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Rule 560-11-2-.25 County Appraisal Staff - Qualifications

- (1) County appraisal staff shall be classified into four classifications: Appraiser I, Appraiser II, Appraiser III, and Appraiser IV, with qualifications as follows:
- (a) Appraiser I -- Under supervision and direction as an Appraiser trainee, the Appraiser I is expected to learn and do the more routine technical work in the appraisal of real and/or personal property for tax assessment purposes. The Appraiser I must:
1. successfully complete the appraiser examination set for this level by the State Revenue Commissioner;
 2. be in good physical and mental health and have the ability to meet and relate to the general public effectively;
 3. hold a high school diploma or its equivalent;
 4. have the aptitude to learn to perform tasks assigned including reviewing maps, photography, etc., to locate property; visiting the property and gathering all information necessary to determine value; performing basic research on building costs and sales data; computing appraisal values for real and/or personal property.
- (b) Appraiser II -- Under supervision and direction, the Appraiser II makes appraisals of real and/or personal property of the more common types and assists his superiors in the supervision and direction of Appraiser I personnel. The Appraiser II must:
1. successfully complete the appraiser examination set for this level by the State Revenue Commissioner;
 2. hold a high school diploma or its equivalent;
 3. be in good physical and mental health and have the ability to meet and relate to the general public effectively;
 4. be able to make field appraisals of the average types of real and/or personal property. In this regard, he must be able to perform research on and inspect the property to gather all information necessary for appraisals such as size, zoning, use, location, quality of construction, depreciation, and market data;

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5. have the ability and aptitude to learn under supervision the appraisal techniques, etc., involved in the appraisal of the more complex types of property.
- (c) Appraiser III -- The Appraiser III must have the ability to make accurate appraisals of all types and classes of real and/or personal property within his jurisdiction. He must be able to effectively supervise and direct the activities of subordinate personnel. The Appraiser III must:
1. successfully complete the appraiser examination set for this level by the State Revenue Commissioner;
 2. be not less than twenty-one (21) years of age;
 3. hold a high school diploma or its equivalent;
 4. be in good physical and mental health and have the ability to meet and relate to the general public effectively;
 5. have the ability to correctly apply the three approaches to valuation in appraising properties within his jurisdiction;
 6. have the ability to organize and direct the activities of subordinate personnel;
 7. have the ability to perform all phases of mass appraisal and revaluation work within his jurisdiction including the ability to develop pricing and valuation schedules for the valuation of all land, improvements and personal property.
- (d) Appraiser IV -- The Appraiser IV supervises the work of subordinate appraisers in the appraisal of rural, residential, commercial and industrial properties for tax assessment purposes. The Appraiser IV must:
1. successfully complete the appraiser examination set for this level by the State Revenue Commissioner;
 2. have a complete knowledge of mass appraisal techniques;
 3. have the ability to direct all phases of revaluation;
 4. have the ability to organize effectively and direct properly the work activities of his subordinate personnel;
 5. have the ability to plan and conduct necessary training programs for subordinate appraisal personnel;

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6. have the ability to direct office procedures and techniques related to the appraisal-assessment process;
 7. be in good physical and mental health and have the ability to meet and relate to the general public and other governmental agencies effectively;
 8. be not less than twenty-one (21) years of age;
 9. be a graduate of an accredited college or university with at least five (5) years of increasingly responsible experience in the appraisal field. Two (2) years of appraisal experience may be substituted for each year of college required.
- (2) All county appraisal staff members must, prior to employment, successfully complete an examination approved by the Revenue Commissioner and designed to test the applicant's knowledge of appraisal techniques on all classes and types of property. These examinations shall be prepared by the Revenue Commissioner and shall be offered in regional locations at least quarterly, the sites and times to be determined by the Revenue Commissioner. The Board of Tax Assessors in each county shall be advised of dates, locations for such exams.
- (3) All county appraisal staff members must successfully complete at least forty (40) hours of approved appraisal courses during each two years of tenure as an appraiser. "Approved appraisal courses" as used herein shall mean:
- (a) courses designed for appraisers and offered regionally by the Revenue Commissioner, or
 - (b) courses offered by the Revenue Commissioner as a part of the annual short course for tax assessors in conjunction with the University of Georgia, or
 - (c) courses offered by and approved by the International Association of Assessing Officers, or
 - (d) courses at least 10 hours in length offered by either the Society of Real Estate Appraisers or the American Institute of Real Estate Appraisers and approved for course work toward the Award for the SRA or MAI designations.

Authority: O.C.G.A. §§ 48-2-12, 48-5-263, 48-5-291.

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Rule 560-11-6-.02 Definitions

For the purposes of implementing O.C.G.A. § 48-5-7.4, O.C.G.A. § 48-5-269 and these regulations, the following terms are defined to mean:

- (a) "Beneficial Interest," in addition to legal ownership or control, means the right to derive any profit, benefit, or advantage by way of a contract, stock ownership or interest in an estate.
- (b) "Contiguous" means real property within a county that abuts, joins, or touches and has the same undivided common ownership. If an applicant's Tract is divided by a public roadway, public easement, public right of way, natural boundary, land lot line, or railroad track, then the applicant has, at the time of the initial application, a one-time election to declare the Tract as Contiguous irrespective of a county boundary, public roadway, public easement, public right of way, natural boundary, land lot line, or railroad track.
- (c) "Primary Purpose or Primary Use" means the principal use to which the property is devoted, as distinct from an incidental, occasional, intermediate or temporary use for some other purpose not detrimental to or in conflict with its Primary Purpose, i.e., the devotion to and utilization of the property for the full time necessary and customary to accommodate the predominant use, e.g. the growing season, the crop cycle or planting to harvest cycle;
- (d) "Qualifying Use" means the Primary Use to which the property is devoted that qualifies the property for current use valuation under O.C.G.A. § 48-5-7.4.
- (e) "Renewal Covenant" means an additional ten (10) year covenant entered upon the expiration of a previous ten (10) year covenant; provided, however, that the owner may enter into a renewal contract in the ninth year of a covenant period.

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- (f) "Tract" means a parcel of property, less Underlying Property excluded from the covenants for residences, that is delineated by legal boundaries, levying authorities tax district boundaries, or other boundaries designated by the tax assessors to facilitate the proper identification of property on their maps and records.
- (g) "Underlying Property" means the minimum lot size required for residential construction by local zoning ordinances or two (2) acres, whichever is less, for which the taxpayer has provided documents which delineate the legal boundaries so as to facilitate the proper identification of such property on the board of tax assessors maps and records.

Authority: O.C.G.A. §§ 48-2-12, 48-5-7.4, 48-5-269.

Rule 560-11-6-.03 Qualification Requirements

In addition to those requirements of O.C.G.A. § 48-5-7.4, the following qualification requirements shall apply:

- (a) Property that otherwise qualifies for current use valuation as bona fide agricultural property shall exclude the entire value of any residence and its Underlying Property. This provision for excluding the Underlying Property of a residence from eligibility in the conservation use covenant shall only apply to property that is first made subject to a covenant or is subject to the renewal of a previous covenant. Additionally, the taxpayer shall provide any one of the following types of legal descriptions regarding such Underlying Property:
 - 1. A plat of the Underlying Property prepared by a licensed land surveyor, showing the location and measured area of the Underlying Property in question;
 - 2. A written legal description of the Underlying Property delineating the legal metes and bounds and measured area of the Underlying Property in question; or
 - 3. Such other alternative property boundary description as mutually agreed upon by the taxpayer and county assessor. An acceptable alternative property boundary description may include a parcel map drawn by the county cartographer or GIS technician.
- (b) The owner of a Tract, lot, or parcel of land totaling less than ten (10) acres, after the appropriate Underlying Property is excluded for residential use, shall be

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required by the tax assessor to submit additional relevant records regarding proof of bona fide conservation use for qualified property that is either first made subject to a covenant or is subject to a renewal of a previous covenant and the following provisions shall apply:

1. If the owner of the subject property provides proof that such owner has filed with the Internal Revenue Service a Schedule E, reporting farm-related income or loss, or a Schedule F, with Form 1040, or, if applicable, a Form 4835, pertaining to such property, the provisions requiring additional relevant records regarding proof of bona fide conservation use shall not apply to such property;
 2. Prior to a denial of eligibility for conservation use assessment, the tax assessor shall conduct and provide proof of a visual on-site inspection of the property; and
 3. The tax assessors shall provide reasonable notice to the property owner before conducting such visual, on-site inspection of the property for the purposes of determining final eligibility.
- (c) No property shall qualify for current use valuation as residential transitional property unless it is devoted to use by a single family and occupied more or less continually by the owner as the primary place of abode and for which the owner is eligible to claim a homestead exemption. The property that otherwise qualifies for current use valuation as residential transitional property shall be limited to the real property consisting of the residential improvement and no more than the contiguous five acres of land.
- (d) In determining whether or not an applicant or the property in question qualifies for current use valuation provided for environmentally sensitive properties, the board of tax assessors shall require the applicant to submit a certification by the Department of Natural Resources as required by O.C.G.A. § 12-2-4(k) that the specific property is environmentally sensitive property as defined by O.C.G.A. § 48-5-7.4. Additionally, the board of tax assessors may require accompanying documentation or information including but not limited to:
1. Evidence of the legal ownership of the property;
 2. Evidence that the past usage of the property demonstrates it has not been developed or significantly altered or otherwise rendered unfit for its natural environmental purpose; and

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3. Evidence that the property has been and will continue to be maintained in its natural condition.
- (e) In determining whether or not an applicant or the property in question qualifies for current use valuation provided for constructed storm-water wetland conservation use properties, the board of tax assessors shall require the applicant to submit a certification by the Department of Natural Resources as required by O.C.G.A. § 12-2-4 that the specific property is constructed storm-water wetlands of the free-water surface type property as defined by O.C.G.A. § 48-5-7.4. Additionally, the board of tax assessors may require accompanying documentation or information including but not limited to:
1. Evidence of the legal ownership of the property;
 2. A plat of the Tract in question prepared by a licensed land surveyor, showing the location and measured area of the Tract;
 3. A certification by a licensed professional engineer that the specific design used for the constructed storm-water wetland was recommended by the engineer as suitable for such site after inspection and investigation; and
 4. Information on the actual cost of constructing and an estimated cost of operating the storm-water wetland, including without limitation a description of all incorporated materials, machinery, and equipment.
- (f) No property shall maintain current use valuation as constructed storm water wetland conservation use property unless the owner of such property files with the board of tax assessors on or before the last day for filing ad valorem tax returns for each tax year for which conservation use valuation is sought an annual inspection report from a licensed professional engineer certifying that as of the date of such report the property is being maintained in a proper state of repair so as to accomplish the objectives for which it was designed.
- (g) No property shall qualify for current use valuation as conservation use property if such valuation would result in any person who has a Beneficial Interest in such property receiving any benefit from current use valuation on more than 2,000 acres in this state in any tax year. Any person so affected shall be entitled to the benefits of current use valuation on no more than 2,000 acres of such land in this state.
- (h) Except as necessary to effect the provisions of the 2,000 acre limitation, a taxing jurisdiction boundary, or to exclude any property which is under a separate covenant as residential transitional property, each covenant must encompass the

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entire Tract of property for which the conservation use valuation is sought. In those instances where inclusion of the total acreage of a Tract would cause the owner to exceed the 2,000 acre limitation, the owner shall be permitted to designate so much of a Contiguous area of the Tract that will equal but not exceed the 2,000 acre limitation.

Authority: O.C.G.A. §§ 48-2-12, 48-5-7, 48-5-7.4, 48-5-269.

Rule 560-11-6-.04 Applications

- (1) All applications for current use assessment shall be made using forms adopted by the commissioner for that purpose. Forms PT-283A, PT-283E, PT-283R, PT-283S and applicable questionnaires are hereby adopted and prescribed for use by the applicant seeking current use assessment. The application shall be filed with the board of tax assessors of the county in which the property is located. A board of tax assessors may not require additional information from an applicant for purposes of determining eligibility of property for current use assessment except as otherwise provided in O.C.G.A. § 48-5-7.4 and these regulations. However, the board of tax assessors must consider any additional information submitted by the applicant in support of their application for current use assessment.
- (2) It shall be the responsibility of the board of tax assessors to delineate the soil types on the tax records of the applicant's property using U.S. Department of Agriculture, Natural Resources Conservation Service soil survey maps.
- (3) Applications for current use valuation provided for environmentally sensitive properties may be filed without certification by the Department of Natural Resources; provided, however, that the specific property is stipulated to be environmentally sensitive. Failure to file such certification with the board of tax assessors within thirty (30) days of the last day for filing the application for current use assessment may result in the application being denied by the board of tax assessors.
- (4) Applications for current use valuation provided for constructed storm-water wetland conservation use properties shall not be certified as meeting the criteria of bona fide constructed storm-water wetlands of the free-water surface type unless an authorized employee or agent of the local governing authority has inspected the site before, during, and after construction of the storm-water wetland to determine that the property is being used for controlling or abating pollution of surface or ground waters of this state by storm-

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water runoff or by otherwise enhancing the water quality of surface or ground waters of this state.

- (5) Withdrawals of applications for current use valuation are not tied to a specific deadline date. Rather, an application for current use valuation may be withdrawn at any time prior to the respective county's issuance of the final tax bills for the digest year in which the application for current use valuation is either first made subject to a covenant, or is subject to a renewal of a previous covenant.
- (6) If a qualified owner has entered into an original bona fide conservation use covenant and subsequently acquires additional qualified property Contiguous to the property in the original covenant, the qualified owner may elect to enter the subsequently acquired qualified property into the original covenant for the remainder of the 10-year period of the original covenant subject to the following provisions:
 - (a) The subsequently acquired qualified property shall be less than fifty (50) acres; and
 - (b) Such subsequently acquired qualified property may not be subject to another existing current use covenant or preferential assessment.
 - (c) For the purpose of establishing the entry date of the original covenant, the assessor shall use the January 1st assessment date of the first year for which the original covenant is in effect.
 - (d) The covenant application for the subsequently acquired qualified property to be added to an existing covenant shall be made for the subsequently acquired qualified property only and shall reference the existing original covenant by parcel number.
 - (e) The original property subject to the original bona fide conservation use covenant and the subsequently acquired qualified property shall be treated as separate parcels on the county tax digest until the expiration of the original bona fide conservation use covenant. Upon the expiration of the original bona fide conservation use covenant, the properties can be merged into a single parcel upon renewal.
- (7) When property receiving current use assessment and subject to a conservation use covenant is transferred to a new owner and the new owner fails to make application for the current use valuation of the current use assessment on or before the deadline for filing tax returns in the year following the year in which the transfer occurred, such failure may be taken by the board of tax assessors as evidence that a breach of the covenant has occurred. In such event, the board of tax assessors shall send to both the transferor and the transferee a notice of the board's intent to assess a penalty for breach of the covenant. The notice shall be

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entitled "Notice of Intent to Assess Penalty for Breach of a Conservation Use Covenant" and shall set forth the following information:

- (a) the requirement of the new owner of the property to make application for the current use valuation of the current use assessment within thirty (30) days of the date of the postmark of the notice;
 - (b) the requirement of the new owner of the property to continuously devote the property to an applicable bona fide Qualifying Use for the duration of the covenant;
 - (c) the change to the assessment if the covenant is breached; and
 - (d) the amount of penalty if the covenant is breached.
- (8) In the event the new owner fails to apply during the period provided for in paragraph (7) of this regulation, such failure may be taken by the board of tax assessors as further evidence the covenant has been breached due to the new owner's lack of qualification or intent not to continuously devote the property to an applicable bona fide Qualifying Use. In such event, the board of tax assessors shall be authorized to declare the covenant in breach and assess a penalty.
- (9) When property receiving current use assessment and subject to a conservation use covenant is transferred to an estate or heirs solely as a result of the death of an owner who was a party to the covenant, the death shall constitute a breach of the entire original covenant but shall not be subject to penalty. The existing covenant shall be terminated and all qualification requirements must be met again before the property shall be eligible for current use assessment.
- (10) All approved applications for current use assessment shall be filed with the clerk of the superior court in the county where the property is located.
- (a) The fee of the clerk of the superior court for recording approved applications shall be paid by the owner of the property with the application for current use assessment.
 - (b) The board of tax assessors shall collect the recording fee from the applicant seeking current use assessment and such recording fee to be in the amount provided for in Article 2 of Chapter 6 of Title 15 and shall be paid to the clerk of the superior court when the application is filed with the clerk.
 - (c) If the application for current use assessment is denied, the board of tax assessors shall notify the applicant in the same manner that notices of assessment are given

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pursuant to O.C.G.A. § 48-5-306 and shall return any filing fee paid by the applicant.

- (11) At such time as property ceases to be eligible for current use assessment, the owner of the property shall file an application for release of current use assessment with the county board of tax assessors.
- (a) The board of tax assessors shall approve the release upon verification that all taxes and penalties have been satisfied.
 - (b) The board of tax assessors shall file the approved release in the office of the clerk of the superior court in the county in which the original covenant for current use assessment was filed. No fee shall be paid to the clerk of the superior court for recording such release.

Authority: O.C.G.A. §§ 48-2-12, 48-5-7, 48-5-7.4, 48-5-269, 48-5-306.

Rule 560-11-6-.05 Change of Qualifying Use

- (1) During the covenant period the owner may change, without penalty, the use of the property from one Qualifying Use to another Qualifying Use, such as from timber land to agricultural land, but such owner shall be required to give notice of any such change to the board of tax assessors on or before the last day for the filing of a tax return in the county for the tax year for which the change is sought. Failure to so notify the board of tax assessors of the change in use may constitute a breach of covenant effective upon the date of discovery of the breach.
- (2) When the Qualifying Use of property receiving current use assessment and subject to a conservation use covenant is changed to another Qualifying Use and the owner fails to notify the board of tax assessors on or before the deadline for filing tax returns in the year following the year in which the change in use occurred, such failure may be taken by the board of tax assessors as evidence that a breach of the covenant has occurred. In such event, the board of tax assessors shall send to the owner a notice of the board's intent to assess a penalty for the breach of the covenant. The notice shall be entitled "Notice of Intent to Assess Penalty for Breach of a Conservation Use Covenant" and shall set forth the following information:

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- (a) the requirement of the owner of the property currently receiving current use assessment to notify the board of tax assessors of the current Qualifying Use of the property within thirty (30) days of the date of the postmark of the notice;
 - (b) the requirement of the owner of the property currently receiving current use assessment to continuously devote the property to an applicable bona fide Qualifying Use for the duration of the covenant;
 - (c) the change to the assessment if the covenant is breached; and
 - (d) the amount of penalty if the covenant is breached.
- (3) In the event the owner fails to respond to the notice provided for in paragraph (2) of this regulation by providing information concerning the change in use of the property to the board of tax assessors, such failure may be taken by the board of tax assessors as further evidence the covenant has been breached due to the owner's lack of response. The board of tax assessors shall be authorized to declare the covenant in breach and assess a penalty.
- (4) In those instances where the property owner has duly notified the tax assessors that the use of the property has been changed from one Qualifying Use to another Qualifying Use, the board of tax assessors shall re-calculate the current use valuation of the property for said tax year in accordance with the valuation standards and tables prescribed by these regulations for the new Qualifying Use. However, the limitation on valuation increases or decreases provided for by O.C.G.A. § 48-5-269 shall be applied to the recomputed valuation as if the owner had originally covenanted the property in the new Qualifying Use.
- (5) In addition to the provisions for property subject to the covenant to lie fallow or idle pursuant to O.C.G.A. § 48-5-7.4(p)(2), allowing conservation use property to lie fallow due to economic or financial hardship shall not be considered a change of Qualifying Use nor a breach of the covenant provided the owner notifies the board of tax assessors on or before the last day for filing a tax return in the county of the land lying fallow and does not allow the land to lie fallow for more than two years within any five (5) year period.

Authority: O.C.G.A. §§ 48-2-12, 48-5-7.4, 48-5-269.

Rule 560-11-6-.06 Breach of Covenant

- (1) If a breach of covenant occurs during a tax year but before the tax rate is established for that year, the penalty for that partially completed year shall be calculated based upon the

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tax rate in effect for the immediately preceding tax year. However, the tax due for the partially completed year shall be the same as would have been due absent a breach.

- (2) If a breach occurs on all or part of the property that was the subject of an original covenant and was transferred in accordance with O.C.G.A. § 48-5-7.4(i), then the breach shall be deemed to have occurred on all of the property that was the subject of the original covenant. The penalty shall be assessed pro rata against each of the parties to the covenant in proportion to the tax benefit enjoyed by each during the life of the original covenant.
- (3) The breach shall be deemed to occur upon the occasion of any event which would otherwise disqualify the property from receiving the benefit of current use valuation. No penalty shall be imposed until the appeal of the board of tax assessors' determination of breach is concluded. After the final determination on appeal, the taxpayer shall be afforded sixty (60) days from issuance of the bill to make full payment. Once the sixty (60) day payment period has expired, the bill shall be considered past due and interest shall accrue from the original billing due date.
- (4) If a covenant is breached by the original covenantor or a transferee who is related to the original covenantor within the fourth degree of civil reckoning, and where such breach occurs during the sixth through tenth years of a Renewal Covenant, the penalty imposed shall be the amount by which current use assessment has reduced taxes otherwise due for each year in which such Renewal Covenant was in effect, plus interest at the rate specified in O.C.G.A. § 48-2-40.
- (5) Before a penalty is assessed, notice shall be provided to the taxpayer by the board of tax assessors that the covenant has been breached. This notice shall include the specific grounds of the breach, provide to the taxpayer notice to cease and desist the alleged breach activity, and notify the taxpayer that they have thirty (30) days as of the date of the postmark of the notice to correct the breach.
- (6) If the board of tax assessors determines that a breach has occurred and the taxpayer has not corrected the situation within the time limit specified, the taxpayer has the right to appeal the determination of the breach to the board of equalization as provided in O.C.G.A. § 48-5-311.

Authority: O.C.G.A. §§ 48-2-12, 48-2-40, 48-5-7.4, 48-5-269.

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Rule 560-11-6-.07 Valuation of Qualified Property

Annually, and in accordance with the provisions and requirements of O.C.G.A. § 48-5-269, the Commissioner shall propose and promulgate by regulation as specified by the Georgia Administrative Procedure Act, tables and standards of value for current use valuation of properties whose Qualifying Use is as bona fide conservation use property. Once adopted by the Commissioner, these tables and standards of value shall be published and otherwise furnished to the boards of tax assessors and shall serve as the basis upon which current use valuation of such qualified properties shall be calculated for the applicable tax year.

- (a) Conservation use land shall be divided into two use groups consisting of nine soil productivity classes each. These two use groups shall be agricultural land (crop land and pasture land) and timber land. The Commissioner shall determine the appropriate soil characteristics or site index factors for each of these eighteen soil productivity classes for use as a guide for the assessors. In those counties where the Soil Conservation Service of the U.S. Department of Agriculture has classified the soil according to its productivity, the Commissioner shall instead prepare and publish a table converting the Soil Conservation Service's codes into the eighteen soil productivity classes.
- (b) The state shall be divided into the following areas for the purpose of accumulating the income and market information necessary to determine conservation use values:
 - 1. For the purpose of determining the income of crop land and pasture land, the state shall be divided into an appropriate grouping of the nine crop-reporting districts as delineated by the Georgia Agricultural Statistical Service and which shall be referred to as agricultural districts;
 - 2. For the purpose of determining the income of timber land, the agricultural districts shall be combined into timber zones as follows: agricultural districts #1, #2 and #3 shall compose timber zone #1, agricultural districts #4, #5 and #6 shall compose timber zone #2, and agricultural districts #7, #8 and #9 shall compose timber zone #3; and
 - 3. For the purpose of determining the market value of agricultural land and timber land, the state shall be divided into an appropriate grouping of the nine crop-reporting districts as delineated by the Georgia Agricultural Statistical Service. Such areas shall be referred to as market regions.

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- (c) Sixty-five percent of the conservation use value shall be attributable to the capitalization of net income from the property and this component of total value shall be determined as follows:
1. For crop land, the income valuation increment of the conservation use valuation shall be based on the five-year weighted average of per-acre net income from those major predominant acreage crops harvested in at least 125 counties of Georgia ("base crops"). In making this calculation, the Commissioner, utilizing the latest information either published or about to be published in the Georgia Department of Agriculture's edition of Georgia Agricultural Facts and the United States Department of Agriculture Economic Research Service's Costs of Production-Major Field Crops, shall:
 - (i) For each year, determine for each of the nine agricultural districts the yield per acre for each of the base crops;
 - (ii) For each year, determine for each of the nine agricultural districts the acres harvested of each of the separate base crops and the total acres harvested of all the base crops;
 - (iii) For each year, determine a state-wide price received per unit of yield for each of the base crops;
 - (iv) For each year, determine a state-wide cost of production consisting of the typical costs incurred in the production of the base crops, including, but not limited to, the reasonable cost of planting, harvesting, overhead, interest on operating loans, insurance and management;
 - (v) For each year, using the determinations herein, compute for each of the nine agricultural districts, the weighted net income per acre by summing the results of the computation of each base crop's net income obtained by multiplying the yield per acre times the percentage of total acreage times the price received and then making a reduction to account for the cost of production; and
 - (vi) Compute for each of the nine agricultural districts, the per acre income valuation by capitalizing the average per acre weighted net income before property taxes, utilizing the rate of capitalization

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provided for in O.C.G.A. § 48-5-269 plus the effective ad valorem tax rate.

2.

- (i) For pasture land, the income valuation increment of the conservation use valuation shall be based on the five (5) year weighted average of per-acre rental rates of pasture property. In making this calculation, the Commissioner, utilizing the latest information available, shall:
- (ii) Compute for each of the nine agricultural districts, the per acre income valuation by capitalizing the average per acre rental rates weighted by the acreage of hay harvested each year utilizing the rate of capitalization provided for in O.C.G.A. § 48-5-269.

3.

- (i) The income valuation derived for crop land and pasture land shall be combined into the income valuation for agricultural land by calculating and applying a weighted average of all crop and pasture acreage in each agricultural district.
- (ii) Using soil productivity data from the Soil Conservation Service of the U.S. Department of Agriculture, determine productivity influence factors by calculating the relationships between the volumes of corn that will grow on the soils contained within each of the nine productivity classes. Apply these factors to the per acre income valuation of agricultural land to determine the income valuations for each of the nine soil productivity classes.

4. For timber land, the income valuation increment of the conservation use valuation shall be based on the five (5) year weighted average of per-acre net income from hardwood and softwood harvested in Georgia. In making this calculation the Commissioner shall:

- (i) For each timber category and zone, determine for the immediately preceding five years for which information is available, the unit prices received by the sellers of standing timber in Georgia from reports received by the Commissioner of actual sales, from

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information furnished by the Georgia Forestry Commission, from commercially prepared publications of average sales prices, or from a combination of these sources;

- (ii) For each timber category and zone, determine the average volumes of the various types of timber harvested annually in Georgia;
- (iii) For each timber category and zone, compute the gross income each year from the harvests of timber by multiplying the unit price for each year times the annual average harvest volumes of each type of timber harvested;
- (iv) For each timber zone, determine the acres of softwood timber land and hardwood timber land;
- (v) For each timber zone, compute the weighted gross income per acre for each year by dividing the gross income from the harvest of softwoods each year by the acreage of softwood timberland; dividing the gross income from the harvest of hardwoods each year by the acreage of hardwood timberland and weighting the two resulting per acre gross incomes by the percentage of acres of softwood and hardwood timberland to total acres of timberland;
- (vi) For each timber zone, determine the costs of production of timber for each year including, but not limited to, the cost of site preparation, planting, seedlings, prescribed burnings, management, marketing costs and ad valorem taxes due on the harvest or sale of timber;
- (vii) For each timber zone, determine the acreages of timberland annually receiving production treatments, i.e. site preparation, planting and burning;
- (viii) For each timber zone, compute the production expenses per acre incurred each year by multiplying the expense by the appropriate factor, i.e. multiply the cost of site preparation per acre by the percentage of acres annually receiving this treatment, multiply the harvest tax millage by the weighted gross income per acre;

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- (ix) For each timber zone, compute the net income per acre for each year by subtracting the production expenses incurred during the year from the weighted gross income per acre for that year;
 - (x) For each timber zone, calculate the per acre income valuation by capitalizing the average per acre net income before property taxes, utilizing the rate of capitalization provided for in O.C.G.A. § 48-5-269 plus the effective ad valorem tax rate; and
 - (xi) Determine productivity influence factors by calculating the relationships between the volumes of Loblolly Pine grown on each of the nine productivity classes of soil and apply these factors to the per acre income valuation for the benchmark land, to determine the income valuations for each of the nine soil productivity classes.
- (d) Thirty-five percent of the conservation use value shall be attributable to values produced by a market study consisting of sales data from arms length bona fide sales of comparable real property with and for the same existing use. In determining this increment of total value, the Commissioner shall:
 - 1. Gather a statistically valid sample of qualified sales of agricultural and timber properties;
 - 2. Calculate a residual land value for each sale in the sample by adjusting the sales price to remove any portion representing value attributable to any component of the sale other than the land; and
 - 3. Utilizing the residual land value sale prices, determine, as far as is practical, the relationships between the average sales price per acre for each of the nine soil productivity classes in each of the market regions.
- (e) Environmentally sensitive properties and constructed storm water wetland conservation use properties shall be classified by the board of tax assessors as being within the timber land use group and shall be valued according to the current use value determined for timber land of the same or similar soil productivity class.
- (f) The current use value for land lying under water, such as ponds, lakes or streams, shall be the value determined for the lowest productivity level of the predominate adjacent land use.

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- (g) Land utilized for an orchard or vineyard shall be classified as crop land. The trees, shrubs or vines shall be considered an improvement to the land and separately valued.
- (h) Current use valuation for qualified bona fide residential transitional property shall be determined annually by the board of tax assessors by the consideration, as applicable, of the current use of such property, its annual productivity, if any, and sales data of comparable real property with and for the same existing use.
- (i) Except as otherwise provided, the total current use valuation for any property, including qualified improvements, whose Qualifying Use is as bona fide conservation use property for any year during the covenant period shall not be increased or decreased by more than three percent from the current use valuation for the immediately preceding tax year or be increased or decreased during the entire covenant period by more than 34.39 percent from its current use valuation for the first year of the covenant period. The limitations imposed herein shall apply to the total value of all the conservation use property that is the subject of an individual covenant including any improvements that meet the qualifications set forth in O.C.G.A. § 48-5-7.4(a)(1); provided, however, that in the event the owner changes the use of any portion of the land, such as from timber land to agricultural land, or adds or removes therefrom any such qualified improvements, the limitations imposed by this subsection shall be recomputed as if the new uses and improvements were in place at the time the covenant was originally entered. This limitation on increases or decreases shall not apply to the current use valuation of residential transitional property.

Authority: O.C.G.A. §§ 48-2-12, 48-5-7, 48-5-7.4, 48-5-269.

Rule 560-11-6-.08 Appeals

- (1) Applications for current use valuation as conservation use property or residential transitional property provided by O.C.G.A. § 48-5-7.4 shall be approved or denied by the county board of tax assessors. If the application is denied, the board of tax assessors shall notify the applicant in the same manner that notices of assessment are given pursuant to O.C.G.A. § 48-5-306. Such notice shall include the following simple non-technical assessment reason in bold font "CONSERVATION USE COVENANT APPLICATION DENIED." Appeals from the denial of an application shall be made in the same manner, according to the same time requirements, and decided in the same manner that other ad valorem tax assessment appeals are made pursuant to O.C.G.A. § 48-5-311.

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- (2) For the first year of the covenant period the taxpayer shall be notified by the board of assessors of the current use valuation placed on the property for that year. Appeals shall be made and decided in the same manner as other ad valorem tax assessment appeals are made and decided pursuant to O.C.G.A. § 48-5-311.
- (3) During the covenant period the taxpayer shall be given notification of any change in the current use valuation made by the board of tax assessors for the then current tax year. Appeals shall be made and decided in the same manner as other ad valorem tax assessment appeals are made and decided pursuant to O.C.G.A. § 48-5-311.
- (4) Appeals regarding the current use valuation of conservation use property under paragraphs (2) and (3) of this regulation may be made contesting the board of tax assessor's initial determination or subsequent change of the Qualifying Use of the property, the soil classification of any part or all of the qualified property, the valuation of any qualified improvements, the assessment ratio utilized with regard to the qualified property; as well as with regard to any alleged errors that may have been made by the assessors in the application of the tables and standards of value prescribed by the Commissioner. An appeal, however, may not be made to the local board of tax assessors concerning the tables or standards of value prescribed by the Commissioner pursuant to Regulation 560-11-6-.09.
- (5) The tax assessors shall continue to notify the taxpayer of any changes to the fair market value of the covenanted property, and such notice shall conform to the provisions of O.C.G.A. § 48-5-306. A taxpayer desiring to appeal such changes shall do so in the same manner as other assessment appeals are made pursuant to O.C.G.A. § 48-5-311.

Authority: O.C.G.A. §§ 48-2-12, 48-5-7.4, 48-5-269, 48-5-306, 48-5-311.

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

- (1) **Personal property identification.** The appraisal staff shall identify personal property, determine its taxability, and classify it for addition to the county ad valorem tax digest in accordance with this paragraph.
- (a) **Distinguishing personal property.** The appraiser shall be required to correctly identify personal property and distinguish it from real property where the proper valuation procedures, as set forth in this Rule, may be followed.
1. Examples. As used in this Chapter, personal property shall be that property defined in Rule 560-11-10-.02(1)(r). This Rule shall provide illustrations to assist the appraiser in the proper interpretation of the definition. However, these illustrations should not be construed in a manner that conflicts with the definition. Examples of personal property are tangible items such as aircraft; boats and motors; inventories of retail stock, finished manufactured or processed goods, goods in process, raw materials and supplies; furniture, personal fixtures, trade fixtures, machinery and equipment.
 2. Identification of trade fixtures. When property the appraiser believes is a trade fixture has not been returned by the tenant, the appraiser shall require the tenant to produce their lease agreement and shall carefully review the agreement before making a recommendation to the board of tax assessors regarding the classification of the property in question. The appraiser shall inform the tenant that they may redact, at their option, any information relating to the payments that are required by the lease agreement.
- (b) **Assessment date.** Code section 48-5-10 provides that each return by a property owner shall be for property held and subject to taxation on January 1 of the tax year. The appraisal staff shall base their decisions regarding the taxability, tax situs, uniform assessment, and valuation of personal property on the circumstances of such property on January 1 of the tax year for which the assessment is being prepared. When personal property is transferred to a new owner or converted to a new use, the circumstances of such property on January 1 shall nevertheless be considered as controlling.
- (c) **Freeport exemptions.**

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1. **Mailing applications.** The appraisal staff shall, by U. S. mail, send a new freeport exemption application to any person, firm or corporation that was approved for freeport exemption by the board of tax assessors for the tax year proceeding the tax year for which the application is to be made. The application provided by the appraisal staff shall be deposited with the local post office no later than the 15th day after the official who is responsible for receiving returns has opened the books for returns. The failure of the appraisal staff to comply with this requirement shall not relieve a person, firm or corporation from the responsibility to timely file a freeport application.
 2. **Reviewing applications.** The appraisal staff shall, upon receipt of a freeport application, reconcile the figures reported on such form to any inventory totals that may have been returned by the property owner. The appraisal staff may obtain relevant information as is available from financial records or other records of the property owner when needed to reconcile the figures reported on the application. Once the appraisal staff has completed the reconciliation of the freeport application, they shall forward the application and their recommendations, along with any supporting documentation, to the board of tax assessors. When the appraisal staff recommends the freeport application be denied, in whole or in part, they shall include the reasons for their recommendation.
- (d) **Tax situs.** The appraisal staff shall inquire into the proper tax situs of personal property before preparing the proposed assessment to ensure that the property owner is made subject to only those taxes that may legally be levied. The tax situs inquiry shall be sufficiently specific to determine whether the property is subject to tax by each of the authorities authorized to levy taxes in the county.
1. **General tax situs.** Unless otherwise provided in subparagraph (d) of this paragraph, the appraisal staff shall consider the tax situs of personal property to be as provided in this subparagraph.
 - (i) **Tax situs of personal property of Georgia residents.** The appraisal staff shall consider the tax situs of personal property owned by a Georgia resident as being the domicile of the owner unless such property has acquired a business situs elsewhere. The appraisal staff shall consider the tax situs of personal property owned by a Georgia resident and used in connection with a business as being the location of the business. In making the determination of

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tax situs, the appraisal staff shall consider such factors as the principal location of the personal property, the base from which its operations normally originate and whether the personal property is connected with some business enterprise that is situated more or less permanently in the county, as distinguished from an enterprise whose location is merely transitory or temporary. When personal property used in connection with a business is moved about in such a manner that it is not predominantly located during the year in one place, the appraisal staff shall consider the headquarters of the business as the tax situs.

- (ii) **Tax situs of personal property of non-residents.** The appraisal staff shall consider the tax situs of personal property owned by non-residents as being where the property is located. The appraisal staff shall recommend to the board of tax assessors a "no tax situs" status for any personal property owned by a nonresident who does not maintain a place of business in Georgia and who gives the personal property to a commercial printer in Georgia for printing services to be performed in Georgia.
- 2. **Tax situs of boats.** In accordance with Code section 48-5-16(d), the appraisal staff shall consider the tax situs of a boat to be the tax district wherein lies the domicile of the owner, even when the boat is located within another tax district in the county. When the boat is functionally located for recreational or convenience purposes for 184 days or more in a county other than where the owner is domiciled, the appraisal staff shall consider the tax situs of the boat to be where it is functionally located.
- 3. **Tax situs of aircraft.** In accordance with Code section 48-5-16(e), the appraisal staff shall consider the tax situs of an aircraft to be the tax district wherein lies the domicile of the owner, even when the aircraft is located within another tax district in the county. When the aircraft's primary home base is in a county other than where the owner is domiciled, the appraisal staff shall consider the tax situs of the aircraft to be where it is principally hangered or tied down and out of which its flights normally originate.
- 4. **Tax situs of foreign merchandise in transit.** The appraisal staff shall recommend to the board of tax assessors a "no tax situs" status for foreign merchandise that is in transit through this state. The recommendation of "no

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

- (e) **Assessments of personal property used on state contracts.** Under Code section 50-17-29(e)(1), the appraisal staff shall not propose an assessment upon the personal property of any contractor or subcontractor as a condition to or result of the performance of a contract, work, or services by such contractor or subcontractor in connection with any project being constructed, repaired, remodeled, enlarged, serviced, or destroyed for, or on behalf of, the state or any of its agencies, boards, bureaus, commissions, and authorities. The appraisal staff shall inquire into the nature of the use of such property and prepare their proposed assessment in accordance with this Subparagraph.
1. **Personal property located in headquarters' county.** When the tax situs of the personal property being used on state projects is in the same county as where the property owner's permanent business headquarters and administrative offices are located, and such property is not used exclusively for the state projects contemplated by Code section 50-17-29(e)(1), the appraisal staff shall not apportion their proposed assessment of the property. When such property is used exclusively for such state projects, such property is made exempt by Code section 50-17-29(e)(1) from ad valorem taxation by the county and the appraisal staff shall treat such property as exempt property is treated.
 2. **Personal property not located in headquarters' county.** When the tax situs of the personal property being used on state projects is in a county other than where the property owner's permanent business headquarters and administrative offices are located, and such property would not be located in the county absent the state projects, then the appraisal staff shall apportion their proposed assessment of such property as follows: The exempt portion of the personal property being used on state projects shall be that pro rata portion of the total value of such property that represents the

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percentage the contractor or subcontractor can reasonably demonstrate is likely to represent the portion of their business that will result from state projects during the tax year. The appraisal staff may consider the percentage of income, production output, or time attributable to state projects during the preceding year. The appraisal staff shall consider any information submitted by the property owner regarding the basis for the apportionment. The appraisal staff shall not apportion the personal property when the property owner fails to provide reasonable evidence necessary to determine the portion of the property owner's business that will result from state projects during the year.

- (f) **Partial assessments.** Unless specifically provided by law and this Rule, the appraisal staff shall not prepare a partial appraisal based on the fact that personal property is owned or used during the year in a manner that would make it exempt part of the year and taxable part of the year.
- (2) **Classification.** The appraisal staff shall classify personal property as provided in Rule 560-11-2-.21 for inclusion in the county tax digest.
- (3) **Return of personal property.** In accordance with Code section 48-5-299(a), the appraisal staff, on behalf of the board of tax assessors, shall investigate diligently and inquire into the property owned in the county for the purpose of ascertaining what real and tangible personal property is subject to taxation in the county and to require the proper return of the property for taxation. The appraisal staff shall make such investigation as may be necessary to determine the value of any property upon which for any reason all taxes due the state or the county have not been paid in full as required by law. In all cases where taxes are assessed against the owner of property, the appraisal staff shall prepare a proposed assessment on the property according to the best information obtainable.
 - (a) **Information sources.** The appraisal staff should develop and maintain information sources for the discovery of unreturned personal property.
 - (b) **Returns.** Property owners shall use Department of Revenue authorized return forms when returning personal property. No other forms shall be provided for this purpose to property owners by the county official responsible for receiving returns unless previously approved in writing by the Revenue Commissioner.
 - 1. **Authorized return forms.** The returns described in this subparagraph shall be authorized for use when returning personal property.

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- (i) **Form PT-50P.** The return form PT-50P, entitled "Business Personal Property Tax Return," may be used for the return of business personal property
 - (ii) **Form PT-50PF.** The return form PT-50PF, entitled "Application for Freeport Exemption," may be used for the application for freeport exemption.
 - (iii) **Form PT-50M.** The return form PT-50M, entitled "Marine Personal Property Tax Return," may be used for the return of boats.
 - (iv) **Form PT-50A.** The return form PT-50A, entitled "Aircraft Personal Property Tax Return," may be used for the return of aircraft.
- 2. **Obtaining returns from receiver.** Each year, after the deadline for filing returns, the appraisal staff shall secure the returns from the official responsible for receiving returns on or before the tenth day following such deadline.
- 3. **Automatic returns.** In accordance with Code section 48-5-20, the appraisal staff shall deem any property owner that does not file a return by the deadline as returning for taxation the same property as was returned or deemed to have been returned in the preceding tax year at the same valuation as the property was finally determined to be subject to taxation in the preceding year.
- (c) **Reporting schedules.** Property owners shall use Department of Revenue authorized reporting schedules when reporting supporting information for authorized return forms. No other reporting schedules shall be provided for this purpose to property owners by the county official responsible for reviewing returns unless previously approved in writing by the Revenue Commissioner. A property owner may attach other schedules or documents that provide further support for the value they have placed on their personal property return. The appraisal staff shall consider all additional information submitted by the property owner with the return and reporting schedules. The reporting schedules required by Rule 560-11-10-.08(3)(c) and appropriate for the type of personal property being returned and any other information submitted with the return by the property owner are made confidential by Code section 48-5-314 and shall be treated as such by the appraisal staff. The appraisal staff shall not consider as fully returned any property that is omitted, misrepresented, or undervalued on the supporting reporting schedules and accompanying property owner documents, as these provide the basis for the

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

1. **Authorized reporting schedules.** The reporting schedules described in this subparagraph shall be authorized for use when reporting information to support the return of personal property.
 - (i) **Schedule A.** The reporting schedule entitled "Schedule A" may be used to list and describe any furniture, trade fixtures, personal fixtures, machinery and equipment that is included on the property owner's return.
 - (ii) **Schedule B.** The reporting schedule entitled "Schedule B" may be used to list and describe any inventory that is included on the property owner's return.
 - (iii) **Schedule C.** The reporting schedule entitled "Schedule C" may be used to list and describe any construction in progress that is included on the property owner's return.
 - (iv) **Schedule D.** The reporting schedule entitled "Schedule D" may be used to list and describe any boats that are included on the property owner's return.
 - (v) **Schedule E.** The reporting schedule entitled "Schedule E" may be used to list and describe any aircraft that are included on the property owner's return.
- (4) **Verification.** The appraisal staff shall review and audit the returns in accordance with policies and procedures set by the county board of tax assessors consistent with Georgia law and this Rule.
 - (a) **Omissions and undervaluations.** If not otherwise prohibited by law or this Rule, the appraisal staff shall recommend an additional assessment to the board of tax assessors when any review or audit reveals that a property owner has omitted from their return any property that should be returned or has failed to return any of their property at its fair market value. The appraisal staff shall recommend a reduced

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assessment to the board of tax assessors when any review or audit reveals that a property owner has overstated the amount of personal property subject to taxation.

- (b) **Reassessments.** The appraisal staff shall recommend to the board of tax assessors a new assessment when the property owner has omitted personal property from their return or failed to return personal property at its fair market value, when such omission or undervaluation has been discovered by an audit conducted pursuant to Rule 560-11-10-.08(4)(d). The appraisal staff shall not be precluded from conducting such an audit merely because a change of assessment has been made on the personal property as a result of a review conducted pursuant to Rule 560-11-10-.08(4)(c). However, the appraisal staff may not recommend to the board of tax assessors a reassessment of the same personal property for which an audit has been conducted pursuant to Rule 560-11-10-.08(4)(d) and a final assessment has already been made by the board.
- (c) **Review.** The purpose of a review is to determine if a property owner has correctly and fully completed their return and reporting schedules. It is based upon the good-faith disclosures of the property owner and information that is readily ascertainable by the appraisal staff. The review of an owner's return may consist of, but is not limited to, an analysis of any improper omissions or inclusions, improperly applied or omitted depreciation, and improperly applied or omitted inflation or deflation of the value of the owner's property. The examination should include a comparison of the current return information with return information from prior years. The appraiser should contact the owner or their agent by an on-site visit, telephone call, or written correspondence to attempt to resolve any questionable items. Returns with unresolved discrepancies, unexpected values, or incomplete information should be escalated to an audit.
- (d) **Audits.** The purpose of an audit is to gather information that will allow the appraiser to make an accurate determination of the fair market value of the property owned by the property owner and subject to taxation. An audit is an examination of the records of the property owner to make an independent determination of the fair market value of such property where such determination does not solely depend upon the good faith disclosures of the property owner and information that is readily ascertainable by the appraisal staff. The appraisal staff shall perform, consistent with Georgia Law and policies that are established by the board of tax assessors, audits of the records of the property owners to verify the returns of personal property. These audits may take place at any time within the three -year statute of limitations, which begins on the date the personal property was required by law to be returned.

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1. **Scope of audit.** The audit may be an advanced desk audit of certain additional property owner records that are voluntarily submitted or obtained by subpoena from the property owner or a complex on-site detailed audit of the property owner's books and records combined with a physical inspection of the personal property. The documents the appraisal staff should secure include, but are not limited to, schedules and authorized reporting forms; a balance sheet or other type of financial record that for a particular location reflects the business' book value as of January 1 of the tax year being audited; a ledger of capitalized personal property items held on January 1 of the tax year being audited; and an income statement.
 - (i) **Use of subpoena.** The appraiser should request that the board of tax assessors subpoena, within the limitations of their subpoena powers, any existing documents the property owner fails to provide voluntarily, when these documents are deemed by the appraiser to be critical to the audit. Since the appraiser may not request a subpoena for documents that do not presently exist in the format needed, the appraiser should seek existing documents held by the property owner and solicit the owner's voluntary cooperation in obtaining these documents.
2. **Contracts with auditing specialists.** The appraiser shall secure non-disclosure statements from any contracted audit specialist to ensure that such specialist shall conform with the confidentiality provisions of Code section 48-5-314 and shall not disclose the property owner's confidential records to unauthorized persons or use such confidential records for purposes other than the county's review for ad valorem tax purposes of the tax return and supporting documentation. The appraisal staff shall provide a copy of such non-disclosure statement to the property owner upon such owner's request. The appraiser shall not recommend to the board of tax assessors any contract or agreement with an audit specialist that provides for such specialist to contingently share a percentage of the tax collected as a result of any audits such specialist may perform.
 - (i) **Notice to property owner.** The lead appraiser shall ensure that the property owner is sent a notice that they have been selected for an audit of their personal property holdings for ad valorem tax purposes. The notice shall, at a minimum, indicate the following: the purposes and goals of the audit and the law authorizing the audit;

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the name of the lead appraiser who is primarily responsible for the conduct of the audit; the names of the members of the audit team who will be performing the audit; the number of years that will be audited; a description of the type records that should be made available; a description of how the audit will be conducted; the range of dates desired for the audit; and the contact information, should the property owner wish to contact the lead appraiser. The notice shall contain a statement that the lead appraiser will be contacting the property owner by telephone to establish the date and time of the audit and to determine the availability and location of records. At the conclusion of the audit, if there is sufficient evidence to warrant a recommended change of assessment, the lead appraiser shall have prepared a list of preliminary audit findings and provide such list to the property owner to afford them an opportunity to meet and discuss the findings and view any supporting schedules and documents relied upon by the individuals conducting the audit. After any such meeting requested by the property owner, the lead appraiser shall have prepared the final audit report and proposed assessment and provide a copy to the property owner and the board of tax assessors.

- (e) **Audit selection criteria.** The appraisal staff shall recommend to the board of tax assessors a review and audit selection criteria, and the appraisal staff shall follow such criteria when adopted by the board. The criteria should be designed to maximize the number of personal property returns that may be reviewed or audited with existing resources. The criteria should be fair, unbiased, and developed consistent with the requirements of Code section 48-5-299. All personal property accounts should be reviewed or audited at least once every three years.
- (f) **Property owner records.** The appraisal staff should first endeavor to obtain the records necessary to substantiate the information returned or reported by the property owner through the voluntary cooperation of the property owner. When such voluntary cooperation is not forthcoming, and the records requested from the property owner are believed by the appraiser to be critical for the proper appraisal of the personal property, the appraiser may request that the board of tax assessors issue an appropriate subpoena for such records. The appraiser may request that the board of tax assessors issue an appropriate subpoena for the testimony of any

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individuals the appraiser believes possesses knowledge critical to the determination of the fair market value of the property owner's personal property.

1. **Record types.** The types of records for which the appraisal staff may request subpoenas include, but are not limited to, the following: chart of accounts, general ledger, detailed subsidiary ledgers, journals of original entry, balance sheet, income statement, annual report, Securities Exchange Commission Form 10K. The types of records the appraisal staff may not request the board of tax assessors to issue subpoenas for include the following:
 - (i) **Income tax returns.** Forms and schedules authorized by the Internal Revenue Service or the revenue collecting agencies of the several states for use in filing income tax returns to those agencies;
 - (ii) **Property appraisals.** A property appraisal that the property owner has obtained prior to any appeal that is filed as a result of a change of assessment being made to the property owner's personal property;
 - (iii) **Insurance policies.** An insurance policy that may contain valuation estimates of the insured personal property; or
 - (iv) **Tenant sales information.** A rent roll or document containing the individual tenant sales information on the property owner's rented or leased personal property.
- (5) **Valuation procedures.** The appraisal staff shall follow the provisions of this paragraph when performing their appraisals. Irrespective of the valuation approach used, the final results of any appraisal of personal property by the appraisal staff shall in all instances conform to the definition of fair market value in Code section 48-5-2 and this Rule.
 - (a) **General procedures.** The appraisal staff shall consider the sales comparison, cost, and income approaches in the appraisal of personal property. The degree of dependence on any one approach will change with the availability of reliable data and the type of property being appraised.
 1. **Information presented by property owner.** The appraisal staff shall consider any timely information presented by the property owner that may have reasonable relevance to the appraisal of the owner's personal property. The appraisal staff shall consider the effect of any factors discovered during the review or audit of the return or directly presented by the property owner

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that may reduce the value of the owner's personal property, including, but not limited to all forms of depreciation, shrinkage, theft and damage.

2. **Selection of approach.** With respect to machinery, equipment, personal fixtures, and trade fixtures, the appraisal staff shall use the sales comparison approach to arrive at the fair market value when there is a ready market for such property. When no ready market exists, the appraiser shall next determine a basic cost approach value. When the appraiser determines that the basic cost approach value does not adequately reflect the physical deterioration, functional or economic obsolescence, or otherwise is not representative of fair market value, they shall apply the approach or combination of approaches to value that, in their judgment, results in the best estimate of fair market value. All adjustments to the basic cost approach shall be documented to the board of tax assessors.
 3. **Rounding.** The appraisal staff may express the final fair market value estimate to the board of tax assessors in numbers that are rounded to the nearest hundred dollars.
- (b) **Special procedures.** The appraisal staff shall observe the procedures in this Subparagraph when appraising inventory and construction in process.
1. **Valuation of inventory.** When appraising inventory, the appraisal staff shall consider the value of inventory to consist of all the charges incurred from its original state as raw material to its final resting place for ultimate consumption, including such items as freight and other overhead charges, with the exception of the cost of the final sale. The appraisal staff shall also consider factors contributing to any loss of value including, but not limited to, obsolescence, shrinkage, theft and damage.
 2. **Construction in progress.** Property owners who are constructing or installing a large piece or line of production equipment may be required by generally accepted accounting principles to accrue the total costs associated with such equipment in a holding account until the construction or installation is complete and the equipment is ready for production, at which time, the property owner is permitted by such principles to post the total cost to a fixed asset account, taking appropriate depreciation. If such holding account is maintained by the property owner, the appraisal staff shall consider the total cost reported in the property owner's holding account when appraising such property. Construction in progress shall be appraised in the same manner as other similar personal property, taking into account

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that there may be little or no physical deterioration on such property and that the fair market value may be diminished due to the incomplete state of construction. If comparable sales information of personal property under construction is generally not available and there is no other specific evidence to measure the probable loss of value if the property is sold in an incomplete state of construction, the appraisal staff may multiply the identified total cost of construction by a uniform market risk factor of .75.

3. **Overhauls.** When appraising machinery, equipment, furniture, personal fixtures, and trade fixtures, the appraisal staff shall consider the cost of all expenditures, both direct and indirect, relating to any efforts to overhaul an asset to modernize, rebuild, or otherwise extend the useful life of such asset. The following procedure is to be used by the appraisal staff to estimate the value of an overhauled asset. An adjustment to the original cost of the asset is made to reflect the cost of the components that have been replaced. The cost of the overhaul is divided by an index factor representing the accumulated inflation or deflation from the year of acquisition of the asset on which the overhaul was performed to the year of the overhaul. This amount is then subtracted from the original cost of the asset being overhauled. The remainder is then multiplied by the composite conversion factor for the year of the original acquisition as specified in Rule 560-11-10-.10. The current year's composite conversion factor is then applied to the cost of the overhaul, and these two figures are combined to represent the estimate of value for the overhauled asset.
- (c) **Level of trade.** The appraisal staff shall recognize three distinct levels of trade: the manufacturing level, the wholesale level, and the retail level. The appraiser shall take into account the incremental costs that are added to a product as it advances from one level to another that may increase its value as a final product. The appraisal staff shall value the property at its level of trade.
- (d) **Ready markets.** When the appraiser lacks sufficient evidence to demonstrate the existence of a ready market, he or she shall consider any evidence submitted by the property owner demonstrating that a ready market is available. When the property owner cannot prove the existence of a reliable ready market, the appraiser may use other valuation approaches as authorized by law and Rule 560-11-10-.08(5).
1. **Liquidation sales.** The appraisal staff should recognize that those liquidation sales that do not represent the way personal property is normally bought and sold may not be representative of a ready market. For such sales, the appraisal staff should consider the structure of the sale, its participants,

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the purchasers, and other salient facts surrounding the sale. After considering this information, the appraisal staff may disregard a sale in its entirety, adjust it to the appropriate level of trade, or accept it at face value.

- (e) **Sales comparison approach.** The sales comparison approach uses the sales of comparable properties to estimate the value of the subject property being appraised.
1. **Widely used pricing guides.** The appraisal staff should make a reasonable effort to obtain and use generally accepted pricing guides that are published and widely used within the market. When using such a guide to estimate the comparative sales approach value, the appraiser shall begin with the listed retail price and then make any value adjustments as provided in the guide instructions, based on the best information available about the subject property being appraised.
 2. **Lesser-known pricing guides.** The property owner may submit, and the appraisal staff shall consider, lesser known publications, periodicals and price lists of the specific types of personal property being returned. Such lists should be regularly consulted by buyers of the type of personal property reported, and should list prices at which sellers, who regularly deal in the types of property reported, typically offer such property for sale.
 - (i) **Validation of lesser pricing guides.** In all cases where unpublished, unrecognized, or unverified sales data are submitted by the property owner, the steps the appraiser may take to validate such data include, but are not limited to, the following:
 - (I) **Arm's length transactions.** as defined in OCGA 48-5-2(.1): "'Arm's length, bona fide sale' means a transaction which has occurred in good faith without fraud or deceit carried out by unrelated or unaffiliated parties, as by a willing buyer and a willing seller, each acting in his or her own self-interest, including but not limited to a distress sale, short sale, bank sale, or sale at public auction." Transactions where the lien holder receives or repossesses the property and deed under power of sale transactions are not to be applied as an arm's length transaction.
 - (II) **Representativeness.** Verify that the sales data submitted is either all-inclusive or has been randomly selected, so as to

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be unbiased and fairly represent the market for the personal property being appraised. This may be accomplished by contacting known dealers of the subject personal property to determine whether other significant market data exists that supports the data submitted by the property owner.

- (III) **Financing.** Adjust the sale price of the subject property for non-conventional financing.
 - (IV) **Time of sale.** Adjust the sale price of the subject property for the date of sale in order to estimate the value as of the January 1 assessment date.
 - (V) **Discounts.** Adjust the sale price to remove trade and cash discounts.
 - (VI) **Comparability.** Adjust the sale price of the subject property for characteristics of the subject not found in the sales to which it is being compared, such as condition, use, and extra or missing features.
3. **Other factors.** To finalize the sales comparison approach, the appraiser shall consider any other factors appropriate to the approach which may affect the value. When the comparative sales approach is used as the basis for the appraisal of personal property, the appraiser shall not make further adjustments to the value to reflect economic obsolescence, functional obsolescence, or inflation.
- (f) **Cost approach.** The cost approach arrives at an estimate of value by taking the replacement or reproduction cost of the personal property and then reducing this cost to allow for physical deterioration, functional and economic obsolescence.
- 1. **General procedure.** In applying the cost approach to personal property during a review or audit of a return, the appraiser shall identify the year acquired, and total acquisition costs, including installation, freight, taxes, and fees. The acquisition costs shall then be adjusted for inflation and deflation and then depreciated as appropriate to reflect current market values.
 - 2. **Book value.** The appraiser should recognize that the appraisal and accounting practices for depreciating personal property might differ.

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Accounting practices provide for recovery of the cost of an asset, whereas appraisal practices strive to estimate the fair market value related to the current market. The appraiser should consider depreciation in the forms of physical deterioration, functional obsolescence, and economic obsolescence, which may not necessarily be reflected in the book value. The appraiser should consider that accounting practices of property owners might also differ.

3. **Valuation as a whole.** The appraiser may arrange the individual items of personal property into groups with similar valuation characteristics and value such group as a whole when the itemized appraisals of each item of personal property will not add substantially to the accuracy of the determination of the cost approach value.
4. **Basic cost approach.** The appraisal staff shall determine the basic cost approach value of machinery, equipment, furniture, personal fixtures, and trade fixtures using the following uniform four-step valuation procedures: Determine the original cost new of the item of personal property to the property owner; determine the uniform economic life group for the item of personal property; and multiply the original cost new times the uniform composite conversion factor appropriate for the economic life group and actual age of the item of personal property. Then determine a salvage value of any item of personal property when it is taken out of use at the end of its expected economic life.
 - (i) **Original cost new.** The appraisal staff shall determine the original cost new of the item of machinery, equipment, furniture, personal fixtures, and trade fixtures. Any real improvements to the real property, including real fixtures that had to be installed for the proper operation of the property, shall be included in the appraisal of the real property and not included in the basic cost approach value of the personal property. Those portions of transportation costs and installation costs that do not represent normal and customary costs for the type of personal property being appraised shall be excluded from the original cost new when determining the basic cost approach value.
 - (ii) **Economic life groups.** When determining the basic cost approach value of machinery, equipment, furniture, personal fixtures, and trade fixtures, the appraisal staff shall separate the individual items

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of property into four economic life groupings that most reasonably reflect the normal economic life of such property as specified in this subparagraph. The appraiser shall use Table B-1 and B-2 of the current Publication 946 of the U.S. Treasury Department Internal Revenue Service, to classify the individual asset into the appropriate economic life group. For property that does not appear in such publication, the appraisal staff may determine the appropriate economic life group based on the best information available, including, but not limited to, the property owner's history of purchases and disposals.

- (I) **Group I.** The appraisal staff shall place into Group I any assets that have a typical economic life between five and seven years.
 - (II) **Group II.** The appraisal staff shall place into Group II any assets that have a typical economic life between eight and twelve years.
 - (III) **Group III.** The appraisal staff shall place into Group III any assets that have a typical economic life of thirteen years or more.
 - (IV) **Group IV.** The appraisal staff shall place into Group IV any assets that have a typical economic life of four years or less. The appraisal staff shall also place into Group IV those assets classified as Asset Class 00.12 in Publication 946 of the U.S. Treasury Internal Revenue Service, Table B-1.
- (iii) **Composite conversion factors.** The appraisal staff shall, in accordance with this Rule, use the composite conversion factors as provided in Rule 560-11-10-.10 and apply the appropriate factor to the original cost new of personal property to arrive at the basic cost approach value.
- (iv) **Basic cost approach value.** The basic cost approach value shall be determined by multiplying the composite conversion factor times

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the original cost new of operating machinery, equipment, furniture, personal fixtures, and trade fixtures.

- (v) **Salvage value.** Once personal property is taken out of service at or after the end of its typical economic life, it shall be considered salvage until disposed of and the appraiser shall determine a basic cost approach value by taking ten percent of the original cost new of such property. The basic cost approach value for property withdrawn from active use but retained as backup equipment shall be one-half the basic cost approach value otherwise applicable for such property.

5. Further depreciation to basic cost approach value.

- (i) **Physical deterioration.** The appraiser shall consider any evidence presented by the property owner demonstrating physical deterioration that is unusual for the type of personal property being appraised.
 - (ii) **Functional obsolescence.** The appraisal staff shall consider any evidence presented by the property owner demonstrating functional obsolescence for the type of personal property being appraised. One method the appraisal staff may use to determine the amount of functional obsolescence is to trend the original cost new for inflation to arrive at the reproduction cost new, and then deduct the cost of a newer replacement model with similar or improved functionality.
 - (iii) **Economic obsolescence.** The appraisal staff shall consider any evidence presented by the property owner demonstrating economic obsolescence for the type of personal property being appraised. One method the appraisal staff may use to determine the amount of economic obsolescence is to capitalize the difference between the economic rent of an item of personal property before and after the occurrence of the adverse economic influence.
- (g) **Income approach.** The income approach to value estimates the value of personal property by determining the current value of the projected income stream. This approach is most applicable to machinery, equipment, furniture, personal fixtures, and trade fixtures. The approach should only consider the income directly

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attributable to the personal property being valued and not the income attributable to the real or intangible personal property forming the same business. The appraisal staff may use one of the following methods when using the income approach for the appraisal of applicable personal property:

1. **Straight-line capitalization method.** The straight-line capitalization method estimates the income approach value of personal property by computing the investment necessary to produce the net income attributable to the personal property. In essence, it is determined by first computing the potential gross income for a subject property by taking the monthly rent, when that is the rental basis, and multiplying that total by twelve months. The potential gross income is then adjusted to a net operating income by subtracting any expenses that legitimately represent the costs necessary for production of that income. The net operating income will represent the amount of revenue left after operating expenses that is available to return the investment, pay property tax on the property, and return a profit to the owner.
 - (i) **Income and expense analysis.** While complete data is not required on each individual property, there must be sufficient data to develop typical unit rents, typical collection loss ratios, and typical expense ratios for various type properties. Income and expense figures used in the income approach must reflect current market conditions and typical management. Actual figures may be used when they meet this criterion. When actual figures are not available or appear to be unrepresentative, typical figures should be used. Income and expense analysis builds upon the following important components: typical unit rent, potential gross rent, collection loss, typical gross income, typical expenses, and typical net income. Excluded are expenses such as depreciation charges, debt service, income taxes, and business expenses not associated with the property.
 - (ii) **Capitalization.** Capitalization involves the conversion of typical net income into an estimate of value. The estimated income is divided by the capitalization rate to arrive at the estimated income approach value. The capitalization rate consists of three components: the discount rate, the recapture rate, and the effective tax rate. The discount rate represents the amount of return a prudent investor could reasonably expect on an investment in the subject

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property. The recapture rate represents the return of the potential investment. The effective tax rate represents the portion of the income stream allocated to pay resulting ad valorem taxes on the property.

- (I) **Discount rate.** The appraiser should calculate the appropriate discount rate through a method known as the band of investment. The band of investment represents the weighted-average cost of the money needed to purchase the applicable personal property. The appraiser determines the percentage of the cost typically borrowed and multiplies this percentage times the typical cost of borrowing. The appraiser then determines the remaining percentage of the cost typically contributed by an investor and multiplies this percentage times the expected rate of return to the investor. An analysis of similar properties might reveal the discount rate typical for a property of a given type.
 - (II) **Recapture rate.** The appraiser should calculate the recapture rate by dividing one by the number of years remaining in the economic life of the subject property. The resulting percentage is the current year's recapture rate.
 - (III) **Effective tax rate.** The appraiser should calculate the effective tax rate by multiplying the forty percent assessment level times the tax rate in the jurisdiction in which the subject property is located. The effective tax rate is included in the capitalization rate because market value is yet unknown and property taxes can be addressed as a percentage of that unknown value in lieu of their inclusion as an expense in calculation of net annual income.
2. **Direct sales analysis method.** The direct sales analysis method estimates the income approach value of personal property by computing the relationship between income and sales data. This relationship is expressed as a factor. The method represents a blend of the sales comparison and income approaches because it involves application of income data in conjunction with sales data. Sales of items similar to the subject property

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are divided by the gross rents, for which they or identical properties are leased, to develop gross income multipliers. A gross income multiplier is selected as typical for the market, and multiplied against the gross income of the subject, or that of an identical property, to result in an estimated value. Limiting the income to rental income only produces a gross rental multiplier.

- (i) **Gross income or rent multiplier.** The appraiser should compute the gross income multiplier by dividing the typical gross income on the personal property by the typical sales price of the personal property. The appraiser should compute the gross rent multiplier by dividing the typical gross rent on the personal property by the typical sales price of the personal property. The appraiser must identify the specific item of personal property to be valued and determine the typical gross income as gross income is determined in Rule 560-11-10-.08(5)(g)(1)(i). The item is then stratified according to its typical use. Typical use strata may include, but are not limited to, office equipment, light-duty manufacturing equipment, heavy-duty manufacturing equipment, retail sales equipment, furniture, personal fixtures, trade fixtures, restaurant equipment, or any other stratum the appraiser believes will have similar sensitivity to market fluctuations as the subject item. The appraiser may develop an individual multiplier on a single item of personal property when there are sufficient sales and rent information. This multiplier may then be used for similar items of personal property for which there may be limited sales and rent information. The income approach value estimate is computed by multiplying the estimated gross income times the gross income multiplier or the gross rent times the gross rent multiplier.
- (I) **Adjustments.** Income data and sales prices used in the development of income multipliers should be reasonably current. Older sales may be matched against recent income figures when the sales are adjusted for time. Sales must also be adjusted for financing, condition, optional equipment, and level-of-trade.

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- (6) **Final estimate of fair market value.** After completing all calculations, considering the information supplied by the property owner, and considering the reliability of sales, cost, income and expense information, the appraiser will correlate any values indicated by those approaches to value that are deemed to have been appropriate for the subject property and form their opinion of the fair market value. The appraisal staff shall present the resulting proposed assessment, along with all supporting documentation, to the board of tax assessors for an assessment to be made by that board.

Authority: O.C.G.A. §§ 48-2-12, 48-5-2, 48-5-5, 48-5-10, 48-5-11, 48-5-12, 48-5-16, 48-5-18, 48-5-20, 48-5-105, 48-5-105.1, 48-5-264, 48-5-269, 48-5-269.1, 48-5-291, 48-5-292, 48-5-295, 48-5-299, 48-5-300, 48-5-314, 50-17-29.

Rule 560-11-10-.10. Table of Composite Conversion Factors

- (1) Commencing with the 2025 calendar year, appraisal staff shall use the composite conversion factors as provided in this subparagraph and apply the appropriate factor to the original cost new of personal property to arrive at the basic cost approach value. The last composite conversion factor in each economic life group shall not be trended and shall represent the residual value. Such values shall be updated periodically at the discretion of the Department.
- (a) Group I composite conversion factors. The following composite conversion factors shall be applied to Group I assets: Y1-.84, Y2-.68, Y3-.60, Y4-.43, Y5-.22, Y6-.20. Thereafter the residual composite conversion factor shall be .15.
 - (b) Group II composite conversion factors. The following composite conversion factors shall be applied to Group II assets: Y1-.91, Y2-.82, Y3-.80, Y4-.78, Y5-.66, Y6-.54, Y7-.42, Y8-.29, Y9-.21. Thereafter the residual composite conversion factor shall be .15.
 - (c) Group III composite conversion factors. The following composite conversion factors shall be applied to Group III assets: Y1-.95, Y2-.90, Y3-.89, Y4-.87, Y5-.86, Y6-.84, Y7-.83, Y8-.76, Y9-.67, Y10-.59, Y11-.51, Y12-.43, Y13-.36, Y14-.28, Y15-.23. Thereafter the residual composite conversion factor shall be .15.
 - (d) Group IV composite conversion factors. The following composite conversion factors shall be applied to Group IV assets: Y1-.76, Y2-.51, Y3-.30. Thereafter the residual composite conversion factor shall be .10.

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Authority: O.C.G.A. §§ 48-2-12, 48-5-269, 48-5-269.1.

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Rule 560-11-11-.01 Definitions

- (1) As used in this Regulatory Chapter, the term:
- (a) "Application" shall mean the application for QFLP designation, which includes a three part form consisting of: Section A - Application; Section B - Questionnaire; and Section C - Covenant. All three parts of the application shall be completed by the applicant seeking the QFLP designation and recorded by the Local Board of Tax Assessors upon approval.
 - (b) "Contiguous" shall mean real property within a county that abuts, joins, or touches and has the same undivided common ownership.
 - 1. If an applicant's tract is divided by a county boundary, public roadway, public easement, public right-of-way, natural boundary, land lot line or railroad track then the applicant has, at the time of the initial Application, a one-time election to declare the tract as Contiguous irrespective of a county boundary, public roadway, public easement, public right-of-way, natural boundary, land lot line or railroad track.
 - (c) "Department" shall mean the Georgia Department of Revenue.
 - (d) "Entity Registered to Do Business in This State" shall mean any firm, partnership, cooperative, nonprofit membership corporation, joint venture, association, company, corporation, agency, syndicate, estate, trust, business trust, receiver, fiduciary, or other group or combination acting as a unit, body politic, or political

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subdivision, whether public, private, or quasi-public that is registered to do business with the Secretary of the State of Georgia or that has been created by a court.

- (e) "FLPA" shall mean the Georgia Forest Land Protection Act of 2008 as codified in O.C.G.A. § 48-5-7.7.
- (f) "Forest Land" shall mean the timbered area of a tract of land as determined by the Local Board of Tax Assessors.
- (g) "Local Board of Tax Assessors" shall mean the local board of tax assessors in any county where the Application is filed and the real property is located.
- (h) "Notice of Breach" shall mean the notice sent by the Local Board of Tax Assessors in the county where the breach has occurred.
- (i) "Permissible Breach" shall mean a breach enumerated in O.C.G.A. § 48-5-7.7(p), which will serve to terminate the QFLP Covenant. However, the breaching party is not subject to penalties and interest.
- (j) "Plat" shall mean a legible drawing done on, at a minimum, 8 ½ x 11 20lb paper sufficiently delineating the boundaries of the tract of real property for which QFLP designation is sought.
 - 1. All Plats shall be drawn with the top of the page being north.
- (k) "QFLP" shall mean Qualified Forest Land Property that shall consist of 200 acres or more in aggregate which lies within one or more counties, provided such Forest Land is in parcels of at least 100 acres within any given county, of which one-half or more of the area of each parcel is used for a qualifying purpose and
 - 1. That meets the qualifications set forth in FLPA;
 - 2. That has been approved by the Local Board of Tax Assessors; and
 - 3. For which a QFLP Covenant has:
 - (i) Been signed on behalf, or by all parties owning an undivided interest in the fee simple tract; and
 - (ii) Had all pages recorded in any appropriate county's real property index.
- (l) "QFLP Covenant" shall mean fifteen (15) years for all covenants approved which began prior to January 1, 2019, and ten (10) years for all covenants which began

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January 1, 2019, or later, as required by O.C.G.A. § 48-5-7.7. The form of the covenant shall be in the manner prescribed by the Commissioner.

- (m) "Qualified Owner" means any individual or individuals or any Entity Registered to Do Business in This State.
- (n) "Secondary Use" shall mean secondary uses of the tract as specified in FLPA as determined by the Local Board of Tax Assessors.
- (o) "Underlying Property" means the minimum lot size required for residential construction by local zoning ordinances or two acres, whichever is less, for which the taxpayer has provided documents which delineate the property boundaries so as to facilitate the proper identification of such property on the Application and the Local Board of Tax Assessors maps and records.

Authority: O.C.G.A. §§ 48-2-12, 48-5-7, 48-5-7.7, 48-5-271.

Rule 560-11-11-.02 Withdrawing a QFLP Application

- (1) Withdrawals for QFLP are not tied to a specific deadline date. Rather, an Application may be withdrawn at any time prior to the respective county's issuance of the final tax bills for the digest year in which the Application is either first made subject to a covenant, or is subject to a renewal of a previous covenant.
- (2) The notification for withdrawing the Application shall be considered received by the Local Board of Tax Assessors when hand delivered or when date stamped by the United States Postal Service.

Authority: O.C.G.A. §§ 48-2-12, 48-5-7.7.

Rule 560-11-11-.03 QFLP Qualifications

- (1) The Local Board of Tax Assessors shall be responsible for approving all Applications. Applications made by applicants that do not constitute Qualified Owners will be denied.
- (2) Real property for which QFLP designation is sought shall meet all requirements as set forth in O.C.G.A. § 48-5-7.7 and:

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- (a) At least one-half of area of the applicant's tract of real property for which QFLP designation is sought must be used for a Qualifying Purpose as set forth in O.C.G.A. § 48-5-7.7, and Department regulations;
 - (b) The portion of the tract not being used for a Qualifying Purpose must not be used for any other type of business other than as set forth in O.C.G.A. § 48-5-7.7; and
 - (c) Uses of any portion of the tract not being used for a Qualifying Purpose may be deemed acceptable uses by the Local Board of Tax Assessors, and therefore not in breach of the QFLP Covenant, provided that:
 - 1. The Local Board of Tax Assessors determines that such portion is:
 - (i) Minimally managed so that it does not contribute significantly to erosion or other environmental or conservation problems; or
 - (ii) Being used for any Secondary Uses.
- (3) Tracts that include cellular phone tower pad areas may qualify, subject to the limitation set forth at the end of this Section (3). Specifically, the area around cellular phone tower pads used or maintained as part of the pad, shall not constitute a breach of the QFLP Covenant if:
- (a) The tract is less than 2,000 acres, the total area of the pads does not exceed six (6) acres, or
 - (b) For tracts larger than 2,000 acres, the total area of cellular phone tower pads does not exceed six (6) acres for every 2,000 acres.
 - (c) Any roadway to the cellular phone tower pads shall not be included in the determination of the six (6) acre maximum.
- Any portion of each six (6) acre area described in Sections 3(a) – 3(c) above shall cease to be subject to the covenant as of the date of the execution of the applicable lease and shall be split into a separate parcel. The newly created parcel shall be subject to ad valorem taxation at fair market value.
- (4) To obtain QFLP designation for a Contiguous tract of real property located in multiple counties, the applicant must enter into a single QFLP Covenant for the entire Contiguous tract. This QFLP Covenant must be approved and recorded in each county where the Contiguous tracts are located.

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- (a) If one or more counties deny an Application, any portions of the Contiguous tract which are approved may still be eligible for QFLP designation provided that
 - 1. Any remaining tract or tracts meets the minimum qualifications as set forth in O.C.G.A. § 48-5-7.7, and Department regulations;
 - 2. The QFLP Covenant is signed by all owners and the appropriate Local Board(s) of Tax Assessors; and
 - 3. All pages are recorded in the appropriate county's real property index.
- (5) The QFLP Covenant shall be effective upon the county signing and recording the QFLP Covenant in the real property index.
 - (a) Any appeals to the denial of QFLP designation or failure by the Local Board of Tax Assessors to sign the Covenant, shall be made in the manner provided for in O.C.G.A. § 48-5-311.
 - 1. If an appeal is not resolved until the subsequent year after the filing of the Application and the applicant receives a favorable decision on the appeal, then the applicant shall be entitled to the benefits derived from the QFLP Covenant beginning in the year for which the Application was filed.
- (6) Property that otherwise qualifies for a QFLP Covenant shall exclude the entire value of any residence and its Underlying Property. This provision for excluding the Underlying Property of a residence from eligibility in the conservation use covenant shall only apply to property that is first made subject to a covenant or is subject to the renewal of a previous covenant. Additionally, in conjunction with the Application, the taxpayer shall provide any one of the following types of property boundary descriptions regarding such Underlying Property:
 - (a) A Plat of the Underlying Property prepared by a licensed land surveyor, showing the location and measured area of the Underlying Property in question;
 - (b) A written legal description of the Underlying Property delineating the legal metes and bounds and measured area of the Underlying Property in question; or
 - (c) Such other alternative property boundary description as mutually agreed upon by the taxpayer and the Local Board of Tax Assessors. An acceptable alternative property boundary description may include a parcel map drawn by the county cartographer or GIS technician.

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Authority: O.C.G.A. §§ 48-2-12, 48-5-7.7.

Rule 560-11-11-.04 QFLP Application

- (1) The Commissioner hereby adopts the form in Regulation 560-11-11-.11 Exhibit (A), as the form to be used by all counties as the QFLP Application.
- (2) All applicants for QFLP designation shall include with their Application:
 - (a) A Plat of the tract for which QFLP designation is sought; or
 - (b) A written legal description of the tract.
- (3) If a legal description or Plat is contested by the county, then the county shall have the burden to prove its assertion that the Plat or legal description as provided by the applicant is deficient.

Authority: O.C.G.A. §§ 48-2-12, 48-5-7.7.

Rule 560-11-11-.05 Period for Local Board of Tax Assessors to Approve or Deny QFLP Applications

- (1) A Local Board of Tax Assessors shall have one hundred twenty (120) days from receipt of an Application for QFLP designation to approve or deny such Application.
- (2) The Application must be filed with the Local Board of Tax Assessors no later than the last day for filing ad valorem tax appeals of the annual notice of assessment, except that in the case of property which is the subject of a tax appeal of the annual notice of assessment under O.C.G.A. § 48-5-311, an Application may be filed at any time while such appeal is pending.
- (3) Upon approval or denial of an Application, the Local Board of Tax Assessors must notify the applicant in the manner provided for in O.C.G.A. § 48-5-306.
- (4) If an Application is denied by the Local Board of Tax Assessors, any fees advanced by the applicant shall be returned to the applicant within thirty (30) days of the denial by the Local Board of Tax Assessors.

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Authority: O.C.G.A. §§ 48-2-12, 48-5-7.7, 48-5-306.

Rule 560-11-11-.06 QFLP Covenant

- (1) The QFLP Covenant shall:
 - (a) Be signed and recorded in any county where the tract is located and owner(s) have made application and received approval for QFLP designation.
 1. The QFLP Covenant shall be signed by all owner(s) of record of the tract.
 2. An individual may sign on behalf of the owner(s) of record by providing that such person has established that individual has sufficient legal authority satisfactory to the Local Board of Tax Assessors, to act on behalf of the owner(s).
 - (b) Have an effective date of January 1 of the year for which the Application was filed and the QFLP Covenant is signed by all required parties.
- (2) An applicant receiving a favorable ruling for an appeal shall receive all benefits derived from the QFLP Covenant beginning in the year for which the Application was filed, irrespective of if the appeal is not resolved until subsequent year(s).
- (3) The QFLP Covenant and benefits derived therefrom shall not extend to any portion of the tract for which the QFLP Covenant has not yet been signed and recorded in that county's real property index.

Authority: O.C.G.A. §§ 48-5-7.7.

Rule 560-11-11-.07 Notice of Breach

- (1) Within forty-five (45) days from the day that a breach is reported to or discovered by the Local Board of Tax Assessors, the Notice of Breach shall be sent via certified mail to:
 - (a) The owner(s) of record of the real property in breach; and
 - (b) The Local Board of Tax Assessors in every other county where the QFLP is located.
- (2) The Notice of Breach shall include the following:
 - (a) The location of the breach;

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- (b) The date the breach was reported or discovered;
 - (c) An explanation of the breach;
 - (d) Whether the appropriate remedy is either to remediate or cease and desist the breach;
 - (e) The date by which the remedy must be completed; and
 - (f) The penalty for not remediating the breach.
- (3) The thirty (30) day period for the owner to remedy the breach shall not begin until the date of the postmark of the Notice of Breach.

Authority: O.C.G.A. §§ 48-2-12, 48-5-7.7.

Rule 560-11-11-.08 Notification and Inspection Concerning QFLP in Breach of Covenant

- (1) The owner(s) of record of the tract of real property in breach shall have thirty (30) days from the date of the postmark of the Notice of Breach by any owner of record to remedy the breach as specified in the Notice of Breach.
- (2) Beginning on the first day after the thirty (30) day period for an owner(s) of record of the tract of real property to remedy the breach, the Local Board of Tax Assessors shall have forty-five (45) days in which to conduct a physical inspection of the real property to determine if the prescribed remedy has been completed.
- (3) The Local Board of Tax Assessors shall have fifteen (15) days from the date of the physical inspection or the end of the inspection period, whichever is later, to send a written notice to the owner(s) of record of the tract, and any counties that encompass the tract subject to the breached QFLP Covenant, to inform the owner(s) whether the tract of real property is in compliance with the QFLP Covenant.
 - (a) Failure to inspect the tract of real property shall be deemed a determination that the tract is in compliance with the QFLP Covenant.
- (4) If a QFLP Covenant covers multiple counties then the Local Board of Tax Assessors in the county where the breach has occurred shall send the same written notifications to the Local Board of Tax Assessors in all affected counties where the QFLP Covenant is in force and effect.

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- (a) Such written notifications shall be sent within the same time period, and in the same manner, as the written notification sent to the owner(s) of record notifying them of the breach and the determination of whether or not the tract is in compliance with the QFLP Covenant.
- (5) Appeals concerning notice, inspection, or any other issue, must be made in the manner provided for in O.C.G.A. § 48-5-311.
- (6) Notifications required by this Regulation that are sent by the Local Board of Tax Assessors to owner(s) of record of the tract subject to QFLP Covenant, and to any other counties where the tract is located and subject to the QFLP Covenant, shall be sent via certified mail by the United States Postal Service, commercial delivery service, commercial courier, or personal service to the last known address of the owner(s) of record.

Authority: O.C.G.A. §§ 48-2-12, 48-5-7.7, 48-5-311.

Rule 560-11-11-.09 Release of Covenant

- (1) When a tract of real property is no longer eligible as a QFLP due to a non-remedied breach, or at the expiration of the QFLP Covenant, the owner of such tract of real property shall file an application for release with the Local Board of Tax Assessors for release of the tract of real property from the QFLP Covenant:
 - (a) Within sixty (60) days of the last day the tract was eligible as QFLP; or
 - (b) Within sixty (60) days of the last day of the QFLP Covenant.
- (2) The Local Board of Tax Assessors must within thirty (30) days from receipt of an application for release, determine if all taxes and penalties, if applicable, have been paid and satisfied on the tract of real property.
 - (a) Upon approval of the application for release of the tract real property from the QFLP Covenant, the Local Board of Tax Assessors shall have fifteen (15) days to
 - 1. Provide written notification to the applicant that the release has been approved.
 - 2. File the release with the office of the clerk of superior court in the county where the original QFLP Covenant was filed, and provide a copy to the applicant.

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- (b) If an application for release is denied, the Local Board of Tax Assessors shall send written notification to the applicant within fifteen (15) days of receipt of such application and it shall include the reason(s) for denial. Appeals resulting from denial of release shall be made in the manner provided for in O.C.G.A. § 48-5-311.

Authority: O.C.G.A. §§ 48-2-12, 48-5-7.7, 48-5-311.

Rule 560-11-11-.10 Penalty for Breach

- (1) If a breach should occur during the QFLP Covenant period then a penalty shall be imposed by the Local Board of Tax Assessors.
 - (a) The method for calculating the amount of the penalty owed is set forth in O.C.G.A. § 48-5-7.7(m).
 - (b) Penalties and interest imposed pursuant to O.C.G.A. § 48-5-7.7, shall constitute a lien against that portion of the property which is subject of the original covenant, and shall be collected in the same manner as unpaid ad valorem taxes.
- (2) If all or part of the tract subject of the original QFLP Covenant is transferred during the covenant period to another qualified owner, and following such transfer the acquiring owner and/or transferring owner cause a breach of the covenant, then:
 - (a) Any county affected by the breach must seek recovery of penalties and interest from the breaching party by any judicial means including, but not limited to, foreclosure of the breaching party's property.
- (3) Activities listed in O.C.G.A. § 48-5-7.7(q) shall not constitute a breach of the QFLP Covenant.
- (4) If a Contiguous tract is subject to a QFLP Covenant in multiple counties then a breach occurring in any of the counties where the Contiguous tract is located shall constitute a breach of the entire Contiguous tract. The owner of the Contiguous tract shall be assessed all penalties and interest resulting from the breach of the QFLP Covenant.
- (5) If a breach occurs solely as the result of a Permissible Breach then no penalty shall be assessed but the QFLP Covenant will be terminated at the end of the digest year.

Authority: O.C.G.A. §§ 48-5-7.7.

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Rule 560-11-11-.13 Valuation of Additional Qualified Property which is Contiguous to the Property in the Original Covenant

- (1) If a qualified owner has entered into an original QFLP Covenant and subsequently acquires additional qualified property Contiguous to the property in the original covenant, the qualified owner may elect to enter the subsequently acquired qualified property into the original covenant for the remainder of the fifteen (15) year period of the original covenant; provided, however, that such subsequently acquired qualified property shall be less than two hundred (200) acres.
- (2) If the qualified owner makes such an election, then the subsequently acquired qualified property shall be valued in accordance with O.C.G.A. § 48-5-269.
 - (a) When calculating the subsequently acquired qualified property's initial value, this initial value shall not be subject to the three percent (3%) limitation provided for in O.C.G.A. § 48-5-271(b).
 - (b) The original property subject to the original QFLP Covenant and the subsequently acquired qualified property shall be treated as separate parcels on the county tax digest until the expiration of the original QFLP Covenant. Upon the expiration of the QFLP Covenant, the properties can be merged into a single parcel upon renewal.

Authority: O.C.G.A. §§ 48-5-7.7, 48-5-269, 48-5-271.