Georgia Rules and Regulations
Administrative Bulletin for February 2021

OFFICE OF SECRETARY OF STATE
ADMINISTRATIVE PROCEDURE DIVISION
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Final rules filed with the Georgia Secretary of State during the month of *February 2021:*

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Department 40. RULES OF GEORGIA DEPARTMENT OF AGRICULTURE

Chapter 40-7. FOOD DIVISION REGULATIONS

Subject 40-7-19. COTTAGE FOOD REGULATIONS

40-7-19-.01 Purpose

The purpose of this Chapter is to allow individuals using home kitchens to prepare, manufacture, and sell non-potentially hazardous foods to the public.

Cite as Ga. Comp. R. & Regs. R. 40-7-19-.01

AUTHORITY: O.C.G.A. § 26-2-34**.**

HISTORY: Original Rule entitled "Purpose" adopted. F. Aug. 7, 2012; eff. Aug. 27, 2012.

Amended: F. Feb. 24, 2021; eff. Mar. 16, 2021.

40-7-19-.02 Definitions

As used in this Chapter, the term:

(1) "Bulk food" means food in aggregate containers from which quantities desired by the consumer are withdrawn.

(2) "Consumer" means a person who is a member of the public, takes possession of food, is not functioning in the capacity of an operator of a Food Sales Establishment or Food Processing Plant, and does not offer the food for resale.

(3) "Cottage food operator" means a person who produces cottage food products only in the home kitchen of that person's primary domestic residence and only for sale directly to the consumer.

(4) "Cottage food products" means non-potentially hazardous baked goods, jams, jellies, preserves, and other non-potentially hazardous foods produced in the home kitchen of a domestic residence.

(5) "Domestic residence" means a single-family dwelling or an area within a rental unit where a single person or family actually resides; but does not include any group or communal residential setting within any type of structure or any outbuilding, shed, barn, or other similar structure.

(6) "Easily Cleanable" means a characteristic of a surface that:

(a) Allows effective removal of soil by normal cleaning methods;

(b) Is dependent on the material, design, construction, and installation of the surface; and

(c) Varies with the likelihood of the surface's role in introducing pathogenic or toxigenic agents or other contaminants into food based on the surface's approved placement, purpose, and use.

(7) "Equipment" means a normal household article that is used in the manufacture of cottage food products such as a freezer, grinder, hood, ice maker, mixer, oven, reach-in refrigerator, scale, sink, slicer, stove, table, temperature-measuring device, or warewashing machine; but does not include industrial or commercial grade equipment that, due to their size, cannot be effectively cleaned in residential sinks or dishwashers.

(8) "Food" means a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum.

(9) "Foodborne disease outbreak" means the occurrence of two or more cases of a similar illness resulting from the ingestion of a common food.

(10) "Food-contact surface" means:

(a) A surface of equipment or a utensil with which food normally comes into contact; or

(b) A surface of equipment or a utensil from which food may drain, drip, or splash into a food or onto a surface normally in contact with food.

(11) "Home kitchen" means a kitchen primarily intended for use by the residents of a home. It may contain one or more stoves or ovens, which may be a double oven, designed for residential use. It must not include commercial types of equipment.

(12) "License" means the document issued by the Department that authorizes a cottage food operator to produce cottage food products in their home kitchen. The Cottage Food License should not be considered a loophole or alternative to the Food Establishment License, or the requirement to obtain a Food Establishment License for Food Establishments under Subject 40-7-1.

(13) "Packaged" means bottled, canned, cartoned, securely bagged, or securely wrapped in a cottage food operation. "Packaged" does not include a wrapper, carry-out box, or other nondurable container used to containerize food with the purpose of facilitating food protection during service and receipt of the food by the consumer.

(14) "Permitted area" means the portion of a domestic residence housing a home kitchen where the preparation, packaging, storage, or handling of cottage food products occurs.

(15) "Personal Care Items" means items or substances that may be poisonous, toxic, or a source of contamination and are used to maintain or enhance a person's health, hygiene, or appearance; which include items such as medicines, first aid supplies, cosmetics, and toiletries such as toothpaste and mouthwash.

(16) "Potentially hazardous foods" means foods requiring temperature control for safety because they are capable of supporting the rapid growth of pathogenic or toxigenic microorganisms, or the growth and toxin production of *Clostridium botulinum*.

(17) "Public water system" has the meaning stated in 40 CFR 141.

(18) "Read-to-Eat Food" means a bakery item such as bread, cakes, pies, fillings, or icing for which further cooking is not required for food safety.

(19) "Single-Use Articles" means utensils and bulk food containers designed and constructed to be used once and discarded; including items such as wax paper, butcher paper, plastic wrap, formed aluminum food containers, jars, plastic tubs or buckets, bread wrappers, pickle barrels, ketchup bottles, and number 10 cans which do not meet the materials, durability, strength, and cleanability specifications for multiuse utensils.

(20) "Smooth" means a food-contact surface having a surface free of pits and inclusions; or a floor, wall, or ceiling having an even or level surface with no roughness or projections that renders it difficult to clean.

(21) "Utensil" means a food-contact implement or container used in the storage, preparation, transportation, dispensing, sale, or service of food, such as kitchenware or tableware that is multiuse, single-use articles, and gloves used in contact with food.

Cite as Ga. Comp. R. & Regs. R. 40-7-19-.02

AUTHORITY: O.C.G.A. § 26-2-34**.**

HISTORY: Original Rule entitled "Definitions" adopted. F. Aug. 7, 2012; eff. Aug. 27, 2012.

Amended: F. Feb. 24, 2021; eff. Mar. 16, 2021.

40-7-19-.03 Registration

A cottage food operator must register with the Georgia Department of Agriculture's Food Safety Division before commencing operations. The application for registration must include the following:

(1) The business name and home address of the cottage food operator;

(2) A list of the cottage food products that the cottage food operator intends to produce;

(3) Indication of private or public water system. If a public water system is utilized for the manufacture of cottage food products, the cottage food operator must attach a copy of their most recent water bill to the registration form;

(4) Indication that the cottage food operator has attended and passed a Food Safety training class accredited by the American National Standards Institute (ANSI). A copy of their certificate must be attached to the registration form;

(5) Indication that the cottage food operator has checked with their municipal and county governments to ensure a home business is allowed; and

(6) An affidavit attesting that, by completing the registration form, the cottage food operator expressly grants the Georgia Department of Agriculture the right of entry to the residence during normal business hours, or at other reasonable times, for investigation of any consumer complaint, foodborne disease outbreak, or other public health emergency. Refusal to allow entry during normal business hours, or at other reasonable times, will result in revocation of their Cottage Food License.

Cite as Ga. Comp. R. & Regs. R. 40-7-19-.03

AUTHORITY: O.C.G.A. § 26-2-34**.**

HISTORY: Original Rule entitled "Registration" adopted. F. Aug. 7, 2012; eff. Aug 27, 2012.

Amended: F. Feb. 24, 2021; eff. Mar. 16, 2021.

40-7-19-.04 Licenses and Fees

(1) A person must not operate as a cottage food operator without registering with and obtaining a license from the Department.

(2) The annual fee for the Cottage Food License will be $100.00. Registration must be completed annually for permitted cottage food operators, according to calendar year. For new applicants registering after June 30th, the fee for the License will be reduced by 50%.

(3) Water analysis, for coliform bacteria and nitrates, will be required annually for cottage food operators with a private water supply; and a copy of the water analysis results must be attached to the registration form. The most recent copy of the annual water analysis results must be maintained by the cottage food operator and provided to the Department upon request. The cottage food operator must also adhere to the requirements found in the Department's *Non-Public Water Supply Testing Guidance* document.

(4) Cottage Food Licenses are not required for individuals selling home produced non-potentially hazardous foods only at non-profit events as described in O.C.G.A. § 26-2-21(a)(5)(C).

Cite as Ga. Comp. R. & Regs. R. 40-7-19-.04

AUTHORITY: O.C.G.A. § 26-2-34.

HISTORY: Original Rule entitled "Licenses and Fees" adopted. F. Aug. 7, 2012; eff. Aug. 27, 2012.

Amended: F. Feb. 24, 2021; eff. Mar. 16, 2021.

40-7-19-.05 Cottage Food Limitations

Cottage Food Operators:

(1) May only produce non-potentially hazardous foods. Examples of these foods include:

(a) Loaf breads, rolls, and biscuits;

(b) Cakes (except those that require refrigeration due to cream cheese icing, fillings, or high moisture content such as tres leche);

(c) Pastries and cookies;

(d) Candies and confections;

(e) Fruit pies;

(f) Jams, jellies, and preserves (Not to include Fruit Butters whose commercial sterility may be affected by reduced sugar/pectin levels);

(g) Dried fruits;

(h) Dry herbs, seasonings and mixtures;

(i) Cereals, trail mixes, and granola;

(j) Coated or uncoated nuts;

(k) Vinegar and flavored vinegars; and

(l) Popcorn, popcorn balls, and cotton candy.

(2) Sale of cottage food products must be to the end consumer. No distribution or wholesale is allowed, including to hotels, restaurants, or institutions.

(3) The cottage food operator may only produce the cottage food products listed on their registration form. To add additional products to the list, the cottage food operator must submit a new registration form, including an additional License fee for processing the registration form and re-inspection to ensure that their facilities and equipment are adequate for production of the new cottage food products.

(4) Cottage food products must not be manufactured in conjunction with any domestic activities; including, but not limited to, family meal preparation, dishwashing, clothes washing or ironing, kitchen cleaning, or guest entertainment.

(5) Home canned produce must not be used as an ingredient in cottage food products. Most home canned products are not approved for production under these Regulations, *with the exception of jams and jellies*.

Cite as Ga. Comp. R. & Regs. R. 40-7-19-.05

AUTHORITY: O.C.G.A. § 26-2-34**.**

HISTORY: Original Rule entitled "Cottage Food Limitations" adopted. F. Aug. 7, 2012; eff. Aug. 27, 2012.

Amended: F. Feb. 24, 2021; eff. Mar. 16, 2021.

40-7-19-.06 Cottage Food License

(1) A Cottage Food License will be issued following a review of the registration application, and upon completion of a pre-operational inspection of the cottage food operator's home kitchen to evaluate the kitchen facilities and ensure compliance with 40-7-19.

(2) The Cottage Food License must contain the following information:

(a) The business name and home address of the cottage food operator;

(b) The cottage food operator's name;

(c) The date the license is issued;

(d) The date the license expires;

(e) The list of cottage food products that were submitted on the license application;

(f) A statement that reads, "This license allows for the retail sale of home produced food. Food sold under this license shall be to the end consumer. Food Produced in this facility is not subject to routine inspection, nor should this license be construed as a substitute for the Department's Food Sales Establishment License;" and

(g) A statement that reads, "This license must be conspicuously displayed at the point of sale."

(3) The Cottage Food License is for food sales operations only. Food service will remain under the jurisdiction of local county health departments and the Georgia Department of Public Health.

Cite as Ga. Comp. R. & Regs. R. 40-7-19-.06

AUTHORITY: O.C.G.A. § 26-2-34**.**

HISTORY: Original Rule entitled "Cottage Food License" adopted. F. Aug. 7, 2012; eff. Aug. 27, 2012.

Amended: F. Feb. 24, 2021; eff. Mar. 16, 2021.

40-7-19-.07 Inspections

(1) The Department will conduct an inspection of the home kitchen of a cottage food operator:

(a) Prior to issuing the Cottage Food License;

(b) For the investigation of a consumer complaint; or

(c) For the investigation of a foodborne disease outbreak, or other public health emergency.

(2) A pre-operational inspection must be performed prior to the issuance of a Cottage Food License by a Compliance Specialist. The cottage food operator must ensure:

(a) That they understand that only cottage food products disclosed on their registration form can be produced;

(b) That only standard, residential (non-commercial) kitchen equipment is being utilized in the manufacture of cottage food products;

(c) That the home kitchen equipment is acceptable for the intended products;

(d) That food contact surfaces and utensils are smooth and easily cleanable;

(e) That the permitted area is free from the presence of rodents and insects, and that there are no points of entry visible prior to starting operations;

(f) That facilities are available to properly store ingredients and finished products according to the Regulations in 40-7-19;

(g) That they have a copy of the Food Safety Directives (40-7-19-.08) and understand them;

(h) That they are aware of the labeling requirements for cottage food products, including allergen declarations and the cottage food statement; and

(i) That they have a scale if their COTTAGE FOOD PRODUCTS are sold by weight.

(3) Inspections conducted in response to consumer complaints or foodborne disease outbreaks will be unannounced or commence within one (1) hour of receiving notice of the intent to conduct an inspection.

Cite as Ga. Comp. R. & Regs. R. 40-7-19-.07

AUTHORITY: O.C.G.A. § 26-2-34**.**

HISTORY: Original Rule entitled "Inspections" adopted. F. Aug. 7, 2012; eff. Aug. 27, 2012.

Amended: F. Feb. 24, 2021; eff. Mar. 16, 2021.

40-7-19-.08 Food Safety Directives

The Food Safety Directives are public health intervention strategies designed to limit the potential for foodborne disease outbreaks. Cottage food operators should follow these directives to help ensure the safety of their products. They represent the minimum best practices required in the production of cottage food products, and cottage food operators are encouraged to contact the Department for additional guidance on food safety issues.

(1) Handwashing

(a) Employees involved with the preparation and packaging of cottage food products should clean their hands and exposed portions of their arms before starting food processing and after any activity that renders the hands unsanitary.

(b) Liquid soap, paper towels, and water warm to the touch should be used for handwashing, and these should always be available at the handwashing sink.

(2) Bare-Hand Contact with Ready-to-Eat Foods. Bare-hand contact with ready-to-eat foods should be avoided at all costs. Single-service globes, bakery papers, tongs, or other utensils should be used when handling ready-to-eat foods.

(3) Hair Restraint and Clean Outer Garments. Hair restraints and clean outer garments must be worn by all persons in the permitted area during processing, preparing, packaging, or handling of cottage food products.

(4) Eating, Drinking, or Using Tobacco. No cottage food operator or employee under the cottage food operator's direct supervision should eat, drink, or use any form of tobacco in the permitted area during processing, preparing, packaging, or handling of cottage food products.

(5) Preventing Contamination When Tasting. A cottage food operator or employees under the cottage food operator's direct supervision should not use a utensil more than once to taste cottage food products.

(6) Employee Health. Employees should not be allowed to prepare or package cottage food products if they have any of the following symptoms:

(a) Vomiting;

(b) Fever;

(c) Diarrhea;

(d) Jaundice; or

(e) Sore throat with fever.

(7) Unauthorized Persons. No person other than the cottage food operator or designated employees under the cottage food operator's direct supervision, should be engaged in food processing or handling activities, or be present in the permitted area while preparation, packaging, or handling is occurring.

(8) Food Contact Surfaces. The food contact surfaces of all equipment and utensils should be clean to the sight and touch before beginning manufacture of cottage food products, and at a minimum frequency while in use to limit the potential for food and ingredient contamination.

(9) Proper Storage of Ingredients and Finished Products. Cottage food products' ingredients and finished products should be stored separate from the residential food supplies, and in a manner to prevent contamination from the premises and non-employees.

(10) Proper Use and Storage of Chemicals. Chemicals should be used according to the label instructions and stored in a manner to prevent contamination of food contact surfaces, ingredients and finished products, single-use articles, and packaging materials.

(a) Personal care items should not be stored or allowed in the permitted area unless stored in such a manner that does not allow contamination of food or food contact surfaces.

(b) Spray bottles should have their contents clearly labeled.

(c) Pest control chemicals should not be used in the permitted area.

(11) Pests. Pests should not be present in the permitted area. These areas should be kept clean to prevent harborage of pests, and the premises should allow for easy visual inspection of pest activity.

(12) Pets. Pets should not be allowed in the permitted area at any time during the preparation or packaging of cottage food products.

Cite as Ga. Comp. R. & Regs. R. 40-7-19-.08

AUTHORITY: O.C.G.A. § 26-2-34**.**

HISTORY: Original Rule entitled "Food Safety Directives" adopted. F. Aug. 7, 2012; eff. Aug. 27, 2012.

Amended: F. Feb. 24, 2021; eff. Mar. 16, 2021.

40-7-19-.09 Product Labels

Labeling is required for Cottage Food Products, and the method will vary depending on the manner of sale:

(1) Direct sale. For cottage food products that are custom sold to an individual consumer (ex. wedding cakes, birthday cakes, etc.) the following information must be on the package:

(a) The business name and home address of the cottage food operator;

(b) The following statement must be conspicuously labeled on the package, "MADE IN A COTTAGE FOOD OPERATION THAT IS NOT SUBJECT TO STATE FOOD SAFETY INSPECTIONS." This statement must:

1. Appear in Times New Roman or Arial font, in at least 10-point type; and

2. In a color that contrasts to the background color of the label.

(2) Pre-Packaged foods. Cottage food products individually packaged, wrapped, or otherwise containerized for sale to the end consumer must have a product label attached to the package. The following information must be included on the label:

(a) The business name and home address of the cottage food operator;

(b) The common name of the cottage food product;

(c) The ingredients in descending order of predominance by weight;

(d) The net weight or volume of the product;

(e) Allergen labeling as specified by FDA labeling requirements;

(f) If a nutritional claim is made, appropriate nutritional information as specified by FDA labeling requirements;

(g) The cottage food statement as described in 40-7-19-.09(1)(b).

(3) Bulk Sales. Cottage food products may be offered for sale from bulk food containers. Labeling information must be made available to the consumer, and this may be accomplished by way of a card, sign, loose leaf booklet, or other method of notification at the point of sale. The following information must appear in the labeling information:

(a) The business name and home address of the cottage food operator;

(b) The common name of each of the cottage food product offered for sale in bulk food containers;

(c) The ingredients in descending order of predominance by weight for each of the cottage food products offered for sale in bulk food containers;

(d) Allergen labeling as specified by FDA labeling requirements;

(e) If a nutritional claim is made, appropriate nutritional information as specified by FDA labeling requirements;

(f) The cottage food statement as described in 40-7-19-.09(1)(b) must be affixed to the bulk food container so that it is conspicuously displayed.

Cite as Ga. Comp. R. & Regs. R. 40-7-19-.09

AUTHORITY: O.C.G.A. § 26-2-34**.**

HISTORY: Original Rule entitled "Food Product Labels" adopted. F. Aug. 7, 2012; eff. Aug. 27, 2012.

Amended: F. Feb. 24, 2021; eff. Mar. 16, 2021.

40-7-19-.10 Scales Required

(1) For cottage food products that are individually packaged, wrapped, or otherwise containerized for sale, the cottage food operator should employ a food scale to ensure that the net contents of the consumer package is at least equal to the amount listed in the declaration of quantity.

(2) For cottage food products that are sold by weight, the cottage food operator must have a scale that is legal for trade.

Cite as Ga. Comp. R. & Regs. R. 40-7-19-.10

AUTHORITY: O.C.G.A. § 26-2-34**.**

HISTORY: Original Rule entitled "Scales Required" adopted. F. Aug. 7, 2012; eff. Aug. 27, 2012.

Amended: F. Feb. 24, 2021; eff. Mar. 16, 2021.

Department 40. RULES OF GEORGIA DEPARTMENT OF AGRICULTURE

Chapter 40-31. SOIL AMENDMENTS

Subject 40-31-1. GENERAL PROVISIONS

40-31-1-.07 Tonnage Reports

(1) Any registrant who distributes a soil amendment in Georgia must file a semiannual report to the nearest whole ton to the Commissioner covering soil amendments distributed within Georgia in containers over 10 pounds in weight, and in bulk, and must submit the tonnage fee calculated at $0.30 per ton for the tonnage distributed to non-registrants. This report must include the following:

(a) Registrant's name, address, telephone number, and email address;

(b) Name, title, and signature of registrant's representative;

(c) Total tonnage of each registered soil amendment distributed by the registrant during the semiannual period; and

(d) Total combined tonnage of all registered soil amendments distributed by the registrant during the semiannual period.

(2) All tonnage reports and tonnage fees must be provided to the Commissioner no later than the thirtieth (30th) day after the end of the semiannual period, as follows:

(a) For the period January 1 through June 30 due July 30

(b) For the period July 1 through December 31 due January 30

(3) Tonnage reports filed with the Commissioner and lacking any of the required information will be considered incomplete and the registrant which filed the report will be considered in violation if the report is not complete or the tonnage fee is not received by the Commissioner on or before the due date listed above.

Cite as Ga. Comp. R. & Regs. R. 40-31-1-.07

AUTHORITY: O.C.G.A. §§ 2-12-75**,** 2-12-80**.**

HISTORY: Original Rule entitled "Tonnage Reports" adopted. F. Feb. 24, 2021; eff. Mar. 16, 2021.

Department 300. RULES OF GEORGIA DEPARTMENT OF LABOR

Chapter 300-2. EMPLOYMENT SECURITY LAW

Subject 300-2-4. UNEMPLOYMENT INSURANCE BENEFIT PAYMENTS

300-2-4-.08 Overpayments

Waiver of Overpayments.

(a) An individual shall be required to repay an overpayment of unemployment insurance benefits unless a timely application for waiver is filed and such repayment, in the discretion of the Commissioner or the Commissioner's designee, is determined to be inequitable under this rule and fault is not found to be attributable to that individual. Such determination shall not be appealable.

(b) A waiver of an unemployment insurance overpayment may not be granted if the request for such waiver is filed later than fifteen (15) calendar days following the release date of the Notice of Overpayment. Provided, however, that such time limitation may be extended, in the discretion of the Commissioner or the Commissioner's designee, upon a showing of extenuating circumstances which prevented the filing of a timely waiver request by the claimant and such circumstances were beyond the claimant's control.

(c) A waiver of an unemployment insurance overpayment may not be granted to any individual who has been expressly determined to have brought about such overpayment by the presentation of false or misleading statements or representations, whether or not such action has been determined fraudulent, when such individual could have or should have known such information presentation was false or misleading.

(d) A waiver of an unemployment insurance overpayment may be granted to an individual only if:

1. A timely application for waiver is filed;

2. Fault is not attributable to the individual, as outlined in paragraph (c) of this rule;

3. The individual provides, at the time of the individual's request for a waiver, satisfactory evidence of circumstances showing repayment would genuinely work a financial hardship on the individual; and

4. The individual provides, at the time of the individual's request for a waiver, satisfactory evidence that he or she has no reasonable prospect of future employment or ability to repay the overpayment in the future, due to age, disability, or other good cause.

(e) Financial hardship exists if recovery of the overpayment would result directly in the individual's loss of or inability to obtain the minimal necessities of food, medicine, and shelter for a substantial period of time and such circumstances may be expected to endure for the foreseeable future.

(f) A waiver of an unemployment insurance overpayment may be issued by the department in whole or in part upon the finding of a court of law having proper subject matter jurisdiction which rules that error existed in the information utilized to establish such overpayment, whether or not such overpayment was determined to be fraudulent in nature. Additionally, if a court finds repayment of an overpayment should be waived by virtue of discharge in bankruptcy granted under provision of Chapter 7 or Chapter 13 of the Bankruptcy Code, waiver will be granted.

(g) A waiver by the Commissioner of unemployment insurance overpayments cannot be granted when prohibited by federal law or regulation regardless of fault.

Cite as Ga. Comp. R. & Regs. R. 300-2-4-.08

AUTHORITY: O.C.G.A. §§ 34-2-6(a)(4), 34-8-70, 34-8-190, 34-8-254, 34-8-255.

HISTORY: Original Rule entitled "Waiver of Overpayments" adopted F. Aug. 28, 1992; eff. Sept. 17, 1992.

Amended: F. Jun. 25, 1998; eff. Jul. 15, 1998.

Amended: F. Jan. 10, 2012; eff. Jan. 30, 2012.

Repealed: New Rule entitled "Overpayments. Amended" adopted. F. Oct. 1, 2013; eff. Oct. 21, 2013.

Amended: F. Sep. 29, 2014; eff. Oct. 19, 2014.

Amended: F. Aug. 13, 2020; eff. Aug. 13, 2020, as specified by the Agency.

Amended: F. Feb. 9, 2021; eff. Mar. 1, 2021.

300-2-4-.09 Partial Unemployment. Amended

(1) (a) "Weekly report of Low Earnings", Form DOL-408, may be filed by an employer with respect to any complete pay-period week during which an otherwise full-time employee works less than full-time, due to lack of work only, and earns an amount not exceeding his unemployment insurance weekly amount, if known, plus $50.00 or earns an amount not exceeding the maximum weekly benefit amount provided in the Employment Security Law, plus $50.00, if the individual's unemployment insurance weekly benefit is not known. Partial unemployment claims shall not be submitted or allowed for vacation days regardless of whether such vacation days were requested by the employee or established by the employer.

(b) For partial claim weeks beginning on or after December 11, 2016, the limitation on partial unemployment claims set forth in the last sentence of subparagraph (1)(a) shall not apply during an employer company shutdown or employer established vacation period when such shutdown or vacation period is due to circumstances outside the employer's control which directly affect the employer's business operations.

(c) An employer filing partial unemployment claims must have a positive reserve account as that term is used in O.C.G.A. 34-8-155; provided, however, the positive reserve account requirement shall not apply to partial claims filed for partial claim weeks beginning on or after December 11, 2016.

(2) Payments shall be made for partial unemployment only upon the approval by the Commissioner. Approval shall be based upon consideration of the conditions set forth in these regulations.

(a) The employer shall complete an affidavit in such form as approved by the Commissioner with respect to the partial unemployment for partial claims which are submitted on magnetic tape.

(b) Normally employers who have over twenty-five (25) employees affected by the partial unemployment may have such partial unemployment approved.

(c) Such unemployment must have been directly caused by lack of work and no other issues as to entitlement of unemployment benefits may be present; if other issues are involved the employee must report to the nearest career center in order to claim unemployment benefits.

(d) Form DOL-408, the questionnaire and any other correspondence shall be signed by the employer and transmitted to:

Georgia Department of Labor

Claims Administration

Suite 900

148 Andrew Young International Blvd., N.E.

Atlanta, Georgia, 30303-1751.

(e) The employer's physical address, telephone number and DOL account number must be shown on forms. Forms with only post office mailing addresses or without telephone number and account number shall not be accepted.

(f) The Commissioner may provide for the filing of partial claims online and require the filing of all partial claims online.

(3) Six (6) consecutive weeks or total unemployment immediately following a week of full-time or part-time employment may be reported by an employer on Form DOL-408 or magnetic tape or online.

(4) Following those six (6) consecutive weeks of total unemployment for any worker reported on Form DOL-408, an employer who requests permission and shows justifiable cause may, upon approval of the Commissioner report four (4) additional weeks of total unemployment on Form DOL-408, provided the employer provides a firm return to work date for such employees within the four (4) week time period.

(a) If the employer can provide no firm return to work date or upon expiration of the approved time period for acceptance of partial unemployment claims, or when an employer ceases to file Form DOL-408 for any totally unemployed worker, the employer shall immediately advise the employee to report in person to the nearest local career center of the department for the purpose of registering for work and reporting on his or her claim.

(b) Employers will not be authorized to file low earnings reports for regular breaks in seasonal employment. They may be filed when unusual circumstances require a break in employment at a time of normal, non-seasonal work.

(c) Any employer found by the Commissioner to be abusing the purpose and intent of the partial claims program will be restricted from using the partial claims program will be restricted from using the partial system for a period of three (3) years form the time of discovery of the violation. This restriction may be appealed to the Commissioner for possible reconsideration. Such appeal shall follow standard appeal provisions specified in the Employment Security Law for benefit appeals at O.C.G.A. Section 34-8-220.

(5) Because partial unemployment claims are employer-initiated claims based upon lack of work, such employers will receive no Form DOL-1199FF (notice of initial claim). The employer will receive its quarterly notification of charges against its account as provided by O.C.G.A. Section 34-8-157(d) and O.C.G.A. Section 34-8-159(4), provided, however, such employer will be furnished notice of the approval by the Department of the initial partial claims.

(6) An employer shall not be permitted to file partial claims within 180 days of registering their account with the Department. In the discretion of the Commissioner, this limitation on partial claim filing may be waived.

Cite as Ga. Comp. R. & Regs. R. 300-2-4-.09

AUTHORITY: O.C.G.A. §§ 34-2-6(a)(4)**,** 34-8-47**,** 34-8-70**,** 34-8-190**.**

HISTORY: Original Rule entitled "Partial Unemployment" adopted. F. Jun. 25, 1998; eff. Jul. 15, 1998.

Amended: Title changed to "Partial Unemployment. Amended." F. Sep. 29, 2014; eff. Oct. 19, 2014.

Amended: ER. 300-2-4-0.1-.09(1). F. Dec. 9, 2016; eff. Dec. 9, 2016, the date of adoption, to remain in effect for a period of 120 days or until the adoption of a permanent Rule covering the same subject matter superseding this ER, as specified by the Agency.

Amended: ER. 300-2-4-0.2-.09(1). F. Apr. 7, 2017; eff. Apr. 9, 2017, to remain in effect for a period of 120 days or until the adoption of a permanent Rule covering the same subject matter superseding this ER, as specified by the Agency.

Amended: ER. 300-2-4-0.3-.09(1). F. Aug. 7, 2017; eff. Aug. 7, 2017, to remain in effect for a period of 120 days or until the adoption of a permanent Rule covering the same subject matter superseding this ER, as specified by the Agency.

Amended: ER. 300-2-4-0.3-.09(1) repealed. Permanent Rule adopted. F. Sep. 1, 2017; eff. Sep. 1, 2017, as specified by the Agency.

Amended: ER. 300-2-4-0.5-.09(1). F. Mar. 16, 2020; eff. Mar. 16, 2020, to remain in effect for a period of 120 days or until the adoption of a permanent Rule covering the same subject matter superseding this ER, as specified by the Agency.

Repealed: ER. 300-2-4-0.5-.09(1). F. Mar. 19, 2020; eff. Mar. 19, 2020.

Amended: ER. 300-2-4-0.8-.09(1). F. Mar. 19, 2020; eff. Mar. 19, 2020, to remain in effect for a period of 120 days or until the adoption of a permanent Rule covering the same subject matter superseding this ER, as specified by the Agency.

Amended: ER. 300-2-4-0.13-.09(1). F. July 17, 2020; eff. July 19, 2020, to remain in effect for a period of 120 days or until the adoption of a permanent Rule covering the same subject matter superseding this ER, as specified by the Agency.

Amended: ER. 300-2-4-0.16-.09(1). F. Nov. 17, 2020; eff. Nov. 17, 2020, to remain in effect for a period of 120 days or until the adoption of a permanent Rule covering the same subject matter superseding this ER, as specified by the Agency.

Amended: F. Feb. 9, 2021; eff. Mar. 1, 2021.

300-2-4-.12 Coordination of Pandemic Emergency Unemployment Compensation with Regular State Unemployment Compensation

(1) An individual with remaining entitlement to pandemic emergency unemployment compensation with respect to a benefit year that expired after December 27, 2020, shall file a new initial claim for regular state unemployment compensation as a prerequisite to receiving any weeks of unemployment compensation after the prior benefit year expired. If, as of the effective date of filing a new initial claim:

(a) The individual cannot establish a valid claim for regular state unemployment compensation, payment of pandemic emergency unemployment compensation with respect to the expired benefit year shall resume until entitlement to such benefits has exhausted;

(b) The individual can establish a valid claim for regular state unemployment compensation with a weekly benefit amount of at least $25.00 less than the weekly benefit amount of the expired benefit year, a new benefit year of regular state unemployment compensation shall be established, provided; however, that payment of regular state unemployment compensation shall be deferred until entitlement to pandemic emergency unemployment compensation with respect to the expired benefit year has exhausted; or

(c) The individual can establish a valid claim for regular state unemployment compensation with a weekly benefit amount greater than the weekly benefit amount of the expired benefit year less $25.00, a new benefit year of regular state unemployment compensation shall be established and such individual shall not be entitled to pandemic

emergency unemployment compensation with respect to the expired benefit year until entitlement to regular state unemployment compensation with respect to the new benefit year has exhausted.

(2) This rule shall only be given effect to the extent that it is consistent with Section 206 of the Continued Assistance for Unemployed Workers Act of 2020 or otherwise does not create a conformity issue with federal law.

Cite as Ga. Comp. R. & Regs. R. 300-2-4-.12

AUTHORITY: O.C.G.A. §§ 34-2-6(a)(4)**,** 34-8-70**,** 34-8-190(a)**.**

HISTORY: Original Rule entitled "Coordination of Pandemic Emergency Unemployment Compensation with Regular State Unemployment Compensation" adopted. F. Feb. 9, 2021; eff. Mar. 1, 2021.

Department 300. RULES OF GEORGIA DEPARTMENT OF LABOR

Chapter 300-2. EMPLOYMENT SECURITY LAW

Subject 300-2-6. RECORDS

300-2-6-.04 Contact by a Government Official About a Third-Party Claim

Should a government official or anyone representing or acting on behalf of a government official other than a department employee or contractor, contact the department on behalf of an employer or a claimant concerning a pending claim for unemployment insurance benefits, then the Commissioner, or the Commissioner's designee, in his/her sole discretion, shall direct the department to notify the other party in such matter of the inquiry by the government official and the name of the governmental office within five (5) business days of receipt of the inquiry.

Cite as Ga. Comp. R. & Regs. R. 300-2-6-.04

AUTHORITY: O.C.G.A. §§ 34-2-6(a)(4)**,** 34-8-70**,** 34-8-123**.**

HISTORY: Original Rule entitled "Contact by a Government Official About a Third-Party Claim" adopted. F. Feb. 9, 2021; eff. Mar. 1, 2021.

Department 464. GEORGIA PEACE OFFICER STANDARDS AND TRAINING COUNCIL

Chapter 464-2. DEFINITIONS

464-2-.01 Definitions. Amended

Unless the context requires otherwise, the following words and terms shall have the following meanings:

(a) An "Emergency Peace Officer" retains the power and authority of a peace officer only for the duration of the emergency or disaster.

(b) "Law Enforcement Support Personnel" shall include but not be limited to the following:

1. Jail Officers;

2. Communication Officers;

3. Identification Technicians;

4. Forensic Specialists;

5. Photographers;

Secretaries and clerical staff personnel shall not be considered as law enforcement support personnel.

(c) "Peace Officer" as defined in O.C.G.A. § 35-8-2(8), for the purposes of these rules shall not include persons on active duty with the armed forces or the Coast Guard of the United States and federal law enforcement officers.

(d) A "Sponsoring Agency of a School" is an agency, body, or institution of this State or a subdivision thereof which assumes responsibility as surety for a certified school.

(e) "Sponsoring Agency" is any POST recognized agency which assumes the responsibility of a candidate for officer certification.

(f) A "Certified School" is a training school certified in accordance with these Rules.

(g) A "Certified School Director" is a chief executive officer of a certified school and one who has been certified in accordance with these Rules.

(h) The "Basic Training Course" is the program of instruction prescribed by the Council to satisfy the minimum mandatory requirements of the P.O.S.T. Act (O.C.G.A. § 35-8.)

(i) "Advanced Specialized Training" is an approved training program beyond the basic course of instruction which has as its primary goal the development of special skills or that raises the proficiency level within that specialized skill to an advanced level of competence and performance and which is different from in-service training.

(j) "In-service Training" is any training program drawn from the curriculum of the basic training course, which is generally offered for the purposes of updating or refreshing an officer's knowledge and basic skill level.

(k) An "Instructor" is any person employed, appointed, or utilized by a school to present a course of study or instruction.

(l) A "Certified Instructor" is any instructor certified in accordance with these Rules.

(m) "Revoke" (Revocation) means an action taken by the Council whereby the certification or registration of an officer is canceled and the officer shall no longer perform the functions of a certified officer.

(n) "Suspend" (Suspension) means an action taken by the Council whereby the certification or registration of a peace office is temporarily discontinued and the officer shall not perform the functions of an officer during the period the certification or registration is temporarily discontinued.

(o) "Convicted of Sufficient Misdemeanors to Establish a Pattern of Disregard For the Law" means conviction of that quantity and/or quality of misdemeanors that warrant a sanction or revocation of a certificate of a certified officer or exempt person. The term conviction means a finding or verdict of guilt, a plea of guilty or a plea of nolo contendere regardless of whether the adjudication of guilt or sentence is withheld or not entered thereon. Conviction of minor traffic offenses shall not be considered by the Council and the Council shall not consider other offenses involving the operation of a motor vehicle where the applicant received a pardon.

(p) "Volunteer" Peace Officer shall be:

1. A reserve officer who is a part-time sworn officer commissioned with peace officer authority and is normally not paid for services provided;

2. An auxiliary officer who is a civilian affiliated with the law enforcement agency in a part-time, unsalaried, non-sworn, support capacity.

(q) "Chief of Police/Head of Law Enforcement Unit" shall be:

A Chief executive or department head of a unit of the state, a subdivision or municipality thereof, or a railroad who is a peace officer as defined in O.C.G.A. § 35-8-2(8)(A) and whose responsibilities include the supervision and assignment of one or more employees or the performance of administrative and management duties of a police agency or law enforcement unit.

(r) "Unprofessional Conduct", for the purposes of imposing discipline under the Georgia Peace Officer Standards and Training Act, includes any departure from or failure to conform to the minimum standards of acceptable and prevailing practice of a peace officer. Acts of unprofessional conduct may include, but are not limited to, driving under the influence of alcohol or drugs; possession of marijuana or controlled substance; the failure to notify the Council of arrests and convictions; the failure to comply with a condition of probation or suspension imposed by the Council; the refusal to test for, or obtaining a positive test result for marijuana or controlled substance; and the conviction of a misdemeanor in the courts of this state or any other state, territory, country, or of the United States. The term "conviction" shall have the same meaning as set forth in O.C.G.A. § 35-8-7.1(a)(3). This rule shall not serve to limit the Council from examining any allegations of misconduct.

(s) "Full time" means regularly working a minimum of thirty (30) hours per week or one hundred and twenty (120) hours per twenty-eight (28) day period for a law enforcement unit or communications center.

(t) An "accredited college or university" is any institution of higher education which has been recognized by the Council on Higher Education Accreditation and/or the institution's accrediting agency is recognized by the United States Department of Education, or other such accrediting authority approved by P.O.S.T. Council.

(u) "College Credit" is defined as actual academic course work. To be considered college credit, the credits must be eligible for recognition at any college or university within the University System of Georgia for degree purposes. The decision shall not be made solely on the source of accreditation of a sending institution. College credits must have been granted for a course other than one which was based on Internships, Directed Studies, Practicums, Correspondence, Workshops, Orientation Classes, Field Experience, Life Experience, Challenge Examination, Seminar, or Remedial courses.

(v) "Exempt Officer" is that officer identified in O.C.G.A. § 35-8-10 who is exempt from the certification provisions of O.C.G.A. 35-8. Each exempt officer must register with the Council.

(w) "In writing" is defined as any notification sent to POST via common carrier, the POST Data Gateway, or by electronic notification for which the sender has received delivery confirmation.

Cite as Ga. Comp. R. & Regs. R. 464-2-.01

AUTHORITY: O.C.G.A. § 35-8-7(23)**.**

HISTORY: Original Rule entitled "Forms" adopted. F. Feb. 12, 1971; eff. Mar. 4, 1971.

Repealed: New Rule of same title adopted. F. Aug. 10, 1971; eff. Aug. 30, 1971.

Amended: F. Apr. 13, 1972; eff. May 3, 1972.

Repealed: New Rule of same title adopted. F. June 7, 1974; eff. June 27, 1974.

Amended: F. Dec. 13, 1974; eff. Jan. 2, 1975.

Repealed: New Rule entitled "Objectives" adopted. F. Sept. 2, 1975; eff. Sept. 22, 1975.

Repealed: New Rule entitled "Functions and Powers" adopted. F. July 7, 1978; eff. July 27, 1978.

Amended: F. June 8, 1984; eff. June 28, 1984.

Repealed: New Rule of same title adopted. F. Mar. 13, 1985; eff. Apr. 2, 1985.

Repealed: New Rule entitled "Definitions" adopted. F. Mar. 2, 1988; eff. Mar. 22, 1988.

Amended: F. Sept. 7, 1989; eff. Sept. 27, 1989.

Repealed: New Rule of same title adopted. F. Mar. 19, 1998; eff. Apr. 8, 1998.

Amended: F. Sept. 27, 2004; eff. Oct. 17, 2004.

Amended: F. Dec. 18, 2007; eff. Jan. 7, 2008.

Amended: New title "Definitions. Amended." F. Feb. 2, 2021; eff. Feb. 22, 2021.

Department 464. GEORGIA PEACE OFFICER STANDARDS AND TRAINING COUNCIL

Chapter 464-5. TRAINING

464-5-.15 Period of Certification. Annual Renewals

Certification shall continue in effect for twelve calendar months commencing with the award of a certificate. The Council shall evaluate each certified school within twelve calendar months commencing with the award of a certificate and annually thereafter to determine continued compliance with the qualification requirements of this Chapter, adherence to contractual obligations, and maintenance of acceptable instructional quality. The Council shall award letters of renewal to schools found in continued compliance. Any certified school shall, upon notice from the Council of a pending audit, provide whatever documentation to Council as requested to assist in the audit.

Cite as Ga. Comp. R. & Regs. R. 464-5-.15

AUTHORITY: O.C.G.A. § 35-8-7(23)**.**

HISTORY: Original Rule entitled "Period of Certification. Annual Renewals" adopted. F. Mar. 2, 1988; eff. Mar. 22, 1988.

Repealed: New Rule of same title adopted. F. Mar. 19, 1998; eff. Apr. 8, 1998.

Amended: F. Feb. 2, 2021; eff. Feb. 22, 2021.

464-5-.19 School Director Certification. Amended

In order that a school director be qualified for certification under these Rules the following requirements shall be met:

(a) At the time of making application for certification under these Rules, a school director shall:

1. be a candidate for full-time employment and qualified for instructor certification in accordance with these Rules;

2. possess a baccalaureate degree from an accredited institution of higher learning;

3. have at least five years' experience in criminal justice;

4. possess good moral character.

(b) No school director shall be certified under these Rules without having completed an application, as required by Council. Said application shall be submitted within ninety (90) days of appointment as a school director.

Cite as Ga. Comp. R. & Regs. R. 464-5-.19

AUTHORITY: O.C.G.A. § 35-8-7(23)**.**

HISTORY: Original Rule entitled "School Director Certification" adopted. F. Mar. 2, 1988; eff. Mar. 22, 1988.

Repealed: New Rule of same title adopted. F. Mar. 19, 1998; eff. Apr. 8, 1998.

Amended: F. Dec. 18, 2007; eff. Jan. 7, 2008.

Amended: New title "School Director Certification. Amended." F. Feb. 2, 2021; eff. Feb. 22, 2021.

Department 464. GEORGIA PEACE OFFICER STANDARDS AND TRAINING COUNCIL

Chapter 464-6. INSTRUCTOR CERTIFICATION

464-6-.08 Guest Instructor Recognition. Amended

Guest Instructor Recognition. Because of the inherent nature of certain professions or particular skill levels achieved, certain individuals may be requested to instruct. Such persons shall be designated as guest instructors and shall be recognized by Council as such. Guest Instructor recognition shall be granted only by the written request of the academy director or a professional criminal justice association recognized by the Georgia Peace Officer Standards and Training Council. No Georgia certified officer shall be recognized as a guest instructor.

Cite as Ga. Comp. R. & Regs. R. 464-6-.08

AUTHORITY: O.C.G.A. § 35-8-7(23)**.**

HISTORY: Original Rule entitled "School (Academy) Requirements" was filed on July 7, 1978; effective July 27, 1978.

Amended: Rule repealed and a new Rule of the same title adopted. Filed March 13, 1985; effective April 2, 1985.

Amended: Rule repealed and a new Rule entitled "Guest and Professional Instructor Recognition" adopted. Filed March 2, 1988; effective March 22, 1988.

Repealed: New Rule entitled "Guest Instructor Recognition" adopted. F. Mar. 19, 1998; eff. Apr. 8, 1998.

Amended: New title "Guest Instructor Recognition. Amended." F. Feb. 2, 2021; eff. Feb. 22, 2021.

Department 464. GEORGIA PEACE OFFICER STANDARDS AND TRAINING COUNCIL

Chapter 464-8. HEARINGS

464-8-.01 Requests to be Heard. Amended

Upon service of notice of adverse action, an officer or applicant, within thirty (30) calendar days, must request to be heard and, under oath, answer and respond to the notice of adverse action by either admitting or denying each and every allegation presented in the case summary attached to the notice of adverse action, or said adverse action becomes final. All allegations which are not specifically answered are deemed to be admitted. A request to be heard is defined as a clear written expression by the affected party or authorized representative on his/her behalf to the effect that he/she wants the opportunity to contest his/her case. For the purposes of notification, mailing by certified mail to the last address specified on the application or the last known address of the officer or applicant on the POST Data Gateway system shall constitute proper service. Accompanying the request for hearing and answer to each allegation under oath, the officer or applicant must include the fee set by Council to have his/her case reviewed at a pre-hearing conference.

Cite as Ga. Comp. R. & Regs. R. 464-8-.01

AUTHORITY: O.C.G.A. § 35-8-7(23)**.**

HISTORY: Original Rule entitled "Actions Relating to Denial, Revocation or Suspension of Certification or Registration" adopted. F. July 7, 1978; eff. July 27, 1978.

Repealed: New Rule entitled "Hearing Requests" adopted. F. Mar. 2, 1988; eff. Mar. 22, 1988.

Amended: F. May 25, 1993; eff. June 14, 1993.

Repealed: New Rule of same title adopted. F. Mar. 19, 1998; eff. Apr. 8, 1998.

Repealed. New rule with same title adopted. F. Jun. 15, 2011; eff. Jul. 5, 2011.

Amended: New title "Requests to be Heard. Amended." F. Feb. 2, 2021; eff. Feb. 22, 2021.

464-8-.02 Denial and Dismissal of Requests to be Heard. Amended

The Council or Hearing Officer designated by the Council may deny or dismiss a request to be heard for the following reasons:

(a) It has been withdrawn by the affected party;

(b) If the affected party or his/her representative fails to appear at a hearing or settlement conference scheduled for such affected officer;

(c) If the affected party or his/her representative does not submit a written request for hearing and answer to the allegations within thirty (30) days after the service of the notice of adverse action; or

(d) If the affected party or his/her representative fails to respond within thirty (30) calendar days to correspondence from the Council following the pre-hearing settlement conference; or

(e) If the affected party fails to pay the requisite fee associated with such an appeal of adverse action within thirty (30) days after service.

Following the dismissal of the request for hearing, the adverse action proposed by Council becomes a final decision.

Cite as Ga. Comp. R. & Regs. R. 464-8-.02

AUTHORITY: O.C.G.A. § 35-8-7(23)**.**

HISTORY: Original Rule entitled "Actions Relating to Denial, Suspension, or Withdrawal of Funding" adopted. F. July 7, 1978; eff. July 27, 1978.

Repealed: New Rule entitled "Denial and Dismissal of Hearing Requests" adopted. F. Mar. 2, 1988; eff. Mar. 22, 1988.

Amended: F. May 25, 1993; eff. June 14, 1993.

Amended: F. Apr. 2, 1996; eff. Apr. 22, 1996.

Repealed: New Rule of same title adopted. F. Mar. 19, 1998; eff. Apr. 8, 1998.

Repealed. New rule with same title adopted. F. Jun. 15, 2011; eff. Jul. 5, 2011.

Amended: New title "Denial and Dismissal of Requests to be Heard. Amended." F. Feb. 2, 2021; eff. Feb. 22, 2021.

464-8-.03 Pre-Hearings. Amended

1. Prior to referral to the Office of State Administrative Hearings, a pre-hearing conference will be held if the officer or applicant has made a request to be heard. The officer (and his or her counsel, if any), a member of the POST Council staff and an Assistant Attorney General may participate. The purpose of the conference is to discuss any issues in dispute and to provide the parties an opportunity to present any additional matters and/or evidence relevant to the sanction being imposed by the Council. As a result of the conference, the Pre-Hearings officer or Director of Operations, with the concurrence of the Executive Director, may recommend that the Council's sanction be modified. The Chairman of the Council, or the Vice-Chairman if the Chairman is unavailable, shall be authorized to approve such modifications and such modification becomes the recommendation of Council.

2. Following the pre-hearing, upon service of notice of the result of the pre-hearing conference, an officer or applicant, within thirty (30) calendar days, may request to be heard at a full hearing before the Office of State Administrative Hearings. This request must be made in writing, and must be accompanied by the administrative hearing fee set by Council. If said officer or applicant fails to request, within thirty (30) days, in writing, with the required fee, a full hearing at OSAH, then the notice of adverse action becomes final.

Cite as Ga. Comp. R. & Regs. R. 464-8-.03

AUTHORITY: O.C.G.A. § 35-8-7(23)**.**

HISTORY: Original Rule entitled "Notice to Affected Party or Person" adopted. F. July 7, 1978; eff. July 27, 1978.

Repealed: New Rule entitled "Hearing Officer" adopted. F. Mar. 2, 1988; eff. Mar. 22, 1988.

Amended: F. May 25, 1993; eff. June 14, 1993.

Repealed: New Rule of same title adopted. F. Mar. 19, 1998; eff. Apr. 8, 1998.

Repealed: New Rule entitled "Pre-Hearing Conferences" adopted. F. Dec. 18, 2007; eff. Jan. 7, 2008.

Note: Prior to amendment effective Feb. 22, 2021, Rule title (i.e., following the rule number in the catchline) on website incorrectly cited as "Pre-Hearing Officer." Correct title was "Pre-Hearing Conferences," as published in the Official Compilation Rules and Regulations of the State of Georgia (F. Dec. 18, 2007; eff. Jan. 7, 2008). Effective Feb. 22, 2021.

Amended: New title "Pre-Hearings. Amended." F. Feb. 2, 2021; eff. Feb. 22, 2021.

Department 464. GEORGIA PEACE OFFICER STANDARDS AND TRAINING COUNCIL

Chapter 464-10. CERTIFICATION OF SPEED DETECTION DEVICE OPERATORS AND INSTRUCTORS

464-10-.01 Forms of Certification, Requirements for Operator Certification. Amended

For the purpose of these rules there shall be four forms of certification by which an officer may become certified to operate speed detection devices as defined in the rules:

(a) VASCAR Certification- to be certified as a VASCAR operator an officer must: (1) complete a VASCAR Training Course approved by the Council and taught by a certified instructor; (2) meet the necessary certification requirements as approved by Council.

(b) RADAR Certification- to be certified as a RADAR operator an officer must: (1) satisfactorily complete a RADAR Training Course approved by the Council and taught by a certified instructor; (2) meet the necessary certification and re-certification requirements (to include refresher training) as approved by the Council.

(c) Electronic Digital Speed Computer Timing Device (EDST) and Stopwatch Certification- to be certified as an EDST/Stopwatch operator, and officer must: (1) satisfactorily complete an EDST/Stopwatch training course, as approved by Council, or satisfactorily complete a VASCAR Training Course as approved by Council; (2) meet the necessary certification requirements as approved by Council.

(d) LIDAR Certification- to be certified as a LIDAR operator an officer must: (1) satisfactorily complete a LIDAR Training Course approved by the Council and taught by a certified instructor; (2) meet the necessary certification and recertification requirements (to include refresher training) as approved by Council.

Cite as Ga. Comp. R. & Regs. R. 464-10-.01

AUTHORITY: O.C.G.A. § 35-8-7(23)**.**

HISTORY: Original Rule entitled "Submission of Forms for Peace Officer Certification" adopted. F. July 7, 1978; eff. July 27, 1978.

Repealed: New Rule entitled "Form of Certification, Requirements for Operator Certification" adopted. F. Mar. 2, 1988; eff. Mar. 22, 1988.

Amended: F. Nov. 17, 1992; eff. Dec. 7, 1992.

Repealed: New Rule of same title adopted. F. Mar. 19, 1998; eff. Apr. 8, 1998.

Amended: F. Dec. 18, 2007; eff. Jan. 7, 2008.

Amended: F. Jun. 19, 2012; eff. Jul. 9, 2012.

Amended: New title "Forms of Certification, Requirements for Operator Certification. Amended." F. Feb. 2, 2021; eff. Feb. 22, 2021.

464-10-.02 LIDAR Instructor Certification. Amended

In order that a person be certified as an instructor for LIDAR speed detection devices, that person shall be a POST certified speed detection instructor and complete a LIDAR instructor's course as approved by the Council.

Cite as Ga. Comp. R. & Regs. R. 464-10-.02

AUTHORITY: O.C.G.A. § 35-8-7(23).

HISTORY: Original Rule entitled "Medical Examination Report and Physician's Affidavit. Postform 4" adopted. F. July 7, 1978; eff. July 27, 1978.

Repealed: F. Mar. 2, 1988; eff. Mar. 22, 1988.

Amended: New Rule entitled "Laser Instructor Certification" adopted. F. Mar. 19, 1998; eff. Apr. 8, 1998.

Amended: New title "LIDAR Instructor Certification. Amended." F. Feb. 2, 2021; eff. Feb. 22, 2021.

Department 500. STATE BOARD OF PODIATRY EXAMINERS

Chapter 500-2. EXAMINATION AND LICENSURE REQUIREMENTS

500-2-.02 Reinstatement of Licensure. Amended

(1) Reinstatement of a revoked or lapsed license is within the discretion of the Board.

(2) An applicant for reinstatement for a revoked or lapsed license must submit a completed application provided by the Board, payment of the required fee, and the following:

(a) A signed letter of explanation from the applicant and supporting documents that explain the reasons the license was lapsed and/or revoked;

(b) A certification of licensure from any other state or states in which the applicant is licensed showing the current status of the license and any action taken against the license;

(c) A resume showing the applicant's professional experience since the Georgia license expired;

(d) Payment of all required renewal and delinquency fees; and,

(e) Proof of completion of fifty (50) hours of continuing education approved by the Council on Podiatric Medical Education (CPME) and/or the Georgia Podiatric Medical Educational Foundation (GPMEF) as required in Board Rule 500-5-.01(3)(a-c).

(3) The Board, in its discretion, may impose any remedial or additional requirements for applicants who have previously engaged in the practice of podiatric medicine and who have not practiced for a period greater than thirty (30) consecutive months as approved by the Board.

(4) The Board may deny reinstatement for failure to demonstrate current knowledge, skill and proficiency in the practice of podiatric medicine or for being mentally or physically unable to practice with reasonable skill and safety, or for any ground stated in O.C.G.A. § 43-35-16 and any other applicable state or federal law.

Cite as GA Regs. 500-2-.02

AUTHORITY: O.C.G.A. §§ 43-1-4**,** 43-1-7**,** 43-1-19**,** 43-1-19.2**,** 43-1-25**,** 43-35-9**,** 43-35-15**,** 43-35-16**.**

HISTORY: Original Rule entitled "Photograph to Accompany Application" adopted. F. and eff. June 30, 1965.

Repealed: F. May 15, 1995; eff. June 4, 1995.

Adopted: New Rule entitled "Reinstatement of Licensure." F. Sep. 4, 2015; eff. Sep. 24, 2015.

Amended: New title "Reinstatement of Licensure. Amended." F. Feb. 17, 2021; eff. Mar. 9, 2021.

Department 500. STATE BOARD OF PODIATRY EXAMINERS

Chapter 500-4. RENEWAL OF LICENSES

500-4-.02 Inactive License. Amended

(1) The Board has determined inactive status will be available for those persons meeting the prescribed criteria which shall remain in full force for life, unless reactivated under Board Rules, and which shall incur no fees. To be eligible to be placed in inactive status, a licensee must:

(a) Submit their request on the designated form;

(b) Have a current active license in good standing to practice podiatry in the state of Georgia.

(c) Must not be under administrative disciplinary action or court action or probation;

(2) Once placed in inactive status, the license holder thereafter shall not engage in the practice of podiatry in any manner in the State of Georgia.

(3) The only avenue of reactivation shall be at the discretion of the Board under conditions acceptable to the Board. Licensees seeking reactivation submit an application and fee in accordance with the fee schedule and fifty (50) hours of continuing education in accordance with Board Rules.

Cite as GA Regs. 500-4-.02

AUTHORITY: O.C.G.A. §§ 43-1-22**,** 43-35-9**.**

HISTORY: Original Rule "Inactive License" was filed on August 11, 1986; effective August 31, 1986.

Repealed: New Rule of same title adopted. F. May 15, 1995; eff. Jun. 4, 1995.

Amended: New title "Inactive License. Amended." F. Feb. 17, 2021; eff. Mar. 9, 2021.

Department 560. RULES OF DEPARTMENT OF REVENUE

Chapter 560-7. INCOME TAX DIVISION

Subject 560-7-8. RETURNS AND COLLECTIONS

560-7-8-.45 Film Tax Credit

(1) **Purpose.** This rule provides guidance concerning the implementation and administration of the income tax credits contained within the Georgia Entertainment Industry Investment Act (hereinafter "Act") under O.C.G.A. § 48-7-40.26.

(2) **Coordination of Agencies.** The Department of Economic Development is the state agency responsible for determining which projects qualify for the tax credits authorized under the Act and specifying which projects were approved as interactive entertainment projects.

(3) **Definitions.**

(a) "Completion of the Base Investment or Excess Base Investment in this State" means the date the production company has finished qualified production activities and incurs no additional qualified production expenditures.

(b) "Film Tax Credit" means the credit allowed pursuant to the Georgia Entertainment Industry Investment Act, O.C.G.A. § 48-7-40.26.

(c) As used in this regulation, the terms "affiliates", "base investment", "game platform", "game sequel", "multimarket commercial distribution", "prereleased interactive game", "production company", "qualified Georgia promotion", "qualified production activities", "state certified production", and "total aggregate payroll" have the same meaning as in O.C.G.A. § 48-7-40.26.

(d) "Loan-out Company" means any personal service company contracted with and retained by the production company or qualified interactive entertainment production company to provide individual personnel (which are not employees of the production company or qualified interactive entertainment production company), such as artists, actors, directors, producers, writers, production designers, production managers, costume designers, directors of photography, editors, casting directors, first assistant directors, second unit directors, stunt coordinators, or similar personnel for the performance of services used directly in a qualified production activity, but not including persons retained by the production company or qualified interactive entertainment production company to provide tangible property or outside independent contractor service, such as catering, construction, trailers, equipment and transportation.

(e) "Personal Service Company" means any personal service corporation as defined in Internal Revenue Code Section 269A(b) or any other entity, which also includes a sole proprietorship or an individual being paid as an independent contractor, meeting the principal activity and the ownership requirements of Internal Revenue Code Section 269A(b).

(f) "Qualified Interactive Entertainment Production Company" means a company that:

1. Maintains a business location physically located in Georgia;

2. In the calendar year directly preceding the start of the taxable year of the qualified interactive entertainment production company, had a total aggregate payroll of $500,000 or more for employees working within the state; or in a taxable year beginning on or after January 1, 2018, had a total aggregate payroll of $250,000 or more for employees working within the state in the taxable year the qualified interactive entertainment production company claims the film tax credit;

3. Has gross income less than $100 million for the taxable year; and

4. Is primarily engaged in qualified production activities related to interactive entertainment which have been approved by the Department of Economic Development.

Any company that has gross income less than $100 million for the taxable year and is primarily engaged in qualified production activities related to interactive entertainment must meet the requirements in subparagraphs (3)(f)1. and (3)(f)2. of this regulation and be certified as meeting such as provided in subparagraph (5)(c) of this regulation in order to be eligible for the film tax credit.

This term shall not mean or include any form of business owned, affiliated, or controlled, in whole or in part, by any company or person which is in default on any tax obligation of the state, or a loan made by the state or a loan guaranteed by the state. For this definition, "primarily engaged" means a company whose gross income from qualified production activities related to interactive entertainment which has been approved by the Department of Economic Development exceeds 50% of their total gross income for their taxable year or whose expenses from qualified production activities related to interactive entertainment which has been approved by the Department of Economic Development exceeds 50% of their total expenses for their taxable year.

(4) **Affiliates.**

(a) Threshold Determination. O.C.G.A. § 48-7-40.26(c) and (d) discuss the investment of a production company or qualified interactive entertainment production company and its affiliates. The affiliates are included solely to determine whether or not the $30 million expenditure threshold has been exceeded for the purpose of determining under which of these subsections the film tax credit will be calculated. Once that determination is made, the $500,000 base investment threshold or excess base investment threshold is calculated for each separate production company or qualified interactive entertainment production company and the film tax credit is earned solely by the production company or qualified interactive entertainment production company which has qualified investment expenditures in a state certified production. If more than one affiliated production company or qualified interactive entertainment production company has qualifying productions in Georgia, then each production company or qualified interactive entertainment production company will calculate its film tax credit independently of its affiliates.

(b) Assignment of Credit to Affiliates. Once the production company or qualified interactive entertainment production company establishes the amount of the film tax credit by filing the tax return for the taxable year in which the credit was earned, the credit may then be assigned to the production company's or qualified interactive entertainment production company's affiliates under the provisions of O.C.G.A. § 48-7-42. When a film tax credit is assigned to an affiliated entity, the affiliated entity may apply the credit solely against its own income tax liability. The affiliated entity may not sell or transfer the credit pursuant to paragraph (13) of this regulation and may not claim any excess film tax credit against its withholding tax. Any unused credit may be carried forward by such affiliated entity until the credit is used or it expires, whichever occurs first.

(5) **Certification of Qualified Production Activities.** Prior to claiming the film tax credit (which includes the additional tax credit for including the qualified Georgia promotion), each new film, video, or digital project must be certified by the Department of Economic Development. Production companies that are required to reduce their investment basis by the amount of expenditures in prior years, must receive certification from the Department of Economic Development for current year projects prior to claiming the film tax credit. The Department of Economic Development will provide a Credit Certificate Number to the production company or qualified interactive entertainment production company for each qualifying project which is approved. The credit certificate number(s) will be used to report any transfer or sale of film tax credit by the production company or qualified interactive entertainment production company for the qualifying project(s).

(a) The Department of Economic Development shall electronically certify to the Department when the requirements for the additional tax credit for a qualified Georgia promotion have been met.

(b) The additional 10% tax credit for including a qualified Georgia promotion shall not be issued final certification by the Department under paragraph (19) of this regulation unless and until the state certificated production has been

commercially distributed in multiple markets within five years of the date that the project was first certified by the Department of Economic Development. As such the additional 10% tax credit for including a qualified Georgia promotion will likely be issued final certification separately and later than the 20% base credit and therefore may be earned later and have a different three year carryover period.

(c) Certification for a Qualified Interactive Entertainment Production Company. Before the Department of Economic Development issues its certification under paragraph (5) of this regulation to a qualified interactive entertainment production company, the qualified interactive entertainment production company must electronically certify to the Department of Revenue through the Georgia Tax Center on Form IT-QIEPC that:

1. The qualified interactive entertainment production company maintains a business location physically located in this state; and

2. For taxable years beginning before January 1, 2018, the qualified interactive entertainment production company had expended a total aggregate payroll of $500,000 or more for employees working within this state during the calendar year directly preceding the start of the taxable year of the qualified interactive entertainment production company. For taxable years beginning on or after January 1, 2018, the qualified interactive entertainment production company had expended or intends to expend a total aggregate payroll of $250,000 or more for employees working within this state during the taxable year the qualified interactive entertainment production company claims the tax credit.

(d) The qualified interactive entertainment production company must attach the approved Form IT-QIEPC to their Department of Economic Development certification application. The Department of Economic Development shall not issue its certification until it receives an approved Form IT-QIEPC from the qualified interactive entertainment production company. The Department of Revenue shall not issue any Form IT-QIEPCs before July 1, 2014.

(e) If the qualified interactive entertainment project spans more than 1 year, then the qualified interactive entertainment production company must submit a separate Form IT-QIEPC for each year. Also, any qualified expenditures, including reshoots after the principal photography or additional photography, any of which occur outside of the taxable year on the Department of Economic Development's certificate for the project, require a separate certification from the Department of Economic Development.

(f) If the qualified interactive entertainment production company is a disregarded entity then Form IT-QIEPC should be submitted in the name of the owner of the disregarded entity.

(6) **Production Expenditures.**

(a) Base Investment. For taxable years beginning before January 1, 2018, a production company or qualified interactive entertainment production company can aggregate projects over a single tax year to meet the $500,000 investment threshold or excess base investment threshold. For taxable years beginning on or after January 1, 2018, a production company can aggregate projects over a single tax year to meet the $500,000 investment threshold or excess base investment threshold and a qualified interactive entertainment production company can aggregate projects over a single tax year to meet the $250,000 investment or excess base investment threshold. A television series (which can occur over two or more years), series pilot, or television movie shall each be considered a single television project. In the case of an episodic television series, an entire season of episodes is one project.

1. Example 1: A production company produces 20 commercials in one calendar year, and each commercial has $25,000 in production expenditures. The production company can aggregate their production expenditures for multiple commercials in one calendar year (20 x $25,000 = $500,000) to meet the $500,000 base investment threshold.

2. Example 2: A production company has $900,000 in production expenditures during two years (they spend $300,000 in year 1 and $600,000 in year 2) producing one television movie. The production company may aggregate their production expenditures over the two years for this single project (one television movie) to achieve the $500,000 base investment threshold. The production company can claim the credit in the year the $500,000 base investment has been achieved.

3. Example 3: For taxable years beginning on or after January 1, 2018, a qualified interactive entertainment production company completes two certified projects in one tax year, and each has $125,000 in production expenditures. The qualified interactive entertainment production company can aggregate their production expenditures for multiple projects completed in one tax year to meet the $250,000 base investment threshold for a qualified interactive entertainment production company.

4. Example 4: In a taxable year beginning on or after January 1, 2018, a qualified interactive entertainment production company has $400,000 in production expenditures during two years (they spend $100,000 in year 1 and $300,000 in year 2) completing one certified project. The qualified interactive entertainment production company may aggregate their production expenditures over the two years for this single project to achieve the $250,000 base investment threshold. The qualified interactive entertainment production company can claim the credit in the year the $250,000 base investment has been achieved.

(b) Direct use. A production company or qualified interactive entertainment production company may only claim production expenditures that are directly used in a qualified production activity. In determining whether an expenditure is directly used in a qualified production activity, the Department of Revenue will consider the proximity of the expenditure to the activity as well as the causal relationship between the expenditure and the activity.

(c) Production expenditures include preproduction, production, and postproduction expenditures incurred in this state that are directly used in a qualified production activity, including, but not limited to, the following: set construction and operation; wardrobes, make-up, accessories, and related services; costs associated with photography and sound synchronization; expenditures (excluding license fees) incurred with Georgia companies for sound recordings and musical compositions; sound recording projects used in feature films, series, pilots, or movies; lighting and related services and materials; editing and related services; rental of facilities and equipment; leasing of vehicles; costs of food and lodging; digital or tape editing; film processing; transfers of film to tape or digital format; sound mixing; computer graphics services; special effects services; animation services; total aggregate payroll; airfare, if purchased through a Georgia travel agency or travel company, airfare is generally limited to one roundtrip per production cycle and for this purpose a production cycle is defined as a single episode for television and as a run of show for all other productions; insurance costs and bonding, if purchased through a Georgia insurance agency; and other direct costs of producing the project in accordance with generally accepted entertainment industry practices. This term also includes payments to a loan-out company by a production company or its payroll service provider or by a qualified interactive entertainment production company or its payroll service provider that has met its withholding tax obligations in subparagraph (6)(d) of this regulation. The production company's tax basis (accrual or cash) shall be used to determine when the payment is made; provided however, prepayments for goods and services qualify in the tax year the payment applies to (the year the goods are delivered or the year the services are rendered), not the year it is prepaid. Also, any qualified expenditures, including reshoots after the principal photography or additional photography, any of which occur outside of the taxable year on the Department of Economic Development's certificate for the project, require a separate certification from the Department of Economic Development. With the exception of assets subject to depreciation under paragraph (6)(e) of this regulation, receipts for asset sales, rebates, insurance proceeds, federal government reimbursements or credits, or any other reimbursements, reduce the amount of qualified expenditures and are required to be reflected in the production cost journal.

1. This term shall not include:

(i) Postproduction expenditures for footage shot outside of Georgia, marketing, publicity, story rights, or distribution;

(ii) Any expenditure for work or services not conducted or rendered in Georgia. Expenditures for services not performed at the filming site shall only qualify if the vendor is a Georgia vendor. Expenditures for services conducted or rendered both in Georgia and outside Georgia shall only qualify to the extent the service is conducted or rendered in Georgia;

(iii) Expenditures for goods that were not purchased or rented or leased in this state from a Georgia vendor. Goods are not considered purchased or rented in Georgia if the goods are shipped or delivered from the Georgia vendor's location outside of Georgia unless more than a de minimis amount of the type of goods held and shipped or delivered from outside Georgia are normally held in inventory in the ordinary course of business in Georgia by the Georgia vendor. Expenditures for goods shall only qualify to the extent such goods are used in Georgia. A vendor that acts as a conduit to enable purchases or rentals to qualify that would not otherwise qualify shall not be considered a Georgia vendor with respect to such purchases, rentals, or leases;

(iv) Freight or shipping charges incurred relating to a non Georgia vendor; or

(v) Any transaction subject to taxation under Chapter 8 or Chapter 13 of Title 48 of the Official Code of Georgia for which taxes have not been demonstrably paid. For purposes of Chapter 8, use tax paid by the production company itself will be considered to have been demonstrably paid for purposes of this subparagraph provided the other requirements of O.G.C.A § 48-7-40.26 and this regulation are met.

(d) The production company or its payroll service provider or qualified interactive entertainment production company or its payroll service provider shall withhold Georgia income tax at the rate imposed by subsection (a) of O.G.C.A § 48-7-21 on all payments to loan-out companies for services performed in Georgia. Any amounts so withheld shall be deemed to have been withheld by the loan-out company on wages paid to its employees for services performed in Georgia pursuant to Article 5 of Chapter 7 of Title 48 notwithstanding the exclusion in Code Section 48-7-100(10)(K). The amounts so withheld shall be allocated to the loan-out company's employees based on the payments made to the loan-out company's employees for services performed in Georgia. For purposes of Chapter 7 of Title 48, the loan-out company nonresident employees performing services in Georgia shall be considered taxable nonresidents and the loan-out company shall be subject to income taxation in the taxable year in which the loan-out company's employees perform services in Georgia, notwithstanding any other provisions in Chapter 7 of Title 48.

1. Registration. A production company or its payroll service provider or a qualified interactive entertainment production company or its payroll service provider that makes payments to a loan-out company must electronically register with the Department using the Georgia Tax Center to obtain a film withholding account for the production company or qualified interactive entertainment production company. The loan-out company must register for a payroll withholding account using the Georgia Tax Center if they are not already registered. The loan-out company must provide the production company or its payroll service provider or the qualified interactive entertainment production company or its payroll service provider the loan-out company's federal identification number and Georgia withholding identification number.

2. Withholding Remittance and Filing. The production company or its payroll service provider on behalf of the production company or the qualified interactive entertainment production company or its payroll service provider on behalf of the qualified interactive entertainment production company shall for each calendar quarter use the Georgia Tax Center to: electronically file the Form G-7 Film; provide information regarding the loan-out company (name, identification numbers, and amount of withholding); and provide any other information required by the Commissioner. Additionally, the withholding payment required by this subparagraph (6)(d) must be electronically remitted using ACH debit or ACH credit in the same manner provided in Rule 560-3-2-.26. The due date for such filing and remittance shall be the last day of the month following the calendar quarter in which the withholding payments were required to be made.

3. Reporting Requirements. The production company or its payroll service provider on behalf of the production company or the qualified interactive entertainment production company or its payroll service provider on behalf of the qualified interactive entertainment production company shall complete Form G2-FP, which requires: the production company's or qualified interactive entertainment production company's name, address, and tax identification numbers; the loan-out company's name, address and tax identification numbers; the amount of tax paid and withheld by the production company or its payroll service provider or by the qualified interactive entertainment production company or its payroll service provider; the total amount paid by the production company or its payroll service provider or by the qualified interactive entertainment production company or its payroll service provider to the loan-out company for services performed in Georgia (before considering the withholding); and any other information required by the Commissioner. Listing the date(s) of the withholding payments remitted to the

Department on the Form G2-FP shall be optional. The production company or its payroll service provider on behalf of the production company or the qualified interactive entertainment production company or its payroll service provider on behalf of the qualified interactive entertainment production company must provide Form G2-FP to the loan-out company by January 31st of the year following the calendar year in which the withholding payments were made. Such G2-FP shall not be submitted to the Commissioner, except upon request.

(i) The loan-out company shall complete Form G2-FL, which requires: the loan out company's name, address, and identification numbers; the allocated amount withheld (see subparagraph (6)(d)5.); the employee's name, address, and tax identification number; the name and identification numbers of the production company or qualified interactive entertainment production company that paid the withholding; and any other information required by the Commissioner. The loan-out company must provide Form G2-FL to the employee allocated the withholding amount by February 28th of the year following the calendar year in which the withholding payments were made. The loan-out company must also electronically file a copy of Form G-1003 and Form G2-FL by February 28th of the year following the calendar year in which the withholding payments were made.

4. Loan-out Filing Requirements. Upon completion of its tax year during which the loan-out company's employees performed services in Georgia, the loan-out company must file a Georgia income tax return (and net worth tax return if applicable) and report its income. The loan-out company must also pay its tax liability as would normally be required.

5. Allocation of Personal Income Credit Against Taxes. The amount deducted and withheld as tax under this subparagraph (6)(d) shall be allowed as a credit to the employee whose services were provided in the certified project against the employee's income tax. If the services of multiple employees are provided by the loan-out company, the amount deducted and withheld under this subparagraph (6)(d) shall be allocated to each employee based on the payments made to the loan-out company's employees performing services in Georgia.

(i) Employee Filing Responsibility. The employee providing services must file a Georgia income tax return attaching Form G2-FL provided by the loan-out company, and apply the credit for the withholding tax allocated to the employee against the calculated individual income tax liability for that employee.

6. Penalties and interest shall be imposed in the same manner as provided by Rule 560-7-8-.33. If the production company does not timely remit the loan out withholding for the calendar withholding quarters included in the taxable year specified on the Department of Economic Development certification, then the expenditure(s) does not qualify for the film tax credit, unless the Department determines there was reasonable cause for such delay; provided, however, the mere failure to withhold and remit the required loan out withholding would not by itself be considered reasonable cause. For example, the production period is October and November of 2020. The calendar withholding quarter runs from October through December of 2020. All amounts must be remitted no later than the January 31, 2021 due date for such quarter in order for the payment(s) to the loan out to qualify.

7. Amounts paid to a loan-out company where the loan-out company is not providing services used in a qualified production activity are not subject to the withholding required by O.C.G.A. § 48-7-40.26.

8. The failure of the loan-out company or the loan-out company's employees to comply with any registration, filing, and reporting obligations imposed by Georgia law, including those imposed by O.C.G.A. § 48-7-40.26 and this rule, shall not affect the film tax credit claimed by the production company or qualified interactive entertainment production company.

(e) Depreciation, amortization, or other expense on production expenditures with a useful life of more than one year. The costs of production expenditures with a useful life of more than one year are considered "other direct costs of producing the project in accordance with generally accepted entertainment industry practices." Such costs shall be included in the computation of the film tax credit for the taxable year based upon the depreciation, amortization, or other expense included in the computation of Georgia taxable income of the production company or qualified interactive entertainment production company for the applicable taxable year. Such depreciation, amortization, or other expense shall be prorated based upon the time the asset is used in qualified production activities in this state. Depreciation, amortization, or other expense on expenditures incurred before the pre-production period shall not be included in the computation of the Film Tax Credit in this state. In order to claim depreciation, amortization, or

other expense, the expenditure for the asset that generated the depreciation, amortization, or other expense, must have been incurred in this State as provided in subparagraph (6)(f) of this regulation.

(f) Production expenditures incurred in this state. In order to be considered to have been incurred in this state, the following rules shall apply:

1. Production expenditures, which are attributable to the performance of services by individuals and companies directly at the filming site in Georgia who were not employees of the production company or qualified interactive entertainment production company, shall be attributed to Georgia in the same manner as salaries as provided in subparagraph (6)(g) of this regulation.

2. Except as otherwise provided in this regulation, expenditures for services which are not performed at the filming site (such as insurance, service fees paid to a payroll company including workers compensation if the service fees include such, editing and related services, digital or tape editing, film processing, transfers of film to tape or digital format, sound mixing, computer graphics services, special effects services, animation services, etc.) will be allowed if the vendor is a Georgia vendor and will be attributed to Georgia if and only to the extent the service is rendered in Georgia. If the production company or qualified interactive entertainment production company is unable to track the cost of the services rendered in Georgia, then some other reasonable method which approximates the cost of the services rendered in Georgia may be used to determine the amount attributable to Georgia but such approximation will be subject to adjustment by the Department. In the event the services are subcontracted to a company that would not otherwise qualify and/or such subcontracted company renders the services outside Georgia, the expenditure for such services shall not be considered to have been incurred in this state.

3. Purchases and rentals of property. In order to include production expenditures for purchases and rentals of property, the property must have been used in Georgia and purchased or rented from a Georgia vendor. Goods are not considered purchased or rented in Georgia if the goods are shipped or delivered from the Georgia vendor's location outside of Georgia unless more than a de minimis amount of the type of goods held and shipped or delivered from outside of Georgia are normally held in inventory in the ordinary course of business in Georgia by the Georgia vendor. Purchase receipts, invoices, contracts, packing slips, or other documentation shall be used to determine this.

4. Georgia Vendor. For purposes of this rule, a Georgia vendor is a vendor that:

(i) Sells or rents a type of property of which more than a de minimis amount is regularly held in their inventory in the ordinary course of business in Georgia, or provides a service not performed at the filming site, which is the subject of the production expenditure, in their ordinary course of business;

(ii) Has a physical location in Georgia with at least one individual working at such location on a regular basis, including home-based businesses that otherwise meet the requirements of a Georgia vendor. Registering with the Georgia Secretary of State or appointing a registered agent in Georgia does not establish a physical location in Georgia.

However, a vendor that acts as a conduit to enable purchases and rentals to qualify that would not otherwise qualify shall not be considered a Georgia vendor with respect to such purchases and rentals;

(iii) Is registered with the Department for collection of sales and use tax when required by Chapter 8 of Title 48;

(iv) Has a local Georgia business license. The production company is required to obtain a copy of the license from any Georgia vendor where the total amount of purchases exceed $10,000 for such vendor during the taxable year on the Department of Economic Development's certificate for the project; and

(v) For services rendered on set, such persons or vendors providing such services, are identified on the daily production reports or other reasonable evidence that such services were rendered on set is provided;

Failure to provide documentation in this subparagraph when requested will result in the purchases from the vendor being disqualified.

(g) Salaries. Total aggregate payroll, as such term is used in the Act, includes bonuses, incentive pay, and other compensation paid to an employee which is included in the employees Form W-2 "Wage and Tax Statement". Reimbursed expenses, per diems, or employer paid benefits and taxes are not included in aggregate payroll unless such amounts are included as wages, tips, or other compensation in the employee's Form W-2 "Wage and Tax Statement". For purposes of this rule, the term "employee" means any officer of a corporation or any individual who, under the Internal Revenue Service rules applicable in determining the employer-employee relationship, has the status of an employee. Only amounts included in total aggregate payroll shall be subject to the $500,000 limit provided in O.C.G.A. § 48-7-40.26(b)(14). Guaranteed payments to partners do not qualify for the film tax credit and are not included in total aggregate payroll. Except as otherwise provided in this paragraph, if the production company or qualified interactive entertainment production company is unable to track the actual time spent by an employee in Georgia, the production company or qualified interactive entertainment production company may calculate the total aggregate payroll in Georgia by some other reasonable method which approximates the actual time spent in Georgia but such approximation will be subject to adjustment by the Department. For all individuals who are paid a separate amount for preproduction, for actual production, and for post production excluding publicity, the amount that is incurred in Georgia shall be based on the amount paid for each such period and prorated based on the actual time spent in Georgia by the employee in each such period. For purposes of determining the time spent in Georgia for this subparagraph the following shall apply. Travel days are considered a half day. Hold days and other service days that do not begin and end in Georgia are not included in the numerator for purposes of the calculation but are included in the denominator. Prescreening, wardrobe, and free days are included in the numerator if performed in Georgia but in all cases are included in the denominator. Publicity and promotion days do not qualify and must be included in the denominator to the extent the services are contractually specified in the employment agreement. If the production company or qualified interactive entertainment production company is unable to track the actual time spent by the individual in Georgia, the production company or qualified interactive entertainment production company may calculate the total aggregate payroll in Georgia by some other reasonable method which approximates the actual time spent in Georgia for each such period but such approximation will be subject to adjustment by the Department.

(h) Fringe Benefits. The following benefits are attributed to Georgia in the same manner as salaries as provided in subparagraph (6)(g) of this regulation:

1. SUI (state unemployment insurance);

2. FUI (federal unemployment insurance);

3. FICA (employer portion);

4. Pension and welfare if the amounts are paid as part of pension, health, and welfare plans (these would not be required to be paid to a Georgia vendor);

5. Health insurance premiums if these amounts are paid as part of pension, health, and welfare plans (these would not be required to be paid to a Georgia vendor);

(i) Other Fringe Benefits. The following fringe benefits are attributed to Georgia as follows:

1. Meal and incidental allowance per diems, including those not taken on set, as set forth by United States General Services Administration, if incurred in Georgia;

2. Hotel and other overnight living accommodations per diems, as set forth by United States General Services Administration, if incurred in Georgia;

3. Any amounts that exceed the limits in subparagraph (6)(i) only qualify if either included in taxable compensation and if subject to the withholding imposed by subparagraph (6)(d) of this regulation, remitted as required by this regulation or if subject to wage withholding, remitted as required by Title 48.

(j) For services rendered on set, such persons or vendors providing such services, must be identified on the daily production reports or the production company must provide other reasonable evidence that such services were rendered on set.

(k) Production expenditures by a production company shall be subject to any limitations or reductions under paragraphs (17) through (24) of this regulation.

(7) **Credit Amount.**

(a) Except as provided in paragraph (7)(a)1 of this regulation, a production company or qualified interactive entertainment production company, that meets or exceeds the $500,000 base investment threshold provided in O.C.G.A. § 48-7-40.26(c) and this regulation, shall be allowed a tax credit of 20 percent of the base investment in this state; and an additional tax credit of 10 percent of the base investment shall be allowed if the qualified production activity includes a qualified Georgia promotion approved by the Georgia Department of Economic Development or an alternative marketing opportunity approved by the Georgia Department of Economic Development.

1. For taxable years beginning on or after January 1, 2018, a qualified interactive entertainment production company, that meets or exceeds the $250,000 base investment threshold provided in O.C.G.A. § 48-7-40.26(c) and this regulation, shall be allowed a tax credit of 20 percent of the base investment in this state; and an additional tax credit of 10 percent of the base investment shall be allowed if the qualified production activity includes a qualified Georgia promotion approved by the Georgia Department of Economic Development or an alternative marketing opportunity approved by the Georgia Department of Economic Development.

(b) Except as provided in paragraph (7)(b)1 of this regulation, a production company or qualified interactive entertainment production company, that meets or exceeds the $500,000 excess base investment threshold provided in O.C.G.A. § 48-7-40.26(d) and this regulation, shall be allowed a tax credit of 20 percent of the excess base investment; and an additional tax credit of 10 percent of the excess base investment shall be allowed if the qualified production activities includes a qualified Georgia promotion approved by the Georgia Department of Economic Development or an alternative marketing opportunity approved by the Georgia Department of Economic Development.

1. For taxable years beginning on or after January 1, 2018, a qualified interactive entertainment production company, that meets or exceeds the $250,000 excess base investment threshold provided in O.C.G.A. § 48-7-40.26(d) and this regulation, shall be allowed a tax credit of 20 percent of the excess base investment in this state; and an additional tax credit of 10 percent of the excess base investment shall be allowed if the qualified production activity includes a qualified Georgia promotion approved by the Georgia Department of Economic Development or an alternative marketing opportunity approved by the Georgia Department of Economic Development.

(c) The base investment and the credit amount allowed under paragraph (7)(a) of this regulation for a production company and the excess base investment and the credit amount allowed under paragraph (7)(b) of this regulation for a production company shall be subject to the limitations of and reductions required by paragraphs (17) through (24) of this regulation.

(8) **Credit Amount Limitation for a Qualified Interactive Entertainment Production Company.** Except as provided in paragraph (8)(a) of this regulation, a qualified interactive entertainment production company's credit amount shall not exceed the amounts in paragraph (9) of this regulation and for any single tax year shall not exceed the qualified interactive entertainment production company's total aggregate payroll expended to employees working within this state for the calendar year directly preceding the start of the taxable year the qualified interactive entertainment production company claims the film tax credit. Any amount in excess of this credit limit shall not be eligible for carry forward to succeeding years' tax liability, nor shall such excess amount be eligible for use against the qualified interactive entertainment production company's quarterly or monthly payment under O.C.G.A. § 48-7-103, nor shall such excess amount be assigned, sold, or transferred to any other taxpayer.

(a) For taxable years beginning on or after January 1, 2018, a qualified interactive entertainment production company's credit amount shall not exceed the amounts in paragraph (9) of this regulation and for any single tax year

shall not exceed the qualified interactive entertainment production company's total aggregate payroll expended to employees working within this state for the taxable year in which the qualified interactive entertainment production company claims the tax credits. Any amount in excess of this credit limit shall not be eligible for carry forward to succeeding years' tax liability, nor shall such excess amount be eligible for use against the qualified interactive entertainment production company's quarterly or monthly payment under O.C.G.A. § 48-7-103, nor shall such excess amount be assigned, sold, or transferred to any other taxpayer.

(b) For taxable years beginning on or after January 1, 2018, qualified interactive entertainment production companies are eligible for film tax credits for prereleased interactive game production; provided such credits shall not be available for a period that exceeds three years for each such qualified interactive entertainment production company.

(9) **Credit Cap for Film Tax Credit for Qualified Interactive Entertainment Production Companies and Affiliates.** In no event shall the aggregate amount of tax credits allowed under O.C.G.A. § 48-7-40.26 for qualified interactive entertainment production companies and their affiliates which are qualified interactive entertainment production companies exceed the following amounts:

(a) For taxable years beginning on or after January 1, 2013, and before January 1, 2014, the aggregate amount of tax credits allowed under O.C.G.A. § 48-7-40.26 for qualified interactive entertainment production companies and their affiliates which are qualified interactive entertainment production companies shall not exceed $25 million. The maximum credit amount allowed for any qualified interactive entertainment production company and its affiliates which are qualified interactive entertainment production companies shall not exceed $5 million for taxable years beginning on or after January 1, 2013 and before January 1, 2014;

(b) For taxable years beginning on or after January 1, 2014, and before January 1, 2015, the aggregate amount of tax credits allowed under O.C.G.A. § 48-7-40.26 for qualified interactive entertainment production companies and their affiliates which are qualified interactive entertainment production companies shall not exceed $12.5 million. The maximum credit amount allowed for any qualified interactive entertainment production company and its affiliates which are qualified interactive entertainment production companies shall not exceed $1.5 million for taxable years beginning on or after January 1, 2014 and before January 1, 2015;

(c) For taxable years beginning on or after January 1, 2015, and before January 1, 2016, the aggregate amount of tax credits allowed under O.C.G.A. § 48-7-40.26 for qualified interactive entertainment production companies and their affiliates which are qualified interactive entertainment production companies shall not exceed $12.5 million. The maximum credit amount allowed for any qualified interactive entertainment production company and its affiliates which are qualified interactive entertainment production companies shall not exceed $1.5 million for taxable years beginning on or after January 1, 2015 and before January 1, 2016;

(d) For taxable years beginning on or after January 1, 2016, and before January 1, 2018, the aggregate amount of tax credits allowed under O.C.G.A. § 48-7-40.26 for qualified interactive entertainment production companies and their affiliates which are qualified interactive entertainment production companies shall not exceed $12.5 million for each taxable year. The maximum credit amount allowed for any qualified interactive entertainment production company and its affiliates which are qualified interactive entertainment production companies shall not exceed $1.5 million for each taxable year beginning on or after January 1, 2016 and before January 1, 2018; and

(e) For taxable years beginning on or after January 1, 2018, the aggregate amount of tax credits allowed under O.C.G.A. § 48-7-40.26 for qualified interactive entertainment production companies shall not exceed $12.5 million for each taxable year. The maximum credit amount allowed for any qualified interactive entertainment production company and its affiliates which are qualified interactive entertainment production companies shall not exceed $1.5 million for each taxable year beginning on or after January 1, 2018.

(f) Allocation of Film Tax Credit for Qualified Interactive Entertainment Production Company and Affiliates. For taxable years beginning on or after January 1, 2013 and before January 1, 2016, the Commissioner shall allow the film tax credit for any qualified interactive entertainment production company and affiliates on a first-come, first-served basis. The paper filing date or electronic filing date of the qualified interactive entertainment production company's income tax return that claims the film tax credit as provided in paragraph (10) of this regulation shall be

used to determine such first-come, first-served basis. At the time the credit is claimed, all qualified interactive entertainment production companies must also send a paper copy of the Form IT-FC "Film Tax Credit" to the address listed on such form. Failure to send such paper copy may cause the qualified interactive entertainment production company to not be allowed the film tax credit.

(g) Income Tax Returns Claiming the Credit on the Day the Aggregate Credit Amount is Reached. For taxable years beginning on or after January 1, 2013 and before January 1, 2016, on the day credit amounts on qualified interactive entertainment production companies' income tax returns, which claim the film tax credit as provided in paragraph (10) of this regulation, are received that exceed the aggregate limits in paragraph (9) of this regulation, then the tax credits shall be allocated among such qualified interactive entertainment production companies on a pro rata basis based upon amounts otherwise allowed by O.C.G.A. § 48-7-40.26 and this regulation. Only credit amounts on income tax returns filed on the day the aggregate limits were exceeded will be allocated on a pro rata basis.

(h) Preapproval for Taxable Years Beginning on or after January 1, 2016. For taxable years beginning on or after January 1, 2016, all qualified interactive entertainment production companies must be preapproved to claim the film tax credit and must submit the appropriate forms to the Department through the Georgia Tax Center as provided in this subparagraph.

1. Application. A qualified interactive entertainment production company seeking preapproval to claim the film tax credit must electronically submit Form IT-QIEPC-AP through the Georgia Tax Center. A qualified interactive entertainment production company that has submitted its Form IT-QIEPC for certification by the Department or that submits Form IT-QIEPC on the same day as Form IT-QIEPC-AP is submitted may request preapproval from the Department before meeting the requirements of the film tax credit. Such qualified interactive entertainment production company must estimate their credit amounts on Form IT-QIEPC-AP. The amount of tax credit claimed by the qualified interactive entertainment production company on the qualified interactive entertainment production company's applicable Georgia income tax return must be based on the actual film tax credit earned pursuant O.C.G.A. § 48-7-40.26 and this regulation and cannot exceed the amount preapproved. If the qualified interactive entertainment production company is preapproved for an amount that exceeds the amount that is calculated using the actual numbers when the return is filed, the excess preapproved amount cannot be claimed by the qualified interactive entertainment production company nor shall such excess preapproved amount be assigned, sold, or transferred to any other taxpayer.

2. Notification. The Department will notify each qualified interactive entertainment production company of the tax credits preapproved or denied to such qualified interactive entertainment production company.

3. Allocation of Tax Credit. The Commissioner shall allow the film tax credits for qualified interactive entertainment production companies on a first-come, first-served basis. The date the Form IT-QIEPC-AP is electronically submitted shall be used to determine such first-come, first-served basis.

4. Applications received on the day the maximum credit amount is reached. In the event that the credit amounts on applications received by the Commissioner exceed the maximum aggregate limit in subparagraph (9)(d) of this regulation, then the tax credits shall be allocated among the qualified interactive entertainment production companies who submitted Form IT-QIEPC-AP on the day the maximum aggregate limit was exceeded on a pro rata basis based upon amounts otherwise allowed under O.C.G.A. § 48-7-40.26, and this regulation. Only credit amounts on applications received on the day the maximum aggregate limit was exceeded will be allocated on a pro rata basis.

5. Once the credit cap is reached for a calendar year, qualified interactive entertainment production companies who meet the requirements of the film tax credit during such calendar year shall no longer be eligible for a credit under O.C.G.A. § 48-7-40.26. If any Form IT-QIEPC-AP is received after the calendar year preapproval limit has been reached, then it shall be denied and not be reconsidered for preapproval at any later date.

6. In the event it is determined that the qualified interactive entertainment production company has not met all the requirements of O.C.G.A. § 48-7-40.26 and this regulation, then the amount of credits shall not be preapproved or the preapproved credits shall be retroactively denied. With respect to such denied credits, tax, interest, and penalties shall be due if the credits have already been claimed.

(10) **Production Company or Qualified Interactive Entertainment Production Company Claiming Credit.**

(a) Income Tax. Except as provided in paragraphs (17) through (24) of this regulation, for a production company or qualified interactive entertainment production company to claim the film tax credit, it must attach Form IT-FC "Film Tax Credit", the Department of Economic Development credit certification(s), and an approved Form IT-QIEPC-AP, if applicable to its Georgia income tax return for each tax year in which the qualified expenditures were incurred.

(b) Withholding Tax. The production company or qualified interactive entertainment production company may claim any excess film tax credit, which has been claimed as provided in subparagraph (10)(a) or paragraph (21), against its withholding tax liability or the withholding tax liability of its payroll service providers provided such withholding tax liability is with respect to the employees of the production company and is attributable to withholding for such employees for withholding periods approved in subparagraph (10)(b)3. The withholding tax benefit may only be applied against the withholding tax account used by the production company or its payroll service provider or qualified interactive entertainment production company or its payroll service provider for payroll purposes. In the event the production company or qualified interactive entertainment production company is a single member limited liability company that is disregarded for income tax purposes, the withholding tax benefit may only be applied against the withholding tax liability that is attributable to wages paid by the single member limited liability company or against the withholding tax liability of its payroll service providers provided such withholding tax liability is attributable to wages paid by its payroll service provider with respect to the individuals providing services to the single member limited liability company and is attributable to withholding for such employees for withholding periods approved in subparagraph (10)(b)3. Any production company or qualified interactive entertainment production company that qualifies to take all or a part of the film tax credit against withholding tax otherwise due the Department of Revenue, must make an irrevocable election to do so as a part of its notification to the Commissioner required under this subparagraph. When this election is made, the excess film tax credit will not pass through to the shareholders, partners, or members of the production company or qualified interactive entertainment production company if the production company or qualified interactive entertainment production company is a pass-through entity.

1. Notice of Intent. To claim any excess film tax credit not used on the income tax return against the production company's or qualified interactive entertainment production company's withholding tax liability, the production company or qualified interactive entertainment production company must file Revenue Form IT-WH *Notice of Intent* through the Georgia Tax Center within thirty (30) days after the due date of the Georgia income tax return (including extensions) or within (30) days after the filing of a timely filed Georgia income tax return, whichever occurs first. Failure to file this form as provided in this subparagraph will result in disallowance of the withholding tax benefit. However, in the case of a credit which is earned in more than one taxable year, the election to claim the withholding credit will be available for the credit earned in such subsequent year.

2. Review Period. The Department of Revenue has one hundred twenty (120) days from the date the applicable Form IT-WH under paragraph (10)(b)1. of this regulation is received to review the credit and make a determination of the amount eligible to be used against withholding tax.

3. Letter of Eligibility. Once the review is completed, a letter will be sent to the production company or qualified interactive entertainment production company stating the film tax credit amount which may be applied against withholding and when the production company or its payroll service provider or qualified interactive entertainment production company or its payroll service provider may begin to claim the film tax credit against withholding tax. The Department of Revenue shall treat this amount as a credit against future withholding tax payments and will not refund any previous withholding payments made by the production company or its payroll service provider or the qualified interactive entertainment production company or its payroll service provider.

(c) Use of Other Tax Credits. Production companies or qualified interactive entertainment production companies claiming the film tax credit may not claim the job tax credit, headquarters tax credit, or quality jobs tax credit for employees whose wages are used to calculate the film tax credit.

(11) **Conditions and Limitations.**

(a) A production company or qualified interactive entertainment production company must provide the Department of Revenue with sufficient detail of all qualifying expenditures used to meet the base investment and calculate the film tax credit.

(b) Except as otherwise provided, a taxpayer may utilize the film tax credit only to the extent of the taxpayer's income tax liability in a given tax year.

(c) Except as provided in paragraph (22) of this regulation, there is a five-year carry forward period from the end of the tax year in which the qualifying expenditures were made and the production company or qualified interactive entertainment production company established the amount of the film tax credit for such tax year. Any film tax credits that cannot be used against a taxpayer's income tax liability in the year established will be carried forward. For example, the amount of a film tax credit established in the calendar 2014 tax year may be carried forward until it expires on December 31, 2019.

(d) Film tax credits may not be carried back and applied against a prior year's income tax liability.

(e) Except as provided in paragraphs (17) through (24) of this regulation, any Department of Revenue audit triggered by a production company's or qualified interactive entertainment production company's use or transfer of a film tax credit will require the production company or qualified interactive entertainment production company to reimburse the Department of Revenue for all costs associated with the audit. The Department of Revenue will inform the production company or qualified interactive entertainment production company that the audit is a film tax credit audit and thus subject to this clause prior to the commencement of the audit. Routine audits of the taxpayer's activity in Georgia are not subject to this provision.

(12) **Pass-Through Entities.** When a production company or qualified interactive entertainment production company generating a film tax credit is a pass-through entity, and has no income tax liability of its own, the film tax credit will pass to its members, shareholders, or partners based on the year ending profit/loss percentage. The credit forms will initially be filed with the tax return of the production company or qualified interactive entertainment production company that incurred the qualifying expenditures to establish the amount of the film tax credit available for pass through. The credit will then pass through to its shareholders, members, or partners to be applied against the tax liability on their income tax returns. The shareholders, members, or partners may not claim any excess film tax credit against their withholding tax liabilities or against the withholding tax liabilities of their payroll service providers. The credits are available for use as a credit by the shareholders, members, or partners for their tax year in which the income tax year of the pass-through entity ends. For example: A partnership earns the credit for its tax year ending January 31, 2014. The partnership passes the credit to a calendar year partner. The credit is available for use by the partner beginning with the calendar 2014 tax year.

(13) **Selling or Transferring the Film Tax Credit.** The production company or qualified interactive entertainment production company may sell or transfer in whole or in part any film tax credit, previously claimed but not used by such production company or qualified interactive entertainment production company against its income tax, to another Georgia taxpayer subject to the following conditions:

(a) Each sale or transfer must be for a minimum of 60 percent of the credit amount being sold in each respective sale (i.e., the minimum price for each dollar of credit included in an installment must be at least 60 cents).

(b) The taxpayer may only make a one-time sale or transfer of film tax credits earned in each taxable year. However, the sale or transfer may involve more than one transferee and more than one sale date. The sale may occur in a year or years after the film tax credit is earned but must occur before the expiration of the carry forward period of such credit. For example, a production company or qualified interactive entertainment production company earns a $500,000 credit in year 1. In year 2 the production company or qualified interactive entertainment production company sells $200,000 of the credit to taxpayer 2 and $50,000 to taxpayer 3. In year 3 the production company or qualified interactive entertainment production company sells the remaining $250,000 of the credit to taxpayer 4. However, taxpayer 2, taxpayer 3, and taxpayer 4 are not allowed to resell the credit since the credit can only be sold one-time.

(c) Except as provided in paragraphs (17) through (24) of this regulation, the film tax credit may be transferred before the tax return is filed by the production company or qualified interactive entertainment production company provided the film tax credit has been earned. Preapproval for a qualified interactive entertainment production company by itself does not qualify as earning the credit. For credits subject to paragraphs (17) through (24) of this regulation, the film tax credit may be transferred before the tax return is filed by the production company provided the film tax credit has been finally certified. However, the amount transferred cannot exceed the amount of the credit which will be claimed and not used on the income tax return of the transferor.

(d) The production company or qualified interactive entertainment production company must file Form IT-TRANS "Notice of Tax Credit Transfer" with both the Department of Economic Development and Department of Revenue within 30 days of each transfer or sale of the film tax credit. Form IT-TRANS must be submitted electronically to the Department of Revenue through the Georgia Tax Center or alternatively as provided in subparagraph (13)(d)1. With respect to such production companies and qualified interactive entertainment production companies, the Department of Revenue will not process any Form IT-TRANS submitted or filed in any other manner. Before submitting Form IT-TRANS, the production company that earned the film tax credit must have reported to the Department of Revenue the information required by paragraph (16) of this regulation or for credits subject to paragraphs (17) through (24) of this regulation, the film tax credit must have been finally certified or the qualified interactive entertainment production company that earned the film tax credit must have received preapproval from the Department of Revenue if required by subparagraph (9)(h) of this regulation. If the production company or qualified interactive entertainment production company is a disregarded entity then Form IT-TRANS should be filed in the name of the owner of the disregarded entity but the certification from the Department of Economic Development and Form IT-FC should be in the name of the disregarded entity. With respect to production companies, the requirements of this subparagraph and subparagraph (13)(d)1. are also applicable to taxable years beginning before January 1, 2016 if the credit is or will be claimed on or after June 1, 2016.

1. The web-based portal on the Georgia Tax Center. The production company or qualified interactive entertainment production company may provide selective information to a representative for the purpose of allowing the representative to submit Form IT-TRANS on their behalf on the Georgia Tax Center outside of a login. The provision of such information shall authorize the representative to submit such Form IT-TRANS. The representative must provide all information required by the web-based portal on the Georgia Tax Center to submit Form IT-TRANS.

(e) The production company or qualified interactive entertainment production company must provide all required film tax credit detail and transfer information to the Department of Revenue. Failure to do so will result in the film tax credit being disallowed until the production company or qualified interactive entertainment production company complies with such requirements.

(f) The carry forward period of the film tax credit for the transferee will be the same as it was for the production company or qualified interactive entertainment production company. Except as provided in paragraph (22) of this regulation, this credit may be carried forward for five years from the end of the tax year in which the qualifying expenditures were incurred. For credits subject to paragraphs (17) through (24) of this regulation, the carryforward period is as provided in paragraph (22). For example for a credit that has a five year carryforward: The production company or qualified interactive entertainment production company sells a film tax credit on September 15, 2015. This credit is based on qualifying expenditures from the calendar 2014 tax year. The credit may be claimed by the transferee on the 2014, 2015, 2016, 2017, 2018, or 2019 return and the carry forward period for this credit will expire on December 31, 2019. This carry forward treatment applies regardless of whether it is being claimed by the production company, the qualified interactive entertainment production company or the transferee.

(g) A transferee shall have only such rights to claim and use the Film Tax Credit that were available to the production company or qualified interactive entertainment production company at the time of the transfer excluding the withholding tax benefit which is not available to the transferee. Thus, a transferee shall not have the right to subsequently transfer such credit since that right has been utilized by the transferor.

(14) **How to Sell or Transfer the Tax Credit.**

(a) Direct Sale. The production company or qualified interactive entertainment production company may sell or transfer the film tax credit directly to a Georgia taxpayer (or multiple Georgia taxpayers as provided in subparagraph (13)(b) of this rule). A pass-through entity may make an election to sell or transfer the unused film tax credit earned in a taxable year at the entity level. If the pass-through entity makes the election to sell the film tax credit at the entity level, the credit does not pass through to the shareholders, members, or partners. In all cases, the effect of the sale of the credit on the income of the seller and buyer of the credit will be the same as provided in the Internal Revenue Code.

(b) Pass-Through Entity. The production company or qualified interactive entertainment production company may be structured as a pass-through entity. If a pass-through entity does not make an election to sell or transfer the tax credit at the entity level as provided in subparagraph (14)(a) of this rule, the tax credit will pass through to the shareholders, partners or members of the entity based on their year ending profit/loss percentage. The shareholders, members, or partners may then sell their respective film tax credit to a Georgia taxpayer.

(c) Transferee Pass-Through Entity. The production company or qualified interactive entertainment production company, or its shareholders, members or partners, may sell or transfer the tax credit to a pass-through entity. The pass-through entity shall elect on behalf of its shareholders, members or partners which year the credit shall be passed through to its shareholders, members or partners (either its tax year in which the income tax year of the production company or qualified interactive entertainment production company, which claims the film tax credit for the project or project(s) associated with the credit being sold, ends; or during any later tax year before the three or five year carry forward period associated with the tax credit ends as provided in subparagraph (14)(d) of this rule). If the pass-through entity has no income tax liability of its own, the pass-through entity may then pass the credit through to its shareholders, members, or partners based on the pass-through entity's year ending profit/loss percentage for such elected year. For example, if a calendar year partnership is buying the credit earned by a production company or qualified interactive entertainment production company in the calendar 2014 tax year and elects to use the credit for such year, then all of the partners receiving the credit must have been a partner in the partnership no later than the end of the 2014 tax year in which the credit was established. Only partners who have a profit/loss percentage as of the end of the applicable tax year may receive their respective amount of the film tax credit.

(d) The credits are available for use by the transferee, provided the time has not expired for filing a claim for refund of a tax or fee erroneously or illegally assessed and collected pursuant to O.C.G.A. § 48-2-35:

1. In the transferee's tax year in which the income tax year of the production company or qualified interactive entertainment production company, which claims the film tax credit for the project or project(s) associated with the credit being sold, ends; or

2. During any later tax year before the five year carry forward period associated with the tax credit ends or the three year carryforward period under paragraph (22) of this regulation associated with the tax credit ends.

(i) Example: A production company or qualified interactive entertainment production company reaches the $500,000 base investment threshold and claims the film tax credit in calendar 2014 tax year. The production company or qualified interactive entertainment production company sells the film tax credit to a calendar year Georgia taxpayer in calendar year 2015. The transferee Georgia taxpayer may claim the purchased film tax credit on either their 2014 return (transferee's tax year in which the income tax year of the production company or qualified interactive entertainment production company ends) or their 2015, 2016, 2017, 2018, or 2019 return (during any later tax year before the five year carry forward associated with the tax credit ends).

(ii) Example: A production company or qualified interactive entertainment production company reaches the $500,000 base investment threshold and claims the film tax credit in its fiscal year end June 30, 2014. The production company or qualified interactive entertainment production company sells the film tax credit to a calendar year Georgia taxpayer in calendar year 2015. The transferee Georgia taxpayer may claim the purchased film tax credit on either their 2014 return (transferee's tax year in which the income tax year of the production company or qualified interactive entertainment production company ends) or their 2015, 2016, 2017, 2018, or 2019 return (during any later tax year before the five year carry forward associated with the tax credit ends).

(15) **Reporting Required for Qualified Interactive Entertainment Production Companies.** For taxable years beginning on or after January 1, 2016, the qualified interactive entertainment production company shall electronically report to the Department of Revenue through the Georgia Tax Center on Form IT-QIEPC-RPT the monthly average number of full-time employees subject to Georgia income tax withholding for the taxable year as provided in subparagraphs (a) and (b) of this paragraph. Such report shall be filed on the date the qualified interactive entertainment production company files its Georgia income tax return. For purposes of this paragraph, a full-time employee shall mean a person who performs a job that requires a minimum of 35 hours a week, and pays at or above the average wage earned in the county with the lowest average wage earned in this state, as reported in the most recently available annual issue of the Georgia Employment and Wages Averages Report of the Department of Labor.

(a) For taxable years beginning on or after January 1, 2016, and before January 1, 2017, the qualified interactive entertainment production company shall report such number for such taxable year and separately for each of the prior two taxable years.

(b) For taxable years beginning on or after January 1, 2017, the qualified interactive entertainment production company shall report such number for each respective taxable year.

(c) Notwithstanding Code Sections 48-2-15, 48-7-60, and 48-7-61, for such taxable years, the commissioner shall report yearly to the House Committee on Ways and Means and the Senate Finance Committee. The report shall include the name, tax year beginning, and monthly average number of full-time employees for each qualified interactive entertainment production company. The first report shall be submitted by June 30, 2016, and each year thereafter by June 30.

(16) **Reporting Required for Production Companies (not applicable to Qualified Interactive Entertainment Production Companies).**

(a) Except with respect to projects subject to paragraphs (17) through (24) of this regulation, with respect to any film tax credit that is or will be claimed on or after June 1, 2016 (as well as credits for taxable years beginning before January 1, 2016 if the credit is or will be claimed on or after June 1, 2016), within 90 days of the completion of the base investment or excess base investment in this state, the production company that earned the film tax credit must electronically report and submit to the Department of Revenue through the Georgia Tax Center the following information:

1. The estimated base investment or excess base investment in this state;

2. The film tax credit percentage amount, either 20 percent or 30 percent;

3. The Department of Economic Development certification number; and

4. A copy of the Department of Economic Development certification.

(b) If the production company is a disregarded entity then such information should be submitted in the name of the owner of the disregarded entity but the certification from the Department of Economic Development that is attached to such submission should be in the name of the disregarded entity.

(c) If a project spans more than one year and the $500,000 base investment threshold or excess base investment threshold is not met in the first year, the production company shall only be required to report such information in the year in which the credit will be claimed which is the year the $500,000 base investment threshold or excess base investment threshold is met. In such case the Department of Economic Development certifications for all years should be submitted through the Georgia Tax Center. The Department of Economic Development certifications should either be submitted together as one file or the additional certification should be submitted using the additional document option.

(17) **Mandatory Film Tax Credit Audit**. For any project first certified by the Department of Economic Development on or after January 1, 2021 and on or before December 31, 2021, if the total amount of such film tax

credit for the project exceeds $2.5 million, the film tax credit shall not be claimed, assigned, sold, transferred, or utilized in any manner until the production company applies for a mandatory film tax credit audit under paragraph (18) of this regulation and the Department issues a final certification(s) of the film tax credit under paragraph (19) of this regulation.

(a) For any project first certified by the Department of Economic Development on or after January 1, 2022 and on or before December 31, 2022, if the total amount of such film tax credit for the project exceeds $1.25 million, the film tax credit shall not be claimed, assigned, sold, transferred, or utilized in any manner until the production company applies for a mandatory film tax credit audit under paragraph (18) of this regulation and the Department issues a final certification(s) of the film tax credit under paragraph (19) of this regulation.

(b) For any project first certified by the Department of Economic Development on or after January 1, 2023, the film tax credit shall not be claimed, assigned, sold, transferred, or utilized in any manner until the production company applies for a mandatory film tax credit audit under paragraph (18) of this regulation and the Department issues a final certification(s) of the film tax credit under paragraph (19) of this regulation.

(c) Prior to issuing a final certification to projects covered under this paragraph, the Department shall conduct or cause to be conducted an audit of each project by either the Department or an independent third party certified by the Department as an eligible auditor under paragraph (19) of this regulation.

(d) Only projects that meet the requirements of paragraph (17) shall receive a mandatory film tax credit audit. If the production company intends to seek and is qualified for the 10% qualified Georgia promotion credit, such credit amount shall be considered in determining if the project meets the requirements of paragraph (17). If a production company applies for a mandatory film tax credit audit for a project and the Department or an eligible auditor performs an audit and the credit amount is less than the required amount under this paragraph, the project will not receive a final certification but the production company may request that a voluntary audit be completed. If the production company does not apply for a mandatory film tax credit audit for a project that meets the requirements of this paragraph, then the credit will not be allowed to be claimed, assigned, sold, transferred, or utilized in any manner without a mandatory film tax credit audit.

1. Example 1: On February 1, 2021 the Department of Economic Development first certifies a project for the 20% film tax credit and the 10% credit for a qualified Georgia promotion, the project has estimated expenditures of $10 million. At the completion of the base investment the project has a credit amount of $3 million (the estimated expenditures of $10 million equal the expenditures at the completion of the base investment). Therefore, the production company must apply for a mandatory audit for this project as provided in paragraph (18) of this regulation.

2. Example 2: On March 1, 2021 the Department of Economic Development first certifies a project for the 20% film tax credit, the project has $10 million in estimated expenditures. At the completion of the base investment the project has a credit amount of $2 million (the estimated expenditures of $10 million equal the expenditures at the completion of the base investment). This project does not qualify for or require a mandatory film tax credit audit.

3. Example 3: On January 31, 2021, the Department of Economic Development first certifies a project for the 20% film tax credit, the project has $10 million in estimated expenditures. At the completion of the base investment the project has a credit amount of $3 million (the expenditures at the completion of the base investment were $15 million instead of $10 million). Therefore, the production company must apply for a mandatory film tax credit audit for this project as provided in paragraph (18) of this regulation.

4. Example 4: On December 20, 2020, the Department of Economic Development first certifies a project for the 20% film tax credit, the project has $15 million in estimated expenditures. On January 3, 2022 the Department of Economic Development certifies the same project for reshoots. This project does not qualify for or require a mandatory film tax credit audit.

(e) For projects that do not qualify for or require a mandatory film tax credit audit, the production company may request a voluntary film tax credit audit. Voluntary film tax credit audits for projects that do not qualify for or

require a mandatory film tax credit audit are accepted based on availability and the procedures established by the Department. Voluntary film tax credit audits are not subject to paragraphs (17) through (24) of this regulation.

(f) If a production company is issued final certification of a tax credit pursuant to paragraphs (17) through (24) of this regulation, such tax credit shall be considered earned in the taxable year in which it is issued final certification.

(18) **Application for Mandatory Audit**. A production company seeking to claim the film tax credit for projects covered under paragraph (17) of this regulation, must apply for an audit of the film tax credit in the manner provided by the Department within one year from the date of the completion of the state certified production where such date is defined as the date of the completion of principal photography.

(a) The following information shall be submitted with the application or prior to the commencement of the audit required under paragraph (17) of this regulation:

1. A description of the state certified production, along with its certification as a state certified production from the Department of Economic Development;

2. A detailed accounting of all qualified production activities and the attendant production expenditures included in the base investment for the state certified production;

3. A detailed listing of the employee names, social security numbers, and Georgia wages when salaries are included in the base investment;

4. Vendor invoices for goods or services included in the base investment as requested by the Department or the eligible auditor hired to conduct the audit for the state certified production;

5. Contracts for goods or services included in the base investment as requested by the Department or the eligible auditor hired to conduct the audit for the state certified production;

6. An Internal Revenue Service Form W-9 completed and issued by each vendor for which expenditures are included in the base investment as requested by the Department or the eligible auditor hired to conduct the audit for the state certified production. The Department or the eligible auditor shall not request a Form W-9 from any Georgia vendor where the total amount of purchases does not exceed $10,000 for such vendor during the taxable year on the Department of Economic Development's certificate for the project;

7. Notification of any intent to utilize an auditor other than the Department;

8. A description of the status of the distribution of the state certified production and information related to any qualified Georgia promotion connected with such production;

9. The total amount of the tax credit sought for the state certified production;

10. A statement affirming that the contents of the application are true and correct;

11. Production payroll information (summary of payroll and loan out payments by person, W-2s, 1099s, etc.) issued by the payroll company must be submitted directly by the payroll company to the Department or the eligible auditor;

12. Disclosure of related persons or related members as such terms are defined in O.C.G.A. § 48-7-28.3. Disclosure of the total value of goods and services provided by related parties to the production company for the project as well as a breakdown of all such related party transactions. All transactions with related persons or related members must be in accordance with an "arm's length" standard and a minimum of 3 comparison bids and/or studio rate cards will be requested;

13. Disclosure of contracts, agreements, purchase orders or other financially binding instruments with all related persons or related members as such terms are defined in O.C.G.A. § 48-7-28.3;

14. Fees for the audit or the portion of the audit that will be completed by the Department; and

15. Any other information requested by the Department.

(19) **Certification and Decertification of Auditors and Issuing of the Final Certification**.

(a) The Department shall provide for certification and decertification of certified public accountants as eligible auditors. For purposes of this regulation, the Department will certify the accounting firm. One or more persons of such accounting firm must meet the requirements of this regulation in order for the accounting firm to be certified. When the audit is submitted to the Department, one of such persons must certify on behalf of the accounting firm that the requirements of O.C.G.A. § 48-7-40.26, this regulation, and procedures developed by the Department were completed or met. To obtain certification as an eligible auditor, an eligible certified public accounting firm shall:

1. Register with the Department and be accepted by the Department on an annual basis;

2. Maintain its registration with the Georgia State Board of Accountancy and provide documentation of such when it registers and when otherwise requested by the Department;

3. Agree to and be capable of completing audits related to O.C.G.A. § 48-7-40.26 in accordance with O.C.G.A. § 48-7-40.26 and this regulation and procedures developed by the Department;

4. Pay the Department a registration fee that the Department shall set in an amount that reflects the expenses incurred by the Department for registration, etc;

5. Post and maintain any bond that the Department establishes for each eligible auditor;

6. Successfully complete all training required by the Department and pay any applicable training fees;

7. In order to be an eligible auditor in 2021 and 2022, have at least two years experience in auditing ten productions certified by the Department of Economic Development with a minimum base investment of at least $5 million for each production; and in order to be an eligible auditor for 2023 and later years, have completed all requirements in O.C.G.A. § 48-7-40.26 and this regulation; provided however, if for 2023 and later years, an auditor has not previously been certified by the Department or does not have at least two years experience in auditing ten productions certified by Department of Economic Development with a minimum base investment of at least $5 million for each production, such auditor will only be eligible to work on film tax credit audits where the base investment is less than $5 million until the auditor has completed ten audits; and

8. Have an office in Georgia and, based on hours worked, perform at least 90 percent of the work for the audit in Georgia.

(b) The Department shall decertify an eligible auditor, if such auditor fails to meet the conditions or comply with the provisions of subparagraph (a) of this paragraph.

(c) The Department may decertify an eligible auditor if such auditor fails to complete an audit in accordance with O.C.G.A. § 48-7-40.26 and this regulation.

(d) A certified eligible auditor shall at no cost to the Department:

1. Notify the Department of the commencement of the mandatory film tax credit audit for each audit assigned to it and complete the audit in a timely manner;

2. Submit audit workpapers and supporting documentation in the format required by the Department and provide copies of written correspondence and conversation memos with the production company in the format required by the Department;

3. Submit an affidavit of independence with each audit in the format required by the Department;

4. Maintain for a period of seven years after completion of each mandatory film tax credit audit copies of all records pertaining to the mandatory film tax credit audit; and shall make the records available upon request from the Department;

5. Participate in periodic compliance discussion group meetings with eligible auditors and the Department;

6. Participate in administrative proceeding or legal proceedings or inquiries as required regarding the mandatory film tax credit audit;

7. Present and conduct themselves as a credible representative of the Department and the state to maintain the public's trust; and

8. Maintain taxpayer information and confidentiality as set forth in the American Institute of Certified Public Accountant's Code of Professional Conduct.

(e) Each audit shall:

1. Be completed in accordance with O.C.G.A. § 48-7-40.26 and this regulation and procedures developed by the Department;

2. Utilize sampling methods that the Department adopts;

3. Follow guidance published by the Department regarding expenditures incurred with related persons or related members as such terms are defined in O.C.G.A. § 48-7-28.3;

4. Verify each reported expenditure that is included in the audit and identify and exclude each such expenditure that does not fully meet the requirements of O.C.G.A. § 48-7-40.26 and this regulation;

5. Exclude any expenditure:

(i) Not submitted with the application required under paragraph (18) or with respect to any expenditure required to be submitted when requested by the Department or the eligible auditor, not submitted within 60 days of such request; or

(ii) That was incurred after the application required under paragraph (18) of this regulation was submitted;

6. Not be performed by an eligible accounting entity that is not determined to be independent as provided in the American Institute of Certified Public Accountants Code of Professional Conduct with respect to the production company or any of its related persons or related members as such terms are defined in O.C.G.A. § 48-7-28.3 or as otherwise provided by the Department; and

7. Be submitted to the Department which shall review the audit, make adjustments as necessary, and issue a final certification to the production company.

(f) The Department shall:

1. Publish and regularly update a list of all eligible auditors that the Department will select to conduct the audit required under paragraph (17) of this regulation. The production company may not choose its own auditor;

2. Publish on its website the application to be certified as an eligible auditor as well as all requirements related to certification and conducting an audit under this paragraph. Publish on its website the auditor registration fee and any auditor bond requirements;

3. Prepare periodic training for approving eligible auditors and conduct annual review of certification of eligible auditors;

4. Review protests of disqualified or decertified auditors;

5. Develop standardized work papers for use by the production company and eligible auditors;

6. Develop secure data file transfer protocol for the Department and eligible auditors;

7. Determine whether and when sampling methods shall be used for the audits required under paragraph (17) of this regulation, the appropriate sample method and size, and if a sampling method is used, ensure that it accurately captures a truly representative sample of all ineligible expenditures across all submitted expenditures and projects the type, rate, and amount of ineligible expenditures across all submitted expenditures;

8. Notify the production company through the production company's designee, that the audit was received from the eligible auditor;

9. Perform the audit of expenditures when, due to confidentiality of information, the eligible auditor is unable to access necessary information that the Department is able to access;

10. Review each audit conducted by an eligible auditor, conduct the portions of the audit described in subparagraph (f)9. of this paragraph, perform additional auditing as necessary, adjust the value of the tax credit as necessary, finalize the audit, and issue the final certification of the tax credit to the production company;

11. For an audit it conducts without an eligible auditor, complete the audit, adjust the value of the tax credit as necessary, and issue the final certification of the tax credit to the production company.

12. Issue final list of exceptions to the eligible auditor, if applicable, and the production company's designee; and

13. Review, evaluate, and respond to a protest by the production company.

(20) **Reimbursement Costs for Audit**. The production company applying for a final certification of the tax credit shall agree and be required to reimburse the Department for all costs incurred by the Department for the performance of a related audit, or any portion thereof, including for review of an audit conducted by an eligible auditor, at the time of application.

(a) The cost of any such audit whether conducted in whole or in part by the Department, an eligible auditor, or a combination of the two shall be borne by the production company and shall not be included as an expenditure claimed under the film tax credit.

1. The cost of the audit depends on the production company's audit selection of either an audit performed by the Department or an audit performed in part by an eligible auditor selected by the Department. The cost for a mandatory film tax credit audit performed by the Department will be as published on the Department's website. If a portion of the film tax credit audit is performed by an eligible auditor selected by the Department, the Department fees will be reduced. Once the eligible auditor is selected, such auditor shall contract directly with the production company and as such any fees that are paid for services rendered by an eligible auditor are paid directly to such eligible auditor. The Department may at its discretion establish fees that an eligible auditor may charge.

(21) **Claiming the film tax credit for projects that receive a final certification.** If the production company is issued final certification of the film tax credit under paragraph (19) of this regulation such film tax credit shall be considered earned in the taxable year in which it is issued final certification. For a production company to claim the film tax credit for a project that has received a final certification, the production company must complete the appropriate income tax credit schedule on their Georgia income tax return even if the film tax credit is sold or transferred. No Form IT-FC "Film Tax Credit" is required. The production company may elect to use their excess film tax credit against withholding as provided in subparagraph (10)(b) of this regulation.

(22) **Carry forward for projects that receive a final certification.** In no event shall the amount of film tax credit for a taxable year exceed the production company's income tax liability. For a project that has been issued a final

certification under paragraph (19) of this regulation any unused film tax credit, for the production company or any transferees, shall be allowed to be carried forward for three years from the close of the taxable year in which the film tax credit was issued its final certification. Film tax credits may not be carried back and applied against prior year's income tax liability.

(23) **No Recapture for Transferee**. The Department shall not recapture the film tax credit from the transferee if the film tax credit was issued a valid final certification under paragraph (19) of this regulation.

(24) **Mandatory Film Tax Credit Audit Due Process**. The production company must protest under O.C.G.A. § 48-2-46 or file an appeal with the tribunal or superior court within 30 days of the issuance of the final certification. If protested under O.C.G.A. § 48-2-46, any final determination can be appealed with the tribunal or superior court.

(25) **Not applicable to Qualified Interactive Entertainment Production Companies**. Paragraphs (17) through (24) of this regulation shall not apply to qualified interactive entertainment production companies.

(26) **Effective Date.** This regulation as amended shall become effective on January 1, 2021.

Cite as GA Regs. 560-7-8-.45

AUTHORITY: O.C.G.A. §§ 48-2-12**,** 48-7-40.26**.**

HISTORY: Original Rule entitled "Film Tax Credit" adopted. F. Mar. 6, 2006; eff. Mar. 26, 2006.

Amended: F. Nov. 19, 2008; eff. Dec. 9, 2008.

Amended: F. Dec. 18, 2009; eff. Jan. 7, 2010.

Amended: F. May 23, 2011; eff. June 12, 2011.

Amended: F. Dec. 5, 2012; eff. Dec. 25, 2012.

Amended: F. Feb. 11, 2013; eff. Mar. 3, 2013.

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Amended: F. Sep. 10, 2014; eff. Sep. 30, 2014.

Amended: F. Nov. 17, 2015; eff. Dec. 7, 2015.

Amended: F. May 20, 2016; eff. June 9, 2016.

Amended: F. Oct. 5, 2017; eff. Oct. 25, 2017.

Amended: F. Feb. 23, 2021; eff. Mar. 15, 2021.

560-7-8-.65 Timber Tax Credit

(1) **Purpose.** This regulation provides guidance concerning the implementation and administration of the income tax credit under O.C.G.A. § 48-7-40.36.

(2) **Coordination of Agencies**. The Commissioner shall be authorized to consult with the Georgia Forestry Commission as necessary to administer the timber tax credit.

(3) **Definitions.**

(a) The term "timber casualty loss" as used in this regulation means the amount of the diminution of value included in the computation of the casualty loss deduction for such casualty losses claimed and allowed pursuant to Section 165 of the Internal Revenue Code of 1986 as casualty losses incurred by a taxpayer between October 9, 2018, and December 31, 2018, as a result of damage to or destruction of eligible timber property caused by Hurricane Michael.

(b) The terms "disaster area", "eligible timber property", and "timber", as used in this regulation shall have the same meaning as in O.C.G.A. § 48-7-40.36.

(4) **Credit Amount.** A taxpayer shall be allowed a tax credit in an amount equal to 100 percent of such taxpayer's timber casualty loss; provided that the credit amount shall not exceed the number of taxpayer's affected acres of eligible timber property in such disaster areas multiplied by $400. The credit shall be computed and claimed separately for each county with eligible timber property.

(5) **Credit Cap.** In no event shall the total amount of tax credits allowed under O.C.G.A. § 48-7-40.36 exceed $200 million.

(6) **Preapproval.** Any taxpayer seeking preapproval to claim the tax credit under O.C.G.A. § 48-7-40.36 must submit the appropriate forms to the Department as provided in this paragraph.

(a) Mandatory Electronic Preapproval Application**.** A taxpayer shall electronically submit Form IT-TIM-AP through the Georgia Tax Center between March 1, 2019, and May 31, 2019 for the first round of preapprovals. The Department will not preapprove any taxpayer where Form IT-TIM-AP is submitted or filed in any other manner. A separate Form IT-TIM-AP must be submitted for each county with eligible timber property.

(b) Notification of Complete or Incomplete Application for First Round. Applications shall be reviewed in the order of receipt and the Department shall provide notice to each taxpayer within 30 days of receipt whether such taxpayer's electronic Form IT-TIM-AP is complete or incomplete. Such notice shall be provided by letter or through the Georgia Tax Center.

(c) Notification for Preapproval Applications Submitted During First Round. For preapproval applications submitted during the first round, March 1, 2019 through May 31, 2019, the Department will notify each taxpayer that submitted a properly completed and timely submitted application of the tax credits approved and allocated to such taxpayer by June 30, 2019.

(d) Allocation of Tax Credit for First Round. In the event the credit amounts on applications filed with the Commissioner between March 1, 2019 and May 31, 2019, exceed the maximum aggregate limit of tax credits under paragraph (5) of this regulation, then the tax credits shall be allocated among the taxpayers who filed a properly completed and timely submitted application through the Georgia Tax Center on a pro rata basis based on amounts otherwise allowable under O.C.G.A. § 48-7-40.36 and this regulation.

(e) Mandatory Electronic Preapproval Applications for the Second Round, if Applicable. If on July 1, 2019, the Commissioner has not preapproved tax credits in the amount of $200 million, the Commissioner shall accept and review a second round of electronic Form IT-TIM-APs. A taxpayer seeking to claim the tax credit under O.C.G.A. § 48-7-40.36 shall electronically submit Form IT-TIM-AP through the Georgia Tax Center between July 1, 2019 and December 31, 2019. A separate Form IT-TIM-AP must be submitted for each county with eligible timber property.

(f) Notification of Complete or Incomplete Application for Second Round, if Applicable. Applications shall be reviewed in the order of receipt and the Department shall provide notice to each taxpayer within 30 days of receipt whether such taxpayer's electronic Form IT-TIM-AP is complete or incomplete. Such notice shall be provided by letter or through the Georgia Tax Center.

(g) Notification for Preapproval Applications Submitted During Second Round, if Applicable. For preapproval applications submitted during the second round, July 1, 2019 through December 31, 2019, the Department will notify each taxpayer that submitted a properly completed and timely submitted application of the tax credits approved and allocated to such taxpayer by January 31, 2020.

(h) Allocation of Tax Credit for Second Round, if Applicable. In the event the credit amounts on applications filed with the Commissioner between July 1, 2019 and December 31, 2019 when aggregated with amounts preapproved in the first round, exceed the maximum aggregate limit of tax credits under paragraph (5) of this regulation, then the tax credits preapproved in the second round shall be allocated among the taxpayers who filed a properly completed and timely submitted application through the Georgia Tax Center in the second round on a pro rata basis based on amounts otherwise allowable under O.C.G.A. § 48-7-40.36 and this regulation.

(i) In the event it is determined that taxpayer has not met all the requirements of O.C.G.A. § 48-7-40.36 and this regulation, then the amount of the credit shall not be approved or the approved credits shall be retroactively denied. The taxpayer shall file amended returns for the taxable year the credit was claimed reducing the credit. With respect to such denied credits, tax, interest, and penalties shall be due if the credit has already been used by the taxpayer.

(7) **Required Reporting by Taxpayer when 90 percent requirement or restoration is met**. Each taxpayer that receives preapproval for the timber tax credit, must certify to the Department:

(a) The replanting of timber in a quantity projected to yield at maturity at least 90 percent of the value of the timber casualty loss claimed or the restoration of each acre for which timber casualty losses were incurred to a condition that has an adequately stocked stand that is expected to result in forest products or ecological services in the foreseeable future. Such 90 percent or restoration requirement shall be computed and must be met separately for all eligible timber property in a county. The taxpayer must report to the Department:

1. The preapproval certificate number;

2. The street address or addresses and parcel number or numbers where the replanting or restoration occurred;

3. The county where the replanting or restoration occurred;

4. Whether or not the taxpayer chose to restore any of the acres for which timber casualty losses were incurred to a condition that has an adequately stocked stand that is expected to result in forest products or ecological services in the foreseeable future;

5. The actual diminution of value for the selected certificate;

6. The actual diminution of value attributable to restored acres;

7. The actual diminution of value attributable to non-restored acres;

8. 90% of the diminution of value attributable to non-restored acres;

9. The projected yield at maturity of the replanted timber;

10. The actual year of completion of the replanting and or restoration of timber which must occur between 2019 and 2024;

11. The number of taxpayer's acres of eligible timber property; and

12. Any other information that may be requested by the Commissioner.

(b) A taxpayer can choose to replant and restore in the same county and the taxpayer must report when the acres chosen to be restored are restored and the 90% requirement is met for the diminution of value that is attributable to the timber in the remaining acres.

(c) Such information shall be submitted electronically through the Georgia Tax Center when the taxpayer completes such replanting or restoration requirements. Until the taxpayer submits the required reporting, the credit cannot be sold by the taxpayer and cannot be utilized by anyone.

(8) **Claiming the Credit.** A taxpayer that has received preapproval from the Department, and has submitted the required reporting under paragraph (7) of this regulation must claim the timber tax credit on their applicable Georgia income tax return even if the credit is sold or transferred.

(a) Refundable credit for the generating taxpayer. The total amount of timber tax credit claimed in a taxable year may exceed the taxpayer's income tax liability. Such tax credits allowed in excess of a taxpayer's income tax liability shall be refundable to such taxpayer; provided that such taxpayer is the same taxpayer that incurred the timber casualty loss. If the generating taxpayer is a pass-through entity the credit is refundable for the individual partner, shareholder, or member based on the member's, shareholder's, or partner's year ending profit/loss percentage and the limitations of this regulation. The credit is not refundable to the pass-through entity. The credit forms for the pass-through entity are submitted as provided in paragraph (10) of this regulation.

(9) **Carry forward.** Any timber tax credit that is claimed but not used or refunded in a taxable year shall be allowed to be carried forward for ten years from the close of the taxable year in which the credits are claimed.

(10) **Pass-Through Entities.** When the taxpayer is a pass-through entity, and has no income tax liability of its own, the tax credits will pass to its members, shareholders, or partners based on the year ending profit/loss percentage and the limitations of this regulation. The credit forms will initially be filed with the tax return of the taxpayer to establish the amount of the credit available for pass through. The credit will then pass through to its shareholders, members, or partners to be applied against the tax liability on their income tax returns. The credits are available for use as a credit by the shareholders, members, or partners for their tax year in which the income tax year of the pass-through entity ends. For example: A partnership earns the credit for its tax year ending January 31, 2020. The partnership passes the credit to a calendar year partner. The credit is available for use (including refundability) by the individual partner beginning with the calendar 2020 tax year.

(11) **Conditions and Limitations**.

(a) In order to be eligible for the timber tax credit the taxpayer must own or lease the eligible timber property. If the eligible timber property is leased by the taxpayer, the taxpayer must be eligible to claim the federal casualty loss deduction for the eligible timber property and the owner of the property must not claim the credit.

(b) The credit shall be computed and claimed separately for each county with eligible timber property.

(c) Taxpayer must use their aggregate diminution of value for all eligible timber property in a county when calculating their timber casualty loss for the timber tax credit.

(d) The timber tax credit shall be claimed in the taxable year in which the taxpayer first completes the replanting of timber for a county in a quantity projected to yield at maturity at least 90 percent of the value of the timber casualty loss claimed or the restoration of each acre for which timber casualty losses were incurred to a condition that has an adequately stocked stand that is expected to result in forest products or ecological services in the foreseeable future. Such timber shall be planted within the same county in which the eligible timber property was being grown when the timber casualty loss was incurred but may be planted in a different location in such county. A taxpayer can choose to replant and restore in the same county and the credit is allowed when the acres chosen to be restored are restored and the projected yield at maturity of the replanted timber is equal to or greater than 90% of the diminution of value attributable to the timber in the non-restored acres. Timber market conditions as of October 8, 2018, shall be used for the purposes of establishing projected value.

(e) The timber tax credit must be claimed in a taxable year ending on or before December 31, 2024.

(f) Any Department of Revenue audit triggered by a taxpayer's use or transfer of the timber tax credit will require the taxpayer to reimburse the Department of Revenue for all costs associated with the audit, provided that such amount shall not exceed the value of the credits claimed by the taxpayer. The Department of Revenue will inform the taxpayer that the audit is a timber tax credit audit and thus subject to this provision prior to the commencement of the audit. Routine audits of the taxpayer's activity in Georgia are not subject to this provision.

(g) The taxpayer decides the order in which they use their income tax credits, unless the income tax credit statute specifies an order. The timber tax credit does not specify an order in which it must be used.

(h) For property that is jointly owned outside of a pass-through entity, each taxpayer who applies should enter their share of the diminution of value, acres affected, etc. For example, if there are 3 owners and the property is jointly owned and there are 120 acres affected, then each should enter 40 acres.

(12) **Selling or Transferring the Timber Tax Credit.** The taxpayer may sell or transfer in whole or in part any timber tax credit, previously claimed but not used by such taxpayer against its income tax and not refunded to such taxpayer, to a single Georgia taxpayer subject to the following conditions:

(a) The taxpayer may only make a one-time sale or transfer of the timber tax credits earned.

1. Example: Taxpayer 1 receives preapproval, Taxpayer 1 completes the replanting of timber in a quantity projected to yield at maturity at least 90 percent of the value of the timber casualty loss claimed in year 1 and submits the required reporting in year 1. Taxpayer 1 claims $100,000 credit on Taxpayer 1's year 1 income tax return. In year 1, Taxpayer 1 sells $100,000 of the credit to taxpayer 2. Taxpayer 2 is not allowed to resell the credit since the credit can only be sold one-time.

2. Example: Taxpayer receives preapproval, Taxpayer completes the replanting of timber in a quantity projected to yield at maturity at least 90 percent of the value of the timber casualty loss claimed in 2020, and submits the required reporting in 2020. Taxpayer claims $900,000 timber tax credit in 2020 (on Taxpayer's 2020 income tax return). In tax year 2020 taxpayer uses $100,000 of the timber tax credit against its income tax liability. In tax year 2022, the taxpayer sells $600,000 of the timber tax credit claimed in 2020. The remaining $200,000 of timber tax credit claimed in tax year 2020 cannot be sold.

(b) The timber tax credit may be transferred before the tax return is filed by the taxpayer provided the credit has been earned. However, the amount transferred cannot exceed the amount of the credit which will be claimed and not used or refunded on the income tax return of the transferor. The credit is considered earned when the credit has been preapproved by the Department, the taxpayer completes the replanting of timber in a quantity projected to yield at maturity at least 90 percent of the value of the timber casualty loss claimed, or completes the restoration of each acre for which timber casualty losses were incurred to a condition that has an adequately stocked stand that is expected to result in forest productions or ecological services in the foreseeable future, or completes the replanting and restoration in the same county (the acres chosen to be restored are restored and the 90% requirement is met for the diminution of value that is attributable to the timber in the remaining acres), and the taxpayer submits the required reporting under paragraph (7) of this regulation.

(c) The timber tax credit must be sold for a minimum of 60 percent of the credit amount.

(d) The taxpayer must file Form IT-TRANS "Notice of Tax Credit Transfer" with the Department of Revenue within 30 days of the transfer or sale of the timber tax credit. Form IT-TRANS must be submitted electronically to the Department of Revenue through the Georgia Tax Center or alternatively as provided in subparagraph (12)(d)1. of this regulation. With respect to such taxpayer, the Department of Revenue will not process any Form IT-TRANS submitted or filed in any other manner. If the taxpayer is a disregarded entity then Form IT-TRANS should be filed in the name of the owner of the disregarded entity.

1. The web-based portal on the Georgia Tax Center. The taxpayer may provide selective information to a representative for the purpose of allowing the representative to submit Form IT-TRANS on their behalf on the Georgia Tax Center outside of a login. The provision of such information shall authorize the representative to submit such Form IT-TRANS. The representative must provide all information required by the web-based portal on the Georgia Tax Center to submit Form IT-TRANS.

(e) The taxpayer must provide all required timber tax credit detail and transfer information to the Department of Revenue. Failure to do so will result in the timber tax credit being disallowed until the taxpayer complies with such requirements.

(f) The carry forward period of the timber tax credit for the transferee will be the same as it was for the taxpayer. Any timber tax credit that is claimed but not used in a taxable year shall be allowed to be carried forward for ten years from the close of the taxable year in which the credits are claimed. For example: the taxpayer sells the timber tax credit on February 1, 2020. The taxpayer met the requirement for the credit in 2019 and claimed the credit on taxpayer's calendar year 2019 return. The credit may be claimed by the transferee on their 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028 or 2029 return. And the carry forward period for this tax credit will expire on December 31, 2029. This credit carry forward treatment applies whether the credit is being utilized by the taxpayer or the transferee.

(g) The total amount of timber tax credit allowed in a taxable year may not exceed the transferee's income tax liability. Such tax credits allowed in excess of a transferee's income tax liability shall not be refundable to such transferee.

(h) Except for the refundability provision, a transferee shall only have such rights to claim and use the timber tax credit that were available to the taxpayer at the time of the transfer. Thus, a transferee shall not have the right to subsequently transfer such credit since that right has been utilized by the transferor, and the credit is not refundable for the transferee.

(i) In the event of recapture, reduction, disallowance, or other failure related to the timber tax credit, the Department may pursue the taxpayer or the transferee. The transferee's recourse shall not be against the Department.

(13) **How to Sell or Transfer the Timber Tax Credit.** The taxpayer may sell or transfer the timber tax credit directly to a single Georgia taxpayer. A pass-through entity may make an election to sell the timber tax credit claimed in a taxable year at the entity level. If the pass-through entity makes the election to sell the timber tax credit at the entity level, the credit does not pass through to the shareholders, members, or partners. In all cases, the effect of the sale of the credit on the income of the seller and buyer of the credit will be the same as provided in the Internal Revenue Code.

(a) Pass-Through Entity. The taxpayer may be structured as a pass-through entity. If a pass-through entity does not make the election to sell or transfer the tax credit at the entity level as provided in paragraph (13) of this regulation, the tax credit will pass through to the shareholders, partners, or members of the entity based on their year ending profit/loss percentage. The shareholders, members, or partners may each then sell their respective timber tax credit to a single Georgia taxpayer.

(b) Transferee Pass-Through Entity. The taxpayer or its shareholders, members, or partners, may sell or transfer the tax credit to a pass-through entity. A pass-through entity that purchases a credit shall elect on behalf of its shareholders, members, or partners which year the credit shall be passed through to its shareholders, members, or partners (either its tax year in which the income tax year of the taxpayer, which claims the timber tax credit being sold ends; or during any later tax year before the 10 year carry forward period associated with the tax credit ends as provided in subparagraph (13)(c) of this regulation). If the pass-through entity has no income tax liability of its own, the pass-through entity may then pass the credit through to its shareholders, members, or partners based on the pass-through entity's year ending profit/loss percentage for the elected year. For example, if a calendar year partnership is buying the credit earned by a taxpayer in calendar 2019 tax year, and elects to use the credit for such year, then only partners who have a profit/loss percentage as of the end of the 2019 tax year may receive their respective amount of the timber tax credit.

(c) The credits are available for use by the transferee, provided the time has not expired for filing a claim for refund of a tax or fee erroneously or illegally assessed and collected under O.C.G.A. § 48-2-35:

1. As early as the transferee's tax year in which the income tax year of the taxpayer, which claims the timber tax credit associated with the credit being sold, ends; or

2. During any later tax year before the ten year carry forward period associated with the tax credit ends.

(i) . Example. Taxpayer receives preapproval in 2019 from the Department to claim the credit in 2020, and taxpayer meets the 90 percent replanting and reporting requirements of the credit in February 2020. Taxpayer sells the timber

tax credit on June 15, 2020; and Taxpayer claims but does not use the credit on their calendar 2020 income tax return. The transferee is a calendar year taxpayer. The credit may be claimed by the transferee on its calendar 2020 tax year return (the transferee's tax year in which the income tax year of the selling taxpayer ends) or on the transferee's 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, or 2030 return (before the ten year carry forward associated with the tax credit ends on December 31, 2030).

Cite as GA Regs. 560-7-8-.65

AUTHORITY: O.C.G.A. §§ 48-2-12**,** 48-7-40.36**.**

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Department 560. RULES OF DEPARTMENT OF REVENUE

Chapter 560-11. LOCAL GOVERNMENT SERVICES DIVISION

Subject 560-11-16. TABLE OF FOREST LAND PROTECTION ACT LAND USE VALUES

560-11-16-.01 Application of Subject

Regulations in this Subject, 560-11-16, apply to the fair market valuation of Qualified Timberland Property (QTP) in accordance with Article VII, Section I, Paragraph III (f.1) of the Constitution of Georgia and provided for in Article 13 of Chapter 5 of Title 48 of the Georgia Code.

Cite as Ga. Comp. R. & Regs. R. 560-11-16-.01

AUTHORITY: O.C.G.A. §§ 48-2-12**,** 48-5-600.1**,** 48-5-607**.**

HISTORY: Original Rule entitled "Application of Subject" adopted. F. Feb. 5, 2021; eff. Feb. 25, 2021.

560-11-16-.02 Definitions

As used in this Article, the term:

(a) "Bona Fide Production of Trees" means the good faith, real, actual, and genuine production of trees for commercial uses.

(b) "Commissioner" and "Revenue Commissioner" mean the Georgia Revenue Commissioner.

(c) "Department" means the Georgia Department of Revenue.

(d) "Forest Management Plan" means a plan written by a registered forester to manage a forest stand in accordance with accepted commercial forestry practices. Forest Management Plans may include, but are not limited to, information about soils, logging methods, disease or insect problems, road conditions, growth and age data, environmental concerns, and recommended silvicultural treatments and their timing.

(e) "Qualified Owner" means an individual or entity that meets the conditions of Code Section 48-5-603.

(f) "Qualified Timberland Property" (QTP) means timberland property that meets the conditions of Code Section 48-5-604. Such property shall be classified as a separate and distinct class of tangible property for ad valorem tax purposes.

(g) "Timberland Property" means tangible real property that has as its primary use the Bona Fide Production of Trees for commercial uses.

Cite as Ga. Comp. R. & Regs. R. 560-11-16-.02

AUTHORITY: O.C.G.A. §§ 48-2-12**,** 48-5-600**,** 48-5-607**.**

HISTORY: Original Rule entitled "Definitions" adopted. F. Feb. 5, 2021; eff. Feb. 25, 2021.

560-11-16-.03 Applications

(1) All applications for certification as a Qualified Owner and for QTP certification shall be submitted electronically through the Georgia Tax Center (GTC). No other filing method shall be permitted.

(2) Applications for certification as a Qualified Owner and for QTP certification must be filed annually with the Revenue Commissioner between January 1 and March 1 of the applicable tax year.

(3) The applicant shall submit the following documentation to the Revenue Commissioner through GTC:

a. Application for QTP certification;

b. Recorded deed evidencing legal ownership of the property;

c. A legal description of the property for which QTP certification is sought, which must include:

(i) A plat of the property prepared by a licensed land surveyor, showing the location and measured area of the parcel; or

(ii) A written legal description of the property delineating the metes and bounds and measured area; or

(iii) Such other alternative property boundary description as mutually agreed upon by the taxpayer and the Revenue Commissioner that may accurately represent the parcel which is the subject of the QTP application. An acceptable alternative property boundary description may include a parcel map drawn by the county cartographer or GIS technician and signed by the county board of assessors and taxpayer; and

d. Evidence that the property has as its primary use the Bona Fide Production of Trees for commercial uses, which must include a Forest Management Plan that describes the use of accepted commercial forestry practices. If it appears that the Forest Management Plan is not being followed, the Revenue Commissioner may reject it, or require additional evidence.

(4) The applicant may also submit an individual soil map delineating the soil types on the property.

(5) An application for QTP certification may be amended or withdrawn at any time prior to the initial certification or non-certification by the Revenue Commissioner by giving written notification of such amendment or withdrawal to the Department.

Cite as Ga. Comp. R. & Regs. R. 560-11-16-.03

AUTHORITY: O.C.G.A. §§ 48-2-12**,** 48-5-603**,** 48-5-604**,** 48-5-607**.**

HISTORY: Original Rule entitled "Applications" adopted. F. Feb. 5, 2021; eff. Feb. 25, 2021.

560-11-16-.04 Appeals

(1) A taxpayer or county board of tax assessors may appeal the Revenue Commissioner's decisions related to such taxpayer's status as a Qualified Owner; the certification or non-certification of such taxpayer's timberland as QTP; or the appraised value of such taxpayer's QTP. Such appeals shall be made as an appeal to the Georgia Tax Tribunal in accordance with Chapter 13A of Title 50 within 30 days of the Revenue Commissioner's issuance of such decision.

(2) If the appraised value is disputed, an appeal may be made contesting the Revenue Commissioner's determination of the soil classification of any part or all of the QTP, as well as with regard to any alleged errors made by the Revenue Commissioner in the application of the table of values or calculation of the minimum threshold of value prescribed in the Constitution.

(3) A taxpayer, group of taxpayers, county board of tax assessors, or association representing taxpayers may appeal the commissioner's decisions related to the commissioner's complete parameters for the appraisal of QTP required

by Code Section 48-5-602(d)(1). Such appeals shall be made as an appeal to the Georgia Tax Tribunal in accordance with Chapter 13A of Title 50 within 60 days of the effective date of such manual.

Cite as Ga. Comp. R. & Regs. R. 560-11-16-.04

AUTHORITY: O.C.G.A. §§ 48-2-12**,** 48-5-605**,** 48-5-606**,** 48-5-607**.**

HISTORY: Original Rule entitled "Appeals" adopted. F. Feb. 5, 2021; eff. Feb. 25, 2021.

560-11-16-.05 Table of Commercial Timberland Per Acre Values by Ecological Region and Soil Productivity Classification

(1) For the purpose of prescribing the 2021 table of values for use in the appraisal of Qualified Timberland Property, the state shall be divided into four ecological regional valuation areas, and per acre values shall be assigned to qualified land according to soil productivity classifications (W1-W9).

(a) **Ecological region #1** includes the following counties: Appling, Atkinson, Bacon, Brantley, Bryan, Camden, Charlton, Chatham, Clinch, Echols, Effingham, Glynn, Jeff Davis, Lanier, Liberty, Long, McIntosh, Pierce, Ware, and Wayne. The following per acre values shall be applied to each qualified acre according to soil productivity classifications W1 - W9:

W1-1,057, W2-913, W3-791, W4-717, W5-653, W6-601, W7-506, W8-465, W9-425.

(b) **Ecological region #2** includes the following counties: Baker, Ben Hill, Berrien, Bibb, Bleckley, Brooks, Bulloch, Burke, Calhoun, Candler, Chattahoochee, Clay, Coffee, Colquitt, Cook, Crawford, Crisp, Decatur, Dodge, Dooly, Dougherty, Early, Emanuel, Evans, Glascock, Grady, Houston, Irwin, Jefferson, Jenkins, Johnson, Laurens, Lee, Lowndes, Macon, Marion, Miller, Mitchell, Montgomery, Muscogee, Peach, Pulaski, Quitman, Randolph, Richmond, Schley, Screven, Seminole, Stewart, Sumter, Tattnall, Taylor, Telfair, Terrell, Thomas, Tift, Toombs, Treutlen, Turner, Twiggs, Washington, Webster, Wheeler, Wilcox, Wilkinson, and Worth. The following per acre values shall be applied to each qualified acre according to soil productivity classifications W1 - W9:

W1-890, W2-762, W3-651, W4-580, W5-519, W6-475, W7-400, W8-353, W9-339.

(c) **Ecological region #3** includes the following counties: Baldwin, Banks, Barrow, Bartow, Butts, Carroll, Catoosa, Chattooga, Cherokee, Clarke, Clayton, Cobb, Columbia, Coweta, Dade, Dawson, Dekalb, Douglas, Elbert, Fayette, Floyd, Forsyth, Franklin, Fulton, Gordon, Greene, Gwinnett, Habersham, Hall, Hancock, Haralson, Harris, Hart, Heard, Henry, Jackson, Jasper, Jones, Lamar, Lincoln, Madison, McDuffie, Meriwether, Monroe, Morgan, Murray, Newton, Oconee, Oglethorpe, Paulding, Pickens, Pike, Polk, Putnam, Rockdale, Spalding, Stephens, Talbot, Taliaferro, Troup, Upson, Walker, Walton, Warren, White, Whitfield, and Wilkes. The following per acre values shall be applied to each qualified acre according to soil productivity classifications W1 - W9:

W1-870, W2-765, W3-672, W4-606, W5-545, W6-521, W7-468, W8-436, W9-400.

(d) **Ecological region #4** includes the following counties: Fannin, Gilmer, Lumpkin, Rabun, Towns, and Union. The following per acre values shall be applied to each qualified acre according to soil productivity classifications W1 - W9:

W1-975, W2-872, W3-788, W4-731, W5-666, W6-618, W7-557, W8-528, W9-486.

(2) The appraised value produced using the table of values in paragraph (1) of this Rule shall be determined and, if needed, adjusted so that the final value is at least 175% of such property's forest land conservation use value.

Cite as Ga. Comp. R. & Regs. R. 560-11-16-.05

AUTHORITY: O.C.G.A. §§ 48-2-12**,** 48-5-7**,** 48-5-602**,** 48-5-607**.**

HISTORY: Original Rule entitled "Table of Commercial Timberland Per Acre Values by Ecological Region and Soil Productivity Classification" adopted. F. Feb. 5, 2021; eff. Feb. 25, 2021.

560-11-16 Appendix: Qualified Timberland Property Appraisal Manual

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