	10
4	80	80	87	78	9
5	75 – 79	77	77	69	8
6	70 – 74	72	62	59	3
7	60 – 69	65	43	41	2
8	10 – 59	45	12	12	0
9	0 - 9	0	0	-	-

(C) In the absence of reliable local information on typical timber product class volume yields at the age of merchantability, the appraiser may assume that ninety percent (90%) of the timber will be pulpwood and ten percent (10%) will be chip-n-saw.

B. Multiply the result in subparagraph A. by the number of acres of pre-merchantable timberland.

C. Deduct from the result in subparagraph B. the normal cost to establish a timber stand on cut over woodland, which shall be known as the base value. Normal cost may be determined from planters, local site preparation and planning contractors and other reliable sources.

D. Divide the result in subparagraph C. by the age of merchantability to determine the average annual timber growth value. In the absence of reliable local information to the contrary, the age of merchantability shall be fifteen years.

E. Multiply the result in subparagraph D. by the actual age of the standing timber to arrive at the value of the accumulated timber growth.

F. Add back the base value deducted in subparagraph C. to the result in subparagraph E. to yield the total value of the pre-merchantable standing timber.

III. Determine value of other pre-merchantable timber.

For types of pre-merchantable timber other than planted pine, the value of the standing timber may be determined from the best information available. In the absence of local reliable information to the contrary, the value of other pre-merchantable timber may be estimated as follows:

A. Natural stands less than five years of age should be assigned no value.

B. Natural pre-merchantable stands five years of age and older should be valued in the same manner as planted pine timber is valued, except the appraiser should make no adjustments for the base cost of establishing the timber stand; yields for natural pine stands should be estimated at fifty percent of the volume determined for a planted pine stand; and yields for hardwood stands should be estimated at forty percent of the value determined for a planted pine stand.

(c) Site valuation. The appraisal staff may use the valuation methods in this subparagraph to appraise sites that have been developed for residential, commercial or industrial use.

1. Valuation methods with sufficient sales. The appraisal staff shall use one, or a combination of more than one, of the valuation methods in this subparagraph when sufficient sales are available to reliably support the appraisal. These methods may be used to value the land directly.

(i) Comparative unit method. To use the comparative unit method, the appraisal staff shall stratify the land sales into a stratum comparable in market area or use type to the subject parcel. The appraiser then determines a land comparison unit by which the subject parcel is normally bought and sold in the market place and converts the sales price of the comparable properties to an typical per comparison unit value, using the median measure of central tendency. Per-measurement-unit, lump sum, and percentage adjustments are then made as needed to reflect the value of subject land features that differ from the base land features. The appraiser may use one of the following five basic comparison units: front foot, square foot, acre, site or lot, and units buildable. The appraisal staff may rely upon the comparative unit method for areas where parcels vary in size but are fairly homogeneous in other aspects, as opposed to areas where the sites are similar in size but vary substantially in site characteristics. The reliability of the analysis should be verified by a calculation of the coefficient of dispersion and the price related differential. These statistical indicators should fall within the standards of Rule 560-11-2-.56 before the appraiser relies upon the selected sales to appraise the subject parcel.

(ii) Base lot method. To use the base lot method, the appraisal staff shall appraise the base parcel in each stratum using the comparative unit method, with the base lot serving as the subject parcel. Once the base-lot's appraised value is established, it is used as a benchmark to appraise other individual parcels. The appraiser may use the base-lot method when the site characteristics are generally similar. Adjustments shall be developed using paired-sales analysis or other forms of market research. Then, the appraiser shall adjust the comparables to the base lot, calculate the measure of central tendency, and select a representative base-lot appraised value. The reliability of the analysis may be verified by a calculation of the coefficient of dispersion and the price related differential. These statistical indicators should fall within the standards of Rule 560-11-2-.56 before the appraiser relies upon the selected sales to select a base-lot appraised value.

(iii) Cost-of-development method. To use the cost-of-development method, the appraisal staff shall estimate the total development costs and subtract these costs from the projected sales prices of the developed lots to indicate the appraised value for the raw land. The projected improvements must represent the most probable use of the land. Estimated costs should include the direct costs of site preparation, utility hookups, all indirect costs, and a reasonable allowance for owner profit. The appraiser may use this method to directly value land in transition from agricultural use to residential or commercial use when there are insufficient sales to apply the comparative unit or base lot methods.

2. Valuation methods with insufficient sales. When vacant land sales are limited, the appraisal staff may use alternative methods to determine residual land values. These residual land values may be used in the same way as vacant land sales in order to establish comparative unit or base lot values. The appraisal staff shall not use these methods to establish land values directly. The alternative methods that may be used are allocation, abstraction, capitalization of ground rent, and land residual capitalization.

(i) Allocation method. Using this method, the appraisal staff estimates the typical percentage of combined land and improvement value attributable to the land alone. This land percentage estimate should be based on knowledge of the market for properties of the class being appraised and the appraiser should take into consideration the site value in previous years before being improved, the land-to-improvement ratios in similar neighborhoods, and an analysis of new construction on similarly classified sites.

(ii) Abstraction method. Using this method, the appraisal staff estimates the land residual value by subtracting the depreciated replacement cost of improvements from the sale price of an improved property.

(iii) Capitalization of ground rents method. Using this method, the appraisal staff determines the market rent of the subject site, computes a net income, selects a capitalization rate, and computes the present worth of the future benefits of the subject parcel. The appraiser should not use this method when there is insufficient market information available to estimate the income potential of the subject parcel.

(iv) Land residual capitalization method. Using this method, the appraisal staff develops the annual net operating income attributable to the property and develops capitalization rates for both the land and the improvements to the land. The estimated improvement value is multiplied by the improvement capitalization rate and the result is deducted from the forecasted annual net operating annual income. The remaining income, the residual amount attributable to the land, is then capitalized, using the land capitalization rate, into a value indicator for the land. The appraiser should only use the land residual capitalization method on new income-producing improved properties either when the improvement has little or no observed depreciation of any kind and a well-supported improvement value can be developed, or when an improvement can be hypothesized and its cost and net operating income reliably estimated.

3. Special procedures. The appraisal staff shall observe the special procedures contained in this subparagraph when appraising the described property types.

(i) Transitional land. The appraisal staff shall analyze any unusual sale amount for a single parcel of land that seems to indicate a transition from one type land use to another type land use, such as from agricultural to residential or from residential to commercial and conversely. The appraisal staff should consider that a single sale might not necessarily indicate a changing market. The appraisal staff should analyze such sales to ensure that the new use is clearly indicated by a pattern of sales before qualifying and adjusting such sales for use as comparables for appraising the remaining comparable land.

(ii) Absorption rates. When appraising a new subdivision, the appraisal staff shall use discounted cash-flow analysis in conjunction with the cost-of-development method to appraise the unsold parcels when it is anticipated that the parcels will require several more years of exposure to the market to sell. The appraisal staff may consider typical holding periods, marketing, and management practices when estimating anticipated revenues and allowable expenses.

(4) Improvement valuation. Except as provided in subparagraph (a) of this subparagraph, the appraisal staff will use the following three approaches when appraising real property: the direct sales comparison approach, the cost approach, and the income approach. In determining the reliability and representativeness of each approach or combination of approaches, the appraisal staff shall consider those factors most likely to influence buyers and sellers when those buyers and sellers are determining exchange prices in the market place, and the sufficiency of available sales, cost, income and expense information to reliably quantify those factors. However, irrespective of the valuation approach used, the final results of any appraisal of real property by the appraisal staff shall in all instances comply with the definition of fair market value in Code section 48-5-2.

(a) Cost approach. The appraisal staff shall use the following three steps when applying the cost approach: Estimate the cost new of the improvements, subtract accrued depreciation, and add the value of the land.

1. Estimating cost new. In estimating the cost new of any buildings, structures, or other improvements to land, the appraisal staff shall consider the following:

(i) Types of costs. The appraisal staff shall include both direct and indirect costs that would be incurred to build and market the property, including normal overhead and profit. The approach would normally produce the replacement cost. The appraisal staff may consider the reproduction cost, and adjust for depreciation accordingly, when appraising an unusual or special-purpose property.

(I) Comparative unit method. Unless otherwise provided under Rule 560-11-10-.09(4)(a)(1)(i), the appraisal staff shall determine benchmark per-square-foot, per-cubic-foot, or other per-measurement-unit costs for base structures using cost guides or local cost information. Such benchmark per-measurement-unit costs may then be applied to the subject improvements to determine typical replacement cost new. Per-measurement-unit, lump sum, and percentage adjustments are then made as needed to reflect the value of subject improvements features that differ from the base structures. All forms of depreciation are then applied as a lump sum factor based on the age and useful life of the subject improvements.

(II) Unit-in-place method. The appraisal staff may use the unit-in-place method when making adjustments in the comparative unit method. This method determines costs of individual construction components on a per-measurement-unit, in-place basis. The total cost of each component of the subject improvement is then found by multiplying the various per-measurement-unit costs by the number of actual measurement units installed in the subject improvement. The appraisal staff may also use this method when estimating costs for unusual or special-purpose improvements, in which case the component costs would be summed and combined with applicable indirect costs to obtain an estimate of the total replacement cost new of the subject improvements. All forms of depreciation are then applied as a lump sum factor based on the age and useful life of the subject improvements

(III) Quantity survey method. The appraisal staff may separately itemize all various labor, material, and indirect costs when it is desirable to produce the reproduction cost new. All forms of depreciation are then applied separately based on the physical deterioration, functional obsolescence, and economic obsolescence observed by the appraiser. The appraisal staff may use this method in the development and trending of comparative unit and unit-in-place costs.

(IV) Trended original cost method. When determining the cost of structures where the comparative unit or unit-in-place methods are inapplicable, the appraisal staff may trend the original costs over time by factors obtained from a construction cost index guide. The appraisal staff shall not use this method when the original cost figures are not accurate or complete.

(ii) Sources of cost information. The appraisal staff may obtain cost information by directly collecting information from contractors, builders, developers, property owners, and other market

place participants. Cost information may be obtained from firms that compile and publish construction information, with the appraisal staff supplementing or modifying such information with locally gathered cost information. The appraisal staff may obtain cost manuals specifically developed for the county by construction cost services and mass appraisal firms.

(iii) Updating costs. Cost information shall be updated by the appraisal staff as necessary to reasonably reflect current construction costs for the various construction classes. Indexing may be used in the short term to update cost information, but in no event shall the appraisal staff rely on indexing alone for more than three years.

(iv) Location modifiers. The appraisal staff shall develop base construction cost tables. Modifiers, in the form of factors to be applied to the cost tables, may then be developed for areas to reflect local market conditions. Different sets of modifiers may be necessary to reflect the market for different property types within a county.

(v) Cost models. The appraisal staff shall develop or acquire representative cost models that contain the manual or automated cost factor tables used in the cost approach. The models should be applicable to all building types in a county and be based on actual updated costs as defined in Rule 560-11-10-.09(4)(a)(1)(iii). The models should clearly identify included indirect costs, contain depreciation estimation guidelines, and provide for systematic cost estimation on manual or automated forms. The documentation prepared by the appraisal staff should clearly demonstrate how the cost model is applied and explain its limitations.

2. Estimating depreciation. The appraisal staff shall estimate the depreciation by determining the difference between replacement or reproduction cost new and the current market value of an improvement. This determination shall require an analysis by the appraiser of physical deterioration, functional obsolescence and economic obsolescence present, keeping in mind that physical deterioration and functional obsolescence may include curable and incurable components. The appraiser may estimate depreciation as a total amount or as a percentage of replacement or reproduction cost new. Improvements with special circumstances may be treated on an exception basis. The appraisal staff shall use the effective age of improvements, when different from the actual age, when estimating depreciation. The methods the appraisal staff may use to estimate depreciation include, but are not limited to, the following four methods:

(i) Sales comparison method. To apply the sales comparison method, the appraisal staff develops estimates of total depreciation from market-derived schedules. To develop such schedules, the appraiser stratifies the sales information by type of construction and other relevant features. The appraiser then computes building residuals by deducting estimated land values from the sales prices and expressing the building residuals as a percentage of replacement cost new. The resulting "percent good" factors are then plotted against the effective ages of the properties to develop the depreciation tables. This method may be used when current representative and adequate sales information is readily available.

(ii) Age/Life method. To apply the age/life method, the appraisal staff develops estimates of physical deterioration and normal functional obsolescence using a simple sliding scale or straight-line calculation and then applies any necessary adjustments for additional functional or economic obsolescence. This method may be used when current representative and adequate sales information is not readily available.

(I) Capitalization of income method. To apply the capitalization of income method, the appraisal staff uses income-based appraisals in place of sales and applies these appraisals to the sales comparison method to develop estimates of total depreciation.

(II) Observed condition method. To apply the observed condition method, the appraisal staff breaks down depreciation into all its various component parts. This method requires detailed analysis of all forms of depreciation and is generally reserved for "model building," special use properties, or when raised by a property owner during the course of an appeal.

(b) Sales comparison approach. When using the sales comparison approach, the appraisal staff shall estimate value by comparing the subject property to similar properties that have recently sold. The appraisal staff shall use the following four steps when applying the sales comparison approach: market research and verification, selecting appropriate units of comparison, making reasonable adjustments based on the market, and applying the adjusted comparison units to the subject of the appraisal.

1. General considerations. The appraisal staff shall consider the following when applying the sales comparison approach:

(i) Bona fide sales preferred. A bona fide sale of a subject property should be carefully analyzed by the appraisal staff to determine if it is an accurate indicator of such subject property's fair market value. When such a sale is supported by sufficient other sales of similar property to reasonably estimate the market, the appraisal staff shall consider the sale as the best evidence of fair market value. In the absence of such a sale of the subject, sales prices of comparable properties shall be considered the best evidence of fair market value.

(ii) Economic principles affecting approach. When applying the sales comparison approach, the appraisal staff shall rely upon the economic principles of supply and demand, substitution, and contribution. The interaction of supply and demand factors determines property prices. The principle of substitution states that a prudent buyer will pay no more for a property than for a comparable property with similar utility. The principle of contribution as applied to the sales comparison approach means the value of a property component is measured by its contribution to the whole rather than by its cost.

2. Market research and verification. The appraisal staff shall build and maintain an up-to-date file system of qualified sales as provided in Rule 560-11-10-.09(2)(d)(1)(ii). Other preferred information to be considered is the motivations of the buyer and seller, as obtained from actual interviews of the parties to the sales. Adjustments to the sales to be considered by the appraiser include, but are not limited to, time of sale; location; physical characteristics; partial interest not conveyed; trades or exchanges included; personal property included; leases included; incomplete or unbuilt community property; atypical financing; existing covenants; deed restrictions; environmental, economic, governmental and social factors affecting the sale property and the subject parcel. These adjusted qualified sales may then be used to appraise the subject parcel.

3. Market analysis and stratification. The appraisal staff shall analyze the market to identify groups of comparable properties that may be combined in the valuation process. Properties may be combined and classified to reflect use, location, neighborhood, or other comparison criteria that have been shown to reflect the interest of buyers and sellers.

4. Comparable sales analysis. When applying the analysis, the appraisal staff should identify a representative number of comparable properties that have recently sold, apply the adjustments indicated by the market research and verification process to such comparables, and then adjust such comparables for physical differences from the subject property. The appraiser may then develop an estimated value of the subject property from the adjusted sales prices of the comparable properties. This process may be computer assisted in a mass appraisal environment.

5. Sales ratio applications. The appraisal staff shall conduct sales ratio studies to periodically measure the quality of their appraisals relative to the market. Such studies should be designed to measure whether appraisals meet the overall legal standards provided in Rule 560-11-2-.56

and provide more precise analysis of the quality of appraisals within and between market strata used by the appraisal staff to compare properties. When sales ratio studies reveal excessive inequities within a stratum, the appraisal staff should consider reappraising the properties in the stratum. When such studies reveal excessive inequities between strata, and there is acceptable uniformity within the strata, the appraisal staff should consider trending to correct this uniformity problem.

(i) Trending. The appraisal staff shall use the procedures in this subparagraph when applying trend factors to improve uniformity. Stratify properties by property type and neighborhood. Determine the measure of central tendency by computing the median assessment ratio, substituting the aggregate ratio when the properties in the stratum tend to be heterogeneous. Then divide the legal assessment ratio by the calculated measure of central tendency to calculate the trend factor. The appraisal staff should not apply trending factors in excess of 1.15. In such instances, the appraisal staff should correct intra-strata differences by reappraising the properties within the affected strata. Before finalizing the application of trending factors, the appraisal staff should calculate the coefficient of dispersion to verify that uniformity among assessments will be improved by trending.

(c) Income approach. When using the income approach, the appraisal staff shall estimate value by determining the present value of the projected income stream from the use of the subject property in the future.

1. Income and expense analysis. The appraisal staff shall analyze the income stream and project a future income stream that reflects typical management and current market conditions.

(i) Components of income and expense analysis. The appraisal staff may consider the following components when performing the income and expense analysis: typical unit rent, potential gross income, miscellaneous income, effective gross income, vacancy and collection loss, typical expenses, replacement reserves, and net operating income. Expenses such as depreciation charges, debt service, ad valorem taxes, income taxes, and business expenses not associated with the property should not be considered. While complete information is not required on each individual property, the appraisal staff should secure sufficient information to develop typical unit rents, typical vacancy and collection loss ratios, and typical expense ratios for various type properties before applying the income approach.

(ii) Analyzing reported data. The appraisal staff may use actual income and expense information when they reflect typical management and current market conditions; otherwise, typical figures should be used. The appraiser may stratify properties and develop typical unit rents, vacancy and collection loss ratios, and expense ratios to evaluate the reasonableness of reported figures for individual properties and to substitute for unreported figures. The appraiser may also use multiple regression analysis to estimate typical rents as a function of such variables as construction quality, age, location, size of building, and other relevant factors. Multiple regression analysis may also be used to estimate typical expense ratios, and other income and expense components. The appraiser should not consider outdated or non-market leases. Percentage leases should be expressed in actual dollar amounts and averaged over a period of years. Periodic expenditures for replacements should be pro-rated over their economic lives.

2. Capitalization methods. The appraisal staff shall use the procedures in this subparagraph to capitalize the income into an estimate of value. The appraisal staff may utilize the following rates while using the income approach and its various methods and techniques. The discount rate is the annual return on the investment in the property. It is a component of a total capitalization rate. The interest rate is the rate of return on borrowed funds. It is a component of

the discount rate. The equity yield rate is the annual return on the equity portion of the investment in the property. It is a component of the total capitalization rate in the mortgage equity technique.

(i) Direct capitalization. The appraisal staff shall, when applying this method, use either overall rates or income multipliers. Both require adequate sales data and accurate estimates of potential annual gross income, effective annual gross income, or annual net operating income.

(I) Overall rates. Using the most common version of this method, the appraisal staff develops the annual net operating income of a sample of properties that have sold. The individual annual net operating incomes are divided by the individual sale prices resulting in the individual overall rates. A representative overall rate is then selected from the sample and applied to the subject property by dividing its annual net operating income by the selected overall rate resulting in an estimate of value for the property. The appraisal staff may also employ other techniques to develop an overall rate, such as the weighted land to improvement ratio method; the net income ratio method, and the debt coverage ratio method.

(II) Income multipliers. Using this method, the appraisal staff may use potential gross income, effective gross income, or annual net operating income from a sample of properties that have sold. Individual sale prices are divided by the selected level of income resulting in individual multipliers. A representative multiplier is then selected from the sample and applied to the subject property by multiplying the selected level of income by the multiplier appropriate to the level of income selected resulting in an estimate of value for the property.

(ii) Annuity capitalization. Annuity capitalization may be used to apply the income approach when the subject property is under a long-term lease. The appraisal staff develops capitalization rates for both land and improvements to the land. The appropriate residual technique is selected based on the known value of either land or improvement. The land or improvement value is multiplied by the appropriate capitalization rate, and the result is deducted from the annual net operating income. The remaining residual income to either land or improvement is then capitalized by the appropriate rate resulting in an estimate of value for either land or improvement.

(iii) Sinking fund capitalization. Sinking fund capitalization may be used to apply the income approach when periodic reserves for replacement are set aside in equal amounts, at a safe rate, in order to restore or rebuild the improvements in the future. It is applied in the same manner as annuity or straight-line capitalization.

(iv) Straight-line capitalization. Straight-line capitalization may be used to apply the income approach when the appraisal staff uses straight-line depreciation schedules. It is applied in the same manner as annuity capitalization and sinking fund capitalization.

(v) Discounted cash flow analysis. Discounted cash flow analysis may be used to apply the income approach when the appraisal staff is valuing a lease and the residual value of the property at the end of the lease term. Each year's income stream is discounted by applying a present-value factor to the cash flow expected for each year. The estimated property value at the end of the lease term is also discounted. The discounted amounts are summed resulting in an estimate of value for the property.

(vi) Mortgage equity analysis. Mortgage equity analysis may be used when the appraisal staff can reliably determine mortgage terms and cash flow and reliably estimate the holding period and the percentage by which the property will appreciate or depreciate over the holding period. The appraisal staff computes a constant annual payment from the interest rate and amortization term and selects an appropriate equity yield rate. The estimated cash flow over the holding period is discounted at the equity yield rate, as is the anticipated selling price of the property. The two discounted amounts are added to the present mortgage balance resulting in an estimate the value for the property.

(vii) Residual capitalization techniques. The appraisal staff may use a residual technique to apply the income approach when either the improvement or land component of the property value can be reliably estimated or documented by sales.

(viii) Building residual technique. The appraisal staff may use a building residual technique when the land value of the subject property is known and documented by comparable sales. The appraisal staff develops the total annual net operating income attributable to the property and develops capitalization rates for land and improvements to the land. The land value is multiplied by the land capitalization rate and the result is deducted from the total annual net operating income. The remaining residual income to the improvement is capitalized using the improvement capitalization rate into an indicator of value for the improvement. This is added to the land value resulting in an estimate of value for the property.

(ix) Land residual technique. The appraisal staff may use this technique when the improvement value is known and documented by current cost figures. It is applied in the same manner as the building residual technique except a residual land income is capitalized into an indication of land value and added to the improvement value resulting in an estimate of value for the property.

(d) Special procedures. The appraisal staff shall observe the special procedures contained in this subparagraph when appraising the described property types.

1. Valuation of common areas. The appraisal staff shall take into account the extent that the fair market value of individually owned units in a residential subdivision, planned commercial development, or condominium also represents the fair market value of any ownership interest in any common area that is conveyed with the individually owned units. When the appraisal staff determines that the fair market value of the common area is included in the fair market value of the individually owned units, the appraisal staff may recommend a nominal assessment of the common area parcel. When the appraisal staff makes such a determination, the fair market value of residual interests not conveyed to the owners of the individually owned units shall be appraised and an assessment recommended to the board of tax assessors.

2. Construction in progress. Construction in progress shall be appraised in the same manner as other similar real property taking into account that there may be little or no physical deterioration on such property and that the fair market value may be diminished due to the incomplete state of construction. The appraisal staff should attempt to value construction in progress by forecasting the future cash flow a project would generate and discounting at a rate that reflects the risk and uncertainty of that cash flow. If the construction in progress is being financed by a lending institution that has established an account from which funds may be drawn by the builder as construction progresses, the appraisal staff may consider the percentage of such funds expended as of January 1 as a possible indication of percentage completion of construction in progress. In the absence of sufficient information to perform such an analysis, the appraisal staff should estimate the percentage of completion of all construction in progress as of January 1 of the tax year using the best information available. The appraisal staff should then estimate the fair market value of the improvement upon completion. The appraisal staff should then estimate the fair market value as of January 1 as being the estimated fair market value upon completion multiplied by the percentage of completion on January 1. If comparable sales information of real property under construction is generally not available and there is no other specific evidence to measure the probable loss of value if the property is sold in an incomplete state of construction, the appraisal staff may multiply the identified total cost of construction by a uniform market risk factor of .75.

3. Assemblage. The county appraisal staff shall not combine multiple rural parcels into a single taxable rural parcel unless all the following have been satisfied: (1) parcels must be contiguous or separated by only a stream, creek, non-navigable river, road, street, highway, railroad or other recognized thoroughfare, (2) parcels must be titled in exactly the same name, (3) parcels must fall entirely within the same taxing district, and (4) parcels that are contiguous but lie in different taxing districts and are otherwise eligible for combination shall be valued in the same manner as the total acreage of the combined parcels would dictate.

(5) Final estimate of fair market value. After completing all calculations, considering the information supplied by the property owner, and considering the reliability of sales, cost, income and expense information, the appraisal staff will correlate any values indicated by those approaches to value that are deemed to have been appropriate for the subject property and form their opinion of the fair market value. The appraisal staff shall present the resulting proposed assessment, along with all supporting documentation, to the board of tax assessors for an assessment to be made by that board.

Authority: O.C.G.A. §§ 48-2-12, 48-5-2, 48-5-10, 48-5-11, 48-5-12, 48-5-15, 48-5-18, 48-5-20, 48-5-105, 48-5-263, 48-5-269, 48-5-269.1, 48-5-299, 48-5-300, 48-6-1 through 48-6-10.

JUDICIAL DECISIONS

Gold Kist, Inc. v. Jones, 231 Ga. 881, 204 S.E.2d 584 (1974)

Exemptions from taxation must be strictly construed, and an exemption will not be held to be conferred unless the terms under which it is granted clearly and distinctly show that such was the intention of the General Assembly.

Trustee of Academy v. Bohler, 80 Ga. 159, 7 S.E. 633 (1887)

Scheme of exemption as to other than public property seems to be this: To exempt all that is used immediately and directly as a part of the establishment in the conduct of the regular business there carried on, but not such as may be devoted to other uses, such as farming, merchandising, manufacturing, etc, and from which profit or income is derived.

Thomas v. Northeast Ga. Council, Inc, BSA, 241 Ga. 291, 244 S.E.2d 842 (1978)

Burden of proving a tax exemption under this Section is on party seeking exemption.

Colvard v. Ridley, 218 Ga. 490, 128 S.E.2d 732 (1962)

The tax assessors may use any system, method, cadastral survey, books, available lists of valuation of types of property, city valuations, or other instruments or other information obtainable, provided such information is the best information available in their fixing of just and fair valuation of the property assessed, and provided that the taxation as between individual taxpayers is justly and fairly equalized.

Rogers v. DeKalb Co Board of Tax Assessors, 247 Ga. 726, 279 S.E.2d 223 (1981)

No requirement for tax assessors to use any definite system or method but demands only that valuations be just and that they be fairly and justly equalized among the individual taxpayers according to the best information obtainable.

Fulton County v. Strickland, 251 Ga. 473, 306 S.E.2d, 299 (1983)

It is the duty of the commissioner under this section to ascertain the value of the entire class of property, and to provide for uniformity among the counties. It is the responsibility for the county to provide for equalization between properties within a class. The commissioner is precluded from subdividing classes of property and applying different factors for each subdivision within a class.

Thorpe v. Benham, 161 Ga. App. 116, 289 S.E.2d 275 (1982).

Piecemeal or spot reappraisals which follow a general appraisal of residential property throughout the jurisdiction and which results in a significant increase in taxes without regard to any equalization between taxpayers is contrary to the statutory mandate and void.

General Consideration

Evidence is defined as the means by which any fact is put in issue, established, or disproved. Hotchkiss v. Newton, 10 Ga. 560 (1851).

Prima facie evidence is such evidence as in judgment of law is sufficient, and if not rebutted remains sufficient. Georgia R.R. & Banking Co. v. Smith, 83 Ga. 626, 10 S.E. 235 (1889).

Primary evidence. - When the existence of a fact is the question at issue and not the contents of a writing, then oral and written evidence of the fact may both be primary evidence. Wells v. State, 151 Ga. App. 416, 260 S.E.2d 374 (1979), overruled on other grounds, Copeland v. State, 160 Ga. App. 786, 287 S.E.2d 120 (1982).

Competent Evidence

Evidence of doubtful competency or relevancy should be admitted and the weight of the evidence left to the jury. Crass v. State, 150 Ga. App. 374, 257 S.E.2d 909 (1979).
Cumulative Evidence

Redundant testimony. - In a condemnation proceeding, testimony that was redundant of actual ordinances, zoning regulations, and of a land use plan already testified to by another was properly excluded. Hall County v. Merritt, 233 Ga. App. 526, 504 S.E.2d 754 (1998).

Preponderance of Evidence

How preponderance determined. - Preponderance is to be determined from all evidence regardless of by which party the evidence is introduced. Anderson v. Savannah Press Publishing Co., 100 Ga. 454, 28 S.E. 216 (1897).

Standard in civil cases. - Establishment of facts in civil cases to a moral and reasonable certainty is not required, but their establishment by a preponderance of the evidence is sufficient. Masonic Relief Ass'n v. Hicks, 47 Ga. App. 499, 171 S.E. 215 (1933).

Preponderance required on each issue. - It is correct in a jury instruction to define what is meant by preponderance of evidence in the language of the statute and to add, "and where there is more than one issue in the case, this rule or definition of preponderance of the evidence relates to each and all of the issues of fact to be determined by you," since, regardless of when the burden of proof lies, it is correct to instruct the jury that the jury shall find according to the preponderance of evidence upon any issue submitted. Patillo v. Thompson, 106 Ga. App. 808, 128 S.E.2d 656 (1962).

"Preponderance" when defendant offers no evidence. - When the defendant offers no evidence at all, an instruction that a preponderance of evidence is evidence "stronger than the evidence of the defendant" almost guarantees that any evidence offered by the plaintiff, as against zero evidence, must be considered a preponderance. Such charge is error. Superior Paving, Inc. v. Citadel Cement Corp., 145 Ga. App. 6, 243 S.E.2d 287 (1978).

"Preponderance" does not mean "strong predominance." - Charge that a preponderance of the evidence could be determined by asking "which way does it strongly predominate," was erroneous as the degree of proof required by such instructions was greater than that provided by the statute. Garrison Motor Co. v. Parrish, 52 Ga. App. 766, 184 S.E. 766 (1936).

"Preponderance" does not mean "stronger evidence." - Trial court erred in characterizing preponderant evidence as "stronger." Danforth v. Danforth, 156 Ga. App. 236, 274 S.E.2d 628 (1980).

Reasonable and impartial mind. - In instruction to jury by judge, the use of the words "your minds," omitting any references to "a reasonable and impartial mind," did not lead the jury to believe that they might determine the preponderance of the evidence solely on the basis of what the jury might think of the evidence and not on what "a reasonable and impartial mind" might think of it. This charge affords no ground for a new trial in the absence of a proper, timely written request for a more specific instruction on the subject. Southern Ry. v. Wilcox, 59 Ga. App. 785, 2 S.E.2d 225 (1939).

Presumptive Evidence

Value of property. - Value of merchandise is generally matter of opinion, but the jury may consider such opinion testimony, make reasonable deductions, and exercise their own knowledge and ideas. Jones v. State, 139 Ga. App. 366, 228 S.E.2d 387 (1976).

Value is peculiarly for determination of the jury, but there must be evidence upon which the jury may legitimately exercise the jury's own knowledge and ideas. Citizens & S. Nat'l Bank v. Williams, 147 Ga. App. 205, 249 S.E.2d 289 (1978).

Question of value is peculiarly for the determination of the fact finder when there is any data in the evidence from which the fact finder may legitimately exercise the fact finder’s own knowledge and ideas. Such is presumptive evidence, which consists of inferences drawn by human experience from the connection of cause and effect and observations of human conduct. Adamson Co. v. Owens-Illinois Dev. Corp., 168 Ga. App. 654, 309 S.E.2d 913 (1983).

Board of Equalization Sample Information and Procedure Letter

The Board of Equalization is made up of property owners appointed by the Grand Jury of this county. In addition to being property owners, the appointees to the Board of Equalization must also be qualified and competent to serve as grand jurors and be high school graduates. If the grand jury deems a person qualified, an appointee is compellable to serve on this Board of Equalization. Each member must satisfactorily complete 40 hours of special training before he or she can participate as a member of this Board. Each member must also complete 8 hours of update training annually each year thereafter. In addition, each member must complete 20 hours of training during the first year of each reappointment of subsequent terms. Board is charged by law to hear appeals of property tax matters that include:

Value – What the property would sell for in a transaction between a knowledgeable buyer and a willing seller in a bone fide arm's length transaction? *(O.C.G.A. § 48-5-2).*

Uniformity of value – That assessments are fairly equalized between individual taxpayers (*O.C.G.A. § 48-5-299)*. This relationship is measured through statistical testing not the comparison of individual values. *For more information contact the county appraisal staff.*

Taxability – Is the property exempt from taxation or subject to taxation as provided for in Georgia law? *(O.C.G.A. §§ 48-5-3, 41, 41.1, 42, 43, 48.1, 48.2).*

Denial of homestead exemptions – Does the property qualify for homestead exemption? *(Georgia law provides for statewide exemptions O.C.G.A. §§ 48-5-44 through 54. There may also be local exemptions available for more information contact the county tax commissioner).*If an application for one these exemptions has been denied by the board of tax assessors this action may be appealed.

Denial of special assessments – Georgia law provides for special assessments of certain types of property such as, property used for agricultural purposes (conservation use, agricultural preferential, Forest Land Protection Act of 2008), rehabilitated and landmark historic properties, contaminated property (also known as Brownfield), certain environmentally sensitive property and storm water / wetlands. *(For more information on these contact the county appraisal staff or tax commissioner)* If an application for one of these special assessments has been denied or a breach of an existing covenant declared by the board of tax assessors this action may be appealed.

The members of the Board hearing each case must also meet the same criteria and objectivity requirements a potential juror must meet each time they are scrutinized for service on civil cases involving the same subject matter. The members have to be impartial and unbiased for each case he or she hears. If any appellant property owner or tax assessor believes a member to not meet the requirements mentioned above, either party has the right to ask the member to remove himself or herself from the case. This request must be made at least five days prior to the hearing. The names of the

members that will hear each case will be on the notice sent to the taxpayer and tax assessor in writing setting the time and date for the hearing.

Please note the date and time for your hearing. The Board of Equalization is required to give the property owner and the tax assessor ample time to prepare for your hearing, and therefore the board expects both parties to be ready to present all evidence at the scheduled time. If for any reason, either party has a legitimate problem with the date and time for this hearing, you may request a change by notifying the secretary of our board at least five days prior to the hearing. If either party encounters an emergency that will not allow you to be on time, you may notify the secretary of the board up to the time of the hearing. If there is no such request prior to the hearing, the board shall hold the hearing as scheduled and shall notify both parties of the board's decision as required by law.

The taxpayer has the right to be represented at the hearing by an agent, attorney, appraiser, etc. If any taxpayer plans to be represented by any such person, the taxpayer MUST SUBMIT THE NAME OF THE PERSON IN WRITING, to the secretary of the board at least five days prior to the hearing. This must be done regardless if the taxpayer is present or not at the hearing. No one will be permitted to present information or speak on behalf of anyone unless the board receives the written notification above. Immediate family members and or spouses are exempt from this requirement.

The Board will listen to all pertinent information concerning the matter under appeal. Prior to the hearing, it is suggested that the property owner take advantage of discussing the data about the physical characteristics of the property with the person in the tax assessor's office that is administratively responsible for the handling of this appeal. The name of such person including the phone number of such person should be on the change of assessment notice the property owner received. Although, the tax assessor has the burden of proving its opinion of value by a preponderance of evidence, in order for the property owner to successfully appeal the determination of the county board of tax assessors it will be to their great advantage to be prepared to present at least an opinion of value and some support for that opinion of value at the time of the hearing. The Board will give the property owner the option of presenting his or her information first. Both parties will be afforded an opportunity to present information without interruption. After the initial presentation, both parties will be given a chance to cross-examine, rebut, or question the other party's information. The Chairperson of the board may direct either party to stick to relevant information. The chairperson shall control and conduct the hearing. The chairperson shall decide on all motions and requests made by either party. The chairperson may administer oaths, reprimand, exclude, or dismiss any person from the hearing because of improper conduct or other circumstances.

This is going to be a hearing concerning one of the matters referred to in paragraph one of these procedures. An appeal is certainly based upon a difference of opinion as to one of these matters. A difference of opinion does not have to create or ignite hostilities between the two parties involved. Please keep on track as to what information you feel you need to present on your behalf and do not dwell on what is wrong on the other side.

Present positive information to support your opinion and not negative information. Your chances of succeeding will be much better if you present a good positive case. The board does not investigate or research, but simply listens to information presented and makes a decision based on this information presented by both parties. Therefore, you cannot expect this board to do anything for you that you do not bring to the table for yourself. The Board is not a watchdog. It is a neutral and independent entity that is charged by law to base its decision on the best information presented to the Board.

When all information has been presented and all closing statements have been made, the Board will deliberate and make a decision. All deliberations of the Board are open to anyone. The Board will make an honest effort to deliberate immediately after the hearing. If time constraints will not allow this, the property owner will be given a time and date that the deliberation will take place. A copy of the decision will be sent to the property owner in writing by certified mail and the original copy will be filed with the tax assessor.

The notice of the decision also contains a statement that each of the three members has satisfied the requirements of O.C.G.A. § 48-5-311(j) by answering all necessary questions before serving. The taxpayer or the board of tax assessors may appeal the decision of this Board to Superior Court. The Board has no further action to take on this matter nor can the Board alter its decision. Therefore, it is of no benefit for the taxpayer or the board of tax assessors to contact its members individually or as a group to discuss any matter any further. A docket that documents the Board's disposition of the case from receipt of the appeal to the making and sending of the decision to the taxpayer and tax assessor will be on file in the Clerk of Superior Court's office. All information presented by either party will remain with the Board through its deliberations. When deliberations have been completed and decision rendered, the Board will include all information presented in the appeal file that is returned to the board of tax assessors along with the original copy of the Board's decision unless specifically directed by the presenter that they want it discarded. The Board keeps no copies of this data.

The information contained in this document is intended to make the appeal process at the Board of Equalization understandable to all property owners of this county. If anyone has any questions concerning an appeal or wants further information about the Board of Equalization you may contact _____ at _____.

48-5C-1. Definitions; exemption from taxation; allocation and disbursement of proceeds collected by tag agents; fair market value of vehicle appealable; report

(a) As used in this Code section, the term:

(1) "Fair market value of the motor vehicle" means:

(A) For a used motor vehicle, the average of the current fair market value and the current wholesale value of a motor vehicle for a vehicle listed in the current motor vehicle ad valorem assessment manual utilized by the state revenue commissioner and based upon a nationally recognized motor vehicle industry pricing guide for fair market and wholesale market values in determining the taxable value of a motor vehicle under Code Section 48-5-442, and, in the case of a used car dealer, less any reduction for the trade-in value of another motor vehicle;

(B) For a used motor vehicle which is not so listed in such current motor vehicle ad valorem assessment manual, the value from the bill of sale or the value from a reputable used car market guide designated by the commissioner, whichever is greater, and, in the case of a used car dealer, less any reduction for the trade-in value of another motor vehicle;

(C) Upon written application and supporting documentation submitted by an applicant under this Code section, a county tag agent may deviate from the fair market value as defined in subparagraph (A) or (B) of this paragraph based upon mileage and condition of the used vehicle. Supporting documentation may include, but not be limited to, bill of sale, odometer statement, and values from reputable pricing guides. The fair market value as determined by the county tag agent pursuant to this subparagraph shall be appealable as provided in subsection (e) of this Code section; or

(D) For a new motor vehicle, the greater of the retail selling price or, in the case of a lease of a new motor vehicle, the agreed upon value of the vehicle pursuant to the lease agreement or the average of the current fair market value and the current wholesale value of a motor vehicle for a vehicle listed in the current motor vehicle ad valorem assessment manual utilized by the state revenue commissioner in determining the taxable value of a motor vehicle under Code Section 48-5-442, less any reduction for the trade-in value of another motor vehicle and any rebate or any cash discounts provided by the selling dealer and taken at the time of sale. The retail selling price or agreed upon value shall include any charges for labor, freight, delivery, dealer fees, and similar charges and dealer add-ons and mark-ups, but shall not include any extended warranty or maintenance agreement itemized on the dealer's invoice to the customer or any finance, insurance, and interest charges for deferred payments billed separately.

(2) "Immediate family member" means spouse, parent, child, sibling, grandparent, or grandchild.

(3) "Loaner vehicle" means a motor vehicle owned by a dealer which is withdrawn temporarily from dealer inventory for exclusive use as a courtesy vehicle loaned at no charge for a period not to exceed 30 days within a 366 day period to any one customer whose motor vehicle is being serviced by such dealer.

(4) "Rental charge" means the total value received by a rental motor vehicle concern for the rental or lease for 31 or fewer consecutive days of a rental motor vehicle, including the total cash and nonmonetary consideration for the rental or lease, including, but not limited to, charges based on time or mileage and charges for insurance coverage or collision damage waiver but excluding all charges for motor fuel taxes or sales and use taxes.

(5) "Rental motor vehicle" means a motor vehicle designed to carry 15 or fewer passengers and used primarily for the transportation of persons that is rented or leased without a driver.

(6) "Rental motor vehicle concern" means a person or legal entity which owns or leases five or more rental motor vehicles and which regularly rents or leases such vehicles to the public for value.

(7) "Trade-in value" means the value of the motor vehicle as stated in the bill of sale for a vehicle which has been traded in to the dealer in a transaction involving the purchase of another vehicle from the dealer.

(b) (1) (A) Except as otherwise provided in this subsection, any motor vehicle for which a title is issued in this state on or after March 1, 2013, shall be exempt from sales and use taxes to the extent provided under paragraph (95) of Code Section 48-8-3 and shall not be subject to the ad valorem tax as otherwise required under Chapter 5 of this title. Any such motor vehicle shall be titled as otherwise required under Title 40 but shall be subject to a state title fee and a local title fee which shall be alternative ad valorem taxes as authorized by Article VII, Section I, Paragraph III(b)(3) of the Georgia Constitution. Motor vehicles registered under the International Registration Plan shall not be subject to state and local title ad valorem tax fees but shall continue to be subject to apportioned ad valorem taxation under Article 10 of Chapter 5 of this title.

(B) (i) As used in this subparagraph, the term:

(I) "Local base amount" means $1 billion.

(II) "Local current collection amount" means the total amount of sales and use taxes on the sale of motor vehicles under Chapter 8 of this title and motor vehicle local ad valorem tax proceeds under this Code section and Chapter 5 of this title which were collected during the calendar year which immediately precedes the tax year in which the title ad valorem tax adjustments are required to be made under this subparagraph.

(III) "Local target collection amount" means an amount equal to the local base amount added to the product of 2 percent of the local base amount multiplied by the number of years since 2012 with a maximum amount of $1.2 billion.

(IV) "State base amount" means $535 million.

(V) "State current collection amount" means the total amount of sales and use taxes on the sale of motor vehicles under Chapter 8 of this title and motor vehicle state ad valorem tax proceeds under this Code section and Chapter 5 of this title which were collected during the calendar year which immediately precedes the tax year in which the state and local title ad valorem tax rate is to be reviewed for adjustment under division (xiv) of this subparagraph. Notwithstanding the other provisions of this subdivision to the contrary, the term "state current collection amount" for the 2014 calendar year for the purposes of the 2015 review under division (xiv) of this subparagraph shall be adjusted so that such amount is equal to the amount of motor vehicle state ad valorem tax proceeds that would have been collected under this Code section in 2014 if the combined state and local title ad valorem tax rate was 7 percent of the fair market value of the motor vehicle less any trade-in value plus the total amount of motor vehicle state ad valorem tax proceeds collected under Chapter 5 of this title during 2014.

(VI) "State target collection amount" means an amount equal to the state base amount added to the product of 2 percent of the state base amount multiplied by the number of years since 2012.

(ii) The combined state and local title ad valorem tax shall be at a rate equal to:

(I) For the period commencing March 1, 2013, through December 31, 2013, 6.5 percent of the fair market value of the motor vehicle;

(II) For the 2014 tax year, 6.75 percent of the fair market value of the motor vehicle; and

(III) Except as provided in division (xiv) of this subparagraph, for the 2015 and subsequent tax years, 7 percent of the fair market value of the motor vehicle.

(iii) For the period commencing March 1, 2013, through December 31, 2013, the state title ad valorem tax shall be at a rate equal to 57 percent of the tax rate specified in division (ii) of this subparagraph, and the local title ad valorem tax shall be at a rate equal to 43 percent of the tax rate specified in division (ii) of this subparagraph.

(iv) For the 2014 tax year, the state title ad valorem tax shall be at a rate equal to 55 percent of the tax rate specified in division (ii) of this subparagraph, and the local title ad valorem tax shall be at a rate equal to 45 percent of the tax rate specified in division (ii) of this subparagraph.

(v) For the 2015 tax year, the state title ad valorem tax shall be at a rate equal to 55 percent of the tax rate specified in division (ii) of this subparagraph, and the local title ad valorem tax shall be at a rate equal to 45 percent of the tax rate specified in division (ii) of this subparagraph.

(vi) For the 2016 tax year, except as otherwise provided in division (xiii) of this subparagraph, the state title ad valorem tax shall be at a rate equal to 53.5 percent of the tax rate specified in division (ii) of this subparagraph, and the local title ad valorem tax shall be at a rate equal to 46.5 percent of the tax rate specified in division (ii) of this subparagraph.

(vii) For the 2017 tax year, except as otherwise provided in divisions (xiii) and (xiv) of this subparagraph, the state title ad valorem tax shall be at a rate equal to 44 percent of the tax rate specified in division (ii) of this subparagraph, and the local title ad valorem tax shall be at a rate equal to 56 percent of the tax rate specified in division (ii) of this subparagraph.

(viii) For the 2018 tax year, except as otherwise provided in division (xiii) of this subparagraph, the state title ad valorem tax shall be at a rate equal to 40 percent of the tax rate specified in division (ii) of this subparagraph, and the local title ad valorem tax shall be at a rate equal to 60 percent of the tax rate specified in division (ii) of this subparagraph.

(ix) For the 2019 tax year, except as otherwise provided in divisions (xiii) and (xiv) of this subparagraph, the state title ad valorem tax shall be at a rate equal to 36 percent of the tax rate specified in division (ii) of this subparagraph, and the local title ad valorem tax shall be at a rate equal to 64 percent of the tax rate specified in division (ii) of this subparagraph.

(x) For the 2020 tax year, except as otherwise provided in division (xiii) of this subparagraph, the state title ad valorem tax shall be at a rate equal to 34 percent of the tax rate specified in division (ii) of this subparagraph, and the local title ad valorem tax shall be at a rate equal to 66 percent of the tax rate specified in division (ii) of this subparagraph.

(xi) For the 2021 tax year, except as otherwise provided in division (xiii) of this subparagraph,

the state title ad valorem tax shall be at a rate equal to 30 percent of the tax rate specified in division (ii) of this subparagraph, and the local title ad valorem tax shall be at a rate equal to 70 percent of the tax rate specified in division (ii) of this subparagraph.

(xii) For the 2022 and all subsequent tax years, except as otherwise provided in division (xiii) of this subparagraph for tax years 2022, 2023, and 2024 and except as otherwise provided in division (xiv) of this subparagraph for tax year 2023, the state title ad valorem tax shall be at a rate equal to 28 percent of the tax rate specified in division (ii) of this subparagraph, and the local title ad valorem tax shall be at a rate equal to 72 percent of the tax rate specified in division (ii) of this subparagraph.

(xiii) Beginning in 2016, by not later than January 15 of each tax year through the 2022 tax year, the state revenue commissioner shall determine the local target collection amount and the local current collection amount for the preceding calendar year. If such local current collection amount is equal to or within 1 percent of the local target collection amount, then the state title ad valorem tax rate and the local title ad valorem tax rate for such tax year shall remain at the rate specified in this subparagraph for that year. If the local current collection amount is more than 1 percent greater than the local target collection amount, then the local title ad valorem tax rate for such tax year shall be reduced automatically by operation of this division by such percentage amount as may be necessary so that, if such rate had been in effect for the calendar year under review, the local current collection amount would have produced an amount equal to the local target collection amount, and the state title ad valorem tax rate for such tax year shall be increased by an equal amount to maintain the combined state and local title ad valorem tax rate at the rate specified in division (ii) of this subparagraph. If the local current collection amount is more than 1 percent less than the local target collection amount, then the local title ad valorem tax rate for such tax year shall be increased automatically by operation of this division by such percentage amount as may be necessary so that, if such rate had been in effect for the calendar year under review, the local current collection amount would have produced an amount equal to the local target collection amount, and the state title ad valorem tax rate for such tax year shall be reduced by an equal amount to maintain the combined state and local title ad valorem tax rate at the rate specified in division (ii) of this subparagraph. In the event of an adjustment of such ad valorem tax rates, by not later than January 31 of such tax year, the state revenue commissioner shall notify the tax commissioner of each county in this state of the adjusted rate amounts. The effective date of such adjusted rate amounts shall be January 1 of such tax year.

(xiv) In tax years 2015, 2018, and 2022, by not later than July 1 of each such tax year, the state revenue commissioner shall determine the state target collection amount and the state current collection amount for the preceding calendar year. If such state current collection amount is greater than, equal to, or within 1 percent of the state target collection amount after making the adjustment, if any, required in division (xiii) of this subparagraph, then the combined state and local title ad valorem tax rate provided in division (ii) of this subparagraph shall remain at the rate specified in such division. If the state current collection amount is more than 1 percent less than the state target collection amount after making the adjustment, if any, required by division (xiii) of this subparagraph, then the combined state and local title ad valorem tax rate provided in division (ii) of this subparagraph shall be increased automatically by operation of this division by such percentage amount as may be necessary so that, if such rate had been in effect for the calendar year under review, the state current collection amount would have produced an amount equal to the state target collection amount, and the state title ad valorem tax rate and the local title ad valorem tax rate for the tax year in which such increase in the combined state and local title ad valorem tax rate shall become effective shall be adjusted from the rates specified in this subparagraph or division (xiii) of this subparagraph for such tax year such that the proceeds from such increase in the combined state and local title ad valorem tax rate shall

be allocated in full to the state. In the event of an adjustment of the combined state and local title ad valorem tax rate, by not later than August 31 of such tax year, the state revenue commissioner shall notify the tax commissioner of each county in this state of the adjusted combined state and local title ad valorem tax rate for the next calendar year. The effective date of such adjusted combined state and local title ad valorem tax rate shall be January 1 of the next calendar year. Notwithstanding the provisions of this division, the combined state and local title ad valorem tax rate shall not exceed 9 percent.

(xv) The state revenue commissioner shall promulgate such rules and regulations as may be necessary and appropriate to implement and administer this Code section, including, but not limited to, rules and regulations regarding appropriate public notification of any changes in rate amounts and the effective date of such changes and rules and regulations regarding appropriate enforcement and compliance procedures and methods for the implementation and operation of this Code section. The state revenue commissioner may promulgate and implement rules and regulations as may be necessary to permit seller financed sales of used vehicles to be assessed 2.5 percentage points less than the rate specified in division (b)(1)(B)(ii) of this Code section.

(C) The application for title and the state and local title ad valorem tax fees provided for in subparagraph (A) of this paragraph shall be paid to the tag agent in the county where the motor vehicle is to be registered and shall be paid at the time the application for a certificate of title is submitted or, in the case of an electronic title transaction, at the time when the electronic title transaction is finalized. In an electronic title transaction, the state and local title ad valorem tax fees shall be remitted electronically directly to the county tag agent. A dealer of new or used motor vehicles may accept such application for title and state and local title ad valorem tax fees on behalf of the purchaser of a new or used motor vehicle for the purpose of submitting or, in the case of an electronic title application, finalizing such title application and remitting state and local title ad valorem tax fees.

(D) There shall be a penalty imposed on any person who, in the determination of the commissioner, falsifies any information in any bill of sale used for purposes of determining the fair market value of the motor vehicle. Such penalty shall not exceed $2,500.00 as a state penalty and shall not exceed $2,500.00 as a local penalty as determined by the commissioner. Such determination shall be made within 60 days of the commissioner receiving information of a possible violation of this paragraph.

(E) Except in the case in which an extension of the registration period has been granted by the county tag agent under Code Section 40-2-20, a dealer of new or used motor vehicles that accepts an application for title and state and local title ad valorem tax fees from a purchaser of a new or used motor vehicle and does not submit or, in the case of an electronic title transaction, finalize such application for title and remit such state and local title ad valorem tax fees to the county tag agent within 30 days following the date of purchase shall be liable to the county tag agent for an amount equal to 5 percent of the amount of such state and local title ad valorem tax fees. An additional penalty equal to 10 percent of the amount of such state and local title ad valorem tax fees shall be imposed if such payment is not transmitted within 60 days following the date of purchase. An additional penalty equal to 15 percent of the amount of such state and local title ad valorem tax fees shall be imposed if such payment is not transmitted within 90 days following the date of purchase, and an additional penalty equal to 20 percent of the amount of such state and local title ad valorem tax fees shall be imposed if such payment is not transmitted within 120 days following the date of purchase. An additional penalty equal to 25 percent of the amount of such state and local title ad valorem tax fees shall be imposed for each subsequent 30 day period in which the payment is not transmitted.

(F) A dealer of new or used motor vehicles that accepts an application for title and state and local title ad valorem tax fees from a purchaser of a new or used motor vehicle and converts such fees to his or her own use shall be guilty of theft by conversion and, upon conviction, shall be punished as provided in Code Section 16-8-12.

(2) A person or entity acquiring a salvage title pursuant to subsection (b) of Code Section 40-3-36 shall not be subject to the fee specified in paragraph (1) of this subsection but shall be subject to a state title ad valorem tax fee in an amount equal to 1 percent of the fair market value of the motor vehicle. Such state title ad valorem tax fee shall be an alternative ad valorem tax as authorized by Article VII, Section I, Paragraph III(b)(3) of the Georgia Constitution.

(c) (1) The amount of proceeds collected by tag agents each month as state and local title ad valorem tax fees, state salvage title ad valorem tax fees, administrative fees, penalties, and interest pursuant to subsection (b) of this Code section shall be allocated and disbursed as provided in this subsection.

(2) For the 2013 tax year and in each subsequent tax year, the amount of such funds shall be disbursed within 20 days following the end of each calendar month as follows:

(A) State title ad valorem tax fees, state salvage title ad valorem tax fees, administrative fees, penalties, and interest shall be remitted to the state revenue commissioner who shall deposit such proceeds in the general fund of the state less an amount to be retained by the tag agent not to exceed 1 percent of the total amount otherwise required to be remitted under this subparagraph to defray the cost of administration. Such retained amount shall be remitted to the collecting county's general fund. Failure by the tag agent to disburse within such 20 day period shall result in a forfeiture of such administrative fee plus interest on such amount at the rate specified in Code Section 48-2-40; and

(B) Local title ad valorem tax fees, administrative fees, penalties, and interest shall be designated as local government ad valorem tax funds. The tag agent shall then distribute the proceeds as specified in paragraph (3) of this subsection.

(3) The local title ad valorem tax fee proceeds required under this subsection shall be distributed as follows:

(A) (For effective date, see note.) The tag agent of the county shall within 20 days following the end of each calendar month allocate and distribute to the county governing authority and to municipal governing authorities, the board of education of the county school district, and the board of education of any independent school district located in such county and in a county in which a sales and use tax is levied for purposes of a metropolitan area system of public transportation, as authorized by the amendment to the Constitution set out at Ga. L. 1964, p. 1008, the governing body of the transportation authority created by the Metropolitan Atlanta Rapid Transit Authority Act of 1965, Ga. L. 1965, p. 2243, as amended, and the amendment to the Constitution set out at Ga. L. 1964, p. 1008, an amount of those proceeds necessary to offset any reduction in (i) ad valorem tax on motor vehicles collected under Chapter 5 of this title in the taxing jurisdiction of each governing authority and school district from the amount of ad valorem taxes on motor vehicles collected under Chapter 5 of this title in each such governing authority and school district during the same calendar month of 2012 and (ii) with respect to the transportation authority, the monthly average portion of the sales and use tax levied for purposes of a metropolitan area system of public transportation applicable to any motor vehicle titled in a county which levied such tax in 2012. Such amount of tax may be determined by the

commissioner for counties which levied such tax in 2012, and any counties which subsequently levy a tax pursuant to a metropolitan area system of public transportation, as authorized by the amendment to the Constitution set out at Ga. L. 1964, p. 1008, the governing body of the transportation authority created by the Metropolitan Atlanta Rapid Transit Authority Act of 1965, Ga. L. 1965, p. 2243, as amended, and the amendment to the Constitution set out at Ga. L. 1964, p. 1008, the Commissioner may determine what amount of sales and use tax would have been collected in 2012, had such tax been levied. This reduction shall be calculated, with respect to (i) above, by subtracting the amount of ad valorem tax on motor vehicles collected under Chapter 5 of this title in each such taxing jurisdiction from the amount of ad valorem tax on motor vehicles collected under Chapter 5 of this title in that taxing jurisdiction in the same calendar month of 2012. In the event that the local title ad valorem tax fee proceeds are insufficient to fully offset such reduction in ad valorem taxes on motor vehicles or the portion of the sales and use tax described in (ii) above, the tag agent shall allocate a proportionate amount of the proceeds to each governing authority and to the board of education of each such school district and the transportation authority, and any remaining shortfall shall be paid from the following month's local title ad valorem tax fee proceeds. In the event that a shortfall remains, the tag agent shall continue to first allocate local title ad valorem tax fee proceeds to offset such shortfalls until the shortfall has been fully repaid; and

(B) Of the proceeds remaining following the allocation and distribution under subparagraph (A) of this paragraph, the tag agent shall allocate and distribute to the county governing authority and to municipal governing authorities, the board of education of the county school district, and the board of education of any independent school district located in such county the remaining amount of those proceeds in the manner provided in this subparagraph. Such proceeds shall be deposited in the general fund of such governing authority or board of education and shall not be subject to any use or expenditure requirements provided for under any of the following described local sales and use taxes but shall be authorized to be expended in the same manner as authorized for the ad valorem tax revenues on motor vehicles under Chapter 5 of this title which would otherwise have been collected for such governing authority or board of education. Of such remaining proceeds:

(i) An amount equal to one-third of such proceeds shall be distributed to the board of education of the county school district and the board of education of each independent school district located in such county in the same manner as required for any local sales and use tax for educational purposes levied pursuant to Part 2 of Article 3 of Chapter 8 of this title currently in effect. If such tax is not currently in effect, such proceeds shall be distributed to such board or boards of education in the same manner as if such tax were in effect;

(ii) (I) Except as otherwise provided in this division, an amount equal to one-third of such proceeds shall be distributed to the governing authority of the county and the governing authority of each qualified municipality located in such county in the same manner as specified under the distribution certificate for the joint county and municipal sales and use tax under Article 2 of Chapter 8 of this title currently in effect.

(II) If such tax were never in effect, such proceeds shall be distributed to the governing authority of the county and the governing authority of each qualified municipality located in such county on a pro rata basis according to the ratio of the population that each such municipality bears to the population of the entire county.

(III) If such tax is currently in effect as well as a local option sales and use tax for educational purposes levied pursuant to a local constitutional amendment, an amount equal to one-third of such proceeds shall be distributed in the same manner as required under subdivision (I) of this

division and an amount equal to one-third of such proceeds shall be distributed to the board of education of the county school district.

(IV) If such tax is not currently in effect and a local option sales and use tax for educational purposes levied pursuant to a local constitutional amendment is currently in effect, such proceeds shall be distributed to the board of education of the county school district and the board of education of any independent school district in the same manner as required under that local constitutional amendment.

(V) If such tax is not currently in effect and a homestead option sales and use tax under Article 2A of Chapter 8 of this title is in effect, such proceeds shall be distributed to the governing authority of the county, each qualified municipality, and each existing municipality in the same proportion as otherwise required under Code Section 48-8-104; and

(iii) (I) An amount equal to one-third of such proceeds shall be distributed to the governing authority of the county and the governing authority of each qualified municipality located in such county in the same manner as specified under an intergovernmental agreement or as otherwise required under the county special purpose local option sales and use tax under Part 1 of Article 3 of Chapter 8 of this title currently in effect; provided, however, that this subdivision shall not apply if subdivision (III) of division (ii) of this subparagraph is applicable.

(II) If such tax were in effect but expired and is not currently in effect, such proceeds shall be distributed to the governing authority of the county and the governing authority of each qualified municipality located in such county in the same manner as if such tax were still in effect according to the intergovernmental agreement or as otherwise required under the county special purpose local sales and use tax under Part 1 of Article 3 of Chapter 8 of this title for the 12 month period commencing at the expiration of such tax. If such tax is not renewed prior to the expiration of such 12 month period, such amount shall be distributed in accordance with subdivision (I) of division (ii) of this subparagraph; provided, however, that if a tax under Article 2 of Chapter 8 of this title is not in effect, such amount shall be distributed in accordance with subdivision (II) of division (ii) of this subparagraph.

(III) (For effective date, see note.) If such tax is not currently in effect in a county in which a tax is levied for purposes of a metropolitan area system of public transportation, as authorized by the amendment to the Constitution set out at Ga. L. 1964, p. 1008; the continuation of such amendment under Article XI, Section I, Paragraph IV(d) of the Constitution; and the laws enacted pursuant to such constitutional amendment, such proceeds shall be distributed in such county, in the same manner as ad valorem tax on motor vehicles collected under Chapter 5 of this title in the taxing jurisdiction of each governing authority and school district from the amount of ad valorem taxes on motor vehicles collected under Chapter 5 of this title in each such governing authority and school district during the same calendar month of 2012.

(IV) If such tax were never in effect, such proceeds shall be distributed in the same manner as specified under the distribution certificate for the joint county and municipal sales and use tax under Article 2 of Chapter 8 of this title currently in effect; provided, however, that if such tax under such article is not in effect, such proceeds shall be distributed to the governing authority of the county and the governing authority of each qualified municipality located in such county on a pro rata basis according to the ratio of the population that each such municipality bears to the population of the entire county.

(d) (1) (A) Upon the death of an owner of a motor vehicle which has not become subject to paragraph (1) of subsection (b) of this Code section, the immediate family member or immediate

family members of such owner who receive such motor vehicle pursuant to a will or under the rules of inheritance shall, subsequent to the transfer of title of such motor vehicle, continue to be subject to ad valorem tax under Chapter 5 of this title and shall not be subject to the state and local title ad valorem tax fees provided for in paragraph (1) of subsection (b) of this Code section unless the immediate family member or immediate family members make an affirmative written election to become subject to paragraph (1) of subsection (b) of this Code section. In the event of such election, such transfer shall be subject to the state and local title ad valorem tax fees provided for in paragraph (1) of subsection (b) of this Code section.

(B) Upon the death of an owner of a motor vehicle which has become subject to paragraph (1) of subsection (b) of this Code section, the immediate family member or immediate family members of such owner who receive such motor vehicle pursuant to a will or under the rules of inheritance shall be subject to a state title ad valorem tax fee in an amount equal to one-quarter of 1 percent of the fair market value of the motor vehicle and a local title ad valorem tax fee in an amount equal to one-quarter of 1 percent of the fair market value of the motor vehicle. Such title ad valorem tax fees shall be an alternative ad valorem tax as authorized by Article VII, Section I, Paragraph III(b)(3) of the Georgia Constitution.

(2) (A) Upon the transfer from an immediate family member of a motor vehicle which has not become subject to paragraph (1) of subsection (b) of this Code section, the immediate family member or immediate family members who receive such motor vehicle shall, subsequent to the transfer of title of such motor vehicle, continue to be subject to ad valorem tax under Chapter 5 of this title and shall not be subject to the state and local title ad valorem tax fees provided for in paragraph (1) of subsection (b) of this Code section unless the immediate family member or immediate family members make an affirmative written election to become subject to paragraph (1) of subsection (b) of this Code section. In the event of such election, such transfer shall be subject to the state and local title ad valorem tax fees provided for in paragraph (1) of subsection (b) of this Code section.

(B) Upon the transfer from an immediate family member of a motor vehicle which has become subject to paragraph (1) of subsection (b) of this Code section, the immediate family member who receives such motor vehicle shall transfer title of such motor vehicle to such recipient family member and shall be subject to a state title ad valorem tax fee in an amount equal to one-quarter of 1 percent of the fair market value of the motor vehicle and a local title ad valorem tax fee in an amount equal to one-quarter of 1 percent of the fair market value of the motor vehicle. Such title ad valorem tax fees shall be an alternative ad valorem tax as authorized by Article VII, Section I, Paragraph III(b)(3) of the Georgia Constitution.

(C) Any title transfer under this paragraph shall be accompanied by an affidavit of the transferor and transferee that such persons are immediate family members to one another. There shall be a penalty imposed on any person who, in the determination of the state revenue commissioner, falsifies any material information in such affidavit. Such penalty shall not exceed $2,500.00 as a state penalty and shall not exceed $2,500.00 as a local penalty as determined by the state revenue commissioner. Such determination shall be made within 60 days of the state revenue commissioner receiving information of a possible violation of this paragraph.

(3) Any individual who:

(A) Is required by law to register a motor vehicle or motor vehicles in this state which were registered in the state in which such person formerly resided; and

(B) Is required to file an application for a certificate of title under Code Section 40-3-21 or 40-3-

shall only be required to pay state and local title ad valorem tax fees in the amount of 50 percent of the amount which would otherwise be due and payable under this subsection at the time of filing the application for a certificate of title, and the remaining 50 percent shall be paid within 12 months.

(4) The state and local title ad valorem tax fees provided for under this Code section shall not apply to corrected titles, replacement titles under Code Section 40-3-31, or titles reissued to the same owner pursuant to Code Sections 40-3-50 through 40-3-56.

(5) Any motor vehicle subject to state and local title ad valorem tax fees under paragraph (1) of subsection (b) of this Code section shall continue to be subject to the title, license plate, revalidation decal, and registration requirements and applicable fees as otherwise provided in Title 40 in the same manner as motor vehicles which are not subject to state and local title ad valorem tax fees under paragraph (1) of subsection (b) of this Code section.

(6) Motor vehicles owned or leased by or to the state or any county, consolidated government, municipality, county or independent school district, or other government entity in this state shall not be subject to the state and local title ad valorem tax fees provided for under paragraph (1) of subsection (b) of this Code section; provided, however, that such other government entity shall not qualify for the exclusion under this paragraph unless it is exempt from ad valorem tax and sales and use tax pursuant to general law.

(7) (A) Any motor vehicle which is exempt from sales and use tax pursuant to paragraph (30) of Code Section 48-8-3 shall be exempt from state and local title ad valorem tax fees under this subsection.

(B) Any motor vehicle which is exempt from ad valorem taxation pursuant to Code Section 48-5-478, 48-5-478.1, 48-5-478.2, or 48-5-478.3 shall be exempt from state and local title ad valorem tax fees under paragraph (1) of subsection (b) of this Code section.

(8) There shall be a penalty imposed on the transfer of all or any part of the interest in a business entity that includes primarily as an asset of such business entity one or more motor vehicles, when, in the determination of the state revenue commissioner, such transfer is done to evade the payment of state and local title ad valorem tax fees under this subsection. Such penalty shall not exceed $2,500.00 as a state penalty per motor vehicle and shall not exceed $2,500.00 as a local penalty per motor vehicle, as determined by the state revenue commissioner, plus the amount of the state and local title ad valorem tax fees. Such determination shall be made within 60 days of the state revenue commissioner receiving information that a transfer may be in violation of this paragraph.

(9) Any owner of any motor vehicle who fails to submit within 30 days of the date such owner is required by law to register such vehicle in this state an application for a first certificate of title under Code Section 40-3-21 or a certificate of title under Code Section 40-3-32 shall be required to pay a penalty in the amount of 10 percent of the state title ad valorem tax fees and 10 percent of the local title ad valorem tax fees required under this Code section and, if such state and local title ad valorem tax fees and the penalty are not paid within 60 days following the date such owner is required by law to register such vehicle, interest at the rate of 1.0 percent per month shall be imposed on the state and local title ad valorem tax fees due under this Code section, unless a temporary permit has been issued by the tax commissioner. The tax commissioner shall grant a temporary permit in the event the failure to timely apply for a first

certificate of title is due to the failure of a lienholder to comply with Code Section 40-3-56, regarding release of a security interest or lien, and no penalty or interest shall be assessed. Such penalty and interest shall be in addition to the penalty and fee required under Code Section 40-3-21 or 40-3-32, as applicable.

(10) The owner of any motor vehicle for which a title was issued in this state on or after January 1, 2012, and prior to March 1, 2013, shall be authorized to opt in to the provisions of this subsection at any time prior to February 28, 2014, upon compliance with the following requirements:

(A) (i) The total amount of Georgia state and local title ad valorem tax fees which would be due from March 1, 2013, to December 31, 2013, if such vehicle had been titled in 2013 shall be determined; and

(ii) The total amount of Georgia state and local sales and use tax and Georgia state and local ad valorem tax under Chapter 5 of this title which were due and paid in 2012 for that motor vehicle and, if applicable, the total amount of such taxes which were due and paid for that motor vehicle in 2013 and 2014 shall be determined; and

(B) (i) If the amount derived under division (i) of subparagraph (A) of this paragraph is greater than the amount derived under division (ii) of subparagraph (A) of this paragraph, the owner shall remit the difference to the tag agent. Such remittance shall be deemed local title ad valorem tax fee proceeds; or

(ii) If the amount derived under division (i) of subparagraph (A) of this paragraph is less than the amount derived under division (ii) of subparagraph (A) of this paragraph, no additional amount shall be due and payable by the owner.

Upon certification by the tag agent of compliance with the requirements of this paragraph, such motor vehicle shall not be subject to ad valorem tax as otherwise required under Chapter 5 of this title in the same manner as otherwise provided in paragraph (1) of subsection (b) of this Code section.

(11) (A) In the case of rental motor vehicles owned by a rental motor vehicle concern, the state title ad valorem tax fee shall be in an amount equal to .625 percent of the fair market value of the motor vehicle, and the local title ad valorem tax fee shall be in an amount equal to .625 percent of the fair market value of the motor vehicle, but only if in the immediately prior calendar year the average amount of sales and use tax attributable to the rental charge of each such rental motor vehicle was at least $400.00 as certified by the state revenue commissioner. If, in the immediately prior calendar year, the average amount of sales and use tax attributable to the rental charge of each such rental motor vehicle was not at least $400.00, this paragraph shall not apply and such vehicles shall be subject to the state and local title ad valorem tax fees prescribed in division (b)(1)(B)(ii) of this Code section.

(B) Such title ad valorem tax fees shall be an alternative ad valorem tax as authorized by Article VII, Section I, Paragraph III(b)(3) of the Georgia Constitution.

(12) A loaner vehicle shall not be subject to state and local title ad valorem tax fees under paragraph (1) of subsection (b) of this Code section for a period of time not to exceed 366 days commencing on the date such loaner vehicle is withdrawn temporarily from inventory. Immediately upon the expiration of such 366 day period, if the dealer does not return the loaner vehicle to inventory for resale, the dealer shall be responsible for remitting state and local title

ad valorem tax fees in the same manner as otherwise required of an owner under paragraph (9) of this subsection and shall be subject to the same penalties and interest as an owner for noncompliance with the requirements of paragraph (9) of this subsection.

(13) Any motor vehicle which is donated to a nonprofit organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code for the purpose of being transferred to another person shall, when titled in the name of such nonprofit organization, not be subject to state and local title ad valorem tax fees under paragraph (1) of subsection (b) of this Code section but shall be subject to state and local title ad valorem tax fees otherwise applicable to salvage titles under paragraph (2) of subsection (b) of this Code section.

(14) (A) A lessor of motor vehicles that leases motor vehicles for more than 31 consecutive days to lessees residing in this state shall register with the department. The department shall collect an annual fee of $100.00 for such registrations. Failure of a lessor to register under this subparagraph shall subject such lessor to a civil penalty of $2,500.00.

(B) A lessee residing in this state who leases a motor vehicle under this paragraph shall register such motor vehicle with the tag agent in such lessee's county of residence within 30 days of the commencement of the lease of such motor vehicle or beginning residence in this state, whichever is later.

(C) A lessor that leases a motor vehicle under this paragraph to a lessee residing in this state shall apply for a certificate of title in this state within 30 days of the commencement of the lease of such motor vehicle.

(15) There shall be no liability for any state or local title ad valorem tax fees in any of the following title transactions:

(A) The addition or substitution of lienholders on a motor vehicle title so long as the owner of the motor vehicle remains the same;

(B) The acquisition of a bonded title by a person or entity pursuant to Code Section 40-3-28 if the title is to be issued in the name of such person or entity;

(C) The acquisition of a title to a motor vehicle by a person or entity as a result of the foreclosure of a mechanic's lien pursuant to Code Section 40-3-54 if such title is to be issued in the name of such lienholder;

(D) The acquisition of a title to an abandoned motor vehicle by a person or entity pursuant to Chapter 11 of Title 40 if such person or entity is a manufacturer or dealer of motor vehicles and the title is to be issued in the name of such person or entity;

(E) The obtaining of a title to a stolen motor vehicle by a person or entity pursuant to Code Section 40-3-43;

(F) The obtaining of a title by and in the name of a motor vehicle manufacturer, licensed distributor, licensed dealer, or licensed rebuilder for the purpose of sale or resale or to obtain a corrected title, provided that the manufacturer, distributor, dealer, or rebuilder shall submit an affidavit in a form promulgated by the commissioner attesting that the transfer of title is for the purpose of accomplishing a sale or resale or to correct a title only;

(G) The obtaining of a title by and in the name of the holder of a security interest when a motor

vehicle has been repossessed after default in accordance with Part 6 of Article 9 of Title 11 if such title is to be issued in the name of such security interest holder;

(H) The obtaining of a title by a person or entity for purposes of correcting a title, changing an odometer reading, or removing an odometer discrepancy legend, provided that, subject to subparagraph (F) of this paragraph, title is not being transferred to another person or entity; and

(I) The obtaining of a title by a person who pays state and local title ad valorem tax fees on a motor vehicle and subsequently moves out of this state but returns and applies to retitle such vehicle in this state.

(16) It shall be unlawful for a person to fail to obtain a title for and register a motor vehicle in accordance with the provisions of this chapter. Any person who knowingly and willfully fails to obtain a title for or register a motor vehicle in accordance with the provisions of this chapter shall be guilty of a misdemeanor.

(17) Any person who purchases a 1963 through 1985 model year motor vehicle for which such person obtains a title shall be subject to this Code section, but the state title ad valorem tax fee shall be in an amount equal to .50 percent of the fair market value of such motor vehicle, and the local title ad valorem tax fee shall be in an amount equal to .50 percent of the fair market value of such motor vehicle.

(e) The fair market value of any motor vehicle subject to this Code section shall be appealable in the same manner as otherwise authorized for a motor vehicle subject to ad valorem taxation under Code Section 48-5-450; provided, however, that the person appealing the fair market value shall first pay the full amount of the state and local title ad valorem tax prior to filing any appeal. If the appeal is successful, the amount of the tax owed shall be recalculated and, if the amount paid by the person appealing the determination of fair market value is greater than the recalculated tax owed, the person shall be promptly given a refund of the difference.

(f) Beginning in 2014, on or before January 31 of each year, the department shall provide a report to the chairpersons of the House Committee on Ways and Means and the Senate Finance Committee showing the state and local title ad valorem tax fee revenues collected pursuant to this chapter and the motor vehicle ad valorem tax proceeds collected pursuant to Chapter 5 of this title during the preceding calendar year.

HISTORY: Code 1981, § 48-5C-1, enacted by Ga. L. 2012, p. 257, § 1-4/HB 386; Ga. L. 2013, p. 7, § 2/HB 266; Ga. L. 2013, p. 32, § 4/HB 463; Ga. L. 2013, p. 141, § 48/HB 79; Ga. L. 2015, p. 5, § 48/HB 90; Ga. L. 2015, p. 1219, § 23/HB 202