

April 2012



Municipal Officials Guide to Tax Reform: **HB386**



A Georgia Municipal Association Publication



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NOTE:

This bill had several provisions that did not pertain to local governments' revenue, such as the personal income tax exemption for married filers, state jet fuel tax exemption expansion, changes to the state tax credit for conservation easements and capping the personal income tax retirement exclusion. Although those are significant changes to the state's tax policy and could have long-term individual state government revenue implications, they do not impact a municipality's budget. This guide will provide an explanation and guidance to the recent changes in the tax code that affect a municipality's revenue.

Automobile Title Tax Fee

Beginning March 1, 2013, the sales tax and ad valorem tax on automobiles will be replaced with a one-time title tax fee of 6.5% in 2013, 6.75 in 2014, and 7% in 2015 when titling an automobile. The premise of this provision is to eliminate the ad valorem tax on vehicles and capture revenue from the casual sale of automobiles.

The state and local governments will split the revenue from the title tax fee. In 2013 the local governments will receive 43% of the revenue, 45% in 2014, 45% in 2015, 46.5% in 2016, 56% in 2017, 60% in 2018, 64% in 2019, 66% in 2020, 70% in 2021 and 72% in 2022 and all subsequent years.

Current owners of automobiles taxed under the old system will continue to pay ad valorem until the vehicle is re-titled. This is called “trailing ad valorem.” There is also an opt-in provision for people who have purchased automobiles between January 1, 2012 and March 1 2013. To opt-in, an owner will pay the difference between the total amount of title tax fee that would be due if titled in 2013 and the total amount of sales and ad valorem tax paid in 2012.

Immediate family members (spouse, parent, child, sibling, grandparent or grandchild) may transfer automobile titles to one another without triggering the title tax.

People moving into the state will be responsible for paying the title tax fee. They have the option of paying in full or paying 50% up front and the remaining 50% within 12 months.

Owners of leased vehicles will continue to pay the sales tax on their lease payments. The company that leases the vehicle to the consumer will be responsible for paying the title tax fee.

How it works: Local Administration

The county tax commissioner will be responsible for collecting the title tax fee. Once a month, the commissioner will first remit the required percentage to the state before distributing the balance to local governments. Automobile dealers may collect the title fee and submit it along with the title application to the tax commissioner of the county where the vehicle is to be registered. The graphic included in

this overview provides a step-by-step of how proceeds are to be distributed. A real life example using figures from a county and cities is also included in this overview.

After the state’s portion has been transmitted, the remaining revenue collected from the new title tax fee will first be used to “true up” the ad valorem tax collected for jurisdictions that levy a property tax. This “true up” amount will be calculated by subtracting the current month’s ad valorem tax revenue on motor vehicles collected in each jurisdiction from the amount of ad valorem tax revenue on motor vehicles collected in the same calendar month of 2012 for each jurisdiction.

- ◆ If the new title tax fee revenue is insufficient to fully offset ad valorem taxes collected for that month in 2012, the tag agent would allocate a proportionate amount of the proceeds from the title tax fee to each governing authority and to the board of education of each school district.
- ◆ Any remaining shortfall is to be paid from the following month's proceeds.
- ◆ In the event that a shortfall remains, the tag agent is to continue to first allocate local title tax fee proceeds to offset such shortfalls until the shortfall has been fully repaid.

The remaining proceeds, after fully offsetting the ad valorem loss to taxing jurisdictions, is to be distributed to counties, cities and schools based upon the current sales tax distribution agreements for LOST and SPLOST or, in the absence of a LOST agreement or if the SPLOST has been expired by over 12 months, by population.

Local Governments Guaranteed 2%

In an effort to make local governments whole, the General Assembly included a provision to guarantee local governments a 2% increase of revenue based on a statewide base amount of \$1billion dollars. Essentially, statewide, local governments will receive \$20 million more per year for 10 years capping the

total amount available for distribution to local governments at \$1.2 billion in 2022.

As a point of reference, local governments received \$1.074 billion in 2007, \$1.027 billion in 2008, \$1.012 billion in 2009 and \$832 million in 2010. No figures are available for 2011.

Beginning in 2016, in order to guarantee the \$1 billion base amount and the 2% increase, the state revenue commissioner will determine the local target collection amount and the current collection amount for the preceding calendar year.

- ◆ If collections are greater than 1 percent of the local target amount, the local tax split is lowered.
- ◆ If collections are within 1 percent of the target amount, the local tax split is unchanged.
- ◆ If collections are lower than 1 percent of the target amount, the local tax split is increased.

Note: If revenues exceed the guaranteed target amount local governments would still be restricted on how much they can receive.

Beginning in 2016, the State Revenue Commissioner may increase the title tax fee rate up to a maximum of 9% to keep the state tax rate within 1% of the target amount after the local and state split adjustments are made.

How to Budget

The analysis performed by the Georgia State University Fiscal Research Center indicated that local governments in the aggregate should see an increase in revenue statewide in the first 2 years of the title tax fee system.

The analysis also indicated that by year three local governments would break even and lose revenue going forward. This is the reason the General Assembly included the guarantee provision. After the initial revenue bump, local governments will only be allowed to collect the targeted amount of revenue after 2016.

It is important to remember that the fiscal analysis and the 2% guarantee are based on gross state-wide numbers. Each local jurisdiction's situation and revenue collection will fluctuate depending on the number of vehicles sold within the month.

EXAMPLE:

In May of 2012, the County collected \$21,590 in ad valorem tax from vehicles, City A collected \$10,160 in ad valorem tax from vehicles in May of 2012, City B collected \$2,116 in ad valorem tax from vehicles in May of 2012, and the School board collected \$50,800 in ad valorem tax from vehicles in May of 2012. The County receives 74% of the LOST and 80% of the SPLOST. City A receives 25% of LOST and 17.3% of SPLOST and City B receives 1% of LOST and 2.7% of SPLOST. The school board gets 100% of the ESPLOST.

Total title fee revenues generated within the County in May of 2013 equal \$325,000.

The state would get 57% of the title fee equaling \$185,250, leaving \$139,750 for local governments.

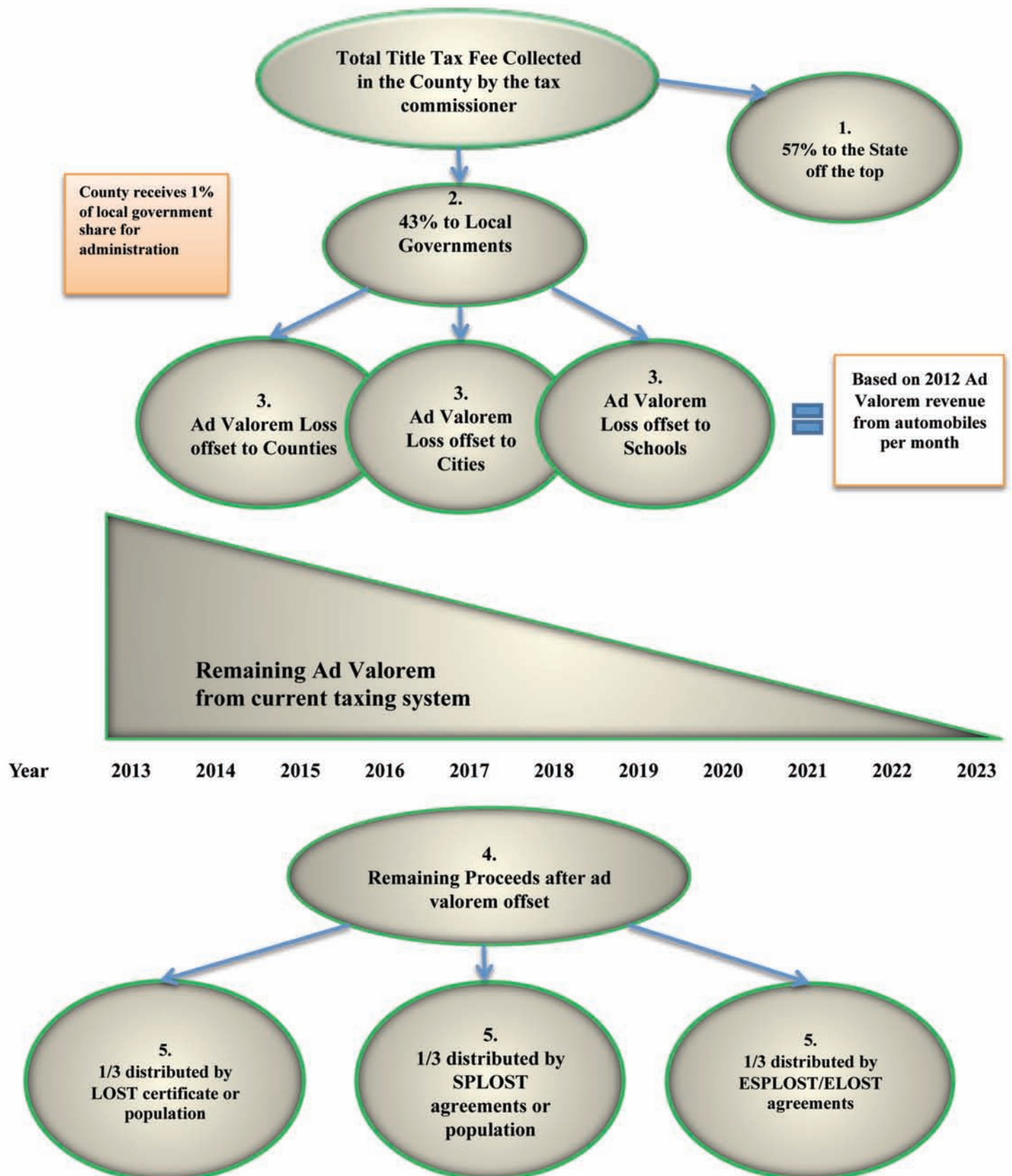
The county would first receive 1% of the local portion for administration costs equaling \$1,397 leaving \$138,353 to be distributed.

From the collected title tax fee proceeds collected in the county, each taxing jurisdiction would receive the difference in ad valorem revenue based on 2012 ad valorem revenue collected within that month (GSU estimated that 12% of vehicles would come off the ad valorem tax digest every year), so the county would get \$2,590, City A would receive \$1,219, City B would receive \$253 and the School Board would receive \$6,096 to true up the ad valorem loss.

That leaves \$128,195 to be distributed through LOST, SPLOST and ESPLOST percentages. That \$128,195 is then cut into thirds. 1/3 will be split by LOST percentages, 1/3 will be split by SPLOST percentages, and 1/3 will be split by ESPLOST percentages.

The County would receive \$65,806 (\$31,621 from LOST and \$34,185 from SPLOST). City A would receive \$18,075 (\$10,683 from LOST and \$7,392 from SPLOST). City B would receive \$1,581 (\$427 from LOST and \$1154 from SPLOST). The School Board(s) would receive \$42,731 all from ESPLOST.

Step-by-Step Overview of the Automobile Title Tax Fee



Elimination of the Sales Tax on Energy Used in Manufacturing

Beginning January 1, 2013, the state and local sales and use tax on energy used in manufacturing will be phased out over a 4-year period. Education SPLOST and ELOST are exempt from this phase-out.

A county or a city may elect, by ordinance, to phase-in a 2% excise tax to replace the sales tax on energy used in manufacturing over the same 4 year period. The rate of the phase-in would mirror the schedule of the phase-out of the sales tax (25% per year).

A county has until September 1, 2012, to contact the municipalities and enter into an intergovernmental agreement to allocate the proceeds of the excise tax based upon current LOST and SPLOST distribution agreements. If the county elects not to notify the city or enter into an intergovernmental agreement, then the municipalities are authorized to levy an excise tax within the corporate limits of the municipality. The county will not receive any proceeds from the municipal excise tax.

If a municipality decides not to be a part of the countywide excise tax, the tax will still be collected countywide, however the municipality will not receive any proceeds. If a municipality later decides to participate with the county after the tax is enacted, they must notify the county and within 60 days

amend the intergovernmental agreement. The municipality will then receive revenue from the excise tax, starting 12 months after the amended intergovernmental agreement is finalized.

Also, within the first 4 years of the phase out, the Governor may bypass the phase-out schedule and waive the local and state sales tax for a competitive project of regional significance. The definition of what is a competitive project of regional significance is rather broad.

How to prepare

Municipalities need to analyze the significance of the revenue generated from this sales tax on energy and make a determination on whether or not to go forward with the replacement excise tax if the county chooses not to enact the excise tax. If by September 1, 2012, a municipality has not received written notice from the county requesting a meeting to enter into an intergovernmental agreement, the municipality, after 30 days, may enact the excise tax by ordinance. If the county or the cities fail to phase-in an excise tax by January 1, 2013, revenue to replace the sales tax on energy used in manufacturing will be forfeited.

GMA will provide a sample ordinance for municipalities to use to enact this excise tax.

Construction Materials Sales Tax Exemption

Construction materials that pertain to projects of regional significance may be exempt from state and local sales and use taxes. This can be retroactive to January 1, 2012, at the determination of the Governor and the Commissioner of the Department of Economic Development.

Municipal Impact: The statewide numbers indicate a \$44 million loss in revenue for all local governments over a three-year timeframe. The impact depends on how many and where these “projects of regional significance” will actually be located.

Agriculture Exemptions

This section broadens the exemptions for the agriculture industry including energy, equipment, and business inputs such as seed, fertilizers, feed etc.

Municipal Impact: The fiscal analysis shows that this provision has a \$29.6 million loss to local government revenue over a three-year period.

E-Fairness

In an attempt to level the playing field for Georgia's brick and mortar retailers, the General Assembly included a provision to collect sales taxes from out-of-state online retailers that have a physical presence or "nexus" in Georgia.

For example: If a purchase is made from Amazon.com, Amazon.com will now be responsible for collecting and remitting the sales tax because they have a physical nexus in Georgia through the ownership of Fabrics.com. They would also be responsible for the tax because they also have an affiliate nexus in Georgia. If a Georgia based website advertises an item and upon clicking onto that advertisement you

are redirected to Amazon.com. that would constitute an affiliate nexus. Once the item is purchased, Amazon.com would be responsible for collecting and remitting the sales tax.

Municipal Impact: The fiscal analysis shows that this provision is an increase of \$33 million for local governments over a three-year-period. The increase is minimal at first but hopefully as more and more items are purchased online the revenue estimates will grow. There is a possibility that Amazon.com and other retailers could move their physical nexus operations out of Georgia.

Sales Tax Holidays

The bill reinstitutes a two-day state and local sales tax holiday for 2012 and 2013 on back to school items and a three-day sales tax holiday on energy efficient products.

Municipal Impact: The fiscal analysis shows that this provision has a \$56.8 million dollar loss to local government revenue over a three-year period.

Elimination of Sales Tax Exemption - Film Production

The sales tax exemption for film production equipment, services, and production activities is eliminated.

Municipal Impact: The fiscal analysis shows that this provision has a \$25 million dollar gain to local government revenue over a three-year period.



CONTACT INFORMATION

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about the new tax legislation,
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