



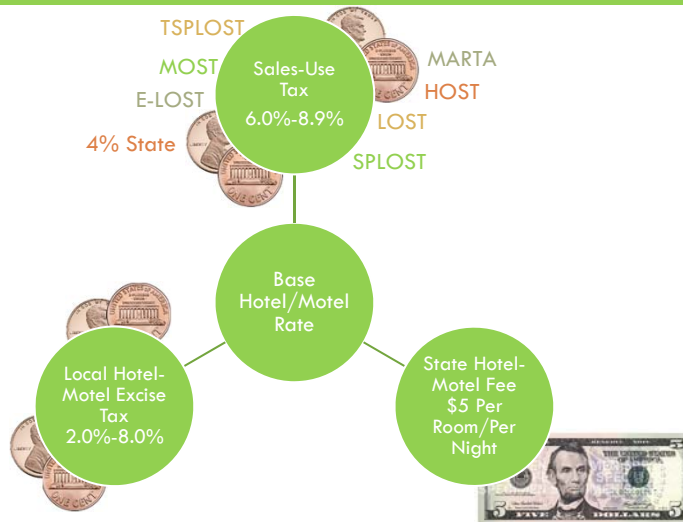
Advocacy Track: Accommodations Tax 101

Eric Lopez, Georgia Department of
Community Affairs

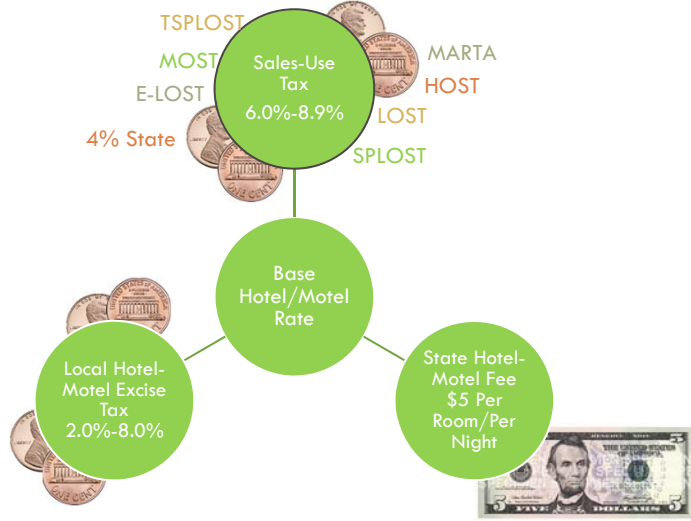


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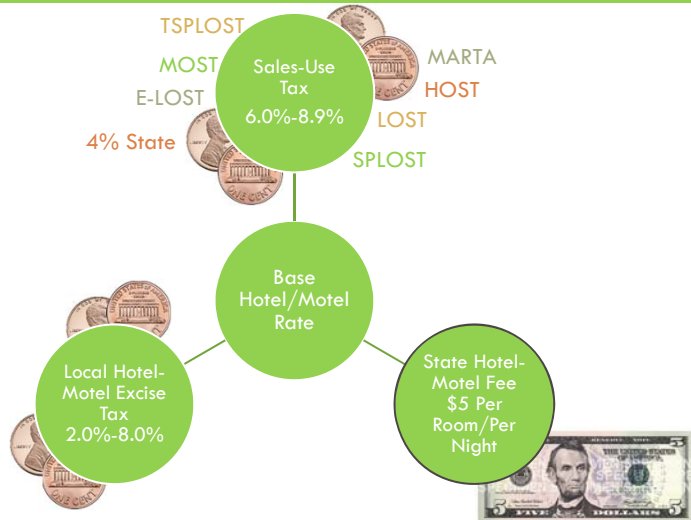
The Lodging Receipt



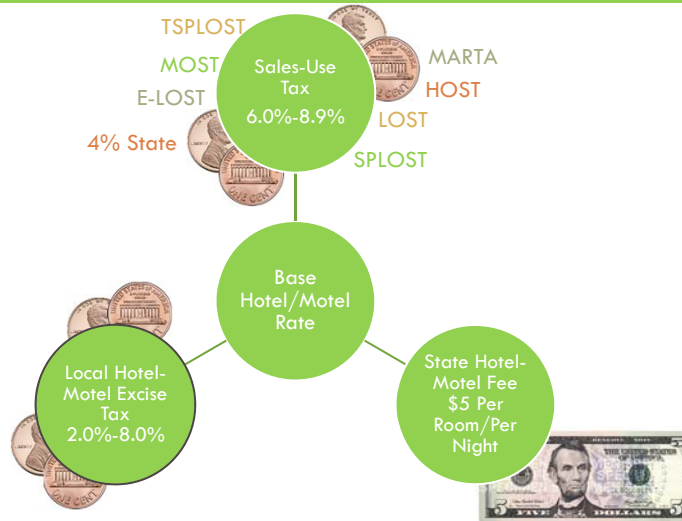
The Lodging Receipt



The Lodging Receipt



The Lodging Receipt



Hotel-Motel Tax in Georgia

- ▣ Hotel-Motel Tax Law addressed in OCGA Title 48, Chapter 13, Article 3 (Ch. 13 Paragraphs 50-56)
- ▣ HB248 in the 1975 legislative session first permitted counties and municipalities to impose a hotel-motel tax of no more than 3%
 - ▣ The first tax imposition in the DCA records is Brunswick, which adopted the 3% tax in December 1976.

Changes to HMT Authorizations

- ❑ In the 1975 Legislative Session, the General Assembly introduced the first HMT – Up to 3%
- ❑ As years went on, the HMT became increasingly complicated...

O.C.G.A. § 48-13-51 (a) 5
 O.C.G.A. § 48-13-51 (a) 4
 O.C.G.A. § 48-13-51 (a) 4.5
 O.C.G.A. § 48-13-51 (a) 1
 O.C.G.A. § 48-13-51 (a) 4.2
 O.C.G.A. § 48-13-51 (a) 3.7
 O.C.G.A. § 48-13-51 (a) 5.3
 O.C.G.A. § 48-13-51 (a) 5.2
 O.C.G.A. § 48-13-51 (a) 2.2
 O.C.G.A. § 48-13-51 (a) 5.1
 O.C.G.A. § 48-13-51 (a) 4.6B
 O.C.G.A. § 48-13-51 (a) 2.1
 O.C.G.A. § 48-13-51 (a) 3.7
 O.C.G.A. § 48-13-51 (a) 4.4
 O.C.G.A. § 48-13-51 (a) 3.2
 O.C.G.A. § 48-13-51 (a) 3.4
 O.C.G.A. § 48-13-51 (b)
 O.C.G.A. § 48-13-51 (a) 3.8
 O.C.G.A. § 48-13-51 (a) 4.6A
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 O.C.G.A. § 48-13-51 (a) 3.3

Changes to HMT Authorizations

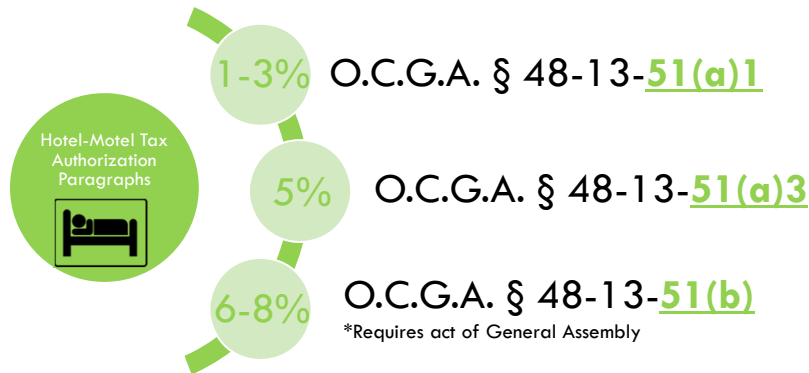
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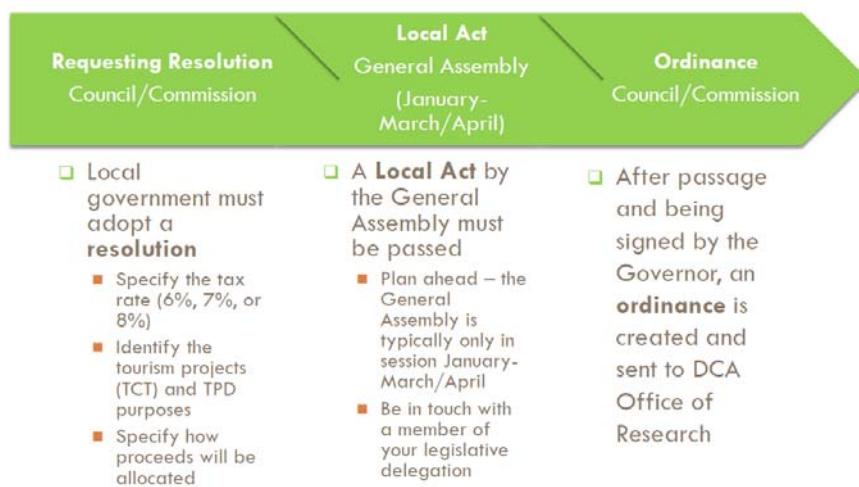
By 2008, there were 24 different authorization paragraphs and rates available to local governments wanting to impose a Hotel-Motel Tax

Changes to HMT Authorizations

- In 2008, HB 1168 reduced the number of authorizations for newly adopted HMT or changes in existing HMT to three (3) options



The Unique Demands of 51(b)



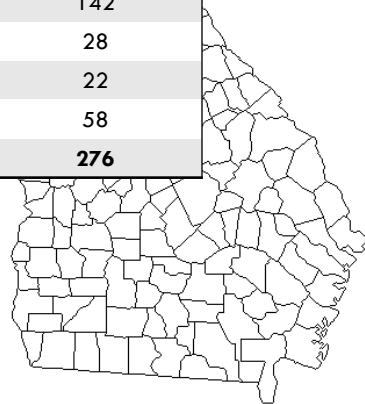
The “Grandfathered” Authorizations

- ❑ Of the 276 jurisdictions with a HMT, 57 are “grandfathered” in one of 18 now-retired authorization paragraphs
 - Tax ordinances that were in use prior to the 2008 code change, with rates, applications, and spending restrictions remaining as-is
 - If your jurisdiction is one of these, be in touch with the DCA Office of Research for specific information about your restricted spending, and your city/county attorney for legal direction on restricted spending
- ❑ Each authorization paragraph has a unique reporting form, so it is *vital* to make sure the DCA Office of Research has the current signed ordinance

HMT Rates Across Georgia



HMT Tax Rate	Number of Communities
2%	1
3%	25
5%	142
6%	28
7%	22
8%	58
As of February 2018	276



The Role of DCA

- **Repository** for ordinances and enabling legislation
 - Make sure to submit documents to DCA
- Maintain **reporting system** for local governments
 - As of 2016, all reporting is web-based
- Track **reporting compliance** – No auditing or review
- **Reminder** of due dates and reporting requirements
- Convene **Performance Review Board** annually to review bona fide HMT complaints
- Assist local governments with **logistical** questions
 - DCA does not provide legal guidance, interpretations, or directives

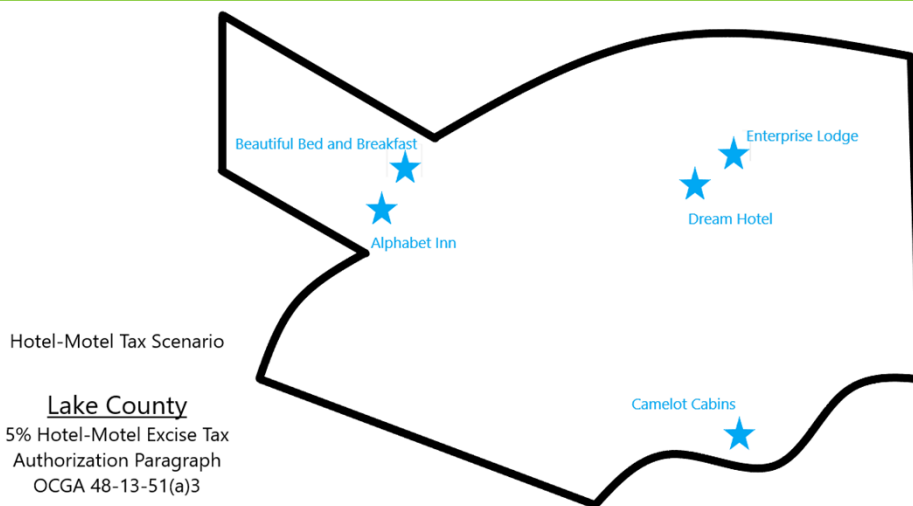
Discussing your jurisdiction's HMT

- *Know your authorization paragraph or the authorization paragraph you'd like to adopt*
 - Without knowing the *specific* authorization paragraph, the rate, restricted spending, and other potential requirements are unknown
- Stay in communication with the **DCA Office of Research** regarding resolutions, ordinances, effective dates, and other “nuts and bolts” issues regarding the imposition of a hotel-motel tax
- Be sure to consult with the city, county, or consolidated government **attorney**, as DCA cannot provide legal guidance or directives
- Maintain **stakeholder** engagement
 - Elected Council/Commission members, CFO/CPA Firm, Regional Commission, Chamber/CVB/Other Tourism Contractor, Innkeepers/Lodging entities

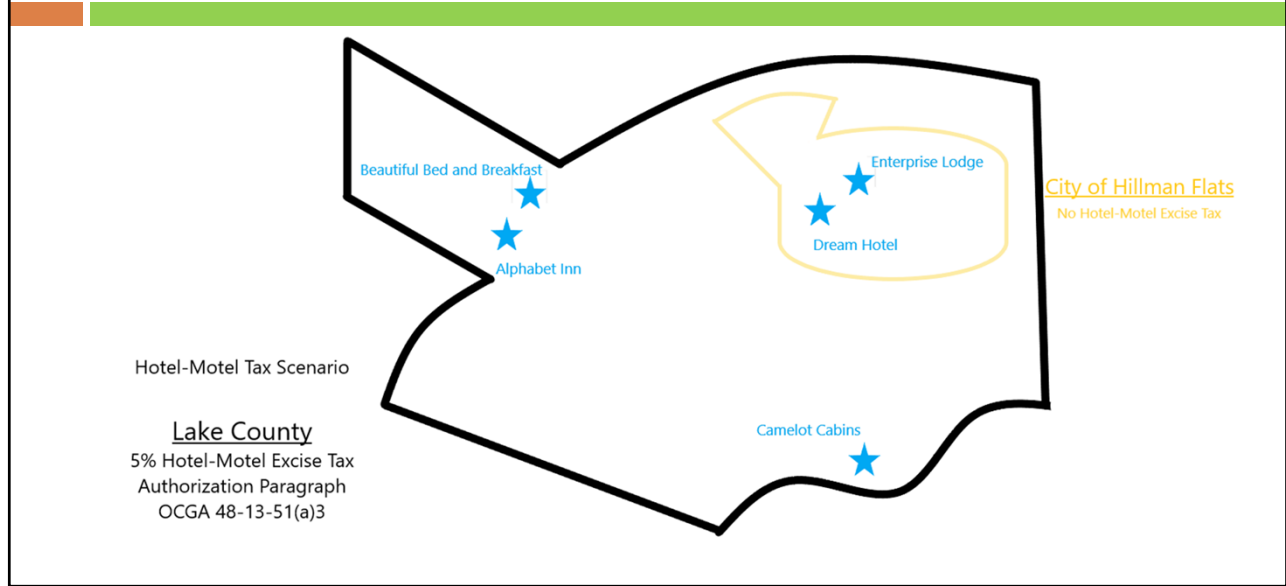
Multi-Jurisdictional Issues

- ▣ Each county is a special district for the purpose of the hotel-motel excise tax, but excludes “territory located within the boundaries of any municipality which imposes an excise tax” (OCGA 48-13-50.1)
 - ▣ If a lodging establishment is located within a municipality that imposes the tax, there is no tax due to the county
 - ▣ If a lodging establishment is in an unincorporated area or in a municipality that does not impose a tax, but a county that does impose the tax, tax is due to the county
- ▣ Remember, the local excise tax should never be paid to more than one jurisdiction

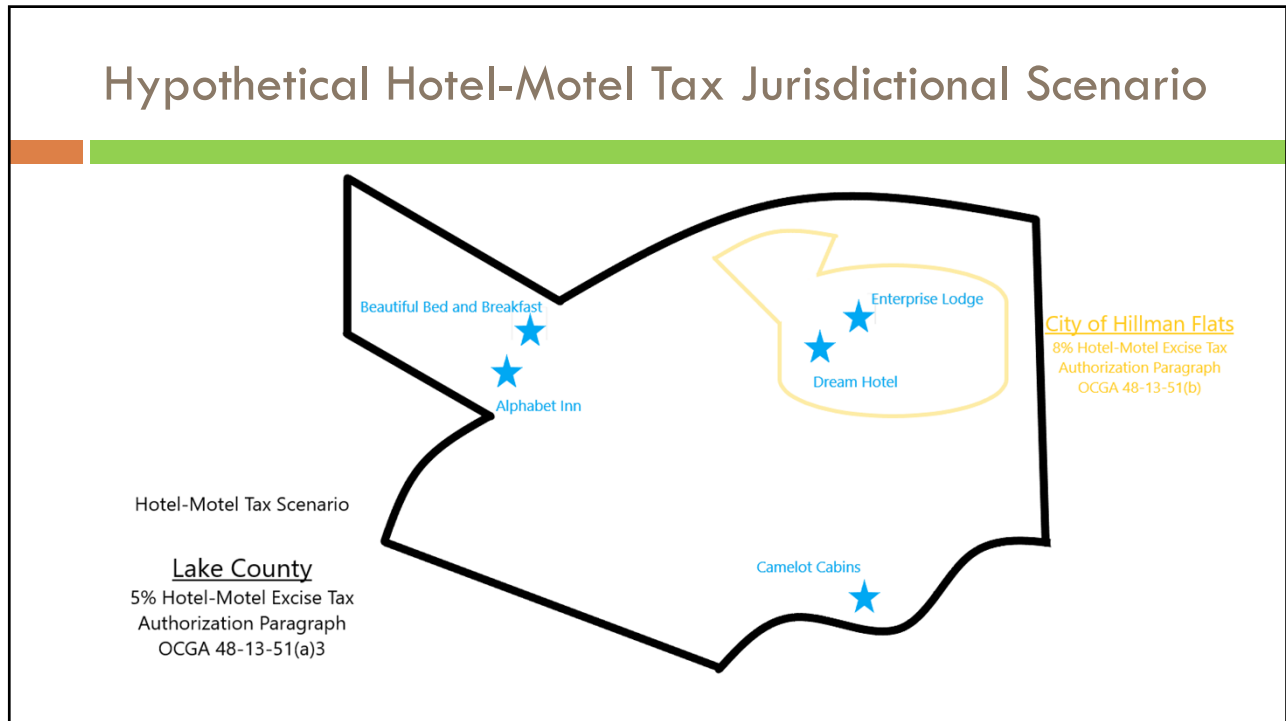
Hypothetical Hotel-Motel Tax Jurisdictional Scenario



Hypothetical Hotel-Motel Tax Jurisdictional Scenario



Hypothetical Hotel-Motel Tax Jurisdictional Scenario



GMA's Revenue Recovery Service

- Georgia Municipal Association assists local governments with
 - Compliance enhancement
 - Ensuring remittance and reporting of HMT funds
 - Communicating with delinquent, deficient providers
 - Revenue management
 - Collect money from hoteliers and innkeepers
 - Follow up on delinquent payments
 - Enhanced reporting and information on local lodging
 - Operation enhancement
 - Analyze returns of lodging providers within the jurisdiction
 - Identify trends and opportunities for jurisdiction
 - Review need for possible audits, as needed
- For information, contact **Darin Jenkins – 678-686-6264**



Mechanics of Restricted Spending


Defining the Spending Restrictions - Purpose

- Depending on the authorization paragraph used to impose the HMT, a percentage of revenue goes toward *restricted spending*
 - Always a *percentage*, never a flat/fixed amount
- **Tourism, Conventions, and Trade Shows (TCT)**
 - “Planning, conducting, or participating in programs of information and publicity designed to attract or advertise tourism, conventions, or trade shows.”
 - Expended by the *Destination Marketing Organization (DMO)*
- O.C.G.A. § 48-13-50.2

Defining the Spending Restrictions - Recipient

- For TCT spending, the ***Destination Marketing Organization (DMO)***
 - “A private sector non-profit organization or other private entity which is exempt...under Section 501(c)(6) of the IRS Code of 1986”
 - Primary responsibilities are to “encourage travelers to visit their destinations, encourage meetings and expositions in the area, and provide visitor assistance and support as needed.”
 - Can be a Chamber of Commerce, CVB, Regional Travel Association, or other private group, *so long as it is a tax-exempt 501(c)(6)*
 - Also, any recreation Authority or CVB created by General Assembly or the State, a Department of State Government, or State Authority
- For TPD spending, *any municipal, county, or consolidated government*
 - O.C.G.A. § 48-13-50.2

How about DDAs, Main Street?

	DDAs, Tourism Authorities, and other Local Authorities	Main Street 
Organization	Local Authority created by General Statute, Local Law, or Local Constitutional Amendment	Department within local government, or Stand-alone non-profit organization, or Component of Chamber of Commerce Flexibility from DCA ODD
Structure and Restrictions	As defined by OCGA 36-42	If City department, defined by Mayor/Council; If non-profit/Chamber component, as defined by bylaws
Relationship with City	"Creature" of city government	If department, part of city government; if non-profit/Chamber, contractual relationship with city
Hotel-Motel Tax Revenue	No. Local Authorities in Georgia are inherently <i>public</i> entities and not eligible.	It depends. If the <i>Main Street</i> program is a city department, it is a public entity and <i>not</i> eligible. If the <i>Main Street</i> program is a stand-alone 501(c)6 non-profit, it is eligible.

Non-Profit Status – (c)3 versus (c)6

	501(c)3	501(c)6
Hotel-Motel Tax Revenue	Not eligible to receive	Eligible to receive
Purpose	Charitable Organization	Business/Membership Organization
Donation	Tax deductible for donor	Not tax deductible
Lobbying	Prohibited from political activity	Political activity permitted, but taxable
Social Activities	Social activities must be "insubstantial"	Social activities permissible, not "primary"
Examples	Charitable foundations, universities, churches, charitable support groups	Business league, Chamber of Commerce, CVB



Main Street programs in Georgia are largely self-determined. For those that are stand-alone non-profits, some have status as 501(c)3 and some as 501(c)6. Always confirm the tax-exempt status of a DMO receiving/potentially receiving Hotel-Motel Tax revenue restricted to TCT

So, how *can* we use TCT restricted funds?

□ Generally*...

- Community-wide tourism advertising
- Social media and internet marketing campaigns
- Radio and Television Commercials
- Soliciting convention or trade show contracts
- Supporting/operating a convention facility**

*Be sure to consult with city/county/consolidated government attorney

**Only in certain situations and under certain authorization paragraphs, consult attorney

So, how *can't* we use TCT restricted funds?

□ Fireworks

- Not “programs of information and publicity”
or an *advertisement* for an event
- They *are* the event



Limited Alternative Uses of TCT Funds

- ❑ State law provides for a very limited number of alternative uses for *up to two pennies* of TCT spending under paragraphs 51(a)(3) and 51(b).
- ❑ Supporting a facility owned or operated by a *state* authority for convention and trade show purposes
 - ❑ Entities such as the Georgia World Congress Center Authority and Georgia Agricultural Exposition Authority
 - ❑ **Does not** include *local* authorities such as a Downtown Development Authority, Stadium/Coliseum Authority, or Recreation Authority, among others
- ❑ Supporting a facility owned or operated by a *local* government or *local* authority for convention and trade show purposes in one of three situations,
 - ❑ A written agreement was in effect on January 1, 1987 and facility was substantially completed and in operation prior to July 1, 1987
 - ❑ Facility was funded prior to July 1, 1990, in whole or in part by a grant of state funds or is funded on or after July 1, 1990, in whole or substantially by an appropriation of state funds;
 - ❑ Facility is substantially funded or was substantially funded on or after February 28, 1985, by SPLOST funds and if such facility was substantially completed and in operation prior to December 31, 1993

Defining the Spending Restrictions - Purpose

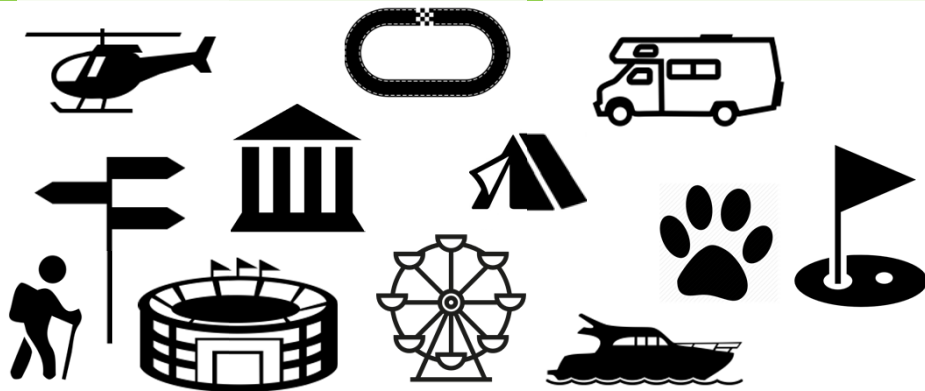
- ❑ Depending on the authorization paragraph used to impose the HMT, a *percentage* of revenue goes toward *restricted spending*
 - ❑ Always a *percentage*, never a flat/fixed amount
- ❑ **Tourism Product Development (TPD)**
 - ❑ “Creation or expansion of physical attractions which are available and open to the public and which improve destination appeal to visitors, support visitors’ experience, and are used by visitors. Such expenditures *may include capital costs and operating expenses.*”
 - Project should be identified as TPD in jurisdiction’s annual budget
 - Must involve physical renovation of existing tourism facility, or construction of a new tourism facility
 - Expended directly by LG or entity *other than DMO*
- ❑ O.C.G.A. § 48-13-50.2

What qualifies as *TPD*?

As identified in O.C.G.A. § 48-13-50.2(6)(A-P), *Tourism Product Development* may include

- Fishing Preserves
- Campsites
- Information Centers
- Parks and Trails
- Zoos
- Performing Arts Facilities
- Permanent Carnivals
- Sightseeing Planes and Helicopters
- Hunting Preserves
- Meeting/Convention Facility
- Wayfinding Signs
- Auto Racetracks
- Golf Courses
- Arenas
- Amusement Parks
- RV/Trailer/Camper Sites
- Exhibit Hall
- Sports Stadium
- Aquariums
- Drag Strips
- Sightseeing Boats
- Museums

What qualifies as *TPD*?



And other "creation or expansion of physical attractions which are available and open to the public and which improve destination appeal to visitors, support visitors' experience, and are used by visitors."

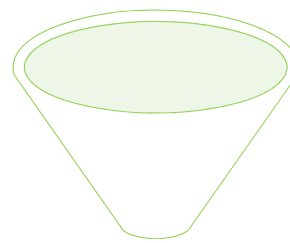
Understanding Restricted Spending

O.C.G.A. § 48-13-51(a)(1) – 1-3%



Non-Restricted

Proceeds can be used for any legal general fund purpose in the city, county, or consolidated government



Restricted

None

**Potential requirements for TCT based on local-specification and previous TCT spending*

O.C.G.A. § 48-13-51(a)(3) – 5%



Non-Restricted

Proceeds can be used for any legal general fund purpose in the city, county, or consolidated government



Restricted

At least 40% of HMT revenue must be used for TCT.

O.C.G.A. § 48-13-51(b) – 6%



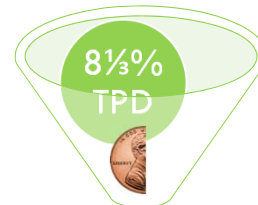
Non-Restricted

Proceeds can be used for any legal general fund purpose in the city, county, or consolidated government



Restricted

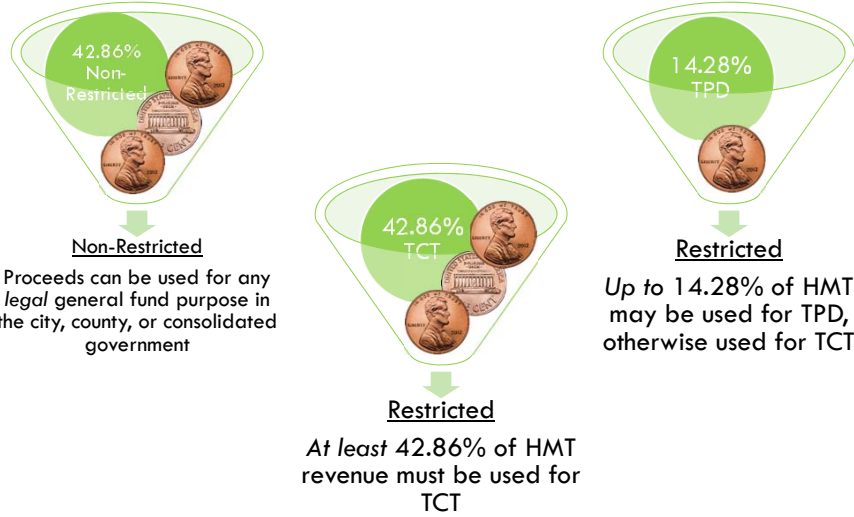
At least 41.5% of HMT revenue must be used for TCT



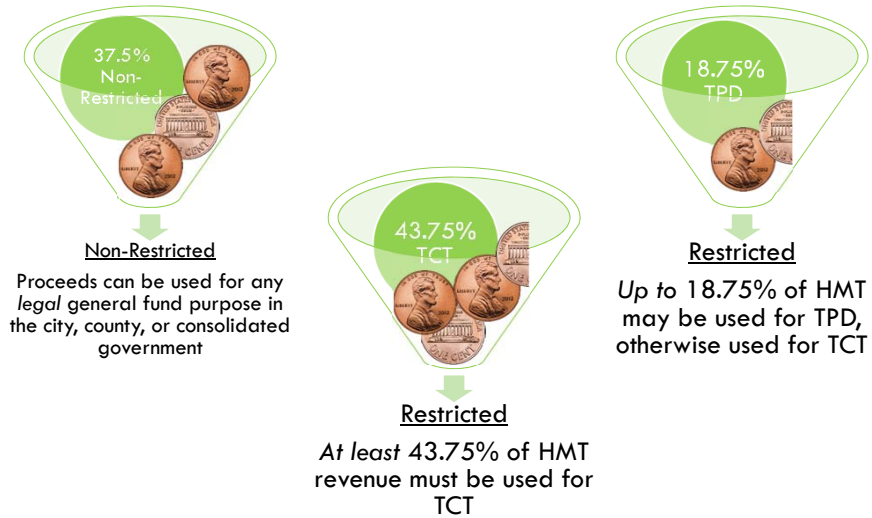
Restricted

Up to 8.5% of HMT may be used for TPD, otherwise used for TCT

O.C.G.A. § 48-13-51(b) – 7%



O.C.G.A. § 48-13-51(b) – 8%



Other Authorization Paragraphs

- For 57 jurisdictions, there are 18 “non-active” authorization paragraphs from OCGA 48-13-51(a) in use
 - Use of these paragraphs is permitted, imposition was “grandfathered”
- Rates range from 2%-8% and have different and unique restrictions on spending
- DCA Office of Research can provide logistical information, available files, and reporting documents
- *Consult with city, county, or consolidated government attorney for interpretation and legal opinions regarding unique requirements and responsibilities for now-retired authorization paragraphs*

- **KNOW YOUR AUTHORIZATION PARAGRAPH!**



After the Fiscal Year...

Local Government Requirements

- State-mandated Audit to **DOAA**
 - Determination of compliance with authorization paragraph's expenditure requirements
 - Identification of any non-compliance
 - Amount of HMT receipts during fiscal year
 - Expenditures, as a percentage of tax receipts
 - O.C.G.A. § 48-13-51(a)(9)(B)
- State-required Reporting to **DCA**
 - Verify authorization paragraph and rate
 - Unique form for each authorization paragraph
 - Report HMT revenues received
 - Project Contractor Information Schedule (PCIS)
 - O.C.G.A. § 48-13-56
 - Tourism Product Development (TPD) List
 - If under Paragraph 51(b)
 - O.C.G.A. § 48-13-50.2



Reporting to DCA Office of Research

- Within six (6) months of the end of the fiscal year, each jurisdiction imposing a HMT is responsible for completing an *online* Hotel Motel Tax Report with DCA

Georgia Department of
Community Affairs

Hotel-Motel Tax Report System

Welcome to the Hotel/Motel Tax Online system for annual reporting of tax revenues and expenditures. As part of our continual efforts to make reporting a less burdensome endeavor for local governments, this online report system makes it easier and faster to complete and submit. It also provides for completion of the Project Contractor Information Schedule (PCIS) required with every annual tax report.

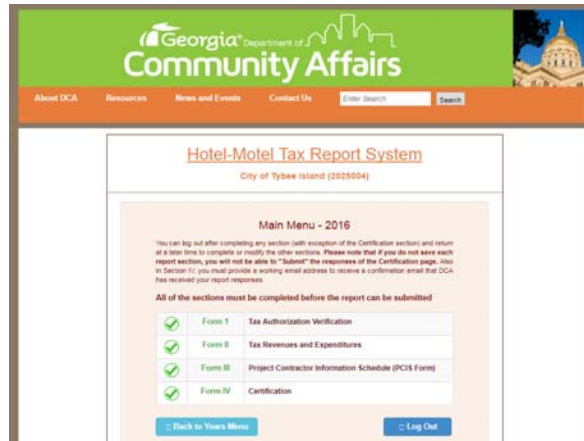
Login below using your government's USER ID and PASSWORD. It is NOT necessary to mail, fax or email a hardcopy of the report.

Login (ICICID):
 Password:

Questions? Email dca.research@dca.ga.gov

Reporting to DCA Office of Research

- Within six (6) months of the end of the fiscal year, each jurisdiction imposing a HMT is responsible for completing an *online* Hotel Motel Tax Report with DCA



Project-Contractor Information Schedule

- Maintain open communication with your Chamber, CVB, or other 501(c)(6) (DMO) receiving restricted HMT funds
 - Remember restricted spending is *percentage* based, regardless of authorization paragraph – not a fixed dollar amount
 - Have an established mutual agreement on how *restricted* HMT funds will be expended – additional funds can go to the DMO, but PCIS form to DCA focuses *only on restricted* funds
- Have contracting entity (DMO) complete PCIS and submit to local government for review and upload to HMT Report

Georgia Department of Community Affairs
Project/Contractor Information Schedule (PCIS)
 (Addendum to Hotel-Motel Tax Online Report - DMO Restricted Spending)

Contracted Entity Name:			
Executive Director's Name:			
Preparer Name:		Preparer's Title:	
Preparer's Email:		Preparer's Phone #:	
THIS REPORT FORM SHOULD ONLY INCLUDE EXPENSES UTILIZING RESTRICTED H-M TAX FUNDS, AND SHOULD BE COMPLETED BY DMO STAFF			
PROJECT NAME	DESCRIPTION (Include enough detail to define purpose)	SPENDING CATEGORY	EXPENDITURE AMOUNT

DMO Requirements

- ...as a recipient of HMT restricted funds
 - Audit verification that the DMO “makes use of such funds in conformity with the requirements” of the HMT authorization paragraph
 - O.C.G.A. § 48-13-51(a)(9)(B)
 - Completion of PCIS form(s) and providing to the local government(s) for submission with their annual Hotel Motel Tax Report to DCA
- ...as a 501(c)(6) nonprofit organization
 - The Chamber, CVB, or other 501(c)(6) organization receiving restricted funds for TCT spending *might* be required to submit a financial audit to the state
 - If 501(c)(6) expended \geq \$100,000 in a fiscal year, a full financial audit is required
 - If 501(c)(6) expended $<$ \$100,000 in a fiscal year, financial statements should be sent to the state auditor
 - O.C.G.A. § 50-20-3(b)

Adopting a HMT: Things to Know

Adopting or Changing a HMT

- Be specific in the ordinance, being sure to include key details:

- Authorization paragraph
- Rate
- Effective Date

pursuant to State law, O.C.G.A. § 48-13-50 et seq., the City is authorized to levy an excise tax on the hotels and motels within the City. The general purpose of which is to promote, attract, stimulate, and improve the City.

versus

excise tax at the rate of eight (8.00%) is granted to the City by a resolution of the General Assembly of Georgia, as set forth in O.C.G.A. §48-13-51(b).

- Be in touch with the DCA Office of Research and Office of Downtown Development
- Keep the City/County Attorney involved in all discussions about plans and objectives
- Be conscious of the legislative session if you're wanting to impose under 51(b)
- Engage partners and stakeholders
 - Local government must educate lodging entities on collection requirements
 - Identify qualifying service providers (DMOs)
 - Work with DMO(s) to identify appropriate promotions and projects and develop a written contract

Hotel-Motel Tax Complaints

Hotel-Motel Tax Complaints

- HB1415, passed in 2004, created the *Performance Review Board* to hear complaints about HMT expenditures
- Complaint process is open, but must be in regard to the *current or most recently completed* fiscal year
- Can address spending by local government collecting HMT, or entity receiving HMT restricted funds
- Complaints must be received by DCA no later than June 1 for consideration by board

Complaint Process

- After the complaint is received by the DCA Office of Research, DCA staff conduct a preliminary investigation will take place to determine validity, attainment of minimum standards (see (4)(a)) and presents preliminary report to the PRB
- Performance Review Board meets between September-December to consider bona fide complaints, supporting documentation, and preliminary report
 - 11 members, appointed by Governor, Speaker, Lt. Governor, State Auditor, GDEcD Commissioner, State Revenue Commissioner, and five (5) by DCA Commissioner (representing municipal government, county government, innkeeper, DMO, and one add'l)
- PRB recommendations considered by DCA Commissioner who determines remedial/corrective action by the local government
- Local government must provide implementation plan to DCA within 90 days

Final Tips and Suggestions

- ❑ Restricted spending is *always* percentage based, never a flat amount.
- ❑ An open line of communication with the city/county attorney is critical, as DCA does not provide legal advice or defense on HMT activity.
- ❑ Build and strengthen partnership with DMO

Additional Questions and Assistance

- ❑ For report system log-in, PCIS form, ordinance requirements, sample ordinances, and other information on the hotel-motel tax in Georgia, visit:
<http://www.dca.ga.gov/development/research/programs/hotelmoteltax.asp>
- ❑ DCA cannot provide legal interpretations or opinions, but if you have a question specific to your jurisdiction, or something unaddressed on the DCA website, please contact:

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