



Georgia Department of Revenue

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Georgia Department of Revenue

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Georgia Department of Revenue

CAVEAT 2018 EXEMPTIONS

HOMESTEAD EXEMPTIONS

- Including VA and Income requirements

Qualification requirements for Tax Exempt Properties



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HOMESTEAD EXEMPTIONS



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HOMESTEAD ACT OF 1937

Began Jan 1, 1938

Amount of exemption = \$2,000 (S1)





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HOMESTEAD EXEMPTION TODAY????

Standard (S1) homestead is still \$2000,





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Additions over the years....

1938: 'S1' Homestead Act of 1937: \$2,000

1957: 'S5' Disabled veteran homestead exemption

1964: 'S4' Elderly homestead age 65 \$4,000

1974: 'S3' Elderly homestead age 62 \$10,000

1994: 'SS' Surviving Spouse of Service member homestead

1995: 'S6' Floating Homestead age 62 \$30,000

2006: 'SC' Elderly age 65 total state homestead

2006: 'SG' Surviving spouse of peace officer homestead

STATE EXEMPTIONS	STATE	COUNTY	COUNTY	SCHOOL	SCHOOL
CODE	TAX	M&O TAX	BOND TAX	TAX	BOND TAX
S1 - Regular	\$2,000	\$2,000	0	\$2,000	0
SC - Age 65	100% on home & up to 10 acres of land and \$2,000 on balance	\$2,000	0	\$2,000	0
S2 - Reserved					
S3 - Elderly - Age 62 (Net Income < \$10,000)	\$2,000	\$2,000	0	\$10,000	\$10,000
S4 - Elderly - Age 65 (Net Income < \$10,000)	100% on home & up to 10 acres of land and \$4,000 on balance	\$4,000	\$4,000	\$10,000	\$10,000
S5 - Disabled Veteran & surviving spouse or minor children	\$84,960	\$84,960	\$84,960	\$84,960	\$84,960
SD - Age 65 - 100% Disabled Veteran; Unremarried surviving spouse or minor children of Disabled Veteran	100% on home & up to 10 acres of land and \$50,000 on balance	\$84,960	\$84,960	\$84,960	\$84,960
SS - Surviving Spouse of US service member killed in action	\$84,960	\$84,960	\$84,960	\$84,960	\$84,960
SE - Age 65 - Unremarried surviving spouse of US service member killed in action	100% on home & up to 10 acres of land and \$50,000 on balance	\$84,960	\$84,960	\$84,960	\$84,960
SG - Unremarried surviving spouse of a firefighter or peace officer killed in line of duty	100%	100%	100%	100%	100%
S6 - Elderly Floating - Age 62 (Fed Agi < \$30,000)	Floating on home & up to 5 acres of land	Floating	0	\$2,000	0
S7 - Reserved					
S8 - Elderly Floating - Age 62 (Fed AGI < \$30,000 & Net Income < \$10,000)	Floating on home & up to 5 acres of land	Floating	0	\$10,000	\$10,000
S9 - Elderly Floating - Age 65 (Fed AGI < \$30,000 & Net Income < \$10,000)	100% on home & up to 10 acres of land	Floating	\$4,000	\$10,000	8 \$10,000



Georgia Department of Revenue

QUALIFICATION PROCESS

Application

Legal Resident

Ownership

Occupancy

Age

Disability

Income





Definitions

(1) Applicant means a person who is

(A) an individual

**(B) a resident of this state as defined
in 40-5-1**

**‘individual’ is further defined
in law as.....**



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Individual

- (i) A married individual living with his or her spouse





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Individual continued

- **(ii) an individual who is unmarried but who permanently maintains a home for the benefit of one or more individuals who are related to such individual or dependent wholly or partially upon such individual for support**



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Individual continued



- (iii) an individual who is widowed having one or more children and maintaining a home occupied by himself or herself and the child or children



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Individual continued



- (iv) a divorced individual living in a bona fide state of separation and having legal custody of one or more children, when the divorced individual owns and maintains a home for the child or children



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Individual continued

- **(v) an individual who is unmarried or is widowed and who permanently maintains a home owned and occupied by himself or herself**

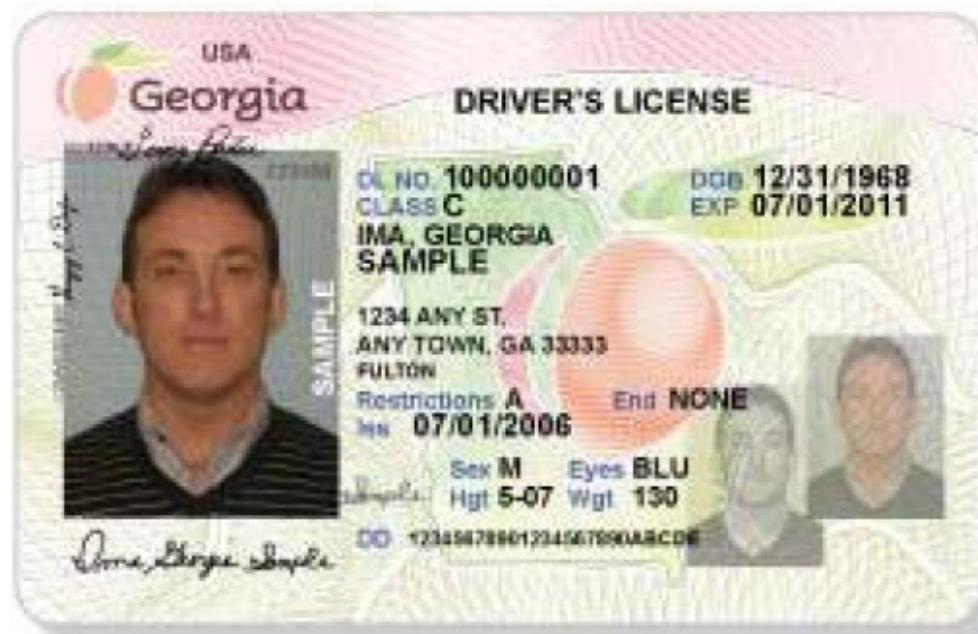




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Individual continued

(B) A resident of this state





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RESIDENT means ...

A person who has a permanent home ...in Georgia

- who accepts employment; or
- who enters children in schools; or
- who has been present in GA for 30+ days;

EXCEPT... no person shall be considered a resident unless such person is either

- a United States citizen; or
- an alien with legal authorization from Immigration and Naturalization.



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Application: failure to file is a waiver of exemption

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? <input type="checkbox"/> YES <input type="checkbox"/> 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:		Year of Birth:
	Phone Number:		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			



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Homestead definition ...

Real property owned by and in possession of the applicant on January 1 of the taxable year and upon which the applicant resides



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Homestead continued

- **Term homestead includes:**
 - (A) The actual permanent place of residence of an individual who is the applicant and which constitutes the home of the family
 - (B) Where applicant holds fee title (although subject to mortgage or debt deed), estate for life, or contract of purchase
 - (C) *Where building is occupied primarily as a dwelling*



Homestead continued

- **Term homestead includes:**
 - **(D) Where children of deceased or incapacitated parents occupy the homestead of their parents and one of the children stands in relation of applicant**
 - **(E) Where husband or wife occupies a dwelling and the title is in the name of the wife**



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Homestead continued

- Term homestead includes:
 - (F) In the event a dwelling is destroyed by fire, flood, storm, or other unavoidable accident or is demolished or repaired so that the owner is compelled to reside temporarily in another place, the dwelling shall continue to be classed as a homestead for a period of *one year after the occurrence*.





Homestead continued

- **Term homestead includes:**
 - **(G) In the event an applicant owns two or more dwelling houses, he shall be allowed the exemption granted by law on only one of the houses. Only one homestead shall be allowed to one immediate family group.**



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Homestead continued

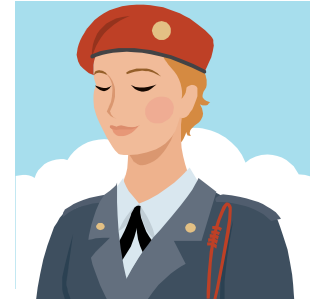
- **Term homestead includes:**
 - **(H) Where property is owned and occupied jointly by two or more individuals all of whom occupy the home and if the property is otherwise entitled to a homestead exemption, the homestead may be claimed in the names of the joint owners.**



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Homestead continued



- **Term homestead includes:**
 - (I) The permanent place of residence of an individual in the armed forces. Any such residence shall be construed to be actually occupied as the place of abode when the family resides in the home





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Homestead continued

- **Term homestead includes:**
 - **(J) Absence of an individual from his residence because of duty in armed forces shall not be considered as a waiver upon the part of the individual applying for a homestead exemption. Any family member or friend may notify the tax office of the individual's absence.**



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Homestead continued

- **Term homestead includes:**
 - **(K) The homestead exempted must be actually occupied as the permanent residence and place of abode by the applicant awarded the exemption**



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Homestead continued

- Term homestead includes:
 - (M) The deed reflecting the ownership of the property for which the applicant seeks homestead exemption must be **recorded** in the deed records of the county **prior** to filing the application for homestead.



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Ownership: deed must be recorded prior to application

RECORDING DATA:
PT. 61 001-2013-000020
GEORGIA, APPLING COUNTY
I hereby certify that the within instrument was filed
for record in the office of the Clerk of Appling
Superior Court at 4:15 o'clock P.M.
JANUARY 4, 2013 and recorded in
DEED book 494 page 790-791.
JAN. 4, 2013
T. Floyd Hunter
Clerk Superior Court

RETURN RECORDED DOCUMENT TO:
J. Alexander Johnson
132 West Parker Street
Baxley, GA 31513

APPLING County, Georgia
Real Estate Transfer Tax
Sold \$ 145.00
Date August 4, 2013
3.33 per quarter
Clerk of Superior Court

WARRANTY DEED

STATE OF GEORGIA
COUNTY OF APPLING

THIS INDENTURE, made and entered into this 31st day of December, 2012, by and between

CAROLE (AKA CAROL) ELIZABETH LEVAR AND GARY WENDELL LEVAR
of Oconee County, Georgia, parties of the first part, hereinafter referred to as "Grantors", and

BENNY RICHIE WILLIAMS
of Appling County, Georgia, party of the second part, hereinafter referred to as "Grantee";

WITNESSETH:

THAT GRANTORS, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, in hand paid, at and before the sealing and delivery of these presents, the receipt of which is hereby acknowledged, have granted, bargained, sold, aliened, conveyed and confirmed, and by these presents do grant, bargain, sell, alien, convey, and confirm unto Grantee, heirs and assigns, the following described property, to-wit:

All that tract or parcel of land lying and being in Land Lots No. 233 and 248 of the Second Land District of Appling County, Georgia, and consisting of 53.187 acres, more or less, and being bound now or formerly as follows: North by lands of Dora Overstreet, lands of Joe Ferguson, and lands of Lucille Padgett; East by lands of deed to Paul D. Williams, the line being agreed upon and shown on the below referenced plat; South by lands of Mrs. Edwin F. Wilcox; and West by lands of Benny Richie Williams, the line being more particularly described on a survey and plat thereof by Denean W. Dixon which said plat is incorporated herein by reference for all purposes of description and is recorded in Plat Book 12, Page 248 of the deed records of Appling County, Georgia.

This conveyance includes any and all buildings and mobile homes currently located upon the described property, and the pivot irrigation system and deep well to which Grantee Benny Richie Williams already has rights.



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Homestead continued

- **(N) Absence of an individual from their residence because of health reasons shall not...be considered as a waiver...of the individual applying for homestead if all other qualifications are met.**





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Homestead Exemption Basics

- BOA sets appraisal value (FMV)
- Homestead exemption amounts are based on assessed values (40%)
- $FMV = 100,000$
- $40\% = 40,000$
- $HS\ Ex = 2,000$
- $Taxable\ value = 38,000$



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48-5-44 Homestead occupied by owner

- Homestead actually occupied by the owner as a residence is exempted from
 - County Maintenance & Operation = 2000
 - County School = 2000
 - County Bond = 0
 - City School = 0
 - City Tax = 0



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48-5-46 – Procedure for Application

Homestead Exemption Application
Procedures



Georgia Department of Revenue

48-5-46 Procedure for Application

- Application form provided by DOR
- Complete description of property, when acquired, kind of title, amount of liens, etc
- Form of oath required
- County Tax Commissioner provides forms to applicant.
- Applicant must answer all questions correctly
- County Tax Commissioner receives and preserves the applications.



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Occupancy:

AFFIDAVIT OF APPLICANT

I, the undersigned, do solemnly swear that the statements made in support of this application are true and correct, that I am the bona fide owner of the property described in this application, that I shall occupy or actually occupied same on Jan 1 of the year for which application is made, that I am an eligible applicant for the homestead exemption applied for, qualifying or meeting the definition of the word "applicant" as defined in O.C.G.A. § 48-5-40 and that no transaction has been made in collusion with another for the purpose of obtaining a homestead exemption contrary to law.

Sworn to and subscribed to before me this ____ day of _____, 20____ Applicant's Signature: _____

Tax Commissioner or Tax Receiver

[☐] APPROVED [☐] DENIED

Board of Tax Assessors

Date



Georgia Department of Revenue

§ 48-5-47 – Applications for Homestead Exemptions of Individuals 65 or older



Georgia Department of Revenue

48-5-47

- **65 years of age or over**
- **Income requirements: may not exceed 10,000 (Georgia Net Income)**
- **County = \$4,000 / School = \$10,000**
- **Application requires SSN**



Georgia Department of Revenue

48-5-47

Income Requirements

- The applicant and the spouse
- Income from retirement sources, pensions, and disability income is excluded up to the maximum amount allowed...under the federal Social Security Act.
- The social security maximum benefit for 2017 is **\$64,488.**



Georgia Department of Revenue

48-5-47

Income Requirements

- **The owner must notify the county tax commissioner if for any reason they no longer meet the requirements for this exemption.**
- **The tax commissioner or receiver shall be authorized to have the statement of income of any applicant verified by the department upon sending the social security number of a claimant to the department.**



Georgia Department of Revenue

§ 48-5-52. Exemption from ad valorem taxation for educational purposes of homesteads of qualified individuals 62 or older



Georgia Department of Revenue

48-5-52

- **62 years of age or over**
- **Income requirements: may not exceed 10,000 (Georgia Net Income)**
- **County = *\$2,000 (Standard)* / School = \$10,000**
- **Application requires SSN**



Georgia Department of Revenue

48-5-52

Income Requirements

- **The owner must notify the county tax commissioner if for any reason they no longer meet the requirements for this exemption.**
- **The tax commissioner or receiver shall be authorized to have the statement of income of any applicant verified by the department upon sending the social security number of a claimant to the department.**



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**48-5-47.1 – Homestead Exemptions for
Individuals 62 or older with annual incomes
not exceeding \$30,000**

aka (Floating Inflation-Proof Exemption)



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48-5-47.1 Over age 62 Homestead Exemptions

- **Exemption from county tax (except bond)**
- **If the appraised value of the home has increased by more than \$10,000**
- **Income not exceeding \$30,000 (Federal Gross Income)**
- **County = “Floating” / School = \$2,000 (Standard)**
- **Must be at least 62 years old**



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48-5-47.1 Over age 62 Homestead Exemptions

- **Base value = value in year prior to year of application**
- **Exemption = current year value – base year**
- **This exemption shall not apply to taxes assessed on improvements to the homestead or additional land that is added to the homestead after January 1 of the base year**



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Disabled Veteran:

1. 100 percent service connected disability or less than 100% but paid at 100% due to unemployability;
2. Disabled due to:
 - the loss of both lower extremities
 - blindness in both eyes, together with the loss of one lower extremity;
 - Loss of one lower extremity together with residuals of organic disease;
3. Constitution of Georgia of 1976;
4. Loss of one lower extremity together with the loss of one upper extremity; or
5. Eligible for assistance in acquiring housing under Section 2101 of Title 38



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48-5-48 Disabled Veteran

- Un-remarried surviving spouse or minor children of disabled veteran
- 2017 Exemption **\$\$77,307**
- County, municipal, school – all of it



"Still the Drums" - American Patriot Pictures, LLC - Copyright 2008 All rights Reserved



Disabled Veteran cont.:

Such amount under federal law is adjusted annually by the United States Secretary of Veterans Affairs for the rate of inflation regarding the average cost of real property construction.



Disabled Veteran cont.:

- **(d) cont.:In the event a disabled veteran who would otherwise be entitled to the exemption dies or becomes incapacitated to the extent that he or she cannot personally file for such exemption, the spouse, the unremarried surviving spouse, or the minor children at the time of the disabled veteran's death may file for the exemption and such exemption may be granted as if the disabled veteran had made personal application therefor.**



Georgia Department of Revenue

Douglas BTA v. Sabrina Bryan ET AL

- **Local Superior Court Decision**
- **Douglas BTA denied an exemption for Veteran's Disability homestead because it was applied for in August 2015, after the April 1 deadline.**
- **The Federal Government did not declare the taxpayer disabled until August retroactive to 2014.**



Georgia Department of Revenue

Douglas BTA v. Sabrina Bryan ET AL

Superior Court found:

- 1. The General Assembly and the people of this state sought to confer unique and special benefits to disabled veterans.**
- 2. The April 1 deadline in O.C.G.A. 48-5-45 does not state that it applies to the Veterans Disability Homestead Exemption; it explicitly applies to the General Homestead Exemption found in O.C.G.A. 48-5-44. Neither is expressly dependent upon the other.**
- 3. The issue is whether the court should establish a deadline for the Veterans Disability Homestead Exemption when the General Assembly and the people by popular vote did not and could have done so. The answer is no.**
- 4. Thus the court granted the full Veterans Disability Homestead Exemption for the 2015 tax year.**



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New 2017

- (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... 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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What if the Veteran never applied for homestead prior?

- The veteran would qualify now and going forward.
- No refund shall be awarded.



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Application: failure to file is a waiver of exemption

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? <input type="checkbox"/> YES <input type="checkbox"/> 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:		Year of Birth:
	Phone Number:		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			



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

- Each resident of the state who is the unremarried surviving spouse of a peace officer or firefighter who was killed in the line of duty is granted an exemption on that person's homestead from all ad valorem taxes for the full value of that homestead.



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§ 48-5-52.1. Exemption from ad valorem taxation...of unremarried surviving spouses of U.S. servicemembers killed in action

- The unremarried surviving spouse of a member of the armed forces who was killed in or died as a result of any war or armed conflict will be granted a homestead exemption from all ad valorem taxes for county, municipal and school purposes in the amount of \$60,000 plus an additional sum.



Georgia Department of Revenue

§ 48-5-52.1. Exemption from ad valorem taxation...of unremarried surviving spouses of U.S. servicemembers killed in action

- The additional sum is determined according to an index rate set by United States Secretary of Veterans Affairs. The amount for 2017 is \$77,307.
- The surviving spouse will continue to be eligible for the exemption as long as they do not remarry



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

- **properties the legal title to which is vested in one or more titleholders if actually occupied by one or more of such owners as a residence**
- **exemptions shall be granted to such properties if claimed in the manner provided by law by one or more of the owners actually residing on such property**
- **exemptions shall also extend to those homesteads the title to which is vested in an administrator, executor, or trustee if one or more of the heirs or cestui que uses residing on such property**



Georgia Department of Revenue

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

- The failure to file properly the application and schedule shall not be cause for waiver of the exemption where such waiver arises because of an administrator's or executor's deed transferring the property to a surviving spouse.
- In the case of a base year assessed value homestead exemption, so long as the surviving spouse otherwise meets the requirements specified for such exemption and makes proper application upon approval of such application the exemption shall be continued with the same base year assessed value as had been established for the deceased spouse of such surviving spouse



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

- (a) It shall be unlawful for any person to:
- (1) Make any false or fraudulent claim for exemption
 - (2) Make any false statement or false representation of a material fact in support of a claim for exemption
 - (3) Assist another knowingly in the preparation of any false or fraudulent claim for exemption
- (b) Any person who violates this Code section shall be guilty of a misdemeanor. In addition, the property **shall** be taxed in an amount double the tax otherwise to be paid.

S1, S4, S6, S5, SG



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Issues:

- Income and disability determinations are difficult.
- Confidential records
- Local legislation tied to state or federal income tax law can affect the property tax digest as income tax laws change
- Homestead audits



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48-5-49. Determination of eligibility of applicant; appeal.

- Official receiving application shall determine eligibility and shall then transfer application to board of tax assessors for final determination.
- Applicant shall have the right of appeal ...provided in 48-5-311.



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Masters v. Dekalb





Georgia Department of Revenue

Masters v. Dekalb

Sandra H. Masters and her husband owned a home in Dekalb County since 1978. They separated in 1992 but were never divorced.

In 1998, Sandra Masters received full title to the Dekalb property and she applied for homestead. Mr. Masters moved to Glynn County and applied for and received homestead there in 2001.

In 2008 Dekalb County BTA removed Sandra Masters homestead and charged her back taxes from 2002 to 2007

The Supreme Court found:

1. A home occupied by a married person separated from his or her spouse may be subject to homestead – but only one exemption is extended to a married couple.
2. Sandra Masters applied for and received homestead since 1998; she had no intention of changing that homestead to Glynn County where her husband resided; The Glynn County exemption request of Mr. Masters should have been denied.
3. The trial court ruling was reversed – and Sandra Masters homestead was determined to be valid.



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CAVEAT 2018 EXEMPTIONS

Qualification requirements for Tax Exempt Properties



Georgia Department of Revenue

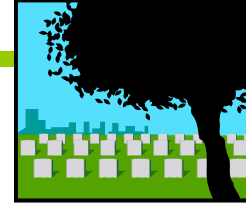


ALL PUBLIC PROPERTY





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All places of burial;





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City of Atlanta v. Crest Lawn





Georgia Department of Revenue

City of Atlanta v. Crest Lawn cont.

- Nonprofit cemetary corporation owning 6 tracts of land. Tract 1 has been developed for burial sites. Tract 1 also has an administration building and maintenance building with tool house.
- The other 5 tracts have not yet been developed and are held for future development for cemetery purposes.
- Tract 1 was found to be exempt from taxation while all other tracts were subject to ad valorem taxes.



Georgia Department of Revenue

City of Atlanta v. Crest Lawn cont.

- The real issues of this case were if undeveloped areas of the property could be exempt.
- Tract 1 also had undeveloped areas which were of historical value since it was the site of one of the last points of defense under General Joe Johnson in the Battle of Atlanta.
- The Court defines a cemetery as a “place where human bodies are buried, and land for use as a cemetery whether occupied by graves or not.”
- When a tract of land has been dedicated as a cemetery, it is devoted to the burial of the dead and may not have any other use.



Georgia Department of Revenue

City of Atlanta v. Crest Lawn cont.

- Georgia Supreme Court states
- “Our civilization has respect for the burying-places of its dead, and one way that this respect is shown is by the exemption of burial places from taxation. One reason perhaps why cemeteries are exempt from taxation is the difficulty of collecting a tax thereon and the obvious impropriety of selling the graves of the dead in order to pay the expenses of carrying on the government of the living.”



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All places of religious worship





Georgia Department of Revenue

Place of Religious Worship

48-5-41. Property exempt from taxation.

(a) The following property shall be exempt from all ad valorem property taxes in this state:

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

(B) **All property owned by and used exclusively as a church.....**

(d) (1) shall not apply to real estate or buildings which are rented, leased, or otherwise used for the primary purpose of securing an income thereon and shall not apply to real estate or buildings which are not used for the operation of religious, educational, and charitable institutions. ...



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Roberts v. Ravenwood Church of Wicca





Georgia Department of Revenue

Roberts v. Ravenwood Church of Wicca cont.

- While some rooms in the home were rented to members of the church. The home itself was still the place for worship. The court had concluded that the tax exemption was not lost since the building is used primarily as a place for worship.
- The court defined religion as a (1) sincere and meaningful belief in God occupying in the life of its possessors a place parallel to that occupied by God in traditional religions, and (2) a dedication to the practice of that belief.
- Not to say only traditional religions qualify. One need look no further than the guarantee of freedom of religion contained in the First Amendment of the United States Constitution.



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Pickens v. Atlanta Baptist Association





Georgia Department of Revenue

Pickens v. Atlanta Baptist Association cont.

- This tract was 640 acres of land in Pickens county. Appealed under the grounds that the property was used as a place of religious worship.
- Several improvements on the property including worship facilities, a dining hall, indoor and outdoor meeting spaces, a swimming pool and ball fields. With 1/3 of the total acreage is unimproved and used for nature walks and outdoor Bible study and meditation.
- The court states that “All of the essential elements of ‘religious worship’ had been shown to exist with reference to the undeveloped land as well as the developed land. Stating that the presence of the omnipotent and omnipresent God cannot be restricted to a mere man made edifice, surely it was not intended to limit the worship of such a God to a building.”



Georgia Department of Revenue

First Congregational Church v. Fulton BTA



- First Congregational purchased a vacant lot for \$250,000; paved 64 spaces; and entered a lease agreement with a private company.
- The church used the lot on Sundays and received rent on the other six days of the week in the amount of \$90,000 per year
- The court of appeals ruled that the property is taxable since the **PRIMARY USE** of the property was **income production**.



Georgia Department of Revenue

Dekalb BTA v. Presbytery of Greater Atlanta

- Presbytery rented to Kingdom Fellowship Christian Church (KFCC) for \$1000/mth
- Market rent was \$5000/mth
- Kingdom Fellowship used the property as a place of religious worship
- BTA taxed the property because it was being used to produce rental income
- Court of Appeals ruled the property was exempt ...**PRIMARY USE** governs the analysis of the exemption as a '**place of religious worship**'





Georgia Department of Revenue



Property owned by religious groups and used for single-family residences - when no income is derived from the property :





Georgia Department of Revenue



All institutions of purely public charity





Institutions of Purely Public Charity

1991 - YORK RITE BODIES V. CHATHAM CO. BOARD OF EQUALIZATION.

In determining whether property qualifies as an institution of "purely public charity" three factors must be considered and must coexist:

1. First, the owner must be an institution devoted entirely to charitable pursuits;
2. Second, the charitable pursuits of the owner must be for the benefit of the public;
3. Third, the use of the property must be exclusively devoted to those charitable pursuits.



Georgia Department of Revenue

Clarke v. Nuci Phillips Foundation

Charitable Purpose

- Safe place where musicians can practice and listen to music, drink coffee and attend support groups for depression.
- Students are referred to low-cost therapy.

Income

- Facility is rented for private birthday parties, wedding receptions and rehearsal space.





Georgia Department of Revenue

Purely Public Charity – amendments

- 2006 – statewide vote...real estate...owned by charity...used exclusively for charitable purpose...may be used for ...securing income...
- 2007 – legislative amendment...a building ...owned by charitable institution that is otherwise qualified as a purely public charity...IRS 501(c)(3)...and not more than 15 acres...may be used for ...securing income...

There are over 80,000 non-profit
501(c)(3) organizations registered to Georgia



Georgia Department of Revenue

HOPE Through Divine Intervention v. Fulton BTA

- HOPE is a non-profit entity that provides housing and self-development services to people with a history of drug abuse, criminal behavior and homelessness.
- They purchased a 'gutted' 40-unit apartment complex and intended to remodel to provide permanent housing to special needs families.
- The Court of Appeals ruled that during the construction phase, the property was taxable since the **USE** of the property **DID NOT** meet the **York Rite test** required for "institutions of purely public charity"





Georgia Department of Revenue

Habitat for Humanity

How does it work?

Through volunteer labor and donations, Habitat builds and rehabilitates simple, decent houses alongside our homeowner (partner) families.

Habitat is not a giveaway program. In addition to a down payment and monthly mortgage payments, homeowners invest hundreds of hours of their own labor (sweat equity) into building their Habitat house and the houses of others.

Habitat houses are sold to partner families at no profit and financed with affordable loans.

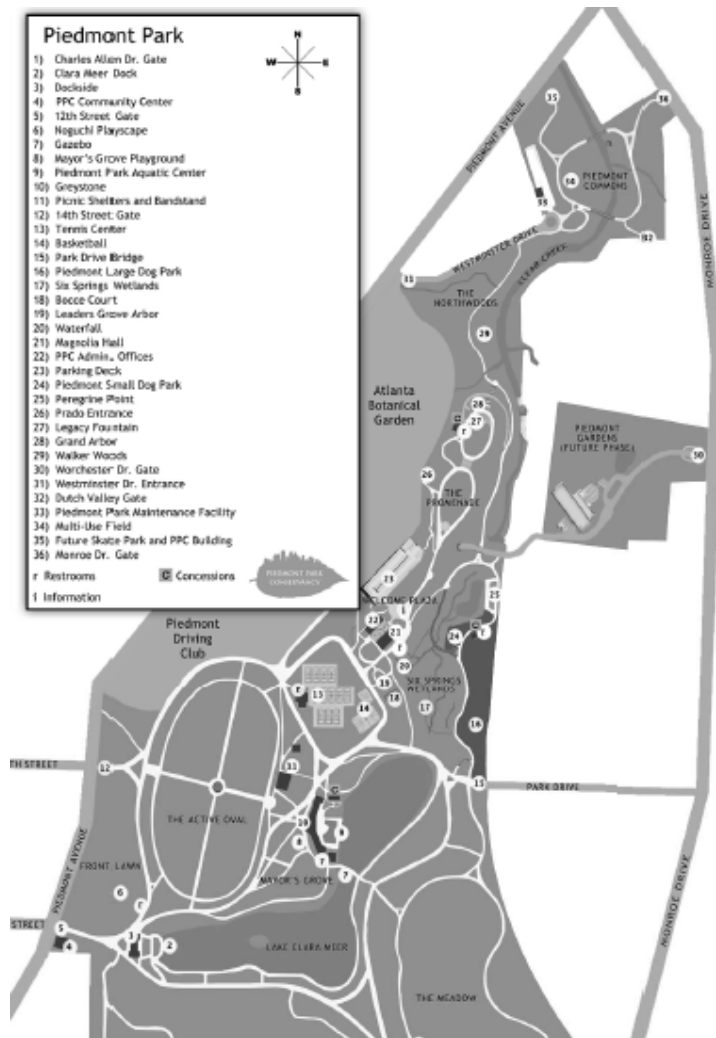
The homeowners' monthly mortgage payments are used to build still more Habitat houses.





Georgia Department of Revenue

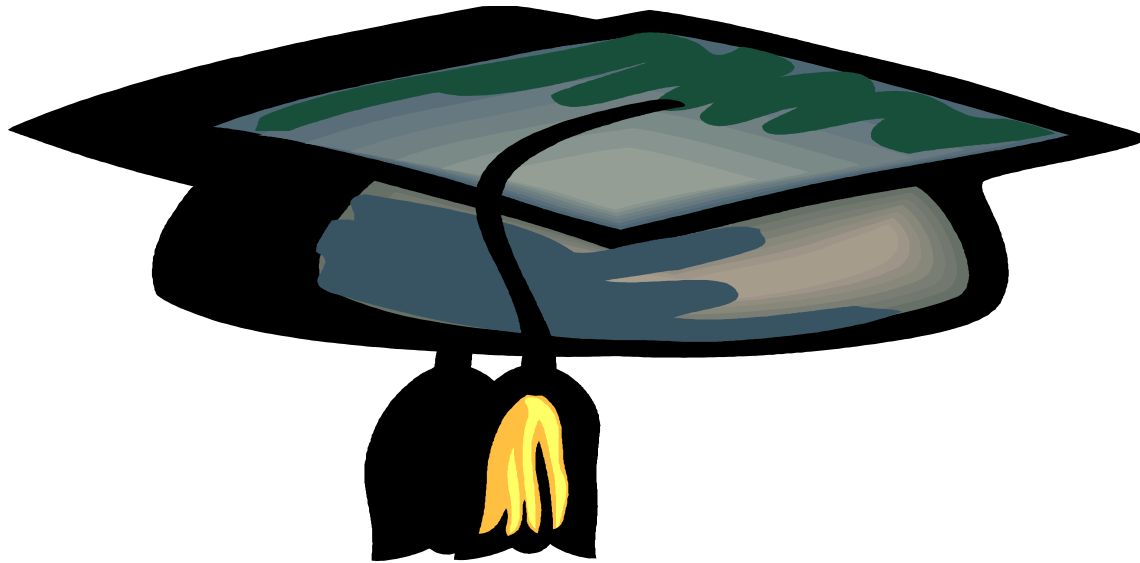
Fulton County BOA v. Piedmont Park Conservancy





Georgia Department of Revenue

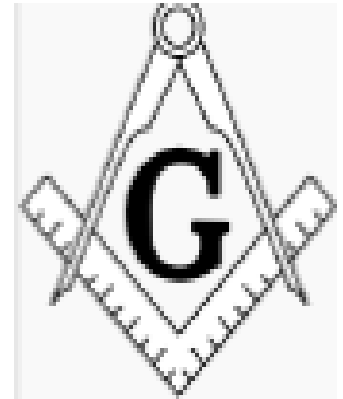
All BUILDINGS erected for and used as a college, incorporated academy, or other seminary of learning





Georgia Department of Revenue

PROPERTY that is owned by an historical fraternal benefit association



“fraternal benefit association” 501(c)(10)

- Representative form of government
- Lodge system with a ritualistic form of work for the meeting of its chapters or subordinate bodies
- Founding organization received its charter from the General Assembly of Georgia prior to January 1, 1880.



Georgia Department of Revenue

Masons – Usually Exempt

