GEORGIA DEPARTMENT OF REVENUE

LOCAL GOVERNMENT SERVICES DIVISION

Exempt Properties Workshop

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April 2019

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BOARDS OF ASSESSORS AND APPRAISAL STAFF

Boards of assessors were created by legislation in 1913 primarily to seek out unreturned property or concealed property. Essentially, at that time, taxpayers declared their own value with the expected result that levels of assessment and uniformity were severely lacking. In the 1960s, counties and school systems found themselves having to levy excessively high tax rates.

In 1972 substantial legislative changes added an ad valorem section titled UNIFORM PROPERTY TAX ADMINISTRATION AND EQUALIZATION. This section of the Official Code of Georgia provides a comprehensive system for the equalization of taxes by requiring each county to employ a competent appraisal staff; to appoint a qualified board of tax assessors and a qualified board of equalization; and to follow uniform state-wide procedures established by the revenue commissioner.

Under O.C.G.A. 48-5-311 appeals regarding Taxability are heard by the county board of equalization except that by mutual agreement, the taxpayer and the board of assessors may waive an appeal to the county board of equalization and initiate an appeal directly to superior court.

Appeal determinations and decisions may rule on **uniformity** issues not only from the aspect of valuation but also from the aspect of taxability. This means failure to uniformly tax or exempt property as provided in law could result in a decision requiring the assessors to correct erroneous assessments.

The first rule is that all property must be taxed uniformly. This is required under the Constitution of the State of Georgia 1983 Art. 7, Sec. 1, Par. 3. In addition, O.C.G.A. 48-5-3 states that all real property and all personal property shall be liable to taxation and shall be taxed, *except as otherwise provided by law.* That means that **taxation is the RULE** and **exemptions are the EXCEPTION** to the rule.

§ 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.

§ 48-5-299. Duties of Board of Assessors

(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…

§ 48-5-263. Qualifications, duties, and compensation of appraisers

…(b) *Duties.* Each member of the county property appraisal staff shall:

(1) Make appraisals of the fair market value of all taxable property in the county other than property returned directly to the commissioner;

(2) Maintain all tax records and maps for the county in a current condition. This duty shall include, but not be limited to, the mapping, platting, cataloging, and indexing of all real and personal property in the county;

(3) Prepare annual assessments on all taxable property appraised in the county and submit the assessments for approval to the county board of tax assessors;

(4) Prepare annual appraisals on all tax-exempt property in the county and submit the appraisals to the county board of tax assessors;

(5) Prepare and mail assessment notices after the county board of tax assessors has determined the final assessments;

(6) Attend hearings of the county board of equalization and provide information to the board regarding the valuation and assessments approved by the county board of tax assessors on those properties concerning which appeals have been made to the county board of equalization;

(7) Provide information to the department as needed by the department and in the form requested by the department;

(8) Attend the standard approved training courses as directed by the commissioner for all minimum county property appraisal staffs;

(9) Compile sales ratio data and furnish the data to the commissioner as directed by the commissioner;

(10) Comply with the rules and regulations for staff duties established by the commissioner; and

(11) Inspect mobile homes located in the county to determine if the proper decal is attached to and displayed on the mobile home by the owner as provided by law; notify the residents of those mobile homes to which a decal is not attached of the provisions of Code Sections 48-5-492 and 48-5-493; and furnish to the tax collector or tax commissioner a periodic list of those mobile homes to which a decal is not attached.

§ 48-5-103. Duties of Tax Receivers

It shall be the duty of the tax receiver to…(9) Enter upon the digest prepared by him an itemization of all properties exempt from taxation along with the owners of the properties and the reason the properties are exempt from taxation;

§ 48-5-342. Commissioner to Examine Digests

(a) The commissioner shall carefully examine the tax digests of the counties filed in his office. Each digest for a county in a digest review year shall be examined for the purpose of determining if the valuations of property for taxation purposes are reasonably uniform and equalized between counties and within counties.

(b) For any digest in any digest review year where the digest for the preceding digest review year was conditionally approved by the commissioner, the commissioner shall also carefully examine the digest to determine if it satisfactorily corrects the deficiencies that resulted in the digest for the preceding digest review year being conditionally approved.

(c) For each year, including each year that is not a digest review year for the county, the commissioner shall utilize the overall assessment ratio for the county as provided by the state auditor.

(d) It shall be the further duty of the commissioner to examine the itemizations of exempt properties appearing on the digest and, if in the judgment of the commissioner any properties appearing on the digest are subject to taxation, to so advise the board of tax assessors of the counties concerned with an explanation of his reasons for believing the property is subject to taxation.

(e) **(1)** The commissioner may, upon his or her own initiative or upon complaint by a taxpayer, examine the itemizations of properties appearing on the digest, and if in the judgment of the commissioner any properties are illegally appearing on the digest and should not be subject to taxation under this chapter, the commissioner shall strike such items from the digest and return the digest to the county for removal of such items and resubmission to the commissioner. The commissioner shall provide by rule and regulation procedures by which the county board of tax assessors may appeal such finding to the commissioner. If appealed by the board of tax assessors, the commissioner shall, after reviewing such appeal, issue a final order and include a finding as to the taxability of the digest items in dispute and shall finalize the digest in accordance therewith.

(2) If a property has been found by the commissioner to not be subject to taxation under this chapter and again appears on the digest at any time within five years of the initial determination of nontaxability and is again determined to be nontaxable, the commissioner shall strike such item from the digest and return the digest to the county for removal of such item and resubmission to the commissioner. The commissioner shall notify the Department of Community Affairs in writing of his or her finding and, upon receipt of such notice, the qualified local government status of such county shall be revoked for a period of three years following the receipt of such notice by the Department of Community Affairs unless reinstated earlier pursuant to this subsection. Upon such revocation, the governing authority of such county, without regard to any limitation of Code Section 48-5-295, shall be specifically authorized to remove immediately every member of the board of tax assessors and reappoint new members who shall serve for the unexpired terms of the removed members. The county governing authority shall provide written notification of such removal and new appointment to the commissioner. Upon certification of the corrected digest, the commissioner shall notify in writing the Department of Community Affairs, and upon receipt thereof, the Department of Community Affairs shall immediately reinstate the qualified local government status of such county.

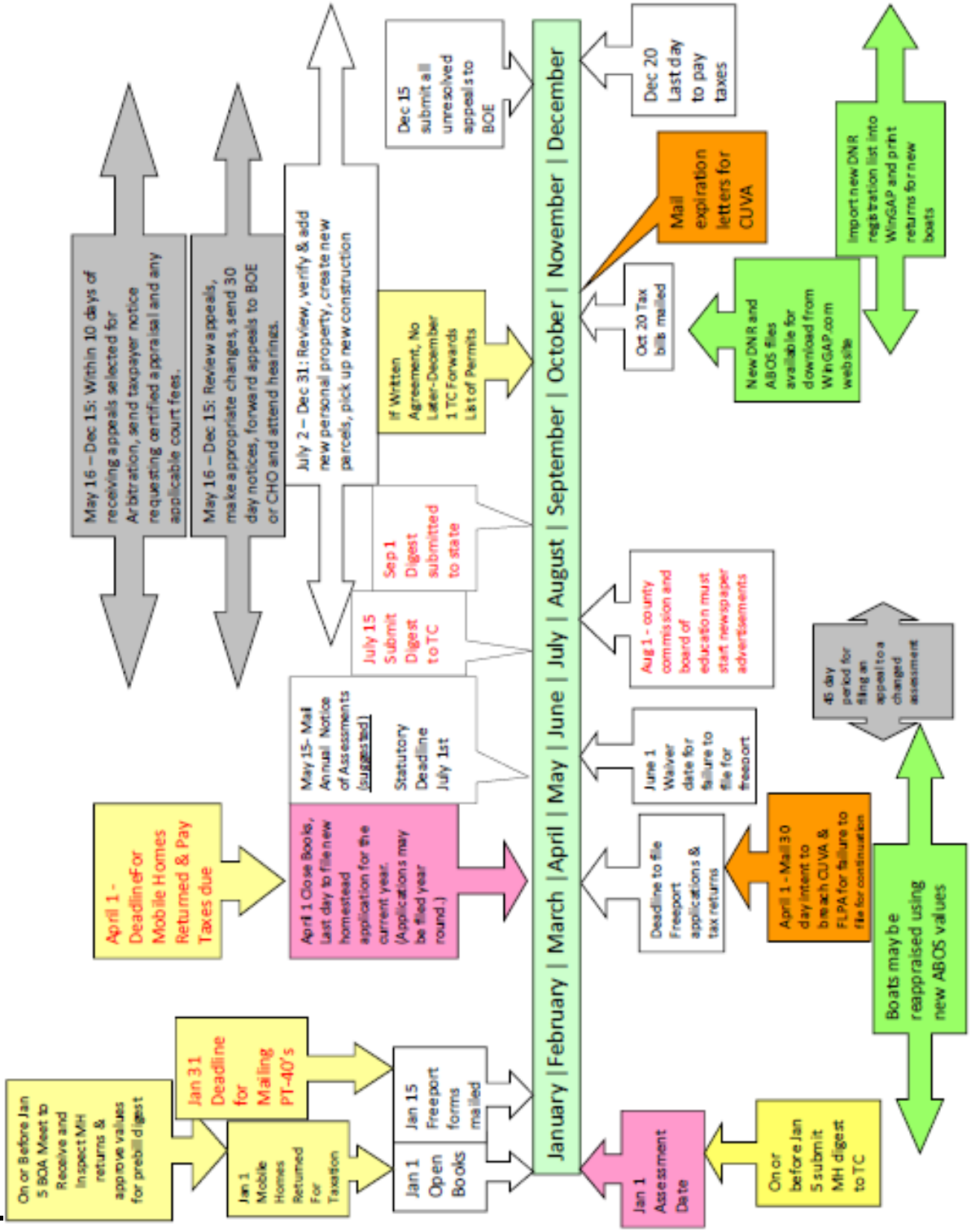
(3) If a property has been found by the commissioner to not be subject to taxation under this chapter and if such nontaxable property has appeared on a county digest in any year within the preceding five-year period, then the taxpayer shall be entitled to file a petition directly with the Georgia Tax Tribunal for a refund of all such taxes illegally collected or taxes paid, interest equal to the bank prime loan rate as posted by the Board of Governors of the Federal Reserve System in statistical release H. 15 or any publication that may supersede it plus 3 percent calculated from the date of payment of such taxes, and attorney's fees in an amount of not less than 15 percent nor more than 40 percent of the total of the illegally charged taxes and accrued interest. Such petition shall name the board of tax assessors and the tax receiver or tax commissioner of the county as the respondent in their official capacities and shall be served upon such board and tax receiver or tax commissioner. Service shall be accomplished by certified mail or statutory overnight delivery. The petition shall include a summary statement of facts

and law upon which the petitioner relies in seeking the requested relief. The respondents shall file a response to the petitioner's statement of facts and law which constitutes their answer with the tribunal no later than 30 days after the service of the petition. The respondents shall serve a copy of their response on the petitioner's representative or, if the petitioner is not represented, on the petitioner and shall file a certificate of service with such response. If in any case a response has not been filed within the time required by this paragraph, the case shall automatically become in default unless the time for filing the response has been extended by agreement of the parties, for a period not to exceed 30 days, or by the judge of the tribunal. The default may be opened as a matter of right by the filing of a response within 15 days of the day of the default and payment of costs. At any time before the final judgment, the judge of the tribunal, in his or her discretion, may allow the default to be opened for providential cause that prevented the filing of the response, for excusable neglect, or when the tribunal judge, from all the facts, determines that a proper case has been made for the default to be opened on terms to be fixed by the tribunal judge. The tribunal judge shall proceed to hear and decide the matter and may grant appropriate relief under the law and facts presented.

§ 48-5-352. Determination of fair market value for county and municipal ad valorem property taxation purposes; counties to furnish information relative to fair market value of property

(a) The provisions of any municipal charter to the contrary notwithstanding, in determining the fair market value of property within their respective tax jurisdictions for purposes of ad valorem property taxation, municipalities shall use the fair market value finally determined for the property for county ad valorem property taxation purposes. Fair market value shall be finally determined for county ad valorem property taxation purposes when all means for administrative and judicial review of the fair market value have been exhausted or are no longer available.

(b) As soon as the fair market value of property within a county is finally determined, such information shall be furnished without charge by the county to the governing authority of each municipality lying wholly or partially within the county.


January | February | March | April | May | June | July | August | September | October | November | December
On or Before Jan 5 BOA Meet to Receive and Inspect MH returns & approve values for prebill digest
Jan 31 Deadline for Mailing PT-40's
Jan 1 Mobile Homes Returned For Taxation
Jan 15 Freeport forms mailed
Jan 1 Open Books
April 1 - Deadline for Mobile Homes Returned & Pay Taxes due
April 1 Close Books, last day to file new homestead application for the current year. (Applications may be filed year round.)
May 15- Mail Annual Notice of Assessments (suggested)
Statutory Deadline July 1st
May 16 – Dec 15: Within 10 days of receiving appeals selected for Arbitration, send taxpayer notice requesting certified appraisal and any applicable court fees.
May 16 – Dec 15: Review appeals, make appropriate changes, send 30 day notices, forward appeals to BOE or CHO and attend hearings.
July 2 – Dec 31: Review, verify & add new personal property, create new parcels, pick up new construction
July 15 Submit Digest to TC
Sep 1 Digest submitted to state
Dec 15 submit all unresolved appeals to BOE
If Written Agreement, No Later-December 1 TC Forwards List of Permits
Jan 1 Assessment Date
Deadline to file Freeport applications & tax returns
June 1 Waiver date for failure to file for freeport
Aug 1 - county commission and board of education must start newspaper advertisements
Oct 20 Tax bills mailed
Dec 20 Last day to pay taxes
On or before Jan 5 submit MH digest to TC
April 1 - Mail 30 day intent to breach CUVA & FLPA for failure to file for continuation
Mail expiration letters for CUVA
New DNR and ABOS files available for download from WinGAP.com website
Import new DNR registration list into WinGAP and print returns for new boats
Boats may be reappraised using new ABOS values
45 day period for filing an appeal to a changed assessment

DIGEST REVIEW

§ 48-5-274. Establishment of equalized adjusted property tax digest; establishment and use of average ratio; information to be furnished by state auditor; grievance procedure; information to be furnished by commissioner

(b) The state auditor shall establish on a continuing basis, no later than November 15 in each year, an equalized adjusted property tax digest for each county in the state and for the state as a whole for the current calendar year. Such digest shall exclude all real and personal property exempted from taxation and the difference between the value of all taxable property within any tax allocation district and the tax allocation increment base of such tax allocation district as defined under paragraph (15) of Code Section 36-44-3 for which consent has been obtained pursuant to Code Section 36-44-9. The state auditor may establish a unit within the Department of Audits and Accounts consisting of such number of personnel as is deemed necessary in order to establish and maintain on a continuing basis the equalized adjusted property tax digest. The equalized adjusted property tax digest shall be established and maintained as follows

§ 48-5-343. Approval of digests

(a) The commissioner shall, when a county is in its digest review year, approve the digest of any such county as being reasonably uniform and equalized if the digest meets the following criteria:

> **(1)** The average assessment ratio for each class of property within the county shall be as close to the assessments provided for in Code Section 48-5-7 as is reasonably practicable;
>
> **(2)** The average assessment variance for each class of property within the county shall not be excessive with respect to that which is reasonably practicable; and
>
> **(3)** Within each class of property, assessment ratios of the properties shall not reveal any significant assessment bias.

(b) The commissioner shall by regulation establish the statistical standards to be used in determining whether or not digests are in accordance with the uniformity requirements contained in subsection (a) of this Code section. The commissioner shall utilize information developed by the state auditor under Code Section 48-5-274.

(c) If the assessed value of the portion of the digest that does not meet the uniformity requirements constitutes 10 percent or less of the assessed value of the total digest, the

commissioner may approve the digest if, in his judgment, the approval will not substantially violate the concept of uniformity and equalization.

PROPERTY CLASSIFICATION

PROPERTY CLASSIFICATION
R - RESIDENTIAL - Classifies all land utilized, or developed to be utilized as a single family homesite; the residential improvements and; other non-residential homesite improvements thereon. Duplexes and triplexes shall also be considered single family residential improvements. Personal property owned by individuals which has not acquired a business situs elsewhere and is not otherwise utilized for agricultural, commercial, or industrial purposes.
T - RESIDENTIAL TRANSITIONAL - Classifies land and improvements receiving current use assessment under O.C.G.A. 48-5-7.4 due to its proximity to or location in a transitional area.
H - HISTORIC - Classifies land and improvements receiving preferential assessment under O.C.G.A. 48-5-7.2 or O.C.G.A. 48-5-7.3 due to its designation as rehabilitated historic or landmark historic property.
A - AGRICULTURAL - Classifies all real and personal property utilized as a farm unit. Includes the single family homesite which is an integral part of the farm unit, the residential improvements, the non-residential improvements, the non-homesite farm land and the production and storage improvements. Also includes all personal property owned by individuals which is not connected with the farm unit but has not acquired a business situs elsewhere and the personal property connected with the farm unit which shall include the machinery, equipment, furniture, fixtures, livestock, products of the soil, supplies, minerals and off-road vehicles.
P - PREFERENTIAL - Classifies land and improvements receiving current use assessment under O.C.G.A. 48-5-7.1 due to its devotion to bona fide agricultural purposes.
V - CONSERVATION USE - Classifies land and improvements receiving current use assessment under O.C.G.A. 48-5-7.4 due to its good faith production of agricultural products or timber.
J - FOREST LAND CONSERVATION USE - Classifies land receiving current use assessment under O.C.G.A. 48-5-7.7 due to its good faith timber production
F - FOREST LAND FAIR MARKET ASSESSMENT - Classifies all land assessed according to O.C.G.A. § 48-5-2(6) due to its good faith production of timber.
B - BROWNFIELD - Classifies all land and improvements receiving preferential assessment under O.C.G.A. 48-5-7.6 due to its release of hazardous waste, constitutents and substances into the environment.
W - ENVIRONMENTALLY SENSITIVE - Classifies all land receiving current use assessment under O.C.G.A. 48-5-7.4 due to its certification as environmentally sensitive property by the Georgia Department of Natural Resources .
C - COMMERCIAL - Classifies all real and personal property utilized as a business unit, the primary nature of which is the exchange of goods and services at either the wholesale or retail level. Also includes multi-family units having four or more units.
I - INDUSTRIAL - Classifies all real and personal property utilized as a business unit, the primary nature of which is the manufacture or processing of goods destined for wholesale or retail sale.
U - UTILITY - Classifies the property of companies which are required to file an ad valorem tax return with the State Revenue Commissioner; includes all the real and personal property of railroad companies, railroad equipment car companies, public utility companies and the flight equipment of airline companies.

Property Strata

STRATA FOR REAL PROPERTY
1 - IMPROVEMENTS - Includes all inground and above ground improvements that have been made to the land including leasehold improvements and excluding all production and storage improvements utilized in the operation of a farm unit; and those improvements auxiliary to residential and agricultural dwellings not included in the Production/Storage/Auxiliary stratum. Land is not included in this stratum.
2 - OPERATING UTILITY - Includes all real and personal property of a public utility, tangible and intangible, utilized in the conduct of usual and ordinary business. Real and personal property of a public utility not utilized in the conduct of usual and ordinary business shall be designated non-operating property and shall be included in the appropriate alternative strata.
3 - LOTS - Includes all land where the market indicates the site is sold on a front footage or buildable basis rather than by acreage.
4 - SMALL TRACTS - Includes all land which is normally described and appraised in terms of small acreage, which is of such size as to favor multiple uses.
5 - LARGE TRACTS - Includes all land which is normally described and appraised in terms of large acreage, which is of such size as to limit multiple uses, e.g., cultivatable lands, pasture lands, timber lands, open lands, wasteland and wild lands. The acreage breakpoint between small tracts shall be designated by the Board of Tax Assessors as being that where the market prices per acre reflects a distinct and pronounced change as the size of the tract changes. In the event the breakpoint cannot be easily determined, the Board of Tax Assessors shall designate a reasonable breakpoint not less than 5 acres or more than 25 acres.
6 - PRODUCTION/STORAGE/AUXILIARY - Includes those improvements auxiliary to residential or agricultural dwellings not included in the improvements stratum and all improvements to land which are utilized by a farm unit for the storage or processing of agricultural products.
9- OTHER REAL - Includes leasehold interests, mineral rights, and all real property not otherwise defined.
STRATA FOR PERSONAL PROPERTY
A - AIRCRAFT - Includes all airplanes, rotorcraft and lighter-than-air vehicles; including airline flight equipment required to be returned to the State Revenue Commissioner
B - BOATS - Includes all craft that are operated in and upon water. It shall include the motors, but not the land transport vehicles.
I - INVENTORY - Includes all raw materials, goods in process and finished goods. It shall include livestock and products of the land, water and air. It shall include all consumable supplies used in the process of manufacturing, distributing, storing or merchandising of goods and services. It shall not include inventory receiving Freeport exemption under O.C.G.A. 48-5-48.2.
P - FREEPORT INVENTORY - Includes all inventory receiving Freeport exemption under O.C.G.A. 48-5-48.2.
F - FURNITURE/FIXTURES/MACHINERY/EQUIPMENT - Includes all fixtures, furniture, office equipment, computer embedded software and hardware, production machinery, off-road vehicles, equipment, farm tools and implements, and tools and implements of trade of manual laborers.
Z- OTHER PERSONAL - Includes all other personal property not otherwise defined.

Exempt Codes

EXEMPT PROPERTY CODES
EO - Non profit homes for the aged.
E1 - Public Property
E2 - Places of Religious Worship and no-rent income residences.
E3 - Property used for charitable purposes
E4 - Places of religious burial
E5 - Charity Hospital
E6 - Educational Institution
E7 - Air and Water Pollution equipment
E8 - Farm products in hands of producer
E9 - Other

Exemption Codes

STATE EXEMPTIONS	
CODE	QUALIFICATIONS
S1 - Regular	See O.C.G.A. § 48-5-44
SC - Age 65	See O.C.G.A. § 48-5-48.3
S2 - Reserved	Reserved - DO NOT USE
S3 - Elderly - Age 62 (Net Income < $10,000)	See O.C.G.A. § 48-5-52
S4 - Elderly - Age 65 (Net Income < $10,000)	See O.C.G.A. § 48-5-47
S5 - Disabled Veteran & surviving spouse or minor children	See O.C.G.A. § 48-5-48
SD - Age 65 - 100% Disabled Veteran; Unremarried surviving spouse or minor children of Disabled Vetera	See O.C.G.A. § 48-5-48
SS - Surviving Spouse of US service member killed in action	See O.C.G.A. § 48-5-52.1
SE - Age 65 - Unremarried surviving spouse of US service member killed in action	See O.C.G.A. § 48-5-48.3 & § 48-5-52.1
SG - Unremarried surviving spouse of a firefighter or peace officer killed in line of duty	See O.C.G.A. § 48-5-48.4
S6 - Elderly Floating - Age 62 (Fed Agi < $30,000)	See O.C.G.A. § 48-5-47.1 & § 48-5-52
S7 - Reserved	Reserved - DO NOT USE
S8 - Elderly Floating - Age 62 (Fed AGI < $30,000 & Net Income < $10,000)	See O.C.G.A. § 48-5-47.1 & 48-5-52
S9 - Elderly Floating - Age 65 (Fed AGI < $30,000 & Net Income < $10,000)	See O.C.G.A. § 48-5-47, § 48-5-47.1 & § 48-5-52
SF - Freeport LEVEL 1 - 20%, 40%, 60%, 80% or 100% of certain personal property inventory. See O.C.G.A. § 48-5-48.2	
SA - Property devoted to Agricultural purposes -Difference in 30% and 40% assessment - See O.C.G.A. § 48-5-7.1	
SB - Brownfield Property - Difference of the 40% assessment & base year assessment - See O.C.G.A. § 48-5-7.6	
SP - Personal Property < $7,500 - Combined total of all personal property less than $7,500 - See O.C.G.A. § 48-5-42.1	
SH - Landmark and Rehabilitated Historic Property -Difference of the 40% assessment & base year assessment - See O.C.G.A. §§ 48-5-7.2 & 48-5-7.3	
SN - Business Inventory -Inventory of a Business exempt from state ad valorem tax - See O.C.G.A. § 48-5-41.2	
SR - Freeport LEVEL 2 - 20%, 40%, 60%, 80% or 100% of certain personal property inventory. See O.C.G.A. § 48-5-48.5	
ST - Residential Transitional property -Difference of the 40% assessment and current use assessment - See O.C.G.A. § 48-5-7.4	
SV - Conservation Use Property -Difference of the 40% assessment and current use assessment - See O.C.G.A. § 48-5-7.4	
SJ - Forest Land Conservation Use Property -Difference of the 40% assessment and current use assessment - See O.C.G.A. § 48-5-7.7	
SW - Environmentally Sensitive Property -Difference of the 40% assessment and current use assessment - See O.C.G.A. § 48-5-7.4	

Tax Digest Consolidation Summary Report

PT-10A(Rev. 1/11)

CONSOLIDATION AND EVALUATION OF DIGEST 2011

COUNTY NAME: TAYLOR	COUNTY NO: 133	TAX DISTRICT NAME: COUNTYWIDE	TAX DISTRICT #: 01	TOTAL PARCEL COUNT: 5836

RESIDENTIAL			
Code		Acres	40% Value
R1	2,474		49,493,486
R3	2,522	3,566.90	7,568,731
R4	910	5,992.15	5,609,513
R5	6	296.51	191,639
R6	1,136		1,560,044
R9	1		256
RA	2		32,200
RB	20		89,004
RF	1		7,480
RI			
RZ			

RESIDENTIAL TRANSITIONAL			
Code	Count	Acres	40% Value
T1			
T3			
T4			

HISTORIC			
Code	Count	Acres	40% Value
H1	1		23,576
H3	1	1.00	7,200

AGRICULTURAL			
Code	Count	Acres	40% Value
A1	697		18,836,333
A3			
A4	138	1,355.99	1,021,939
A5	460	54,453.00	34,766,575
A6	507		2,351,047
A9	3		3,305
AA			
AB	5		20,004
AF			
AI			
AZ			

PREFERENTIAL			
Code	Count	Acres	40% Value
P3			
P4	3	30.54	17,159
P5	16	2,226.30	1,411,780
P6	8		281,138

CONSERVATION USE			
Code	Count	Acres	40% Value
V3	3	24.00	20,186
V4	190	5,142.99	3,620,515
V5	985	141,081.60	91,143,586
V6	147		196,453

BROWNFIELD PROPERTY			
Code	Count	Acres	40% Value
B1			
B3			
B4			
B5			
B6			

FOREST LAND CONSERVATON USE			
Code	Count	Acres	40% Value
J3			
J4			
J5	67	22,352.27	12,029,720
J9			

FLPA FAIR MARKET ASSMT			
Code	Count	Acres	40% Value
F3			
F4			
F5	67	22,352.27	12,590,358
F9			
TOTAL	50	10,050.00	15,000,000

ENVIRONMENTALLY SENSITIVE			
Code	Count	Acres	40% Value
W3			
W4			
W5			

COMMERCIAL			
Code	Count	Acres	40% Value
C1	221		10,402,200
C3	194	223.53	1,482,154
C4	52	232.77	1,163,639
C5	5	924.65	500,285
C9			
CA	2		164,800
CB	1		4,720
CF	160		5,512,242
CI	80		1,898,456
CP	2		880,027
CZ	1		746

INDUSTRIAL			
Code	Count	Acres	40% Value
I1	8		1,025,967
I3	2	18.07	12,132
I4	5	64.86	59,602
I5	3	810.59	512,574
I9			
IA			
IB			
IF	7		1,774,604
II	4		85,151
IP	2		162,635
IZ			

PUBLIC UTILITY			
Code	Count	Acres	40% Value
U1			
U2	17		17,596,832
U3	5	11.95	6,056
U4	4	24.88	11,932
U5			
U9			
UA			
UB			
UF			
UZ			

EXEMPT PROPERTY		
Code	Count	40% Value
E0	1	4,926
E1	112	7,501,130
E2	85	4,750,390
E3	10	515,702
E4	30	97,344
E5		
E6	13	2,473,668
E7	1	24,320
E8		
E9	15	1,113,171
TOTAL	267	16,480,651

HOMESTEAD & PROPERTY EXEMPTIONS			
Code	Count	M&O AMOUNT	BOND AMOUNT
S1	1,328	2,654,530	
SC	17	34000	
S3	39	78,000	
S4	455	1,814,796	
S5	7	218,108	
SD			
SS			
SE			
SG			
S6			
S8			
S9			
SP			
SF	4	1,042,662	
ST			
SH	1	0	
SA	19	427,525	
SV	1,178	68,344,311	
SB			
SJ	67	8,064,068	
SW			
SN			
DO NOT USE L1 THRU L9 CODES ON STATE SHEET			
L1			
L2			
L3			
L4			
L5			
L6			
L7			
L8			
L9			
TOTAL	3,115	82,678,000	

SUMMARY			
PROPERTY CLASS	COUNT	ACRES	ASSESSED VALUE
Residential	7,072	9,855.56	64,546,353
Residential Transitional			
Historic	1		30,776
Agricultural	1,810	55,808.99	56,999,203
Preferential	27	2,257	1,710,077
Conservation Use	1,325	146,248.59	94,980,740
Brownfield Property			
Forest Land Cons. Use	67	22,352.27	12,029,720
Environmentally Sensitive	718	1,380.95	
Commercial	31	893.52	22,009,268
Industrial			3,632,665
Public Utility	26	36.83	17,614,820
Motor Vehicle	8,432		18,436,450
Mobile Home	504		2,390,400
Heavy Duty Equip.			
Timber - 100%	66	11,183	2,614,505
Gross Digest Total	20,079	250,017.03	296,984,977
Exemptions-Bond			79,911,470
Net Bond Digest			217,083,507
Gross Digest Total	20,013	238,833.55	296,994,977
Exemptions-M&O			82,678,000
Net M&O Digest			214,316,977

TYPE	MILLAGE	ASSESSED VALUE	TAX
M & O	14.500	214,316,977	3,107,596.17
BOND	1.000	217,083,507	217,083.51

I, _____, receiver of tax returns in and for said county, do hereby certify that the above and foregoing is a true and correct consolidation of all tax returns received from the taxpayer (or assessed against defaulters) in said county of _____ for the year _____, and duplicate digests have been made and delivered to the county governing authority and tax collector of said county as required by law.

Witness my hand and official signature, this ___ day of _____, 20___.

_____
Receiver of Returns

CD in Print Image Format

TAYLOR COUNTY 2013 EXEMPT DIGEST

NAME/ADDRESS	PROPERTY DESCRIPTION	ACCT/LINE - MAP/PAR	ACRES	CLASS	VALUE	EX
ANTIOCH BAPTIST CHRUCH & CEMETERY CO RD 253 BUTLER GA 31006	LD24 LL150 (3.31 AC) 253 37 35	900150 010 DI 01	3.31	E2	26,880	
ANTIOCH BAPTIST CHURCH & CEMETERY RT 2 HWY 19 BUTLER GA 31006	CHURCH & CEMETERY 49 15	900300 010 DI 01	2.00	E2	43,452	
ANTIOCH-TAYLOR PRIMITIVE BAPTIST CHURCH %AVE MARIE LANG & LOTTIE MCCOY REYNOLDS GA 31076	ANTIOCH-TAYLOR PRIMITIVE BAPTIST CHURCH R 4 73	900450 010 DI 03	.68	E2	21,989	
BELL ROBERT LEE III C/O DEPT. OF TRANSPORTAT NO 2 CAPITAL SQUARE ATLANTA GA 30334	LD14 LL230 BKG LTS5,6,7,8 MARION ST R 2 18	900600 010 DI 03	1.38	E9	88,458	
BENTLEY CEMETERY REYNOLDS GA 31076	LD1 LL139 HWY 128 N 87 37	900750 010 DI 01	1.50	E4	1,807	

CONSTITUTION OF THE UNITED STATES

[Preamble]

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this *Constitution* for the United States of America.

ARTICLE VI.
[Debts, Supremacy, Oath]

All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

Chief Justice Marshall's Interpretation of the National Supremacy Clause

The Supreme Court has held that the supremacy clause rendered null and void a state constitutional or statutory provision which was inconsistent with a treaty executed by the Federal government…"The States have no power, by taxation or otherwise, to retard, impede, burden, or in any manner control, the operations of the constitutional laws enacted by Congress to carry into execution the powers vested in the general government. This is, we think, the unavoidable consequence of that supremacy which the Constitution has declared."

§ 48-5-4. Ad valorem taxation of property of federal corporations and agencies.

Except as prohibited by the Constitution and laws of the United States, all property owned or possessed in this state by a corporation organized under the laws of the United States or owned or possessed by an agency of the United States engaged in this state in proprietary, as distinguished from governmental, activities shall be subject to ad valorem taxation in this state at the same rate and in the same manner as the property of private corporations owning property in this state and engaged in similar businesses. All laws relating to ad valorem taxation of private corporations shall apply to ad valorem taxation of agencies of the United States and corporations organized under the laws of the United States.

Example #1: FDIC Policy Regarding the Payment of Property Taxes

After considering (1) the powers granted to it under the Constitution and federal law, (2) its obligation to maximize recoveries from the disposition of financial institutions and their assets, and (3) the potential effect of its actions upon state and local tax administration, the Federal Deposit Insurance Corporation (the "FDIC") has issued the following policy statement to provide guidance as to how it will administer its statutory responsibilities in this area.

A. Authority: This Statement of Policy is issued pursuant to the FDIC's powers and authorities granted by the Federal Deposition Insurance Act ("FDIA"), 12 U.S.C. §§ 1811, et seq., and in particular section 15 of the FDIA, **12 U.S.C. § 1825**.

B. Scope and Applicability: This policy statement supersedes the Statements of Policy issued by the FDIC and the Resolution Trust Corporation ("RTC") in 1991. It generally applies to the Corporation when it is liquidating assets of an insured depository institution in its corporate or receivership capacities (the "Corporation"). It applies to any tax, penalty, interest, or other related charge imposed or sought to be imposed on property to whose ownership the FDIC succeeds in such capacities.

C. Taxes:

Payment of Taxes: The Corporation will pay its proper tax obligations when they come due. Furthermore, the Corporation will pay claims for delinquencies as promptly as is consistent with

sound business practice and the orderly administration of the insured depository institution's affairs. The Corporation may decline to pay property taxes, including delinquency charges or other claims, in situations where abandonment of its interest in the property is appropriate. Owned Real Property: Owned real property of the Corporation is subject to state and local real property taxes, if those taxes are assessed according to the property's value. The Corporation is immune from real property taxes assessed on other bases.
Secured Interests in Real Property: Real property which is subject to a security or lien interest in favor of the FDIC is subject to ad valorem taxes and taxes assessed on other bases. Personal Property: The Corporation is immune from all forms of taxation on personal property. Other Related Taxes: The Corporation is immune from taxes other than ad valorem real property taxes. Taxes on sales, transfers, or other dispositions of Corporation property are generally in the nature of excise taxes which are levied on the transaction and not on the property (although the calculation of the amount of tax may be based on the property's sale price); the Corporation is immune from such taxes.

FDIC

Federal Deposit Insurance Corporation
Receiver of First Georgia Community Bank
176 Lyons Street
Jackson, Georgia 30233

VIA EMAIL

March 9, 2009

Ms. Candace Lawson
Greene County Tax Commissioner
1034 Silver Drive, Suite 101
Greensboro, Georgia 30642

RE: **NOTICE OF EXEMPTION FROM FORECLOSURE UNDER FEDERAL LAW**
Property Owner: Blackwater Creek Properties, Inc.
2008 Bill Numbers: 001175, 001178, 001177, 001176, 001200, 001199, 001198, 001196, 001195, 001214, 001179, 001180, 001181, 001182, 001183, 001184, 001185, 001186, 001187, 001188, 001189, 001190, 001191, 001192, 001193, 001194, 001203, 001204, 001205, 001206, 001207, 001208, 001209, 001210, 001211, 001212, 001215, 001213.

Dear Ms. Lawson:

The Federal Deposit Insurance Corporation (the "FDIC"), as Receiver (the "Receiver") of First Georgia Community Bank, Jackson, Georgia (the "Bank"), is the holder and owner of first priority security deeds on the real property owned by Blackwater Creek Properties, Inc. represented by the above-referenced Greene County tax bill numbers (the "Property"). Although the public records of Greene County show that the Bank is the owner of the security deeds, the FDIC, as Receiver of the Bank, is now the true owner since the failure of the Bank on December 5, 2008 and the appointment of the FDIC as Receiver.

The purpose of this letter is to formally notify you that federal law prohibits the foreclosure of property owned by the Receiver, including property on which the Receiver owns a security interest, without the prior written consent of the FDIC. See 12 U.S.C. 1825 (b). The FDIC does not consent to Greene County's foreclosure of the Property for non-payment of taxes. The above cited section of the United States Code also prohibits any involuntary lien from attaching to property owned by the Receiver and the Receiver's exemption from the payment of penalties or fines for failure to pay property taxes, and recording and filing fees.

Naturally, property taxes that are valid and owing on the Property will be dealt with in the normal course of business, in consultation with the taxing authority, but foreclosure of the Property would be in violation of federal law.

Please contact me if you should have any question or comment in connection with this matter.

Sincerely,

William H. Farris
FDIC Senior Attorney

cc: Andrea Runyan, Esq.
Hudson Wade

Statutes Relating to Ceding Land to Federal Government

§ 50-2-22. State consent to acquisition by United States of lands for government purposes.

The consent of the state is given, in accordance with Article I, Section 8, Clause 17 of the Constitution of the United States, to the acquisition by the United States, by purchase, condemnation, or otherwise, of any lands in this state which have been or may be acquired for sites for customs houses, courthouses, post offices, or for the erection of forts, magazines, arsenals, dockyards, and other needful buildings.

§ 50-2-23. Exclusive jurisdiction ceded over lands acquired by United States; exceptions.

Exclusive jurisdiction in and over any lands acquired by the United States as provided in Code Section 50-2-22 is ceded to the United States for all purposes except service upon such lands of all civil and criminal process of the courts of this state; but the jurisdiction so ceded shall continue no longer than the United States shall own such lands. The state retains its civil and criminal jurisdiction over persons and citizens in the ceded territory, as over other persons and citizens in this state, except as to any ceded territory owned by the United States and used by the Department of Defense and except as to any ceded territory owned by the United States and used by the Department of Justice for penal institutions, custodial institutions, or correctional institutions, <u>but the state retains jurisdiction over the taxation of private property and the regulation of public utility services in any ceded territory</u>. Nothing in this Code section shall interfere with the jurisdiction of the United States over any matter or subjects set out in the acts of Congress donating money for the erection of public buildings for the transaction of its business in this state or with any laws, rules, or regulations that Congress may adopt for the preservation and protection of its property and rights in the ceded territory and the proper maintenance of good order therein.

§ 50-2-23.1. Cession of concurrent jurisdiction to United States over certain lands within state; application to Governor; procedure for effecting cession.

(a) The consent of the State of Georgia is given to the cession of concurrent jurisdiction to the United States of America over lands within the boundaries of the State of Georgia that are owned by the United States of America or over which such jurisdiction is necessary for the effective administration and management of the lands owned by the United States.

(b) Whenever the United States of America desires to acquire concurrent jurisdiction over lands of the type described in subsection (a) of this Code section, application therefore shall be made to the Governor by the principal officer of the agency of the United States having administrative and legal control over the land and shall describe with specificity the lands for which concurrent jurisdiction is sought. For the purpose of this Code section, "legal control" shall include the authority to sell, convey, rent, lease, make covenants, alienate, or otherwise control by lawful means, any and all interests and rights in real property including but not limited to the right of possession to, use of, and travel upon or over relevant lands.

(c) Upon receipt of an application to acquire concurrent jurisdiction on behalf of the United States over lands of the type described in subsection (a) of this Code section, the Governor is authorized to cede concurrent jurisdiction over such lands to the United States.

(d) Cession of concurrent jurisdiction shall be effected by means of negotiation and execution of an agreement between the Governor on behalf of the state and the principal officer of the United States agency having administrative and legal control over the land. Any jurisdiction not specifically ceded in any such agreement is reserved to the state. Cession of such concurrent jurisdiction as is ceded by the state in any such agreement shall become effective upon the acceptance by the United States indicated in writing upon the instrument of cession by the authorized official or officials of the United States.

(e) Nothing contained in this Code section or in any instrument executed pursuant to it shall be construed as consent either to the preemption of any of the laws and regulations of this state or to the exemption of any federal lands from regulation pursuant to the laws and regulations of this state to the extent such lands are subject thereto. Nor shall any provision of this law or any instrument executed pursuant thereto be construed as a limitation or restriction upon the power, right, and authority of the General Assembly to enact laws and authorize the promulgation of regulations.

§ 50-2-24. Vesting of jurisdiction; exemption from state, county, or municipal charges.

The jurisdiction ceded as provided in Code Section 50-2-23 shall not vest until the United States has acquired the title to the lands by purchase, condemnation, or otherwise. As long as the lands remain the property of the United States when acquired by purchase, condemnation, or otherwise, and no longer, the same shall be and continue to be exempt and exonerated from all state, county, and municipal assessment, or other charges which may be levied or imposed under authority of the state.

§ 50-2-25. State consent to acquisition by United States of lands for forest and wildlife purposes; concurrent jurisdiction.

The consent of the state is given to the acquisition by the United States by purchase, gift, exchange, or by condemnation according to law, of only such lands as may be contracted, proposed, or offered for sale in writing by the ostensible owner to the United States, in which writing the owner consents to such acquisition, of such lands in all those counties in the northern and central portions of the state south to and including the Counties of Stewart, Webster, Marion, Taylor, Upson, Monroe, Jones, Putnam, Greene, Taliaferro, Wilkes, Jasper, Elbert, Warren, Hancock, Oglethorpe, Dodge, Treutlen, Laurens, Butts, and Richmond, and in and around the Okefenokee Swamp as in the opinion of state and federal government officials may be needed for the establishment, consolidation, or extension of national forests, forest experiment stations, wildlife sanctuaries, or for rights of way and land on which to build roads, highways, and bridges in the Okefenokee Swamp or for rights of way and land on which to build roads, highways, and bridges to connect the swamp roads with other highways, or for any development purposes best suited on these lands to be acquired by the United States. The state shall retain concurrent jurisdiction with the United States in and over such lands in all cases insofar as civil process is concerned, and such criminal process as may issue under the authority of the state against any person charged with the commission of any crime outside or within the jurisdiction may be executed thereon in like manner as if this law had not been enacted. In all condemnation proceedings, the rights of the federal government shall be limited to the specific objects set forth by laws of the United States in regard to national forests or wildlife sanctuaries and rights of way on which to build roads, highways, and bridges.

Example 2: IBM Corp. v. Evans et al.

Supreme Court of Georgia
May 13, 1957, Decided
Opinion

The Constitution of Georgia declares the supreme law of this State to be the Constitution of the United States, the laws of the United States enacted pursuant thereto, and all treaties made under the authority of the United {213 Ga. 335} States. Constitution, art. 12, sec. 1, par. 1 (Code, Ann., 2-8001). No doubt, therefore, can be reasonably entertained as to the unflinching loyalty and respect of Georgia for the Constitution of the United States. But neither Georgia nor the United States can challenge or intentionally fail to conform completely with the imperishable truth expressed by Chief Justice Marshall in M'Culloch v. Maryland, 17 U.S. 316, 410 (4 Wheaton 316, 4 L. ed. 579), as follows: "In America, the powers of sovereignty are divided between the government of the Union, and those of the States. They are each sovereign, with respect to the objects committed to it, and neither sovereign, with respect to the objects committed to the other." That which the State Constitution forbids the legislature to do, the Constitution of the United States can not require done, and indeed it makes no attempt to require it. All parties whomsoever, including the United States, are charged with knowledge of all constitutional limitations which Georgia has placed upon the powers of her legislature. No valid claim can be based upon an act of the legislature which contravenes the Constitution. Such acts are by the State Constitution declared void, and it is made the duty of the judiciary so to declare them. Constitution, art. 1, sec. 4, par. 2 (Code, Ann., 2-402). The Constitution denies to the legislature the power to surrender the sovereign right of the State to tax. Code (Ann.) 2-5401. Nothing the legislature does, no matter how unambiguously it is expressed, can have validity if it offends Code (Ann.) 2-5401. Nothing in the Constitution of the United States can confer upon the Georgia legislature, an iota of power to legislate for Georgia. We reject in toto all argument of counsel that the Constitution, Code 1-125 (17), imposes or was intended to impose any duty whatever upon any State legislature to act. Its sole intent and meaning is to define the jurisdiction that will result if and when a State legislature by a valid law cedes jurisdiction or consents to purchase. Nothing said in Fort Leavenworth R. Co. v. Lowe, 114 U.S. 525 (5 S. Ct. 995, 29 L. ed. 264), Chicago, R. I. & Pac. R. Co. v. McGlinn, 114 U.S. 542 (5 S. Ct. 1005, 29 L. ed. 270), Surplus Trading {99 S.E.2d 223} Co. v. Cook, 281 U.S. 647 (50 S. Ct. 455, 74 L. ed. 1091), or Standard Oil Co. of California v. California, 291 U.S. 650 {213 Ga. 336} (54 S. Ct. 526, 78 L. ed. 775), constitutes a ruling by that court that a State legislature can enact a law ceding jurisdiction by consenting to a purchase if the State Constitution expressly forbids such action by the legislature. All that is said in those decisions, intimating that the cession or consent must be unqualified has been expressly, plainly, and unmistakably rejected in James v. Dravo Contracting Co., 302 U.S. 134 (58 S. Ct. 208, 82 L. ed. 155); Collins v. Yosemite Park & Curry Co., 304 U.S. 518 (58 S. Ct. 1009, 82 L. ed. 1502), and Stewart & Co. v. Sadrakula, 309 U.S. 94 (60 S. Ct. 431, 84 L. ed. 596). Also, the Congress has rejected any such idea by the provisions of 40 U.S. C. A. 98, 255.

Exclusive legislative power is in essence complete sovereignty. That is, not only is the United States property immune from State taxation, but even private property located thereon, or private persons living thereon would likewise have complete immunity from State taxation. 84 C. J. S., Taxation, 62, 12; S. R. A., Inc. v. State of Minnesota, 327 U.S. 558 (66 S. Ct. 749, 90 L. ed. 851). Therefore, once it is conceded that Code (Ann.) 15-301, 15-302, and 15-303 are constitutional and valid, it must inevitably follow that exclusive legislative power now vests in the United States and none in the State of Georgia. In that event, the repeated rulings by this court that Georgia and her subdivisions are without jurisdiction to tax property not located within this State (Montag Bros. v. State Revenue Commn. of Ga., 50 Ga. App. 660, 179 S. E. 563, affd. 182 Ga. 568, 186 S. E. 558; Suttles v. Northwestern Mut. Life Ins. Co., 193 Ga. 495, 19 S. E. 2d 396; National Mortgage Corp. v. Suttles, 194 Ga. 768, 22 S. E. 2d 386; Davis v. Penn Mut. Life Ins. Co., 198 Ga. 550, 32 S. E. 2d 180, 160 A. L. R. 778) become applicable.

In Howard v. Commissioners, 344 U.S. 624 (73 S. Ct. 465, 97 L. ed. 617), it was held that the tax there imposed by the City of Louisville was collectible without offending any Federal law, and a Federal statute was cited (4 U.S. C. 105 -110) and construed to authorize such tax. There is a discussion in that opinion to the effect that ceding lands, as was there done, did not cause them to cease to be a part of the territory of the State, but merely subjected them to the superior control of the United {213 Ga. 337} States as fully as is necessary to accomplish the purpose for which they were acquired. We think the reasoning there is sound and realistic. But the Constitution, Code 1-125 (17), declares that in such event -- that is, when cession or consent by a State legislature has been given -- exclusive legislative power vests in the United States. We believe the sounder reasoning for the conclusion reached by that court would be that no legislature, without express constitutional power, can surrender the State's sovereignty. Therefore, the attempt to surrender it is effective only to the extent of allowing the United States to own and use the land free from State interference by taxes or otherwise. But individuals can not be given such privileges.

During the oral argument, counsel for the taxpayer was asked if the legislative attempt to cede sovereignty over the few thousand acres here involved is held valid, would not such a ruling require this court to hold tomorrow that a legislative act ceding sovereignty to the entire territory of the State is valid? No sound answer was given. In Yellowstone Park Transp. Co. v. Gallatin County, 31 Fed. 2d 644, the court refused to answer a similar question, and stated that it would answer when such a case came for decision. This court is bound by its decisions, and to the utmost of our ability we follow them. We would never for one second deliberately render a judgment today that we would not be perfectly willing to follow tomorrow. If we would not today be willing to follow it tomorrow, we certainly will not render it today. It is inconceivable that this court {99 S.E.2d 224} would ever uphold an act of the legislature which surrendered the sovereignty of Georgia over every foot of Georgia's land. Such a ruling would even abolish this court. The legislature has no such power. The fact that we would not so hold is a compelling reason for our refusing to rule today that it can surrender sovereignty over a part of Georgia's territory.

Much emphasis is placed by counsel for the taxpayer on the opinion of the Fifth Circuit Court of Appeals in Mater v. Holley, 200 Fed. 2d 123. That decision was rendered by outstanding judges, but it does not control our decision here. It cites Surplus Trading Co. v. Cook, 281 U.S. 647, supra, for the statement that exclusive legislation means exclusive jurisdiction in the sense of {213 Ga. 338} exclusive sovereignty. We agree with the statement and consider it sound. But the opinion then states that "The lands comprising Fort McPherson have been duly ceded to the United States by the State of Georgia," and cites acts of the Georgia Legislature which purport to do so. We reject this latter statement. Power does not lie in the Federal government to invest the legislature of Georgia with authority to legislate for this sovereign State, and any attempt to do so, whether by constitutional provision, congressional act, or judicial decision, would utterly fail. No such attempt has been made by either the Constitution or Congress, and we do not construe any court decision to constitute such an attempt. This court will not abdicate or yield its exclusive constitutional authority and duty to declare void any act of the legislature that offends the State Constitution. Nor do we construe any decision by the Supreme Court of the United States to even question this exclusive jurisdiction of this court. That portion of Code 15-303, purporting to exempt and exonerate from "all State, county and municipal taxation" such ceded lands is in plain and direct violation of the Constitution, Code (Ann.) 2-5401, and is void.

But it is contended by counsel for the taxpayer that the consent to purchase given in Code 15-301 and the cession of exclusive jurisdiction in Code (Ann.) 15-302 (Ga. L. 1890-1, p. 201; 1927, p. 352; 1952, p. 264) are not waivers of the State sovereign power to tax which is inhibited by the Constitution. The sole basis upon which tax immunity is claimed is the repeated rulings by the United States Supreme Court that cession of exclusive jurisdiction by the State forecloses all right of the State to tax private property located thereon. It can not be seriously denied, therefore, that if exclusive jurisdiction is ceded, the sovereign right to tax is by the very same act waived. To the extent that these two Code sections undertake to cede the State's right to tax they are also violative of the Constitution and void.

This does not mean that the United States is restricted in the full use of its property, free from any State interference. The legislative acts, Code (Ann.) 15-301, 15-302, and 15-303, must be construed in pari materia with the Constitution. Code {213 Ga. 339} (Ann.) 2-5401. When thus construed, they mean that the United States has no right to prevent such taxation so long as such taxation in no wise interferes with the business of the United States. Taxing the private property could not conceivably interfere with the government's business. Davis v. Smith, 197 Ga. 95 (28 S. E. 2d 148); Davis v. City of Atlanta, 206 Ga. 652 (58 S. E. 2d 140); Thompson v. Union Pacific R. Co., 76 U.S. 579 (9 Wall. 579, 19 L. ed. 792); Railroad Co. v. Peniston, 85 U.S. 5 (18 Wall. 5, 21 L. ed. 787); Smith v. Davis, 323 U.S. 111 (65 S. Ct. 157, 89 L. ed. 107). It could hardly be doubted that the United States is aware of the importance to government of taxation. That government would not wish to furnish a haven for tax dodgers. Unless this State attempt to tax is sustained, this private property will escape its just and fair burden of taxation. The State has not waived and can not waive its right to tax it, and indeed the Constitution demands {99 S.E.2d 225} that it be taxed. Code (Ann.) 2-5401, 2-5404.

From what has been ruled in the foregoing opinion, Code (Ann.) 15-301, 15-302, and 15-303 offend the Constitution (Code, Ann., 2-5401), and are to the extent that they undertake to waive the sovereign right of Georgia to tax absolutely void. The sole ground upon which the petition seeks to defeat the county's attempt to tax the private property located therein being the abortive attempt by the legislature to waive the State's right to tax, the petition alleges no cause of action, and the court did not err in sustaining the demurrers and dismissing the petition.

Judgment affirmed.

EXAMPLE 3: Fort Stewart Attorney General Opinion

Department of Law
State of Georgia

THURBERT E. BAKER
ATTORNEY GENERAL

40 CAPITOL SQUARE SW
ATLANTA, GA 30334-1300

Writer's Direct Dial:
404-651-6107
Fax 404-657-3239

October 28, 2005

L. Kelly Davis, Esq.
Attorney for Liberty County
Jones, Osteen & Jones
Attorneys at Law
Post Office Box 800
206 East Court Street
Hinesville, Georgia 31313

RE: Fort Stewart Privatization Initiative – Tax Exemption

Dear Mr. Davis:

This responds to your letter of October 3, 2005 regarding local ad valorem taxation of certain housing units to be constructed on the Fort Stewart military installation located in Liberty County, Georgia.

According to your letter, the involved housing facilities will be constructed and owned by a limited liability company known as Stewart Hunter Housing LLC ("Housing LLC"), whose members include the United States Army (the "Army") and GMH Housing, LLC, a private for-profit entity ("GMH"), pursuant to the Military Housing Privatization Initiative (10 U.S.C. §§ 2871-2885) (the "Privatization Initiative"). We understand that the Army holds a ninety percent interest in Housing LLC.

Under the Privatization Initiative, the Army will lease certain land on Fort Stewart to Housing LLC pursuant to a 50-year ground lease and will convey other related housing facilities to Housing LLC by quitclaim deed. The Army will own all of the housing units at the expiration of the term of the ground leases. Housing LLC will operate, manage and maintain the housing units under the general supervision of the Army and subject to rules and regulations specified by the Army.

Under article 1, section 8, clause 17 of the Constitution of the United States, Congress has the power to exercise exclusive legislative jurisdiction over all places purchased by the United States with consent of the legislature of the state where the property is located for the purpose of

L. Kelly Davis, Esq.
October 28, 2005
Page 2

erecting forts, arsenals, dock-yards and other necessary buildings. As you point out, the State of Georgia has consented to acquisition by the United States of lands to erect forts, magazines, arsenals and other necessary buildings, and has ceded jurisdiction over such acquired lands for all purposes except service of civil and criminal process and retention by the State of jurisdiction over taxation of private property and regulation of public utilities. O.C.G.A. §§ 50-2-22, 23; *see* 1994 Op. Att'y Gen. U94-10 (because Fort Stewart remains in the exclusive jurisdiction of the federal government and because there is no federal statute or other agreement on point, the State has not and cannot extend its jurisdiction over the military reservation).

Since ninety per cent of Housing LLC is owned by the Army and since the Army will exercise significant control over the housing units to be constructed on Fort Stewart by Housing LLC, it would not appear that the housing units to be constructed under the Privatization Initiative in the manner described in your letter constitute "private property" subject to ad valorem taxation by virtue of the jurisdiction retained by the State of Georgia pursuant to and as set forth by O.C.G.A. § 50-2-23. The general rule is that in the absence of the express or implied consent of the United States Congress, a state cannot impose a direct tax upon property owned by or held for the United States. *See United States v. Co. of Allegheny, Pa.*, 322 U.S. 174 (1944); *compare Conley Housing Corp. v. Coleman*, 211 Ga. 835, 838 (1955) (no legal justification for failure to tax property on military installation leased to private company where "Congress consenting").

Therefore, in the absence of the consent of the United States government, it is our view that military housing constructed on military installations under the Privatization Initiative in the manner described in your letter is not disqualified from the ad valorem tax exemption generally available to property owned by or held for the federal government for governmental purposes. I trust you find this information responsive to your inquiry. Your communication to this office is appreciated.

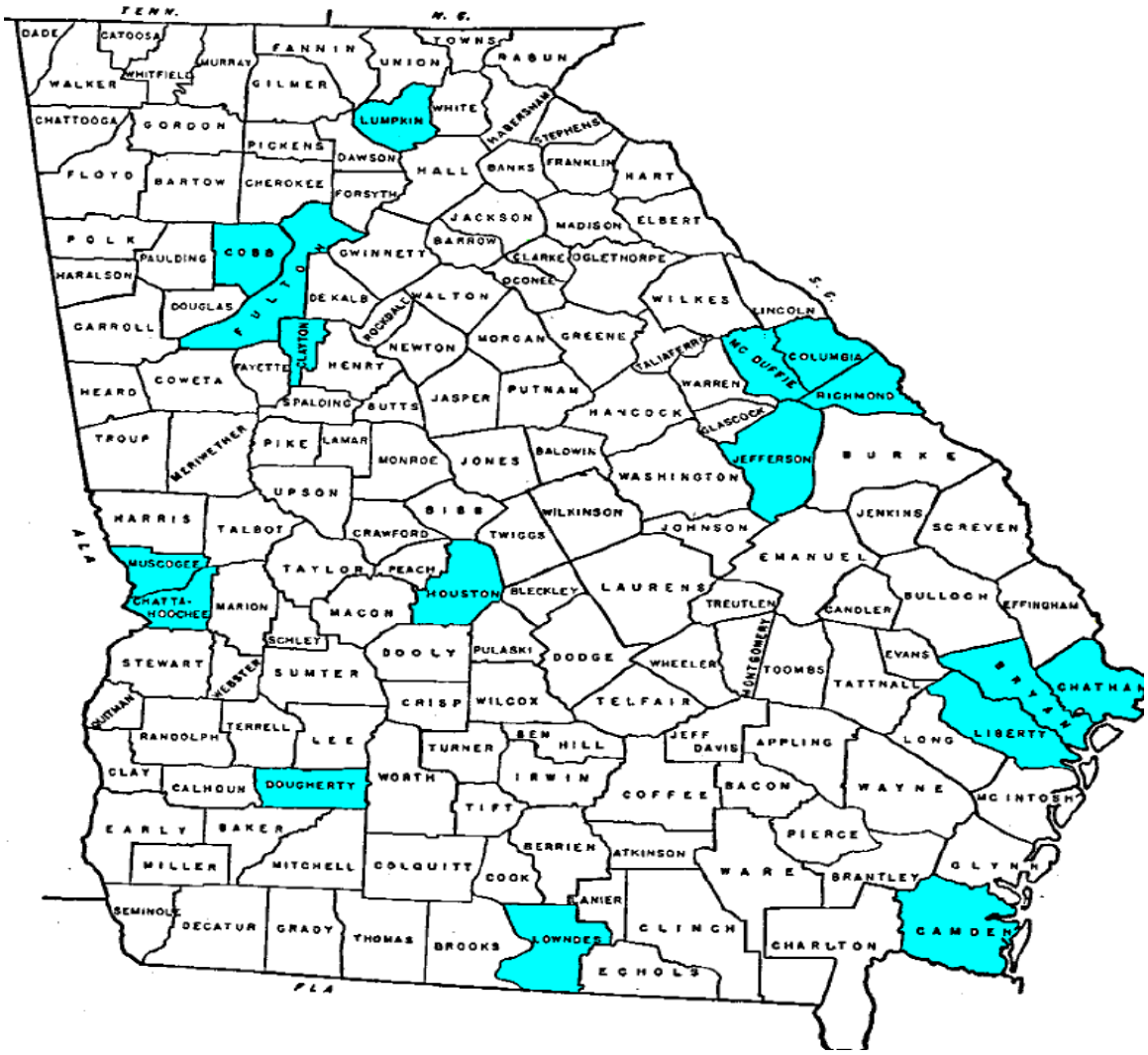
Yours very truly,

Daniel M. Formby
Deputy Attorney General

c: George W. (Buddy) Darden, Esq.

Military Bases in Georgia:

1 Albany Marine Corp Logistics Base	7 Hunter Army Air Field
2 Atlanta Air Naval Base	8 Kings Bay Submarine Base
3 Camp Frank D Merrill	9 Fort McPherson
4 Fort Benning	10 Moody Air Force Base
5 Fort Gillem	11 Fort Stewart
6 Fort Gordon	12 Robbins Air Force Base



SERVICE MEMBERS CIVIL RELIEF ACT (SCRA)

Title I – General Provisions
Section 101 – Definitions.
Section 102 – Jurisdiction and applicability of Act.
Section 103 – Protection of persons secondarily liable.
Section 104 – Extension of protections to citizens serving with allied forces.
Section 105 – Notification of benefits.
Section 106 – Extension of rights and protections to Reserves….
Section 107 – Waiver of rights pursuant to written agreement.
Section 108 – Exercise of rights under Act not to affect certain future financial….
Section 109 – Legal representatives.

Title II – General Relief
Section 201 – Protection of servicemembers against default judgments.
Section 202 – Stay of proceedings when servicemember has notice.
Section 203 – Fines and penalties under contracts.
Section 204 – Stay or vacation of execution of judgments, attachments, and garnishments.
Section 205 – Duration and term of stays; codefendants not in service.
Section 206 – Statute of Limitations.
Section 207 – Maximum rate of interest on debts incurred before military service.

Title III – Rent, Installment Contracts, Mortgages, Liens, Assignment, Leases
Section 301 – Evictions and distress.
Section 302 – Protection under installment contracts for purchase or lease.
Section 303 – Mortgages and trust deeds.
Section 304 – Settlement of stayed cases relating to personal property.
Section 305 – Termination of residential or motor vehicle leases.
Section 306 – Protection of life insurance policy.
Section 307 – Enforcement of storage liens.
Section 308 – Extension of protections to dependents.

Title IV – Life Insurance
Section 401 – Definitions.
Section 402 – Insurance rights and protections.
Section 403 – Application for insurance protection.
Section 404 – Policies entitled to protection and lapse of policies.

Section 405 – Policy restrictions.
Section 406 – Deduction of unpaid premiums.
Section 407 – Premiums and interest guaranteed by United States.
Section 408 – Regulations.
Section 409 – Review of findings of fact and conclusions of law.

Title V – Taxes and Public Lands
Section 501 – Taxes respecting personal property, money, credits, and real property.

(a) APPLICATION - This section applies in any case in which a tax or assessment, whether general or special (other than a tax on personal income), falls due and remains unpaid before or during a period of military service with respect to a servicemember's--

(1) personal property (including motor vehicles); or

(2) real property occupied for dwelling, professional, business, or agricultural purposes by a servicemember or the servicemember's dependents or employees--

(A) before the servicemember's entry into military service; and

(B) during the time the tax or assessment remains unpaid.

(b) SALE OF PROPERTY

(1) Limitation on sale of property to enforce tax assessment - Property described in subsection (a) may not be sold to enforce the collection of such tax or assessment except by court order and upon the determination by the court that military service does not materially affect the servicemember's ability to pay the unpaid tax or assessment.

(2) Stay of court proceedings - A court may stay a proceeding to enforce the collection of such tax or assessment, or sale of such property, during a period of military service of the servicemember and for a period not more than 180 days after the termination of, or release of the servicemember from, military service.

(c) REDEMPTION - When property described in subsection (a) is sold or forfeited to enforce the collection of a tax or assessment, a servicemember shall have the right to redeem or commence an action to redeem the servicemember's property during the period of military service or within 180 days after termination of or release from military service. This subsection may not be construed to shorten any period provided by the law of a State (including any political subdivision of a State) for redemption.

(d) INTEREST ON TAX OR ASSESSMENT - Whenever a servicemember does not pay a tax or assessment on property described in subsection (a) when due, the amount of the tax or assessment due and unpaid shall bear interest until paid at the rate of 6 percent per year. An

additional penalty or interest shall not be incurred by reason of nonpayment. A lien for such unpaid tax or assessment may include interest under this subsection.

(e) JOINT OWNERSHIP APPLICATION - This section applies to all forms of property described in subsection (a) owned individually by a servicemember or jointly by a servicemember and a dependent or dependents.

Section 502 – Rights in public lands.
Section 503 – Desert-land entries.
Section 504 – Mining claims.
Section 505 – Mineral permits and leases.
Section 506 – Protection or defense of rights.
Section 507 – Distribution of information concerning benefits of title.
Section 508 – Land rights of servciemembers.
Section 509 – Regulations.
Section 510 – Income Taxes.

Section 511 – Residence for tax purpose. (includes Nov 2009 amendment)
(a) RESIDENCE OR DOMICILE

(1) In GENERAL- A servicemember shall neither lose nor acquire a residence or domicile for purposes of taxation with respect to the person, personal property, or income of the servicemember by reason of being absent or present in any tax jurisdiction of the United States solely in compliance with military orders.

(2) SPOUSES- A spouse of a service member shall neither lose nor acquire a residence or domicile for purposes of taxation with respect to the person, personal property, or income of the spouse by reason of being absent or present in any tax jurisdiction of the United States solely to be with the servicemember in compliance with the servicemembers's military orders if the residence or domicile, as the case may be, is the same for the servicemember and spouse.

(b) MILITARY SERVICE COMPENSATION- Compensation of a servicemember for military service shall not be deemed to be income for services performed or from sources within a tax jurisdiction of the United States if the servicemember is not a resident or domiciliary of the jurisdiction in which the servicemember is serving in compliance with military orders.

(c) INCOME OF A MILITARY SPOUSE.- Income for services performed by the spouse of a servicemember shall not be deemed to be income for services performed or from sources within a tax jurisdiction of the United States if the spouse is not a resident or domiciliary of the jurisdiction in which the income is earned because the spouse in the jurisdiction solely to be with the servicemember serving in compliance with military orders.

(d) PERSONAL PROPERTY-

(1) RELIEF FROM PERSONAL PROPERTY TAXES- The personal property of a servicemember or the spouse of a servicemember shall not be deemed to be located or present in, or to have a situs for taxation in, the tax jurisdiction in which the servicemember is serving in compliance with military orders.

(2) EXCEPTION FOR PROPERTY WITHIN MEMBER'S DOMICILE OR RESIDENCE- This subsection applies to personal property or its use within any tax jurisdiction other than the servicemember's or the spouse's domicile or residence.

(3) EXCEPTION FOR PROPERTY USED IN TRADE OR BUSINESS- This section does not prevent taxation by a tax jurisdiction with respect to personal property used in or arising from a trade or business, if it has jurisdiction.

(4) RELATIONSHIP TO LAW OF STATE OF DOMICILE- Eligibility for relief from personal property taxes under this subsection is not contingent on whether or not such taxes are paid to the State of domicile.

(d) INCREASE OF TAX LIABILITY- A tax jurisdiction may not use the military compensation of a nonresident servicemember to increase the tax liability imposed on other income earned by the nonresident servicemember or spouse subject to tax by the jurisdiction.

(e) FEDERAL INDIAN RESERVATIONS- An Indian servicemember whose legal residence or domicile is a Federal Indian reservation shall be taxed by the laws applicable to Federal Indian reservations and not the State where the reservation is located.

(f) DEFINITIONS- For purposes of this section:

(1) PERSONAL PROPERTY- The term `personal property' means intangible and tangible property (including motor vehicles).

(2) TAXATION- The term `taxation' includes licenses, fees, or excises imposed with respect to motor vehicles and their use, if the license, fee, or excise is paid by the servicemember in the servicemember's State of domicile or residence.

(3) TAX JURISDICTION- The term `tax jurisdiction' means a State or a political subdivision of a State.

Title VI – Administrative Remedies
Section 601 – Inappropriate use of Act.
Section 602 – Certificates of service; persons reported missing.
Section 603 – Interlocutory orders.

Title VII – Further Relief
Section 701 – Anticipatory relief.

Section 702 – Power of attorney.
Section 703 – Professional liability protection.
Section 704 – Health insurance reinstatement.
Section 705 – Guarantee of residency for military personnel.
Section 706 – Business or trade obligations.

SCRA Concepts:

Material Effect. A central concept in the Servicemembers Civil Relief Act is 'Material Effect'; which means the extent to which the service member's military service has materially affected the particular situation. 'Material Effect' is generally the first question that must be answered by the court prior to final decisions. Two primary 'material effect' patterns come into play…

> *(1) The service member's ability to protect his rights, and*
> *(2) The service member's ability to meet financial obligations.*

Ad valorem tax, generally. The host state may not impose an ad valorem tax on the nonbusiness personal property of nonresident service members. The right to impose this tax is reserved to the home state. Whether the home state has such a tax or enforces it with regard to service members is of no concern to the host state. The Act's prohibition of taxes of this type is absolute.

> *Personal property may include, but not be limited to, boats, airplanes, mobile homes, motor vehicles, heavy equipment, furniture, fixtures, machinery, and equipment.*

Mobile homes. If the host state treats a mobile home as tangible nonbusiness personal property, the mobile home has the same protection as a motor vehicle or any other such property with regard to ad valorem taxes imposed by the host state. If the law of the host state also classifies the mobile home as a motor vehicle, registration with its accompanying license, fee, or excise may be imposed if the service member has not complied with the registration requirements of his home state. The same restrictions prohibiting the state from imposing an ad valorem tax in the form of a license, fee, or excise also apply. By making certain modifications to a mobile home, such as removing wheels or installing plumbing and electrical connections, an owner may make the mobile home relatively affixed to the land. In some states, the mobile home may then be treated as a piece of real property. However, state labels are not conclusive. In United States v. Chester Co. Bd of Assess, the court determined that the scope of the Act raises a federal question which does not depend on the "diverse interpretations by the several states.

Motor vehicles. The motor vehicle may fit into two categories. First, as a piece of tangible non-business property it is exempt from ad valorem taxes regardless of the authority or desire of the host state to tax it. Second, as a machine that moves on the streets and highways of the host state, it is subject to the police power of the host state. A state may exercise its police power to require a service member to register a vehicle in its jurisdiction if, and only if, the service

member has not registered the vehicle in the home state. Where the registration fee or license may properly be exacted by the host state, any portion assessed as revenue need not be paid.

DOR Regulation 560-10-30-.13

(1) As used in this Regulation, the term:

(a) "Dependent" shall mean:

1. The Servicemember's spouse, who is not a Georgia resident; or

2. The Servicemember's child, who is not a Georgia resident (as defined in Section 101(4) of Title 38 of United States Code); or

3. An individual, who is not a Georgia resident, for whom the Servicemember provided more than one-half of the individual's support for 180 days immediately preceding an application for relief under this Regulation.

(b) "Servicemember" shall mean: Any active member of the armed services, who is not a Georgia resident, who is a citizen of the United States and meets all qualifications as set forth herein.

(2) A Servicemember may apply for an exemption pursuant to the federal Servicemembers Relief Act of 2009, from motor vehicle ad valorem taxes for:

(a) Any motor vehicles registered solely in the Servicemember's name;

(b) Any motor vehicles registered in the name of a Servicemember's nonresident Dependent.

(3) Each vehicle for which the Servicemember, or their Dependent seeks exemption the Servicemember shall provide the local county tax agent:

(a) An affidavit as set forth in this Regulation, certified by the Servicemember's commanding officer, and a notarized signature of the Servicemember stating that the Servicemember is:

1. An active armed services personnel member.

2. A citizen of the United States and nonresident of Georgia.

3. Stationed at a military instrumentality within the state of Georgia solely by virtue of military orders.

(b) If the exemption is being sought for a Dependent then the Servicemember shall also provide on the Affidavit:

1. Certification that the individual seeking to register the vehicle is a Dependent of such Servicemember.

2. A notarized signature of the Servicemember's Dependent stating that such Dependent is not a resident of Georgia.

Georgia Department of Revenue

SERVICE MEMBER'S AFFIDAVIT FOR EXEMPTION OF AD VALOREM TAXES FOR MOTOR VEHICLES

I, _____ _____
(Full Legal Name) (Service Member's Number)

do hereby solemnly swear or affirm that:

a) I am an active member of the armed services of the United States of America,
Location of GA permanent duty station: _____

b) I am temporarily residing in the State of Georgia solely because my military orders require me to be stationed in Georgia and,

c) I am a citizen of the United States and not a legal resident of Georgia.

d) At this time, my home of record is the City of _____, County of _____, and State of_____.

e) _____ is my Dependent as defined in
(Full Legal Name of Dependent)

Regulation 560-10-30-.13. (If not filing this affidavit for a Dependent please leave blank).

I claim exemption from Georgia personal property taxes by the virtue of the Service Member's Relief Act of 2009, as amended.

Vehicle Identification Number	Year	Make	Model / Body Style

Any person making a false affidavit or affirmation as to any matter contained in this affidavit, or forging or causing this affidavit to be forged, shall be guilty of a felony and subject to a fine not to exceed ONE THOUSAND DOLLARS ($1,000), or imprisonment for not less than one (1) year and not more than five (5) years, or both. (O.C.G.A. 16-10-71).

Further sayeth affiant not.

_____ _____
(Signature) (Georgia residence address)

Sworn to and subscribed before me this _____ day of _____, 20_____

Notary Public _____ _____
(Printed Name) (Signature)

My commission expires: _____ (Seal)
(Date)

Certified Statement of Commanding Officer

I, _____, hereby certify that based upon the records available
(Printed Name)
to me, that the above service member is a member of my command or is the dependent of the above service member of my command and is not a legal resident of the state of Georgia.

_____ _____
(Printed Name) (Rank and Command)

_____ _____
(Signature of Commanding Officer or delegate) (Date)

Form PT 471 **06/2010**

Georgia Department of Revenue - Motor Vehicle Division
Title Ad Valorem Tax
Informational Bulletin
Non-Resident Servicemembers of the Armed Forces

May 6, 2013

NON-RESIDENT SERVICEMEMBERS

Generally, any motor vehicle purchased on or after March 1, 2013 and titled in Georgia is subject to a one-time title ad valorem tax fee ("TAVT") and thereby receives an exemption from sales and use tax and the annual ad valorem tax, also known as the "birthday tax".

However, under the federal Servicemembers Civil Relief Act ("SCRA"), a non-resident servicemember of the armed forces stationed in Georgia and their qualifying dependents are subject to different tax rules and therefore are not required to pay TAVT on the sale or purchase of a motor vehicle titled in Georgia nor can such persons be charged annual ad valorem tax on their motor vehicle. Instead, as noted in the Georgia Department of Revenue Tax Guide for Motor Vehicle Dealers dated January 1, 2013, a non-resident servicemember is subject to sales and use tax on tangible personal property such as a motor vehicle. At the same time, a servicemember who is a resident of Georgia and who titles a car in Georgia is subject to the TAVT and will receive the associated exemption from sales and use tax and the annual ad valorem tax.

Although non-resident servicemembers paying sales and use tax is compliant with the requirements of federal law, the result may be that a non-resident servicemember will sometimes pay sales tax at a rate that is higher than the TAVT rate. Accordingly, this bulletin addresses the need to ensure an equitable rate of taxation for motor vehicles titled in Georgia for non-resident servicemembers and their qualifying dependents.

POLICY

In an effort to ensure that non-resident servicemembers are not disadvantaged by their rate of taxation, a non-resident servicemember or their qualifying dependents titling a motor vehicle in Georgia may voluntarily pay the TAVT and in so doing can avoid having to pay sales tax. Dealers must calculate both the TAVT and sales tax and show non-resident servicemembers the two options so the non-resident servicemember can make an informed determination.

For calendar year 2013, the TAVT rate is 6.5%. In many counties, the sales tax rate may be 7% or 8%, but in some instances will only be 6%.

Allowing non-resident servicemembers to choose their method of taxation will ensure that non-resident servicemembers are not disadvantaged by their rate of taxation.

Who Qualifies?

This policy applies to any non-resident servicemember or their qualifying dependent who purchased a motor vehicle on or after March 1, 2013 and titled it in Georgia. Such servicemembers include any active duty member of the armed services, who is not a Georgia resident, who is a citizen of the United States, and who is stationed at a military instrumentality within the State of Georgia solely by virtue of military orders. Qualified dependents means such servicemember's spouse who is not a Georgia resident, such servicemember's child who is not a Georgia resident, or an individual who is not a Georgia resident for whom the servicemember provided more than one-half of the individual's support for 180 days preceding request for relief under the SCRA.

Proving Status

In order to prove their status as a non-resident service member or qualifying dependent, such persons should provide form PT-472NS to the selling dealer if the purchase is made at a dealership or directly to the county tag office if the purchase is made from an individual. The selling dealer and county tag offices should keep form PT-472NS on hand so it can be provided to a customer claiming non-resident servicemember status.

Refunds

Any non-resident servicemember or their qualifying dependent that purchased a motor vehicle on or after March 1, 2013 and titled it in Georgia and paid sales tax in amount greater than what they would have paid under this policy is eligible to receive a refund of the difference. In order to receive this refund, such person should submit form ST-12 and form ST-12A to the Georgia Department of Revenue. Included with these forms should be an executed form PT-472NS and a copy of the bill of sale of the motor vehicle showing the payment of sales tax.

DEALER PROCEDURE

1. If a buyer claims to be a non-resident servicemember or qualifying dependent, then the dealer should provide that person with form PT-472NS. An indication should be made on that form whether the purchase of the vehicle in question will be subject to sales tax rules including any applicable exemptions or if the person will instead voluntarily pay TAVT.

2. Dealers must calculate what a customer would have to pay under TAVT as well as what they would have to pay under sales tax and present both numbers to the non-resident servicemember or qualifying dependent.

3. If the non-resident servicemember or qualifying dependent voluntarily pays the TAVT, they will not have to pay the sales tax. If they instead pay the sales tax or have an applicable exemption from sales tax, they will not be subject to the TAVT.

4. If the non-resident servicemember or qualifying dependent pays TAVT, then the title work should be processed and sent to the county where the vehicle will be registered in accordance with normal TAVT procedures. If they instead pay sales tax, the tax should be remitted to the state on form ST-3 and the title work should be processed and sent to the county where the vehicle will be registered.

5. In either case, the dealer should retain a copy of the executed PT-472NS for audit purposes as well as submit the executed PT-472NS along with the title work to the county where the vehicle will be registered.

COUNTY TAG OFFICE PROCEDURE

1. If the non-resident servicemember or qualifying dependent pays TAVT, then the title work should be processed under normal TAVT procedures.

2. If the non-resident servicemember or qualifying dependent is subject to sales and use tax rules and has paid sales tax or otherwise has a sales tax exemption, the county tag agent should process the title work and use exemption code "NS" to ensure that TAVT is not charged.

3. The voluntary payment of TAVT, or the payment of sales tax, should be looked at on a per transaction basis; i.e. the non-resident servicemember or qualifying dependent should have the opportunity to make the determination for each vehicle titled in their name.

4. When the title work is submitted for imaging, a copy of form PT-472NS should also be submitted and the county should also retain a copy for their records.

5. For all motor vehicles purchased or sold on or after March 1, 2013 and titled in Georgia in the name of a non-resident servicemember or qualifying dependent, form PT-472NS will replace form PT-471 to satisfy the requirement that such vehicle is also exempt from annual ad valorem tax by virtue of the owner's non-resident servicemember status.

FOR MORE INFORMATION

For more information on this subject, contact the Motor Vehicle Division at 1-855-406-5221, from 8:00 am to 4:30 pm EST, Monday through Friday, excluding holidays. Persons with hearing or speech impairments may call our TDD number at 404-417-4302.

For forms and other information, visit our websites,
(www.dor.ga.gov *and* www.newtitletax.com).

Georgia Department of Revenue

FORM PT-472NS: NON-RESIDENT SERVICE MEMBER'S AFFIDAVIT FOR TITLE AD VALOREM TAX ON MOTOR VEHICLES

I, _____ _____
(Servicemember Full Legal Name) (Servicemember's Number)

do hereby solemnly swear or affirm that:

a) I am an active member of the armed services of the United States of America,
Location of Georgia permanent duty station: _____

b) I am temporarily residing in the State of Georgia solely because my military orders require me to be stationed in Georgia and,

c) I am a citizen of the United States and not a legal resident of Georgia.

d) At this time, my home of record is the City of _____, County of _____, and State of_____.

e) _____(*if applicable*) is my Dependent (servicemember's spouse who is not a Georgia resident; or servicemember's child (as defined in 38 U.S.C. § 101) who is not a Georgia resident; or individual who is not a Georgia resident for whom servicemember provided more than one-half support for 180 days preceding request for relief under the Servicemembers Civil Relief Act) and is a resident in the City of _____, County of_____, and State of_____.

I am qualified to receive the protections of the Servicemembers Civil Relief Act of 2009, as amended. I [ ] Servicemember or my [ ] Dependent am/is obtaining a Georgia title for the following motor vehicle in my/their name:

Vehicle Identification Number (VIN)	Year	Make	Model/Body Style

_____ I (or Dependent) am voluntarily paying the title ad valorem tax on this motor vehicle and therefore will not be subject to sales and use tax rules.

or

_____ I (or Dependent) will NOT pay title ad valorem tax on this motor vehicle and therefore will be subject to sales and use tax rules including any sales and use tax exemptions that may be applicable.

Any person making a false affidavit or affirmation as to any matter contained in this affidavit, or forging or causing this affidavit to be forged, shall be guilty of a felony and subject to a fine not to exceed ONE THOUSAND DOLLARS ($1,000), or imprisonment for not less than one (1) year and not more than five (5) years, or both. (O.C.G.A. § 16-10-71).

Further sayeth affiant not.

_____ _____
(Servicemember's Signature) (Georgia Residence Address)

A separate affidavit must be submitted for each vehicle or dependent. This affidavit is void if altered.

Homestead / Motor Vehicle Exemption Opinion

Attorney General Opinion
U90-151
August 21, 1990

Request By: Mr. David L. Mincey, Jr.
Crawford County Attorney

Opinion by: Lucy T. Sheftall, Assistant Attorney General

You have requested an unofficial opinion of this office on whether an active duty military person can claim an exemption from ad valorem taxes on her automobile under the Soldiers and Sailors Civil Relief Act of 1940 in the same year that her spouse with whom she lives claims a homestead exemption from real property ad valorem tax on their residence. Under Georgia law, the husband's filing of the homestead exemption, by itself, on a house titled in his name would not preclude the wife from claiming the above military personnel exemption. If, however, other circumstances establish a Georgia residency for the military wife, then she will be subject to ad valorem taxation on her automobile, notwithstanding the provisions of the Civil Relief Act.

As you are aware, Georgia exempts non-resident military personnel who are present in Georgia as a result of military orders from ad valorem taxes on their personal property pursuant to the Soldiers and Sailors Civil Relief Act of 1940, 50 U.S.C. App. 574. Op. Att'y. Gen. 67-2. The exemption, however, depends on the claimant being a "non-resident" of Georgia. Id. Although a serviceman is presumed to retain the residence and domicile he had at the time of entry into service, this presumption is a rebuttable one. Ellis v. Southeast Construction Co., 260 F.2d 280 (8th Cir. 1958). Thus, it is possible that the taxpayer in question, who had a non-Georgia residency prior to entering the service, might have conducted herself in a manner so that she lost her "non-residency" for ad valorem taxation purposes. I do not believe that her husband's filing for homestead exemption rebutted the presumption of her nonresidency, however.

Claiming a homestead exemption in Georgia indicates that the homestead exempted is the "legal residence and domicile of the applicant for all purposes whatever [sic]." O.C.G.A. 48-5-40(3) (K) (1982). The civilian husband was the applicant in this case. He indicated that his permanent residence was in Georgia when he claimed the exemption. Nothing in the Georgia Code, however, extends the husband's declaration of Georgia residency to his wife. The applicable homestead provision establishes the homestead as the permanent place of residence of the applicant only and as the home of the family. O.C.G.A. 48-5-40(3)(A) . The wife is bound by her husband's acts only to the extent that she cannot claim another homestead exemption on different property since Georgia allows only one exemption to an immediate family group. O.C.G.A. 48-5-40(3)(G) .

Moreover, Georgia does not recognize the presumption that the domicile of a married woman is that of her husband. Rather, O.C.G.A. 19-2-3 (1989 Supp.) reads as follows: "The domicile of a married person shall not be presumed to be the domicile of that person's spouse." Thus, the mere Georgia residency of the civilian husband is not enough, by itself, to prove the residency of the military wife for tax purposes. The court recognized this principle in Lance v. Safwat, 170 Ga. App. 694 (1984), in which it ruled that a wife's application for a homestead exemption on her house in Jackson County, among other factors, was not enough as a matter of law to rebut the husband's claim that he was a resident of DeKalb County.

Although the husband's filing for homestead did not establish the wife's Georgia residency, her own conduct might have accomplished this. Even though she claims to be a non-resident of Georgia, "such self-serving statements must be viewed in light of objective acts indicative of actual intent." Deckers v. Kenneth W. Rose, Inc., 592 F. Supp. 25, 27-28 (M.D. Fla. 1984). You would need to examine her conduct to see if any of her acts indicated a desire to establish Georgia residency. For example, one possible indication is whether she had an ownership interest in the home on which her husband claimed the exemption. Other indications of Georgia residency include being registered to vote and voting in Georgia elections, paying Georgia income tax, and listing oneself as a Georgia resident on a federal income tax return. Decker, 529 F. Supp. 25; Smiley v. Davenport, 139 Ga. App. 753, 758 (1976). Alternatively, the taxpayer may pay ad valorem tax or do one of the above acts in a state other than Georgia. If the objective acts of the military wife establish an intent to change her residency to Georgia, then she may not claim the exemption under the Civil Relief Act.

Accordingly, it is my unofficial opinion that the military member may continue to claim the exemption on her automobile, regardless of her husband's claiming the homestead exemption on his house, unless you can prove her loss of non-residency by other conduct on her part.

CONSTITUTION OF GEORGIA

PREAMBLE

To perpetuate the principles of free government, insure justice to all, preserve peace, promote the interest and happiness of the citizen and of the family, and transmit to posterity the enjoyment of liberty, we the people of Georgia, relying upon the protection and guidance of Almighty God, do ordain and establish this Constitution.

ARTICLE VII. TAXATION AND FINANCE
SECTION II. EXEMPTIONS FROM AD VALOREM TAXATION

Paragraph I. Unauthorized tax exemptions void.

Except as authorized in or pursuant to this Constitution, all laws exempting property from ad valorem taxation are void.

Paragraph II. Exemptions from taxation of property.

(a) **(1)** Except as otherwise provided in this Constitution, no property shall be exempted from ad valorem taxation unless the exemption is approved by two-thirds of the members elected to each branch of the General Assembly in a roll-call vote and by a majority of the qualified electors of the state voting in a referendum thereon.

(2) Homestead exemptions from ad valorem taxation levied by local taxing jurisdictions may be granted by local law conditioned upon approval by a majority of the qualified electors residing within the limits of the local taxing jurisdiction voting in a referendum thereon.

(3) Laws subject to the requirement of a referendum as provided in this subparagraph (a) may originate in either the Senate or the House of Representatives.

(4) The requirements of this subparagraph (a) shall not apply with respect to a law which codifies or recodifies an exemption previously authorized in the Constitution of 1976 or an exemption authorized pursuant to this Constitution.

(b) The grant of any exemption from ad valorem taxation shall be subject to the conditions, limitations, and administrative procedures specified by law.

Paragraph III. Exemptions which may be authorized locally.

(a)

(1) The governing authority of any county or municipality, subject to the approval of a majority of the qualified electors of such political subdivision voting in a referendum thereon, may exempt from ad valorem taxation, including all such taxation levied for educational purposes and for state purposes, inventories of goods in the process of manufacture or production, and inventories of finished goods.

(2) Exemptions granted pursuant to this subparagraph (a) may only be revoked by a referendum election called and conducted as provided by law. The call for such referendum shall not be issued within five years from the date such exemptions were first granted and, if the results of the election are in favor of the revocation of such exemptions, then such revocation shall be effective only at the end of a five-year period from the date of such referendum.

(3) The implementation, administration, and revocation of the exemptions authorized in this subparagraph (a) shall be provided for by law. Until otherwise provided by law, the grant of the exemption shall be subject to the same conditions, limitations, definitions, and procedures provided for the grant of such exemption in the Constitution of 1976 on June 30, 1983.

(b) Repealed.

Paragraph IV. Current property tax exemptions preserved.

Those types of exemptions from ad valorem taxation provided for by law on June 30, 1983, are hereby continued in effect as statutory law until otherwise provided for by law. Any law which reduces or repeals any homestead exemption in existence on June 30, 1983, or created thereafter must be approved by two-thirds of the members elected to each branch of the General Assembly in a roll-call vote and by a majority of the qualified electors of the state or the affected local taxing jurisdiction voting in a referendum thereon. Any law which reduces or repeals exemptions granted to religious or burial grounds or institutions of purely public charity must be approved by two-thirds of the members elected to each branch of the General Assembly.

Paragraph V. Disabled veteran's homestead exemption.

Except as otherwise provided in this paragraph, the amount of the homestead exemption granted to disabled veterans shall be the greater of $32,500.00 or the maximum amount which may be granted to a disabled veteran under Section 802 of Title 38 of the United States Code as hereafter amended. Such exemption shall be granted to: those persons eligible for such exemption on June 30, 1983; to disabled American veterans of any war or armed conflict who are disabled due to loss or loss of use of one lower extremity together with the loss or loss of use of one upper extremity which so affects the functions of balance or propulsion as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair; and to disabled veterans hereafter becoming eligible for assistance in acquiring housing under Section 801 of the United States Code as hereafter amended. The General Assembly may by general law provide for a different amount or a different method of determining the amount of or eligibility for the homestead exemption granted to disabled veterans. Any such law shall be enacted by a simple majority of the votes of all the members to which each house is entitled and may become effective without referendum. Such law may provide that the amount of or eligibility for the exemption shall be determined by reference to laws enacted by the United States Congress.

ARTICLE VII. TAXATION AND FINANCE
SECTION I. POWER OF TAXATION

Paragraph III. Uniformity; classification of property; assessment of agricultural land; utilities.

(a) All taxes shall be levied and collected under general laws and for public purposes only. Except as otherwise provided in subparagraphs (b), (c), (d), (e), and (f) of this Paragraph, all taxation shall be uniform upon the same class of subjects within the territorial limits of the authority levying the tax.

(b)

(1) Except as otherwise provided in this subparagraph (b), classes of subjects for taxation of property shall consist of tangible property and one or more classes of intangible personal property including money; provided, however, that any taxation of intangible personal property may be repealed by general law without approval in a referendum effective for all taxable years beginning on or after January 1, 1996.

(2) Subject to the conditions and limitations specified by law, each of the following types of property may be classified as a separate class of property for ad valorem property tax purposes and different rates, methods, and assessment dates may be provided for such properties:

(A) Trailers.

(B) Mobile homes other than those mobile homes which qualify the owner of the home for a homestead exemption from ad valorem taxation.

(C) Heavy-duty equipment motor vehicles owned by nonresidents and operated in this state.

(3) Motor vehicles may be classified as a separate class of property for ad valorem property tax purposes, and such class may be divided into separate subclasses for ad valorem purposes. The General Assembly may provide by general law for the ad valorem taxation of motor vehicles including, but not limited to, providing for different rates, methods, assessment dates, and taxpayer liability for such class and for each of its subclasses and need not provide for uniformity of taxation with other classes of property or between or within its subclasses. The General Assembly may also determine what portion of any ad valorem tax on motor vehicles shall be retained by the state. As used in this subparagraph, the term "motor vehicles" means all vehicles which are self-propelled.

MISCELLANEOUS STATUTES

Authorities

Local government authorities are separate entities created as a means of providing a wide range of services to their citizens. The General Assembly passed the Local Government Authorities Registration Act (O.G.G.A. 36-80-16) during the 1995 legislative session which requires local government authorities to register annually with the Department of Community Affairs (DCA) beginning January 1, 1996.

Under Georgia Statute, local government authorities can be created in three ways:

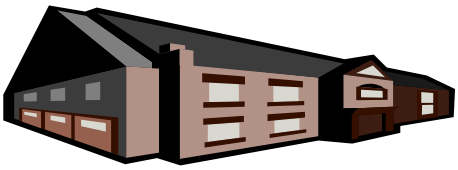
- General enabling act - Cities or counties are authorized to create authorities through general enabling legislation by passing an ordinance or resolution. The majority of authorities registered with DCA fall within this category.
- Local laws - Some Authorities are formed under local law, to create a single, unique local government authority even when there is a general enabling statute available. For example, several development and downtown development authorities were created under local law rather than general enabling statute
- Constitutional Amendments - Authorities can no longer be created by Constitutional Amendment, but there are some existing authorities that were created this way. Most of the constitutionally created authorities are development authorities.

There are 11 types of authorities that can be created through a general enabling act:

1. Development Authority
2. Downtown Development Authority
3. Hospital Authority
4. Housing Authority
5. Joint Development Authority
6. Recreation Authority
7. Regional Jail Authority
8. Regional Solid Waste Management Authority
9. Residential Care Facilities for the Elderly Authority
10. Resource Recovery Development Authority
11. Urban Residential Finance Authority (municipalities over 350,000)

Local government authorities may function as either dependent or independent entities. If an authority's finances are included in a local government's audit or financial statements, or if its operating decisions are made by a local government's executive officer or governing board, it is considered to be dependent. All other authorities are classified as independent. Of those authorities registered with the Department, most indicated they were independent.

Housing Authority



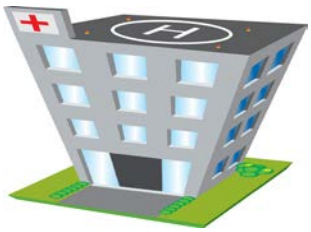
§ 8-3-4. Creation of housing authorities.

In each city and in each county of the state there is created a public body corporate and politic to be known as the "housing authority" of the city or county; provided, however, that such authority shall not transact any business or exercise its powers under this article until or unless the governing body of the city or the county, as the case may be, by proper resolution shall declare at any time hereafter that there is need for an authority to function in such city or county. The determination as to whether there is such need for an authority to function may be made by the governing body on its own motion or shall be made by the governing body upon the filing of a petition signed by 25 residents of the city or county, as the case may be, asserting that there is need for an authority to function in such city or county and requesting that the governing body so declare.

§ 8-3-8. Exemption of authorities and their property from taxes and special assessments; payments in lieu of taxes and special assessments.

The property of an authority is declared to be public property used for essential public and governmental purposes and not for purposes of private or corporate benefit and income. That portion of any housing project subject to a private enterprise agreement contemplated by subparagraph (C) of paragraph (13.1) of Code Section 8-3-3 consisting of the eligible housing units therein that are occupied or reserved for occupancy by persons of low income is declared to be public property used for essential public and governmental purposes and not for purposes of private or corporate benefit or income. Therefore, an authority and its property, as well as only that portion of any housing project subject to a private enterprise agreement contemplated by subparagraph (C) of paragraph (13.1) of Code Section 8-3-3 consisting of the eligible housing units therein that are occupied or reserved for occupancy by persons of low income, shall be exempt from all taxes and special assessments of the city, the county, and the state or any political subdivision thereof, provided that, in lieu of such taxes or special assessments, an authority may agree to make payments to the city or the county or any such political subdivision for improvements, services, and facilities furnished by such city, county, or political subdivision for the benefit of a housing project; but in no event shall such payments exceed the estimated cost to such city, county, or political subdivision of the improvements, services, or facilities to be so furnished.

Hospital Authority



§ 31-7-72. Creation of hospital authority in each county and municipality.

(a) There is created in and for each county and municipal corporation of the state a public body corporate and politic to be known as the "hospital authority" of such county or city, which shall consist of a board of not less than five nor more than nine members to be appointed by the governing body of the county or municipal corporation of the area of operation for staggered terms as specified by resolution of the governing body. The number of members of any hospital authority as of March 1, 1984, may be increased by not more than two additional members by the adoption of a resolution of the members of the hospital authority, and such additional members shall be appointed through the same process used for filling vacancies which was in effect for such hospital authority on January 1, 1984 …

(e) (1) Nothing in this Code section is intended to invalidate any of the acts of existing boards of authorities. Hospital authorities shall be granted the same exemptions and exclusions from taxes as are now granted to cities and counties for the operation of facilities similar to facilities to be operated by hospital authorities as provided for under this title.

(2) Notwithstanding the provisions of paragraph (1) of this subsection or any other law to the contrary, any real property in which 50 percent or more of the floor space thereof, excluding halls, corridors, and public spaces, is rented or leased by persons, firms, or corporations engaged in or conducting a private for profit business or profession owned by a hospital authority which is located in a county having a population of 50,000 or more according to the United States decennial census of 1990 or any future such census or owned by any subsidiary or affiliate thereof and which hospital authority or subsidiary or affiliate thereof operates a hospital containing more than 100 beds, shall be subject to all state, county, and municipal ad valorem taxes in the same manner as other private property.

(f) The project or projects of an authority created by two or more counties, or two or more municipalities, or a combination of any county and any municipality may be located outside of the area of the sponsor's operation when it is determined by the trustees that this will best serve the purposes of the facility and provided it is located within the area of service and within 12 miles of the hospital location or within 12 miles of the sponsoring county or municipality, whichever is farther.

(g) Hospital authorities created pursuant to this Code section shall have perpetual existence.

Development Authority

§ 36-62-3. Constitutional authority for chapter; finding of public purposes; tax exemption

This chapter is passed pursuant to authority granted the General Assembly by Article IX, Section VI, Paragraph III of the Constitution of this state. Each authority created by this chapter is created for nonprofit and public purposes, and it is found, determined, and declared that the creation of each such authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of this state and that the authority is an institution of purely public charity and will be performing an essential governmental function in the exercise of the power conferred upon it by this chapter. For such reasons, the state covenants, from time to time, with the holders of the bonds issued under this chapter that such authority shall be required to pay no taxes or assessments imposed by the state or any of its counties, municipal corporations, political subdivisions, or taxing districts upon any property acquired by the authority or under its jurisdiction, control, possession, or supervision or leased by it to others (other than property leased for the purposes of a "project" as defined in subparagraph (J) or (K) of paragraph (6) of Code Section 36-62-2, which shall be taxable by the state and its counties, municipal corporations, political subdivisions, and taxing districts) or upon its activities in the operation or maintenance of any such property or on any income derived by the authority in the form of fees, recording fees, rentals, charges, purchase price, installments, or otherwise, and that the bonds of such authority, their transfer, and the income therefrom shall at all times be exempt from taxation within this state. The tax exemption provided in this Code section shall not include any exemption from sales and use tax on property purchased by the authority or for use by the authority.

§ 36-62-5.1. Joint authorities

(a) By proper resolution of the local governing bodies, an authority may be created and activated by:

(1) Any two or more municipal corporations;
(2) Any two or more counties;
(3) One or more municipal corporations and one or more counties; or
(4) Any county in this state and any contiguous county in an adjoining state.

(b) A joint authority so created shall be governed by this chapter in the same manner as other authorities created pursuant to this chapter, except as specifically provided otherwise in this Code section.

(c) The resolutions creating and activating a joint authority shall specify the number of members of the authority, the number to be appointed by each participating county or municipal corporation, their terms of office, and their residency requirements.

(d) The resolutions creating and activating joint authorities may be amended by appropriate concurrent resolutions of the participating governing bodies.

(e) (1) A joint authority created by two or more contiguous counties pursuant to this Code section must be an active, bona fide joint authority; must have a board of directors; must meet at least quarterly; and must develop an operational business plan. A county may belong to more than one such joint authority.

(2) A business enterprise as defined under subsection (a) of Code Section 48-7-40 located within the jurisdiction of a joint authority established by two or more contiguous counties shall qualify for an additional $500.00 tax credit for each new full-time employee position created. The $500.00 job tax credit authorized by this paragraph shall be subject to all the conditions and limitations specified under Code Section 48-7-40, as amended; provided, however, that a business enterprise located in a county that belongs to more than one joint authority shall not qualify for an additional tax credit in excess of $500.00 for each new full-time employee position created.

(f) With respect to a joint authority created on or before March 31, 1995, and notwithstanding any provision of this Code section to the contrary, any taxpayer eligible for a tax credit pursuant to subsection (e) of this Code section shall have the option of electing to utilize for a given project the tax credit formerly authorized under this Code section for taxable years beginning prior to January 1, 1995, in lieu of the tax credit otherwise available pursuant to this Code section for taxable years beginning on or after January 1, 1995. Such election shall be made for each committed project in writing on or before July 1, 1995, to the commissioner of community

affairs. Such election shall not be effective unless approved in writing by the commissioner of community affairs. The Board of Community Affairs shall promulgate regulations necessary for the implementation of this subsection.

(g) **(1)** By May 15, 2019, and then by February 15, 2020, and annually thereafter, each joint authority with established revenue sharing agreements between the joint authority and its participating local governments and revenue emanating pursuant to such an agreement shall furnish to the state revenue commissioner and the state auditor:

(A) A statement that identifies and separately states all real and personal property and all property interests that are owned, in part or in full, by such joint authority together with the nature of any encumbrances, liens, or covenants on such property;

(B) A complete copy of all current agreements or contracts related to such joint authority that are between or among one or more counties, municipalities, joint authorities, or private parties that references matters related to taxation, payments in lieu of taxation, tax abatements, leasehold interests or estates, leaseback agreements, or the sharing of revenue, funds, fees, taxes, assessments, fines, or any other income; and

(C) All additional information determined by the state revenue commissioner or state auditor to be necessary to accurately determine the net taxable digest of each county or municipality participating in such joint authority and any affected school district.

(2) The information compiled by the state auditor pursuant to this subsection shall be utilized in determining any equalized adjusted property tax digest prepared pursuant to Code Section 48-5-274.

(3) On or before July 1, 2019, and then on or before April 1, 2020, and annually thereafter, a report that compiles the information gathered by the state auditor and that sets out the net impact of the total activities of the joint authority on the tax digest of each affected taxing jurisdiction shall be furnished to the tax commissioner of each affected county, to the governing authority of each affected county or municipality, to each affected local board of education, to the joint development authority, and to the State Board of Education. Each tax commissioner shall utilize such net impact to adjust the net assessed value of each of his or her taxing jurisdictions in order to fully account for activities of any joint authority in digest values submitted pursuant to Code Sections 48-5-32 and 48-5-32.1.

(4) The state revenue commissioner and the state auditor shall be authorized to:

(A) Conduct audits of any joint authority subject to the requirements of this subsection; and

(B) Promulgate rules and regulations necessary to administer, implement, and enforce this Code section.

COLUMBUS, GEORGIA BOARD OF TAX ASSESSORS v. THE MEDICAL CENTER HOSPITAL AUTHORITY, 336 Ga. App. 746; 783 S.E.2d 182; 2016

HOLDINGS: [1]-The trial court did not err in finding that the eight parcels owned by the Hospital Authority were exempt from ad valorem taxation under O.C.G.A. § 31-7-72(e)(1), because no evidence in the record created an issue of fact regarding the usage of the properties, but rather the evidence established that all of the parcels at issue, including those containing parking areas, furthered the legitimate function of the Hospital Authority; [2]-The trial court did not err in finding that the parcel in which the hospital and the clinic, which was for-profit, were located was exempt from ad valorem property taxes, as the parcel contained both facilities when the Authority purchased it and the square footage of the clinic was less than half of the hospital's square footage.

BUSINESS TAKING LEASEHOLD FROM AUTHORITY SUBJECT TO TAXATION. *--While the authority is exempt under O.C.G.A. § 36-62-3, a business which takes a leasehold from the authority is subject to ad valorem taxation on the fair market value of the possessory interest held. DeKalb County Bd. of Tax Assessors v. W.C. Harris & Co., 248 Ga. 277, 282 S.E.2d 880 (1981).*

Enterprise Zone

§ 36-88-8. (Enterprise Zone) Tax exemption.

(a)(1) The governing body of a local government or governments creating an enterprise zone other than an enterprise zone under subsection (g) of Code Section 36-88-6, shall include in the creating ordinance a provision to exempt qualifying business and service enterprises from state, county, and municipal ad valorem taxes that would otherwise be levied on the qualifying business and service enterprises not to exceed the following schedule:

(A) One hundred percent of the property taxes shall be exempt for the first five years;

(B) Eighty percent of the property taxes shall be exempt for the next two years;

(C) Sixty percent of the property taxes shall be exempt for the next year;

(D) Forty percent of the property taxes shall be exempt for the next year; and

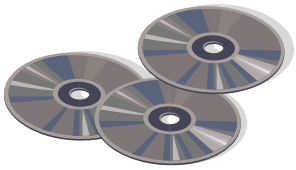
(E) Twenty percent of the property taxes shall be exempt for the last year.

(2) For any qualifying business or service enterprise, the schedule provided for in paragraph **(1)** of this subsection may begin in any year during which an area has an enterprise zone designation. Such tax exemption may continue even if the area's enterprise zone designation has terminated. A minimum of five new jobs must be maintained for a qualifying business or service enterprise to maintain eligibility for the tax exemption provided pursuant to this Code section.

(b) If the project consists of new residential construction, residential rehabilitation, or other rehabilitation of an existing structure and the value of the improvement exceeds the value of the land by a ratio of five to one, then the exemption schedule in subsection (a) of this Code section shall also apply whether or not the project is carried out by a qualifying business or service enterprise.

(c) In no event shall the value of the property tax exemptions granted to qualifying business and service enterprises within an enterprise zone created by a city, a county, or both, exceed 10 percent of the value of the property tax digest of the creating jurisdiction or jurisdictions.

Computer Software



§ 48-1-8. Computer software.

(a) As used in this Code section, the term "computer software" means any program or routine, or any set of one or more programs or routines, which are used or intended for use to cause one or more computers or pieces of computer related peripheral equipment, or any combination thereof, to perform a task or set of tasks. Without limiting the generality of the foregoing, the term "computer software" shall include operating and application programs and all related documentation.

(b) Except as otherwise provided in subsection (c) of this Code section, for the purposes of Chapters 5 and 6 of this title, computer software shall constitute personal property only to the extent of the value of the unmounted or uninstalled medium on or in which it is stored or transmitted.

(c) Nothing herein shall be deemed to affect the taxation under Chapter 5 or Chapter 8 of this title of copies of computer software held as inventory in a tangible medium ready for sale at retail by one who is a dealer with respect to such property and the sale of which is subject to sales and use taxation.

Taxable or exempt?

1. Software inventory HELD FOR SALE at retail.

2. Software INSTALLED on business computer and not held for sale.

3. Hardware USED BY business or HELD FOR SALE at retail.

4. POINT-OF-SALE EQUIPMENT

Land Bank Authority

§ 48-4-108. Exemption of land bank property from state and local taxation; acquisition of real property interests; land bank prohibited from owning or holding real property located outside geographical boundaries

(a) The real property of a land bank and its income and operations are exempt from all taxation by the state and by any of its political subdivisions, including, but not limited to, real property held by a land bank as lessor pursuant to long-term lease contracts with community land trusts.

(b) A land bank may acquire real property or interests in real property by gift, devise, transfer, exchange, foreclosure, purchase, or otherwise on terms and conditions and in a manner the board considers is in the best interest of the land bank.

(c) **(1)** A land bank may acquire real property by purchase contracts, lease-purchase agreements, and may accept transfers from municipal corporations, counties, or consolidated governments upon such terms and conditions as agreed to by the land bank and the municipal corporation, county, or consolidated government.

(2) Notwithstanding any other law to the contrary, a municipal corporation, county, or consolidated government may transfer to a land bank real property and interests in real property of the municipal corporation, county, or consolidated government on such terms and conditions and according to such procedures as determined by the municipal corporation, county, or consolidated government, so long as the real property is located within the geographical boundaries of the land bank.

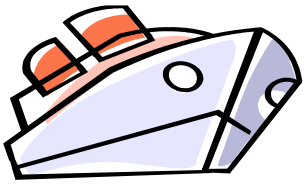
(3) The acquisition of property by the land bank shall not be governed or controlled by any regulations or laws relating to procurement or acquisition of property of the counties, consolidated governments, or municipal corporations that are members of the land bank unless specifically provided in the applicable intergovernmental contract or resolution, and transfers of property by municipal corporations, counties, or consolidated governments to the land bank shall be treated as transfers to a body politic as contemplated by subparagraph (a)(2)(A) of Code Section 36-9-3.

(d) A land bank shall maintain all of its real property in accordance with the laws and ordinances of the jurisdiction in which the real property is located.

(e) **(1)** Except as otherwise provided in paragraph (2) of this subsection, a land bank shall not own or hold real property located outside the geographical boundaries of the land bank members.

(2) A land bank may be granted pursuant to an intergovernmental contract with a county, consolidated government, or municipal corporation the authority to manage and maintain real property located within the geographical boundaries of such county, consolidated government, or municipal corporation, but outside the geographical boundaries of the land bank members.

Foreign Merchandise



§ 48-5-5. Acquisition of situs by foreign merchandise in transit.

(a) Foreign merchandise in transit shall acquire no situs so as to become subject to ad valorem taxation by political subdivisions of this state in which the port of original entry or the port of export of such merchandise is located. Such property shall not acquire situs by virtue of the fact that while in the warehouse the property is assembled, bound, joined, processed, disassembled, divided, cut, broken in bulk, relabeled, or repackaged. The grant of "no situs" status shall be liberally construed to effect the purposes of this Code section.

(b) Property which meets all of the following qualifications shall acquire no situs so as to become subject to ad valorem taxation by political subdivisions of this state:

(1) Such property is owned by a person who is not a Georgia resident and does not maintain or operate a place of business in Georgia;

(2) Such person has contracted with a commercial printer located in Georgia for printing services to be performed in Georgia; and

(3) Such property is provided by such person to such printer for the performance of such services.

48-5-2…(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.*

Federal Law: Interstate Commerce

PROPERTY TAXES

In accord with the general rule that a state cannot tax interstate commerce, it was held in the *State Freight Tax Cases*[13] that a tax on goods moving in interstate commerce is unconstitutional. This case involved a Pennsylvania statute levying a per ton tax on *all* freight moving within the state. The tax was held to give offense to the commerce clause whether the property was transported through the state, or was picked up in the state to be carried out, or was carried into the state from without, the Court observing that the transportation of freight is a constituent part of the commerce itself.[14]

An important element of this exemption from state tax is that the property must actually be in interstate commerce, i.e., the prohibition applies only *while* the goods are in transit. It does not apply if the goods have not yet started in interstate commerce, or have completed the transit, or are at a *break* in the transit.[15] Thus coal, mined and prepared for shipment to another state, was legally subject to the tax of the state of mining, the incidence of the tax being before the shipment began;[16] this rule was followed even where all of the ore was immediately and continuously loaded on cars and shipped into other states.[17]

Federal Law: 19 U.S.C. § 81o. Residents of zone
(e) Exemption from State and local ad valorem taxation of tangible personal property

<u>Tangible personal property</u> imported from outside the United States and <u>held in a zone</u> for the purpose of storage, sale, exhibition, repackaging, assembly, distribution, sorting, grading, cleaning, mixing, display, manufacturing, or processing, and tangible personal property produced in the United States and held in a zone for exportation, either in its original form or as altered by any of the above processes, <u>shall be exempt from State and local ad valorem taxation.</u>

Port of Savannah
Garden City Terminal dedicated container terminal located on 1,200 acres.
Ocean Terminal wood products, steel, automotive and heavy equipment located on 200.4 acres.

Port of Brunswick
Colonel's Island Terminal agri-bulk, autoport , 12 major manufacturers located on 1,700 acres.
Mayor's Point Terminal is a 22 ac. facility specializing in forest products and general cargo.
Marine Port Terminal is located on 72-acres, handles bulk commodities.

Port Bainbridge
Port of Bainbridge is an inland barge operation located on a 107acre

Port Columbus
Port of Columbus is a 14-acre inland barge operation specializing in liquid bulk.

Timber

§ 48-5-7.5. Assessment of standing timber; penalty for failure to timely report; effect of reduction of property tax digest; supplemental assessment.

(a) Standing timber shall be assessed for ad valorem taxation only once and such assessment shall be made following its harvest or sale as provided for in this Code section. Such timber shall be subject to ad valorem taxation notwithstanding the fact that the underlying land is exempt from taxation, unless such taxation is prohibited by federal law or treaty. Such timber shall be assessed at 100 percent of its fair market value and shall be taxed on a levy made by each respective taxing jurisdiction according to such 100 percent fair market value. Such assessment shall be made in the county where the timber was grown and shall be taxable by that county and any other taxing jurisdiction therein in which the timber was grown.

(b) For purposes of this Code section, the term "sale" of timber shall mean the arm's length, bona fide sale of standing timber for harvest separate and apart from the underlying land and shall not include the simultaneous sale of a tract of land and the timber thereon.

(c) ***Lump sum sales.***
(d) ***Unit price sales.***
(e) ***Owner harvests.***
(f) ***Other sales and harvests.***

Judicial Decisions:

Leverett v. Jasper County Bd. of Tax Assessors, 233 Ga. App. 470, 504 S.E.2d 559 (1998). 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. 1983, Art. VII, Sec. I, Para. III(e)(2).

Attorney General Opinion
92-32
November 24, 1992

Request By: Mr. John W. Mixon, Director
Georgia Forestry Commission

Opinion by: MICHAEL J. BOWERS, prepared by Harold Melton

You have asked for my official opinion as to whether timber sold from state-owned lands would be subject to the ad valorem taxation provided by O.C.G.A. 48-5-7.5(a) . This provision states:

Standing timber shall be assessed for ad valorem taxation only once and such assessment shall be made following its harvest or sale as provided for in this Code Section. Such timber shall be subject to ad valorem taxation notwithstanding the fact that the underlying land is exempt from taxation, unless such taxation is prohibited by federal law or treaty.

The essence of your question is whether the above-referenced provision narrows the State's general ad valorem tax exemption by requiring the Georgia Forestry Commission to pay ad valorem taxes on timber sold from state-owned lands. The Georgia Forestry Commission, as an agency of the State, is responsible for coordinating the sale of timber from state-owned lands, O.C.G.A. 12-6-6 . For the reasons set forth below, the Georgia Forestry Commission, as an agency of the State, remains exempt from the taxation on timber.

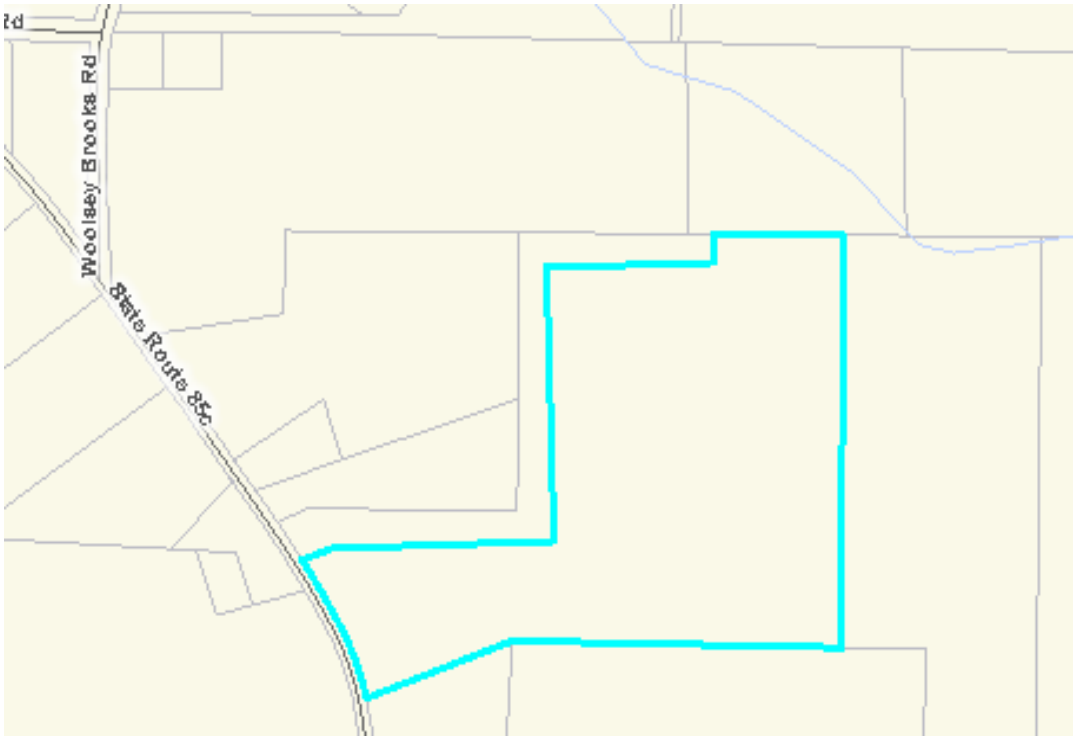
Georgia has a long-standing history of exempting public property from taxation. *See* Ga. L. 1878-79, p. 32, 1. The Code currently provides that all public property, with specified exceptions, "shall be exempt from all ad valorem property taxes in this state." O.C.G.A. 48-5-41(a)(1)(A) . The tax exemption for the State rests on fundamental principles which recognize that the tax exemption is "necessary in order that the functions of government be not unduly impeded, and that the government be not forced into the inconsistency of taxing itself in order to raise money to pay over to itself. . . ." *Penick v. Foster,* 129 Ga. 217, 225 (1907).

That the specific provision regarding timber taxation does not apply to the State is reinforced by O.C.G.A. 1-3-8 which states as follows:

The state is not bound by the passage of a law unless it is named therein or unless the words of the law are so plain, clear, and unmistakable as to leave no doubt as to the intentions of the General Assembly.

As such, it is my official opinion that the timber provision does not reveal a clear legislative intent to tax the State. As a result, the State is not subject to the timber tax provided by O.C.G.A. 48-5-7.5 . Because the taxation of timber provision can be read not to apply to public property,

it must be construed consistent with the principles that the State is exempt from ad valorem taxation.



LARGE ACREAGE VALUATION SCHEDULE:

A 100 acre vacant tract recently sold for $450,000.
The sale was determined to be an arms-length fair-market transaction.
However, the land was completely planted in loblolly pines.
The value of the timber at time of sale is estimated at $750 per acre.

What Net Sales Price Amount should be used to analyze the fair market value of other large tracts in the area?

_____

Farm Products and Equipment

§ 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) **(1)** As used in this subsection, the term 'lease purchase agreement' means a financing agreement under which:

(A) A family owned qualified farm products producer has possession and control of farm tractors, combines, or other farm equipment other than motor vehicles

equipment and uses such farm equipment directly in the production of agricultural products; and

(B) The payments made pursuant to such financing agreement are credited towards the purchase of such farm equipment.

(2) 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.

Judicial Decisions

Gold Kist, Inc. v. Jones, 231 Ga. 881, 204 S.E.2d 584 (1974)
In our view, the trial court correctly found that the clear intent of the Georgia legislation was to grant the benefit of the exemption only to the farmer himself and then only for a limited time. To allow this statute to be extended to include farm products in the hands of Gold Kist, which are irretrievably co-mingled with others, or even converted into different products before their ultimate sale, would make it impossible to determine which products have been stored beyond the period for the exemption and thus be in violation of the constitutional mandate.

Taxable or exempt?

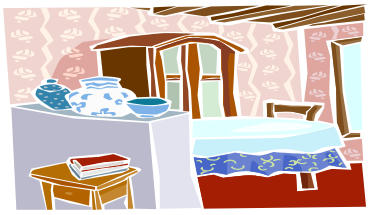
1. Farm equipment owned by individual farmer, who is a citizen of Georgia.

2. Harvested agricultural products held by individual farmer longer than 12 months.

3. A 37 month-old Brood cow owned by a Family Farm Entity.

4. All of the items listed in questions 1, 2 and 3, but which are owned by a corporation that does not qualify as a Family Farm Entity.

Personalty



§ 48-5-42. Exempt personalty

All personal clothing and effects, household furniture, furnishings, equipment, appliances, and other personal property used within the home, if not held for sale, rental, or other commercial use, shall be exempt from all ad valorem taxation. All tools and implements of trade of manual laborers shall be exempt from all ad valorem taxation in an amount not to exceed $2,500.00 in actual value and all domestic animals shall be exempt from all ad valorem taxation in an amount not to exceed $300.00 in actual value.

Personal Property Valued Less Than $7500

§ 48-5-42.1. Personal property tax exemption for property valued at $7,500.00 or less

(a) It is the intent of this Code section to exempt from the payment of ad valorem taxation certain tangible personal property on which the tax due does not exceed the reasonable cost of administering and collecting the tax.

(b) All tangible personal property of a taxpayer, except motor vehicles, trailers, and mobile homes, shall be exempt from all ad valorem taxation if the actual fair market value of the total amount of taxable tangible personal property owned by the taxpayer within the county, as determined by the board of tax assessors, does not exceed $7,500.00.

Fertilizers

§ 48-5-43. Exemption for fertilizers.

Consumers of commercial fertilizers shall not be required to return for taxation any commercial fertilizers or any manures commonly used by farmers and others as fertilizers if the land upon which the fertilizer is to be used has been properly returned for taxation.

Taxable or exempt?

1. Plumber owns tools valued at $2500 and other business equipment valued at $7500.

2. Attorney owns office furniture valued at $8500 and installed computer software valued at $20,000.

3. Local resident owns a boat valued at $7500, a boat trailer valued at $1000, a pet dog valued at $300 and a mobile home valued at $10,000.

4. Local grocery store owns inventory worth $7500 and FFM&E worth $3000.

Freeport Inventory – LEVEL 1

§ 48-5-48.1. Tangible personal property inventory exemption; application; failure to file application as waiver of exemption; denials; notice of renewals

(a) Any person, firm, or corporation seeking a level 1 freeport exemption from ad valorem taxation of certain tangible personal property inventory when such exemption has been authorized by the governing authority of any county or municipality after approval of the electors of such county or municipality pursuant to the authority of the Constitution of Georgia or Code Section 48-5-48.2 shall file a written application and summary of property with the county board of tax assessors on forms furnished by such board. Such application shall be filed in the year in which exemption from taxation is sought no later than the date on which the tax receiver or tax commissioner of the county in which the property is located closes the books for the return of taxes.

(b) The application for the level 1 freeport exemption shall provide for:

(1) A summary, as prescribed by the department, of the inventory of goods in the process of manufacture or production which shall include all partly finished goods and raw materials held for direct use or consumption in the ordinary course of the taxpayer's manufacturing or production business in the State of Georgia;

(2) A summary, as prescribed by the department, of the inventory of finished goods manufactured or produced within the State of Georgia in the ordinary course of the taxpayer's manufacturing or production business when held by the original manufacturer or producer of such finished goods;

(3) A summary, as prescribed by the department, of the inventory of finished goods which on January 1 are stored in a warehouse, dock, or wharf, whether public or private, and which are destined for shipment outside the State of Georgia and the inventory of finished goods which are shipped into the State of Georgia from outside this state and which are stored for transshipment to a final destination outside this state. The information required by Code Section 48-5-48.2 to be contained in the official books and records of the warehouse, dock, or wharf where such property is being stored, which official books and records are required to be open to the inspection of taxing authorities of this state and political subdivisions thereof, shall not be required to be included as a part of or to accompany the application for such exemption; and

(4) A summary, as prescribed by the department, of the stock in trade of a fulfillment center which on January 1 is stored in the fulfillment center. The information required by Code Section 48-5-48.2 to be contained in the official books and records of the fulfillment center where such property is being stored, which official books and records are required to be open to the inspection of the taxing authorities of this state and political subdivisions thereof, shall not be required to be included as a part of or to accompany the application for such exemption.

(c) **(1)** For purposes of this subsection, the term "file properly" shall mean and include the timely filing of the completed application for which exemption is sought on or before the due date specified in subsection (a) of this Code section. Any clerical error, including, but not limited to, a typographical error, scrivener's error, or any unintentional immaterial error or omission in the application shall not be construed as a failure to file properly.

(2) The failure to file properly the completed application shall constitute a waiver of the exemption on the part of the person, firm, or corporation failing to make the application for such exemption for that year as follows:

(A) The failure to report any inventory for which such exemption is sought in the summary provided for in the application shall constitute a waiver of the exemption on the part of the person, firm, or corporation failing to so report for that taxable year in an amount equal to the difference between fair market value of the inventory as reported and the fair market value finally determined to be applicable to the inventory for which the exemption is sought; and

(B) The failure to file timely such completed application shall constitute a waiver of the exemption until the first day of the month following the month such completed application is filed properly with the county tax assessor; provided, however, that unless such completed application is filed on or before June 1 of such year, the exemption shall be waived for that entire year.

(d) Upon receiving the application required by this Code section, the county board of tax assessors shall determine the eligibility of all types of tangible personal property listed on the application. If any property has been listed which the board believes is not eligible for the exemption, the board shall issue a letter notifying the applicant, not later than 180 days after receiving the application, that all or a portion of the application has been denied. The denial letter shall list the type and total fair market value of all property listed on the application for which the exemption has been approved and the type and total fair market value of all property listed on the application for which the exemption has been denied. The applicant shall have the right to appeal from the denial of the exemption for any property listed and such appeal shall proceed as provided in Code Section 48-5-311. Except as otherwise provided in subparagraph (c)(2)(A) of this Code section, the county board of assessors shall not send a second letter of

notification denying the exemption of all or a portion of such property listed on the application on new grounds that could and should have been discerned at the time the initial denial letter was issued. If, however, the county board of tax assessors fails to issue a letter of denial within 180 days after receiving the taxpayer's application, then the freeport exemption sought in the application shall be deemed accepted in its entirety.

(e) If the level 1 freeport exemption has been granted to a taxpayer for a taxable year, the county board of tax assessors shall issue a notice of renewal to the taxpayer for the immediately following taxable year. Such notice of renewal shall be issued not later than January 15 of such immediately following taxable year to facilitate the filing of a timely completed application by the taxpayer for such taxable year.

§ 48-5-48.2. Level 1 freeport exemption; referendum

(a) This Code section shall be known and may be cited as the "Level 1 Freeport Exemption."

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

(1) 'Affiliates' means those entities that are part of an affiliated group of the taxpayer as defined in Section 1504(a) of the Internal Revenue Code and all other entities that are directly or indirectly owned 50 percent or more by members of the affiliated group.

~~(1)~~**(2)** "Destined for shipment to a final destination outside this state" means, for purposes of a level 1 freeport exemption, that portion or percentage of an inventory of finished goods which the taxpayer can establish, through a historical sales or shipment analysis, either of which utilizes information from the preceding calendar year, or other reasonable, documented method, is reasonably anticipated to be shipped to a final destination outside this state. Such other reasonable, documented method may only be utilized in the case of a new business, in the case of a substantial change in scope of an existing business, or in other unusual situations where a historical sales or shipment analysis does not adequately reflect future anticipated shipments to a final destination outside this state. It is not necessary that the actual final destination be known as of January 1 in order to qualify for the exemption.

~~(2)~~**(3)** "Finished goods" means, for purposes of a level 1 freeport exemption, goods, wares, and merchandise of every character and kind but shall not include unrecovered, unextracted, or unsevered natural resources or raw materials or goods in the process of manufacture or production or the stock in trade of a retailer.

~~(3)~~**(4)** "Foreign merchandise in transit" means, for purposes of a level 1 freeport exemption, any goods which are in international commerce where the title has passed

to a foreign purchaser and the goods are temporarily stored in this state while awaiting shipment overseas.

~~(4)~~**(5)** "Fulfillment center" means, for purposes of a level 1 freeport exemption, a business location in Georgia which is used to pack, ship, store, or otherwise process tangible personal property sold by electronic, ~~Internet~~ internet, telephonic, or other remote means, provided that such a business location does not allow customers to purchase or receive goods onsite at such business location.

~~(5)~~**(6)** "Raw materials" means, for purposes of a level 1 freeport exemption, any material, whether crude or processed, that can be converted by manufacture, processing, or a combination thereof into a new and useful product but shall not include unrecovered, unextracted, or unsevered natural resources.

~~(6)~~**(7)** "Stock in trade of a fulfillment center" means, for purposes of a level 1 freeport exemption, goods, wares, and merchandise held by one in the business of making sales of such goods when such goods are held or stored at a fulfillment center.

~~(7)~~**(8)** "Stock in trade of a retailer" means, for purposes of a level 1 freeport exemption, finished goods held by one in the business of making sales of such goods at retail in this state, within the meaning of Chapter 8 of this title, when such goods are held or stored at a business location from which such retail sales are regularly made. Goods stored in a warehouse, dock, or wharf, including a warehouse or distribution center which is part of or adjoins a place of business from which retail sales are regularly made, shall not be considered stock in trade of a retailer to the extent that the taxpayer can establish, through a historical sales or shipment analysis, either of which utilizes information from the preceding calendar year, or other reasonable, documented method, the portion or percentage of such goods which is reasonably anticipated to be shipped outside this state for resale purposes.

(c) The governing authority of any county or municipality may, subject to the approval of the electors of such political subdivision, exempt from ad valorem taxation, including all such taxes levied for educational purposes and for state purposes, all or any combination of the following types of tangible personal property:

(1) Inventory of goods in the process of manufacture or production which shall include all partly finished goods and raw materials held by the taxpayer, the taxpayer's affiliate, or the taxpayer's designated agent for direct use or consumption in the ordinary course of the taxpayer's manufacturing or production business in this state. The exemption provided for in this paragraph shall apply only to tangible personal property which is substantially modified, altered, combined, or changed in the ordinary course of the taxpayer's manufacturing, processing, or production operations in this state. For purposes of this paragraph, the following activities shall constitute substantial

modification in the ordinary course of manufacturing, processing, or production operations:

(A) The cleaning, drying, pest control treatment, or segregation by grade of grain, peanuts or other oil seeds, or cotton;

(B) The remanufacture of aircraft engines or aircraft engine parts or components, meaning the substantial overhauling or rebuilding of aircraft engines or aircraft engine parts or components;

(C) The blending of fertilizer bulk materials into a custom mixture, whether performed at a commercial fertilizer blending plant, retail outlet, or any application site; ~~and~~

(D) The substantial assembly of finished parts; and

(E) The remanufacture, which includes repair or modification of goods manufactured, processed, or produced by the taxpayer;

(2) Inventory of finished goods manufactured or produced within this state in the ordinary course of the taxpayer's manufacturing or production business when held by the original manufacturer or producer of such finished goods. The exemption provided for in this paragraph shall be for a period not exceeding 12 months from the date such property is produced or manufactured;

(3) Inventory of finished goods which, on January 1, are stored in a warehouse, dock, or wharf, whether public or private, and which are destined for shipment to a final destination outside this state and inventory of finished goods which are shipped into this state from outside this state and stored for transshipment to a final destination outside this state, including foreign merchandise in transit. The exemption provided for in this paragraph shall be for a period not exceeding 12 months from the date such property is stored in this state. Such period shall be determined based on application of a first-in, first-out method of accounting for the inventory. The official books and records of the warehouse, dock, or wharf where such property is being stored shall contain a full, true, and accurate inventory of all such property, including the date of the receipt of the property, the date of the withdrawal of the property, the point of origin of the property, and the point of final destination of the same, if known. The official books and records of any such warehouse, dock, or wharf, whether public or private, pertaining to any such property for which a freeport exemption has been claimed shall be at all times open to the inspection of all taxing authorities of this state and of any political subdivision of this state; or

(4) Stock in trade of a fulfillment center which, on January 1, is stored in a fulfillment center and which is made available to remote purchasers who may make such

purchases by electronic, ~~Internet~~ internet, telephonic, or other remote means, and where such stock in trade of a fulfillment center will be shipped from the fulfillment center and delivered to the purchaser at a location other than the location of the fulfillment center. The exemption provided for in this paragraph shall be for a period not exceeding 12 months from the date such property is stored in this state. Such period shall be determined based on application of a first-in, first-out method of accounting for the inventory. The official books and records of the fulfillment center where such property is being stored shall contain a full, true, and accurate inventory of all such property, including the date of the receipt of the property and the date of the withdrawal of the property. The official books and records of any such fulfillment center pertaining to any such property for which a freeport exemption has been claimed shall be at all times open to the inspection of all taxing authorities of this state and of any political subdivision of this state.

(d) Whenever the governing authority of any county or municipality wishes to exempt such tangible property from ad valorem taxation, as provided in this Code section, the governing authority thereof shall notify the election superintendent of such political subdivision, and it shall be the duty of said election superintendent to issue the call for an election for the purpose of submitting to the electors of the political subdivision the question of whether such exemption shall be granted. The referendum ballot shall specify as separate questions the type or types of property as defined in this Code section which are being proposed to be exempted from taxation. The election superintendent shall issue the call and shall conduct the election on a date and in the manner authorized under Code Section 21-2-540.

(e) The governing authority of any county or municipality wherein an exemption has been approved by the voters as provided in this Code section may, by appropriate resolution, a copy of which shall be immediately transmitted to the state revenue commissioner, exempt from taxation 20 percent, 40 percent, 60 percent, 80 percent, or all of the value of such tangible personal property as defined in this Code section; provided, however, that once an exemption has been granted, no reduction in the percent of the value of such property to be exempted may be made until and unless such exemption is revoked or repealed as provided in this Code section. An increase in the percent of the value of the property to be exempted may be accomplished by appropriate resolution of the governing authority of such county or municipality, and a copy thereof shall be immediately transmitted to the state revenue commissioner, provided that such increase shall be in increments of 20 percent, 40 percent, 60 percent, or 80 percent of the value of such tangible personal property as defined in this Code section, within the discretion of such governing authority.

(f) **(1)** If more than one-half of the votes cast on such question are in favor of such exemption, then such exemption may be granted by the governing authority commencing on the first day of any ensuing calendar year; otherwise, such exemption

may not be granted. This paragraph is intended to clearly provide that following approval of such exemption in such referendum, such exemption may be granted on the first day of any calendar year following the year in which such referendum was conducted. This paragraph shall not be construed to imply that the granting of such exemption could not previously be delayed to any such calendar year.

(2) Exemptions may only be revoked by a referendum election called and conducted as provided in this Code section, provided that the call for such referendum shall not be issued within five years from the date such exemptions were first granted and, if the results of said election are in favor of the revocation of such exemptions, then such revocation shall be effective only at the end of a five-year period from the date of such referendum.

(g) Level 1 freeport exemptions effected pursuant to this Code section may be granted either in lieu of or in addition to level 2 freeport exemptions under Code Section 48-5-48.6.

(h) The commissioner shall by regulation adopt uniform procedures and forms for the use of local officials in the administration of this Code section.

Judicial Decisions

Committee for Better Gov't v. Black, 216 Ga. App. 173, 453 S.E.2d 772 (1995). Extension of time for filing not authorized. - County board of tax assessors was not authorized to extend the period of time for accepting applications beyond the date on which the books for the return of taxes in the county were closed.

Gwinnett Co Bd. of Assessors v. Makita Corp. of Am., 218 Ga. App. 175, 460 S.E.2d 538 (1995). Under O.C.G.A. 48-5-48.1, any person, firm, or corporation seeking an exemption must file a written application with the tax commissioner in the year in which the exemption is sought but no later than the date on which the commissioner closes the books for the return of taxes. The failure to properly file the application waives the exemption. Although neither the statute nor the chapter of the Code concerning ad valorem taxation defines the term "filed," it has long been recognized under Georgia law that a document is considered filed when it is delivered to and received by the proper official to be kept on file.

Rockdale County v. Finishline Indus., Inc., 238 Ga. App. 467, 518 S.E.2d 720 (1999).
Applications for Freeport exemptions and personal property report forms are required by law to be furnished by the tax commissioner and filed by the date on which the tax commissioner closes the books. Additionally, although the County is required to furnish the report forms, the tax code does not require that the County mail the report forms to taxpayers, or to insure delivery thereof if mailed. The County is required only to make such forms available. There is no evidence in the record that the forms were not available to Finishline by requesting them from the County. We further note that the trial court found that the County contends that it sent a Freeport application form and a personal property report form to the same address as that used for the tax bill, which was received by Finishline.
The statute imposes a duty on the taxpayer to file a timely return. The risk of relying on the U.S. Post Office to deliver forms mailed by the State is on the taxpayer. Any failure to receive the application for Freeport exemption form does not excuse the taxpayer from meeting its burden to file the application, any more than a failure to receive a state or federal income tax return form would excuse the taxpayer from filing such return.

William L. Bonnell Co. v. Coweta Co Bd. of Assessors, 252 Ga. App. 151, 556 S.E.2d 159 (2001).
In this case, Bonnell did not fail to report inventory but in fact reported all inventory in the schedule. The tax assessors took issue with the accounting method used to value inventory returned in the application but found no underreporting of inventory, only undervaluing of inventory. Therefore, such provisions of the Act must be strictly construed against a forfeiture or penalty where the inventory was fully reported, although a LIFO method of inventory evaluation was used instead of FIFO and produced a lower value. Thus, the waiver provision does not apply to Bonnell under the stipulated facts of this case.

Muscogee BTA v. Pace Industries Ga. App. (2011)
Inventory manufactured in Arkansas and shipped to and stored in Georgia for sale to a manufacturer who subsequently will sell a certain percentage out of state for resale purposes does not qualify for Freeport.

Attorney General Opinion

U87-71
March 12, 1987

Request By: Robert S. Stubbs, II
McVay & Stubbs Attorneys at Law

Opinion by: Lucy T. Sheftall, Assistant Attorney General

You have asked us to review an opinion given by you as county attorney to the Forsyth County Tax Commissioner and render you an unofficial opinion on the question of whether a taxpayer who fails to make a timely application for a freeport exemption is entitled to the benefit of that exemption for that tax year.

The freeport exemption, if adopted by a locality, allows the exemption of some or all of the personal property held by a taxpayer as inventory. The exemption was created by the Constitution of 1976 and is now continued in effect and implemented by O.C.G.A. §§ 48-5-48.1 and 48-5-48.2. O.C.G.A. § 48-5-48.1(a) specifically directs that the taxpayer seeking a freeport exemption "shall file a written application and schedule of property with the tax receiver or tax commissioner . . . on forms to be furnished by such tax official. Such application shall be filed in the year in which exemption from taxation is sought no later than the date on which the tax receiver or tax commissioner of the county in which the property is located closes his books for the return of taxes." Subsection (c) of the same code section further provides that "[t]he failure to file properly the application and schedule shall constitute a waiver of the exemption on the part of the person, firm, or corporation failing to make the application for such exemption for that year."

In the case *TEC Am., Inc. v. DeKalb County Board of Tax Assessors,* 170 Ga. App. 533 (1984), the Georgia Court of Appeals described the provisions of O.C.G.A. § 48-5-48.1 as "a clear legislative pronouncement to the effect that a taxpayer's failure to file a timely application for the inventory exemption would constitute a waiver of that exemption." 170 Ga. App. at 534.

Your letter indicates that you have been asked if O.C.G.A. § 48-5-20(a) which provides that a taxpayer who fails to return his property for taxation is deemed to have returned the same property and claimed the same homestead and personal property exemptions as filed the year before relieves a taxpayer from the duty to comply with O.C.G.A. § 48-5-48.1. I agree with your conclusion that the specific requirements set forth in O.C.G.A. § 48-5-48.1 should govern. Not only is O.C.G.A. § 48-5-48.1 enacted later in time than O.C.G.A. § 48-5-20(a), but it is also specifically directed to the constitutional freeport exemption while O.C.G.A. § 48-5-20 is more generally directed to all homestead and personal property exemptions.

Accordingly, it is my unofficial opinion that a taxpayer who fails to file a timely application for the freeport inventory exemption in accordance with the requirements of O.C.G.A. § 48-5-48.1 has waived that exemption for the tax year. Please be advised that this is an unofficial opinion representing the views of the writer only and is not an official opinion of the Attorney General.

Freeport Inventory – LEVEL 2

§ 48-5-48.5. Level 2 freeport exemption; application; filing; renewal

(a) Any person, firm, or corporation seeking a level 2 freeport exemption from ad valorem taxation of certain tangible personal property inventory when such exemption has been authorized by the governing authority of any county or municipality after approval of the electors of such county or municipality pursuant to the authority of the Constitution of Georgia and Code Section 48-5-48.6 shall file a written application and summary, as prescribed by the department, of property with the county board of tax assessors on forms furnished by such board. Such application shall be filed in the year in which exemption from taxation is sought no later than the date on which the tax receiver or tax commissioner of the county in which the property is located closes the books for the return of taxes.

(b) The application for the level 2 freeport exemption shall provide for a summary, as prescribed by the department, of the inventory of finished goods held by one in the business of making sales of such goods in this state.

(c) **(1)** For purposes of this subsection, the term "file properly" shall mean and include the timely filing of the application and complete summary, as prescribed by the department, of the inventory for which exemption is sought on or before the due date specified in subsection (a) of this Code section. Any clerical error, including, but not limited to, a typographical error, scrivener's error, or any unintentional immaterial error or omission in the application shall not be construed as a failure to file properly.

(2) The failure to file properly the application and summary, as prescribed by the department, shall constitute a waiver of the exemption on the part of the person, firm, or corporation failing to make the application for such exemption for that year as follows:

(A) The failure to report any inventory for which such exemption is sought in the summary, as prescribed by the department, provided for in the application shall constitute a waiver of the exemption on the part of the person, firm, or corporation failing to so report for that taxable year in an amount equal to the difference between fair market value of the inventory as reported and the fair market value finally determined to be applicable to the inventory for which the exemption is sought; and

(B) The failure to file timely such application and summary, as prescribed by the department, shall constitute a waiver of the exemption until the first day of the month following the month such application and summary, as prescribed by the

department, are filed properly with the county tax assessor; provided, however, that unless the application and schedule are filed on or before June 1 of such year, the exemption shall be waived for that entire year.

(d) Upon receiving the application required by this Code section, the county board of tax assessors shall determine the eligibility of all types of tangible personal property listed on the application. If any property has been listed which the board believes is not eligible for the exemption, the board shall issue a letter notifying the applicant that all or a portion of the application has been denied. The denial letter shall list the type and total fair market value of all property listed on the application for which the exemption has been approved and the type and total fair market value of all property listed on the application for which the exemption has been denied. The applicant shall have the right to appeal from the denial of the exemption for any property listed, and such appeal shall proceed as provided in Code Section 48-5-311. Except as otherwise provided in subparagraph (c)(2)(A) of this Code section, the county board of assessors shall not send a second letter of notification denying the exemption of all or a portion of such property listed on the application on new grounds that could and should have been discerned at the time the initial denial letter was issued.

(e) If the level 2 freeport exemption has been granted to a taxpayer for a taxable year, the county board of tax assessors shall issue a notice of renewal to the taxpayer for the immediately following taxable year. Such notice of renewal shall be issued not later than January 15 of such immediately following taxable year to facilitate the filing of a timely application and summary, as prescribed by the department, summary, as prescribed by the department, by the taxpayer for such taxable year.

§ 48-5-48.6. Level 2 freeport exemption; referendum

(a) This Code section shall be known and may be cited as the "Level 2 Freeport Exemption."

(b) As used in this Code section, the term "finished goods" means, for purposes of a level 2 freeport exemption, goods, wares, and merchandise of every character and kind constituting a business's inventory which would not otherwise qualify for a level 1 freeport exemption.

(c) The governing authority of any county or municipality may, subject to the approval of the electors of such political subdivision, exempt from ad valorem taxation, including all such taxes levied for educational purposes and for state purposes, inventory of finished goods.

(d) Whenever the governing authority of any county or municipality wishes to exempt such tangible property from ad valorem taxation, as provided in this Code section, the governing authority thereof shall notify the election superintendent of such political subdivision, and it shall be the duty of said election superintendent to issue the call for an election for the purpose of submitting to the electors of the political subdivision the question of whether such exemption

shall be granted. The referendum ballot shall specify retail business inventory as the types of property as defined in this Code section which are being proposed to be exempted from taxation. The election superintendent shall issue the call and shall conduct the election on a date and in the manner authorized under Code Section 21-2-540.

(e) The governing authority of any county or municipality wherein an exemption has been approved by the voters as provided in this Code section may, by appropriate resolution, a copy of which shall be immediately transmitted to the state revenue commissioner, exempt from taxation 20 percent, 40 percent, 60 percent, 80 percent, or all of the value of such tangible personal property as defined in this Code section; provided, however, that once an exemption has been granted, no reduction in the percent of the value of such property to be exempted may be made until and unless such exemption is revoked or repealed as provided in this Code section. An increase in the percent of the value of the property to be exempted may be accomplished by appropriate resolution of the governing authority of such county or municipality, and a copy thereof shall be immediately transmitted to the state revenue commissioner, provided that such increase shall be in increments of 20 percent, 40 percent, 60 percent, or 80 percent of the value of such tangible personal property as defined in this Code section, within the discretion of such governing authority.

(f) **(1)** If more than one-half of the votes cast on such question are in favor of such exemption, then such exemption may be granted by the governing authority commencing on the first day of any ensuing calendar year; otherwise, such exemption may not be granted. This paragraph is intended to clearly provide that following approval of such exemption in such referendum, such exemption may be granted on the first day of any calendar year following the year in which such referendum was conducted. This paragraph shall not be construed to imply that the granting of such exemption could not previously be delayed to any such calendar year.

(2) Exemptions may only be revoked by a referendum election called and conducted as provided in this Code section, provided that the call for such referendum shall not be issued within five years from the date such exemptions were first granted and, if the results of said election are in favor of the revocation of such exemptions, then such revocation shall be effective only at the end of a five-year period from the date of such referendum.

(g) Level 2 freeport exemptions effected pursuant to this Code section may be granted either in lieu of or in addition to level 1 freeport exemptions under Code Section 48-5-48.2.

(h) The commissioner shall by regulation adopt uniform procedures and forms for the use of local officials in the administration of this Code section.

§ 48-5-48.7. Determination of timely filing; recourse for improper determinations

(a) Any document required to be filed under Code Section 48-5-48.1 or 48-5-48.5 shall be considered properly and timely filed if the postal date on the mailed document, whether metered or stamped, is on or before the date on which the tax receiver or tax commissioner of the county in which the property is located closes the book for the return of taxes.

(b) Any document properly and timely filed pursuant to subsection (a) of this Code section and incorrectly determined to be untimely filed, upon sufficient proof thereof, shall entitle the applicant to a credit against future ad valorem assessments from the county which improperly denied the applicant the exemption under Code Section 48-5-48.1 or 48-5-48.5.

Equipment Used to Perform State Contract

§ 50-17-29. Miscellaneous pledges, authorizations, and exemptions.

(a) *Full faith and credit.* The full faith, credit, and taxing powers of the state are pledged to the payment of all public debt, and the interest thereon, incurred under this article; and all such debt and the interest thereon shall be exempt from taxation.

(b) *Negotiability.* Every evidence of indebtedness issued under this article shall be, and the same is held to have all the rights and incidences of, negotiable instruments, anything in law to the contrary notwithstanding.

(c) *Legal investments; securities for deposit.* General obligation debt and guaranteed revenue debt herein authorized are made securities in which all public officers and bodies of this state; all municipalities and all municipal subdivisions; all insurance companies and associations and other persons carrying on an insurance business; all banks, bankers, trust companies, savings banks, and savings associations, including savings and loan associations, building and loan associations, investment companies, and other persons carrying on a banking business; all administrators, guardians, executors, trustees, and other fiduciaries; and all other persons whatsoever who are authorized to invest in bonds or other obligations of the state may properly and legally invest funds including capital in their control or belonging to them. Such debt is further made securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of the bonds or other obligations of this state may be authorized.

(d) *State employees.* Notwithstanding the provisions of any other law, employees of the state are authorized to hold, purchase, and own bonds representing general obligation debt or guaranteed revenue debt issued under this article.

(e) ***Exemption from taxation***.

(1) Except as otherwise provided in paragraph (2) of this subsection, no city, county, municipality, or other political subdivision of this state shall impose any tax, assessment, levy, license fee, or other fee upon any contractors or subcontractors as a condition to or result of the performance of a contract, work, or services by such contractors or subcontractors 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; nor shall any city, county, municipality, or other political subdivision of this state include the contract price of or value of such contract, work, or services performed on such projects in computing the amount of any tax, assessment, levy, license fee, or other fee authorized to be imposed on any contractors or subcontractors.

COURT CASES

Lunda Constr. Co. v. Clayton County, 201 Ga. App. 106, 410 S.E.2d 446 (1991).

Gwinnett County Bd. of Tax Assessors v. APAC-Georgia, Inc., 215 Ga. App. 609, 451 S.E.2d 98 (1994).

Gainesville Asphalt, Inc. v. Hall County, 214 Ga. App. 679, 448 S.E.2d 721 (1994).

APAC-Georgia, Inc. v. Richmond County Bd. of Tax Assessors, 230 Ga. App. 570, 496 S.E.2d 488 (1998).

DOR Regulation: 560-11-10-.08 Appraisal Procedure Manual (Personal Property)

(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.

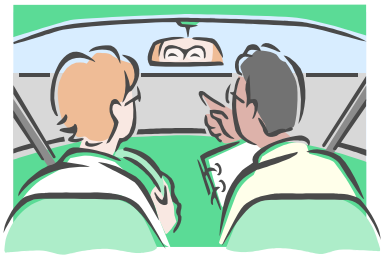
1. Personal property located in headquarters' county. When the tax situs of the personal property being used on state projects is in the same county as where the property owner's permanent business headquarters and administrative offices are located, and such property is not used exclusively for the 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.

MOTOR VEHICLE Ad Valorem EXEMPT STATUTES

Motor Vehicle – Driver Education



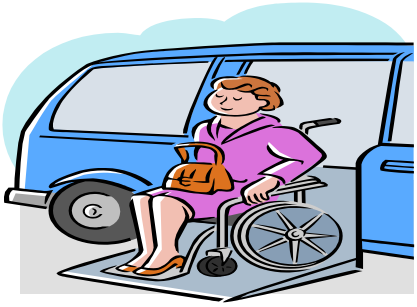
§ 48-5-470. Exemption of driver educational motor vehicles from ad valorem taxation.

Driver educational motor vehicles are declared to be public property used exclusively for public purposes and are exempted from any and all ad valorem taxes imposed by any tax jurisdiction in this state.

§ 48-5-440. Definitions.

As used in this article, the term: ….(2) "Driver educational motor vehicle" means a motor vehicle which is furnished and assigned to a public school in this state for use by the school in a program of driver education when the assignment is authorized and approved by the local board of education.

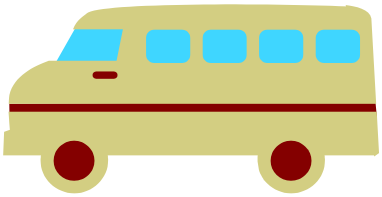
Motor Vehicle – Transporting Persons with Disabilities



§ 48-5-470.1. Exemption of motor vehicles used for transporting persons with disabilities or disabled students to or from educational institutions.

All motor vehicles owned by a school or educational institution and used principally for the purpose of transporting persons with disabilities or disabled students to or from such school or educational institution are exempted from any and all ad valorem taxes imposed by any tax jurisdiction in this state. The exemption provided for in this Code section shall apply only when such school or educational institution is qualified as an exempt organization under the United States Internal Revenue Code, Section 501(c)(3), as such section exists on January 1, 1984.

Motor Vehicle – Vans and Buses Owned by Religious Groups



§ 48-5-470.2. Exemption of vans and buses owned by religious groups.

Vans and buses owned by religious groups and used exclusively for the purpose of maintaining and operating exempt properties owned by such groups or for the exclusive purpose of transporting individuals to religious services or trips sponsored by such religious groups designed to promote religious, educational, or charitable purposes and not for the purposes of producing private or corporate profit and income distributable to shareholders in corporations owning such property or to other owners of such property or for any private purposes are exempted from any and all ad valorem taxes imposed by any tax jurisdiction in this state.

Motor Vehicle – Soldiers

§ 48-5-471. Motor vehicles subject to ad valorem taxation.

(a) Every motor vehicle owned in this state by a natural person is subject to ad valorem taxation by the various tax jurisdictions authorized to impose an ad valorem tax on property as provided in Code Section 48-5-473; provided, however, that under no circumstances shall such ad valorem taxation be collected more than one time per calendar year with respect to the same motor vehicle. Every vehicle owned in this state by an entity other than a natural person is, except as specifically provided in Code Section 48-5-472, subject to ad valorem taxation by the various tax jurisdictions authorized to impose an ad valorem tax on property as provided in Code Section 48-5-473; provided, however, that under no circumstances shall such ad valorem taxation be collected more than one time per calendar year with respect to the same motor vehicle. Taxes shall be charged against the owner of the property, if known, and, if unknown, against the specific property itself.

(b)(1) Any motor vehicle wholly owned in this state by a nonresident member of the armed forces of the United States temporarily stationed in this state as a result of military orders shall not acquire a tax situs in this state and such motor vehicle shall not be required to be returned for taxation in this state. Not more than one motor vehicle jointly owned by such member of the armed forces of the United States together with such member's nonresident spouse, when such nonresident spouse temporarily resides in this state at the temporary domicile of such member of the armed forces of the United States for the primary purpose of residing together as a family with such member of the armed forces of the United States, shall not acquire a tax situs in this state and such motor vehicle shall not be required to be returned for taxation in this state.

(2) This subsection shall not apply to any motor vehicle that is used in the conduct of a business.

(3) Nothing in this subsection shall be construed to excuse the members of the armed forces of the United States or spouses from returning such motor vehicles for ad valorem taxation as may be required by the laws of their state of permanent domicile.

Motor Vehicle – Owned by Dealer

§ 48-5-472. Ad valorem taxation of motor vehicles owned and held by dealers for retail sale.

(a) For the purpose of this Code section, the term "dealer" means any person who is engaged in the business of selling motor vehicles at retail and who holds a valid current dealer's identification number issued by the department.

(b) Motor vehicles which are owned by a dealer and held in inventory for sale or resale shall constitute a separate subclassification of motor vehicles within the motor vehicle classification of tangible property for ad valorem taxation purposes. The procedures prescribed in this article for returning motor vehicles for ad valorem taxation, determining the applicable rates for taxation, and collecting the ad valorem taxes imposed on motor vehicles do not apply to such motor vehicles which are owned by a dealer. Such motor vehicles which are owned by a dealer shall not be returned for ad valorem taxation, shall not be taxed, and no taxes shall be collected on such motor vehicles until they are transferred and then become subject to taxation as provided in Code Section 48-5-473.

Judicial Decision

Lowry v. McDuffie, 269 Ga. 202, 496 S.E.2d 727 (1998).

Paragraph III (b) (3) (Constitution) provides that the General Assembly may classify motor vehicles as a separate class of motor vehicles for ad valorem tax purposes; that it may create subclasses of motor vehicles for ad valorem tax purposes; that it may provide "by general law for the ad valorem taxation of motor vehicles including, but not limited to, providing for different rates, methods, assessment dates, and taxpayer liability for such class and each of its subclasses"; and that it need not "provide for uniformity of taxation with other classes of property or between or within its subclasses."

Motor Vehicle – Disabled Veteran

§ 48-5-478. Constitutional exemption from ad valorem taxation for disabled veterans.

(a) A motor vehicle owned by or leased to a disabled veteran who is a citizen and resident of this state and on which such disabled veteran actually places the free disabled veteran motor vehicle license plate he or she receives pursuant to Code Section 40-2-69 is hereby exempted from all ad valorem taxes for state, county, municipal, and school purposes. As used in this Code section, the term "disabled veteran" means any veteran who was discharged under honorable conditions and who has been adjudicated by the United States Department of Veterans Affairs as being 100 percent totally disabled or as being less than 100 percent totally disabled but is being compensated at the 100 percent level due to individual unemployability and is entitled to receive service connected benefits and any veteran who is receiving or who is entitled to receive a statutory award from the United States Department of Veterans Affairs for:

(1) Loss or permanent loss of use of one or both feet;

(2) Loss or permanent loss of use of one or both hands;

(3) Loss of sight in one or both eyes; or

(4) Permanent impairment of vision of both eyes of the following status: central visual acuity of 20/200 or less in the better eye, with corrective glasses, or central visual acuity of more than 20/200 if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends on angular distance no greater than 20 degrees in the better eye.

(b) Once a disabled veteran has established his or her eligibility for such ad valorem tax exemption by being 100 percent totally disabled, he or she shall be entitled to receive such ad valorem tax exemption in succeeding years thereafter. A disabled veteran who claims 100 percent total disability shall furnish proof of such disability through a letter from the United States Department of Veterans Affairs.

(c) Once a disabled veteran has established his or her eligibility for such ad valorem tax exemption but his or her disability has not been adjudicated a 100 percent total disability, he or

she shall be entitled to such ad valorem tax exemption in succeeding years upon furnishing, on an annual basis, proof of his or her status as a disabled veteran through a letter from the United States Department of Veterans Affairs.

(d) In the event of the death of the disabled veteran who received such ad valorem tax exemption pursuant to this Code section, upon complying with the motor vehicle laws relating to registration and licensing of motor vehicles, his or her unmarried surviving spouse or minor child may continue to receive the exemption.

Corresponding License Plates:
40-2-69. Free license plates and revalidation decals for certain disabled veterans.
40-2-70. Special license plates for disabled veterans not qualifying under Code 40-2-69.

Corresponding Homestead Exemption:
48-5-48. Homestead extension by qualified disabled veteran.

Motor Vehicle – Prisoner of War

§ 48-5-478.1. Ad valorem taxation; exemption of certain motor vehicles owned by former prisoners of war.

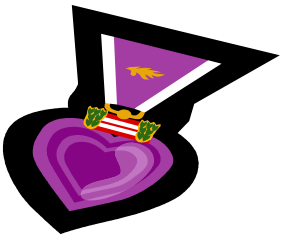
(a) As used in this Code section, the term "prisoners of war" shall have the same meaning as provided for in subsection (a) of Code Section 40-2-73, as amended.

(b) Any former prisoner of war who is a citizen and resident of Georgia and who attaches or presents a true copy of a Department of Defense Form 214, a military 201 file, or similar sufficient proof of his or her former prisoner of war status with his or her ad valorem tax return is granted an exemption from all ad valorem taxes for state, county, municipal, and school purposes on one vehicle such former prisoner of war owns.

(c) The unremarried surviving spouse of a deceased former prisoner of war who is a citizen and resident of Georgia and who attaches or presents a true copy of a Department of Defense Form 214, a military 201 file, or similar sufficient proof of the former prisoner of war status of the deceased former prisoner of war with his or her ad valorem tax return is granted an exemption from all ad valorem taxes for state, county, municipal, and school purposes on one vehicle such unremarried surviving spouse owns.

Corresponding license plate:
40-2-73. Special license plates for former prisoners of war.

Motor Vehicle – Purple Heart Citation

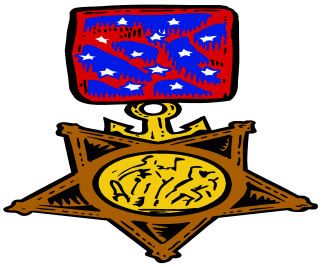


§ 48-5-478.2. Veterans awarded Purple Heart exempt from ad valorem taxes provided license plate issued under Code Section 40-2-84.

A single motor vehicle owned by or leased to a veteran of the armed forces of the United States who has been awarded the Purple Heart citation and who is a citizen and resident of Georgia and on which such veteran actually places a motor vehicle license plate he or she receives from the State of Georgia pursuant to Code Section 40-2-84 is hereby exempted from all ad valorem taxes for state, county, municipal, and school purposes.

Corresponding license plate:
40-2-84. License plates for veterans awarded Purple Heart.

Motor Vehicle – Medal of Honor



§ 48-5-478.3. Tax exemption for veterans awarded Medal of Honor.

A single motor vehicle owned by or leased to a veteran of the armed forces of the United States who has been awarded the Medal of Honor and who is a citizen and resident of Georgia and on which such veteran actually places the motor vehicle license plates he or she receives from the State of Georgia pursuant to Code Section 40-2-68 is hereby exempted from all ad valorem taxes for state, county, municipal, and school purposes.

Corresponding license plate:
40-2-68. Special license plates for Medal of Honor winners.

Motor Vehicle – Veteran Organization

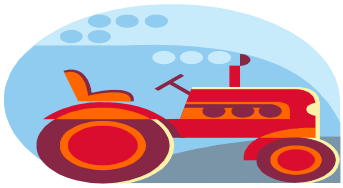
§ 48-5-478.4. Exemption from ad valorem taxes for motor vehicle owned by veterans' organization.

(a) As used in this Code section, 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.

(b) A single motor vehicle owned by or leased to a veterans organization is hereby exempted from all ad valorem taxes for state, county, municipal, and school purposes.

Corresponding license plates:
40-2-67. Special license plates for state commanders of nationally chartered veterans' organizations
40-2-85. License plates for veterans who survived attack on Pearl Harbor.
40-2-85.1. Special and distinctive license plates for veterans.
40-2-85.2. Veterans of the Chosin Reservoir Campaign of 1950.
40-2-85.3. Special license plates honoring family members of service members killed in action

Self-Propelled Farm Equipment Owned by Dealer



§ 48-5-504. Self-propelled farm equipment as subclassification of motor vehicle for ad valorem taxation purposes.

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

(1) "Dealer" means any person who is engaged in the business of selling farm equipment at retail.

(2) "Farm equipment" means any vehicle as defined in Code Section 40-1-1 which is self-propelled and which is designed and used primarily for agricultural, horticultural, forestry or livestock raising operations.

(b) Self-propelled farm equipment which is owned by a dealer and held in inventory for sale or resale shall constitute a separate subclassification of motor vehicle within the motor vehicle classification of tangible property for ad valorem taxation purposes. The procedures prescribed in this chapter for returning self-propelled farm equipment for ad valorem taxation, determining the application rates for taxation, and collecting the ad valorem taxes imposed on self-propelled farm equipment do not apply to self-propelled farm equipment which is owned by a dealer and held in inventory for sale or resale. Such self-propelled farm equipment which is owned by a dealer and held in inventory for sale or resale shall not be returned for ad valorem taxation, shall not be taxed, and no taxes shall be collected on such self-propelled farm equipment until it is transferred and then otherwise, if at all, becomes subject to taxation as provided in this chapter.

Aircraft Owned by Dealer

§ 48-5-504.20. Exemption for aircraft owned by a dealer and held in inventory for sale or resale.

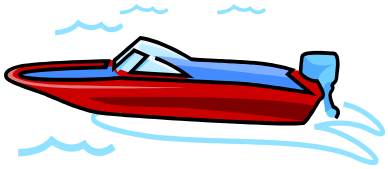
(a) As used in this Code section, the term:

(1) "Aircraft" means any vehicle which is self-propelled and which is capable of flight.

(2) "Dealer" means any person who is engaged in the business of selling aircraft at retail.

(b) Aircraft which is owned by a dealer and held in inventory for sale or resale shall constitute a separate classification of tangible property for ad valorem taxation purposes. The procedures prescribed in this chapter for returning aircraft for ad valorem taxation, determining the application rates for taxation, and collecting the ad valorem taxes imposed on aircraft do not apply to aircraft which is owned by a dealer and held in inventory for sale or resale. Such aircraft which is owned by a dealer and held in inventory for sale or resale shall not be returned for ad valorem taxation and shall not be taxed; and no taxes shall be collected on such aircraft until it is transferred and then otherwise, if at all, becomes subject to taxation as provided in this chapter.

Watercraft Owned by Dealer



§ 48-5-504.40. Watercraft held in inventory for resale exempt from taxation for limited period of time.

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

(1) "All-terrain vehicle" ~~means any motorized vehicle designed for off-road use which is equipped with four low-pressure tires, a seat designed to be straddled by the operator, and handlebars for steering~~ shall have the same meaning as provided for in paragraph (3) of 42 Code Section 40-1-1.

(2) "Dealer" means any person who is engaged in the business of selling watercraft or all-terrain vehicles at retail.

(3) "Watercraft" means any vehicle which is self-propelled or which is capable of self-propelled water transportation, or both.

(b) Watercraft and all-terrain vehicles owned by a dealer and held in inventory for sale or resale shall constitute a separate classification of tangible property for ad valorem taxation purposes. The procedures prescribed in this chapter for returning watercraft or all-terrain vehicles for ad valorem taxation, determining the application rates for taxation, and collecting the ad valorem taxes imposed on watercraft or all-terrain vehicles do not apply to watercraft or all-terrain vehicles owned by a dealer and held in inventory for sale or resale. Such watercraft or all-terrain vehicles owned by a dealer and held in inventory for sale or resale shall not be returned for ad valorem taxation and shall not be taxed, and no taxes shall be collected on such watercraft or all-terrain vehicles until they are transferred and then otherwise, if at all, become subject to taxation as provided in this chapter.

All-terrain vehicle owned by dealer

§ 40-1-1. Definitions

(3) 'All-terrain vehicle' means ~~any~~ a motorized vehicle ~~designed~~ originally manufactured for ~~off-road~~ off-highway use which is equipped with ~~four low-pressure~~ three or more nonhighway tires, ~~a seat designed to be straddled by the operator, and handlebars for steering~~ is 80 inches or less in width with a dry weight of 2,500 pounds or less, and is designed for or capable of cross-country travel on or immediately over land, water, snow, ice, marsh, swampland, or other natural terrain."

Heavy Duty Equipment Owned by Dealer

§ 48-5-505. Definitions.

As used in this article, the term:

(1) "Dealer" means any person who is engaged in the business of selling heavy-duty equipment motor vehicles at retail and who holds a valid current dealer's resale tax exemption number.

(2) "Heavy-duty equipment motor vehicle" means a motor vehicle with all its attachments and parts which is self-propelled, weighs 5,000 pounds or more, and is primarily designed and used for construction, industrial, maritime, or mining uses, provided that such motor vehicles are not required to be registered and have a license plate.

§ 48-5-506. Heavy-duty equipment motor vehicles; dealers.

(a) The provisions of this article shall apply only to heavy-duty equipment motor vehicles and dealers as defined in Code Section 48-5-505.

(b) The provisions of Part 2 of Article 10 of this chapter shall apply to all other heavy-duty equipment motor vehicles and dealers not provided for in subsection (a) of this Code section.

§ 48-5-507. Change of method of evaluating heavy-duty equipment motor vehicles for ad valorem taxes; purpose.

(a) Except as provided in subsections (b) and (c) of this Code section, every heavy-duty equipment motor vehicle owned in this state by a natural person or other entity is subject to ad valorem taxation by the various tax jurisdictions authorized to impose an ad valorem tax on

property only if owned by such natural person or entity on the first day of January of any taxable year. Taxes shall be charged against the owner of the property, if known, and, if unknown, against the specific property itself. The owner shall return the heavy-duty equipment motor vehicle for taxation as provided in Article 1 of this chapter.

(b) **(1)** Any and all purchases of heavy-duty equipment motor vehicles by dealers for the purpose of resale shall be exempt from ad valorem tax at the time of the purchase by the dealer.

(2) Any person or entity which purchases a heavy-duty equipment motor vehicle from a dealer shall, for the taxable year in which the heavy-duty equipment motor vehicle is purchased only, return such heavy-duty equipment motor vehicle for ad valorem taxation purposes, within 30 days of the end of the month in which such purchase is made, to the appropriate county and shall pay a tax for such taxable year. Upon receipt of such return, the tax commissioner shall within five days prepare and bill the purchaser for the ad valorem tax. Such tax shall be equal to 33 1/3 percent of the amount derived by multiplying the amount of ad valorem tax which would otherwise be due on the heavy-duty equipment motor vehicle and shall be based on the selling price to the end user times 40 percent, thus deriving the taxable assessment, times the tax rate imposed by the tax authority for the preceding tax year, by a fraction the numerator of which is the number of months remaining in the calendar year not counting the month of purchase and the denominator of which is 12. In no event shall the ad valorem tax due be less than $100.00 for the year of purchase. The taxes levied under this subsection shall be due 60 days after the billing therefor.

(3) Any ad valorem tax due shall be based on the selling price of the heavy-duty equipment motor vehicle purchased.

(4) In the event that any heavy-duty equipment motor vehicle is purchased other than for resale by a person or entity not domiciled in this state, at the time of the sale the dealer shall collect the ad valorem tax which would be applicable for the county where the heavy-duty equipment motor vehicle was held in inventory at the time of the sale. Each dealer, on or before the last day of the month following a sale to such person or entity, shall transmit returns and remit the ad valorem taxes collected to the tax commissioner of the county where the heavy-duty equipment motor vehicle was held in inventory at the time of the sale. Such returns shall show all sales and purchases taxable under this article during the preceding calendar month. The returns required by this subsection shall be made upon forms prescribed, prepared, and furnished by the state revenue commissioner. If any dealer liable for any tax, interest, or penalty imposed by this article sells out his or her business's heavy-duty equipment motor vehicles or quits the business, he or she shall make a final return and payment within 30 days after the date of selling or quitting the business. Any dealer who does not collect tax as required under this paragraph or who fails to properly remit taxes collected under this paragraph

shall be liable for the tax and the tax commissioner shall collect such tax, penalty, and interest in the same manner that other taxes are collected.

(c) Except as otherwise provided in this subsection, heavy-duty equipment motor vehicles which are owned by a dealer are not included within the distinct subclassification of tangible property made by this article for all other heavy-duty equipment motor vehicles. The procedures prescribed in this article for returning heavy-duty equipment motor vehicles for ad valorem taxation, determining the applicable rates for taxation, and collecting the ad valorem taxes imposed on heavy-duty equipment motor vehicles do not apply to heavy-duty equipment motor vehicles which are owned by a dealer. Heavy-duty equipment motor vehicles which are owned by a dealer shall not be returned for ad valorem taxation, shall not be taxed, and no taxes shall be collected on such heavy-duty equipment motor vehicles until they become subject to taxation as provided in subsections (a) and (b) of this Code section. No heavy-duty equipment motor vehicle held by a dealer in inventory for resale shall be subject to ad valorem taxation unless such heavy-duty equipment motor vehicle was in the dealer's inventory on January 1 of the taxable year and continued to remain in such dealer's inventory on December 20 of such taxable year, in which case the dealer shall be required to return the heavy-duty equipment motor vehicle for ad valorem taxation on December 21 of that taxable year. The assessed value of each heavy-duty equipment motor vehicle owned by a dealer shall be 40 percent of the fair market value of the heavy-duty equipment motor vehicle on January 1 of that taxable year. The tax commissioner shall prepare and mail a tax bill within five days of receipt of such dealer's return. The taxes levied under this subsection shall be due 60 days after the billing therefor.

(d) Within 30 days of the last day of a month during which there is a sale of any heavy-duty equipment motor vehicle other than for resale, the dealer shall mail to the tax commissioner of the county where the purchaser is domiciled a statement notifying the tax commissioner of the sale which shall include information such as the date of the sale, the selling price, and the name and address of the purchaser. Such statement shall be upon forms prescribed, prepared, and furnished by the state revenue commissioner.

(e) The failure of any person or entity to return property as required by this Code section shall subject such person or entity to penalties as provided in Code Section 48-5-299. The failure of any person or entity to pay the taxes as required by this Code section shall subject such person or entity to penalties and interest as provided by Code Section 48-2-44.

§ 48-5-507.1. Effect of rental status on dealer's inventory.

If the nature of the dealer's business is primarily the sale of heavy-duty equipment motor vehicles, then for purposes of this article, the rental of a heavy-duty equipment motor vehicle by the dealer to a customer shall not be deemed to have removed the vehicle from the dealer's inventory.

§ 48-5-508. Rules and regulations; affidavits of illegality contesting the assessment of ad valorem tax.

Any taxpayer who contests the value assessment of a heavy-duty equipment motor vehicle as defined in this article may appeal such assessed value as provided for in Code Section 48-5-311 except that such appeal shall be effected by mailing to or filing with the tax commissioner a notice of appeal within 60 days of the date the tax bill is mailed by the tax commissioner. Such appeal, to be properly filed, must be accompanied by a payment equal to 85 percent of the amount of such tax bill. The tax commissioner shall forward such notice of appeal to the board of tax assessors and the appeal shall be processed in accordance with Code Section 48-5-311.

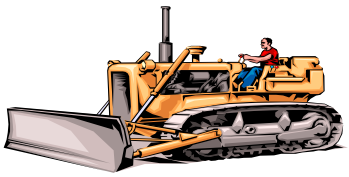
§ 48-5-509. Compliance.

The commissioner shall be authorized to promulgate rules and regulations to facilitate and ensure compliance with the provisions of this article.

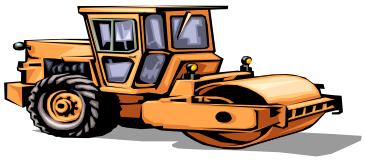
Taxable or exempt?

1. A Heavy Duty Equipment dealer located in your county owns heavy equipment on January 1 valued at $20,000,000.

2. On June 1 a heavy duty equipment dealer from outside your county sells a bulldozer to a small grading business located in your county. The sales price is $100,000.



4. On December 20, a steam roller valued at $500,000, which was in the local county dealer's inventory on January 1, remains unsold.



MOTOR VEHICLE - Title Ad Valorem Tax

§ 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 purchased from a new or used car dealer other than under a seller financed sale arrangement, 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~~ retail selling price of the motor vehicle, ~~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 purchased from a person other than a new or used car dealer or purchased under a seller financed sale arrangement, 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; provided, however, that, if the motor vehicle ~~which~~ is not listed in such current motor vehicle ad valorem assessment manual, the fair market value ~~from the bill of sale or~~ shall be the value from a reputable used car market guide designated by the commissioner~~, whichever is greater,~~ and, in the case of a motor vehicle purchased from a new or used car dealer under a seller financed sale arrangement, 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),~~ (B~~), or (D)~~ 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;

(D) For a new motor vehicle, ~~the greater of~~ the retail selling price ~~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. The retail selling price shall include any charges for labor, freight, delivery, dealer fees and similar charges, tangible accessories, dealer add-ons, and mark-ups, but shall not include any federal retailers' excise tax or extended warranty, service contract, maintenance agreement, or similar products itemized on the dealer's invoice to the customer or any finance, insurance, and interest charges for deferred payments billed separately. No reduction for the trade-in value of another motor vehicle shall be taken unless the name of the owner and the vehicle identification number of such trade-in motor vehicle are shown on the bill of sale;

(E) For a motor vehicle that is leased:

(i) In the case of a motor vehicle that is leased to a lessee for use primarily in the lessee's trade or business and for which the lease agreement contains a provision for the adjustment of the rental price as described in Code Section 40-3-60, the agreed upon value of the motor vehicle less any reduction for the trade-in value of another motor vehicle and any rebate; or

(ii) In the case of a motor vehicle that is leased other than described in division (i) of this subparagraph, the total of the base payments pursuant to the lease agreement plus any down payments.

The term "any down payments" as used in this subparagraph shall mean cash collected from the lessee at the inception of the lease which shall include cash supplied as a capital cost reduction; shall not include rebates, noncash credits, or net trade allowances; and shall include any upfront payments collected from the lessee at the inception of the lease except for taxes or fees imposed by law and monthly lease payments made in advance; or

(F) For a kit car which is assembled by the purchaser from parts supplied by a manufacturer, the ~~greater of the~~ retail selling price of the kit ~~or the average of~~

~~the current fair market value and the current wholesale value of the motor vehicle if 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~~. A kit car shall not include a rebuilt or salvage vehicle.

(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.

(7.1) "Disabled first responder" means a law enforcement officer, fireman, publicly employed emergency medical technician, or a surviving spouse of such an individual, receiving payments pursuant to Code Section 45-9-85 due to total permanent disability, partial permanent disability, organic brain damage, or death occurring in the line of duty, provided that such law enforcement officer, fireman, or publicly employed emergency medical technician is not facing pending charges for and has not been convicted of a crime related to his or her conduct in the line of duty, and his or her state licensure as a law enforcement officer, fireman, or emergency medical technician is not subject to pending action for suspension or revocation and has not been revoked or suspended due to his or her bad conduct.

(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.

(i) Reserved.

(ii) The combined state and local title ad valorem tax shall be at a rate equal to 7 percent of the fair market value of the motor vehicle; provided, however, that, beginning on January 1, 2020, and continuing through June 30, 2023, such rate shall be equal to 6.6 percent of the fair market value of the motor vehicle.

(iii) Beginning on July 1, 2019, the state and local title ad valorem tax proceeds each month shall be distributed by each county remitting 35 percent of the funds to the state revenue commissioner as provided in subparagraph (c)(2)(A) of this Code section and distributing 65 percent of the funds as provided in paragraph (3) of subsection (c) of this Code section.

(iv) 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 rate amounts 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 shall promulgate a standardized form to be used by all dealers of new and used vehicles in this state in order to ease the administration 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 (ii) of this subparagraph.

(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 shall make 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. The state and local title ad valorem tax fees provided for in this chapter shall be imposed on the purchaser, including a lessor, that acquires title to the motor vehicle; provided, however, that a lessor that pays such state and local title ad valorem tax fees may seek reimbursement for such state and local title ad valorem tax fees from the lessee.

(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 makes an application for title and collects 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 makes an application for title and collects 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, 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.

(3) Beginning July 1, 2019, the portion of the title ad valorem tax fee proceeds to be retained by the county pursuant to division (b)(1)(B)(iii) of this Code section shall be distributed as follows:

(A) The tag agent of the county shall within 20 days following the end of each calendar month allocate and distribute to the water and sewerage authority for which the county has levied an ad valorem tax in accordance with a local constitutional amendment, 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 taxes on motor vehicles collected under Chapter 5 of this title on behalf of such water and sewerage authority during calendar year 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 under division (ii) of this subparagraph may be determined by the commissioner for counties which levied such tax in 2012, and in 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 calendar year 2012, had such tax been levied. The amount of the reduction to be offset under this subparagraph with respect to division (i) of this subparagraph shall be calculated by the county governing authority by subtracting the amount of title ad valorem tax on motor vehicles collected under Chapter 5 of this title on behalf of such water and sewerage authority in the current calendar month from one-twelfth of the amount of such ad valorem tax on motor vehicles collected on behalf of such water and sewerage authority in calendar year 2012. The amount of the reduction

to be offset under this subparagraph with respect to division (ii) of this subparagraph shall be calculated by the county governing authority by subtracting the amount of sales tax collected or determined to have been collected on such motor vehicles by the state revenue commissioner in the current calendar month in any such county from one-twelfth of the amount of sales and use tax collected, or determined to have been collected, on such motor vehicles, by the state revenue commissioner in calendar year 2012 in such county. In the event that the local title ad valorem tax proceeds are insufficient to offset fully such reduction in ad valorem taxes on motor vehicles or the portion of the sales and use tax described in division (ii) of this subparagraph, the tag agent shall allocate a proportionate amount of the proceeds to such water and sewerage authority and the transportation authority, as appropriate, 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;

(B) As to the proceeds remaining after the distribution provided for in subparagraph (A) of this paragraph, with regard to the proceeds associated with and collected on motor vehicle titles for motor vehicles registered in the unincorporated areas of the county, the tag agent of the county shall within 20 days following the end of each calendar month allocate and distribute 51 percent of such proceeds to the county governing authority and distribute 49 percent of such proceeds to the board of education of the county school district; and

(C) As to the proceeds remaining after the distribution provided for in subparagraph (A) of this paragraph, with regard to the proceeds associated with and collected on motor vehicle titles for motor vehicles registered in the incorporated areas of the county, the tag agent of the county shall within 20 days following the end of each calendar month allocate such proceeds by the municipality from which the proceeds were derived and then, for each such municipality, distribute 28 percent of such proceeds to the county governing authority and 23 percent of such proceeds to the governing authority of such municipality, and the remaining 49 percent of such proceeds shall be distributed to the board of education of the county school district; provided, however, that, if there is an independent school district in such municipality, then such remaining 49 percent of such proceeds shall be distributed to the board of education of the independent school district.

(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 40-3-32

shall be required to pay state and local title ad valorem tax fees in an amount equal to 3 percent of the fair market value of the motor vehicle.

(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.

(C) Each disabled first responder shall be allowed an exemption from state and local title ad valorem tax fees under paragraph (1) of subsection (b) of this Code section levied on a maximum of $50,000.00 in aggregate of the fair market value combined for all motor vehicles that he or she registers in this state during any three-year period.

(7.1) **(A)** As used in this paragraph, the term "for-hire charter bus or motor coach" means a motor vehicle designed for carrying more than 15 passengers and used for the transportation of persons for compensation.

(B) In the case of for-hire charter buses or motor coaches, the person applying for a certificate of title shall be required to pay 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 following the filing of such application.

(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 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 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 in the amount 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.

(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;

(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; and

(J) The obtaining of a replacement title on a vehicle that is not less than 15 years old upon sufficient proof provided to the commissioner that such title no longer exists;

(K) The transfer of a title made as a result of a business reorganization when the owners, partners, members, or stockholders of the business being reorganized maintain the same proportionate interest or share in the newly formed business reorganization;

(L) The transfer of a title from a company to an owner of the company for the purpose of such individual obtaining a prestige or special license plate for the motor vehicle; and

(M) The transfer of a title from an owner of a company to the company.

(N) The transfer of a title from one legal entity in which an individual holds an ownership interest of at least 50 percent to another legal entity in which the same individual holds an ownership interest of at least 50 percent, provided that the alternative ad valorem tax imposed by this chapter has been levied on such motor vehicle and has been paid by the transferring entity or such individual.

(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) **(A)** Any person who purchases a 1963 through ~~1985~~ 1989 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 0.5 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 0.5 percent of the fair market value of such motor vehicle.

(B) The owner of a 1962 or earlier model year motor vehicle who obtains a conditional title pursuant to Code Section 40-3-21.1 for such motor vehicle shall be authorized to opt in to the provisions of this subsection upon the payment of a state title ad valorem tax fee in an amount equal to 0.5 percent of the fair market value of such motor vehicle and a local title ad valorem tax fee in an amount equal to 0.5 percent of the fair market value of such motor vehicle. Upon certification by the tag agent of compliance with the requirements of this subparagraph, 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.

(18) **(A)** Upon the transfer of title as the result of a divorce decree or court order of a motor vehicle which has not become subject to paragraph (1) of subsection (b) of this Code section, the person who receives such motor vehicle shall, subsequent to the transfer of title of such motor vehicle, continue to be subject to the 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 such person makes 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 of title as the result of a divorce decree or court order of a motor vehicle which has become subject to paragraph (1) of subsection (b) of this Code section, the person who receives such motor vehicle shall, at the time of the transfer of title of such motor vehicle, be subject to a state title ad valorem tax fee in an amount equal to one-half 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-half 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 transferee that such transfer is pursuant to a divorce decree or court order, and the transferee shall attach such decree or order to the affidavit. 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.

(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.

(g) A motor vehicle dealer shall be authorized to apply to the county tag agent of the county in which such motor vehicle is registered for a refund of state and local title ad valorem taxes on behalf of the person who purchased a motor vehicle from such dealer. Such dealer shall promptly pay to such purchaser any refund received by the dealer which is owed to the purchaser, and in any event, such payment shall be made no later than ten days following the receipt of such refund by the dealer. The county tag agent shall approve or deny the request for refund within 30 days after the filing of the application for refund. If the county tag agent denies the refund, the county tag agent shall specify the reasons for such denial. The motor vehicle dealer shall be authorized to appeal such denial to the commissioner within 30 days following such denial.

IRS 501(c)(3)

Exemption Requirements:

A charity's organizing document must limit the organization's purposes to one or more of the exempt purposes set forth in section 501(c)(3) and must not expressly empower it to engage, other than as an insubstantial part of its activities, in activities that are not in furtherance of one or more of those purposes.

The assets of an organization must be permanently dedicated to an exempt purpose. This means that should an organization dissolve, its assets must be distributed for an exempt purpose described in section 501(c)(3), or to the federal government or to a state or local government for a public purpose. To establish that an organization's assets will be permanently dedicated to an exempt purpose, the organizing document should contain a provision insuring their distribution for an exempt purpose in the event of dissolution.

To be tax-exempt under section 501(c)(3) of the Internal Revenue Code, an organization must be organized and operated exclusively for exempt purposes set forth in section 501(c)(3), and none of its earnings may inure to any private shareholder or individual. In addition, it may not be an action organization*, i.e.,* it may not attempt to influence legislation as a substantial part of its activities and it may not participate in any campaign activity for or against political candidates.

If the organization engages in an excess benefit transaction with a person having substantial influence over the organization, an excise tax may be imposed on the person and any organization managers agreeing to the transaction

Organizing Documents:

The trust instrument, corporate charter, articles of incorporation, articles of association, or other written instrument by which the organization is created under state law.

Organization:

Section 501(c)(3) divides organizations into two classes: public charities and private foundations.

Generally, organizations that are classified as public charities are those that

1. are churches, hospitals, qualified medical research organizations affiliated with hospitals, schools, colleges and universities.
2. have an active program of fundraising and receive contributions from many sources, including the general public, governmental agencies, corporations, private foundations or other public charities,
3. receive income from the conduct of activities in furtherance of the organization's exempt purposes, or
4. actively function in a supporting relationship to one or more existing public charities.

Private foundations, in contrast, typically have a single major source of funding (usually gifts from one family or corporation rather than funding from many sources) and most have as their primary activity the making of grants to other charitable organizations and to individuals, rather than the direct operation of charitable programs.

Operational Test:

An organization will be regarded as *operated exclusively* for one or more exempt purposes only if it engages primarily in activities that accomplish exempt purposes specified in 501(c)(3).

Exempt Purposes:

The exempt purposes set forth in section 501(c)(3) are;

- charitable,
- religious,
- educational,
- scientific,
- literary,
- testing for public safety,
- fostering national or international amateur sports competition,
- and preventing cruelty to children or animals.

The term *charitable* is used in its generally accepted legal sense and includes;

- relief of the poor, the distressed, or the underprivileged;
- advancement of religion;
- advancement of education or science;

- erecting or maintaining public buildings, monuments, or works;
- lessening the burdens of government;
- lessening neighborhood tensions;
- eliminating prejudice and discrimination;
- defending human and civil rights secured by law;
- and combating community deterioration and juvenile delinquency.

Form **1023**
(Rev. June 2006)
Department of the Treasury
Internal Revenue Service

Application for Recognition of Exemption
Under Section 501(c)(3) of the Internal Revenue Code

OMB No. 1545-0056

Note: *If exempt status is approved, this application will be open for public inspection.*

Use the instructions to complete this application and for a definition of all **bold** *items.* For additional help, call IRS Exempt Organizations Customer Account Services toll-free at 1-877-829-5500. Visit our website at **www.irs.gov** for forms and publications. If the required information and documents are not submitted with payment of the appropriate user fee, the application may be returned to you.

Attach additional sheets to this application if you need more space to answer fully. Put your name and EIN on each sheet and identify each answer by Part and line number. Complete Parts I - XI of Form 1023 and submit only those Schedules (A through H) that apply to you.

Part I **Identification of Applicant**

1	Full name of organization (exactly as it appears in your organizing document)		2 c/o Name (if applicable)
3	**Mailing address** (Number and street) (see instructions)	Room/Suite	4 Employer Identification Number (EIN)
	City or town, state or country, and ZIP + 4		5 Month the annual accounting period ends (01 – 12)
6	Primary contact (officer, director, trustee, or **authorized representative**) a Name:		b Phone: c Fax: (optional)

7 Are you represented by an authorized representative, such as an attorney or accountant? If "Yes," provide the authorized representative's name, and the name and address of the authorized representative's firm. Include a completed Form 2848, *Power of Attorney and Declaration of Representative,* with your application if you would like us to communicate with your representative. ☐ **Yes** ☐ **No**

8 Was a person who is not one of your officers, directors, trustees, employees, or an authorized representative listed in line 7, paid, or promised payment, to help plan, manage, or advise you about the structure or activities of your organization, or about your financial or tax matters? If "Yes," provide the person's name, the name and address of the person's firm, the amounts paid or promised to be paid, and describe that person's role. ☐ **Yes** ☐ **No**

9a Organization's website:

b Organization's email: (optional)

10 Certain organizations are not required to file an information return (Form 990 or Form 990-EZ). If you are granted tax-exemption, are you claiming to be excused from filing Form 990 or Form 990-EZ? If "Yes," explain. See the instructions for a description of organizations not required to file Form 990 or Form 990-EZ. ☐ **Yes** ☐ **No**

11 Date incorporated if a corporation, or formed, if other than a corporation. (MM/DD/YYYY) / /

12 Were you formed under the laws of a **foreign country?** ☐ **Yes** ☐ **No**
If "Yes," state the country.

For Paperwork Reduction Act Notice, see page 24 of the instructions. Cat. No. 17133K Form **1023** (Rev. 6-2006)

O.C.G.A. 48-5-41 PROPERTY EXEMPT FROM TAXATION

Public Property

§ 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.

(F) All interests in property on a campus of the Board of Regents of the University System of Georgia primarily used for student housing or parking held by a private party that is contractually obligated to operate such property primarily for the use or benefit of a public college or university shall be considered to be public property within the meaning of this paragraph, provided that such interest of the private party resulted from a competitive procurement.

Judicial Decisions

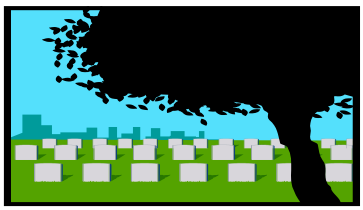
Penick v. Foster, 129 Ga. 217, 58 S.E. 773, 12 L.R.A. 1159, 12 Ann. Cas. 346 (1907)
"It is well settled, as a general rule, that public property and the various instrumentalities of government, whether, in England and her colonies, appertaining to the crown, or, in the United States, to the Federal government, the various States, or the political subdivisions of the States, are not subject to taxation. This immunity is in almost all jurisdictions confirmed by some express constitutional or statutory grant of exemption, but it is by no means dependent thereon, for it rests upon the most fundamental principles of government, being necessary in order that the functions of government be not unduly impeded, and that the government be not forced into the inconsistency of taxing itself in order to raise money to pay over to itself, which money could be raised only by other taxation; and the express exemptions are considered to be inserted in the tax laws only from abundant caution, and because the assessment of taxes is made by local officers who, though skilled in the valuation of property, are presumably unlearned in legal distinctions

Board of Trustees v. City of Atlanta, 113 Ga. 883, 39 S.E. 394, 54 L.R.A. 806 (1901)
That private property is used exclusively for public purposes does not change the nature of the property or the title thereto, so as to convert it into public property

Johnson v. Wormsloe Found., Inc., 228 Ga. 722, 187 S.E.2d 682 (1972)
Whether express or implied, an intention on the part of the owner to dedicate his property to the public use must be shown . . . When an implied dedication is claimed, the facts relied on must be such as to clearly indicate a purpose on the part of the owner to abandon his personal dominion over the property and to devote it to a definite public use….The mere use of one's property by a small portion of the public, even for an extended period of time, will not amount to a dedication of the property to a public use, unless it appears clearly that there was an intention to dedicate . . .'

Clayton Co. Bd. of Tax Assessors v. City of Atlanta Ga. App. (2007)
Four cases involving taxability of property owned by the City of Atlanta and located outside its territorial limits in Clayton County.

Places of Burial



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

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

(2) All places of burial;

(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.

Judicial Decisions

Suttles v. Hill Crest Cem., 87 Ga. App. 343, 73 S.E.2d 760 (1952)
We have not a doubt that this cemetery, as a whole, is a 'place of burial' within the intendment of the constitution. Then it is exempt from taxation, unless, under the proviso of the constitution, it is leased or used for purposes of private or corporate income or profit.
The evidence is equally perfect that it is not used for any other purpose than that of a cemetery, or for any purpose which yields any private or corporate profit or income. The sole fact, upon which is predicated the charge of use for corporate profit, is that the corporation sells plots of the ground to persons desiring to build tombs and bury their dead therein, at prices which, if all were sold, would yield a profit on the investment. But, it is to be observed that such sales do not, in any manner, change the use of the property but rather preserves and confirms the use and dedication as a place of burial.

City of Atlanta v. Crest Lawn Mem. Park Corp., 218 Ga. 497, 128 S.E.2d 722 (1962)
The exemption accorded to cemetery lands may extend to all property used or held exclusively for the burial of the dead or for the care, maintenance, or upkeep of such property, and ordinarily applies to a columbarium, a crematory, a mausoleum, or unsold lots, crypts, or niches, and covers permanent improvements placed on the land and necessary to its use as a burying ground.

Crestlawn Mem. Park v. City of Atlanta, 235 Ga. 194, 219 S.E.2d 122 (1975)
The assessments levied by the city upon appellant's property are not taxes as contemplated by Code. The exemption from taxation made by the General Assembly under the authority of the Constitution, relates to taxes for revenue and not special assessments of the character involved in this case.

Attorney General
U75-15
March 12, 1975

Request by: Attorney, Thomas County

Opinion by: ARTHUR K. BOLTON, ATTORNEY GENERAL

Reference is made to your letter of February 27, 1975 in which you posed the question of whether or not a cemetery, privately owned by a corporation, is exempt from ad valorem taxation.

Article VII, Section I, Paragraph IV of the Constitution of the State of Georgia as set forth in Ga. Code Ann. 2-5404 and Ga. Laws 1878-9, p. 33, as amended (Ga. Code Ann. 92-201) provide that places of burial are exempt from taxation. In *Suttles v. Hill Crest Cemetery, Inc.*, 87 Ga. App. 343 (1952), the corporation successfully argued that its cemetery was exempt from taxation. The deed which conveyed the property to the corporation specifically designated the property to be used solely as a cemetery. After a thorough examination of the deed and the actual use to which the property had been put, the court concluded:

"We have not a doubt that this cemetery, as a whole, is a place of burial' within the intendment of the constitution. Then it is exempt from taxation, unless, under the proviso of the constitution, it is *leased* or *used* for purposes of private or corporate income or profit. . . . The sole fact upon which is predicated the charge of use for corporate profit is that the corporation sells plots of the ground to persons desiring to build tombs and bury their dead therein, at prices which, if all were sold, would yield a profit on the investment. But, it is to be observed that such sales do not, in any manner, change the use of the property but rather preserves and confirms the use and dedication as a place of burial." (Emphasis by court.) Id. at 350.

The rationale of *Suttles* was followed in *City of Atlanta v. Crest Lawn Memorial Park Corp.*, 218 Ga. 497 (1962), where the Supreme Court said, in essence, that once property has been dedicated for use as a cemetery or place of burial, even though undeveloped, it is entitled to the tax exemption so long as the tract maintains its character as a place of burial.

It is my unofficial opinion, therefore, that property utilized as a cemetery or place of burial is exempt from taxation without regard for the fact that the property is owned by either a public or private corporation or by individuals, collectively or severally.

Places of Religious Worship

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

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

(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;

(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.

Judicial Decisions

Roberts v. Ravenwood Church of Wicca, 249 Ga. 348, 292 S.E.2d 657 (1982)
In responding to this argument, it is first necessary to dispel the dissent's suggestion that under the majority opinion, places of religious worship are practically unlimited and would include places in which Satanic cults worship a supernatural evil force. Under the majority opinion, demonology and stereotypical witchcraft most emphatically do not constitute religion. As we stated in the majority opinion, the minimum requirements of religion are (1) a sincere and meaningful belief in God occupying in the life of its possessors a place parallel to that occupied by God in traditional religions, and (2) a dedication to the practice of that belief.

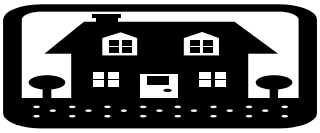
Church of God of Union Ass'y, Inc. v. City of Dalton, 216 Ga. 659, 119 S.E.2d 11 (1961)
If the property is used primarily for either profit or purposes other than the operation of the institution, it is not exempt from taxes. The fact that the property is used to make profit which will in turn be given or used by the church for church purposes in no degree confers tax exemption thereupon.

Pickens County Bd. of Tax Assessors v. Atlanta Baptist Ass'n, 191 Ga. App. 260, 381 S.E.2d 419 (1989)
The evidence establishes without dispute that religious activities are an integral part of every aspect of the use of the property. Although the recreational facilities which are provided to visitors are secular in nature, their use was shown to be intimately connected and intertwined with the religious activities to which the property is primarily dedicated. The fact that visitors are charged fees which are applied towards the operating expenses of the facility does not alter its fundamentally religious character.

Leggett v. Macon Baptist Ass'n, 232 Ga. 27, 205 S.E.2d 197 (1974)
We conclude that the property of the Macon Baptist Association, Inc., here involved is not being used primarily as a place of religious worship within the meaning of the Georgia Constitution and statute authorizing the exemption of the property from ad valorem taxation. In summary, this conclusion is based primarily upon the finding that the property is not open as a public place of worship where a congregation gathers to practice the rites and ceremonies of its doctrinal theology, and to receive the sacraments of the church.

Roberts v. Atlanta Baptist Ass'n, 240 Ga. 503, 241 S.E.2d 224 (1978)
If the presence of the omnipotent and omnipresent God cannot be restricted to a mere man made edifice, surely it was not intended to limit the worship of such a God to a building. Neither is the fact that fewer members than a complete, separate, organized church met in this assembly, controlling.

Single-Family Residence Owned by Religious Group



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

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

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

(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.

Purely Public Charity

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

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

(4) All institutions of purely public charity;

(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.

§ 48-5-40. (5) "Institutions of purely public charity," "nonprofit hospitals," and "hospitals not operated for the purpose of private or corporate profit and income" mean such institutions or hospitals which may have incidental income from paying patients when the income, if any, is devoted exclusively to the charitable purpose of caring for patients who are unable to pay and to maintaining, operating, and improving the facilities of such institutions and hospitals, and when the income is not directly or indirectly for distribution to shareholders in corporations owning such property or to other owners of such property.

Judicial Decisions:

Tharpe v. Central Ga. Council of BSA, 185 Ga. 810, 196 S.E. 762 (1938).
The word "charity," as used in former Code and in Ga. Const. 1877 was broad enough to include the use of property by the Boy Scout organization. Character of a corporation, as disclosed by the corporation's charter provisions and other evidence, will be considered in determining whether the use of the property is such as to exempt the property from taxation.

Institute of Nuclear Power Operations v. Cobb County Bd. of Tax Assessors, 236 Ga. App. 48, 510 S.E.2d 844 (1999).
As the president of INPO acknowledges, plant safety and a high degree of reliability go "hand in hand" with economic performance. The same economic factors indicating that INPO's efforts are not purely charitable also indicate that they are not purely public. The primary purpose of INPO is to collect, analyze and disseminate industry lessons learned based on highly confidential surveys. Moreover, there is not a single outside or disinterested director on INPO's Board of Directors. Members must pay dues to belong. That portion of the building occupied by INPO is restricted to members and their guests; the public is expressly excluded from industry meetings. The undisputed facts indicate that INPO does not exist for the sole purpose and activity of dispensing purely public charity.

Chatham County Bd. of Tax Assessors v. Southside Communities Fire Protection, Inc., 217 Ga. App. 361, 457 S.E.2d 267 (1995).
Property of a private firefighting service was exempt as a "purely public charity."

Cobb County Bd. of Tax Assessors v. Marietta Educ. Garden Ctr., Inc., 239 Ga. App. 740, 521 S.E.2d 892 (1999)
Certainly no one would dispute that the Garden Center's contribution to aesthetics and appreciation for the environment in Marietta and Cobb County benefits all who visit the Garden Center. Nevertheless, in our view, such benefit to the public must inevitably be regarded as subordinate to those benefits the Garden Center provides the memberships of 34 member clubs through the free use of its facilities and those renting them.
In the context of the three-prong test established by York Rite, the evidence shows that the payment of member club dues and rent to the Garden Center results in the provision of substantial services and benefits not available to the general public.
Had the Garden Center raised the issue of uniformity before the board of equalization, and established that it was treated differently from other similarly situated taxpayers, the Board could have remedied the situation by reexamining the taxability of the other taxpayers' property, rather than by giving the Garden Center an unauthorized tax exemption.

YORK RITE BODIES OF FREEMASONRY OF SAVANNAH v. BOARD OF EQUALIZATION OF CHATHAM COUNTY

September 20, 1991
Supreme Court of Georgia

Opinion by: FLETCHER

{261 Ga. 558} {408 S.E.2d 699} We granted a writ of certiorari to the Court of Appeals to consider whether the properties of two Masonic organizations located in Chatham County are entitled to exemption from ad valorem taxation under O.C.G.A. § 48-5-41 (a) (4) as institutions of "purely public charity." *York Rite Bodies of Freemasonry of Savannah v. Bd. of Equalization*, 198 Ga. App. 147 (401 S.E.2d 30) (1990). In Division 2 of the *York Rite* decision, supra, a majority of the Court of Appeals held that the properties were not entitled to such exemption because they:

> are used as meeting places, and are not used for the actual charitable purposes for which the Masons were established. Also, the properties are used only by members of the respective lodges and are therefore not open to the "public**."** {408 S.E.2d 700} *York Rite*, 198 Ga. App. at 149.
>
> For the reasons which follow, we reverse such holding.

1. Beginning with Georgia's Constitution of 1877, there has been constitutional authority for the General Assembly to enact legislation exempting from taxation, with certain restrictions, "all institutions of purely public charity"1 and since 1882 there has been legislation providing for such an exemption.2

2. In determining whether property qualifies as an institution of "purely public charity" as set forth in O.C.G.A. § 48-5-41 (a) (4), three factors must be considered and must coexist. First, the owner must be an institution devoted entirely to charitable pursuits; second, the charitable pursuits of the owner must be for the benefit of the public; and third, the use of the property must be exclusively devoted to those charitable pursuits.

(a) In determining whether the owner is an institution devoted entirely to charitable pursuits, it must be remembered that the mere facts that the owner is a non-profit institution, that its charter declares **{261 Ga. 559}** it to be a charitable institution, and that the institution serves a benevolent purpose do not necessarily lead to the conclusion that the institution is exempted from ad valorem taxation by O.C.G.A. § 48-5-41 (a) (4) . *United Hospitals Service Assn. v. Fulton County*, 216 Ga. 30, 33 (114 S.E.2d 524) (1960). While all of those should be considered, no one of them will be conclusive. Instead, the facts of each case must be viewed as a whole and all of the circumstances surrounding the institution must be considered. *Mu Beta Chapter Chi Omega House Corp. v. Davison*, 192 Ga. 124, 128 (14 S.E.2d 744) (1941).

(b) As to the second factor, this court has often noted that "[t]here are infinite charities that deserve the plaudits of all mankind. . . ." *United Hospitals*, 216 Ga. at 32. However, "[n]o matter how high the ideals of an institution, nor how lofty its purposes, in order for it to qualify as a charitable institution for tax exemption under [O.C.G.A. § 48-5-41 (a) (4)], it must have the sole purpose and activity of dispensing *public* charity. (Emphasis supplied.) *Camp v. Fulton County Medical Society*, 219 Ga. 602, 605 (135 S.E.2d 277) (1964).

(c) Finally, the applicability of this tax exemption will turn upon a determination of how the property is being used by the institution. "Mere latent ownership of property by an institution of public charity will not entitle [the property] to an exemption. . . ." *Thomas v. Northeast Ga. Council, Inc., Boy Scouts of America*, 241 Ga. 291, 293 (244 S.E.2d 842) (1978). Nor will "[m]erely making real estate available to other public or charitable institutions for their use [be] sufficient to qualify for the tax exemption." *Johnson v. Wormsloe Foundation*, 228 Ga. 722, 727 (187 S.E.2d 682) (1972). Instead, the use of the property must be exclusively devoted to conduct that benefits the public by furthering the charitable pursuits of its owner.

3. (a) Because of the procedural posture of these actions in the trial court, an evidentiary hearing has not yet been held as to either appellant's claim of entitlement to O.C.G.A. § 48-5-41 (a) (4) 's ad valorem tax exemption. The case must be remanded to the trial court so that such an evidentiary hearing can be held. Both appellants will have the burden of proving entitlement to the tax exemption based upon the coexistence of the three factors set forth in Division 1.3

{408 S.E.2d 701} (b) If the coexistence of the first two factors can be established, appellants will still have to prove that the use of their respective properties is exclusively devoted to furthering each appellant's charitable pursuits. As to this third factor, we have previously recognized that using property as a headquarters for the administration and dispensation {261 Ga. 560} of purely public charity will, under appropriate circumstances; entitle that property to exemption from ad valorem property taxes. *Massenburg v. The Grand Lodge F. & A. M. of the State of Ga.*, 81 Ga. 212, 218 (7 S.E. 636) (1888). 4

The fact that the properties involved in the present case are used as meeting places of the respective appellants does not automatically preclude their use from being exclusively devoted to charitable pursuits; nor does the fact that the properties are used primarily by members of the Masons necessarily preclude them from being institutions for the dispensation of purely public charity. If appellants can establish that the use of their respective properties is exclusively for the administration and dispensation of public charity, then they will have established the third factor.

2010 – NUCI PHILLIPS V. ATHENS-CLARKE

In the Supreme Court of Georgia

Decided: November 8, 2010

S10G0448. NUCI PHILLIPS MEMORIAL FOUNDATION, INC. v. ATHENS-CLARKE COUNTY BOARD OF TAX ASSESSORS

CARLEY, Presiding Justice.

Linda Phillips established the Nuci Phillips Memorial Foundation, Inc. in honor of her son, Nuci Phillips, a talented young musician who suffered from depression, which ultimately led to his suicide while he was a student at the University of Georgia. The Foundation owns and operates a facility called Nuci's Space, which provides a healthy, safe place for the Athens community where musicians and others may come to seek help for anxiety, depression or other emotional disorders. The Foundation applied for an exemption from ad valorem taxation for the property on which its facility is located, and the exemption was granted by the Athens-Clarke County Board of Equalization. The Athens-Clarke County Board of Tax Assessors (Board) challenged the grant

of exemption in the trial court, which affirmed the exemption. The Board appealed from the trial court's ruling to the Court of Appeals, which reversed in Athens-Clarke County Bd. of Tax Assessors v. Nuci Phillips Memorial Foundation, 300 Ga. App. 754 (686 SE2d 371) (2009). The Court of Appeals found that since the Foundation rents out rehearsal space as well as space for private birthday parties and wedding receptions, then the Foundation does not use its property exclusively in furtherance of its charitable pursuits as required by OCGA § 48-5-41 (d) (2) in order to qualify for an exemption from ad valorem taxation. Athens-Clarke County Bd. of Tax Assessors v. Nuci Phillips Memorial Foundation, supra at 755. We granted certiorari to consider whether the Court of Appeals erred in applying OCGA § 48-5-41 (d) (2).

1. "[W]hen we are interpreting a statute, we must presume that the General Assembly had full knowledge of the existing state of the law and enacted the statute with reference to it. [Cits.]" Chase v. State, 285 Ga. 693, 695 (2) (681 SE2d 116) (2009). Furthermore, when construing statutes, "'their meaning and effect is to be determined in connection, not only with the common law and the constitution, but also with reference to other statutes and the decisions of the courts.' [Cit.]" Chase v. State, 285 Ga. 693, 695-696 (2) (681

SE2d 116) (2009). Therefore, in order to discern the meaning and effect of the 2006 and 2007 amendments to OCGA § 48-5-41, we must look to the history of the statute and the decisions of the courts that have interpreted it.

The General Assembly, pursuant to the Georgia Constitution of 1877, exempted from ad valorem taxation the property of "all institutions of purely public charity . . . provided, the . . . property so exempted be not used for purposes of private or corporate profit or income." (Emphasis in original.) Ga. L. 1878-79, pp. 32, 33, § 1. Thereafter, the decisions of this Court construed the statute as disallowing the use of exempted property from any type of private or corporate income-producing activity, whether the activity was charitable or non-charitable. Mundy v. Van Hoose, 104 Ga. 292, 299 (30 SE 783) (1898) (superseded by statute as stated in Elder v. Henrietta Egleston Hosp. for Children, 205 Ga. 489, 492 (53 SE2d 751) (1949)).

After passage of the Georgia Constitution of 1945, the General Assembly amended the above-quoted statute to allow exempt institutions to raise income as long as "any income from such property is used exclusively for religious, educational and charitable purposes, or . . . for the purpose of maintaining and operating such institution. . . ." Ga. L. 1946, pp. 12, 13, § 1 (a). In York Rite

Bodies of Freemasonry of Savannah v. Bd. of Equalization of Chatham County, 261 Ga. 558 (2) (408 SE2d 699) (1991), this Court summarized the requirements for an institution to qualify as a "purely public charity" for an ad valorem tax exemption under the exemption statutes from 1946 to the pre-2006 exemption statute, OCGA § 48-5-41. "First, the owner must be an institution devoted entirely to charitable pursuits; second, the charitable pursuits of the owner must be for the benefit of the public; and third, the use of the property must be exclusively devoted to those charitable pursuits." York Rite Bodies of Freemasonry of Savannah v. Bd. of Equalization of Chatham County, supra. Under the exemption statutes from 1946 to 2006, those institutions that qualified as purely public charities were allowed to use their property to produce income as long as the primary purpose of the property was not to secure income, the income-producing activity was consistent with its charitable activities, and the income was used exclusively for the institution's charitable purposes. Former OCGA § 48-5-41 (a) (4), (c), (d). As long as these three income rules were satisfied, then a charitable organization that raised income would be considered as using its property "exclusively" for its charitable purposes and thus remain a purely public charity. See Fulton County Bd. of Tax Assessors v. Visiting

Nurse Health System of Metropolitan Atlanta, 256 Ga. App. 475, 477 (2) (b) (568 SE2d 798) (2002); Chatham County Bd. of Tax Assessors v. Southside Communities Fire Protection, 217 Ga. App. 361, 364-365 (457 SE2d 267) (1995). Compare Rabun Gap-Nacoochee School v. Thomas, 228 Ga. 231, 235, 241 (1) (a, e), 245-246 (2) (c) (184 SE2d 824) (1971); Cobb County Bd. of Tax Assessors v. Marietta Educational Garden Ctr., 239 Ga. App. 740, 741, 745 (2) (521 SE2d 892) (2000).

In response to a referendum approved in November 2006, the General Assembly amended OCGA § 48-5-41 to add subsection (d) (2), which, according to its terms, applied only to institutions that qualify as "purely public charities" pursuant to OCGA § 48-5-41 (a) (4), and provided that

> real estate or buildings which are owned by a charitable institution that is exempt from taxation under Section 501 (c) (3) of the federal Internal Revenue Code and used by such charitable institution for the charitable purposes of such charitable institution may be used for the purpose of securing income so long as such income is used exclusively for the operation of that charitable institution.

Ga. L. 2006, pp. 376, 377, § 1. However, not long after this amendment was passed, the legislature further amended OCGA § 48-5-41 (d) (2) to state that

> 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.

Ga. Laws 2007, p. 341, § 1.

According to the Board and the dissent, the amendments to OCGA § 48-5-41 (d) (2) in 2006 and 2007, more than 15 years after this Court's decision in York Rite, did not alter the requirements for exemption of an institution that has qualified as a "purely public charity" under OCGA § 48-5-41 (a) (4) but also uses its property to produce income. However, this interpretation would render the amendments completely meaningless and would contravene the intent of the legislature and contradict basic principles of statutory construction. "All statutes are presumed to be enacted by the legislature with full knowledge of the existing condition of the law and with reference to it.' [Cit.]" Inland Paperboard & Packaging v. Ga. Dept. of Revenue, 274 Ga. App. 101, 104 (616 SE2d 873) (2005). Furthermore, "when a statute is amended, '"(f)rom the addition of words it may be presumed that the legislature intended some change in the

existing law."' [Cit.]" Board of Assessors of Jefferson County v. McCoy Grain Exchange, 234 Ga. App. 98, 100 (505 SE2d 832) (1998).

As a result of the added language in OCGA § 48-5-41 (d) (2), the only changes to the qualifications for exemption status for a charitable institution are that it must be designated a Section 501 (c) (3) organization under federal law, and any building and not more than 15 acres of land owned by the institution may now be used "for the purpose of securing income so long as such income is used exclusively for the operation of that charitable institution." Following the principles of statutory interpretation set out above, we must presume that the General Assembly had full knowledge that statutory law and case law has, for over sixty years, allowed charitable institutions to use their property to raise income as long as that income was raised by acts consistent with the charitable purpose of the institution and used exclusively for those charitable pursuits. See Roberts v. Ravenwood Church of Wicca, 249 Ga. 348, 353-354 (292 SE2d 657) (1982); Church of God of the Union Assembly v. City of Dalton, 216 Ga. 659, 662 (119 SE2d 11) (1961); Peachtree on Peachtree Inn v. Camp, 120 Ga. App. 403, 410-11 (170 SE2d 709) (1969); Central Bd. on Care of Jewish Aged v. Henson, 120 Ga. App. 627, 630 (1) (171 SE2d 747) (1969). Furthermore, we

must assume that by adding new language to the statute, the General Assembly intended to broaden the ability of charitable institutions to use their property to raise income. Therefore, the General Assembly must have intended to allow those institutions that otherwise qualify as a purely public charity to use their property to raise income from activities that are not necessarily charitable in nature so long as the "primary purpose" of the property was charitable and any "income is used exclusively for the operation of that charitable institution." OCGA § 48-5-41 (d) (1), (2).

The Board and the dissent apparently agree that the 2006 amendment would have allowed exempt charitable institutions to raise income from non-charitable activities, but believe that the subsequent 2007 amendment returned the law to its pre-2006 form so as to restrict income-producing activities once more to only those that are consistent with the charitable purposes of the institution. The legislature did add language to OCGA § 48-5-41 (d) (2) when it passed the 2007 amendment, and, thus, the principle cited above that an addition of words should be presumed to effect a change of existing law seems to apply. However, this principle is a presumption of change only and may be rebutted by evidence that the legislature in fact did not intend a change. A

reading of the preamble to the 2007 amendment clearly rebuts the presumption of change. See Concerned Citizens of Willacoochee v. City of Willacooche, 285 Ga. 625, 626 (680 SE2d 846) (2009) (pointing to language in preamble to buttress conclusion that amendment did not intend to change previous law). The preamble specifically states that the 2007 amendment is "to clarify an ad valorem tax exemption for certain charitable institutions." Ga. L. 2007, p. 341. To "clarify" something means "to explain clearly: make understandable," as opposed to effecting a "change," which means "to make different." Webster's New Third International Dictionary 373, 415 (3rd ed. 1966). Therefore, when it passed the 2007 amendment, the General Assembly did not intend a change to the effect of OCGA § 48-5-41 (d) (2), but only sought to make clear that, in order to be granted an exemption, any charitable institution must be "otherwise qualified as a purely public charity," which includes meeting the requirement of York Rite that the property be used "exclusively" for the charitable pursuits of the institution. The conclusion that the 2007 amendment did not effect a change to existing law is further supported by the fact that a charitable institution, even before the 2007 amendment, had to qualify as a purely public charity under OCGA § 48-5-41 (a) (4) because, according to its terms, OCGA § 48-5-41 (d)

(2) would not even apply unless the former provision was first satisfied. Moreover, the 2006 amendment to OCGA § 48-5-41 added a new subsection (d) (2). However, although the 2007 amendment added language to (d) (2), it did not delete this subsection. Therefore, if the General Assembly intended to return the law to its pre-2006 form, it could have just deleted (d) (2) in its entirety in order to effectuate that purpose. However, the General Assembly kept (d) (2) and, therefore, we can presume that it intended to retain the effect of the 2006 amendment, but clarify its application.

By emphasizing in the 2007 amendment the previous qualifications for a "purely public charity," including that the property must be used "exclusively" for the charitable purposes of the institution, the General Assembly sought to clarify that the tax exemption continues to be unavailable to certain charitable institutions. First, an exemption is still unavailable in those situations where a public charity owns property, but does not use the property in its charitable purposes. See Thomas v. Northeast Ga. Council, Inc., Boy Scouts of America, 241 Ga. 291, 293 (244 SE2d 842) (1978) ("Mere latent ownership of property by an institution of public charity will not entitle it to an exemption. . . ."). Second, certain institutions are not allowed to qualify for the exemption even

though substantial charitable activity takes place on the property if the property is not used exclusively for charitable purposes. See Board of Equalization v. York Rite Bodies of Freemasonry of Savannah, 209 Ga. App. 359, 360 (433 SE2d 299) (1993) (denying exemption to a Masonic lodge because it also devoted numerous resources to pursuits that benefitted only its members).

Finally, the Board argues that allowing an institution that otherwise qualifies as a purely public charity to raise income from non-charitable activities, including rental of property, would lead to a greatly expanded tax exemption and would be vulnerable to abuse by commercial developers wishing to evade property tax. However, even though we conclude that OCGA § 48-5-41 (d) (2) allows charitable institutions to raise income from non-charitable activities, including the rental of property, we also note that all previous requirements for qualifying as a purely public charity under OCGA § 48-5-41 (a) (4) still apply, including OCGA § 48-5-41 (d) (1), which states that the tax exemption "shall not apply to real estate or buildings which are rented, leased, or otherwise used for the primary purpose of securing an income thereon." Therefore, a commercial developer could not abuse subsection (d) (2) by qualifying for the exemption even though a charitable purpose is only an

incidental use of the property, because the primary use of that property would be commercial and thus disqualify it from the exemption under subsection (d) (1). Furthermore, OCGA § 48-5-41 (c) prohibits the use of exempt property to raise income distributable to shareholders or other owners of the property, which severely restricts any profit-making from the property by a corporation or individual. Finally, we emphasize that "'the facts of each case must be viewed as a whole and all of the circumstances surrounding the institution must be considered. (Cits.)' [Cit.]" Chatham County Bd. of Tax Assessors v. Southside Communities Fire Protection, supra at 363.

2. To summarize, in order for an institution to be granted a property tax exemption pursuant to OCGA § 48-5-41 (a) (4), it must satisfy the York Rite factors and OCGA § 48-5-41 (c), (d) (1) and (2).

As to the York Rite factors, the property owned by the Foundation is devoted entirely to charitable purposes. The building provides a safe haven for musicians, or others, who are coping with mental illness. The Foundation conducts a referral program whereby trained staff are available to assist those with mental disorders and refer them to the appropriate health care facilities, and will pay for this care if the patient is in need of funds. The activities cited by the

Board, such as rehearsal space and party rentals, are an incidental use of the property and have the sole purpose of raising funds to be used for the organization's charitable services. As long as the service of people who do pay is not the primary purpose of the institution, then the institution can be said to be purely charitable. Fulton County Bd. Of Tax Assessors v. Visiting Nurse Health System of Metropolitan Atlanta, supra at 476 (2) (b).

The charitable purposes of the Foundation are for the benefit of the public. Help is available to all who walk through the door. Although the Foundation works primarily with musicians and artists, anyone who seeks help is assisted. Moreover, "to qualify as public it is not necessary that the home be open to the entire public. It is sufficient that it be open to the classes for whose relief it was intended. [Cits.]" Central Bd. on Care of Jewish Aged v. Henson, supra at 629-630 (1). The Foundation's use of its property is exclusively devoted to its charitable purpose of providing a safe environment as well as assistance to those suffering from mental illness. Most activities that take place on the property, such as the professional counseling assistance program, the provision of group meeting space for Survivors of Suicide and other groups, and the career resources board, are at the core of the organization's charitable purposes. In

light of the 2007 amendment to OCGA § 48-5-41 (d) (2), any non-charitable activities, such as party and rehearsal rentals, which have the sole purpose of raising income to be utilized in furtherance of the organization's charitable purposes, now qualify as activities exclusively devoted to the institution's charitable pursuits. Therefore, the Foundation qualifies as a "purely public charity" under the York Rite factors.

The Foundation is not disqualified from the tax exemption under the restrictions in OCGA § 48-5-41 (c) and (d) (1). The institution issues no stock, makes no profit, does not distribute any dividends or any income to members, accumulates no retained earnings, and has a Board of Directors whose members serve without compensation. Although the organization periodically rents out part of its building to third parties, the primary purpose of the building is not to raise income but to provide services for those seeking mental health assistance. Any income raised is incidental to the primary use of the property, and the purpose of raising the income is to help fund the organization's charitable services, including the payment for direct professional therapy for those who cannot afford it. See Roberts v. Ravenwood Church of Wicca, supra. Moreover, OCGA § 48-5-41 (d) (1) prefaces its restrictions with the phrase

"[e]xcept as otherwise provided in [(d)] (2)," which we have already shown permits the securing of income by non-charitable activities if used exclusively for the operation of the charitable institution. The building is solely used for the provision of charitable services, and it is undisputed that no donor receives part of any income from the property.

Finally, the Foundation fulfills the requirements of OCGA § 48-5-41 (d) (2). As discussed above, the organization qualifies as a purely public charity, and there is no dispute that it is exempt from federal taxation as a Section 501 (c) (3) charity. The second prong of subsection (d) (2) is the same as the third prong of York Rite, which we have already established is satisfied in this case. Finally, the Foundation has provided evidence that all income obtained from the property is used in furtherance of its charitable services or to offset expenses incurred in the maintenance of the organization's property, and "no part of its income [is] being distributed to any person with an interest therein." Peachtree on Peachtree Inn v. Camp, supra.

The Foundation has established that it qualifies as a purely public charity pursuant to OCGA § 48-5-41 (a) (4) and fulfills the requirements in OCGA § 48-5-41 (c), (d) (1) and (2). Therefore, the trial court correctly affirmed the

decision of the Athens-Clarke County Board of Equalization to grant the Foundation an exemption from ad valorem taxation, and the Court of Appeals erred in reversing the ruling of the trial court.

Judgment reversed. All the Justices concur, except Nahmias, J., who concurs in judgment only and Hunstein, C. J., Benham and Hines, JJ., who dissent.

HUNSTEIN, Chief Justice, dissenting.

Because the majority incorrectly analyzes the recent amendments to OCGA § 48-5-41 (d) and fails to rely upon the plain language of the current statute in reaching its result, I must respectfully dissent.

1. OCGA § 48-5-41 (a) (4) provides that "[a]ll institutions of purely public charity" are exempt from ad valorem property taxes in Georgia. This Court has held that

> [i]n determining whether property qualifies as an institution of "purely public charity" as set forth in OCGA § 48-5-41 (a) (4), three factors must be considered and must coexist. First, the owner must be an institution devoted entirely to charitable pursuits; second, the charitable pursuits of the owner must be for the benefit of the public; and third, the use of the property must be exclusively devoted to those charitable pursuits.

York Rite Bodies of Freemasonry of Savannah v. Bd. of Equalization of Chatham County, 261 Ga. 558 (2) (408 SE2d 699) (1991). Recent amendments to OCGA § 48-5-41 (d) have attempted to clarify the effect that income generated by property claimed to be exempt pursuant to OCGA § 48-5-41 (a)

(4) has on the property's status as either taxable or tax exempt. In November 2006, the following statewide referendum question was posed:

> Shall the Act be approved which grants an exemption from ad valorem taxation on property owned by a charitable institution which generates income when that income is used exclusively for the operation of such charitable institution?

Ga. L. 2006, p. 377, § 2. Voter approval resulted in the amendment of OCGA § 48-5-41 (d) (the "2006 amendment"), effective January 1, 2007, to add the following as subsection (d) (2):

> With respect to [OCGA § 48-5-41 (a) (4)], real estate or buildings which are owned by a charitable institution that is exempt from taxation under Section 501 (c) (3) of the federal Internal Revenue Code and used by such charitable institution for the charitable purposes of such charitable institution may be used for the purpose of securing income so long as such income is used exclusively for the operation of that charitable institution.

Ga. L. 2006 at 377, § 1. However, OCGA § 48-5-41 (d) (2) was subsequently amended by the General Assembly (the "2007 amendment"), effective May 23, 2007, as follows[1]:

> With respect to [OCGA § 48-5-41 (a) (4)], a building which is owned by a charitable institution <u>that is otherwise qualified as a purely public charity and</u> that is exempt from taxation under Section 501 (c) (3) of the federal Internal Revenue Code and which building is used by such

[1]A law reducing or repealing an exemption granted to institutions of purely public charity need only be approved by two-thirds of the members of each branch of the General Assembly. Ga. Const. of 1983, Art. VII, Sec. II, Par. IV.

> 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.

(Emphasis supplied.) Ga. L. 2007, p. 341, §§ 1, 2. The emphasized changes are critical in that they plainly restrict the circumstances under which income-generating property will be exempt from taxation. They are also noteworthy in that they, in essence, encompass the provisions of York Rite, supra, 261 Ga. at 558 (2).[2]

The majority errs by addressing the separate 2006 and 2007 amendments to OCGA § 48-5-41 (d) as if they are one, Maj. Op. at 6-8, and by relying on the preamble to the 2007 amendment in an attempt to rebut the presumption that the addition of words therein was intended to effect a change in the law. Maj. Op. at 8-9; see East Georgia Land and Development Co. v. Baker, 286 Ga. 551, 553 (2) (690 SE2d 145) (2010) ("it is fundamental that the preamble or caption of

[2]Specifically, the requirement that the charitable organization itself be qualified as a purely public charity tracks the language of the first two York Rite factors, i.e., that the property owner be an institution devoted entirely to charitable pursuits and that those charitable pursuits be for the benefit of the public. The requirement that the organization's property be used exclusively for its charitable purposes tracks that of the third York Rite factor.

an act is no part thereof and cannot control the plain meaning of the body of the act").

2. As this Court has recently reiterated, "where the language of a statute is plain and unambiguous, judicial construction is not only unnecessary but forbidden." (Citation and punctuation omitted.) Anthony v. American General Financial Services, 287 Ga. 448, 450 (1) (a) (697 SE2d 166) (2010). See also Telecom*USA v. Collins, 260 Ga. 362, 363-364 (1) (393 SE2d 235) (1990) ("golden rule" of statutory construction requires Court to follow literal language of statute unless it produces contradiction, absurdity or such an inconvenience as to insure that the legislature meant something else). The majority points to no ambiguity or conflict in the language of OCGA § 48-5-41.

The plain language of OCGA § 48-5-41 (d) (2) provides that property subject to the tax exemption for "institutions of purely public charity" may be used to secure income only if the following criteria are all met:

> (1) the property is owned by a Section 501 (c) (3) charitable institution that is otherwise qualified as a purely public charity;
> (2) the property is used by such charitable institution exclusively for the charitable purposes of such charitable institution; and
> (3) such income is used exclusively for the operation of that charitable institution.

Pretermitting whether the first and third criteria have been met here, I agree with the Court of Appeals that the Foundation has failed to show that the Nuçi's Space property is used exclusively for its charitable purposes. See York Rite, supra, 261 Ga. at 559 (2) (a) (facts of each case must be viewed as a whole and property owner has the burden of proving entitlement to tax exemption).

Although there may be only limited circumstances under which a given use of property is both income-generating and "for the charitable purposes of [the] charitable institution," OCGA § 48-5-41 (d) (2), I would recognize that the two need not be mutually exclusive. As this case demonstrates, Nuçi's Space obtains income from several sources that might be considered consistent with its purpose of providing a safe haven for musicians and others to gather, e.g., the receipt of donations at its coffee bar, the sale of limited music supplies, and the rental of rehearsal space.[3] However, providing a venue for private birthday

[3]I disagree with the Court of Appeals to the extent it held that the rental of rehearsal space within the Nuçi's Space facility constitutes a use that is inconsistent with the charitable purposes of the Foundation. The Court relied in part on Cobb County Bd. of Tax Assessors v. Marietta Educational Garden Center, 239 Ga. App. 740 (2) (521 SE2d 892) (1999), which predates OCGA § 48-5-41 (d) (2), citing it for the proposition that the rental of a facility owned by a nonprofit organization precludes application of the ad valorem property tax exemption. Athens-Clarke County Bd. of Tax Assessors v. Nu[ç]i Phillips Memorial Foundation, 300 Ga. App. 754, 755 (686 SE2d 371) (2009). This reading of Marietta Educational Garden Center is overly broad and I would emphasize that the specific facts of each case must be analyzed.

parties and wedding receptions cannot be viewed as advancing the Foundation's mission. I would reject the Foundation's argument that these events are consistent with its charitable purposes in that they serve to further "destigmatize" Nuçi's Space, as this stretches the definition of such purposes to include almost any use of the property. Because the Nuçi's Space property is not used by the Foundation exclusively for its charitable purposes, I would hold that the property is not entitled to exemption from ad valorem taxation and would affirm the decision of the Court of Appeals.

In briefs filed in support of the Foundation, amici argue that affirming the Court of Appeals would have "catastrophic" consequences for countless charitable organizations throughout Georgia, rendering many unable to continue their valuable work.[4] However, the Legislature in its wisdom chose to amend OCGA § 48-5-41 (d) (2) in 2007 to restrict the circumstances under which income-generating property will be tax exempt, and I would hold that the Court is "constrained by the language of the statute to reach this result." Beneke v. Parker, 285 Ga. 733, 735 (684 SE2d 243) (2009). Accordingly, I dissent.

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[4]The record reflects that Nuçi's Space opened in September 2000 and filed its application for an exemption from ad valorem property taxes on February 28, 2007, after the January 1, 2007 effective date of the 2006 amendment to OCGA § 48-5-41 (d).

I am authorized to state that Justices Benham and Hines join in this dissent.

Non-Profit Hospital

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

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

(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;

(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.

§ 48-5-40…. **Definitions**…

(4) "Hospital" means an institution in which medical, surgical, or psychiatric care is provided to individuals who are sick, injured, diseased, mentally ill, or crippled. "Hospital" does not include an institution licensed as a nursing home under the laws of this state.

(5) "Institutions of purely public charity," "nonprofit hospitals," and "hospitals not operated for the purpose of private or corporate profit and income" mean such institutions or hospitals which may have incidental income from paying patients when the income, if any, is devoted exclusively to the charitable purpose of caring for patients who are unable to pay and to maintaining, operating, and improving the facilities of such institutions and hospitals, and when the income is not directly or indirectly for distribution to shareholders in corporations owning such property or to other owners of such property.

Colleges, Incorporated Academy, Seminary of Learning

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

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

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

(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.

Judicial Decisions

Atlanta Artists Ctr., Inc. v. Fulton County Bd. of Assessors, 245 Ga. App. 253, 537 S.E.2d 701 (2000).
The ordinary and everyday meaning of "college" is a school of higher learning that grants a bachelor's degree in liberal arts or science or both and may include a technical or professional school. An "academy" is ordinarily understood as meaning a secondary or college-preparatory school. A "seminary" is ordinarily thought of simply as a school, especially a theological school for the training of members of the clergy. According to ordinary understanding, a school is an institution in which teachers instruct students.
Consistent with these meanings, J.A.T.T. held that a four-year post-high school trade school qualified for a property tax exemption. Camp held that a building owned by a society of physicians and used for the continuing education of members and for the meetings of various civic organizations and medical professional groups did not qualify for an exemption. American Institute of Indus. Engineers v. Chilivis held that the national headquarters for an organization composed of industrial engineers and dedicated to the purpose of advancing engineering knowledge was not tax exempt.
The latter two cases show that use of a building for some educational purpose does not necessarily qualify it for a tax exemption. At a minimum, the building must be a place where teachers instruct students. A building in which aspiring artists develop their abilities by practicing their craft does not qualify.

Rabun Gap-Nacoochee Sch. v. Thomas, 228 Ga. 231, 184 S.E.2d 824 (1971).
Use of property controls over declarations in charter in determining taxability. - Use to which property of an educational institution is put, rather than the declaration of the institution's purpose found in the institution's charter, determines the question of exemption from taxation.

J.A.T.T. Title Holding Corp. v. Roberts, 258 Ga. 519, 371 S.E.2d 861 (1988).
The Mechanical Trades Institute is located on the property in question, and provides an apprenticeship program in the plumbing and steamfitting-pipefitting industry for persons with high school educations. The program consists of four years of educational training, including more than 800 hours of classroom instruction and almost 7,000 hours of practical training.
The resolution of the tax exempt status of "buildings erected for and used as a college, incorporated academy, or other seminary of learning" has been determined by the use made of the property, and not by any specific definition of terms. Thus while an educational institution may be exempt, some of its grounds and buildings may be taxed if those grounds or buildings generate a private profit. The term "seminary of learning," as applied in its general meaning, does not exclude an institution such as the Mechanical Trades Institute.

Funds or Property held as Endowment

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

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

> **(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;

(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.

Public Library

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

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

> **(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

(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.

Books, Paintings, Statuary Kept in Public Hall

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

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

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

(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.

Air and Water Pollution Control Equipment

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

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

> **(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;

(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.

Non-Profit Home for the Aged

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

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

(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;

(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.

Non-Profit Home for the Mentally Disabled

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

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

(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;

(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.

Lamad Ministries, Inc. v. Dougherty County Bd. of Tax Assessors, Ga. App (2004).

Ministry was entitled to a "home for the aged" exemption under O.C.G.A. 48-5-41(a)(12)(A) as the ministry met all of the statutory conditions and there was no requirement that the home had to be a separate tax exempt corporation from the tax exempt organization that operated both a home for the aged and other tax exempt operations, such as a church, a radio ministry, and a counsel center.

Post Home of Veterans Organization

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

(a) The following property shall be exempt from all ad valorem property taxes …

(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

(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.

Department of Law
State of Georgia

MICHAEL J. BOWERS
ATTORNEY GENERAL

40 CAPITOL SQUARE SW
ATLANTA GA 30334-1300

April 27, 1995

WRITER'S DIRECT DIAL
(404) 656-2278
FAX (404) 657-9932

MEMORANDUM:

TO: Richard Vinke
Principal Property Tax Appraiser

FROM: Harold D. Melton
Assistant Attorney General

RE: Ad valorem tax exemption for property owned and used exclusively as the headquarters, post home, or similar facility of a veterans organization.

This is in response to your question of whether bingo and bar activities would destroy the ad valorem tax exemption otherwise available for the properties of veteran's organizations set forth in O.C.G.A. § 48-5-41(14). The newly amended and approved code provision exempts from ad valorem taxation all "[p]roperty which is owned by and used exclusively as the headquarters, post home, or similar facility of a veterans organization." O.C.G.A. § 48-5-41(14) Ga. Laws 1994, p. 965, § 1.

There is very little authority addressing the question of whether conducting bingo or running a bar would be consistent with the requirement to use property exclusively as the headquarters, post home, or similar facility of a veterans organization. Nonetheless, there are some general principles to help guide the determination of whether a particular property qualifies for the exemption.

Among other requirements, the exemption is only available to organizations or associations chartered by the Congress of the United States and where no part of the earnings inures to the benefit of any private shareholder or individual. O.C.G.A. § 48-5-41(14). Veterans organizations chartered by Congress are found throughout Title 39 of the United States Code. For most of the organizations, the enabling charters define the

Richard Vinke
April 27, 1995
Page 2

organization as fraternal and identify the strengthening of comradeship as one of the organization's primary purposes. Eg., 36 U.S.C. § 113 (Veterans of Foreign Wars of the United States), 36 U.S.C. § 43 (American Legion). By including fraternal and social purposes in the charter and by referring to the goal of comradeship, these charters bring within the scope of the organization's purposes a wide range of social activities. As a result, running a bar and conducting bingo activities, under certain conditions, may be consistent with the exclusive use as the headquarters, post home, or similar facility of a veterans organization.

The primary test for whether such activities are consistent with the exclusive use as a veterans organization is whether the activities are limited to members. See Alonzo Cudworth Post No. 23 v. Milwaukee, 165 N.W.2d 397, 42 Wis.2d 1 (1969)("Where a clubhouse of a veterans post is used only by its members, or nearly exclusively so, the exempt status is defeated only if such use by its members is for purposes outside the objectives of the organization"). As a general rule, public patronage will destroy the exemption; however, this is may not be the case where the guests include only members' immediate family, fellow members from other local units of the same organization or prospective members. Id.

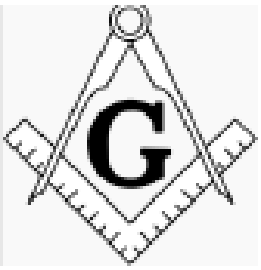
Additionally, an organization is not automatically disqualified from the exemption solely because the organization makes a profit from its activities. The exemption contemplates that the organization may profit from some of its activities but requires only that no part of the net earnings may inure to the benefit of any private shareholder or individual. O.C.G.A. § 48-5-41(14).

My research has not revealed any other state which uses similar language to exempt property owned and used exclusively by veterans organizations. As a result, there is little authority to assist county tax officials in determining whether the exemption applies. However, the first step should be to review the charter of the organization in question to determine whether the activity fits within the organization's purposes.

I hope the foregoing has been responsive to your request. Please feel free to contact me if I may be of any further assistance to you.

hdm
cc: Larry M. Griggers

Historical Fraternal Benefit Association



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

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

(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.

(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.

HOMESTEAD INCOME VERIFICATION

Federal Adjusted Gross Income

Form **1040** Department of the Treasury—Internal Revenue Service (99) **U.S. Individual Income Tax Return** **2012** OMB No. 1545-0074 IRS Use Only—Do not write or staple in this space.

For the year Jan. 1–Dec. 31, 2012, or other tax year beginning , 2012, ending , 20 See separate instructions.

Your first name and initial	Last name	Your social security number
JOHN	SMITH	1 2 3 4 5 6 7 8 9
If a joint return, spouse's first name and initial	Last name	Spouse's social security number
JANE	SMITH	9 8 7 6 5 4 3 2 1

Home address (number and street). If you have a P.O. box, see instructions. Apt. no.
123 MAIN STREET

▲ Make sure the SSN(s) above and on line 6c are correct.

City, town or post office, state, and ZIP code. If you have a foreign address, also complete spaces below (see instructions).
ANYWHERE GA 12345

Foreign country name | Foreign province/state/county | Foreign postal code

Presidential Election Campaign
Check here if you, or your spouse if filing jointly, want $3 to go to this fund. Checking a box below will not change your tax or refund. ☑ You ☑ Spouse

Filing Status
Check only one box.

1 ☐ Single
2 ☑ Married filing jointly (even if only one had income)
3 ☐ Married filing separately. Enter spouse's SSN above and full name here. ▶
4 ☐ Head of household (with qualifying person). (See instructions.) If the qualifying person is a child but not your dependent, enter this child's name here. ▶
5 ☐ Qualifying widow(er) with dependent child

Exemptions

6a ☑ **Yourself.** If someone can claim you as a dependent, **do not** check box 6a
b ☑ **Spouse**

Boxes checked on 6a and 6b: 2

c **Dependents:**

(1) First name Last name	(2) Dependent's social security number	(3) Dependent's relationship to you	(4) ✓ if child under age 17 qualifying for child tax credit (see instructions)
			☐
			☐
			☐
			☐

If more than four dependents, see instructions and check here ▶ ☐

No. of children on 6c who:
• lived with you
• did not live with you due to divorce or separation (see instructions)
Dependents on 6c not entered above

d Total number of exemptions claimed — Add numbers on lines above ▶ 2

Income

Attach Form(s) W-2 here. Also attach Forms W-2G and 1099-R if tax was withheld.

If you did not get a W-2, see instructions.

Enclose, but do not attach, any payment. Also, please use **Form 1040-V.**

7	Wages, salaries, tips, etc. Attach Form(s) W-2			7	18000
8a	**Taxable** interest. Attach Schedule B if required			8a	1000
b	**Tax-exempt** interest. **Do not** include on line 8a	8b			
9a	Ordinary dividends. Attach Schedule B if required			9a	
b	Qualified dividends	9b			
10	Taxable refunds, credits, or offsets of state and local income taxes			10	
11	Alimony received			11	
12	Business income or (loss). Attach Schedule C or C-EZ			12	
13	Capital gain or (loss). Attach Schedule D if required. If not required, check here ▶ ☐			13	
14	Other gains or (losses). Attach Form 4797			14	
15a	IRA distributions	15a	5000	b Taxable amount 15b	5000
16a	Pensions and annuities	16a	63000	b Taxable amount 16b	63000
17	Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E			17	
18	Farm income or (loss). Attach Schedule F			18	
19	Unemployment compensation			19	
20a	Social security benefits	20a	20000	b Taxable amount 20b	17000
21	Other income. List type and amount			21	
22	Combine the amounts in the far right column for lines 7 through 21. This is your **total income** ▶			22	104000

Federal Taxable Social Security:

Worksheet 1.
Figuring Your Taxable Benefits

Keep for Your Records

Before you begin:

- If you are married filing separately and you lived apart from your spouse for all of 2011, enter "D" to the right of the word "benefits" on Form 1040, line 20a, or Form 1040A, line 14a.
- Do not use this worksheet if you repaid benefits in 2011 and your total repayments (box 4 of Forms SSA-1099 and RRB-1099) were more than your gross benefits for 2011 (box 3 of Forms SSA-1099 and RRB-1099). None of your benefits are taxable for 2011. For more information, see *Repayments More Than Gross Benefits.*
- If you are filing Form 8815, Exclusion of Interest From Series EE and I U.S. Savings Bonds Issued After 1989, do not include the amount from line 8a of Form 1040 or Form 1040A on line 3 of this worksheet. Instead, include the amount from Schedule B (Form 1040A or 1040), line 2.

1. Enter the total amount from box 5 of ALL your Forms SSA-1099 and RRB-1099. Also enter this amount on Form 1040, line 20a, or Form 1040A, line 14a 1. 20,000
2. Enter one-half of line 1 . . . . . 2. 10,000
3. Combine the amounts from:
   Form 1040: Lines 7, 8a, 9a, 10 through 14, 15b, 16b, 17 through 19, and 21
   Form 1040A: Lines 7, 8a, 9a, 10, 11b, 12b, and 13 . . . . . 3. 51,000
4. Enter the amount, if any, from Form 1040 or 1040A, line 8b 4. 0
5. Enter the total of any exclusions/adjustments for:
   - Adoption benefits (Form 8839, line 24),
   - Foreign earned income or housing (Form 2555, lines 45 and 50, or Form 2555-EZ, line 18), and
   - Certain income of bona fide residents of American Samoa (Form 4563, line 15) or Puerto Rico

   . . . . . 5. 0
6. Combine lines 2, 3, 4, and 5 . . . . . 6. 61,000
7. ***Form 1040 filers:*** Enter the amounts from Form 1040, lines 23 through 32, and any write-in adjustments you entered on the dotted line next to line 36.
   Form 1040A filers: Enter the amounts from Form 1040A, lines 16 and 17 . . . . . 7. 0
8. Is the amount on line 7 less than the amount on line 6?
   No. STOP None of your social security benefits are taxable. Enter -0- on Form 1040, line 20b, or Form 1040A, line 14b.
   Yes. Subtract line 7 from line 6 . . . . . 8. 61,000
9. If you are:
   - Married filing jointly, enter $32,000
   - Single, head of household, qualifying widow(er), or married filing separately and you **lived apart** from your spouse for all of 2011, enter $25,000 . . . . . 9. 32,000

   Note. If you are married filing separately and you lived with your spouse at any time in 2011, skip lines 9 through 16; multiply line 8 by 85% (.85) and enter the result on line 17. Then go to line 18.
10. Is the amount on line 9 less than the amount on line 8?
    No. STOP None of your benefits are taxable. Enter -0- on Form 1040, line 20b, or on Form 1040A, line 14b. If you are married filing separately and you **lived apart** from your spouse for all of 2011, be sure you entered "D" to the right of the word "benefits" on Form 1040, line 20a, or on Form 1040A, line 14a.
    Yes. Subtract line 9 from line 8 . . . . . 10. 29,000
11. Enter $12,000 if married filing jointly; $9,000 if single, head of household, qualifying widow(er), or married filing separately and you **lived apart** from your spouse for all of 2011 . . . . . 11. 12,000
12. Subtract line 11 from line 10. If zero or less, enter -0- 12. 17,000
13. Enter the **smaller** of line 10 or line 11 . . . . . 13. 12,000
14. Enter one-half of line 13 . . . . . 14. 6,000
15. Enter the **smaller** of line 2 or line 14 . . . . . 15. 6,000
16. Multiply line 12 by 85% (.85). If line 12 is zero, enter -0- 16. 14,450
17. Add lines 15 and 16 . . . . . 17. 20,450
18. Multiply line 1 by 85% (.85) 18. 17,000
19. **Taxable benefits.** Enter the **smaller** of line 17 or line 18. Also enter this amount on Form 1040, line 20b, or Form 1040A, line 14b 19. 17,000

TIP *If you received a lump-sum payment in 2011 that was for an earlier year, also complete Worksheet 2 or 3 and Worksheet 4 to see if you can report a lower taxable benefit.*

Net Georgia Taxable Income:

Georgia Form **500**
Individual Income Tax Return
Georgia Department of Revenue
2012 Version 1

1300404023

Page 2

YOUR SOCIAL SECURITY NUMBER 1 2 3 - 4 5 - 6 7 8 9

7a. Number of Dependents (DO NOT include yourself or your spouse)	7a.	0
7b. Add Lines 6c and 7a. Enter total	7b.	2

If amount on line 8, 9 , 10, 13 or 15 is negative, use the minus sign (-). Example -3,456.

8. Federal adjusted gross income (From Federal Form 1040,1040A or 1040 EZ)	8.	104000.00

(Do not use FEDERAL TAXABLE INCOME) If the amount on Line 8 is $40,000 or more, or your gross income is less than your W-2's you must enclose a copy of your Federal Form 1040 Pages 1 and 2.

9. Adjustments from Schedule 1 (See Tax Booklet on Page 11, Line 9)	9.	-9100.00
10. Georgia adjusted gross income (Net total of Line 8 and Line 9)	10.	1300.00
11. Standard Deduction (Do not use FEDERAL STANDARD DEDUCTION) **(See Tax Booklet on Page 12 Line 11)**	11a.	300.00
b. Self: 65 or over? X Blind? ☐ Spouse: 65 or over? ☐ Blind? ☐ Total 1 x 1,300=	11b.	1300.00
c. Total Standard Deduction (Line 11a + Line 11b) **Use EITHER Line 11c OR Line 12c (Do not write on both lines)**	11c.	4300.00
12. Total Itemized Deductions used in computing Federal Taxable Income. If you use itemized deductions, **you must enclose Federal Schedule A**		
a. Federal Itemized Deductions (Schedule A-Form 1040)	12a.	0.00
b. Less adjustments: (SeeTax Booklet on Page 13, Line 12)	12b.	0.00
c. Georgia Total Itemized Deductions	12c.	.00
13. Subtract either Line 11c or Line 12c from Line 10; enter balance	13.	8700.00
14a. Number on Line 6c. 2 multiplied by $2,700	14a.	5400.00
14b. Number on Line 7a. 0 multiplied by $3,000	14b.	.00
14c. Add Lines 14a. and 14b. Enter total	14c.	5400.00
15. Georgia taxable income (Line 13 less Line 14c or Schedule 3, Line 14)	15.	3300.00

Georgia Retirement Income Exclusion for Seniors Age 62:

RETIREMENT INCOME EXCLUSION WORKSHEET (Keep for your records)

	TAXPAYER	SPOUSE
1. Salary and wages	4000	14000
2. Other Earned Income(Losses)		
3. Total Earned Income	4000	14000
4. Maximum Earned Income	$4,000	$4,000
5. Smaller of Line 3 or 4; if zero or less, enter zero	4000	4000
6. Interest Income	1000	
7. Dividend Income		
8. Alimony		
9. Capital Gains(Losses)		
10. Other Income(Losses)*		
11. Taxable IRA Distributions		5000
12. Taxable Pensions	63000	
13. Rental, Royalty, Partnership, S Corp, etc. Income(Losses)**		
14. Total of Lines 6 through 13; if zero or less, enter zero	64000	5000
15. Add Lines 5 and 14	68000	9000
16. Maximum Allowable Exclusion for Tax Year 2012, if age 62-64 or less than age 62 and permanently disabled enter $35,000, or if age 65 or older enter $65,000.	65000	35000
17. Smaller of Lines 15 and 16; enter here and on Form 500, Schedule 1, Lines 6 A & B	65000	9000

Social security and railroad retirement paid by the Railroad Retirement Board, exempt interest, or other income that is not taxable to Georgia should not be included in the retirement income exclusion calculation. Income or losses should be allocated to the person who owns the item. If any item is held jointly, the income or loss should be allocated to each taxpayer at 50%.

Part-year residents and nonresidents must prorate the retirement income exclusion. The earned income portion and the unearned income portion must be separately prorated. The earned income portion shall be prorated using the ratio of Georgia source earned income to total earned income computed as if the taxpayer were a resident of Georgia for the entire year. The unearned portion shall be prorated using the ratio of Georgia source unearned retirement income to total unearned retirement income computed as if the taxpayer were a resident of Georgia for the entire year.

*Retirement income does not include income received directly or indirectly from lotteries, gambling, illegal sources or similar income.

** Rental, Royalty or Partnership income that is subject to FICA tax or Self employment tax should be included on line 2 not line 13. Trade or business income from an S Corp in which the taxpayer or their spouse materially participated should be included on line 2 not line 13.

Homestead Application (page 2) Income Calculation:

SECTION C1: COMPLETE THIS SECTION TO DETERMINE ELIGIBILITY FOR NET INCOME REQUIREMENT

If filing Joint Income Tax Return, Applicant must complete Column 1A only. If filing separately, both Columns 1A and 1B must be com

	INCOME FOR TAX YEAR ENDING DECEMBER 31, 2009	COLUMN 1A APPLICANT	
Line 1	Total Income from Public or Private retirement, disability or pension system	68,000	
Line 2	Total Income from Social Security	20,000	
Line 3	Total income from both retirement and Social Security (Line 1 plus Line 2)	88,000	
Line 4	Maximum Social Security amount (from Tax Receiver) - Amount cannot exceed the amount on Line 3	60,792	
Line 5	Retirement Income over maximum Social Security (Line 3 less Line 4) - If less than 0, use 0	27,208	
Line 6	Other income from all sources	19,000	
Line 7	Adjusted Income (Line 5 plus Line 6)	46,208	
Line 8	Standard or Itemized Deductions from Georgia Income Tax Return	4,300	
Line 9	Personal Exemption amount from Georgia Income Tax Return	5,400	
Line 10	Net Income (Line 7 less Lines 8 and 9)	36,508	

If filing Joint Income Tax Return, Line 10, Column 1A must be less than $10,000. If filing Separately, Total of Line 10, Columns 1A & 1B must be less

Social Security Maximum

State of Georgia

Lynnette T. Riley
Commissioner

Department of Revenue
Local Government Services Division
4125 Welcome All Road
Atlanta, Georgia 30349
Telephone (404) 724-7000
Fax (404) 724-7011

Ellen Mills
Director

November 16, 2018

M E M O R A N D U M

TO: Chairman, Board of Tax Assessors
Tax Commissioner

FROM: Ellen Mills, Director

SUBJECT: 2019 Social Security Maximum for Homestead Exemptions

As a courtesy to the local tax officials, we annually provide the maximum amount of benefits authorized to be paid to an individual and spouse under the federal Social Security Act.

As you know, the exemptions provided for in O.C.G.A. §§ 48-5-47 and 48-5-52 for age 62 and age 65 taxpayers are based on the net income of applicant and spouse not to exceed $10,000 for the immediately preceding year. Under these laws, net income does not include income received as retirement, survivor or disability benefits under the federal Social Security Act or under any other public or private retirement, disability or pension system, except such income which is in excess of the maximum amount authorized to be paid to an individual and his spouse under the federal Social Security Act. Income from such sources in excess of the maximum amount of social security is to be included as net income for the purposes of determining eligibility.

The social security maximum amount for tax year 2019 is **$68,664**, which amount may be used when determining the eligibility of an applicant and spouse seeking the elderly homestead exemptions for tax year 2019.

https://www.ssa.gov/news/press/factsheets/colafacts2019.pdf

If you have any questions regarding this matter, please do not hesitate to contact our office.

Department of Law
State of Georgia

THURBERT E. BAKER
ATTORNEY GENERAL

40 CAPITOL SQUARE S
ATLANTA, GA 30334-1300

Writer's Direct Dial:
404-651-8523
Fax 404-657-3239

October 1, 1998

MEMORANDUM

TO: M. Kay Powell
Revenue Section Supervisor III
Property Tax Division

FROM: Michele Young
Assistant Attorney General

RE: Homestead Exemption for those 65 and older/maximum allowable social security.

This is in response to your request for advice on the correct method of calculating the maximum allowable social security authorized to be paid to an individual and his spouse under the federal Social Security Act for the purpose of determining the maximum income allowable for a household to qualify for the homestead exemption provided for in O.C.G.A. § 48-5-47.

I have researched the applicable law and agree with your determination that the maximum amount payable under the federal Social Security Act, 42 USC 401 et seq., is dependent on the age of the individual and his spouse. Correspondingly, the maximum allowable income for a household to qualify for the homestead exemption is dependent on the age of the individual and his spouse. The homestead exemption for those 65 and older, O.C.G.A. § 48-5-47, provides that income from any public or private retirement, disability or pension system is excluded from the calculation of income as long as it does not exceed the maximum amount authorized to be paid to an individual and his spouse under the federal Social Security Act. Further, to qualify for the exemption the statute requires the individual to file an affidavit with the tax commissioner or tax receiver of the county in which he resides giving his age, income and other relevant information. O.C.G.A. § 48-5-47(b).

It does not appear that the legislature intended this to be an individual calculation of social security benefits, since individuals may exclude income from any retirement, disability or pension system in the calculation of household income for this purpose. Therefore, the statute is meaningful only if the maximum allowable social security payment, as calculated by the Social Security Administration, is the benchmark for determining the maximum excludable income for each age group.

You also asked the impact on the State and the counties if the age 65 exemption has been erroneously denied or erroneously allowed based on computations using only the age 77 social security maximum. If individuals have overpaid property tax based on an incorrect determination of allowable income by a county, they may seek a refund under applicable statutes. See O.C.G.A. § 48-5-380. It is less clear whether the county may attempt to recalculate the exemptions erroneously allowed in previous years. Although I was unable to find any case law that specifically ruled on the effect of an erroneous granting of exemptions, Georgia courts have addressed this issue in regard to assessments.

Counties may not reassess real property for a given tax year if the tax collector's bill has been paid in full. Fayette County Board of Tax Assessors v. Ga. Utilities Co., 219 Ga. App. 137 (1995). However, counties may, for a given tax year, correct an obvious and undisputed clerical error. Barland Company v. Bartow County Board of Tax Assessors, 176 Ga. App. 798 (1985). While I would not categorize the issue here as a clerical error, county tax assessors will have to make a determination based on their specific facts, and the advice of their county attorneys, whether to attempt to recalculate homestead exemptions erroneously allowed.

I hope this is responsive to your request. If you have any questions, please do not hesitate to contact me.

cc: T. Jerry Jackson, Commissioner
Danny Peterman, Assistant Director
Property Tax Division

STATE HOMESTEAD EXEMPTION

§ 48-5-40. Definitions.

As used in this part, the term:

(1) "Applicant" means a person who is:

(A) **(i)** A married individual living with his or her spouse;

(ii) An individual who is unmarried but who permanently maintains a home for the benefit of one or more other individuals who are related to such individual or dependent wholly or partially upon such individual for support;

(iii) An individual who is widowed having one or more children and maintaining a home occupied by himself or herself and the child or children;

(iv) A divorced individual living in a bona fide state of separation and having legal custody of one or more children, when the divorced individual owns and maintains a home for the child or children; or

(v) An individual who is unmarried or is widowed and who permanently maintains a home owned and occupied by himself or herself; and

(B) A resident of this state as defined in paragraph (15) of Code Section 40-5-1, as amended.

O.C.G.A. § 40-5-1.

(15) **"Resident"** means a person who has a permanent home or abode in Georgia to which, whenever such person is absent, he or she has the intention of returning. For the purposes of this chapter, there is a rebuttable presumption that the following person is a resident:

(A) Any person who accepts employment or engages in any trade, profession, or occupation in Georgia or enters his or her children to be educated in the private or public schools of Georgia within ten days after the commencement of such employment or education; or

(B) Any person who, except for infrequent, brief absences, has been present in the state for 30 or more days; provided, however, that no person shall be considered a resident for purposes of this chapter unless such person is either a United States citizen or an alien with legal authorization from the U.S. Immigration and Naturalization Service.

(2) "Home for the aged" means a facility which provides residential services, health care services, or both residential services and health care services to the aged.

(3) "Homestead" means the real property owned by and in possession of the applicant on January 1 of the taxable year and upon which the applicant resides including, but not limited to, the land immediately surrounding the residence to which the applicant has a right of possession under a bona fide claim of ownership. The term "homestead" includes the following qualifications:

(A) The actual permanent place of residence of an individual who is the applicant and which constitutes the home of the family;

(B) Where the person who is the applicant holds the bona fide fee title (although subject to mortgage or debt deed), an estate for life, or under any bona fide contract of purchase providing for the conveyance of title to the applicant upon performance of the contract;

(C) Where the building is occupied primarily as a dwelling;

(D) Where the children of deceased or incapacitated parents occupy the homestead of their parents and one of the children stands in the relation of applicant. This subparagraph shall apply whether or not the estate is distributed;

(E) Where a husband or wife occupies a dwelling and the title of the homestead is in the name of the wife;

(F) In the event a dwelling house which is classed as a homestead is destroyed by fire, flood, storm, or other unavoidable accident or is demolished or repaired so that the owner is compelled to reside temporarily in another place, the dwelling house shall continue to be classed as a homestead for a period of one year after the occurrence;

(G) In the event an individual who is the applicant owns two or more dwelling houses, he shall be allowed the exemption granted by law on only one of the houses. Only one homestead shall be allowed to one immediate family group;

(H) Where property is owned and occupied jointly by two or more individuals all of whom occupy the property as a home and if the property is otherwise entitled to a homestead exemption, the homestead may be claimed in the names of the joint owners residing in the home. Where the property on which a homestead exemption is claimed is jointly owned by the occupant and others, the occupant or occupants shall be entitled to claim the full amount of the homestead exemption;

(I) The permanent place of residence of an individual in the armed forces. Any such residence shall be construed to be actually occupied as the place of abode of such

individual when the family of the individual resides in the residence or when the family is forced to live elsewhere because of the individual's service in the armed forces;

(J) Absence of an individual from his residence because of duty in the armed forces shall not be considered as a waiver upon the part of the individual in applying for a homestead exemption. 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. Upon receipt of this notice, the tax receiver or tax commissioner shall grant the homestead exemption to the individual who is absent in the armed forces;

(K) The homestead exempted must be actually occupied as the permanent residence and place of abode by the applicant awarded the exemption, and the homestead shall be the legal residence and domicile of the applicant for all purposes whatever;

(L) In all counties having a population of not less than 19,200 nor more than 19,750, according to the United States decennial census of 2000 or any future such census, where the person who is the applicant holds real property subject to a written lease; the applicant has held the property subject to such a lease for not less than three years prior to the year for which application is made; and the applicant is the owner of all improvements located on the real property;

(M) The deed reflecting the actual ownership of the property for which the applicant seeks to receive a homestead exemption must be recorded in the deed records of the county prior to the filing of the application for the homestead exemption; and

(N) Absence of an individual from such individual's residence because of health reasons shall not in and of itself be considered as a waiver upon the part of the individual in applying for a homestead exemption if all other qualifications are otherwise met. 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. Upon receipt of this notice, the tax receiver or tax commissioner shall grant the homestead exemption to the individual who is absent for health reasons.

(4) "Hospital" means an institution in which medical, surgical, or psychiatric care is provided to individuals who are sick, injured, diseased, mentally ill, or crippled. "Hospital" does not include an institution licensed as a nursing home under the laws of this state.

(5) "Institutions of purely public charity," "nonprofit hospitals," and "hospitals not operated for the purpose of private or corporate profit and income" mean such institutions or hospitals which may have incidental income from paying patients when the income, if any, is devoted exclusively to the charitable purpose of caring for patients who are unable to pay and to maintaining, operating, and improving the facilities of such institutions and hospitals, and when

the income is not directly or indirectly for distribution to shareholders in corporations owning such property or to other owners of such property.

(6) "Occupied primarily as a dwelling" means:

(A) The applicant or members of his family occupy the property as a home; or

(B) **(i)** The applicant or members of his family occupy a portion of the property as a home;

(ii) No more than one exemption may be claimed pursuant to this subparagraph in connection with the occupancy of one building, except in the case of a duplex or double occupancy dwelling when the line of division follows a natural and bona fide plan as to both land and building and the two units thus formed are separately owned and occupied.

Judicial Decisions:

Masters v. Dekalb Board of Tax Assessors (2011)
A home occupied by a married person separated from his or her spouse may qualify for homestead as long as only one homestead exemption is granted to the married couple.

Blevins v. Dade Board of Tax Assessors (2011)
Local homestead exemption is not unconstitutional when taking into consideration both the uniformity and exemption clauses of Georgia Constitution.

Chatham County Bd. of Tax Assessors v. Bock, 299 Ga. App. 257, 682 S.E.2d 355 (2009).
Stephanie Bock sued the Chatham County Board of Tax Assessors ("BOA"), claiming that the BOA wrongfully refused to apply a county-specific homestead exemption to her property based on the fact that the property had earlier been assessed under the Rehabilitated Historic Property Preferential Assessment Act ("RHPPA").
The BOA contends that the Stephens-Day homestead exemption was not meant to apply to property such as Bock's, which received a preferential assessment as a rehabilitated historic property, arguing that doing so would result in an improper double benefit.

Fulton County Bd. of Tax Assessors v. Marani, 299 Ga. App. 580, 683 S.E.2d 136 (2009).
The County concluded that it had overvalued the exemption for more than 5,000 property owners, resulting in tax underpayments. That group of owners received tax bills in 2008 assessing additional taxes for 2005, 2006, and 2007. The new bills did not address whether taxpayers had a statutory right to appeal the and when taxpayers contacted the County about the bills, they were told that they had no right to appeal.
The County's strict interpretation of OCGA 48-5-311 ignores specific language relating to homestead exemptions in OCGA 48-5-49. That Code section authorizes the BTA to determine both a property owner's eligibility for an exemption and the value of the exemption. It then grants property owners "the right of appeal from the decision of the [BTA] to the county board of equalization as provided in Code Section 48-5-311."

§ 48-5-44. Exemption of homestead occupied by owner; effect of participation in rural housing program on homestead exemption; limits.

The homestead of each resident of this state actually occupied by the owner as a residence and homestead shall be exempted from all ad valorem taxation for state, county, and school purposes, except taxes levied by municipalities for school purposes and except to pay interest on and to retire bonded indebtedness, for as long as the residence and homestead is actually occupied by the owner primarily as a residence and homestead. The exemption shall not exceed $2,000.00 of the value of the homestead. Should the owner of a dwelling house on a farm who is already entitled to a homestead exemption participate in the program of rural housing and obtain a new house under contract with the local housing authority, he shall be entitled to receive the same homestead exemption as allowed before making the contract. Except as otherwise specifically provided by law, the value of all homestead property in excess of $2,000.00 shall remain subject to taxation. The exemption shall be returned and claimed in the manner prescribed by law. This exemption shall not apply to taxes levied by municipalities.

§ 48-5-45. Application for homestead exemption; unlawful to solicit fee to file application for homestead for another.

(a) **(1)** An applicant seeking a homestead exemption as provided in Code Section 48-5-44 and qualifying under the provisions of Code Section 48-5-40 shall file a written application and schedule with the tax receiver or tax commissioner charged with the duty of receiving returns of property for taxation at any time during the calendar year subsequent to the property becoming the primary residence of the applicant up to and including the date for the closing of the books for the return of taxes for the calendar year.

(2) The failure to file properly the application and schedule on or before the date for the closing of the books for the return of taxes of a calendar year in which the taxes are due shall constitute a waiver of the homestead exemption on the part of the applicant failing to make the application for such exemption for that year.

(b) The owner of a homestead which is actually occupied by the owner as a residence and homestead shall not have to apply for the exemption more than once so long as the owner remains in continuous occupation of the residence as a homestead. The exemption shall automatically be renewed from year to year so long as the owner continuously occupies the residence as a homestead.

(c) It is unlawful for any person, firm, or corporation to solicit, either directly or by mail or advertisement, any other person for the purpose of filing on behalf of such other person the application and schedule for homestead exemption required by this Code section if a fee is charged for filing such application and schedule on behalf of such other person. A violation of this subsection shall be a misdemeanor.

§ 48-5-46. Procedure for application.

(a) The application for the homestead exemption shall be furnished by the commissioner not later than February 1 of each year to the tax receiver or tax commissioner and municipal authorities, as the case may be, of the various counties.

(b) The application shall provide for:

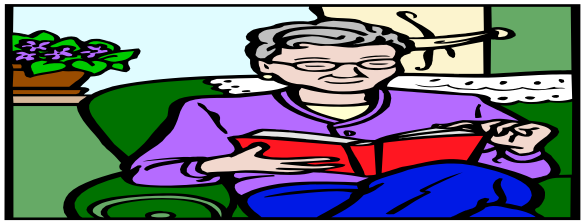
(1) A statement of ownership of the homestead, a complete description of the property on which homestead exemption is claimed, when and from whom the property was acquired, the kind of title held, and the amount of liens, if any, and to whom due; and

(2) The approval of the application by the official so authorized.

(c) A form of oath shall be provided and shall be administered to the applicant seeking the homestead exemption. The oath may be administered and witnessed by the tax receiver, tax commissioner, any authorized deputy of the tax receiver or tax commissioner, or any individual authorized by law to administer oaths.

(d) The tax receiver or tax commissioner shall deliver to any interested person the forms prescribed for the exemption. The applicant must answer all questions correctly to be entitled to an approval of the application.

(e) The tax receiver or tax commissioner shall receive all applications for homestead exemption and shall file and preserve the applications. The application shall be filed with the tax receiver or tax commissioner as provided by law.



§ 48-5-47. Applications for homestead exemptions of individuals 65 or older.

(a) Article VII, Section II, Paragraph IV of the Constitution of the State of Georgia ratified in 1982 continued in effect as statutory law, until otherwise provided for by law, those types of exemptions from ad valorem taxation in effect on June 30, 1983. One such exemption is the homestead exemption granted to certain individuals 65 years of age or over by the seventh unnumbered subparagraph of Article VII, Section I, Paragraph IV of the Constitution of 1976. Pursuant to said provision of the Constitution ratified in 1982, the homestead exemption formerly granted by said provision of the Constitution of 1976 is superseded and modified as provided in subsection (b) of this Code section.

(b) Each person who is 65 years of age or over is hereby granted an exemption from all state and county ad valorem taxes in the amount of $4,000.00 on a homestead owned and occupied by him as a residence if his net income, together with the net income of his spouse who also occupies and resides at such homestead, as net income is defined by Georgia law, from all sources, except as hereinafter provided, does not exceed $10,000.00 for the immediately preceding taxable year for income tax purposes. For the purposes of this subsection, net income shall not include income received as retirement, survivor or disability benefits under the federal Social Security Act or under any other public or private retirement, disability or pension system, except such income which is in excess of the maximum amount authorized to be paid to an individual and his spouse under the federal Social Security Act, and income from such sources in excess of such maximum amount shall be included as net income for the purposes of this subsection. The value of the residence in excess of the above-exempted amount shall remain subject to taxation. Any such owner shall not receive the benefits of such homestead exemption unless he, or through his agent, files an affidavit with the tax commissioner or tax receiver of the county in which he resides, giving his age and the amount of income which he and his spouse received during the last taxable year for income tax purposes, and such additional information relative to receiving the benefits of such exemption as will enable the tax commissioner or tax receiver to make a determination as to whether such owner is entitled to such exemption. The tax commissioner or tax receiver shall provide affidavit forms for this purpose. Such applications shall be processed in the same manner as other applications for homestead exemption, and the provisions of law applicable to the processing of homestead exemptions, as the same now exists or may hereafter be amended, shall apply thereto. Provided, that after any such owner has filed the proper affidavit, as provided above, and has once been allowed the exemption provided in

this subsection, it shall not be necessary that he make application and file the said affidavit thereafter for any year and the said exemption shall continue to be allowed to such owner. It shall be the duty of any such owner, however, to notify the tax commissioner or tax receiver in the event he becomes ineligible for any reason for the exemption provided in this subsection.

(c) The application for the homestead exemption of individuals 65 years of age or older provided for by subsection (b) of this Code section shall be in the form prescribed by the commissioner. The application shall require the applicant's social security number. The tax commissioner or tax receiver shall be authorized to have the statement of income of any claimant verified by the department upon sending the social security number of a claimant to the department.

§ 48-5-47.1. Homestead exemptions for individuals 62 or older with annual incomes not exceeding $30,000.00

(a) For purposes of this Code section, the term:

(1) "Ad valorem taxes" means all state ad valorem taxes and all county ad valorem taxes for county purposes levied by, for, or on behalf of a county, except for taxes to pay interest on and to retire bonded indebtedness.

(2) "Base year" means the taxable year immediately preceding the taxable year in which the exemption under this Code section is granted.

(3) "Homestead" as applied in this Code section shall mean the homestead as defined and qualified in Code Section 48-5-40, with the additional qualification that it shall include only the primary residence and not more than five contiguous acres of land immediately surrounding such residence.

(4) "Income" means *federal adjusted gross income*, as defined in the Internal Revenue Code of 1986, as amended, from all sources.

(5) "Senior citizen" means a person who is 62 years of age or over on or before January 1 of the year in which application for the exemption under this Code section is made.

(b) Each resident of a county who is a senior citizen is granted an exemption on that person's homestead from all ad valorem taxes in an amount equal to the amount of the assessed value of that homestead which exceeds the assessed value of that homestead for the taxable year immediately preceding the taxable year in which this exemption is first granted to such resident, if that person's income, together with the income of the spouse of such person and any other person who resides within such homestead, does not exceed *$30,000.00* for the immediately preceding taxable year. This exemption shall not apply to taxes assessed on improvements to the homestead or additional land that is added to the homestead after January 1 of the base year. If any real property is removed from the homestead, the assessment in the base year shall be adjusted to reflect such removal and the exemption shall be recalculated accordingly.

(c) A person shall not receive the homestead exemption granted by subsection (b) of this Code section unless the person or person's agent files an application with the tax commissioner of the county giving the person's age and the amount of gross income which the person and the person's spouse and any other persons residing within such homestead received during the last taxable year, and such additional information relative to receiving such exemption as will enable the tax commissioner to make a determination as to whether such owner is entitled to such exemption.

(d) The commissioner shall provide application forms for the exemption granted by this Code section which shall require such information as may be necessary to determine the initial and continuing eligibility of the owner for the exemption.

(e) The exemption shall be claimed and returned as provided in Code Section 48-5-50.1. The exemption shall be automatically renewed from year to year as long as the owner occupies the residence as a homestead. After a person has filed the proper application as provided in subsection (c) of this Code section, it shall not be necessary to make application and file such affidavit thereafter for any year and the exemption shall continue to be allowed to such person. It shall be the duty of any person granted the homestead exemption under this Code section to notify the tax commissioner of the county or the designee thereof in the event that person for any reason becomes ineligible for that exemption.

(f) The exemption granted by this Code section shall not apply to or affect any municipal taxes or county school district taxes for educational purposes. The homestead exemption granted by this Code section shall be in lieu of and not in addition to any other homestead exemption applicable to county ad valorem taxes for county purposes.

(g) The exemption granted by this Code section shall apply to all taxable years beginning on or after January 1, 1995.

2009 - GA Constitution: Paragraph V. Disabled veteran's homestead exemption.
Except as otherwise provided in this paragraph, the amount of the homestead exemption granted to disabled veterans shall be the greater of $32,500.00 or the maximum amount which may be granted to a disabled veteran under Section 802 of Title 38 of the United States Code as hereafter amended.

Such exemption shall be granted to:

- *Those persons eligible for such exemption on June 30, 1983;*
- *To disabled American veterans of any war or armed conflict who are disabled due to loss or loss of use of one lower extremity together with the loss or loss of use of one upper extremity which so affects the functions of balance or propulsion as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair; and*
- *To disabled veterans hereafter becoming eligible for assistance in acquiring housing under Section 801 of the United States Code as hereafter amended.*

The General Assembly may by general law provide for a different amount or a different method of determining the amount of or eligibility for the homestead exemption granted to disabled veterans. Any such law shall be enacted by a simple majority of the votes of all the members to which each house is entitled and may become effective without referendum.

Such law may provide that the amount of or eligibility for the exemption shall be determined by reference to laws enacted by the United States Congress.

§ 48-5-48. Homestead exemption by qualified disabled veteran; filing requirements; periodic substantiation of eligibility; persons eligible without application; retroactive award

(a) As used in this Code section, the term "disabled veteran" means:

(1) Any veteran who is a citizen and a resident of this state, who was discharged under honorable conditions, and who has been adjudicated by the United States Department of Veterans Affairs as having a service related disability that renders such veteran as being 100 percent totally disabled or as being less than 100 percent totally disabled but is compensated at the 100 percent level due to individual unemployability or is entitled to receive a statutory award from the United States Department of Veterans Affairs for:

(A) Loss or permanent loss of use of one or both feet;
(B) Loss or permanent loss of use of one or both hands;
(C) Loss of sight in one or both eyes; or
(D) Permanent impairment of vision of both eyes of the following status: central visual acuity of 20/200 or less in the better eye, with corrective glasses, or central visual acuity of more than 20/200 if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends on angular distance no greater than 20 degrees in the better eye;

(2) An American veteran of any war or armed conflict in which any branch of the armed forces of the United States engaged, whether under United States command or otherwise, and that he or she is disabled due to the loss or loss of use of both lower extremities such as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair; due to blindness in both eyes, having only light perception, together with the loss or loss of use of one lower extremity; or due to the loss or loss of use of one lower extremity together with residuals of organic disease or injury which so affect the functions of balance or propulsion as to preclude locomotion without resort to a wheelchair;

(3) Any disabled veteran who is not entitled to receive benefits from the Department of Veterans Affairs but who qualifies otherwise, as provided for by Article VII, Section I, Paragraph IV of the Constitution of Georgia of 1976;

(4) An American veteran of any war or armed conflict who is disabled due to loss or loss of use of one lower extremity together with the loss or loss of use of one upper extremity which so affects the functions of balance or propulsion as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair; or

(5) A veteran becoming eligible for assistance in acquiring housing under Section 2101 of Title 38 of the United States Code as hereafter amended on or after July 1, 1999.

(b) Any disabled veteran as defined in any paragraph of subsection (a) of this Code section who is a citizen and resident of Georgia is granted an exemption of the greater of $32,500.00 or the maximum amount which may be granted to a disabled veteran under Section 2102 of Title 38 of the United States Code, as amended, on his or her homestead which such veteran owns and actually occupies as a residence and homestead, such exemption being from all ad valorem taxation for state, county, municipal, and school purposes. As of January 1, 2004, the maximum amount which may be granted to a disabled veteran under the above-stated federal law is $50,000.00. The value of all property in excess of the exempted amount cited above shall remain subject to taxation. The unremarried surviving spouse or minor children of any such disabled veteran as defined in this Code section shall also be entitled to an exemption of the greater of $32,500.00 or the maximum amount which may be granted to a disabled veteran under Section 2102 of Title 38 of the United States Code, as amended, on the homestead so

long as the unremarried surviving spouse or minor children continue actually to occupy the home as a residence and homestead, such exemption being from all ad valorem taxation for state, county, municipal, and school purposes. As of January 1, 2004, the maximum amount which may be granted to the unremarried surviving spouse or minor children of any such disabled veteran under the above-stated federal law is $50,000.00. The value of all property in excess of such exemption granted to such unremarried surviving spouse or minor children shall remain subject to taxation.

(b.1) The unremarried surviving spouse or minor children of any disabled veteran shall also be entitled to an exemption of the greater of $32,500.00 or the maximum amount on a homestead, or any subsequent homestead within the same county, where such spouse or minor children continue to occupy the home as a homestead, such exemption being from ad valorem taxation for state, county, municipal, and school purposes.

(c) **(1)** Any disabled veteran qualifying pursuant to paragraph (1) or (2) of subsection (a) of this Code section for the homestead exemption provided for in this Code section shall file with the tax commissioner or tax receiver a letter from the Department of Veterans Affairs or the Department of Veterans Service stating the qualifying disability.

(2) Any disabled veteran qualifying pursuant to paragraph (3) of subsection (a) of this Code section for the homestead exemption provided for in this Code section shall file with the tax commissioner or tax receiver a copy of his DD form 214 (discharge papers from his military records) along with a letter from a doctor who is licensed to practice medicine in this state stating that he is disabled due to loss or loss of use of both lower extremities such as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair; due to blindness in both eyes, having only light perception, together with the loss or loss of use of one lower extremity; or due to the loss or loss of use of one lower extremity together with residuals of organic disease or injury which so affect the functions of balance or propulsion as to preclude locomotion without resort to a wheelchair. Prior to approval of an exemption, a county board of tax assessors may require the applicant to provide not more than two additional doctors' letters if the board is in doubt as to the applicant's eligibility for the exemption.

(3) Any disabled veteran qualifying pursuant to paragraph (4) of subsection (a) of this Code section for the homestead exemption provided for in this Code section shall file with the tax commissioner or tax receiver a letter from a doctor who is licensed to practice medicine in this state stating the qualifying disability. Prior to approval of an exemption, a county board of tax assessors may require the applicant to provide not more than two additional doctors' letters if the board is in doubt as to the applicant's eligibility for the exemption.

(4) Any disabled veteran qualifying pursuant to paragraph (5) of subsection (a) of this Code section for the homestead exemption provided for in this Code section shall file with the tax commissioner or tax receiver a letter from the Department of Veterans

Affairs or the Department of Veterans Service stating the eligibility for such housing assistance.

(d) Each disabled veteran shall file for the exemption only once in the county of his residence. Once filed, the exemption shall automatically be renewed from year to year, except as provided in subsection (e) of this Code section. Such exemption shall be extended to the unremarried surviving spouse or minor children at the time of his death so long as they continue to occupy the home as a residence and homestead. In the event a disabled veteran who would otherwise be entitled to the exemption dies or becomes incapacitated to the extent that he or she cannot personally file for such exemption, the spouse, the unremarried surviving spouse, or the minor children at the time of the disabled veteran's death may file for the exemption and such exemption may be granted as if the disabled veteran had made personal application therefor.

(e) Not more often than once every three years, the county board of tax assessors may require the holder of an exemption granted pursuant to this Code section to substantiate his continuing eligibility for the exemption. In no event may the board require more than three doctors' letters to substantiate eligibility.

(f) Any person who as of January 1, 1991, has applied and is eligible for the exemption for disabled veterans, their surviving spouses, and minor children formerly provided for by the sixth unnumbered subparagraph of Article VII, Section I, Paragraph IV of the Constitution of 1976; the exemption for disabled veterans provided for in Article VII, Section II, Paragraph V of the Constitution of 1983; or the exemption for disabled veterans formerly provided for by Code Section 48-5-48.3 as enacted by an Act approved April 11, 1986 (Ga. L. 1986, p. 1445), shall be eligible for the exemption granted by subsection (b) of this Code section without applying for such exemption.

(g) **(1)** If a disabled veteran receives a final determination of disability from the United States Department of Veterans Affairs containing a retroactive period of eligibility, such disabled veteran or his or her surviving unremarried spouse or minor children shall be entitled to a refund of the ad valorem taxes paid during such period that he or she or his or her surviving unremarried spouse or minor children would have otherwise been exempt from such taxes pursuant to this Code section, provided that the refund shall only be for the three tax years preceding his or her or his or her surviving unremarried spouse's or minor children's application for the homestead exemption permitted by this Code section.

(2) Upon application for the homestead exemption provided by this Code section and submittal of proper documentation, each county and municipality shall consider the taxes paid by such disabled veteran or his or her surviving unremarried spouse or minor children under the circumstances provided in paragraph (1) of this subsection to be voluntarily or involuntarily overpaid and shall refund such taxes to such disabled veteran or his or her surviving unremarried spouse or minor children in accordance with Code Section 48-5-380.

(3) Upon final determination and approval of a period of prior eligibility, the county board of assessors shall immediately transmit such approval to the local tax commissioner and local municipal tax officer if applicable. The tax commissioner and municipal tax officer shall be authorized to refund the proportionate amount of taxes from the entities for whom the taxes were collected for the tax years approved for the exemption. Such refund shall not exceed three tax years and shall not include interest.

1976 Constitution of Georgia

Each disabled veteran, as hereinafter defined, who is a citizen and resident of Georgia, is hereby granted an exemption of $12,500.00 on his homestead, which he owns and which he actually occupies as a residence and homestead, such exemption being from all ad valorem taxation for State, county, municipal and school purposes. The value of all property in excess of the above exempted amount shall remain subject to taxation.

The term "disabled veteran," as used herein, means a disabled American veteran of any war or armed conflict in which any branch of the armed forces of the United States engaged, whether under United States command or otherwise, and who is disabled, as a result of such service in the armed forces, due to

- *Loss, or loss of use, of both lower extremities, such as to preclude locomotion without the aid of braces, crutches, canes, or a wheel chair, or*
- *Blindness in both eyes, having only light perception, plus loss or loss of use of one lower extremity, or*
- *Due to the loss or loss of use of one lower extremity together with residuals of organic disease or injury which so affect the functions of balance or propulsion as to preclude locomotion without resort to a wheelchair.*

(4) An American veteran of any war or armed conflict who is disabled due to loss or loss of use of one lower extremity together with the loss or loss of use of one upper extremity which so affects the functions of balance or propulsion as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair; or

(5) A veteran becoming eligible for assistance in acquiring housing under Section 2101 of Title 38 of the United States Code as hereafter amended on or after July 1, 1999.

U.S. CODE - Title 38 Sec. 2101. Acquisition and adaptation of housing: eligible veterans

(a) Acquisition of Housing With Special Features. –

(1) Subject to paragraph (3), the Secretary may assist a disabled veteran described in paragraph (2) in acquiring a suitable housing unit with special fixtures or movable facilities made necessary by the nature of the veteran's disability, and necessary land therefor.

(2) A veteran is described in this paragraph if the veteran is entitled to compensation under chapter 11 of this title for a permanent and total service-connected disability that meets any of the following criteria:

(A) The disability is due to the loss, or loss of use, of both lower extremities such as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair.

(B) The disability is due to -

(i) Blindness in both eyes, having only light perception, plus

(ii)Loss or loss of use of one lower extremity.

(C) The disability is due to the loss or loss of use of one lower extremity together with -

(i)Residuals of organic disease or injury; or

(ii)The loss or loss of use of one upper extremity, which so affect the functions of balance or propulsion as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair.

(D) The disability is due to the loss, or loss of use, of both upper extremities such as to preclude use of the arms at or above the elbows.

(E) The disability is due to a severe burn injury (as determined pursuant to regulations prescribed by the Secretary).

THIS IS AN IMPORTANT RECORD
SAFEGUARD IT.

PERSONAL DATA

1. LAST NAME-FIRST NAME-MIDDLE NAME:
2. SERVICE NUMBER:
3. SOCIAL SECURITY NUMBER:
4. DEPARTMENT, COMPONENT AND BRANCH OR CLASS: ARMY RA SIG
5a. GRADE, RATE OR RANK: SP4
b. PAY GRADE: E-4
6. DATE OF RANK: DAY 29 MONTH OCT YEAR 69
7. U. S. CITIZEN: [X] YES [ ] NO
8. PLACE OF BIRTH (City and State or Country): TEXAS
9. DATE OF BIRTH: DAY MONTH JUN YEAR 48

SELECTIVE SERVICE DATA

10a. SELECTIVE SERVICE NUMBER:
b. SELECTIVE SERVICE LOCAL BOARD NUMBER, CITY, COUNTY, STATE AND ZIP CODE:
c. DATE INDUCTED: DAY NA MONTH YEAR

TRANSFER OR DISCHARGE DATA

11a. TYPE OF TRANSFER OR DISCHARGE: TRF TO USAR (SEE 16)
b. STATION OR INSTALLATION AT WHICH EFFECTED: FT DIX NJ
c. REASON AND AUTHORITY: AR 635-200 SPN 411 EARLY SEP FR OS
d. EFFECTIVE DATE: DAY 31 MONTH MAR YEAR 70
12. LAST DUTY ASSIGNMENT AND MAJOR COMMAND: SVC BTRY 2D BN 6TH ARTY USAREUR
13a. CHARACTER OF SERVICE: HONORABLE
b. TYPE OF CERTIFICATE ISSUED: NONE
14. DISTRICT, AREA COMMAND OR CORPS TO WHICH RESERVIST TRANSFERRED: TRF TO USAR CON GP (REINF) USAAC ST LOUIS MO
15. REENLISTMENT CODE: RE-1

SERVICE DATA

16. TERMINAL DATE OF RESERVE/UMT&S OBLIGATION: DAY 10 MONTH APR YEAR 73
17. CURRENT ACTIVE SERVICE OTHER THAN BY INDUCTION
a. SOURCE OF ENTRY: [X] ENLISTED (First Enlistment) [ ] ENLISTED (Prior Service) [ ] REENLISTED [ ] OTHER
b. TERM OF SERVICE (Years): 3
c. DATE OF ENTRY: DAY 11 MONTH APR YEAR 67
18. PRIOR REGULAR ENLISTMENTS: NONE
19. GRADE, RATE OR RANK AT TIME OF ENTRY INTO CURRENT ACTIVE SVC: PV-1
20. PLACE OF ENTRY INTO CURRENT ACTIVE SERVICE (City and State): SPOKANE WASHINGTON
21. HOME OF RECORD AT TIME OF ENTRY INTO ACTIVE SERVICE (Street, RFD, City, County, State and ZIP Code):
23a. SPECIALTY NUMBER & TITLE: 36K20 WIREMAN
b. RELATED CIVILIAN OCCUPATION AND D.O.T. NUMBER: 829.281 WIREMAN MAINT

22. STATEMENT OF SERVICE		YEARS	MONTHS	DAYS
a. CREDITABLE FOR BASIC PAY PURPOSES	(1) NET SERVICE THIS PERIOD	2	11	20
	(2) OTHER SERVICE	0	0	0
	(3) TOTAL (Line (1) plus Line (2))	2	11	20
b. TOTAL ACTIVE SERVICE		2	11	20
c. FOREIGN AND/OR SEA SERVICE SEE# 30		1	9	26

24. DECORATIONS, MEDALS, BADGES, COMMENDATIONS, CITATIONS AND CAMPAIGN RIBBONS AWARDED OR AUTHORIZED:
GOOD CONDUCT MEDAL
NATIONAL DEFENSE SERVICE MEDAL VIETNAM SERVICE MEDAL
SHARPSHOOTER M-14 SHARPSHOOTER M-16

25. EDUCATION AND TRAINING COMPLETED:
ATP 21-114
CODE OF COND
C B R TNG
RVN TNG
WIREMAN 8 WKS 67

VA AND EMP. SERVICE DATA

26a. NON-PAY PERIODS TIME LOST (Preceding Two Years): NA
b. DAYS ACCRUED LEAVE PAID: NA
27a. INSURANCE IN FORCE (NSLI or USGLI): [ ] YES [X] NO NA
b. AMOUNT OF ALLOTMENT: NA
c. MONTH ALLOTMENT DISCONTINUED: NA
28. VA CLAIM NUMBER: NA C-
29. SERVICEMEN'S GROUP LIFE INSURANCE COVERAGE: [X] $10,000 [ ] $5,000 [ ] NONE

REMARKS

30. REMARKS:
BLOOD GP O
8 YRS ELEM (GEN)
USARPAC VIETNAM 22 OCT 67 - 20 OCT 68
USAREUR GERMANY 3 JUN 69 - 5 APR 70

AUTHENTICATION

31. PERMANENT ADDRESS FOR MAILING PURPOSES AFTER TRANSFER OR DISCHARGE (Street, RFD, City, County, State and ZIP Code):
32. SIGNATURE OF PERSON BEING TRANSFERRED OR DISCHARGED:
33. TYPED NAME, GRADE AND TITLE OF AUTHORIZING OFFICER: CPT FA ASST CHIEF ENL BRANCH
34. SIGNATURE OF OFFICER AUTHORIZED TO SIGN:

DD FORM 1 JUL 66 214 PREVIOUS EDITIONS OF THIS FORM ARE OBSOLETE EFFECTIVE 1 JAN 67 ☆ GPO: 1969-351-112 ARMED FORCES OF THE UNITED STATES REPORT OF TRANSFER OR DISCHARGE 2

Department of Veterans Affairs (Federal)

Service-Connected Disabilities

Disability Compensation: Disability compensation is a monetary benefit paid to veterans who are disabled by an injury or illness that was incurred or aggravated during active military service. These disabilities are considered to be service-connected. Disability compensation varies with the degree of disability and the number of a veteran's dependents, and is paid monthly. Veterans with certain severe disabilities may be eligible for additional special monthly compensation. The benefits are not subject to federal or state income tax.

Presumptive Conditions for Disability Compensation: All veterans who develop Amyotrophic Lateral Sclerosis (ALS), also known as Lou Gehrig's Disease, at any time after separation from service may be eligible for compensation for that disability.

Certain veterans are eligible for disability compensation based on the presumption that their disability is service-connected.

Prisoners of War: For former POWs who were imprisoned for any length of time, the following disabilities are presumed to be service-connected if they are rated at least 10 percent disabling anytime after military service: psychosis, any of the anxiety states, dysthymic disorder, organic residuals of frostbite, post-traumatic osteoarthritis, heart disease or hypertensive vascular disease and their complications, stroke, residuals of stroke and effective October 10, 2008, osteoporosis if the veteran has post-traumatic stress disorder (PTSD).

For former POWs who were imprisoned for at least 30 days, the following conditions are also presumed to be service-connected: avitaminosis, beriberi, chronic dysentery, helminthiasis, malnutrition (including optic atrophy), pellagra and/or other nutritional deficiencies, irritable bowel syndrome, peptic ulcer disease, peripheral neuropathy, cirrhosis of the liver and effective September 28, 2009, osteoporosis.

Veterans Exposed to Agent Orange and Other Herbicides: A veteran who served in the Republic of Vietnam between Jan. 9, 1962, and May 7, 1975, is presumed to have been exposed to Agent Orange and other herbicides used in support of military operations.

Twelve illnesses are presumed by VA to be service-connected for such veterans: chloracne or other acneform disease similar to chloracne, porphyria cutanea tarda, soft-tissue sarcoma (other than osteosarcoma, chondrosarcoma, Kaposi's sarcoma or mesothelioma), Hodgkin's disease, multiple myeloma, respiratory cancers (lung, bronchus, larynx, trachea), non-Hodgkin's lymphoma, prostate cancer, acute and subacute peripheral neuropathy, diabetes mellitus (Type 2), chronic lymphocytic leukemia and AL amyloidosis..

Veterans Exposed to Radiation: For veterans who participated in "radiation risk activities" as defined in VA regulations while on active duty, active duty for training, or inactive duty training, the following conditions are presumed to be service-connected: all forms of leukemia (except for chronic lymphocytic leukemia); cancer of the thyroid, breast, pharynx, esophagus, stomach, small intestine, pancreas, bile ducts, gall bladder, salivary gland, urinary tract (renal pelvis, ureter, urinary bladder and urethra), brain, bone, lung, colon, and ovary, bronchiolo-alveolar carcinoma, multiple myeloma, lymphomas (other than Hodgkin's disease), and primary liver cancer (except if cirrhosis or hepatitis B is indicated).

To determine service connection for other conditions or exposures not eligible for presumptive service connection, VA considers factors such as the amount of radiation exposure, duration of exposure, elapsed time between exposure and onset of the disease, gender and family history, age at time of exposure, the extent to which a non service-related exposure could contribute to disease, and the relative sensitivity of exposed tissue.

Gulf War Veterans with Chronic Disabilities: may receive disability compensation for chronic disabilities resulting from undiagnosed illnesses and/or medically unexplained chronic multi-symptom illnesses defined by a cluster of signs or symptoms. A disability is considered chronic if it has existed for at least six months.

The undiagnosed illnesses must have appeared either during active service in the Southwest Asia Theater of Operations during the Gulf War period of Aug. 2, 1990, to July 31, 1991, or to a degree of at least 10 percent at any time since then through Dec. 31, 2011. This theater of operations includes Iraq, Kuwait, Saudi Arabia, the neutral zone between Iraq and Saudi Arabia, Bahrain, Qatar, the United Arab Emirates, Oman, the Gulf of Aden, the Gulf of Oman, the Persian Gulf, the Arabian Sea, the Red Sea, and the airspace above these locations.

The following are examples of symptoms of an undiagnosed illness: chronic fatigue syndrome, fibromyalgia, skin disorders, headache, muscle pain, joint pain, neurological symptoms, neuropsychological symptoms, symptoms involving the respiratory system, sleep disturbances, gastrointestinal symptoms, cardiovascular symptoms, abnormal weight loss, and menstrual disorders.

Housing and Economic Recovery Act of 2008

H.R. 3221, 110th Congress, 2007–2009 Status: Signed by the President

Title VI - Veterans Housing Matters

Section 2601 -

Amends veterans' benefits law to authorize home improvements and structural alterations for veterans with a total service-connected disability before discharge or release from the Armed Forces, if the member is likely to be discharged or released for such disability.

Section 2602 -

Authorizes the Secretary of Veterans Affairs (Secretary in this title) to provide assistance for specially adapted housing to any veterans with service-connected disabilities, including: (1) individuals residing outside the United States, and (2) individuals with severe burn injuries.

Section 2604 -

Extends through December 31, 2011, the authority to provide assistance for specially adapted housing to individuals with permanent and total service-connected disabilities who are residing temporarily in housing owned by a family member.

Section 2605 -

Increases the maximum assistance for specially adapted housing benefits for disabled veterans: (1) from $10,000 to $12,000 for adaptations to a residence, including housing owned by a family member where an individual will reside temporarily; and (2) from $50,000 to $60,000 for acquisition of housing with special features. Requires annual adjustments to such maximums according to increases in a cost-of-construction index which the Secretary shall establish.

Section 2606 -

Requires the Secretary to report to certain congressional committees on: (1) the adequacy of the authorities available to assist eligible disabled individuals in acquiring special features for specially adapted housing; and (2) specially adapted housing assistance for individuals who reside on a permanent basis in housing owned by a family member.

Section 2608 -

Amends the United States Housing Act of 1937 regarding eligibility for section 8 rental assistance and other low-income housing programs to exclude from consideration as income certain deferred disability benefits received from the Department of Veterans Affairs.

Section 2609 -

Entitles to payment for transportation of baggage and household effects any members of the armed forces who relocate due to foreclosure of leased or rental housing.

State of Georgia

Lynnette T. Riley
Commissioner

Department of Revenue
Local Government Services Division
4125 Welcome All Road
Atlanta, Georgia 30349
Telephone (404) 724-7000
Fax (404) 724-7011

Ellen Mills
Director

ANNOUNCEMENT
November 16, 2018

TO: Tax Commissioners
Board of Tax Assessors

FROM: Ellen Mills, Director

SUBJECT: 2019 Homestead Exemption pursuant to O.C.G.A. §§48-5-48(b) and 48-5-52(a)

The purpose of this announcement is to provide the amount of homestead exemption authorized to be claimed by the following applicants:

- Disabled veterans, surviving spouse, and minor child pursuant to O.C.G.A.§ 48-5-48; and
- Surviving spouse of servicemember killed in action pursuant to O.C.G.A. § 48-5-52.1.

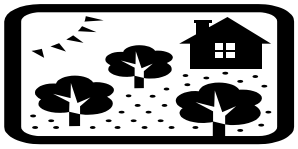
The above referenced qualified homestead applicants are permitted to exempt from ad valorem taxes on their homestead between ***the greater of*** $32,500 or the maximum amount allowable under Section 2102 of Title 38 of the United States Code, as amended.

Such amount under federal law is adjusted annually by the United States Secretary of Veterans Affairs for the rate of inflation regarding the average cost of real property construction.

The resulting adjusted amount as of the date of this announcement is **$85,645** and such amount may be claimed for tax year 2019 by qualified disabled veterans or their unremarried surviving spouse or minor child pursuant to O.C.G.A.§ 48-5-48 or by qualified surviving spouses of servicemembers killed in action pursuant to O.C.G.A.§ 48-5-52.1.

This information can be found at https://www.benefits.va.gov/homeloans/adaptedhousing.asp

If you have any questions regarding this matter, please do not hesitate to contact our office.



§ 48-5-48.3. Homestead exemption for senior citizens.

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

(1) "Homestead" means homestead as defined and qualified in Code Section 48-5-40 of the O.C.G.A., as amended, with the additional qualification that it shall include only the primary residence and not more than ten contiguous acres of land immediately surrounding such residence.

(2) "Senior citizen" means a person who is 65 years of age or over on or before January 1 of the year in which application for the exemption under this Code section is made.

(b) Any person who is a senior citizen and resident of Georgia is granted upon application an exemption on his or her homestead which such person owns and actually occupies as a residence and homestead in an amount equal to the actual levy for state ad valorem taxation made pursuant to Code Section 48-5-8 with respect to that homestead, such exemption being from all ad valorem taxation for state purposes. The value of all property in excess of the exempted amount cited above shall remain subject to taxation.

(c) The exemption shall be claimed and returned in the same manner as otherwise required under Code Section 48-5-50.1. Each person shall file for the exemption only once in the county of his or her residence. Once filed, the exemption shall automatically be renewed from year to year.

(d) The exemption granted by this Code section shall not apply to or affect county taxes, municipal taxes, or school district taxes.

(e) The exemption granted by this Code section shall be in addition to and not in lieu of any other homestead exemption from state taxes.

§ 48-5-48.4. Homestead exemption for unremarried surviving spouse of peace officer or firefighter killed in the line of duty.

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

(1) "Ad valorem taxes" means all state ad valorem taxes and all county, county school district, municipal, and independent school district taxes for county, county school district, municipal, or independent school district purposes including, but not limited to, taxes to retire bonded indebtedness.

(2) "Homestead" means homestead as defined and qualified in Code Section 48-5-40.

(b) Each resident of the state who is the unremarried surviving spouse of a peace officer or firefighter who was killed in the line of duty is granted an exemption on that person's homestead from all ad valorem taxes for the full value of that homestead.

(c) A person shall not receive the homestead exemption granted by subsection (b) of this Code section unless the person or person's agent files an affidavit with the tax commissioner of the county in which that person resides giving such information relative to receiving such exemption as will enable the tax commissioner to make a determination as to whether such person is entitled to such exemption. The tax commissioner shall provide affidavit forms for this purpose and shall require such information as may be necessary to determine the initial and continuing eligibility of the applicant for the exemption.

(d) The exemption shall be claimed and returned as provided in Code Section 48-5-50.1. The exemption shall be automatically renewed from year to year as long as the applicant occupies the residence as a homestead. After a person has filed the proper affidavit as provided in subsection (c) of this Code section, it shall not be necessary to make application and file such affidavit thereafter for any year and the exemption shall continue to be allowed to such person. It shall be the duty of any person granted the homestead exemption under this Code section to notify the tax commissioner or the designee thereof in the event that person for any reason becomes ineligible for that exemption.

(e) The exemption granted by this Code section shall be in lieu of and not in addition to any other homestead exemption from ad valorem taxes.

(f) The exemption granted by this Code section shall apply to all taxable years beginning on or after January 1, 2007.

Fayette County GEORGIA

Where Quality Is A Lifestyle

September 9, 2010

VIA E-MAIL
Timothy A. Mitchell
Manager
Tax Law and Policy
1800 Century Blvd., NE
Suite 15208
Atlanta, Georgia

Re: Firefighter Death

Dear Mr. Mitchell,

The Tax Commissioner for Fayette County, Georgia, has requested guidance with respect to the application of O.C.G.A. § 48-5-48.4. Subsection (b) of this statute provides that

> Each resident of the state who is the unremarried surviving spouse of a peace officer or firefighter who was killed in the line of duty is granted an exemption on that person's homestead from all ad valorem taxes for the full value of that homestead.

The Fayette County Tax Commissioner is requesting your opinion regarding the phrase "killed in the line of duty." In this case, a firefighter had a heart attack in the station house just after a fire alarm sounded.

I have given the Tax Commissioner a verbal opinion that the legislature's use of the term "killed in the line of duty" means something different than had they used the term "died while on duty." Based upon this choice of language, I advised him that dying from natural causes would not constitute being "killed". Due to the ambiguity in the language used in the statute, ie., "killed" versus "died", the Tax Commissioner is requesting a Letter Ruling by the Department as to whether under the circumstances described above, the widow is entitled to the tax exemption.

Should you need additional facts or have any questions, please feel free to call me at the number listed below.

Sincerely,

Scott D. Bennett
County Attorney

State of Georgia
Department of Revenue
Administrative Division – Tax Law & Policy Section
Suite 15311
1800 Century Blvd.
Atlanta, Georgia 30345-3205
(404) 417-6649

Bart L. Graham
Commissioner

Frank O'Connell
Director

September 15, 2010

Scott D. Bennett
Fayette County Attorney
140 Stonewall Avenue West
Suite 100
Fayetteville, GA 30214

Re: Firefighter Death "Killed in the line of Duty"

Dear Mr. Bennett,

This is in response to your e-mail correspondence dated September 9, 2010, requesting a letter ruling regarding the phrase "killed in the line of duty" in reference to a firefighter who had a heart attack in the station house just after a fire alarm sounded.

"Killed in the line of duty" is not specifically defined in the O.C.G.A. However, "killed in the line of duty" is referred to several times as a general term concerning police officers and firefighters, with respect to the homestead exemption awarded to unremarried surviving spouses in § 48-5-48.4. Title 32, which governs the Department of Transportation, comes closest to defining "killed in the line of duty." Under § 32-2-7 (b), "line of duty" means "working in the proximity of traffic movements or equipment movements doing maintenance construction, or other activities which may be construed as hazardous, [but]…going to and from work shall not be considered in the line of duty."

Based on the facts as presented and Code sections above, it appears that the legislative intent is to define "killed in the line of duty" as a death that occurs at work while performing the duties of the job. The fact that those duties occurred while on call at the station house, instead of during the extinguishing of the fire, is not dispositive.

This is not a legal opinion of the Department of Revenue, rather an interpretation of the facts provided and the relevant Code sections cited.

§ 48-5-49. Determination of eligibility of applicant; appeal.

(a) The official receiving an application for homestead exemption shall determine the eligibility of the applicant to claim the exemption and, whether the application is approved or disapproved, he shall then transfer the application to the county board of tax assessors for final determination by the board as to eligibility and value as provided by law.

(b) The applicant shall have the right of appeal from the decision of the board of assessors to the county board of equalization as provided in Code Section 48-5-311.

§ 48-5-50. Homestead value credited with exemption; approval of correctness of value, exemption, and difference.

The value of the homestead as finally determined shall be credited with the homestead exemption provided by law. The homestead value, exemption, and difference, if any, shall be shown on the owner's tax return and the correctness of the value, exemption, and difference shall be approved on the return as provided by law.

§ 48-5-50.1. Claim and return of constitutional or local law homestead exemptions from county taxes, county school taxes, or municipal or independent school district taxes.

(a) This Code section shall govern the procedure for returning and claiming homestead exemptions which are created by or pursuant to local laws or constitutional amendments which were not general amendments. If, however, such a constitutional amendment or local law contains provisions which are in conflict with this Code section, then such other provisions shall prevail over this Code section.

(b) **(1)**If the homestead exemption is from county taxes or county school taxes, it shall be claimed and returned as provided in Code Sections 48-5-45, 48-5-46, 48-5-49, 48-5-50.

(2) If the homestead exemption is from municipal or independent school district taxes, it shall be claimed and returned as provided in Code Sections 48-5-45, 48-5-46, and 48-5-50, except that any reference to the tax commissioner or tax receiver shall be deemed

to refer to the municipal governing authority or its designee. The determination of eligibility of the applicant to claim the exemption shall be made by the municipal governing authority subject to appeal to the superior court. Any such appeal must be filed within 30 days after the final determination by the municipal governing authority and shall be a de novo proceeding.

(3) In addition to the provisions required by Code Section 48-5-46, the application for an exemption under this Code section may provide where necessary for an affidavit as to the age of the owner, the income of the owner and of each member of his family residing on the homestead, and such other information as may be necessary to determine eligibility of the owner for the exemption. The commissioner shall not be required to furnish specialized forms required by this Code section.

§ 48-5-51. Fraudulent claim of homestead exemption under Code Sections 48-5-44 through 48-5-50; penalty.

(a) It shall be unlawful for any person to:

(1) Make any false or fraudulent claim for exemption under Code Sections 48-5-44 through 48-5-50;

(2) Make any false statement or false representation of a material fact in support of a claim for exemption under Code Sections 48-5-44 through 48-5-50; or

(3) Assist another knowingly in the preparation of any false or fraudulent claim for exemption under Code Sections 48-5-44 through 48-5-50, or enter into any collusion with another by the execution of a fictitious deed, deed of trust, mortgage, or otherwise.

(b) Any person who violates this Code section shall be guilty of a misdemeanor. In addition, the property shall be taxed in an amount double the tax otherwise to be paid.

§ 48-5-52. Exemption from ad valorem taxation for educational purposes of homesteads of qualified individuals 62 or older; application; replacement of revenue.

(a) The homestead of each resident of each independent school district and of each county school district within this state who is 62 years of age or older and, for the purposes of all tax years beginning on or after January 1, 2003, whose net income together with the net income of the spouse who also occupies and resides at such homestead, as net income is defined by Georgia law from all sources, except as otherwise provided in this subsection, does not exceed $10,000.00 for the immediately preceding taxable year for income tax purposes, is exempted from all ad valorem taxes for educational purposes levied by, for, or on behalf of any such school system, including taxes to retire school bond indebtedness. For the purposes of this subsection, net income shall not include income received as retirement, survivor, or disability benefits under the federal Social Security Act or under any other public or private retirement, disability, or pension system, except such income which is in excess of the maximum amount authorized to be paid to an individual and his or her spouse under the federal Social Security Act. Income from such sources in excess of such maximum amount shall be included as net income for the purposes of this subsection. The exemption shall not exceed $10,000.00 of the homestead's assessed value. Except as otherwise specifically provided by law, the value of that property in excess of such exempted amount shall remain subject to taxation.

(b) **(1)** The exemption provided for in subsection (a) of this Code section shall not be granted unless an affidavit of the owner of the homestead, prepared upon forms prescribed by the commissioner for that purpose, is filed with either the tax receiver or tax commissioner, in the case of residents of county school districts, or with the governing authority of the owner's city, in the case of residents of independent school districts.

(2) The affidavit shall in the first year for which the exemption is sought be filed on or before the last day for making a tax return and shall show the:

(A) Age of the owner on January 1 immediately preceding the filing of the affidavit;

(B) Total amount of income received by the owner from all sources during the immediately preceding calendar year;

(C) Total amount of income received from all sources by each individual member of the owner's family residing within the homestead; and

(D) Such additional information as may be required by the commissioner.

(3) Copies of all affidavits received or extracts of the information contained in the affidavits shall be forwarded to the commissioner by the various taxing authorities with whom the affidavits are filed. The commissioner is authorized to compare such information with information contained in any income tax return, sales tax return, or other tax documents or records of the department and to report immediately to the appropriate county or city taxing authority any apparent discrepancies between the information contained in any affidavit and the information contained in any other tax records of the department.

(4) After the owner has filed the affidavit and has once been allowed the exemption provided for in this Code section, it shall not be necessary to make application and file the affidavit thereafter for any year and the exemption shall continue to be allowed to such owner; provided, however, that it shall be the duty of any such owner to notify the tax commissioner or tax receiver in the event the owner becomes ineligible for any reason for the exemption provided for in this Code section.

(c) The homestead exemption granted by this Code section shall extend to and shall apply to those properties the legal title to which is vested in one or more titleholders when such property is actually occupied as a residence by one or more of the titleholders who possess the qualifications provided in subsection (a) of this Code section and who claim the exemption in the manner provided for in this Code section. The exemption shall also extend to those homesteads the title to which is vested in a personal representative or trustee if one or more of the heirs or beneficiaries residing on the property possess the qualifications provided for and claim the exemption in the manner provided in this Code section.

(d) **(1)** The State Board of Education, when funds are specifically appropriated for the purpose of replacing revenue lost by local school systems as a result of this Code section, shall provide each school district in this state which, on July 1, 1974, had in effect a tax levy of 20 mills or more for educational purposes or was levying the maximum permissible tax authorized by law for educational purposes, with grants for educational purposes which shall equal the revenues lost by the school district due to the exemption provided by this Code section for property located within the school district.

(2) The State Board of Education may promulgate reasonable rules to carry out this subsection.

§ 48-5-52.1. Exemption from ad valorem taxation for state, county, municipal, and school purposes of homesteads of unremarried surviving spouses of U.S. servicemembers killed in action.

(a) Any person who is a citizen and resident of Georgia and who is an unremarried surviving spouse of a member of the armed forces of the United States, which member has been killed in or has died as a result of any war or armed conflict in which the armed forces of the United States engaged, whether under United States command or otherwise, shall be granted a homestead exemption from all ad valorem taxation for state, county, municipal, and school purposes in the amount of the greater of $32,500.00 or the maximum amount which may be granted to a disabled veteran under Section 2102 of Title 38 of the United States Code, as amended. As of January 1, 1999, the maximum amount which may be granted to a disabled veteran under the above-stated federal law is $43,000.00. For the purposes of this Code section, the term "unremarried surviving spouse" of a member of the armed forces includes the unmarried widow or widower of a member of the armed forces who is receiving spousal benefits from the United States Department of Veterans Affairs. The exemption shall be on the homestead which the unremarried surviving spouse owns and actually occupies as a residence and homestead. In the event such surviving spouse remarries, such person shall cease to be qualified to continue the exemption under this Code section effective December 31 of the taxable year in which such person remarries. The value of all property in excess of such exemption granted to such unremarried surviving spouse shall remain subject to taxation.

(b) In order to qualify for the exemption provided for in this Code section, the unremarried surviving spouse shall furnish to the tax commissioner of the county of residence documents from the Secretary of Defense evidencing that such unremarried surviving spouse receives spousal benefits as a result of the death of such person's spouse who as a member of the armed forces of the United States was killed or died as a result of a war or armed conflict while on active duty or while performing authorized travel to or from active duty during such war or armed conflict in which the armed forces of the United States engaged, whether under United States command or otherwise, pursuant to the Survivor Benefit Plan under Subchapter II of Chapter 73 of Title 10 of the United States Code or pursuant to any preceding or subsequent federal law which provides survivor benefits for spouses of members of the armed forces who were killed or who died as a result of any war or armed conflict.

(c) An unremarried surviving spouse filing for the exemption under this Code section shall be required to file with the tax commissioner information relative to marital status and other such information which the county board of tax assessors deems necessary to determine eligibility for the exemption. Each unremarried surviving spouse shall file for the exemption only once with the tax commissioner. Once filed, the exemption shall automatically be renewed from year to year, except that the county board of tax assessors may require annually that the holder of an exemption substantiate his or her continuing eligibility for the exemption. It shall be the duty of any person granted the homestead exemption under this Code section to notify the tax commissioner in the event that person for any reason becomes ineligible for such exemption.

(d) The exemption granted by this Code section shall be in lieu of and not in addition to any other exemption from ad valorem taxation for state, county, municipal, and school purposes which is equal to or lower in amount than such exemption granted by this Code section. If the amount of any other exemption from ad valorem taxation for state, county, municipal, and school purposes applicable to any resident qualifying under this Code section is greater than or is increased to an amount greater than the amount of the applicable exemption granted by this Code section, such other exemption shall apply and shall be in lieu of and not in addition to the exemption granted by this Code section.

(e) The exemptions granted by this Code section shall apply to the tax year beginning on January 1, 2001, and all tax years thereafter.

§ 48-5-53. Falsification of information required by Code Section 48-5-52; penalty.

(a) It shall be unlawful for any person willfully to falsify information required by the commissioner pursuant to Code Section 48-5-52, whether relating to age, income, or otherwise.

(b) Any person who violates subsection (a) of this Code section commits the offense of false swearing.

§ 16-10-20. False statements and writings, concealment of facts, and fraudulent documents in matters within jurisdiction of state or political subdivisions.

A person who knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact; makes a false, fictitious, or fraudulent statement or representation; or makes or uses any false writing or document, knowing the same to contain any false, fictitious, or fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of state government or of the government of any county, city, or other political subdivision of this state shall, upon conviction thereof, be punished by a fine of not more than $1,000.00 or by imprisonment for not less than one nor more than five years, or both.

§ 48-5-54. Application of homestead exemptions to properties with multiple titleholders and properties held by administrators, executors, or trustees.

(a) The exemptions granted to the homestead pursuant to this part shall extend to and shall apply to those properties the legal title to which is vested in one or more titleholders if actually occupied by one or more of such owners as a residence. In such instances, such exemptions shall be granted to such properties if claimed in the manner provided by law by one or more of the owners actually residing on such property. Such exemptions shall also extend to those homesteads the title to which is vested in an administrator, executor, or trustee if one or more of the heirs or cestui que uses residing on such property claims the exemption in the manner provided by law. The provisions of this Code section shall also apply to exemptions granted to the homestead by any local law adopted after July 1, 1984, unless the local law expressly provides to the contrary.

(b) The failure to file properly the application and schedule shall not be cause for waiver of the exemption where such waiver arises because of an administrator's or executor's deed transferring the property to a surviving spouse. In such instances, the board of tax assessors shall give notice of its intent to deny the exemption as required by Code Section 48-5-49, and the surviving spouse may make application for the amount of homestead exemption to which such applicant is entitled within 30 days from the date of the notice by the board of tax assessors. In the case of a base year assessed value homestead exemption, as long as the surviving spouse otherwise meets the requirements specified for such exemption and makes proper application under this subsection, upon approval of such application the exemption shall be continued with the same base year assessed value as had been established for the deceased spouse of such surviving spouse, unless otherwise provided by local law.

§ 48-5-55. Continuation of constitutional exemptions from ad valorem taxes.

(a) Exemptions from ad valorem taxation granted by or pursuant to constitutional amendments other than general constitutional amendments of state-wide application, which exemptions were in effect on June 30, 1983, are continued in effect as statutory law until otherwise provided for by law.

(b) The provisions of this part shall not prohibit any otherwise lawful local Act from granting exemptions from ad valorem taxes other than state ad valorem taxes, which exemptions are in addition to or in place of the exemptions granted pursuant to this part.

§ 48-5-56. Notice of homestead exemptions from ad valorem taxation to accompany bill for ad valorem taxes on real property.

Each bill for ad valorem taxes on real property other than property required to be returned to the commissioner shall contain or be accompanied by a notice in substantially the following form:

"Certain persons are eligible for certain homestead exemptions from ad valorem taxation. In addition to the regular homestead exemption authorized for all homeowners, certain elderly persons are entitled to additional homestead exemptions. The full law relating to each exemption must be referred to in order to determine eligibility for the exemption. If you are eligible for one of these exemptions and are not now receiving the benefit of the exemption, you must apply for the exemption not later than **(insert date)** in order to receive the exemption in future years. For more information on eligibility for exemptions or on the proper method of applying for an exemption, you may contact the office of the county tax receiver or county tax commissioner, which is located at : **(insert address)** and which may be contacted by telephone at : **(insert telephone number).**

If you feel that your property has been assigned too high a value for tax purposes by the board of tax assessors, you should file a tax return reducing the value not later than _____ in order to have an opportunity to have this value lowered for next year's

taxes. Information on filing a return can be obtained from the county tax receiver or tax commissioner at the above address and telephone number."

LGS-Homestead Rev 10-08

APPLICATION FOR HOMESTEAD EXEMPTION

The homestead exemptions provided for in this Application form are those authorized by Georgia law. Counties are authorized to provide for local homestead exemptions that may vary from the ones shown on this application. Applicants seeking a local homestead exemption should contact the local Tax Commissioner or Tax Receiver for additional information. If this application is denied an appeal may be filed in accordance with O.C.G.A. § 48-5-311.

SECTION A: APPLICANT INFORMATION

List below the address of any other property where you or your spouse have applied for and been granted a homestead exemption for the current year:

_____

Are you and your spouse a Georgia resident, US citizen or non-citizen with legal authorization from the US Immigration and Naturalization Service? ☐ YES ☐ NO

If you are a non-citizen with legal authorization from the US Immigration and Naturalization Service, please provide your Legal Alien Registration # _____

Applicant:	Name:		Spouse:	Name:	
	Street Address:			Street Address:	
	City, State, Zip:			City, State, Zip:	
	Social Security No.:			Social Security No.:	
	Year of Birth:	Phone Number:		Year of Birth:	Phone Number:
	County where you are registered to vote:			County where you are registered to vote:	
	County where car is registered:	If you and/or your spouse are in the military service, list the state shown as your home of record:			

If you answer Yes to Question #1, please follow the instructions to determine if you qualify for an increased homestead amount. Please see the Tax Commissioner or Receiver for additional information and qualification requirements.

☐ YES	1. Were you or your spouse age 62 or older as of Jan 1 of the year of this application? Go to Sections C1 and/or C2 on the back of this application to determine whether you meet certain gross and/or net income requirements.
☐ YES	2. Is the applicant or spouse a 100% disabled veteran or is the applicant the unremarried surviving spouse of a 100% disiabled veteran?
☐ YES	3. Are you the unremarried surviving spouse of a US service member killed in action?
☐ YES	4. Are you the unremarried surviving spouse of a firefighter or peace officer killed in the line of duty?

SECTION B: PROPERTY INFORMATION

Location of Property (Street Address):		Lot Size or Number of Acres:	
Date Property Purchased:	From Whom Purchased:	Map/Parcel Number:	
Purchase Price:	Amount of Lien:	Land Lot Number:	Land District Number:
Kind of Title Held:	To Whom is Lien due:	Deed Recorded: Book:_____	Page: _____
Is any part of the property used for business purposes? ☐ YES ☐ NO If yes, what kind of business & how much of the property is used?		Is any part of the property rented? ☐ YES ☐ NO If yes, what part is rented?	

AFFIDAVIT OF APPLICANT

I, the undersigned, do solemnly swear that the statements made in support of this application are true and correct, that I am the bona fide owner of the property described in this application, that I shall occupy or actually occupied same on Jan 1 of the year for which application is made, that I am an eligible applicant for the homestead exemption applied for, qualifying or meeting the definition of the word "applicant" as defined in O.C.G.A. § 48-5-40 and that no transaction has been made in collusion with another for the purpose of obtaining a homestead exemption contrary to law.

Sworn to and subscribed to before me this ____ day of _____, 20_____ Applicant's Signature: _____

_____ Tax Commissioner or Tax Receiver [ ] APPROVED [ ] DENIED _____ Board of Tax Assessors _____ Date

THIS SECTION FOR TAX ASSESSORS USE ONLY:	CODE	AMOUNT
STATE TAX >>		
COUNTY TAX >>		
SCHOOL TAX >>		

SECTION C1: COMPLETE THIS SECTION TO DETERMINE ELIGIBILITY FOR NET INCOME REQUIREMENT

If filing Joint Income Tax Return, Applicant must complete Column 1A only. If filing separately, both Columns 1A and 1B must be completed

INCOME FOR TAX YEAR ENDING DECEMBER 31, 20_____

		COLUMN 1A APPLICANT	COLUMN 1B SPOUSE
Line 1	Total Income from Public or Private retirement, disability or pension system		
Line 2	Total Income from Social Security		
Line 3	Total Income from both retirement and Social Security (Line 1 plus Line 2)		
Line 4	Maximum Social Security amount (from Tax Receiver)		
Line 5	Retirement Income over maximum Social Security (Line 3 less Line 4) - If less than 0, use 0		
Line 6	Other income from all sources		
Line 7	Adjusted Income (Line 5 plus Line 6)		
Line 8	Standard or Itemized Deductions from Georgia Income Tax Return		
Line 9	Personal Exemption amount from Georgia Income Tax Return		
Line 10	Net Income (Line 7 less Lines 8 and 9)		

If filing Joint Income Tax Return, Line 10, Column 1A must be less than $10,000. If filing Separately, Total of Line 10, Column 1A plus 1B must be less than $10,000

SECTION C2: COMPLETE THIS SECTION TO DETERMINE ELIGIBILITY FOR FEDERAL ADJUSTED GROSS INCOME REQUIREMENT

For each member residing in the household, complete the social security number & federal adjusted gross income in the spaces below

INCOME FOR TAX YEAR ENDING DECEMBER 31, 20_____

			SOCIAL SECURITY NUMBER	FEDERAL ADJUSTED GROSS INCOME
Line 1	Name of Household Member			
Line 2	Name of Household Member			
Line 3	Name of Household Member			
Line 4	Name of Household Member			
Line 5	Name of Household Member			
Line 6	Name of Household Member			
Line 7	Name of Household Member			
ADJUSTED GROSS INCOME-TOTAL OF LINES 1 THRU 7 MUST BE LESS THAN $30,000>>>>>>>>>>>>>>				

STATE HOMESTEAD EXEMPTION GRID

STATE EXEMPTIONS		STATE	COUNTY	COUNTY	SCHOOL	SCHOOL	CITY	CITY
CODE	QUALIFICATIONS	TAX	M&O TAX	BOND TAX	TAX	BOND TAX	M&O TAX	BOND
S1 - Regular	See O.C.G.A. § 48-5-44	$2,000	$2,000	0	$2,000	0	0	0
SC - Age 65	See O.C.G.A. § 48-5-48.3	100% on home & up to 10 acres of land and $2,000 on balance	$2,000	0	$2,000	0	0	0
S2 - Reserved	Reserved - DO NOT USE							
S3 - Elderly - Age 62 (Net Income < $10,000)	See O.C.G.A. § 48-5-52	$2,000	$2,000	0	$10,000	$10,000	$0	$0
S4 - Elderly - Age 65 (Net Income < $10,000)	See O.C.G.A. § 48-5-47	100% on home & up to 10 acres of land and $4,000 on balance	$4,000	$4,000	$10,000	$10,000	$0	$0
S5 - Disabled Veteran & surviving spouse or minor children	See O.C.G.A. § 48-5-48	$70,465	$70,465	$70,465	$70,465	$70,465	$70,465	$70,465
SD - Age 65 - 100% Disabled Veteran; Unremarried surviving spouse or minor children of Disabled Veteran	See O.C.G.A. § 48-5-48	100% on home & up to 10 acres of land and $70,465 on balance	$70,465	$70,465	$70,465	$70,465	$70,465	$70,465
SS - Surviving Spouse of US service member killed in action	See O.C.G.A. § 48-5-52.1	$70,465	$70,465	$70,465	$70,465	$70,465	$70,465	$70,465
SE - Age 65 - Unremarried surviving spouse of US service member killed in action	See O.C.G.A. § 48-5-48.3 & § 48-5-52.1	100% on home & up to 10 acres of land and $70,465 on balance	$70,465	$70,465	$70,465	$70,465	$70,465	$70,465
SG - Unremarried surviving spouse of a firefighter or peace officer killed in line of duty	See O.C.G.A. § 48-5-48.4	100%	100%	100%	100%	100%	100%	100%
S6 - Elderly Floating - Age 62 (Fed Agi < $30,000)	See O.C.G.A. § 48-5-47.1 & § 48-5-52	Floating on home & up to 5 acres of land	Floating	0	$2,000	0	0	0
S7 - Reserved	Reserved - DO NOT USE							
S8 - Elderly Floating - Age 62 (Fed AGI < $30,000 & Net Income < $10,000)	See O.C.G.A. § 48-5-47.1 & 48-5-52	Floating on home & up to 5 acres of land	Floating	0	$10,000	$10,000	$0	$0
S9 - Elderly Floating - Age 65 (Fed AGI < $30,000 & Net Income < $10,000)	See O.C.G.A. § 48-5-47, § 48-5-47.1 & § 48-5-52	100% on home & up to 10 acres of land	Floating	$4,000	$10,000	$10,000	$0	$0

LOCAL HOMESTEAD EXEMPTION

LUMPKIN COUNTY HOMESTEAD GRID

STATE EXEMPTIONS		STATE	COUNTY	COUNTY	SCHOOL	SCHOOL	DAHLONEGA	DAHLONEGA	COUNTY/CITY EXEMPTIONS	
CODE	QUALIFICATIONS	TAX	M&O TAX	BOND TAX	M&O TAX	BOND TAX	M&O TAX	BOND TAX	CODE	QUALIFICATIONS
S1 - Regular	O.C.G.A. 48-5-44	$2,000	$2,000	0	$2,000	0	$0	$0		
S1 - Regular	O.C.G.A. 48-5-44	$2,000	$2,000	0	$30,000	30,000	$0	$0	L1 - Age 62; FED AGI 20,000 or less	HB826
S1 - Regular	O.C.G.A. 48-5-44	$2,000	$62,000	60,000	$122,000	120,000	$60,000	$60,000	L1 - Disabled	HB1424; HB1425; HB1426
SC - Age 65	O.C.G.A. 48-5-48.3	100% on home & up to 10 acres of land and $2,000 on balance	$68,000	60,000	$128,000	120,000	$60,000	$60,000	L2 - Age 65	HB1469; HB1470; HB1424; HB1425; HB1426
S2 - Reserved	Reserved - DO NOT USE									
S3 - Elderly - Age 62 (Net Income < $10,000)	O.C.G.A 48-5-52	$2,000	$2,000	0	$10,000	$10,000	$0	$0	FED AGI >20,000	
S3 - Elderly - Age 62 (Net Income < $10,000)	O.C.G.A 48-5-52	$2,000	$62,000	60,000	$130,000	$130,000	$60,000	$60,000	L4-Age 62; Disabled; Net<10,000	HB1424;HB1425;HB1426
S4 - Elderly - Age 65 (Net Income < $10,000)	O.C.G.A. 48-5-47	100% on home & up to 10 acres of land and $4,000 on balance	$70,000	$64,000	$136,000	$130,000	$60,000	$60,000	L5 - Age 65 NET<10,000	HB1469; HB1470; HB1424; HB1425; HB1426
S5 - Disabled Veteran & surviving spouse or minor children	O.C.G.A. 48-5-48	$63,780	$63,780	$63,780	$63,780	$63,780	$63,780	$63,780		
S5 - Disabled Veteran & surviving spouse or minor children	O.C.G.A. 48-5-48	$63,780	$123,780	$123,780	$183,780	$183,780	$123,780	$123,780	L6 - Disabled	HB1424;HB1425;HB1426
SD - Age 65 - 100% Dis. Veteran; Unremarried surviving spouse or minor children of Dis.Veteran	O.C.G.A. 48-5-48	100% on home & up to 10 acres of land and $63,780 on balance	$129,780	$123,780	$189,780	$189,780	$123,780	$123,780	L7 - Age 65; Disabled Vet	HB1469; HB1470; HB1424; HB1425; HB1426
S5 - Surviving Spouse of US service member killed in action	O.C.G.A. 48-5-52.1	$63,780	$63,780	$63,780	$63,780	$63,780	$63,780	$63,780		
S5 - Surviving Spouse of US service member killed in action	O.C.G.A. 48-5-52.1	$63,780	$123,780	$123,780	$183,780	$183,780	$123,780	$123,780	L8 - Disabled	HB1424;HB1425;HB1426
SE - Age 65 - Unremarried surviving spouse of US service member killed in action	O.C.G.A. 48-5-48.3 & 48-5-52.1	100% on home & up to 10 acres of land and $63,780 on balance	$123,780	$123,780	$183,780	$183,780	$123,780	$123,780	L9 - Age 65	HB1469; HB1470; HB1424; HB1425; HB1426
SG - Unremarried surviving spouse of a firefighter or peace officer killed in line of duty	O.C.G.A. 48-5-48.4	100%	100%	100%	100%	100%	100%	100%		
S6 - Elderly Floating - Age 62 (Fed Agi < $30,000)	O.C.G.A. 48-5-47.1 & 48-5-52	Floating on home & up to 5 acres of land	Floating	0	$2,000	0	$0	$0	FED AGI >20,000	
S6 - Elderly Floating - Age 62 (Fed Agi < $30,000)	O.C.G.A. 48-5-47.1 & 48-5-52	Floating on home & up to 5 acres of land	Floating	0	$2,000	0	$0	$0	L10 - Age 62; Fed AGI $20,000 or less	HB826
S6 - Elderly Floating - Age 62 (Fed Agi < $30,000)	O.C.G.A. 48-5-47.1 & 48-5-52	Floating on home & up to 5 acres of land	Floating + 60,000	60000	$2,000	0	$0	$0	L11 - Age 62; Disabled; Fed AGI <$30,000	HB1424;HB1425;HB1426
S7 - Reserved	Reserved - DO NOT USE									
S8 - Elderly Floating - Age 62 (Fed AGI < $30,000 & Net Income < $10,000)	O.C.G.A. 48-5-47.1 & 48-5-52	Floating on home & up to 5 acres of land	Floating	0	$10,000	$10,000	$0	$0	FED AGI>20000	
S8 - Elderly Floating - Age 62 (Fed AGI < $30,000 & Net Income < $10,000)	O.C.G.A. 48-5-47.1 & 48-5-52	Floating on home & up to 5 acres of land	Floating	0	$30,000	$30,000	$0	$0	L12 - Age 62;FED AGI 20,000 or less	HB826
S8 - Elderly Floating - Age 62 (Fed AGI < $30,000 & Net Income < $10,000)	O.C.G.A. 48-5-47.1 & 48-5-52	Floating on home & up to 5 acres of land	Floating+ $60,000	60000	$130,000	$130,000	$60,000	$60,000	L13 - Age 62, Disabled AGI <30,000 NET <10,000	HB1424;HB1425; HB1426
S9 - Elderly Floating - Age 65 (Fed AGI < $30,000 & Net Income < $10,000)	O.C.G.A. 48-5-47, 48-5-47.1 & 48-5-52	100% on home & up to 10 acres of land	Floating+ $66,000	$64,000	$136,000	$130,000	$60,000	$60,000	L14 - Age 65 AGI<30,000 NET<10000	HB1469;HB1470;HB1424;HB1425; HB1426

1995 - HB 826

A BILL TO BE ENTITLED
AN ACT

To provide a homestead exemption from Lumpkin County School District ad valorem taxes for educational purposes in the amount of $30,000.00 of the assessed value of the homestead for certain residents of that school district who have annual incomes not exceeding $20,000.00 and who are 62 years of age or over; to provide for definitions; to specify the terms and conditions of the exemption and the procedures relating thereto; to repeal an Act providing a $15,000.00 homestead exemption from Lumpkin County School District ad valorem taxes for certain residents of that school district who have annual incomes not exceeding $12,000.00 and who are 62 years of age or over, approved March 28, 1988 (Ga. L. 1988, p. 4880); to provide for applicability; to provide for a referendum, effective dates, and automatic repeal; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

For purposes of this Act, the term:
(1) "**Ad valorem taxes for educational purposes**" means all ad valorem taxes for educational purposes levied by, for, or on behalf of the Lumpkin County School District, including, but not limited to, taxes to pay interest on and to retire school bond indebtedness.
(2) "**Homestead**" means homestead as defined and qualified in Code Section 48-5-40 of the O.C.G.A.
(3) "**Income**" means federal adjusted gross income, as defined in the Internal Revenue Code of 1986, as amended, from all sources.
(4) "**Senior citizen**" means a person who is 62 years of age or over on or before January 1 of the year in which application for the exemption under this Act is made.

SECTION 2.

(a) Each resident of the Lumpkin County School District who is a senior citizen is granted an **exemption** on that person's homestead from all Lumpkin County School District ad valorem **taxes for educational purposes** in the amount of **$30,000.00** of the assessed value of that homestead, if that person's income, together with the **income** of the spouse of such person who resides within such homestead, does not exceed **$20,000.00** for the immediately preceding taxable year. The value of that property in excess of such exempted amount shall remain subject to taxation.

(b) A person shall not receive the homestead exemption granted by subsection (a) of this section unless the person or the person's agent files an affidavit with the tax commissioner of Lumpkin County giving the person's age, the amount of gross income which the person and the person's spouse residing within such homestead received during the last taxable year, and such additional information relative to receiving such exemption as will enable the tax commissioner

to make a determination as to whether such owner is entitled to such exemption. The tax commissioner shall provide affidavit forms for this purpose.

SECTION 3.

The tax commissioner of Lumpkin County or the designee thereof shall provide application forms for the exemption granted by this Act and shall require such information as may be necessary to determine the initial and continuing eligibility of the owner for the exemption.

SECTION 4.

The exemption shall be claimed and returned as provided in Code Section 48-5-50.1 of the O.C.G.A. The exemption shall be automatically renewed from year to year as long as the owner occupies the residence as a homestead. After the person has filed the proper affidavit as provided in subsection (b) of Section 2 of this Act, it shall not be necessary to make application and file such affidavit thereafter for any year and the exemption shall continue to be allowed to such person. It shall be the duty of any person granted the homestead exemption under this Act to notify the tax commissioner of Lumpkin County or the designee thereof in the event that person for any reason becomes ineligible for that exemption.

SECTION 5.

The exemption granted by this Act shall not apply to or affect any state taxes, municipal taxes, or Lumpkin County taxes for county purposes. The homestead exemption granted by this Act shall be in lieu of and not in addition to any other homestead exemption applicable to Lumpkin County School District ad valorem taxes for educational purposes.

SECTION 6.

The exemption granted by this Act shall apply to all taxable years beginning on or after January 1, 1996.

SECTION 7.

An Act providing a $15,000.00 homestead exemption from Lumpkin County School District ad valorem taxes for certain residents of that school district who have annual incomes not exceeding $12,000.00 and who are 62 years of age or over, approved March 28, 1988 (Ga. L. 1988, p. 4880), is repealed in its entirety.

SECTION 8.

Unless prohibited by the federal Voting Rights Act of 1965, as amended, the election superintendent of Lumpkin County shall call and conduct an election as provided in this section for the purpose of submitting this Act to the electors of the Lumpkin County School District for approval or rejection. The election superintendent shall conduct that election on the earliest date therefor permissible under Code Section 21-2-540 of the O.C.G.A. or, if any other Act enacted by the General Assembly of Georgia at the regular session in 1995 requires a referendum or special election in Lumpkin County or the Lumpkin County School District in 1995, on the same date as such other referendum or special election. The election superintendent shall issue the call and conduct that election as provided by general law. The

superintendent shall cause the date and purpose of the election to be published once a week for two weeks immediately preceding the date thereof in the official organ of Lumpkin County. The ballot shall have written or printed thereon the words:

"( ) YES Shall the Act be approved which provides a homestead exemption from Lumpkin County School
( ) NO District ad valorem taxes for educational purposes in the amount of $30,000.00 of the

All persons desiring to vote for approval of the Act shall vote "Yes," and those persons desiring to vote for rejection of the Act shall vote "No." If more than one-half of the votes cast on such question are for approval of the Act, Sections 1 through 6 shall become of full force and effect on January 1, 1996. If the Act is not so approved or if the
election is not conducted as provided in this section, Sections 1 through 6 of this Act shall not become effective and this Act shall be automatically repealed on the first day of January immediately following that election date.

The expense of such election shall be borne by Lumpkin County. It shall be the election superintendent's duty to certify the result thereof to the Secretary of State.

SECTION 9.

Except as otherwise provided in Section 8 of this Act, this Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 10.

All laws and parts of laws in conflict with this Act are repealed.

2002 - HB1469
A BILL TO BE ENTITLED
AN ACT

To provide a homestead exemption from Lumpkin County ad valorem taxes for county purposes in the amount of $6,000.00 of the assessed value of the homestead for certain residents of that county who are 65 years of age or over; to provide for definitions; to specify the terms and conditions of the exemption and the procedures relating thereto; to provide for applicability; to provide for a referendum, effective dates, and automatic repeal; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

For purposes of this Act, the term:
(1) "**Ad valorem taxes for county purposes**" means all ad valorem taxes for county purposes levied by, for, or on behalf of Lumpkin County, except taxes to pay interest on and to retire bonded indebtedness.
(2) "**Homestead**" means homestead as defined and qualified in Code Section 48-5-40 of the O.C.G.A.
(3) "**Senior citizen**" means a person who is 65 years of age or over on or before January 1 of the year in which application for the exemption under this Act is made.

SECTION 2.

(a) Each resident of Lumpkin County who is a senior citizen is granted an exemption on that person´s homestead from all Lumpkin County ad valorem taxes for county purposes in the amount of $6,000.00 of the assessed value of that homestead. The value of that property in excess of such exempted amount shall remain subject to taxation.
(b) A person shall not receive the homestead exemption granted by subsection (a) of this section unless the person or person´s agent files an affidavit with the tax commissioner of Lumpkin County giving the person´s age and such additional information relative to receiving such exemption as will enable the tax commissioner to make a determination as to whether such owner is entitled to such exemption. The tax commissioner shall provide affidavit forms for this purpose.

SECTION 3.

The tax commissioner of Lumpkin County or the designee thereof shall provide application forms for the exemption granted by this Act and shall require such information as may be necessary to determine the initial and continuing eligibility of the owner for the exemption.

SECTION 4.

The exemption shall be claimed and returned as provided in Code Section 48-5-50.1 of the O.C.G.A. The exemption shall be automatically renewed from year to year as long as the owner occupies the residence as a homestead. After a person has filed the proper affidavit as provided

in subsection (b) of Section 2 of this Act, it shall not be necessary to make application and file such affidavit thereafter for any year, and the exemption shall continue to be allowed to such person. It shall be the duty of any person granted the homestead exemption under this Act to notify the tax commissioner of Lumpkin County or the designee thereof in the event that person for any reason becomes ineligible for that exemption.

SECTION 5.

The exemption granted by this Act shall not apply to or affect any state taxes, county school district taxes for educational purposes, municipal taxes, or independent school district taxes. The homestead exemption granted by this Act shall be in addition to and not in lieu of any other homestead exemption applicable to Lumpkin County ad valorem taxes for county purposes.

SECTION 6.

The exemption granted by this Act shall apply to all taxable years beginning on or after January 1, 2003.

SECTION 7.

Unless prohibited by the federal Voting Rights Act of 1965, as amended, the election superintendent of Lumpkin County shall call and conduct an election as provided in this section for the purpose of submitting this Act to the electors of Lumpkin County for approval or rejection. The election superintendent shall conduct that election on the date of the November, 2002, state-wide general election and shall issue the call and conduct that election as provided by general law. The superintendent shall cause the date and purpose of the election to be published once a week for two weeks immediately preceding the date thereof in the official organ of Lumpkin County. The ballot shall have written or printed thereon the words:

"( ) YES ( ) NO	Shall the Act be approved which provides a homestead exemption from Lumpkin County ad valorem taxes for county purposes in the amount of $6,000.00 of the assessed value of the homestead for residents of that county who are 65 years of age or over?"

All persons desiring to vote for approval of the Act shall vote "Yes," and those persons desiring to vote for rejection of the Act shall vote "No." If more than one-half of the votes cast on such question are for approval of the Act, Sections 1 through 6 shall become of full force and effect on January 1, 2003. If the Act is not so approved or if the election is not conducted as provided in this section, Sections 1 through 6 of this Act shall not become effective and this Act shall be automatically repealed on the first day of January immediately following that election date. The expense of such election shall be borne by Lumpkin County. It shall be the election superintendent´s duty to certify the result thereof to the Secretary of State.

SECTION 8.

Except as otherwise provided in Section 7 of this Act, this Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 9.

All laws and parts of laws in conflict with this Act are repealed.

2002 – HB1470
A BILL TO BE ENTITLED
AN ACT

To provide a homestead exemption from Lumpkin County School District ad valorem taxes for educational purposes in the amount of $6,000.00 of the assessed value of the homestead for certain residents of that school district who are 65 years of age or over; to provide for definitions; to specify the terms and conditions of the exemption and the procedures relating thereto; to provide for applicability; to provide for a referendum, effective dates, and automatic repeal; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

For purposes of this Act, the term:
(1) "**Ad valorem taxes** for educational purposes" means all ad valorem taxes for educational purposes levied by, for, or on behalf of the Lumpkin County School District, except taxes to pay interest on and to retire school bond indebtedness.
(2) "**Homestead**" means homestead as defined and qualified in Code Section 48-5-40 of the O.C.G.A.
(3) "**Senior citizen**" means a person who is 65 years of age or over on or before January 1 of the year in which application for the exemption under this Act is made.

SECTION 2.

(a) Each resident of the Lumpkin County School District who is a senior citizen is granted an exemption on that person´s homestead from all Lumpkin County School District ad valorem taxes for educational purposes in the amount of $6,000.00 of the assessed value of that homestead. The value of that property in excess of such exempted amount shall remain subject to taxation.
(b) A person shall not receive the homestead exemption granted by subsection (a) of this section unless the person or person´s agent files an affidavit with the tax commissioner of Lumpkin County giving the person´s age and such additional information relative to receiving such exemption as will enable the tax commissioner to make a determination as to whether such owner is entitled to such exemption. The tax commissioner shall provide affidavit forms for this purpose.

SECTION 3.

The tax commissioner of Lumpkin County or the designee thereof shall provide application forms for the exemption granted by this Act and shall require such information as may be necessary to determine the initial and continuing eligibility of the owner for the exemption.

SECTION 4.

The exemption shall be claimed and returned as provided in Code Section 48-5-50.1 of the O.C.G.A. The exemption shall be automatically renewed from year to year as long as the owner

occupies the residence as a homestead. After a person has filed the proper affidavit as provided in subsection (b) of Section 2 of this Act, it shall not be necessary to make application and file such affidavit thereafter for any year, and the exemption shall continue to be allowed to such person. It shall be the duty of any person granted the homestead exemption under this Act to notify the tax commissioner of Lumpkin County or the designee thereof in the event that person for any reason becomes ineligible for that exemption.

SECTION 5.

The exemption granted by this Act shall not apply to or affect any state taxes, county taxes for county purposes, municipal taxes, or independent school district taxes. The homestead exemption granted by this Act shall be in addition to and not in lieu of any other homestead exemption applicable to Lumpkin County School District ad valorem taxes for educational purposes.

SECTION 6.

The exemption granted by this Act shall apply to all taxable years beginning on or after January 1, 2003.

SECTION 7.

Unless prohibited by the federal Voting Rights Act of 1965, as amended, the election superintendent of Lumpkin County shall call and conduct an election as provided in this section for the purpose of submitting this Act to the electors of the Lumpkin County School District for approval or rejection. The election superintendent shall conduct that election on the date of the November, 2002, state-wide general election and shall issue the call and conduct that election as provided by general law. The superintendent shall cause the date and purpose of the election to be published once a week for two weeks immediately preceding the date thereof in the official organ of Lumpkin County. The ballot shall have written or printed thereon the words:

"( ) YES ( ) NO	Shall the Act be approved which provides a homestead exemption from Lumpkin County School District ad valorem taxes for educational purposes in the amount of $6,000.00 of the assessed value of the homestead for residents of that county who are 65 years of age or over?"

All persons desiring to vote for approval of the Act shall vote "Yes," and those persons desiring to vote for rejection of the Act shall vote "No." If more than one-half of the votes cast on such question are for approval of the Act, Sections 1 through 6 shall become of full force and effect on January 1, 2003. If the Act is not so approved or if the election is not conducted as provided in this section, Sections 1 through 6 of this Act shall not become effective and this Act shall be automatically repealed on the first day of January immediately following that election date. The expense of such election shall be borne by Lumpkin County. It shall be the election superintendent´s duty to certify the result thereof to the Secretary of State.

SECTION 8.

Except as otherwise provided in Section 7 of this Act, this Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 9.

All laws and parts of laws in conflict with this Act are repealed.

2005 - House Bill 88
A BILL TO BE ENTITLED
AN ACT

To provide a homestead exemption from Lumpkin County school district ad valorem taxes for educational purposes in the amount of $120,000.00 of the assessed value of the homestead for residents of that school district who are 70 years of age or older; to provide for definitions; to specify the terms and conditions of the exemption and the procedures relating thereto; to provide for applicability; to provide for a referendum, effective dates, and automatic repeal; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

(a) As used in this Act, the term:

(1) "**Ad valorem taxes for educational purposes**" means all ad valorem taxes for educational purposes levied by, for, or on behalf of the Lumpkin County school district, including, but not limited to, ad valorem taxes to pay interest on and to retire county school district bonded indebtedness.

(2) "**Homestead**" means homestead as defined and qualified in Code Section 48-5-40 of the O.C.G.A., as amended, with the additional qualification that it shall include only the primary residence and not more than five contiguous acres of land immediately surrounding such residence.

(3) "**Senior citizen**" means a person who is 70 years of age or over on or before January 1 of the year in which application for the exemption under this Act is made.

(b) Each resident of the Lumpkin County school district who is a senior citizen is granted an exemption on that persońs homestead from all Lumpkin County school district ad valorem taxes for educational purposes in the amount of $120,000.00 of the assessed value of that homestead. The value of that property in excess of such exempted amount shall remain subject to taxation.

(c) A person shall not receive the homestead exemption granted by subsection (b) of this section unless the person or persońs agent files an application with the tax commissioner of Lumpkin County giving the persońs age and such additional information relative to receiving such exemption as will enable the tax commissioner to make a determination regarding the initial and continuing eligibility of such owner for such exemption. The tax commissioner shall provide application forms for this purpose.

(d) The exemption shall be claimed and returned as provided in Code Section 48-5-50.1 of the O.C.G.A., as amended. The exemption shall be automatically renewed from year to year as long as the owner occupies the residence as a homestead. After a person has filed the proper application as provided in subsection (c) of this section, it shall not be necessary to make application thereafter for any year, and the exemption shall continue to be allowed to such person. It shall be the duty of any person granted the homestead exemption under this Act to notify the tax commissioner of Lumpkin County in the event that person for any reason becomes ineligible for that exemption.

(e) The exemption granted by subsection (b) of this section shall not apply to or affect any state ad valorem taxes, county ad valorem taxes for county purposes, municipal ad valorem taxes for municipal purposes, or independent school district ad valorem taxes for educational purposes. The homestead exemption granted by subsection (b) of this section shall be in lieu of and not in addition to any other homestead exemption applicable to Lumpkin County school district ad valorem taxes for educational purposes.
(f) The exemption granted by this Act shall apply to all taxable years beginning on or after January 1 of the year immediately following the year in which the election provided for in Section 2 of this Act is conducted.

SECTION 2.

Unless prohibited by the federal Voting Rights Act of 1965, as amended, the election superintendent of Lumpkin County shall call and conduct an election as provided in this section for the purpose of submitting this Act to the electors of the Lumpkin County school district for approval or rejection. The election superintendent shall conduct that election on the first practicable date in 2005 authorized under Code Section 21-2-540 of the O.C.G.A. on which another special election has been scheduled to be conducted in Lumpkin County; provided, however, that if no such other special election is scheduled to be conducted or the conducting of the election under this Act is impracticable, then the election superintendent shall conduct the election under this Act on the date of the November, 2006, state-wide general election and shall issue the call and conduct that election as provided by general law. The election superintendent shall cause the date and purpose of the election to be published once a week for two weeks immediately preceding the date thereof in the official organ of Lumpkin County. The ballot shall have written or printed thereon the words:

"( ) YES ( ) NO	Shall the Act be approved which provides a homestead exemption from Lumpkin County school district ad valorem taxes for educational purposes in the amount of $120,000.00 of the assessed value of the homestead for residents of that school district who are 70 years of age or over?"

All persons desiring to vote for approval of the Act shall vote "Yes," and all persons desiring to vote for rejection of the Act shall vote "No." If more than one-half of the votes cast on such question are for approval of the Act, Section 1 of this Act shall become of full force and effect on January 1 of the year immediately following the year in which such election is conducted. If the Act is not so approved or if the election is not conducted as provided in this section, Section 1 of this Act shall not become effective and this Act shall be automatically repealed on the first day of January immediately following that election date. The expense of such election shall be borne by Lumpkin County. It shall be the election superintendent's duty to certify the result thereof to the Secretary of State.

SECTION 3.

Except as otherwise provided in Section 2 of this Act, this Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 4.
All laws and parts of laws in conflict with this Act are repealed.

2008 - House Bill 1424
A BILL TO BE ENTITLED
AN ACT

To provide a homestead exemption from Lumpkin County ad valorem taxes for county purposes in the amount of $60,000.00 of the assessed value of the homestead for residents of that county who are 65 years of age or older or who are disabled; to provide for definitions; to specify the terms and conditions of the exemption and the procedures relating thereto; to provide for applicability; to provide for a referendum, effective dates, and automatic repeal; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

(a) As used in this Act, the term:
(1) "**Ad valorem taxes for county purposes**" means all ad valorem taxes for county purposes levied by, for, or on behalf of Lumpkin County, including, but not limited to, any ad valorem taxes to pay interest on and to retire county bonded indebtedness.
(2) "**Homestead**" means homestead as defined and qualified in Code Section 48-5-40 of the O.C.G.A., as amended, with the additional qualification that it shall include not more than five contiguous acres of homestead property.
(3) "**Senior citizen**" means a person who is 65 years of age or older on or before January 1 of the year in which application for the exemption under subsection (b) of this section is made.
(b) Each resident of Lumpkin County who is a senior citizen or who is disabled is granted an exemption on that person´s homestead from Lumpkin County ad valorem taxes for county purposes in the amount of $60,000.00 of the assessed value of that homestead. The value of that property in excess of such exempted amount shall remain subject to taxation.
(c)(1) In order to qualify for the exemption provided for in subsection (b) of this section as being disabled, the person claiming such exemption shall be required to obtain a certificate from not more than three physicians licensed to practice medicine under Chapter 34 of Title 43 of the O.C.G.A., as amended, certifying that in the opinion of such physician or physicians, such person is mentally or physically incapacitated to the extent that such person is unable to be gainfully employed and that such incapacity is likely to be permanent. Such certificate or certificates shall constitute part of and be submitted with the application provided for in paragraph (2) of this subsection. A person can also qualify for the exemption provided for in subsection (b) of this section as being disabled, by presenting evidence that such person has been found to be disabled by the Social Security Administration or 100 percent disabled by the Veterans Administration.
(2) A person shall not receive the homestead exemption granted by subsection (b) of this section unless such person or person´s agent files an application with the tax commissioner of Lumpkin County, giving the person´s age and such additional information relative to receiving such exemption as will enable the tax commissioner of Lumpkin County to make a determination regarding the initial and continuing eligibility of such person for such exemption. The tax commissioner of Lumpkin County shall provide application forms for this purpose.

(d) The exemption shall be claimed and returned as provided in Code Section 48-5-50.1 of the O.C.G.A., as amended. The exemption shall be automatically renewed from year to year as long as the person granted the homestead exemption under subsection (b) of this section occupies the residence as a homestead. After a person has filed the proper application as provided in subsection (c) of this section, it shall not be necessary to make application thereafter for any year, and the exemption shall continue to be allowed to such person. It shall be the duty of any person granted the homestead exemption under subsection (b) of this section to notify the tax commissioner of Lumpkin County in the event that person for any reason becomes ineligible for such exemption.
(e) The exemption granted by subsection (b) of this section shall not apply to or affect any state ad valorem taxes, county or independent school district ad valorem taxes for educational purposes, or municipal ad valorem taxes for municipal purposes. The homestead exemption granted by subsection (b) of this section shall be in addition to and not in lieu of any other homestead exemption applicable to Lumpkin County ad valorem taxes for county purposes.
(f) The exemption granted by subsection (b) of this section shall apply to all taxable years beginning on or after January 1, 2009.

SECTION 2.

Unless prohibited by the federal Voting Rights Act of 1965, as amended, the election superintendent of Lumpkin County shall call and conduct an election as provided in this section for the purpose of submitting this Act to the electors of Lumpkin County for approval or rejection. The election superintendent shall conduct that election on the date of the November, 2008, general election and shall issue the call and conduct that election as provided by general law. The election superintendent shall cause the date and purpose of the election to be published once a week for two weeks immediately preceding the date thereof in the official organ of Lumpkin County. The ballot shall have written or printed thereon the words:

"( ) YES ( ) NO	Shall the Act be approved which provides a homestead exemption from Lumpkin County ad valorem taxes for county purposes in the amount of $60,000.00 of the assessed value of the homestead for residents of that county who are 65 years of age or older or who are disabled?"

All persons desiring to vote for approval of the Act shall vote "Yes," and all persons desiring to vote for rejection of the Act shall vote "No." If more than one-half of the votes cast on such question are for approval of the Act, Section 1 of this Act shall become of full force and effect on January 1, 2009. If the Act is not so approved or if the election is not conducted as provided in this section, Section 1 of this Act shall not become effective, and this Act shall be automatically repealed on the first day of January immediately following that election date. The expense of such election shall be borne by Lumpkin County. It shall be the election superintendent´s duty to certify the result thereof to the Secretary of State.

SECTION 3.

Except as otherwise provided in Section 2 of this Act, this Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 4.

All laws and parts of laws in conflict with this Act are repealed.

2008 - House Bill 1425
A BILL TO BE ENTITLED
AN ACT

To provide a homestead exemption from Lumpkin County school district ad valorem taxes for educational purposes in the amount of $120,000.00 of the assessed value of the homestead for residents of that school district who are 65 years of age or older or who are disabled; to provide for definitions; to specify the terms and conditions of the exemption and the procedures relating thereto; to provide for applicability; to provide for a referendum, effective dates, and automatic repeal; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:
SECTION 1.

(a) As used in this Act, the term:
(1) "**Ad valorem taxes for educational purposes**" means all ad valorem taxes for educational purposes levied by, for, or on behalf of the Lumpkin County school district, including, but not limited to, any ad valorem taxes to pay interest on and to retire county school district bonded indebtedness.
(2) "**Homestead**" means homestead as defined and qualified in Code Section 48-5-40 of the O.C.G.A., as amended, with the additional qualification that it shall include not more than five contiguous acres of homestead property.
(3) "**Senior citizen**" means a person who is 65 years of age or older on or before January 1 of the year in which application for the exemption under subsection (b) of this section is made.
(b) Each resident of the Lumpkin County school district who is a senior citizen or who is disabled is granted an exemption on that person's homestead from Lumpkin County school district ad valorem taxes for educational purposes in the amount of $120,000.00 of the assessed value of that homestead. The value of that property in excess of such exempted amount shall remain subject to taxation.
(c)(1) In order to qualify for the exemption provided for in subsection (b) of this section as being disabled, the person claiming such exemption shall be required to obtain a certificate from not more than three physicians licensed to practice medicine under Chapter 34 of Title 43 of the O.C.G.A., as amended, certifying that in the opinion of such physician or physicians, such person is mentally or physically incapacitated to the extent that such person is unable to be gainfully employed and that such incapacity is likely to be permanent. Such certificate or certificates shall constitute part of and be submitted with the application provided for in paragraph (2) of this subsection. A person can also qualify for the exemption provided for in subsection (b) of this section as being disabled, by presenting evidence that such person has been found to be disabled by the Social Security Administration or 100 percent disabled by the Veterans Administration.
(2) A person shall not receive the homestead exemption granted by subsection (b) of this section unless such person or person's agent files an application with the tax commissioner of Lumpkin County, giving the person's age and such additional information relative to receiving such exemption as will enable the tax commissioner of Lumpkin County to make a

determination regarding the initial and continuing eligibility of such person for such exemption. The tax commissioner of Lumpkin County shall provide application forms for this purpose.
(d) The exemption shall be claimed and returned as provided in Code Section 48-5-50.1 of the O.C.G.A., as amended. The exemption shall be automatically renewed from year to year as long as the person granted the homestead exemption under subsection (b) of this section occupies the residence as a homestead. After a person has filed the proper application as provided in subsection (c) of this section, it shall not be necessary to make application thereafter for any year, and the exemption shall continue to be allowed to such person. It shall be the duty of any person granted the homestead exemption under subsection (b) of this section to notify the tax commissioner of Lumpkin County in the event that person for any reason becomes ineligible for such exemption.
(e) The exemption granted by subsection (b) of this section shall not apply to or affect any state ad valorem taxes, county ad valorem taxes for county purposes, municipal ad valorem taxes for municipal purposes, or independent school district ad valorem taxes for educational purposes. The homestead exemption granted by subsection (b) of this section shall be in addition to and not in lieu of any other homestead exemption applicable to Lumpkin County school district ad valorem taxes for educational purposes.
(f) The exemption granted by subsection (b) of this section shall apply to all taxable years beginning on or after January 1, 2009.

SECTION 2.

Unless prohibited by the federal Voting Rights Act of 1965, as amended, the election superintendent of Lumpkin County shall call and conduct an election as provided in this section for the purpose of submitting this Act to the electors of the Lumpkin County school district for approval or rejection. The election superintendent shall conduct that election on the date of the November, 2008, general election and shall issue the call and conduct that election as provided by general law. The election superintendent shall cause the date and purpose of the election to be published once a week for two weeks immediately preceding the date thereof in the official organ of Lumpkin County. The ballot shall have written or printed thereon the words:

"( ) YES ( ) NO	Shall the Act be approved which provides a homestead exemption from Lumpkin County school district ad valorem taxes for educational purposes in the amount of $120,000.00 of the assessed value of the homestead for residents of that school district who are 65 years of age or older or who are disabled?"

All persons desiring to vote for approval of the Act shall vote "Yes," and all persons desiring to vote for rejection of the Act shall vote "No." If more than one-half of the votes cast on such question are for approval of the Act, Section 1 of this Act shall become of full force and effect on January 1, 2009. If the Act is not so approved or if the election is not conducted as provided in this section, Section 1 of this Act shall not become effective, and this Act shall be automatically repealed on the first day of January immediately following that election date. The expense of such election shall be borne by Lumpkin County. It shall be the election superintendent´s duty to certify the result thereof to the Secretary of State.

SECTION 3.

Except as otherwise provided in Section 2 of this Act, this Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 4.

All laws and parts of laws in conflict with this Act are repealed.

TAX DEFERRAL

§ 48-5-70. Short title.

This part shall be known and may be cited as the "Tax Deferral for the Elderly Act."

§ 48-5-71. Definitions.

As used in this part, the term:

(1) "Gross household income" means all income, for all individuals residing within the homestead, from whatever source derived including, but not limited to, the following sources:

(A) Compensation for services including fees, commissions, and similar items;
(B) Gross income derived from business;
(C) Gains derived from dealings in property;
(D) Interest;
(E) Rents;
(F) Royalties;
(G) Dividends;
(H) Alimony and separate maintenance payments;
(I) Income from life insurance and endowment contracts;
(J) Annuities;
(K) Pensions;
(L) Income from discharge of indebtedness;
(M) Distributive share of partnership gross income;
(N) Income from an interest in an estate or trust; and
(O) Federal old-age, survivor, or disability benefits.

(2) "Homestead exemption" means a homestead exemption pursuant to Code Section 48-5-44 with respect to state, county, and school purpose ad valorem taxes as provided in Code Section 48-5-44 and a homestead exemption pursuant to a local Act with respect to municipal ad valorem taxes for municipal purposes as provided in any such local Act.

(3) "Household" means an individual or group of individuals living together in a room or group of rooms as a housing unit.

(4) "Tax official" means the tax collector or tax commissioner with respect to state, county, and school purpose ad valorem taxes pursuant to Code Section 48-5-44 and the municipal governing authority or designee thereof with respect to municipal ad valorem taxes for municipal purposes pursuant to any local Act homestead exemption.

§ 48-5-72. Homestead tax deferral for individuals 62 or older; demonstration of compliance with part.

(a) Any individual aged 62 or older who is entitled to claim a homestead exemption may elect to defer payment of all or part of the ad valorem taxes levied on such individual's homestead by filing an annual application for tax deferral with the appropriate tax official on or before April 1 of the year for which the deferral is sought. If the homestead for which a deferral is requested has an assessed value for purposes of ad valorem taxation of $50,000.00 or more, the deferral may apply only to the taxes on that portion of the assessed value which is $50,000.00 or less.

(b) It shall be the burden of each applicant for a deferral to demonstrate affirmatively his compliance with the requirements of this part.

§ 48-5-72.1. Alternative to tax deferral authorized by Code Section 48-5-72; burden on applicant to demonstrate compliance.

(a) As an alternative to the tax deferral authorized by Code Section 48-5-72, any individual aged 62 or older residing within any county of this state having a population of 550,000 or more according to the United States decennial census of 1980 or any future such census who is entitled to claim a homestead exemption pursuant to Code Section 48-5-44 may elect to defer payment of all or any part of that portion of the ad valorem taxes levied on the individual's homestead which exceeds 4 percent of the individual's gross household income for the immediately preceding calendar year. An application for tax deferral under this Code section shall be filed annually with the tax collector or tax commissioner on or before April 1 of the year for which the deferral is sought. If an individual files for a tax deferral under this Code section, such individual shall not be authorized to file for a tax deferral under Code Section 48-5-72.

(b) The amount of the assessed value of the homestead and the amount of gross household income shall not limit the tax deferral authorized by this Code section. However, except for the provisions of Code Section 48-5-72 and paragraph (2) of Code Section 48-5-73, the provisions of this part shall apply to the tax deferral authorized by this Code section.

(c) It shall be the burden of each applicant for a deferral under this Code section to demonstrate affirmatively the applicant's compliance with this Code section and other provisions of this part.

§ 48-5-73. Limitations on grant of homestead tax deferral.

No tax deferral in any one year shall be granted pursuant to Code Section 48-5-72:

(1) If the total amount of deferred taxes and interest plus the total amount of all other unsatisfied liens on the homestead exceeds 85 percent of the fair market value of the homestead as shown on the county tax digest for the immediately preceding tax year;

(2) If the applicant's gross household income for the immediately preceding calendar year exceeds $15,000.00;

(3) If the homestead for which the deferral is sought is subject to any lien, the terms of which are dictated by federal law, rule, or regulation prohibiting deferral of taxes; or

(4) With respect to taxes levied to retire bonded indebtedness or for special assessments.

§ 48-5-74. Application for homestead tax deferral; oath; decision by tax official; notice; appeal to board of equalization; procedure; appeal to superior court; information on outstanding liens; proof of insurance.

(a) The application for deferral shall be made upon a form prescribed by the department and furnished by the appropriate tax official. The application form shall advise the applicant of the manner in which interest is computed. Each application form shall contain an explanation of the conditions to be met for approval and the conditions under which deferred taxes and interest become due, payable, and delinquent. Each application form shall clearly state that all deferrals pursuant to this part shall constitute a lien on the applicant's homestead.

(b) A form of oath shall be provided and shall be administered to the individual seeking the deferral. The oath may be administered by the appropriate tax official, any authorized deputy of the appropriate tax official, or any individual authorized by law to administer oaths.

(c) **(1)** The appropriate tax official shall consider each annual application for homestead tax deferral within 30 days of the date the application is filed or as soon as practicable thereafter. If the appropriate tax official finds that the applicant is entitled to the tax deferral, such official shall approve the application and file the application in the permanent records. If the appropriate tax official finds that the applicant is not entitled to the deferral, such official shall send a notice of disapproval to the applicant giving the reasons therefor within 30 days of the filing of the application either by personal delivery or by registered or certified mail or statutory overnight delivery to the mailing address given by the applicant, and such official shall make a return on the original

notice of the manner in which the notice was served on the applicant and shall file the return among the permanent records of such official's office. The original notice of disapproval sent to the applicant shall advise the applicant of the right to appeal the decision of the appropriate tax official to the board of equalization and shall inform the applicant of the procedure for filing an appeal.

(2) An appeal of the decision of the appropriate tax official to the board of equalization shall be in writing on a form prescribed by the department and furnished by the appropriate tax official. The appeal shall be filed with the board within 20 days after the applicant's receipt of the notice of disapproval. The board shall review the application and evidence presented to the appropriate tax official upon which the applicant based such applicant's claim for a tax deferral and, at the election of the applicant, shall hear the applicant in person or by agent in such applicant's behalf on such applicant's right to a homestead tax deferral. The board of equalization shall reverse the decision of the appropriate tax official and shall grant a homestead tax deferral to the applicant if in its judgment the applicant is entitled thereto, or it shall affirm the decision of the appropriate tax official. Such action by the board of equalization shall be final unless the applicant, appropriate tax official, or other lienholder files an appeal with the superior court of the county in which the property lies within 30 days from the date the taxpayer receives written notification of the decision of the board of equalization.

(d) Each application shall contain a list, and the current value, of all outstanding liens on the applicant's homestead.

(e) If proof of fire and extended coverage insurance has not been furnished with a prior application, each applicant shall furnish proof of such insurance in an amount which is in excess of the sum of all outstanding liens and deferred taxes and interest with a loss payable clause to the appropriate tax official.

§ 48-5-75. Rate of interest on amount of deferred taxes; time of accrual of interest on deferred taxes.

(a) The amount of taxes deferred pursuant to this part shall accrue interest until paid at three-fourths of the rate specified in Code Section 48-2-40.

(b) Interest on taxes deferred pursuant to this part in any year shall begin accruing on the date the taxes were due in that year.

§ 48-5-76. Deferred taxes and interest constitute prior lien; effect of award for year's support on liens for deferred taxes.

(a) The taxes and interest deferred pursuant to this part shall constitute a prior lien and shall attach as of the date and in the same manner and shall be collected as are other liens for taxes, as provided for under this title, but the deferred taxes and interest shall only be due, payable, and delinquent as provided in this part.

(b) Liens for taxes deferred under this part, except for any lien covering the then current tax year, shall not be divested by an award for year's support authorized pursuant to Chapter 5 of Title 53 of the "Pre-1998 Probate Code," if applicable, or Chapter 3 of Title 53 of the "Revised Probate Code of 1998."

§ 48-5-77. Annual notification to property owner of sum of deferred taxes and interest outstanding.

Each year, at the time the tax bills are mailed, the appropriate tax official shall notify each property owner to whom a homestead tax deferral has been previously granted of the accumulated sum of deferred taxes and interest outstanding.

§ 48-5-78. Change in ownership or use of, or failure to maintain insurance on, tax-deferred homestead; payment of deferred taxes, interest, and unsatisfied liens.

(a) In the event that there is a change in use of tax-deferred property so that the owner is no longer entitled to a homestead exemption for the property, or if the owner fails to maintain the required fire and extended insurance coverage, the total amount of deferred taxes and interest for all previous years shall be due and payable either on the date on which the change in use occurs or on the date failure to maintain insurance occurs.

(b) In the event that there is a change in ownership of tax-deferred property, the total amount of deferred taxes and interest for all previous years shall be due and payable on the date the change in ownership occurs. When, however, the change in ownership is to a surviving spouse and the spouse is eligible for a homestead exemption on the property, the surviving spouse may continue the deferral of previously deferred taxes and interest pursuant to this part.

(c) During any year in which the total amount of deferred taxes, interest, and all other unsatisfied liens on a homestead exceeds 85 percent of the fair market value of the homestead, the appropriate tax official shall immediately notify the owner of the homestead that the

portion of taxes and interest which exceeds 85 percent of the value of the homestead shall be due and payable within 30 days of receipt of the notice. Failure to pay the amount due shall cause the total amount of deferred taxes and interest also to become due and payable at the end of the 30 days.

(d) Each year, upon notification, each owner of property on which taxes and interest have been deferred shall submit to the appropriate tax official a list, and the current value, of all outstanding liens on the owner's homestead. Failure to respond to the notification within 30 days of its receipt shall cause the total amount of deferred taxes and interest to become due and payable at the end of the 30 days.

(e) All deferred taxes which are made due and payable by this Code section shall be delinquent and subject to interest in accordance with Code Section 48-5-75 at the end of 120 days following the date the deferred taxes become due and payable.

§ 48-5-79. Prepayment of deferred taxes and accrued interest; partial payments.

(a) All or part of the deferred taxes and accrued interest may be paid at any time to the appropriate tax official by:

> **(1)** The owner of the property or the spouse of the owner; or
>
> **(2)** The next of kin of the owner, heir of the owner, child of the owner, or any person having or claiming a legal or equitable interest in the property, provided that no objection is made by the owner within 30 days after the appropriate tax official notifies the owner of the fact that such payment has been tendered. Any payment made under this paragraph shall be deposited in a special escrow account for the 30 day period; and the appropriate tax official shall not make distribution of the amount under Code Section 48-6-74 while the funds are held in escrow.

(b) Any partial payment made pursuant to this Code section shall be applied first to accrued interest. By resolution of the appropriate county or municipal governing authority, a minimum amount of partial payment which may be accepted in the county or municipality pursuant to this part may be established. The required minimum payment shall not exceed $25.00.

§ 48-5-80. Distribution of deferred tax and interest payments; duty to keep record of property and amount of payment.

When any deferred taxes or interest is collected, the appropriate tax official shall maintain a record of the payment, which record shall contain a description of the property and the amount of taxes or interest collected for the property. The appropriate tax official shall distribute payments received to the local tax jurisdictions to whom the taxes and interest are owed.

§ 48-5-81. Payment by holder of deed to secure debt or by mortgagee; effect on right to foreclose.

If any holder of a deed to secure debt or any mortgagee elects to pay the taxes of an applicant who qualifies for and receives a tax deferral, such election shall not give the holder of the deed or the mortgagee the right to foreclose.

§ 48-5-82. Prohibition of clauses preventing applications for homestead tax deferral; exceptions.

Except with respect to requirements dictated by federal law, rule, or regulation, no mortgage, deed to secure debt, or other agreement may contain a provision, clause, or statement which prohibits the owner from claiming a real property tax deferral on his homestead. Any such provision, clause, or statement executed on or after July 1, 1980, is void and unenforceable.

§ 48-5-83. Construction of part.

Nothing in this part shall be construed to prevent the collection of personal property taxes which become a lien against tax-deferred property.

§ 48-5-84. Penalties for willfully filing incorrect information.

(a) The following penalties shall be imposed on any person who willfully files information required under Code Sections 48-5-72, 48-5-72.1, and 48-5-78 which is incorrect:

> **(1)** The person shall pay the total amount of taxes and interest deferred, which amount shall immediately become due;

(2) The person shall be disqualified from filing a homestead tax deferral application for the next three years; and

(3) The person shall pay a penalty of 25 percent of the total amount of taxes and interest deferred.

(b) Any person against whom the penalties prescribed in this Code section have been imposed may appeal the penalties imposed to the county board of equalization within 30 days after the penalties are imposed.

APPLICATION FOR DEFERRED TAXES FOR HOMEOWNERS 62 YEARS OF AGE OR OLDER

COUNTY NAME _____ YEAR _____

SECTION A - APPLICANT

1	NAME	
2	MAILING ADDRESS:	
3	PHONE #	
4	PARCEL ID #	
5	PROPERTY ADDRESS	
6	Applicant's Date of Birth (Must be at least 62 years old on January 1 of this year.	
7	Are you entitled to claim homestead exemption on this property for this current tax year?	[ ] YES [ ] NO
8	Does the total amount of deferred taxes and interest plus the total amount of all other unsatisfied liens on the homestead exceed 85% of the fair market value of the homestead as shown on the county tax digest for the immediately preceding tax year?	[ ] YES [ ] NO
9	Does your gross household income for the immediately preceding year exceed $15,000?	[ ] YES [ ] NO
10	Is the above described property subject to any lien, the terms of which are dictated by federal law, rule, or regulation prohibiting deferral of taxes?	[ ] YES [ ] NO
11	Do you have fire and extended coverage insurance on the above described property in an amount which is in excess of the sum of all outstanding liens and deferred taxes and interest with a loss payable clause to the county tax commissioner?	[ ] YES [ ] NO

SECTION B - SUPPORTING SCHEDULES

Schedule A - Tax Liability and Other Liens as Percentage of Fair Market Value

1	Deferred taxes and accrued interest from all prior years (Tax Commissioner)	
2	Other liens: _____	
3	Other liens: _____	
4	Other liens: _____	
5	Total deferred taxes, accrued interest and other liens.	
6	Fair market value of homestead as shown on the county tax digest for the immediately preceding tax year.	
7	Percentage (line 5 divided by line 6 - if greater than 85%, not eligible for tax deferral this year.	

Schedule B - Insurance

1	Total deferred taxes, accrued interest, and other liens (Schedule A - Line 5)	
2	Fire and extended coverage insurance (building and contents)	

Insurance company:	Policy #:	Expiration Date:

SECTION B - SUPPORTING SCHEDULES - continued

Schedule C - Gross Household Income for Preceding Calendar Year

REPORT GROSS INCOME OF ALL INDIVIDUALS LIVING IN HOUSEHOLD	Name:	Name:	Name:
	SS#:	SS#:	SS#:
DESCRIPTION	AMOUNT	AMOUNT	AMOUNT
1 Compensation for services, including fees, commissions, and			
2 Gross income from business…			
3 Gains derived from dealings in property……			
4 Interest……			
5 Rents……			
6 Royalties……			
7 Dividends……			
8 Alimony and separate maintenance payments……			
9 Interest……			
10 Annuities……			
11 Pensions……			
12 Income from discharge of indebtedness……			
13 Distributive share of partnership gross income…..			
14 Income from an interest in an estate or trust……			
15 Federal old-age, survivor, or disability benefits……			
16 Other……			
TOTAL			

SECTION C - STATEMENT and SIGNATURE

This application is a request to defer taxes on homestead property owned by taxpayers 62 years of age and older. The taxes will not be exempt as a result of this application. This means that all taxes deferred must be paid, together with all interest accrued on the tax liability deferred before the property can be sold or transferred. However, a surviving spouse who is eligible to claim homestead exemption on such property may continue the deferment of previously deferred taxes and interest.

Application for tax deferral must be filed annually with the county tax commissioner on or before April 1 of each year.

Interest on deferred taxes shall begin accruing on the date the taxes were due at the rate specified in law.

Deferral of taxes applies only on the first $50,000 of assessed value. Taxes for bonded indebtedness are not deferred.

The following circumstances cause deferred taxes and accrued interest for all years to become due and payable immediately:

1 Applicant is no longer entitled to claim homestead exemption.
2 Applicant fails to maintain the required insurance for fire and extended coverage.
3 Transfer of ownership (unless new owner is surviving spouse who is entitled to claim homestead exemption)
4 Applicant fails to respond within 30 days to a written request from the tax commissioner for a list of outstanding liens.
5 If any person willfully files incorrect or fraudulent information in order to obtain tax deferment.

In addition, during any year in which the total amount of deferred taxes, accrued interest and all other unsatisfied liens on the homestead exceeds 85 percent of the fair market value of the homestead, the tax commissioner shall immediately notify the owner that the portion of taxes and interest which exceed 85 percent of the value of the homestead shall be due and payable within 30 days of receipt of the notice. Failure to pay the amount due shall cause the total amount of deferred taxes and interest to become due and payable.

Signature:	Date:

ORDER OF YEARS SUPPORT

Petition:

GEORGIA PROBATE COURT
STANDARD FORM

IN THE PROBATE COURT OF _____ COUNTY

STATE OF GEORGIA

IN RE: ESTATE OF	)	**ESTATE NO. _____**
_____,	)	**PETITION FOR YEAR'S SUPPORT**
DECEASED	)	

TO THE HONORABLE JUDGE OF THE PROBATE COURT:

The Petition of _____,
First Middle Last Name
whose mailing address is_____, shows that:

1.

The petitioner is:

_____ A. The surviving spouse.
_____ B. A guardian or other individual acting on behalf of the surviving spouse or minor child(ren) (state specific relationship): _____
_____.

2.

The decedent, _____, whose domicile was
_____
(State full street address of decedent, including County of domicile)
departed this life on _____, 20 _____.

3.

(Initial one:)

_____ A. There is not a Will.
_____ B. There is a Will, which has been offered for probate.
_____ C. There is a Will, which will be offered for probate.
_____ D. There is a Will, which will not be offered for probate but is attached to this Petition or is on file with this Court.

4.

The decedent's estate consists of real and/or personal property of the probable value of _____ dollars.

Effective 7/09 -1- GPCSF 10 Petitioner

Public Notice:

NOTICE/2010-ES-277
GEORGIA, FAYETTE COUNTY
PROBATE COURT
TO: Whom it may concern,
The petition of ROBERT TOLLEY, for a year's support from the estate of JUDY TOLLEY, deceased, for decedent's surviving spouse, having been duly filed all interested persons are hereby notified to show cause, if any they have, on or before 10:00 A.M. March 7, 2010, why said petition should not be granted.
All objections to the petition must be in writing, setting forth the grounds of any such objections, and must be filed on or before the time stated in the preceding sentence. All pleadings/objections must be signed before a notary public or before a probate court clerk, and filing fees must be tendered with your pleadings/objections, unless you qualify to file as an indigent party. Contact probate court personnel for the required amount of filing fees. If any objections are filed, a hearing will be scheduled at a later date. If no objections are filed the Petition may be granted without a hearing.
KELLEY S. POWELL, Probate Judge
By: Becky Bell, Deputy Clerk
99 Sims Street
Fayetteville, GA 30215
770-288-7600
Feb-11,18,25/Mar-4,2010-36369

Order:

Doc ID: 008360850001 Type:
Filed: 07/20/2010 at 09:45:00
Fee Amt: $12.00 Page 1 of 1
Transfer Tax: $0.00
Fayette, Ga. Clerk Superior C
Sheila Studdard Clerk of Cour
BK 3657 PG 307

Probate Court Return Mailing Address:
1 Center Drive
Fayetteville, Ga. 30214

CERTIFICATE OF ORDER OF YEAR'S SUPPORT
(Pursuant to Ga. Code Ann. §53-3-11)

GEORGIA, FAYETTE COUNTY

DATE ORDER GRANTED: July 19, 2010
GRANTOR: (NAME OF DECEDENT) JUDY ANN TOLLEY A/K/A JUDY A. TOLLEY
GRANTEE: (FULL NAME OF SURVIVING SPOUSE, AND EACH MINOR CHILD, AND DATE OF BIRTH OF EACH MINOR)
ROBERT W. TOLLEY

ADDRESS OF GRANTEE: 280 Woodsong Drive, Fayetteville, Georgia 30214

Legal Description of Real Property and Interest Therein:

ALL THAT TRACT OR PARCEL OF LAND lying and being in landlot 190of the 5th District of Fayette County, Georgia, being Lot 38, Woodsong Estates (formerly Kimberly Estates), Unit two, as per plat recorded in Platbook 14, page 118, Fayette County Records, to which reference is made for purpose of incorporating the same as part herein.

Also land in _____, Count(y)(ies).

Original Certificate delivered or mailed to Clerk of Superior Court of Fayette County on July 20, 2010.

Certificate prepared by:

GEORGE T. BROWN
ATTORNEY FOR PETITIONER
State Bar #: 087600

I do hereby certify that the above information is based on the order of the Probate Court issued on the date set out above and that the above information is true and correct.

By: _____
PROBATE CLERK/DEPUTY CLERK

Effective 7/09

-8-

GPCSF 10 Petitioner

Tax Bill:

2010 Property Tax Statement

George Wingo
Fayette County Tax Commissioner
P. O. Box 70
Fayetteville , GA 30214

Bill No	Due Date	TOTAL DUE
2010-38587	11/15/2010	$0.00

MAKE CHECK OR MONEY ORDER PAYABLE TO:
Fayette County Tax Commissioner

Map: 053607038
Last payment made on: Today's date: 2/25/2011
Location: 280 WOODSONG DR
INTEREST, PENALTIES, AND OTHER
FEES WILL APPLY AFTER DUE DATE.

TOLLEY ROBERT W & JUDY A
280 WOODSONG DRIVE
FAYETTEVILLE , GA 30214

If taxes are paid by your mortgage
company, send them the top portion of your statement only.

George Wingo
Fayette County Tax Commissioner
P. O. Box 70
Fayetteville , GA 30214

Phone: (770) 461-3652 Fax: (770) 461-8443

Tax Payer:	TOLLEY ROBERT W & JUDY A
Map Code:	053607038
Description:	LOT 38 WOODSONG
Location:	280 WOODSONG DR
Bill No:	2010-38587
District:	01 County

Building Value	Land Value	Acres	Fair Market Value	Due Date			Exemptions	
$0.00	$0.00	0.0000	$0.00	11/15/2010			L4 SC	

Entity	Adjusted FMV	Net Assessment	Exemptions	Taxable Value	Milage Rate	Gross Tax	Credit	Net Tax
- NO TAX ACCTS SPECIFIED -	$0.00	$0.00	$0.00	$0.00	0.0000	$0.00	$0.00	$0.00
				Totals:	0	$0.00	$0.00	$0.00

Current Due $0.00

Statutes:

§ 53-3-1. (Revised Probate Code of 1998) Preference and entitlement.

(a) As used in this chapter, the terms "child" or "children" mean any minor child who would be entitled to inherit if the child's parent died intestate.

(b) Among the necessary expenses of administration and to be preferred before all other debts, except as specifically provided otherwise in this chapter, is the provision of year's support for the family.

(c) The surviving spouse and minor children of a testate or intestate decedent are entitled to year's support in the form of property for their support and maintenance for the period of 12 months from the date of the decedent's death.

§ 53-3-2. (Revised Probate Code of 1998) Events barring right to support.

(a) A surviving spouse's right to year's support shall be barred by the marriage or death of the spouse prior to the filing of the petition for year's support.

(b) A minor child's right to year's support shall be barred by the marriage or death of the minor or by the minor's attaining the age of 18 years prior to the filing of the petition for year's support.

§ 53-3-3. (Revised Probate Code of 1998) Provision in will in lieu of support; election.

A testator by will may make provision for the spouse in lieu of year's support, in which case the surviving spouse must make an election.

§ 53-3-4. (Revised Probate Code of 1998) Taxes and tax liens.

In solvent and insolvent estates, all taxes and liens for taxes accrued for years prior to the year of the decedent's death against the real property set apart and against any equity of redemption applicable to the real property set apart shall be divested as if the entire title were included in the year's support. Additionally, as elected in the petition, property taxes accrued in the year of the decedent's death or in the year in which the petition for year's support is filed or, if the petition is filed in the year of the decedent's death, in the year following the filing of the petition, shall be divested if the real property is set apart for year's support.

§ 53-3-5. (Revised Probate Code of 1998) Filing of petition.

(a) Upon the death of any individual leaving an estate solvent or insolvent, the surviving spouse or a guardian or other person acting in behalf of the surviving spouse or in behalf of a minor child may file a petition for year's support in the probate court having jurisdiction over the decedent's estate. If the petition is brought by a guardian acting on behalf of a minor child, no additional guardian ad litem shall be appointed for such minor child unless ordered by the court.

(b) The petition shall set forth, as applicable, the full name of the surviving spouse, the full name and birthdate of each surviving minor child and a schedule of the property, including household furniture, which the petitioner proposes to have set aside. The petition shall fully and accurately describe any real property the petitioner proposes to have set aside with a legal description sufficient under the laws of this state to pass title to the real property.

(c) A petition for year's support shall be filed within 24 months of the date of death of the decedent.

§ 53-3-6. (Revised Probate Code of 1998) Issuance of citation and publication of notice; mailing of petition to tax commissioner.

(a) As used in this Code section, the term "interested person" means the decedent's children, spouse, other heirs, beneficiaries, creditors, and any others having a property right in or claim against the estate of the decedent which may be affected by the year's support proceedings.

(b) Upon the filing of the petition, the probate court shall issue a citation and publish a notice once a week for four weeks, citing all persons concerned to show cause by a day certain why the petition for year's support should not be granted.

(c) **(1)** If there is a personal representative of the decedent's estate, then, in addition to the citation and notice required by subsection (b) of this Code section, the probate court

shall cause a copy of the citation to be sent by mail to the personal representative of the decedent's estate. The copy of the citation shall be mailed not less than 21 days prior to the date and time shown in the citation.

(2) If there is no personal representative of the decedent's estate, then, in addition to the citation and notice required by subsection (b) of this Code section, the petitioner or the attorney for the petitioner shall file with the probate court an affidavit, upon oath, showing the name, last known address, and age if less than age 18 of each interested person and stating that the petitioner or the attorney for the petitioner has listed all known interested persons and has made reasonable inquiry to ascertain the names, last known addresses, and ages of all interested persons. The probate court shall mail a copy of the citation to each interested person shown on the affidavit not less than 21 days prior to the date and time shown in the citation.

(3) If the sole personal representative of the decedent's estate and the petitioner or the guardian of the petitioner are the same person, then paragraph (2) of this subsection shall govern as if the decedent's estate had no personal representative.

(d) The probate court shall mail a copy of the petition within five days of its filing to the tax commissioner or tax collector of any county in this state in which real property proposed to be set apart is located.

§ 53-3-7. (Revised Probate Code of 1998) Hearing and determination.

(a) If no objection is made after the publication of the notice, or, if made, is disallowed or withdrawn, the probate court shall enter an order setting aside as year's support the property applied for in the petition.

(b) If objection is made, the probate court shall hear the petition and, upon the evidence submitted, shall determine the property to be set aside according to the standards set out in subsection (c) of this Code section. If an appeal is taken, pending the appeal the petitioners shall be furnished with necessaries by the personal representative of the estate, as allowed by the probate court.

(c) If objection is made to the amount or nature of the property proposed to be set aside as year's support, the court shall set apart an amount sufficient to maintain the standard of living that the surviving spouse and each minor child had prior to the death of the decedent, taking into consideration the following:

> **(1)** The support available to the individual for whom the property is to be set apart from sources other than year's support, including but not limited to the principal of any separate estate and the income and earning capacity of that individual;
>
> **(2)** The solvency of the estate; and
>
> **(3)** Such other relevant criteria as the court deems equitable and proper.
>
> The petitioner for year's support shall have the burden of proof in showing the amount necessary for year's support.

§ 53-3-8. (Revised Probate Code of 1998) Minor children by different spouses.

(a) If the decedent leaves minor children by different spouses, the probate court shall specify the portion going to the children of the former spouse or spouses, which portion shall vest in those children.

(b) If the decedent leaves minor children and the surviving spouse is the parent of the minor children, the probate court may in its discretion specify separate portions for the minor children and the surviving spouse if the court deems the award of separate portions to be in the best interests of the parties, and the portions shall vest separately in the surviving spouse and the children.

§ 53-3-9. (Revised Probate Code of 1998) Vesting of title to property set apart.

(a) Except as otherwise provided in Code Section 53-3-8, title to the property set apart shall vest in the surviving spouse and child or children or, if there is no surviving spouse, in the children, share and share alike; and the property shall not be administered as the estate of the deceased spouse or parent.

(b) When property is set apart as a year's support for the benefit of the surviving spouse alone, the spouse shall thereafter own the same in fee, without restriction as to use, encumbrance, or disposition.

§ 53-3-10. (Revised Probate Code of 1998) Property inside or outside county.

The probate court may award year's support as to property located inside or outside the county where the decedent was domiciled at the time of death; and title to property both inside and outside the county where the decedent was domiciled at the time of death shall vest in the surviving spouse, spouse and children, or children only, as applicable.

§ 53-3-11. (Revised Probate Code of 1998) Awarding interest in real property.

(a) When the probate court grants an order for year's support which awards an interest in real property located in this state, within 30 days after granting the order the court shall cause a certificate for the order to be filed with the clerk of the superior court in the county of this state where the real property or any part of the real property is located. The certificate shall:

> **(1)** Identify in the manner provided in Code Section 53-3-5 those individuals receiving the interest;
>
> **(2)** Identify the interest received;
>
> **(3)** Contain a legal description sufficient under the laws of this state to pass title to the real property in which the interest was received, provided that the words "Also lands in _____ County(ies)," which accurately identifies other counties

within which the real property is located, shall be sufficient to describe real property located outside the county to which the order or a copy of the order was sent; and

(4) Contain a certification by the probate court that the information in the certificate is correct.

(b) The certificate to be filed under subsection (a) of this Code section shall be accompanied by the same fee required for the filing of deeds with the clerk of the superior court. The filing fee and any fee for the certificate shall be taxed as costs to the estate.

(c) The clerk of any superior court receiving the certificate provided in subsection (a) of this Code section shall file and record the certificate upon the deed records of that county. The certificate shall be indexed according to the names appearing on the certificate as follows:

(1) The grantor is the name of decedent; and

(2) The grantee is the name of the individual or individuals to whom the award was made.

(d) Upon the filing and recording as provided in subsection (c) of this Code section, the certificate shall be returned to the probate court from whom it was received, for inclusion in the probate court's permanent file. The probate court shall not be required to enter a certificate on the minutes of the court after the return of a certificate recorded under subsection (c) of this Code section.

§ 53-3-12. (Revised Probate Code of 1998) Fees.

(a) The fees of the probate court shall be paid by the petitioner for year's support out of the fund set apart.

(b) The probate court may issue a writ of fieri facias against the personal representative of the estate for the amount awarded as provided in subsection (a) of this Code section.

§ 53-3-13. (Revised Probate Code of 1998) Sale or conveyance of property by personal representative prior to award.

The right of a surviving spouse or minor child to year's support from the estate of a decedent shall be barred by a sale or conveyance made prior to the award of year's support by the personal representative of the estate under authority of a court of competent jurisdiction or under power in a will; provided, however, that the sale or conveyance shall bar year's support and rights to year's support only as to the property sold or conveyed.

§ 53-3-14. (Revised Probate Code of 1998) Real property subject to option to purchase or contract to sell.

If year's support is set apart for the benefit of any individual in or with respect to real property on which there is a recorded option to purchase or contract to sell outstanding at the time the same is so set apart, the individual and any purchasers or lessees of the real property, after the same has been so set apart, shall take the real property or any interest therein subject to all of the rights and privileges of the grantee of the option or contract and of any assignees of the option or contract if the assignment or assignments are also recorded.

§ 53-3-15. (Revised Probate Code of 1998) Conveyance, contract, or lien made by surviving spouse or guardian.

A conveyance, contract, or lien made or created by the surviving spouse or by the guardian of the minor child or children shall be superior to the title and interest of the surviving spouse or minor child or children under year's support subsequently applied for and set apart.

§ 53-3-16. (Revised Probate Code of 1998) Real property subject to purchase money mortgage.

Whenever the vendor of real property makes a deed to such real property and takes a mortgage to secure the purchase money for such real property, neither the surviving spouse nor the children of the vendee shall be entitled to year's support in the real property as against the vendor or the vendor's heirs or assigns until the purchase money is fully paid.

§ 53-3-17. (Revised Probate Code of 1998) Personal property subject to mortgage or other security interest.

Whenever the vendor of personal property, at the time of selling and delivering such personal property, takes a mortgage or other security interest to secure the payment of the purchase money for such personal property, neither the surviving spouse nor the minor child or children of the vendee shall be entitled to year's support in the personal property as against the vendor or the vendor's heirs, personal representatives, or assigns until the purchase money of the personal property is fully paid; provided, however, that the mortgage or other security interest

shall expressly state that the same is executed and delivered for the purpose of securing the debt for the purchase.

§ 53-3-18. (Revised Probate Code of 1998) Landlord's lien on crops.

Whenever a tenant dies owing a landlord for rent or for supplies for which the landlord has a special lien on the crops made on the lands rented from the landlord in the year the rent accrued or supplies were furnished, neither the surviving spouse nor spouse and minor children nor minor child or children only of the tenant shall be entitled to year's support out of the crops so planted or grown in that year as against the landlord until the accounts for the rent and supplies are fully paid, provided that the surviving spouse shall be entitled to year's support in such part of the crop as may remain after the landlord's lien for rent and supplies shall have been discharged.

§ 53-3-19. (Revised Probate Code of 1998) Conveyance or encumbrance by surviving spouse of property set aside; effect.

(a) When property is set apart as year's support for the joint benefit of the surviving spouse and the minor child or children, a conveyance or encumbrance of the same or any or all parts of such property by the surviving spouse shall convey or encumber the title and interest of the spouse and shall be binding and conclusive upon the spouse.

(b) The conveyance or encumbrance of any or all the property set apart as year's support for the joint benefit of the surviving spouse and the minor child or children shall convey or encumber and be binding and conclusive upon the child or children and person claiming through or under them only when approved by the probate court of the county in which the year's support award was made. No such approval shall be necessary to bind a child who is sui juris and who joins with the surviving spouse in making the conveyance or encumbrance.

(c) The purchaser or lender shall not be responsible for the proper use or application of the proceeds derived from a sale or encumbrance contemplated under this Code section.

§ 53-3-20. (Revised Probate Code of 1998) Conveyance or encumbrance by surviving spouse of property set aside; approval of probate court.

(a) The approval of the probate court required by subsection (b) of Code Section 53-3-19 shall be obtained in the following manner: The surviving spouse shall petition the probate court, stating the purposes of the proposed conveyance or encumbrance and describing the property the spouse desires to convey or encumber, the nature of the proposed conveyance or encumbrance, and the names, last known addresses, and ages of the children for whose benefit the year's support was set apart. If the surviving spouse has died, the petition may be made by the guardian for any one or more of the children for whose benefit the year's support was set apart. The probate court shall set a date for hearing on the petition and shall appoint a guardian ad litem who shall accept the appointment in writing to represent the minor children. Not less than ten days prior to the date set for the hearing, personal service shall be made on each child for whose benefit the year's support was set apart who has attained the age of 18 at the time the petition is filed. If the surviving spouse does not know and cannot easily ascertain the addresses of any of the children, service shall be made by publishing notice of the date and purpose of the hearing one time and by posting a copy of the notice at the courthouse not less than ten days prior to the date set for the hearing. In addition to publication, the probate court shall mail a copy of the notice to the last known address of each child whose current address is unknown, not less than ten days prior to the date set for such hearing. Objections, if any, shall be made in writing.

(b) At the hearing, the probate court shall determine that service has been made as required by this Code section and that the purpose or purposes of the proposed conveyance or encumbrance are proper and shall pass an order reciting due compliance with this Code section and approval of the proposed conveyance or encumbrance, which order shall be final and conclusive.

(c) The proceedings shall be indexed and recorded in books to be kept for that purpose by the probate court in each county in which any of the property is located.

(d) An appeal shall lie in the manner, under the restrictions, and with the effect provided for appeals from the probate court in other cases.

Judicial Decisions:

Award of year's support to spouse upheld. - Where co-executors failed to include in the record on appeal the transcript of the hearing on the decedent's spouse's petition for a year's support and the order showed that the probate court properly considered a lump sum death benefit payment to the spouse from the decedent's employer, there was no basis in the record for the court to reverse an award to the spouse under O.C.G.A. 53-3-1(c). In re Estate of Battle, 263 Ga. App. 73, 587 S.E.2d 140 (2003).

Denial of application of year's support upheld. - Summary judgment in favor of a caveator, and against a wife, on the wife's application for year's support from the estate of the wife's decedent husband, was properly denied, as the wife opted instead to accept a $ 5,000 bequest from the husband's will in lieu of a year's support under a prenuptial agreement which was found to be valid, binding, and enforceable, and the wife failed to show any evidence of duress, coercion, fraud, misrepresentation, unconscionability, or changed circumstances which would have voided the agreement. Hiers v. Estate of Hiers, 278 Ga. App. 242, 628 S.E.2d 653 (2006).

The superior court's order reversing a year's support award in the amount of $30,000, along with title to a vehicle and antique furniture, and instead enforcing an oral agreement for an equal division of the assets of the estate after payment of all expenses, was proper, as: (1) the surviving wife failed to testify as to the amount of money needed to maintain the standard of living for a period of 12 months after the decedent husband died; (2) the wife presented no evidence of any income earned during the marriage; (3) no evidence documenting the wife's medical expenses incurred during the marriage was presented; and (4) the wife's testimony about the decline in the standard of living was relevant under O.C.G.A. 53-3-7(c)(3), but provided little guidance to the court. Taylor v. Taylor, 288 Ga. App. 334, 654 S.E.2d 146 (2007), cert. denied, 2008 Ga. LEXIS 322 (Ga. 2008

Year's support. - In a probate matter, a trial court erred by dismissing an executor's objection to the setting aside of certain real property as year's support in favor of an estate as the executor had filed an objection within 15 days of the default order amending the year's support order, pursuant to O.C.G.A. 9-11-55(a), and by paying costs. The provisions of 9-11-55(a) relating to the opening of default judgments as a matter of right within 15 days of default applied to year's support proceedings in probate court. In re Estate of Ehlers, 289 Ga. App. 14, 656 S.E.2d 169 (2007).

Due process requirements satisfied. - Where the executor of a decedent's will was given notice of a widow's application for year's support, due process requirements were satisfied. Ingram v. Ruff, 236 Ga. App. 309, 511 S.E.2d 549 (1999).

Absence of signatures. - A conformed copy of a lost will was properly admitted into evidence, notwithstanding that it did not bear signatures of either the testatrix or the witnesses, especially

as the attorney who prepared and witnessed the will testified that the copy was the same as the executed original. Smith v. Srinivasa, 269 Ga. 736, 506 S.E.2d 111 (1998).

Evidence held sufficient to rebut presumption. - The presumption of revocation was properly found to have been rebutted where (1) the attorney who prepared the will kept in touch with the testatrix until shortly before her death, and she never mentioned changing or revoking her will, and (2) just a month before her death, the testatrix affirmed to her daughter that she wished certain property to be disposed of as stated in the will and never indicated any desire to revoke or change her will. Smith v. Srinivasa, 269 Ga. 736, 506 S.E.2d 111 (1998).

Excessive award. - Award of title to the entire marital residence as year's support exceeded the amount necessary to support the surviving spouse for 12 months from the decedent's death; the surviving spouse's contributions during marriage did not entitle the surviving spouse to support based on an equitable interest in the marital residence. Hunter v. Hunter, 256 Ga. App. 898, 569 S.E.2d 919 (2002).

Award of year's support improper. - Undisputed evidence demanded that in light of the decedent's spouse's resources, the spouse's application for a year's support had to be denied and a directed verdict had to be granted against the spouse and in favor of the decedent's children; the evidence showed that during the 12 months following decedent's death, the spouse received $126,000 in cash from the decedent's assets outside of probate and received $22,019 in income for a total of $148,019. Allgood v. Allgood, 263 Ga. App. 177, 587 S.E.2d 377 (2003).

Because it appeared from the testimony that a widow's standard of living was improved after receiving an award of year's support after the decedent's death, and that the widow had the resources independent of the year's support to afford those improvements, the award was erroneously entered; thus, the trial court erred in denying a motion for involuntary dismissal filed by the decedent's only child. Anderson v. Westmoreland, 286 Ga. App. 561, 649 S.E.2d 820 (2007), cert. denied, 2007 Ga. LEXIS 676 (Ga. 2007).

Attorney General Opinion:

U85-45 November 12, 1985
Request By: Mr. Richard W. Calhoun
Opinion by: LUCY T. SHEFTALL, Staff Assistant Attorney General

In your capacity as attorney for Cobb County you have requested the opinion of this office on the specific question of whether ad valorem taxes which have been paid for a particular year are subject to being discharged by an award of year's support made later in the year when that award includes the property upon which the taxes have been paid.

Official Code of Georgia Annotated 53-5-2 provides that "all taxes and liens for taxes accrued against the property, and the equity of redemption which is embraced in a year's support duly set apart, shall be divested as if the entire title were included in the year's support."1 However, year's support is an elective right, and it is well established that "[a] year's support to be enforceable must be manifest in a judgment. It is not in existence as such until such judgment." Howard v. Davis, 192 Ga. 504, 507 (1941); Bowman v. Bowman 206 Ga. 262, 267 (1949). If a tax obligation has been paid prior to the time that a surviving spouse or minor child elects year's support, then there is no year's support judgment in effect and the tax is legally due and payable. At the time when year's support is subsequently obtained and certain property is set aside for the spouse and or minor children, that spouse is obtaining the full value of the award made by the appraisers because the tax lien has already been satisfied and does not encumber the property awarded.

Thus, in the situation which you outline, where the tax liability has been paid in full prior to any award of year's support, the year's support statute does not operate to divest the previously paid tax obligation from that piece of property. To allow any other interpretation of O.C.G.A. 53-5-2 would necessitate the conclusion that a year's support award could divest long paid obligations to tax collectors or other creditors for an indefinite period of time into the past which is clearly not a logical or practical interpretation.

Accordingly, it is my unofficial opinion that a tax obligation which has been paid prior to an award of year's support cannot be retroactively discharged by the year's support judgment.

Since an award of year's support does not entitle the recipient to recoup any amount already disbursed to a creditor or lien holder prior to obtaining that award of year's support, it is unnecessary to reach the question of whether a refund of such payments would be authorized under O.C.G.A. 48-5-280.

I trust this opinion is responsive to your inquiry.

Footnote 1: There are circumstances in which State tax liens are not divested by a year's support award. See, e.g., O.C.G.A. 48-5-78.

Glossary of Terms:

As used in this pamphlet, the following terms are defined. The terms defined below may also have other or expanded meanings when used in other contexts.

Accountings (Returns) - annual accounting to the probate court of the receipts and expenditures of the estate for the previous year, together with facts that show the true condition of the estate; the accounting must be made within 60 days of the anniversary of appointment every year until the PR is discharged; accounting may be waived in the will or by consent of all the heirs. (See Section 7)

Administrator - person appointed to administer an estate where there is no valid will; an administrator must post a surety bond as security for the proper administration of the estate, although this bond may be waived if all heirs consent to the waiver.

Beneficiary - the designated recipient of a benefit under a will or contract; a beneficiary should be distinguished from an heir.

Caveat - formal objection to a probate proceeding; a caveat may challenge the validity of a will offered for probate.

Common Form Probate - probate of will without notice to the heirs; common form probate is not conclusive on anyone having an interest in the estate for a period of four years; if common form probate is set aside, the executor is protected only for actions done to collect and preserve assets and to pay debts of the estate; common form probate may granted immediately, however, because it is conclusive only after four years, title attorneys frequently require solemn form probate for the sale of real property from the estate.

Discharge - an executor or administrator who has performed all duties or who has been allowed to resign may petition to be discharged from liability. If no objections are filed to the petition, the probate judge grants the discharge, releasing the personal representative from liability. If objections are filed, the judge must hold a hearing and examine the condition of the estate and the conduct of the personal representative. (See Section 8)

Estate - the name given to all of the collective assets of a deceased person; also may be used to refer to the entire case involving a particular deceased (e.g., Estate of John Doe).

Executor - person named in a will by the testator to manage the estate and carry out the directions of the will; the Letters Testamentary issued by the probate court give the executor power and authority to carry out the provisions of the will.

Fiduciary - a person having the duty to act primarily for another's benefit in matters assigned or undertaken by the person; a person holding the character of a trustee.

Guardian-ad-litem - a person appointed by the court to investigate and represent the best interest of a child or incompetent adult with regard to a particular matter pending before the court.

Heir - those persons who inherit the estate c ividual who dies without a valid will; heirs should be distinguished from beneficiaries, who are named as recipients in the will, whereas heirs are the recipients recognized by the law in the absence of a valid will.

Incapacitated adult - an adult for whom a guardian or conservator has been duly appointed or an adult under a legal disability.

Inventory - a description of all assets and liabilities of the decedent, including a list of all personal and real property owned by the decedent at the time of death which is subject to the PR's administration, along with the approximate values of the property; the PR must mail a copy of the inventory to the heirs or beneficiaries. (See Section 7)

Letters of Administration - the formal document issued by the court to evidence the appointment of an administrator of an estate and the authority of the administrator then to act; an administrator has no authority to act until the Letters have been issued.

Letters of Administration with the Will Annexed - letters granted to an administrator where the decedent made a will but did not appoint an executor or where the appointed executor failed to or could not serve; unless restricted by the probate court, an administrator with the will annexed has the same powers and rights as the executor.

Letters Testamentary - the formal document issued by the court to evidence the appointment of an executor of an estate and the authority of the executor then to act; an executor has no authority to act until the Letters have been issued.

Minor - a person who is under the age of 18, the age of majority in Georgia.

Personal property - any property other than real estate; everything which is subject to ownership other than land or an interest in land; personal property includes not only tangible things (e.g., furniture, automobiles, merchandise, clothes and jewelry, etc.) but also intangible things (e.g., stocks, bonds, money on deposit, patents, copyrights, etc.).

Petition - a formal, written application to a court requesting judicial action on a certain matter.

Power of Attorney - an instrument authorizing another to act as one's agent or attorney-in-fact (as opposed to an attorney at law); the agent is called an "attorney-in-fact"; a power of attorney may be given for financial affairs or for heath care decisions or both; a power of attorney may

be general or limited.

Pro rata - proportion or proportionately; shares calculated in proportion to the total available.

Real property - land and generally whatever is erected, growing upon or affixed to the land.

Solemn Form Probate - probate that is conclusive against all who have been given notice; notice must be given to all heirs (not beneficiaries).

Surety - one who undertakes to pay money or to do any other act in the event the principal fails to pay or to act; the guarantor on the bond of a fiduciary, usually an insurance company specially licensed to write surety bonds.

Surety Bond - the obligation of another to guarantee the proper performance of a duty and to pay any loss caused by the failure to so perform; the bond of a personal representative secures the interests of creditors and heirs or beneficiaries; the guarantor, called a "surety," agrees to pay any loss suffered if the PR fails to perform the duties of the office properly (mismanagement, loss through negligence, misappropriation, theft, etc.).

Testator - a person who has executed a valid will.

Will - an instrument by which a person disposes of his or her property, which takes effect after that person's death and which is revocable during the lifetime of that person; the legal declaration of a person's intentions which he or she wants to be performed after his or her death.

Year's Support - an award made from an estate for the maintenance and support for one year to a spouse and/or minor children of the decedent; an award of year's support made be made in any form, including real property. A petition for year's support must be made within 24 months of the death of the decedent and can only be made by the surviving spouse who has not remarried or by children who have not reached the age of 18.