

## Title Ad Valorem Tax

### O.C.G.A. Section 48-5C-1

#### Created by HB 386 (2012 Session) and Amended by HB 266 and HB 463 (2013 Session)

Tax reform legislation (HB 386) passed by the General Assembly in 2012 and amended in 2013 created a new system for taxing motor vehicles. Beginning March 1, 2013, state and local sales tax are no longer applied to the purchase of a vehicle. Also, annual ad valorem tax is eliminated on vehicles that transfer ownership after this date, except in the case of a transfer to an immediate family member where a title ad valorem tax has not been paid before. The sales tax and annual ad valorem tax is replaced with a one-time state and local title ad valorem tax (TAVT) paid when the ownership of a vehicle is transferred, except in the case of a transfer to an immediate family member. The new TAVT is collected by the county tax commissioner and dispersed to the state, county, school district and cities based upon the formulas prescribed by law. The following are the most common questions about the new system for taxing vehicles in Georgia.

#### **1. What vehicles are subject to the new TAVT?**

All new and used vehicles purchased through a dealership or from a private individual. Also, vehicles transferred to Georgia from another state and any vehicle transferred to a family member where the TAVT has not previously been paid and the new owner elects to come under the new system to avoid future annual ad valorem tax on their vehicles.

#### **2. How is fair market value determined?**

- The fair market value for a new vehicle is the higher of the retail selling price or the Department of Revenue (DOR) motor vehicle valuation data base or the purchase price listed on the bill of sale less any reduction for the trade-in value of another motor vehicle and any rebate or any cash discounts provided by the selling dealer and taken at the time of sale.
- The fair market value for a used vehicle is the same as the value identified in the Georgia DOR motor vehicle valuation data base calculated by averaging the current wholesale and retail values of the motor vehicle pursuant to O.C.G.A. § 48-5-442 less any reduction for the trade-in value of another motor vehicle. For a used vehicle that is not listed in the DOR data base, the fair market value is the greater of the value from the bill of sale or the value from a reputable used car market guide designated by the state revenue commissioner should be used less any reduction for the trade-in value of another motor vehicle.

#### **3. How is the trade-in value determined?**

The "trade-in value" is the value of the motor vehicle as stated in the bill of sale for a vehicle which has been traded in to the dealer in a transaction involving the purchase of another vehicle from the dealer.

**4. What is the penalty for falsifying a bill of sale?**

Once the county asks the state revenue commissioner to determine if a bill of sale was falsified, the state revenue commissioner has 60 days to make a final determination and if it is determined that the bill of sale was falsified a state penalty of up to \$2,500 and a local penalty of up to \$2,500 may be imposed.

**5. What is the TAVT rate?**

For the period from March 1, 2013 until December 31, 2013, the TAVT rate is 6.5%. For the period from January 1, 2014 through December 31, 2014, the TAVT rate is 6.75%. For the period from January 1, 2015 through December 31, 2015, the TAVT rate is 7.0%. For future years 2015, 2018 and 2022 the rate may be adjusted if revenues do not equal or exceed the state target collection amount (\$535 million), but in no event can the rate exceed 9%. There are some exceptions to the standard TAVT tax rate for rental vehicles, salvage vehicles and Buy-Here-Pay-Here vehicle purchases. These tax rates are discussed later in this document.

**6. How is the TAVT calculated?**

The fair market value of the vehicle (defined in question 2) is multiplied by the TAVT rate (defined in question 4).

**7. Where do I apply for my title and pay the TAVT?**

The application for title and TAVT payment must be submitted to the county in which the purchaser registers the vehicle (i.e. county of residence). The TAVT must be paid at the time application for title and registration are made. If the vehicle is purchased at a dealership, the dealer will accept the application for title and TAVT payment and deliver the title application and TAVT payment to the tax commissioner where the customer will register the vehicle.

**8. Is it possible to go to the Department of Revenue Motor Vehicle Division Headquarters to transfer a title?**

As of March 1, 2013, transfer of ownership for titled vehicles must be taken to the county tax commissioner in the new owner's county of residence. The only titles that will be issued from DOR MVD Headquarters are salvage titles, replacement titles, and title corrections.

**9. Can the vehicle value be appealed?**

Yes, the value can be appealed to the county board of tax assessors in the same manner as values for ad valorem tax purposes are appealed. The county tax commissioner also has the authority to make adjustments to the value of a used vehicle based upon the vehicles condition and mileage. Before the value is appealed, the full amount of TAVT must be paid. If the appeal is successful, a refund of the amount overpaid will be made by the county tax commissioner.

**10. What mechanism is in place to share TAVT with local governments (county, city and school) and make sure that local revenues are not negatively impacted?**

The TAVT is split between local and state government on a percentage sliding scale that will be adjusted annually through 2022. The local share is much smaller during the initial implementation because annual ad valorem tax will continue to be collected on vehicles that were purchased prior to March 1, 2013 as long as they are retained by the owner. The following chart demonstrates how the local share will be adjusted annually.

| <b>Tax Year</b>   | <b>Tax Rate</b> | <b>State Share of TAVT</b> | <b>Local Share of TAVT</b> |
|-------------------|-----------------|----------------------------|----------------------------|
| 3/1/2013-12/31/13 | 6.5%            | 57%                        | 43%                        |
| 2014              | 6.75%           | 55%                        | 45%                        |
| 2015              | 7%              | 55%                        | 45%                        |
| 2016              | 7%              | 53.5%                      | 46.5%                      |
| 2017              | 7%              | 44%                        | 56%                        |
| 2018              | 7%              | 40%                        | 60%                        |
| 2019              | 7%              | 36%                        | 64%                        |
| 2020              | 7%              | 34%                        | 66%                        |
| 2021              | 7%              | 30%                        | 70%                        |
| 2022+             | 7%              | 28%                        | 72%                        |

There are also safeguards built into the law so that the TAVT rate and the percentage share of revenue allocated between the state and locals can be adjusted up or down depending on the overall revenues collected. Beginning in 2016 and continuing through 2022, the state revenue commissioner will calculate the local target collection amount (beginning at \$1 billion and increasing two percentage points per year until 2022) and the local current collection amount (the preceding years' total of both old system and new system revenues on motor vehicles). If the local collection amount is equal to or within 1% of the local target collection amount, then rates remain unchanged. If the local collection amount exceeds the local target collection amount by more than 1%, then the local share of TAVT is reduced to a percentage equivalent that would yield the local target collection amount. If the local collection amount is less than the local target collection amount by more than 1%, then the local percentage of TAVT is increased to a level that would generate the local target collection amount.

**11. Where is the tax paid?**

The TAVT must be paid to the tax commissioner in the county where the vehicle is registered. Vehicle dealers may collect the tax from the purchaser and submit the tax along with the title application to the tax commissioner of the county where the vehicle is to be registered. Dealers will no longer be able to process titles in the county where the dealership is located if the purchaser is registering the vehicle in another county.

**12. What happens if the TAVT is not timely remitted to the county tax commissioner?**

If the purchase is made at a dealership, the dealer has 30 days from the date of purchase to remit the title application and TAVT payment to the county tax commissioner. If remitted later than 30 days from the date of purchase, the dealer is liable for 5% of the TAVT owed plus an

additional 5% for each additional month the payment has not been remitted up to 25%.

For non-dealer sales, i.e. a “casual sale”, the buyer must remit the application for title and the TAVT payment within 30 days of the purchase of the vehicle to the county tax commissioner. If paid later than 30 days there will be a penalty of 10% of the amount of the TAVT owed plus an additional 1% per month for every month late.

**13. How are the revenues dispersed by the county tax commissioner to the state and local governments?**

Within 20 days following the end of each calendar month, the tax county commissioner will send to DOR the state’s portion of the TAVT minus a 1% administrative fee deducted from the state’s share of the revenue. The remaining local TAVT, after deducting the normal commission for collecting ad valorem taxes, will be distributed first to the county, school district and each city in an amount equal to the difference between the vehicle ad valorem taxes each entity received for that month in 2012 minus the vehicle ad valorem taxes each entity received for the current year. After the difference in ad valorem tax revenues has been dispersed, the remaining local TAVT revenues will be divided between the local governments based upon their proportionate share of local sales tax as follows:

- The school district will receive 1/3 of the remaining proceeds unless they have an Education Local Option Sales Tax (ELOST) and an Education Special Purpose Local Option Sales Tax (ESPLOST) in which case they will receive 2/3 of the remaining revenue.
- In counties without an ELOST, 1/3 of the remaining revenue will be divided between the county and its cities based upon the proportionate share of county and city Local Option Sales Tax (LOST) or a Homestead Option Sales Tax (HOST). If the county does not have a LOST or a HOST then 1/3 will be divided with the cities based upon residential population.
- The final 1/3 of the remaining revenue will be divided between the county and its cities based upon the Special Purpose Local Option Sales Tax (SPLOST) agreement or will go to MARTA if the county has the 1% MARTA tax. If the county does not have a SPLOST or MARTA tax, then the final 1/3 will be divided between the county and its cities based upon the expired SPLOST agreement if the previous SPLOST has been expired 12 months or less or based upon the LOST agreement (resident population if there is not a LOST) if the previous SPLOST has been expired more than 12 months.
- For counties that have a fourth local option sales tax (Transportation Local Option Sales Tax (TSPLOST), Atlanta Water and Sewer Tax or the Columbus LOST 2), there is not a provision for allocating a share of TAVT in accordance with the fourth local sales tax.

**14. What administrative fee for collections can the county tax commissioner deduct from the TAVT allocated to other governments?**

- An administrative fee of 1% is withheld from the TAVT proceeds sent to the state (this fee is forfeited if the county tax commissioner does not remit the state TAVT proceeds timely)
- A 2.5% administrative fee is withheld from the TAVT proceeds going to the school system unless a lower rate was set through local legislation of the General Assembly
- When a municipality levies a “traditional” ad valorem tax on motor vehicles, the appropriate 6% to 1.75% or the contracted amount is withheld from TAVT proceeds sent to the municipality

**15. Are the local TAVT proceeds required to be used for the legally mandated purposes of the local sales tax they are replacing?**

No, local TAVT proceeds are deposited in the local governments general fund and do not have to be used for the purposes of the local sales taxes (e.g. capital project and tax relief). In effect, this change allows the local governments to convert a portion of their local sales tax revenues to an unrestricted general operating revenue.

**16. How should the county account for the TAVT revenues?**

All TAVT revenues should be deposited into the county’s general fund under the TAVT account.

**17. Will cities always get a portion of the TAVT revenues?**

Cities that do not levy a property tax may get a share of TAVT if they share in the local sales tax and there is TAVT remaining after the vehicle property taxes have been reimbursed at 2012 levels.

**18. Can authorities or special districts that received vehicle sales tax or ad valorem tax under the prior law receive a portion of the new TAVT?**

No, TAVT attributable to an authority or special district that previously received SPLOST or a dedicated millage must be included in the TAVT distribution to the county. The county governing authority, through their appropriation powers, must decide whether or not to share a portion of the county TAVT with the authority.

**19. Can the owner of a vehicle purchased prior to March 1, 2013 avoid payment of future ad valorem taxes on their vehicle?**

If the vehicle was purchased between January 1, 2012 and March 1 2013, the owner can choose to pay the difference if the title tax owed is greater than the amount of state and local sales tax

and ad valorem tax previously paid between January 1, 2012 and March 1, 2013. This option must be exercised before February 28, 2014.

**20. Will TAVT revenues replace TSPLOST revenues?**

No. TSPLOST is subject to the sales tax exemption but is not included in the distribution formula for allocating TAVT.

**21. Does a person who inherits or receives a vehicle from an immediate family member have to pay the TAVT?**

Vehicle titles transferred between family members, including spouses, parents, children, siblings, grandparents or grandchildren, will be handled as follows:

Vehicles owned prior to March 1, 2013: The family member who is titling the vehicle has the option to pay the full TAVT or continue to pay the annual ad valorem tax under the old system.

Vehicles purchased on or after March 1, 2013: The family member who is titling the vehicle is subject to a reduced TAVT at a rate of .05%.

**22. How will the county tax commissioner determine if the person receiving transfer is an immediate family member?**

The relationship between the transferor and transferee must be a spouse, parent, child, sibling, grandparent or grandchild. Both parties to the transfer will have to complete an affidavit affirming that they are immediate family members. Anyone who falsely attests shall be subject to a state penalty up to \$2,500 and a local penalty up to \$2,500

**23. Are owners of vehicles that have paid the TAVT subject to the \$18 title application fee and the annual \$20 registration fee?**

Yes

**24. Is someone moving into the state required to pay a TAVT on their vehicle(s)?**

Yes, 50 % of the TAVT must be paid within 30 days of moving to the state and the remaining 50 % must be paid within the next 12 months.

**25. Are vehicles purchased in another state by a Georgia resident subject to the TAVT?**

Yes

**26. Are vehicles on a multi-year lease subject to the TAVT?**

Yes, the company leasing the vehicle will have to pay the TAVT and build the cost of the tax into the customer's monthly lease payment. The use tax will no longer apply to the monthly lease payment.

**27. Are companies that rent or lease vehicles (designed to carry 15 or fewer passengers) for short durations (less than 31 days) subject to the TAVT?**

Yes, however, if the sales taxes paid on the vehicle in the immediate preceding calendar year is \$400 or greater, then the TAVT rate is reduced to 1.25% of the fair market value.

**28. How are Buy Here Pay Here (seller financed sales of used vehicles) sales taxed?**

The state revenue commissioner is authorized to adopt rules and regulations to implement a TAVT for Buy Here Pay Here that is 2.5 percentage points less than the regular TAVT rate.

**29. Are trailers subject to the TAVT?**

No, only motorized vehicles are subject to the tax. Sales tax and annual ad valorem tax will continue to apply to trailers.

**30. Are salvage vehicles subject to the TAVT?**

Yes, but the TAVT rate is reduced to 1% of the salvage vehicle's fair market value and will not be shared by the state with local governments.

**31. Are commercial trucks titled and registered under the International Registration Plan (IRP) subject to the TAVT?**

No, these trucks will continue to pay the annual ad valorem tax and beginning January 1, 2014 they will be taxed according to the new local alternative ad valorem tax based upon a proration of miles driven in Georgia (HB 463 – 2013 Session)

**32. Are vehicles donated to a charity subject to the TAVT?**

If a vehicle is donated to a 501 (c)(3) charity for the purpose of being transferred to another person, then that charity shall only pay a state title tax equal to 1% of the fair market value of the motor vehicle.

**33. Does the TAVT apply when a title is corrected, replaced or reissued to the same owner?**

No

**34. Will a person that has eliminated the annual vehicle ad valorem tax by paying the TAVT be subject to the title processing fee and annual registration fees?**

Yes

**35. Are vehicles owned by veterans exempt from the TAVT?**

Veterans that were previously exempt from ad valorem tax are also exempt from the TAVT (Disabled, POW, Purple Heart and Medal of Honor).

**36. Does the TAVT apply to vehicles transferred with a model year between 1963 and 1985 that were not required to be titled ?**

If the owner has elected to title the vehicle, they will pay a reduced TAVT at a rate of 1% of the vehicles fair market value.

**37. What other vehicles are not subject to the TAVT?**

Non-titled vehicles and vehicles that do not meet the statutory definition of a motor vehicle will continue to pay the annual ad valorem tax. For example, the following do not qualify as titled vehicles:

- Trailers
- Pull-behind campers
- Any vehicle for which a title cannot be issued, such as vehicles manufactured prior to 1963
- 1963 -1985 year model vehicles that do not have a current Georgia title

**38. Since the TAVT is a one-time ad valorem tax, will it be an allowable itemized deduction on your income tax?**

No, to be deductible as a 'personal property tax', one of the conditions is that the tax is charged on a yearly basis. The new title tax is a one-time tax that does not meet this test. Please consult IRS Publication 17 or a tax adviser.