

GEORGIA'S TOURISM DEVELOPMENT ACT (Amended Law)

The Georgia Tourism Development Act (O.C.G.A. § 48-8-270 et seq) as amended by HB 318 during the 2013 Session, provides a state sales and use tax refund program for tourism development projects to induce the creation or expansion of tourism attractions within this state in order to relieve unemployment by preserving and creating jobs that would not exist if not for the sales and use tax refund offered by the State and local government. The project must be approved by the Commissioner of Community Affairs, the Commissioner of Economic Development and the local government.

The Refund

The refund for developers of approved new or expanding tourism projects over \$1 million in costs is the ability to recover the lesser of the total amount of the annual increased sales and use taxes over previous uses OR 2.5% of the project's cumulative development costs per year for ten years. For new or expanded tourism attractions, eligible project activities include, but are not limited to real estate acquisition, the construction and equipping of the tourism attraction and the installation of various facilities and infrastructure to support the attraction. Renovation costs for existing attractions are ineligible.

Eligible Tourism Attractions

The Act defines tourism attractions as: a) cultural or historical sites; b) recreation or entertainment facilities; c) a convention hotel and conference center; d) an automobile race track with other tourism amenities; e) a golf course facility with other tourism amenities; f) marinas and water parks with lodging and restaurant facilities; or g) a Georgia crafts and products center. Projects that do not qualify are facilities devoted primarily to retail businesses, restaurants, movie theatres and recreational facilities that are used primarily by local residents and are not a likely destination for out-of-state travelers.

The Application Process

The Georgia Department of Community Affairs (DCA) shall establish administrative regulations for the filing of applications. DCA will review the application pursuant to the following criteria: a) the requisite local governments have approved the proposed project and any local sales tax increments; b) the sources of funding are in place and the proposed expenditures are eligible; c) the proposed market has been substantiated and the tourism attraction will attract at least 25% of its visitors from out of state; d) the tourism attraction project will have a significant and positive economic impact on the State when considering, among other factors, the extent to which the tourism attraction project will compete directly with existing tourism attractions in the State; e) the amount by which increased tax revenues from the tourism attraction project will exceed the refund given to the approved company; f) the tourism attraction will be open to the public for at least 100 days per year; g) the tourism attraction will not adversely affect existing employment in the state; and h) meet any other criteria deemed appropriate. In addition, the statute requires a Private Consultant to prepare an independent market study and public-benefit analysis on the proposed project. The cost of the study will be the responsibility of the developer.

Following the DCA's review and in consideration of the Departments of Revenue (DOR) and Economic Development's (DEcD) comments along with the Consultant's report and analysis, the Commissioners of DCA and DEcD will either approve or deny the request. If approved, the DCA will develop an agreement which will be signed between the state and the project developers allowing the developer to receive a state sales and use tax refund during the ten-year term of the agreement.

The Refund Process

The Georgia Department of Revenue in consultation with appropriate agencies shall establish administrative regulations for the filing of refunds. Approved projects may not take advantage of other state tax incentives. See <https://www.dca.ga.gov/economic/TaxCredits/programs/tourismDevAct.asp> for further information.