

## ACCG Analysis of the Provisions Impacting Counties in the Tax Council's Report

The Special Council on Tax Reform and Fairness for Georgians was established in accordance with House Bill 1405, which passed during the 2010 legislative session and was signed into law by Governor Sonny Perdue. The Council was charged with reviewing the state's tax structure and making recommendations to the Georgia General Assembly and the Governor. Following several months of public hearings and testimony from organizations such as the Association County Commissioners of Georgia (ACCG), the Council released its final report and recommendations on January 7, 2011.

ACCG strongly encourages county officials to read the entire report of the Council, available [here](#). In addition, ACCG has developed the following summary of recommendations within the final report that pertain to county revenues or that are related to an ACCG policy position.

### SALES TAX

- **Remove the State Sales Tax Exemption on Food for Home Consumption** – With a few exceptions that were eliminated this year, local sales tax has always applied to food for home consumption. This change should not have any positive or negative impact on county revenues.
- **Retain Sales Tax Exemptions for Government** – These exemptions should remain because any sales tax paid by government would have to be funded by taxpayers, most likely through increased property taxes. ACCG supports this recommendation.
- **Eliminate Sales Tax Exemptions for Government Authorities** – If these exemptions are removed, government authorities (e.g. water and sewer, solid waste, economic development, hospital, recreation, airport, transit, building, and housing authorities) will have to increase revenues to cover this new expense. To the extent these revenues are derived from public taxes and fees, the same rationale for exempting general purpose governments should apply here. Most of the services provided through an authority also could be performed under a general purpose government. Exempting general purpose governments but not government authorities will create an incentive to move these functions back under the general purpose government.
- **Exempt Sales Tax on Energy Used in Manufacturing, Mining and Agriculture** – These new exemptions will create a reduction in local sales tax revenues of approximately \$146 million. However, the removal of other exemptions from the tax base and the inclusion of personal services should more than offset this loss of revenue.
- **Eliminate Sales Tax Holidays** – ACCG has historically opposed sales tax holidays and supports this recommendation.
- **Tax Casual Sales of Personal Property (e.g. automobiles, boats and airplanes)** - Adding casual sales to the tax base would have a positive impact on local sales tax revenues of approximately \$106 million. To administratively collect this tax, new responsibilities will be required of the Office of County Tax Commissioner.

- **Tax Personal Services** – Adding personal services to the tax base will increase local sales tax revenues by approximately \$173 million per year. The Tax Council has made a practical choice to include only personal services that are tied to tangible real and personal property, an individual or sales that have an easily defined situs and services provided by vendors that already have a sales tax certificate. ACCG supports this recommendation.
- **Tax E-commerce Transactions** – For many years, ACCG has encouraged Georgia to participate in the National Streamline Sales Tax Compact and has asked Congress to require out-of-state businesses to collect the sales tax on transactions made in participating states. This change would help stop the increasing erosion of the tax base due to the growing number of products that are purchased online, over the phone and/or by catalogue from out-of-state businesses. ACCG supports this recommendation.

## TAX POLICY

- **Require One Year Layover For Tax Legislation Between Introduction and Passage** – ACCG supports this recommendation because changes to the tax code can have a significant impact on government revenues and are difficult to repeal. Additional time is usually required to complete a thorough analysis of the impacts of the proposed change.
- **Establish a Required Sunset for Exemptions and Periodic Review** – This recommendation is supported by ACCG and will help ensure that any narrowing of the sales tax base has a justified public benefit. ACCG believes a broad tax base that allows for a lower tax rate best serves the interest of county taxpayers.

## MOTOR FUEL TAX

The Council's recommendations to convert the 3% prepaid sales tax on motor fuel to a cents per gallon rate to be combined with the existing 7.5 cent per gallon rate, and adjusting this rate annually by the Highway Construction Index will provide greater revenue stability and more predictable growth through the indexing of the tax. This change should help GDOT correct its structural deficit and better position it to match federal funds. This proposed change will not impact the local sales tax charged on motor fuel.

## INSURANCE PREMIUM TAX

The state's general insurance premium tax rate is 2.25%. Local insurance premium taxes add an additional 1% for life insurance companies and 2.5% for non-life insurance companies. The combined state and local rate after available credits is 4.75% for non-life insurance companies and is the third highest in the country. Currently the local insurance premium taxes generate approximately \$423 million per year. The Council recommends reducing the combined state and local tax rate on life and property and casualty insurance to 1.75%. There is not a specific recommendation for the amount of reduction that should occur to the local rate. The loss of revenues cannot be offset through increase to local sales tax revenues because the local sales taxes are legally restricted to purposes other than the purposes for local insurance premium tax revenues. Counties must spend their local insurance premium tax revenues for services benefiting primarily the unincorporated residents of the county or to provide an additional roll

back on the property tax bill of unincorporated residents. Any offsetting revenue would have to be used for the primary benefit of the unincorporated area of the county.

## COMMUNICATIONS SERVICES TAX

The dynamic and rapidly changing environment of the telecommunications industry has created tax inequities among service providers. The current tax system treats each technology differently, even though the end product to the consumer is the same. The Council's proposal to eliminate existing local and state taxes and franchise fees on telecommunications services and replace them with a flat 7% excise tax is an appropriate and necessary change. A "hold harmless" provision will ensure local governments receive an amount of reimbursement equal to or greater than what is currently generated from existing taxes on telecommunications services. The expansion of the tax base should produce additional revenue for counties. The primary concern for counties will be the method in which the excise tax is created. To ensure these revenues cannot be redirected by the state, there should be a separate local excise tax that is adopted through a local ordinance.

## OTHER RECOMMENDATIONS

- **Establish a Commission to Study Local Property Taxation Policy** - ACCG has advocated for a comprehensive study of the property tax system and has participated in several legislative studies over the past few years. Most recently, the State Senate studied the assessment and appeals procedures and made several recommendations that resulted in the passage of SB 346 last year. These changes will go into effect for the first time this year and will most likely require modifications to the law next year based upon what is learned from the enactment of the new provisions. ACCG will continue to work with the legislature to make appropriate and beneficial changes to the property tax laws.
- **Allow Counties to Use SPLOST Funds for Operations in Exchange for an Equal Reduction in Business Inventory Tax or Other Property Taxes** - Local governments receive approximately \$250 million per year in business inventory tax revenues. A portion of business inventory is already exempt from property tax in counties that have implemented the Freeport exemption. To continue to reduce or eliminate business inventory tax, counties should have the flexibility to expand Freeport beyond its current scope. The Tax Council's recommendation to utilize SPLOST as a replacement source of revenue would require careful study and could not be implemented until it is approved in a future SPLOST referendum. ACCG's policy position currently calls for up to 5% of SPLOST to be available for operations.
- **Facilitate Increased Cooperation Between the Department of Revenue (DOR) and Local Government in the Remittance, Accounting and Auditing of Local Sales Taxes** - ACCG supports the Council's recommendation for DOR to work more closely with local government to collect sales tax. Through cooperation and sharing of information, both the state and local governments will increase sales tax revenues by increasing collection compliance. Local governments know their businesses better and have resources that can be used by the state to improve compliance.



## Appendix: ACCG Policy Positions

**Comprehensive Tax Reform** – ACCG supports the modernization of Georgia's tax system. The current property and sales tax laws have not been updated to function appropriately within today's economy. Local governments and schools have also relied too heavily on property tax without sufficient revenue alternatives available to them.

In order to update the system, all property and sales tax exemptions should be reviewed and every exemption that fails to provide a legitimate benefit to the entire state's economy should be eliminated. All services should also be evaluated to determine which ones can be incorporated into the sales tax base. Once additional revenue sources are identified, property tax relief can be granted in a variety of ways.

New state sales taxes generated from the expanded sales tax base should be partially used to shift the burden away from property owners by implementing a refundable income tax credit for taxpayers that have a homestead property tax liability that exceeds a reasonable percentage of their income. These changes will ensure that no one is forced to sell their property because of the tax burden.

The property tax system should also be improved by allowing taxpayers to spread their payments out over several months or receive a discount for early payment. The digest preparation process, including the appeals process, should be improved and simplified to make the administration of the tax more efficient and more uniform across the state.

To prevent future exemptions and mandates that unfairly shift more tax burden down to the local property taxpayer, the state should require legislation financially impacting local governments to layover one year and be extensively evaluated for its impact. Funding for state mandates should be paid from state revenues and not local revenues. Any exemptions requiring approval by referendum should notify the voter of the likely shift in tax burden that will result from passage. The property tax is an important component of the overall local revenue structure and should be reformed but not eliminated.

**Sales Tax to Offset Property Tax** – Counties support more options and additional flexibility to utilize local sales tax to further reduce their reliance on property tax. On average, about 22% percent of a county's revenues come from sales tax. Property taxes make up 40 percent or more of the counties revenues. Additional sales tax revenues could be generated by expanding the sales tax base. Georgia currently has 110 exemptions in the sales tax code reducing the potential local sales tax revenue by \$2,046.9 million. Georgia also only taxes approximately 36 services out of a potential 168 services. The service sector is the fastest growing segment of the economy yet is largely exempt from sales tax. Counties can only levy up to two percent county sales tax and may participate in an additional one percent regional sales tax for transportation. ACCG asks the General assembly to help counties reduce their reliance on property tax by expanding the existing sales tax base through reductions in exemptions and including services. Commissioners should also be granted greater flexibility to determine the appropriate local sales tax rate for their county.

**Sales Tax Exemptions** – ACCG opposes sales tax exemptions for special interests. These exemptions erode the sales tax base and create more tax volatility. Most counties rely on sales tax as a primary revenue source for capital projects and property tax relief. Without a stable sales tax system counties will experience difficulty in budgeting for capital projects and have to rely more heavily on property tax to fund county services. ACCG further opposes sales tax caps and thresholds because they add to the complexity of the sales tax system and will make it more difficult for Georgia to require companies located outside of Georgia to collect sales tax on purchases made by Georgia residents over the internet or through catalogues.

**Sales Tax on Remote Sales** – The existing state and local sales and use tax system is unnecessarily complex and burdensome. Because of this complexity, remote sellers doing business through the Internet and mail are not collecting sales and use taxes. The General Assembly should not wait for Congress to act before amending Georgia's sales tax laws to conform to the National Streamlined Sales Tax Project. Many large retailers have decided to voluntarily collect sales tax in the fifteen states that have already streamlined their sales tax laws. The additional revenue the state and local governments in Georgia would collect from voluntarily complying retailers would be substantial.

**Local Tax Collections** – A lack of compliance in sales tax collections and payments penalizes the businesses that are following the rules and taxpayers who make up the revenue shortfall through higher tax rates. The Department of Revenue currently lacks adequate resources to enforce compliance. The ratio of audits to accounts is very low and has sometimes led to the perception that it is easy to avoid or misreport collections in Georgia without fear of penalty. Local governments receive very little information about their sales tax collections from the Department of Revenue and have almost no ability to assist the state with collection compliance. To ensure state and local resources are shared efficiently to maximize tax collection compliance, ACCG asks the General Assembly to create a DOR Advisory Council made up of local elected officials and business leaders from geographic districts throughout the state. The advisory council would serve as a liaison between DOR and the local government and business stake holders and ensure that a partnership is created for the collection of taxes.