

# GEORGIA DEPARTMENT OF REVENUE

## LOCAL GOVERNMENT SERVICES DIVISION



## BOARDS OF EQUALIZATION 40 HOUR WORKSHOP

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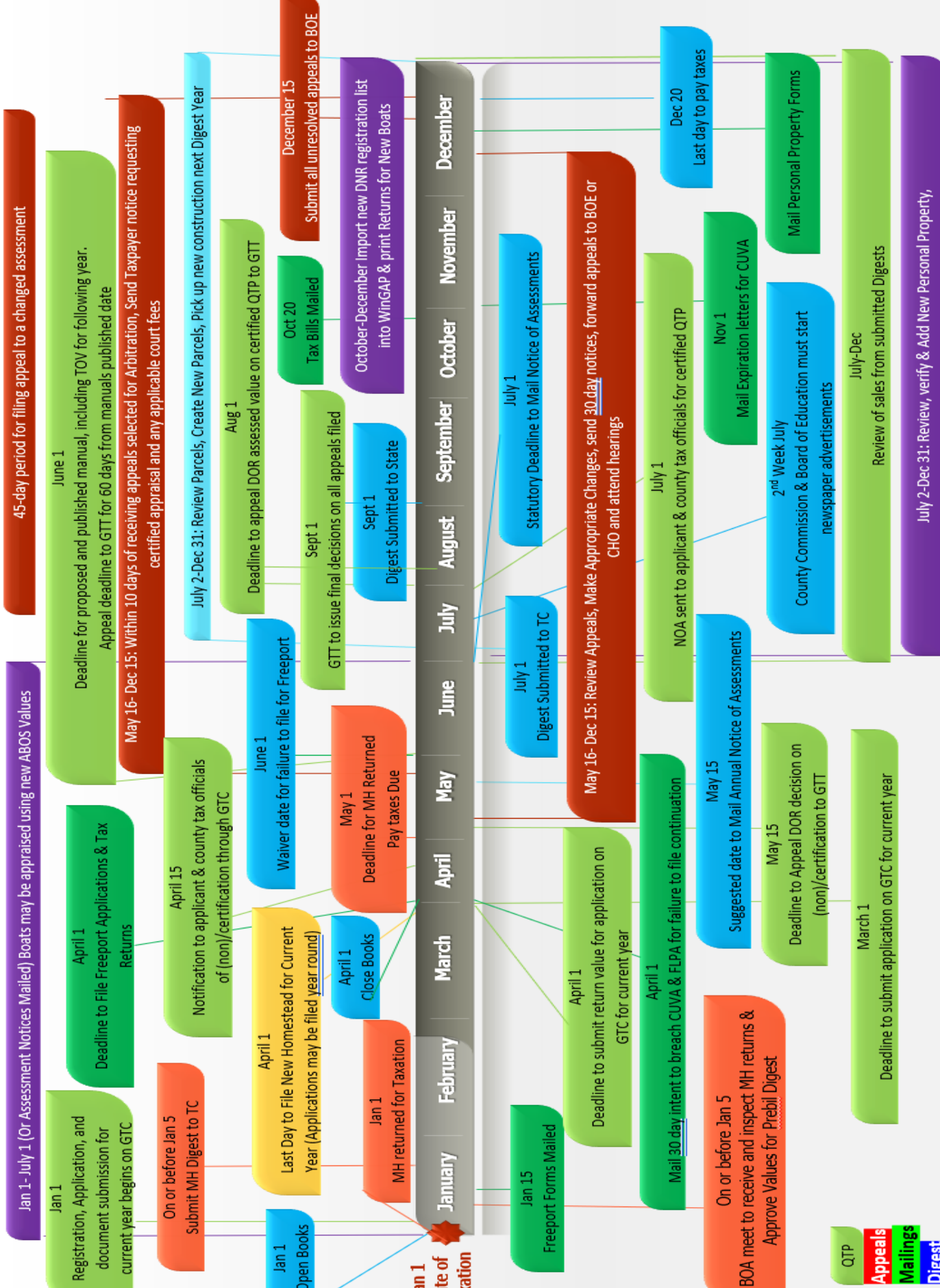
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# Assessors Timeline

- QTP
- Appeals
- Mailings
- Digest
- MH Digest
- Homestead
- Personal Property



# **Georgia Statutes**

## § 48-5-1 Legislative intent

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

## § 48-5-2 Definitions

As used in this chapter, the term:

- (.1) "Arm's length, bona fide sale" means a transaction which has occurred in good faith without fraud or deceit carried out by unrelated or unaffiliated parties, as by a willing buyer and a willing seller, each acting in his or her own self-interest, including but not limited to a distress sale, short sale, bank sale, or sale at public auction.
- (1) "Current use value" of bona fide conservation use property means the amount a knowledgeable buyer would pay for the property with the intention of continuing the property in its existing use and in an arm's length, bona fide sale and shall be determined in accordance with the specifications and criteria provided for in subsection (b) of Code Section 48-5-269.
- (2) "Current use value" of bona fide residential transitional property means the amount a knowledgeable buyer would pay for the property with the intention of continuing the property in its existing use and in an arm's length, bona fide sale. The tax assessor shall consider the following criteria, as applicable, in determining the current use value of bona fide residential transitional property:

  - (A) The current use of such property;
  - (B) Annual productivity; and
  - (C) Sales data of comparable real property with and for the same existing use.
- (3) "Fair market value of property" means the amount a knowledgeable buyer would pay for the property and a willing seller would accept for the property at an arm's length, bona fide sale. The income approach, if data are available, shall be ~~utilized~~ considered in determining the fair market value of income-producing property, ~~and, if~~ if actual income and expense data are voluntarily supplied by the property owner, such data shall be considered in such determination. Notwithstanding any other provision of this chapter to the contrary, the transaction amount of the most recent arm's length, bona fide sale in any year shall be the maximum allowable fair market value for the next taxable year. With respect to the valuation of equipment, machinery, and fixtures when no ready market exists for the sale of the equipment, machinery, and fixtures, fair market value may be determined by resorting to any reasonable, relevant, and useful information available, including, but not limited to, the original cost of the property, any depreciation or obsolescence, and any increase in value by reason of inflation. Each tax assessor shall have access to any public records of the taxpayer for the purpose of discovering such information.

- (A)** In determining the fair market value of a going business where its continued operation is reasonably anticipated, the tax assessor may value the equipment, machinery, and fixtures which are the property of the business as a whole where appropriate to reflect the accurate fair market value.
- (B)** The tax assessor shall apply the following criteria in determining the fair market value of real property:
- (i)** Existing zoning of property;
  - (ii)** Existing use of property, including any restrictions or limitations on the use of property resulting from state or federal law or rules or regulations adopted pursuant to the authority of state or federal law;
  - (iii)** Existing covenants or restrictions in deed dedicating the property to a particular use;
  - (iv)** Bank sales, other financial institution owned sales, or distressed sales, or any combination thereof, of comparable real property;
  - (v)** Decreased value of the property based on limitations and restrictions resulting from the property being in a conservation easement;
  - (vi)** Rent limitations, higher operating costs resulting from regulatory requirements imposed on the property, and any other restrictions imposed upon the property in connection with the property being eligible for any income tax credits with respect to real property which are claimed and granted pursuant to either Revenue Code of 1986, as amended, or Chapter 7 of this title or receiving any other state or federal subsidies provided with respect to the use of the property as residential rental property; provided, however, that properties described in this division shall not be considered comparable real property for the assessment or appeal of assessment of properties not covered by this division;
- (vii)**
- (I)** In establishing the value of any property subject to rent restrictions under the sales comparison approach, any income tax credits described in division (vi) of this subparagraph that are attributable to a property may be considered in determining the fair market value of the property, provided that the tax assessor uses comparable sales of property which, at the time of the comparable sale, had unused income tax credits that were transferred in an arm's length, bona fide sale.
  - (II)** In establishing the value of any property subject to rent restrictions under the income approach, any income tax credits described in division (vi) of this subparagraph that are attributable to property may be considered in determining the fair market

value of the property, provided that such income tax credits generate actual income to the record holder of title to the property; and

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

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

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

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

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

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

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

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

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

(ii) For the ninth year in which the property is classified as "~~landmark~~ landmark



amount determined in accordance with the specifications and criteria provided for in Code Section 48 5 271 and Article VII, Section I, Paragraph III(f) of the Constitution.

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

### **§ 48-5-3 Taxable property**

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

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

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

### **§ 48-5-6 Return of property at fair market value**

All property shall be returned for taxation at its fair market value except as otherwise provided in this chapter.

## § 48-5-7 Assessment of tangible property

- (a) Except as otherwise provided in this Code section, taxable tangible property shall be assessed at 40 percent of its fair market value and shall be taxed on a levy made by each respective tax jurisdiction according to 40 percent of the property's fair market value.
- (b) Tangible real property which is devoted to bona fide agricultural purposes as defined in this chapter and which otherwise conforms to the conditions and limitations imposed in this chapter shall be assessed for ad valorem property tax purposes at 75 percent of the value which other tangible real property is assessed and shall be taxed on a levy made by each respective tax jurisdiction according to said assessment.
- (c) Tangible real property which qualifies as rehabilitated historic property pursuant to the provisions of Code Section 48-5-7.2 shall be assessed at 40 percent of its fair market value and shall be taxed on a levy made by each respective tax jurisdiction according to 40 percent of the property's fair market value. For the purposes of this subsection, the term "fair market value" shall mean the fair market value of rehabilitated historic property pursuant to the provisions of subparagraph (C) of paragraph (3) of Code Section 48-5-2.
  - (c.1) Tangible real property which qualifies as landmark historic property pursuant to the provisions of Code Section 48-5-7.3 shall be assessed at 40 percent of its fair market value and shall be taxed on a levy made by each respective tax jurisdiction according to 40 percent of the property's fair market value. For the purposes of this subsection, the term "fair market value" shall mean the fair market value of landmark historic property pursuant to the provisions of subparagraph (D) of paragraph (3) of Code Section 48-5-2.
  - (c.2) Tangible real property which is devoted to bona fide conservation uses as defined in this chapter and which otherwise conforms to the conditions and limitations imposed in this chapter shall be assessed for property tax purposes at 40 percent of its current use value and shall be taxed on a levy made by each respective tax jurisdiction according to 40 percent of the property's current use value.
  - (c.3) Tangible real property located in a transitional developing area which is devoted to bona fide residential uses, and which otherwise conforms to the conditions and limitations imposed in this chapter for bona fide residential transitional property shall be assessed for property tax purposes at 40 percent of its current use value and shall be taxed on a levy made by each respective tax jurisdiction according to 40 percent of the property's current use value.
  - (c.4) Tangible real property which qualifies as brownfield property pursuant to the provisions of Code Section 48-5-7.6 shall be assessed at 40 percent of its fair market value and shall be taxed on a levy made by each respective tax jurisdiction according to 40 percent of the property's fair market value. For the purposes of this subsection, the term "fair market value" shall mean the fair market value of brownfield property pursuant to the provisions of subparagraph (F) of paragraph (3) of Code Section 48-5-2.
  - (c.5) Tangible real property which qualifies as forest land conservation use property

pursuant to the provisions of Code Section 48-5-7.7 shall be assessed at 40 percent of its forest land conservation use value and shall be taxed on a levy made by each respective tax jurisdiction according to 40 percent of the property's forest land conservation use value.

(c.6) Tangible real property which qualifies as qualified timberland property in accordance with the provisions of Article 13 of this chapter shall be assessed at 40 percent of its fair market value of qualified timberland property and shall be taxed on a levy made by each respective tax jurisdiction according to 40 percent of its fair market value of qualified timberland property as such value is determined by the commissioner in accordance with Article 13 of this chapter.

- (d) The requirement contained in this Code section that all tax jurisdictions assess taxable tangible property at 40 percent of fair market value shall not apply to any tax jurisdiction whose ratio of assessed value to fair market value exceeded 40 percent for the tax year 1971. No tax jurisdiction so exempted shall assess at a ratio of less than 40 percent except as necessary to affect the preferential assessment provided in subsection (b) of this Code section.
- (e) Each notice of ad valorem taxes due sent to taxpayers of counties and municipalities shall include both the fair market value of the property of the taxpayer which is subject to taxation and the assessed value of the property after being reduced as provided by this Code section.

**§ 48-5-7.1 Tangible real property devoted to agricultural purposes --  
Definition; persons entitled to preferential tax assessment; covenant  
to maintain agricultural purposes; penalty for breach of covenant**

- (a) For purposes of this article, the term "tangible real property which is devoted to bona fide agricultural purposes":
  - (1) Is tangible real property, the primary use of which is good faith commercial production from or on the land of agricultural products, including horticultural, floricultural, forestry, dairy, livestock, poultry, and apiarian products and all other forms of farm products; but
  - (2) Includes only the value which is \$100,000.00 or less of the fair market value of tangible real property which is devoted to the storage or processing of agricultural products from or on the property; and
  - (3) Excludes the entire value of any residence located on the property.
- (b) No property shall qualify for the preferential ad valorem property tax assessment provided for in subsection (b) of Code Section 48-5-7 unless:
  - (1) It is owned by one or more natural or naturalized citizens; or
  - (2) It is owned by a family-farm corporation, the controlling interest of which is



owned by individuals related to each other within the fourth degree by civil reckoning, and such corporation derived 80 percent or more of its gross income for the year immediately preceding the year in which application for preferential assessment is made from bona fide agricultural pursuits carried out on tangible real property located in this state, which property is devoted to bona fide agricultural purposes.

- (c)** No property shall qualify for said preferential assessment if such assessment would result in any person who has a beneficial interest in such property, including any interest in the nature of stock ownership, receiving in any tax year any benefit of preferential assessment as to more than 2,000 acres. If any taxpayer has any beneficial interest in more than 2,000 acres of tangible real property which is devoted to bona fide agricultural purposes, such taxpayer shall apply for preferential assessment only as to 2,000 acres of such land.
- (d)** No property shall qualify for preferential assessment unless and until the owner of such property agrees by covenant with the appropriate taxing authority to maintain the eligible property in bona fide agricultural purposes for a period of at least ten years beginning on the first day of January of the year in which such property qualifies for preferential assessment and ending on the last day of December of the tenth year of the covenant period. After the expiration of any ten-year covenant period, the property shall not qualify for further preferential assessment until and unless the owner of the property enters into a renewal covenant for an additional period of ten years.
- (e)** No property shall maintain its eligibility for preferential assessment unless a valid covenant remains in effect and unless the property is continuously devoted to bona fide agricultural purposes during the entire period of the covenant.
- (f)** If any change in ownership of such qualified property occurs during the covenant period, all qualification requirements must be met again before the property shall be eligible to be continued for preferential assessment. If ownership of the property is acquired during a covenant period by a person qualified to enter into an original covenant, by a newly formed corporation the stock in which is owned by the original covenantor or others related to the original covenantor within the fourth degree by civil reckoning, or by the personal representative of an owner who was a party to the covenant, then the original covenant may be continued by such acquiring party for the remainder of the term, in which event no breach of the covenant shall be deemed to have occurred.
- (g)** A penalty shall be imposed under this subsection if during the period of the covenant entered into by a taxpayer the covenant is breached. The penalty shall be computed by multiplying the amount by which the preferential assessment has reduced taxes otherwise due for the year in which the breach occurs times:

  - (1)** A factor of five if the breach occurs in the first or second year of the covenant period;
  - (2)** A factor of four if the breach occurs during the third or fourth year of the covenant period;



are given pursuant to Code Section 48-5-306 and shall return any filing fees advanced by the owner. Appeals from the denial of an application by the board of tax assessors shall be made in the same manner that other property tax appeals are made pursuant to Code Section 48-5-311. As to property approved for preferential assessment prior to July 1, 1998, the county board of tax assessors shall file copies of all approved applications in the office of the clerk of the superior court not later than August 14, 1998, and the clerk shall file, index, and record such approved applications, as provided for in this subsection, with the fee of the clerk of the superior court for filing, indexing, and recording to be paid out of the general funds of the county.

- (l)** The commissioner shall by regulation provide uniform application and covenant forms to be used in making application for preferential assessment. Such application shall include an oath or affirmation by the taxpayer that he has not at any time received, or made a pending application for, preferential assessment in the same or another county with respect to any property which taken together with property for which application is then being made exceeds 2,000 acres.
- (m)** The commissioner shall annually submit a report to the Governor and members of the General Assembly which shall show the fiscal impact of the preferential assessment provided for in this Code section. The report shall include the amount of assessed value eliminated from each county's digest as a result of the preferential assessment; approximate tax dollar losses, by county, to all local governments affected by such preferential assessment; and any recommendations regarding state and local administration of this Code section, with emphasis upon enforcement problems, if any, attendant with this Code section. The report shall also include any other data or facts which the commissioner deems relevant.
- (n)** **(1)** The transfer prior to July 1, 1988, of a part of the property subject to a covenant shall not constitute a breach of a covenant entered into before or after July 1, 1984, if:
  - (A)** The part of the property so transferred is used for single-family residential purposes and the residence is occupied by a person who is related within the fourth degree of civil reckoning to an owner of the property subject to the covenant; and
  - (B)** The part of the property so transferred, taken together with any other part of the property so transferred during the covenant period, does not exceed a total of three acres.
- (2)** The transfer on or after July 1, 1988, of a part of the property subject to a covenant shall not constitute a breach of a covenant entered into before or after July 1, 1988, if:
  - (A)** The part of the property so transferred is transferred to a person who is related within the fourth degree of civil reckoning to an owner of the property subject to the covenant; and
  - (B)** The part of the property so transferred, taken together with any other

part of the property transferred to the same relative during the covenant period, does not exceed a total of five acres.

- (o)** The following shall not constitute a breach of a covenant entered into before or after July 1, 1984:
  - (1)** Mineral exploration of the property subject to the covenant or the leasing of the property subject to the covenant for purposes of mineral exploration if the primary use of the property continues to be the good faith commercial production from or on the land of agricultural products; or
  - (2)** Allowing all or part of the property subject to the covenant to lie fallow or idle for purposes of any land conservation program, for purposes of any federal agricultural assistance program, or for other agricultural management purposes.
- (p)** Property which is subject to preferential assessment shall be separately classified from all other property on the tax digest; and such separate classification shall be such as will enable any person examining the tax digest to readily ascertain that the property is subject to preferential assessment. Covenants shall be public records and shall be indexed and maintained in such manner as will allow members of the public to readily locate the covenant affecting any particular property subject to preferential assessment.
- (q)** **(1)** In any case in which a covenant is breached solely as a result of the foreclosure of a deed to secure debt, or the property is conveyed to the lienholder without compensation and in lieu of foreclosure, the penalty specified by paragraph (2) of this subsection shall apply and the penalty specified by subsection (g) of this Code section shall not apply if:
  - (A)** The deed to secure debt was executed as a part of a bona fide commercial loan transaction in which the grantor of the deed to secure debt received consideration equal in value to the principal amount of the debt secured by the deed to secure debt;
  - (B)** The loan was made by a person or financial institution who or which is regularly engaged in the business of making loans; and
  - (C)** The deed to secure debt was intended by the parties as security for the loan and was not intended for the purpose of carrying out a transfer which would otherwise be subject to the penalty specified by subsection (g) of this Code section.
- (2)** When a breach occurs solely as a result of a foreclosure which meets the qualifications of paragraph (1) of this subsection, the penalty imposed shall be the amount by which preferential assessment has reduced taxes otherwise due for the year in which the covenant is breached.
- (3)** A penalty imposed under this subsection shall bear interest at the rate specified in Code Section 48-2-40 from the date the covenant is breached.

**(r)**

- (1)** In any case in which a covenant is breached solely as a result of a medically demonstrable illness or disability which renders the owner of the real property physically unable to continue the property in agricultural use, the penalty specified by paragraph (2) of this subsection shall apply and the penalty specified by subsection (g) of this Code section shall not apply. The penalty specified by paragraph (2) of this subsection shall likewise be substituted for the penalty specified by subsection (g) of this Code section in any case in which a covenant is breached solely as a result of a medically demonstrable illness or disability which renders the operator of the real property physically unable to continue the property in agricultural use, provided that the alternative penalty shall apply in this case only if the operator of the real property is a member of the family owning a family-farm corporation which owns the real property.
  - (2)** When a breach occurs which meets the qualifications of paragraph (1) of this subsection, the penalty imposed shall be the amount by which preferential assessment has reduced taxes otherwise due for the year during which the covenant is breached.
  - (3)** A penalty imposed under this subsection shall bear interest at the rate specified in Code Section 48-2-40 from the date the covenant is breached.
  - (4)** Prior to the imposition of the alternative penalty authorized by this subsection in lieu of the penalty specified by subsection (g) of this Code section, the board of tax assessors shall require satisfactory evidence which clearly demonstrates that the breach is the result of a medically demonstrable illness or disability which meets the qualifications of paragraph (1) of this subsection.
- (r.1)** In any case in which a covenant is breached solely as a result of an owner electing to discontinue the property in its qualifying use, provided such owner has renewed without an intervening lapse at least once the covenant under this Code section, has reached the age of 65 or older, and has kept the property in a qualifying use under the renewal covenant for at least three years the penalty specified by subsection (g) of this Code section shall not apply and the penalty imposed shall be the amount by which preferential assessment has reduced taxes otherwise due for the year in which the covenant is breached. Such penalty shall bear interest at the rate specified in Code Section 48-2-40 from the date of the breach. Such election shall be in writing and shall not become effective until filed with the county board of tax assessors.
- (s)** Property which is subject to preferential assessment and which is subject to a covenant under this Code section may be changed from such covenant and placed in a covenant for bona fide conservation use under Code Section 48-5-7.4 if such property meets all of the requirements and conditions specified in Code Section 48-5-7.4. Any such change shall terminate the covenant under this Code section, shall not constitute a breach of the covenant under this Code section, and shall require the establishment of a new covenant period under Code Section 48-5-7.4. No property may be changed under this subsection

more than once.

- (t) At such time as the property ceases to be eligible for preferential assessment or when any ten- year covenant period expires and the property does not qualify for further preferential assessment, the owner of the property shall file an application for release of preferential treatment with the county board of tax assessors who shall approve the release upon verification that all taxes and penalties with respect to the property have been satisfied. After the application for release has been approved by the board of tax assessors, the board shall file the release in the office of the clerk of the superior court in the county in which the original covenant was filed. The clerk of the superior court shall file and index such release in the real property records maintained in the clerk's office. No fee shall be paid to the clerk of the superior court for recording such release. The commissioner shall by regulation provide uniform release forms.

**§ 48-5-7.2 Certification as rehabilitated historic property for purposes of preferential assessment**

**§ 48-5-7.3 Landmark historic property**

**§ 48-5-7.4 Bona fide conservation use property; residential transitional property; application procedures; penalties for breach of covenant; classification on tax digest; annual report**

- (a) For purposes of this article, the term "bona fide conservation use property" means property described in and meeting the requirements of paragraph (1) or (2) of this subsection, as follows:
  - (1) Not more than 2,000 acres of tangible real property of a single person, the primary purpose of which is any good faith production, including but not limited to subsistence farming or commercial production, from or on the land of agricultural products or timber, subject to the following qualifications:
    - (A) Such property includes the value of tangible property permanently affixed to the real property which is directly connected to such owner's production of agricultural products or timber, and which is devoted to the storage and processing of such agricultural products or timber from or on such real property;
    - (A.1) In the application of the limitation contained in the introductory language of this paragraph, the following rules shall apply to determine beneficial interests in bona fide conservation use property held in a family-owned farm entity as described in division (1)(C)(iv) of this subsection:
      - (i) A person who owns an interest in a family-owned farm entity as described in division (1)(C)(iv) of this subsection shall be considered to own only the percent of the bona fide conservation

use property held by such family-owned farm entity that is equal to the percent interest owned by such person in such family-owned farm entity; and

**(ii)** A person who owns an interest in a family owned farm entity as described in division (1)(C)(iv) of this subsection may elect to allocate the lesser of any unused portion of such person's 2,000 acre limitation or the product of such person's percent interest in the family owned farm entity times the total number of acres owned by the family owned farm entity subject to such bona fide conservation use assessment, with the result that the family owned farm entity may receive bona fide conservation use assessment on more than 2,000 acres;

**(B)** Such property excludes the entire value of any residence and its underlying property; as used in this subparagraph, the term "underlying property" means the minimum lot size required for residential construction by local zoning ordinances or two acres, whichever is less. The board of tax assessors shall not require a recorded plat or survey to set the boundaries of the 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 on or after May 1, 2012;

**(C)** Except as otherwise provided in division (vii) of this subparagraph, such property must be owned by:

**(i)** One or more natural or naturalized citizens;

**(ii)** An estate of which the devisees or heirs are one or more natural or naturalized citizens;

**(iii)** A trust of which the beneficiaries are one or more natural or naturalized citizens;

**(iv)** A family owned farm entity, such as a family corporation, a family partnership, a family general partnership, a family limited partnership, a family limited corporation, or a family limited liability company, all of the interest of which is owned by one or more natural or naturalized citizens related to each other by blood or marriage within the fourth degree of civil reckoning, except that, solely with respect to a family limited partnership, a corporation, limited partnership, limited corporation, or limited liability company may serve as a general partner of the family limited partnership and hold no more than a 5 percent interest in such family limited partnership, an estate of which the devisees or

heirs are one or more natural or naturalized citizens, a trust of which the beneficiaries are one or more natural or naturalized citizens, or an entity created by the merger or consolidation of two or more entities which independently qualify as a family owned farm entity, and which family owned farm entity derived 80 percent or more of its gross income from bona fide conservation uses, including earnings on investments directly related to past or future bona fide conservation uses, within this state within the year immediately preceding the year in which eligibility is sought; provided, however, that in the case of a newly formed family farm entity, an estimate of the income of such entity may be used to determine its eligibility;

- (v) A bona fide nonprofit organization designated under Section 501(c)(3) of the Internal Revenue Code;
- (vi) A bona fide club organized for pleasure, recreation, and other non-profitable purposes; or
- (vii) In the case of constructed storm-water wetlands, any person may own such property;

**(D)** Factors which may be considered in determining if such property is qualified may include, but not be limited to:

- (i) The nature of the terrain;
- (ii) The density of the marketable product on the land;
- (iii) The past usage of the land;
- (iv) The economic merchantability of the agricultural product; and  
The utilization or non-utilization of recognized care, cultivation, harvesting, and like practices applicable to the product involved and any implemented plans thereof;

**(E)** Such property shall, if otherwise qualified, include, but not be limited to, property used for:

- (i) Raising, harvesting, or storing crops;
- (ii) Feeding, breeding, or managing livestock or poultry;
- (iii) Producing plants, trees, fowl, or animals, including without limitation the production of fish or wildlife by maintaining not less than ten acres of wildlife habitat either in its natural state or under management, which shall be deemed a type of agriculture; provided, however, that no form of commercial fishing or fish production shall be considered a type of



agriculture; or

(iv) Production of aquaculture, horticulture, floriculture, forestry, dairy, livestock, poultry, and apiarian products; and

(F) The primary purpose described in this paragraph includes land conservation and ecological forest management in which commercial production of wood and wood fiber products may be undertaken primarily for conservation and restoration purposes rather than financial gain; or

(2) Not more than 2,000 acres of tangible real property, excluding the value of any improvements thereon, of a single owner of the types of environmentally sensitive property specified in this paragraph and certified as such by the Department of Natural Resources, if the primary use of such property is its maintenance in its natural condition or controlling or abating pollution of surface or ground waters of this state by storm-water runoff or otherwise enhancing the water quality of surface or ground waters of this state and if such owner meets the qualifications of subparagraph

(C) of paragraph (1) of this subsection:

(A) Environmentally sensitive areas, including any otherwise qualified land area 1,000 feet or more above the lowest elevation of the county in which such area is located that has a percentage slope, which is the difference in elevation between two points 500 feet apart on the earth divided by the horizontal distance between those two points of 25 percent or greater and shall include the crests, summits, and ridge tops which lie at elevations higher than any such area;

(B) Wetland areas that are determined by the United States Army Corps of Engineers to be wetlands under their jurisdiction pursuant to Section 404 of the federal Clean Water Act, as amended, or wetland areas that are depicted or delineated on maps compiled by the Department of Natural Resources or the United States Fish and Wildlife Service pursuant to its National Wetlands Inventory Program;

(C) Significant ground-water recharge areas as identified on maps or data compiled by the Department of Natural Resources;

(D) Undeveloped barrier islands or portions thereof as provided for in the federal Coastal Barrier Resources Act, as amended;

(E) Habitats as certified by the Department of Natural Resources as containing species that have been listed as either endangered or threatened under the federal Endangered Species Act of 1973, as amended;

(F) River or stream corridors or buffers which shall be defined as those undeveloped lands which are:

- (i) Adjacent to rivers and perennial streams that are within the 100-year flood plain as depicted on official maps prepared by the Federal Emergency Management Agency; or
- (ii) Within buffer zones adjacent to rivers or perennial streams, which buffer zones are established by law or local ordinance and within which land-disturbing activity is prohibited; or

**(G)** (i) Constructed storm-water wetlands of the free-water surface type certified by the Department of Natural Resources under subsection (k) of Code Section 12-2-4 and approved for such use by the local governing authority.

(ii) No property shall maintain its eligibility for current use assessment as a bona fide conservation use property as defined in this subparagraph unless the owner of such property files 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. Such inspection report and certification shall be filed with the county board of tax assessors on or before the last day for filing ad valorem tax returns in the county for each tax year for which such assessment is sought.

**(a.1)** Notwithstanding any other provision of this Code section to the contrary, in the case of property which otherwise meets the requirements for current use assessment and the qualifying use is pursuant to division (1)(E)(iii) of subsection (a) of this Code section, when the owner seeks to renew the covenant or reenter a covenant subsequent to the termination of a previous covenant which met such requirements and the owner meets the qualifications under this Code section but the property is no longer being used for the qualified use for which the previous covenant was entered pursuant to division (1)(E)(iii) of subsection (a) of this Code section, the property is not environmentally sensitive property within the meaning of paragraph (2) of subsection (a) of this Code section, and the primary use of the property is maintenance of a wildlife habitat of not less than ten acres either by maintaining the property in its natural condition or under management, the county board of tax assessors shall be required to accept such use as a qualifying use for purposes of this Code section.

**(b)** Except in the case of the underlying portion of a tract of real property on which is actually located a constructed storm-water wetland, the following additional rules shall apply to the qualification of conservation use property for current use assessment:

**(1)** When one-half or more of the area of a single tract of real property is used for a qualifying purpose, then such tract shall be considered as used for such qualifying purpose unless some other type of business is being operated on the unused portion; provided, however, that such unused portion must be minimally

managed so that it does not contribute significantly to erosion or other environmental or conservation problems. The lease of hunting rights or the use of the property for hunting purposes shall not constitute another type of business. The charging of admission for use of the property for fishing purposes shall not constitute another type of business;

**(2)** **(A)** The owner of a tract, lot, or parcel of land totaling less than ten acres shall be required by the tax assessor to submit additional relevant records regarding proof of bona fide conservation use for qualified property that on or after May 1, 2012, is either first made subject to a covenant or is subject to a renewal of a previous covenant. The provisions of this paragraph relating to requiring additional relevant records regarding proof of bona fide conservation use shall not apply to such property if the owner of the subject property provides one or more of the following:

- (i)** 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;
- (ii)** Proof that such owner has incurred expenses for the qualifying use; or
- (iii)** Proof that such owner has generated income from the qualifying use.

Prior to a denial of eligibility under this paragraph, the tax assessor shall conduct and provide proof of a visual, on-site inspection of the property. Reasonable notice shall be provided to the property owner before being allowed a visual, on-site inspection of the property by the tax assessor.

**(B)** The owner of a tract, lot, or parcel of land totaling ten acres or more shall not be required by the tax assessor to submit additional relevant records regarding proof of bona fide conservation use for qualified property that on or after May 1, 2012, is either first made subject to a covenant or is subject to a renewal of a previous covenant;

- (3)** No property shall qualify as bona fide conservation use property if such current use assessment would result in any person who has a beneficial interest in such property, including any interest in the nature of stock ownership, receiving in any tax year any benefit of current use assessment as to more than 2,000 acres. If any taxpayer has any beneficial interest in more than 2,000 acres of tangible real property which is devoted to bona fide conservation uses, such taxpayer shall apply for current use assessment only as to 2,000 acres of such land;
- (4)** No property shall qualify as bona fide conservation use property if it is leased to a person or entity which would not be entitled to conservation use assessment;

- (5) No property shall qualify as bona fide conservation use property if such property is at the time of application for current use assessment subject to a restrictive covenant which prohibits the use of the property for the specific purpose described in subparagraph (a)(1)(E) of this Code section for which bona fide conservation use qualification is sought; and
- (6) No otherwise qualified property shall be denied current use assessment on the grounds that no soil map is available for the county in which such property is located; provided, however, that if no soil map is available for the county in which such property is located, the owner making an application for current use assessment shall provide the board of tax assessors with a certified soil survey of the subject property unless another method for determining the soil type of the subject property is authorized in writing by such board.
- (c) For purposes of this article, the term "bona fide residential transitional property" means not more than five acres of tangible real property of a single owner which is private single-family residential owner-occupied property located in a transitional developing area. Such classification shall apply to all otherwise qualified real property which is located in an area which is undergoing a change in use from single-family residential use to agricultural, commercial, industrial, office-institutional, multifamily, or utility use or a combination of such uses. Change in use may be evidenced by recent zoning changes, purchase by a developer, affidavits of intent, or close proximity to property which has undergone a change from single-family residential use. To qualify as residential transitional property, the valuation must reflect a change in value attributable to such property's proximity to or location in a transitional area.
- (d) No property shall qualify for current use assessment under this Code section unless and until the owner of such property agrees by covenant with the appropriate taxing authority to maintain the eligible property in bona fide qualifying use for a period of ten years beginning on the first day of January of the year in which such property qualifies for such current use assessment and ending on the last day of December of the final year of the covenant period. After the owner has applied for and has been allowed current use assessment provided for in this Code section, it shall not be necessary to make application thereafter for any year in which the covenant period is in effect and current use assessment shall continue to be allowed such owner as specified in this Code section. At least 60 days prior to the expiration date of the covenant, the county board of tax assessors shall send by first-class mail written notification of such impending expiration. Upon the expiration of any covenant period, the property shall not qualify for further current use assessment under this Code section unless and until the owner of the property has entered into a renewal covenant for an additional period of ten years; provided, however, that the owner may enter into a renewal contract in the ninth year of a covenant period so that the contract is continued without a lapse for an additional ten years.
- (e) A single owner shall be authorized to enter into more than one covenant under this Code section for bona fide conservation use property, provided that the aggregate number of

acres of qualified property of such owner to be entered into such covenants does not exceed 2,000 acres. Any such qualified property may include a tract or tracts of land which are located in more than one county. A single owner shall be authorized to enter qualified property in a covenant for bona fide conservation use purposes and to enter simultaneously the residence located on such property in a covenant for bona fide residential transitional use if the qualifications for each such covenant are met. A single owner shall be authorized to enter qualified property in a covenant for bona fide conservation use purposes and to enter other qualified property of such owner in a covenant for bona fide residential transitional use.

- (f)** An owner shall not be authorized to make application for and receive current use assessment under this Code section for any property which at the time of such application is receiving preferential assessment under Code Section 48-5-7.1 except that such owner shall be authorized to change such preferential assessment covenant in the manner provided for in subsection (s) of Code Section 48-5-7.1.
- (g)** Except as otherwise provided in this subsection, no property shall maintain its eligibility for current use assessment under this Code section unless a valid covenant remains in effect and unless the property is continuously devoted to an applicable bona fide qualifying use during the entire period of the covenant. An owner shall be authorized to change the type of bona fide qualifying conservation use of the property to another bona fide qualifying conservation use and the penalty imposed by subsection (l) of this Code section shall not apply, but such owner shall give notice of any such change in use to the board of tax assessors.
- (h)** If any breach of a covenant occurs, the existing covenant shall be terminated, and all qualification requirements must be met again before the property shall be eligible for current use assessment under this Code section.
- (i)**
  - (1)** If ownership of all or a part of the property is acquired during a covenant period by a person or entity qualified to enter into an original covenant, then the original covenant may be continued by such acquiring party for the remainder of the term, in which event no breach of the covenant shall be deemed to have occurred.
  - (2)**
    - (A)** As used in this paragraph, the term "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 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.
    - (B)** 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 ten-year period of the original covenant; provided, however, that such subsequently acquired qualified property shall be less than 50 acres.

- (j) **(1)** All applications for current use assessment under this Code section, including the covenant agreement required under this Code section, shall be filed on or before the last day for filing ad valorem tax returns in the county for the tax year for which such current use assessment is sought, except that in the case of property which is the subject of a reassessment by the board of tax assessors an application for current use assessment may be filed in conjunction with or in lieu of an appeal of the reassessment. An application for continuation of such current use assessment upon a change in ownership of all or a part of the qualified property shall be filed on or before the last date for filing tax returns in the year following the year in which the change in ownership occurred. Applications for current use assessment under this Code section shall be filed with the county board of tax assessors who shall approve or deny the application. If the application is approved on or after July 1, 1998, the county board of tax assessors shall file a copy of the approved application in the office of the clerk of the superior court in the county in which the eligible property is located. The clerk of the superior court shall file and index such application in the real property records maintained in the clerk's office. Applications approved prior to July 1, 1998, shall be filed, and indexed in like manner without payment of any fee. If the application is not so recorded in the real property records, a transferee of the property affected shall not be bound by the covenant or subject to any penalty for its breach. The fee of the clerk of the superior court for recording such applications approved on or after July 1, 1998, shall be paid by the owner of the eligible property with the application for preferential treatment and shall be paid to the clerk by the board of tax assessors when the application is filed with the clerk. 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 Code Section 48-5-306 and shall return any filing fees advanced by the owner. Appeals from the denial of an application by the board of tax assessors shall be made in the same manner that other property tax appeals are made pursuant to Code Section 48-5-311.
- (2)** If the final determination on appeal to superior court is to approve the application for current use assessment, the taxpayer shall recover costs of litigation and reasonable attorney's fees incurred in the action.
- (3)** Any final determination on appeal that causes a reduction in taxes and creates a refund that is owed to the taxpayer shall be paid by the tax commissioner to such taxpayer, entity, or transferee that paid the taxes within 60 days from the date of the final determination of value. Such refund shall include interest at the same rate specified in Code Section 48-2-35 which shall accrue from the due date of the taxable year in question or the date paid, whichever is later, through the date on which the final determination of value was made. In no event shall the amount of such interest exceed \$5,000.00. Any refund paid after the sixtieth day shall accrue interest from the sixty-first day until paid with interest at the same rate specified in Code Section 48-2-35. The interest accrued after the sixtieth day shall not be subject to the limits imposed

by this subsection. The tax commissioner shall pay the tax refund and any interest for the refund from current collections in the same proportion for each of the levying authorities for which the taxes were collected.

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

**(5)** In the event such application is approved, the taxpayer shall continue to receive annual notification of any change in the fair market value of such property and any appeals with respect to such valuation shall be made in the same manner as other property tax appeals are made pursuant to Code Section 48-5-311.

**(k)** **(1)** The commissioner shall by regulation provide uniform application and covenant forms to be used in making application for current use assessment under this Code section. Such application shall include an oath or affirmation by the taxpayer that he or she is in compliance with the provisions of paragraphs (3) and (4) of subsection (b) of this Code section, if applicable.

**(2)** The applicable local governing authority shall accept applications for approval of property for purposes of subparagraph (a)(2)(G) of this Code section and shall certify property to the local board of tax assessors as meeting or not meeting the criteria of such paragraph. The local governing authority shall not certify any property as meeting the criteria of subparagraph (a)(2)(G) of this Code section unless:

**(A)** The owner has submitted to the local governing authority:

- (i)** A plat of the tract in question prepared by a licensed land surveyor, showing the location and measured area of such tract;
- (ii)** 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
- (iii)** Information on the actual cost of constructing and estimated cost of operating the storm-water wetland, including without limitation a description of all incorporated materials, machinery, and equipment; and

**(B)** 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 compliance with the requirements of subparagraph (a)(2)(G) of this Code section.

- (k.1)** In the case of an alleged breach of the covenant, the owner shall be notified in writing by the board of tax assessors. The owner shall have a period of 30 days from the date of such notice to cease and desist the activity alleged in the notice to be in breach of the covenant or to remediate or correct the condition or conditions alleged in the notice to be in breach of the covenant. Following a physical inspection of property, the board of tax assessors shall notify the owner that such activity or activities have or have not properly ceased or that the condition or conditions have or have not been remediated or corrected. The owner shall be entitled to appeal the decision of the board of tax assessors and file an appeal disputing the findings of the board of tax assessors. Such appeal shall be conducted in the same manner that other property tax appeals are made pursuant to Code Section 48-5-311. If the final determination on appeal to superior court is to reverse the decision of the board of tax assessors to enforce the breach of the covenant, the taxpayer shall recover costs of litigation and reasonable attorney's fees incurred in the action.
- (l)** A penalty shall be imposed under this subsection if during the period of the covenant entered into by a taxpayer the covenant is breached. The penalty shall be applicable to the entire tract which is the subject of the covenant and shall be twice the difference between the total amount of tax paid pursuant to current use assessment under this Code section and the total amount of taxes which would otherwise have been due under this chapter for each completed or partially completed year of the covenant period. 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 60 days from issuance of the bill to make full payment. Once the 60 day payment period has expired, the bill shall be considered past due and interest shall accrue from the original billing due date as specified in Code Section 48-2-40 without limit until the bill is paid in full. Once past due, all other fees, penalties, and late and collection notices shall apply as prescribed in this chapter for the collection of delinquent taxes.
- (m)** Penalties and interest imposed under this Code section shall constitute a lien against the property and shall be collected in the same manner as unpaid ad valorem taxes are collected. Such penalties and interest shall be distributed pro rata to each taxing jurisdiction wherein current use assessment under this Code section has been granted based upon the total amount by which such current use assessment has reduced taxes for each such taxing jurisdiction on the property in question as provided in this Code section.
- (n)** The penalty imposed by subsection (l) of this Code section shall not apply in any case where a covenant is breached solely as a result of:
- (1)** The acquisition of part or all of the property under the power of eminent domain;
  - (2)** The sale of part or all of the property to a public or private entity which would have had the authority to acquire the property under the power of eminent domain; or
  - (3)** The death of an owner who was a party to the covenant.



- (o)** The transfer of a part of the property subject to a covenant for a bona fide conservation use shall not constitute a breach of a covenant if:
- (1)** The part of the property so transferred is used for single-family residential purposes, starting within one year of the date of transfer and continuing for the remainder of the covenant period, and the residence is occupied within 24 months from the date of the start by a person who is related within the fourth degree of civil reckoning to an owner of the property subject to the covenant; and
  - (2)** The part of the property so transferred, taken together with any other part of the property so transferred to the same relative during the covenant period, does not exceed a total of five acres; and in any such case the property so transferred shall not be eligible for a covenant for bona fide conservation use, but shall, if otherwise qualified, be eligible for current use assessment as residential transitional property and the remainder of the property from which such transfer was made shall continue under the existing covenant until a terminating breach occurs or until the end of the specified covenant period.
- (p)** The following shall not constitute a breach of a covenant:
- (1)** Mineral exploration of the property subject to the covenant or the leasing of the property subject to the covenant for purposes of mineral exploration if the primary use of the property continues to be the good faith production from or on the land of agricultural products;
  - (2)** Allowing all or part of the property subject to the covenant to lie fallow or idle for purposes of any land conservation program, for purposes of any federal agricultural assistance program, or for other agricultural management purposes;
  - (3)** Allowing all or part of the property subject to the covenant to lie fallow or idle due to economic or financial hardship if the owner notifies the board of tax assessors on or before the last day for filing a tax return in the county where the land lying fallow or idle is located and if such owner does not allow the land to lie fallow or idle for more than two years of any five-year period;
  - (4)**
    - (A)** Any property which is subject to a covenant for bona fide conservation use being transferred to a place of religious worship or burial or an institution of purely public charity if such place or institution is qualified to receive the exemption from ad valorem taxation provided for under subsection (a) of Code Section 48-5-41. No person shall be entitled to transfer more than 25 acres of such person's property in the aggregate under this paragraph.
    - (B)** Any property transferred under subparagraph (A) of this paragraph shall not be used by the transferee for any purpose other than for a purpose which would entitle such property to the applicable exemption from ad valorem taxation provided for under subsection (a) of Code Section 48-5-41 or subsequently transferred until the expiration of the term of the covenant period. Any such use or transfer shall constitute a breach of the covenant;

- (5) Leasing a portion of the property subject to the covenant, but in no event more than six acres, for the purpose of placing thereon a cellular telephone transmission tower. Any such portion of such property shall cease to be subject to the covenant as of the date of execution of such lease and shall be subject to ad valorem taxation at fair market value;
- (6) Allowing all or part of the property subject to the covenant on which a corn crop is grown to be used for the purpose of constructing and operating a maze so long as the remainder of such corn crop is harvested;
- (7) (A) Allowing all or part of the property subject to the covenant to be used for agritourism purposes.  
 (B) As used in this paragraph, the term "agritourism" means charging admission for persons to visit, view, or participate in the operation of a farm or dairy or production of farm or dairy products for entertainment or educational purposes or selling farm or dairy products to persons who visit such farm or dairy;
- (8) Allowing all or part of the property which has been subject to a covenant for at least one year to be used as a site for farm weddings;
- (9) Allowing all or part of the property which has been subject to a covenant for at least one year to be used to host not for profit equestrian performance events to which spectator admission is not contingent upon an admission fee but which may charge an entry fee from each participant;
- (10) Allowing all or part of the property subject to the covenant to be used to host a not-for-profit rodeo event to which spectator admission and participant entry fees are charged in an amount that in aggregate does not exceed the cost of hosting such event;
- (11) (A) Allowing part of the property subject to the covenant to be used for solar generation of energy and conversion of such energy into heat or electricity, and the sale of the same in accordance with applicable law.  
 (B) The provisions of subparagraph (A) of this paragraph shall not allow the portion of the property on which such solar energy generating equipment is located, as depicted by a boundary survey prepared by a licensed surveyor, and which is subject to an existing covenant to remain in the covenant. Such property shall be removed from the existing covenant at the time of the installation of the solar energy generating equipment and shall be subject to the penalty for breach of the covenant contained in subsection (q) of this Code section and shall be subject to ad valorem taxation at fair market value; or
- (12) (A) Allowing part of the property subject to the covenant to be used for farm labor housing. As used in this paragraph, the term "farm labor housing" means all buildings or structures used as living quarters when such housing is

provided free of charge to workers who provide labor on agricultural property.

**(B)** The provisions of subparagraph (A) of this paragraph shall not allow the portion of the property on which such farm labor housing is located, and which is subject to an existing covenant to remain in the covenant. Such property shall be removed from the existing covenant at the time construction of the farm labor housing begins and shall be subject to ad valorem taxation at fair market value.

**(q)** In the following cases, the penalty specified by subsection (l) of this Code section shall not apply and the penalty imposed shall be the amount by which current use assessment has reduced taxes otherwise due for the year in which the covenant is breached, such penalty to bear interest at the rate specified in Code Section 48-2-40 from the date of the breach:

**(1)** Any case in which a covenant is breached solely as a result of the foreclosure of a deed to secure debt or the property is conveyed to the lienholder without compensation and in lieu of foreclosure, if:

**(A)** The deed to secure debt was executed as a part of a bona fide commercial loan transaction in which the grantor of the deed to secure debt received consideration equal in value to the principal amount of the debt secured by the deed to secure debt;

**(B)** The loan was made by a person or financial institution who or which is regularly engaged in the business of making loans; and

**(C)** The deed to secure debt was intended by the parties as security for the loan and was not intended for the purpose of carrying out a transfer which would otherwise be subject to the penalty specified by subsection (l) of this Code section;

**(2)** Any case in which a covenant is breached solely as a result of a medically demonstrable illness or disability which renders the owner of the real property physically unable to continue the property in the qualifying use, provided that the board of tax assessors shall require satisfactory evidence which clearly demonstrates that the breach is the result of a medically demonstrable illness or disability;

**(3)** Any case in which a covenant is breached solely as a result of an owner electing to discontinue the property in its qualifying use, provided such owner has renewed without an intervening lapse at least once the covenant for bona fide conservation use, has reached the age of 65 or older, and has kept the property in a qualifying use under the renewal covenant for at least three years. Such election shall be in writing and shall not become effective until filed with the county board of tax assessors;

**(4)** Any case in which a covenant is breached solely as a result of an owner electing to discontinue the property in its qualifying use, provided such owner entered into

the covenant for bona fide conservation use for the first time after reaching the age of 67 and has either owned the property for at least 15 years or inherited the property and has kept the property in a qualifying use under the covenant for at least three years. Such election shall be in writing and shall not become effective until filed with the county board of tax assessors; or

- (5) Any case in which a covenant is breached solely as a result of an owner that is a family owned farm entity as described in division (a)(1)(C)(iv) of this Code section electing to discontinue the property in its qualifying use on or after July 1, 2018, provided the owner has renewed at least once, without an intervening lapse, the covenant for bona fide conservation use, has kept the property in a qualifying use under the renewal covenant for at least three years, and any current shareholder, member, or partner of such family owned farm entity has reached the age of 65 and such shareholder, member, or partner held some beneficial interest, directly or indirectly through a family owned farm entity, in the property continuously since the time the covenant immediately preceding the current renewal covenant was entered. Such election shall be in writing and shall not become effective until filed with the county board of tax assessors.
- (r) Property which is subject to current use assessment under this Code section shall be separately classified from all other property on the tax digest; and such separate classification shall be such as will enable any person examining the tax digest to ascertain readily that the property is subject to current use assessment under this Code section. Covenants shall be public records and shall be indexed and maintained in such manner as will allow members of the public to locate readily the covenant affecting any particular property subject to current use assessment under this Code section. Based on information submitted by the county boards of tax assessors, the commissioner shall maintain a central registry of conservation use property, indexed by owners, so as to ensure that the 2,000-acre limitations of this Code section are complied with on a state-wide basis.
- (s) The commissioner shall annually submit a report to the Governor, the Department of Agriculture, the Georgia Agricultural Statistical Service, the State Forestry Commission, the Department of Natural Resources, and the University of Georgia Cooperative Extension Service and the House Ways and Means, Natural Resources and Environment, and Agriculture and Consumer Affairs committees and the Senate Finance, Natural Resources and Environment, and Agriculture and Consumer Affairs committees and shall make such report available to other members of the General Assembly, which report shall show the fiscal impact of the assessments provided for in this Code section and Code Section 48-5-7.5. The report shall include the amount of assessed value eliminated from each county's digest as a result of such assessments; approximate tax dollar losses, by county, to all local governments affected by such assessments; and any recommendations regarding state and local administration of this Code section and Code Section 48-5-7.5, with emphasis upon enforcement problems, if any, attendant with this Code section and Code Section 48-5-7.5. The report shall also include any other data or facts which the commissioner deems relevant.

- (t) A public notice containing a brief, factual summary of the provisions of this Code section shall be posted in a prominent location readily viewable by the public in the office of the board of tax assessors and in the office of the tax commissioner of each county in this state.
- (u) Reserved.
- (v) Reserved.
- (w) At such time as the property ceases to be eligible for current use assessment or when any ten-year covenant period expires and the property does not qualify for further current use assessment, the owner of the property shall file an application for release of current use treatment with the county board of tax assessors who shall approve the release upon verification that all taxes and penalties with respect to the property have been satisfied. After the application for release has been approved by the board of tax assessors, the board shall file the release in the office of the clerk of the superior court in the county in which the original covenant was filed. The clerk of the superior court shall file and index such release in the real property records maintained in the clerk's office. No fee shall be paid to the clerk of the superior court for recording such release. The commissioner shall by regulation provide uniform release forms.
- (x) Notwithstanding any other provision of this Code section to the contrary, in any case where a renewal covenant is breached by the original covenantor or a transferee who is related to that original covenantor within the fourth degree by civil reckoning, the penalty otherwise imposed by subsection (l) of this Code section shall not apply if the breach occurs during the sixth through tenth years of such renewal covenant, and the only 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 Code Section 48-2-40 from the date the covenant is breached.
- (y) The commissioner shall have the power to make and publish reasonable rules and regulations for the implementation and enforcement of this Code section. Without limiting the commissioner's authority with respect to any other such matters, the commissioner may prescribe soil maps and other appropriate sources of information for documenting eligibility as a bona fide conservation use property. The commissioner also may provide that advance notice be given to taxpayers of the intent of a board of tax assessors to deem a change in use as a breach of a covenant.
- (z) The governing authority of a county shall not publish or promulgate any information which is inconsistent with the provisions of this chapter.

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

- (a) Standing timber shall be assessed for ad valorem taxation only once and such assessment shall be made following its harvest or sale as provided for in this Code section. Such timber

shall be subject to ad valorem taxation notwithstanding the fact that the underlying land is exempt from taxation unless such taxation is prohibited by federal law or treaty. Such timber shall be assessed at 100 percent of its fair market value and shall be taxed on a levy made by each respective taxing jurisdiction according to such 100 percent fair market value. Such assessment shall be made in the county where the timber was grown and shall be taxable by that county and any other taxing jurisdiction therein in which the timber was grown.

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

**(c) Lump sum sales.**

- (1) Where standing timber is sold, in an arm's length, bona fide sale, by timber deed, contract, lease, agreement, or otherwise to be harvested within a three-year period after the date of the sale and for a lump sum price, so much of said timber as will be harvested within three years shall be assessed for taxation as of the date of the sale. The fair market value of such timber for purposes of ad valorem taxation shall be the lump sum price paid by the purchaser in the arm's length, bona fide sale. Any timber described in any sale instrument which is not harvested within three years after the date of the sale shall later be assessed for taxation following its future harvest or sale. Ad valorem taxes shall be payable by the seller and shall be calculated by multiplying the 100 percent fair market value of the timber times the millage rate levied by the taxing authority on tangible property for the previous calendar year. Immediately upon receipt by the seller of the purchase price, the seller shall remit to the purchaser the amount of ad valorem tax due on the sale, in the form of a negotiable instrument payable to the tax collector or tax commissioner. Such negotiable instrument shall be remitted by the purchaser to the tax collector or tax commissioner not later than five days after receipt of the tax from the seller. A purchaser failing to make such remittance shall be personally liable for the tax. With said remittance, the purchaser shall present to the board of tax assessors and to the tax collector or tax commissioner a report of the sale showing the lump sum sales price of the standing timber, the date of sale, the addresses of the seller and purchaser, and the location of the standing timber in the county. The tax collector or tax commissioner shall collect from the purchaser the seller's negotiable instrument in payment of the tax; and a receipt showing payment of the tax shall promptly be delivered by the tax collector or tax commissioner to the seller.
- (2) Upon request of the purchaser, the tax collector or tax commissioner shall enter upon or attach to the instrument conveying the standing timber a certification that the ad valorem tax has been paid, the date, and the amount of the tax. The certificate shall be signed by the tax collector or tax commissioner or his deputy. The purchaser may then present the instrument together with the certificate to the clerk of superior court of the county or counties in which the standing timber

is located, who shall then file the instrument for record. The ad valorem tax levied under this subsection on lump sum sales of standing timber shall be paid to the tax collector or tax commissioner prior to and as a prerequisite to the filing for record of the instrument with the clerk of superior court, and the clerk shall not be permitted to file the instrument for record unless the instrument discloses on its face the proper certificate showing that the tax has been paid; and the certificate shall be recorded with the instrument.

**(d) Unit price sales.**

- (1)** Any person purchasing standing timber, in an arm's length, bona fide sale, by timber deed, contract, lease, agreement, or otherwise by unit prices shall furnish a report to the seller and the county board of tax assessors within 45 days after the end of each calendar quarter. The report shall show the total dollar value of standing timber paid to the seller and the volume, in pounds, if available, or measured volume, of softwood and hardwood pulpwood, chip and saw logs, saw timber, poles, posts, and fuel wood harvested. Such report shall include such data through the last business day of the calendar quarter, the names and addresses of the seller and the purchaser, and the location of the harvested timber. A copy of such report shall also be furnished by the seller to the tax assessors within 60 days after the end of the calendar quarter. The fair market value of such timber for purposes of ad valorem taxation shall be the total dollar values paid by the purchaser in the arm's length, bona fide sale. Ad valorem taxes shall be payable by the seller in the unit price sales transaction as provided in subsection (h) of this Code section and shall be calculated by multiplying the 100 percent fair market value of the timber times the millage rate levied by the taxing authority on tangible property for the previous calendar year.
- (2)** Reports to the tax assessors shall be confidential, shall not be revealed to any person other than authorized tax officials, and shall be exempt from disclosure under Article 4 of Chapter 18 of Title 50.

**(e) Owner harvests.** Owners of real property in this state who harvest standing timber from their own lands shall report the volume, in pounds, if available, or measured volume, of softwood and hardwood pulpwood, chip and saw logs, saw timber, poles, posts, and fuel wood harvested through the last business day of each calendar quarter from said lands to the tax assessors within 45 days after the end of each calendar quarter. Such reports shall also identify the location of the tract from which the standing timber was harvested. The fair market value of such timber for purposes of ad valorem taxation shall be as determined under subsection (g) of this Code section. Ad valorem taxes shall be paid by the landowner as provided in subsection (h) of this Code section and shall be calculated by multiplying the 100 percent fair market value of the timber times the millage rate levied by the taxing authority on tangible property for the previous calendar year.

**(f) Other sales and harvests.** Every sale and every harvest of timber not previously taxed (excepting only a sale not for harvest within three years) shall be a taxable event. If any such sale or harvest is not a reportable taxable event described under subsection (c), (d),

or (e) of this Code section, such timber shall be subject to ad valorem taxation under this subsection; and such sale or harvest shall be reported and taxed under the provisions of subsection (c), (d), or (e) of this Code section, whichever is most nearly applicable.

- (g)** The commissioner, after consultation with the State Forestry Commission, shall provide the tax assessors of each county with the weighted average price paid, in pounds and measured volume, during each calendar year for softwood and hardwood pulpwood, chip and saw logs, saw timber, poles, posts, and fuel wood in each county or multicounty area within 60 days of the end of each calendar year. The most recent weighted average prices provided by the commissioner shall be applied by the tax assessors to the volume of wood removals reported as provided in this Code section to determine the fair market value of timber harvested other than under a taxable lump sum sale or taxable unit price sale.
- (h) (1)**

  - (A)** Based on the reports and data provided under subsections (d), (f), and (g) of this Code section, the tax collector or tax commissioner shall on a quarterly basis mail tax bills for sales and harvests other than lump sum sales. Ad valorem taxes on such sales and harvests shall be payable by the landowner within 30 days of receipt of the bill from the tax collector or tax commissioner.
  - (B)** Based upon the reports and data provided under subsections (e) and (g) of this Code section, ad valorem taxes for owner harvests shall be payable by the landowner to the tax collector or tax commissioner within 45 days after the end of each calendar quarter.

**(2)** Any ad valorem tax or penalty which is not timely paid as provided in this Code section shall bear interest at the rate specified in Code Section 48-2-40 from the due date. Unpaid taxes, penalty, and interest imposed under this Code section shall constitute a lien against the property of the person responsible for payment of such tax and shall be collected in the same manner as other unpaid ad valorem taxes are collected.
- (i)** The millage rate applicable at the time of sale or the time of harvest of standing timber shall be the millage rate levied by the taxing authority on tangible property for the preceding calendar year.
- (j)** Any person who fails to timely make any report or disclosure required by this Code section shall pay a penalty of 50 percent of the tax due, except that if the failure to comply is unintentional and the report or disclosure is filed within 12 months after the due date the amount of the penalty shall be 1 percent for each month or part of a month that the report or disclosure is late.
- (k)** Forms for reports required by this Code section shall be supplied to each county by the department.
- (l) (1)** In any county in which the ad valorem taxation of timber pursuant to this Code section reduces the total property tax digest of such county for tax year 1992 by more than 20 percent of the amount of the total property tax digest of such county for the immediately



preceding taxable year, such digest shall be supplemented as follows:

**(A)** The difference between the total property tax digest for the county and the total property tax digest less the total assessed value of standing timber removed from the digest shall be calculated;

**(B)** The difference calculated under subparagraph (A) of this paragraph shall be reduced by the fair market value of sold or harvested timber; and

**(C)** If the amount calculated under subparagraph (B) of this paragraph is more than 20 percent of the amount of the total property tax digest of such county for the immediately preceding taxable year, the resulting amount shall be assigned and taxed on a levy made by the tax officials of such county in a pro rata manner against the land underlying the standing timber so removed from the digest.

**(2)** Where a digest is so supplemented for tax year 1992, it shall be supplemented in subsequent years as follows:

**(A)** For tax year 1993, such supplemental assessment shall be in an amount equal to 75 percent of the supplemental assessment received for tax year 1992;

**(B)** For tax year 1994, such supplemental assessment shall be in an amount equal to 50 percent of the supplemental assessment received for tax year 1992;

**(C)** For tax year 1995, such supplemental assessment shall be in an amount equal to 25 percent of the supplemental assessment received for tax year 1992; and

**(D)** For tax year 1996 and future tax years, no supplemental assessment shall be received.

**(m) (1)** Any supplemental assessment added to a digest pursuant to subsection (l) of this Code section shall not be included in the calculation of the equalized adjusted school property tax digest under Code Section 48-5-274 for the purpose of calculating the required local five mill share for school funding purposes under Code Section 20-2-164.

**(2)** The fair market value of timber harvested or sold added to a digest pursuant to this Code section shall be included in the calculation of the equalized adjusted school property tax digest under Code Section 48-5-274 for the purpose of calculating the required local five mill share for school funding purposes under Code Section 20-2-164.

**§ 48-5-7.6 "Brownfield property" defined; related definitions; qualifying for preferential assessment; disqualification of property receiving preferential assessment; responsibilities of property owners; transfers of property; costs; appeals; penalty and creation of lien against property; extension of preferential assessment of brownfield property under certain circumstances**

**§ 48-5-7.7 Short title; definitions; qualifications for conservation use assessment**

**(a)** This Code section shall be known and may be cited as the "Georgia Forest Land Protection Act of 2008."

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

**(1)** "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 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.

**(2)** "Forest land conservation use property" means real property that is forest land each tract of which consists of more than 200 acres of tangible real property of an owner of at least 200 acres in aggregate which lies within one or more counties, provided that such forest land is in parcels of at least 100 acres within any given county and that is subject to the following qualifications:

**(A)** Such property must be owned by an individual or individuals or by any entity registered to do business in this state;

**(B)** Such property excludes the entire value of any residence and its underlying land located on the property; as used in this subparagraph, the term "underlying land" means the minimum lot size required for residential construction by local zoning ordinances or two acres, whichever is less. This provision for excluding the underlying land of a residence from eligibility in the conservation use covenant shall only apply to property that is first made subject to such a covenant, or is subject to a renewal of a previous conservation use covenant, on or after January 1, 2014;

**(C)** Such property has as its primary use the good faith subsistence or commercial production of trees, timber, or other wood and wood fiber products from or on the land. Such primary use includes land conservation and ecological forest management in which commercial production of wood and wood fiber products may be undertaken primarily for conservation and restoration purposes rather than financial gain. Such

property may, in addition, have one or more of the following secondary uses:

- (i) The promotion, preservation, or management of wildlife habitat;
- (ii) Carbon sequestration in accordance with the Georgia Carbon Sequestration Registry;
- (iii) Mitigation and conservation banking that results in restoration or conservation of wetlands and other natural resources; or
- (iv) The production and maintenance of ecosystem products and services, such as, but not limited to, clean air and water.

Forest land conservation use property may include, but is not limited to, land that has been certified as environmentally sensitive property by the Department of Natural Resources or which is managed in accordance with a recognized sustainable forestry certification program, such as the Sustainable Forestry Initiative, Forest Stewardship Council, American Tree Farm Program, or an equivalent sustainable forestry certification program approved by the State Forestry Commission.

- (3) "Qualified owner" means any individual or individuals or any entity registered to do business in this state.
- (4) "Qualified property" means forest land conservation use property as defined in this subsection.
- (5) "Qualifying purpose" means a use that meets the qualifications of subparagraph (C) of paragraph (2) of this subsection.

(c) The following additional rules shall apply to the qualification of forest land conservation use property for conservation use assessment:

- (1) ~~All contiguous forest~~ Forest land conservation use property of an owner within a county for which forest land conservation use assessment is sought under this Code section shall be in ~~a single covenant~~ covenants, which shall include forest land of at least 200 acres in aggregate which lies within one or more counties, provided that such forest land is in parcels of at least 100 acres within any given county, unless otherwise required under subsection (e) of this Code section;
- (2) When one-half or more of the area of a single tract of real property is used for the qualifying purpose, then the entirety of such tract shall be considered as used for such qualifying purpose unless some other type of business is being operated on the portion of the tract that is not being used for a qualifying purpose; provided, however, that such other portion must be minimally managed so that it does not contribute significantly to erosion or other environmental or conservation problems or must be used for one or more secondary purposes specified in subparagraph

(b)(2)(C) of this Code section. The following uses of real property shall not constitute using the property for another type of business:

- (A) The lease of hunting rights or the use of the property for hunting purposes;
- (B) The charging of admission for use of the property for fishing purposes;
- (C) The production of pine straw or native grass seed;
- (D) The granting of easements solely for ingress and egress; and
- (E) Any type of business devoted to secondary uses listed under subparagraph (b)(2)(C) of this Code section; and

(3) No otherwise qualified forest land conservation use property shall be denied conservation use assessment on the grounds that no soil map is available for the county or counties, if applicable, in which such property is located; provided, however, that if no soil map is available for the county or counties, if applicable, in which such property is located, the board of tax assessors shall use the current soil classification applicable to such property.

(d) No property shall qualify for conservation use assessment under this Code section unless and until the qualified owner of such property agrees by covenant with the appropriate taxing authority to maintain the eligible property in forest land conservation use for a period of ~~15~~ ten years beginning on the first day of January of the year in which such property qualifies for such conservation use assessment and ending on the last day of December of the final year of the covenant period. After the qualified owner has applied for and has been allowed conservation use assessment provided for in this Code section, it shall not be necessary to make application thereafter for any year in which the covenant period is in effect and conservation use assessment shall continue to be allowed such qualified owner as specified in this Code section. At least 60 days prior to the expiration date of the covenant, the county board of tax assessors where the property is located shall send by first-class mail written notification of such impending expiration. Upon the expiration of any covenant period, the property shall not qualify for further conservation use assessment under this Code section unless and until the qualified owner of the property has entered into a renewal covenant for an additional period of ~~15~~ 10 years; provided, however, that the qualified owner may enter into a renewal contract in the ~~fourteenth~~ ninth year of a covenant period so that the contract is continued without a lapse for an additional ~~15~~ ten years.

(e) Subject to the limitations of paragraph (1) of subsection (c) of this Code section, a qualified owner shall be authorized to enter into more than one covenant under this Code section for forest land conservation use property. Any such qualified property may include a tract or tracts of land which are located in more than one county in which event the owner shall enter into a covenant with each county. In the event a single contiguous tract is required to have separate covenants under this subsection, the total acreage of that single contiguous tract shall be utilized for purposes of determining the 200-acre requirement of this Code

section.

**(f) (1)** A qualified owner shall not be authorized to make application for and receive conservation use assessment under this Code section for any property which at the time of such application is receiving preferential assessment under Code Section 48-5-7.1 or current use assessment under Code Section 48-5-7.4; provided, however, that if any property is subject to a covenant under either of those Code sections, it may be changed from such covenant and placed under a covenant under this Code section if it is otherwise qualified. Any such change shall terminate the existing covenant and shall not constitute a breach thereof. No property may be changed more than once under this paragraph.

**(2)** Any property that is subject to a covenant under this Code section and subsequently fails to adhere to the qualifying purpose, as defined in paragraph (5) of subsection (b) of this Code section, may be changed from the covenant under this Code section and placed under a covenant provided for in Code Section 48-5-7.4 if the property otherwise qualifies under the provisions of that Code section. In such a case, the existing covenant under this Code section shall be terminated, and the change shall not constitute a breach thereof. No property may be changed more than once under this paragraph.

**(g)** Except as otherwise provided in this Code section, no property shall maintain its eligibility for conservation use assessment under this Code section unless a valid covenant or covenants, if applicable, remain in effect and unless the property is continuously devoted to forest land conservation use during the entire period of the covenant or covenants, if applicable.

**(h)** If any breach of a covenant occurs, the existing covenant shall be terminated, and all qualification requirements must be met again before the property shall be eligible for conservation use assessment under this Code section.

**(i) (1)** If ownership of all or a part of a forest land conservation use property is acquired during a covenant period by another qualified owner, then the original covenant may be continued only by both such acquiring owner and the transferor for the remainder of the term, in which event, no breach of the covenant shall be deemed to have occurred if the total size of a tract from which the transfer was made is reduced below 200 acres or the size of the tract transferred is less than 200 acres. Following the expiration of the original covenant, no new covenant shall be entered with respect to either tract unless such tract exceeds 200 acres. If a qualified owner has entered into an original forest land 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 15-year period of the original covenant; provided, however, that such subsequently acquired qualified property shall be less than 200 acres.

**(2)** If, following such transfer, a breach of the covenant occurs by the acquiring owner, the penalty and interest shall apply to the entire transferred tract and shall be paid by the acquiring owner who breached the covenant. In such case, the covenant shall terminate on such entire transferred tract but shall continue on such entire remaining tract from which

the transfer was made and on which the breach did not occur for the remainder of the original covenant.

**(3)** If, following such transfer, a breach of the covenant occurs by the transferring owner, the penalty and interest shall apply to the entire remaining tract from which the transfer was made and shall be paid by the transferring owner who breached the covenant. In such case, the covenant shall terminate on such entire remaining tract from which the transfer was made but shall continue on such entire transferred tract and on which the breach did not occur for the remainder of the original covenant.

**(j) (1)** For each taxable year beginning on or after January 1, 2014, all applications for conservation use assessment under this Code section, including any forest land covenant required under this Code section, shall be filed on or before 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 Code Section 48-5-311, an application for forest land conservation use assessment may be filed at any time while such appeal is pending. An application for continuation of such forest land conservation use assessment upon a change in ownership of all or a part of the qualified property shall be filed on or before the last date for filing tax returns in the year following the year in which the change in ownership occurred. Applications for forest land conservation use assessment under this Code section shall be filed with the county board of tax assessors in which the property is located who shall approve or deny the application. Such county board of tax assessors shall file a copy of the approved covenant in the office of the clerk of the superior court in the county in which the eligible property is located. The clerk of the superior court shall file and index such covenant in the real property records maintained in the clerk's office. If the covenant is not so recorded in the real property records, a transferee of the property affected shall not be bound by the covenant or subject to any penalty for its breach. The fee of the clerk of the superior court for recording such covenants shall be paid by the qualified owner of the eligible property with the application for forest land conservation use assessment under this Code section and shall be paid to the clerk by the board of tax assessors when the application is filed with the clerk. 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 Code Section 48-5-306 and shall return any filing fees advanced by the owner. Appeals from the denial of an application or covenant by the board of tax assessors shall be made in the same manner that other property tax appeals are made pursuant to Code Section 48-5-311.

**(2)** In the event such application is approved, the qualified owner shall continue to receive annual notification of any change in the forest land fair market value of such property, and any appeals with respect to such valuation shall be made in the same manner as other property tax appeals are made pursuant to Code Section 48-5-311.

**(k)** The commissioner shall by regulation provide uniform application and covenant forms to be used in making application for conservation use assessment under this Code section.

**(l)** In the case of an alleged breach of the covenant, the qualified owner shall be notified in writing by the board of tax assessors. The qualified owner shall have a period of 30 days

from the date of such notice to cease and desist the activity alleged in the notice to be in breach of the covenant or to remediate or correct the condition or conditions alleged in the notice to be in breach of the covenant. Following a physical inspection of property, the board of tax assessors shall notify the qualified owner that such activity or activities have or have not properly ceased or that the condition or conditions have or have not been remediated or corrected. The qualified owner shall be entitled to appeal the decision of the board of tax assessors and file an appeal disputing the findings of the board of tax assessors. Such appeal shall be conducted in the same manner that other property tax appeals are made pursuant to Code Section 48-5- 311.

- (m) (1)** A penalty shall be imposed under this subsection if during the period of the covenant entered into by a qualified owner the covenant is breached.
- (2)** Except as provided in subsection (i) of this Code section and paragraph (4) of this subsection, the penalty shall be applicable to the entire tract which is the subject of the covenant.
- (3)** The penalty shall be twice the difference between the total amount of the tax paid pursuant to the conservation use assessment under this Code section and the total amount of taxes which would otherwise have been due under this chapter for each completed or partially completed year of the covenant period. Any such penalty shall bear interest at the rate specified in Code Section 48-2-40 from the date the covenant is breached.
- (4)** If ownership of a portion of the land subject to the original covenant constituting at least 200 acres is transferred to another owner qualified to enter into an original forest land conservation use covenant in a bona fide arm's length transaction and breach subsequently occurs, then the penalty shall either be assessed against the entire remaining tract from which the transfer was made or the entire transferred tract, on whichever the breach occurred. The calculation of penalties in paragraph (3) of this subsection shall be used except that the penalty amount resulting from such calculation shall be multiplied by the percentage which represents the acreage of such tract on which the breach occurs to the original covenant acreage. The resulting amount shall be the penalty amount owed by the owner of such tract of land on which the breach occurred.
- (n)** In any case of a breach of the covenant where a penalty under subsection (m) of this Code section is imposed, an amount equal to the amount of reimbursement to each county, municipality, and board of education in each year of the covenant shall be collected under subsection (o) of this Code section and paid over to the commissioner who shall deposit such amount in the general fund.
- (o)** Penalties and interest imposed under this Code section shall constitute a lien against that portion of the property to which the penalty has been applied under subsection (m) of this Code section and shall be collected in the same manner as unpaid ad valorem taxes are collected. Except as provided in subsection (n) of this Code section, such penalties and interest shall be distributed pro rata to each taxing jurisdiction wherein conservation use assessment under this Code section has been granted based upon the total amount by which such conservation use assessment has reduced taxes for each such taxing jurisdiction

on the property in question as provided in this Code section.

**(p)** The penalty imposed by subsection (m) of this Code section shall not apply in any case where a covenant is breached solely as a result of:

- (1)** The acquisition of part or all of the property under the power of eminent domain;
- (2)** The sale of part or all of the property to a public or private entity which would have had the authority to acquire the property under the power of eminent domain; or
- (3)** The death of an individual qualified owner who was a party to the covenant.

**(q)** The following shall not constitute a breach of a covenant:

- (1)** Mineral exploration of the property subject to the covenant or the leasing of the property subject to the covenant for purposes of mineral exploration if the primary use of the property continues to be the good faith production from or on the land of timber;
- (2)** Allowing all or part of the property subject to the covenant to lie fallow or idle for purposes of any forestry conservation program, for purposes of any federal agricultural assistance program, or for other agricultural management purposes;
- (3)** Allowing all or part of the property subject to the covenant to lie fallow or idle due to economic or financial hardship if the qualified owner notifies the board of tax assessors on or before the last day for filing a tax return in the county where the land lying fallow or idle is located and if such qualified owner does not allow the land to lie fallow or idle for more than two years of any five-year period;
- (4)** **(A)** Any property which is subject to a covenant for forest land conservation use being transferred to a place of religious worship or burial or an institution of purely public charity if such place or institution is qualified to receive the exemption from ad valorem taxation provided for under subsection (a) of Code Section 48-5-41. No qualified owner shall be entitled to transfer more than 25 acres of such person's property in the aggregate under this paragraph.

**(B)** Any property transferred under subparagraph (A) of this paragraph shall not be used by the transferee for any purpose other than for a purpose which would entitle such property to the applicable exemption from ad valorem taxation provided for under subsection (a) of Code Section 48-5-41 or subsequently transferred until the expiration of the term of the covenant period. Any such use or transfer shall constitute a breach of the covenant;

- (5)** Leasing a portion of the property subject to the covenant, but in no event more than six acres of every unit of 2,000 acres, for the purpose of placing thereon a cellular telephone transmission tower. Any such portion of such property shall cease to be subject to the covenant as of the date of execution of such lease and shall be subject to ad valorem taxation at fair market value;



**(6) (A)** Allowing part of the property subject to the covenant to be used for solar generation of energy and conversion of such energy into heat or electricity, and the sale of the same in accordance with applicable law.

**(B)** The provisions of subparagraph (A) of this paragraph shall not allow the portion of the property on which such solar energy generating equipment is located, as depicted by a boundary survey prepared by a licensed surveyor, and which is subject to an existing covenant to remain in the covenant. Such property shall be removed from the existing covenant at the time of the installation of the solar energy generating equipment and shall be subject to the penalty for breach of the covenant contained in subsection (r) of this Code section and shall be subject to ad valorem taxation at fair market value; or

**(7) (A)** Allowing part of the property subject to the covenant to be used for farm labor housing. As used in this paragraph, the term "farm labor housing" means all buildings or structures used as living quarters when such housing is provided free of charge to workers who provide labor on agricultural property.

**(B)** The provisions of subparagraph (A) of this paragraph shall not allow the portion of the property on which such farm labor housing is located, and which is subject to an existing covenant to remain in the covenant. Such property shall be removed from the existing covenant at the time construction of the farm labor housing begins and shall be subject to ad valorem taxation at fair market value.

**(r)** In the following cases, the penalty specified by subsection (m) of this Code section shall not apply and the penalty imposed shall be the amount by which conservation use assessment has reduced taxes otherwise due for the year in which the covenant is breached, such penalty to bear interest at the rate specified in Code Section 48-2-40 from the date of the breach:

**(1)** Any case in which a covenant is breached solely as a result of the foreclosure of a deed to secure debt or the property is conveyed to the lienholder without compensation and in lieu of foreclosure, if:

**(A)** The deed to secure debt was executed as a part of a bona fide commercial loan transaction in which the grantor of the deed to secure debt received consideration equal in value to the principal amount of the debt secured by the deed to secure debt;

**(B)** The loan was made by a person or financial institution who or which is regularly engaged in the business of making loans; and

**(C)** The deed to secure debt was intended by the parties as security for the loan and was not intended for the purpose of carrying out a transfer which would otherwise be subject to the penalty specified by subsection (m) of this Code section;

**(2)** Any case in which a covenant is breached solely as a result of a medically demonstrable illness or disability which renders the qualified owner of the real

property physically unable to continue the property in the qualifying use, provided that the board of tax assessors or boards of assessors, if applicable, shall require satisfactory evidence which clearly demonstrates that the breach is the result of a medically demonstrable illness or disability;

- (3)** Any case in which a covenant is breached solely as a result of a qualified owner electing to discontinue the property in its qualifying use, provided such qualified owner has renewed without an intervening lapse at least once the covenant for land conservation use, has reached the age of 65 or older, and has kept the property in the qualifying use under the renewal covenant for at least three years. Such election shall be in writing and shall not become effective until filed with the county board of tax assessors or boards of assessors, if applicable; or
- (4)** Any case in which a covenant is breached solely as a result of a qualified owner electing to discontinue the property in its qualifying use, provided such qualified owner entered into the covenant for forest land conservation use for the first time after reaching the age of 67 and has either owned the property for at least 15 years or inherited the property and has kept the property in the qualifying use under the covenant for at least three years. Such election shall be in writing and shall not become effective until filed with the county board of tax assessors where the property is located.
- (s)** Property which is subject to forest land conservation use assessment under this Code section shall be separately classified from all other property on the tax digest; and such separate classification shall be such as will enable any person examining the tax digest to ascertain readily that the property is subject to conservation use assessment under this Code section. Covenants shall be public records and shall be indexed and maintained in such manner as will allow members of the public to locate readily the covenant affecting any particular property subject to conservation use assessment under this Code section. Based on information submitted by the county boards of tax assessors, the commissioner shall maintain a central registry of conservation use property, indexed by qualified owners.
- (t)** The commissioner shall annually submit a report to the Governor, the Department of Agriculture, the Georgia Agricultural Statistical Service, the State Forestry Commission, the Department of Natural Resources, and the University of Georgia Cooperative Extension Service and the House Ways and Means, Natural Resources and Environment, and Agriculture and Consumer Affairs committees and the Senate Finance, Natural Resources and the Environment, and Agriculture and Consumer Affairs committees and shall make such report available to other members of the General Assembly, which report shall show the fiscal impact of the assessments provided for in this Code section. The report shall include the amount of assessed value eliminated from each county's digest as a result of such assessments; approximate tax dollar losses, by county, to all local governments affected by such assessments; and any recommendations regarding state and local administration of this Code section, with emphasis upon enforcement problems, if any, attendant with this Code section. The report shall also include any other data or facts which the commissioner deems relevant.

- (u) A public notice containing a brief, factual summary of the provisions of this Code section shall be posted in a prominent location readily viewable by the public in the office of the board of tax assessors and in the office of the tax commissioner of each county in this state.
- (v) At such time as the property ceases to be eligible for forest land conservation use assessment or when any ~~15-year~~ ten-year covenant period expires and the property does not qualify for further forest land conservation use assessment, the qualified owner of the property shall file an application for release of forest land conservation use treatment with the county board of tax assessors where the property is located who shall approve the release upon verification that all taxes and penalties with respect to the property have been satisfied. After the application for release has been approved by such board of tax assessors, the board shall file the release in the office of the clerk of the superior court in the county in which the original covenant was filed. The clerk of the superior court shall file and index such release in the real property records maintained in the clerk's office. No fee shall be paid to the clerk of the superior court for recording such release. The commissioner shall by regulation provide uniform release forms.
- (w) The commissioner shall have the power to make and publish reasonable rules and regulations for the implementation and enforcement of this Code section. Without limiting the commissioner's authority with respect to any other such matters, the commissioner may prescribe soil maps and other appropriate sources of information for documenting eligibility as a forest land conservation use property. The commissioner also may provide that advance notice be given to a qualified owner of the intent of a board of tax assessors to deem a change in use as a breach of a covenant.

## **§ 48-5-9 Person liable for taxes on property**

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

### **§ 48-5-9.1 Forms of payment**

The governing authority of each county or municipality may by appropriate resolution or ordinance elect to receive in payment of ad valorem taxes any form of payment.

## **§ 48-5-10 Returnable property**

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

### **§ 48-5-11 Situs for returns by residents**

Unless otherwise provided by law, all:

- (1) Real property of a resident shall be returned for taxation to the tax commissioner or tax receiver of the county where the property is located; and
- (2) Personal property of a resident individual shall be returned for taxation to the tax commissioner or tax receiver of the county where the individual maintains a permanent legal residence.

### **§ 48-5-12 Situs of returns by nonresidents**

Unless otherwise provided by law, all real and personal property of nonresidents shall be returned for taxation to the tax commissioner or tax receiver of the county where the property is located

### **§ 48-5-13 Instruction for local tax officials and staff**

(a) As used in this Code section, the term "local tax officials and staff" means:

- (1) All county tax collectors and county tax commissioners;
- (2) All county appraisers and county appraisal staff; and
- (3) All members of county boards of tax assessors.

(b) The commissioner shall prepare, instruct, operate, and administer courses of instruction deemed necessary to provide training of and continuing education to all local tax officials and staff and members of the county boards of equalization. Course materials for such training shall be reviewed not less than once every five years and updated if necessary. All such training materials shall be made available online, and the commissioner shall determine what training may be offered or available online instead of attended in person in order to reduce the cost to taxpayers to pay for such training.

(c) All such courses of instruction shall be open and made available by the commissioner to the public upon request and upon payment of such reasonable instruction fee as set by the commissioner and upon available space as determined by the commissioner.

(d) The commissioner is authorized to work with any organization or other professionals with expertise in providing instruction in property tax administration, property taxation, or related matters.

### **§ 48-5-14 Liability of nonresidents, agents of nonresidents, and their property**

A nonresident person, all persons who return property for a nonresident, and the nonresident's property located in this state shall be liable for the taxes on the property.

## **§ 48-5-15 Returns of taxable real property**

- (a)** All improved and unimproved real property in this state which is subject to taxation shall be returned by the person owning the real property or by his or her agent or attorney to the tax receiver or tax commissioner of the county where the real property is located.
- (b)** If the real property has a district, number, and section designation, the tax receiver or tax commissioner shall require the person making a return of the real property to return it by district, number, and section designation. If the real property has no designation by district, number, and section, it shall be returned by such description as will enable the tax receiver or tax commissioner to identify it.
- (c)** No tax receiver or tax commissioner shall receive any return of real property which does not designate the real property as provided in this Code section. The commissioner shall not allow any tax receiver or tax commissioner who receives returns in any manner other than as provided in this Code section any compensation or percentage for his services.

### **§ 48-5-15.1 Returns of real property and tangible personal property located on airport**

- (a)** All real property and tangible personal property shall be returned for taxation and subject to taxation as provided in this Code section where such property is located on the premises of an airport and:
  - (1)** Such airport is divided by one or more county lines such that the airport is located in two or more counties; and
  - (2)** Such airport is owned or operated by a local airport authority which authority functions on behalf of one of the counties within which the airport is located.
- (b)** For the purposes of this Code section, an authority shall be considered as functioning on behalf of a county where a majority of the members of the authority are members who meet any of the following descriptions:
  - (1)** An authority member who is also a member of the county governing authority or an official or employee of the county;
  - (2)** An authority member appointed by the county governing authority or appointed by an officer of the county;
  - (3)** An authority member who is also a member of the governing authority of a city within the county or an official or employee of a city within the county; or
  - (4)** An authority member appointed by the governing authority of a city within the county or appointed by an officer of a city within the county.
- (c)** All such real property and tangible personal property located on the premises of an airport as described in subsections (a) and (b) of this Code section shall be returned for taxation to the tax commissioner or tax receiver of the county on behalf of which the airport authority functions. All such real and tangible personal property shall be subject to taxation by only

the county on behalf of which the airport authority functions and not by any other county.

- (d) Nothing in this Code section shall apply with respect to any airport certificated under Title 14, Part 139, of the Code of Federal Regulations or shall apply with respect to the taxation of commercial airliners which shall be subject to Article 12 of this chapter and other applicable provisions of law. With respect to aircraft which would otherwise be subject to the provisions of Code Section 48-5-16, the provisions of this Code section shall control over the provisions of Code Section 48-5-16. Except as specifically provided otherwise in the first sentence of this subsection, this Code section shall control over any other conflicting provisions of this chapter; but nothing in this Code section shall be construed as taking away the tax-exempt status of any property which is otherwise exempted by law from ad valorem taxation.

### **§ 48-5-16      Return of tangible personal property in county where business conducted; exemptions; boats; aircraft**

- (a) Any person who conducts a business enterprise upon real property, which is not taxable in the county in which the person resides or in which the person's office is located, shall return for taxation the tangible personal property of the business enterprise to the tax commissioner or tax receiver of the county in which is taxable the real property upon which the business enterprise is located or conducted.
- (b) When the agent in this state of any person who is a resident of another state has on hand and for sale, storage, or otherwise merchandise or other tangible property, he shall return the property for taxation as provided in Code Section 48-5-12.
- (c) This Code section shall not apply to public utilities and other companies required to make returns of their properties and franchises to the commissioner under Articles 9, 11, and 12 of this chapter.
- (d) **(1)** As used in this subsection, the term:
  - (A)** "Boat" means every description of watercraft used or capable of being used as a means of transportation on the water.
  - (B)** "Functionally located" means located in a county in this state for 184 days or more during the immediately preceding calendar year. The 184 days or more requirement of this subsection shall mean the cumulative total number of days during such calendar year, which days may, but shall not be required to be, consecutive.
- (2)** Any person who owns tangible personal property in the form of a boat which is functionally located for recreational or convenience purposes in a county in this state other than the county in which such person maintains a permanent legal residence shall return such property for taxation to the tax commissioner or tax receiver of the county in which such property is functionally located. Tangible personal property of a person which does not meet the 184 days or more

requirement provided for in this subsection shall be returned for taxation in the manner provided for in Code Section 48-5-11.

(e) (1) As used in this subsection, the term:

(A) "Aircraft" means any contrivance used or designed for navigation through the air; provided, however, that such term does not include commercial airliners.

(B) "Primary home base" means an airport where an aircraft is principally hangered or tied down and out of which its flights normally originate.

(2) Any person who owns tangible personal property in the form of an aircraft which has its primary home base in a county in this state other than the county in which such person maintains a permanent legal residence shall return such property for taxation to the tax commissioner or tax receiver of the county in which such primary home base is located. Such aircraft which does not have a primary home base in a county of this state other than the county in which the owner maintains a permanent legal residence shall be returned for taxation in the manner provided for in Code Section 48-5-11.

#### **§ 48-5-17 Proceedings to determine county entitled to return and payment; collection pending determination; commissions**

#### **§ 48-5-18 Time for making tax returns**

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

#### **§ 48-5-19 Signature and declaration of persons making returns of taxable property**

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

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

(2) Any taxpayer of any county who acquired real property by transfer in the preceding tax year for which a properly completed real estate transfer tax form has been filed and

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

**(b)** Any penalty prescribed by this title or by any other law for the failure of a taxpayer to return his property for taxation within the time provided by law shall apply only to the property:

- (1)** Which the taxpayer did not return prior to the expiration of the time for making returns; and
- (2)** Which the taxpayer has acquired since his last tax return, or which represents improvements on existing property since his last return.

**(c)** Reserved.

**§ 48-5-21 Return and collection of taxes on property unlawfully exempted**

**§ 48-5-22 Failure to have returned for taxation and to collect taxes on property pursuant to Code Section 48-5-21; penalty**

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

**§ 48-5-30 Filing extension for Member of the Armed Forces serving abroad**

Notwithstanding any provision of Code Section 48-5-7.1 or 48-5-7.4 to the contrary, a member of the armed forces of the United States serving outside the continental United States may file such member's initial or renewal application for special assessment at any time within a period of six months following the return of such member to the continental United States.

**§ 48-5-32 Publication by county of ad valorem tax rate**

**§ 48-5-32.1 Certification of assessed taxable value of property and method of computation; resolution or ordinance required for millage rate; advertisement of intent to increase property tax**



# PROPERTY TAX EXEMPTIONS AND DEFERRAL

## TAX EXEMPTIONS

### § 48-5-40 Definitions

As used in this part, the term:

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

(A)

- (i) A married individual living with his or her spouse;
  - (ii) An individual who is unmarried but who permanently maintains a home for the benefit of one or more other individuals who are related to such individual or dependent wholly or partially upon such individual for support;
  - (iii) An individual who is widowed having one or more children and maintaining a home occupied by himself or herself and the child or children;
  - (iv) A divorced individual living in a bona fide state of separation and having legal custody of one or more children, when the divorced individual owns and maintains a home for the child or children; or
  - (v) An individual who is unmarried or is widowed and who permanently maintains a home owned and occupied by himself or herself; and
- (C) A resident of this state as defined in paragraph (15) of Code Section 40-5-1, as amended.

#### § 40-5-1. Definitions

(15) "Resident" means a person who has a permanent home or abode in Georgia to which, whenever such person is absent, he or she has the intention of returning. For the purposes of this chapter, there is a rebuttable presumption that the following person is a resident:

(A) Any person who accepts employment or engages in any trade, profession, or occupation in Georgia or enters his or her children to be educated in the private or public schools of Georgia within ten days after the commencement of such employment or education; or

(B) Any person who, except for infrequent, brief absences, has been present in the state for 30 or more days;

provided, however, that no person shall be considered a resident for purposes of this chapter unless such person is either a United States citizen or an alien with legal authorization from the United States Immigration and Naturalization Service.

- (2) "Home for the aged" means a facility which provides residential services, health care services, or both residential services and health care services to the aged.
- (3) "Homestead" means the real property owned by and in possession of the applicant on January 1 of the taxable year and upon which the applicant resides including, but not limited to, the land immediately surrounding the residence to which the applicant has a right of possession under a bona fide claim of ownership. The term "homestead" includes the following qualifications:
- (A) The actual permanent place of residence of an individual who is the applicant, and which constitutes the home of the family;
  - (B) Where the person who is the applicant holds the bona fide fee title (although subject to mortgage or debt deed), an estate for life, or under any bona fide contract of purchase providing for the conveyance of title to the applicant upon performance of the contract;
  - (C) Where the building is occupied primarily as a dwelling;
  - (D) Where the children of deceased or incapacitated parents occupy the homestead of their parents and one of the children stands in the relation of applicant. This subparagraph shall apply whether or not the estate is distributed;
  - (E) Where a husband or wife occupies a dwelling, and the title of the homestead is in the name of the wife;
  - (F) In the event a dwelling house which is classed as a homestead is destroyed by fire, flood, storm, or other unavoidable accident or is demolished or repaired so that the owner is compelled to reside temporarily in another place, the dwelling house shall continue to be classed as a homestead for a period of one year after the occurrence;
  - (G) In the event an individual who is the applicant owns two or more dwelling houses, he shall be allowed the exemption granted by law on only one of the houses. Only one homestead shall be allowed to one immediate family group;
  - (H) Where property is owned and occupied jointly by two or more individuals all of whom occupy the property as a home and if the property is otherwise entitled to a homestead exemption, the homestead may be claimed in the names of the joint owners residing in the home. Where the property on which a homestead exemption is claimed is jointly owned by the occupant and others, the occupant or occupants shall be entitled to claim the full amount of the homestead exemption;
  - (I) The permanent place of residence of an individual in the armed forces. Any such residence shall be construed to be actually occupied as the place of abode of such individual when the family of the individual resides in the residence or when the family is forced to live elsewhere because of the individual's service in the armed forces;
  - (J) Absence of an individual from his residence because of duty in the armed forces shall not be considered as a waiver upon the part of the individual in applying for a homestead exemption. Any member of the immediate family of the individual or a friend of the individual may notify the tax receiver or the tax commissioner of the

individual's absence. Upon receipt of this notice, the tax receiver or tax commissioner shall grant the homestead exemption to the individual who is absent in the armed forces;

- (K) The homestead exempted must be actually occupied as the permanent residence and place of abode by the applicant awarded the exemption, and the homestead shall be the legal residence and domicile of the applicant for all purposes whatever;
  - (L) In all counties having a population of not less than 23,500 nor more than 23,675, according to the United States decennial census of 2010 or any future such census, where the person who is the applicant holds real property subject to a written lease; the applicant has held the property subject to such a lease for not less than three years prior to the year for which application is made; and the applicant is the owner of all improvements located on the real property;
  - (M) The deed reflecting the actual ownership of the property for which the applicant seeks to receive a homestead exemption must be recorded in the deed records of the county prior to the filing of the application for the homestead exemption; and
  - (N) Absence of an individual from such individual's residence because of health reasons shall not in and of itself be considered as a waiver upon the part of the individual in applying for a homestead exemption if all other qualifications are otherwise met. Any member of the immediate family of the individual or a friend of the individual may notify the tax receiver or the tax commissioner of the individual's absence. Upon receipt of this notice, the tax receiver or tax commissioner shall grant the homestead exemption to the individual who is absent for health reasons.
- (4) "Hospital" means an institution in which medical, surgical, or psychiatric care is provided to individuals who are sick, injured, diseased, mentally ill, or crippled. "Hospital" does not include an institution licensed as a nursing home under the laws of this state.
- (5) "Institutions of purely public charity," "nonprofit hospitals," and "hospitals not operated for the purpose of private or corporate profit and income" mean such institutions or hospitals which may have incidental income from paying patients when the income, if any, is devoted exclusively to the charitable purpose of caring for patients who are unable to pay and to maintaining, operating, and improving the facilities of such institutions and hospitals, and when the income is not directly or indirectly for distribution to shareholders in corporations owning such property or to other owners of such property.
- (6) "Occupied primarily as a dwelling" means:

(A) The applicant or members of his family occupy the property as a home; or

(B)

- (i) The applicant or members of his family occupy a portion of the property as a home;
- (ii) No more than one exemption may be claimed pursuant to this subparagraph in connection with the occupancy of one building, except in the case of a duplex or double occupancy dwelling when the line of division follows a natural and bona fide plan as to both land and building and the two units thus formed are separately owned and occupied.

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

- (a) The following property shall be exempt from all ad valorem property taxes in this state:
- (1) (A) Except as provided in this paragraph, all public property.
  - (B) No public real property which is owned by a political subdivision of this state, and which is situated outside the territorial limits of the political subdivision shall be exempt from ad valorem taxation unless the property is:
    - (i) Developed by grading or other improvements to the extent of at least 25 percent of the total land area and facilities are located on the property which are actively used for a public or governmental purpose;
    - (ii) Three hundred acres or less in area;
    - (iii) Located inside a county embracing all or part of a municipality owning such property; or
    - (iv) That portion of any real property which has been designated as a watershed by the United States Soil and Water Conservation Service and used as a watershed by the political subdivision owning the property.
  - (C) Property which is owned by and used exclusively as the general state headquarters of a nonprofit corporation organized for the primary purpose of encouraging cooperation between parents and teachers to promote the education and welfare of children and youth, notwithstanding the fact that such nonprofit corporation may derive income from fees or dues paid by persons, organizations, or associations to affiliate with such nonprofit corporation, shall be considered to be an extension of the public schools of this state and such property shall be considered to be public property within the meaning of this paragraph.
  - (D) Property which is held by a Georgia nonprofit corporation whose income is exempt from federal income tax pursuant to Section 115 of the Internal Revenue Code of 1986 and held exclusively for the benefit of a county, municipality, or school district shall be considered to be public property within the meaning of this paragraph.
  - (E) Property which qualifies as a public-private transportation project pursuant to Code Section 32-2-80 which property is owned or leased by the state, a state agency, or another governmental entity and which is developed, operated, or held by a private partner shall be considered to be public property within the meaning of this paragraph.
  - (F) All interests in property on a campus of the Board of Regents of the University System of Georgia primarily used for student housing or parking

held by a private party that is contractually obligated to operate such property primarily for the use or benefit of a public college or university shall be considered to be public property within the meaning of this paragraph, provided that such interest of the private party resulted from a competitive procurement.

**(2)** All places of burial;

**(2.1) (A)** All places of religious worship.

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

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

**(4)** All institutions of purely public charity;

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

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

**(i)** Providing of patient care;

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

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

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

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

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

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

- (10)** Reserved;
- (11)** All property used in, or which is a part of any facility which has been installed or constructed at any time for the primary purpose of eliminating or reducing air or water pollution if such facilities have been certified by the Department of Natural Resources as necessary and adequate for the purposes intended;
- (12)** **(A)** Property of a nonprofit home for the aged used in connection with its operation when the home for the aged has no stockholders and no income or profit which is distributed to or for the benefit of any private person and when the home is qualified as an exempt organization under the United States Internal Revenue Code, Section 501(c)(3), as amended, and Code Section 48-7-25, and is subject to the laws of this state regulating nonprofit and charitable corporations.
- (B)** Property exempted by this paragraph shall not include property of a home for the aged held primarily for investment purposes or used for purposes unrelated to the providing of residential or health care to the aged.
- (C)** For purposes of this paragraph, indirect ownership of such home for the aged through a limited liability company that is fully owned by such exempt organization shall be considered direct ownership;
- (13)** **(A)** All property of any nonprofit home for the mentally disabled used in connection with its operation when the home for the mentally disabled has no stockholders and no income or profit which is distributed to or for the benefit of any private person and when the home is qualified as an exempt organization under the United States Internal Revenue Code of 1954, Section 501(c)(3), as amended, and Code Section 48-7-25, and is subject to the laws of this state regulating nonprofit and charitable corporations.
- (B)** Property exempted by this paragraph shall not include property of a home for the mentally disabled held primarily for investment purposes or used for purposes unrelated to the providing of residential or health care to the mentally disabled.
- (C)** For purposes of this paragraph, indirect ownership of such home for the mentally disabled through a limited liability company that is fully owned by such exempt organization shall be considered direct ownership.
- (D)** For purposes of this paragraph, the participation of a business corporation or other entity or person in the indirect ownership of such home for the mentally disabled, as a member of the limited liability company or limited partner of the partnership that is the direct owner of such home, for the purpose of providing financing for the construction or renovation of such home in return for a share of any tax credits pursuant to United States Internal Revenue Code of 1986, Section 42, as amended, and which relinquishes all ownership of such home upon the completion of its obligation under the financing agreement, shall not operate to disqualify such home for the exemption under this paragraph.

- (14) (A)** Property which is owned by and used exclusively as the headquarters, post home, or similar facility of a veteran's organization. As used in this paragraph, the term "veterans organization" means any organization or association chartered by the Congress of the United States which is exempt from federal income taxes but only if such organization is a post or organization of past or present members of the armed forces of the United States organized in the State of Georgia with at least 75 percent of the members of which are past or present members of the armed forces of the United States, and where no part of the net earnings of which inures to the benefit of any private shareholder or individual.
- (B)** Property which is owned by and used exclusively by any veterans organization which is qualified as a nonprofit organization under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and which has been organized for the purpose of refurbishing and operating historic military aircraft acquired from the federal government and other sources, making such aircraft airworthy, and putting such aircraft on display to the public for educational purposes; and
- (15)** Property that is owned by a historical fraternal benefit association and which is used exclusively for charitable, fraternal, and benevolent purposes. As used in this paragraph, the term "fraternal benefit association" means any organization qualified as an exempt organization under the United States Internal Revenue Code of 1954, Section 501(c)(10), as amended, where such organization has a representative form of government and a lodge system with a ritualistic form of work for the meeting of its chapters or other subordinate bodies and whose founding organization received its charter from the General Assembly of Georgia prior to January 1, 1880.
- (b)** The exemptions provided for in this Code section which refer to colleges, nonprofit hospitals, incorporated academies, or other seminaries of learning shall only apply to those colleges, nonprofit hospitals, incorporated academies, or other seminaries of learning which are open to the general public.
- (c)** The property exempted by this Code section, excluding property exempted by paragraph (1) of subsection (a) of this Code section, shall not be used for the purpose of producing private or corporate profit and income distributable to shareholders in corporations owning such property or to other owners of such property, and any income from such property shall be used exclusively for religious, educational, and charitable purposes or for either one or more of such purposes and for the purpose of maintaining and operating such religious, educational, and charitable institutions.
- (d) (1)** Except as otherwise provided in paragraph (2) of this subsection, this Code section, excluding paragraph (1) of subsection (a) of this Code section, shall not apply to real estate or buildings which are rented, leased, or otherwise used for the primary purpose of securing an income thereon and shall not apply to real estate or buildings which are not used for the operation of religious, educational, and charitable institutions. Donations of property to be exempted shall not be predicated upon an agreement, contract, or other instrument that the donor or donors shall receive or retain any part of the net or gross income of the

property.

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

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

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

(1) "Agricultural equipment" means farm tractors, combines, and all other farm equipment other than motor vehicles, whether fixed or mobile, which are owned by or held under a lease-purchase agreement and directly used in the production of farm products by a family-owned qualified farm products producer.

(2) "Family-owned farm entity" means an entity that has derived 80 percent or more of its gross income from bona fide agricultural uses within this state within the year immediately preceding the year in which the exemption provided by this Code section is sought and that is organized as:

(A) A family corporation, a family partnership, a family general partnership, a family limited partnership, a family limited corporation, or a family limited liability company all of the interest of which is owned by one or more natural or naturalized citizens related to each other within the fourth degree of civil reckoning,

(B) An entity created by the merger or consolidation of two or more entities that would qualify independently as a family-owned farm entity as defined in subparagraph (A) of this paragraph;

(C) An ~~it shall include~~ an estate of which the devisees or heirs are one or more natural or naturalized citizens related to each other within the fourth degree of civil reckoning or

(D) A ~~it shall include~~ a trust of which the beneficiaries are one or more natural or naturalized citizens related to each other within the fourth degree of civil reckoning. Such family-owned farm entity must have derived 80 percent or more of its gross income from bona fide agricultural uses within this state within the year immediately preceding the year in which the exemption provided by this Code section is sought.

(3) "Family-owned qualified farm products producer" means an individual or family-owned farm entity primarily engaged in the direct cultivation of the soil, including



soil removed from the land and placed in pots or containers, or operation of land for the production of qualified farm products. A family-owned qualified farm products producer shall not include wholesalers, distributors, storage facility owners, manufacturers, processors, or other similar entities that primarily prepare qualified farm products for any intermediate or final market or that primarily operate to move or facilitate the movement of qualified farm products from a producer to any intermediate or final markets.

- (4) "Farm products" means only those farm products eligible to qualify for exemption from ad valorem taxation pursuant to the former provisions of paragraph (10) of subsection (a) of Code Section 48-5-41 as it existed prior to January 1, 1999.
  - (5) "Harvested agricultural products" means only those harvested agricultural products eligible to qualify for exemption from ad valorem taxation pursuant to the former provisions of paragraph (10) of subsection (a) of Code Section 48-5-41 as it existed prior to January 1, 1999.
  - (6) "Initial production" means:
    - (A) When applied to a laying hen, a period beginning at the time the laying hen comes into production at age six months rather than a period beginning when the laying hen is hatched; or
    - (B) When applied to a brood cow, a period of nine months from the time the brood cow is able to conceive at age 12 months rather than a period beginning when the brood cow is born.
  - (7) "Lease-purchase agreement" means a financing agreement under which lessee payments are credited toward the purchase of agricultural equipment or that provides for a fixed amount purchase option to a lessee during the lease term. Under a lease-purchase agreement the title of ownership may remain with the lessor during the lease.
  - (8) "Producer" means any entity that produces farm products.
  - (9) "Qualified farm products" means livestock; dairy products; unfertilized eggs of poultry; crops; fruit or nut-bearing trees, bushes, or plants; annual and perennial plants; Christmas trees; and plants and trees grown in nurseries for transplantation elsewhere. Qualified farm products shall not include standing timber.
- (b) The following property shall be exempt from all ad valorem property taxes in this state:
- (1) All farm products grown in this state and remaining in the hands of the producer during the one year beginning immediately after their initial production;
  - (2) Harvested agricultural products which have a planting-to-harvest cycle of 12 months or less, which are customarily cured or aged for a period in excess of one

year after harvesting and before manufacturing, and which are held in this state for manufacturing and processing purposes;

- (3) All qualified farm products grown in this state:
  - (A) Remaining in the hands of a family-owned qualified farm products producer;
  - (B) Still in their natural and unprocessed condition, unless processed solely for further use in the production of other qualified farm products; and
  - (C) Not held for direct retail sale by someone other than the original family-owned qualified farm products producer; and
- (4) Agricultural equipment.

### **§ 48-5-41.2 Exemption from taxation of personal property in inventory for business**

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

### **§ 48-5-42 Exempt personalty**

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

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

- (a) It is the intent of this Code section to exempt from the payment of ad valorem taxation certain tangible personal property on which the tax due does not exceed the reasonable cost of administering and collecting the tax.
- (b) All tangible personal property of a taxpayer, except motor vehicles, trailers, and mobile homes, shall be exempt from all ad valorem taxation if the actual fair market value of the total amount of taxable tangible personal property owned by the taxpayer within the county, as determined by the board of tax assessors, does not exceed \$7,500.00.

### **§ 48-5-43 Exemption for fertilizers**

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

## **§ 48-5-44 Exemption of homestead occupied by owner; effect of participation in rural housing program on homestead exemption; limits**

The homestead of each resident of this state actually occupied by the owner as a residence and homestead shall be exempted from all ad valorem taxation for state, county, and school purposes, except taxes levied by municipalities for school purposes and except to pay interest on and to retire bonded indebtedness, for as long as the residence and homestead is actually occupied by the owner primarily as a residence and homestead. The exemption shall not exceed \$2,000.00 of the value of the homestead. Should the owner of a dwelling house on a farm who is already entitled to a homestead exemption participate in the program of rural housing and obtain a new house under contract with the local housing authority, he shall be entitled to receive the same homestead exemption as allowed before making the contract. Except as otherwise specifically provided by law, the value of all homestead property in excess of \$2,000.00 shall remain subject to taxation. The exemption shall be returned and claimed in the manner prescribed by law. This exemption shall not apply to taxes levied by municipalities.

### **§ 48-5-44.1 Homestead exemption for resident residing in a municipal corporation that is located in more than one county; application required; renewal**

(a) For purposes of this Code section, the term:

- (1) "Ad valorem taxes" means all ad valorem taxes for municipal purposes levied by, for, or on behalf of any municipality in this state, but excluding any ad valorem taxes to pay interest on and to retire municipal bonded indebtedness.
- (2) "Adjusted base year value" means the previous adjusted base year value adjusted annually by 2.6 percent plus any change in homestead value, provided that no such change in homestead value shall be duplicated as to the same addition or improvement.
- (3) "Change in homestead value" means value, including any final determination of value on appeal pursuant to Code Section 48-5-311 derived from additions or improvements to, or the removal of real property of, the homestead after the lowest base year value is determined.
- (4) "Homestead" means homestead as defined and qualified in Code Section 48-5-40 with the additional qualification that it shall include only the primary residence and not more than five contiguous acres of land immediately surrounding such residence.
- (5) "Lowest base year value" means:
  - (A) Among the 2016, 2017, and 2018 taxable years, the lowest assessed value, including any final determination of value on appeal pursuant to Code Section 48-5-311 of the homestead, with such assessed value being multiplied by 1.0423, which number represents inflation rate data for December, 2015, through December, 2017, with respect to an exemption under this Code section which is first granted to a person on such person's

homestead in the 2019 taxable year or who thereafter reapplies for and is granted such exemption in the 2020 taxable year, or thereafter, solely because of a change in ownership to a joint tenancy with right of survival; or

**(B)** In all other cases, the lower of the assessed value, including any final determination of value on appeal pursuant to Code Section 48-5-311 of the homestead, from the taxable year immediately preceding the taxable year in which the exemption under this Code section is first granted to the most recent owner of such homestead or the assessed value, including any final determination of value on appeal pursuant to Code Section 48-5-311 of the homestead, from the taxable year in which the exemption under this Act is first granted to the most recent owner of such homestead, with respect to an exemption under this Code section which is first granted to a person on such person's homestead in the 2020 taxable year or who thereafter reapplies for and is granted such exemption in the 2021 taxable year, or thereafter, solely because of a change in ownership to a joint tenancy with right of survival.

**(6)** "Previous adjusted base year" means:

**(A)** With respect to an exemption under this Code section that is first granted to a person on such person's homestead, the lowest base year value; or

**(B)** In all other cases, the adjusted base year value as calculated in the taxable year immediately preceding the current year.

**(b)** When a resident of this state resides in a municipal corporation that is located in more than one county, that levies a sales tax for the purposes of a metropolitan area system of public transportation, and that has within its boundaries an independent school system, the homestead of each such resident actually occupied by the owner as a residence and homestead shall be exempted from ad valorem taxes for municipal purposes in an amount equal to the amount by which the current year assessed value, including any final determination of value on appeal pursuant to Code Section 48-5-311 of such homestead exceeds the adjusted base year value of the homestead. The value of such property in excess of such exempted amount shall remain subject to taxation.

**(c)** The surviving spouse of the person who has been granted the exemption provided for in subsection (b) of this Code section shall continue to receive such exemption so long as such surviving spouse continues to occupy the home as a residence and homestead.

**(d)** A person shall not receive the homestead exemption granted by subsection (b) of this Code section unless such person or person's agent files an application with the tax receiver or tax commissioner of his or her respective municipality charged with the duty of receiving returns of property for taxation giving such information relative to receiving such exemption as will enable such tax receiver or tax commissioner to make a determination regarding the initial and continuing eligibility of such person for such exemption or has already filed for and is receiving a homestead exemption and such existing application provides sufficient information to make such determination of eligibility. Such tax receiver or tax commissioner shall provide application forms for this purpose.

- (e)** The exemption shall be claimed and returned as provided in Code Section 48-5-50.1. Such exemption shall be automatically renewed from year to year so long as the owner occupies the residence as a homestead. After a person or a person's agent has filed the proper application as provided in subsection (d) of this Code section, it shall not be necessary to make application thereafter for any year and the exemption shall continue to be allowed to such person. It shall be the duty of any person granted the homestead exemption under subsection (b) of this Code section to notify the tax receiver or tax commissioner of the municipality in the event such person for any reason becomes ineligible for such exemption.
- (f)** **(1)** Except as otherwise provided in paragraph (2) of this subsection, the homestead exemption granted by subsection (b) of this Code section shall be in addition to and not in lieu of any other homestead exemption applicable to ad valorem taxes for municipal purposes.

**(2)** The homestead exemption granted by subsection (b) of this Code section shall be in lieu of and not in addition to any other base year assessed value or adjusted base year value homestead exemption provided by local Act which is applicable to ad valorem taxes for municipal purposes.
- (g)** The exemption granted by subsection (b) of this Code section shall apply to all taxable years beginning on or after January 1, 2019.
- (h)** Any municipal corporation described in subsection (b) of this Code section shall be exempt from the provisions of subsections (c) and (e) of Code Section 48-5-32.1.

#### **§ 48-5-45      Application for homestead exemption; unlawful to solicit fee to file application for homestead for another**

- (a)** **(1)** An applicant seeking a homestead exemption as provided in Code Section 48-5-44 and qualifying under the provisions of Code Section 48-5-40 shall file a written application and schedule with the tax receiver or tax commissioner charged with the duty of receiving returns of property for taxation at any time during the calendar year subsequent to the property becoming the primary residence of the applicant up to and including the date for the closing of the books for the return of taxes for the calendar year.

**(2)** The failure to file properly the application and schedule on or before the date for the closing of the books for the return of taxes of a calendar year in which the taxes are due shall constitute a waiver of the homestead exemption on the part of the applicant failing to make the application for such exemption for that year.
- (b)** The owner of a homestead which is actually occupied by the owner as a residence and homestead shall not have to apply for the exemption more than once so long as the owner remains in continuous occupation of the residence as a homestead. The exemption shall automatically be renewed from year to year so long as the owner continuously occupies the residence as a homestead.
- (c)** It is unlawful for any person, firm, or corporation to solicit, either directly or by mail or advertisement, any other person for the purpose of filing on behalf of such other person the application and schedule for homestead exemption required by this Code section if a

fee is charged for filing such application and schedule on behalf of such other person. A violation of this subsection shall be a misdemeanor.

#### **§ 48-5-46 Procedure for application**

- (a)** The application for the homestead exemption shall be furnished by the commissioner not later than February 1 of each year to the tax receiver or tax commissioner and municipal authorities, as the case may be, of the various counties.
- (b)** The application shall provide for:
  - (1)** A statement of ownership of the homestead, a complete description of the property on which homestead exemption is claimed, when and from whom the property was acquired, the kind of title held, and the amount of liens, if any, and to whom due; and
  - (2)** The approval of the application by the official so authorized.
- (c)** A form of oath shall be provided and shall be administered to the applicant seeking the homestead exemption. The oath may be administered and witnessed by the tax receiver, tax commissioner, any authorized deputy of the tax receiver or tax commissioner, or any individual authorized by law to administer oaths.
- (d)** The tax receiver or tax commissioner shall deliver to any interested person the forms prescribed for the exemption. The applicant must answer all questions correctly to be entitled to an approval of the application.
- (e)** The tax receiver or tax commissioner shall receive all applications for homestead exemption and shall file and preserve the applications. The application shall be filed with the tax receiver or tax commissioner as provided by law.

#### **§ 48-5-47 Applications for homestead exemptions of individuals 65 or older**

- (a)** Article VII, Section II, Paragraph IV of the Constitution of the State of Georgia ratified in 1982 continued in effect as statutory law, until otherwise provided for by law, those types of exemptions from ad valorem taxation in effect on June 30, 1983. One such exemption is the homestead exemption granted to certain individuals 65 years of age or over by the seventh unnumbered subparagraph of Article VII, Section I, Paragraph IV of the Constitution of 1976. Pursuant to said provision of the Constitution ratified in 1982, the homestead exemption formerly granted by said provision of the Constitution of 1976 is superseded and modified as provided in subsection (b) of this Code section.
- (b)** Each person who is 65 years of age or over is hereby granted an exemption from all state and county ad valorem taxes in the amount of \$4,000.00 on a homestead owned and occupied by him as a residence if his net income, together with the net income of his spouse who also occupies and resides at such homestead, as net income is defined by Georgia law, from all sources, except as hereinafter provided, does not exceed \$10,000.00 for the immediately preceding taxable year for income tax purposes. For the purposes of this subsection, net income shall not include income received as retirement, survivor or

disability benefits under the federal Social Security Act or under any other public or private retirement, disability or pension system, except such income which is in excess of the maximum amount authorized to be paid to an individual and his spouse under the federal Social Security Act, and income from such sources in excess of such maximum amount shall be included as net income for the purposes of this subsection. The value of the residence in excess of the above-exempted amount shall remain subject to taxation. Any such owner shall not receive the benefits of such homestead exemption unless he, or through his agent, files an affidavit with the tax commissioner or tax receiver of the county in which he resides, giving his age and the amount of income which he and his spouse received during the last taxable year for income tax purposes, and such additional information relative to receiving the benefits of such exemption as will enable the tax commissioner or tax receiver to make a determination as to whether such owner is entitled to such exemption. The tax commissioner or tax receiver shall provide affidavit forms for this purpose. Such applications shall be processed in the same manner as other applications for homestead exemption, and the provisions of law applicable to the processing of homestead exemptions, as the same now exists or may hereafter be amended, shall apply thereto. Provided, that after any such owner has filed the proper affidavit, as provided above, and has once been allowed the exemption provided in this subsection, it shall not be necessary that he make application and file the said affidavit thereafter for any year and the said exemption shall continue to be allowed to such owner. It shall be the duty of any such owner, however, to notify the tax commissioner or tax receiver in the event he becomes ineligible for any reason for the exemption provided in this subsection.

- (c) The application for the homestead exemption of individuals 65 years of age or older provided for by subsection (b) of this Code section shall be in the form prescribed by the commissioner. The application shall require the applicant's social security number. The tax commissioner or tax receiver shall be authorized to have the statement of income of any claimant verified by the department upon sending the social security number of a claimant to the department.

### **§ 48-5-47.1 Homestead exemptions for individuals 62 or older with annual incomes not exceeding \$30,000.00**

- (a) For purposes of this Code section, the term:
- (1) "Ad valorem taxes" means all state ad valorem taxes and all county ad valorem taxes for county purposes levied by, for, or on behalf of a county, except for taxes to pay interest on and to retire bonded indebtedness.
  - (2) "Base year" means the taxable year immediately preceding the taxable year in which the exemption under this Code section is granted.
  - (3) "Homestead" as applied in this Code section shall mean the homestead as defined and qualified in Code Section 48-5-40, with the additional qualification that it shall include only the primary residence and not more than five contiguous acres of land immediately surrounding such residence.
  - (4) "Income" means federal adjusted gross income, as defined in the Internal Revenue Code

of 1986, as amended, from all sources.

**(5)** "Senior citizen" means a person who is 62 years of age or over on or before January 1 of the year in which application for the exemption under this Code section is made.

- (b)** Each resident of a county who is a senior citizen is granted an exemption on that person's homestead from all ad valorem taxes in an amount equal to the amount of the assessed value of that homestead which exceeds the assessed value of that homestead for the taxable year immediately preceding the taxable year in which this exemption is first granted to such resident, if that person's income, together with the income of the spouse of such person and any other person who resides within such homestead, does not exceed \$30,000.00 for the immediately preceding taxable year. This exemption shall not apply to taxes assessed on improvements to the homestead or additional land that is added to the homestead after January 1 of the base year. If any real property is removed from the homestead, the assessment in the base year shall be adjusted to reflect such removal and the exemption shall be recalculated accordingly.
- (c)** A person shall not receive the homestead exemption granted by subsection (b) of this Code section unless the person or person's agent files an application with the tax commissioner of the county giving the person's age and the amount of gross income which the person and the person's spouse and any other persons residing within such homestead received during the last taxable year, and such additional information relative to receiving such exemption as will enable the tax commissioner to make a determination as to whether such owner is entitled to such exemption.
- (d)** The commissioner shall provide application forms for the exemption granted by this Code section which shall require such information as may be necessary to determine the initial and continuing eligibility of the owner for the exemption.
- (e)** The exemption shall be claimed and returned as provided in Code Section 48-5-50.1. The exemption shall be automatically renewed from year to year as long as the owner occupies the residence as a homestead. After a person has filed the proper application as provided in subsection (c) of this Code section, it shall not be necessary to make application and file such affidavit thereafter for any year and the exemption shall continue to be allowed to such person. It shall be the duty of any person granted the homestead exemption under this Code section to notify the tax commissioner of the county or the designee thereof in the event that person for any reason becomes ineligible for that exemption.
- (f)** The exemption granted by this Code section shall not apply to or affect any municipal taxes or county school district taxes for educational purposes. The homestead exemption granted by this Code section shall be in lieu of and not in addition to any other homestead exemption applicable to county ad valorem taxes for county purposes.
- (g)** The exemption granted by this Code section shall apply to all taxable years beginning on or after January 1, 1995.



**§ 48-5-48 Homestead exemption by qualified disabled veteran; filing requirements; periodic substantiation of eligibility; persons eligible without application; retroactive award**

- (a) As used in this Code section, the term "disabled veteran" means:
- (1) Any veteran who is a citizen and a resident of this state, who was discharged under honorable conditions, and who has been adjudicated by the United States Department of Veterans Affairs as having a service related disability that renders such veteran as being 100 percent totally disabled or as being less than 100 percent totally disabled but is compensated at the 100 percent level due to individual unemployability or is entitled to receive a statutory award from the United States Department of Veterans Affairs for:
    - (A) Loss or permanent loss of use of one or both feet;
    - (B) Loss or permanent loss of use of one or both hands;
    - (C) Loss of sight in one or both eyes; or
    - (D) Permanent impairment of vision of both eyes of the following status: central visual acuity of 20/200 or less in the better eye, with corrective glasses, or central visual acuity of more than 20/200 if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends on angular distance no greater than 20 degrees in the better eye;
  - (2) An American veteran of any war or armed conflict in which any branch of the armed forces of the United States engaged, whether under United States command or otherwise, and that he or she is disabled due to the loss or loss of use of both lower extremities such as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair; due to blindness in both eyes, having only light perception, together with the loss or loss of use of one lower extremity; or due to the loss or loss of use of one lower extremity together with residuals of organic disease or injury which so affect the functions of balance or propulsion as to preclude locomotion without resort to a wheelchair;
  - (3) Any disabled veteran who is not entitled to receive benefits from the Department of Veterans Affairs but who qualifies otherwise, as provided for by Article VII, Section I, Paragraph IV of the Constitution of Georgia of 1976;
  - (4) An American veteran of any war or armed conflict who is disabled due to loss or loss of use of one lower extremity together with the loss or loss of use of one upper extremity which so affects the functions of balance or propulsion as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair; or
  - (5) A veteran becoming eligible for assistance in acquiring housing under Section 2101 of Title 38 of the United States Code as hereafter amended on or after July 1, 1999.
- (b) Any disabled veteran as defined in any paragraph of subsection (a) of this Code section who is a citizen and resident of Georgia is granted an exemption of the greater of \$32,500.00 or the maximum amount which may be granted to a disabled veteran under Section 2102 of

Title 38 of the United States Code, as amended, on his or her homestead which such veteran owns and actually occupies as a residence and homestead, such exemption being from all ad valorem taxation for state, county, municipal, and school purposes. As of January 1, 2004, the maximum amount which may be granted to a disabled veteran under the above-stated federal law is \$50,000.00. The value of all property in excess of the exempted amount cited above shall remain subject to taxation. The unremarried surviving spouse or minor children of any such disabled veteran as defined in this Code section shall also be entitled to an exemption of the greater of \$32,500.00 or the maximum amount which may be granted to a disabled veteran under Section 2102 of Title 38 of the United States Code, as amended, on the homestead so long as the unremarried surviving spouse or minor children continue actually to occupy the home as a residence and homestead, such exemption being from all ad valorem taxation for state, county, municipal, and school purposes. As of January 1, 2004, the maximum amount which may be granted to the unremarried surviving spouse or minor children of any such disabled veteran under the above-stated federal law is \$50,000.00. The value of all property in excess of such exemption granted to such unremarried surviving spouse or minor children shall remain subject to taxation.

- (b.1)** The unremarried surviving spouse or minor children of any disabled veteran shall also be entitled to an exemption of the greater of \$32,500.00 or the maximum amount on a homestead, or any subsequent homestead within the same county, where such spouse or minor children continue to occupy the home as a homestead, such exemption being from ad valorem taxation for state, county, municipal, and school purposes.
- (c)** **(1)** Any disabled veteran qualifying pursuant to paragraph (1) or (2) of subsection (a) of this Code section for the homestead exemption provided for in this Code section shall file with the tax commissioner or tax receiver a letter from the Department of Veterans Affairs or the Department of Veterans Service stating the qualifying disability.
- (2)** Any disabled veteran qualifying pursuant to paragraph (3) of subsection (a) of this Code section for the homestead exemption provided for in this Code section shall file with the tax commissioner or tax receiver a copy of his DD form 214 (discharge papers from his military records) along with a letter from a doctor who is licensed to practice medicine in this state stating that he is disabled due to loss or loss of use of both lower extremities such as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair; due to blindness in both eyes, having only light perception, together with the loss or loss of use of one lower extremity; or due to the loss or loss of use of one lower extremity together with residuals of organic disease or injury which so affect the functions of balance or propulsion as to preclude locomotion without resort to a wheelchair. Prior to approval of an exemption, a county board of tax assessors may require the applicant to provide not more than two additional doctors' letters if the board is in doubt as to the applicant's eligibility for the exemption.
- (3)** Any disabled veteran qualifying pursuant to paragraph (4) of subsection (a) of this Code section for the homestead exemption provided for in this Code section shall file with the tax commissioner or tax receiver a letter from a doctor who is licensed to practice medicine in this state stating the qualifying disability. Prior to approval of an exemption, a county board of tax assessors may require the applicant to provide not more than two additional

doctors' letters if the board is in doubt as to the applicant's eligibility for the exemption.

**(4)** Any disabled veteran qualifying pursuant to paragraph (5) of subsection (a) of this Code section for the homestead exemption provided for in this Code section shall file with the tax commissioner or tax receiver a letter from the Department of Veterans Affairs or the Department of Veterans Service stating the eligibility for such housing assistance.

- (d)** Each disabled veteran shall file for the exemption only once in the county of his residence. Once filed, the exemption shall automatically be renewed from year to year, except as provided in subsection (e) of this Code section. Such exemption shall be extended to the unremarried surviving spouse or minor children at the time of his death so long as they continue to occupy the home as a residence and homestead. In the event a disabled veteran who would otherwise be entitled to the exemption dies or becomes incapacitated to the extent that he or she cannot personally file for such exemption, the spouse, the unremarried surviving spouse, or the minor children at the time of the disabled veteran's death may file for the exemption and such exemption may be granted as if the disabled veteran had made personal application therefor.
- (e)** Not more often than once every three years, the county board of tax assessors may require the holder of an exemption granted pursuant to this Code section to substantiate his continuing eligibility for the exemption. In no event may the board require more than three doctors' letters to substantiate eligibility.
- (f)** Any person who as of January 1, 1991, has applied and is eligible for the exemption for disabled veterans, their surviving spouses, and minor children formerly provided for by the sixth unnumbered subparagraph of Article VII, Section I, Paragraph IV of the Constitution of 1976; the exemption for disabled veterans provided for in Article VII, Section II, Paragraph V of the Constitution of 1983; or the exemption for disabled veterans formerly provided for by Code Section 48-5-48.3 as enacted by an Act approved April 11, 1986 (Ga. L. 1986, p. 1445), shall be eligible for the exemption granted by subsection (b) of this Code section without applying for such exemption.
- (g)** **(1)** If a disabled veteran receives a final determination of disability from the United States Department of Veterans Affairs containing a retroactive period of eligibility, such disabled veteran or his or her surviving unremarried spouse or minor children shall be entitled to a refund of the ad valorem taxes paid during such period that he or she or his or her surviving unremarried spouse or minor children would have otherwise been exempt from such taxes pursuant to this Code section, provided that the refund shall only be for the three tax years preceding his or her or his or her surviving unremarried spouse's or minor children's application for the homestead exemption permitted by this Code section.
- (2)** Upon application for the homestead exemption provided by this Code section and submittal of proper documentation, each county and municipality shall consider the taxes paid by such disabled veteran or his or her surviving unremarried spouse or minor children under the circumstances provided in paragraph (1) of this subsection to be voluntarily or involuntarily overpaid and shall refund such taxes to such disabled veteran or his or her surviving unremarried spouse or minor children in accordance with Code Section 48-5-380.

(3) Upon final determination and approval of a period of prior eligibility, the county board of assessors shall immediately transmit such approval to the local tax commissioner and local municipal tax officer if applicable. The tax commissioner and municipal tax officer shall be authorized to refund the proportionate amount of taxes from the entities for whom the taxes were collected for the tax years approved for the exemption. Such refund shall not exceed three tax years and shall not include interest.

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

- (a) Any person, firm, or corporation seeking a level 1 freeport exemption from ad valorem taxation of certain tangible personal property inventory when such exemption has been authorized by the governing authority of any county or municipality after approval of the electors of such county or municipality pursuant to the authority of the Constitution of Georgia or Code Section 48-5-48.2 shall file a written application and summary of property with the county board of tax assessors on forms furnished by such board. Such application shall be filed in the year in which exemption from taxation is sought no later than the date on which the tax receiver or tax commissioner of the county in which the property is located closes the books for the return of taxes.
- (b) The application for the level 1 freeport exemption shall provide for:
- (1) A summary, as prescribed by the department, of the inventory of goods in the process of manufacture or production which shall include all partly finished goods and raw materials held for direct use or consumption in the ordinary course of the taxpayer's manufacturing or production business in the State of Georgia;
  - (2) A summary, as prescribed by the department, of the inventory of finished goods manufactured or produced within the State of Georgia in the ordinary course of the taxpayer's manufacturing or production business when held by the original manufacturer or producer of such finished goods;
  - (3) A summary, as prescribed by the department, of the inventory of finished goods which on January 1 are stored in a warehouse, dock, or wharf, whether public or private, and which are destined for shipment outside the State of Georgia and the inventory of finished goods which are shipped into the State of Georgia from outside this state and which are stored for transshipment to a final destination outside this state. The information required by Code Section 48-5-48.2 to be contained in the official books and records of the warehouse, dock, or wharf where such property is being stored, which official books and records are required to be open to the inspection of taxing authorities of this state and political subdivisions thereof, shall not be required to be included as a part of or to accompany the application for such exemption; and
  - (4) A summary, as prescribed by the department, of the stock in trade of a fulfillment center which on January 1 is stored in the fulfillment center. The information required by Code Section 48-5-48.2 to be contained in the official books and records of the fulfillment center where such property is being stored, which official books and records are required to be open to the inspection of the taxing authorities of this state and political subdivisions

thereof, shall not be required to be included as a part of or to accompany the application for such exemption.

- (c) (1) For purposes of this subsection, the term "file properly" shall mean and include the timely filing of the completed application for which exemption is sought on or before the due date specified in subsection (a) of this Code section. Any clerical error, including, but not limited to, a typographical error, scrivener's error, or any unintentional immaterial error or omission in the application shall not be construed as a failure to file properly.
- (2) The failure to file properly the completed application shall constitute a waiver of the exemption on the part of the person, firm, or corporation failing to make the application for such exemption for that year as follows:
- (A) The failure to report any inventory for which such exemption is sought in the summary provided for in the application shall constitute a waiver of the exemption on the part of the person, firm, or corporation failing to so report for that taxable year in an amount equal to the difference between fair market value of the inventory as reported and the fair market value finally determined to be applicable to the inventory for which the exemption is sought; and
- (B) The failure to file timely such completed application shall constitute a waiver of the exemption until the first day of the month following the month such completed application is filed properly with the county tax assessor; provided, however, that unless such completed application is filed on or before June 1 of such year, the exemption shall be waived for that entire year.
- (d) Upon receiving the application required by this Code section, the county board of tax assessors shall determine the eligibility of all types of tangible personal property listed on the application. If any property has been listed which the board believes is not eligible for the exemption, the board shall issue a letter notifying the applicant, not later than 180 days after receiving the application, that all or a portion of the application has been denied. The denial letter shall list the type and total fair market value of all property listed on the application for which the exemption has been approved and the type and total fair market value of all property listed on the application for which the exemption has been denied. The applicant shall have the right to appeal from the denial of the exemption for any property listed and such appeal shall proceed as provided in Code Section 48-5-311. Except as otherwise provided in subparagraph (c)(2)(A) of this Code section, the county board of assessors shall not send a second letter of notification denying the exemption of all or a portion of such property listed on the application on new grounds that could and should have been discerned at the time the initial denial letter was issued. If, however, the county board of tax assessors fails to issue a letter of denial within 180 days after receiving the taxpayer's application, then the freeport exemption sought in the application shall be deemed accepted in its entirety.
- (e) If the level 1 freeport exemption has been granted to a taxpayer for a taxable year, the county board of tax assessors shall issue a notice of renewal to the taxpayer for the immediately following taxable year. Such notice of renewal shall be issued not later than January 15 of such immediately following taxable year to facilitate the filing of a timely completed application by the taxpayer for such taxable year.

- (f) Notwithstanding any other provision of law to the contrary, for a taxpayer that claimed an exemption for the 2020 taxable year for finished goods inventory described within paragraph (2) of subsection (c) of Code Section 48-5-48.2, the taxpayer shall have the option to determine the fair market value of eligible finished goods inventory for which such exemption is applicable and sought for the 2021 taxable year based on either the fair market value of applicable inventory as of January 1, 2020, or the fair market value of applicable inventory as of January 1, 2021.

## **§ 48-5-48.2 Level 1 freeport exemption; referendum**

- (a) This Code section shall be known and may be cited as the "Level 1 Freeport Exemption."
- (b) As used in this Code section, the term:
- (1) "Destined for shipment to a final destination outside this state" means, for purposes of a level 1 freeport exemption, that portion or percentage of an inventory of finished goods which the taxpayer can establish, through a historical sales or shipment analysis, either of which utilizes information from the preceding calendar year, or other reasonable, documented method, is reasonably anticipated to be shipped to a final destination outside this state. Such other reasonable, documented method may only be utilized in the case of a new business, in the case of a substantial change in scope of an existing business, or in other unusual situations where a historical sales or shipment analysis does not adequately reflect future anticipated shipments to a final destination outside this state. It is not necessary that the actual final destination be known as of January 1 in order to qualify for the exemption.
  - (2) "Finished goods" means, for purposes of a level 1 freeport exemption, goods, wares, and merchandise of every character and kind but shall not include unrecovered, unextracted, or unsevered natural resources or raw materials or goods in the process of manufacture or production or the stock in trade of a retailer.
  - (3) "Foreign merchandise in transit" means, for purposes of a level 1 freeport exemption, any goods which are in international commerce where the title has passed to a foreign purchaser and the goods are temporarily stored in this state while awaiting shipment overseas.
  - (4) "Fulfillment center" means, for purposes of a level 1 freeport exemption, a business location in Georgia which is used to pack, ship, store, or otherwise process tangible personal property sold by electronic, Internet, telephonic, or other remote means, provided that such a business location does not allow customers to purchase or receive goods onsite at such business location.
  - (5) "Raw materials" means, for purposes of a level 1 freeport exemption, any material, whether crude or processed, that can be converted by manufacture, processing, or a combination thereof into a new and useful product but shall not include unrecovered, unextracted, or unsevered natural resources.
  - (6) "Stock in trade of a fulfillment center" means, for purposes of a level 1 freeport exemption, goods, wares, and merchandise held by one in the business of making sales of such goods when such goods are held or stored at a fulfillment center.

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

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

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

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

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

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

**(D)** The substantial assembly of finished parts;

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

**(3)** Inventory of finished goods which, on January 1, are stored in a warehouse, dock, or wharf, whether public or private, and which are destined for shipment to a final destination outside this state and inventory of finished goods which are shipped into this state from outside this state and stored for transshipment to a final destination outside this state, including foreign merchandise in transit. The exemption provided for in this paragraph

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

**(4)** Stock in trade of a fulfillment center which, on January 1, is stored in a fulfillment center and which is made available to remote purchasers who may make such purchases by electronic, Internet, telephonic, or other remote means, and where such stock in trade of a fulfillment center will be shipped from the fulfillment center and delivered to the purchaser at a location other than the location of the fulfillment center. The exemption provided for in this paragraph shall be for a period not exceeding 12 months from the date such property is stored in this state. Such period shall be determined based on application of a first-in, first-out method of accounting for the inventory. The official books and records of the fulfillment center where such property is being stored shall contain a full, true, and accurate inventory of all such property, including the date of the receipt of the property and the date of the withdrawal of the property. The official books and records of any such fulfillment center pertaining to any such property for which a freeport exemption has been claimed shall be at all times open to the inspection of all taxing authorities of this state and of any political subdivision of this state.

- (d)** Whenever the governing authority of any county or municipality wishes to exempt such tangible property from ad valorem taxation, as provided in this Code section, the governing authority thereof shall notify the election superintendent of such political subdivision, and it shall be the duty of said election superintendent to issue the call for an election for the purpose of submitting to the electors of the political subdivision the question of whether such exemption shall be granted. The referendum ballot shall specify as separate questions the type or types of property as defined in this Code section which are being proposed to be exempted from taxation. The election superintendent shall issue the call and shall conduct the election on a date and in the manner authorized under Code Section 21-2-540.
- (e)** The governing authority of any county or municipality wherein an exemption has been approved by the voters as provided in this Code section may, by appropriate resolution, a copy of which shall be immediately transmitted to the state revenue commissioner, exempt from taxation 20 percent, 40 percent, 60 percent, 80 percent, or all of the value of such tangible personal property as defined in this Code section; provided, however, that once an exemption has been granted, no reduction in the percent of the value of such property to be exempted may be made until and unless such exemption is revoked or repealed as provided in this Code section. An increase in the percent of the value of the property to be exempted may be accomplished by appropriate resolution of the governing authority of such county or municipality, and a copy thereof shall be immediately transmitted to the state revenue commissioner, provided that such increase shall be in



increments of 20 percent, 40 percent, 60 percent, or 80 percent of the value of such tangible personal property as defined in this Code section, within the discretion of such governing authority.

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

**(2)** Exemptions may only be revoked by a referendum election called and conducted as provided in this Code section, provided that the call for such referendum shall not be issued within five years from the date such exemptions were first granted and, if the results of said election are in favor of the revocation of such exemptions, then such revocation shall be effective only at the end of a five- year period from the date of such referendum.
- (g)** Level 1 freeport exemptions effected pursuant to this Code section may be granted either in lieu of or in addition to level 2 freeport exemptions under Code Section 48-5-48.6.
- (h)** The commissioner shall by regulation adopt uniform procedures and forms for the use of local officials in the administration of this Code section.

### **§ 48-5-48.3 Homestead exemption for senior citizens**

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

  - (1)** "Homestead" means homestead as defined and qualified in Code Section 48-5-40 with the additional qualification that it shall include only the primary residence and not more than ten contiguous acres of land immediately surrounding such residence.
  - (2)** "Senior citizen" means a person who is 65 years of age or over on or before January 1 of the year in which application for the exemption under this Code section is made.
- (b)** Any person who is a senior citizen and resident of Georgia is granted upon application an exemption on his or her homestead which such person owns and actually occupies as a residence and homestead in an amount equal to the actual levy for state ad valorem taxation made pursuant to Code Section 48-5-8 with respect to that homestead, such exemption being from all ad valorem taxation for state purposes. The value of all property in excess of the exempted amount cited above shall remain subject to taxation.
- (c)** The exemption shall be claimed and returned in the same manner as otherwise required under Code Section 48-5-50.1. Each person shall file for the exemption only once in the county of his or her residence. Once filed, the exemption shall automatically be renewed from year to year.
- (d)** The exemption granted by this Code section shall not apply to or affect county taxes, municipal taxes, or school district taxes.

- (e) The exemption granted by this Code section shall be in addition to and not in lieu of any other homestead exemption from state taxes.

#### **§ 48-5-48.4 Homestead exemption for unremarried surviving spouse of peace officer or firefighter killed in line of duty**

- (a) As used in this Code section, the term:
  - (1) "Ad valorem taxes" means all state ad valorem taxes and all county, county school district, municipal, and independent school district taxes for county, county school district, municipal, or independent school district purposes including, but not limited to, taxes to retire bonded indebtedness.
  - (2) "Homestead" means homestead as defined and qualified in Code Section 48-5-40.
- (b) Each resident of the state who is the unremarried surviving spouse of a peace officer or firefighter who was killed in the line of duty is granted an exemption on that person's homestead from all ad valorem taxes for the full value of that homestead.
- (c) A person shall not receive the homestead exemption granted by subsection (b) of this Code section unless the person or person's agent files an affidavit with the tax commissioner of the county in which that person resides giving such information relative to receiving such exemption as will enable the tax commissioner to make a determination as to whether such person is entitled to such exemption. The tax commissioner shall provide affidavit forms for this purpose and shall require such information as may be necessary to determine the initial and continuing eligibility of the applicant for the exemption.
- (d) The exemption shall be claimed and returned as provided in Code Section 48-5-50.1. The exemption shall be automatically renewed from year to year as long as the applicant occupies the residence as a homestead. After a person has filed the proper affidavit as provided in subsection (c) of this Code section, it shall not be necessary to make application and file such affidavit thereafter for any year and the exemption shall continue to be allowed to such person. It shall be the duty of any person granted the homestead exemption under this Code section to notify the tax commissioner or the designee thereof in the event that person for any reason becomes ineligible for that exemption.
- (e) The exemption granted by this Code section shall be in lieu of and not in addition to any other homestead exemption from ad valorem taxes.
- (f) The exemption granted by this Code section shall apply to all taxable years beginning on or after January 1, 2007.

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

- (a) Any person, firm, or corporation seeking a level 2 freeport exemption from ad valorem taxation of certain tangible personal property inventory when such exemption has been authorized by the governing authority of any county or municipality after approval of the electors of such county or municipality pursuant to the authority of the Constitution of Georgia and Code Section 48-5-48.6 shall file a written application and summary, as prescribed by the department, of property with the county board of tax assessors on

forms furnished by such board. Such application shall be filed in the year in which exemption from taxation is sought no later than the date on which the tax receiver or tax commissioner of the county in which the property is located closes the books for the return of taxes.

- (b)** The application for the level 2 freeport exemption shall provide for a summary, as prescribed by the department, of the inventory of finished goods held by one in the business of making sales of such goods in this state.
- (c)** **(1)** For purposes of this subsection, the term "file properly" shall mean and include the timely filing of the application and complete summary, as prescribed by the department, of the inventory for which exemption is sought on or before the due date specified in subsection (a) of this Code section. Any clerical error, including, but not limited to, a typographical error, scrivener's error, or any unintentional immaterial error or omission in the application shall not be construed as a failure to file properly.

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

  - (A)** The failure to report any inventory for which such exemption is sought in the summary, as prescribed by the department, provided for in the application shall constitute a waiver of the exemption on the part of the person, firm, or corporation failing to so report for that taxable year in an amount equal to the difference between fair market value of the inventory as reported and the fair market value finally determined to be applicable to the inventory for which the exemption is sought; and
  - (B)** The failure to file timely such application and summary, as prescribed by the department, shall constitute a waiver of the exemption until the first day of the month following the month such application and summary, as prescribed by the department, are filed properly with the county tax assessor; provided, however, that unless the application and schedule are filed on or before June 1 of such year, the exemption shall be waived for that entire year.
- (d)** Upon receiving the application required by this Code section, the county board of tax assessors shall determine the eligibility of all types of tangible personal property listed on the application. If any property has been listed which the board believes is not eligible for the exemption, the board shall issue a letter notifying the applicant that all or a portion of the application has been denied. The denial letter shall list the type and total fair market value of all property listed on the application for which the exemption has been approved and the type and total fair market value of all property listed on the application for which the exemption has been denied. The applicant shall have the right to appeal from the denial of the exemption for any property listed, and such appeal shall proceed as provided in Code Section 48-5-311. Except as otherwise provided in subparagraph (c)(2)(A) of this Code section, the county board of assessors shall not send a second letter of notification denying the exemption of all or a portion of such property listed on the application on new grounds that could and should have been discerned at the time the initial denial letter was issued.

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

#### **§ 48-5-48.6 Level 2 freeport exemption; referendum**

- (a) This Code section shall be known and may be cited as the "Level 2 Freeport Exemption."
- (b) As used in this Code section, the term "finished goods" means, for purposes of a level 2 freeport exemption, goods, wares, and merchandise of every character and kind constituting a business's inventory which would not otherwise qualify for a level 1 freeport exemption.
- (c) The governing authority of any county or municipality may, subject to the approval of the electors of such political subdivision, exempt from ad valorem taxation, including all such taxes levied for educational purposes and for state purposes, inventory of finished goods.
- (d) Whenever the governing authority of any county or municipality wishes to exempt such tangible property from ad valorem taxation, as provided in this Code section, the governing authority thereof shall notify the election superintendent of such political subdivision, and it shall be the duty of said election superintendent to issue the call for an election for the purpose of submitting to the electors of the political subdivision the question of whether such exemption shall be granted. The referendum ballot shall specify retail business inventory as the types of property as defined in this Code section which are being proposed to be exempted from taxation. The election superintendent shall issue the call and shall conduct the election on a date and in the manner authorized under Code Section 21-2-540.
- (e) The governing authority of any county or municipality wherein an exemption has been approved by the voters as provided in this Code section may, by appropriate resolution, a copy of which shall be immediately transmitted to the state revenue commissioner, exempt from taxation 20 percent, 40 percent, 60 percent, 80 percent, or all of the value of such tangible personal property as defined in this Code section; provided, however, that once an exemption has been granted, no reduction in the percent of the value of such property to be exempted may be made until and unless such exemption is revoked or repealed as provided in this Code section. An increase in the percent of the value of the property to be exempted may be accomplished by appropriate resolution of the governing authority of such county or municipality, and a copy thereof shall be immediately transmitted to the state revenue commissioner, provided that such increase shall be in increments of 20 percent, 40 percent, 60 percent, or 80 percent of the value of such tangible personal property as defined in this Code section, within the discretion of such governing authority.

(f)

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

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

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

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

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

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

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

### **§ 48-5-49 Determination of eligibility of applicant; appeal**

(a) The official receiving an application for homestead exemption shall determine the eligibility of the applicant to claim the exemption and, whether the application is approved or disapproved, he shall then transfer the application to the county board of tax assessors for final determination by the board as to eligibility and value as provided by law.

(b) The applicant shall have the right of appeal from the decision of the board of assessors to the county board of equalization as provided in Code Section 48-5-311.

## **§ 48-5-50 Homestead value credited with exemption; approval of correctness of value, exemption, and difference**

The value of the homestead as finally determined shall be credited with the homestead exemption provided by law. The homestead value, exemption, and difference, if any, shall be shown on the owner's tax return and the correctness of the value, exemption, and difference shall be approved on the return as provided by law.

### **§ 48-5-50.1 Claim and return of constitutional or local law homestead exemptions from county taxes, county school taxes, or municipal or independent school district taxes**

(a) This Code section shall govern the procedure for returning and claiming homestead exemptions which are created by or pursuant to local laws or constitutional amendments which were not general amendments. If, however, such a constitutional amendment or local law contains provisions which are in conflict with this Code section, then such other provisions shall prevail over this Code section.

(b)

(1) If the homestead exemption is from county taxes or county school taxes, it shall be claimed and returned as provided in Code Sections 48-5-45, 48-5-46, 48-5-49, and 48-5-50.

(2) If the homestead exemption is from municipal or independent school district taxes, it shall be claimed and returned as provided in Code Sections 48-5-45, 48-5-46, and 48-5-50, except that any reference to the tax commissioner or tax receiver shall be deemed to refer to the municipal governing authority or its designee. The determination of eligibility of the applicant to claim the exemption shall be made by the municipal governing authority subject to appeal to the superior court. Any such appeal must be filed within 30 days after the final determination by the municipal governing authority and shall be a de novo proceeding.

(3) In addition to the provisions required by Code Section 48-5-46, the application for an exemption under this Code section may provide where necessary for an affidavit as to the age of the owner, the income of the owner and of each member of his family residing on the homestead, and such other information as may be necessary to determine eligibility of the owner for the exemption. The commissioner shall not be required to furnish specialized forms required by this Code section.

### **§ 48-5-51 Fraudulent claim of homestead exemption under Code Sections 48-5-44 through 48-5-50; penalty**

(a) It shall be unlawful for any person to:

(1) Make any false or fraudulent claim for exemption under Code Sections 48-5-44 through 48-5-50;

(2) Make any false statement or false representation of a material fact in support of a claim for exemption under Code Sections 48-5-44 through 48-5-50; or

**(3)** Assist another knowingly in the preparation of any false or fraudulent claim for exemption under Code Sections 48-5-44 through 48-5-50, or enter into any collusion with another by the execution of a fictitious deed, deed of trust, mortgage, or otherwise.

**(b)** Any person who violates this Code section shall be guilty of a misdemeanor. In addition, the property shall be taxed in an amount double the tax otherwise to be paid.

**§ 48-5-52 Exemption from ad valorem taxation for educational purposes of homesteads of qualified individuals 62 or older; application; replacement of revenue**

**(a)** The homestead of each resident of each independent school district and of each county school district within this state who is 62 years of age or older and, for the purposes of all tax years beginning on or after January 1, 2003, whose net income together with the net income of the spouse who also occupies and resides at such homestead, as net income is defined by Georgia law from all sources, except as otherwise provided in this subsection, does not exceed \$10,000.00 for the immediately preceding taxable year for income tax purposes, is exempted from all ad valorem taxes for educational purposes levied by, for, or on behalf of any such school system, including taxes to retire school bond indebtedness. For the purposes of this subsection, net income shall not include income received as retirement, survivor, or disability benefits under the federal Social Security Act or under any other public or private retirement, disability, or pension system, except such income which is in excess of the maximum amount authorized to be paid to an individual and his or her spouse under the federal Social Security Act. Income from such sources in excess of such maximum amount shall be included as net income for the purposes of this subsection. The exemption shall not exceed \$10,000.00 of the homestead's assessed value. Except as otherwise specifically provided by law, the value of that property in excess of such exempted amount shall remain subject to taxation.

**(b)**

**(1)** The exemption provided for in subsection (a) of this Code section shall not be granted unless an affidavit of the owner of the homestead, prepared upon forms prescribed by the commissioner for that purpose, is filed with either the tax receiver or tax commissioner, in the case of residents of county school districts, or with the governing authority of the owner's city, in the case of residents of independent school districts.

**(2)** The affidavit shall in the first year for which the exemption is sought be filed on or before the last day for making a tax return and shall show the:

**(A)** Age of the owner on January 1 immediately preceding the filing of the affidavit;

**(B)** Total amount of net income received by the owner and spouse from all sources during the immediately preceding calendar year; and

**(C)** Such additional information as may be required by the commissioner.

- (3)** Copies of all affidavits received or extracts of the information contained in the affidavits shall be forwarded to the commissioner by the various taxing authorities with whom the affidavits are filed. The commissioner is authorized to compare such information with information contained in any income tax return, sales tax return, or other tax documents or records of the department and to report immediately to the appropriate county or city taxing authority any apparent discrepancies between the information contained in any affidavit and the information contained in any other tax records of the department.
- (4)** After the owner has filed the affidavit and has once been allowed the exemption provided for in this Code section, it shall not be necessary to make application and file the affidavit thereafter for any year and the exemption shall continue to be allowed to such owner; provided, however, that it shall be the duty of any such owner to notify the tax commissioner or tax receiver in the event the owner becomes ineligible for any reason for the exemption provided for in this Code section.
- (c)** The homestead exemption granted by this Code section shall extend to and shall apply to those properties the legal title to which is vested in one or more titleholders when such property is actually occupied as a residence by one or more of the titleholders who possess the qualifications provided in subsection (a) of this Code section and who claim the exemption in the manner provided for in this Code section. The exemption shall also extend to those homesteads the title to which is vested in a personal representative or trustee if one or more of the heirs or beneficiaries residing on the property possess the qualifications provided for and claim the exemption in the manner provided in this Code section.
- (d)**
- (1)** The State Board of Education, when funds are specifically appropriated for the purpose of replacing revenue lost by local school systems as a result of this Code section, shall provide each school district in this state which, on July 1, 1974, had in effect a tax levy of 20 mills or more for educational purposes or was levying the maximum permissible tax authorized by law for educational purposes, with grants for educational purposes which shall equal the revenues lost by the school district due to the exemption provided by this Code section for property located within the school district.
- (2)** The State Board of Education may promulgate reasonable rules to carry out this subsection.



**§ 48-5-52.1 Exemption from ad valorem taxation for state, county, municipal, and school purposes of homesteads of unremarried surviving spouses of U.S. service members killed in action**

- (a) Any person who is a citizen and resident of Georgia and who is an unremarried surviving spouse of a member of the armed forces of the United States, which member has been killed in or has died as a result of any war or armed conflict in which the armed forces of the United States engaged, whether under United States command or otherwise, shall be granted a homestead exemption from all ad valorem taxation for state, county, municipal, and school purposes in the amount of the greater of \$32,500.00 or the maximum amount which may be granted to a disabled veteran under Section 2102 of Title 38 of the United States Code, as amended. As of January 1, 1999, the maximum amount which may be granted to a disabled veteran under the above-stated federal law is \$43,000.00. For the purposes of this Code section, the term "unremarried surviving spouse" of a member of the armed forces includes the unmarried widow or widower of a member of the armed forces who is receiving spousal benefits from the United States Department of Veterans Affairs. The exemption shall be on the homestead which the unremarried surviving spouse owns and actually occupies as a residence and homestead. In the event such surviving spouse remarries, such person shall cease to be qualified to continue the exemption under this Code section effective December 31 of the taxable year in which such person remarries. The value of all property in excess of such exemption granted to such unremarried surviving spouse shall remain subject to taxation.
- (b) In order to qualify for the exemption provided for in this Code section, the unremarried surviving spouse shall furnish to the tax commissioner of the county of residence documents from the Secretary of Defense evidencing that such unremarried surviving spouse receives spousal benefits as a result of the death of such person's spouse who as a member of the armed forces of the United States was killed or died as a result of a war or armed conflict while on active duty or while performing authorized travel to or from active duty during such war or armed conflict in which the armed forces of the United States engaged, whether under United States command or otherwise, pursuant to the Survivor Benefit Plan under Subchapter II of Chapter 73 of Title 10 of the United States Code or pursuant to any preceding or subsequent federal law which provides survivor benefits for spouses of members of the armed forces who were killed or who died as a result of any war or armed conflict.
- (c) An unremarried surviving spouse filing for the exemption under this Code section shall be required to file with the tax commissioner information relative to marital status and other such information which the county board of tax assessors deems necessary to determine eligibility for the exemption. Each unremarried surviving spouse shall file for the exemption only once with the tax commissioner. Once filed, the exemption shall automatically be renewed from year to year, except that the county board of tax assessors may require annually that the holder of an exemption substantiate his or her continuing eligibility for the exemption. It shall be the duty of any person granted the

homestead exemption under this Code section to notify the tax commissioner in the event that person for any reason becomes ineligible for such exemption.

- (d) The exemption granted by this Code section shall be in lieu of and not in addition to any other exemption from ad valorem taxation for state, county, municipal, and school purposes which is equal to or lower in amount than such exemption granted by this Code section. If the amount of any other exemption from ad valorem taxation for state, county, municipal, and school purposes applicable to any resident qualifying under this Code section is greater than or is increased to an amount greater than the amount of the applicable exemption granted by this Code section, such other exemption shall apply and shall be in lieu of and not in addition to the exemption granted by this Code section.
- (e) The exemptions granted by this Code section shall apply to the tax year beginning on January 1, 2001, and all tax years thereafter.

### **§ 48-5-53 Falsification of information required by Code Section 48-5-52; penalty**

- (a) It shall be unlawful for any person willfully to falsify information required by the commissioner pursuant to Code Section 48-5-52, whether relating to age, income, or otherwise.
- (b) Any person who violates subsection (a) of this Code section commits the offense of false swearing.

### **§ 48-5-54 Application of homestead exemptions to properties with multiple titleholders and properties held by administrators, executors, or trustees**

- (a) The exemptions granted to the homestead pursuant to this part shall extend to and shall apply to those properties the legal title to which is vested in one or more titleholders if actually occupied by one or more of such owners as a residence. In such instances, such exemptions shall be granted to such properties if claimed in the manner provided by law by one or more of the owners actually residing on such property. Such exemptions shall also extend to those homesteads the title to which is vested in an administrator, executor, or trustee if one or more of the heirs or cestui que uses residing on such property claims the exemption in the manner provided by law. The provisions of this Code section shall also apply to exemptions granted to the homestead by any local law adopted after July 1, 1984, unless the local law expressly provides to the contrary.
- (b) The failure to file properly the application and schedule shall not be cause for waiver of the exemption where such waiver arises because of an administrator's or executor's deed transferring the property to a surviving spouse. In such instances, the board of tax assessors shall give notice of its intent to deny the exemption as required by Code Section 48-5-49, and the surviving spouse may make application for the amount of homestead exemption to which such applicant is entitled within 30 days from the date of the notice by the board of tax assessors. In the case of a base year assessed value homestead exemption, so long as the surviving spouse otherwise meets the

requirements specified for such exemption and makes proper application under this subsection, upon approval of such application the exemption shall be continued with the same base year assessed value as had been established for the deceased spouse of such surviving spouse, unless otherwise provided by local law.

**§ 48-5-55 Continuation of constitutional exemptions from ad valorem taxes**

- (a) Exemptions from ad valorem taxation granted by or pursuant to constitutional amendments other than general constitutional amendments of state-wide application, which exemptions were in effect on June 30, 1983, are continued in effect as statutory law until otherwise provided for by law.
- (b) The provisions of this part shall not prohibit any otherwise lawful local Act from granting exemptions from ad valorem taxes other than state ad valorem taxes, which exemptions are in addition to or in place of the exemptions granted pursuant to this part.

**§ 48-5-56 Notice of homestead exemptions from ad valorem taxation to accompany bill for ad valorem taxes on real property**

Each bill for ad valorem taxes on real property other than property required to be returned to the commissioner shall contain or be accompanied by a notice in substantially the following form:

*"Certain persons are eligible for certain homestead exemptions from ad valorem taxation. In addition to the regular homestead exemption authorized for all homeowners, certain elderly persons are entitled to additional homestead exemptions. The full law relating to each exemption must be referred to in order to determine eligibility for the exemption. If you are eligible for one of these exemptions and are not now receiving the benefit of the exemption, you must apply for the exemption not later than (insert date) in order to receive the exemption in future years. For more information on eligibility for exemptions or on the proper method of applying for an exemption, you may contact the office of the county tax receiver or county tax commissioner, which is located at: (insert address) and which may be contacted by telephone at: (insert telephone number).*

*If you feel that your property has been assigned too high a value for tax purposes by the board of tax assessors, you should file a tax return reducing the value not later than \_\_\_\_\_ in order to have an opportunity to have this value lowered for next year's taxes. Information on filing a return can be obtained from the county tax receiver or tax commissioner at the above address and telephone number."*

## **TAX DEFERRAL FOR THE ELDERLY**

- § 48-5-71**      **Definitions**
- § 48-5-72**      **Homestead tax deferral for individuals 62 or older; demonstration of compliance with part**
- § 48-5-72.1**    **Alternative to tax deferral authorized by Code Section 48-5-72; burden on applicant to demonstrate compliance**
- § 48-5-73**      **Limitations on grant of homestead tax deferral**
- § 48-5-74**      **Application for homestead tax deferral; oath; decision by tax official; notice; appeal to board of equalization; procedure; appeal to superior court; information on outstanding liens; proof of insurance**
- § 48-5-75**      **Rate of interest on amount of deferred taxes; time of accrual of interest on deferred taxes**
- § 48-5-76**      **Deferred taxes and interest constitute prior lien; effect of award for year's support on liens for deferred taxes**
- § 48-5-77**      **Annual notification to property owner of sum of deferred taxes and interest outstanding**
- § 48-5-78**      **Change in ownership or use of, or failure to maintain insurance on, tax-deferred homestead; payment of deferred taxes, interest, and unsatisfied liens**
- § 48-5-79**      **Prepayment of deferred taxes and accrued interest; partial payments**
- § 48-5-81**      **Payment by holder of deed to secure debt or by mortgagee; effect on right to foreclose**
- § 48-5-84**      **Penalties for willfully filing incorrect information**

# County Taxation

## § 48-5-220. Purposes of county taxes

County taxes may be levied and collected for the following public purposes:

- (1) To pay the expenses of administration of the county government;
- (2) To pay the principal and interest of any debt of the county and to provide a sinking fund for the payment of the principal and interest;
- (3) For educational purposes upon property located outside of independent school systems, as provided in Article VIII of the Constitution of this state;
- (4) To build and repair public buildings and bridges;
- (5) To pay the expenses of courts and the maintenance and support of inmates, to pay sheriffs and coroners, and to pay for litigation;
- (6) To build and maintain a system of county roads;
- (7) For public health purposes in the county and for the collection and preservation of records of vital statistics;
- (8) To pay county police;
- (9) To support indigent individuals;
- (10) To pay county agricultural and home demonstration agents;
- (11) (A) To provide for payment of old age assistance to aged individuals in need and for the payment of assistance to needy blind, assistance to dependent children, and other welfare benefits.  
  
(B) No individual shall be entitled to assistance as provided in this paragraph who does not qualify for assistance in every respect as provided by law prescribing the qualifications for beneficiaries.  
  
(C) No indebtedness or liability against the county shall ever be created for the purpose stated in this paragraph when the indebtedness or liability is in excess of amounts reasonably expected to be raised by county taxes levied as provided by law;
- (12) To provide for fire protection of forest lands and for the conservation of natural resources;
- (13) To provide hospitalization and medical or other care for the indigent sick people of the county;
- (14) To acquire, improve, and maintain airports, public parks, and public libraries;
- (15) To provide for workers' compensation and retirement or pension funds for officers and employees;

- (16)** To provide reasonable reserves for public improvements as may be fixed by law;
- (17)** To pay pensions and other benefits and costs under a teacher retirement system or systems;
- (18)** For school lunch purposes, upon property located outside of independent school systems as provided in Article VIII of the Constitution of this state, to provide for payment of costs and expenses incurred in the: purchase, replacement, and maintenance of school lunchroom equipment; purchase of school lunchroom supplies; transportation, storage, and preparation of foods; and all other costs and expenses incurred in the operation of school lunch programs;
- (19)** To provide for ambulance services within the county;
- (20)** To provide for financial assistance to county or joint county and municipal development authorities for the purpose of developing trade, commerce, industry, and employment opportunities. No tax for this purpose shall exceed one mill per dollar upon the assessed value of the taxable property in the county levying the tax; provided, however, that the authority to levy and collect a tax for the purpose described in this paragraph shall not be deemed to be an exclusive authorization and shall not prevent any county from exercising any power granted to it pursuant to any constitutional amendment, whether general or special, to levy any ad valorem tax for the purpose of providing financial assistance to any county or joint county and municipal development authority. The exceptions to the one mill per dollar tax limitation contained in the proviso of the preceding sentence shall not be construed so as to affect any action pending in court on February 20, 1984;
- (21)** To provide for public health and sanitation including, but not limited to, water pollution control projects, sewage treatment facilities, storm and sanitary sewer facilities, and water supply facilities; and
- (22)** To provide for financial assistance to county children and youth commissions providing children and youth services, including but not limited to, the study of the needs, issues, and problems relating to children and youth; the gathering of data, identification of problem areas, and planning and implementation of programs for dealing with problems of children and youth; and the dissemination of information relating to issues of children and youth.

# Uniform Property Tax Administration and Equalization

## ***Georgia Constitution Article VII. Section I. Paragraph III.***

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

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

# EQUALIZATION OF ASSESSMENTS

## § 48-5-260 Purpose of part

It is the purpose and intent of this part to:

- (1) Create, provide, and require a comprehensive system for the equalization of taxes on real property within this state by the establishment of uniform state-wide forms, records, and procedures and by the establishment of a competent, full-time staff for each county of this state to:
  - (A) Assist the board of tax assessors of each county in developing the proper information for setting tax assessments on property;
  - (B) Maintain the tax assessment records for each county; and
  - (C) Provide for state-wide duties and qualification standards for such staffs;
- (2) Provide for the examination of county tax digests in order to determine whether property valuation is uniform between the counties;
- (3) Provide for adjustments and equalizations of property valuations in certain instances;
- (4) Provide for state ratio studies by the state auditor; and
- (5) Provide for state assistance to counties in implementing this part.

## § 48-5-261 Classification of counties for administration of part

## § 48-5-262. Composition and duties of county appraisal staffs; "county civil service system" defined

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

### (a) *Qualifications.*

- (1) The commissioner shall establish, and the Department of Administrative Services may review, the qualifications and rate of compensation for each appraiser grade.
- (2) Each appraiser shall, before his or her employment, obtain a satisfactory grade, as determined by the commissioner, on an examination prepared by the commissioner and an institution of higher education in this state.

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

- (1) Make appraisals of the fair market value of all taxable property in the county other than property returned directly to the commissioner;
- (2) Maintain all tax records and maps for the county in a current condition. This duty shall



include, but not be limited to, the mapping, platting, cataloging, and indexing of all real and personal property in the county;

- (3) Prepare annual assessments on all taxable property appraised in the county and submit the assessments for approval to the county board of tax assessors;
- (4) Prepare annual appraisals on all tax-exempt property in the county and submit the appraisals to the county board of tax assessors;
- (5) Prepare and mail assessment notices after the county board of tax assessors has determined the final assessments;
- (6) Attend hearings of the county board of equalization and provide information to the board regarding the valuation and assessments approved by the county board of tax assessors on those properties concerning which appeals have been made to the county board of equalization;
- (7) Provide information to the department as needed by the department and in the form requested by the department;
- (8) Attend the standard approved training courses as directed by the commissioner for all minimum county property appraisal staffs;
- (9) Compile sales ratio data and furnish the data to the commissioner as directed by the commissioner;
- (10) Comply with the rules and regulations for staff duties established by the commissioner; and
- (11) ~~Inspect~~ In counties that elect to require decals pursuant to Code Section 48-5-492, inspect mobile homes located in the county to determine if the proper decal is attached to and displayed on the mobile home by the owner as provided by law; notify the residents of those mobile homes to which a decal is not attached of the provisions of Code Sections 48-5-492 and 48- 5-493; and furnish to the tax collector or tax commissioner a periodic list of those mobile homes to which a decal is not attached.

- (c) **Compensation.** Staff appraisers shall be paid from county funds. The rates of compensation established by the commissioner shall not preclude any county from paying a higher rate of compensation to any appraiser grade.

## § 48-5-264 Designation and duties of chief appraiser

### § 48-5-264.1 Right of chief appraiser and others to inspect property; supplying identification to occupant of property; statement to be included in tax bill

- (a) The chief appraiser, other members of the county property appraisal staff, authorized agents of the county board of tax assessors, and members of the county board of tax assessors who are conducting official business of the chief appraiser, the county

appraisal staff, or the county board of tax assessors may go upon property outside of buildings, posted or otherwise, in order to carry out the duty of making appraisals of the fair market value of taxable property in the county, other than property returned directly to the commissioner; provided, however, such person representing such chief appraiser, appraisal staff, or county board of tax assessors shall carry identification which is sufficiently prominent to permit the occupant to readily ascertain that such person is such representative. Such representative shall not enter upon the property unless reasonable notice has been provided to the owner and to the occupant of the property regarding the purpose for which such person is entering upon such property.

- (b) The county tax commissioner shall include a statement with the ad valorem tax bill of each taxpayer notifying the taxpayer of the right to file an ad valorem property tax return. A notification of the right of taxpayers to file ad valorem property tax returns shall also be maintained by the tax commissioner on the official website of the county.

#### **§ 48-5-265 Formation of joint county property appraisal staffs**

#### **§ 48-5-266 Submission by chief appraiser of assessment list with supporting information; attendance and providing of information at appeal hearings**

- (a) The chief appraiser shall submit a certified list of assessments for all taxable property within the county to the county board of tax assessors. The list shall be accompanied by any supporting information requested by the board of tax assessors and shall be submitted within the time prescribed by the board of tax assessors.
- (b) The chief appraiser or his delegate shall attend all hearings on appeals of assessments made to the county board of equalization. He shall provide the county board of equalization with the information supporting the appraisal and assessment which has been appealed.

#### **§ 48-5-268 Training courses for new appraisers; continuing education for experienced appraisers; member of county appraisal staff to appraise tangible personal property**

- (a) The department may prepare, instruct, operate, and administer courses of instruction deemed necessary to provide for the training of new appraisers and the continuing education of experienced appraisers.
- (b)
  - (1) The department shall prepare, instruct, operate, and administer courses of instruction for the training of new appraisers and the continuing education of experienced appraisers in the appraisal of tangible personal property.
  - (2) In all counties except Class I counties, the chief appraiser shall designate at least one person on the county appraisal staff to be responsible for the appraisal of tangible personal property. Any person or persons so designated shall be required to attend the

standard approved training courses operated by the department in accordance with this subsection as part of their duties specified in subsection (b) of Code Section 48-5-263.

- (c) The department may contract with any institution of higher education in this state to provide the courses of instruction, or any part of the courses, called for in this Code section.

**§ 48-5-269 Authority to promulgate rules and regulations regarding uniform books, records, forms, and manuals; limits on change in current use value of conservation use property**

- (a) Subject to the limitations contained in Chapter 2 of this title, the commissioner may promulgate rules and regulations specifically regarding this part, including, but not limited to, the following:
  - (1) Prescription of the forms, books, and records to be used for standard property tax reporting for all taxing units, including, but not limited to, the forms, books, and records to be used in the listing, appraisal, and assessment of property and how the forms, books, and records shall be compiled and kept;
  - (2) Prescription of the form and content of state-wide, uniform appraisal and assessment forms, books, and manuals;
  - (3) Development and prescription of procedures under which property sales ratio surveys shall be conducted; and
  - (4) Prescription of methods and procedures by which identification data, appraisal and assessment data, sales data, and any other information relating to the appraisal and assessment of property shall be furnished to the department using electronic data processing systems and equipment.
- (b) The commissioner shall promulgate after consultation with the Department of Agriculture, the Georgia Agricultural Statistical Service, the State Forestry Commission, the Department of Natural Resources, and the Cooperative Extension Service, and county tax officials shall follow uniform rules and regulations establishing a table of values for the current use value of bona fide conservation use property. Such rules and regulations shall apply to the evaluation of bona fide conservation use property, exclusive of any improvements thereon, which improvements shall have their current use value determined as otherwise provided by law. Such rules and regulations shall include, but not be limited to, the following provisions and criteria:
  - (1) Sales data for arm's length, bona fide sales of comparable real property with and for the same existing use and per-acre property values determined by the capitalization of net income before property taxes, with sales data to be weighted 35 percent and income capitalization values to be weighted 65 percent. All sales data shall be adjusted to remove the influence of the size of the tract on the sales price of tracts below 50 acres in size. Income capitalization values shall be derived from the respective conservation use property classifications, with consideration given to productivity of the respective major

geological or geographical regions, and for this purpose:

**(A)** Net income before property taxes shall be determined for:

- (i)** Agricultural land by calculating a weighted average of all crop and pasture acreage in each district as designated by paragraph (2) of this subsection in the following manner:
  - (I)** Crop land by calculating the five-year weighted average of per-acre net income before property taxes from the major predominant acreage crops harvested in Georgia, and as used in this subdivision, the term "predominant acreage crops" means the top acreage crops with production in no less than 125 counties of the state; and
  - (II)** Pasture property by calculating a five-year weighted average of per-acre rental rates from pastureland; and
- (ii)** Forest property by calculating a five-year weighted average of per-acre net income before property taxes from hardwood and softwood harvested in Georgia. For purposes of this division, the term "property taxes" shall not include the tax under Code Section 48-5-7.5 which tax shall be considered in calculating net income; and

**(B)** The capitalization rate shall be based upon:

- (i)** The long-term financing rate available on January 1 from the Regional Federal Land Bank located in Columbia, South Carolina, and published pursuant to 26 U.S.C. Section 2032A(e)(7)(A)(ii), further referenced by regulations 26 C.F.R. 20.2032A-4(e);
- (ii)** The arithmetic mean of Federal Farm Credit bond yields, whose maturity is no less than five years in the future, as published in the *Wall Street Journal* on January 1 or the most recent business day of the current year, rounded to the nearest hundredth;
- (iii)** For the purpose of determining the income capitalization rate, divisions (i) and (ii) of this subparagraph shall be given weighted influences of 80 percent and 20 percent, respectively; and
- (iv)** A property tax component which shall be the five-year average true tax rate for the unincorporated area of each county located within the regions established by paragraph (2) of this subsection;

**(2)** The state shall be divided into an appropriate grouping of the nine crop-reporting districts as delineated by the Georgia Agricultural Statistical Service for the purpose of determining any calculation under this subsection;

- (3) In no event may the current use value of any conservation use property in the table of values established by the commissioner under this subsection for the taxable year beginning January 1, 1993, increase or decrease by more than 15 percent from its current use value as set forth in the table of values established by the commissioner under this subsection for the taxable year beginning January 1, 1992. In no event may the current use value of any conservation use property in the table of values established by the commissioner under this subsection for the taxable year beginning January 1, 1994, or any subsequent taxable year increase or decrease by more than 3 percent from its current use value as set forth in the table of values established by the commissioner under this subsection for the immediately preceding taxable year; and
- (4) Environmentally sensitive properties as certified by the Department of Natural Resources shall be valued according to the average value determined for property of the same or similar soil type, as determined under paragraphs (1) and (2) of this subsection.
- (c) In no event may the current use value of any conservation use property increase or decrease during a covenant period by more than 3 percent from its current use value for the previous taxable year or increase or decrease during a covenant period by more than 34.39 percent from the first year of the covenant period. The limitations imposed by this subsection 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 paragraph (1) of subsection (a) of Code Section 48-5-7.4; provided, however, that in the event the owner changes the use of any portion of the 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.

#### **§ 48-5-269.1 Adoption by commissioner and requirement of use of uniform procedural manual for appraising tangible personal property**

- (a) The commissioner shall adopt by rule, subject to Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," and maintain an appropriate procedural manual for use by county property appraisal staff in appraising tangible real and personal property for ad valorem tax purposes.
- (b) The manual adopted by the commissioner pursuant to this Code section shall be utilized by county property appraisal staff in the appraisal of tangible real and personal property for ad valorem tax purposes.

**§ 48-5-270 Commissioner's authority to purchase, develop, prescribe, and improve electronic data processing systems regarding property valuation and assessment**

The commissioner is authorized, from funds appropriated to the department, to develop and prescribe systems of data collection, appraisal, and assessment and any other systems relating to property valuation and assessment utilizing electronic data processing systems and equipment for use by county boards of tax assessors. The commissioner may purchase existing systems and services from other government agencies, educational institutions, or private businesses or contract with these entities for the development of information and new systems that may be utilized by county boards of tax assessors in property valuation and assessment. The commissioner shall actively seek out technological advancements and systems that will improve the uniformity, fairness, and efficiency of property valuations and assessments and include his or her recommendations in the annual budget request.

**§ 48-5-271 Table of values for conservation use value of forest land**

- (a)** The commissioner shall promulgate, and county tax officials shall follow uniform rules and regulations establishing a table of values for the conservation use value of forest land conservation use property. Such values shall be the same as provided for forest land values under Code Section 48-5-269.
- (b)** In no event may the forest land conservation use value of any forest land conservation use property in the table of values established by the commissioner under this Code section for the taxable year beginning January 1, 2010, or any subsequent taxable year increase or decrease by more than 3 percent from its forest land conservation use value as set forth in the table of values established by the commissioner under this Code section. The limitations imposed by this subsection shall apply to the total value of all the forest land conservation use property that is the subject of an individual covenant.

**§ 48-5-273 Counties to submit tax rate to commissioner**

The governing authority of each county shall submit to the commissioner, at the time the county tax digest for the current year is submitted for his approval, the total county millage levy established pursuant to law for the county for the current year. The commissioner shall not consider the approval of any county tax digest unless the tax rate is submitted to him as provided in this Code section.

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

- (a)** As used in this Code section, the term:
  - (1)** "Assessment ratio" means the fractional relationship between the assessed value and the fair market value of the property.
  - (2)** "Measures of central tendency" means the tendency of data to cluster around some

typical or central value, such as the median ratio, the mean ratio, or the weighted mean ratio (the weighted mean ratio is also called the aggregate ratio), as defined in the Standard on Assessment-Ratio Studies published by the International Association of Assessing Officers.

- (b)** The state auditor shall establish on a continuing basis, no later than November 15 in each year, an equalized adjusted property tax digest for each county in the state and for the state as a whole for the current calendar year. Such digest shall exclude all real and personal property exempted from taxation and the difference between the value of all taxable property within any tax allocation district and the tax allocation increment base of such tax allocation district as defined under paragraph (15) of Code Section 36-44-3 for which consent has been obtained pursuant to Code Section 36-44-9. The state auditor may establish a unit within the Department of Audits and Accounts consisting of such number of personnel as is deemed necessary in order to establish and maintain on a continuing basis the equalized adjusted property tax digest. The equalized adjusted property tax digest shall be established and maintained as follows:
- (1)** Determine the locally assessed valuation of the county property tax assessment digest for the preceding calendar year, exclusive of real and personal property exempted from taxation, exclusive of the difference between the value of all taxable property within any tax allocation district and the tax allocation increment base of such tax allocation district as defined under paragraph (15) of Code Section 36-44-3 for which consent has been obtained pursuant to Code Section 36-44-9, exclusive of railroad equipment company property shown on the county railroad equipment company property tax digest, exclusive of any property subject to current use valuation on the county property tax digest, and exclusive of the locally assessed valuation of timber harvested or sold;
  - (2)** Determine the fair market value for timber harvested or sold during the calendar year;
  - (3)** Divide the sum of the locally assessed valuation of the county property tax assessment digest under paragraph (1) of this subsection by the ratio of assessed value to fair market value of the property established by the state auditor in accordance with paragraph (8) of this subsection;
  - (4)** Determine the fair market value of the county railroad equipment company property tax digest for the preceding calendar year;
  - (5)** Determine the sum of the current use valuation of the county property tax digest;
  - (6)** Determine the total fair market value of the Public Utility Digest as established by the commissioner;
  - (7)** The total of the sums obtained through the calculations prescribed in paragraphs (2), (3), (4), (5), and (6) of this subsection shall be known as the current equalized adjusted property tax digest of the county. The sum of the current equalized adjusted property tax digest of all counties of the state combined shall be known as the current equalized adjusted property tax digest for the state as a whole; and

- (8)** Establish for each county in the state the ratio of assessed value to fair market value of county property subject to taxation, excluding railroad equipment company property. The ratio shall be determined by establishing the ratio of assessed value to sales price for each of a representative number of parcels of real property, the titles to which were transferred during a period of time to be determined by the state auditor, and then by establishing the measure of central tendency for the county as a whole based upon a representative number of usable transactions studied. Any such sales price shall be adjusted upward or downward, in a manner consistent with the Standard on Ratio Studies published by the International Association of Assessing Officers or its successors, as reasonably needed to account for the effects of price changes reflected in the market between the date of sale and January 1 of the calendar year for which the equalized adjusted property tax digest is being prepared. Sales prices also shall be reduced by any portion thereof attributable to personal property, real property exempt from taxation, or standing timber included in the sales transaction. The representative number of transactions shall not include any parcel of which the sales price is not reflective of the fair market value of such property as fair market value is defined in Code Section 48-5-2. The state auditor shall supplement realty sales price data available in any county with actual appraisals of a representative number of parcels of farm property and industrial and commercial property located within the county, the titles to which were not transferred within the period of time determined by the state auditor. The state auditor may make appraisals on other types of real property located within the county when adequate realty sales data cannot be obtained on such property. The representative number of parcels of each class of real property as defined by the commissioner used for the study shall be determined by the state auditor. The state auditor may use the same ratio for other personal property, excluding motor vehicles, within the county as is finally determined for real property within the county.
- (c)** The assessment ratio of assessed value to fair market value of county property to be established by the state auditor for the purposes of paragraph (8) of subsection (b) of this Code section shall be established through the use of personnel of the Department of Audits and Accounts who have sufficient competence and expertise by way of education, training, and experience in the fields of property evaluation and appraisal techniques. The Department of Audits and Accounts shall use the Standard on Assessment-Ratio Studies published by the International Association of Assessing Officers or its successors to determine the valid transactions necessary to establish accurately the measure of central tendency described in paragraph (8) of subsection (b) of this Code section; provided, however, that standard shall only be used to the extent it does not conflict with criteria enumerated in subparagraph (B) of paragraph (3) of Code Section 48-5-2.
- (d)** The assessment ratio of assessed value to fair market value determined for each county shall be used as provided for in this Code section until such time as a new ratio is determined on a continuing basis for each county. The state auditor shall provide to the commissioner the assessment ratio of assessed value to fair market value for all counties upon completion.
- (e)** On or before November 15 of each year, the state auditor shall furnish to the State Board



of Education the current equalized adjusted property tax digest of each county in the state and the current equalized adjusted property tax digest for the state as a whole. In any county which has more than one school system, the state auditor shall furnish the State Board of Education a breakdown of the current county equalized adjusted property tax digest showing the amount of the digest applicable to property located within each of the school systems located within the county. At the same time, the state auditor shall furnish the governing authority of each county, the governing authority of each municipality having an independent school system, the local board of education of each school system, the tax commissioner or tax collector of each county, and the board of tax assessors of each county the current equalized adjusted property tax digest of the local school system or systems, as the case may be, and the current equalized adjusted property tax digest for the state as a whole.

**(f)**

**(1)** Each county governing authority, each governing authority of a municipality having an independent school system, and each local board of education, when aggrieved or when having an aggrieved constituent, shall have a right, upon written request made within 30 days after receipt of the digest information, to refer the question of correctness of the current equalized adjusted property tax digest of the local school system to the state auditor. The state auditor shall take any steps necessary to make a determination of the correctness of the digest and to notify all interested parties of the determination within 45 days after receiving the request questioning the correctness of the digest.

**(2)** **(A)** If any party questioning the correctness of the digest is dissatisfied with the determination made by the state auditor pursuant to paragraph (1) of this subsection, the party shall have the right, which must be exercised within 15 days after being notified of the determination made by the state auditor, to refer in writing the question of the correctness of the digest to a board of arbitrators.

**(B)** Each board of arbitrators shall consist of three members, one to be chosen by the state auditor within 15 days after receipt of a written complaint, one to be chosen by the complaining party at the time of requesting the arbitration, and one to be chosen within 15 days after selection of the first two members by the first two members of the board. In the event the two arbitrators cannot agree on a third member, the Chief Justice of the Supreme Court of Georgia shall appoint the third member upon petition of either party with notice to the opposing party.

**(C)** The board of arbitrators or a majority of the board within 15 days after appointment of the full board shall render its decision regarding the correctness of the digest in question and, if correction of the digest is required, regarding the extent and manner in which the digest should be corrected. The decision of the board shall be final.

**(D)** The state auditor shall correct the digest in question in accordance with the decision of the board of arbitrators and shall report the corrections to the parties

entitled to receive such information under this Code section.

**(E)** Each member of the board of arbitrators shall subscribe to an oath to perform faithfully and impartially the duties required in connection with the controversy concerning the correctness of the digest in question and to render a decision within the time required. Each member of the board of arbitrators shall be paid a sum not to exceed \$250.00 for each appeal heard. In addition, each member of the board shall receive the same daily expense allowance as is provided for each member of the General Assembly and actual transportation costs when traveling by public carrier or the legal mileage rate when traveling by personal automobile. All costs of arbitration of matters arising under this Code section shall be shared and paid equally by the Department of Audits and Accounts and by the governing authority requesting the arbitration.

**(3)** Upon receiving notice that the current equalized adjusted property tax digest of any local school system is being questioned pursuant to paragraph (1) of this subsection, the state auditor shall notify the State Board of Education that the digest is being questioned. No computations shall be made on the basis of a questioned digest under Article 6 of Chapter 2 of Title 20, the "Quality Basic Education Act," until the digest has been corrected, if necessary, pursuant to this subsection.

**(g)** The commissioner shall provide to the state auditor such digest information as is needed in the calculation of the equalized adjusted property tax digests. Such information shall be provided for each county and for each local school system. For independent school systems in municipalities authorized to assess property in excess of 40 percent of fair market value pursuant to Code Section 48-5-7, the commissioner shall provide digest information to the state auditor at the assessment ratios utilized by both the municipal government and the county government or governments in which the municipality is located. If revision is made to the digest of any county or any portion of a county comprising a local school system following the initial reporting of the digest to the state auditor, the commissioner shall report any such revision to the state auditor.

### **§ 48-5-275     Applicability of part**

This part shall apply in both the incorporated and unincorporated areas in each county of this state. The intent of this Code section is to recognize each county as a unit in applying this part without regard to other distinctions existing between incorporated and unincorporated areas within each county.

# County Boards of Tax Assessors

**§ 48-5-290**      **Creation of county board of tax assessors; appointment and number of members; commission; noneligibility of certain individuals**

**§ 48-5-291**      **Qualifications for members; approved appraisal courses; rules and regulations**

**(a) (1-6)**

**(b)** Approved appraisal courses shall be courses of instruction covering the basic principles of appraisal and assessing of all classes and types of property including instruction in the fundamentals of Georgia law covering the appraisal and assessing of property for ad valorem tax purposes as prescribed and designated by the commissioner pursuant to Code Section 48-5-13. To ensure that the assessment functions are performed in a professional manner by competent assessors, meeting clearly specified professional qualifications, the commissioner shall develop, approve, and administer courses of instruction designed to qualify applicants or tax assessors under this Code section and to specify qualification requirements for certification. The commissioner may contract with any professional appraisal organization or firm or institution of higher education in this state to provide the necessary courses of instruction or any part of any such course pursuant to Code Section 48-5-13.

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

**§ 48-5-292**      **Ineligibility of county tax assessors to hold other offices; applicability in certain counties**

**§ 48-5-293**      **Oaths of office**

**§ 48-5-294**      **Compensation**

**§ 48-5-295**      **Terms of office; vacancies; removal by county governing authority**

**§ 48-5-295.1**    **Performance review board**

**(a)** The county governing authority may, upon adoption of a resolution, request that a performance review of the county board of tax assessors be conducted. Such resolution shall be transmitted to the commissioner who shall appoint an independent performance review board within 30 days after receiving such resolution. The commissioner shall appoint three competent persons to serve as members of the performance review board, one of whom shall be an employee of the department and two of whom shall be chief appraisers, provided that neither chief appraiser shall be a chief appraiser for the county under review.

- (b)** It shall be the duty of a performance review board to make a thorough and complete investigation of the county board of tax assessors with respect to all actions of the county board of tax assessors and appraisal staff regarding the technical competency of appraisal techniques and compliance with state law and regulations, including the Property Tax Appraisal Manual. The performance review board shall issue a written report of its findings to the commissioner and the county governing authority which shall include such evaluations, judgments, and recommendations as it deems appropriate. The county governing authority shall reimburse the members of the performance review board for reasonable expenses incurred in the performance of their duties, including mileage, meals, lodging, and costs of materials.
- (c)** The findings of the report of the review board under subsection (b) of this Code section or of any audit performed by the Department of Revenue at the request of the Governor may be grounds for removal of one or more members of the county board of tax assessors pursuant to subsection (b) of Code Section 48- 5-295.
- (d)** The commissioner shall promulgate such rules and regulations as may be necessary for the administration of this Code section.

#### **§ 48-5-295.2 Independent performance review board; written report; withholding of funds**

- (a)** The commissioner shall appoint an independent performance review board if he or she determines, through the examination of the digest for any county in a digest review year pursuant to Code Section 48- 5-342, that there is evidence which calls into question the technical competence of appraisal techniques and compliance with state law and regulations, including the Property Tax Appraisal Manual, with respect to the conservation use value of forest land.
- (b)** The commissioner shall appoint three competent persons to serve as members of the performance review board, one of whom shall be an employee of the department and two of whom shall be chief appraisers, provided that neither chief appraiser shall be a chief appraiser for the county under review.
- (c)** The performance review board shall issue a written report of its findings to the commissioner and the county governing authority which shall include such evaluations, judgments, and recommendations as it deems appropriate. The county governing authority shall reimburse the members of the performance review board for reasonable expenses incurred in the performance of their duties, including mileage, meals, lodging, and costs of materials.
- (d)** The findings of the report of the review board under subsection (c) of this Code section or of any audit performed by the Department of Revenue or the Department of Audits shall be grounds for the state to withhold local assistance grants pursuant to Code Section 48-5A-3; provided, however, that any portion of a local assistance grant designated for use by a board of education of any political subdivision shall not be withheld pursuant to this subsection. If the findings in the report of the performance review board indicate that the provisions of paragraph (6) of Code Section 48-5-2 have been knowingly violated by a

local government in order to receive a larger local assistance grant than allowed by law, then the most recent local assistance grant requested by the local government shall be withheld by the Department of Revenue. For a second or subsequent offense, the next two requests for local assistance grants shall be withheld by the Department of Revenue.

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

## **§ 48-5-296 Removal from office on petition of freeholders; appeals**

## **§ 48-5-297 Meetings**

The first meeting of the county board of tax assessors shall be held no later than ten days after the date the tax receiver or tax commissioner is required by law to submit the tax digest for the year to the county board of tax assessors. The secretary of the board shall at that time and at every meeting of the board present to the board all of the appraisal staff information relating to the digest. The county board of tax assessors must consider the staff information in the performance of their duties. The county board of tax assessors shall adhere to the assessment standards and techniques as required by law, by the commissioner, and by the State Board of Equalization. In each instance, however, the assessment placed on each parcel of property shall be the assessment established by the county board of tax assessors as provided in Code Section 48-5-306.

## **§ 48-5-298 Selection of chairman and secretary; employment contracts with persons to assist board; payment of expenses**

- (a) Each county board of tax assessors shall elect one of its members to serve as chairman for each tax year. The election of a chairman shall be the first order of business at the first meeting of the board for each tax year. At the same time, the board shall select from the county appraisal staff one appraiser to act as secretary to the board for that tax year. Each county board of tax assessors, subject to the approval of the county governing authority, may enter into employment contracts with persons to:
  - (1) Assist the board in the mapping, platting, cataloging, indexing, and appraising of taxable properties in the county;
  - (2) Make, subject to the approval of the board, reevaluations of taxable property in the county; and
  - (3) Search out and appraise unreturned properties in the county.
- (b) Each county board of tax assessors may enter into a contract with any municipality or political subdivision of the state to provide any information for which the board could contract pursuant to subsection (a) of this Code section.
- (c) The expenses of employees engaged, and work performed pursuant to this Code section shall be paid, subject to the contracts and after approval by the county governing authority, out of county funds as a part of the expenses of the board. A county board of education or independent board of education may expend funds to assist in paying the

expenses incurred in discovering unreturned properties pursuant to this Code Section for the purpose of collecting unpaid school taxes. The method of such expenditure as provided in this subsection and the amount thereof shall be within the discretion of the county board of education or independent board of education.

**§ 48-5-299      Ascertainment of taxable property; assessments against unreturned personal property; penalty for unreturned property; changing real property values established by appeal in prior year or stipulated by agreement**

- (a)** It shall be the duty of the county board of tax assessors to investigate diligently and to inquire into the property owned in the county for the purpose of ascertaining what real and personal property is subject to taxation in the county and to require the proper return of the property for taxation. The board shall make such investigation as may be necessary to determine the value of any property upon which for any reason all taxes due the state or the county have not been paid in full as required by law. In all cases where the full amount of taxes due the state or county has not been paid, the board shall assess against the owner, if known, and against the property, if the owner is not known, the full amount of taxes which has accrued, and which may not have been paid at any time within the statute of limitations. In all cases where taxes are assessed against the owner of property, the board may proceed to assess the taxes against the owner of the property according to the best information obtainable; and such assessment, if otherwise lawful, shall constitute a valid lien against the property so assessed.
- (b)** In all cases in which unreturned personal property is assessed by the board after the time provided by law for making tax returns has expired, the board shall add to the assessment of the property a penalty of 10 percent, which shall be included as a part of the taxable value for the year.
- (c)** When the value of real property is reduced or is unchanged from the value on the initial annual notice of assessment or a corrected annual notice of assessment issued by the board of tax assessors and such valuation has been established as the result of an appeal decision rendered by the board of equalization, hearing officer, arbitrator, or superior court pursuant to Code Section 48-5-311 or stipulated by written agreement signed by the board of tax assessors and taxpayer or taxpayer's authorized representative, the new valuation so established by appeal decision or agreement may not be increased by the board of tax assessors during the next two successive years, unless otherwise agreed in writing by both parties, subject to the following exceptions:

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

successive years;

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

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

**(d)** When real or personal property is located within a municipality whose boundaries extend into more than one county, it shall be the duty of each board of tax assessors of a county, wherein a portion of the municipality lies, to cooperatively investigate diligently into whether the valuation of such property is uniformly assessed with other properties located within the municipality but outside the county where such property is located. Such investigation shall include, but is not limited to, an analysis of the assessment to sales ratio of properties that have recently sold within the municipality and a comparison of the average assessment level of such properties by the various counties wherein a portion of the municipality lies. The respective boards shall exchange such information as will facilitate this investigation and make any necessary adjustments to the assessment of the real and personal property that is located in their respective counties within the municipality to achieve a uniform assessment of such property throughout the municipality. Any uniformity adjustments pursuant to this subsection shall only apply to the assessment used for municipal ad valorem tax purposes within the applicable county.

### **§ 48-5-299.1 Designation of board of assessors to receive tax returns**

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

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

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

- (A) Any income tax records or returns;
- (B) Any property appraisals prior to the appeal process;
- (C) All insurance policies; or
- (D) Any individual tenant sales information.

(b) If any witness subpoenaed by any county board of tax assessors fails or refuses to appear, fails or refuses to answer questions propounded, or fails or refuses to produce any books, papers, or documents required to be produced by an order of the board, except upon a legal excuse which would relieve the witness of the obligation to attend as a witness or to produce such documents before the superior court if lawfully required to do so, the person so failing or refusing shall be guilty of contempt and shall be cited by the board to appear before a judge of the superior court of the county. The judge of the superior court of the county shall have the same power and jurisdiction to punish the person failing or refusing to comply with the order for contempt and to require and compel the giving of the testimony or the production of the books and records as in cases of contempt committed in the presence of the court and as in cases pending in the court.

**§ 48-5-300.1 Time period for taxation of personal property; extension by consent; refunds**

**§ 48-5-301 Time for presentation of returns by tax receiver or tax commissioner**

**§ 48-5-302 Time for completion of revision and assessment of returns; submission of completed digest to commissioner**

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

**§ 48-5-304 Approval of tax digests when assessments in arbitration or on appeal; procedure; withholding of grants by Office of Treasury and Fiscal Services**

**§ 48-5-305 Valuation of property not in digest**

(a) The county board of tax assessors may provide, pursuant to rules or regulations promulgated by the board and consistent with this article, the manner of ascertaining the fair market value for taxation of any real or personal property not appearing in the digest of any year within the period of the statute of limitations.



- (b) It is the purpose and intent of this Code section to confer upon the county board of tax assessors' full power and authority necessary to have placed upon the digest an assessment of the fair market value of all property in the county of every character which is subject to taxation and for which either state or county taxes have not been paid in full.
- (c) Nothing contained in this Code section shall apply to those persons who are required to make their returns to the commissioner.

**§ 48-5-306 Notice of changes made in taxpayer's return; contents; posting notice; new assessment description**

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

**(b) Contents of notice.**

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

- (A) The amount of the previous assessment;
- (B) The amount of the current assessment;
- (C) The year for which the new assessment is applicable;
- (D) A brief description of the assessed property broken down into real and personal property classifications;
- (E) The fair market value of property of the taxpayer subject to taxation and the assessed value of the taxpayer's property subject to taxation after being reduced;
- (F) The name, phone number, and contact information of the person in the assessors' office who is administratively responsible for the handling of the appeal and who the taxpayer may contact if the taxpayer has questions about the reasons for the assessment change or the appeals process;
- (G) If available, the website address of the office of the county board of tax assessors; and
- (H) A statement that all documents and records used to determine the current value are available upon request.

- (2) (A) In addition to the items required under paragraph (1) of this subsection, the notice shall contain a statement of the taxpayer's right to an appeal and an estimate of the current year's taxes for all levying authorities which shall be in substantially the following form:

"The amount of your ad valorem tax bill for this year will be based on the appraised and assessed values specified in this notice. You have the right to appeal these values to the county board of tax assessors. At the time of filing your appeal you must select one of the following options:

- (i) An appeal to the county board of equalization with appeal to the superior court;
- (ii) To arbitration without an appeal to the superior court; or
- (iii) For a parcel of nonhomestead property with a fair market value in excess of \$500,000.00 as shown on the taxpayer's annual notice of current assessment under this Code section, or for one or more account numbers of wireless property as defined in subparagraph (e.1)(1)(B) of Code Section 48-5-311 with an aggregate fair market value in excess of \$500,000.00 as shown on the taxpayer's annual notice of current assessment under this Code section, to a hearing officer with appeal to the superior court.

"If you wish to file an appeal, you must do so in writing no later than 45 days after the date of this notice. If you do not file an appeal by this date, your right to file an appeal will be lost. For further

information on the proper method for filing an appeal, you may contact the county board of tax assessors which is located at: (insert address) and which may be contacted by telephone at: (insert telephone number)."

(B) The notice shall also contain the following statements in bold print:

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

- (3) The annual notice required under this Code section shall be mailed no later than July 1; provided, however, that the annual notice required under this Code section may be sent later than July 1 for the purpose of notifying property owners of corrections and mapping changes.
- (c) ***Posting notice on certain conditions.*** In all cases where a notice is required to be given to a taxpayer under subsection (a) of this Code section, if the notice is not given to the taxpayer personally or if the notice is mailed but returned undelivered to the county board of tax assessors, then a notice shall be posted in front of the courthouse door or shall be posted on the website of the office of the county board of tax assessors for a period of 30 days. Each posted notice shall contain the name of the owner liable to taxation, if known, or, if the owner is unknown, a brief description of the property together with a statement that the assessment has been made or the return changed or altered, as the case may be, and the notice need not contain any other information. The judge of the probate court of the county shall make a certificate as to the posting of the notice. Each certificate shall be signed by the judge and shall be recorded by the county board of tax assessors in a book kept for that purpose. A certified copy of the certificate of the judge duly authenticated by the secretary of the board shall constitute prima-facie evidence of the posting of the notice as required by law.
- (d) ***Records and information availability.*** Notwithstanding the provisions of Code Section 50-18-71, in the case of all public records and information of the county board of tax assessors pertaining to the appraisal and assessment of real property:
- (1) The taxpayer may request, and the county board of tax assessors shall provide within ten business days, copies of such public records and information, including, but not limited to, a description of the methodology used by the board of tax assessors in setting the property's fair market value, all documents reviewed in making the assessment, the address and parcel identification number of all real property utilized as qualified comparable properties, and all factors considered in establishing the new assessment, at a uniform copying fee not to exceed 25 cent(s) per page;
- (2) No additional charges or fees may be collected from the taxpayer for reasonable search, retrieval, or other administrative costs associated with providing such public records and information; and

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

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

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

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

**§ 48-5-307 Service of papers; fees**

**§ 48-5-308 Effect of part on laws granting additional authority to county boards of tax assessors**

**§ 48-5-309 Applicability to counties electing members of board of tax assessors**

**§ 48-5-310 Temporary collection of taxes pending approval or appeal of disapproval of digest**

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

(a) **Definition.** As used in this Code section, the term "appeal administrator" means the clerk of the superior court.

**(a.1) Appeal administrator.**

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

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

The findings of the report may be grounds for removal of a member of the board of equalization by the grand jury for failure to perform the duties required under this Code section.

**(a.2) *Establishment of boards of equalization.***

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

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

**(2)** Notwithstanding any part of this subsection to the contrary, at any time the governing authority of a county makes a request to the grand jury of the county for additional alternate members of boards of equalization, the grand jury shall appoint the number of alternate members so requested to each board of equalization, such number not to exceed a maximum of 21 alternate members for each of the boards. The alternate members of the boards shall be duly qualified and authorized to serve on any of the boards of equalization of the county. The members of each board of equalization may designate a chairperson and two vice chairpersons of each such board of equalization. The appeal administrator shall have administrative authority in all matters governing the conduct and business of the boards of equalization so as to provide oversight and supervision of such boards and scheduling of appeals. Any combination of members or alternate members of any such board of equalization of the county shall be competent to exercise the power and authority of the board. Any person designated as an alternate member of any such board of equalization of the county shall be competent to serve in such capacity as provided in this Code section upon appointment and taking of oath.

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

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

**(b) Qualifications of board of equalization members.**

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

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

**(B)**

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

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

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

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

(C)

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

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

**(c) Appointment of board of equalization members.**

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

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

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

appropriately.

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

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

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

***Signature of member or alternate member"***

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

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

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

**(2)** If, in the course of determining an appeal, the county board of equalization finds reason to believe that the property involved in an appeal or the class of property in which is included the property involved in an appeal is not uniformly assessed with other property included in the digest, the board shall request the respective parties to the appeal to present relevant information with respect to that question. If the board determines that uniformity is not present, the board may order the county board of tax assessors to take such action as is necessary to obtain uniformity, except that, when a question of county-wide uniformity is considered by the board,



the board may recommend a partial or total county-wide revaluation only upon a determination by a majority of all the members of the board that the clear and convincing weight of the evidence requires such action. The board of equalization may act pursuant to this paragraph whether or not the appellant has raised the issue of uniformity.

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

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

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

**(C)** The county governing authority shall provide to the appeal administrator

facilities and secretarial and clerical help for appeals pursuant to subsection (e.1) of this Code section.

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

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

***(e) Appeal.***

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

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

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

**(iii)** A hearing officer as to matters of value and uniformity of assessment for a parcel of nonhomestead real property with a fair market value in excess of \$500,000.00 as shown on the taxpayer's annual notice of current assessment under Code Section 48-5-306, and any contiguous nonhomestead real property owned by the same taxpayer, pursuant to subsection (e.1) of this Code section; or

**(iv)** A hearing officer as to matters of values or uniformity of assessment of one or more account numbers of wireless property as defined in subparagraph (e.1)(1)(B) of this Code section with an aggregate fair market value in excess of \$500,000.00 as shown on the taxpayer's annual notice of current assessment under Code Section 48-5-306, pursuant to subsection (e.1) of this Code section.

**(A.1)** The commissioner shall establish by rule and regulation a uniform appeal form that the taxpayer may use. Such uniform appeal form shall require the initial assertion of a valuation of the property by the taxpayer.

**(A.2)** A taxpayer's failure to return real property or whether or not such real property was deemed returned for taxation shall not affect such taxpayer's right to appeal pursuant to this Code section.

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

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

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

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

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

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

**(C)** Appeals to the county board of equalization shall be conducted in the manner

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

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

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

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

execute a signed agreement as to valuation, the appeal shall terminate as of the date of such signed agreement.

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

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

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

**(B)** In any county in which the number of appeals exceeds a number equal to or greater than 3 percent of the total number of parcels in the county or the sum of the current assessed value of the parcels under appeal is equal to or greater than 3 percent of the gross tax digest of the county, the county board of tax assessors may be granted an additional 180-day period to make its determination and notify the taxpayer. However, as a condition to receiving such an extension, the county board of tax assessors shall, at least 30 days before the expiration of the 180-day period provided under subparagraph (A) of this paragraph, notify each affected taxpayer of the additional 180-day review period provided in this subparagraph by mail or electronic communication, including posting notice on the website of the county board of tax assessors if such a website is available. Such additional period shall commence immediately following the last day of the 180 days provided for under subparagraph (A) of this paragraph. If the county board of tax assessors fails to review the appeal and notify the taxpayer of either no changes or of any corrections or changes not later than the last day of such additional 180 day period, then the most recent property tax

valuation asserted by the taxpayer on the property tax return or on appeal shall prevail and shall be deemed the value established on such appeal unless a time extension is granted under subparagraph (C) of this paragraph. If no such assertion of value was submitted by the taxpayer, the appeal shall be forwarded to the county board of equalization.

**(C)** Upon a sufficient showing of good cause by reason of unforeseen circumstances proven to the commissioner at least 30 days prior to the expiration of the additional 180-day period provided for under subparagraph (B) of this paragraph, the commissioner shall be authorized, in the commissioner's sole discretion, to provide for a time extension beyond the end of such additional 180-day period. The duration of any such time extension shall be specified in writing by the commissioner and, at least 30 days prior to the expiration of the extension provided for under subparagraph (B) of this paragraph, shall be sent to each affected taxpayer and shall also be posted on the website of the county board of tax assessors if such a website is available. If the county board of tax assessors fails to make its review and notify the taxpayer and the taxpayer's attorney not later than 30 days before the last day of such time extension, the most recent property tax valuation asserted by the taxpayer on the property tax return or on the taxpayer's notice of appeal shall prevail and shall be deemed the value established on such appeal. If no such assertion of value was submitted by the taxpayer, the appeal shall be forwarded to the county board of equalization. In addition, the commissioner shall be authorized to require additional training or require such other remediation as the commissioner may deem appropriate for failure to meet the deadline imposed by the commissioner under this subparagraph.

- (4)** The determination by the county board of tax assessors of questions of factual characteristics of the property under appeal, as opposed to questions of value, shall be prima-facie correct in any appeal to the county board of equalization. However, the board of tax assessors shall have the burden of proving its opinions of value and the validity of its proposed assessment by a preponderance of evidence.
- (5)** The county board of equalization shall determine all questions presented to it on the basis of the best information available to the board.
- (6) (A)** Within 15 days of the receipt of the notice of appeal, the county board of equalization shall set a date for a hearing on the questions presented and shall so notify the taxpayer and the county board of tax assessors in writing. Such notice shall be sent by first-class mail to the taxpayer and to any authorized agent or representative of the taxpayer to whom the taxpayer has requested that such notice be sent. Such notice shall be transmitted by e-mail to the county board of tax assessors if such board has adopted a written policy consenting to electronic service, and, if it has not, then such notice shall be sent to such board by first-class mail or intergovernmental mail. Such written notice shall advise each party that he or she may request a list of witnesses, documents, or other written evidence to be presented at the hearing by the other party. Such request must be made not less than ten days prior to the hearing date, and such information shall be provided to the requesting party not less than seven days prior to the time of the hearing. Any failure to comply with this requirement shall be grounds for an automatic continuance or for exclusion of such

witness, documents, or other written evidence. A taxpayer may appear before the board of equalization concerning any appeal in person, by his or her authorized agent or representative, or both. The taxpayer shall specify in writing to the board of equalization the name of any such agent or representative prior to any appearance by the agent or representative before the board.

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

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

**(D)**

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

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

**(iii)**

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

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

**(III)** For the purposes of this Code section, any final value that causes an increase in taxes and creates an additional billing shall be paid to the tax commissioner as any other tax due along with interest, as provided in subsection (m) of this Code section.



- (7) The appeal administrator shall furnish the county board of equalization necessary facilities and administrative help. The appeal administrator shall see that the records and information of the county board of tax assessors are transmitted to the county board of equalization. The county board of equalization shall consider in the performance of its duties the information furnished by the county board of tax assessors and the taxpayer.
- (8) If at any time during the appeal process to the county board of equalization the county board of tax assessors and the taxpayer mutually agree in writing on the fair market value, then the county board of tax assessors, or the county board of equalization, as the case may be, shall enter the agreed amount in all appropriate records as the fair market value of the property under appeal, and the appeal shall be concluded. The provisions in subsection (c) of Code Section 48-5- 299 shall apply to the agreed-upon valuation unless otherwise waived by both parties.
- (9) Notwithstanding any other provision of law to the contrary, on any real property tax appeal made under this Code section on and after January 1, 2016, the assessed value being appealed may be lowered by the deciding body based upon the evidence presented but cannot be increased from the amount assessed by the county board of tax assessors. This paragraph shall not apply to any appeal where the taxpayer files an appeal during a time when subsection (c) of Code Section 48-5-299 is in effect for the assessment being appealed.

**(e.1) Appeals to hearing officer.**

**(f) Nonbinding arbitration.**

**(g) Appeals to the superior court.**

**(g.1) Valuation.**

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

- (1) The valuation established or announced by any county board of equalization, arbitrator, hearing officer, or superior court; and
- (2) Any written agreement or settlement of valuation reached by the county board of tax assessors and the taxpayer as permitted by this Code section.

**(h) Recording of interviews or hearings.**

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

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

such interview; and

- (B)** Record, at the taxpayer's expense and with equipment provided by the taxpayer, all proceedings before the board of equalization or any hearing officer.
- (2)** The interview referenced in subparagraph (A) of paragraph (1) of this subsection shall be granted to the taxpayer within 30 calendar days from the postmark date of the taxpayer's written request for the interview, and the interview shall be conducted in the office of the board of assessors. The time and date for the interview, within such 30-calendar day period, shall be mutually agreed upon between the taxpayer and the taxing authority. The taxing authority may extend the time period for the interview an additional 30 days upon written notification to the taxpayer.
- (3)** The superior courts of this state shall have jurisdiction to enforce the provisions of this subsection directly and without the issue being first brought to any administrative procedure or hearing. The taxpayer shall be awarded damages in the amount of \$100.00 per occurrence where the taxpayer requested the interview, in compliance with this subsection, and the board of assessors failed to timely comply; and the taxpayer shall be entitled to recover reasonable attorney's fees and expenses of litigation incurred in any action brought to compel such interview.

**(i) *Alternate members of boards of equalization.***

- (1)** Alternate members of the county board of equalization in the order in which selected shall serve:
  - (A)** As members of the county board of equalization in the event there is a permanent vacancy on the board created by the death, ineligibility, removal from the county, or incapacitating illness of a member or by any other circumstances. An alternate member who fills a permanent vacancy shall be considered a member of the board for the remainder of the unexpired term; or
  - (B)** In any appeal for which an alternate member is selected for service by the appeal administrator.
- (2)** A hearing panel shall consist of no more than three members at any time, one of whom shall serve as the presiding member for the purpose of the hearing.

**(j) *Disqualification.***

- (1)** No member of the county board of equalization and no hearing officer shall serve with respect to any appeal concerning which he or she would be subject to a challenge for cause if he or she were a member of a panel of jurors in a civil case involving the same subject matter.
- (2)** The parties to an appeal to the county board of equalization or to a hearing officer shall file in writing with the appeal, in the case of the person appealing, or, in the case of the county board of tax assessors, with the certificate

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

**(k) Compensation of board of equalization members.**

- (1)** Each member of the county board of equalization shall be compensated by the county per diem for time expended in considering appeals. The compensation shall be paid at a rate of not less than \$25.00 per day and shall be determined by the county governing authority. The attendance at required approved appraisal courses shall be part of the official duties of a member of the board, and he or she shall be paid for each day in attendance at such courses and shall be allowed reasonable expenses necessarily incurred in connection with such courses. Compensation pursuant to this paragraph shall be paid from the county treasury upon certification by the member of the days expended in consideration of appeals or attending approved appraisal courses.
- (2)** Each member of the county board of equalization who participates in online training provided by the department shall be compensated by the county at the rate of \$25.00 per day for each eight hours of completed training. A member shall certify under oath and file an affidavit with the appeal administrator stating the number of hours required to complete such training and the number of hours which were actually completed. The appeal administrator shall review the affidavit and, following approval thereof, shall notify the county governing authority. The Council of Superior Court Clerks of Georgia shall develop and make available an appropriate form for such purpose. Compensation pursuant to this paragraph shall be paid from the county treasury following approval of the appeal administrator of the affidavit filed under this paragraph.

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

commissioner shall initiate the appeal.

**(m) Interest.**

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

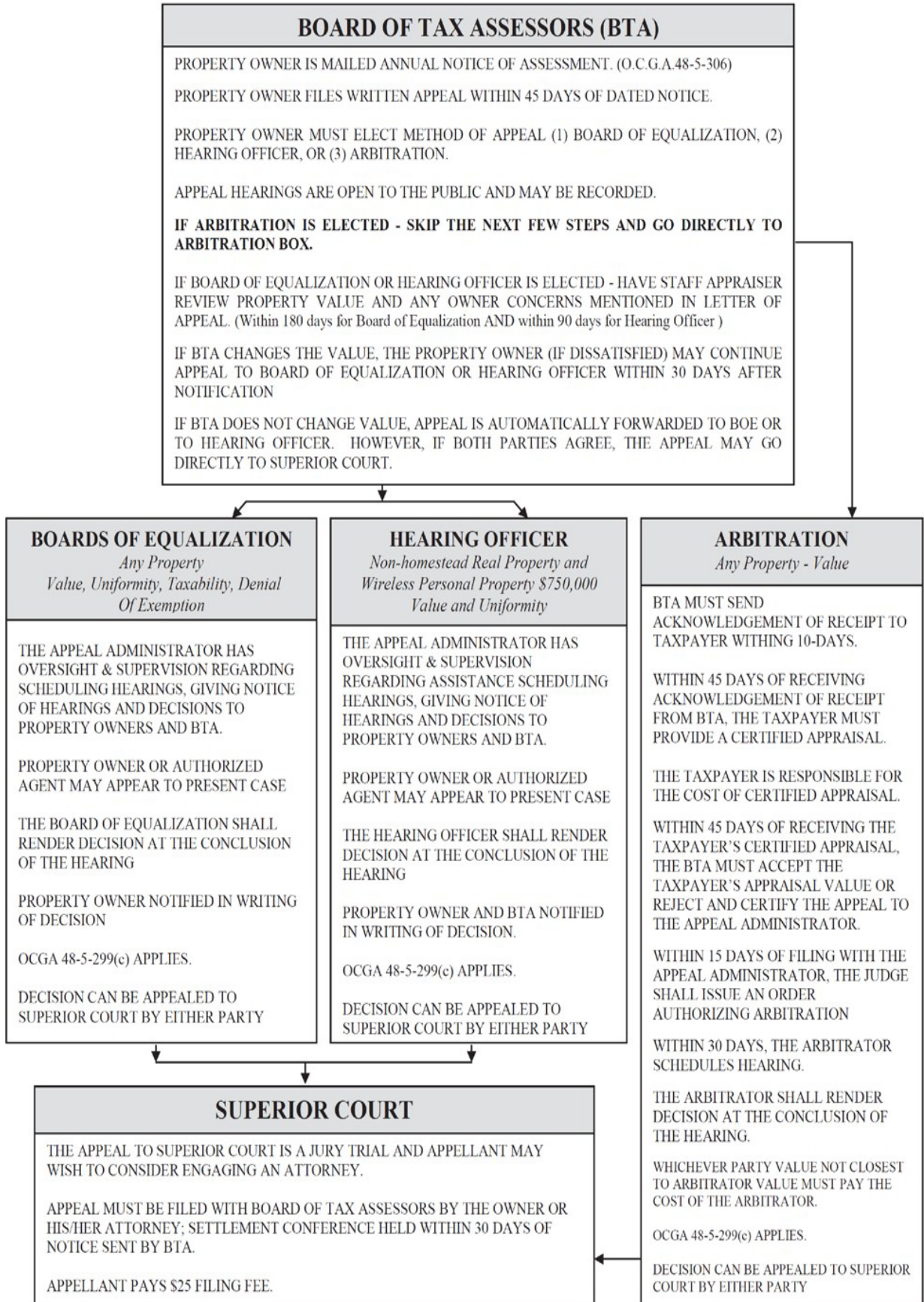
**(2)** For the purposes of this Code section, any final value that causes an increase in taxes and creates an additional billing shall be paid to the tax commissioner as any other tax due. After the tax bill notice has been mailed out, the taxpayer shall be afforded 60 days from the date of the postmark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

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

**(o) Notice to representative.** When a taxpayer authorizes an agent, representative, or attorney in writing to act on the taxpayer's behalf, and a copy of such written authorization is provided to the county board of tax assessors, all notices required to be provided to the taxpayer under this Code section, including those regarding hearing times, dates, certifications, notice of changes or corrections, or other official actions,

shall be provided to the taxpayer and the authorized agent, representative, or attorney. Upon agreement by the county board of tax assessors and the taxpayer's agent, representative, or attorney, notices required by this Code section to be sent to the taxpayer or the taxpayer's agent, representative, or attorney may be sent by e-mail. The failure to comply with this subsection with respect to a notice required under this Code section shall result in the tolling of any deadline imposed on the taxpayer under this Code section with respect to that notice.

## APPEAL PROCESS GRID (revised pursuant to HB202)



## **§ 48-5-314 Confidentiality of taxpayer records; exceptions; penalties**

(a)

- (1)** All records of the county board of tax assessors which consist of materials other than the return obtained from or furnished by an ad valorem taxpayer shall be confidential and shall not be subject to inspection by any person other than authorized personnel of appropriate tax administrators. As an illustration of the foregoing, materials which are confidential shall include, but shall not be limited to, taxpayers' accounting records, profit and loss statements, income and expense statements, balance sheets, and depreciation schedules. Such information shall remain confidential when it is made part of an appeal file. Nothing in this Code section, however, shall prevent any disclosure necessary or proper to the collection of any tax in any administrative or court proceeding.
- (2)** Records which consist of materials containing information gathered by personnel of the county board of tax assessors, such as field cards, shall not be confidential and are subject to inspection at all times during office hours. The provisions of this paragraph shall not remove the confidentiality of materials such as are specified in paragraph (1) of this subsection.
- (3)** Failure of the county board of tax assessors to make available records which are not confidential as provided in paragraph (2) of this subsection shall be a misdemeanor.

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

# Examination of County Tax Digests

## § 48-5-340 Purpose of article

It is the purpose and intent of this article to establish a procedure for use by the commissioner to equalize county property tax digests between counties and within counties so as to require county boards of tax assessors to make adjustments in the valuation of property to ensure uniformity and equity. The commissioner shall continue to examine the digest and exercise his responsibility to bring about property valuations that are reasonably uniform and equalized throughout the state.

## § 48-5-341 Definitions

As used in this article, the term:

- (1) "Assessment bias" means any tendency or trend of assessment ratios, when analyzed by an appropriate statistical method, which reveals assessment progressivity or assessment regressivity.
- (2) "Assessment progressivity" means any systematic pattern of assessment in which highvalue properties are generally assessed at a larger percentage of fair market value than properties of lower value.
- (3) "Assessment ratio" means the fractional relationship the assessed value of property bears to the fair market value of the property as determined in paragraph (8) of subsection (b) of Code Section 48-5-274.
- (4) "Assessment regressivity" means any systematic pattern of assessment in which lower value properties are generally assessed at a larger percentage of fair market value than properties of higher value.
- (5) "Assessment variance" means the absolute value of the difference between the assessment ratio for each parcel of property within each class of property and the average assessment ratio for that class and expressed as a percentage of the average assessment ratio.
- (6) "Class of property" means any reasonable divisions of homogeneous groups of property that the commissioner determines are necessary to examine digests for uniformity and equalization.
- (7) "Digest evaluation cycle" means a recurring period of three years beginning initially on January 1 of the first year, as so designated by the commissioner for each county, and ending on December 31 of the third year thereafter.
- (8) "Digest review year" means the first year of each evaluation cycle for each county.

## § 48-5-342 Commissioner to examine digests

- (a) The commissioner shall carefully examine the tax digests of the counties filed in his office. Each digest for a county in a digest review year shall be examined for the purpose



of determining if the valuations of property for taxation purposes are reasonably uniform and equalized between counties and within counties.

- (b)** For any digest in any digest review year where the digest for the preceding digest review year was conditionally approved by the commissioner, the commissioner shall also carefully examine the digest to determine if it satisfactorily corrects the deficiencies that resulted in the digest for the preceding digest review year being conditionally approved.
- (c)** For each year, including each year that is not a digest review year for the county, the commissioner shall utilize the overall assessment ratio for the county as provided by the state auditor.
- (d)** It shall be the further duty of the commissioner to examine the itemizations of exempt properties appearing on the digest and, if in the judgment of the commissioner any properties appearing on the digest are subject to taxation, to so advise the board of tax assessors of the counties concerned with an explanation of his reasons for believing the property is subject to taxation.
- (e)**

  - (1)** The commissioner may, upon his or her own initiative or upon complaint by a taxpayer, examine the itemizations of properties appearing on the digest, and if in the judgment of the commissioner any properties are illegally appearing on the digest and should not be subject to taxation under this chapter, the commissioner shall strike such items from the digest and return the digest to the county for removal of such items and resubmission to the commissioner. The commissioner shall provide by rule and regulation procedures by which the county board of tax assessors may appeal such finding to the commissioner. If appealed by the board of tax assessors, the commissioner shall, after reviewing such appeal, issue a final order and include a finding as to the taxability of the digest items in dispute and shall finalize the digest in accordance therewith.
  - (2)** If a property has been found by the commissioner to not be subject to taxation under this chapter and again appears on the digest at any time within five years of the initial determination of nontaxability and is again determined to be nontaxable, the commissioner shall strike such item from the digest and return the digest to the county for removal of such item and resubmission to the commissioner. The commissioner shall notify the Department of Community Affairs in writing of his or her finding, and upon receipt of such notice, the qualified local government status of such county shall be revoked for a period of three years following the receipt of such notice by the Department of Community Affairs unless reinstated earlier pursuant to this subsection. Upon such revocation, the governing authority of such county, without regard to any limitation of Code Section 48-5-295, shall be specifically authorized to remove immediately every member of the board of tax assessors and reappoint new members who shall serve for the unexpired terms of the removed members. The county governing authority shall provide written notification of such removal and new appointment to the commissioner. Upon certification of the corrected digest, the commissioner shall notify in writing the Department of Community Affairs, and upon receipt thereof, the

Department of Community Affairs shall immediately reinstate the qualified local government status of such county.

**(3)** If a property has been found by the commissioner to not be subject to taxation under this chapter and if such nontaxable property has appeared on a county digest in any year within the preceding five-year period, then the taxpayer shall be entitled to file a petition directly with the Georgia Tax Tribunal for a refund of all such taxes illegally collected or taxes paid, interest equal to the bank prime loan rate as posted by the Board of Governors of the Federal Reserve System in statistical release H. 15 or any publication that may supersede it plus 3 percent calculated from the date of payment of such taxes, and attorney's fees in an amount of not less than 15 percent nor more than 40 percent of the total of the illegally charged taxes and accrued interest. Such petition shall name the board of tax assessors and the tax receiver or tax commissioner of the county as the respondent in their official capacities and shall be served upon such board and tax receiver or tax commissioner. Service shall be accomplished by certified mail or statutory overnight delivery. The petition shall include a summary statement of facts and law upon which the petitioner relies in seeking the requested relief. The respondents shall file a response to the petitioner's statement of facts and law which constitutes their answer with the tribunal no later than 30 days after the service of the petition. The respondents shall serve a copy of their response on the petitioner's representative or, if the petitioner is not represented, on the petitioner and shall file a certificate of service with such response. If in any case a response has not been filed within the time required by this paragraph, the case shall automatically become in default unless the time for filing the response has been extended by agreement of the parties, for a period not to exceed 30 days, or by the judge of the tribunal. The default may be opened as a matter of right by the filing of a response within 15 days of the day of the default and payment of costs. At any time before the final judgment, the judge of the tribunal, in his or her discretion, may allow the default to be opened for providential cause that prevented the filing of the response, for excusable neglect, or when the tribunal judge, from all the facts, determines that a proper case has been made for the default to be opened on terms to be fixed by the tribunal judge. The tribunal judge shall proceed to hear and decide the matter and may grant appropriate relief under the law and facts presented.

#### **§ 48-5-342.1 Digest evaluation cycles established; time for review of digest**

**(a)** The commissioner shall by regulation establish the digest evaluation cycles for each of the counties in this state giving weight to the number of taxable parcels in each county, the geographical location of each county, and each such county's compliance with the provisions of Code Section 48-5-343. The starting date of each county's digest evaluation cycle shall be staggered so that the digest review year of one-third of the counties shall occur each year.

**(b)** For those digests submitted by counties in their designated digest review year, the commissioner shall begin his or her review of the digest in accordance with Code Section 48-5-343 and shall, within 30 days after the date the state auditor furnishes to the commissioner the ratios established pursuant to paragraph (8) of subsection (b) of Code Section 48-5-274 or by August 1 of the next succeeding tax year, whichever comes later, approve or conditionally

approve the digest.

### **§ 48-5-343 Approval of digests**

- (a)** The commissioner shall, when a county is in its digest review year, approve the digest of any such county as being reasonably uniform and equalized if the digest meets the following criteria:
  - (1)** The average assessment ratio for each class of property within the county shall be as close to the assessments provided for in Code Section 48-5-7 as is reasonably practicable;
  - (2)** The average assessment variance for each class of property within the county shall not be excessive with respect to that which is reasonably practicable; and
  - (3)** Within each class of property, assessment ratios of the properties shall not reveal any significant assessment bias.
- (b)** The commissioner shall by regulation establish the statistical standards to be used in determining whether or not digests are in accordance with the uniformity requirements contained in subsection (a) of this Code section. The commissioner shall utilize information developed by the state auditor under Code Section 48-5-274.
- (c)** If the assessed value of the portion of the digest that does not meet the uniformity requirements constitutes 10 percent or less of the assessed value of the total digest, the commissioner may approve the digest if, in his judgment, the approval will not substantially violate the concept of uniformity and equalization.

### **§ 48-5-344 Conditional approval of digests**

- (a)** If the commissioner determines that in any one or more of the counties that is in a digest review year the taxable values of property are not reasonably uniform and equalized in accordance with the requirements of subsection (a) of Code Section 48-5-343, he shall conditionally approve the digest and notify the county board of tax assessors in writing of his action.
- (b)** The written notification shall contain:
  - (1)** A list of specific reasons that resulted in the digest being conditionally approved;
  - (2)** A list of the statistical standards used by the commissioner when examining the digest; and
  - (3)** Any other information the commissioner believes would be of assistance to the county board of tax assessors in correcting the deficiencies that resulted in the digest being conditionally approved or in otherwise making the digest reasonably uniform and equalized.

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

(a)

- (1) Upon the determination by the commissioner that a county tax digest is in proper form, that the property therein that is under appeal is within the limits of Code Section 48-5-304, and that the digest is accompanied by all documents, statistics, and certifications required by the commissioner, including the number, overall value and percentage of total real property parcels of appeals in each county to the boards of equalization, arbitration, hearing officer, and superior court, and the number of taxpayers' failure to appear at any hearing, for the prior tax year, the commissioner shall issue a receipt for the digest and enter an order authorizing the use of said digest for the collection of taxes. All statistics and certifications regarding real property appeals provided to the commissioner under this paragraph shall be made publicly available on the Department of Revenue website.
- (2) Nothing in this subsection shall be construed to prevent the superior court from allowing the new digest to be used as the basis for the temporary collection of taxes under Code Section 48-5- 310.

- (b) Each year the commissioner shall determine if the overall assessment ratio for each county, as computed by the state auditor under paragraph (8) of subsection (b) of Code Section 48-5-274, deviates substantially from the proper assessment ratio as provided in Code Section 48-5-7, and if such deviation exists, the commissioner shall assess against the county governing authority additional state tax in an amount equal to the difference between the amount the state's levy, as prescribed in Code Section 48-5-8, would have produced if the digest had been at the proper assessment ratio and the amount the digest that is actually used for collection purposes will produce. The commissioner shall notify the county governing authority annually of the amount so assessed and this amount shall be due and payable not later than five days after all appeals have been exhausted or the time for appeal has expired or the final date for payment of taxes in the county, whichever comes latest, and shall bear interest at the rate specified in Code Section 48-2-40 from the due date.
- (c) Beginning with tax digests on or after January 1, 2016, no county shall be subject to the assessment authorized by subparagraph (b) of this Code section.

**§ 48-5-346 Effect of conditionally approving next subsequent digest**

- (a) (1) If a county tax digest for its preceding digest review year was conditionally approved and the commissioner conditionally approves the digest for the next subsequent digest review year for the same or substantially the same reasons, the commissioner shall order the payment of the specific penalty as provided in this Code section and the withholding from the county of the state grants specified in this paragraph. The Office of the State Treasurer and any other state agency or officer shall upon such order's taking effect permanently withhold from the county any funds otherwise becoming payable during

the withholding period specified in subsection (b) of this Code section to the county under:

- (A) The road mileage grant program specified in Article 1 of Chapter 17 of Title 36;
- (B) The county appraisal staff grant program specified in Code Section 48-5-267; and
- (C) The public road grant program specified in Code Section 48-14-3.

(2) In addition to the withholding of state grant funds specified in this Code section, a specific penalty is levied which shall be \$5.00 per taxable parcel of real property located in the county as of January 1 of the year in which the penalty is levied and it shall be paid by the governing authority of the county to the commissioner.

- (b) The withholding of the grants and moneys shall begin not later than five days after all appeals have been exhausted, or the time for appeal has expired, and shall continue until such time as the digest is satisfactorily corrected as to the deficiencies identified by the commissioner that resulted in the digest being initially conditionally approved. The levy of the specific penalty shall be made at the same time that the withholding of grants begins, and it shall be paid to the commissioner within 60 days after the commissioner has notified the county of the amount of such penalty.
- (c) The commissioner shall determine and publish in print or electronically annually a list of all available state grants which will be withheld in accordance with this Code section.
- (d) If the digest for the preceding digest review year was conditionally approved and the commissioner conditionally approves the digest submitted in the next subsequent digest review year for different reasons, the county shall not have any penalties assessed or state grants withheld as a result of such conditional approval.

**§ 48-5-348 Appeal from conditional approvals**

**§ 48-5-349.2 Procedure for appeal to department**

**§ 48-5-349.3 Appeal to superior court**

**§ 48-5-349.4 Compliance with decision of appeals board or court as correction of deficiency**

**§ 48-5-349.5 Annual report**

# Miscellaneous Local Administration Provisions

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

## Ad Valorem Taxation of Motor Vehicles and Mobile Homes

### GENERAL PROVISIONS

#### § 48-5-440 Definitions

As used in this article, the term:

- (1) "Antique or hobby or special interest motor vehicle" means a motor vehicle which is 25 years old or older as indicated by the model year or a motor vehicle which has been designed and manufactured to resemble an antique or historical vehicle.
- (1.1) "Commercial vehicle" means a truck, truck-tractor, trailer, or semitrailer which is a commercial vehicle:
  - (A) Registered or registerable under the International Registration Plan pursuant to Code Section 40-2-88; or
  - (B) Would otherwise be registerable under the International Registration Plan pursuant to Code Section 40-2-88 except that such vehicle is only engaged in intrastate commerce.
- (2) "Driver educational motor vehicle" means a motor vehicle which is furnished and assigned to a public school in this state for use by the school in a program of driver education when the assignment is authorized and approved by the local board of education.
- (2.1) "Initial registration period" has the same meaning as provided in paragraph (.1) of subsection (a) of Code Section 40-2-21.
- (3) "Mobile homes" means manufactured homes and relocatable homes as defined in Part 2

of Article 2 of Chapter 2 of Title 8. Any mobile home which qualifies the taxpayer for a homestead exemption under the laws of this state shall not be considered a mobile home nor subject to this article. This article shall not apply to dealers engaged in the business of selling mobile homes at wholesale or retail and every mobile home owned in this state on January 1 by a dealer shall be subject to ad valorem taxation in the same manner as other taxable tangible personal property.

- (4) "Motor vehicle" means a vehicle which is designed primarily for use upon the public roads. Such term shall not include heavy-duty equipment as defined in paragraph (2) of Code Section 48-5-500 which is owned by a nonresident and operated in this state.
- (5) "Owner" has the same meaning as provided in paragraph (.2) of subsection (a) of Code Section 40-2-21.
- (6) "Registration period" has the same meaning as provided in paragraph (1) of subsection (a) of Code Section 40-2-21.

#### **§ 48-5-441 Classification of motor vehicles and mobile homes as separate classes of tangible property for ad valorem taxation purposes; procedures prescribed in article exclusive**

(a)

(1) For the purposes of ad valorem taxation, motor vehicles shall be classified as a separate and distinct class of tangible property. Such class of tangible property shall be divided into two distinct and separate subclasses of tangible property with one subclass including heavy-duty equipment motor vehicles as defined in Code Section 48-5-505 and the other subclass including all other motor vehicles. The procedures prescribed by this article for returning motor vehicles, excluding heavy-duty equipment motor vehicles as defined in Code Section 48-5-505, for taxation, determining the applicable rates for taxation, and collecting the ad valorem tax imposed on motor vehicles shall be exclusive.

(2) This subsection shall not apply to motor vehicles subject to Code Section 48-5-441.1.

(b) For the purposes of ad valorem taxation, mobile homes shall be classified as a separate and distinct class of tangible property. The procedures prescribed by this article for returning mobile homes for taxation, determining the applicable rates for taxation, and collecting the ad valorem tax imposed on mobile homes shall be exclusive.

(c)

(1) For the purposes of ad valorem taxation, commercial vehicles shall be classified as a separate and distinct class of tangible property. The procedures prescribed by this article for returning commercial vehicles for taxation and for determining the valuation of commercial vehicles shall be exclusive and as provided for in Code Section 48-5-442.1. All other procedures prescribed by this article for the taxation of motor vehicles shall be applicable to the taxation of commercial vehicles.

(2) This subsection shall not apply to motor vehicles subject to Code Section 48-5-441.1.

### **§ 48-5-441.1 Classification of motor vehicles for purposes of ad valorem taxation**

In accordance with Article VII, Section I, Paragraph III(b)(3) of the Georgia Constitution, motor vehicles subject to the provisions of Code Section 48-5C-1 shall be classified as a separate and distinct class of tangible property for the purposes of ad valorem taxation.

### **§ 48-5-442 Preparation and distribution of uniform evaluation of motor vehicles for tax purposes**

(a)

**(1) (A)** For the taxable year beginning January 1, 2001, only, the commissioner shall prepare and distribute to each of the tax collectors and tax commissioners a uniform evaluation of all motor vehicles for use as the taxable value of the motor vehicles subject to this article. Each evaluation shall reflect the value which would result from taking 75 percent of the current fair market value and 25 percent of the current wholesale value for all motor vehicles as determined by the commissioner.

**(B)** For all taxable years beginning on or after January 1, 2002, the commissioner shall prepare at least annually and distribute to each of the tax collectors and tax commissioners a uniform evaluation of all motor vehicles for use as the taxable value of the motor vehicles subject to this article. Each evaluation shall reflect the average of the current fair market value and the current wholesale value for all motor vehicles as determined by the commissioner.

**(2)** The commissioner shall prepare annually and distribute to each of the tax collectors and tax commissioners' uniform procedures for the evaluation of all mobile homes subject to this article.

**(b)** Notwithstanding subsection (a) of this Code section, all antique and hobby or special interest motor vehicles, as defined in Code Section 48-5-440, shall, notwithstanding true fair market value if any, be deemed by the commissioner to have a fair market value of \$100.00 in the uniform evaluation prepared and distributed annually by the commissioner.

**(c)** This Code section shall not apply to commercial vehicles.

### **§ 48-5-442.1 Definitions; determination of valuation of commercial vehicle for ad valorem tax purposes**

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

**(1)** "Georgia fleet mileage ratio" means a fraction, the numerator of which is the total miles driven in Georgia by all commercial vehicles registered in Georgia under the International Registration Plan pursuant to Code Section 40-2-88, and the denominator of which is the total miles driven within and without Georgia by such commercial vehicles.

**(2)** "Gross capital cost" means the freight on board, delivered cost of a commercial vehicle to the purchaser of such commercial vehicle but shall not include any excise or use taxes paid as a part of such purchase.



**(b)** The valuation of a commercial vehicle, trailer, or semitrailer for ad valorem tax purposes shall be determined as follows:

- (1)** The gross capital cost of a commercial vehicle, trailer, or semitrailer shall be multiplied by a percentage factor representing the remainder of such vehicle's value after depreciation according to a depreciation schedule which the commissioner shall annually prepare and distribute to each of the tax collectors and tax commissioners. Except as provided in paragraph (2) of this subsection, the resulting value of such commercial vehicle, trailer, or semitrailer shall be assessed at the rate of 40 percent of such value for ad valorem tax purposes in this state; or
- (2)** For a trailer, a semitrailer, or a commercial vehicle which is not registered in Georgia under the International Registration Plan pursuant to Code Section 40-2-88, the assessment calculated under paragraph (1) of this subsection shall be multiplied by the Georgia fleet mileage ratio. The resulting apportioned value shall be the Georgia assessed value of the commercial vehicle, trailer, or semitrailer for ad valorem tax purposes in this state.

#### **§ 48-5-443 Ad valorem tax rate**

Ad valorem taxes imposed on motor vehicles and mobile homes subject to this article shall be at the assessment level and mill rate levied by the taxing authority on tangible property for the previous calendar year.

#### **§ 48-5-444 Place of return of motor vehicles and mobile homes**

(a)

- (1)** For purposes of this subsection, the term "functionally located" means located in a county in this state for 184 days or more during the immediately preceding calendar year. The 184 days or more requirement of this subsection shall mean the cumulative total number of days during such calendar year, which days may be consecutive.
- (2) (A)** Except as otherwise provided in paragraph (3) of this subsection, each motor vehicle owned by a resident of this state shall be returned:
  - (i)** In the county where the owner claims a homestead exemption;
  - (ii)** If no such exemption is claimed, then in the county of the owner's domicile; or
  - (iii)** If the motor vehicle is primarily used in connection with some established business enterprise located in a different county, in the county where the business is located.
- (B)** A motor vehicle owned by a resident of this state may be registered in the county where the vehicle is functionally located if the vehicle is a passenger car as defined in paragraph (41) of Code Section 40-1-1. Such vehicle shall first be returned for taxation as provided in subparagraph (A) of this paragraph. This subparagraph shall not apply with respect to any vehicle which is used by a student enrolled in a college or university in this state in a county other than the student's domicile.

(C) Each motor vehicle owned by a nonresident shall be returned in the county where the motor vehicle is situated.

(3) (A) As used in this paragraph, the term:

(i) "Family owned qualified farm products producer" shall have the same meaning as provided in paragraph (2) of Code Section 48-5-41.1.

(ii) "Passenger car" shall have the same meaning as provided for in paragraph (41) of Code Section 40-1-1.

(iii) "Truck" shall have the same meaning as provided for in paragraph (70) of Code Section 40-1-1.

(B) If a passenger car or truck is primarily used in connection with some established farm operated by a family-owned qualified farm products producer located in a county other than the county where the owner claims a homestead exemption or the county of the owner's domicile, such passenger car or truck shall be returned in the county where the farm operated by a family-owned qualified farm products producer is located.

(4) Any person who shall knowingly make any false statement in any application for the registration of any vehicle, in transferring any certificate of registration, or in applying for a new certificate of registration shall be guilty of false swearing, whether or not an oath is actually administered to such person if such statement shall purport to be under oath. On conviction of such offense, such person shall be punished as provided by Code Section 16-10-71.

(b) Mobile homes shall be returned in the county where situated unless the mobile home is primarily used in connection with some established business enterprise located in a different county, in which case it shall be returned in the county where the business is located.

### **§ 48-5-448 Value of all returned motor vehicles and mobile homes included in tax digest**

(a) The value of all motor vehicles returned for taxation during the previous calendar year shall be added to the regular digest at the time the regular digest is transmitted to the commissioner or at such other time as the digest is required to be compiled.

(b) The value of all mobile homes returned for taxation during each calendar year shall be added to the regular digest at the time the regular digest is transmitted to the commissioner or at such other time as the digest is required to be compiled.

(c) The total of the regular digest and the value of returns required to be added pursuant to this Code section shall constitute the tax digest.

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

## **§ 48-5-451 Penalty for failure to make return or pay tax on motor vehicle or mobile home**

- (a)** Except as otherwise provided in subsection (b) of this Code section, every owner of a motor vehicle or a mobile home, in addition to the ad valorem tax due on the motor vehicle or mobile home, shall be liable for a penalty of 10 percent of the tax due or \$5.00, whichever is greater, for the failure to make the return or pay the tax in accordance with this article.
- (b)** Any Georgia resident who voluntarily cancels the registration of his or her motor vehicle pursuant to Code Section 40-2-10 shall not be assessed any penalty for failure to pay the tax due on a motor vehicle under subsection (a) of this Code section for any such period of time. Any such person shall remain liable for the ad valorem tax due on a motor vehicle he or she owns. This subsection shall not apply to motor vehicles subject to Code Section 48-5-441.1. The commissioner shall promulgate any necessary rules and forms to implement the provisions of this subsection.

### **560-11-9-.08 Mobile Home Digest. Amended.**

- (3) On or before January 5<sup>th</sup> of each year, and before the county's digest is submitted to the tax commissioner, a county's board of tax assessors shall meet to receive and inspect the tax returns and location permits for the county's mobile homes that have been reported to the tax commissioner during the preceding twelve months.
- (a) If any mobile homes have not been reported or returned to the tax commissioner by January 5<sup>th</sup> of each year, then the county board of tax assessors shall have the authority to add those mobile homes to the county's digest.
- (4) For each mobile home listed in a county's digest, the county's board of tax assessors shall develop a valuation which, in the board's judgment, best represents the fair market value that the mobile home will have as of January 1 of the tax year for which the digest is being prepared.
- (a) This valuation shall include any improvements to the mobile home and shall reflect any changes to the value of the mobile home resulting from market changes or physical depreciation as of January 1 of the tax year for which the digest is being prepared.
- (5) On or before January 5<sup>th</sup> of each year, a county's board of tax assessors shall return to the tax commissioner the mobile home digest with the proposed assessments.

### **560-11-9-.09 Appeals.**

- (1) A mobile homeowner who disagrees with the county board of tax assessor's assessment of their mobile home(s) on the ad valorem property tax bill may challenge such assessment by either electing to:
  - (a) Appeal the assessed value of the mobile home in the same manner as other ad valorem tax assessment appeals are made and decided pursuant to O.C.G.A. Section 48-5-311 as follows:
    1. Filing a notice of appeal with the county's board of tax assessors within 45 days of date printed on the ad valorem property tax bill, or by April 1<sup>st</sup>, whichever occurs later.



# MOTOR VEHICLES

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

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

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

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

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

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

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

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

(b)

(1) Any motor vehicle wholly owned in this state by a nonresident member of the armed

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

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

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

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

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

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

#### **§ 48-5-473 Returns for taxation; application for and issuance of license plates upon payment of taxes due**

(a)

(1) Except as provided in paragraph (2) of this subsection, every owner of a motor vehicle subject to taxation under this article shall be required to return the motor vehicle for taxation and pay the taxes due on the motor vehicle at the time the owner applies or is required by law to apply for registration of the motor vehicle and for the purchase of a license plate for the motor vehicle during the owner's registration period.

(2) (A) In all counties for which a local Act has not been enacted pursuant to Code Section 40- 2-21, the final date for payment of ad valorem taxes shall be the last day of the owner's registration period and the lien for such taxes shall attach at midnight on the last day of the owner's registration period if the vehicle has not been registered but only if the vehicle is still owned on such date by such owner.

- (B) In all counties for which a local Act has been enacted pursuant to Code Section 40-2-21, the final date for payment of ad valorem taxes shall be the last day of the owner's registration period and the lien for such taxes on such motor vehicle shall attach on the first day of the owner's registration period.
- (C) A motor vehicle shall not be returned for taxation and no ad valorem taxes shall be due, payable, or collected at the time a vehicle is registered during any initial registration period for such vehicle.
- (D) A motor vehicle shall not be returned for taxation and no ad valorem taxes shall be due, payable, or collected at the time of a transfer of the vehicle.
- (3) Notwithstanding any other provision of this Code section to the contrary, under no circumstances shall such ad valorem taxation be collected more than one time per calendar year with respect to the same motor vehicle.
- (b) Notwithstanding subsection (a) of this Code section, in the case of an antique or hobby or special interest motor vehicle, as defined in Code Section 48-5-440, the owner or owners shall certify at the time of returning the antique or hobby or special interest motor vehicle for taxation, paying the taxes due on the motor vehicle, and purchasing a license plate for the motor vehicle or at the time of the first sale or transfer of the motor vehicle that the vehicle is an antique or hobby or special interest motor vehicle as defined in Code Section 48-5-440, and, upon said certification, said vehicle shall be registered and a license plate issued with the imposition of an ad valorem tax based on \$100.00 valuation; provided, however, that taxes shall be due at the time of registration or at the time required by law for registration during the owner's registration period as provided in subsection (a) of this Code section.
- (c) Notwithstanding subsection (a) of this Code section, within the motor vehicle classification of property for ad valorem taxation purposes, motor vehicles held in inventory for sale or resale by an entity which is engaged in the business of selling motor vehicles and which has a current distinguishing dealer's identification number issued by the department shall constitute a separate subclassification of property for ad valorem taxation purposes and shall not be the subject of ad valorem taxation until such time

#### **§ 48-5-474      Application for registration and purchase of license plate constitutes return; form of application**

The application for registration of a motor vehicle and for the purchase of a license plate for the motor vehicle shall constitute the return of that motor vehicle for ad valorem taxation but only if ad valorem taxes are due at the time of registration. The state revenue commissioner is directed to prescribe a form for the application for registration which shall provide the information needed by the tax commissioner or tax collector in determining the amount of taxes due under this article.

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

- (a) A motor vehicle owned by or leased to a disabled veteran who is a citizen and resident of this state and on which such disabled veteran actually places the free disabled veteran

motor vehicle license plate he or she receives pursuant to Code Section 40-2-69 is hereby exempted from all ad valorem taxes for state, county, municipal, and school purposes. As used in this Code section, the term "disabled veteran" shall have the same meaning as that term is defined in paragraph (1) of subsection (a) of Code Section 48- 5-48.

- (b) Once a disabled veteran has established his or her eligibility for such ad valorem tax exemption by being 100 percent totally disabled, he or she shall be entitled to receive such ad valorem tax exemption in succeeding years thereafter. A disabled veteran who claims 100 percent total disability shall furnish proof of such disability through a letter from the United States Department of Veterans Affairs.
- (c) Once a disabled veteran has established his or her eligibility for such ad valorem tax exemption but his or her disability has not been adjudicated a 100 percent total disability, he or she shall be entitled to such ad valorem tax exemption in succeeding years upon furnishing, on an annual basis, proof of his or her status as a disabled veteran through a letter from the United States Department of Veterans Affairs.
- (d) In the event of the death of the disabled veteran who received such ad valorem tax exemption pursuant to this Code section, upon complying with the motor vehicle laws relating to registration and licensing of motor vehicles, his or her unmarried surviving spouse or minor child may continue to receive the exemption.

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

- (a) As used in this Code section, the term "prisoners of war" shall have the same meaning as provided for in subsection (a) of Code Section 40-2-73, as amended.
- (b) Any former prisoner of war who is a citizen and resident of Georgia and who attaches or presents a true copy of a Department of Defense Form 214, a military 201 file, or similar sufficient proof of his or her former prisoner of war status with his or her ad valorem tax return is granted an exemption from all ad valorem taxes for state, county, municipal, and school purposes on one vehicle such former prisoner of war owns.
- (c) The unremarried surviving spouse of a deceased former prisoner of war who is a citizen and resident of Georgia and who attaches or presents a true copy of a Department of Defense Form 214, a military 201 file, or similar sufficient proof of the former prisoner of war status of the deceased former prisoner of war with his or her ad valorem tax return is granted an exemption from all ad valorem taxes for state, county, municipal, and school purposes on one vehicle such unremarried surviving spouse owns.

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

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



taxes for state, county, municipal, and school purposes.

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

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

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

- (a)** As used in this Code section, the term "veterans organization" means any organization or association chartered by the Congress of the United States which is exempt from federal income taxes but only if such organization is a post or organization of past or present members of the armed forces of the United States organized in the State of Georgia with at least 75 percent of the members of which are past or present members of the armed forces of the United States and where no part of the net earnings of which inures to the benefit of any private shareholder or individual.
- (b)** A single motor vehicle owned by or leased to a veteran's organization is hereby exempted from all ad valorem taxes for state, county, municipal, and school purposes.

# MOBILE HOMES

- § 48-5-490 Mobile homes owned on January 1 subject to ad valorem taxation
- § 48-5-492 Issuance of mobile home location permits; issuance and display of decals
- § 48-5-493. Failure to attach and display decal; penalties; venue for prosecution
- § 48-5-494 Returns for taxation; application for and issuance of mobile home location permits upon payment of taxes due
- § 48-5-495 Collection procedure when taxing county differs from county of purchaser's residence

# Heavy Duty Construction Equipment Used by Non-Residents

## § 48-5-500 Definitions

As used in this part, the term:

- (1) "Construction purposes" does not include mining activities or the transportation of materials used in or produced by forestry activities.
- (2) "Heavy-duty equipment" means any motor vehicle used primarily off the open road for construction purposes but shall include all road construction equipment whose gross weight exceeds 16,000 pounds but shall not include inventory on hand for sale by duly licensed heavy-duty equipment dealers.

## § 48-5-501 Equipment subject to ad valorem taxation

Except as exempted by law, heavy-duty equipment used for construction purposes which is owned by a nonresident and operated in this state after January 1 of any year and which was brought into Georgia from a state which subjects to taxation heavy-duty equipment owned by residents of this state and taken into such other state after the initial tax assessment date in such other state shall be subject to ad valorem taxation the same as if such heavy-duty equipment had been held or owned in this state on January 1, except that such ad valorem tax shall be prorated with respect to the number of months remaining in the year.

# Farm Equipment

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

- (a) As used in this Code section, the term:
- (1) "Dealer" means any person who is engaged in the business of selling farm equipment at retail.
  - (2) "Farm equipment" means any vehicle as defined in Code Section 40-1-1 which is self-propelled and which is designed and used primarily for agricultural, horticultural, forestry, or livestock raising operations.
- (b) Self-propelled farm equipment which is owned by a dealer and held in inventory for sale or resale shall constitute a separate subclassification of motor vehicle within the motor vehicle classification of tangible property for ad valorem taxation purposes. The procedures prescribed in this chapter for returning self-propelled farm equipment for ad valorem taxation, determining the application rates for taxation, and collecting the ad valorem taxes imposed on self-propelled farm equipment do not apply to self-propelled farm equipment which is owned by a dealer and held in inventory for sale or resale. Such self-propelled farm equipment which is owned by a dealer and held in inventory for sale or resale shall not be returned for ad valorem taxation, shall not be taxed, and no taxes shall be collected on such self-propelled farm equipment until it is transferred and then otherwise, if at all, becomes subject to taxation as provided in this chapter.

# Aircraft Held in Dealer's Inventory

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

- (a) As used in this Code section, the term:
- (1) "Aircraft" means any vehicle which is self-propelled, and which is capable of flight.
  - (2) "Dealer" means any person who is engaged in the business of selling aircraft at retail.
- (b) Aircraft which is owned by a dealer and held in inventory for sale or resale shall constitute a separate classification of tangible property for ad valorem taxation purposes. The procedures prescribed in this chapter for returning aircraft for ad valorem taxation, determining the application rates for taxation, and collecting the ad valorem taxes imposed on aircraft do not apply to aircraft which is owned by a dealer and held in inventory for sale or resale. Such aircraft which is owned by a dealer and held in inventory for sale or resale shall not be returned for ad valorem taxation and shall not be taxed; and no taxes shall be collected on such aircraft until it is transferred and then otherwise, if at all, becomes subject to taxation as provided in this chapter.

# Watercraft and All-Terrain Vehicles Held in Inventory for Resale

## § 48-5-504.40 Watercraft and all-terrain vehicles held in inventory for resale exempt from taxation for limited period of time

- (a) As used in this Code section, the term:
- (1) "All-terrain vehicle" shall have the same meaning as provided for in paragraph (3) of Code Section 40-1-1.
  - (2) "Dealer" means any person who is engaged in the business of selling watercraft or all-terrain vehicles at retail.
  - (3) "Watercraft" means any vehicle which is self-propelled, or which is capable of self-propelled water transportation, or both.
- (b) Watercraft and all-terrain vehicles owned by a dealer and held in inventory for sale or resale shall constitute a separate classification of tangible property for ad valorem taxation purposes. The procedures prescribed in this chapter for returning watercraft or all-terrain vehicles for ad valorem taxation, determining the application rates for taxation, and collecting the ad valorem taxes imposed on watercraft or all-terrain vehicles do not apply to watercraft or all-terrain vehicles owned by a dealer and held in inventory for sale or resale. Such watercraft or all-terrain vehicles owned by a dealer and held in inventory for sale or resale shall not be returned for ad valorem taxation and shall not be taxed, and

no taxes shall be collected on such watercraft or all-terrain vehicles until they are transferred and then otherwise, if at all, become subject to taxation as provided in this chapter.

#### § 40-1-1 Definitions

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

# Ad Valorem Taxation of Heavy-Duty Equipment Motor Vehicles

## § 48-5-505 Definitions

As used in this article, the term:

- (1) "Dealer" means any person who is engaged in the business of selling heavy-duty equipment motor vehicles at retail and who holds a valid current dealer's resale tax exemption number.
- (2) "Heavy-duty equipment motor vehicle" means a motor vehicle with all its attachments and parts which is self-propelled, weighs 5,000 pounds or more, and is primarily designed and used for construction, industrial, maritime, or mining uses, provided that such motor vehicles are not required to be registered and have a license plate.

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

- (a) The provisions of this article shall apply only to heavy-duty equipment motor vehicles and dealers as defined in Code Section 48-5-505.
- (b) The provisions of Part 2 of Article 10 of this chapter shall apply to all other heavy-duty equipment motor vehicles and dealers not provided for in subsection (a) of this Code section.

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

- (a) Except as provided in subsections (b) and (c) of this Code section, every heavy-duty equipment motor vehicle owned in this state by a natural person or other entity is subject to ad valorem taxation by the various tax jurisdictions authorized to impose an ad valorem tax on property only if owned by such natural person or entity on the first day of January of any taxable year. Taxes shall be charged against the owner of the property, if known, and, if unknown, against the specific property itself. The owner shall return the heavy-duty equipment motor vehicle for taxation as provided in Article 1 of this chapter.
- (b)
  - (1) Any and all purchases of heavy-duty equipment motor vehicles by dealers for the purpose of resale shall be exempt from ad valorem tax at the time of the purchase by the dealer.
  - (2) Any person or entity which purchases a heavy-duty equipment motor vehicle from a dealer shall, for the taxable year in which the heavy-duty equipment motor vehicle is purchased only, return such heavy-duty equipment motor vehicle for ad valorem taxation purposes, within 30 days of the end of the month in which such purchase is made, to the appropriate county and shall pay a tax for such taxable year. Upon receipt of such return, the tax commissioner shall within five days prepare and bill the purchaser for the ad valorem tax. Such tax shall be equal to 33 1/3 percent of the amount derived by multiplying the amount of ad valorem tax which would otherwise

be due on the heavy-duty equipment motor vehicle and shall be based on the selling price to the end user times 40 percent, thus deriving the taxable assessment, times the tax rate imposed by the tax authority for the preceding tax year, by a fraction the numerator of which is the number of months remaining in the calendar year not counting the month of purchase and the denominator of which is 12. In no event shall the ad valorem tax due be less than \$100.00 for the year of purchase. The taxes levied under this subsection shall be due 60 days after the billing therefor.

- (3)** Any ad valorem tax due shall be based on the selling price of the heavy-duty equipment motor vehicle purchased.
- (4)** In the event that any heavy-duty equipment motor vehicle is purchased other than for resale by a person or entity not domiciled in this state, at the time of the sale the dealer shall collect the ad valorem tax which would be applicable for the county where the heavy-duty equipment motor vehicle was held in inventory at the time of the sale. Each dealer, on or before the last day of the month following a sale to such person or entity, shall transmit returns and remit the ad valorem taxes collected to the tax commissioner of the county where the heavy-duty equipment motor vehicle was held in inventory at the time of the sale. Such returns shall show all sales and purchases taxable under this article during the preceding calendar month. The returns required by this subsection shall be made upon forms prescribed, prepared, and furnished by the state revenue commissioner. If any dealer liable for any tax, interest, or penalty imposed by this article sells out his or her business's heavy-duty equipment motor vehicles or quits the business, he or she shall make a final return and payment within 30 days after the date of selling or quitting the business. Any dealer who does not collect tax as required under this paragraph or who fails to properly remit taxes collected under this paragraph shall be liable for the tax and the tax commissioner shall collect such tax, penalty, and interest in the same manner that other taxes are collected.
- (c)** Except as otherwise provided in this subsection, heavy-duty equipment motor vehicles which are owned by a dealer are not included within the distinct subclassification of tangible property made by this article for all other heavy-duty equipment motor vehicles. The procedures prescribed in this article for returning heavy-duty equipment motor vehicles for ad valorem taxation, determining the applicable rates for taxation, and collecting the ad valorem taxes imposed on heavy-duty equipment motor vehicles do not apply to heavy-duty equipment motor vehicles which are owned by a dealer. Heavy-duty equipment motor vehicles which are owned by a dealer shall not be returned for ad valorem taxation, shall not be taxed, and no taxes shall be collected on such heavy-duty equipment motor vehicles until they become subject to taxation as provided in subsections (a) and (b) of this Code section. No heavy-duty equipment motor vehicle held by a dealer in inventory for resale shall be subject to ad valorem taxation unless such heavy-duty equipment motor vehicle was in the dealer's inventory on January 1 of the taxable year and continued to remain in such dealer's inventory on December 20 of such taxable year, in which case the dealer shall be required to return the heavy-duty equipment motor vehicle for ad valorem taxation on December 21 of that taxable year. The assessed value of each



heavy-duty equipment motor vehicle owned by a dealer shall be 40 percent of the fair market value of the heavy-duty equipment motor vehicle on January 1 of that taxable year. The tax commissioner shall prepare and mail a tax bill within five days of receipt of such dealer's return. The taxes levied under this subsection shall be due 60 days after the billing therefor.

- (d) Within 30 days of the last day of a month during which there is a sale of any heavy-duty equipment motor vehicle other than for resale, the dealer shall mail to the tax commissioner of the county where the purchaser is domiciled a statement notifying the tax commissioner of the sale which shall include information such as the date of the sale, the selling price, and the name and address of the purchaser. Such statement shall be upon forms prescribed, prepared, and furnished by the state revenue commissioner.
- (e) The failure of any person or entity to return property as required by this Code section shall subject such person or entity to penalties as provided in Code Section 48-5-299. The failure of any person or entity to pay the taxes as required by this Code section shall subject such person or entity to penalties and interest as provided by Code Section 48-2-44.

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

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

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

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

#### **§ 48-5-509 Compliance**

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

# Ad Valorem Taxation of Public Utilities

§ 48-5-510 Definitions

§ 48-5-511. Returns of public utilities to commissioner; itemization and fair market value of property; other information; apportionment to more than one tax jurisdiction

§ 48-5-524 Annual report by commissioner to each county board of tax assessors of all public utility property within county; contents; availability for public inspection

# Ad Valorem Taxation of Qualified Timberland Property

- § 48-5-600 Definitions
- § 48-5-600.1 Classification of qualified timberland property; exclusive
- § 48-5-601 Determination of fair market value; access to property; delivery to county tax officials
- § 48-5-602 Adoption and maintenance of qualified timberland property manual
- § 48-5-603 Certification as qualified owner; requirements
- § 48-5-604 Certification as qualified timberland property; requirements; annual updating; audit; filing with county tax officials
- § 48-5-605 Appeal of commissioner's decisions by taxpayer or county board
- § 48-5-606 Appeal of commissioner's decisions by taxpayers or groups
- § 48-5-607 Adoption of forms and regulations

## **Special Assessment of Forest Land Conservation Use Property**

- § 48-5A-1 **Definitions**
- § 48-5A-2 **Funds for forest land conservation**
- § 48-5A-3 **Local assistance grants**
- § 48-5A-4 **Administration**
- § 48-5A-5 **Retention of funds for administrative costs**
- § 48-5A-6 **Value of local assistance grants**

# ALTERNATIVE AD VALOREM TAX ON MOTOR VEHICLES

## § 48-5C-1. (For effective date, see note.) Definitions; exemption from taxation; allocation and disbursement of proceeds collected by tag agents; fair market value of vehicle appealable; report

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

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

(1) "Fair market value of the motor vehicle" means:

(A) For a used motor vehicle purchased from a new or used car dealer other than under a seller financed sale arrangement, the retail selling price of the motor vehicle, and, in the case of a used car dealer, less any reduction for the trade-in value of another motor vehicle;

(B) (i) For a used motor vehicle purchased from a person other than a new or used car dealer or a used motor vehicle purchased under a seller financed sale arrangement, the average of the current fair market value and the current wholesale value of a motor vehicle for a vehicle listed in the current motor vehicle ad valorem assessment manual utilized by the state revenue commissioner and based upon a nationally recognized motor vehicle industry pricing guide for fair market and wholesale market values in determining the taxable value of a motor vehicle under Code Section 48-5-442; provided, however, that, if the motor vehicle is not listed in such current motor vehicle ad valorem assessment manual, the fair market value shall be the value from a reputable used car market guide designated by the commissioner and, in the case of a motor vehicle purchased from a new or used car dealer under a seller financed sale arrangement, less any reduction for the trade-in value of another motor vehicle;

(ii) Upon written application and supporting documentation submitted by an applicant under this Code section, a county tag agent may deviate from the fair market value as defined in ~~subparagraph (B) of this paragraph~~, division (i) of this

subparagraph of this paragraph based upon mileage and condition of the used vehicle. Supporting documentation may include, but not be limited to, bill of sale, odometer statement, and values from reputable pricing guides. The fair market value as determined by the county tag agent pursuant to this subparagraph shall be appealable as provided in subsection (e) of this Code section;

- (C) Reserved;
  - (D) For a new motor vehicle, the retail selling price, less any reduction for the trade-in value of another motor vehicle and any rebate. The retail selling price shall include any charges for labor, freight, delivery, dealer fees and similar charges, tangible accessories, dealer add-ons, and mark-ups, but shall not include any federal retailers' excise tax or extended warranty, service contract, maintenance agreement, or similar products itemized on the dealer's invoice to the customer or any finance, insurance, and interest charges for deferred payments billed separately. No reduction for the trade-in value of another motor vehicle shall be taken unless the name of the owner and the vehicle identification number of such trade-in motor vehicle are shown on the bill of sale;
  - (E) For a motor vehicle that is leased:
    - (i) In the case of a motor vehicle that is leased to a lessee for use primarily in the lessee's trade or business and for which the lease agreement contains a provision for the adjustment of the rental price as described in Code Section 40-3-60, the agreed upon value of the motor vehicle less any reduction for the trade-in value of another motor vehicle and any rebate; or
    - (ii) In the case of a motor vehicle that is leased other than described in division (i) of this subparagraph, the total of the ~~base payments~~ depreciation plus any amortized amounts pursuant to the lease agreement plus any down payments, and
    - (iii) The term "any down payments" as used in this subparagraph shall mean cash collected from the lessee at the inception of the lease which shall include cash supplied as a capital cost reduction; shall not include rebates, noncash credits, or net trade allowances; and shall include any upfront payments collected from the lessee at the inception of the lease except for taxes or fees imposed by law and monthly lease payments made in advance; or
  - (F) For a kit car which is assembled by the purchaser from parts supplied by a manufacturer, the retail selling price of the kit. A kit car shall not include a rebuilt or salvage vehicle.
- (2) "Immediate family member" means spouse, parent, child, sibling, grandparent, or grandchild.
  - (3) "Loaner vehicle" means a motor vehicle owned by a dealer which is withdrawn

temporarily from dealer inventory for exclusive use as a courtesy vehicle loaned at no charge for a period not to exceed 30 days within a 366-day period to any one customer whose motor vehicle is being serviced by such dealer.

- (4) "Rental charge" means the total value received by a rental motor vehicle concern for the rental or lease for 31 or fewer consecutive days of a rental motor vehicle, including the total cash and nonmonetary consideration for the rental or lease, including, but not limited to, charges based on time or mileage and charges for insurance coverage or collision damage waiver but excluding all charges for motor fuel taxes or sales and use taxes.
- (5) "Rental motor vehicle" means a motor vehicle designed to carry 15 or fewer passengers and used primarily for the transportation of persons that is rented or leased without a driver.
- (6) "Rental motor vehicle concern" means a person or legal entity which owns or leases five or more rental motor vehicles and which regularly rents or leases such vehicles to the public for value.
- (7) "Trade-in value" means the value of the motor vehicle as stated in the bill of sale for a vehicle which has been traded in to the dealer in a transaction involving the purchase of another vehicle from the dealer.

(b)

- (1)(A) Except as otherwise provided in this subsection, any motor vehicle for which a title is issued in this state on or after March 1, 2013, shall be exempt from sales and use taxes to the extent provided under paragraph (95) of Code Section 48-8-3 and shall not be subject to the ad valorem tax as otherwise required under Chapter 5 of this title. Any such motor vehicle shall be titled as otherwise required under Title 40 but shall be subject to a state title fee and a local title fee which shall be alternative ad valorem taxes as authorized by Article VII, Section I, Paragraph III(b)(3) of the Georgia Constitution. Motor vehicles registered under the International Registration Plan shall not be subject to state and local title ad valorem tax fees but shall continue to be subject to apportioned ad valorem taxation under Article 10 of Chapter 5 of this title.

(B)

- (i) Reserved.
- (ii) The combined state and local title ad valorem tax shall be at a rate equal to 7 percent of the fair market value of the motor vehicle; provided, however, that, beginning on January 1, 2020, and continuing through June 30, 2023, such rate shall be equal to 6.6 percent of the fair market value of the motor vehicle.
- (iii) Beginning on July 1, 2019, the state and local title ad valorem tax proceeds each month shall be distributed by each county remitting 35 percent of the funds to the state revenue commissioner as provided in subparagraph (c)(2)(A) of this Code section and distributing 65 percent of the funds as provided in paragraph (3) of subsection (c) of this Code section.

- (iv)** The state revenue commissioner shall promulgate such rules and regulations as may be necessary and appropriate to implement and administer this Code section, including, but not limited to, rules and regulations regarding appropriate public notification of rate amounts and rules and regulations regarding appropriate enforcement and compliance procedures and methods for the implementation and operation of this Code section. The state revenue commissioner shall promulgate a standardized form to be used by all dealers of new and used vehicles in this state in order to ease the administration of this Code section. The state revenue commissioner may promulgate and implement rules and regulations as may be necessary to permit seller financed sales of used vehicles to be assessed 2.5 percentage points less than the rate specified in division (ii) of this subparagraph.
- (C)** The application for title and the state and local title ad valorem tax fees provided for in subparagraph (A) of this paragraph shall be paid to the tag agent in the county where the motor vehicle is to be registered and shall be paid at the time the application for a certificate of title is submitted or, in the case of an electronic title transaction, at the time when the electronic title transaction is finalized. In an electronic title transaction, the state and local title ad valorem tax fees shall be remitted electronically directly to the county tag agent. A dealer of new or used motor vehicles shall make such application for title and state and local title ad valorem tax fees on behalf of the purchaser of a new or used motor vehicle for the purpose of submitting or, in the case of an electronic title application, finalizing such title application and remitting state and local title ad valorem tax fees. The state and local title ad valorem tax fees provided for in this chapter shall be imposed on the purchaser, including a lessor, that acquires title to the motor vehicle; provided, however, that a lessor that pays such state and local title ad valorem tax fees may seek reimbursement for such state and local title ad valorem tax fees from the lessee.
- (D)** There shall be a penalty imposed on any person who, in the determination of the commissioner, falsifies any information in any bill of sale used for purposes of determining the fair market value of the motor vehicle. Such penalty shall not exceed \$2,500.00 as a state penalty and shall not exceed \$2,500.00 as a local penalty as determined by the commissioner. Such determination shall be made within 60 days of the commissioner receiving information of a possible violation of this paragraph.
- (E)** Except in the case in which an extension of the registration period has been granted by the county tag agent under Code Section 40-2-20, a dealer of new or used motor vehicles that makes an application for title and collects state and local title ad valorem tax fees from a purchaser of a new or used motor vehicle and does not submit or, in the case of an electronic title transaction, finalize such application for title and remit such state and local title ad valorem tax fees to the county tag agent within 30 days following the date of purchase shall be liable to the county tag agent for an amount equal to 5 percent of the amount of such state and local title ad valorem tax fees. An additional penalty equal to 10 percent of the amount of such state and local title ad valorem tax fees shall be



imposed if such payment is not transmitted within 60 days following the date of purchase. An additional penalty equal to 15 percent of the amount of such state and local title ad valorem tax fees shall be imposed if such payment is not transmitted within 90 days following the date of purchase, and an additional penalty equal to 20 percent of the amount of such state and local title ad valorem tax fees shall be imposed if such payment is not transmitted within 120 days following the date of purchase. An additional penalty equal to 25 percent of the amount of such state and local title ad valorem tax fees shall be imposed for each subsequent 30-day period in which the payment is not transmitted.

**(F)** A dealer of new or used motor vehicles that makes an application for title and collects state and local title ad valorem tax fees from a purchaser of a new or used motor vehicle and converts such fees to his or her own use shall be guilty of theft by conversion and, upon conviction, shall be punished as provided in Code Section 16-8-12.

**(2)** A person or entity acquiring a salvage title pursuant to subsection (b) of Code Section 40-3-36 shall not be subject to the fee specified in paragraph (1) of this subsection but shall be subject to a state title ad valorem tax fee in an amount equal to 1 percent of the fair market value of the motor vehicle. Such state title ad valorem tax fee shall be an alternative ad valorem tax as authorized by Article VII, Section I, Paragraph III(b)(3) of the Georgia Constitution.

**(c)**

**(1)** The amount of proceeds collected by tag agents each month as state and local title ad valorem tax fees, state salvage title ad valorem tax fees, administrative fees, penalties, and interest pursuant to subsection (b) of this Code section shall be allocated and disbursed as provided in this subsection.

**(2)** For the 2013 tax year and in each subsequent tax year, the amount of such funds shall be disbursed within 20 days following the end of each calendar month as follows:

**(A)** State title ad valorem tax fees, state salvage title ad valorem tax fees, administrative fees, penalties, and interest shall be remitted to the state revenue commissioner who shall deposit such proceeds in the general fund of the state less an amount to be retained by the tag agent not to exceed 1 percent of the total amount otherwise required to be remitted under this subparagraph to defray the cost of administration. Such retained amount shall be remitted to the collecting county's general fund. Failure by the tag agent to disburse within such 20 day period shall result in a forfeiture of such administrative fee plus interest on such amount at the rate specified in Code Section 48-2-40; and

**(B)** Local title ad valorem tax fees, administrative fees, penalties, and interest shall be designated as local government ad valorem tax funds. The tag agent shall then distribute the proceeds as specified in paragraph (3) of this subsection, less an amount to be retained by the tag agent not to exceed 1 percent of the total amount otherwise required to be remitted under this subparagraph to defray the cost of administration. Such retained amount shall be remitted to the collecting county's general fund. Failure by the tag agent to disburse within such 20 day

period shall result in a forfeiture of such administrative fee plus interest on such amount at the rate specified in Code Section 48-2-40.

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

**(A)** The tag agent of the county shall within 20 days following the end of each calendar month allocate and distribute to the water and sewerage authority for which the county has levied an ad valorem tax in accordance with a local constitutional amendment, and in a county in which a sales and use tax is levied for purposes of a metropolitan area system of public transportation, as authorized by the amendment to the Constitution set out at Ga. L. 1964, p. 1008, the governing body of the transportation authority created by the Metropolitan Atlanta Rapid Transit Authority Act of 1965, Ga. L. 1965, p. 2243, as amended, and the amendment to the Constitution set out at Ga. L. 1964, p. 1008, an amount of those proceeds necessary to offset any reduction in:

- (i)** Ad valorem taxes on motor vehicles collected under Chapter 5 of this title on behalf of such water and sewerage authority during calendar year 2012; and
- (ii)** With respect to the transportation authority, the monthly average portion of the sales and use tax levied for purposes of a metropolitan area system of public transportation applicable to any motor vehicle titled in a county which levied such tax in 2012.

Such amount of tax under division (ii) of this subparagraph may be determined by the commissioner for counties which levied such tax in 2012, and in any counties which subsequently levy a tax pursuant to a metropolitan area system of public transportation, as authorized by the amendment to the Constitution set out at Ga. L. 1964, p. 1008, the governing body of the transportation authority created by the Metropolitan Atlanta Rapid Transit Authority Act of 1965, Ga. L. 1965, p. 2243, as amended, and the amendment to the Constitution set out at Ga. L. 1964, p. 1008, the commissioner may determine what amount of sales and use tax would have been collected in calendar year 2012, had such tax been levied. The amount of the reduction to be offset under this subparagraph with respect to division (i) of this subparagraph shall be calculated by the county governing authority by subtracting the amount of title ad valorem tax on motor vehicles collected under Chapter 5 of this title on behalf of such water and sewerage authority in the current calendar month from one-twelfth of the amount of such ad valorem tax on motor vehicles collected on behalf of such water and sewerage authority in calendar year 2012. The amount of the reduction to be offset under this subparagraph with respect to division (ii) of this subparagraph shall be calculated by the county governing authority by subtracting the amount of sales tax collected or determined to have been collected on such motor vehicles by the state revenue commissioner in the current calendar month in any such county from

one-twelfth of the amount of sales and use tax collected, or determined to have been collected, on such motor vehicles, by the state revenue commissioner in calendar year 2012 in such county. In the event that the local title ad valorem tax proceeds are insufficient to offset fully such reduction in ad valorem taxes on motor vehicles or the portion of the sales and use tax described in division (ii) of this subparagraph, the tag agent shall allocate a proportionate amount of the proceeds to such water and sewerage authority and the transportation authority, as appropriate, and any remaining shortfall shall be paid from the following month's local title ad valorem tax fee proceeds. In the event that a shortfall remains, the tag agent shall continue to first allocate local title ad valorem tax fee proceeds to offset such shortfalls until the shortfall has been fully repaid;

- (B)** As to the proceeds remaining after the distribution provided for in subparagraph (A) of this paragraph, with regard to the proceeds associated with and collected on motor vehicle titles for motor vehicles registered in the unincorporated areas of the county, the tag agent of the county shall within 20 days following the end of each calendar month allocate and distribute 51 percent of such proceeds to the county governing authority and distribute 49 percent of such proceeds to the board of education of the county school district; and
- (C)** As to the proceeds remaining after the distribution provided for in subparagraph (A) of this paragraph, with regard to the proceeds associated with and collected on motor vehicle titles for motor vehicles registered in the incorporated areas of the county, the tag agent of the county shall within 20 days following the end of each calendar month allocate such proceeds by the municipality from which the proceeds were derived and then, for each such municipality, distribute 28 percent of such proceeds to the county governing authority and 23 percent of such proceeds to the governing authority of such municipality, and the remaining 49 percent of such proceeds shall be distributed to the board of education of the county school district; provided, however, that, if there is an independent school district in such municipality, then such remaining 49 percent of such proceeds shall be distributed to the board of education of the independent school district.

**(d)**

- (1) (A)** Upon the death of an owner of a motor vehicle which has not become subject to paragraph (1) of subsection (b) of this Code section, the immediate family member or immediate family members of such owner who receive such motor vehicle pursuant to a will or under the rules of inheritance shall, subsequent to the transfer of title of such motor vehicle, continue to be subject to ad valorem tax under Chapter 5 of this title and shall not be subject to the state and local title ad valorem tax fees provided for in paragraph (1) of subsection (b) of this Code section unless the immediate family member or immediate family members make an affirmative written election to become subject to paragraph (1) of subsection (b) of this Code section. In the event of such election, such transfer shall be subject to the state and local title ad valorem tax fees provided for in paragraph (1) of subsection (b) of this Code section.

- (B)** Upon the death of an owner of a motor vehicle which has become subject to paragraph (1) of subsection (b) of this Code section, the immediate family member or immediate family members of such owner who receive such motor vehicle pursuant to a will or under the rules of inheritance shall be subject to a state title ad valorem tax fee in an amount equal to one-quarter of 1 percent of the fair market value of the motor vehicle and a local title ad valorem tax fee in an amount equal to one-quarter of 1 percent of the fair market value of the motor vehicle. Such title ad valorem tax fees shall be an alternative ad valorem tax as authorized by Article VII, Section I, Paragraph III(b)(3) of the Georgia Constitution.
- (2) (A)** Upon the transfer from an immediate family member of a motor vehicle which has not become subject to paragraph (1) of subsection (b) of this Code section, the immediate family member or immediate family members who receive such motor vehicle shall, subsequent to the transfer of title of such motor vehicle, continue to be subject to ad valorem tax under Chapter 5 of this title and shall not be subject to the state and local title ad valorem tax fees provided for in paragraph (1) of subsection (b) of this Code section unless the immediate family member or immediate family members make an affirmative written election to become subject to paragraph (1) of subsection (b) of this Code section. In the event of such election, such transfer shall be subject to the state and local title ad valorem tax fees provided for in paragraph (1) of subsection (b) of this Code section.
- (B)** Upon the transfer from an immediate family member of a motor vehicle which has become subject to paragraph (1) of subsection (b) of this Code section, the immediate family member who receives such motor vehicle shall transfer title of such motor vehicle to such recipient family member and shall be subject to a state title ad valorem tax fee in an amount equal to one-quarter of 1 percent of the fair market value of the motor vehicle and a local title ad valorem tax fee in an amount equal to one-quarter of 1 percent of the fair market value of the motor vehicle. Such title ad valorem tax fees shall be an alternative ad valorem tax as authorized by Article VII, Section I, Paragraph III(b)(3) of the Georgia Constitution.
- (C)** Any title transfer under this paragraph shall be accompanied by an affidavit of the transferor and transferee that such persons are immediate family members to one another. There shall be a penalty imposed on any person who, in the determination of the state revenue commissioner, falsifies any material information in such affidavit. Such penalty shall not exceed \$2,500.00 as a state penalty and shall not exceed \$2,500.00 as a local penalty as determined by the state revenue commissioner. Such determination shall be made within 60 days of the state revenue commissioner receiving information of a possible violation of this paragraph.
- (3)** Any individual who:
- (A)** Is required by law to register a motor vehicle or motor vehicles in this state which were registered in the state in which such person formerly resided; and
- (B)** Is required to file an application for a certificate of title under Code Section 40-3-

21 or 40-3-32 shall be required to pay state and local title ad valorem tax fees in an amount equal to 3 percent of the fair market value of the motor vehicle.

- (4)** The state and local title ad valorem tax fees provided for under this Code section shall not apply to corrected titles, replacement titles under Code Section 40-3-31, or titles reissued to the same owner pursuant to Code Sections 40-3-50 through 40-3-56.
- (5)** Any motor vehicle subject to state and local title ad valorem tax fees under paragraph (1) of subsection (b) of this Code section shall continue to be subject to the title, license plate, revalidation decal, and registration requirements and applicable fees as otherwise provided in Title 40 in the same manner as motor vehicles which are not subject to state and local title ad valorem tax fees under paragraph (1) of subsection (b) of this Code section.
- (6)** Motor vehicles owned or leased by or to the state or any county, consolidated government, municipality, county or independent school district, or other government entity in this state shall not be subject to the state and local title ad valorem tax fees provided for under paragraph (1) of subsection (b) of this Code section; provided, however, that such other government entity shall not qualify for the exclusion under this paragraph unless it is exempt from ad valorem tax and sales and use tax pursuant to general law.
- (7)**
  - (A)** Any motor vehicle which is exempt from sales and use tax pursuant to paragraph (30) of Code Section 48-8-3 shall be exempt from state and local title ad valorem tax fees under this subsection.
  - (B)** Any motor vehicle which is exempt from ad valorem taxation pursuant to Code Section 48-5-478, 48-5-478.1, 48-5-478.2, or 48-5-478.3 shall be exempt from state and local title ad valorem tax fees under paragraph (1) of subsection (b) of this Code section.
  - (C)** Each disabled first responder shall be allowed an exemption from state and local title ad valorem tax fees under paragraph (1) of subsection (b) of this Code section levied on a maximum of \$50,000.00 in aggregate of the fair market value combined for all motor vehicles that he or she registers in this state during any three-year period.
- (7.1)**
  - (A)** As used in this paragraph, the term "for-hire charter bus or motor coach" means a motor vehicle designed for carrying more than 15 passengers and used for the transportation of persons for compensation.
  - (B)** In the case of for-hire charter buses or motor coaches, the person applying for a certificate of title shall be required to pay title ad valorem tax fees in the amount of 50 percent of the amount which would otherwise be due and payable under this subsection at the time of filing the application for a certificate of title, and the remaining 50 percent shall be paid within 12 months following the filing of such application.
- (8)** There shall be a penalty imposed on the transfer of all or any part of the interest in a business entity that includes primarily as an asset of such business entity one or more motor vehicles, when, in the determination of the state revenue commissioner,

such transfer is done to evade the payment of state and local title ad valorem tax fees under this subsection. Such penalty shall not exceed \$2,500.00 as a state penalty per motor vehicle and shall not exceed \$2,500.00 as a local penalty per motor vehicle, as determined by the state revenue commissioner, plus the amount of the state and local title ad valorem tax fees. Such determination shall be made within 60 days of the state revenue commissioner receiving information that a transfer may be in violation of this paragraph.

**(9)** Any owner of any motor vehicle who fails to submit within 30 days of the date such owner is required by law to register such vehicle in this state an application for a first certificate of title under Code Section 40-3-21 or a certificate of title under Code Section 40-3-32 shall be required to pay a penalty in the amount of 10 percent of the state title ad valorem tax fees and 10 percent of the local title ad valorem tax fees required under this Code section and, if such state and local title ad valorem tax fees and the penalty are not paid within 60 days following the date such owner is required by law to register such vehicle, interest at the rate of 1 percent per month shall be imposed on the state and local title ad valorem tax fees due under this Code section, unless a temporary permit has been issued by the tax commissioner. The tax commissioner shall grant a temporary permit in the event the failure to timely apply for a first certificate of title is due to the failure of a lienholder to comply with Code Section 40-3-56, regarding release of a security interest or lien, and no penalty or interest shall be assessed. Such penalty and interest shall be in addition to the penalty and fee required under Code Section 40-3-21 or 40-3-32, as applicable.

**(10)** The owner of any motor vehicle for which a title was issued in this state on or after January 1, 2012, and prior to March 1, 2013, shall be authorized to opt in to the provisions of this subsection at any time prior to February 28, 2014, upon compliance with the following requirements:

(A)

- (i)** The total amount of Georgia state and local title ad valorem tax fees which would be due from March 1, 2013, to December 31, 2013, if such vehicle had been titled in 2013 shall be determined; and
- (ii)** The total amount of Georgia state and local sales and use tax and Georgia state and local ad valorem tax under Chapter 5 of this title which were due and paid in 2012 for that motor vehicle and, if applicable, the total amount of such taxes which were due and paid for that motor vehicle in 2013 and 2014 shall be determined; and

(B)

- (i)** If the amount derived under division (i) of subparagraph (A) of this paragraph is greater than the amount derived under division (ii) of subparagraph (A) of this paragraph, the owner shall remit the difference to the tag agent. Such remittance shall be deemed local title ad valorem tax fee proceeds; or
- (ii)** If the amount derived under division (i) of subparagraph (A) of this paragraph is less than the amount derived under division (ii) of subparagraph (A) of this paragraph, no additional amount shall be due

and payable by the owner.

Upon certification by the tag agent of compliance with the requirements of this paragraph, such motor vehicle shall not be subject to ad valorem tax as otherwise required under Chapter 5 of this title in the same manner as otherwise provided in paragraph (1) of subsection (b) of this Code section.

- (11) (A)** In the case of rental motor vehicles owned by a rental motor vehicle concern, the state title ad valorem tax fee shall be in an amount equal to .625 percent of the fair market value of the motor vehicle, and the local title ad valorem tax fee shall be in an amount equal to .625 percent of the fair market value of the motor vehicle, but only if in the immediately prior calendar year the average amount of sales and use tax attributable to the rental charge of each such rental motor vehicle was at least \$400.00 as certified by the state revenue commissioner. If, in the immediately prior calendar year, the average amount of sales and use tax attributable to the rental charge of each such rental motor vehicle was not at least \$400.00, this paragraph shall not apply, and such vehicles shall be subject to the state and local title ad valorem tax fees prescribed in division (b)(1)(B)(ii) of this Code section.
- (B)** Such title ad valorem tax fees shall be an alternative ad valorem tax as authorized by Article VII, Section I, Paragraph III(b)(3) of the Georgia Constitution.
- (12)** A loaner vehicle shall not be subject to state and local title ad valorem tax fees under paragraph (1) of subsection (b) of this Code section for a period of time not to exceed 366 days commencing on the date such loaner vehicle is withdrawn temporarily from inventory. Immediately upon the expiration of such 366-day period, if the dealer does not return the loaner vehicle to inventory for resale, the dealer shall be responsible for remitting state and local title ad valorem tax fees in the same manner as otherwise required of an owner under paragraph (9) of this subsection and shall be subject to the same penalties and interest as an owner for noncompliance with the requirements of paragraph (9) of this subsection.
- (13)** Any motor vehicle which is donated to a nonprofit organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code shall, when titled in the name of such nonprofit organization, not be subject to state and local title ad valorem tax fees under paragraph (1) of subsection (b) of this Code section but shall be subject to state and local title ad valorem tax fees in the amount of 1 percent of the fair market value of the motor vehicle. Such title ad valorem tax fees shall be an alternative ad valorem tax as authorized by Article VII, Section I, Paragraph III(b)(3) of the Georgia Constitution.
- (14) (A)** A lessor of motor vehicles that leases motor vehicles for more than 31 consecutive days to lessees residing in this state shall register with the department. The department shall collect an annual fee of \$100.00 for such registrations. Failure of a lessor to register under this subparagraph shall subject such lessor to a civil penalty of \$2,500.00.
- (B)** A lessee residing in this state who leases a motor vehicle under this paragraph shall register such motor vehicle with the tag agent in such lessee's county of

residence within 30 days of the commencement of the lease of such motor vehicle or beginning residence in this state, whichever is later.

**(C)** A lessor that leases a motor vehicle under this paragraph to a lessee residing in this state shall apply for a certificate of title in this state within 30 days of the commencement of the lease of such motor vehicle.

- (15)** There shall be no liability for any state or local title ad valorem tax fees in any of the following title transactions:
- (A)** The addition or substitution of lienholders on a motor vehicle title so long as the owner of the motor vehicle remains the same;
  - (B)** The acquisition of a bonded title by a person or entity pursuant to Code Section 40-3-28 if the title is to be issued in the name of such person or entity;
  - (C)** The acquisition of a title to a motor vehicle by a person or entity as a result of the foreclosure of a mechanic's lien pursuant to Code Section 40-3-54 if such title is to be issued in the name of such lienholder;
  - (D)** The acquisition of a title to an abandoned motor vehicle by a person or entity pursuant to Chapter 11 of Title 40 if such person or entity is a manufacturer or dealer of motor vehicles and the title is to be issued in the name of such person or entity;
  - (E)** The obtaining of a title to a stolen motor vehicle by a person or entity pursuant to Code Section 40-3-43;
  - (F)** The obtaining of a title by and in the name of a motor vehicle manufacturer, licensed distributor, licensed dealer, or licensed rebuilder for the purpose of sale or resale or to obtain a corrected title, provided that the manufacturer, distributor, dealer, or rebuilder shall submit an affidavit in a form promulgated by the commissioner attesting that the transfer of title is for the purpose of accomplishing a sale or resale or to correct a title only;
  - (G)** The obtaining of a title by and in the name of the holder of a security interest when a motor vehicle has been repossessed after default in accordance with Part 6 of Article 9 of Title 11 if such title is to be issued in the name of such security interest holder;
  - (H)** The obtaining of a title by a person or entity for purposes of correcting a title, changing an odometer reading, or removing an odometer discrepancy legend, provided that, subject to subparagraph (F) of this paragraph, title is not being transferred to another person or entity;
  - (I)** The obtaining of a title by a person who pays state and local title ad valorem tax fees on a motor vehicle and subsequently moves out of this state but returns and applies to retitle such vehicle in this state;
  - (J)** The obtaining of a replacement title on a vehicle that is not less than 15 years old upon sufficient proof provided to the commissioner that such title no longer exists;
  - (K)** The transfer of a title made as a result of a business reorganization when the owners, partners, members, or stockholders of the business being reorganized maintain the same proportionate interest or share in the newly formed business



reorganization;

- (L) The transfer of a title from a company to an owner of the company for the purpose of such individual obtaining a prestige or special license plate for the motor vehicle;
  - (M) The transfer of a title from an owner of a company to the company; and
  - (N) The transfer of a title from one legal entity in which an individual holds an ownership interest of at least 50 percent to another legal entity in which the same individual holds an ownership interest of at least 50 percent, provided that the alternative ad valorem tax imposed by this chapter has been levied on such motor vehicle and has been paid by the transferring entity or such individual.
- (16) It shall be unlawful for a person to fail to obtain a title for and register a motor vehicle in accordance with the provisions of this chapter. Any person who knowingly and willfully fails to obtain a title for or register a motor vehicle in accordance with the provisions of this chapter shall be guilty of a misdemeanor.
- (17) (A) Any person who purchases a 1963 through ~~1985~~ 1989 model year motor vehicle for which such person obtains a title shall be subject to this Code section, but the state title ad valorem tax fee shall be in an amount equal to 0.5 percent of the fair market value of such motor vehicle, and the local title ad valorem tax fee shall be in an amount equal to 0.5 percent of the fair market value of such motor vehicle.
- (B) The owner of a 1962 or earlier model year motor vehicle who obtains a conditional title pursuant to Code Section 40-3-21.1 for such motor vehicle shall be authorized to opt in to the provisions of this subsection upon the payment of a state title ad valorem tax fee in an amount equal to 0.5 percent of the fair market value of such motor vehicle and a local title ad valorem tax fee in an amount equal to 0.5 percent of the fair market value of such motor vehicle. Upon certification by the tag agent of compliance with the requirements of this subparagraph, such motor vehicle shall not be subject to ad valorem tax as otherwise required under Chapter 5 of this title in the same manner as otherwise provided in paragraph (1) of subsection (b) of this Code section.
- (18) (A) Upon the transfer of title as the result of a divorce decree or court order of a motor vehicle which has not become subject to paragraph (1) of subsection (b) of this Code section, the person who receives such motor vehicle shall, subsequent to the transfer of title of such motor vehicle, continue to be subject to the ad valorem tax under Chapter 5 of this title and shall not be subject to the state and local title ad valorem tax fees provided for in paragraph (1) of subsection (b) of this Code section unless such person makes an affirmative written election to become subject to paragraph (1) of subsection (b) of this Code section. In the event of such election, such transfer shall be subject to the state and local title ad valorem tax fees provided for in paragraph (1) of subsection (b) of this Code section.
- (B) Upon the transfer of title as the result of a divorce decree or court order of a motor vehicle which has become subject to paragraph (1) of subsection (b) of

this Code section, the person who receives such motor vehicle shall, at the time of the transfer of title of such motor vehicle, be subject to a state title ad valorem tax fee in an amount equal to one-half of 1 percent of the fair market value of the motor vehicle and a local title ad valorem tax fee in an amount equal to one-half of 1 percent of the fair market value of the motor vehicle. Such title ad valorem tax fees shall be an alternative ad valorem tax as authorized by Article VII, Section I, Paragraph III(b)(3) of the Georgia Constitution.

- (C)** Any title transfer under this paragraph shall be accompanied by an affidavit of the transferee that such transfer is pursuant to a divorce decree or court order, and the transferee shall attach such decree or order to the affidavit. There shall be a penalty imposed on any person who, in the determination of the state revenue commissioner, falsifies any material information in such affidavit. Such penalty shall not exceed \$2,500.00 as a state penalty and shall not exceed \$2,500.00 as a local penalty as determined by the state revenue commissioner. Such determination shall be made within 60 days of the state revenue commissioner receiving information of a possible violation of this paragraph.
- (e)** The fair market value of any motor vehicle subject to this Code section shall be appealable in the same manner as otherwise authorized for a motor vehicle subject to ad valorem taxation under Code Section 48-5-450; provided, however, that the person appealing the fair market value shall first pay the full amount of the state and local title ad valorem tax prior to filing any appeal. If the appeal is successful, the amount of the tax owed shall be recalculated and, if the amount paid by the person appealing the determination of fair market value is greater than the recalculated tax owed, the person shall be promptly given a refund of the difference.
- (f)** Beginning in 2014, on or before January 31 of each year, the department shall provide a report to the chairpersons of the House Committee on Ways and Means and the Senate Finance Committee showing the state and local title ad valorem tax fee revenues collected pursuant to this chapter and the motor vehicle ad valorem tax proceeds collected pursuant to Chapter 5 of this title during the preceding calendar year.
- (g)** A motor vehicle dealer shall be authorized to apply to the county tag agent of the county in which such motor vehicle is registered for a refund of state and local title ad valorem taxes on behalf of the person who purchased a motor vehicle from such dealer. Such dealer shall promptly pay to such purchaser any refund received by the dealer, which is owed to the purchaser, and in any event, such payment shall be made no later than ten days following the receipt of such refund by the dealer. The county tag agent shall approve or deny the request for refund within 30 days after the filing of the application for refund. If the county tag agent denies the refund, the county tag agent shall specify the reasons for such denial. The motor vehicle dealer shall be authorized to appeal such denial to the commissioner within 30 days following such denial.



**CHAPTER 2**  
**DEPARTMENT OF REVENUE**  
**LOCAL GOVERNMENT SERVICES DIVISION RULES**  
**AND REGULATIONS**

## **CHAPTER 560-11 LOCAL GOVERNMENT SERVICES DIVISION**

### **560-11-1 ORGANIZATION**

#### **560-11-1-.01 Administration: Function**

The Local Government Services Division of the Revenue Department is charged with the responsibility of the overall supervision of the ad valorem tax laws of the State; including the approval of annual ad valorem tax digests; the training of county tax assessors, appraisers, appraisal vendors, tax commissioners, county hearing officers, and members of county boards of equalization; the central assessment of public utility properties for ad valorem tax purposes, including collection of railroad equipment company fees and Public Service Commission fees for maintenance of the Public Service Commission and the distribution of Tennessee Valley Authority payments in lieu of tax; the reporting, remitting and refunding of unclaimed property; the distribution of sales and use tax proceeds, forestland assistance grants, e911 pre-paid wireless fees, international registration plan alternate ad valorem tax, and homeowner tax relief grants; and the granting of extensions when authorized by the State Revenue Commissioner.

### **560-11-2 SUBSTANTIVE REGULATIONS**

#### **560-11-2-.16 Real Estate Transfer Tax-Filing Declaration Forms**

#### **560-11-2-.20 Classification of Real and Personal Property on Individual Ad Valorem Tax Returns**

#### **560-11-2-.21 Classification of Tangible Property on County Tax Digests**

#### **560-11-2-.22 Motor Vehicle Assessments**

Annually the State Revenue Commissioner shall prepare and publish a manual of motor vehicle assessments for the various types of motor vehicle property in Georgia. In addition, the State Revenue Commissioner shall calculate as nearly and completely as is practical the assessed values on motor vehicle prebill applications furnished to the various county tax collectors. In all cases the assessed valuations appearing in the published motor vehicle assessment manual shall be the assessed value of a specific motor vehicle. Provided, however, that when the assessed valuation as calculated on the motor vehicle prebill application for a specific vehicle differs from the assessed valuation for the same vehicle published in the motor vehicle assessment manual by twenty-five dollars (\$25.00) or less, the county tax collector is authorized to accept the prebill valuation as being correct for that specific vehicle for the current year.

#### **560-11-2-.24 County Appraisal Staff - County Classes**

The counties of this State shall be classified according to the following classes for the purpose of determining minimum appraisal staff requirements:

- (a) Class I - Counties having less than 3,000 parcels of real property.

- (b) Class II - Counties having at least 3,000, but less than 8,000 parcels of real property.
- (c) Class III - Counties having at least 8,000, but less than 15,000 parcels of real property.
- (d) Class IV -- Counties having at least 15,000, but less than 25,000 parcels of real property.
- (e) Class V -- Counties having at least 25,000, but less than 35,000 parcels of real property.
- (f) Class VI -- Counties having at least 35,000, but less than 50,000 parcels of real property.
- (g) Class VII -- Counties having at least 50,000, but less than 100,000 parcels of real property.
- (h) Class VIII -- Counties having at least 100,000 or more parcels of real property.
- (i) For the purpose of a Joint County Appraisal Staff any two or more governing authorities may by intergovernmental agreement combine the appraisal staffs and under such agreement the parcels of real property within the counties subject to the agreement shall be totaled and the counties shall be deemed one county for the purposes of determining the class of the counties and the resulting staff requirements.
- (j) For the purpose of intergovernmental agreements where one or more members of the county appraisal staff are shared, the parcels of real property within the counties subject to the agreement shall not be totaled and the counties shall retain their separate character for the purposes of determining the class of the counties and the resulting staff requirements.

**560-11-2-.25 County Appraisal Staff - Qualifications. Amended**

**560-11-2-.27 County Board of Tax Assessors – Vacancy**

**560-11-2-.28 County Appraisal Staff - Duties**

- (1) The county appraisal staff required by law shall be responsible for the appraisal for ad valorem tax purposes of all taxable property, real and personal, that the county board of tax assessors is required to assess. These appraisers shall be made in the manner and at the times required by law.
- (2) The county appraisal staff shall be responsible for the proper maintenance of all tax records and maps for the county in a proper and current condition, and the staff shall have custody of such records.
- (3) The county appraisal staff shall be responsible for preparing annual assessments on all property required to be assessed by the Board of Tax Assessors. Such assessments shall conform to the requirements of law and shall be turned over to the Board of Tax Assessors for approval on the date requested by the Board of Assessors.
- (4) The county appraisal staff shall prepare annual appraisals on all tax-exempt property in the county and shall submit such appraisals to the Board of Tax Assessors.
- (5) Each county appraisal staff member shall successfully complete at least forty (40) hours of training courses prepared and offered by the State Revenue Commissioner during each two (2) years of tenure as staff appraiser. Such training courses shall be offered at least annually in regional locations the sites and dates to be determined by the Revenue Commissioner. Each year the Commissioner shall furnish a listing of the locations and dates of such courses to the Board of Tax Assessors of each county.

(6) The requirements of paragraphs 1, 2, and 3 of this Regulation shall not be effective until such time as the county shall have reached full minimum staff employment as required by law.

(7)

- (a) Individuals performing services under assessment contracts to render advice or assistance to the county board of tax assessors in the assessment and equalization of taxes the establishment of property valuations, or the defense of such valuations shall adhere to state mandated appraisal laws and regulations required under Title 43 including any appraisal certification and training required under Title 43 of Georgia Code. In addition, such individuals shall successfully complete 4 hours of approved appraisal courses annually as follows:
- (i) courses designed for appraisers and offered regionally by the State Revenue Commissioner, or
  - (ii) courses offered as a part of the annual short course for tax assessors through the University of Georgia and the Carl Vinson Institute of Government, or
  - (iii) courses offered online in partnership with the Department of Revenue and the University of Georgia and Carl Vinson Institute of Government, or
  - (iv) courses offered by and approved by the International Association of Assessing Officers, or
  - (v) courses approved by the Georgia Department of Revenue and offered by the Georgia Association of Assessing Officials,
- (b) The annual training requirement in this regulation shall not apply to any employee or vendor who is only performing administrative tasks; who is only collecting data to be used by a county's appraisal staff in the appraisal process; or to any vendor or employee of a vendor who is only providing mapping services as opposed to creating and updating assessment records in addition to mapping.

### **560-11-2-.31 County Board of Tax Assessors-Qualifications**

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

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

- (1) Before any appeal is heard by the members of a County Board of Equalization, each member of the Board shall certify, either verbally or in writing to all other members of the Board hearing the appeal, that he or she is not disqualified from hearing the appeal by virtue of the requirements as provided in O.C.G.A. § 48-5-311(j).
- (2) Pursuant to O.C.G.A. § 48-5-311(j), either party to the appeal may ask that those members of the Board hearing the appeal, to answer questions relating to his or her ability to serve as a member of the Board for that particular appeal, such as:
- (a) Are you related by blood or marriage to the appellant in this case, or to any member of the Board of Tax Assessors or its staff?

- (b) Are you related by blood or marriage to any person duly appointed to represent the appellant or the county's board of tax assessors in this case?
  - (c) Are you employed, or is any member of your immediate family employed, by the parties in this case?
  - (d) Do you have any financial or legal interest in the property subject to appeal in this case?
  - (e) Have you formed any opinion that precludes you from setting a valuation on the property in question in accordance with Georgia law, which requires all property to be appraised at its fair market value, or from equalizing the assessments at 40% of fair market value?
  - (f) Have you discussed the facts of this appeal with anyone other than a fellow Board of Equalization member?
  - (g) Do you know of any other reason that you cannot render a fair and just decision regarding the property in question?
- (3) The members of a Board of Equalization shall answer all such questions under the previously taken oath pursuant to O.C.G.A. § 48-5-311(c)(5).
  - (4) The Judge of Superior Court shall make necessary determinations of disqualification on the request of either party made as required by law.

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

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

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

- (1) General.
  - (a) County boards of tax assessors are required by the State Constitution and state law to continuously maintain assessments of property that are reasonably uniform and that are based on fair market value as defined in § 48-5-2 (except as otherwise stated in § 48-5-6 and § 48-5-7(c.3)). The Department is required by law to periodically review the county digests to determine if the digests are in compliance with such laws.
  - (b) This Regulation imposes no additional requirements on the county boards of tax assessors. It merely sets forth the statistical and other methods that are used by



the Department in making its determination. The Department does not determine when to revalue property. Each county board of tax assessors determines for itself when it believes a revaluation of property is necessary for legal compliance. Failure to revalue property shall not in and of itself be a basis for assessment of any penalty.

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

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

- (a) **County Notification:** In the event a county fails to meet the standards set forth in paragraphs (c) through (k) of subparagraph (2) of this Regulation, the Commissioner shall immediately notify the county. The notification shall include the findings of the State Auditor regarding assessment bias and assessment ratio, and any additional information the Commissioner believes would be of assistance to the county board of tax assessors to establish uniform values.
- (b) **Property Classes:** For purposes of this regulation the real and personal property of each county shall be classified into five classes of property:
  1. Residential (including Residential Transitional and Historic);
  2. Agricultural (including Preferential, Conservation Use, Environmentally Sensitive)
  3. Commercial;
  4. Industrial; (including Brownfield)
  5. Utility.
- (c) **Average Level of Assessment:** The Commissioner shall maintain uniformity among the classes of property by setting standards for the average level of assessment for each.
- (d) **Standard For Level of Assessment:** The standard for level of assessment for all classes of property will be in compliance with the Code if the upper limit of a ninety-five percent confidence interval about the average level of assessment, as established by the State Auditor, is equal to or greater than thirty-six percent, or the lower limit of a ninety-five percent confidence interval about the average level of assessment as established by the State Auditor, is less than forty-four percent.
- (e) **Uniformity Within a Class of Property:** The average assessment variance for each class of property shall be ensured by the coefficient of dispersion of the sample for each class, as established by the State Auditor.
- (f) **Standard for Uniformity:** The standard for uniformity will be deemed to have been met if the resulting coefficient does not exceed fifteen percent for the residential class of property or twenty percent for the non-residential classes of property.
- (g) **Residential Class of Property:** If the State Auditor adds non-residential observations to the residential sample to determine statistics applicable to the residential class of property, the standard of uniformity for the residential class of property shall be the same as for the non-residential classes of property.

- (h) **Assessment Bias:** The level of assessment bias within each class of property shall be measured by the price-related differential as established by the State Auditor. It shall be deemed to be in compliance if the resulting price-related differential is in the range of 0.95 to 1.10, inclusive.
  - (i) **Magnitude of Deficiency:** If a class of property constitutes ten percent or less of the assessed value of the total digest and does not meet the uniformity requirements the Commissioner may approve the digest if, in his judgment, the approval will not substantially violate the concept of uniformity and equalization.
  - (j) **Overall Average Assessment:** The overall average assessment ratio for the county shall be the weighted mean of the average level of assessment of the classes of property as established by the State Auditor.
  - (k) **Deviation of Overall Average Assessment:** If the overall average assessment ratio is less than thirty-six percent, the digest shall be deemed to deviate substantially from the proper assessment ratio. The Commissioner shall assess against the county governing authority additional state tax in an amount equal to the difference between the amount the state's levy of one-quarter mill would have produced if the digest had been at the proper assessment ratio, and the amount the digest actually used for collection purposes would produce.
- (3) Digest Review by Department.**
- (a) County boards of tax assessors are required by the State Constitution and state law to continuously maintain assessments of property that are reasonably uniform and that are based on fair market value. The Department is required by law to periodically review the county digests to determine if the digests are in compliance with such laws.
  - (b) The Department does not determine when to revalue property. Each county board of tax assessors determines for itself when all classes of property should be valued in accordance with § 48-5-299(a). This regulation imposes no additional requirements on the county boards of tax assessors. The Department's digest review cycle is only established to validate that counties are meeting the 40% of fair market value requirement of § 48-5-7, and no particular period or schedule of revaluations is required of the counties by the Department for approval of a county digest. Failure to revalue property shall not in and of itself be a basis for assessment of any penalty.
  - (c) The digest review cycle for each county commencing January 1, 2008, shall be as follows:
    1. January 1, 2010 and every third January 1 thereafter for the following counties: Atkinson, Bacon, Baker, Baldwin, Barrow, Bibb, Bulloch, Carroll, Chattahoochee, Cherokee, Clarke, Clinch, Coffee, Dougherty, Emanuel, Fannin, Fayette, Franklin, Fulton, Gilmer, Glascock, Glynn, Gordon, Greene, Hall, Haralson, Irwin, Jasper, Jenkins, Johnson, Lumpkin, McIntosh, Meriwether, Murray, Muscogee, Newton, Oglethorpe, Paulding, Peach, Pickens, Pike, Putnam, Randolph, Screven, Stewart, Sumter, Tattnall, Tift, Toombs, Turner, Twiggs, Union and Wheeler.
    2. January 1, 2008 and every third January 1 thereafter for the following counties: Bartow, Bleckley, Brooks, Calhoun, Candler, Chatham, Chattooga, Cobb, Colquitt,

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

3. January 1, 2009 and every third January 1 thereafter for the following counties: Appling, Banks, Ben Hill, Berrien, Brantley, Bryan, Burke, Butts, Camden, Catoosa, Charlton, Clay, Clayton, Columbia, Coweta, Crisp, Dade, Decatur, DeKalb, Dodge, Dooly, Elbert, Evans, Floyd, Hancock, Heard, Jackson, Jeff Davis, Jefferson, Miller, Mitchell, Morgan, Oconee, Pulaski, Quitman, Rabun, Richmond, Schley, Seminole, Stephens, Talbot, Taylor, Telfair, Thomas, Towns, Troup, Walker, Walton, Washington, Webster, White, Whitfield and Wilkinson.
- (4) If all three of the following circumstances exist, the Commissioner may require the county tax receiver or tax commissioner to submit the digest being used for the collection of taxes. That digest may be reviewed by the Commissioner to determine if the valuations are reasonably uniform and equalized between and within counties and to determine if any grants should be withheld or any specific penalty assessed:
  - (a) The county tax receiver or tax commissioner has failed to submit the digest by the due date and has exhausted any extensions of the due date granted by the Commissioner;
  - (b) The county governing authority has successfully petitioned the superior court under § 48-5-310 to authorize the temporary collection of taxes on the basis of a temporary digest; and
  - (c) The property under appeal or subject to appeal is less than the maximum allowable under § 48-5-304(a).

## **560-11-2-.58 Rollback of Millage Rate When Digest Value Increased by Reassessments**

## **560-11-2-.62 Appraisal Staff Definitions**

# **560-11-5 TAXATION OF STANDING TIMBER**

## **560-11-5-.02 Definitions**

- (1) For the purpose of implementing O.C.G.A. Section 48-5-7.5 and these regulations, the following terms are defined to mean:
  - (a) "Applicable millage rates" shall mean the millage levied by the taxing authority on tangible property for the preceding calendar year.
  - (b) "Sale" of standing timber shall mean the arm's length, bona fide sale of standing timber for harvest separate and apart from the underlying land and shall not include the simultaneous sale of a tract of land and the standing timber thereon.
  - (c) "Standing timber" shall be defined to include softwood and hardwood pulpwood, chip

and saw logs, saw timber, poles, posts, and fuel wood. Such term shall not include any of the following:

1. Orchard trees, ornamental or Christmas trees;
2. By-products of standing timber such as straw, cones, leaves or turpentine;
3. By-products of harvesting such as bark or stumps that are not included in the consideration between buyer and seller in lump sum or unit price sales; or
4. Fuel wood harvested by the owner from his own property which is used exclusively for heating purposes within the premises occupied by said owner.

(d) "Timber product classes" shall be defined as follows:

- 1) softwood pulpwood,
- 2) hardwood pulpwood,
- 3) softwood chip-n-saw,
- 4) softwood saw timber,
- 5) hardwood saw timber,
- 6) softwood poles,
- 7) softwood posts,
- 8) hardwood posts,
- 9) softwood fuel wood chips,
- 10) hardwood fuel wood chips,
- 11) softwood fuel wood firewood and
- 12) hardwood fuel wood firewood.

(e) "Total property tax digest" means the total net assessed value to which the levy for maintenance and operations purposes shall be applied and consists of all taxable tangible real and personal property appearing on the county tax digest for the applicable tax year including motor vehicle property, mobile home property and property of railroad and public utility companies.

### **560-11-5-.03 Taxable Timber Sales and Harvests**

(1) Where standing timber is sold by timber deed, contract, lease, agreement, or otherwise to be harvested within a three-year period after the date of the sale and for a lump sum price, the standing timber to be harvested within said three-year period shall be assessed for taxation as of the date of the sale. The tax shall be levied based upon the total lump sum price paid by the purchaser in an arm's length bona fide sale.

(a) Ad valorem taxes shall be assessed as of the date of the sale and shall be payable by the seller who shall remit the amount of the taxes due to the purchaser in the form of a negotiable instrument payable to the tax collector or tax commissioner. The purchaser shall remit the seller's negotiable instrument to the tax collector or tax commissioner within five business days after receipt from the seller along with a report of the sale using form PT-283T or a computer-generated form PT-283T as approved by

the Commissioner, and the tax collector or tax commissioner shall promptly deliver a receipt to the seller showing the tax has been paid. The purchaser shall be personally liable for the tax if he does not remit the seller's negotiable instrument as required or if he fails to collect the negotiable instrument from the seller and in any event, he shall remit the taxes due to the tax collector or tax commissioner within five business days of the date of the sale. With said remittance, a copy of the report form PT-283T or a computer-generated form PT-283T as approved by the Commissioner, shall also be furnished by the purchaser to the board of tax assessors.

- (b)** Any standing timber described in any sale instrument which is not harvested within three years after the date of the sale shall later be assessed for taxation following its future harvest or sale. In the event it is later harvested by the original purchaser, the board of tax assessors shall use the table of values prescribed by the Commissioner in Regulation 560-11-5-.05 (1), and the taxes shall be paid by the original purchaser; otherwise, upon its sale or harvest after three years, the procedures for taxation shall be according to the manner in which such timber is sold or harvested.
- (c)** The ad valorem taxes on lump sum sales shall be paid to the tax collector or tax commissioner prior to and as a prerequisite for the filing for record with the clerk of superior court any instrument conveying the standing timber upon which taxes are due and payable, and no such instrument shall be recorded unless it has entered upon or attached thereto a certificate from the tax collector or tax commissioner showing that the taxes have been paid.
- (2)** Where standing timber is sold, in an arm's length, bona fide sale, by timber deed, contract, lease, agreement, or otherwise by unit prices, the purchaser shall furnish to the seller and to the board of tax assessors a report form PT-283T or a computer-generated form PT-283T as approved by the Commissioner, reflecting the total dollar value paid to the seller as well as the individual volumes of timber harvested identified by timber product classes. The report shall cover all timber harvested through the last business day of the immediately preceding calendar quarter and it shall be furnished to the seller and the board of tax assessors within 45 days after the end of the calendar quarter during which the timber is harvested. A copy of the report PT-283T or a computer-generated form PT-283T as approved by the Commissioner shall also be furnished by the seller to the board of tax assessors within 60 days after the end of each calendar quarter.

  - (a)** Ad valorem taxes shall be payable to the tax collector or tax commissioner as specified by Regulation 560-11-5-.04 (3) based upon the fair market value of the harvested timber which shall be the total dollar values paid by the purchaser in the arm's length, bona fide sale.
- (3)** Where standing timber is harvested by the owner of such timber from his own land, the owner shall, within 45 days after the end of the calendar quarter, file with the board of tax assessors a report form PT- 283T or a computer-generated form PT-283T as approved by the Commissioner of the volumes harvested through the last business day of the calendar quarter.

  - (a)** Ad valorem taxes on owner harvest timber shall be payable to the tax collector or tax commissioner within 45 days after the end of the calendar quarter, based upon the fair market value of the harvested timber which shall be the total dollar values calculated using the average standing timber price schedule specified by Regulation 560-11-5-.05

(1).

(4) Every sale and every harvest of standing timber occurring on or after January 1, 1992, that has not been previously taxed shall be a taxable event, with the exception of those sales of standing timber not to be harvested within three years. Where standing timber is sold or harvested (excepting only a sale not for harvest within three years) in any manner which is not a reportable taxable event under these Regulations as a lump sum sale, a unit price sale, or an owner harvest, such timber shall be subject to ad valorem taxation. Any such sale or harvest shall be reported and taxed under whichever provisions of this Regulation is most nearly applicable.

(a) Where, at the time of harvest, the standing timber owner does not own the underlying land and has not acquired such timber under a taxable lump sum or unit price sale, as would be the case where timber has been acquired prior to January 1, 1992, the harvest of such timber shall be a taxable event and shall be treated as an owner harvest, with the exception that the reporting requirement and the payment of taxes due shall be the responsibility of the owner of the standing timber instead of the underlying landowner.

#### **560-11-5-.04 Procedures for Timber Taxation**

- (1) Standing timber shall be assessed for ad valorem taxation only once upon its sale or harvest as required by O.C.G.A. 48-5-7.5 and these Regulations. Said tax shall be levied upon the 100% fair market value of such timber as prescribed using applicable millage rates for each taxing jurisdiction.
- (2) Where, with respect to any taxable event, the board of tax assessors has reason to believe that the reported sale is other than an arm's length, bona fide sale or that the reported volumes or values of the transaction are incorrect, the board may inquire into the transaction and make corrections to the fair market value of the timber in the same manner as changes to the fair market value of other taxable, tangible property are made. In any such instance, the taxpayer notification procedures, the appeal rights and remedies, and the hearing procedures shall all be accomplished in the same manner that other ad valorem tax assessments and appeals are accomplished.
- (3) The tax collector or tax commissioner shall prepare and mail, on a quarterly basis, tax bills for ad valorem taxes due on sales and harvests other than lump sum sales and owner harvests. Except as otherwise provided in these Regulations, such taxes shall be payable by the landowner within 30 days after receipt of the tax bill. For the purpose of this Regulation, receipt of the tax bill shall be presumed to have occurred within one day after the date of mailing for taxpayers who are residents of the county and within three days after the date of mailing for taxpayers who are not residents of the county.

#### **560-11-5-.05 Average Standing Timber Price Schedule**

- (1) Within 60 days after the end of each calendar year, the Commissioner shall provide the board of tax assessors of each county with a table of the weighted average prices paid for the various timber product classes in each county or region of the State. In preparing this table of standing timber values, the Commissioner, so far as is reasonable and applicable, shall consider reports received by the Department of prices paid, as well as information prepared by, and recommendations received from the Georgia Forestry Commission. The

Commissioner may also consider commercially available sources of average sales prices. The most recent table of standing timber values furnished by the Commissioner shall be used by the board of tax assessors to determine the fair market value of harvested timber subject to taxation for taxable events other than taxable lump sum sales or taxable unit price sales. Taxpayer appeals of such determinations by the board of tax assessors 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. Section 48-5-311.

- (2) In addition to the filing with appropriate county authorities of reports of standing timber harvests and sales, purchasers shall, within 45 days after the end of the quarter, file with the Commissioner composite quarterly reports, using form PT-283TQ, of all purchases by county of standing timber by lump sum sales and unit price sales reflecting total volumes and total prices paid for the various timber product classes purchased during the preceding calendar quarter. Such quarterly reports shall not be subject to the penalty provisions of O.C.G.A. Section 48-5-7.5. Such quarterly reports shall be subject to the confidentiality provisions of O.C.G.A. Section 48-2-15.

## **560-11-6 CONSERVATION USE PROPERTY**

### **560-11-6-.02 Definitions**

For the purposes of implementing O.C.G.A. Section 48-5-7.4, O.C.G.A. Section 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) "Continued Covenant" means a covenant entered and carried forward, for the remainder of the original or renewal covenant term, by a qualified subsequent owner who has acquired all or a part of a property;
- (d) "Good Faith Production" means:
  - 1. A viable utilization of the property for the primary purpose of any good faith production, including, but not limited to, subsistence farming or commercial production, from or on the land of agricultural products or timber;
  - 2. The primary use of the property shall include, but not be limited to:
    - (i) Raising, harvesting, or storing crops;
    - (ii) Feeding, breeding, or managing livestock or poultry;
    - (iii) Producing plants, trees, fowl, or animals;

- (iv) Production of aquaculture, horticulture, floriculture, forestry, dairy, livestock, poultry, or apiarian products; or
  - (v) Land conservation and ecological forest management in which commercial production of wood and wood fiber products may be undertaken primarily for conservation and restoration purposes rather than financial gain.
3. Factors which may be considered in determining if such property is primarily used for good faith production of agricultural products or timber may include, but are not limited to:
- (i) The nature of the terrain;
  - (ii) the density of the marketable product on the land;
  - (iii) the past usage of the land;
  - (iv) the economic merchantability of the agricultural product; and
  - (v) the utilization or non-utilization of recognized care, cultivation, harvesting, and like practices applicable to the product involved and any implemented plans thereof;
- (e) "Maintenance in its natural condition" means to manage the land in such a manner that would not ruin, erode, harm, damage, or spoil the nature, distinctiveness, identity, appearance, utility or function that originally characterized the property as environmentally sensitive under O.C.G.A. Section 48-5-7.4(a)(2);
  - (f) "Mineral exploration" means the examination and investigation of land by drilling, boring, sinking shafts, driving tunnels, or other means, for the purpose of discovering the presence and extent of valuable minerals. Such term does not include the excavation of any such minerals after discovery;
  - (g) "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;
  - (h) "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. Section 48-5-7.4;
  - (i) "Renewal Covenant" means an additional ten-year covenant entered upon the expiration of a previous ten-year covenant; provided, however, that the owner may enter into a renewal contract in the ninth year of a covenant period;
  - (j) "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.
  - (k) "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 legal boundaries so as to facilitate the proper identification of such property on the board of tax assessors' maps and records.



### 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 10 acres, after the appropriate underlying property is excluded for residential use, shall be 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
  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 affect 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 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.

#### **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 (Rev. 09/06) 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)** In those counties where U.S. Department of Agriculture, Natural Resources Conservation Service soil survey maps are available, 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.
- (3)** In those counties where the board of tax assessors has not been able to obtain U.S. Department of Agriculture, Natural Resources Conservation Service soil survey maps, the board of tax assessors shall determine the soil types of the applicant's property using the best information available.
- (4)** 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.
- (5)** 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-water runoff or by otherwise enhancing the water quality of surface or ground waters of this state.
- (6)** Application for conservation use value assessment may be withdrawn prior to the current year's "final assessment" as defined in these regulations.
- (7)** 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 ten-year period of the original covenant subject to the following provisions:
  - (a)** The subsequently acquired qualified property shall be less than 50 acres; and

- (b) Such subsequently acquired 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 contiguous acreage to be added to an existing covenant shall be made for the add-on acreage only and shall reference the existing original covenant by parcel number.
- (8) 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 apply for continuation 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 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 apply for continuation of the current use assessment within thirty (30) days of the date of 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.
- (9) 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.
- (10) When property receiving current use assessment and subject to a conservation use covenant is transferred to an estate or heirs by virtue of the death of a covenant owner, and the estate or heirs fail to apply for a continuation of the current use assessment on or before the deadline for filing tax returns in the year following the year in which the death 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 in which case the board of tax assessors shall send to any remaining parties to the covenant, whether the estate or the heirs a notice entitled "Notice of Intent to Terminate a Conservation Use Covenant." The notice shall set forth the following:
- (a) the requirement of the estate or heirs to the property currently receiving current use assessment to apply for a continuation of the current use assessment within thirty (30) days of the date of postmark of the notice;
  - (b) the requirement of the estate or heirs to 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; and

- (c) the change to the assessment if the covenant is breached.
- (11)** In the event the estate or heirs fail to apply during the period provided for in paragraph (9) 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 estate or heirs' 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 without penalty.
- (12)** 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 pursuant to O.C.G.A. § 48-5-306 and shall return any filing fee paid by the applicant.
- (13)** 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.

### **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:

- (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 postmark of the notice;
  - (b) the requirement of the new 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 new 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-year period.

#### **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 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. The lien against the property for penalties and interest shall attach as of the date of such disqualifying event.
- (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 from the date the covenant was breached.
- (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 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.

#### **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 properties. 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 pastureland) 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 pastureland, 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;

- 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.
- (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;
    - (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 provided for in O.C.G.A. 48-5-269 plus the effective ad valorem tax rate;
  - 2.**
    - (i)** For pastureland, the income valuation increment of the conservation use valuation shall be based on the five-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 pastureland 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-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 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;
  - (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;
  - (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 arm's 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;
  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.

- (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.

## 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. Section 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. Section 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. Section 48-5-311.
- (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. Section 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. Section 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. Section 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. Section 48-5-311.

### **560-11-6-.09 Table of Conservation Use Land Values**

- (1) For the purpose of prescribing the 2019 current use values for conservation use land, the state shall be divided into the following nine Conservation Use Valuation Areas (CUVA 1 through CUVA 9) and the following accompanying table of per acre land values shall be applied to each acre of qualified land within the CUVA for each soil productivity classification for timber land (W1 through W9) and agricultural land (A1 through A9):
- (a) CUVA #1 counties: Bartow, Catoosa, Chattooga, Dade, Floyd, Gordon, Murray, Paulding, Polk, Walker, and Whitfield. Table of per acre values: W1 877, W2 787, W3 715, W4 656, W5 601, W6 557, W7 522, W8 479, W9 437, A1 1,593, A2 1,506, A3 1,396, A4 1,280, A5 1,154, A6 1,033, A7 917, A8 805, A9 689;
  - (b) CUVA #2 counties: Barrow, Cherokee, Clarke, Cobb, Dawson, DeKalb, Fannin, Forsyth, Fulton, Gilmer, Gwinnett, Hall, Jackson, Lumpkin, Oconee, Pickens, Towns, Union, Walton, and White. Table of per acre values: W1 1,188, W2 1,075, W3 970, W4 878, W5 809, W6 760, W7 716, W8 658, W9 597, A1 1,745, A2 1,556, A3 1,384, A4 1,223, A5 1,096, A6 978, A7 877, A8 796, A9 716;
  - (c) CUVA #3 counties: Banks, Elbert, Franklin, Habersham, Hart, Lincoln, Madison, Oglethorpe, Rabun, Stephens, and Wilkes. Table of per acre values: W1 1,188, W2 1,075, W3 970, W4 878, W5 809, W6 740, W7 623, W8 506, W9 424, A1 1,328, A2 1,208, A3 1,081, A4 958, A5 835, A6 754, A7 619, A8 518, A9 437;
  - (d) CUVA #4 counties: Carroll, Chattahoochee, Clayton, Coweta, Douglas, Fayette, Haralson, Harris, Heard, Henry, Lamar, Macon, Marion, Meriwether, Muscogee, Pike, Schley, Spalding, Talbot, Taylor, Troup, and Upson. Table of per acre values: W1 857, W2 767, W3 696, W4 638, W5 555, W6 518, W7 450, W8 389, W9 316, A1 1,089, A2 975, A3 894, A4 799, A5 701, A6 582, A7 504, A8 391, A9 281;
  - (e) CUVA #5 counties: Baldwin, Bibb, Bleckley, Butts, Crawford, Dodge, Greene, Hancock, Houston, Jasper, Johnson, Jones, Laurens, Monroe, Montgomery, Morgan, Newton, Peach, Pulaski, Putnam, Rockdale, Taliaferro, Treutlen, Twiggs, Washington, Wheeler, and Wilkinson. Table of per acre values: W1 730, W2 676, W3 621, W4 568, W5 513, W6 462, W7 404, W8 350, W9 291, A1 807, A2 702, A3 653, A4 597, A5 533, A6 453, A7 371, A8 293, A9 214;

- (f) CUVA #6 counties: Bulloch, Burke, Candler, Columbia, Effingham, Emanuel, Glascock, Jefferson, Jenkins, McDuffie, Richmond, Screven, and Warren. Table of per acre values: W1 722, W2 663, W3 605, W4 551, W5 492, W6 436, W7 378, W8 319, W9 260, A1 915, A2 803, A3 736, A4 676, A5 597, A6 497, A7 404, A8 310, A9 218;
- (g) CUVA #7 counties: Baker, Calhoun, Clay, Decatur, Dougherty, Early, Grady, Lee, Miller, Mitchell, Quitman, Randolph, Seminole, Stewart, Sumter, Terrell, Thomas, and Webster. Table of per acre values: W1 773, W2 703, W3 641, W4 575, W5 507, W6 443, W7 378, W8 310, W9 245, A1 1,065, A2 965, A3 857, A4 745, A5 639, A6 535, A7 414, A8 314, A9 212;
- (h) CUVA #8 counties: Atkinson, Ben Hill, Berrien, Brooks, Clinch, Coffee, Colquitt, Cook, Crisp, Dooly, Echols, Irwin, Jeff Davis, Lanier, Lowndes, Telfair, Tift, Turner, Wilcox, and Worth. Table of per acre values: W1 841, W2 762, W3 682, W4 605, W5 526, W6 450, W7 370, W8 293, W9 238, A1,075, A2 1,016, A3 917, A4 818, A5 719, A6 621, A7 479, A8 389, A9 287;
- (i) CUVA #9 counties: Appling, Bacon, Brantley, Bryan, Camden, Charlton, Chatham, Evans, Glynn, Liberty, Long, McIntosh, Pierce, Tattnall, Toombs, Ware, and Wayne. Table of per acre values: W1 851, W2 767, W3 696, W4 619, W5 537, W6 464, W7 385, W8 307, W9 238, A1 997, A2 960, A3 862, A4 767, A5 672, A6 575, A7 479, A8 382, A9 287.

## **560-11-9 UNIFORM PROCEDURES FOR MOBILE HOMES**

### **560-11-9-.01 Purpose and Scope**

### **560-11-9-.02 Definitions**

### **560-11-9-.03 Return of Mobile Homes**

### **560-11-9-.04 Issuance of Permits; Display of Decals**

### **560-11-9-.05 Inspections and Citations**

### **560-11-9-.07 Valuation Methods**

- (1) Beginning January 1, 1999, and effective for the tax year 1999 and each subsequent tax year, the fair market value of all mobile homes subject to taxation under Article 10 of Chapter 5 of Title 48 shall be determined by the county board of tax assessors in accordance with these regulations. For the tax year 1998, the tax commissioner shall continue to use the procedures as shown in the manual provided by the Commissioner to determine the fair market value of all mobile homes.
- (2) The valuation methods employed by the county board of tax assessors shall result in a fair market value, as fair market value is defined in O.C.G.A. Section 48-5-2, of each mobile home as of January 1 of the tax year for which the digest is being prepared.
- (3) The county board of tax assessors may use any combination of the following when arriving at the value for each mobile home, however, the approach used may not differ

substantially from that employed to arrive at the value for a mobile home subject to tax under Article 1 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated. For any valuation guides that may be used, the board shall select those most likely to reflect the value of each mobile home as of January 1 and make any further adjustments deemed necessary to arrive at a January 1 valuation.

- (a) The appropriate periodic edition of the National Automobile Dealers Association's Manufactured Housing Appraisal Guide;
  - (b) The appropriate periodic edition of the Marshall & Swift Residential Valuation System; and
  - (c) Any other valuation model using commonly accepted appraisal techniques including, but not limited to, quality classes, unit cost, observed obsolescence and value tables for structural additions.
- (4) Each mobile home shall be assessed at 40 percent of the fair market value determined in accordance with this Regulation.
- (5) Reserved.

## **560-11-9-.08 Mobile Home Digest**

## **560-11-9-.09 Appeals**

- (1) A mobile homeowner who disagrees with the county board of tax assessor's assessment of their mobile home(s) on the ad valorem property tax bill may challenge such assessment by either electing to:
- (a) Appeal the assessed value of the mobile home in the same manner as other ad valorem tax assessment appeals are made and decided pursuant to O.C.G.A. Section 48-5-311 as follows:
    1. Filing a notice of appeal with the county's board of tax assessors within 45 days of date printed on the ad valorem property tax bill, or by April 1st, whichever occurs later.
    2. After an appeal has been filed, the county's board of tax assessors shall notify the county's tax commissioner within 10 days of said appeal. A temporary tax bill, like those in O.C.G.A. § 48-5-311(E)(6)(d)(iii)(I), shall be issued for every mobile home which is on appeal. A mobile homeowner shall pay their temporary tax bill by April 1, if the appeal is not yet resolved, or upon receipt, if temporary tax bill is issued after April 1. Upon payment of temporary tax bill, the county's tax commissioner shall issue a mobile home location permit. Nothing in this Regulation shall prevent the county's tax commissioner from assessing penalties and interest against a mobile homeowner who receives a temporary tax bill after April 1 because said owner failed to return their mobile home by April 1.
    3. Once there is a determination regarding the appeal, the county's board of tax assessors shall, within 10 days, notify the county's tax commissioner of the final assessment established by such appeal. If necessary, the county's tax commissioner shall then, within 10 days, bill the taxpayer for any additional ad valorem property taxes due or issue a refund if there has been an overpayment

of taxes.

- (b) Secure a location permit for the year in question by filing with the county's tax commissioner an affidavit of illegality and by filing either 1) a surety bond issued by a State authorized surety company or 2) a bond approved by the clerk of superior court of the county or 3) a cash bond, pursuant to O.C.G.A. Section 48-5-450.
- (2) If the owner of a mobile home, subsequent to paying the tax without having filed an appeal or affidavit of illegality, believes that the tax has been illegally or erroneously assessed and collected, then the owner may file with the county governing authority a request for a refund. Such request may be filed within three years of the date of payment of the tax under the provisions of O.C.G.A. § 48-5-380.
  - (a) Only errors of fact or law which have resulted in erroneous or illegal taxation shall be considered. A mobile home owner's claim based on mere dissatisfaction with an assessment shall not constitute that the assessment was erroneous or illegal within the meaning of O.C.G.A. § 48-5-380.

### **560-11-9-.12 Notice of Right to Appeal Mobile Home Valuation**

Any proposed assessment or ad valorem property tax bill sent to an owner of a mobile home(s), by a county's board of tax assessor, shall contain the following sentence in bold:

***"If you feel that your mobile home's value is too high for ad valorem taxation purposes, you should file an appeal or tax return with County Board of Tax Assessors for an opportunity to have your mobile home's value reduced."***

## **560-11-11 FOREST LAND PROTECTION**

### **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.
  - (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 easements, public right-of-way, natural boundary, land lot line or railroad tracks 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 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)** "Good Faith Subsistence" shall mean the use of the forest land in a manner that minimizes change or damage to the natural state of the forest land.
- (h)** "Local Board of Tax Assessors" shall mean the local board of tax assessors in any county where the application for QFLP designation is filed, and the real property is located.
- (i)** "Notice of Breach" shall mean the notice sent by the Local Board of Tax Assessors in the county where the breach has occurred.
- (j)** "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.
- (k)** "Plat" shall mean a legible drawing done on, at a minimum, 8 /12; 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.
- (l)** "Primary Use" shall mean a use of the tract which is
  - 1. According to O.C.G.A. § 48-5-7.7(b)(2)(C).
  - 2. As set forth on the Department's application form and is approved by the Local Board of Tax Assessors.
- (m)** "QFLP" stands for Qualified Forest Land Property of greater than 200 acres
  - 1. That meets the qualifications set forth in FLPA.
  - 2. That has been approved by the Local Board of Tax Assessors.
  - 3. For which a QFLP Covenant has been
    - (i)** Signed on behalf, or by all parties owning an undivided interest in the fee simple tract; and
    - (ii)** Recorded in any appropriate county's real property index.
- (n)** "QFLP Covenant" shall mean the fifteen (15) year covenant required by O.C.G.A. § 48-5-7.7. The form of the covenant shall be in the manner prescribed by the Commissioner.
- (o)** "Secondary Use" shall mean secondary uses of the tract as specified in the FLPA as determined by the Local Board of Tax Assessors.
- (p)** "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 covenant applicant and the board of tax



assessors' maps and records.

### **560-11-11-.02 Withdrawing or Amending an Application for QFLP**

- (1)** An application for QFLP may be amended or withdrawn at any time prior to the initial approval or denial of such QFLP application by the local county board of tax assessors by giving notification of such amendment or withdrawal.
- (2)** The notification for amending or withdrawing the application shall be considered received by the local board of assessors when hand delivered or when date stamped by the United States Postal Service.

### **560-11-11-.03 QFLP Qualifications**

- (1)** The Local Board of Tax Assessors shall be responsible for approving all QFLP applications.
- (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
  - (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 as listed in O.C.G.A. § 48-5-7.7(b)(2)(C).
- (3)** 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.
- (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.

- (a) If one or more counties deny a QFLP 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. 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 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 Forest Land Conservation Use 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 covenant 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 county assessors. An acceptable alternative property boundary description may include a parcel map drawn by the county cartographer or GIS technician.

#### **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 application for the FLPA.
- (2) All applicants for QFLP designation shall include with their application
  - (a) A plat of the tract for which QFLP designation is sought.
  - (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.

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

- (1)** A Local Board of Tax Assessors shall have one hundred twenty 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 for forest land conservation use assessment may be filed at any time while such appeal is pending.
- (3)** Upon approval, the Local Board of Tax Assessors must notify the applicant within thirty (30) days of its decision and provide the QFLP Covenant to the applicant for signatures.
- (4)** Upon 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.
- (5)** 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.

### **560-11-11-.06 QFLP Covenant**

- (1)** All contiguous tracts of an owner within a county for which forest land conservation use assessment is sought shall be in a single covenant unless otherwise required by law.
- (2)** 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.
- (3)** 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).
- (4)** 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.

### **560-11-11-.07 Notice of Breach**

- (1)** The Notice of Breach shall be sent within thirty (30) days from the day that the breach is reported to or discovered by the Local Board of Tax Assessors to

- (a) The owner(s) of record of the real property in breach.
  - (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;
  - (b) The date the breach was reported or discovered;
  - (c) An explanation of the breach;
  - (d) Whether the remedy is remediation or cease and desist of the breach;
  - (e) The date by which the remedy must be completed; and
  - (f) The penalty for not remedying or ceasing or desisting the breach.
- (3) The thirty (30) day period for the owner to remedy the breach shall not begin until the owner has received a Notice of Breach that complies with the requirements set forth in this Regulation.

### **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 receipt 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.
  - (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.

### **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 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 fifteen (15) 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.
- (3) 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.
- (a) Appeals resulting from denial of release shall be made in the manner provided for in O.C.G.A. § 48-5-311.

### **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.

### **560-11-11-.12 Table of Forest Land Protection Act Land Use Values**

- (1) For the purpose of prescribing the 2019 current use values for conservation use land, the state shall be divided into the following nine Forest Land Protection Act Valuation Areas (FLPAVA 1 through FLPAVA 9) and the following accompanying table of per acre land values shall be applied to each acre of qualified land within the FLPAVA for each soil productivity classification for timber land (W1 through W9):
  - (a) FLPAVA #1 counties: Bartow, Catoosa, Chattooga, Dade, Floyd, Gordon, Murray, Paulding, Polk, Walker, and Whitfield. Table of per acre values: W1 877, W2 787, W3 715, W4 656, W5 601, W6 557, W7 522, W8 479, W9 437;
  - (b) FLPAVA #2 counties: Barrow, Cherokee, Clarke, Cobb, Dawson, DeKalb, Fannin, Forsyth, Fulton, Gilmer, Gwinnett, Hall, Jackson, Lumpkin, Oconee, Pickens, Towns, Union, Walton, and White. Table of per acre values: W1 1,188, W2 1,075, W3 970, W4 878, W5 809, W6 760, W7 716, W8 658, W9 597;
  - (c) FLPAVA #3 counties: Banks, Elbert, Franklin, Habersham, Hart, Lincoln, Madison, Oglethorpe, Rabun, Stephens, and Wilkes. Table of per acre values: W1 1,188, W2 1,075, W3 970, W4 878, W5 809, W6 740, W7 623, W8 506, W9 424;
  - (d) FLPAVA #4 counties: Carroll, Chattahoochee, Clayton, Coweta, Douglas, Fayette, Haralson, Harris, Heard, Henry, Lamar, Macon, Marion, Meriwether, Muscogee, Pike, Schley, Spalding, Talbot, Taylor, Troup, and Upson. Table of per acre values: W1 857, W2 767, W3 696, W4 638, W5 555, W6 518, W7 450, W8 389, W9 316;
  - (e) FLPAVA #5 counties: Baldwin, Bibb, Bleckley, Butts, Crawford, Dodge, Greene, Hancock, Houston, Jasper, Johnson, Jones, Laurens, Monroe, Montgomery, Morgan, Newton, Peach, Pulaski, Putnam, Rockdale, Taliaferro, Treutlen, Twiggs, Washington, Wheeler, and Wilkinson. Table of per acre values: W1 730, W2 676, W3 621, W4 568, W5 513, W6 462, W7 404, W8 350, W9 291;
  - (f) FLPAVA #6 counties: Bulloch, Burke, Candler, Columbia, Effingham, Emanuel, Glascock, Jefferson, Jenkins, McDuffie, Richmond, Screven, and Warren. Table of per acre values: W1 722, W2 663, W3 605, W4 551, W5 492, W6 436, W7 378, W8 319, W9 260;
  - (g) FLPAVA #7 counties: Baker, Calhoun, Clay, Decatur, Dougherty, Early, Grady, Lee, Miller, Mitchell, Quitman, Randolph, Seminole, Stewart, Sumter, Terrell, Thomas, and Webster. Table of per acre values: W1 773, W2 703, W3 641, W4 575, W5 507,

W6 443, W7 378, W8 310, W9245;

- (h) FLPAVA #8 counties: Atkinson, Ben Hill, Berrien, Brooks, Clinch, Coffee, Colquitt, Cook, Crisp, Dooly, Echols, Irwin, Jeff Davis, Lanier, Lowndes, Telfair, Tift, Turner, Wilcox, and Worth. Table of per acre values: W1 841, W2 762, W3 682, W4 605, W5 526, W6 450, W7 370, W8 293, W9 238;
- (i) FLPAVA #9 counties: Appling, Bacon, Brantley, Bryan, Camden, Charlton, Chatham, Evans, Glynn, Liberty, Long, McIntosh, Pierce, Tattnall, Toombs, Ware, and Wayne. Table of per acre values: W1 851, W2 767, W3 696, W4 619, W5 537, W6 464, W7 385, W8 307, W9238.

### **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 forest land 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 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 additional qualified property shall be valued in accordance with O.C.G.A. § 48-5-269.
  - (a) When calculating the additional 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).

## **560-11-12 COUNTY BOARD OF EQUALIZATION HEARINGS**

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

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

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

The hearings held under these Regulations shall only be as formal as is necessary to preserve order and be compatible with the principles of justice.

- (1) Parties shall have the right to be represented by legal counsel.
- (2) The parties have a right to obtain, not less than seven (7) days prior to the date of the

hearing, the documentary evidence and the names and addresses of the witnesses to be used at the hearing by making a written request to the Board of Equalization and to the other party not less than 10 days prior to the date of the hearing. Any such documentary evidence or witnesses not provided upon a timely written request may be excluded from the hearing at the discretion of the Board of Equalization.

- (3) The parties shall also have the right to respond and present evidence on all issues involved and to cross examine all witnesses.
- (4) The standard of proof on all issues in the hearing shall be a preponderance of the evidence. A preponderance of the evidence is established when one party's evidence is of greater weight or is more convincing than the evidence offered in opposition to it, in that, the evidence, when taken as a whole, shows that the fact in dispute has been proven by one party to be more probable than not.
- (5) When a hearing is being held regarding a county's board of tax assessors' tax assessment, the county board of tax assessors shall have the burden of proof in regard to value, not taxability.
  - (a) If a hearing is being held regarding a property tax exemption, then the party seeking the property tax exemption shall have the burden of proving entitlement.
- (6) The county board of tax assessors shall present its case first unless a taxpayer elects to present first.

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

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



1. The parties shall be notified of any material so noticed and shall be afforded the opportunity to contest such material at the hearing.

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

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

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

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

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

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

#### **560-11-12-.07 Case Presentment**

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

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

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

### **560-11-12-.09 Hearing Location**

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

## **560-11-13 COUNTY HEARING OFFICERS**

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

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

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

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

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

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

### **560-11-13-.07 Case Presentment**

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

### **560-11-13-.09 Hearing Location**

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

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

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

## **560-11-14 STATE AND LOCAL TITLE AD VALOREM TAX FEE**

### **560-11-14-.01 Definitions**

(1) As used in O.C.G.A. § 48-5C-1 and in these regulations, the term:

- (a) "Commercial motor vehicle" shall have the same meaning as provided for in O.C.G.A. § 40-1- 8.3.
- (b) "Commissioner" means the State Revenue Commissioner.
- (c) "County tag agent" or "tag agent" means those persons that have been designated as tag agents of the commissioner as provided for in O.C.G.A. § 40-2-23.
- (d) "Date of purchase" means the date so provided on the application for certificate of title.

- (e) "Dealer" or "dealership" shall have the same meaning as a dealer of new or used motor vehicles as provided for in O.C.G.A. § 40-3-2(3).
- (f) "Department" means the Department of Revenue.
- (g) "Electronic Title and Registration" means an electronic process by which a dealer, through a vendor authorized by the commissioner, initiates the motor vehicle titling and registration process and by which the application for certificate of title is considered received by the county tagagent.
- (h) "Fair market value" means:
  - 1. For a new motor vehicle which is purchased, the greater of the retail selling price or the average of the current fair market value and the current wholesale value of a motor vehicle for a vehicle listed in the current motor vehicle ad valorem assessment manual utilized by the state revenue commissioner in determining the taxable value of a motor vehicle under Code Section 48-5-442, less any reduction for the trade-in value of another motor vehicle and any rebate or any cash discounts provided by the selling dealer and taken at the time of sale. The retail selling price shall include any charges for labor, freight, delivery, dealer fees, and similar charges and dealer add-ons and mark-ups, but shall not include any extended warranty or maintenance agreement itemized on the dealer's invoice to the customer or any finance, insurance, and interest charges for deferred payments billed separately.
  - 2. For a new motor vehicle which is leased, either
    - (A) The greater of the agreed upon value of the vehicle pursuant to the lease agreement or the average of the current fair market value and the current wholesale value of a motor vehicle for a vehicle listed in the current motor vehicle ad valorem assessment manual utilized by the state revenue commissioner in determining the taxable value of a motor vehicle under Code Section 48-5-442, less any reduction for the trade-in value of another motor vehicle and any rebate or any cash discounts provided by the selling dealer and taken at the time of sale. The agreed upon value shall include any charges for labor, freight, delivery, dealer fees, and similar charges and dealer add-ons and mark-ups, but shall not include any extended warranty or maintenance agreement itemized on the dealer's invoice to the customer or any finance, insurance, and interest charges for deferred payments billed separately; or
    - (B) The total of the base payments, including down payments, pursuant to the lease agreement. The term "down payments" as used in this subparagraph means cash collected from the lessee at the inception of the lease which shall include cash supplied as a capital cost reduction; shall not include rebates, noncash credits, or net trade allowances; and shall include any up-front payments collected from the lessee at the inception of the lease except for taxes or fees imposed by law and monthly lease payments made in advance.
    - (C) The lessor and the lessee shall make an election on a form prescribed by the commissioner as to which of the above-referenced values, (1)(h)2.(A)

or (1)(h)2.(B) of this regulation, shall be the fair market value of the vehicle.

3. For a used motor vehicle, the average of the current fair market value and the current wholesale value of a motor vehicle for a vehicle listed in the current motor vehicle ad valorem assessment manual utilized by the state revenue commissioner and based upon a nationally recognized motor vehicle industry pricing guide for fair market and wholesale market values in determining the taxable value of a motor vehicle under Code Section 48- 5-442, and, in the case of a used car dealer, less any reduction for the trade-in value of another motor vehicle.
  4. For a used motor vehicle which is not so listed in such current motor vehicle ad valorem assessment manual, the value from the bill of sale or the value from a reputable used car market guide designated by the commissioner, whichever is greater, and, in the case of a used car dealer, less any reduction for the trade-in value of another motor vehicle.
- (i) "Immediate family member" means a spouse, parent, child, sibling, grandparent, or grandchild and includes those who have attained such immediate family member status through a legal determination recognized in this state.
  - (j) "International Registration Plan" means the international reciprocal registration agreement for commercial motor vehicles and all amendments thereto as provided for in O.C.G.A. § 40-2-88.
  - (k) "Loaner vehicle" means a motor vehicle owned by a dealer which is withdrawn temporarily from dealer inventory for exclusive use as a courtesy vehicle loaned at no charge for a period not to exceed thirty (30) days within a 366-day period to any one customer whose motor vehicle is being serviced by such dealer.
  - (l) "Motor vehicle" shall have the same meaning as provided for in O.C.G.A. § 40-1-1(33).
  - (m) "New motor vehicle" shall have the same meaning as provided for in O.C.G.A. § 40-1-1(34).
  - (n) "Month" means a period of thirty (30) consecutive calendar days.
  - (o) "Owner" shall have the same meaning as provided for in O.C.G.A. § 40-1-1(39).
  - (p) "Person" means any individual, 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 subdivision, whether public, private, or quasi-public.
  - (q) "Proceeds" means the combined state ad valorem title tax fee, local ad valorem title tax fee, administrative fee, penalties, and interest.
  - (r) "Rebuilt title" shall have the same meaning as provided for in O.C.G.A. § 40-3-37.
  - (s) "Rental charge" means the title value received by a rental motor vehicle concern for the rental or lease for thirty-one (31) or fewer consecutive days of a rental motor vehicle, including the total cash and nonmonetary consideration for the rental or lease, including, but not limited to, charges based on time or mileage and charges for

insurance coverage or collision damage waiver but excluding all charges for motor fuel taxes or sales and use taxes.

- (t) "Rental motor vehicle" means a motor vehicle designed to carry fifteen (15) or fewer passengers and used primarily for the transportation of persons that is rented or leased without a driver.
- (u) "Rental motor vehicle concern" means a person or legal entity which owns or leases five (5) or more rental motor vehicles and which regularly rents or leases such vehicles to the public for value.
- (v) "Salvage motor vehicle" shall have the same meaning as provided for in O.C.G.A. § 40-3-2(11).
- (w) "Salvage title" shall have the same meaning as provided for in O.C.G.A. § 40-3-36.
- (x) "Sales and use tax" means combined state and local sales and use tax as imposed by Chapter 8 of Title 48, unless otherwise specifically provided for in O.C.G.A. § 48-5C-1 or these regulations to refer only to state sales and use tax, or local sales and use tax, respectively.
- (y) "Tax collector" or "tax commissioner" means those persons that have been designated as tag agents of the commissioner as provided for in O.C.G.A. § 40-2-23.
- (z) "Used motor vehicle" shall have the same meaning as provided for in O.C.G.A. § 40-1-1(74).

### **560-11-14-.05 Family Inheritance, Devise or Bequest**

- (1) If the motor vehicle was subject to ad valorem tax under Chapter 5 of Title 48 upon the death of the owner, such motor vehicle shall continue to be subject to the same unless such immediate family member makes an affirmative written election to instead become subject to the state and local title ad valorem tax fee.
  - (a) Such affirmative written election shall be made on a form prescribed by the commissioner which shall be submitted to the county tag agent along with the application for certificate of title and accompanied by the state and local title ad valorem tax fee. If such form is not so submitted, the motor vehicle shall remain subject to ad valorem taxation under Chapter 5 of Title 48.
- (2) If the motor vehicle was subject to the state and local title ad valorem tax fee upon the death of the owner, such motor vehicle shall be subject to a reduced state and local ad valorem title tax fee rate as provided by subsection (d) of O.C.G.A. § 48-5C-1.
- (3) An immediate family member acquiring a motor vehicle by way of inheritance, devise, or bequest from a deceased owner shall complete an affidavit signed before a notary public affirming his or her relationship to the deceased as an immediate family member and entitlement to the vehicle. Such affidavit shall be submitted to the county tag agent accompanied by a copy of letters of testamentary, a copy of the will of the deceased, or other documentation approved by the commissioner to evidence the immediate family member relationship to the deceased and entitlement to the vehicle.

## 560-11-14-.06 Family Transfer

- (1)** If the motor vehicle was subject to ad valorem tax under Chapter 5 of Title 48 upon the transfer to the immediate family member, such motor vehicle shall continue to be subject to the same unless such immediate family member makes an affirmative written election to instead become subject to the state and local title ad valorem tax fee.
  - (a)** Such affirmative written election shall be made on a form prescribed by the commissioner which shall be submitted to the county tag agent along with the application for certificate of title and accompanied by the state and local title ad valorem tax fee. If such form is not so submitted, the motor vehicle shall remain subject to ad valorem taxation under Chapter 5 of Title 48.
- (2)** If the motor vehicle was subject to the state and local title ad valorem tax fee upon the transfer to the immediate family member, such motor vehicle shall be subject to a reduced state and local ad valorem title tax fee rate as provided by subsection (d) of O.C.G.A. § 48-5C-1.
- (3)** Both the transferor and the transferee shall complete an affidavit signed before a notary public affirming their relationship as immediate family members and the acquiring member's entitlement to the vehicle. Such affidavit shall be submitted to the county tag agent.

## 560-11-14-.07 Salvage and Rebuilt Motor Vehicles

- (1)** Any person applying for a salvage title shall be subject to the state title ad valorem tax fee rate as provided by O.C.G.A. § 48-5C-1(b)(2). Such person shall submit the application for a salvage certificate of title together with the state title ad valorem tax fee to the commissioner.
  - (a)** Due to the salvage value of motor vehicles not being captured in the assessment manuals utilized by the department, the commissioner shall designate a standardized valuation for salvage motor vehicles to be used for purposes of the state title ad valorem tax fee. Such valuation shall be considered the fair market value of the motor vehicle.
- (2)** Any person who acquires a salvage motor vehicle who intends to rebuild such motor vehicle shall make the vehicle available to the commissioner for inspection and shall make application for a rebuilt title to the commissioner. Such person shall be directed to the county tag agent for payment of the state and local title ad valorem tax fee, as applicable.

## 560-11-14-.08 International Registration Plan

- (1)** Motor vehicles registered under the International Registration Plan shall not be subject to state and local title ad valorem tax fees but shall continue to be subject to apportioned ad valorem taxation under Article 10 of Chapter 5 of this title.
- (2)** Except as otherwise provided in O.C.G.A. § 48-5C-1, all other statutes and regulations governing commercial motor vehicles subject to the International Registration Plan remain in effect and such motor vehicles continue to be subject to the International Fuel Tax Agreement (IFTA).

### **560-11-14-.09 Loaner Vehicles and Dealer Inventory**

- (1)** A motor vehicle used by a dealership as a loaner vehicle shall not be subject to the state and local title ad valorem tax fee so long as such motor vehicle is not withdrawn from inventory beyond the permissible time period as provided by part (2) of this regulation.
- (2)** Loaner vehicles are exempt from state and local title ad valorem tax fees when used as a loaner vehicle for 366 days or fewer, commencing on the date such loaner vehicle is registered as a loaner vehicle at the county tag office. Immediately upon the expiration of such 366 day period, if the dealer does not cancel or transfer the registration of such loaner vehicle at the county tag office and return the loaner vehicle to inventory for resale the dealer shall be responsible for remitting the state and local title ad valorem tax fee in the same manner as otherwise required of an owner under O.C.G.A. § 48-5C-1(d)(9) and shall be subject to the same penalties and interest as an owner for noncompliance.

### **560-11-14-.10 Non-Profit Organizations**

- (1)** Any motor vehicle which is donated to a non-profit organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, for the purpose of being transferred to another person shall, when titled in the name of such nonprofit organization, be subject to a reduced rate of the state and local title ad valorem tax fee.
- (2)** The reduced rate under part (1) of this regulation shall be the rate applicable to salvage motor vehicles provided under O.C.G.A. § 48-5C-1(b)(2).
- (3)** In order to obtain the reduced rate, qualifying non-profit organizations shall provide at the time of application for certificate of title proof of their tax exempt status under Section 501(c)(3) of the Internal Revenue Code and shall certify on a form prescribed by the commissioner that such motor vehicle was donated to such organization for the purpose of being transferred to another person.

### **560-11-14-.11 Rental Motor Vehicle Concern Certification**

- (1)** Rental motor vehicle concerns shall qualify for a reduced rate of the state and local title ad valorem tax fee as provided by this regulation.
- (2)** In the case of rental motor vehicles owned by such rental motor vehicle concerns:
  - (a)** The state and local title ad valorem tax fee rate shall be as provided in O.C.G.A. §48-5C-1(d).
- (3)** To qualify for the rates as provided in part (2) of this regulation:
  - (a)** In the immediately prior calendar year the rental motor vehicle concern must have had an average amount of sales and use tax attributable to the rental charge of each rental motor vehicle of at least \$400.
  - (b)** The rental motor vehicle concern must obtain certification by the commissioner as provided by part (4) of this regulation.
- (4)** Certification Process
  - (a)** The application for certification as a qualified rental motor vehicle concern shall be

made on a form prescribed by the commissioner.

- (b) The rental motor vehicle concern shall obtain certification on an annual basis in order to continue to qualify for the rates as provided in part (2) of this regulation. Such certification shall be valid as of March 1 and shall continue until the end of February of the subsequent calendaryear.

## 560-11-14-.12 Exemptions

- (1) The state and local title ad valorem tax fee shall not apply to:
  - (a) Corrected titles.
  - (b) Replacement titles under O.C.G.A. § 40-3-31.
  - (c) Titles reissued to the same owner pursuant to O.C.G.A. §§ 40-3-50, 40-3-51, 40-3-52, 40-3-53, 40-3-54, 40-3-55, or 40-3-56.
  - (d) Any other exemption in subsection (d)(15) of O.C.G.A. § 48-5C-1.
- (2) Motor vehicles owned or leased by or to the state or any county, consolidated government, municipality, county or independent school district, or other government entity in this state shall not be subject to the state and local title ad valorem tax fees provided for in O.C.G.A. § 48-5C-1; provided, however, that such other government entity shall not qualify for such exclusion unless it is exempt from ad valorem tax and sales and use tax pursuant to general law.
- (3) The state and local title ad valorem tax fee shall not apply to a qualified person as provided in this part:
  - (a) Any qualified service connected disabled veteran pursuant to O.C.G.A. § 48-8-3(30) when the veteran received a grant from the United States Department of Veterans Affairs to purchase and specially adapt a vehicle to his disability may apply for an exemption of the state and local title ad valorem tax fee. Such veteran shall submit to the county tag agent a form prescribed by the commissioner attesting to their exempt status, the motor vehicle purchase agreement or bill of sale, and documentation approved by the commissioner demonstrating their disabled status and receipt of the veteran's grant.
  - (b) Any qualified disabled veteran pursuant to O.C.G.A. § 48-5-478 may apply for an exemption of the state and local title ad valorem tax fee. Such veteran shall submit to the county tag agent a form prescribed by the commissioner attesting to their exempt status, the motor vehicle purchase agreement or bill of sale, and documentation approved by the commissioner demonstrating their disabled status.
    - 1. A veteran shall be granted an exemption provided that the veteran has applied for or has transferred a disabled veteran's license plate to such vehicle as provided for in O.C.G.A. § 40-2-69.
    - 2. A veteran shall not be granted an exemption for a subsequent vehicle unless the original vehicle which received the exemption is sold, traded, or otherwise transferred to another person. If the original vehicle is transferred to an immediate family member by the veteran such transfer shall be subject to the full rate of title ad valorem tax in effect as of the date of the transfer. If such



immediate family member subsequently transfers the vehicle to another immediate family member, then that subsequent transfer shall receive the reduced rate of title ad valorem tax applicable to immediate family members.

**(c)** Any qualified veteran pursuant to O.C.G.A. § 48-5-478.1 who is a citizen and resident of Georgia and is a former prisoner of war or their unremarried surviving spouse may apply for an exemption of the state and local title ad valorem tax fee. Such veteran or their unremarried surviving shall submit to the county tag agent a form prescribed by the commissioner attesting to their exempt status, the motor vehicle purchase agreement or bill of sale, and documentation approved by the commissioner demonstrating the veteran's designation as a former prisoner of war.

1. A veteran or their unremarried surviving spouse shall be granted an exemption provided that the veteran has met the requirements of O.C.G.A. § 40-2-73.
2. A veteran shall not be granted an exemption for a subsequent vehicle unless the original vehicle which received the exemption is sold, traded, or otherwise transferred to another person. If the original vehicle is transferred to an immediate family member by the veteran such transfer shall be subject to the full rate of title ad valorem tax in effect as of the date of the transfer. If such immediate family member subsequently transfers the vehicle to another immediate family member, then that subsequent transfer shall receive the reduced rate of title ad valorem tax applicable to immediate family members.

**(d)** Any qualified veteran pursuant to O.C.G.A. § 48-5-478.2 who is a citizen and resident of Georgia and was awarded the Purple Heart may apply for an exemption of the state and local title ad valorem tax fee. Such veteran shall submit to the county tag agent a form prescribed by the commissioner attesting to their exempt status, the motor vehicle purchase agreement or bill of sale, and documentation approved by the commissioner demonstrating their award of the Purple Heart.

1. A veteran shall be granted an exemption provided that the veteran has applied for or has transferred a Purple Heart license plate to such vehicle as provided for in O.C.G.A. § 40-2-84.
2. A veteran shall not be granted an exemption for a subsequent vehicle unless the original vehicle which received the exemption is sold, traded, or otherwise transferred to another person. If the original vehicle is transferred to an immediate family member by the veteran such transfer shall be subject to the full rate of title ad valorem tax in effect as of the date of the transfer. If such immediate family member subsequently transfers the vehicle to another immediate family member, then that subsequent transfer shall receive the reduced rate of title ad valorem tax applicable to immediate family members.

**(e)** Any qualified veteran pursuant to O.C.G.A. § 48-5-478.3 who is a citizen and resident of Georgia and was awarded the Medal of Honor may apply for an exemption of the state and local title ad valorem tax fee. Such veteran shall submit to the county tag agent a form prescribed by the commissioner attesting to their exempt status, the motor vehicle purchase agreement or bill of sale, and documentation approved by the commissioner demonstrating their award of the Medal of Honor.

1. A veteran shall be granted an exemption provided that the veteran has applied

for or has transferred a Medal of Honor license plate to such vehicle as provide for in O.C.G.A. § 40-2-68.

2. A veteran shall not be granted an exemption for a subsequent vehicle unless the original vehicle which received the exemption is sold, traded, or otherwise transferred to another person. If the original vehicle is transferred to an immediate family member by the veteran such transfer shall be subject to the full rate of title ad valorem tax in effect as of the date of the transfer. If such immediate family member subsequently transfers the vehicle to another immediate family member, then that subsequent transfer shall receive the reduced rate of title ad valorem tax applicable to immediate family members.

### **560-11-14-.14 Used Car Market Guide**

The commissioner shall designate a reputable used car market guide for use in determining the fair market value of a motor vehicle for purposes of the state and local title ad valorem tax fee for a which a value is not listed in the current motor vehicle ad valorem assessment manual.

### **560-11-14-.15 Fraudulent Transfers and False Information**

- (1) There shall be a penalty imposed on any person who, in the determination of the commissioner, falsifies any information in any bill of sale used for purposes of determining fair market value. Such penalty shall not exceed \$2,500 as a state penalty and \$2,500 as a local penalty as determined by the commissioner. Such penalty shall not relieve a person of the obligation to pay any outstanding proceeds.
- (2) There shall be a penalty imposed on any person who, in the determination of the commissioner, falsifies any material information in any affidavit required for purposes of title transfers between immediate family members. Such penalty shall not exceed \$2,500 as a state penalty and \$2,500 as a local penalty as determined by the commissioner. Such penalty shall not relieve a person of the obligation to pay any outstanding proceeds.
- (3) There shall be a penalty imposed on the transfer of all or any part of the interest in a business entity that includes primarily as an asset of such business entity one or more motor vehicles when, in the determination of the commissioner, such payment is done to evade the payment of state and local title ad valorem tax fees. Such penalty shall not exceed \$2,500 as a state penalty per motor vehicle and \$2,500 as a local penalty per motor vehicle as determined by the commissioner. Such penalty shall not relieve a person of the obligation to pay any outstanding proceeds.
- (4) In the event the county tag agent has reason to believe that a violation of this regulation has occurred, or upon request of the commissioner following receipt of information of a possible violation of this regulation, the county tag agent shall provide the commissioner the following items, as applicable: the original or a certified copy of the alleged falsified bill of sale or affidavit, a written statement of the facts of the allegation, and any other supporting evidence relevant to the allegation.
- (5) The commissioner shall make a determination and any assessment of penalties within sixty (60) days from the date the commissioner received information that a violation under this regulation may have occurred.

## **560-11-14-.16 Appeals**

- (1)** Any owner who contests the fair market value of a motor vehicle for purposes of the state and local title ad valorem tax fee may appeal such decision by either filing with the tax commissioner an affidavit of illegality as outlined in part (2) of this regulation, or by filing an appeal with the board of tax assessors as outlined in part (3) of this regulation, or by appealing the fair market value of the motor vehicle to the county tag agent as provided in Code Section 48-5C-1(a)(1)(C).
- (2)** An owner may contest the fair market value of a motor vehicle for purposes of state and local title ad valorem tax fee, by filing an appeal as outlined in O.C.G.A. § 48-5-450; provided, however, that the person appealing the fair market value shall first pay the full amount of the state and local title ad valorem tax prior to filing an appeal. Such appeal shall be made by filing with the tax commissioner an affidavit of illegality to the assessment.
- (3)** As an alternative to filing an affidavit of illegality, any owner who contests the fair market value of a motor vehicle for purposes of the state and local title ad valorem tax fee may appeal such value in the same manner as other ad valorem tax assessment appeals are made and decided pursuant to O.C.G.A. § 48-5-311.
  - (a)** The time allowed for the filing of a written appeal shall be forty-five (45) days from the deadline date for the payment of the tax.
  - (b)** The person appealing the fair market value shall first pay the full amount of the state and local title ad valorem tax prior to filing an appeal. Upon receipt of an appeal, the tax assessors shall immediately notify the tax commissioner that an appeal has been filed by the taxpayer.
  - (c)** Further appeals to the board of equalization and superior court are to be handled as provided in O.C.G.A. § 48-5-311.

## **560-11-15 ILLEGAL DIGEST ENTRY REVIEW**

### **560-11-15-.01 Definitions**

### **560-11-15-.02 Commissioner's Determination of Property Illegally Appearing on a County Digest**

### **560-11-15-.03 Appeal of Commissioner's Determination**

### **560-11-15-.04 Nature of the Appeal; Hearing Procedure; Evidence**

### **560-11-15-.05 Ruling; Decision**

### **560-11-15-.06 Recurring Illegal Digest Entries for Same Property; Revocation of Qualified Status; Reinstatement**

**CHAPTER 3**  
**Appraisal Procedures Manual (APM)**

## 560-11-10 APPRAISAL PROCEDURES MANUAL

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

- (1) Purpose.** This appraisal procedures manual has been developed in accordance with Code section 48-5-269.1 which directs the Revenue Commissioner to adopt by rule, subject to Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," and maintain an appropriate procedural manual for use by the county property appraisal staff in appraising tangible real and personal property for ad valorem tax purposes.
- (2) Specific procedures.** In order to facilitate the mass appraisal process, specific procedures are provided within this Chapter which are designed to arrive at a basic appraisal value of real and personal property. These specific procedures are designed to provide fair market value under normal circumstances. When unusual circumstances are affecting value, they should be considered. In all instances, the appraisal staff will apply Georgia law and generally accepted appraisal practices to the basic appraisal values required by this manual and make any further valuation adjustments necessary to arrive at the fair market values.
- (3) Board of tax assessors.** The county board of tax assessors shall require the appraisal staff to observe the procedures in this manual when performing their appraisals. The county board of tax assessors may not adopt local procedures that are in conflict with Georgia law, or the procedures required by this manual. The county board of tax assessors must consider the appraisal staff information in the performance of their duties. In each instance, however, the assessment placed on each parcel of property shall be the assessment established by the county board of tax assessors as provided in Code section 48-5-306.
- (4) Other appraisal procedures.** The appraisal staff may use those generally accepted appraisal practices set forth in the Uniform Standards of Professional Appraisal Practice, published by the Appraisal Foundation, and the standards published by the International Association of Assessing Officers, as they may be amended from time to time, to the extent such practices do not conflict with this manual and Georgia law.

### 560-11-10-.02 Definitions

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

  - (a) Absorption rate.** "Absorption rate" means the rate at which the real estate market can absorb real property of a given type.
  - (b) Appraiser.** "Appraiser" means a member of the county appraisal staff, who serves the board of tax assessors and whose position was created pursuant to Part 1 of Article 5 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated. This term does not limit its meaning to a single appraiser and may mean one or more members of the county appraisal staff.
  - (c) Basic cost approach.** "Basic cost approach" means a cost approach procedure, used in the mass appraisal of personal property, which uses standard estimates of the most common factors affecting the value of such property. The basic cost approach is intended to provide a uniform estimate of personal property value.
  - (d) Depreciation.** "Depreciation" means the loss of value due to any cause. It is the

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

- (e)** Economic life. "Economic life" means the period during which property may reasonably be expected to perform the function for which it was designed or intended.
- (f)** Economic obsolescence. "Economic obsolescence" means a form of depreciation that measures a loss of value from negative influence external to the real or personal property. It results when the desirability or useful life of real or personal property is impaired due to forces such as changes in optimum use, legislative enactment that restricts or impairs productivity, and changes in supply and demand relationships. Economic obsolescence is normally incurable.
- (g)** Effective age. "Effective age" means the age of an improvement to property as compared with other property performing like functions. It is the actual age less the age that has been taken off by face-lifting, structural reconstruction, removal of functional inadequacies, modernization of equipment, and similar repairs and overhauls. It is an age that reflects a true remaining life for the property, taking into account the typical life expectancy of buildings or equipment of its class and usage.
- (h)** Fair market value. "Fair market value" means fair market value as defined in Code section 48-5-2(3).
- (i)** Final assessment. "Final assessment" means the assessed value of real property as stated on the Annual Notice of Assessment as approved by the Board of Assessors. Amendments to "Final assessment" for real property are prohibited absent a clerical error or some other lawful basis; and in the case of personal property, the appraisal staff has completed its audit of the personal property pursuant to Rule 560-11-10-.08(4)(d) within the three year statute of limitations.
- (j)** Functional obsolescence. "Functional obsolescence" means a form of depreciation that measures a loss of value from a design deficiency or appearance in the market of a more innovative design. Some functional obsolescence may be curable and some functional obsolescence may be incurable.
- (k)** Inventory. "Inventory", means goods held for sale or lease or furnished under contracts for service; also, supplies, packing materials, spare parts, raw materials, work in process or materials used or consumed in a business.
- (l)** Large acreage tract. "Large acreage tract" means a rural land tract that is greater in acreage than the small acreage break point.
- (m)** Mass appraisal. "Mass appraisal" means the process of valuing a universe of properties as of a given date using standard methodology, employing common data, and allowing for statistical testing.
- (n)** Most Recent Arm's Length Sale. As referenced in OCGA 48-5-2(3), transactions must occur prior to the statutory date of valuation to become eligible for the value limitations imposed in 48-5-2(3). Furthermore, where the exchange of property is

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

- (o)** Original cost. "Original cost" means, in the case of machinery, equipment, furniture, personal fixtures, and trade fixtures in the hands of the final user, all the direct costs associated with acquiring, transporting, and installing such property at the site where it is to be used. This includes the cost of the property to the property owner, the cost of transporting the property to its present site, the cost of any on-site assembly or customized modification of the property, the cost of installing the property, the cost of installing personal fixtures and trade fixtures necessary for the proper operation of the property, and any sales or use tax paid on the property. Original cost is equivalent to original cost new if the property owner was the first to put the personal property into service.
- (p)** Original cost new. "Original cost new" means, in the case of machinery, equipment, furniture, personal fixtures, and trade fixtures in the hands of the final user, all the direct costs associated with acquiring, transporting, and installing such property at the site where it is to be used. This includes the historical cost of the property at the time it was first put into service new, the cost of transporting the property to its present site, the cost of any on-site assembly or customized modification of the property, the cost of installing the property, the cost of installing personal fixtures and trade fixtures necessary for the proper operation of the property, and any sales or use tax paid on the property. Original cost new is equivalent to original cost if the property owner was the first to put the personal property into service.
- (q)** Paired sales analysis. "Paired sales analysis" means the comparing of the sale prices of similar properties, some with and some without a particular characteristic, in order to determine what portion of the difference in sales price might be attributable to such characteristic.
- (r)** Personal fixtures. "Personal fixtures" means personal property that has been set-up or installed on land or in a building or in a group of buildings and is not permanently

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

- (s)** Personal property. "Personal property" means tangible personal property that may be seen, weighed, measured, felt, or touched or which is in any other manner perceptible to the senses. Personal property shall include trade fixtures. For the purposes of this Rule, personal property shall not include the capital stock of all corporations; money, notes, bonds, accounts, or other credits, secured or unsecured; patent rights, copyrights, franchises, and any other classes and kinds of property defined by law as intangible personal property.
- (t)** Physical deterioration. "Physical deterioration" means a form of depreciation that measures the loss of utility of real or personal property over time from wear and tear, age, and exposure to the elements. Some physical deterioration may be curable, and some physical deterioration may be incurable.
- (u)** Ready market. "Ready market" means a market, possibly global, where exchanges of machinery, equipment, personal fixtures, and trade fixtures occur with such regularity and under such conditions as to provide a reliable measure of fair market value. Five conditions that may indicate a ready market are: the items of personal property being sold within the market are reasonable substitutes for each other; there are an adequate number of buyers and sellers of the personal property in the market, no one of whom can measurably affect price; there is an absence of artificial restraints and unusual incentives in the market; the item of personal property is reasonably free to be moved where it will receive the greatest return and buyers are reasonably free to buy where the price is lowest; and buyers and sellers are knowledgeable and informed about market conditions.
- (v)** Real estate. "Real estate" means the physical parcel of land, improvements to the land, improvements attached to the land, real fixtures, and appurtenances such as easements.
- (w)** Real fixtures. "Real fixtures" means personal property that has been installed or attached to land or a building or group of buildings and is intended to remain permanently in its place. A consideration for whether personal property is a real fixture is whether its removal would cause significant damage to such property or to the real property to which it is attached. The term real fixtures shall not include trade fixtures. Real fixtures are classified as real property. Examples of real fixtures are plumbing, heating and cooling, and lighting fixtures.
- (x)** Real property. "Real property" means the bundle of rights, interests, and benefits connected with the ownership of real estate. Real property does not include the intangible benefits associated with the ownership of real estate, such as the goodwill of a going business concern.
- (y)** Replacement cost. "Replacement cost" for real property means the cost required to construct a similar structure with like utility as the subject property using modern design, materials, and workmanship. Replacement cost for personal property means



the current cost of a similar new item having the nearest equivalent utility as the subject property.

- (z)** **Reproduction cost.** "Reproduction cost" for real property means the cost required to construct an identical or exact replica structure of the subject property. Reproduction cost for personal property means the current cost of duplicating an identical new item.
- (aa)** **Residual value.** "Residual value" means the value of personal property that is at the end of its normally expected economic life but still in use.
- (bb)** **Rural land.** "Rural land" means any land that normally lies outside corporate limits, planned subdivisions, commercial sites, and industrial sites.
- (cc)** **Salvage value.** "Salvage value" means the value of personal property that is at the end of its normally expected economic life and has been taken out of use.
- (dd)** **Small acreage break point.** "Small acreage break point" means the point, expressed as a number of acres, at which the slope of a trend line, drawn through the plotted qualified sales of rural land on a graph, reflects a distinct and pronounced change. Such graph uses the dollars per acre on the vertical axis and numbers of acres on the horizontal axis. The small acreage break point should show the point below which the market factors of accessibility and desirability of the land primarily influence value, and above which the productivity of the soil and suitability for timber growth primarily influence value.
- (ee)** **Small acreage tract.** "Small acreage tract" means a rural land tract that is equal to or smaller in acres than the small acreage break point.
- (ff)** **Tax situs.** "Tax situs" means the location of personal property for ad valorem tax purposes.
- (gg)** **Trade fixtures.** "Trade fixtures" means fixtures that are owned and temporarily installed or attached to a rented space or building by a tenant and used in conducting a business. For personal property to be classified as trade fixtures the lease or rental agreement has to show intent for the fixtures to be removed by the owner at the termination of the lease. Fixtures that revert to the landlord when the lease is terminated are not trade fixtures. Property shall not be classified as a trade fixture when the cost of removal, or damage that removal would cause to the realty, or to the fixture itself, clearly indicates that a tenant is unlikely to remove such fixture at the termination of the lease. Trade fixtures shall be classified as personal property.
- (hh)** **Transitional real property.** "Transitional real property" means any real property that is undergoing a change in use, such as residential, agricultural, commercial, or industrial, and has not been firmly established in its new use. Change in use may be evidenced by recent zoning changes, purchase by a known developer, affidavits of intent, or close proximity to property exposed to these market factors.
- (ii)** **Trend.** "Trend" means an observable tendency of behavior such as stable economic direction over extended periods despite temporary fluctuations.

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

- (1) **Personal property identification.** The appraisal staff shall identify personal property, determine its taxability, and classify it for addition to the county ad valorem tax digest in accordance with this paragraph.
- (a) **Distinguishing personal property.** The appraiser shall be required to correctly identify personal property and distinguish it from real property where the proper valuation procedures, as set forth in this Rule, may be followed.
1. **Examples.** As used in this Chapter, personal property shall be that property defined in Rule 560-11-10-.02(1)(r). This Rule shall provide illustrations to assist the appraiser in the proper interpretation of the definition. However, these illustrations should not be construed in a manner that conflicts with the definition. Examples of personal property are tangible items such as aircraft; boats and motors; inventories of retail stock, finished manufactured or processed goods, goods in process, raw materials and supplies; furniture, personal fixtures, trade fixtures, machinery and equipment.
  2. **Identification of trade fixtures.** When property the appraiser believes is a trade fixture has not been returned by the tenant, the appraiser shall require the tenant to produce their lease agreement and shall carefully review the agreement before making a recommendation to the board of tax assessors regarding the classification of the property in question. The appraiser shall inform the tenant that they may redact, at their option, any information relating to the payments that are required by the lease agreement.
- (b) **Assessment date.** Code section 48-5-10 provides that each return by a property owner shall be for property held and subject to taxation on January 1 of the tax year. The appraisal staff shall base their decisions regarding the taxability, tax situs, uniform assessment, and valuation of personal property on the circumstances of such property on January 1 of the tax year for which the assessment is being prepared. When personal property is transferred to a new owner or converted to a new use, the circumstances of such property on January 1 shall nevertheless be considered as controlling.
- (c) Freeport exemptions.
1. **Mailing applications.** The appraisal staff shall, by U. S. mail, send a new freeport exemption application to any person, firm or corporation that was approved for freeport exemption by the board of tax assessors for the tax year proceeding the tax year for which the application is to be made. The application provided by the appraisal staff shall be deposited with the local post office no later than the 15th day after the official who is responsible for receiving returns has opened the books for returns. The failure of the appraisal staff to comply with this requirement shall not relieve a person, firm or corporation from the responsibility to timely file a freeport application.
  2. **Reviewing applications.** The appraisal staff shall, upon receipt of a freeport application, reconcile the figures reported on such form to any inventory totals that may have been returned by the property owner. The appraisal staff may obtain relevant information as is available from financial records or other records

of the property owner when needed to reconcile the figures reported on the application. Once the appraisal staff has completed the reconciliation of the freeport application, they shall forward the application and their recommendations, along with any supporting documentation, to the board of tax assessors. When the appraisal staff recommends the freeport application be denied, in whole or in part, they shall include the reasons for their recommendation.

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

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

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

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

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

be where it is functionally located.

3. **Tax situs of aircraft.** In accordance with Code section 48-5-16(e), the appraisal staff shall consider the tax situs of an aircraft to be the tax district wherein lies the domicile of the owner, even when the aircraft is located within another tax district in the county. When the aircraft's primary home base is in a county other than where the owner is domiciled, the appraisal staff shall consider the tax situs of the aircraft to be where it is principally hangered or tied down and out of which its flights normally originate.
  4. **Tax situs of foreign merchandise in transit.** The appraisal staff shall recommend to the board of tax assessors a "no tax situs" status for foreign merchandise that is in transit through this state. The recommendation of "no tax situs" shall be made regardless of the fact that while the foreign merchandise is in the warehouse it is assembled, bound, joined, processed, disassembled, divided, cut, broken in bulk, relabeled, or repackaged. The grant of "no tax situs" status shall be liberally construed. In deciding whether goods are foreign, the appraisal staff shall determine if the point of origin is a non-domestic shipping port. In deciding whether goods are in transit, the appraisal staff shall consider whether the interruption in the transport of the goods may be characterized as having a business purpose or advantage, rather than just being an incidental interruption in the continuity of transit.
- (d) **Assessments of personal property used on state contracts.** Under Code section 50-17-29(e)(1), the appraisal staff shall not propose an assessment upon the personal property of any contractor or subcontractor as a condition to or result of the performance of a contract, work, or services by such contractor or subcontractor in connection with any project being constructed, repaired, remodeled, enlarged, serviced, or destroyed for, or on behalf of, the state or any of its agencies, boards, bureaus, commissions, and authorities. The appraisal staff shall inquire into the nature of the use of such property and prepare their proposed assessment in accordance with this Subparagraph.
1. **Personal property located in headquarters' county.** When the tax situs of the personal property being used on state projects is in the same county as where the property owner's permanent business headquarters and administrative offices are located, and such property is not used exclusively for the state projects contemplated by Code section 50-17-29(e)(1), the appraisal staff shall not apportion their proposed assessment of the property. When such property is used exclusively for such state projects, such property is made exempt by Code section 50-17-29(e)(1) from ad valorem taxation by the county and the appraisal staff shall treat such property as exempt property is treated.
  2. **Personal property not located in headquarters' county.** When the tax situs of the personal property being used on state projects is in a county other than where the property owner's permanent business headquarters and administrative offices are located, and such property would not be located in the county absent the state projects, then the appraisal staff shall apportion their proposed assessment of such property as follows: The exempt portion of the personal property being used on state projects shall be that pro rata portion of the total value of such property that represents the percentage the contractor or

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

- (e) Partial assessments.** Unless specifically provided by law and this Rule, the appraisal staff shall not prepare a partial appraisal based on the fact that personal property is owned or used during the year in a manner that would make it exempt part of the year and taxable part of the year.
- (2) Classification.** The appraisal staff shall classify personal property as provided in Rule 560-11-2-.21 for inclusion in the county tax digest.
- (3) Return of personal property.** In accordance with Code section 48-5-299(a), the appraisal staff, on behalf of the board of tax assessors, shall investigate diligently and inquire into the property owned in the county for the purpose of ascertaining what real and tangible personal property is subject to taxation in the county and to require the proper return of the property for taxation. The appraisal staff shall make such investigation as may be necessary to determine the value of any property upon which for any reason all taxes due the state or the county have not been paid in full as required by law. In all cases where taxes are assessed against the owner of property, the appraisal staff shall prepare a proposed assessment on the property according to the best information obtainable.

  - (a) Information sources.** The appraisal staff should develop and maintain information sources for the discovery of unreturned personal property.
  - (b) Returns.** Property owners shall use Department of Revenue authorized return forms when returning personal property. No other forms shall be provided for this purpose to property owners by the county official responsible for receiving returns unless previously approved in writing by the Revenue Commissioner.

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

      - (i) Form PT-50P.** The return form PT-50P, entitled "Business Personal Property Tax Return," may be used for the return of business personal property
      - (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-50MA.** The return form PT-50MA, entitled "Marine / Aircraft Personal Property Tax Return," may be used for the return of boats or aircraft.
    - 2. Obtaining returns from receiver.** Each year, after the deadline for filing returns, the appraisal staff shall secure the returns from the official responsible for

receiving returns on or before the tenth day following such deadline.

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

(c) **Reporting schedules.** Property owners shall use Department of Revenue authorized reporting schedules when reporting supporting information for authorized return forms. No other reporting schedules shall be provided for this purpose to property owners by the county official responsible for reviewing returns unless previously approved in writing by the Revenue Commissioner. A property owner may attach other schedules or documents that provide further support for the value they have placed on their personal property return. The appraisal staff shall consider all additional information submitted by the property owner with the return and reporting schedules. The reporting schedules required by Rule 560-11-10-.08(3)(c) and appropriate for the type of personal property being returned and any other information submitted with the return by the property owner are made confidential by Code section 48-5-314 and shall be treated as such by the appraisal staff. The appraisal staff shall not consider as fully returned any property that is omitted, misrepresented, or undervalued on the supporting reporting schedules and accompanying property owner documents, as these provide the basis for the property owner's declarations of value on the return and are necessary for the board of assessors to carry out their responsibility under Code section 48-5-299 to, through their appraisal staff, ascertaining what personal property is subject to taxation in the county and to require the proper return of the property for taxation.

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

- (i) **Schedule A.** The reporting schedule entitled "Schedule A" may be used to list and describe any furniture, trade fixtures, personal fixtures, machinery and equipment that is included on the property owner's return.
- (ii) **Schedule B.** The reporting schedule entitled "Schedule B" may be used to list and describe any inventory that is included on the property owner's return.
- (iii) **Schedule C.** The reporting schedule entitled "Schedule C" may be used to list and describe any construction in progress that is included on the property owner's return.
- (iv) **Schedule D.** The reporting schedule entitled "Schedule D" may be used to list and describe any boats or aircraft that are included on the property owner's return.

- (4) **Verification.** The appraisal staff shall review and audit the returns in accordance with policies and procedures set by the county board of tax assessors consistent with Georgia law and this Rule.

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

limited to, schedules A, B, and C of form PT-50P; a balance sheet or other type of financial record that for a particular location reflects the business' book value as of January 1 of the tax year being audited; a ledger of capitalized personal property items held on January 1 of the tax year being audited; and an income statement.

**(i) Use of subpoena.** The appraiser should request the board of tax assessors to subpoena, within the limitations of their subpoena powers, any existing documents the property owner fails to provide voluntarily, when these documents are deemed by the appraiser to be critical to the audit. Since the appraiser may not request a subpoena for documents that do not presently exist in the format needed, the appraiser should seek existing documents held by the property owner and solicit the owner's voluntary cooperation in obtaining these documents.

**2. Contracts with auditing specialists.** The appraiser shall secure non-disclosure statements from any contracted audit specialist to ensure that such specialist shall conform with the confidentiality provisions of Code section 48-5-314 and shall not disclose the property owner's confidential records to unauthorized persons or use such confidential records for purposes other than the county's review for ad valorem tax purposes of the tax return and supporting documentation. The appraisal staff shall provide a copy of such non-disclosure statement to the property owner upon such owner's request. The appraiser shall not recommend to the board of tax assessors any contract or agreement with an audit specialist that provides for such specialist to contingently share a percentage of the tax collected as a result of any audits such specialist may perform.

**(i) Notice to property owner.** The lead appraiser shall ensure the property owner is sent a notice they have been selected for an audit of their personal property holdings for ad valorem tax purposes. The notice shall, at a minimum, indicate the following: the purposes and goals of the audit and the law authorizing the audit; the name of the lead appraiser who is primarily responsible for the conduct of the audit; the names of the members of the audit team that will be performing the audit; the number of years that will be audited; a description of the type records that should be made available; a description of how the audit will be conducted; the range of dates desired for the audit; and contact information should the property owner wish to contact the lead appraiser. The notice shall contain a statement that the lead appraiser will be contacting the property owner by telephone to establish the date and time of the audit and to determine the availability and location of records. At the conclusion of the audit, if there is sufficient evidence to warrant a recommended change of assessment, the lead appraiser shall have prepared a list of preliminary audit findings and provide such list to the property owner to afford them an opportunity to meet and discuss the findings and view any supporting schedules and documents relied upon by the individuals conducting the audit. After any such meeting requested by the property owner, the lead appraiser shall have prepared



the final audit report and proposed assessment and provide a copy to the property owner and the board of tax assessors.

**(e) Audit selection criteria.** The appraisal staff shall recommend to the board of tax assessors a review and audit selection criteria, and the appraisal staff shall follow such criteria when adopted by the board. The criteria should be designed to maximize the number of personal property returns that may be reviewed or audited with existing resources. The criteria should be fair, unbiased, and developed consistent with the requirements of Code section 48-5-299. All personal property accounts should be reviewed or audited at least once every three years.

**(f) Property owner records.** The appraisal staff should first endeavor to obtain the records necessary to substantiate the information returned or reported by the property owner through the voluntary cooperation of the property owner. When such voluntary cooperation is not forthcoming, and the records requested from the property owner are believed by the appraiser to be critical to a proper appraisal of the personal property, the appraiser may request that the board of tax assessors issue an appropriate subpoena for such records. The appraiser may request that the board of tax assessors issue an appropriate subpoena for the testimony of any individuals the appraiser believes poses knowledge critical to determination of the fair market value of the property owner's personal property.

**1. Record types.** The types of records the appraisal staff may request the board of tax assessors to issue subpoenas for include, but are not limited to, the following: chart of accounts, general ledger, detailed subsidiary ledgers, journals of original entry, balance sheet, income statement, annual report, Securities Exchange Commission Form 10K. The types of records the appraisal staff may not request the board of tax assessors to issue subpoenas for include the following:

**(i) Income tax returns.** Forms and schedules authorized by the Internal Revenue Service or the revenue collecting agencies of the several states for use in filing income tax returns to those agencies;

**(ii) Property appraisals.** A property appraisal that the property owner has obtained prior to any appeal that is filed as a result of a change of assessment being made to the property owner's personal property;

**(iii) Insurance policies.** An insurance policy that may contain valuation estimates of the insured personal property; or

**(iv) Tenant sales information.** A rent roll or document containing the individual tenant sales information on the property owner's rented or leased personal property.

**(5) Valuation procedures.** The appraisal staff shall follow the provisions of this paragraph when performing their appraisals. Irrespective of the valuation approach used, the final results of any appraisal of personal property by the appraisal staff shall in all instances conform to the definition of fair market value in Code section 48-5-2 and this Rule.

**(a) General procedures.** The appraisal staff shall consider the sales comparison, cost, and income approaches in the appraisal of personal property. The degree of dependence on any one approach will change with the availability of reliable data and type of property being appraised.

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

identified total cost of construction by a uniform market risk factor of .75.

- 3. Overhauls.** When appraising machinery, equipment, furniture, personal fixtures, and trade fixtures, the appraisal staff shall consider the cost of all expenditures, both direct and indirect, relating to any efforts to overhaul an asset to modernize, rebuild, or otherwise extend the useful life of such asset. The following procedure is to be used by the appraisal staff to estimate the value of an overhauled asset: An adjustment to the original cost of the asset is made to reflect the cost of the components that have been replaced. The cost of the overhaul is divided by an index factor representing the accumulated inflation or deflation from the year of acquisition of the asset on which the overhaul was performed to the year of the overhaul. This amount is then subtracted from the original cost of the asset being overhauled. The remainder is then multiplied by the composite conversion factor for the year of the original acquisition as specified in Rule 560-11-10-.08(5)(f)(4)(iii) of this section. The current year's composite conversion factor is then applied to the cost of the overhaul, and these two figures are combined to represent the estimate of value for the overhauled asset.
- (c) Level of trade.** The appraisal staff shall recognize three distinct levels of trade: the manufacturing level, the wholesale level, and the retail level. The appraiser shall take into account the incremental costs that are added to a product as it advances from one level to another that may increase its value as a final product. The appraisal staff shall value the property at its level of trade.
- (d) Ready markets.** When the appraiser lacks sufficient evidence to demonstrate the existence of a ready market, he or she shall consider any evidence submitted by the property owner demonstrating that a ready market is available. When the property owner cannot prove the existence of a reliable ready market, the appraiser may use other valuation approaches as authorized by law and 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, 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 be unbiased and fairly represent the market for the personal property being appraised. This may be accomplished by contacting known dealers of the subject personal property to determine whether other significant market data exists that supports the data submitted by the property owner.

**(III) Financing.** Adjust the sale price of the subject property for non-conventional financing.

**(IV) Time of sale.** Adjust the sale price of the subject property for the date of sale in order to estimate the value as of the January 1 assessment date.

**(V) Discounts.** Adjust the sale price to remove trade and cash discounts.

**(VI) Comparability.** Adjust the sale price of the subject property for characteristics of the subject not found in the sales to which it is being compared, such as condition, use, and extra or missing features.

**3. Other factors.** To finalize the sales comparison approach, the appraiser shall consider any other factors, appropriate to the approach, which may be affecting the value. When the comparative sales approach is used as the basis for the appraisal of personal property, the appraiser shall not make further adjustments to the value to reflect economic obsolescence, functional obsolescence, or inflation.

- (f) **Cost approach.** The cost approach arrives at an estimate of value by taking the replacement or reproduction cost of the personal property and then reducing this cost to allow for physical deterioration, functional and economic obsolescence.
1. **General procedure.** In applying the cost approach to personal property during a review or audit of a return, the appraiser shall identify the year acquired, and total acquisition costs, including installation, freight, taxes, and fees. The acquisition costs shall then be adjusted for inflation and deflation and then depreciated as appropriate to reflect current market values.
  2. **Book value.** The appraiser should recognize that the appraisal and accounting practices for depreciating personal property might differ. Accounting practices provide for recovery of the cost of an asset, whereas appraisal practices strive to estimate the fair market value related to the current market. The appraiser should consider depreciation in the forms of physical deterioration, functional obsolescence, and economic obsolescence, which may not necessarily be reflected in the book value. The appraiser should consider that accounting practices of property owners might also differ.
  3. **Valuation as a whole.** The appraiser may arrange the individual items of personal property into groups with similar valuation characteristics and value such group as a whole when the itemized appraisals of each item of personal property will not add substantially to the accuracy of the determination of the cost approach value.
  4. **Basic cost approach.** The appraisal staff shall determine the basic cost approach value of machinery, equipment, furniture, personal fixtures, and trade fixtures using the following uniform four-step valuation procedures: Determine the original cost new of the item of personal property to the property owner; determine the uniform economic life group for the item of personal property; and multiply the original cost new times the uniform composite conversion factor appropriate for the economic life group and actual age of the item of personal property. Then determine a salvage value of any item of personal property when it is taken out of use at the end of its expected economic life.
    - (i) **Original cost new.** The appraisal staff shall determine the original cost new of the item of machinery, equipment, furniture, personal fixtures, and trade fixtures. Any real improvements to the real property, including real fixtures that had to be installed for the proper operation of the property, shall be included in the appraisal of the real property, and not included in the basic cost approach value of the personal property. Those portions of transportation costs and installation costs that do not represent normal and customary costs for the type 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 of property into four economic life groupings that most reasonably reflect the normal economic life of such property as specified in this subparagraph. The

appraiser shall use Table B-1 and B- 2 of Publication 946 of the U.S. Treasury Department Internal Revenue Service, as revised in 1998, to classify the individual asset into the appropriate economic life group. For property that does not appear in such publication, the appraisal staff may determine the appropriate economic life group based on the best information available, including, but not limited to, the property owner's history of purchases and disposals.

- (I) **Group I.** The appraisal staff shall place into Group I any assets that have a typical economic life between five and seven years.
- (II) **Group II.** The appraisal staff shall place into Group II any assets that have a typical economic life between eight and twelve years.
- (III) **Group III.** The appraisal staff shall place into Group III any assets that have a typical economic life of thirteen years or more.
- (IV) **Group IV.** The appraisal staff shall place into Group IV any assets that have a typical economic life of four years or less. The appraisal staff shall also place into Group IV those assets classified as Asset Class 00.12 in Publication 946 of the U.S. Treasury Internal Revenue Service, Table B-1, as revised in 1998.

(iii) **Composite conversion factors.** The appraisal staff shall, in accordance with this Rule, use the composite conversion factors as provided in this subparagraph and apply the appropriate factor to the original cost new of personal property to arrive at the basic cost approach value. The last composite conversion factor in each economic life group shall not be trended and shall represent the residual value.

- (I) **Group I composite conversion factors.** The following composite conversion factors shall be applied to Group I assets to arrive at the basic cost approach value for years one through seven: Y1-.87, Y2-.74, Y3-.58, Y4-.43, Y5-.32, Y6-.26, Y7-.21. Thereafter the residual composite conversion factor shall be .20.
- (II) **Group II composite conversion factors.** The following composite conversion factors shall be applied to Group II assets to arrive at the basic cost approach value for years one through eleven: Y1-.92, Y2-.85, Y3-.78, Y4-.70, Y5-.63, Y6-.54, Y7-.44, Y8-.34, Y9-.28, Y10-.25, Y11-.25. Thereafter the residual composite conversion factor shall be .20.
- (III) **Group III composite conversion factors.** The following composite conversion factors shall be applied to Group III assets to arrive at the basic cost approach value for years one through sixteen: Y1-.95, Y2-.91, Y3-.87, Y4-.82, Y5-.79, Y6-.75, Y7-.70, Y8-.63, Y9-.57, Y10-.52, Y11-.47, Y12-.41, Y13-.35, Y14-.31, Y15-.29, Y16-.28. Thereafter the residual composite conversion factor shall be .20.

**(IV) Group IV composite conversion factors.** The following composite conversion factors shall be applied to Group IV assets to arrive at the basic cost approach value for years one through three: Y1-.67, Y2-.54, Y3-.31. Thereafter the residual composite conversion factor shall be .10.

**(iv) Basic cost approach value.** The basic cost approach value shall be determined by multiplying the composite conversion factor times the original cost new of operating machinery, equipment, furniture, personal fixtures, and trade fixtures.

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

5. Further depreciation to basic cost approach value.

**(vi) 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.

**(vii) 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.

**(viii) Economic obsolescence.** The appraisal staff shall consider any evidence presented by the property owner demonstrating economic obsolescence for the type of personal property being appraised. One method the appraisal staff may use to determine the amount of economic obsolescence is to capitalize the difference between the economic rent of an item of personal property before and after the occurrence of the adverse economic influence.

**(g) Income approach.** The income approach to value estimates the value of personal property by determining the current value of the projected income stream. This approach is most applicable to machinery, equipment, furniture, personal fixtures, and trade fixtures. The approach should only consider the income directly attributable to the personal property being valued and not the income attributable to the real or intangible personal property forming the same business. The appraisal staff may use one of the following methods when using the income approach for the appraisal of applicable personal property:

1. **Straight-line capitalization method.** The straight-line capitalization method estimates the income approach value of personal property by computing the

investment necessary to produce the net income attributable to the personal property. In essence, it is determined by first computing the potential gross income for a subject property by taking the monthly rent, when that is the rental basis, and multiplying that total by twelve months. The potential gross income is then adjusted to a net operating income by subtracting any expenses that legitimately represent the costs necessary for production of that income. The net operating income will represent the amount of revenue left after operating expenses that is available to return the investment, pay property tax on the property, and return a profit to the owner.

**(i) Income and expense analysis.** While complete data is not required on each individual property, there must be sufficient data to develop typical unit rents, typical collection loss ratios, and typical expense ratios for various type properties. Income and expense figures used in the income approach must reflect current market conditions and typical management. Actual figures may be used when they meet this criterion. When actual figures are not available or appear to be unrepresentative, typical figures should be used. Income and expense analysis builds upon the following important components: typical unit rent, potential gross rent, collection loss, typical gross income, typical expenses, and typical net income. Excluded are expenses such as depreciation charges, debt service, income taxes, and business expenses not associated with the property.

**(ii) Capitalization.** Capitalization involves the conversion of typical net income into an estimate of value. The estimated income is divided by the capitalization rate to arrive the estimated income approach value. The capitalization rate consists of three components. The discount rate, the recapture rate, and the effective tax rate. The discount rate represents the amount of return a prudent investor could reasonably expect on an investment in the subject property. The recapture rate represents the return of the potential investment. The effective tax rate represents the portion of the income stream allocated to pay resulting ad valorem taxes on the property.

**(I) Discount rate.** The appraiser should calculate the appropriate discount rate through a method known as the band of investment. The band of investment represents the weighted-average cost of the money needed to purchase the applicable personal property. The appraiser determines the percentage of the cost typically borrowed and multiplies this percentage times the typical cost of borrowing. The appraiser then determines the remaining percentage of the cost typically contributed by an investor and multiplies this percentage times the expected rate of return to the investor. An analysis of similar properties might reveal the discount rate typical for a property of a given type.

**(II) Recapture rate.** The appraiser should calculate the recapture rate by dividing one by the number of years remaining in the economic life of the subject property. The resulting percentage is



the current year's recapture rate.

**(III) Effective tax rate.** The appraiser should calculate the effective tax rate by multiplying the forty percent assessment level times the tax rate in the jurisdiction in which the subject property is located. The effective tax rate is included in the capitalization rate because market value is, yet unknown and property taxes can be addressed as a percentage of that unknown value in lieu of their inclusion as an expense in calculation of net annual income.

**2. Direct sales analysis method.** The direct sales analysis method estimates the income approach value of personal property by computing the relationship between income and sales data. This relationship is expressed as a factor. The method represents a blend of the sales comparison and income approaches because it involves application of income data in conjunction with sales data. Sales of items similar to the subject property are divided by the gross rents, for which they or identical properties are leased, to develop gross income multipliers. A gross income multiplier is selected as typical for the market, and multiplied against the gross income of the subject, or that of an identical property, to result in an estimated value. Limiting the income to rental income only produces a gross rental multiplier.

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

**(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.

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

### **560-11-10-.09 Real Property Appraisal**

- (1) Real property - Introduction.** The appraisal staff shall follow the provisions of this Rule when performing their appraisals of real property. Irrespective of the valuation approach used, the result of any appraisal of real property by the appraisal staff shall conform to the definition of fair market value.
- (a) General valuation procedures.** The appraisal staff shall consider the sales comparison, cost, and income approaches in the appraisal of real property. The degree of dependence on any one approach will change with the availability of reliable data and type of property being appraised. The appraisal staff may express the final fair market value estimate to the board of tax assessors in numbers that are rounded to the nearest hundred dollars.
- (b) Real property identification.** The appraisal staff shall identify real property, determine its taxability, and classify it for addition to the county ad valorem tax digest in accordance with this subparagraph.
- 1. Distinguishing real property.** The appraiser shall be required to correctly identify real property and distinguish it from personal property where the proper valuation procedures, as set forth in this Rule, may be followed.
    - (i) Real property examples.** As used in this Rule, real property shall be that property defined in Rule 560-11-10-.02(1)(w). This Rule shall provide illustrations to assist the appraiser in the proper interpretation of the definition. However, these illustrations should not be construed in a manner that conflicts with the definition. Examples of real property are tangible items such as land, all improvements attached to land, real fixtures, and leasehold interests in real property.
    - (ii) Identification of real fixtures.** When property the appraiser believes to be a real fixture has not been returned by the landlord, the appraiser shall require the landlord to produce their lease agreement and shall carefully review the agreement before making their recommendation to the board of tax assessors regarding the classification and taxability of the property in question. The appraiser shall inform the landlord that they may redact, at their option, any information relating to the payments that are required by the lease agreement.
  - 2. Assessment date.** Code section 48-5-10 provides that each return by a property owner shall be for property held and subject to taxation on January 1 of the tax year. The appraisal staff shall base their decisions regarding the taxability,

uniform assessment, and valuation of real property on the circumstances of such property on January 1 of the tax year for which the assessment is being prepared. When real property is transferred to a new owner or converted to a new use, the circumstances of such property on January 1 shall nevertheless be considered as controlling.

- 3.** Classification. The appraisal staff shall classify real property as provided in Rule 560-11-2-.21 for inclusion in the county tax digest. Real property may be further stratified and categorized as appropriate for aggregating comparable properties for an appraisal.
- (2)** Return of real property. In accordance with Code section 48-5-299(a), the appraisal staff, on behalf of the board of tax assessors, shall investigate diligently and inquire into the property owned in the county, for the purpose of ascertaining what real and tangible personal property is subject to taxation in the county and to require the proper return of the property for taxation. The appraisal staff shall make such investigation as may be necessary to determine the value of any property upon which for any reason all taxes due the state or the county have not been paid in full as required by law. In all cases where taxes are assessed against the owner of property, the appraisal staff shall prepare a proposed assessment on the property according to the best information obtainable.

  - (a)** Information sources. The appraisal staff should develop and maintain information sources for the discovery of unreturned real property.
  - (b)** Returns. The county appraisal staff shall review the returns in accordance with policies and procedures set by the county board of tax assessors consistent with Georgia law and this Rule. Each year, after the deadline for filing returns, the appraisal staff shall secure the returns from the official responsible for receiving returns on or before the tenth day following such deadline.

    - 1.** New returns. Department of Revenue form PT-50R is authorized for use by property owners when returning real property. No other form shall be provided for this purpose to property owners by the county official responsible for receiving returns unless previously approved in writing by the Revenue Commissioner.
    - 2.** Automatic returns. In accordance with Code section 48-5-20, the appraisal staff shall deem any property owner that does not file a return by the deadline as returning for taxation the same property as was returned or deemed to have been returned in the preceding tax year at the same valuation as the property was finally determined to be subject to taxation in the preceding year.
    - 3.** Real estate transfer declaration forms. The Department of Revenue has established Form PT-61 for owners to declare the real estate transfer tax due when property is transferred from one owner to another. The appraisal staff shall review all PT-61 forms filed with the clerk of superior court to discover new owners of property and to ascertain if their property has been returned for taxation. When a property owner acquires real property by transfer in the preceding tax year and does not file a return on such property for the current tax year, the appraisal staff shall follow the procedures of this subparagraph to determine if the newly acquired property has been properly returned for taxation.

- (i) When real estate transfer tax declaration form properly completed. For the purposes of subparagraph (2)(b)(3) of this Rule, the PT-61 form shall be deemed properly completed when all applicable information required by the instructions on the form has been entered on the form, it has been signed by the new owner and filed in quadruplicate with the clerk of superior court. A PT-61 form shall not be deemed properly completed when the appraisal staff determines any of the required information on the form is omitted, false, or misleading.
- (ii) When transferred property deemed returned. When a property owner acquires by transfer real property that has not been subdivided from the preceding tax year, and such owner properly completes a real estate transfer tax PT-61 form and pays any real estate transfer tax that may be due as provided in Article 1 of Chapter 6 of Title 48 of the Code, the appraisal staff shall deem the owner as having returned the property acquired by transfer at the same value finally determined to be applicable to such property for the preceding year.
- (iii) When transferred property deemed unreturned. The appraisal staff shall not deem as returned any property:
  - (I) That is an improvement made since January 1 of the preceding tax year to property that has been transferred;
  - (II) That has been transferred and for which the real estate transfer tax PT-61 form has not been properly completed;
  - (III) That has been transferred and for which the real estate transfer tax PT-61 form has not been filed with the clerk of superior court on or before the deadline for returning property in the year following the year the property is transferred; and
  - (IV) That has been transferred and for which the real estate transfer tax has not been paid.
- (c) Reassessments. The appraisal staff may not recommend to the board of tax assessors a reassessment of the same real property for which a final assessment has already been made by the board. For the purposes of this subsection, the appraisal staff shall presume that a final assessment on real property includes both the land and any improvements to the land.
  1. Recently appealed real property. The appraisal staff shall observe the provisions of Code section 48-5-299(c) and this subparagraph before recommending a change to the assessment of real property that was the subject of an appeal on either the immediately preceding tax digest or the next immediately preceding tax digest. Such property shall be designated in the appraisal staff's records as recently appealed property for the two tax years following the year of the appeal. This subparagraph shall not apply when such property has been returned by the taxpayer at a value different from the appeal- established value.
  2. Changing assessment of recently appealed real property. In the two tax years following an appeal, the appraisal staff may not recommend an increase of

assessment for the sole purpose of changing the valuation established or decision rendered in an appeal to the board of equalization, hearing officer, arbitration, or superior court. Rather a new appraisal must be accompanied by an on-site inspection to determine the occurrence of any substantial additions, deletions, or improvements to such property, errors in the appraisal staff's records or material factors that substantially affect the current fair market value of such property since the appeal was heard that established the value of the property. The appraisal staff may recommend, consistent with the provisions of this subparagraph, to the board of tax assessors a change of assessment on the property that was the subject of the appeal when an appraisal based on current market conditions indicates the value has changed substantially from the value established by the recent appeal. Such appraisal shall be accompanied by a written statement attesting to the fact that an appraiser has conducted the required on-site inspection of the subject property and setting forth the reasons why the appraiser believes that a change of assessment is authorized under Code section 48-5-299(c) and this subparagraph. The written statement shall attest to at least one of the following: substantial additions, deletions, or improvements to such property has occurred since January 1 of the appeal year; an error has been discovered in the property records regarding the description or characteristics of the subject property; or an occurrence of other material factors that substantially affect the current fair market value of the subject property. With respect to the term 'substantial'; when making determinations of whether to increase a recently appealed property the appraiser shall consider the subject property components since the time of appeal (appeal hearing date), such as the value of new improvements, value of additions to existing improvements (footprint of exchanged structure has been altered), major remodeling or renovations to existing structures (footprint of exchanged structure has not been altered), and adjustments to land due to consolidation of tracts, new surveys, zoning changes, land use changes. In the event an appealed property is renovated or remodeled, the term 'substantial' shall be construed such that both the property owner and BOA would reasonably conclude a major renovation/remodeling has occurred. Any modifications made to the appealed property after the appeal hearing date that result in a lower value of the appealed property shall be considered in the final valuation of property for the subsequent January 1 assessment.

**(d)** Collecting and maintaining property information. The appraisal staff shall keep a record of information relevant to the ownership and valuation of all real property in the county and shall follow the procedures in this subparagraph when collecting and maintaining such real property data.

**1.** Description of property information. The type of information the appraisal staff shall maintain includes, but is not limited to, property ownership, location, size, use, physical characteristics, sales prices, construction costs, rents, and operating expenses to the extent such information is available. The appraisal staff shall, consistent with this subparagraph, recommend to the board of tax assessors a uniform policy regarding the information to be included in their records.

**(i)** Geographic information. Cadastral maps or computerized geographic

information systems are to be maintained by the appraisal staff for all real property located in the county. In the event the county governing authority has established a separate mapping office and the maps maintained by such office conform with the requirements of this subparagraph, the appraisal staff may provide relevant information to such mapping office and still be in compliance with this subparagraph. Minimum mapping specifications shall include the following: all streets and roads plotted and identified; property lines delineated for each real property parcel; unique parcel identifier for each parcel; and physical dimensions or acreage estimate for each parcel. The appraisal staff shall use the parcel identifiers to link the real property records to the maps. The appraisal staff shall notify the Revenue Commissioner of all proposed changes to existing parcel- numbering systems before implementing such changes.

- (ii)** Sales information. The appraisal staff shall maintain a record of all sales of real property that are available and occur within the county. The appraisal staff should also familiarize themselves with overall market trends within their immediate geographical area of the state. They should collect and analyze sales data from other jurisdictions having market and usage conditions similar to their county for consideration when insufficient sales exist in the county to evaluate a property type, especially large acreage tracts. The Real Estate Transfer Tax document, Department of Revenue Form PT-61, shall be a primary record source. However, the appraisal staff may also review deeds of transfer and security deeds recorded in the Office of the Superior Court Clerk, and probated wills recorded in the Office of the Probate Judge to maintain a record of relevant information relating to the sale or transfer of real property. Records required to be maintained shall include at a minimum the following information: map and parcel identifier; sale date; sale price; buyer's name; seller's name; deed book and page number; vacant or improved; number of acres or other measure of the land; representativeness of sale using the confirming criteria provided in Rule 560-11-2-.56(1)(d); any income and expense information reasonably available from public records; property classification as provided in Rule 560-11-2-.21, and; when available, the appraised value for the tax year immediately following the year in which the sale occurred
- (iii)** Property characteristics. The appraisal staff shall maintain a record of real property characteristics. This record shall include, but not be limited to, sufficient property characteristics to classify and value the property. In addition, the following criteria may be considered when determining which characteristics should be gathered and maintained: factors that influence the market in the location being considered; requirements of the valuation approach being employed; digest classification and stratification; requirements of other governmental and private users; and marginal benefits and costs of collecting and maintaining each property characteristic.

- (iv) Land and location characteristics. The appraisal staff shall maintain a record of the land and location characteristics. The record should include, but not be limited to, location, frontage, width, depth, shape, size, topography, landscaping, slope, view, drainage, hydrology, off-site improvements, soil condition, soil productivity, zoning, absorption, nuisances, use, covenants, neighborhood, corner influence, proximity to recreational water, and quality of access.
              - (v) Improvement characteristics. The appraisal staff shall maintain a record of the characteristics of the improvements to land. The record shall include, but not be limited to, the location, size, actual use, design, construction quality, construction materials, age and observed condition.
2. Collecting property information. The appraisal staff shall, consistent with the policies of the board of tax assessors and this subparagraph, physically inspect properties when necessary to gather the information required by Rule 560-11-10-.09(2)(d).
  - (i) Field inspections. The appraisal staff shall develop and present to the board of tax assessors for approval procedures that provide for periodic field inspections to identify properties and ensure that property characteristics information is complete and accurate. The procedures shall include guidelines for the physical inspection of the property by either appraisers or specially trained data collectors. The format should be designed for standardization, consistency, objectivity, completeness, easy use in the field, and should facilitate later entry into a computer assisted mass appraisal system, when one is used. When interior information is required, the procedures shall include guidelines on how and when to seek access to the property along with alternative procedures when such access is not permitted or feasible.
3. Maintaining property characteristics information. The appraisal staff shall systematically update the property characteristics information in response to changes brought about by new construction, new parcels, remodeling, demolition, and destruction. The appraisal staff shall physically measure and update their records to reflect all such changes to real properties in the county.
4. Records retention schedules. The appraisal staff shall develop, in accordance with the provisions of Code section 50-18-99, records retention schedules for each series of documents maintained in their office and have such schedules approved by the board of tax assessors before submitting the schedules to the State Records Committee for official approval pursuant to Code section 50-18-92.
  - (i) Building permits. In counties that issue building permits, no appraisal shall be based solely on declarations of proposed construction cost made by the person obtaining such building permits.
  - (ii) Aerial photographs. New aerial photographs should be compared to previous aerial photographs, if such photographs exist, to discover new or previously unrecorded construction.

(iii) Field review frequency. All real property parcels should be physically reviewed at least once every three years to ascertain that property information records are current.

(3) Land valuation. The appraisal staff shall estimate land values by use of the sales comparison or income approach to value as provided in this subparagraph giving preference to the sales comparison approach when adequate land sales are available. The appraisal staff shall identify and describe the property, collect site-specific information, make a study of trends and factors influencing value and obtain a physical measurement of the site. Once the subject is analyzed, the appraisal staff shall classify the land for valuation. Once land values have been estimated, such appraisals should be regularly reviewed and updated.

(a) Land analysis and stratification. The appraisal staff shall appraise land separately from the improvements both to consider the trends and factors affecting each and to arrive at a separate assessment for the digest. In no event, however, may the separate appraisals of the land and improvements exceed the fair market value of the land and improvements when considered as a whole. For appraisal purposes, land shall be separated into different categories based on its use and sales within the market.

1. Site analysis. The appraisal staff shall utilize the trends and factors affecting the value of the subject property, such as its accessibility and desirability. The existing zoning, existing use, existing covenants and use restrictions in the deed and in law shall be applied. The other factors the appraiser shall apply include, but are not limited to, environmental, economic, governmental, and social factors. Site-specific information that may be considered includes, but is not limited to, location, frontage, width, depth, shape, size, topography, landscaping, slope, view, drainage, hydrology, off-site improvements, soil condition, soil productivity, zoning, absorption, nuisances, use, covenants, neighborhood, corner influence, proximity to recreational water, and the quality of access.

2. Market research and verification. The appraisal staff shall build and maintain an up-to-date file system of qualified sales as provided in Rule 560-11-10-.09(2)(d)(1)(ii). Other preferred information to be considered is the motivations of the buyer and seller, as obtained from actual interviews of the parties to the sales. Adjustments to the sales to be considered by the appraiser include, but are not limited to, time of sale; location; physical characteristics; partial interest not conveyed; trades or exchanges included; personal property included; leases assumed; incomplete or unbuilt community property; atypical financing; existing covenants; deed restrictions; environmental, economic, governmental, and social factors affecting the sale property and the subject parcel. These adjusted qualified sales may then be used to appraise the subject property.

(b) Acreage tract valuation. The appraisal staff shall determine the small acreage break point to differentiate between small acreage tracts and large acreage tracts and develop or acquire schedules for the valuation of each. When this small acreage break point cannot easily be determined, the appraisal staff shall recommend to the board of tax assessors a reasonable break point of not less than five acres nor more than twenty-five acres. The base land schedules should be applicable to all land types in a county. The documentation prepared by the appraisal staff should clearly demonstrate



how the land schedule is applied and explain its limitations.

1. Small acreage tract valuation schedule. After the appraisal staff has performed the site analysis, as provided in Rule 560-11-10-.09(3)(a)(1), they shall analyze the market to identify groups of comparable properties that may be combined in the valuation process, as provided in Rule 560-11-10-.09(4)(b)(3). The appraisal staff shall then analyze the sales to establish a representative base price per acre, and adjustment factors for reflecting value added by the characteristics discovered in the site analysis. Using such base value and the adjustment factors, the appraisal staff shall develop the small acreage schedule for all acreage levels through the small acreage break point.
2. Large acreage tract valuation schedule. After the appraisal staff has performed the site analysis, as provided in Rule 560-11-10-.09(3)(a)(1), they shall analyze the market to identify groups of comparable properties that may be combined in the valuation process, as provided in Rule 560-11-10-.09(4)(b)(3). The appraisal staff shall then analyze the sales to establish a representative benchmark price per acre, and adjustment values for reflecting incremental value associated with different productivity levels, sizes, and locations, as discovered in the site analysis. Using such benchmark values and adjustment values, the appraisal staff shall develop the large acreage schedule for all acreage levels above the small acreage break point.
  - (i) Land productivity values. The appraisal staff should analyze sales of large acreage tracts to extract the value of all improvements, crop allotments, standing timber, and any other factors that influence the value above the base land value. The appraisal staff should then stratify the sales into two categories of open land and woodland. The base land values should be further stratified into up to nine productivity grades for each category of land, with grade one being the best, using the productivity classifications of the United States Department of Agriculture Natural Resources Conservation Service, where available. Where soil productivity information is not available, the appraisal staff may consult with the local United States Department of Agriculture Natural Resources Conservation Service Supervisor. Alternately, the appraisal staff may use any acceptable means by which to determine soil productivity grades including, but not limited to, aerial and infrared photography, historical soil productivity information, and present use. The appraisal staff should analyze sales within the strata and determine benchmark values for as many productivity grades as possible. The missing strata values are then determined by extrapolating between grades. In the absence of sufficient benchmark values, a system of productivity factors may be developed from crop or timber production based on ratings provided by the United States Department of Agriculture Natural Resources Conservation Service.
  - (ii) Pond values. The appraisal staff should analyze sales of large acreage tracts containing ponds to extract the value of ponds. The appraisal staff should develop up to three grades of ponds based upon the quality of construction with regard to the dam, the amount of tree clearing within

the pond body, and the nature of the waterline around the pond.

- (iii)** Location and size adjustments. The appraisal staff should plot sales on an index map of the county where trends in sales prices based on size and location may be analyzed. From this analysis, the appraisal staff should develop adjustments for each homogeneous market area, which are based on a tract's location within the county. Within each identified homogeneous market area, sales should also be analyzed to develop adjustment factors for ranges of tract sizes where the market reflects a relationship between the value per acre and the number of acres in a tract. Such factors should be calculated to the fourth decimal place and should extend from the small acreage break point to the tract acreage point where size no longer appears to have a significant impact on the price paid per acre. The appraiser should select an acreage point between these two points that represents a typical agricultural use tract size and assign it an index factor value of 1.0000. Such adjustments should be supported by clearly identifiable changes in selling prices per acre. Finally, large acreage tracts that have sold within the most recent 24 months, unless no such sale has occurred in which case the look back period should be 48 months, should be appraised using the schedule of adjustment factors and a sales ratio study performed to test for uniformity and conformity of the schedule to Rule 560-11-2-.56, and if the schedule thus conforms, the adjustments shall then be applied to all other large acreage tracts that are within the scope of the schedule being tested.
- (iv)** Adjustments for absorption When insufficient large tract sales are available to create a reliable schedule of factors, the appraisal staff may use comparable sales to develop values for the size tracts for which comparables exist, and then adjust these values for larger tracts by (1) estimating a rate of absorption for the smaller tracts for which data exists, (2) dividing the large tract into smaller, marketable sections, (3) developing a sales schedule with estimated income by year reflecting the absorption rate and the value characteristics of each of the smaller tracts, (4) discounting the income schedule to the present using an appropriate discount rate, and (5) summing the resulting values to arrive at an estimated value for the property.
- (v)** Standing Timber Value Extraction. When determining the market value of land underlying standing timber, where such standing timber is taxed in accordance with Code section 48-5-7.5, the appraiser shall not rely exclusively on the sales prices of such land that has recently had the timber harvested. Rather he or she shall also consider sales of land with standing timber after the value of such standing timber has been determined in accordance with this subparagraph and deducted from the selling price.

  - (I)** Determine timber value from buyer and seller. For all types of timber, the value of the standing timber on recently sold land should be determined from reliable information from the buyer

and seller clearly segregating the value of the standing timber from the underlying land. In the absence of such information, the appraiser may use one of the following methods to determine the value of the standing timber if in his or her judgment the results are reasonably consistent with other sales where buyer and seller information is known:

- I. Calculate value of merchantable timber. For all types of merchantable timber, the value of the standing timber may be determined by multiplying estimated volumes by product class, such as softwood and hardwood pulpwood, chip and saw logs, saw timber, poles, posts, and fuel wood, of timber on the property by prices for each product class as obtained from the table of weighted average prices paid for harvested timber applicable to the year during which the sale occurred and prepared by the Commissioner pursuant to paragraph (g) of Code section 48-5-7.5. For the purposes of this subparagraph, merchantable timber shall include stands that have been in production for more than fifteen years. Estimated volumes by product class may be obtained by one of the following methods: reliable information from the buyer or seller or from specially trained data collectors who have estimated volumes from a visual on-site inspection or from an aerial survey.
- II. Calculate value of pre-merchantable planted pine timber. For pre-merchantable planted pine timber, the value of the standing timber may be determined by estimating the value of the timber at the age of merchantability and then prorating this value to the actual age of the pre-merchantable stand. The appraiser may arrive at this estimate using the following steps:
  - A. For each applicable timber product class, multiply the estimated tons of timber volume yield per acre for each product class at the age of merchantability times the locally prevailing timber price per ton of such product classes. Sum the individual results of the timber product class calculations into a single result.
    - (A) In the absence of reliable locally prevailing timber price per ton information, the appraiser may use timber price per ton from the table of weighted average prices paid for harvested timber prepared by the Commissioner pursuant to paragraph (g) of Code section 48-5-7.5.

- (B)** In the absence of specific yield information to the contrary, the appraiser may estimate timber volume yields at an average yield of 52.2 tons per acre or preferably by using the land productivity classifications established by Rule 560-11-10-.09(3)(b)(2)(i) and the following tables of estimated yields of fully stocked planted timber stands at age fifteen, and then adjusting the yields according to the actual stocking density of the timber stand.
- (C)** In the absence of reliable local information on typical timber product class volume yields at the age of merchantability, the appraiser may assume that ninety percent (90%) of the timber will be pulpwood and ten percent (10%) will be chip-n- saw.

- B.** Multiply the result in subparagraph A. by the number of acres of pre-merchantable timberland.
- C.** Deduct from the result in subparagraph B. the normal cost to establish a timber stand on cut over woodland, which shall be known as the base value. Normal cost may be determined from planters, local site preparation and planning contractors and other reliable sources.
- D.** Divide the result in subparagraph C. by the age of merchantability to determine the average annual timber growth value. In the absence of reliable local information to the contrary, the age of merchantability shall be fifteen years.
- E.** Multiply the result in subparagraph D. by the actual age of the standing timber to arrive at the value of the accumulated timber growth.
- F.** Add back the base value deducted in subparagraph C. to the result in subparagraph E. to yield the total value of the pre-merchantable standing timber.

**III.** Determine value of other pre-merchantable timber.

For types of pre-merchantable timber other than planted pine, the value of the standing timber may be determined from the best information available. In the absence of local

reliable information to the contrary, the value of other pre-merchantable timber may be estimated as follows:

- A.** Natural stands less than five years of age should be assigned no value.
  - B.** Natural pre-merchantable stands five years of age and older should be valued in the same manner as planted pine timber is valued, except the appraiser should make no adjustments for the base cost of establishing the timber stand; yields for natural pine stands should be estimated at fifty percent of the volume determined for a planted pine stand; and yields for hardwood stands should be estimated at forty percent of the value determined for a planted pine stand.
- (c)** Site valuation. The appraisal staff may use the valuation methods in this subparagraph to appraise sites that have been developed for residential, commercial, or industrial use.
  - 1.** Valuation methods with sufficient sales. The appraisal staff shall use one, or a combination of more than one, of the valuation methods in this subparagraph when sufficient sales are available to reliably support the appraisal. These methods may be used to value the land directly.
    - (i)** Comparative unit method. To use the comparative unit method, the appraisal staff shall stratify the land sales into a stratum comparable in market area or use type to the subject parcel. The appraiser then determines a land comparison unit by which the subject parcel is normally bought and sold in the marketplace and converts the sales price of the comparable properties to a typical per comparison unit value, using the median measure of central tendency. Per-measurement-unit, lump sum, and percentage adjustments are then made as needed to reflect the value of subject land features that differ from the base land features. The appraiser may use one of the following five basic comparison units: front foot, square foot, acre, site or lot, and units buildable. The appraisal staff may rely upon the comparative unit method for areas where parcels vary in size but are fairly homogeneous in other aspects, as opposed to areas where the sites are similar in size but vary substantially in site characteristics. The reliability of the analysis should be verified by a calculation of the coefficient of dispersion and the price related differential. These statistical indicators should fall within the standards of Rule 560-11-2-.56 before the appraiser relies upon the selected sales to appraise the subject parcel.
    - (ii)** Base lot method. To use the base lot method, the appraisal staff shall appraise the base parcel in each stratum using the comparative unit method, with the base lot serving as the subject parcel. Once the base-lot's appraised value is established, it is used as a benchmark to appraise

other individual parcels. The appraiser may use the base-lot method when the site characteristics are generally similar. Adjustments shall be developed using paired-sales analysis or other forms of market research. Then, the appraiser shall adjust the comparables to the base lot, calculate the measure of central tendency, and select a representative base-lot appraised value. The reliability of the analysis may be verified by a calculation of the coefficient of dispersion and the price related differential. These statistical indicators should fall within the standards of Rule 560-11-2-.56 before the appraiser relies upon the selected sales to select a base-lot appraised value.

**(iii)** Cost-of-development method. To use the cost-of-development method, the appraisal staff shall estimate the total development costs and subtract these costs from the projected sales prices of the developed lots to indicate the appraised value for the raw land. The projected improvements must represent the most probable use of the land. Estimated costs should include the direct costs of site preparation, utility hookups, all indirect costs, and a reasonable allowance for owner profit. The appraiser may use this method to directly value land in transition from agricultural use to residential or commercial use when there are insufficient sales to apply the comparative unit or base lot methods.

**2.** Valuation methods with insufficient sales. When vacant land sales are limited, the appraisal staff may use alternative methods to determine residual land values. These residual land values may be used in the same way as vacant land sales in order to establish comparative unit or base lot values. The appraisal staff shall not use these methods to establish land values directly. The alternative methods that may be used are allocation, abstraction, capitalization of ground rent, and land residual capitalization.

**(i)** Allocation method. Using this method, the appraisal staff estimates the typical percentage of combined land and improvement value attributable to the land alone. This land percentage estimate should be based on knowledge of the market for properties of the class being appraised and the appraiser should take into consideration the site value in previous years before being improved, the land-to- improvement ratios in similar neighborhoods, and an analysis of new construction on similarly classified sites.

**(ii)** Abstraction method. Using this method, the appraisal staff estimates the land residual value by subtracting the depreciated replacement cost of improvements from the sale price of an improved property.

**(iii)** Capitalization of ground rents method. Using this method, the appraisal staff determines the market rent of the subject site, computes a net income, selects a capitalization rate, and computes the present worth of the future benefits of the subject parcel. The appraiser should not use this method when there is insufficient market information available to estimate the income potential of the subject parcel.

**(iv)** Land residual capitalization method. Using this method, the appraisal

staff develops the annual net operating income attributable to the property and develops capitalization rates for both the land and the improvements to the land. The estimated improvement value is multiplied by the improvement capitalization rate and the result is deducted from the forecasted annual net operating annual income. The remaining income, the residual amount attributable to the land, is then capitalized, using the land capitalization rate, into a value indicator for the land. The appraiser should only use the land residual capitalization method on new income-producing improved properties either when the improvement has little or no observed depreciation of any kind and a well-supported improvement value can be developed, or when an improvement can be hypothesized, and its cost and net operating income reliably estimated.

3. Special procedures. The appraisal staff shall observe the special procedures contained in this subparagraph when appraising the described property types.
  - (i) Transitional land. The appraisal staff shall analyze any unusual sale amount for a single parcel of land that seems to indicate a transition from one type of land use to another type of land use, such as from agricultural to residential or from residential to commercial and conversely. The appraisal staff should consider that a single sale might not necessarily indicate a changing market. The appraisal staff should analyze such sales to ensure that the new use is clearly indicated by a pattern of sales before qualifying and adjusting such sales for use as comparables for appraising the remaining comparable land.
  - (ii) Absorption rates. When appraising a subdivision, the appraisal staff shall use discounted cash-flow analysis in conjunction with the cost-of-development method to appraise the unsold parcels when it is anticipated that the parcels will require several more years of exposure to the market to sell. The appraisal staff may consider typical holding periods, marketing, and management practices when estimating anticipated revenues and allowable expenses.
- (4) Improvement valuation. Except as provided in subparagraph (a) of this subparagraph, the appraisal staff will use the following three approaches when appraising real property: the direct sales comparison approach, the cost approach, and the income approach. In determining the reliability and representativeness of each approach or combination of approaches, the appraisal staff shall consider those factors most likely to influence buyers and sellers when those buyers and sellers are determining exchange prices in the marketplace, and the sufficiency of available sales, cost, income and expense information to reliably quantify those factors. However, irrespective of the valuation approach used, the final results of any appraisal of real property by the appraisal staff shall in all instances comply with the definition of fair market value in Code section 48-5-2.
  - (a) Cost approach. The appraisal staff shall use the following three steps when applying the cost approach: Estimate the cost new of the improvements, subtract accrued depreciation, and add the value of the land.

1. Estimating cost new. In estimating the cost new of any buildings, structures, or other improvements to land, the appraisal staff shall consider the following:
  - (i) Types of costs. The appraisal staff shall include both direct and indirect costs that would be incurred to build and market the property, including normal overhead and profit. The approach would normally produce the replacement cost. The appraisal staff may consider the reproduction cost, and adjust for depreciation accordingly, when appraising an unusual or special-purpose property.
  - (I) Comparative unit method. Unless otherwise provided under Rule 560- 11-10-.09(4)(a)(1)(i), the appraisal staff shall determine benchmark per- square-foot, per-cubic-foot, or other per-measurement-unit costs for base structures using cost guides or local cost information. Such benchmark per-measurement-unit costs may then be applied to the subject improvements to determine typical replacement cost new. Per-measurement-unit, lump sum, and percentage adjustments are then made as needed to reflect the value of subject improvements features that differ from the base structures. All forms of depreciation are then applied as a lump sum factor based on the age and useful life of the subject improvements.
  - (II) Unit-in-place method. The appraisal staff may use the unit-in-place method when making adjustments in the comparative unit method. This method determines costs of individual construction components on a per- measurement-unit, in-place basis. The total cost of each component of the subject improvement is then found by multiplying the various per- measurement-unit costs by the number of actual measurement units installed in the subject improvement. The appraisal staff may also use this method when estimating costs for unusual or special-purpose improvements, in which case the component costs would be summed and combined with applicable indirect costs to obtain an estimate of the total replacement cost new of the subject improvements. All forms of depreciation are then applied as a lump sum factor based on the age and useful life of the subject improvements
  - (III) Quantity survey method. The appraisal staff may separately itemize all various labor, material, and indirect costs when it is desirable to produce the reproduction cost new. All forms of depreciation are then applied separately based on the physical deterioration, functional obsolescence, and economic obsolescence observed by the appraiser. The appraisal staff may use this method in the development and trending of comparative unit and unit-in-place costs.
  - (IV) Trended original cost method. When determining the cost of structures where the comparative unit or unit-in-place methods



are inapplicable, the appraisal staff may trend the original costs over time by factors obtained from a construction cost index guide. The appraisal staff shall not use this method when the original cost figures are not accurate or complete.

- (ii)** Sources of cost information. The appraisal staff may obtain cost information by directly collecting information from contractors, builders, developers, property owners, and other marketplace participants. Cost information may be obtained from firms that compile and publish construction information, with the appraisal staff supplementing or modifying such information with locally gathered cost information. The appraisal staff may obtain cost manuals specifically developed for the county by construction cost services and mass appraisal firms.
  - (iii)** Updating costs. Cost information shall be updated by the appraisal staff as necessary to reasonably reflect current construction costs for the various construction classes. Indexing may be used in the short term to update cost information, but in no event shall the appraisal staff rely on indexing alone for more than three years.
  - (iv)** Location modifiers. The appraisal staff shall develop base construction cost tables. Modifiers, in the form of factors to be applied to the cost tables, may then be developed for areas to reflect local market conditions. Different sets of modifiers may be necessary to reflect the market for different property types within a county.
  - (v)** Cost models. The appraisal staff shall develop or acquire representative cost models that contain the manual or automated cost factor tables used in the cost approach. The models should be applicable to all building types in a county and be based on actual updated costs as defined in Rule 560-11-10-.09(4)(a)(1)(iii). The models should clearly identify included indirect costs, contain depreciation estimation guidelines, and provide for systematic cost estimation on manual or automated forms. The documentation prepared by the appraisal staff should clearly demonstrate how the cost model is applied and explain its limitations.
- 2.** Estimating depreciation. The appraisal staff shall estimate the depreciation by determining the difference between replacement or reproduction cost new and the current market value of an improvement. This determination shall require an analysis by the appraiser of physical deterioration, functional obsolescence, and economic obsolescence present, keeping in mind that physical deterioration and functional obsolescence may include curable and incurable components. The appraiser may estimate depreciation as a total amount or as a percentage of replacement or reproduction cost new. Improvements with special circumstances may be treated on an exception basis. The appraisal staff shall use the effective age of improvements, when different from the actual age, when estimating depreciation. The methods the appraisal staff may use to estimate depreciation include, but are not limited to, the following four methods:



comparison approach, the appraisal staff shall rely upon the economic principles of supply and demand, substitution, and contribution. The interaction of supply and demand factors determines property prices. The principle of substitution states that a prudent buyer will pay no more for a property than for a comparable property with similar utility. The principle of contribution as applied to the sales comparison approach means the value of a property component is measured by its contribution to the whole rather than by its cost.

2. Market research and verification. The appraisal staff shall build and maintain an up-to-date file system of qualified sales as provided in Rule 560-11-10-.09(2)(d)(1)(ii). Other preferred information to be considered is the motivations of the buyer and seller, as obtained from actual interviews of the parties to the sales. Adjustments to the sales to be considered by the appraiser include, but are not limited to, time of sale; location; physical characteristics; partial interest not conveyed; trades or exchanges included; personal property included; leases included; incomplete or unbuilt community property; atypical financing; existing covenants; deed restrictions; environmental, economic, governmental, and social factors affecting the sale property and the subject parcel. These adjusted qualified sales may then be used to appraise the subject parcel.
3. Market analysis and stratification. The appraisal staff shall analyze the market to identify groups of comparable properties that may be combined in the valuation process. Properties may be combined and classified to reflect use, location, neighborhood, or other comparison criteria that have been shown to reflect the interest of buyers and sellers.
4. Comparable sales analysis. When applying the analysis, the appraisal staff should identify a representative number of comparable properties that have recently sold, apply the adjustments indicated by the market research and verification process to such comparables, and then adjust such comparables for physical differences from the subject property. The appraiser may then develop an estimated value of the subject property from the adjusted sales prices of the comparable properties. This process may be computer assisted in a mass appraisal environment.
5. Sales ratio applications. The appraisal staff shall conduct sales ratio studies to periodically measure the quality of their appraisals relative to the market. Such studies should be designed to measure whether appraisals meet the overall legal standards provided in Rule 560-11-2-.56 and provide more precise analysis of the quality of appraisals within and between market strata used by the appraisal staff to compare properties. When sales ratio studies reveal excessive inequities within a stratum, the appraisal staff should consider reappraising the properties in the stratum. When such studies reveal excessive inequities between strata, and there is acceptable uniformity within the strata, the appraisal staff should consider trending to correct this uniformity problem.
  - (i) Trending. The appraisal staff shall use the procedures in this subparagraph when applying trend factors to improve uniformity. Stratify properties by property type and neighborhood. Determine the

measure of central tendency by computing the median assessment ratio, substituting the aggregate ratio when the properties in the stratum tend to be heterogeneous. Then divide the legal assessment ratio by the calculated measure of central tendency to calculate the trend factor. The appraisal staff should not apply trending factors in excess of 1.15. In such instances, the appraisal staff should correct intra-strata differences by reappraising the properties within the affected strata. Before finalizing the application of trending factors, the appraisal staff should calculate the coefficient of dispersion to verify that uniformity among assessments will be improved by trending.

- (c) Income approach. When using the income approach, the appraisal staff shall estimate value by determining the present value of the projected income stream from the use of the subject property in the future.
1. Income and expense analysis. The appraisal staff shall analyze the income stream and project a future income stream that reflects typical management and current market conditions.
    - (i) Components of income and expense analysis. The appraisal staff may consider the following components when performing the income and expense analysis: typical unit rent, potential gross income, miscellaneous income, effective gross income, vacancy and collection loss, typical expenses, replacement reserves, and net operating income. Expenses such as depreciation charges, debt service, ad valorem taxes, income taxes, and business expenses not associated with the property should not be considered. While complete information is not required on each individual property, the appraisal staff should secure sufficient information to develop typical unit rents, typical vacancy and collection loss ratios, and typical expense ratios for various type properties before applying the income approach.
    - (ii) Analyzing reported data. The appraisal staff may use actual income and expense information when they reflect typical management and current market conditions; otherwise, typical figures should be used. The appraiser may stratify properties and develop typical unit rents, vacancy and collection loss ratios, and expense ratios to evaluate the reasonableness of reported figures for individual properties and to substitute for unreported figures. The appraiser may also use multiple regression analysis to estimate typical rents as a function of such variables as construction quality, age, location, size of building, and other relevant factors. Multiple regression analysis may also be used to estimate typical expense ratios, and other income and expense components. The appraiser should not consider outdated or non-market leases. Percentage leases should be expressed in actual dollar amounts and averaged over a period of years. Periodic expenditures for replacements should be pro-rated over their economic lives.
  2. Capitalization methods. The appraisal staff shall use the procedures in this subparagraph to capitalize the income into an estimate of value. The appraisal

staff may utilize the following rates while using the income approach and its various methods and techniques. The discount rate is the annual return on the investment in the property. It is a component of a total capitalization rate. The interest rate is the rate of return on borrowed funds. It is a component of the discount rate. The equity yield rate is the annual return on the equity portion of the investment in the property. It is a component of the total capitalization rate in the mortgage equity technique.

- (i)** Direct capitalization. The appraisal staff shall, when applying this method, use either overall rates or income multipliers. Both require adequate sales data and accurate estimates of potential annual gross income, effective annual gross income, or annual net operating income.
  - (I)** Overall rates. Using the most common version of this method, the appraisal staff develops the annual net operating income of a sample of properties that have sold. The individual annual net operating incomes are divided by the individual sale prices resulting in the individual overall rates. A representative overall rate is then selected from the sample and applied to the subject property by dividing its annual net operating income by the selected overall rate resulting in an estimate of value for the property. The appraisal staff may also employ other techniques to develop an overall rate, such as the weighted land to improvement ratio method, the net income ratio method, and the debt coverage ratio method.
  - (II)** Income multipliers. Using this method, the appraisal staff may use potential gross income, effective gross income, or annual net operating income from a sample of properties that have sold. Individual sale prices are divided by the selected level of income resulting in individual multipliers. A representative multiplier is then selected from the sample and applied to the subject property by multiplying the selected level of income by the multiplier appropriate to the level of income selected resulting in an estimate of value for the property.
- (ii)** Annuity capitalization. Annuity capitalization may be used to apply the income approach when the subject property is under a long-term lease. The appraisal staff develops capitalization rates for both land and improvements to the land. The appropriate residual technique is selected based on the known value of either land or improvement. The land or improvement value is multiplied by the appropriate capitalization rate, and the result is deducted from the annual net operating income. The remaining residual income to either land or improvement is then capitalized by the appropriate rate resulting in an estimate of value for either land or improvement.
- (iii)** Sinking fund capitalization. Sinking fund capitalization may be used to apply the income approach when periodic reserves for replacement are set aside in equal amounts, at a safe rate, in order to restore or rebuild

the improvements in the future. It is applied in the same manner as annuity or straight-line capitalization.

- (iv)** Straight-line capitalization. Straight-line capitalization may be used to apply the income approach when the appraisal staff uses straight-line depreciation schedules. It is applied in the same manner as annuity capitalization and sinking fund capitalization.
  - (v)** Discounted cash flow analysis. Discounted cash flow analysis may be used to apply the income approach when the appraisal staff is valuing a lease and the residual value of the property at the end of the lease term. Each year's income stream is discounted by applying a present-value factor to the cash flow expected for each year. The estimated property value at the end of the lease term is also discounted. The discounted amounts are summed resulting in an estimate of value for the property.
  - (vi)** Mortgage equity analysis. Mortgage equity analysis may be used when the appraisal staff can reliably determine mortgage terms and cash flow and reliably estimate the holding period and the percentage by which the property will appreciate or depreciate over the holding period. The appraisal staff computes a constant annual payment from the interest rate and amortization term and selects an appropriate equity yield rate. The estimated cash flow over the holding period is discounted at the equity yield rate, as is the anticipated selling price of the property. The two discounted amounts are added to the present mortgage balance resulting in an estimate the value for the property.
  - (vii)** Residual capitalization techniques. The appraisal staff may use a residual technique to apply the income approach when either the improvement or land component of the property value can be reliably estimated or documented by sales.
  - (viii)** Building residual technique. The appraisal staff may use a building residual technique when the land value of the subject property is known and documented by comparable sales. The appraisal staff develops the total annual net operating income attributable to the property and develops capitalization rates for land and improvements to the land. The land value is multiplied by the land capitalization rate and the result is deducted from the total annual net operating income. The remaining residual income to the improvement is capitalized using the improvement capitalization rate into an indicator of value for the improvement. This is added to the land value resulting in an estimate of value for the property.
  - (ix)** Land residual technique. The appraisal staff may use this technique when the improvement value is known and documented by current cost figures. It is applied in the same manner as the building residual technique except a residual land income is capitalized into an indication of land value and added to the improvement value resulting in an estimate of value for the property.
- (d)** Special procedures. The appraisal staff shall observe the special procedures contained in

this subparagraph when appraising the described property types.

1. Valuation of common areas. The appraisal staff shall take into account the extent that the fair market value of individually owned units in a residential subdivision, planned commercial development, or condominium also represents the fair market value of any ownership interest in any common area that is conveyed with the individually owned units. When the appraisal staff determines that the fair market value of the common area is included in the fair market value of the individually owned units, the appraisal staff may recommend a nominal assessment of the common area parcel. When the appraisal staff makes such a determination, the fair market value of residual interests not conveyed to the owners of the individually owned units shall be appraised and an assessment recommended to the board of tax assessors.
2. Construction in progress. Construction in progress shall be appraised in the same manner as other similar real property taking into account that there may be little or no physical deterioration on such property and that the fair market value may be diminished due to the incomplete state of construction. The appraisal staff should attempt to value construction in progress by forecasting the future cash flow a project would generate and discounting at a rate that reflects the risk and uncertainty of that cash flow. If the construction in progress is being financed by a lending institution that has established an account from which funds may be drawn by the builder as construction progresses, the appraisal staff may consider the percentage of such funds expended as of January 1 as a possible indication of percentage completion of construction in progress. In the absence of sufficient information to perform such an analysis, the appraisal staff should estimate the percentage of completion of all construction in progress as of January 1 of the tax year using the best information available. The appraisal staff should then estimate the fair market value of the improvement upon completion. The appraisal staff should then estimate the fair market value as of January 1 as being the estimated fair market value upon completion multiplied by the percentage of completion on January 1. If comparable sales information of real property under construction is generally not available and there is no other specific evidence to measure the probable loss of value if the property is sold in an incomplete state of construction, the appraisal staff may multiply the identified total cost of construction by a uniform market risk factor of .75.
3. Assemblage. The county appraisal staff shall not combine multiple rural parcels into a single taxable rural parcel unless all the following have been satisfied:
  - (1) parcels must be contiguous or separated by only a stream, creek, non-navigable river, road, street, highway, railroad, or other recognized thoroughfare,
  - (2) parcels must be titled in exactly the same name,
  - (3) parcels must fall entirely within the same taxing district, and
  - (4) parcels that are contiguous but lie in different taxing districts and are otherwise eligible for combination shall be valued in the same manner as the total acreage of the combined parcels would dictate.

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



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# **CHAPTER 4**

## **Overview of AD Valorem Taxation**

The Department of Revenue offers classes as guided by state law for county assessors and appraisers on the administration and appraisal of property for the ad valorem tax process. DOR also maintain the records of the training offered by the Department of Revenue as well as continuing education course records submitted to the Department of Revenue by the student or the student's county of employment which were offered by organizations and professionals with expertise in providing instruction in property tax administration, property taxation, or related matters which have been approved by the commissioner.

Who is an assessor or appraiser?

What do they do?

What role do they play in county government and Ad Valorem taxation?

These are some of the questions this chapter will address.

**An appraiser** is a person who develops an opinion of the market value or other value of a product, most notably real estate. Appraiser qualification requirements undergo continuous review and revision. Appraisers will have to fulfill both education and experience requirements before taking a qualifying appraiser exam. The state of Georgia has four levels of Appraiser designations for mass appraisal. With each level of Appraiser designations, core classes must be completed before one can sit for the exams, and the exams have increasing difficulty as you move up through the four levels.

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.

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.

AUTHORITY: O.C.G.A. Secs. 48-2-12, 48-5-291.

HISTORY: Original Rule entitled "County Appraisal Staff--Qualifications" was filed on May 25, 1973; effective June 14, 1973. Amended: Filed June 20, 1980; effective July 10, 1980. Amended: F. Jan. 4, 2016; eff. Jan. 24, 2016.

**§ 48-5-263. Qualifications and duties of appraisers**

**(a) Qualifications.**

(1) The commissioner shall establish, and the Department of Administrative Services may review, the qualifications and rate of compensation for each appraiser grade.

(2) Each appraiser shall, before his or her employment, obtain a satisfactory grade, as determined by the commissioner, on an examination prepared by the commissioner and an institution of higher education in this state.

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

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

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

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

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

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

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

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

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

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

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

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

**The assessor** is a valuator. As such, the assessor shall be required to take approved appraisal courses of instruction covering the basic principles of appraisal and assessing of all classes and types of property including instruction in the fundamentals of Georgia Law covering the appraisal and assessing of property for ad valorem tax purposes as prescribed and designated by the commission pursuant to code section 48-5-13. To ensure the assessment functions are performed in a professional manner by competent assessors, meeting clearly specified professional qualifications, the commissioner shall develop, approve, and administer courses of instruction designed to qualify applicants or tax assessors under this code section and to specify qualification requirements for certification.

**The value** the assessor is trying to achieve is defined by Georgia law as “Fair Market Value”. The “Fair Market Value” is the amount a knowledgeable buyer would pay for the property and a willing seller would accept for the property at an arm’s length bona fide sale. Fair market value is the most probable price real estate should bring in an arm’s length transaction in which neither party is acting under duress; the property has been on the market a reasonable length of time; the property’s assets and defects are known to both parties; and there are no unusual circumstances.

**An arm’s length transaction** is 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 willing seller, each acting in his or own self-interest. Every comparable property must have been sold in a transaction where neither buyer or seller is acting under duress (greater duress, strictly speaking, than what is felt by the buyer and seller in the average transaction).

**Market demand** is a reflection of the number of possible buyers competing for the available products and services.

**Sales price** is what a property actually sells for- its transaction price. This price may differ from market value because many factors can prevent a sale from being an arm’s length transaction. Asking prices of properties currently listed but not yet sold are generally not considered in fair market value. The appraiser should also note any previous sales of comparable property within the last three years. Close analysis of prior sales of similar property could indicate general market condition.

The price someone is willing to pay for a property is influenced by the cost of acquiring a substitute or comparable property. The amount paid for a good or service is its cost. The cost to purchase a parcel of real estate may or may not be the same as the price it can command when it is sold to someone else. Cost may or may not be same as the item’s estimated value and its subsequent resale price. The cost to the owner of an item includes the labor and materials required to produce it. An extensively remodeled kitchen usually will not contribute its entire cost to the value of a house. A second bathroom, however, may very well increase a houses

value by more than its installation cost. The appraiser will estimate the cost to produce features of similar quality, using currently available construction materials and methods. When a good or service can be used to acquire another good or service, the commodities have what is termed a value in exchange. The amount of money required to bring about the exchange is the price paid for the good or service. Because it reflects conditions in the marketplace, value in exchange is what is described as market value.

## THE TAX BILL

Ad valorem means 'according to value'. So, if we are to have ad valorem tax it will be a tax based on the value of property.

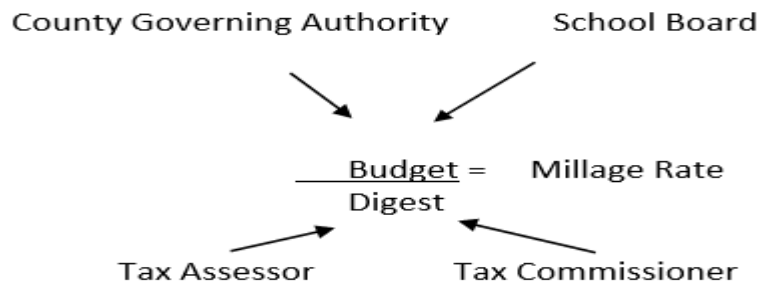
This is only one of the factors which determine the individual tax bill for a taxpayer. Another factor is the millage rate. The millage rate is simply the equal percentage all property owners pay based on the assessed value of their property.

The millage rate is a quotient. It is the budget divided by the net assessment of the property in the county. We shall call this the tax digest or simply the digest.

The format for calculation is:

$$\frac{\text{Budget}}{\text{Digest}} = \text{Millage Rate}$$

Since we have the formula for calculating the millage rate, let us look at who is responsible for what.



Now you can see the budget or the total amount of money which must be collected from property taxes is determined by the county governing authority and the school board.

\*\*\*Beginning in tax year 2016 the State of Georgia no longer collects ad valorem tax on real and personal property

## APPRAISAL PROCESS

*Real Estate Appraisal Terminology* by the American Institute of Real Estate Appraisers and The Society of the Real Estate Appraisers, defines an appraisal as:

*“An estimate or opinion of value. The act or process of estimating value. The resulting opinion of value derived from the appraisal may be informal, transmitted orally; or it may be formal, presented in written form. Usually, it is a written statement setting forth an opinion of the value of an adequately described property as of a specified date, supported by the presentation and analysis of relevant data.”*

At its simplest, an appraisal presents the appraisers opinion of a property’s probable monetary value on the open market. To appraise something means to estimate the dollar amount which represents its value. “Mass Appraising” describes the appraisal of a large number of properties. A market is simply a forum for buying and selling, bringing together buyer and seller. This appraisal or estimate of value is, in the property tax world, referred to as “Fair Market Value”. Fair Market Value is defined by the Georgia Code, Annotated §48-5-2.

In addition to estimating the value of property, the assessor and appraiser must constantly seek to maintain equity between properties similarly situated in terms of size, location, desirability, and physical characteristics. The appraiser must conduct a thorough study of the appraised property, its geographical area, historical values, and economic trends. The appraiser must analyze each condition to determine whether it influences value by researching the market. *There may be property differences which may have no effect on the typical buyer’s decision to purchase.* We are dealing with an imperfect market. The number of buyers and sellers frequently moves away from a state of equilibrium to create either a sellers’ market (many more buyers than sellers) or a buyers’ market (many more sellers than buyers). When an overabundance of buyers confronts a market with relatively few properties for sale, prices tend to rise at sometimes incomprehensible rates. Real estate values tend to move in cycles, mirroring the economy as a whole. With a high level of employment and regular salary increases, demand for housing and other forms of real estate will increase and prices will follow suit. As more properties become available, yet fewer persons are able to afford them, market value declines. When economic conditions become more favorable, market values are stabilized and, as conditions continue to improve, may begin to rise once again. As a result of all these factors, as well as the fact real estate is immovable, prices can be highly volatile.

While some property owners could probably make a fairly accurate guess as to the current value of their properties, they would still be unable to identify all or most of the factors which contribute to such value. The knowledge of precisely what those factors are, and how they influence and can be expected to influence property value, is part of what lend

credence to the appraiser's opinion of market value. By gathering, recording, and verifying all the necessary data, then analyzing and interpreting such information, the appraiser can form an opinion of value based on knowledge and understanding and not guesswork. This means knowing the construction features which determine quality, show good craftsmanship, and indicate good upkeep or show neglect.

The Appraiser must also be aware of market conditions-why some properties are more desirable than others. Real estate values rest on what potential buyers think is desirable as well as on what they consider to be attractive. By being aware of current architectural trends and construction standards, the appraiser can gauge a property's desirability, marketability, and value. Depending on the area, some types of architectural design may be more desirable than others. For instance, in rural areas, the farmhouse style may be desirable than a Mediterranean style.

**Mediterranean**



**Cape Cod**



**Victorian**





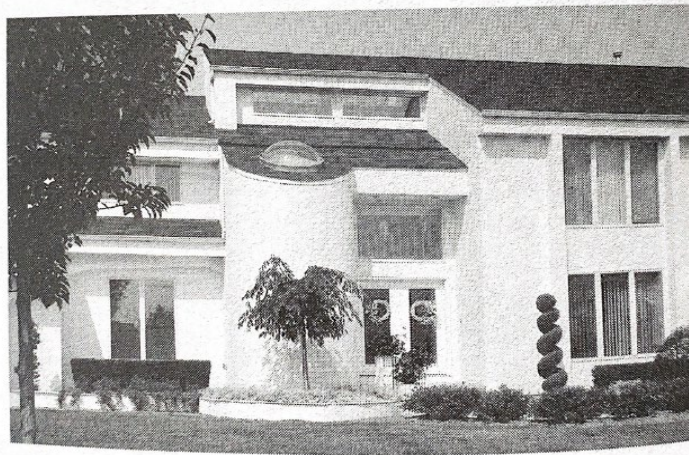
Farm House



Georgian



Contemporary



It is the appraiser's job to build an accurate profile of the neighborhood. The appraiser know which areas are experiencing declining interest and which neighborhoods are "hot" not based on a hunch, but on solid, quantifiable data.

With a strong economic base, a community becomes more desirable for both businesses and residents, and such desirability is reflected in higher property values. The community's economic base tells an appraiser something about the community's long-term economic viability and, thus, its likely ability to sustain real estate values. The appraiser should be acutely aware of the effect of value on a depressed real estate market. The appraisers market analysis should be thorough enough to reveal any economic or other factors likely to affect market value. Knowledge of the existence of all these factors, how they are interrelated, and how they impact property values is part of the appraiser's job. In short, the appraiser must be sensitive to all determinants of value to accurately gauge their effect on the neighborhood and property desirability.

All types of real estate are subject to the effects of competition in some form. The value of a house will be affected by the number of other, similar homes available in the same area. If only a few properties are competing for the attention of a much larger number of buyers those properties will command much higher prices than they would if there were many such properties for sale.

The most important single factor in determining real estate value is location. The one thing the seller of real estate cannot do is change the property's location. What the seller can do is make the property more desirable by analyzing the needs and desires of potential buyers and improving the property with these requirements in mind. By learning as much as possible about the conditions of the area where a property is located, the appraiser can begin to assimilate the information needed to make an informed judgment; one based on the appropriate indicators of market value. Site characteristics which have the greatest effect on value include location, size, view, topography, availability of utilities, and presence of mature trees and other plantings. A site use may be limited by its size, shape, and topography. Does this site have sufficient access for development? Are utilities present or available? If they must be brought in, what is the cost involved. Would this site be more promising as part of a larger parcel?

Land valuation requires market analysis, including sorting sales and market data into comparable groups; determination of appropriate units of comparison; and significant data analysis which must be incorporated into valuation schedules and adjustment factors. The market indicates land values change when properties have different amenities such as road frontage, public utilities, road types and the size of tract.

In comparing site data, the appraiser should take care to always use the same units of measurement. Rural property usually is valued in acres; a residential subdivision lot may be valued in square feet or, if large enough, in acres. If lots are all very close in size or utility, value may be expressed per lot.

### **Units of comparison for Land Valuation**

#### **Front Foot**

Use of the front foot (FF) as a unit of comparison is based upon the premise the frontage significantly contributes to value. A front foot is a strip of land one-foot wide, fronting on a street, railroad siding, or body of water, and continuing to the rear of the parcel. This distance is frequently measured in terms of a standard depth.

#### **Square Foot**

The square foot unit of comparison is used for irregularly shaped parcels and where frontage is not a dominant factor in the valuation process. It is used for sites which sell for an average price per square foot of land area. This method may be used to value residential, commercial, and small industrial sites.

## Acre

Acres may be calculated by dividing total square footage by 43,560. This unit of comparison is generally used in the valuation of large industrial sites, shopping centers and rural and farm properties. It is possible to breakdown acreage which has frontage on a public thoroughfare. In many circumstances, the front acres are more valuable.

## Site or Lot

The site, or lot, unit of comparison is used by an appraiser when the market does not indicate a significant difference in lot value, even when there is a difference in lot size. This method is often used in residential subdivisions such as planned unit developments and may also be used in valuing sites located in industrial parks.

## Units-Buildable

The units-buildable unit of comparison is used by an appraiser for properties which can be developed to a greater degree of density of development. This unit of comparison is used when the market indicates a site is sold on a unit-basis, such as an apartment property where the unit of comparison is selling price per buildable apartment or a parking garage site where the unit of comparison is selling price per parking space. The units buildable may be either a theoretical or an actual number of units. The probable number of units to be built may be different from the theoretical number permitted by zoning ordinances.

It is important to note land does not depreciate. The location and amenities of the subject site (except for improvements) are compared with those of similar nearby sites. Adjustments are made for any significant differences, and the adjusted prices of the property most like the subject site are used to form an opinion of the value of the subject site. Land can be depleted of its resources and the value of the land can (and does) go down, but the surface area will remain the same. By extracting all other costs from total property value, the appraiser will arrive at the amount which is attributable solely to land value. This method is primarily useful when there are few sales of such property available for comparison. Because land is not considered a wasting or depreciating asset, its value must be subtracted from the overall property value. Land held as an investment, whether improved with structures or not, may lose value due to market factors, but any loss cannot be realized until sold.

An appraisal performed correctly can assure taxpayers the sales price is reasonable in light of prevailing market forces.

The courts throughout the United States have consistently upheld three basic approaches to estimating value. There are variations in terms of application within each of the three approaches but only three. These are as follows:

**I. The Market Data or Comparable Sales Approach to Value:**

The sales comparison approach makes use of data regarding recent sales of comparable properties. These sales are “adjusted” for time, location, and physical characteristics to make them as similar as possible. This approach makes the most direct use of the principle of substitution.

**II. The Cost Approach to Value:**

The cost approach utilizes indicated construction cost by the current cost of replacing a property less any accrued depreciation from physical deterioration or functional and economic obsolescence. The appraiser will estimate the cost to produce features of a similar quality, using currently available construction materials and methods. The appraiser always begins the cost approach valuation by estimating the construction cost of a new building which is physically or functionally identical to the subject building at current prices. To this depreciated replacement cost is added the value of the land which is estimated through analysis of comparable sales. The formulation, then in order to arrive at a value via the cost approach would be the following:

Replacement/Reproduction Cost New (-) Accrued Depreciation (+) Land Value  
(=) Value (Cost Approach)

**III. The Income Approach to Value:**

The income approach utilizes what can be supported by the net earning power of a property. This is accomplished by capitalization of the net income into a value estimate.

The three approaches to real estate appraisal require different kinds of information. The information available will help determine which appraisal method will be given the most validity in the appraiser’s opinion of the market value of the subject property. Certain approaches obviously are more valid and reliable with some kinds of properties than with others. As a general rule, the sales comparison approach is the most reliable approach when dealing with unimproved or vacant land. The cost approach is most reliable with non-income producing properties or with special purpose properties. The income capitalization approach is most reliable with income producing properties.

Most appraisals will require the use of more than one approach, especially when land value must be distinguished from building value. This is true when the cost approach is used to estimate building value. There are other instances when land value must be separated from building value, such as with the ad valorem tax purposes.

The value opinions reached by using the different approaches rarely will be exactly the same. Even if the appraiser had all the relevant data and had carried out the steps in the approach without error, each value indication, in almost every case, would be different. Once assured of the validity of the indicated values, the validity of the methods, the strengths and weaknesses of each approach, and the result of each approach are weighed objectively to arrive at the single best and most supportable conclusion of value in terms of the value sought.

## **(I) MARKET OR DIRECT SALES COMPARISON APPROACH**

The most obvious advantage of the sales comparison approach is its simplicity and rationale; by definition, it reflects the actions of market participants. The basic idea behind the market data approach to value is: "A person will not buy or rent one property for more than it would cost to buy or rent a comparable or similar property with the same utility."

The Market Data or Comparable Sales Approach should be used with any property where a bank of sales of comparable properties exists. When there are sufficient, recent, and reliable market transactions, the sales comparison approach is probably the most logical and objective approach to value. The chief limitation of the sales comparison approach is it depends on having reliable information for its validity. The defined boundaries of a neighborhood are also important in determining whether other properties can be considered "comparable." When an area is first developed, property values usually increase until few vacant building sites remain. The last properties to be sold tend to command a higher price than those first sold.

As much as possible, "comparable" properties should reflect similar site attributes and a property with an expansive view is best compared to other properties with similar views. If at all possible, the "comparable" properties should be from the same neighborhood as the subject property. If a property similar to the appraised was sold recently, its sales price should be a good indicator of the price which could be commanded by the current market. The best an appraiser can do is learn as much as possible about the property being appraised so other recently sold properties can be found. The number of sales needed for an accurate opinion of market value cannot be easily specified, but the fewer the sales, the more carefully they must be investigated.

This process implies "How much would this comparable property probably sell for in today's market?"

Local market information is utilized in both the Cost and Income Approaches because we are attempting to find value and regardless of the type of property, we must at some time, or another go to the marketplace for information.

## (II) COST APPROACH

The basic premise of the cost approach is under normal market conditions, buyers of real estate typically do not want to pay more for a parcel with an existing structure than they would have to pay to build an identical structure on a vacant parcel. In the same manner, they would not want to pay as much for an older building as they would pay for a brand-new one. Over time, every building will suffer some of the effects of decay and ordinary wear and tear. In addition, an older structure will not be of the current most desirable design or contain the most up to date fixtures. As a result, an older building should not be as expensive as a new building the same size which offers the features which are currently the greatest in demand. This approach is based on the assumption the replacement cost new *normally sets the upper limit of value*, particularly when the improvement is new, provided the improvement represents the highest and best use. It is assumed a newly constructed building has advantages over existing buildings. The measure of this deficiency is called depreciation. This loss in value decreases the value of property.

Appraisers use several methods to measure depreciation.

There are three possible causes of depreciation, and these are:

1. Physical Deterioration
2. Functional Obsolescence
3. Economic Obsolescence (External, Locational)

These causes of depreciation may be further defined as follows:

1. *Physical Deterioration* can be due to:
  - a. Wear and tear
  - b. Inadequate repair or maintenance

This is usually the most obvious form of depreciation. Some form of physical deterioration begins the moment a building is completed. All structures will suffer some physical defect eventually, whether from elements or from the way in which it was used. Those defects will have greater effect on improvements which were poorly constructed. Because of differences in the quality of construction and the degree of maintenance received, similar structures may not depreciate at the same rate.

2. *Functional Obsolescence* can be due to:

- a. A design deficiency
- b. Too many or not enough of certain features (i.e., bathrooms, bedrooms, garage).

Functional Obsolescence depends on the changing requirements of homebuyers.

3. *Economic Obsolescence* occurs due to forces outside the actual structure such as:

- a. Encroaching commercial properties
- b. Environmental pollution.

The steps used in the Cost Approach are to add the land value (derived by the Market Approach) to the depreciated Replacement or Reproduction Cost New (RCN) as follows:

RCN -                      Accrued Depreciation    +    Land Value = Value (Cost Approach)

To make the most accurate and thorough use of the cost approach, the appraiser must compute applicable depreciation in each category (physical deterioration, functional obsolescence, and economic obsolescence), then subtract those figures from the reproduction or replacement cost of the improvements.

An opinion of value by the cost approach is needed to establish value for insurance purposes. Insurance claims are based on the reimbursement for loss, as determined by the appraised value; therefore, an insurance appraiser is mainly concerned with replacement cost, which will dictate the amount of reimbursement for loss.

### **(III) INCOME APPROACH**

Although the income capitalization approach has a formidable title, it is based on a relatively simple premise: the value of a property is related to the income it can produce. The more income the property produces, the more the property tends to be worth. The Income Approach is most applicable to properties, which can produce an income such as apartment buildings, shopping centers and office buildings.

In applying the Income Approach, the appraiser is concerned with the *present worth of the future benefits* of the property. This is generally measured by the net income a fully informed buyer may assume the property will produce during its remaining useful life or forecasted income period. For this reason, the worth of the property to a prospective buyer is based largely on its earning capacity. Any income received must be taken into consideration, because it will be a factor in determining market value.

Many commercial properties are purchased to be leased to other parties. The future net income the property is capable of earning and the eventual return of the investment's capital are the main benefits to the owner.

Rent is the major source of income from most investments in real estate. After comparison with investments of similar types and classes, this net income is capitalized to form an estimate of value. By comparing present and past performances of the subject and similar properties, the appraiser will be able to recognize what the subject property's rent potential is and whether the property is living up to such potential.

The four steps to be followed in assembling and processing income data are:

1. Obtain annual income.
2. Subtract expenses.
3. Estimate the remaining useful economic life of the building to establish the probable duration of its income (establish the depreciation).
4. Select the appropriate capitalization rate and the applicable method and technique for processing the *net income*.

Principles affecting marketability (such as supply and demand) will have greater influence in the sales comparison and cost approaches, while principles affecting productivity will have the greatest influence in the income approach.

#### **FEE APPRAISAL V. MASS APPRAISAL**

The term "appraisal process" entails all the procedures, which are followed from the beginning to the end of an appraisal. As times go on, more and more of these appraisal activities have come to rely on computerized research and databases. An example is the technique called computer assisted mass appraisal (CAMA), useful when thousands of properties are reappraised for tax purposes.



In the ad valorem field, we have two “appraisal processes” we need to be familiar with:

1. The “fee” appraisal process and
2. The “mass” appraisal process.

“Fee” appraising involves appraising an individual property while “mass” appraising relates to the valuation of many, perhaps thousands of properties.

“Mass appraisal, unlike single-property appraisal, requires the development of a valuation model capable of replicating the forces of supply and demand over a large area. Appraisal judgments relate to groups of properties rather than to single properties. The assessor must be able to develop, support, and explain standardized adjustments in a valuation model among use classes, construction types, neighborhoods, and other property groups.” - IAAO

There are six steps, which may be related to both “fee” appraising and “mass” appraising.

		<b>Fee Appraisal</b>	<b>Mass Appraisal</b>
1	Definition of the Problem	The purpose and function of the appraisal may be for many reasons	It is always an appraisal for ad valorem tax purposes
2	Preliminary Survey & Appraisal Plan	It may be quite extensive as with a narrative appraisal or quite simple as with FHA or VA Form Reports.	It is most often by either local or state law or through established procedures
3	Data Program	Detailed information about general (regional, city, neighborhood, etc.) and specific site data.	Concerned with gathering data to eventually establish land and building schedules
4	Application of the Three Approaches	Use all three on each property, much research with narrative reports	Most often only using one approach with each property, dealing with the mass
5	Correlation/ Reconciliation	This is a very important part of a fee appraisal, where work is checked and reviewed for the final step.	This probably exists only in the initial setting of land and/or building cost schedules
6	The Final Estimate	The point where appraisers decide which approach or combination of approaches they will use to arrive at the final value estimate.	The final "calculated" value or "fair market value" is considered the final value estimate.

# Sales Ratio Studies

Fair Market Value has been defined as, what the property would bring at cash sale when sold in the manner in which such property is usually sold, between a knowledgeable buyer and a willing seller.

Georgia law also states "... the value of tangible property as referred to in the tax laws of this state shall be forty percent of the fair market value of such property" (See Georgia Code § 48-5-7)

From the above two paragraphs we can see the fair market value which the law states is the basis for taxation, depending to a great extent on sales. Our property taxation laws refer to what property would bring when sold on the open market. In other words, the law is saying fair market value may be found by studying sales. We know, of course, every property does not sell every year so there must be other ways to value property. The principal criterion, however, should be rough analysis of sales data.

## **WHAT IS A RATIO?**

When we speak of Sales Assessment Ratios, what do we mean? A ratio, any ratio, is simply one number divided by another. It signifies a relationship between the two numbers.

## **USING SALES RATIOS TO MEASURE EQUITY**

Sales ratios have numerous uses as we have seen earlier. The use of ratios to do more than calculate the "level" of assessment can be very beneficial to the mass appraiser. Ratio studies may also be used to measure equity. Measuring equity means the assessor is trying to determine if the valuations are "fair and equal" among and between the property owners and property types within the taxing jurisdiction. In attempting to analyze the total sales within a county for this purpose, the sales should be grouped by location, property type and any other means the appraiser may want to utilize.

Level of Assessment is measured by the median or aggregate ratio and is used to ensure uniformity between residential, agricultural, commercial, and industrial properties by requiring each to fall within an acceptable range of 36.00 to 44.00 (10% of state mandated 40% assessment).

Uniformity within each classification of property is measured by the Coefficient of Dispersion (COD), which sets an upper limit of deviation at no greater than 15% for residential property and no greater than 20% for non-residential property.

Assessment Bias, within each classification, is measured by the Price Related Differential (PRD), which sets a range between .95% to 1.10% to ensure higher- or lower-valued properties are not assessed disproportionately.

Most assessors are familiar with the calculation of the sales ratio. These ratios, on an individual basis, provide an indication for specific properties which sold during some given period of time. Viewing a large number of ratios (for instance, all within a county in one year) one may calculate the average or "mean" ratio. This simply tells us what the average ratio was for all sales which occurred. It does not in any way tell us anything about the range (high to low) or how much variation there was within such range. For example, an average ("mean") ratio is calculated to be 36% for a county. On the surface, it would seem the valuations in the county are fairly close to the required 40% level. However, closer examination might reveal the range of ratios was from 5% to 75% and, in actuality, very few individual ratios fell around the 36% mean ratio. In other words, without some indication of the "spread" in the individual ratios, a ratio study is somewhat useless if it is to be used to judge assessment performance. We may use several statistics to describe or measure uniformity and equity in the valuation system.

## SALES RATIO STEPS

“RAMMACAP”

**R**atio – if (Appraised Value, (Appraised value \* .40 = Assessment) divided by Sale Price) \*\*\*Total Sale prices & Asmt Columns) \*\*\*

**A**rray– Array the ratios from lowest to highest.

**M**ean – (total all ratios and divide by total number of ratios)

**M**edian– Find the middle (median). If (even number of sales, add them, divide by 2)

**A**ADeviation – subtract median from each ratio, ignore the negative sign, total deviations, divide by number of ratios.

**C**OD – AAD divided by Median.

**A**ggregate – total all assessments divided by total of all sales.

**P**RD – Mean divided by Aggregate.

**CHAPTER 5**  
**Board of Equalization Information and  
Procedures**

The Board of Equalization is made up of property owners appointed by the Grand Jury of this county. In addition to being property owners, the appointees to the Board of Equalization must also be qualified and competent to serve as grand jurors and be high school graduates. If the grand jury deems a person qualified, an appointee is compellable to serve on this Board of Equalization. Each member must satisfactorily complete 40 hours of special training before he or she can participate as a member of this Board. Each member must also complete 8 hours of update training annually each year thereafter. The Board is charged by law to hear appeals of property tax matters which include:

**Value** – What the property would sell for in a transaction between a knowledgeable buyer and a willing seller in a bone fide arm’s length transaction? (*O.C.G.A. § 48-5-2*).

**Uniformity of value** – That assessments are fairly equalized between individual taxpayers (*O.C.G.A. § 48-5-299*). This relationship is measured through statistical testing not the comparison of individual values. *For more information contact the county appraisal staff.*

**Taxability** – Is the property exempt from taxation or subject to taxation as provided for in Georgia law? (*O.C.G.A. §§ 48-5-3, 41, 41.1, 42, 43, 48.1, 48.2*).

**Denial of homestead exemptions** – Does the property qualify for homestead exemption? (*Georgia law provides for statewide exemptions O.C.G.A. §§ 48-5-44 through 54. There may also be local exemptions available for more information contact the county tax commissioner*). If an application for one these exemptions has been denied by the board of tax assessors this action may be appealed.

**Denial of special assessments** – Georgia law provides for special assessments of certain types of property such as, property used for agricultural purposes (conservation use, agricultural preferential), rehabilitated and landmark historic properties, contaminated property (also known as Brownfield), certain environmentally sensitive property and storm water/wetlands. (For more information on these contact the county appraisal staff or tax commissioner) If an application for one of these special assessments has been denied or a breach of an existing covenant declared by the board of tax assessors this action may be appealed.

\_\_\_\_ County Board of Equalization

Greetings,

We are your county board of equalization. I am \_\_\_\_\_, the chairman, and this is and \_\_\_\_\_, the two members.

We are appointed by the grand jury to hear appeals of property tax matters which include value, uniformity of value, taxability, denial of homestead exemptions, and denial of special assessments. We are not connected with the board of tax assessors or any other county officials. We will listen to both parties to this appeal and make a decision based upon the information presented by both parties to this hearing.

The board will give the property owner the option to present information first. If, however, the property owner wishes, the board will require the board of tax assessors to present information first. The board will allow each party to present information without interruption. Upon completion of each party's presentation, both parties will be given the opportunity to cross examine, rebut, or question each other in an orderly fashion as directed by the board.

When all information has been presented, the board shall deliberate and make a decision. The deliberations shall be among the board members and no further input shall be allowed by property owner or the board of tax assessors. Upon completion of the deliberations the board shall make a decision. The decision will be verbal and in writing and sent via certified mail to the property owner and the original will be filed with the board of tax assessors.

If either party is not satisfied with the decision of the board of equalization, such party may file an appeal to the superior court of the county.

Do you have any questions before we proceed with this hearing?

The members of the Board hearing each case must also meet the same criteria and objectivity requirements a potential juror must meet each time they are scrutinized for service on civil cases involving the same subject matter. The members must be impartial and unbiased for each case he or she hears. If any appellant property owner or tax assessor believes a member to not meet the requirements mentioned above,



either party has the right to ask the member to remove himself or herself from the case. This request must be made at least five days prior to the hearing. The names of the members which will hear each case will be on the notice sent to the taxpayer and tax assessor in writing setting the time and date for the hearing.

Please note the date and time for your hearing. The Board of Equalization is required to give the property owner and the tax assessor ample time to prepare for your hearing, and therefore the board expects both parties to be ready to present all evidence at the scheduled time. If for any reason, either party has a legitimate problem with the date and time for this hearing, you may request a change by notifying the secretary of our board at least five days prior to the hearing. If either party encounters an emergency which will not allow you to be on time, you may notify the secretary of the board up to the time of the hearing. If there is no such request prior to the hearing, the board shall hold the hearing as scheduled and shall notify both parties of the board's decision as required by law.

The taxpayer has the right to be represented at the hearing by an agent, attorney, appraiser, etc. If any taxpayer plans to be represented by any such person, the taxpayer **MUST SUBMIT THE NAME OF THE PERSON IN WRITING**, to the secretary of the board at least seven days prior to the hearing. This must be done regardless of if the taxpayer is present or not at the hearing. No one will be permitted to present information or speak on behalf of anyone unless the board receives the written notification above. Immediate family members and or spouses are exempt from this requirement.

The Board will listen to all pertinent information concerning the matter under appeal. Prior to the hearing, it is suggested the property owner take advantage of discussing the data about the physical characteristics of the property with the person in the tax assessor's office which is administratively responsible for the handling of this appeal. The name of such person including the phone number of such person should be on the change of assessment notice the property owner received. Although, the tax assessor has the burden of proving its opinion of value by a preponderance of evidence, in order for the property owner to successfully appeal the determination of the county board of tax assessors it will be to their great advantage to be prepared to present at least an opinion of value and some support for such opinion of value at the time of the hearing. The Board will give the property owner the option of presenting his or her information first. Both parties will be afforded an opportunity to present information without interruption. After the initial presentation, both parties will be given a chance to cross-examine, rebut, or question the other party's information. The Chairperson of the board may direct either party to stick to relevant information. The chairperson shall control and conduct the hearing. The chairperson

shall decide on all motions and requests made by either party. The chairperson may administer oaths, reprimand, exclude, or dismiss any person from the hearing because of improper conduct or other circumstances.

This is going to be a hearing concerning one of the matters referred to in paragraph one of these procedures. An appeal is certainly based upon a difference of opinion as to one of these matters. A difference of opinion does not have to create or ignite hostilities between the two parties involved. Please keep on track as to what information you feel you need to present on your behalf and do not dwell on what is wrong on the other side. Present positive information to support your opinion and not negative information. Your chances of succeeding will be much better if you present a good positive case. The board does not investigate or research, but simply listens to information presented and makes a decision based on this information presented by both parties. Therefore, you cannot expect this board to do anything for you which you do not bring to the table for yourself. The Board is not a watchdog. It is a neutral and independent entity which is charged by law to base its decision on the best information presented to the Board.

When all information has been presented and all closing statements have been made, the Board will deliberate and make a decision. All deliberations of the Board are open to anyone. The Board will deliberate immediately after the hearing. If time constraints will not allow this, the property owner will be given a time and date in which the deliberation will take place. A copy of the decision will be sent to the property owner in writing by certified mail and the original copy will be filed with the tax assessor.

The notice of the decision also contains a statement providing each of the three members has satisfied the requirements of O.C.G.A. § 48-5-311(j) by answering all necessary questions before serving. The taxpayer or the board of tax assessors may appeal the decision of this Board to Superior Court. The Board has no further action to take on this matter nor can the Board alter its decision. Therefore, it is of no benefit for the taxpayer or the board of tax assessors to contact its members individually or as a group to discuss any matter any further. A docket which documents the Board's disposition of the case from receipt of the appeal to the making and sending of the decision to the taxpayer and tax assessor will be on file in the Clerk of Superior Court's office. All information presented by either party will remain with the Board through its deliberations. When deliberations have been completed and a decision rendered, the Board will include all information presented in the appeal file which is returned to the board of tax assessors along with the original copy of the Board's decision unless specifically directed by the

presenter they want it discarded. The Board keeps no copies of this data.

The information contained in this document is intended to make the appeal process at the Board of Equalization understandable to all property owners of this county. If anyone has any questions concerning an appeal or wants further information about the Board of Equalization you may contact

\_\_\_\_\_ at \_\_\_\_\_.

### **Board of Equalization Case Questionnaire**

Each member of the sitting Board for the case listed above has read and answered each question below:

1. Are you related by blood or marriage to the appellant in this case or to any member of the Board of Tax Assessors? YES \_\_\_\_\_ NO \_\_\_\_\_
2. Are you related by blood or marriage to any person duly appointed to represent the appellant in this case? YES \_\_\_\_\_ NO \_\_\_\_\_
3. Are you employed, or is any member of your immediate family employed, by the appellant in this case? YES \_\_\_\_\_ NO \_\_\_\_\_
4. Do you have any financial or legal interest in the property subject to appeal in this case? YES \_\_\_\_\_ NO \_\_\_\_\_
5. Have you formed any opinion that precludes you from setting a valuation on the property in question in accordance with Georgia law, which requires all property to be appraised at its fair market value, or from equalizing the assessments at 40% of fair market value? YES \_\_\_\_\_ NO \_\_\_\_\_
6. Do you know of any other reason that you cannot render a fair and just decision regarding the property in question? YES \_\_\_\_\_ NO \_\_\_\_\_
7. Do you know of any other reason that you cannot render a fair and just decision regarding the property in question? YES \_\_\_\_\_ NO \_\_\_\_\_

If you have answered yes to any of the above questions, please put the number of the question below and explain your answer:

\*\*\*\*\***SAMPLE COUNTY PROCEDURES**\*\*\*\*\*

RULES, INFORMATION & PROCEDURES

The County Board of Equalization is made up of property owners appointed by the Grand Jury of this county. In addition to being property owners, the appointees to the Board of Equalization must also be qualified and competent to serve as grand jurors and be high school graduates. Each newly appointed member must satisfactorily complete 40 hours of special training before he or she can participate as a member of this Board. Each member must also complete 8 hours of update training annually each year thereafter. The Board is charged by law to hear appeals of property tax matters that include:

- Value
- Uniformity of Value
- Taxability
- Denial of Homestead Exemptions
- Denial of Special Assessments
- Breach Penalty

The members of the Board hearing each case must also meet the same criteria and objectivity requirements a potential juror must meet each time they are scrutinized for service on civil cases. The members have to be impartial and unbiased for each case he or she hears. [f any property owner or tax assessor believes a member does not meet the requirements mentioned above, either party has the right to ask the member to remove him or herself from the case. 'This request must be made at least five days prior to the hearing. The names of the members that will hear each case will be on the notice sent to the taxpayer and tax assessor in writing setting the time and date for the hearing.

Please note the date and time for your hearing. The Board of Equalization is required to give the property owner and the tax assessor ample time to prepare for your hearing, and therefore the board expects both parties to be ready to present all evidence at the schedule time. If for any reason either party has a legitimate problem with the date and time for this hearing, you may request a one-time extension at least five days prior to the hearing. If either party encounters an emergency that will not allow you to be on time, you may notify the board up to the time of the hearing. If there is no such request prior to the hearing, the board shall hold the hearing as scheduled and shall notify both parties of the board's decision as required by law. In order to keep on schedule, the hearing will not be delayed for more than five (5) minutes and shall commence whether or not all parties are present.

The taxpayer has the right to be represented at the hearing by an agent, attorney, appraiser, etc. If any taxpayer plans to be represented by any such person, the taxpayer **MUST SUBMIT THE NAME OF THE PERSON IN WRITING**, to the County Board of Equalization, at least five days prior to the hearing. No one will be permitted to present information or speak on behalf of anyone unless the board receives the written notification above. Immediate family members and or spouses are exempt from this requirement.

The Board will listen to all pertinent information concerning the matter under appeal. Prior to the hearing, it is suggested that the property owner take advantage of discussing the data about

the physical characteristics of the property with the person in the tax assessor's office that is administratively responsible for the handling of this appeal. The name of such person including the phone number of such person should be on the change of assessment notice the property owner received. Although, the tax assessor has the burden of proving its opinion of value by a preponderance of evidence, in order for the property owner to successfully appeal the determination of the county board of tax assessors it will be to their great advantage to be prepared to present at least an opinion of value (appraisal must have an effective appraisal date or "as of" date on or before January 1 of the year you are appealing) and some support for that opinion of value at the time of the hearing. The Board will give the property owner the option of presenting his or her information first. Both parties will be afforded an opportunity to present information without interruption. After the initial presentation, both parties will be given a chance to cross-examine, rebut, or question the other party's information. The Chairperson of the Board may direct either party to stick to relevant information. 'The Chairperson shall control and conduct the hearing. The Chairperson shall decide on all motions and requests made by either party. The Chairperson may administer oaths, reprimand, exclude, or dismiss any person from the hearing because of improper conduct or other circumstances.

Your hearing will concern one of the matters referred to in paragraph one of these procedures. An appeal is certainly based upon a difference of opinion as to one of these matters. Please keep on track as to what information you feel you need to present on your behalf. Present positive information to support your case. The Board does not investigate or research, but simply listens to information presented and will make a decision based on the information presented by both parties. Therefore, you cannot expect this Board to do anything for you that you do not bring to the table for yourself. It is a neutral and independent entity that is charged by law to base its decision on the best information presented to the Board.

When all information has been presented and all closing statements have been made, the Board will deliberate and make a decision. All deliberations of the Board are open. The Board's decision will be announced at the end of the deliberations. A copy of the decision will either be sent to the property owner in writing by certified mail or delivered by hand to each party, with written receipt. The original copy will be filed with the county board of tax assessors. An appeal by the taxpayer of the Board's final decision must be filed with the county board of tax assessors within 30 days of the mailing or hand delivery of the final decision.

The notice of the decision also contains a statement that each of the three members has satisfied the requirements of OCGA 48-5-311(j) by answering all necessary questions before serving. The taxpayer or the board of tax assessors may appeal the decision of this Board to Superior Court. The Board has no further action to take on this matter nor can the Board alter its decision. Therefore, it is of no benefit for the taxpayer or the Board of Assessors to contact its members individually or as a group to discuss any matter any further.

The information contained in this document is intended to make the appeal process of the Board of Equalization understandable to all property owners of this county. If anyone has any questions concerning an appeal or wants further information about the County Board of Equalization you may contact .....

**\*\*\*\*\*SAMPLE Board Decision\*\*\*\*\***

Decision of the County Board of Equalization

We, the undersigned members of the County Board of Equalization, having heard all evidence and having reviewed all information submitted, regarding the appeal of (issues that apply are circled)

- Value
- Uniformity of Value
- Taxability
- Denial of Homestead Exemptions
- Denial of Special Assessments
- Breach Penalty

to this Board of the assessment of the property described above. do hereby find:

- |   |              |                  |
|---|--------------|------------------|
| • The fair market value to be:                    | \$           |                  |
| • The property to be:                             | taxable      | not taxable      |
| • The property to be assessed:                    | uniform      | not uniform      |
| • The property for homestead exemption sought:    | qualifies    | does not qualify |
| • The property for the special assessment sought: | qualifies    | does not qualify |
| • A breach of covenant:                           | has occurred | has not occurred |

# Sample Template

***\*This is not a promulgated form and created for use in training case studies:***

Date: \_\_\_\_\_  
Appellant: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Digest Year: \_\_\_\_\_  
Parcel Number: \_\_\_\_\_

We, the undersigned members of the Board of Equalization, having heard all evidence and having reviewed all information submitted regarding the appeal to this board of assessment of the following described property, do hereby find:

**Improvements:** The Fair Market Value to be:

Improvement 1: \$ \_\_\_\_\_ Improvement 2: \$ \_\_\_\_\_

**Accessory:** (Garage, Boat Dock, Storage Buildings, etc.): The Fair Market Value to be:

Accessory 1: \$ \_\_\_\_\_ Accessory 2: \$ \_\_\_\_\_ Accessory 3: \$ \_\_\_\_\_  
Accessory 4: \$ \_\_\_\_\_ Accessory 5: \$ \_\_\_\_\_ Accessory 6: \$ \_\_\_\_\_  
Accessory 7: \$ \_\_\_\_\_ Accessory 8: \$ \_\_\_\_\_ Accessory 9: \$ \_\_\_\_\_

**Land:** The Fair Market Value to be:

Land: \$ \_\_\_\_\_

**Other:** The Fair Market Value to be:

Other: \$ \_\_\_\_\_

Appellant in the appeal raised the following issues:

- |                          |           |          |
|--------------------------|-----------|----------|
| 1. Taxability            | Yes _____ | No _____ |
| 2. Uniformity Assessment | Yes _____ | No _____ |
| 3. Value                 | Yes _____ | No _____ |
| 4. Denial of Exemption   | Yes _____ | No _____ |
| 5. Breach of Covenant    | Yes _____ | No _____ |
| 6. Other                 | Yes _____ | No _____ |

Description: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Hearing was held:

In Person: \_\_\_\_\_ No Show: \_\_\_\_\_ Review in Absence: \_\_\_\_\_ Conference/Video Call: \_\_\_\_\_

We Further Find: \_\_\_\_\_  
\_\_\_\_\_

No Change \_\_\_\_\_ Change of Value: \_\_\_\_\_

We, the undersigned further attest we are not disqualified from serving as a member of this Board of Equalization in hearing this matter by virtue of O.C.G.A. 48-5-311(j):

Pursuant to O.C.G.A. 48-5-311 this decision is rendered by three (3) members of the Board of Equalization, on this day

Member: \_\_\_\_\_  
Member: \_\_\_\_\_  
Member: \_\_\_\_\_

I, the undersigned member of the Board of Equalization, hereby dissent from the majority decision of this Board.

Member: \_\_\_\_\_ Reason: \_\_\_\_\_

Sworn to and subscribed before me this day: \_\_\_\_\_

# **Chapter 6**

## **Quick Reference Information**



AD Valorem Taxation (literally, "according to value")

**REVIEW OF COUNTY DIGESTS**

The purpose of the digest review procedure is to equalize county property tax digests between and within the counties. This procedure is designed to require the county boards of tax assessors to make adjustments in the valuation of property to ensure uniformity and equity. The Revenue Commissioner can use any reasonable measure in order to accomplish uniformity O.C.G.A. 48-5-340

**FAILURE TO BE IN COMPLIANCE WITH DIGEST REVIEW BY REVENUE COMMISSIONER**

If it is determined the overall average assessment ratio deviates substantially from the assessment required by O.C.G.A. 48-5-7, the Revenue Commissioner shall assess against the county governing authority additional state tax in an amount equal to the difference between the amount the state's levy, as prescribed in Code Section 48-5-8, would have produced if the digest had been at the proper assessment ratio and the amount the digest which is actually used for collection purposes will produce. O.C.G.A. 48-5-345.

In addition, to the above proposed penalty, under O.C.G.A. 45-5-346 (2) a specific penalty is levied which shall be \$5.00 per taxable parcel of real property located in the county as of January 1 of the year in which the penalty is levied and it shall be paid by the governing authority of the county to the commissioner.

**Legislative Background**

Standard For Level of Assessment: (Ratio)	<b>36%-44%</b>	Rule <b>560-11-2-.56(2)(d)</b>
Standard For Uniformity: (COD)	<b>&gt;15% Res or &gt;20% Non Res</b>	Rule <b>560-11-2-.56(2)(f)</b>
Standard for Assessment Bias: (PRD)	<b>0.95 to 1.10</b>	Rule <b>560-11-2-.56(2)(h)</b>

**Adoption of the Appraisal Procedure Manual**

**O.C.G.A. Sec 48-5-269.1**

Effective Statewide 10-10-1999

**Appraisal Procedures Manual Specific Procedures**

Rule **560-11-10-.01(2)**

will apply Georgia law and generally accepted appraisal practices to determine fair market value

**Improvement valuation (Residential Building Schedule)**

Rule **560-11-10-.09(4)(a)**

**(a) Cost Approach.**

The appraisal staff shall use the following three steps when applying the cost approach:

**Determine replacement cost new of the improvements**

**Subtract Accrued Depreciation**

**Add the value of the land**

**Cost Approach (Cost \$/SQ FT)- Comparative Unit Method**

Rule **560-11-10-.09(4)(a)(I)(I)**

Comparative Unit Method- The appraisal staff shall determine benchmark per-square-foot, costs for base structures using cost guides or local cost information. Such benchmark per-measurement-unit costs may then be applied to the subject improvements to determine typical replacement cost new. All forms of depreciation are then applied as a lump sum factor based on the age and useful life of the subject improvement.

**Development Guidelines (Residential Building Schedule)**

Rule **560-11-10-.09(4)(a)(I)(V)(ii)**

(ii) Sources of Cost Information

The appraisal staff may obtain cost information by directly collecting information from contractors, builders, developers, property owners, and other marketplace participants.

(iii) Updating Costs

Cost information shall be updated by the appraisal staff as necessary to reasonably reflect current construction costs for the various construction classes.

(v) Cost Models

The appraisal staff shall develop representative cost models which contain the manual or automated cost factors used in the cost approach. The models should be applicable to all building types in a county and be based on actual updated costs.

**Site Valuation Methods with sufficient Land Only sales**

Rule **560-11-10-.09(3)(c)(I)**

The appraisal staff shall use of the valuation methods in this subparagraph when sufficient sales are available to reliably support the appraisal. These methods may be used to value the land directly.

**Site Valuation Methods with insufficient Land Only sales**

Rule **560-11-10-.09(3)(c)(2)**

When vacant land sales are limited, the appraisal staff may use alternatives methods to determine residual land values. These residual land values may be used in the same way as vacant land sales in order to establish comparative unit or base lot values.

**The abstraction method** as established in the Appraisal Procedures Manual provides:

*"the appraisal staff estimates the land residual value by subtracting the depreciated replacement cost of improvements from the sale price of an improved property." (Rule 560-11-10.2(ii)).*

## **Common Questions Answered**

# ***AD Valorem Taxation***

## **What is Ad Valorem Taxation?**

Property tax is the tax liability imposed on property owners for owning real estate. Just about every municipality enforces property taxes on residents, using the revenue to fund programs and services for the entire community. The municipal tax authority sets a percentage rate for imposing taxes, called a levy rate, which is then calculated against the assessed value of each homeowner's property ad valorem (literally, "according to value"). The final determination is the individual property tax levy for such resident. Collectively, every resident's tax levy determines the total revenue of the municipality's property tax levy.

## **How can one determine the county is taxing appropriately?**

### **REVIEW OF COUNTY DIGESTS**

The purpose of the digest review procedure is to equalize county property tax digests between and within the counties. This procedure is designed to require the county boards of tax assessors to make adjustments in the valuation of property to ensure uniformity and equity. The Revenue Commissioner can use any reasonable measure in order to accomplish uniformity O.C.G.A. 48-5-340.

### **APPROVAL OF DIGESTS**

A county's digest is approved in their digest review year if the digest meets the following criteria: The average assessment ratio for each class of property shall be reasonably close to the assessments provided for in O.C.G.A. 48-5-7 which is a 40% assessment for most real and personal property. The average assessment variance for each class of property shall not be excessive. The assessment ratios of the properties shall not reveal any significant assessment bias.

### **FAILURE TO BE IN COMPLIANCE WITH DIGEST REVIEW BY REVENUE COMMISSIONER**

If it is determined the overall average assessment ratio deviates substantially from the assessment required by O.C.G.A. 48-5-7, the Revenue Commissioner shall assess against the county governing authority additional state tax in an amount equal to the difference between the amount the state's levy, as prescribed in Code Section 48-5-8, would have produced if the digest had been at the proper assessment ratio and the amount the digest which is actually used for collection purposes will produce.  
O.C.G.A. 48-5-345.

In addition, to the above proposed penalty, under O.C.G.A. 45-5-346 (2) a specific penalty is levied which shall be \$5.00 per taxable parcel of real property located in the county as of January 1 of the year in which the penalty is levied and it shall be paid by the governing authority of the county to the commissioner.

## Legislative Background

### LEVEL OF ASSESSMENT

*RULE 560-11-2-.56 (2)(d)*

Standard For Level of Assessment:

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

**36% - 44%**

### UNIFORMITY

*RULE 560-11-2-.56 (2)(f)*

Standard for Uniformity:

The standard for uniformity will be deemed to have been met if the resulting coefficient does not exceed fifteen percent for the residential class of property or twenty percent for the non- residential classes of property. **A.K.A. COD**

**>15% Residential or >20% Commercial**

### ASSESSMENT BIAS

*RULE 560-11-2-.56 (2)(h)*

Standard for Assessment Bias:

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

## How can one determine if one county is taxing consistently with the rest of the State of GA?

Adoption of the Appraisal Procedure Manual O.C.G.A Sec 48 -5-269.1

The Appraisal Procedures Manual adopted by the State of Georgia to govern the taxation of Georgia properties statewide and passed into law Sec 48-5-269.1 of the Official Code of Georgia Annotated (O.C.G.A) which became effective statewide as of October 10, 1999.

## Appraisal Procedures Manual 560-11-10-.01(2) Specific Procedures

In order to facilitate the mass appraisal process, specific procedures are provided within this Chapter which are designed to arrive at a basic appraisal value of real and personal property. These specific procedures are designed to provide fair market value. In all instances, the appraisal staff will apply Georgia law and generally accepted appraisal practices to the basic appraisal values required by this manual and make any further valuation adjustments necessary to arrive at the fair market values.

### **How does one determine the value of a property?**

Property valuation consists of 2 components:

*Improvement Value* and *Land Value*

### **How does one determine how much an improvement is worth and maintain consistency among taxpayers?**

Residential Building Schedule

### **How does a county know how to compile the Residential Building Schedule?**

**Appraisal Procedure Manual**

***Rule 560-11-10-.09(4)(a)***

Real Property Appraisal Improvement valuation

(a) Cost Approach. The appraisal staff shall use the following three steps when applying the cost approach:

- Determine replacement cost new of the improvements
- Subtract Accrued Depreciation
- Add the value of the land

### **How does a county determine the replacement cost new of improvements?**

**Appraisal Procedure Manual**

***Rule 560-11-10-.09(4)(a)(1)(1)***

Real Property Appraisal Comparative Unit Method

The appraisal staff shall determine benchmark per-square-foot, costs for base structures using cost guides or local cost information. Such benchmark per-measurement-unit costs may then be applied to the subject improvements to determine typical replacement cost new. All forms of depreciation are then applied as a lump sum factor based on the age and useful life of the subject improvement.

## Where do the values utilized in the Residential Building Schedule come from?

Appraisal Procedure Manual  
Real Property Appraisal

Rule 560-11-10-.09(4)(a)(I)(IV)(ii)

(ii) Sources of Cost Information

The appraisal staff may obtain cost information by directly collecting information from contractors, builders, developers, property owners, and other marketplace participants.

(iii) Updating Costs

Cost information shall be updated by the appraisal staff as necessary to reasonably reflect current construction costs for the various construction classes.

(v) Cost Models

The appraisal staff shall develop representative cost models which contain the manual or automated cost factors used in the cost approach. The models should be applicable to all building types in a county and be based on actual updated costs.

## Once values are determined how does one implement them?

Individual components are any component of the home which is in addition to the base square foot footprint of the home. (Currently \$XXX a square foot) For example, components such as types of exterior walls, roofing, bathrooms, basements, and their finishing, etc. are given their own value on top of the basic price per square foot. Therefore, the residential building schedule starts out at \$XXX a square foot for all residential homes then each component of such specific home is then added to this value to determine the fair market value of this home specifically.

I.e., for a 1,500 square foot home, the base price would be \$XXX for the entire 1,500 square feet of the home, then the value contributed to its exterior walls, roofing, etc. are compiled onto this base cost value to determine an overall replacement cost new for the home.

From this replacement cost new value, the home is then depreciated based on its age and condition to determine this specific home's fair market value. Aside from the base cost per square foot, each home will have its own individual value based upon the actual components of such specific home and each of its unique components. Essentially each and every home is assessed individually but uniformly based on the values in the residential schedule.

**Once improvements are valued  
How does one determine what the land value is?**

**Appraisal Procedure Manual**

***Rule 560-11-10-.09(3)(c)(I)***

Site Valuation      Valuation Methods with sufficient sales

The appraisal staff shall use of the valuation methods in this subparagraph when sufficient sales are available to reliably support the appraisal. These methods may be used to value the land directly.

**BUT....**

**What if a county does not have any vacant land sales when reviewing urban land?**

**Appraisal Procedure Manual**

***Rule 560-11-10-.09(3)(c)(2)***

Site Valuation      Valuation methods with insufficient sales

When vacant land sales are limited, the appraisal staff may use alternative methods to determine residual land values. These residual land values may be used in the same way as vacant land sales in order to establish comparative unit or base lot values.

Appraisal Procedures Manual, Chapter 560-11-10.2(i)).

Counties may use the abstraction method to arrive at a site value as provided in the Appraisal Procedures Manual. The abstraction method as established in the Appraisal Procedures Manual provides:

"the appraisal staff estimates the land residual value by subtracting the depreciated replacement cost of improvements from the sale price of an improved property."  
(Appraisal Procedures Manual, Chapter 560-11-10.2(ii)).



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Covenant Type	Code Section	Covenant Term	Minimum Acreage	Maximum Acreage	Breach Penalty	Savings	Application Period	Notes
Preferential	48-5-7.1	10 Years	No Minimum	2000	Tax savings for the year the breach occurs X 5 - (Years 1 and 2) 4 - (Years 3 and 4) 3 - (Years 5 and 6) 2 - (Years 7,8,9,10)	Fair Market Value of land and up to \$100,000 of agricultural buildings assessed at .30	January 1-April 1	
Conservation Use (CUVA)	48-5-7.4	10 Years	No Minimum	2000	Total savings all years up to the time the breach occurs X 2	Land Valued Using State Values <small>Agricultural buildings limited to 3% change per year</small>	January 1 - April 1 and 45 day appeal period of Notice of Assessment	
Forest Land Protection Act (FLPA)	48-5-7.7	2018-Prior 15 years 2019-Future 10 years	2018-Prior >200 AC 2019-Future 200 or More	Unlimited	Total savings all years up to the time the breach occurs X 2	Land Valued Using State Values	January 1 - To End of 45 day appeal period or until appeal of property settled (whichever comes last)	Beginning 2019; 100 Acres per parcel minimum. Does NOT have to be contiguous anymore and can be in multiple covenants. Must have at least 200 acres on the application





Lynne Riley  
Commissioner

State of Georgia  
**Department of Revenue**  
1800 Century Blvd.  
Atlanta, Georgia 30345-3205

Frank O'Connell  
General Counsel

# BOARD OF EQUALIZATION MANUAL

May, 2018

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## O.C.G.A § 48-5-311

O.C.G.A. § 48-5-311 defines the scope, and sets forth qualifications of a Board of Equalization, its members and alternate members.

### The Scope:

- O.C.G.A. § 48-5-311(e)(1)(A)(i) allows a taxpayer or property owner to appeal a board of tax assessor's assessment of their property to the county board of equalization as to matters of taxability, uniformity of assessment, and value, and, for residents, as to denials of homestead exemptions. Appeals may also be filed due to the denial of a covenant application, breach of a covenant, and denial of freeport in accordance with O.C.G.A. § 48-5-311.

### Qualifications:

- Individuals desiring to serve on a board of equalization may file an application with the county clerk of superior court. The grand jury is the appointing authority of the board of equalization of each county. The qualifications which must be met to serve on a board of equalization are.....
  - qualified and competent to serve as a grand juror
  - own real property located in the county where such person is appointed to serve, or, in the case of a regional board of equalization, is the owner of real property located in any county in the region where such person is appointed to serve
  - at least a high school graduate
  - complete not less than 40 hours of training within the first year of a member's initial appointment
  - complete not less than 20 hours of training within the first year of a member's subsequent term of office
  - complete annually a continuing education requirement of at least eight hours of instruction. O.C.G.A. § 48-5-311(b)

### Supervision:

- "The term 'appeal administrator' means the clerk of the superior court" and "the appeal administrator shall have oversight over and supervision of all boards of equalization of the county and hearing officers." O.C.G.A. § 48-5-311(a) and (d)(4)
- The appeal administrator is vested with administrative authority in all other matters governing the conduct and business of the boards of equalization so as to provide oversight and supervision of such boards. O.C.G.A. § 48-5-311(a.1)(1)
- It shall be the duty of the appeal administrator to receive any complaint filed with respect to the official actions of any member of a county board of equalization regarding technical competency, compliance with state law and regulations, or rude or unprofessional conduct or behavior toward any member of the public and to forward such complaint to the grand jury for investigation. O.C.G.A. § 48-5-311(a.1)(2)

**Burden of Proof:**

- The standard of proof on all issues in the hearing shall be a preponderance of the evidence.
- A preponderance of the evidence is established when one party's evidence is of greater weight or is more convincing than the evidence offered in opposition to it, in that, the evidence, when taken as a whole, shows that the fact(s) in dispute has/have been proven by one party to be more probable than not.
- When a hearing is being held regarding a county's board of tax assessors' tax assessment , the county board of tax assessors shall have the burden of proof in regards to value, not taxability.
- If a hearing is being held regarding a property tax exemption, then the party seeking the property tax exemption shall have the burden of proving entitlement. Ga. Comp. R. & Regs. R. 560-11-12-.02

**Administration of Duties:**

- Within 15 days of the receipt of the notice of appeal, the county board of equalization shall set a date for a hearing on the questions presented and shall so notify the taxpayer and the county board of tax assessors in writing.
- The date of the hearing shall be within 30 days but not earlier than 20 days from the date of written notification to the taxpayer and the county board of tax assessors.
- The written notice shall advise each party that he or she may request, not less than 10 days prior to the hearing, a list of witnesses, documents, or other written evidence to be presented at the hearing by the other party, which shall be provided to the requesting party not less than seven days prior to the time of the hearing. Any failure to comply with this requirement shall be grounds for an automatic continuance or for exclusion of such witness, documents, or other written evidence. O.C.G.A. § 48-5-311(e)(6)(A). Ga. Comp. R. & Regs. R. 560-11-12-.02
- Prior to a hearing of the board, the members of each Board of Equalization may designate one of its members to serve as Chairman. Ga. Comp. R. & Regs. R. 560-11-2-.36
- The Chairman shall be responsible for certifying all documents with respect to any matter heard by the Board. Ga. Comp. R. & Regs. R. 560-11-2-.36
- The Chairman shall have the authority to sign on behalf of the Board any notifications setting the location of a hearing and the hearing's date(s). Ga. Comp. R. & Regs. R. 560-11-2-.36
- The Chairman shall have the authority to administer oaths, grant continuances, and reprimand or exclude from the hearing any person for any improper conduct. Ga. Comp. R. & Regs. R. 560-11-2-.36

**Decision:**

The decision of the county board of equalization . . . .

- shall be announced on each appeal at the conclusion of the hearing held in accordance with O.C.G.A. § 48-5-311(e)(6)(B) before proceeding with another hearing
  - shall be in writing
  - shall be signed by each member of the board
  - shall specifically decide each question presented by the appeal
  - shall specify the reason or reasons for each such decision as to the specific issues... raised by the taxpayer in the course of such taxpayer's appeal,
  - shall state that with respect to the appeal no member of the board is disqualified from acting by virtue of O.C.G.A. § 48-5-311(j)
  - shall certify the date on which notice of the decision is given to the parties.
  - shall be delivered by hand to each party, with written receipt, or given to each party by sending a copy of the decision by registered or certified mail or statutory overnight delivery to the appellant and by filing the original copy of the decision with the county board of tax assessors O.C.G.A. § 48-5-311(e)(6)(D).
- Each of the three members of the county board of equalization must be present and must participate in the deliberations on any appeal. A majority vote shall be required in any matter. All three members of the board shall sign the decision indicating their vote. O.C.G.A. § 48-5-311(e)(6)(D).



STATE OF GEORGIA  
DEPARTMENT OF REVENUE

BOARD OF EQUALIZATION MANUAL

**CHAPTER 1.**  
**DUE PROCESS**

*A. Basic Requirements*

Hearings must meet the basic requirements of due process. Due process of law is a Constitutional right which provides fundamental protections intending to prevent unreasonable and abusive government action. Courts have often said that the procedures necessary to due process are somewhat flexible, but the essential elements are:

- Notice of the proposed County action must be given to the parties whose interests are affected;
- The affected parties are entitled to present arguments or evidence in support of their position;
- The decision maker must be unbiased; and
- A right to cross-examine.

*B. Representation of a Party*

A party may appear on his or her own behalf or through a representative. Generally, this representative would be an attorney, although statutes governing certain proceedings specifically allow a non-attorney representative. Although a respondent has a right to be represented by counsel, there is no right to appointed counsel in administrative proceedings. The Department uses the Administrative Procedure Act (“APA”) as a guideline for hearing procedures in order to ensure due process is achieved. Under the APA, the respondent’s counsel is not limited to only advising the respondent; rather counsel must be permitted to question witnesses and make arguments on behalf of the respondent.

## CHAPTER 2. PRE-HEARING ACTIVITY

### *A. Communicating with the Parties*

Taking into consideration the prohibition on ex parte communications (one side's communications with the any member of the Board of Equalization occurring without the opposing side being present), the Chairman should make communication between the parties, and between the parties and the Chairman, as easy as possible. Copies of all documents should be given to both parties.

Occasionally, a party represented by counsel will attempt to contact a member of the Board of Equalization directly. When that happens, the party should be immediately advised that contact may only be made through counsel. The Chairman should be immediately contacted (if another member of the Board of Equalization was contacted) to advise the contacting party's counsel of the client's attempted contact. If the communication is in writing, the Chairman should supply all parties with a copy of the communication.

A hearing conducted by a county's board of equalization, shall be held in the county where the property is located unless all parties agree to hold the hearing at a mutually agreed upon location. Ga. Comp. R. & Regs. R. 560-11-12-.09

### *B. Prior to Hearing*

The parties have a right to obtain not less than seven (7) days prior to the date of the hearing, the documentary evidence and the names and addresses of the witnesses to be used at the hearing by making a written request ~~to the Board of Equalization and to~~ the other party not less than 10 days prior to the date of the hearing. Any such documentary evidence or witnesses not provided upon a timely written request may be excluded from the hearing at the discretion of the Board of Equalization. **O.C.G.A. § 48-5-311(e)(6)(A)** and Ga. Comp. R. & Regs. R. 560-11-12-.02

### *C. Discovery*

The discovery mechanisms set out in the Georgia Code and APA (such as depositions, requests for production or inspection, and requests for admission) may be considered, but will not always be appropriate. When considering requests for discovery, a Board of Equalization should remember the hearing shall only be as formal as is necessary to preserve order and be compatible with the principles of justice. Ga. Comp. R. & Regs. R. 560-11-12-.02

### *D. Depositions*

Depositions may be allowed with good cause shown or upon stipulation of the parties. An example of "good cause" for ordering a deposition could be the expectation that a witness's testimony will be so specialized or technical that the adverse party needs to know the substance in advance of hearing to prepare a rebuttal.

### *E. Deadlines*

The Chairman should determine whether deadlines set by code section and regulation for the exchange of discovery, filing witness lists, filing fact stipulations, and submission of any briefs have been met. The parties have a right to obtain not less than seven (7) days prior to the date of the hearing, the documentary evidence and the names and addresses of the witnesses to be used at the hearing by making a written request to ~~the Board of Equalization and to~~ the other party not less than 10 days prior to the date of the hearing. O.C.G.A. § 48-5-311(e)(6)(A) and Ga. Comp. R. & Regs. R. 560-11-12-.02(2).

## **CHAPTER 3. HEARING**

### *A. Mechanics of the Hearing*

The hearing should move as rapidly as possible, consistent with the fundamentals of fairness, impartiality, and thoroughness.

1. **Hearing Location and Facilities.** The hearing should be conducted in a location convenient to the public, including those with disabilities. The witness chair should be arranged so that everyone in the room can see and hear the witnesses, and the reporter (if utilized) should be placed where an accurate record of the testimony of all witnesses and the comments of all participants can be achieved. A nearby location where persons can confer in private is also helpful.

If the Chairman wants the appeal administrator to provide the hearing facility or for the recording of the hearing, the Chairman should promptly notify the appeal administrator.

2. **Hours.** Such appeal proceedings shall be conducted between the hours of 8:00 A.M. and 7:00 P.M. on a business day.

3. **Recesses and Promptness.** Short recesses are allowed in the discretion of the Chairman, and should be taken whenever it might enable the hearing to progress more smoothly.

The times fixed for recess or adjournment should be flexible. For example, if a witness finishes his or her testimony five or ten minutes before the scheduled adjournment time for lunch, it might be convenient to recess; if counsel is in the midst of a complicated cross-examination at the end of the day, adjournment may be delayed so as to permit the cross-examination to conclude.

4. **Recording.** Hearings may be recorded to assure an accurate record, pursuant to Ga. Comp. R. & Regs. R. 560-11-12-.06 and OCGA 48-5-311(h)

5. **Use of Interpreters.** If a party or witness has requested the assistance of an interpreter, the Chairman should discuss the request with the appeal administrator and make appropriate arrangements. Generally, the party requesting foreign language interpretive services would be expected to bear the expense of the interpreter. If the request is made to accommodate a disability, the Chairman should review the

Americans with Disabilities Act requirements. The Chairman, or reporter, if any, should administer an interpreter oath such as the following:

“Do you solemnly swear or affirm that you will truthfully and accurately translate all questions put and all answers given, to the best of your ability?”

The Chairman should give specific instructions to an interpreter, on the record, such as the following:

- The interpreter is to give word-for-word translations of only what is asked and what is answered;
- The interpreter is not to engage in discussions with the witness in order to clarify what the witness means or for any other reason; and
- The interpreter should interrupt long passages in order to translate several shorter statements rather than one long one.

The parties should also be directed to ask their questions directly to the witness (*e.g.*, "Did you go to the store?") rather than giving the interpreter directions as to what to ask (*e.g.*, "Ask him if he went to the store.").

6. Public Hearings. All hearings are a matter of public record and shall be held open to the public.

#### *B. Witnesses*

Witnesses may appear in person or provide testimony by telephone.

1. Evidence by Affidavit. A party may introduce as evidence an appraiser’s affidavit regarding the issue to be decided at the hearing. The affidavit is treated as oral evidence with the right to cross-examine waived unless the other party:

- Was not made aware of this evidence before the hearing, or
- Timely requested an opportunity to cross-examine the affiant.

A party representing themselves in the matter before the Board of Equalization may not fully understand that an affidavit from a witness is not sufficient if another party wishes to cross-examine the affiant's testimony. The affiant must be produced for cross-examination. If the affiant does not present themselves to be cross-examined, then the affidavit must be withdrawn.

2. Compelling Testimony / Subpoenas.

a. *Who Issues.* A Board of Equalization may issue subpoenas upon the request of either party pursuant to Department of Revenue Regulation 560-11-12-.05(2). O.C.G.A. 50-13-13(6) provides for a Board of Equalization in contested cases to “sign and issue subpoenas” and enforcement is made through an application to the Superior Court.

b. *When Appropriate.* A subpoena may be used to compel testimony, or the production of documents, at the hearing.

*c. Extent of Subpoena Power.* Boards of Equalization lack subpoena enforcement power, therefore the procedure of enforcing an issued subpoena is by application to the superior court of the county where the contested case is being heard for an order requiring obedience. OCGA § 50-13-13.

### 3. Presumptions from Failure to Testify / Claim of Privilege.

*a. Refusal to Testify.* If a witness refuses to answer a question, or to testify at all, before taking any action, the Chairman should first determine whether the evidence sought is relevant and non-duplicative in compliance with Department Regulation 560-11-12-.03. If the witness refuses to answer questions on cross-examination, the Chairman can choose to strike their direct testimony.

*b. Claim of Privilege.* Rules regarding the claim of privilege shall follow the rules of evidence as applied in the trial of civil non-jury cases in the superior court as far as practicable. Ga. Comp. R. & Regs. R. 560-11-12-.03

In Georgia, commonly recognized privilege exists between a lawyer and client, husband and wife, and accountant and client.

4. Witness Exclusion. Upon motion of a party or upon the Chairman's own motion, a prospective witness may be excluded from the hearing room while another witness is testifying. However, a party to the proceeding should never be excluded. If the party is an entity, such as an agency, the Chairman can require the party to designate one person (other than the party's attorney) who will not be excluded. Unless the Chairman finds that a party would be unfairly prejudiced, a witness whose presence is shown by a party to be important to the presentation of that party's case (*e.g.*, certain experts) should not be excluded.

### *C. Handling of Exhibits*

1. Marking the Exhibits. Exhibits should be marked numerically, allowing easy retrieval of the exhibits during the hearing. Additionally, the Chairman should require each party to submit an exhibit list with the party's proposed exhibits. Sufficient copies of an exhibit should be made available at the hearing.

2. Demonstrative Exhibits. A demonstrative exhibit is not "real" evidence in the sense that it is not a document prepared during an event in question. Demonstrative exhibits are useful in analyzing or illustrating other evidence. Demonstrative evidence includes charts and drawings prepared by a witness while testifying. Before the witness is excused, the Chairman should inquire whether the party intends to have the document received into the record as demonstrative evidence. The Chairman has greater discretion to determine whether to admit demonstrative evidence, as opposed to "real" evidence.

The Chairman should admit the exhibit if it is more helpful than not, taking into consideration accuracy, confusion, and unfair surprise to opposing parties. Demonstrative exhibits should be marked and admitted in the same manner as other exhibits.

3. Receipt of Exhibits. Simply marking an exhibit for identification does not make the exhibit part of the record. The exhibit must be admitted into evidence. If objections or other questions involving an exhibit have been resolved before the hearing, then the Chairman should expressly admit the exhibit

during the Chairman's opening statement. If all objections have not been resolved, then the party proposing to add an exhibit to the record must attempt to do so at the hearing and any opponent must be given an opportunity to object at the time the exhibit is offered. The Chairman should record whether each exhibit is "admitted" or "rejected" by writing on the exhibit list or on the exhibit itself.

When an exhibit is offered into evidence, the Chairman should consider any objections. The Chairman should take careful note of the material objected to and the basis of objection. A party should be permitted to respond to the objection. The Chairman should weigh the arguments and rule on the admissibility of all challenged material. Motions to strike an exhibit may be entertained later if required by further developments at the hearing.

As an alternative to the above procedure, in cases involving large numbers of documents or other exhibits, the Chairman may provide by prehearing order that all exhibits referred to or used in the hearing will be deemed admitted unless specific objection to admission is made by one of the parties at the hearing. If such a procedure is used, the Board of Equalization should also order an exchange of exhibits between the parties well in advance of the hearing so that the parties will be prepared to offer objections.

If a party has pre-filed an exhibit, but not offered it into evidence, the exhibit may be returned to the party or destroyed. It is not part of the record. The exhibit list should be notated that the exhibit was withdrawn or not offered.

4. Excluded Evidence. Excluded material should not be physically removed from the record. Instead, after it is marked "rejected," it should be attached to the record but segregated from admitted material so that there is no confusion or inadvertent consideration of rejected material. This rejected material is not considered part of the record to be considered by the agency except to rule on the correctness of its exclusion. During the hearing, the Chairman should provide and note a reason why the evidence is being excluded from the record. The Chairman should direct the parties to mark "rejected" on their own copies of offered exhibits as well.

5. New Exhibits. If a party brings in new, surprise exhibits that should have been exchanged before the hearing, the Chairman should determine whether it would be fairer to exclude the evidence, or to allow the opposing party a continuance to review the evidence before proceeding.

#### *D. Opening Statements*

1. The Chairman should call the hearing to order, identify himself or herself, the present members of the Board of Equalization, and parties present who will be participating in the hearing, and give any preliminary instructions concerning decorum, procedure, and hearing hours. In addition, a basic opening statement should include the following:

- the title of the case;
- the date, time, and place of hearing;
- the persons present at the hearing or who will participate by telephone; and
- the statutes and regulations under which the hearing is being conducted

The opening should be adapted to the type of case and the circumstances. If all affected persons are represented by knowledgeable and experienced counsel, the opening statement may be brief. If members of the public are present, some counsel are unacquainted with the hearing procedure, or one or more parties are not represented by counsel, the Chairman should briefly describe the subject of the case and the procedures to be followed.

If the parties have stipulated to facts or the admission of exhibits, this should be noted at the beginning of the hearing and should be disclosed to the Board of Equalization and made part of the record. A stipulation is an agreement made between opposing parties prior to a pending hearing or trial. For example, both parties might stipulate to certain facts, and therefore not have to argue those facts in court. Any materials of which the Board of Equalization will take official notice should also be cited.

2. Parties' Opening Statements. The parties may be required or permitted to make an opening statement. That statement is not subject to cross-examination.

Opening statements should normally be permitted unless waived by a party. The Chairman may place a reasonable time limit on opening statements. What constitutes a reasonable time limit depends upon the complexity of the case and the number of issues involved.

Pro se parties often misunderstand the function of an opening statement. Prior to the hearing, it may be helpful to explain to the pro se party that the opening statement is merely intended as an outline of the party's case, what testimony and documents that the party expects to introduce, and what facts the party intends to prove.

#### *E. Motions During Hearing*

At the beginning of the hearing, the Chairman should explicitly request that any preliminary motions be made and then either dispose of them or take them under advisement. Motions relating to hearing procedures, such as a motion concerning the order of presenting evidence, should be disposed of promptly.

When, a motion is made or an objection to evidence is raised, during a hearing, the Chairman may permit oral argument in support of, and in opposition to, the motion or objection. In some circumstances, the Chairman may also request written memoranda on disputed points. In allowing argument or requesting a briefing, however, the Chairman should try to avoid unnecessary expense and delay.

#### *F. Development of the Record*

##### 1. Burden of Proof / Standard of Proof.

The standard of proof for hearings before the Board of Equalization shall be a preponderance of the evidence pursuant to Department of Revenue Regulation 560-11-12-.02. A preponderance of the evidence is established when one party's evidence is of greater weight or is more convincing than the



evidence offered in opposition to it, in that the evidence, when taken as a whole, shows that the fact in dispute has been proven by one party to be more probable than not.

2. **Order of Presentation.** Generally, the party with the burden of proof goes first. The order of presentation during the hearings shall be followed pursuant to Department of Revenue Regulation 560-11-12-.02.

3. **Witness Testimony.**

a. *Witness Order.* The party presenting its case calls witnesses, who are then sworn in by the Chairman. The following form for administering the oath is suggested:

“Do you solemnly swear or affirm that the testimony you will give will be the truth, the whole truth, and nothing but the truth?”

Direct examination should then begin. Exhibits identified by witnesses should be offered in evidence before each witness is released for cross-examination. Cross-examination and redirect examination would then follow until the testimony of that witness is presented in full. A witness should be excused after giving testimony, subject to recall at the Chairman’s discretion. Normally, all of a party’s witnesses (except rebuttal witnesses as discussed below) should be called and examined before the next party begins to call its witnesses.

The Chairman may allow witness testimony to be taken out of order to accommodate scheduling needs. In multi-party proceedings, witnesses for a category of parties may be heard as a group or in any other convenient sequence.

b. *Cross-examination.* Cross-examination is the questioning of one party’s witness by an opposing party or that party’s counsel. If there are several parties, the Chairman should determine the order of cross-examination that will effectuate a clear and accurate record. Ordinarily, priority is given to the party who will have the most extensive cross-examination or who has the greatest interest in the direct testimony to be given. Generally, a party should not be permitted to interject questions during cross-examination by another party. However, the Chairman may permit this when clarification would be time-saving.

c. *Redirect.* Following cross-examination, redirect examination by the party who initially called the witness should be permitted, but confined to matters brought out on cross-examination. A short conference between a party and the witness may be allowed before redirect examination.

d. *Rebuttal Witnesses.* After the conclusion of the respondent’s evidence, the petitioner may rebut adverse evidence. Rebuttal testimony should be limited to new issues raised in the respondent’s evidence.

Evidence that could have been introduced in a party’s direct case should not be introduced in rebuttal. After the petitioner presents rebuttal evidence, the Chairman should allow the respondent to rebut factual issues raised for the first time in the petitioner’s rebuttal. The Chairman may recess the hearing briefly to permit a party to prepare to rebut new matters.



No member of the Board of Equalization should become the advocate for any party. The party should be expected to meet whatever burden on proof is placed on the party. Members of the Board of Equalization should avoid any appearance of bias whatsoever.

G. Rules of Evidence. The rules of evidence for the admission of irrelevant, immaterial, or unduly repetitious evidence shall be excluded per the rules of evidence as applied in the trial of civil non-jury cases in the superior courts as far as practicable.

The Chairman may exclude irrelevant and unduly repetitious evidence. Ga. Comp. R. & Regs. R. 560-11-12-.03

1. Affidavits. Use of affidavit testimony as direct evidence is permitted. If the opposing party requests cross-examination at the hearing and the affiant is not made available, then the testimony provided in the affidavit testimony is considered to be hearsay.

2. Hearsay. Hearsay evidence may be admitted if it is considered reliable and useful. A Chairman should exclude hearsay evidence if it appears untrustworthy. It may be used to supplement or explain direct evidence but it is not sufficient by itself to support a finding unless it would be admissible over objection in a civil action. This limitation on the use of hearsay testimony can present a challenge for the Board of Equalization. In a typically informal administrative hearing, a party may not realize the need to state a hearsay objection. In the absence of a hearsay objection, hearsay evidence is competent evidence which may be considered.

Therefore, the Chairman should instruct the parties about their obligation to object to each item of hearsay testimony. If hearsay objections are then made, the Chairman must rule and state whether the testimony is admitted:

- 1) As a recognized exception to the civil hearsay rule (and thus it may be used for any purpose);  
or
- 2) Solely under the relaxed administrative hearing hearsay rule (and therefore considered only to supplement or explain other evidence).

3. Authentication. The authenticity of documents should be presumed unless a direct challenge is made. Generally, a duplicate is equally admissible as an original unless there is good reason to question it.

If a genuine question is raised about the authenticity of a document, or if it would be unfair under the circumstances to admit the duplicate, the party may be required to establish that an exhibit is what the party claims it to be. Often it will be possible to avoid disputes over the admission of documents if the parties can stipulate to their authenticity before the hearing.

4. Exclusion of Evidence to Limit Scope of Hearing. Rulings on the admission and exclusion of evidence are a part of a Chairman's function. A Chairman may appropriately limit the scope of a hearing to only those matters that are within the scope of the hearing. Similarly, evidence that is unduly repetitious or cumulative should be excluded from the record.

5. Privileges. A claim of privilege may be asserted if information is sought about the substance of confidential communications. Evidentiary rules that protect privileged communications are effective in an administrative proceeding to the same extent as in a judicial proceeding.

6. Self-Incriminating Testimony. The Fifth Amendment right against self-incrimination is applicable to administrative proceedings. Failure to assert the Fifth Amendment's protection, however, may constitute a waiver.

7. Official Notice. A Board of Equalization has the authority to take official notice of a generally accepted technical or scientific matter within the agency's special field, or of a fact that is judicially recognized in the courts of the state.

The Chairman should attempt to provide written notice before the hearing or oral notice during the hearing of the facts to be officially noticed. Otherwise, written notification, allowing each party sufficient time to object, may be accomplished after the hearing and before the closing of the record.

8. Ruling on Objections. Generally, if an objection to evidence is not made at the time of the hearing, it is considered waived. The Chairman can require the proponent of the evidence to "lay a foundation" for the admissibility of the evidence by, for example, asking preliminary questions.

The following principles are useful in ruling on some common objections:

a. *Relevance or Materiality.* Relevant evidence is evidence that has some tendency to prove or disprove an issue of fact in the case. A Chairman may exclude irrelevant or immaterial evidence in order to make a clear record or to avoid weighing irrelevant evidence when deciding a case.

b. *Cumulative or Repetitive Evidence.* The probative value of repetitive or cumulative evidence is minimal and can cause undue delay or waste of time. A Chairman shall have the right to exclude unduly repetitious evidence pursuant to Department of Revenue Regulation 560-11-12-.03.

#### *H. Bringing the Hearing to a Close*

1. Closing Argument. The Chairman may permit or require oral argument on the merits of the entire case or on specific issues. Oral arguments may be heard at the close of the hearing or before or after the filing of any post-hearing briefs, as the Chairman directs. In most instances, the Chairman should set time limits for closing argument. The Chairman should set a reasonable time limit, considering the complexity of the case and the amount of evidence and testimony presented.

2. Closing the Record. The record shall be closed at the conclusion of the oral hearing upon which the board of equalization shall announce its decision on each appeal before proceeding with another hearing.

3. At the conclusion of the hearing, the Chairman shall notify both parties of the decision verbally and shall either send both parties the decision in writing or deliver the decision by hand to each party, with written receipt and a copy of the decision shall also be sent to the Appeal Administrator.

**CHAPTER 4.**  
**O.C.G.A.**

**48-5-299(c)**

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

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

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

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

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

**48-5-306. Notice of changes made in taxpayer's return; contents; posting notice; new assessment description.**

(a) *Method of giving annual notice of current assessment to taxpayer.*

Each county board of tax assessors may meet at any time to receive and inspect the tax returns to be laid before it by the tax receiver or tax commissioner. The board shall examine all the returns of both real and personal property of each taxpayer, and if in the opinion of the board any taxpayer has omitted from such taxpayer's returns any property that should be returned or has failed to return any of such taxpayer's

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

(b) *Contents of notice.*

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

(A) The amount of the previous assessment;

(B) The amount of the current assessment;

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

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

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

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

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

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

(2)(A) In addition to the items required under paragraph (1) of this subsection, the notice shall contain a statement of the taxpayer's right to an appeal and an estimate of the current year's taxes for all levying authorities which shall be in substantially the following form:

'The amount of your ad valorem tax bill for this year will be based on the appraised and assessed values specified in this notice. You have the right to appeal these values to the county board of tax assessors. At the time of filing your appeal you must select one of the following options:

- (i) An appeal to the county board of equalization with appeal to the superior court;
- (ii) To arbitration without an appeal to the superior court; or **(Note: O.C.G.A. 48-5-311(f) states that decisions of an arbitrator may be appealed to superior court)**
- (iii) For a parcel of nonhomestead property with a fair market value in excess of ~~\$750,000.00~~ \$500,000.00 as shown on the taxpayer's annual notice of current assessment under this Code section, or for one or more account numbers of wireless property as defined in subparagraph (e.1)(1)(B) of Code Section 48-5-311 with an aggregate fair market value in excess of ~~\$750,000.00~~ \$500,000.00 as shown on the taxpayer's annual notice of current assessment under this Code section, to a hearing officer with appeal to the superior court.

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

(A) The notice shall also contain the following statements in bold print:

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

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

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

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

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

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

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

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

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

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

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

(a) **Definition.** As used in this Code section, the term "appeal administrator" means the clerk of the superior court.

##### **(a.1) Appeal administrator.**

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

(2) It shall be the duty of the appeal administrator to receive any complaint filed with respect to the official actions of any member of a county board of equalization regarding technical competency, compliance with state law and regulations, or rude or unprofessional conduct or behavior toward any member of the public and to forward such complaint to the grand jury for investigation. Following an



investigation, the grand jury shall issue a written report of its findings, which shall include such evaluations, judgments, and recommendations as it deems appropriate. The findings of the report may be grounds for removal of a member of the board of equalization by the grand jury for failure to perform the duties required under this Code section.

**(a.2) Establishment of boards of equalization.**

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

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

(2) Notwithstanding any part of this subsection to the contrary, at any time the governing authority of a county makes a request to the grand jury of the county for additional alternate members of boards of equalization, the grand jury shall appoint the number of alternate members so requested to each board of equalization, such number not to exceed a maximum of 21 alternate members for each of the boards. The alternate members of the boards shall be duly qualified and authorized to serve on any of the boards of equalization of the county. The members of each board of equalization may designate a chairperson and two vice chairpersons of each such board of equalization. The appeal administrator shall have administrative authority in all matters governing the conduct and business of the boards of equalization so as to provide oversight and supervision of such boards and scheduling of appeals. Any combination of members or alternate members of any such board of equalization of the county shall be competent to exercise the power and authority of the board. Any person designated as an alternate member of any such board of equalization of the county shall be competent to serve in such capacity as provided in this Code section upon appointment and taking of oath.

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

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

**(b) Qualifications of board of equalization members.**

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

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

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

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

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



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

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

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

**(c) Appointment of board of equalization members.**

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

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

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

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

summons shall direct the persons named on the summons to appear before the clerk of the superior court on a date specified in the summons, which date shall not be later than December 15.

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

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

Signature of member or alternate member"

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

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

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

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

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

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

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

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

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

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

the clerk of superior court for such appeal, and such records shall become part of the record on appeal in accordance with paragraph (2) of subsection (g) of this Code section.

**(e) Appeal.**

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

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

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

(iii) A hearing officer as to matters of value and uniformity of assessment for a parcel of nonhomestead real property with a fair market value in excess of ~~\$750,000.00~~ \$500,000.00 as shown on the taxpayer's annual notice of current assessment under Code Section 48-5-306, and any contiguous nonhomestead real property owned by the same taxpayer, pursuant to subsection (e.1) of this Code section; or

(iv) A hearing officer as to matters of values or uniformity of assessment of one or more account numbers of wireless property as defined in subparagraph (e.1)(1)(B) of this Code section with an aggregate fair market value in excess of ~~\$750,000.00~~ \$500,000.00 as shown on the taxpayer's annual notice of current assessment under Code Section 48-5-306, pursuant to subsection (e.1) of this Code section.

(A.1) The commissioner shall establish by rule and regulation a uniform appeal form that the taxpayer may use. Such uniform appeal form shall require the initial assertion of a valuation of the property by the taxpayer.

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

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

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

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

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

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

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

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

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



pursuant to Code Section 48-5-306. Such notice shall also explain the taxpayer's right to appeal to the county board of equalization as provided in subparagraph (C) of this paragraph if the taxpayer is dissatisfied with the changes or corrections made by the county board of tax assessors.

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

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

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

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

(B) In any county in which the number of appeals exceeds a number equal to or greater than 3 percent of the total number of parcels in the county or the sum of the current assessed value of the parcels under appeal is equal to or greater than 3 percent of the gross tax digest of the county, the county board of tax assessors ~~shall~~ may be granted an additional 180 day period to make its determination and notify the taxpayer. The ~~However, as a condition to receiving such an extension, the~~ county board of tax assessors shall, at least 30 days before the expiration of the 180 day period provided under subparagraph (A) of

this paragraph, notify each affected taxpayer of the additional 180 day review period provided in this subparagraph by mail or electronic communication, including posting notice on the website of the county board of tax assessors if such a website is available. Such additional period shall commence immediately following the last day of the 180 days provided for under subparagraph (A) of this paragraph. If the county board of tax assessors fails to review the appeal and notify the taxpayer of either no changes or of any corrections or changes not later than the last day of such additional 180 day period, then the most recent property tax valuation asserted by the taxpayer on the property tax return or on appeal shall prevail and shall be deemed the value established on such appeal unless a time extension is granted under subparagraph (C) of this paragraph. If no such assertion of value was submitted by the taxpayer, the appeal shall be forwarded to the county board of equalization.

(C) Upon a sufficient showing of good cause by reason of unforeseen circumstances proven to the commissioner at least 30 days prior to the expiration of the additional 180 day period provided for under subparagraph (B) of this paragraph, the commissioner shall be authorized, in the commissioner's sole discretion, to provide for a time extension beyond the end of such additional 180 day period. The duration of any such time extension shall be specified in writing by the commissioner and, at least 30 days prior to the expiration of the extension provided for under subparagraph (B) of this paragraph, shall be sent to each affected taxpayer and shall also be posted on the website of the county board of tax assessors if such a website is available. If the county board of tax assessors fails to make its review and notify the taxpayer and the taxpayer's attorney not later than 30 days before the last day of such time extension, the most recent property tax valuation asserted by the taxpayer on the property tax return or on the taxpayer's notice of appeal shall prevail and shall be deemed the value established on such appeal. If no such assertion of value was submitted by the taxpayer, the appeal shall be forwarded to the county board of equalization. In addition, the commissioner shall be authorized to require additional training or require such other remediation as the commissioner may deem appropriate for failure to meet the deadline imposed by the commissioner under this subparagraph.

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

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

(6) (A) Within 15 days of the receipt of the notice of appeal, the county board of equalization shall set a date for a hearing on the questions presented and shall so notify the taxpayer and the county board of tax assessors in writing. Such notice shall be sent by first-class mail to the taxpayer and to any authorized agent or representative of the taxpayer to whom the taxpayer has requested that such notice be sent. Such notice shall be transmitted by e-mail to the county board of tax assessors if such board has adopted a written policy consenting to electronic service, and, if it has not, then such notice shall be sent to such board by first-class mail or intergovernmental mail. Such written notice shall advise each party that he or she may request a list of witnesses, documents, or other written evidence to be presented at the hearing by the other party, ~~which~~. Such request must be made not less than ten days prior to the hearing date, and such information shall be provided to the requesting party not less than seven days prior to,

which shall be provided to the requesting party not less than seven days prior to the time of the hearing. Any failure to comply with this requirement shall be grounds for an automatic continuance or for exclusion of such witness, documents, or other written evidence. A taxpayer may appear before the board of equalization concerning any appeal in person, by his or her authorized agent or representative, or both. The taxpayer shall specify in writing to the board of equalization the name of any such agent or representative prior to any appearance by the agent or representative before the board.

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

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

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

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

(iii) (I) If the county's tax bills are issued before an appeal has been finally determined, the county board of tax assessors shall specify to the county tax commissioner the lesser of the valuation in the last year for which taxes were finally determined to be due on the property or 85 percent of the current year's value, unless the property in issue is homestead property and has been issued a building permit and structural improvements have occurred, or structural improvements have been made without a building



permit, in which case, it shall specify 85 percent of the current year's valuation as set by the county board of tax assessors. Depending on the circumstances of the property, this amount shall be the basis for a temporary tax bill to be issued; provided, however, that a nonhomestead owner of a single property valued at \$2 million or more may elect to pay the temporary tax bill which specifies 85 percent of the current year's valuation; or, such owner may elect to pay the amount of the difference between the 85 percent tax bill based on the current year's valuation and the tax bill based on the valuation from the last year for which taxes were finally determined to be due on the property in conjunction with the amount of the tax bill based on valuation from the last year for which taxes were finally determined to be due on the property, to the tax commissioner's office. Only the amount which represents the difference between the tax bill based on the current year's valuation and the tax bill based on the valuation from the last year for which taxes were finally determined to be due will be held in an escrow account by the tax commissioner's office. Once the appeal is concluded, the escrowed funds shall be released by the tax commissioner's office to the prevailing party. The taxpayer may elect to pay the temporary tax bill in the amount of 100 percent of the current year's valuation if no substantial property improvement has occurred. The county tax commissioner shall have the authority to adjust such tax bill to reflect the 100 percent value as requested by the taxpayer. Such tax bill shall be accompanied by a notice to the taxpayer that the bill is a temporary tax bill pending the outcome of the appeal process. Such notice shall also indicate that upon resolution of the appeal, there may be additional taxes due or a refund issued.

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

(III) For the purposes of this Code section, any final value that causes an increase in taxes and creates an additional billing shall be paid to the tax commissioner as any other tax due along with interest, as provided in subsection (m) of this Code section.

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

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

(9) Notwithstanding any other provision of law to the contrary, on any real property tax appeal made under this Code section on and after January 1, 2016, the assessed value being appealed may be lowered by the deciding body based upon the evidence presented but cannot be increased from the amount assessed by the county board of tax assessors. This paragraph shall not apply to any appeal where the

taxpayer files an appeal during a time when subsection (c) of Code Section 48-5-299 is in effect for the assessment being appealed.

**(e.1) Appeals to hearing officer.**

(1) (A) For any dispute involving the value or uniformity of a parcel of nonhomestead real property with a fair market value in excess of ~~\$750,000.00~~ \$500,000.00 as shown on the taxpayer's annual notice of current assessment under Code Section 48-5-306, at the option of the taxpayer, an appeal may be submitted to a hearing officer in accordance with this subsection. If such taxpayer owns nonhomestead real property contiguous to such qualified nonhomestead real property, at the option of the taxpayer, such contiguous property may be consolidated with the qualified property for purposes of the hearing under this subsection.

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

(ii) For any dispute involving the values or uniformity of one or more account numbers of wireless property as defined in this subparagraph with an aggregate fair market value in excess of ~~\$750,000.00~~ \$500,000.00 as shown on the taxpayer's annual notice of current assessment under Code Section 48-5-306, at the option of the taxpayer, an appeal may be submitted to a hearing officer in accordance with this subsection.

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

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

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

(5) The county board of tax assessors may for no more than 90 days review the taxpayer's written appeal, and if changes or corrections are made by the county board of tax assessors, the board shall notify the taxpayer in writing of such changes. Within 30 days of the county board of tax assessors' mailing of such notice, the taxpayer may notify the county board of tax assessors in writing that the

changes or corrections made by the county board of tax assessors are not acceptable, in which case, the county board of tax assessors shall, within 30 days of the date of mailing of such taxpayer's notification, send or deliver all necessary papers documentation to the appeal administrator, in paper or electronic format as agreed upon by the county board of tax assessors and appeal administrator, and mail a copy to the taxpayer or, alternatively, forward the appeal to the board of equalization if so elected by the taxpayer and such election is included in the taxpayer's notification that the changes are not acceptable. If, after review, the county board of tax assessors determines that no changes or corrections are warranted, the county board of tax assessors shall notify the taxpayer of such decision. The taxpayer may elect to forward the appeal to the board of equalization by notifying the county board of tax assessors within 30 days of the mailing of the county board of tax assessor's notice of no changes or corrections. Upon the expiration of 30 days following the mailing of the county board of tax assessors' notice of no changes or corrections, the county board of tax assessors shall certify the notice of appeal and send or deliver all necessary papers documentation to the appeal administrator, in paper or electronic format as agreed upon by the county board of tax assessors and appeal administrator, for the appeal to the hearing officer, or board of equalization if elected by the taxpayer, and mail a copy to the taxpayer. If the county board of tax assessors fails to respond in writing, either with changes or no changes, to the taxpayer within 180 days after receiving the taxpayer's notice of appeal, the property valuation asserted by the taxpayer on the property tax return or the taxpayer's notice of appeal shall become the assessed fair market value for the taxpayer's property for the tax year under appeal.

(6) (A) The appeal administrator shall randomly select from such list a hearing officer who shall have experience or expertise in hearing or appraising the type of property that is the subject of appeal to hear the appeal, unless the taxpayer and the county board of tax assessors mutually agree upon a hearing officer from such list. The appeal administrator shall notify the taxpayer and the taxpayer's attorney in compliance with subsection (o) of this Code section of the name of the hearing officer and transmit a copy of the hearing officer's disqualification questionnaire and resume provided for under paragraph (2) of this subsection. If no hearing officer is appointed or if no hearing is scheduled within 180 days after the county board of tax assessors receives the taxpayer's notice of appeal, the property valuation asserted by the taxpayer on the property tax return or the taxpayer's notice of appeal shall become the assessed fair market value for the taxpayer's property for the tax year under appeal, and subsection (c) of Code Section 48-5-299 shall apply. The hearing officer, in conjunction with all parties to the appeal, shall set a time and place to hear evidence and testimony from both parties. The hearing shall take place in the county where the property is located, or such other place as mutually agreed to by the parties and the hearing officer. The hearing officer shall provide electronic or written notice to the parties personally or by registered or certified mail or statutory overnight delivery not less than ten days before the hearing. Such written notice shall advise each party that he or she may request a list of witnesses, documents, or other written evidence to be presented at the hearing by a the other party. Such request must be made not less than ten days prior to the hearing date, and such information shall ~~must~~ be provided to the ~~other~~ requesting party not less than seven days prior to the time of the hearing. Any ~~and that any~~ failure to comply with this requirement shall be grounds for an automatic continuance or for exclusion of such witnesses, documents, or other written evidence.

(B) If the appeal administrator, after a diligent search, cannot find a qualified hearing officer who is willing to serve, the appeal administrator shall transfer the certification of the appeal to the county or

regional board of equalization and notify the taxpayer and the taxpayer's attorney in compliance with subsection (o) of this Code section and the county board of tax assessors of the transmittal of such appeal.

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

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

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

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

(10) Each hearing officer shall be compensated by the county for time expended in ~~considering hearing~~ appeals. The compensation shall be paid at a rate of not less than ~~\$75.00~~ \$100.00 per hour for the first hour and not less than \$25.00 per hour for each hour thereafter as determined by the county governing authority or as may be agreed upon by the parties with the consent of the county governing authority. Compensation pursuant to this paragraph shall be paid from the county treasury or, if the parties agree to pay compensation exceeding the minimum compensation set by this Code section, by a combination of the parties as agreed on by the parties. The hearing officer shall receive such compensation upon certification by the hearing officer of the hours expended in hearing of appeals. The attendance at any training required by the commissioner shall be part of the qualifications of the hearing officer, and any nominal cost of such training shall be paid by the hearing officer.

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

shall be subject to later revision by the taxpayer based upon written evidence. The commissioner shall seek input from all interested parties prior to such promulgation.

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

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

**(f) Nonbinding arbitration.**

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

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

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



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

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

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

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

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

(iii) The arbitrator, within 30 days after his or her appointment, shall set a time and place to hear evidence and testimony from both parties. The arbitrator shall provide written notice to the parties personally or by registered or certified mail or statutory overnight delivery not less than ~~ten~~ 21 days before the hearing. Such written notice shall advise each party that he or she may request a list of witnesses, documents, or other written evidence to be presented at the hearing by a the other party. Such request must be made not less than ten days prior to the hearing date, and such information shall must be provided to the ~~other~~ requesting party not less than seven days prior to the time of the hearing. Any and that any failure to comply with this requirement, ~~unless waived by mutual written agreement of such parties,~~ shall be grounds for a an automatic continuance or for exclusion of such witnesses, documents, or other written evidence. The arbitrator, in consultation with the parties, may adjourn or postpone the hearing. Following notification of the taxpayer of the date and time of the hearing, the taxpayer shall be authorized to exercise a one-time option of changing the date and time of the hearing to a date and time acceptable to the taxpayer and the county board of tax assessors. The presiding or chief judge of the superior court of the circuit in which the property is located may direct the arbitrator to proceed promptly with the hearing and the determination of the appeal upon application of any party. The

hearing shall occur in the county in which the property is located or such other place as may be agreed upon in writing by the parties;

(iv) At the hearing, the parties shall be entitled to be heard, to present documents, testimony, and other matters, and to cross-examine witnesses. The arbitrator may hear and determine the controversy upon the documents, testimony, and other matters produced notwithstanding the failure of a party duly notified to appear;

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

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

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

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

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

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

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

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

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

**(g) Appeals to the superior court.**

(1) The taxpayer or the county board of tax assessors may appeal decisions of the county board of equalization, hearing officer, or arbitrator, as applicable, to the superior court of the county in which the property lies. By mutual written agreement, the taxpayer and the county board of tax assessors may

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

(2) An appeal by the taxpayer as provided in paragraph (1) of this subsection shall be effected by e-mailing, if the county board of tax assessors has adopted a written policy consenting to electronic service, or by mailing to or filing with the county board of tax assessors a written notice of appeal. An appeal by the county board of tax assessors shall be effected by giving notice to the taxpayer. The notice to the taxpayer shall be dated and shall contain the name and the last known address of the taxpayer. The notice of appeal shall specifically state the grounds for appeal. The notice shall be mailed or filed within 30 days from the date on which the decision of the county board of equalization, hearing officer, or arbitrator is delivered pursuant to subparagraph (e)(6)(D), paragraph (7) of subsection (e.1), or division (f)(3)(C)(ix) of this Code section. Within 45 days of receipt of a taxpayer's notice of appeal and before certification of the appeal to the superior court, the county board of tax assessors shall send to the taxpayer notice that a settlement conference, in which the county board of tax assessors and the taxpayer shall confer in good faith, will be held at a specified date and time which shall be no later than 30 days from the notice of the settlement conference, and notice of the amount of the filing fee, if any, required by the clerk of the superior court. The taxpayer may exercise a one-time option to reschedule the settlement conference to a different date and time acceptable to the taxpayer, ~~but in no event later than 30 days from the date of the notice.~~ during normal business hours. After a settlement conference has convened, the parties may agree to continue the settlement conference to a later date. If at the end of the 45 day review period the county board of tax assessors elects not to hold a settlement conference, then the appeal shall terminate and the taxpayer's stated value shall be entered in the records of the board of tax assessors as the fair market value for the year under appeal and the provisions of subsection (c) of Code Section 48-5-299 shall apply to such value. If the taxpayer chooses not to participate in the settlement conference, he or she may not seek and shall not be awarded fees and costs at such time when the appeal is settled in superior court. If at the conclusion of the settlement conference the parties reach an agreement, the settlement value shall be entered in the records of the county board of tax assessors as the fair market value for the tax year under appeal and the provisions of subsection (c) of Code Section 48-5-299 shall apply to such value. If at the conclusion of the settlement conference the parties cannot ~~agree on a fair market value~~ reach an agreement, then written notice shall be provided to the taxpayer that the filing fees must be paid by the taxpayer to the clerk of the superior court within ~~ten~~ 20 days of the date of the conference, with a copy of the check delivered to the county board of tax assessors. Notwithstanding any other provision of law to the contrary, the amount of the filing fee for an appeal under this subsection shall be \$25.00. An appeal under this subsection shall not be subject to any other fees or additional costs otherwise required under any provision of Title 15 or under any other provision of law. Immediately following payment of such \$25.00 filing fee by the taxpayer to the clerk of the superior court, the clerk shall remit the proceeds thereof to the governing authority of the county which shall deposit the proceeds into the general fund of the county. Within 30 days of receipt of proof of



payment to the clerk of the superior court, the county board of tax assessors shall certify to the clerk of the superior court the notice of appeal and any other papers specified by the person appealing including, but not limited to, the staff information from the file used by the county board of tax assessors, the county board of equalization, the hearing officer, or the arbitrator. All papers and information certified to the clerk shall become a part of the record on appeal to the superior court. At the time of certification of the appeal, the county board of tax assessors shall serve the taxpayer and his or her attorney of record, if any, with a copy of the notice of appeal and with the civil action file number assigned to the appeal. Such service shall be effected in accordance with subsection (b) of Code Section 9-11-5. No discovery, motions, or other pleadings may be filed by the county board of tax assessors in the appeal until such service has been made.

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

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

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

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

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

(III) If the final determination of value on appeal is 85 percent or less of the valuation set by the county board of equalization, hearing officer, or arbitrator as to any real property, the taxpayer, in addition to the interest provided for in subsection (m) of this Code section, shall recover costs of litigation and reasonable attorney's fees incurred in the action. Any appeal of an award of attorney's fees by the county shall be specifically approved by the governing authority of the county.

(iii) If the final determination of value on appeal is greater than the valuation set by the county board of equalization, hearing officer, or arbitrator, as applicable, causes an increase in taxes, and creates an additional billing, it shall be paid to the tax commissioner as any other tax due along with interest, as provided in subsection (m) of this Code section.

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

- (1) The valuation established or announced by any county board of equalization, arbitrator, hearing officer, or superior court; and
- (2) Any written agreement or settlement of valuation reached by the county board of tax assessors and the taxpayer as permitted by this Code section.

**(h) Recording of interviews or hearings.**

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

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

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

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

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

**(i) Alternate members of boards of equalization.**

(1) Alternate members of the county board of equalization in the order in which selected shall serve:

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

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

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

**(j) Disqualification.**

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

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

**(k) Compensation of board of equalization members.**

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

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

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

representation for the limited purpose of the appeal. Upon receipt of this notice, the tax receiver or the tax commissioner shall initiate the appeal.

**(m) Interest.**

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

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

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

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

Code section shall result in the tolling of any deadline imposed on the taxpayer under this Code section with respect to that notice.

## CHAPTER 5.

### RULES AND REGULATIONS

#### BOARDS OF EQUALIZATION

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

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

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

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

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

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

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

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

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

The hearings held under these Regulations shall only be as formal as is necessary to preserve order and be compatible with the principles of justice.

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



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

(1) The rules of evidence in hearings covered by this Chapter shall be substantially as follows:

(a) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded;

1. The rules of evidence as applied in the trial of civil non-jury cases in the superior courts shall be followed as far as practicable.

2. Evidence not admissible under superior court rules may be admitted when necessary to discover facts not reasonably understood from the previously admitted evidence.

3. Except where precluded by statute, if the evidence presented it is of a type commonly relied upon by reasonably prudent persons, the county board of equalization has discretion as to whether to admit the evidence or not.

(b) Documentary evidence may be received in the form of copies or excerpts if the original is not readily available;

1. Upon request, parties shall be given an opportunity to compare the copy with the original or have it established as documentary evidence according to the rules of evidence applicable to the superior courts of Georgia;

(c) A party may conduct such cross-examination as required for a full and true disclosure of the facts;

(d) Official notice may be taken of judicially recognizable facts and generally recognized technical facts or records within the agency's specialized knowledge.

1. The parties shall be notified of any material so noticed and shall be afforded the opportunity to contest such material at the hearing.

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

(1) Matters set for hearing may be continued or postponed within the sound discretion of the Board of Equalization upon timely motion by either party.

(2) The Board of Equalization may on its own motion continue or postpone the hearing.

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

(1) Either party may obtain subpoena forms from Clerk of Superior Court by making a timely request.

(2) Service, proof of service and enforcement of subpoenas shall be as provided by Georgia law and shall be the responsibility of the party requesting the subpoena.

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

(1) Any party may request that the hearing be conducted before a court reporter, or recorded in audio and/or video.

(2) The request shall be in writing and include an agreement by the requesting party that he or she shall pay the costs incurred by the request or that he or she shall procure at his or her own cost and on his or her own initiative, the court reporting or recording services for the hearing.

(3) Regardless of who makes the arrangements or requests the transcript, or tape or video record be made, the original transcript, or tape or video record of the proceedings shall be submitted to the board



of equalization chairman prior to the close of the hearing record if the transcript, or tape or video is to be made part of the record.

***560-11-12-.07 Case Presentment.***

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

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

(1) The decision of the County Board of Equalization shall clearly state the Board of Equalization's ruling regarding the property's value, uniformity, or taxability, where applicable.

(2) The decision of the County Board of Equalization shall be rendered pursuant to O.C.G.A. § 48-5-311 (e)(6)(D)(i).

(3) When a taxpayer authorizes an agent, representative, or attorney in writing to act on the taxpayer's behalf, the decision of the County Board of Equalization shall be provided to such agent, representative, or attorney pursuant to O.C.G.A. § 48-5-311(o).

***560-11-12-.09 Hearing Location.***

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

# Board of Equalization Exam

1. **The law requires the tax assessor to appraise all taxable tangible property at what level of value?**
  - A. Current use value
  - B. Assessed value
  - C. Zoned value
  - D. Fair market value
  
2. **The definition of Uniformity of Value is?**
  - A. Occurred in good faith between unrelated parties, as by a willing buyer and a willing seller.
  - B. Neighboring tax bills are the same.
  - C. All taxation shall be uniform upon the same class of subjects within the territorial limits of the authority levying the tax
  - D. None of the above.
  
3. **The statutory level of assessment of tangible property for property tax purposes is \_\_\_\_\_.**
  - A. 30%
  - B. 40%
  - C. 75%
  - D. Anything as long as it is uniform
  
4. **What is the outside or maximum limit for the coefficient of dispersion to determine uniformity within a particular property type or group (excluding residential property)?**
  - A. 20%
  - B. 36%
  - C. 40%
  - D. 44%
  
5. **The annual Notice of Assessment must be mailed by the Board of Tax Assessors to taxpayers no later than \_\_\_\_\_ . (Except in the case of corrections or mapping changes)**
  - A. January 1
  - B. August 1
  - C. July 1
  - D. April 1

**6. In order to qualify for preferential assessment, an individual property owner must \_\_\_\_\_.**

- A. Make 80% of his/her income from farming
- B. Be a resident of the county
- C. Be a natural or naturalized citizen
- D. All of the above

**7. What are the three Approaches to value?**

- A. Market, Income, and Cost
- B. Square Foot, Front Foot, and Acre
- C. Tangible, Real, and Personal
- D. Substitution, Contribution, and Conformity

**8. Who furnishes the Board of Equalization with secretarial help?**

- A. County Tax Assessors
- B. Tax Commissioner
- C. Appeal Administrator
- D. County Governing Authority

**9. Which approach to value is the BOA most likely to use to value rural land?**

- A. Per acre method
- B. Income approach
- C. Cost approach
- D. Market approach

**10. A Conservation Use Covenant has a term of how many years?**

- A. 7
- B. 10
- C. 15
- D. Until property is sold

**11. Who has the responsibility of making a property tax return?**

- A. Tax Commissioner
- B. Tax Assessor
- C. Either Tax Commissioner or Tax Assessor
- D. Property Owner

**12. What are the two primary responsibilities of the BOA?**

- A. Have regular monthly meetings and being on time
- B. Stay out of trouble and keep the commissioners happy
- C. Insure that all tangible property is assessed at the correct level and is uniformly assessed
- D. Keep peace with the appraisal staff and insure its safety

**13. The term length of a member of the Board of Equalization is how many years?**

- A. Unlimited
- B. 3
- C. 6
- D. 2

**14. Who appoints the members to the Board of Tax Assessors?**

- A. The Grand Jury
- B. The County Governing Authority
- C. The Tax Commissioner
- D. The Judge of the Superior Court

**15. The maximum amount of acreage that a landowner may enter into a Forest Land Protection Act covenant(s) is?**

- A. 201
- B. 2,000
- C. Unlimited
- D. 10,000

**16. Which of the following is exempt from property taxation?**

- A. Single-wide mobile homes
- B. All personal property
- C. Boats used for pleasure
- D. All personal clothing and effects not held for sale

**17. Which approach to value is the BOA most likely to use to value houses?**

- A. Cost Approach
- B. Square foot method
- C. Income Approach
- D. Market Approach

**18. In order to qualify for a homestead exemption, an individual property owner must \_\_\_\_\_.**

- A. Be at least 25 years of age
- B. Reside on the property
- C. Have owned the property for 3 years
- D. All of the above

**19. What are three specific things the law requires the tax assessors to take into consideration when appraising tangible real property?**

- A. Location, Lay of the land, and Topography
- B. Size, Location, and Shape
- C. Depreciation, Grade, and Size
- D. Use, Zoning, and Restrictive Covenants

**20. What are the two classes of property for property tax purposes in the State of Georgia?**

- A. Real and Personal
- B. Land and Buildings
- C. Tangible and Intangible
- D. Urban and Rural

**21. With whom must the property owner file an appeal concerning the value of his/her property?**

- A. The County Governing Authority
- B. The Appeal Administrator
- C. The Tax Commissioner
- D. The Board of Tax Assessors

**22. Each county's tax digest must be approved by \_\_\_\_\_ before taxes can be collected.**

- A. The General Assembly
- B. The Revenue Commissioner
- C. The County Tax Commissioner
- D. The Governor

**23. Initially, how many days does the BOA have to make its determination and notify the taxpayer after receipt of the taxpayer's notice of appeal if the taxpayer has selected the Board of Equalization to hear the appeal?**

- A. 45
- B. 30
- C. 180
- D. 15

**24. A Forest Land Protection Act Covenant has a term of how many years?**

- A. 7
- B. 10
- C. 15
- D. Until property is sold

**25. What is the valuation date of property for property taxes in the state of Georgia?**

- A. January 1 thru April 1
- B. April 1
- C. July 15
- D. January 1

**26. According to the Appraisal Procedures Manual, how frequently should all real property parcels be reviewed?**

- A. At least once every 6 years
- B. At least once a year
- C. At least once every 3 years
- D. As frequently as is possible

**27. Adjustments to the value of real estate in a most recent arm's length transaction can be added for the following reasons.**

- A. New Improvements or additions to existing improvements
- B. Major remodeling and renovations
- C. Adjustments to land due to tract consolidations, new surveys, zoning and use changes, etc.
- D. All the Above

28. The value of timber is taxed when the timber is \_\_\_\_\_.
- A. At least 10 years old
  - B. Sold or harvest
  - C. Planted
  - D. Never
29. If the BOA changes a value during the review after an appeal is filed and sends a second notice, how many days does the property owner have to contact the BOA to continue the appeal?
- A. 21
  - B. 30
  - C. 45
  - D. Unlimited time
30. If a real property value is set by a decision of the BOE, Hearing Officer, Arbitrator or Superior Court, the BOA cannot change that value unless certain conditions have been met, for the next \_\_\_ years.
- A. 5
  - B. 3
  - C. 2
  - D. 1
31. A property owner has how many days to file an appeal with the tax assessors after an assessment notice is mailed?
- A. 45
  - B. 21
  - C. 15
  - D. 10
32. Each tax receiver shall close the acceptance of property value returns as of what date each year?
- A. January 31
  - B. April 1
  - C. April 15
  - D. June 1

**33. Who appoints the members to the Board of Equalization?**

- A. County Governing Authority
- B. Judge of the Superior Court
- C. Tax Assessors
- D. The Grand Jury

**34. 'Arm's length, bona fide sale' means a transaction which has**

- A. A reasonable sale price.
- B. Occurred in good faith between unrelated parties, as by a willing buyer and a willing seller.
- C. No Timber included
- D. A location near new subdivisions

**35. Define Fair Market Value.**

- A. Occurred in good faith between unrelated parties, as by a willing buyer and a willing seller.
- B. The Sales Price
- C. the amount a knowledgeable buyer would pay for the property and a willing seller would accept for the property at an arm's length, bona fide sale
- D. None of the Above

**36. What is an appraisal?**

- A. A value achieved from a computerized data program
- B. A bank approved loan amount
- C. A method of arranging neighborhoods to find "True Value"
- D. An opinion of value

**37. If an appeal is filed to the BOE regarding an exemption status, who has to provide the burden of proof?**

- A. Appeal Administrator
- B. Board of Assessors
- C. County Governing Authority
- D. Persons seeking the exemption



**38. The board of equalization, arbitrator, and the hearing officer must all inform the taxpayer and the county of their decision at the conclusion of the hearing.**

- A. True
- B. False

**39. The board of equalization is allowed to hear an appeal regarding the amount of penalties assessed from a covenant breach.**

- A. True
- B. False

**40. By mutual agreement, the taxpayer and the Board of Assessors may waive an appeal to the County Board of Equalization and proceed directly to Superior Court.**

- A. True
- B. False