

Hotel Motel Tax

Presented By:

Mike Bush

**Director, Office of Research
Local Government Assistance Division**

Department of Community Affairs

Hotel Motel Tax

Title 48, Chapter 13

Article 3

(O.C.G.A. 48-13-50 ... 48-13-56)

***Excise Tax on Rooms Lodging and
Accommodations***

Enacted in 1978

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O.C.G.A. 48-13-51(a)

- ❑ 23 different tax authorizations under various conditions (see Handout 1)
- ❑ Allowable tax rates vary from 3% *or less** to 8%
- ❑ Each authorization has a unique set of expenditure requirements for *restricted portion* of revenue

(*only the 3% paragraph allows for levying a tax less than the rate specified)

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Must a Bed and Breakfast Collect the Tax?

48-13-51(a) (1) (B) (i)

Applies to "any person or legal entity licensed by or required to pay a business or occupation tax . . . for operating a hotel, motel, inn, lodge, tourist camp, tourist cabin, campground, or any other place in which rooms, lodgings, or accommodations are regularly furnished for value and shall apply to the furnishing for value of any room, lodging, or accommodation

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Exemptions - *continued*

48-13-51(C)(i)

Does not apply to charges imposed for any continuous occupancy after the first ten days.

However, the tax must be charged for each of the first ten days even if the continuous occupancy exceeds ten days

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Exemptions

48-13-51(C)(i)

Does not apply to charges made for any rooms, lodgings, or accommodations provided to any persons who certify that they are staying in such room, lodging, or accommodation as a result of the destruction of their home or residence by fire or other casualty

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Exemptions - *continued*

48-13-51(C)(ii)

- Does not apply to the charges for any rooms, lodgings, or accommodations furnished for use by state (GA) or local governmental officials/employees when traveling on official business.

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Inn Keepers' Records and books

(48-13-53.4)(a)

- Each innkeeper that is required to make a return and pay any tax under this article shall keep and preserve:
 - Suitable records of the charges taxable under this article; and
 - Other books of account which are necessary to determine the amount of tax due

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Auditing of Innkeepers' Records

(48-13-53.4)(a)

- All books, invoices, and other records required by this Code section to be kept shall be open to examination at all reasonable hours by the governing authority imposing a tax under this article

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Generally the *restricted portion* of tax revenue must be used for:

- ❑ Promoting, attracting, stimulating, and developing conventions and tourism
- ❑ However, allowable uses vary

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O.C.G.A. 48-13-51(a)(1) thru (a)(2)

Basic 3% tax

- ❑ Used by 16% of Governments
- ❑ *Restricted portion* must be used for the promotion of tourism, conventions, and trade shows
- ❑ How much is *restricted*?

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O.C.G.A. 48-13-51(a)(1) thru (a)(2)

- ❑ Must expend a percentage of total taxes collected which is not less than the percentage of such tax collections expended for such purposes in immediately preceding fiscal year

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O.C.G.A. 48-13-51(a)(1) thru (a)(2)

- ❑ If in preceding year any portion of tax was expended through grant or contract with the state, a department of the state, state authority, or private sector nonprofit, then:
- ❑ Each fiscal year thereafter, at least the same percentage must be expended through a contract(s) with one or more such entities

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O.C.G.A. 48-13-51(a)(1) thru (a)(2)

- ❑ Expenditure requirements of this paragraph (basic 3% Tax) shall cease to apply to a government which levies a tax at a rate in excess of 3 percent, as authorized under any of the other 22 paragraphs in 48-13-51(a)

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- ❑ The expenditure requirements for other 22 authorizations vary greatly
- ❑ Under each - must spend an amount equal to the amount by which the total taxes collected exceed the taxes which would be collected at a rate of 3 percent
 - 5% tax -- 40% of revenue restricted
 - 6% tax -- 50% of revenue restricted
 - 7% tax -- 57.145% of revenue restricted
 - 8% tax -- 62.5% of revenue restricted

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- *Restricted Portion* not always restricted for promotion of tourism, conventions and trade shows

Example:

Under O.C.G.A. 48-13-51(a)(2.1) Restricted portion must be expended for the *purpose of general recreation*

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**Promotion of tourism,
conventions and trade shows**

What exactly does this mean?

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Promoting tourism, conventions, and trade shows defined:

O.C.G.A.48-13-50.2

- Planning, conducting, or participating in programs of information and publicity designed to attract or advertise tourism, conventions, or trade shows

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- Most authorizations require all or part of the restricted funds to be expended through a contract or contracts with the state, a department of state government, a state authority, or a private sector nonprofit organization

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A Private sector nonprofit defined:

48-13-51(a)(8)(A)

- ❑ A chamber of commerce, convention and visitors bureau, regional travel association, or any other private group organized for similar purposes which is exempt from federal income tax under Section 501(c)(6) of the Internal Revenue Code of 1986

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Private Sector Nonprofit *Exception to the Rule*

- ❑ A county or municipality which has prior to April 1, 1990, contracted for a required expenditure under this Code section with a private group which is exempt from federal income tax under provisions of Section 501(c) of the Internal Revenue Code other than Section 501(c)(6) may continue to contract for required expenditures with such a private group

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State Authority Defined

48-13-51(a)(8)(A)

- ❑ For the purpose of hotel/motel tax law, a “state Authority is an authority created by state law which serves a state-wide function including, but not limited to, the Geo. L. Smith II Georgia World Congress Center Authority
- ❑ Shall not mean an authority created for support of a local government or a local purpose or function
- ❑ Shall not include authorities such as area planning and development commissions and any organizational entities they may create, regional development centers and any organizational entities they may create, or local water and sewer authorities.

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Budgeting

O.C.G.A. 48-13-51(a)(9)(A)

- ❑ Local governments must adopt budget plan specifying how expenditure requirements will be met
- ❑ Contractor (Chambers etc.) budgets must be incorporated into local government's H/M tax budget plan

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Budgeting -- *Continued*

O.C.G.A. 48-13-51(a)(9)(A)

- ❑ When contracting with other entities, must require them to provide expenditure budget
- ❑ Cost Allocation Plan might be necessary (see Handout 2)

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DCA - Reporting

O.C.G.A. 48-13-56

- ❑ Each city and county as a condition of continuing authorization to impose the tax, must file annual report with the DCA
- ❑ The form numbers correspond to the specific authorizing Paragraphs

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DCA – Reporting -- *Continued* O.C.G.A. 48-13-56

- ❑ Report must specify the rate of taxation and amounts collected and expended pursuant to this article
- ❑ To assist with both the budgeting and reporting requirements, the UCOA provides a Special Revenue Fund to account for H/M tax expenditures (Fund 275 "Hotel/Motel Tax Fund)

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DCA – Reporting -- *Continued*

(House Bill 1415 – Signed by Governor on 5/13/04)

- ❑ DCA Hotel/Motel Tax Report must include a Project/Contractor Information Schedule (see Handout 3)
- ❑ Must identify both the projects and the contracting entity involved in each hotel-motel tax expenditure
- ❑ *More to come on House Bill 1415*

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DCA – Reporting -- *Continued*

DCA Administrative Rules

- ❑ Must file with DCA a copy of most current hotel/motel tax ordinance
- ❑ **Ordinance should cite authorizing paragraph**
- ❑ Ordinance should contain all provisions necessary for proper administration of tax (both on local level and state compliance) (see Handout 4)

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Local Government Audit Reporting Requirements 48-13-51(a)(9)(b)(i)

- Compliance determination (in local governments' audited financial statements) must be made by the auditor each fiscal year and be prominently reflected in the audited financial statements

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Auditors' Compliance determination must disclose:

- ❑ The amount of tax receipts, and expenditures as a percentage of tax receipts
- ❑ If the audit identifies noncompliance with the expenditure requirements, **noncompliance finding** must be included in audited financial statements

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Contracting Entity Audit Verification

O.C.G.A. 48-13-51(9)(B)(I)(ii)

- A government contractually expending funds must require the **contracting party to provide audit verification** that they expended the funds in compliance with the law

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Performance Review Board

(House Bill 1415 – Signed by Governor on 5/13/04)

- ❑ Established Performance Review Board to hear complaints filed with DCA -- Eleven members (See hand-out 5)
- ❑ DCA required to investigate bona fide complaints and present preliminary reports to Review Board

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Performance Review Board

-- Continued --

- Review Board meets between Sept 1 and Dec 1 to review preliminary reports and to hear from interested parties
- Review Board may make changes to the preliminary reports

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Performance Review Board

-- Continued --

- ❑ Final reports (approved by Board) submitted to Commissioner of DCA
- ❑ Final reports, which include any corrective action requirements, are transmitted to local governments

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Performance Review Board

-- Continued --

- ❑ Local governments are required to implement a corrective action plan
- ❑ Must notify DCA Commissioner within 90 days of specific corrective actions planned/implemented

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Performance Review Board

-- Continued --

- ❑ Local governments' responsibility to work with Chambers of Commerce or other contractors as might be necessary to ensure appropriate corrective action
- ❑ Best compliance resolutions would be to correct the noncompliance within 90 days

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Performance Review Board

-- Continued --

- ❑ Full implementation of corrective action plan within 90 days might not be possible
- ❑ A resolution declaring the specific corrective actions, approved by governing body is next best solution

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DCA's Website Address

<http://www.dca.state.ga.us/>

Or go directly the Office of Research's mainpage for more information about hotel/motel tax

<http://www.dca.state.ga.us/development/research/index.asp>

Under "Programs" click on either "Local Government Surveys" or "Hotel/Motel Tax Complaints"

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Need Help?

Mike Bush

Director, Office of Research

(404) 679-3132

mbush@dca.state.ga.us

Patrick Vickers

pvickers@dca.state.ga.us

(404) 679-3151