Georgia Department of Revenue

For Educational Purposes Only: The material within is intended to give the course participant a solid understanding of general principles in the subject area. As such, the material may not necessarily reflect the official procedure and policies of the Georgia Department of Revenue or the Department's official interpretation of the laws of the State of Georgia. The applicability to specific situations must be determined on a case-by-case basis.

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Georgia Department of Revenue

Current Ad Valorem Edits and Trends

Tuesday, May 17, 2016

Local Government Services

Ellen Mills, Director

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Georgia Department of Revenue

Georgia Association of Assessing Officials
John Scott, Executive Director

- Comments from GAAO
- Prayer
- Pledge of Allegiance

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Georgia Department of Revenue

DOR Staff

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Georgia Department of Revenue

John Hulsey
Carl Vinson Institute of Government

- Welcome
- Online Training Demonstration
  - Board of Equalization members
  - Board of Assessor members
  - Appraisers
  - Tax Commissioners
  - Hearing officers
  - Appraisal Vendors

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Georgia Department of Revenue

Mark Loyd
Georgia Certification Program

- Online Course Registration
- Online Transcript Access
- 2016-2017 Training Calendar

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Georgia Department of Revenue

Legislation
Court Cases
Special Presentations

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Georgia Department of Revenue

Local Legislation

- Forsyth
- Fulton
- Lowndes
- Muscogee
- Telfair

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Georgia Department of Revenue

HB1102 - Forsyth County

HB1102 provides for a referendum to amend eligibility for an existing local school homestead exemption by adding a paragraph that requires **minor children** in the home to be the applicant's natural, adopted or foster children

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Georgia Department of Revenue

HB514 - Fulton County

Fulton County currently consists of 346,043 taxable parcels. The 2015 tax digest indicates that only 42,128 parcels remain in the unincorporated area of the county

HB514 provides for a district-wide referendum to create the **City of South Fulton** which could eliminate all unincorporated area of the county

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Georgia Department of Revenue

Fulton Municipalities

- Alpharetta
- Atlanta
- Chattahoochee Hills
- College Park
- East Point
- Fairburn
- Hapeville
- Johns Creek
- Milton
- Mountain Park
- Palmetto
- Roswell
- Sandy Springs
- Union City

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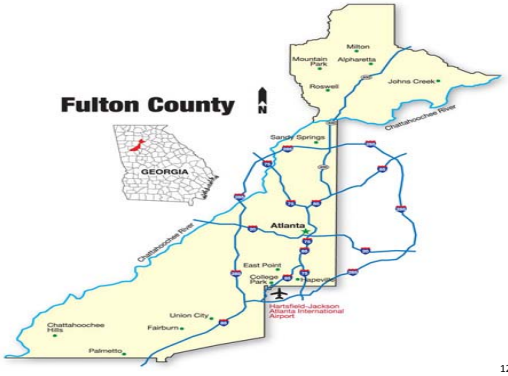

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Georgia Department of Revenue

HB1044 - Lowndes County

A local constitutional amendment adopted in 1972 provides for an **elected board of assessors** in Lowndes County. They are the only elected BTA in the state.

HB1044 provides for a countywide referendum to **repeal** that provision changing the board to an appointed body

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Georgia Department of Revenue

HB1104 - Muscogee County

Local constitutional amendment adopted in 1963 **freezes property values** as of a certain point in time in which ownership is assumed. The amendment is truly a freeze foregoing the requirement of yearly fair market valuation

HB1104 provides for a countywide referendum to **reset the base year to 2016 values**.

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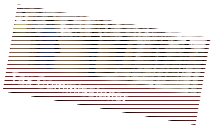
Georgia Department of Revenue

SB438 - Telfair County

Local constitutional amendment adopted in 1963 **prohibits county officers from succeeding themselves after having served two successive terms** and from holding any other elective county office within a four-year period following a second successive term of office



SB438 provides for a countywide referendum to **repeal** that limitation

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Georgia Department of Revenue

Other Local Bills of note:

Candler – advisory referendum on hospital levy
Carroll – changing collection fee for school to 2.5%
Crawford – consolidating government w/ Roberta
Haralson – changing fee structure for tax commissioner

Decatur –amending homestead
McDuffie – creating homestead
Varnell - creating homestead

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Georgia Department of Revenue

Local Bills implementing Hotel-Motel Excise Tax

Bartow, Cartersville, Cherokee, Eatonton, Emerson, Jenkins, Screven, Spalding, Thomas, Thomasville, Warner Robins

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Georgia Department of Revenue

Statewide Legislation

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Georgia Department of Revenue

Delinquent Tax Overview

- Tax bills are generally due Dec 20th and failure to pay triggers both interest and penalty
- TC issues FiFa or demand for payment (aka Execution)
- When Sheriff appoints TC ex officio – TC may sell property at non-judicial tax sale
- Defendant in FiFa has 12 months to redeem real property sold at tax sale. No redemption for personal.
- Purchaser at tax sale may foreclose the right to redeem and seek quiet title from Superior Court

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Georgia Department of Revenue

Delinquent Tax Overview (con't)

- TC may choose to sell property via judicial sale. In that case an attorney must represent the TC at Superior Court.
- The person purchasing the property at judicial tax sale must allow redemption but the timeframe is shorter
- Property purchased at a judicial tax sale is granted marketable title.

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Georgia Department of Revenue

Delinquent Tax Overview (con't)

- Instead of selling delinquent property at tax sale, the TC may choose to sell executions
- The person purchasing the execution gains the same right to collect the tax as the government.
- However, a person purchasing an execution cannot be appointed ex officio. If they want to enforce the levy, the sheriff must hold the tax sale.

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Effective 7/1/16

Georgia Department of Revenue

House Bill 51
Redemption of Property sold at tax sale

O.C.G.A. 48-4-40

The amount required to be paid for redemption for any sale after July 1, 2002, shall be the amount paid for the property at tax sale (shown on the tax deed) plus….

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Effective 7/1/16

Georgia Department of Revenue

House Bill 51
Redemption of Property sold at tax sale

O.C.G.A. 48-4-40

- Any tax paid by purchaser
- Any special assessments
- Premium of 20% for 1st year; and
- 10% each year after

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Effective 7/1/16

Georgia Department of Revenue

House Bill 51
Redemption of Property sold at tax sale

O.C.G.A. 48-4-40

If redemption is made more than 30 days after the notice provided in 48-4-45 (notice of foreclosure of right to redeem), there shall be added to the amount required….

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Effective 7/1/16

Georgia Department of Revenue

House Bill 51
Redemption of Property sold at tax sale

O.C.G.A. 48-4-40

- the sheriff's cost in connection with serving the notice; and
- the cost of publication of any notice.

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Effective 7/1/16

Georgia Department of Revenue

House Bill 51
Redemption of Property sold at tax sale

O.C.G.A. 48-4-40

In addition, for sales after July 1, 2016, there shall also be added …

- Property owners association fees paid from date of sale to date of redemption
- Condo fees paid
- Homeowners association fees paid

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Georgia Department of Revenue

Croft v. Fairfield Plantation Property Owners Association Inc

Georgia Court of Appeals – Decided Oct 27, 2005

Croft purchased seven lots at Tax Sale

Subdivision covenants require every person acquiring title (legal or equitable) to pay HOA fees

Croft argued that the Tax Sale deed was not a fee simple title but only a defeasible title and therefore insufficient to trigger HOA membership

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Georgia Department of Revenue

Croft v. Fairfield Plantation Property Owners Association Inc

Georgia Court of Appeals – Decided Oct 27, 2005

- Court of Appeals agreed Tax Sale Deed was not fee simple title but said tax deed was sufficient to trigger membership in HOA
  - Patterson v Florida Realty… (Supreme Court) purchaser at a tax sale "acquires an interest in the property even during the time within which it might be redeemed, which is sufficient to render him liable for taxes accruing upon the property."
- Tax deed renders purchaser liable for HOA fees…otherwise the tax sale purchaser could keep the redemption period alive indefinitely and reap the benefit of value increases while avoiding obligation to pay for maintenance

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Effective 7/1/16

Georgia Department of Revenue

Summary

House Bill 51

Redemption of Property sold at tax sale

Person redeeming property sold at tax sale must also pay Home Owners Association fees

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Effective 7/1/16

Georgia Department of Revenue

House Bill 991

Delinquent Tax – Military

O.C.G.A. 48-5-243

The tax collector or tax commissioner shall waive the collection of any amount due the taxing authorities for which taxes are collected, when such amount represents a penalty or an amount of interest assessed for failure to comply with the laws governing the assessment and collection of ad valorem taxes, if;

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Effective 7/1/16

Georgia Department of Revenue

House Bill 991
Delinquent Tax – Military

O.C.G.A. 48-5-243

(1) The tax collector or **tax commissioner determines that the default giving rise to such penalty or interest was due to a taxpayers military service** in the armed forces of the United States in an area designated by the President of the United States by executive order as a **combat zone** and not due to gross or willful neglect or disregard of the law or of regulations or instructions issued pursuant to the law; and

(2) The taxpayer makes a full payment of taxes due, not including penalties and interest within 60 days of such taxpayer's return from such military service

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Georgia Department of Revenue

48-5-242. Waiver of penalties or interest due on unpaid taxes

(a) Upon written approval by the governing authority of the county in accordance with subsection (c) of this Code section, the tax collector or tax commissioner may waive, in whole or in part, the collection of any amount due the taxing authorities for which taxes are collected, when such amount represents a penalty or an amount of interest assessed for failure to comply with the laws governing the assessment and collection of ad valorem taxes, when the tax collector or tax commissioner reasonably determines that the default giving rise to the penalty or interest was due to reasonable cause and not due to gross or willful neglect or disregard of the law or of regulations or instructions issued pursuant to the law, and when the interest to be waived accrues on or after July 1, 2002.

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Georgia Department of Revenue

48-5-242. Waiver of penalties or interest due on unpaid taxes

(b) In the case of penalties or interest arising from the failure of the taxpayer to comply with the terms, conditions, or covenants required with respect to properties receiving any type of preferential assessment, the tax collector or tax commissioner shall not be authorized to waive any portion of the penalty or interest that represents a recovery by the taxing authorities of any amount by which taxes were reduced as a result of the granting of such preferential assessment.

(c) The waiver of penalties or interest in accordance with this Code section shall be subject to the written approval of the county governing authority either on a case-by-case basis or by a resolution delegating the authority to the tax collector or tax commissioner to make the final determinations. Such resolution may establish rules and regulations governing the administration of this Code section and establish guidelines to be followed by the tax collector or tax commissioner when granting such waivers.

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Effective 7/1/16

Georgia Department of Revenue

Summary

House Bill 991

Delinquent Tax – Military

- O.C.G.A. 48-5-243 is a new code section
- TC may need written guidelines to administer fairly and equitably – consider requirements in 48-5-242

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Effective 7/1/16

Georgia Department of Revenue

House Bill 960
Confidential Records

48-2-15

(a) Except as otherwise provided in this Code section, information secured by the commissioner incident to the administration of any tax shall be confidential and privileged. …

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Effective 7/1/16

Georgia Department of Revenue

House Bill 960
Confidential Records

48-2-15

(b) This Code section shall not:

(6) Be construed to prevent the disclosure of information, so arranged as not to reveal information respecting an individual taxpayer, **requested by the House Committee on Ways and Means or the Senate Finance Committee** regarding the department's administration of any tax.

(f) This Code section shall not be construed to prohibit disclosure as required in subsection (h) of Code Section 48-2-35.

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Effective 7/1/16

Georgia Department of Revenue

House Bill 960
Refunds - Interest

48-2-35

(a) A taxpayer shall be refunded any and all taxes or fees which are determined to have been erroneously or illegally assessed and collected from such taxpayer under the laws of this state, whether paid voluntarily or involuntarily,…

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Effective 7/1/16

Georgia Department of Revenue

House Bill 960
Refunds - Interest

48-2-35

(a) … and shall be refunded interest, except as provided in subsection (b) of this Code section, on the amount of the taxes or fees from the date of payment of the tax or fee to the commissioner at an annual rate 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, to accrue monthly.**

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Effective 7/1/16

Georgia Department of Revenue

House Bill 960
Refunds - Interest

48-2-35

(a) …Such annual interest rate shall be determined for each calendar year based on the first weekly posting of statistical release H.15 on or after **January 1 of each calendar year**.

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Georgia Department of Revenue

FEDERAL RESERVE statistical release

H.15 (519) SELECTED INTEREST RATES
Yields in percent per annum

For use at 2:30 p.m. Eastern Time
January 4, 2016

Instruments	2015 Dec 28	2015 Dec 29	2015 Dec 30	2015 Dec 31	2016 Jan 1[4]	Week Ending Jan 1	Week Ending Dec 25	2015 Dec
Federal funds (effective)[1 2 3]	0.36	0.36	0.35	0.20	0.20	0.36	0.37	0.24
Commercial Paper[2 4 5 6]								
Nonfinancial								
1-month	n.a.	0.32	0.33	0.34		0.33	0.31	0.28
2-month	n.a.	0.34	0.38	0.38		0.37	0.39	0.33
3-month	n.a.	n.a.	0.42	0.42		0.42	0.44	0.36
Financial								
1-month	n.a.	n.a.	n.a.	0.40		0.40	0.38	0.30
2-month	n.a.	n.a.	n.a.	n.a.		n.a.	0.49	0.40
3-month	0.57	0.57	0.57	0.54		0.56	0.58	0.54
Eurodollar deposits (London)[3 7]								
1-month	0.50	0.50	0.50	0.50		0.50	0.49	0.38
3-month	0.70	0.70	0.70	0.70		0.70	0.70	0.62
6-month	0.90	0.90	0.90	0.90		0.90	0.90	0.82
Bank prime loan[2 3 8]	3.50	3.50	3.50	3.50	3.50	3.50	3.50	3.37

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Effective 7/1/16

Georgia Department of Revenue

House Bill 960
Refunds - Interest

48-2-35

For the purposes of this Code section, any period of less than one month shall be considered to be one month.

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Georgia Department of Revenue

Appeal Code 48-5-311(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.

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Effective 7/1/16

Georgia Department of Revenue

House Bill 960
Refunds – Sales and Use Tax

48-2-35

(h)(1) As used in this subsection, the term;

(A) Political subdivision designee' means the chief officer or officers designated by the political subdivision to receive information about a refund claim of local significance pursuant to this subsection. Each political subdivision shall certify to the commissioner that any such designee is so authorized on a form and in a manner prescribed by the department

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Effective 7/1/16

Georgia Department of Revenue

House Bill 960
Refunds – Sales and Use Tax

48-2-35

(h)(1) As used in this subsection, the term;

(B) '**Refund claim of local significance**' means a taxpayer's claim for refund of sales and use taxes erroneously or illegally assessed and collected or the departments discovery of any overpayment of such taxes, if such claim for refund or overpayment is for an **amount equal to or greater than 10 percent** of the total yearly average of aggregate sales and use tax distributions to any single political subdivision base don the average of the three most recent calendar years.

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Effective 7/1/16

Georgia Department of Revenue

House Bill 960
Refunds – Sales and Use Tax

48-2-35

(h)(2) Within 30 business days following the departments receipt of a refund claim of local significance, the department shall **notify each affected political subdivisions political subdivision** designee that a refund claim of local significance to the political subdivision has been received and shall furnish the taxpayer with a copy of such notification.

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Effective 7/1/16

Georgia Department of Revenue

House Bill 960
Refunds – Sales and Use Tax

48-2-35

(h)(4) The commissioner, by rule or regulation shall establish guidelines for identifying and producing documents to the **Department of Audits and Accounts** for review relating to the handling of refund claims of local significance. In the event of such review, the Department of Audits and Accounts shall assess whether the department followed proper procedures and used appropriate methodology to reach its final determination on a refund of local significance.

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Effective 7/1/16

Georgia Department of Revenue

House Bill 960
Refunds – Sales and Use Tax

48-2-35

(h)(5) Any refund claims of local significance pending with the department for two years after the claim for refund was filed shall be **automatically transferred to the Georgia tax Tribunal** as a declaratory judgment of the commissioner requesting a show cause proceeding pursuant to Code Section 50-13A-19.1.

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Effective 7/1/16

Georgia Department of Revenue

House Bill 960
Delinquent Tax – Interest

48-2-40

Except as otherwise expressly provided by law, taxes owed the state or any **local taxing jurisdiction** shall bear interest at an annual rate 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 to accrue monthly**.

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Effective 7/1/16

Georgia Department of Revenue

House Bill 960
Delinquent Tax - Interest

48-2-40

...Such annual interest rate shall be determined for each calendar year based on the first weekly posting of statistical release H.15 on or after January 1 of each calendar year. Interest shall begin to accrue from the date the tax is due until the date the tax is paid. ..

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Effective 7/1/16

Georgia Department of Revenue

House Bill 960
Delinquent Tax - Interest

48-2-40

…Interest shall begin to accrue from the date the tax is due until the date the tax is paid. For the purposes of this Code section, any period of less than one month shall be considered to be one month. This Code section shall also apply to alcoholic beverage taxes.

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Effective 7/1/16

Georgia Department of Revenue

House Bill 960
Delinquent Tax – Ad Valorem Penalty

48-2-44

(b) (1) In any instance in which any person willfully fails, on or after July 1, 1981, to pay, within 120 days of the date when due, any ad valorem tax owed the state or any local government, such person shall pay, in the absence of a specific statutory civil penalty for the failure, a **penalty of 5 percent of the amount of tax due and not paid at the time such penalty is assessed**, together with interest as specified by law. …

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Effective 7/1/16

Georgia Department of Revenue

House Bill 960
Delinquent Tax – Ad Valorem Penalty

48-2-44

(b) (1) …After 120 days from the imposition of the initial penalty, an additional penalty of **5 percent of any tax amount remaining due** shall be imposed, together with interest as specified by law.

If any tax amount remains due after 120 days from the imposition of such additional penalty, a penalty of 5 percent shall be imposed, together with interest as specified by law.

Should any tax amount remain due 120 days after such date, a penalty of 5 percent shall be imposed together with interest as specified by law.

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2016 Tax Bill - Due December 20, 2016			
2016 Fed Reserve H15 = 3.50 (actual)			
DATE	AMOUNT DUE	Int/Penalty	
December 20,2016	3000.00		
December 21, 2017	3016.26	0.542% per month	16.26
2017 Federal Reserve H15 = 3.65 (estimated)			
January 21, 2017	3032.88	0.554% per month	16.62
February 21, 2017	3049.50	0.554% per month	16.62
March 21, 2017	3066.12	0.554% per month	16.62
April 21, 2017	3216.12	5% penalty	150.00
April 21, 2017	3232.74	0.554% per month	16.62
May 21, 2017	3249.36	0.554% per month	16.62
June 21, 2017	3265.98	0.554% per month	16.62
July 21, 2017	3282.60	0.554% per month	16.62
August 21, 2017	3432.60	5% penalty	150.00
August 21, 2017	3449.22	0.554% per month	16.62
September 21, 2017	3465.84	0.554% per month	16.62
October 21, 2017	3482.46	0.554% per month	16.62
November 21, 2017	3499.08	0.554% per month	16.62
December 21, 2017	3649.08	5% Penalty	150.00
December 21, 2017	3665.70	0.554% per month	16.62
2018 Federal Reserve H15 = 3.70 (estimated)			
January 21, 2018	3682.44	0.558% per month	16.74
February 21, 2018	3699.18	0.558% per month	16.74
March 21, 2018	3715.92	0.558% per month	16.74
April 21, 2018	3865.92	5% Penalty	150.00
April 21, 2018	3882.66	0.558% per month	16.74

Effective 7/1/16

Georgia Department of Revenue

House Bill 960
Delinquent Tax - Penalty

48-2-44

(b) (1) …The aggregate amount of penalties imposed pursuant to this subsection shall not exceed an amount equal to **20 percent of the principal amount of the tax originally due.**

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Effective 7/1/16

Georgia Department of Revenue

House Bill 960
Delinquent Tax - Penalty

48-2-44

These penalties shall not, however, apply in the case of:

(A) Ad valorem taxes of $500.00 or less on homestead property as defined in Part 1 of Article 2 of Chapter 5 of this title; or

(B) With respect to tax year 1986 and future tax years, ad valorem taxes of any amount on homestead property as defined in Part 1 of Article 2 of Chapter 5 of this title, if the homestead property was during the tax year acquired by a new owner who did not receive a tax bill for the tax year and who immediately before acquiring the homestead property resided outside the State of Georgia and if the taxes are paid within one year following the due date.

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Effective 7/1/16

Georgia Department of Revenue

House Bill 960
Delinquent Tax - Penalty

48-2-44

These penalties shall not, however, apply in the case of:
(2) Any city or county authorized as of April 22, 1981, by statute or constitutional amendment to receive a penalty of greater than 10 percent for failure to pay an ad valorem tax is authorized to continue to receive that amount

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Effective 7/1/16

Georgia Department of Revenue

House Bill 960
Delinquent Tax - Penalty

48-2-44

These penalties shall not, however, apply in the case of:
(3) With respect to all penalties and interest received by the tax commissioner on or after July 1, 1998, unless otherwise specifically provided for by general law, the tax commissioner shall distribute penalties collected and interest collected or earned as follows:

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Effective 7/1/16

Georgia Department of Revenue

House Bill 960
Delinquent Tax - Penalty

48-2-44

(A) **Penalties collected for failure to pay ad valorem taxes** attributable to the **Board of Education or independent school district** shall be paid into the county treasury in the same manner and at the same time the tax is collected and distributed to the county, and they shall **remain the property of the county**;

(B) **Interest earned** by the tax commissioner on taxes collected but not yet dispersed **shall be distributed pro rata** based on each taxing jurisdiction's share of the total amount upon which the interest was computed; and

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Effective 7/1/16

Georgia Department of Revenue

House Bill 960
Delinquent Tax - Penalty

48-2-44

(3) With respect to all penalties and interest received by the tax commissioner on or after July 1, 1998, unless otherwise specifically provided for by general law, the tax commissioner shall distribute penalties collected and interest collected or earned as follows:

C) **Except as otherwise provided in subparagraph (A) of this paragraph**, penalties, collected for failure to return property for ad valorem taxation or failure to pay ad valorem taxes and interest collected on delinquent ad valorem taxes, shall be distributed pro rata based on each taxing jurisdiction share of the total tax on which the penalty or interest was computed.

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COLLECTION OF INTEREST AND PENALTY

2016 Tax Bill - Due December 20, 2016

			INTEREST/PENALTY	
DATE	AMT DUE	AMT PAID	RATE	AMOUNT
December 20, 2016	3000.00			
December 21, 2016	3016.26		.542% per month	16.26
January 21, 2017	3032.88		.554% per month	16.62
February 21, 2017	3049.50		.554% per month	16.62
March 21, 2017	3066.12		.554% per month	16.62
April 21, 2017	3082.74		.554% per month	16.62
	3232.74		5% penalty	150.00
Payment		-3232.74		

DISTRIBUTION OF INTEREST AND PENALTY

Interest/Penalty Amt	District	Millage	Tax	Percentage	Distribution
Total Interest $82.74	County	10.000 mills	857.14	28.57%	23.64
	School	20.000 mills	1714.28	57.14%	47.28
	City	5.000 mills	428.58	14.29%	11.82
Total Penalty $150	County (w/ School portion)	10.000 mills	857.14	28.57%	128.57
		20.000 mills	1714.28	57.14%	
	City	5.000 mills	428.58	14.29%	21.43

Effective 7/1/16

Georgia Department of Revenue

Summary
House Bill 960

- Interest for refunds and delinquent tax changed to time value of money
- Penalty for ad valorem changed to 5% every 120 days up to 20%
- For sales tax refunds:
  - the county may designation an officer to receive confidential information regarding claims for refunds
  - DOR must notify counties regarding pending claims of significant impact
  - The Georgia Tax Tribunal may hear refund claims that are unresolved after 2 years

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Georgia Department of Revenue

Ballard v Newton County BTA

- Does a tax sale qualify as and 'arm's length bona fide sale?
- Trial Court = No
- Court of Appeals = No
  - 'fair market value of property' is not defined as the amount a buyer would pay to purchase, and, willing seller would accept, for a defeasible interest in property, a tax sale does not qualify as an arms length bona fide sale…

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Georgia Department of Revenue

Park Solutions LLC v Dekalb BTA

- Park Solutions purchased property at judicial sheriff sale for default judgement on behalf of DRST Holdings.
- Trial Court = sheriff sale was not arms length
- Court of Appeals = reversed decision…plain language of 48-5-2 dictates…sale at public auction

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Georgia Department of Revenue

Refreshment Break

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Georgia Department of Revenue

Agricultural Special Assessments and Exemptions

- SA – Preferential
- SV – Conservation Use
- SJ – Forest Land Conservation
- SW – Environmentally Sensitive

Georgia Department of Revenue

Harvested Timber is Taxable.

Georgia Department of Revenue

Standing Timber is Exempt

Georgia Department of Revenue

Leverett v Jasper BTA

Georgia Department of Revenue

O.C.G.A. 48-5-41.1 Farm Products

Family Farm Entity or Individual:

- All Farm Products.
- Farm tractors, combines, and all other farm equipment directly used in the production of agriculture.

Georgia Department of Revenue

O.C.G.A. 48-5-41.1 Farm Products

Non-Family Entity:

Farm products remaining in the hands of the producer 12 months after initial production.

- Initial production laying hens = 6 months (18 months)
- Initial production brook cows = 9 months after 12 months (33 months)

Georgia Department of Revenue

48-5-43 Exemption for Fertilizers

- Consumers not required to return:
  - Commercial fertilizers
  - Manures

Georgia Department of Revenue

48-5-504 Self propelled farm equipment owned by dealer

Self propelled farm equipment which is owned by a dealer is exempt…

Georgia Department of Revenue

Special Presentation

Agriculture in Georgia

Dr Kent Wolfe

Sharon Kane

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Effective 7/1/16

Georgia Department of Revenue

House Bill 987
Conservation Use – Single Family Transfer

O.C.G.A. 48-5-7.4

(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

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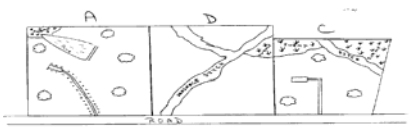
Effective 7/1/16

Georgia Department of Revenue

House Bill 987
Conservation Use – Single Family Transfer

O.C.G.A. 48-5-7.4

(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: ….(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;



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Effective 7/1/16

Georgia Department of Revenue

House Bill 987
Conservation Use – Rodeo

O.C.G.A. 48-5-7.4

(p) The following shall not constitute a breach;

(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.

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Effective 7/1/16

Georgia Department of Revenue

Summary
House Bill 987
Conservation Use

- Clarifies the period of time required before property must be occupied when up to 5 acres taken out of covenant and deeded to family member
- Non-profit rodeos do not constitute a breach

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Georgia Department of Revenue

Lunch

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Georgia Department of Revenue

Court of Appeals
Presentation

Goolsby v Terrell BTA

Judge Edward Collier

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Georgia Department of Revenue

Court of Appeals
Presentation

Cherokee BTA v Mason

Aaron Meyer
Christopher Hamilton

80

Georgia Department of Revenue

Refreshment Break

81

Georgia Department of Revenue

Slivka v McIntosh Tax Commissioner

- Taxpayer appealed breach of CUVA under refund statute 48-5-380 claiming that assessor failed to consider certain factors prior to making breach determination
- Court of appeals said refund statute may only be used when factual errors exist or when illegal procedures are used…Supreme Court previously defined erroneous assessment to include clerical error, assessment of exempt property or using wrong millage rate

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Effective 7/1/16

Georgia Department of Revenue

House Bill 579
Farm Use Vehicle

Farm Use Vehicle means an all-terrain vehicle or personal transportation vehicle….Farmer who is 16 or older may operate a farm use vehicle on any public road or highway of the state:

Emblem is affixed

Vehicle is actively used

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Effective 5/3/16

Georgia Department of Revenue

House Bill 769
Exemption – Watercraft & All-Terrain Vehicles

O.C.G.A. 48-5-504.40

'**All-terrain vehicle**' means any motorized vehicle designed for off-road use which is equipped with four low-pressure tires, a seat designed to be straddled by the operator, and handlebars for steering.

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Georgia Department of Revenue

Effective 5/3/16

Georgia Department of Revenue

House Bill 769

Exemption – Watercraft & All-Terrain Vehicles

O.C.G.A. 48-5-504.40

'Dealer' means any person engaged in the business of selling watercraft **or** all-terrain vehicles at retail.

Effective 5/3/16

Georgia Department of Revenue

House Bill 769
Exemption – Watercraft & All-Terrain Vehicles

O.C.G.A. 48-5-504.40

Watercraft and all-terrain vehicles owned by dealer and held in inventory for sale or resale shall not be returned and **shall not be taxed** and no taxes shall be collected until they are transferred and then otherwise, if at all, become subject to taxation.

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Effective 5/3/16

Georgia Department of Revenue

Summary
House Bill 769
Exemption – Watercraft & All-Terrain Vehicles

- Removed the sunset in the watercraft exemption code
- Added ATVs to the exemption

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Georgia Department of Revenue

What about farm equipment dealers

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.

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Effective 7/1/16

Georgia Department of Revenue

House Bill 935

Freeport Level 1 – Fulfillment Center

48-5-48.1

Application for Level 1 Freeport shall provide for:

1. Raw materials and goods in process
2. Finished goods held by manufacturer
3. Finished goods held less than 12 months by Distributor and destined for out of state shipment
4. Stock in trade of a fulfillment center

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Effective 7/1/16

Georgia Department of Revenue

House Bill 935

Freeport Level 1 – Fulfillment Center

48-5-48.1

A schedule of **stock in trade of a fulfillment center** which on January 1 are stored in the fulfillment center. The information required by code 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 subdivision thereof, shall not be required to be included as a part of or to accompany the application for such exemption.

93

Effective 7/1/16

Georgia Department of Revenue

House Bill 935
Freeport Level 1 – Fulfillment Center

48-5-48.2

Fulfillment Center means, for purposes of a level 1 freeport exemption, a business **located 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.

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Effective 7/1/16

Georgia Department of Revenue

House Bill 935
Freeport Level 1 – Fulfillment Center

48-5-48.2

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.

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Georgia Department of Revenue

http://www.bing.com/videos/search?q=home+depot+distribution+youtube&adlt=strict&qpvt=home+depot+distribution+youtube&view=detail&mid=C38E2F73F97346003E15C38E2F73F97346003E15&FORM=VRDGAR

Georgia Department of Revenue

http://amazonfulfillmentcareers.com/amazon-fulfillment/about-fulfillment/

97

Effective 7/1/16

Georgia Department of Revenue

House Bill 935
Freeport Level 1 – Fulfillment Center

48-5-48.2

The governing authority, **subject to approval by the electors**, may exempt…

Stock in Trade of a Fulfillment Center which on January 1, are stored in a fulfillment center and which are 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.

98

Effective 7/1/16

Georgia Department of Revenue

House Bill 935
Freeport Level 1 – Fulfillment Center

48-5-48.2

The exemption provided for in this paragraph shall be **for a period not exceed 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.

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Effective 7/1/16

Georgia Department of Revenue

House Bill 935
Freeport Level 1 – Fulfillment Center

48-5-48.2

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.

100

Effective 7/1/16

Georgia Department of Revenue

House Bill 935
Freeport Level 1 – Fulfillment Center

48-5-48.2

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.

101

Effective 7/1/16

Georgia Department of Revenue

Summary
House Bill 935
Freeport Level 1 – Fulfillment Center

- Creates a category 4 under Freeport Level 1
- Governing Authority must adopt resolution to call for county referendum
- Voters must approve Category 4
- If approved by voters, Governing Authority must adopt resolution setting percentage of exemption

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Georgia Department of Revenue

Freeport Level 2

48-5-48.5

48-5-48.6

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.

Putnam County

County seat	Eatonton
Population	21,353
Size	361 square miles
Parcel Count	18,852
2015 Freeport	21,317,370
2015 Inventory	10,555,448

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Georgia Department of Revenue

Freeport Level 1 – Category 4 (Fulfillment Center)
Freeport Level 2

- Will require amendments to regulations and new application forms for 2017 tax year

PT - 50 PF

APPLICATION FOR FREEPORT EXEMPTION INVENTORY	TAX YEAR	IF ASSISTANCE NEEDED CALL	ACCOUNT NUMBER
RETURN COMPLETED FORM TO ADDRESS LISTED BELOW	DUE DATE	MAP AND PARCEL I.D. NO.	NAICS NO.
COUNTY NAME AND RETURN ADDRESS	TAXPAYER NAME AND ADDRESS		

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Effective 5/3/16

Georgia Department of Revenue

House Bill 862
Disabled Veteran - Free License Plate

O.C.G.A. 40-2-69

'**Disabled Veteran**' shall have the same meaning as that term is defined in paragraph (1) of subsection (a) of Code Section **48-5-48**.

105

Effective 5/3/16

Georgia Department of Revenue

House Bill 862
Disabled Veteran – MV Ad Valorem and TAVT

O.C.G.A. 48-5-478

'Disabled Veteran' shall have the same meaning as that term is defined in paragraph (1) of subsection (a) of Code Section **48-5-48.**

106

Effective 5/3/16

Georgia Department of Revenue

House Bill 862
Disabled Veteran – Homestead

O.C.G.A. 48-5-48

'Disabled Veteran' means…any veteran who is a citizen and a resident of this state who was discharged under honorable condition and who has been adjudicated by the Veteran Affairs as having a service related disability that renders such veteran as being 100% totally disabled or as being less than 100% but is compensated at the 100% level due to individual unemployability **or** is entitled to receive ….

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Effective 5/3/16

Georgia Department of Revenue

Summary
House Bill 862
Disabled Veteran

- Equalizes the exemption qualification for …
  - DV Tag,
  - Exemption from MV tax (ad valorem and TAVT, and
  - Homestead exemption.
- Corrects error in homestead code by changing 'and' to 'or'

108

Georgia Department of Revenue

House Bill 547
Amends Years Support

1. Years support is the right to **inherit property** upon the death of a spouse or the death of parent of a minor child regardless of what is written in a will and with some exceptions regardless of debts owed.
2. Years support can also **extinguish ad valorem tax** on real property included in the petition.

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Georgia Department of Revenue

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Effective 7/1/16

Georgia Department of Revenue

House Bill 547
Years Support – Homestead

O.C.G.A. 53-3-4

The term 'homestead' shall have the same meaning as in code section 48-5-40.

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Georgia Department of Revenue

48-5-40…."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. …

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Effective 7/1/16

Georgia Department of Revenue

House Bill 547
Years Support – Homestead

O.C.G.A. 53-3-4

All taxes and liens for taxes accrued for years prior to year of death **against the homestead** shall be divested

Additionally by election, property taxes accrued in year of death or year petition is filed; **OR**

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Effective 7/1/16

Georgia Department of Revenue

House Bill 547
Years Support – No Homestead

O.C.G.A. 53-3-4

If the homestead is not claimed, all taxes and liens for taxes accrued for years prior to the year of the decedent's death **against the real property** shall be divested.

Additionally in either case, by election…property taxes accrued in year of death or year petition is filed.

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Georgia Department of Revenue

Summary
House Bill 547
Amends Years Support

- Any real property included in the estate may be included in the petition for years support; however
- If homestead is claimed only the taxes on the homestead are divested; and
- If no homestead is claimed then taxes on the real property may be divested

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Georgia Department of Revenue

Questions
House Bill 547
Amends Years Support

- Could someone exclude the homestead in petition and file for tax divest on other real property
- Could someone outside state get YS
- Would someone with homestead in another state be limited to YS

116

Georgia Department of Revenue

Columbus BTA v Medical Center Hospital

- Medical Center (Hospital Authority) submitted request for tax exempt status for eight parcels which were denied by BOA because the properties were not used for the operation of hospital facilities.
- Trial Court = granted the exemption on all as public property
- Court of Appeals = clearly the mere fact that hospital authority owns property does not make it exempt but the property need not actually contain a heath care facility to be exemption as long as the use of the property or its income furthers the legitimate functions of the hospital authority.

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