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 procedures and policies of the Georgia Department of Revenue or the Department's official interpretation of the laws of the State of Georgia. The application of applicability to specific situations of the theories, techniques, and approaches discussed herein must be determined on a case-by-case basis.

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CAVEAT

Legislative Update

May 24, 2017

2016 LEGISLATION

HB514 – Fulton

HB1044 – Lowndes

HB1104 – Muscogee

SB438 – Telfair

HB364 – Illegal Taxation

HB547 – Years Support

HB769 - Watercraft

HB862 – Disabled Vet

HB935 - Freeport

HB960 - Interest

HB987 - CUVA

Effective 2017 tax digest

HB514 – Fulton County

- Alpharetta
- Atlanta
- Chattahoochee Hills
- College Park
- East Point
- Fairburn
- Hapeville

- Johns Creek
- Milton
- Mountain Park
- Palmetto
- Roswell
- Sandy Springs
- Union City

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.

Passed

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

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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 forgoing the requirement of yearly fair market valuation

Failed

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

HOMESTEAD EXEMPTION SPECIAL	Total	
Number of Precincts	28	
Precincts Reporting	28	100.0 %
Times Counted	69779/100700	69.3 %
Total Votes	66066	
YES	24943	37.75%
NO	41123	62.25%

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

Failed

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

House Bill 364
Review of Tax Digest – Illegal Taxation

Commissioner to reject digest when exempt property is taxed – regulations complete

Disqualify county for DCA grants and loans

Remove Board of Assessors

Refund petition at Georgia Tax Tribunal names Assessor and **TAX COMMISSIONER** as respondent

Georgia Department of Revenue

TO ALL INTERESTED PERSONS AND PARTIES:

In compliance with O.C.G.A. § 50-13-4, the Georgia Department of Revenue gives notice that it proposes to introduce the following Rules:

Rule 560-11-15-.01, entitled "Definitions"
Rule 560-11-15-.02, entitled "Commissioner's Determination of Property Illegally Appearing on a County Digest"
Rule 560-11-15-.03, entitled "Appeal of Commissioner's Determination"
Rule 560-11-15-.04, entitled "Nature of the Appeal; Hearing Procedure; Evidence"
Rule 560-11-15-.05, entitled "Ruling; Decision"
Rule 560-11-15-.06, entitled "Recurring Illegal Digest Entries for Same Property; Reinstatement"

House Bill 547
Amended 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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House Bill 769
Exemption for Watercraft & All-Terrain Vehicles

Removed the sunset in the watercraft exemption code

Added ATVs to the exemption

House Bill 862 - Disabled Veteran

Equalizes the exemption qualification for

- DV License plate
- Exemption from MV tax
- Homestead exemption

Corrects error in homestead code by changing ‘and’ to ‘or’

House Bill 935

Freeport Level 1 – Fulfillment Center

Fulton

Peach

Creates a category 4 under Freeport Level 1

1. Governing Authority must adopt resolution to call for county referendum
2. Voters approve Category 4
3. If approved by voters, Governing Authority adopts resolution setting percentage of exemption

1. Describe the type of business:

2. Inventory must be reported at its full cost at level of trade which includes freight, burden, overhead, and other charges as of January 1.

3. Inventory values and associated exemption amounts must be adjusted to January 1, in accordance with the provisions of Georgia Code 48-5-10.

4. List the method of inventory valuation used: _____. List the method of inventory cost identification: _____.

5. SUMMATION OF INVENTORY: (Values should be reported at 100% full cost of inventory held on January 1 of taxable year)

INVENTORY NOT ELIGIBLE FOR FREEPORT LEVEL '1'	
a. Finished goods held longer than 12 months	$
b. Packaging materials (plastic trays, cellophane, caddies, cartons, cases, tapes, labels, liners)	$
c. Other expensed supplies (i.e. gasoline, office supplies, etc)	$
d. Spare parts inventory	$
INVENTORY ELIGIBLE FOR FREEPORT LEVEL '1'	
e. Enter the 'Full Value' for each category below and enter the combined 'Full Value' for all categories here:	$

Category 1 – Raw materials and Goods in Process of a manufacturer

_____ x* _____ = _____
Full Value Category 1 | Exemption % | Exemption Amount

Category 2 – Finished Goods manufactured in Georgia held by manufacturer less than 12 months

_____ x* _____ = _____
Full Value Category 2 | Exemption % | Exemption Amount

Line 3e - Category 3 – Finished Goods of Distributor held less than 12 months destined for out-of-state shipment

_____ x* _____ = _____
Full Value from Page 2, Line 6(e) | Exemption % | Exemption Amount

Category 4 – Finished Goods of Fulfillment Center held less than 12 months

_____ x* _____ = _____
Full Value Category 4 | Exemption % | Exemption Amount

f. Total Freeport Level '1' Exemption Amount (apply the appropriate Level 1 exemption percentage above and enter the combined exemption amount for all categories on this line.	$
INVENTORY ELIGIBLE FOR FREEPORT LEVEL '2'	
g. Enter total cost of all merchandise held as inventory (exclude amounts entered on Lines '3b', '3c', '3d', and '3e')	$
h. Total Freeport Level '2' Exemption (multiply Line 'g' by exemption % set by county resolution for Level 2 Freeport)	$
FREEPORT LEVEL '1' and '2' Combined exemption	
i. Total Freeport '1' & '2' Exemption (add Lines '3f' and '3h' and enter amount here and on PT30P, Page 1, Line P)	$

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House Bill 960
Interest and Penalty

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

House Bill 987
Conservation Use

Clarified 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

House Bill 991
Delinquent Tax – Military

O.C.G.A. 48-5-243 is a new code section providing for waiver of penalties and interest if it is determined that the default was due to taxpayer's military service in combat zone.

Senate Bill 258
Appeal – Changing Value

Amended O.C.G.A. 48-5-299 to clarify that 30-day change notices sent in response to taxpayer's appeal ARE NOT subject to 48-5-299(c)

2017 LEGISLATION

HB183 – GA Geospatial Advisory Committee

HB196 – Definition of FMV

HB238 – CUVA/FLPA amendments

HB290 – Farm equipment exemption

HB337 – State Tax Lien Registry

HB340 – Title Ad Valorem Tax

HB342 – Enterprise Zones

HB375 – Tax executions

HB434 – Eminent Domain

HR798 – Study Committee LIHTC

SR222 – Study Committee Exemptions

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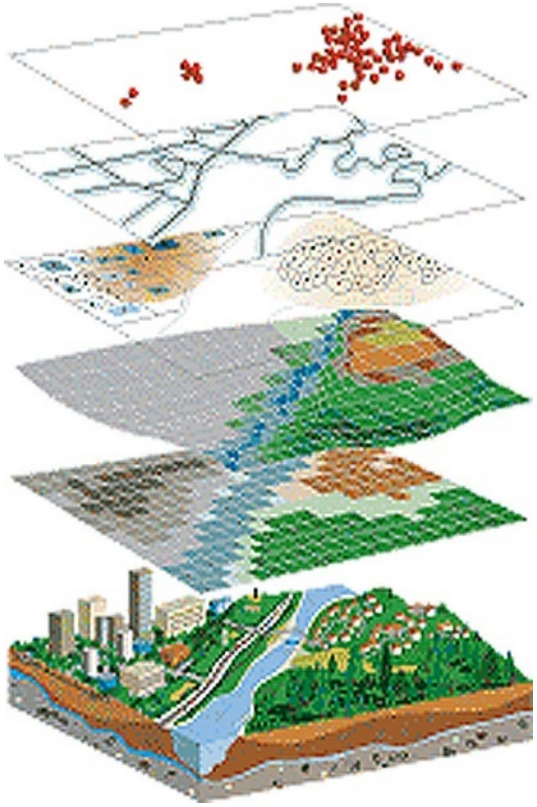
HB183 - GA Geospatial Advisory Council

Section 1. Creates the GA Geospatial Advisory Council under DCA

Effective July 1, 2017

Created to make recommendations for advancing GIS data to meet federal requirements and to enhance delivery of services to GA Citizens



HB196: (1)FMV; (2)Nonprofit Home; (3)DV

Section 1. Amends definition of fair market value

Section 2. Amends exemption for home for mentally disabled

Section 3. Provide for refunds for disabled veterans

Section 4. Calls for referendum regarding Section 2.

Signed by Governor - Effective July 1, 2017

HB196 – Fair Market Value means…

48-5-2(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 is available, shall be ~~considered~~ **utilitized** in determining the fair market value of income-producing property**, and, if actual income and expense data are voluntarily supplied by the property owner, such data shall be considered in such determination**.

Income Approach, Real Estate	
Potential Gross Income	$150,000
Less Vacancy	$22,500
Effective Gross Income	$127,500
Less Operating Expense	$75,000
Net Operating Income	$52,500
Capitalization	$583,333
Rounded	$580,000
Example Assumptions:	
Net Rentable Area (SF)	15,000
Market Rent Per SF	$10.00
Vacancy Allowance	15.0%
Expenses PSF	$5.00
Overall Capitalization Rate	9.0%

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HB196 – The tax assessor shall apply….

48-5-2(3)(B)(vi) Rent limitations, ~~operational requirements~~ **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 ~~described in subparagraph (B.1)~~ **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** ~~paragraph~~ **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 ~~such~~ properties described in ~~subparabaph (B.1) of this paragraph~~ this division shall not be considered comparable real property for **the** assessment or appeal of assessment of ~~other~~ properties **not covered by this division;** ~~and~~

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Purpose of this change?

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What is income producing property?

Real or personal property that generates income for the owner such as through renting or leasing

Georgia Department of Revenue

HB196 – The tax assessor shall apply….

48-5-2(3)(B)(vii)

(I) <u>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.</u>

SUBJECT			COMP 1			COMP 2		
Address	1234 Fantasy Drive Fantasy Land, CA 11111		1248 Fiction Way Fantasy Land, CA 11111			8656 Fake Circle Fantasy Land, CA 11111		
Proximity to Subject			0.04 miles NE			0.12 miles SE		
Sale Price	$				$ 230,000			$ 220,000
Sale Price/Gross Liv. Area	$	sq. ft.	$ 135.29 sq. ft.			$ 146.67 sq. ft.		
Data Source(s)			metro #A1406528;DOM 40			metro #A1406529;DOM 10		
Verification Source(s)			Document #140121-939			Document #140318-944		
VALUE ADJUSTMENTS	DESCRIPTION		DESCRIPTION		+(-) $ Adjustment	DESCRIPTION		+(-) $ Adjustment
Sale or Financing Concessions			ArmLth Conv;0			ArmLth Conv;0		
Date of Sale/Time			s01/14;c12/13			s03/14;c02/14		
Location	N;Res;Res		N;Res;Res			N;Res;Res		
Leasehold/Fee Simple	Fee Simple		Fee Simple			Fee Simple		
Site	9004 sf		9173 sf			7649 sf		
View	N;Res;Res		N;Res;Res			N;Res;Res		
Design (Style)	DT1;Ranch		Ranch			Ranch		
Quality of Construction	Q4		Q4			Q4		
Actual Age	25		22			25		
Condition	C4		C4			C4		
Above Grade Room Count	Total 7 / Bdrms. 4	Baths 2.0	Total 7 / Bdrms. 4	Baths 2.0		Total 7 / Bdrms. 4	Baths 2.0	
Gross Living Area 50	1,600 sq. ft.		1,700 sq. ft.		-5,000	1,500 sq. ft.		5,000
Basement & Finished Rooms Below Grade	0sf		0sf			0sf		
Functional Utility	Average		Average			Average		
Heating/Cooling	CH&A		CH&A			CH&A		
Energy Efficient Items	Dual Pane Wnds		Dual Pane Wnds			Dual Pane Wnds		
Garage/Carport	2ga2dw		2ga2dw			2ga2dw		
Porch/Patio/Deck	Porch,Patio		Porch,Patio			Porch,Patio		
Pool	None		None			None		
Net Adjustment (Total)			☐ + ☒ -		$ 5,000	☒ + ☐ -		$ 5,000
Adjusted Sale Price of Comparables			Net Adj. -2.2% Gross Adj. 2.2%		$ 225,000	Net Adj. 2.3% Gross Adj. 2.3%		$ 225,000

HB196 – The tax assessor shall apply….

48-5-2(3)(B)(vii)

(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

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

HB196 – Nonprofit home….

48-5-41(a)(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.

HB196 – Nonprofit home….

48-5-41(a)(13)(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 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.

E0 = 1,323

Georgia Department of Revenue

HB196 – Exempt Property: Nonprofit home….

48-5-41(a)(13) **(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.**

HB196 – Exempt Property: Nonprofit home….

Section 4 - requires the Secretary of State to conduct a statewide election by November 2018 for the purpose of approving the amendments to exemption of Home for Mentally Disabled.

“Shall the Act be approved which provides an exemption from ad valorem taxes on nonprofit homes for the mentally disabled if they include business corporations in the ownership structure for financing purposes”

If approved by voters becomes law 1/1/2019.

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HB196 – Disabled Veteran Homestead: Retroactive award

48-5-48 **(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.**

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HB196 – Disabled Vet Homestead: Application

48-5-48 **(g)(2) Upon application for the homestead exemption provided by this Code section and submittal of property 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 (l) 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.**

LGS-Homestead Rev 10-08 APPLICATION FOR HOMESTEAD EXEMPTION

The homestead exemptions provided for in this Application form are those authorized by Georgia law. Counties are authorized to provide for local homestead exemptions that may vary from the ones shown on this application. Applicants seeking a local homestead exemption should contact the local Tax Commissioner or Tax Receiver for additional information. If this application is denied an appeal may be filed in accordance with O.C.G.A. § 48-5-311.

SECTION A: APPLICANT INFORMATION

List below the address of any other property where you or your spouse have applied for and been granted a homestead exemption for the current year:

Are you and your spouse a Georgia resident, US citizen or non-citizen with legal authorization from the US Immigration and Naturalization Service? ☐ YES ☐ NO

If you are a non-citizen with legal authorization from the US Immigration and Naturalization Service, please provide your Legal Alien Registration # _____

Applicant:	Name:		Spouse:	Name:	
	Street Address:			Street Address:	
	City, State, Zip:			City, State, Zip:	
	Social Security No.:			Social Security No.:	
	Year of Birth:	Phone Number:		Year of Birth:	Phone Number:
	County where you are registered to vote:			County where you are registered to vote:	
	County where car is registered:	If you and/or your spouse are in the military service, list the state shown as your home of record:			

If you answer Yes to Question #1, please follow the instructions to determine if you qualify for an increased homestead amount. Please see the Tax Commissioner or Receiver for additional information and qualification requirements.

☐ YES 1. Were you or your spouse age 62 or older as of Jan 1 of the year of this application? Go to Sections C1 and/or C2 on the back of this application to determine whether you meet certain gross and/or net income requirements.

☐ YES 2. Is the applicant or spouse a 100% disabled veteran or is the applicant the unremarried surviving spouse of a 100% disabled veteran?

☐ YES 3. Are you the unremarried surviving spouse of a US service member killed in action?

☐ YES 4. Are you the unremarried surviving spouse of a firefighter or peace officer killed in the line of duty?

HB196 – Disabled Veteran Homestead: Refund

48-5-48 **(g)(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 which 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.**

Disabled Veteran Homestead Qualifiers

1. Qualified disability and military service
2. Citizen and resident of Georgia
3. Own and occupy residence as homestead
4. File for exemption with the tax commissioner

Exemption may extend to un-remarried surviving spouse or minor children upon death or incapacity of disabled veteran

Disabled Veteran Homestead: Count

Veteran Stats - va.gov (2015 data)		
	Nation	Georgia
Number of Veterans	21,681,000	752,000
Number of Veterans over 65	9,934,000	287,000
Number Veterans receiving Disability Compensation	4,168,774	166,680
Number Veterans receiving Compensation @ 100%		24,523
Number Veterans receiving Compensation @ 70%-90%		45,082
Number of Disabled Veteran Homesteads		23,258

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Disabled Veteran Homestead Exemption: Value

Disabled Veteran Homestead Exemption Amount	
2017	77,307
2016	73,768
2015	70,465
2014	67,555

73,768 x .032 = 2,360.58

70,465 x .032 = 2,254.88

67,555 x .032 = 2,161.76

Total = 6,777.22

HB238 – CUVA and FLPA

Section 1. Amends Conservation Use Assessment ownership and provides for 2 additional non-breach uses.

Section 2. Amends Forest Land Conservation Use Assessment by providing for 2 additional non-breach uses.

Signed by the Governor – effective April 17, 2017

HB238 – CUVA ownership

48-5-7.4 (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;

HB238 – CUVA ownership

(iv) A **family owned farm entity**, such as…

- family corporation,
- family partnership,
- family general partnership,
- family limited partnership,
- family limited corporation,
- family limited liability company

– All of the interest of which is owned by citizens related within the fourth degree of civil reckoning - Except that 5% of a family limited partnership may be held by a corporation, limited partnership, limited corporation, or limited liability company

- An **estate** of which the devisees or heirs are citizens,
- A **trust** of which the beneficiaries are citizens,

HB238 – CUVA ownership

(iv) … **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;

TLC, LLC
entering 8,000 acres in CUVA

Three separate (unrelated) family farm entities form TLC, LLC

TLC acquires property in a GA county and applies for CUVA

Timber LLC	Livestock LLC	Crop LLC
holds 50% of TLC	holds 30% of TLC	holds 20% of TLC
4,000	**2,400**	**1,600**
Sam Smith (50%)	Jack Jones(60%)	Rae Roberts (90%)
Sue Smith (50%)	Jill Jones(40%)	Rob Roberts (10%)

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(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;

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HB238 – CUVA …not a breach

48-5-7.4(p) The following shall not constitute a breach of a covenant:

1. Mineral exploration
2. Lie fallow or idle due to conservation uses
3. Lie fallow or idle due to economic hardship
4. Transfer of 25 acres to place of worship, burial, or charity
5. Leasing for telephone transmission tower
6. Corn maze
7. Agritourism
8. Farm weddings
9. Equestrian performance events
10. Not for profit rodeo
11. **Solar Generation of Energy**
12. **Farm Labor Housing**

HB238 – CUVA …Solar Energy Generation…

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

(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

Penalty required in paragraph (q)

(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:

Georgia Department of Revenue

Solar Generation – Not a Breach but does trigger Penalty

1,000 acres	FMV	2,000,000
	CUV	500,000

Value reduction $1,500,000

Solar Farm Survey = 10 acres

10 acres	FMV	20,000
	CUV	5,000

Penalty on 15,000 FMV

Georgia Department of Revenue

HB238 – CUVA …Farm Labor Housing…

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

(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.

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Farm Labor Housing – Not a breach, no Penalty

1,000 acres

FMV	2,000,000
CUV	500,000

Value reduction $1,500,000

Construction site = 10 acres

10 acres

FMV	20,000
CUV	5,000

No Penalty

Georgia Department of Revenue

Federal Direct Loans & Grants for Farm Labor Housing

What does this program do? It provides affordable financing to develop housing for year-round and migrant or seasonal domestic farm laborers.

Who may apply for this program? Farmers; associations of farmers and family farm corporations; associations of farmworkers and nonprofit organizations; most State and local governmental entities.

Who may live in the rental housing? Domestic farm laborers; Retired and/or disabled farm laborers; Must be a U.S. citizen or permanent resident; Very-low- to moderate-income households

What are the loan terms? Up to 33 year payback period; 1% fixed rate

HB238 – FLPA …shall not constitute a breach…

48-5-7.7(q) The following shall not constitute a breach of a covenant:

1. Mineral exploration
2. Fallow or idle due to forestry conservation uses
3. Fallow or idle due to economic hardship
4. Transfer of 25 acres to place of worship, burial, or charity
5. Leasing for telephone transmission tower
6. **Solar Generation of Energy**
7. **Farm Labor Housing**

HB238 – FLPA …Solar Energy Generation…

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

(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

Penalty required in paragraph (r)

(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:

HB238 – FLPA: Farm Labor Housing…

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

(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.

HB290 – Agricultural Equipment

Section 1. Defines 'Agricultural Equipment' and 'Lease-Purchase Agreement' and adds 'Agricultural Equipment' as qualified for total exemption.

Section 2. Repeal provision

Signed by the Governor – effective July 1, 2017

Georgia Department of Revenue

HB290 – Agricultural Equipment

48-5-41.1 (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 a or held under a lease-purchase agreement and directly used in the production of farm products by a family owned qualified farm products producer.

HB290 – Lease-purchase Agreement

48-5-41.1 (a) As used in this Code section, the term:

(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.

HB290 – Agricultural Equipment

48-5-41.1 (b) The following property shall be exempt from all ad valorem property taxes in this state:

(4) Agricultural Equipment.

Georgia Department of Revenue

HB337 – Tax Liens

Section 1.	State Tax Execution Modernization Act
Section 2.	Revises code on priority of liens
Section 3.	Revises code regarding Georgia Tax Tribunal
Section 4.	Repeal code regarding issuance of state execution
Section 5.	Amends statute of limitations
Section 6.	Repeals code relating to nulla bona
Section 7.	Amends code on satisfaction on execution docket
Section 8.	Repeals code relating to publication of execution
Section 9.	Creates Article 2
Section 10.	Amends Title 11 relating to priority of certain liens
Section 11.	Adds new code regarding GSCCCA
Section 12.	Adds code regarding certificate of clearance
Section 13.	Amends code regarding duties of Clerk of Superior Court

Effective January 1, 2018

OCGA 48-5-56: Priority of Liens

(b) **Priority of liens**: taxes due state; taxes due counties; taxes due school & special tax districts; and taxes due municipalities.

(d) **Ad valorem:** Liens shall cover the property from January 1 until paid; Not superior to mortgage if property is not subject of tax; when real property is transferred between January 1 and date on which tax becomes due, the lien shall not extend to other real property of transferor.

(e) and (f)~~Before the lien provided for in this subsection shall attach to real property it shall be recorded in the county where the real property is located~~.

OCGA 48-5-56: Priority of Liens

(i) All executions, liens, releases, cancellations, or other related documents issued by the department to be filed with a superior court clerk shall be presented and filed electronically pursuant to Code Section 48-3-42 and the appropriate filing fees shall be paid by the department as provided in subsection (f) of Code Section 15-6-77.

OCGA 48-3-21: Statute of Limitations

All ~~state,~~ county, municipal, or other tax executions, before or after legal transfer and record, shall be enforced within seven years from:

(1) Date of issue; or

(2) The time of the last entry upon the tax execution …

Georgia Department of Revenue

OCGA 48-3-40 through 48-3-44: Creates uniform state-wide system for filing notices of state tax executions….

48-3-40	Definitions
48-3-41	Authority
48-3-42	12/31/2017 all state-issued liens expire; 1/1/2018 electronic registration; state liens are for 10-years
48-3-43	Lien Information Management System with online access at no charge and lien status codes
48-3-44	Lien Release

OCGA 44-1-18: Certification of Clearance or Statement of Lien

Certificate of Clearance means a document issued by the Department affirming that a proper search has been conducted by the Department and has yielded no active liens associated with an individual or entity.

Statement of Lien means a document issued by the Department affirming that an active execution is associated with the current owner and providing the identification reference number assigned to the execution and providing contact information for payoff

Georgia Department of Revenue

HB340 – TAVT: Leased Vehicles

Section 1. Adds definition of FMV for Leased Vehicles.

Effective January 1, 2018

48-5C-1 **<u>(E) For a new motor vehicle that is leased, the total of the base payments pursuant to the lease agreement.</u>**

Georgia Department of Revenue

HB342 – Enterprise Zones

Section 1. Defines sales and use tax applicable to certain EZ

Section 2. Adds sales tax exemption available in certain EZ

Section 3. Adds paragraph (g) creating new Enterprise Zone type

Section 4. Excludes new EZ type from property tax exemption

Section 5. Provides that new EZ typ

Signed by Governor – effective July 1, 2017

HB342 – Enterprise Zones

36-88-6(g)(1)

- Minimum $400 million in capital investment
- Area chronically underdeveloped for 20+ years
- Project cannot be related to casino gambling

36-88-10

- Projects created under 36-88-6(g) shall remain in existence for 30 years or until bonds retired

HB342 – Enterprise Zones

36-88-8(a)(1) The governing body of a local government or governments creating an enterprise zone **other than an enterprise zone under subsection (g) of Code Section 36-88-6**, shall include in the creating ordinance a provision to **exempt qualifying business and service enterprises from state, county and municipal ad valorem taxes** that would otherwise be levied on the qualifying business and service enterprises not to exceed the following:

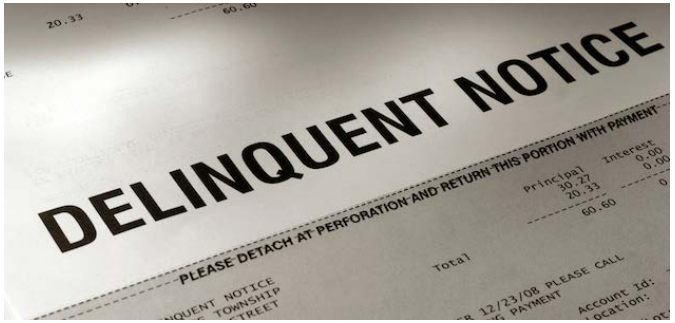
(100% exempt first five years; then 80, 60, 40, 20 until fully taxable in 10th year)

HB375 – Executions and Fees

Section 1. Amends definition of new owner

Section 2. Repeals code section 48-5-163 relating to fee for issuance of tax executions

Effective date July 1, 2017



HB375 – Executions

48-3-3(a)(1) 'new owner' means the most recent subsequent owner who has purchased such property during the year after January 1, but on or ~~after~~ **before** the due date of that tax bill year and whose deed has been duly recorded in the records of the clerk of the superior court

- No execution against owner of record if evidence provided within 90 days of due date
- Execution notice to new owner giving 30 days to pay
- New owner not required to pay interest or penalty until 60 days after being issued bill

HB375 – Fees

~~**48-5-163.** Fee for issuing tax executions; allowance of costs on executions~~

~~(a) Tax collectors shall be allowed a fee of 50 cent(s) for issuing a tax execution.~~

~~(b) No tax collector, sheriff, or constable shall receive costs on tax executions unless the costs are collected from the defendant.~~

HB434 – Eminent Domain

Section 1. Amends general provisions

Section 2. Adds new provisions for blighted property

Effective date July 1, 2017

HB434 – Eminent Domain

- Establishes a process for local government to seek court determination that property is blighted and remedy of blight is deemed to be a "public use."
- If property is determined to be blighted, it can be the subject of condemnation proceedings.
- Additionally, such condemned property would not be subject to requirement that government
  - hold condemned property for at least 20 years
  - offer the property back to the prior owner if not put to public use within five years.

HR798 – House Study Committee (LIHTC)

- $51,382,459 in low-income housing tax credit were utilized in FY2015
- Committee to review the effectiveness of the current LIHTC program
- Five members of House appointed by Speaker
- May issue report of findings and recommendation for legislation
- The committee shall stand abolished on December 1, 2017.

SR222 – Senate Study Committee (Exemptions)

- $51,382,459 in low-income housing tax credit were utilized in FY2015
- Committee to review the effectiveness of the current LIHTC program
- Five members of House appointed by Speaker
- May issue report of findings and recommendation for legislation
- The committee shall stand abolished on December 1, 2017.

Bills that did not pass?

HB4:	Delinquent tax and CUVA
HB85 & HR51:	**Valuation of Timberland; New grant formula**
HB204:	**Eliminate 'Fees' on tax bills**
HB302:	Advertising annual millage rate
HB327:	Comprehensive TAVT changes
HB347:	Change FMV; digest approval; and appeal process
HB373:	Comprehensive changes to CUVA
HB374:	Filing electronic returns
HB381:	Process to remove abandoned mobile homes
HB397:	Homestead not waived regarding assisted living
SB225:	Amends tax appeal award of attorney fees

COURT CASES

Riley vs Southern LNG

Cherokee vs Mason

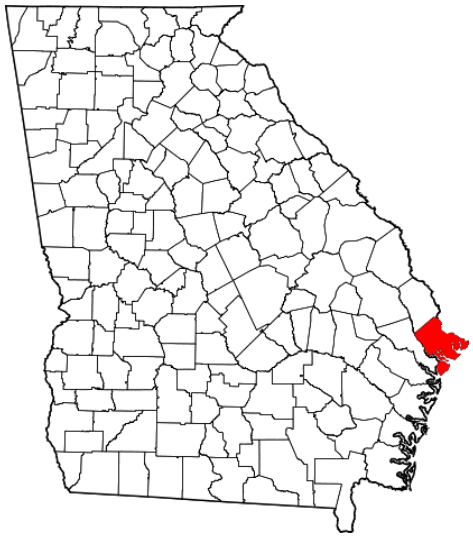
Heron Lake vs Lowndes

AG Opinion

Forest Land Grants

Georgia Department of Revenue

Riley vs Southern LNG
Georgia Supreme Court
Decided 3-6-17



Georgia Department of Revenue

Commissioner Riley petitioned the Supreme Court to overturn trial court's ruling requiring the Department to accept the return of Southern LNG as a public utility 'gas company' to be centrally assessed by the Department.

Supreme Court ruled in favor of the Commissioner….

Although Southern LNG's charter indicates it is organized to operate a gas pipeline, it is not authorized by federal and state regulations to do so and the company does not meet the federal definition of natural gas company because it does not engage in liquid natural gas (LNG) interstate commerce.

Rather, Southern LNG is a 'LNG terminal' that receives gas owned by others into its facility, converting it to natural gas, and placing that natural gas into pipelines owned by others for distribution.

Georgia Department of Revenue

Southern LNG Charter

To engage in the natural gas and liquid hydrocarbon **pipeline business** except that the corporation shall not have power to construct, maintain or operate a public utility within the State of Delaware.

STATE OF GEORGI
Secretary of State
Corporations Division
313 West Tower
2 Martin Luther King, Jr. Dr.
Atlanta, Georgia 30334-1530

Annual Registration

[4]Elect
Secret
Filing

BUSINESS INFORMATION	
BUSINESS NAME	: SOUTHERN LNG COMPANY, L.L.C.
CONTROL NUMBER	: H859801
BUSINESS TYPE	: Foreign Limited Liability Company
JURISDICTION	: Delaware

Georgia Department of Revenue

48-1-2(21) "**Public utility" means** all railroad companies, street and suburban railroads, or sleeping car companies; persons or companies operating railroads, street railroads, suburban railroads, or sleeping cars in this state; all express companies including railroad companies doing express, telephone, or telegraph business (except small telephone companies or persons operating a telephone business, the value of whose capital stock or property is less than $5,000.00); **all gas**, electric light, electric power, hydroelectric power, steam heat, refrigerated air, dockage or cranage, canal, toll road, toll bridge, railroad equipment, and navigation **companies**; and any person or **persons operating a gas**, electric light, electric power, hydroelectric power, steam heat, refrigerated air, dockage or cranage, canal, toll road, toll bridge, railroad equipment, or navigation **business**, through their president, general manager, owner, or agent having control of the company's offices in this state.

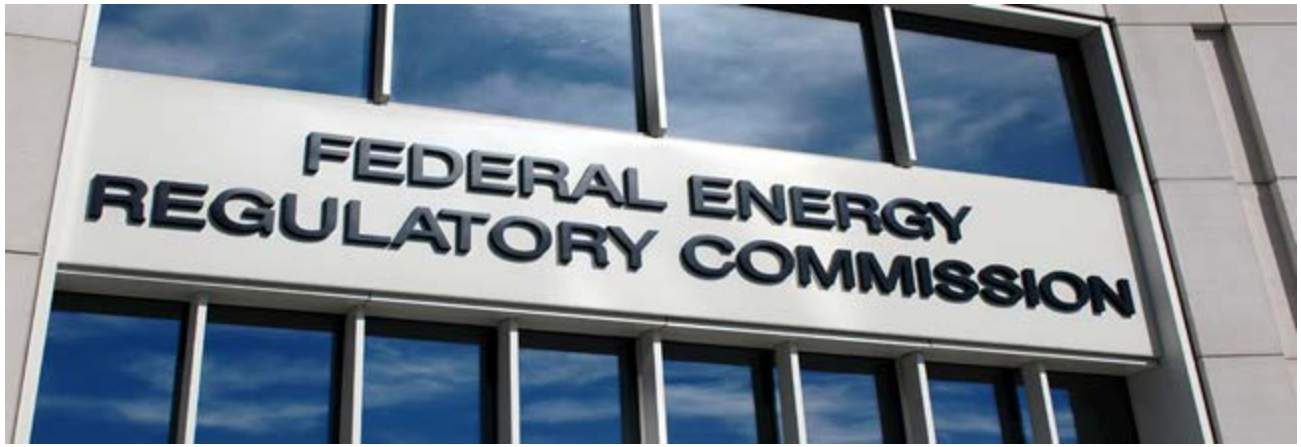
Georgia Department of Revenue

46-1-1(5) "**Gas company**" means any person **certificated under Article 2 of Chapter 4** of this title to construct or **operate any pipeline** or distribution system, or any extension thereof, for the transportation, distribution, or sale of natural or manufactured gas.

Southern is not certified to operate a pipeline by the Georgia Public Service Commission.

Federal Energy Regulatory Commission

Southern's authorization extends **only to the operation** of a liquid natural **gas transfer station** located entirely within Chatham County



15 United States Code 717(a)

(6) "**Natural-gas company**" means a person engaged in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of such gas for resale.

Southern does not transport or sell gas through interstate commerce.

15 United States Code 717(a)

(11) "**LNG terminal**" includes all natural gas facilities located onshore or in State waters that are used to receive, unload, load, store, transport, gasify, liquefy, or process natural gas that is imported to the United States from a foreign country, exported to a foreign country from the United States, or transported in interstate commerce by waterborne vessel, but does not include:

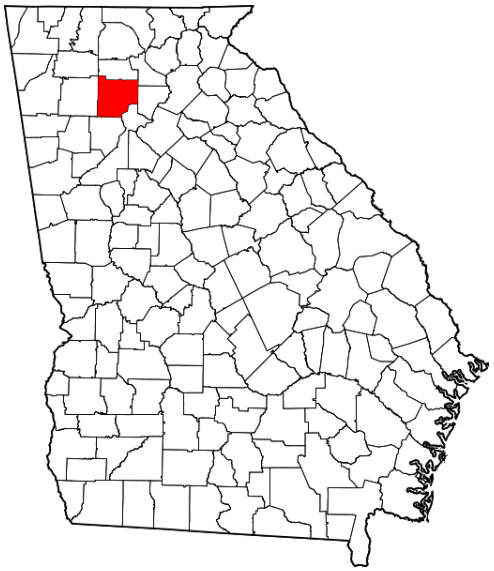
(A) waterborne vessels used to deliver natural gas to or from any such facility; or

(B) any pipeline or storage facility subject to the jurisdiction of the Commission under section 717f of this title.

Southern appears to be an 'LNG terminal' … it does not own or sell gas; it is not certified to operate a pipeline; and does not engage in LNG interstate commerce

Georgia Department of Revenue

Cherokee vs Mason
Georgia Court of Appeals
Decided 3-7-17



Georgia Department of Revenue

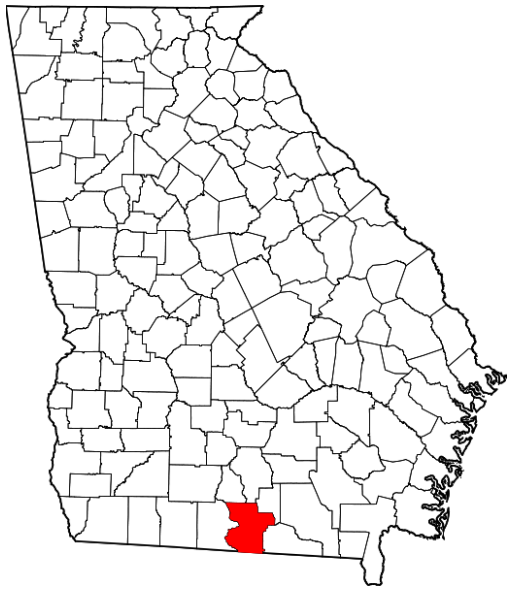
Counties most affected by CUVA

191,566 parcels - $9,5 billion assessed value eliminated statewide

County	Real Parcel	Assessed Value Eliminated	State Tax Shift	County Tax Shift	School Tax Shift	Total Tax Shift
Hall	2,389	$305,977,035	$76,494	$1,754,778	$5,663,533	$7,494,805
Cherokee	1,896	$232,977,640	$58,244	$1,332,632	$4,531,415	$5,922,291
Meriwether	2,537	$164,960,260	$41,240	$2,253,522	$3,176,310	$5,471,072
Worth	2,097	$183,252,310	$45,813	$2,301,649	$2,840,411	$5,187,873
Lumpkin	1,550	$159,725,978	$39,931	$1,703,901	$2,688,028	$4,431,860
Jackson	2,705	$148,776,860	$37,194	$1,460,074	$2,751,390	$4,248,658
Gordon	2,405	$139,563,761	$34,891	$1,385,868	$2,769,984	$4,190,743
Oconee	2,012	$174,804,222	$43,701	$1,174,386	$2,971,672	$4,189,759
Brooks	1,787	$149,657,947	$37,414	$1,877,835	$2,255,345	$4,170,594
Mitchell	1,854	$103,807,679	$25,952	$2,064,735	$1,708,123	$3,798,810

Georgia Department of Revenue

Heron Lake vs Lowndes
Georgia Supreme Court
Decided 9-12-16



AG Opinion: Forest Land Grants

GEORGIA DEPARTMENT OF LAW
40 CAPITOL SQUARE SW
ATLANTA, GA 30334-1300

SAMUEL S. OLENS
ATTORNEY GENERAL

www.law.ga.gov
(404) 656-3300

Official Opinion 2016-5

September 12, 2016

To:
Commissioner, Georgia Department of Revenue

Re:
Because neither the Constitution nor the Act's provisions authorize or contemplate a cap on assistance grants based on the total exemption value of forest land conservation use property, the Department of Revenue would not be authorized to impose an administrative cap on assistance grants issued pursuant to the Forest Land Protection Act of 2008 in the manner proposed.

Georgia Department of Revenue

Forest Land Assistance Grant Requests		
Tax Year	SCHOOL	TOTAL
2009	5,942,179	10,536,033
2010	8,113,429	14,072,350
2011	10,123,254	17,787,458
2012	12,772,580	22,132,601
2013	15,355,292	27,102,138
2014	18,297,831	32,297,718
2015	19,266,867	34,502,100
2016	21,914,410	40,657,178

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.