


Georgia Department of Revenue

Local Government Services Division

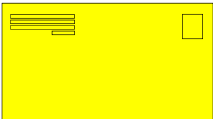

Delinquent Tax Overview
GATO 2016





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Pre-Levy Collection Strategies

- Sending Letters and Collection Notices
- Making Follow-Up Telephone Calls
- Personal Visits
- Accepting Partial Payments







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Sending Letters and Collection Notices

First step in the collection process....


sending letters and collection notices to
delinquent taxpayers





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Mandatory Letter



- 48-3-3
- 30 day notice of intent to Fi.Fa.
- Demand for payment

Delinquent Tax Department
 County, State
 Street Address
 City, State, Zip
 Telephone Number

Current Date
 Taxpayer Name
 Address
 City, State, Zip


Dear _____:

Our records indicate that your _____ [insert year] taxes remain unpaid. Under Georgia Code 48-3-3 I am required to notify you that 30 days from the date of this notice an execution (Fi. Fa.) may be issued against you and recorded on the General Execution Docket of the Clerk of Superior Court. This execution gives notices of a lien against your property.

In addition to the interest which has accrued to date, on _____ [insert date 90 days from due date] a 10-percent penalty and Fi. Fa. charges will be added to your account. A Fi. Fa. remains in effect for seven years. This may be listed by credit reporting agencies and may adversely affect your credit rating.

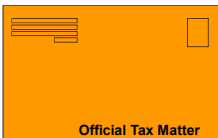
In order to avoid the execution being issued and the additional charges being added, please contact this office for the current payoff and remit that amount by _____ [insert date 90 days from due date].


Sincerely,
 Name
 Title
 County, State



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- When sending letters you may want to include the words **“Official Tax Matter”** in bold on the envelope.... colored envelopes generate more of a response than the standard envelope color.




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Initiating a Telephone Campaign


- early in the process
 - before accounts become stale,
 - Before businesses move
 - Before property leaves your jurisdiction




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- Some vendors provide access to national telephone directories...contact them
- Information available on the Internet. You may want to check the home page of your Internet carrier to see if they have a residential and/or business search capability.




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Steps in Process:




1. Identify all unpaid accounts as soon as each account becomes overdue.
2. Obtain a telephone number.
3. Contact the taxpayer.



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1. Maintain Communication and Professionalism
2. Be Specific and Complete
3. Obtain a Commitment to Pay and Establish a Deadline
4. Motivate the Taxpayer to Pay
5. Manage the Customer's Perception of You
6. Keep Yourself Motivated



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Important





- Keep conversation notes for the file
- If you need to call a taxpayer a second or subsequent time, maintain persistent pressure throughout the call.




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When you visit a site, bring these materials with you:

- Deputy Ex-Officio Sheriff ID
- Badge
- Camera
- FiFa
- Payoff Dollar Amount
- Calculator
- Business Cards









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Site Visitation


- Have a practiced strategy in mind for each stalling tactic the delinquent taxpayer may use
- Know how to state your case clearly
- Know what you are going to say
- Obtain an expert knowledge level regarding levy procedures so you can answer any questions




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When at site ask to speak with the owner or manager...


- Who you are
- That you hold a writ of FiFa
- What the FiFa means
- What the FiFa requires you to do
- The consequences of the taxpayer not paying the taxes due in full



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Results

- This type of site visit is a very effective collection tool if the business is ongoing and viable.
- Taking photographs and making notes is usually very convincing.



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Partial Payments

- effective means of collecting overdue funds
- sometimes this is the only means they can pay
- a way to avoid the levy process





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Drafting an Agreement

- Write the partial payment agreement as you would write a contract.
- You should work carefully with your county attorney when devising a partial payment plan.






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Partial Tax Payments

- Partial payment allocated to interest or principal?

- *Not specified in Code except for partial payment on tax deferred loan secured per OCGA § 46-5-79(b) ...applied first to accrued interest*
- How does your office handle partial payments?
- How does billing software apply partial payments?
- *Partial payment agreement should indicate how partial payments are applied*
- Each partial payment should be at least as much as accrued interest
- Private industry practice - payments applied first to accrued interest



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House Bill 960 (Effective 07/01/2016)
Delinquent Tax - Penalty

Amends OCGA 48-2-44


5% penalty is assessed if tax not paid within **120** days of due date...


Another **5%** penalty due if not paid within the additional **120** days, up to a **maximum penalty of 20%** assessed in **5%** increments :

Example - \$2,000 tax due on 12/20/2016
 \$1,500 paid 01/31/2017
 \$ 500 still due on 04/20/2017


Penalty based on unpaid tax on date penalties are assessed


Penalty is \$25 (5% of \$500)



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Important
Never keep cash
in the vault



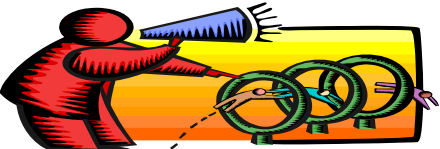
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Accepting Proportional Payments by Lien Holders (OCGA 48-5-25)

In performing lien research on personal property through the Uniform Commercial Code (UCC) dockets in preparation of levy, you may find that some of the delinquent taxpayer's property is secured by one or more lien holders/creditors.

 **Georgia Department of Revenue** *PLEASE!!*

- A lien holder/creditor may request to pay its proportionate share of taxes due on the taxpayer's property that is collateral for the loan (or that creditor/lien holder has security interest in)



Note to Clerk of Superior Court: Please Cross-Reference to GED _____ [Insert Ft. Fa. number]

County, State
Office of Tax Commissioner
Street Address
City, State, Zip

Partial Release of Tax Lien

Whereas, _____ [insert delinquent taxpayer/company] is indebted to _____ County, Georgia, for unpaid personal property ad valorem taxes; and

Whereas, _____ County has filed a tax lien recorded in General Execution Docket book _____, page _____, in the records of the Clerk of the Superior Court of _____ County, Georgia; and

Whereas, _____ [insert financial institution name] is the holder of a security interest and lien in the property of _____ [insert delinquent taxpayer/company] more particularly described in Exhibit "A" attached hereto; and

Whereas, in accordance with the provisions of O.C.G.A. 48-5-25 _____ [insert financial institution's name] has paid to _____ County the sum of \$ _____ as payment of all outstanding ad valorem taxes due on the property described in Exhibit "A" attached hereto and is entitled to a release of such property from the recorded tax lien.


NOW WHEREFORE, for and in consideration of the payment of \$ _____ to _____ County, Georgia, _____ [insert tax commissioner's name], in his official capacity as Tax Commissioner of _____ County, Georgia and as authorized by O.C.G.A. 48-5-25 hereby releases the property described in Exhibit "A" attached hereto from the tax lien filed by _____ County, Georgia in General Execution Docket Book No. _____, page _____ of the records of the Clerk of the Superior Court of _____ County and further states that _____ County, Georgia asserts no further lien, claim or interest in such property.

This the _____ day of _____, _____.

Witness:


[insert tax commissioner's name]
Tax Commissioner of _____ County, Georgia

*Notary Public
Seal Here*

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Chapter 2- Ft. Fa.'s

- Issuing and Recording
- Priority of Tax Liens
- Canceling
- Alias
- Amending
- Transferring
- Insolvent
- Dormant
- Aircraft



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Tax FiFa's / Executions

- Tax FiFa or execution is the form and /or process issued for nonpayment of taxes
- represents liability of taxpayer and lien on property
- eventually recorded for public record

*OCGA 48-3-3

TAX EXECUTION/FIFA
GEORGIA, _____ COUNTY

Fieri Facias

YEAR FI FA NUMBER PROPERTY DESCRIPTION STATE OF GEORGIA, _____ COUNTY VS.

[taxpayer and/or business name] and street address					
TAX	PENALTY	FI FA	INTEREST	LEGAL COST	TOTAL DUE [\$ amt]

TO ALL AND SINGULAR THE SHERIFFS AND CONSTABLES OF THIS STATE GREETINGS: YOU are hereby required, that of the goods and chattels, lands and tenements of the stated named taxpayer, you cause to be made by levy and sale sufficient thereof to make the sum of the dollars and cents within shown, the amount of state, county, and applicable school taxes and/or applicable sanitary assessment for the stated year; the further Fieri Facias sum as stated for this Fieri Facias and sufficient amount to cover interest on execution for delinquent taxes at the rate specified in O.C.G.A. §48-2-40 from December 31 of stated year, until settled, together with all costs that may hereafter accrue; and have you the said sum of money to be paid to me upon collection thereof, to be rendered to the State and County, the Principal, Penalties, Fieri Facias, Interest and legal Costs aforesaid; and have you then and there this writ. Given under my hand and official signature, this ____ day of _____ the stated year shown.

Tax Commissioner and Ex-Officio Sheriff

Entry and Notice of Levy for Tax Sale

To satisfy the above Fieri Facias, incorporated herein, I have levied upon the following described property, as property of named defendant, and served the within notice of levy to defendant and/or current owner and to tenant in possession, if any, this ____.

TO OWNER/TENANT: DEFENDANT: _____


FURTHER DESCRIBED AS: [insert property description]

Levied on _____ [date] for the amount of \$ _____ to satisfy certain state and county fieri facias for tax, interest and legal costs for year(s) _____

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Issuing and Recording FiFas


- Real** property, must send them a written **30-day notice of intent to issue FiFa**.
- Personal property, it is recommended to send a 30-day notice of intent to issue FiFa, effective collection tool.
- 48-3-3(c)** "As soon as the last day for the payment of taxes has arrived, the tax collector or tax commissioner shall notify in writing the taxpayer of the fact that the taxes have not been paid and that, unless paid, an execution shall be issued; provided, however, that notice shall not be required for taxes due on personal property and executions may be issued on the day next following the day when taxes are due."



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Issuing FiFa's


- The dollar amount of property returned.
- The dollar amount and nature of the tax.
- The number of the tax return.
- The district number and the state and county in which the land is physically located.
- The Levying Officers to whom the FiFa is addressed (as required by law).
- The date the execution is issued.
- The official who issued the execution.




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Important

- The Tax Commissioner signature required.
 - Not just typed on execution
- Must contain the words "Tax Commissioner".
- No blank spaces.



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Recording FiFa's

- After issue-- record the execution on GED CSC Office.
- Recording constitutes a proper lien.



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48-3-3 (d)

No execution shall be issued against any person who is not the record owner of the property on the day that the taxes become delinquent if, within 90 days from the due date, that person has provided satisfactory proof to the tax collector or tax commissioner that the property has been transferred by recorded deed and the liability for the payment of ad valorem taxes has been assigned to the vested transferee by written agreement or contract.



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Priority of Tax Liens

- Liens for taxes ranked as follows:
 - State
 - County
 - School
 - Municipality
- First Priority and Secured
- Lien attaches January 1
 - 48-5-10
 - Decatur Co Bldg & Loan v. Thigpen





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48-2-56. Liens for taxes; priority

- (a) Except as otherwise provided in this Code section, liens for all taxes due the state or any county or municipality in the state shall arise as of the time the taxes become due and unpaid and all tax liens shall cover all property in which the taxpayer has any interest from the date the lien arises until such taxes are paid.
- (b) Except as otherwise provided in this Code section, liens for taxes are superior to all other liens and shall be paid before any other debt, lien, or claim of any kind. Liens for taxes shall rank among themselves as follows:
- (1) Taxes due the state;
 - (2) Taxes due counties of the state;
 - (3) Taxes due school and other special tax districts of the state; and
 - (4) Taxes due municipal corporations of the state.



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- (2) The lien for any ad valorem tax shall **not** be superior to the title and operation of a security deed when the tax represents an assessment upon property of the taxpayer other than property specifically covered by the title and operation of the security deed.



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Vesta Holdings I, LLC v. Tax Comm'r, 259 Ga. App. 717, 578 S.E.2d 293 (2003).

- **Priority based on status of taxing entity.** - In passing O.C.G.A. 48-2-56, the Georgia General Assembly provided specific directions on how tax liens shall be ranked, and by adopting the statute, the legislature intended to assign priority to tax liens based upon the status of the taxing entity, regardless of the date the lien was created.



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Canceling FiFas

- When a taxpayer pays his or her overdue taxes in full, the FiFa must be canceled.
- Record the entry of cancellation on the GED as soon as possible



•48-3-28. Entry of satisfaction to be duly recorded on execution docket.



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Cancellation Process

- Rubber Stamp on the FiFa satisfied.
- Present the satisfied FiFa to CSC on GED.
- Mail the canceled FiFa to the taxpayer.





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Important

- The Collection Officer should cancel the FiFa on the record — not the taxpayer.
- When you cancel the FiFa, remember to collect the cancellation fee.






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alias execution

- **48-3-7.** Issuance of alias tax execution to replace lost original
 - execution is lost or destroyed
 - judge of the probate court
 - endorse the word "alias" on the execution
 - shall be dated the same date as the original


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Procedures for Issuing Alias FiFa

- Use a photo copy of original FiFa if available or construct a copy of the lost FiFa containing all of the entries that were on the original





- File statement under oath with Probate Judge...
 - Probate Judge endorses word "Alias" on FiFa
- Properly issued Alias FiFa same force and effect of original execution

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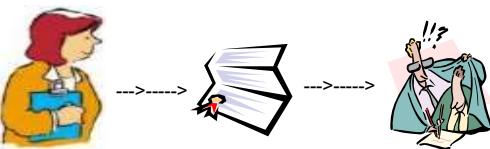
Amending Fi. Fa.'s

- 9-13-7
- Clerk of Court
- Make Corrections and mark Amended
- Re-record with reference to original recording
- Alternatively, the clerk may issue an alias execution

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Transfer Procedures

- Under the provisions of O.C.G.A. 48-3-19 FiFas (executions) may be transferred to third parties





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Transferring Fi. Fa.'s

- 48-3-19
- Must maintain an office within 50 miles of the courthouse (\$2 million).
- Must record the transfer within 30 days of purchase or lose the lien.
- Must notify the taxpayer within 60 days of purchase.
- Cannot sell property for 12 months after the date of transfer or 24 months after the original due date whichever is earlier.
- Cannot be one of the following:
County tax receivers, tax collectors, and tax commissioners; Members of county boards of tax assessors; Members of county boards of equalization; and County tax appraisers.



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Complete these steps:

1. Collect all of the taxes and costs due. (including the transfer cost)
2. Stamp or type the transfer statement on the Fi. Fa.
3. Sign and date the transfer.
4. Advise the transferee of the need to have the transfer recorded with the Clerk of Superior Court within 30 days.



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Transfer of FiFa (execution)

- Tax Commissioner not required to transfer FiFa
- Transferee has same rights and priority of payment as tax official
- Tax Commissioner collects all taxes and costs due on FiFa





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Identifying an Insolvent FiFa

- For a FiFa to be insolvent...
 - the Levying Officer must be unable to locate personal property that is taxed or any other property of the defendant on which to levy to satisfy the FiFa



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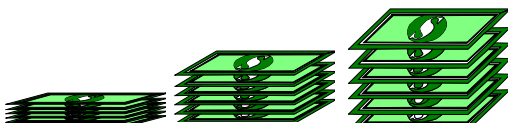
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Diligent search before classifying a FiFa as insolvent...

Research necessary dependent upon the size of the tax bill...larger the tax bill the more research you need to do





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Important

- Document all of your actions while performing a diligent search. Be especially careful to retain all information regarding the certified letter, whether the letter is delivered or it is returned to you.





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Diligent Search

- If you cannot locate the mortgagee and it is a bank, finance company, or savings and loan, contact these places for further information:
 1. The State Banking Department and/or local banks
 2. The Georgia Secretary of State's Office
 3. The Kay Directory

Diligent Search Checklist

- ☐ Send a certified letter with return receipt to the taxpayer of record at the last known address, the record owner at the last known address, and any mortgagee found. (You must, by law, send the certified letter to everyone who might have title. This includes the record owner, the taxpayer that is listed, and the person who is in possession of the property.)
 - ☐ Check the telephone directory.
 - ☐ Check the motor vehicle files.
 - ☐ Check voter registration records.
 - ☐ Search for a business license.
 - ☐ Interview adjoining neighbors and/or relatives.
 - ☐ Inquire from attorneys who handle closings in the county.
 - ☐ Check with mortgage holders or other creditors.
 - ☐ Check the Internet.
- Listing of all steps taken and the corresponding dates and times:



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Insolvent FiFa List

- Each Levying Officer should maintain an insolvent list. The officer should submit each insolvent list to the **county governing authority for approval...**





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Insolvent FiFa

- You can reopen a FiFa that is on an insolvent list if the taxpayer returns to the area in the future or if you locate assets to satisfy the FiFa





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Relevant Law

- 48-5-129. Allowance of insolvent lists; reissuance of executions before allowance of insolvent lists.
- 48-5-130. Allocation of tax on insolvent lists; contents of list of insolvent taxpayers.
- 48-5-131. Retention of copy of insolvent list by county governing authority; collection of executions.
- 48-5-132. Disposition of insolvent lists.
- 48-5-133. Crediting tax collectors and tax commissioners with insolvent lists.
- 48-5-134. Extension of time to complete digests and pay taxes.



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Aircraft FiFa

After issuing FiFa ...record as usual.

One important distinction...

must register the aircraft FiFa with the Federal Aviation Administration (FAA).





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Chapter 3—Organizing Files

- Using the Suggested Filing System
 - Determining What to File
- Cleaning Up Files
 - Identifying Uncollectible Bills
 - Managing Uncollectible Bills
- Following Error and Release Procedures
 - Personal Property
 - Real Property



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Determining What to File

- Copies of all documents prepared
- For Example:
 - Levying Officer documents may include
 - levy entries
 - advertisements
 - notices
 - bills of sale
 - receipts for proceeds, etc.

* Proof of due process may later be required.



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Uncollectible Bills

- Bills on which the statute of limitations has expired (O.C.G.A. 48-3-21.1).
- Real property that changed ownership more than four years ago lien released against that property (O.C.G.A. 9-12-93 and 48-3-22).
- Personal property that changed ownership more than two years ago lien released against that property (O.C.G.A. 9-12-93 and 48-3-22).
- Personal property bills where the owner cannot be located after a reasonable search, which is nulla bona (O.C.G.A. 48-3-23).
- Unprocessed bills which are duplicates or errors.



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Managing Uncollectible Bills

List should contain:

- The taxpayer's name.
- The bill number.
- A breakdown of the tax.
- The reason why the tax bill is uncollectible.
(expired statute of limitations or a duplicate bill.)

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Uncollectible Bills

- Retain copies of all uncollectible bill lists in the office for audit purposes or for inspection by the grand jury.
– also forward copies to the Board of Tax Assessors to review these records and make any necessary changes.





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Uncollectible Bills

- After you list uncollectible bills...
– give to the **county governing authority** for their approval. Once approved, the uncollectible bills removed from the Tax Commissioner's accountability.





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Work closely with the county governing authority

- The authority to bid in property for the county if no acceptable bid is received.
- The help of the county attorney (or another attorney) to prepare tax deeds and to give legal advice.
- An agreement that the county will pay for all costs incurred with the understanding that almost all of those costs will be recovered from the delinquent taxpayers.



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Relevant Law


- 9-12-93. When purchased property discharged from lien.
- 48-3-21.1. Statute of limitations for enforcement of executions for ad valorem taxes of less than \$1.00; effect on execution barred under Code section; restriction on adding together taxes to exceed \$1.00 limit.
- 48-3-22. Statutory limitations applicable to tax executions.
- 48-3-23. Nulla bona; tolling of statute of limitations.
- 48-5-154. Annual accounting reports; citations for default, negligence, or bad faith; approval in whole or in part.



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Error and Release


- Tax Assessors have the authority to make any changes to the digest **before** it is submitted to the state.
 - Once submitted to the Department of Revenue and a collection order is signed by the Commissioner....any changes **generally** approved by the county governing authority
 - County governing authority can **delegate** authority to Tax Commissioner or Tax Assessors for...
 - » Undisputed clerical errors
 - » Delegable to Tax Commissioner and Tax Assessors
 - » Removal of property not in county on January 1
 - » Delegable to Tax Assessors only



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Error and Release


- After approval of the Digest, any and all adjustments, other than those specified above, will be submitted by the Tax Assessor or the Tax Commissioner to the governing authority of the county with the recommendations of such officers for the relief to be granted.




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Real Property

- All errors or corrections to real property assessments or taxes should be logged on an appropriate form, and a copy of the form should be placed in the taxpayer's file if applicable.

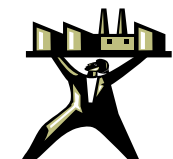





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Chapter 4

REAL PROPERTY LEVY PROCEDURES

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To levy on FiFas (executions) or to *act* under writ of execution (FiFa)....

- Tax Commissioner must be appointed *Ex-Officio Sheriff* for purpose of tax levies
- Appointment in writing from Sheriff and administered under oath
- Recorded in Probated Court records

*OCGA 48-3-6 and 48-5-137

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Before Levy Verify


- Fi. Fa. has been properly recorded
- Levy must be done by Sherriff
 - Or Ex-Officio 48-5-137
 - Supplement of 349.78 a month
 - Oath given and recorded by Probate
 - 48-3-5, 48-3-7, 45-3-10

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MAY LEVY ON ANY PROPERTY OF TAXPAYER TO SATISFY FIFA

levy on **land** completed by **entry** on FIFA or levy form
– OCGA 9-13-12



notice to owner and tenant
also lien holders


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O.C.G.A. § 9-13-12

9-13-12. Entry of levy on process

The officer making a levy shall enter the same on the process by virtue of which levy is made and in the entry shall plainly describe the property levied on and the amount of the interest of defendant therein.





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Can levy on any property owned by taxpayer...

- Levy on property upon which ad valorem tax is due is superior to other liens
- Tax lien or FiFa not superior to security deed **if** a levy on property other than property upon which ad valorem tax due
- A levy on property for ad valorem tax due **is** superior to other liens but creditor/lien holder can pay tax due on collateral and get tax lien release on collateral (OCGA 48-5-25)

See OCGA 48-2-56 for priority of tax liens

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Information to Gather

1. Property Record Card
2. Compare address on card to mail
3. Date property acquired
4. Size of property
5. Buildings or additions
6. Deed
7. PT-61

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Title Search

Locate Warranty Deed

Mortgage Holders

Deed Index
 UCC- for Personal Property

Liens

Judgments

GED
 Federal Tax Lien Docket

Pending Litigation

Lis Pendens Docket

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.....Additionally.....

- Taxpayer can select (point out) property upon which to levy- OCGA 48-3-4*
- Levy can not be excessive*

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graph TD
    A[30 Days] --> B[30 Day Notice before issuing F.I.F.a. 48-3-3]
    A --> C[Issue and Record F.I.F.a. 48-3-3 & 48-5-181]
    B --> D[5 Days]
    C --> D
    D --> E[Levy 48-4-3]
    D --> F[Notice to Owner and Tenant within 5 days of Levy 9-13-13]
    F --> G[20 Days]
    G --> H[Notice to Holder of Mortgages & Liens 20 days prior to Advertising 48-3-9]
    G --> I[Advertising - 4 consecutive weeks before Sale 9-13-140 & 142]
    I --> J[4 Weeks]
    J --> K[10 day notice to Defendant 48-4-1]
    J --> L[Notice to IRS 25 days before Sale (if Federal Tax Lien) IRS Publication 798]
    K --> M[Sale Day First Tuesday of Month]
    L --> N[25 Days]
    M --> N
    
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25



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Levying

- Determining the number of executions for the taxpayer.
- Determining the property on which you are going to levy.
- Handling situations where the taxpayer points out property.
- Ensuring you do not institute an excessive levy.
- Familiarizing yourself with any environmental concerns on the property.



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Determining what to Levy


- The taxpayer owes a total of \$12,000 in taxes.
- The taxpayer owns a 40-acre farm capable of subdivision.
- The taxpayer owns a furniture business.
- The taxpayer owns seven tracts of land that do not contain any personal property.
- The taxpayer owns a home on another tract of land, where there is a mortgage of \$70,000. The home is valued at \$100,000.



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Pointing Out


- 48-3-4
- For example, if the taxpayer points out a desk, but the desk will not satisfy the Fi. Fa., you are able to levy on the desk and another piece (or pieces) of property; the desk must be included.



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Environmental Problems


- Check with the Environmental Protection Agency (EPA)
- Examples
 - gas station that is leaking fuel
 - property that contains a large number of old tires




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Tax Sales

- Conducted first Tuesday of month
- Public outcry between 10:00 am and 4:00 pm
- Normally done at courthouse
 - Judge can prescribe somewhere different
- If sale is not conducted at courthouse must have general superior court order that states location and must include location in each advertisement
- If property being sold not at tax sale location then must give location of property in each advertisement




...see OCGA 9-13-161 for more...




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Prohibited




- 48-4-23
- Individuals prohibited from tax sale purchase

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- Sheriff's (tax) deed issued for real property
- Bill of sale issued for personal property
- Completed and Signed in Tax Office
- Recorded in Clerk's Office
- Given to the Purchaser after payment

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JEOPARDY ASSESSMENTS

- **48-3-3.1. Immediate payment or bond where person or property may leave jurisdiction or property's value may be prejudiced.**
- Applies only to personal property
- Tax Commissioner can issue
- Use current year value, if known, if not prior year value
- Use current year millage, if known, if not prior year millage

REQUEST FOR JEOPARDY ASSESSMENT LETTER

TO: _____
County Tax Commissioner

FROM: _____
(Name)

(Title)

RE: REQUEST FOR JEOPARDY ASSESSMENT
☐ Corporation ☐ Individual

Taxpayer's Name _____
Trade Name, if Any _____
Street Address or P.O. Box _____
City, State, Zip Code _____
Bill Number or Account Number _____

A final assessment of personal property taxes has been prepared against the above subject, summarized as follows:

Taxable Period(s) _____	Assessment Value \$ _____
Totals of Tax \$ _____	<input type="checkbox"/> Assessment based on the most recently accepted assessment
Interest \$ _____	<input type="checkbox"/> Tax Assessor's assisted
Penalty \$ _____	assessment
TOTAL DUE: \$ _____	

It is hereby requested that this matter be forthwith reduced to a jeopardy assessment per O.C.G.A. 48-3-3.1, and that F.I. Fa. be immediately issued and recorded for the reason(s) checked below.

☐ Subject has evidenced his or her intention to leave the state

☐ Subject has evidenced his or her intention to remove property from the state

☐ Subject has evidenced his or her intention to conceal themselves or his or her property

☐ Subject has evidenced his or her intention to discontinue business

☐ Subject has evidenced his or her intention to do some other act to prejudice or render wholly or partly ineffective proceedings to compute, assess, or collect any ad valorem tax as contemplated by O.C.G.A. 48-3-3.1

Jeopardy Assessment and Demand for Payment																
Taxpayer's Name _____	Fifa Number _____															
Trade Name (If any) _____	Date _____															
Street Address _____	Assessed Value _____															
City, State, Zip _____	Total Taxes Due _____															
<p>The _____ County Tax Commissioner is authorized to issue Jeopardy Assessments when a taxpayer does, or gives evidence of intention to do so, some act which would tend to prejudice or render wholly or partly ineffective proceedings to compute, assess, or collect any ad valorem tax due _____ County. See Georgia Code 48-3-3.1.</p> <p>This is to notify you that, pursuant to the authority cited above, a jeopardy assessment has been made against you this date for the taxable period(s) stated below for ad valorem taxes due:</p> <p>Demand is hereby made for immediate payment of the amounts shown below.</p> <p>A tax execution (FIFA) is being issued and recorded in the amount of this assessment, and collection procedures are being pursued. Unless immediate payment, in full, is received at the office indicated herein these collection procedures, actions including LEVY, GARNISHMENT, and ATTACHMENT, will be pursued until this liability has been collected in full.</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; border-bottom: 1px solid black;">TAX PERIOD</th> <th style="text-align: left; border-bottom: 1px solid black;">TAX</th> <th style="text-align: left; border-bottom: 1px solid black;">PENALTY</th> <th style="text-align: left; border-bottom: 1px solid black;">INTEREST</th> <th style="text-align: left; border-bottom: 1px solid black;">AMOUNT DUE</th> </tr> </thead> <tbody> <tr> <td style="border-bottom: 1px solid black;"> </td> <td style="border-bottom: 1px solid black;"> </td> <td style="border-bottom: 1px solid black;"> </td> <td style="border-bottom: 1px solid black;"> </td> <td style="border-bottom: 1px solid black;"> </td> </tr> <tr> <td style="border-bottom: 1px solid black;"> </td> <td style="border-bottom: 1px solid black;"> </td> <td style="border-bottom: 1px solid black;"> </td> <td style="border-bottom: 1px solid black;"> </td> <td style="border-bottom: 1px solid black;"> </td> </tr> </tbody> </table> <p>_____ Tax Commissioner _____ County</p> <p>Office Address _____</p>		TAX PERIOD	TAX	PENALTY	INTEREST	AMOUNT DUE										
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Georgia Department of Revenue

Personal Property levies like real property levies (flowchart) except:

- 30 day letter of intent to issue FIFA not required **but recommended**
- Notice of Levy to Lien Holders 20 days prior to advertising not required **but recommended** (check UCC for creditors)
- Bill of sale issued and not a tax deed...consequently no redemption period after tax sale
- **Must have actual or constructive seizure for Levy for personal property levies**



Georgia Department of Revenue

- **Sufficiency of notice.** - County undertook sufficient efforts to provide a taxpayer with reasonable notice of the tax sale on the taxpayer's property as the county checked the local deeds and records, and then contacted an outside locating agency for assistance; the taxpayer's failure to notify the county of a change of name and address played a significant role in the taxpayer's failure to receive actual notice of the tax sale. *Cuvillier v. Rockdale County*, 390 F.3d 1336 (11th Cir. 2004).
- **Notice not required as to personal property.** - Summary judgment was properly granted to a county tax commissioner in a taxpayer's action alleging violation of various statutory and constitutional provisions in the commissioner's levying upon the taxpayer's bank account to collect county taxes owed because neither O.C.G.A. 48-3-3 nor O.C.G.A. 48-2-55 and 48-3-9 required the commissioner to give the taxpayer notice of the levy prior to levying upon the personal property. *Anderson v. Ford*, 261 Ga. App. 34, 581 S.E.2d 623 (2003).



Georgia Department of Revenue

Personal Property Levies (Cont.)

Actual or Constructive

Seizure


Georgia Department of Revenue


TITLE 9. CIVIL PRACTICE
CHAPTER 13. EXECUTIONS AND JUDICIAL SALES
ARTICLE 3. PROPERTY AGAINST WHICH EXECUTION LEVIED


O.C.G.A. § 9-13-55 (2009)

§ 9-13-55. Seizure prerequisite to sale of personalty

To authorize a sale of personal property there shall be an actual or constructive seizure.

HISTORY: Orig. Code 1863, § 2581; Code 1868, § 2583; Code 1873, § 2625; Code 1882, § 2625; Civil Code 1895, § 5452; Civil Code 1910, § 6057; Code 1933, § 39-1310.




Georgia Department of Revenue

UCC – Clerks Authority

- The Georgia Superior Court Clerks' Cooperative Authority website
<http://www.gsccca.org/>
- UCC Financial Statements will tell you who else has an interest in Personal Property Assets




Georgia Department of Revenue

Personal Property Situs Visits

Pre-Levy Visits








Georgia Department of Revenue

Personal Property Collection and Levies

- Jeopardy Assessments
- Levy Procedures
- Bank Levies
- Till Tap Levies
- Mobile Home collections







Georgia Department of Revenue

Situs Visits - Professionalism

- Practice Your Strategy for Collection
- Have responses to various story lines (excuses). Your responses convey that you intend to do your job and you are good at it. If payment is not voluntary then you are well prepared to force payment by levy




 Georgia Department of Revenue

Site Visits - Tools


- Deputy Ex-Officio Sheriff ID
- Badge
- Camera
- FiFa
- Payoff Amount




 Georgia Department of Revenue


BANK LEVIES

- A Bank Levy is a constructive levy on the assets of the taxpayer in a financial institution. It is the most preferred method of collecting Personal Property taxes when the owner refuses or neglects to pay.



 Georgia Department of Revenue

- The ***Bank Levy*** should include all taxes, interest, penalties, fees and levy cost
- The Bank Levy is against all accounts of the depositor (except for IRA's and Attorney Trust or Escrow accounts) for the full amount of the levy without deduction. The financial institution's right of set-off is preserved





Georgia Department of Revenue

Legal Authority

- Controlling statute is O.C.G.A. § 48-2-55. This state law provides the authority for Tax Commissioners to impose bank levies.
- Supporting case law is Anderson v. Ford, 2003, 261 Ga.App.34, 581 S.E.2d 623. The state Court of Appeals ruled that bank levies by Tax Commissioners were proper without giving prior notice to the taxpayer.



Georgia Department of Revenue

How to Prepare a Bank Levy

- Issue and (record) the tax FiFa
- Determine where taxpayer banks
(See *investigative techniques*)
(You don't have to know the bank account number)
- Prepare...
Bank Levy Form
Notice of Levy to taxpayer





Georgia Department of Revenue

BANK LEVIES (CONT.)

- Fax or email the Bank Levy and FiFa to the financial institution
- Request confirmation of receipt from the financial institution
- Mail the Notice of Levy to the taxpayer with Bank Levy copy attached
- Wait 15 days. If payment not received, contact the financial institution





Georgia Department of Revenue

Why do a Bank Levy?

- They're easy, no sweat!!
- Cost effective
- Once a process for document production and follow up is established, there's not much else to do
- There's no need with a Bank Levy to convert the assets to cash (Levy and Sale) as in other Personal Property levies





Georgia Department of Revenue

Where can Financial Institutions be served?

- Generally, any financial institution that does business (has customers) in the State of Georgia regardless of where the financial institution is based, they will tell you where to fax the levy
- Any financial institution that will honor your levy




Georgia Department of Revenue

Bank Levies are also effective for....

- Recovery and collection of bad checks for motor vehicles
- Prepare a FiFa with the vehicle owner's name, year, make, model and VIN including the taxes, tag fee, penalty, FiFa charge and dishonored check fees








Georgia Department of Revenue

Till-Tap Levies

- Seizure of cash from business (cash register, cash box, money safe, etc.)
- Write description of levy on Till-Tap levy description form and give to taxpayer and one for file
- Complete Till-Tap levy inventory form and leave copy with taxpayer and one for file
- Do this levy as last resort
- Consult county attorney first

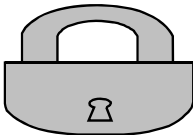






Georgia Department of Revenue

Padlock Levies

- Lock the doors of a business
- Have levy form prepared and also inventory assets seized via padlock levy
- Once business locked and inventoried proceed with levy as usual for personal property (notices and advertising-see tax sale flowchart)








Georgia Department of Revenue

Redemption

- OCGA 48-4-42
- Fee = 20% for the first year
- 10% for every year thereafter
- Foreclosure—consult an attorney
- Court Case—requires recording


*Remember no redemption for personal property





 **Georgia Department of Revenue**

Excess Funds


- O.C.G.A. 48-4-5 Code Section
- Send Notice to Record Owner/Security Deed Holder/Parties of Recorded Interest within 30 days of Sale
- Notice Should Contain:
 1. Description of land sold
 2. Date property Sold
 3. Name & address of tax sale purchaser
 4. Total sale price
 5. Amount of excess funds held by TC.




 **Georgia Department of Revenue**

Excess Funds-Cont'd


- Interpleader may Be filed –Superior Court can decide who receives Excess
- If Excess Not Claimed -After 5 years amount is sent to GA DOR - Unclaimed Property Section
- Remittance Form & Instructions on GA DOR Website- www.dor.georgia.gov




 **Georgia Department of Revenue**

Judicial Sales

- Order for tax sale by Superior Court Judge
- Consult County Attorney







Georgia Department of Revenue

Bankruptcy and the Tax Office

If taxpayer is in bankruptcy means...

- petition has been filed but prior to bankruptcy case being closed








Georgia Department of Revenue

Bankruptcy and the Tax Office

If taxpayer is in bankruptcy still can...

- mail tax bill
- 30 day notice of intent to file (stipulation in letter)
- issue file or execution
- record file or execution





Georgia Department of Revenue

Bankruptcy and the Tax Office

If taxpayer is in bankruptcy...

- No mobile home decal w/out payment of tax





 Georgia Department of Revenue

Bankruptcy and the Tax Office

What to include in claim filed with bankruptcy court...

- all pre-petition tax bills (due date prior to date of petition)
- can include current year taxes if date of bankruptcy petition subsequent to January 1st of current year




 Georgia Department of Revenue

Bankruptcy and the Tax Office

Taxpayer in bankruptcy must pay all post-petition tax liabilities as taxes become due...

....However, still no collection effort beyond issuance of lita unless release obtained from Bankruptcy Court or bankruptcy is closed



Legal Costs and Fees	O.C.G.A. State Statute(s)
\$1.00 Minimum or One-Percent Per Month Interest	48-2-40; 48-3-8; 48-5-24
Five-Percent Late Payment Penalty - Applicable to Counties with Installment Payments	48-5-24
10-Percent Penalty after 90 Days Except on Homestead Bills \$500 or Less	48-2-44
Fl. Fa.'s	15-16-21
Levy Administrative Fee (Five-percent of tax with a \$50 minimum / \$250 maximum)	48-5-161
Ex-Officio Sheriff Commissions	15-16-21
Fieri Facias Issuance	48-5-163
Fieri Facias Recording	15-6-77.3
Fieri Facias Collection (0-\$100 / \$100 +)	15-16-21 (B)(20); 15-16-21 (B)(21)
Fieri Facias Cancellation	15-6-77 (C) 2
Dishonored Check or Instrument (Penalty)	48-5-146
Dishonored Check or Instrument (Service Charge)	16-9-20
Each Levy or Fieri Facias	15-16-21
Settling	15-16-21
Advertising	9-13-143
Tax Deed	15-16-21
Bill of Sale (Personal Property)	15-16-21
Deed Recording	15-6-77.3C(1)
Retaining Fee (All Recording)	7-14-51 (B)
Bid Overage	48-4-5
