

O.C.G.A. § 48-5-7

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**Official Code of Georgia Annotated TITLE 48 Revenue
and Taxation (Chs. 1 — 18) CHAPTER 5 Ad Valorem
Taxation of Property (Arts. 1 — 13) Article 1 General
Provisions (§§ 48-5-1 — 48-5-34)**

48-5-7. Assessment of tangible property.

(a) Except as otherwise provided in this Code section, taxable tangible property shall be assessed at 40 percent of its fair market value and shall be taxed on a levy made by each

respective tax jurisdiction according to 40 percent of the property's fair market value.

(b) Tangible real property which is devoted to bona fide agricultural purposes as defined in this chapter and which otherwise conforms to the conditions and limitations imposed in this chapter shall be assessed for ad valorem property tax purposes at 75 percent of the value which other tangible real property is assessed and shall be taxed on a levy made by each respective tax jurisdiction according to said assessment.

(c) Tangible real property which qualifies as rehabilitated historic property pursuant to the provisions of Code Section **48-5-7.2** shall be assessed at 40 percent of its fair market value and shall be taxed on a levy made by each respective tax jurisdiction according to 40 percent of the property's fair market value. For the purposes of this subsection, the term "fair market value" shall mean the fair market value of rehabilitated historic property pursuant to the provisions of subparagraph (C) of paragraph (3) of Code Section 48-5-2.

(c.1) Tangible real property which qualifies as landmark historic property pursuant to the provisions of Code Section **48-5-7.3** shall be assessed at 40 percent of its fair market value and shall be taxed on a levy made by each respective tax jurisdiction according to 40 percent of the property's fair market value. For the purposes of this subsection, the term "fair market value" shall mean the fair market value of landmark historic property

pursuant to the provisions of subparagraph (D) of paragraph (3) of Code Section 48-5-2.

(c.2) Tangible real property which is devoted to bona fide conservation uses as defined in this chapter and which otherwise conforms to the conditions and limitations imposed in this chapter shall be assessed for property tax purposes at 40 percent of its current use value and shall be taxed on a levy made by each respective tax jurisdiction according to 40 percent of the property's current use value.

(c.3) Tangible real property located in a transitional developing area which is devoted to bona fide residential uses and which otherwise conforms to the conditions and limitations imposed in this chapter for bona fide residential transitional property shall be assessed for property tax purposes at 40 percent of its current use value and shall be taxed on a levy made by each respective tax jurisdiction according to 40 percent of the property's current use value.

(c.4) Tangible real property which qualifies as brownfield property pursuant to the provisions of Code Section **48-5-7.6** shall be assessed at 40 percent of its fair market value and shall be taxed on a levy made by each respective tax jurisdiction according to 40 percent of the property's fair market value. For the purposes of this subsection, the term "fair market value" shall mean the fair market value of brownfield property pursuant to the provisions of subparagraph (F) of paragraph (3) of Code Section 48-5-2.

(c.5) Tangible real property which qualifies as forest land conservation use property pursuant to the provisions of Code Section **48-5-7.7** shall be assessed at 40 percent of its forest land conservation use value and shall be taxed on a levy made by each respective tax jurisdiction according to 40 percent of the property's forest land conservation use value.

(c.6) Tangible real property which qualifies as qualified timberland property in accordance with the provisions of Article 13 of this chapter shall be assessed at 40 percent of its fair market value of qualified timberland property and shall be taxed on a levy made by each respective tax jurisdiction according to 40 percent of its fair market value of qualified timberland property as such value is determined by the commissioner in accordance with Article 13 of this chapter.

(d) The requirement contained in this Code section that all tax jurisdictions assess taxable tangible property at 40 percent of fair market value shall not apply to any tax jurisdiction whose ratio of assessed value to fair market value exceeded 40 percent for the tax year 1971. No tax jurisdiction so exempted shall assess at a ratio of less than 40 percent except as necessary to effect the preferential assessment provided in subsection (b) of this Code section.

(e) Each notice of ad valorem taxes due sent to taxpayers of counties and municipalities shall include both the fair market value of the property of the taxpayer which is subject to taxation

and the assessed value of the property after being reduced as provided by this Code section.

History

Ga. L. 1851-52, p. 288, § 14; Code 1863, § 734; Code 1868, § 801; Code 1873, § 804; Code 1882, § 804; Civil Code 1895, § 770; Ga. L. 1909, p. 36, § 1; Civil Code 1910, § 1010; Code 1933, § 92-5703; Ga. L. 1968, p. 358, § 2; Ga. L. 1972, p. 1102, § 1; Ga. L. 1975, p. 1083, § 1; Ga. L. 1976, p. 518, § 1; Code 1933, § 91A-1019, enacted by Ga. L. 1978, p. 309, § 2; Ga. L. 1979, p. 5, § 26; Ga. L. 1983, p. 1850, § 2; Ga. L. 1989, p. 1585, § 2; Ga. L. 1990, p. 1122, § 2; Ga. L. 1991, p. 1903, § 4; Ga. L. 1992, p. 6, § 48; Ga. L. 2003, p. 170, § 2; Ga. L. 2018, p. 119, § 3/HB 85.

▼ Annotations

Notes

Editor's notes.

Ga. L. 1983, p. 1850, § 1, effective April 8, 1983, not codified by the General Assembly, provided that: "It is the intent of this Act to implement certain changes imposed by Article VII, Section I, Paragraph III, subparagraph (c) of the Constitution of the State of Georgia."

Ga. L. 1983, p. 1850, § 4, effective April 8, 1983, not codified by the General Assembly, provided that that Act (§ 2 of which amended this Code section) "shall apply to all tax years beginning on or after January 1, 1984."

Ga. L. 1991, p. 1903, § 15, not codified by the General Assembly, provides that the amendment to this Code section shall be applicable beginning January 1, 1992, with respect to ad valorem taxation of timber and shall be applicable beginning January 1, 1992, for all other purposes. Taxation for prior periods shall continue to be governed by prior law.

The state-wide referendum (Ga. L. 2002, p. 1017, § 2), which would have added a new subsection (c.4), relating to exemption from ad valorem taxation for commercial dockside facilities, was defeated at the November 2002, general election.

Ga. L. 2018, p. 119, § 7/HB 85, not codified by the General Assembly, provides, in part, that the addition of subsections (c.5) and (c.6) to this Code section shall become effective on January 1, 2019, only if an amendment to the Constitution of Georgia is ratified at the November, 2018, general election modifying constitutional prescriptions for forest land conservation use property and related assistance grants, permitting the withholding of a portion of assistance grants to provide for certain state administrative costs, and establishing qualified timberland property as a subclassification of tangible property for purposes of ad valorem taxation. The constitutional amendment was approved by a majority of the qualified voters voting at the general election held on November 6, 2018.

JUDICIAL DECISIONS

Statute is not unconstitutional for vagueness of the term “fair market value.” *Chilivis v. Backus*, 236 Ga. 88, 222 S.E.2d 371, 1976 Ga. LEXIS 774 (1976).

Constitutionality. —

Setting the assessed value of tangible property at 40 percent of fair market value is not in conflict with the Georgia Constitution. *Salem v. Tattnall County*, 250 Ga. 881, 302 S.E.2d 99, 1983 Ga. LEXIS 681 (1983).

Department of Natural Resources certification not required within two-year time frame. —

Under O.C.G.A. § **48-5-7.2**, an owner needed only to complete the rehabilitation of property within 24 months in order to be allowed to apply for and obtain certification of the property as rehabilitated historic property for purposes of preferential assessment under O.C.G.A. § **48-5-7(c)** and there was no statutory basis that the owner obtain final certification from the Department of Natural Resources within that two year time frame. *Chatham County Bd. of Tax Assessors v. Emmoth*, 278 Ga. 144, 598 S.E.2d 495, 2004 Ga. LEXIS 538 (2004).

Assessment procedures upheld. —

Assessment of property at 40% of value did not violate the constitutional requirement of uniformity, even though statistical evidence showed the average level of assessment of other property to be 38.84% of fair market value or lower. *Bellsouth Telecommunications, Inc. v. Henry County Bd. of Assessors*, 217 Ga. App. 699, 458 S.E.2d 705, 1995 Ga. App. LEXIS 567 (1995), cert. denied, No. S95C1673, 1995 Ga. LEXIS 1058 (Ga. Oct. 2, 1995).

Construction with other provisions. —

Words “assessed value” in Ga. Const. 1945, Art. VIII, Sec. XII, Para. I (see now Ga. Const. 1983, Art. VIII, Sec. VI, Para. I) mean the correctly assessed value, that is, the assessed value approved by the commissioner, not an

incorrectly assessed value. Board of Comm'rs v. Allgood, 234 Ga. 9, 214 S.E.2d 522, 1975 Ga. LEXIS 1003 (1975).

Because a beneficial property owner only benefitted from a lower ad valorem tax in proportion to the interest owned in the property, the trial court did not err in granting summary judgment to a corporation, as approval of preferential ad valorem tax treatment for property co-owned by the shareholders of the corporation by a tenancy in common did not violate O.C.G.A. § 48-5-7.4(b)(3), as an individual's benefit was to be determined on a pro-rata basis; thus, if the interests of shareholders who were tenants in common of the property were so calculated, no single shareholder would have benefitted from current use assessment as to more than 2,000 acres. Effingham County Bd. of Tax Assessors v. Samwilka, Inc., 278 Ga. App. 521, 629 S.E.2d 501, 2006 Ga. App. LEXIS 362 (2006).

Under O.C.G.A. § 48-5-7.4, the owners of "bona fide conservation use property," including property used for certain agricultural purposes and meeting other statutory criteria and conditions, may apply to the county board of tax assessors for "current use assessment" of their property for purposes of calculating ad valorem taxes. If the application is granted, the property is assessed for tax purposes at 40 percent of the property's "current use value" instead of 40 percent of the property's "fair market value," under O.C.G.A. § 48-5-7(a) and (c.2), thus resulting in tax savings. Morrison v. Claborn, 294 Ga. App. 508, 669 S.E.2d 492, 2008 Ga. App. LEXIS 1262 (2008).

Court erred by failing to make necessary findings as to business operated on property. —

Trial court erred by holding that operating a commercial grain business on property designated conservation use property under O.C.G.A. § 48-5-7.4 did not constitute a breach of the conservation use covenant because the court failed to make any findings as to whether the grain business was incidental and not detrimental to the qualifying use of the property. Terrell County Bd. of Tax Assessors v. Goolsby, 324 Ga. App. 535, 751 S.E.2d 158, 2013 Ga. App. LEXIS 879 (2013).

All property to be returned at fair market value. —

Basic requirement, whether the property is returnable to the comptroller general (now commissioner) or to the tax receivers of the several counties, is that all property shall be returned and assessed at the property's fair market value. *Ogletree v. Woodward*, 150 Ga. 691, 105 S.E. 243, 1920 Ga. LEXIS 298 (1920).

Property is not ordinarily deemed as taxed until tax has been levied since the word "taxation" ordinarily includes a determination of the rate of levy and imposition of the levy, as an essential part of the sovereign power and process, it follows that property will not ordinarily be deemed as taxed until the tax has been levied. *Rayle Elec. Membership Corp. v. Cook*, 195 Ga. 734, 25 S.E.2d 574, 1943 Ga. LEXIS 283 (1943).

Valuation of debts. —

It is not necessary that the owner of a debt should return it at more than its fair market value, and the fact that the debt is valued, with other debts, at a gross amount, and the whole thus returned, can make no difference, provided the value placed upon them is what the taxpayer believes to be their fair market value. *Lewis v. Horne*, 44 Ga. 627, 1872 Ga. LEXIS 388 (1872).

Right to appeal penalty assessment. —

An assessment of a penalty for a breach of a conservation use covenant is an assessment for which a property owner has the right to appeal pursuant to O.C.G.A. § 48-5-311. *Oconee County Bd. of Tax Assessors v. Thomas*, 282 Ga. 422, 651 S.E.2d 45, 2007 Ga. LEXIS 592 (2007).

Mandamus relief properly denied since certification of appeals obtained. —

Trial court did not err by denying a group of property owners their request for mandamus relief in the nature of finding that the county board of tax assessors certified their property tax appeals because it was undisputed that the tax appeals were physically delivered to the trial court and that it had ruled that such appeals were certified to it, thus, the

property owners received the relief sought regarding certification. *Newton Timber Co., L.L.P. v. Monroe County Bd. of Tax Assessors*, 295 Ga. 29, 755 S.E.2d 770, 2014 Ga. LEXIS 189 (2014).

Research References & Practice Aids

Law reviews.

For note on the 1989 amendment to this Code section, see 6 Ga. St. U. L. Rev. 173 (1989).

RESEARCH REFERENCES

Am. Jur. 2d.

72 Am. Jur. 2d, State and Local Taxation, §§ 689, 731.

C.J.S.

84 C.J.S., Taxation, § 413 et seq.

ALR.

Construction and application of statute prohibiting or restricting reassessment after assessment and payment of taxes, 85 A.L.R. 107.

Original cost of construction or reproduction cost as proper factors in assessing real property for taxation, 104 A.L.R. 790.

Different parts or parcels of land in same ownership as single unit or separate units for tax assessment purposes, 133 A.L.R. 524.

Real-estate tax equalization, reassessment, or revaluation program commenced but not completed within the year, as violative of constitutional provisions requiring equal and uniform taxation, 76 A.L.R.2d 1077.

Tax assessor's civil liability to taxpayer for excessive or improper assessment of real property, 82 A.L.R.2d 1148.

Income or rental value as a factor in evaluation of real property for purposes of taxation, 96 A.L.R.2d 666.

Judicial notice as to assessed valuations, 42 A.L.R.3d 1439.

Hierarchy Notes:

O.C.G.A. Title 48

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