

# Tax Implications For Georgia's Border Businesses

Testimony Before the Special Council on Tax  
Reform and Fairness For Georgians

October 21, 2010



**Jim Tudor**  
President

168 North Johnston Street, Suite 209  
Dallas, Georgia 30132-4744  
Office: 770-736-9723 Toll Free: 877-294-1885  
Cell: 404-216-3258 Fax: 770-736-9725  
jtudor@aol.com [www.gacs.com](http://www.gacs.com)

**Good morning members of the Special Council. My name is Jim Tudor and I serve as President of the Georgia Association of Convenience Stores (GACS), based in Dallas, Georgia. I have been with GACS for 24 years and prior to this I worked 10 years for The Southland Corporation (7-Eleven), where I operated over 70 Georgia stores.**

**My reason for testifying today is to follow up an initial presentation made by Henry Colley, a retailer, in Augusta before this Council. After his presentation, Dr. Ries asked for some additional information, which I wanted to share today.**

**The main point that I want to make before you today is the same that other retailers have also made – that tax policy simply does not end at our borders and that it is critical that any recommendations coming from the Council seriously consider the job and tax implications therein and how they impact a major Georgia industry employer.**

**In my limited time with you, I hope to cover two specific products that are extremely sensitive, economically to the financial health of the industry I represent – the convenience store industry. Those products are motor fuel and tobacco. Both are critical to our success. If you bought motor fuel or tobacco, there's more than a 50 percent chance you bought it at a convenience store. Motor fuel sales represent more than 70 percent of our total sales. Convenience stores are where Americans buy 80 percent of their gas. The same can be said for tobacco products, which represent almost 40 percent of total inside sales for the average store. Unlike gasoline, which is often a break even proposition, especially when the customer uses a credit card, tobacco sales to legal customers are what keep the lights on.**

**Why is this important? Because as an industry, we are important to Georgia, both in terms of the jobs we provide and the taxes we collect. More than 70 percent of all funds raised for Georgia's Lottery For Education come thru sales transacted at convenience stores. Over 7 million Georgians visit our stores every day. We are Georgia's "general store" for many communities.**

**Dr. Frank Stephenson of Berry College best describes our industry as follows: *"These retailers not as glamorous to ribbon-cutting politicians as say, auto plants sprinkled with tax credits..."* We are, however, a major provider of Georgia jobs and as an industry, continue to create new jobs, going against current trends.**

# Georgia Convenience Store Industry Added Jobs in 2009

## Top States for Convenience Stores (as of 12/31/08)

1. Texas: 14,112 stores
2. California: 10,298
3. Florida: 9,303
4. New York: 7,580
5. Georgia: 6,320
6. North Carolina: 6,130
7. Ohio: 5,149
8. Michigan: 4,824
9. Illinois: 4,541
10. Virginia: 4,487

## Top States for Convenience Stores (as of 12/31/09)

1. Texas - 14,226 stores (+114)
2. California - 10,312 (+14)
3. Florida - 9,223 (-80)
4. New York - 7,552 (-28)
5. Georgia - 6,363 (+43)
6. North Carolina - 6,146 (+16)
7. Ohio - 5,182 (+33)
8. Michigan - 4,814 (-10)
9. Illinois - 4,496 (-45)
10. Virginia - 4,461 (-26)

Source: 2009 State of the Industry Report – National Association of Convenience Stores (NACS)

## **Georgia's Convenience Store Industry at Glance: (2009)**

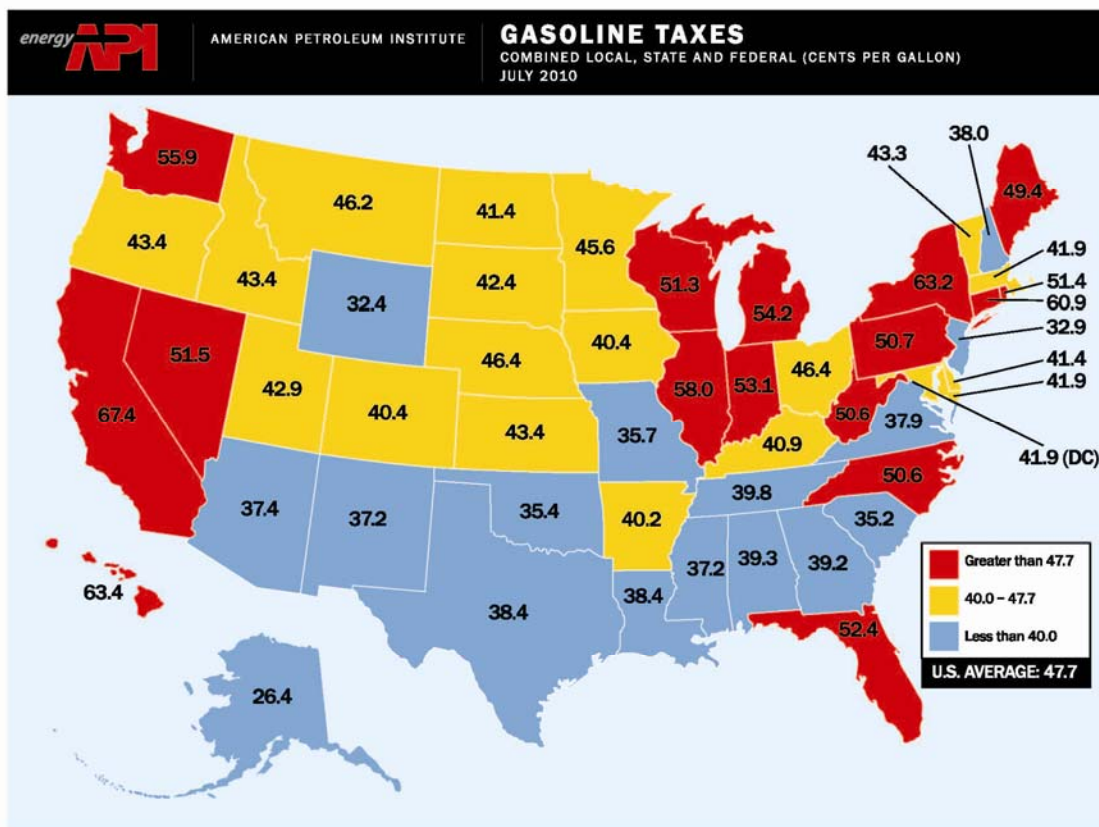
- 1. Number of Georgia Stores: 6,363**
- 2. Number of Stores Selling Gas: 5,672**
- 3. Number of Single Store Owners: 4,705**
- 4. Number of Georgia Employees: 69,990**
- 5. Georgia Annual Payroll: \$1,393,000,000**
- 6. Average Customers Per Day: 1,135**
- 7. Total Georgia Customers Per Day: 7,200,000**
- 8. Gas gallons sold per month/store: 121,000**
- 9. Total gas gallons sold/year: 8,230,000,000**
- 10. Major Product categories as % of inside sales:**
  - a. Cigarettes: 35.8%**
  - b. Foodservice: 17.3%**
  - c. Packaged Beverages: 14.0%**
  - d. Beer: 7.7%**
  - e. Salty Snacks: 3.9%**
- 11. Major Product categories ranked by gross margin \$:**
  - a. Foodservice 29.7%**
  - b. Packaged Beverages: 17.7%**
  - c. Cigarettes: 17.5%**
  - d. Beer: 4.9%**
  - e. Salty Snacks: 4.5%**

f. Source: TDLinx, A Service of The Nielsen Company (NACS 1-1-10)

It is interesting to note that the state with the largest decrease in c-stores (and employees), Florida, recently raised their tobacco tax \$1.00 per pack, but more on that later.

### 1. Motor Fuel

Many of you have heard, or will soon hear elected officials lament the fact that despite its transportation needs, Georgia has “one of the lowest gas taxes in the country. Take a look at the map below, which reports total motor fuel taxes by state: (Source: API)



Georgia’s combined state, local and federal taxes are currently 39.2 cents per gallon, basically equal to AL and TN, and 4 cpg higher than SC. Only FL, among our major border states, has a higher tax. Georgia is unique in that it is one of the few states that charge sales tax (state and local) on motor fuel in addition to the motor fuel excise tax. At 7.5 cpg, Georgia’s motor fuel tax IS one of the lowest in the country, but when combined with the state and local sales taxes, our total tax formula (as reflected on the pump) can cause concern, especially when the price of motor fuel increases, which brings a tax increase at the worst possible time for consumers.

**GEORGIA DEPARTMENT OF REVENUE**

**Comparative Net Revenue Collections**

(unaudited - 000's)

	For the Month Ended			
	September 2009 (FY 2010)	September 2010 (FY 2011)	\$ Change	% Change
<b>Tax Revenues:</b>				
Income Tax - Individual:	\$ 750,642	\$ 796,165	\$ 45,523	6.1%
Sales and Use Tax - General: (Footnote 1)				
Sales and Use Tax - Gross	\$ 754,787	\$ 797,887	\$ 43,100	5.7%
Local Sales Tax Distribution	\$ (400,571)	\$ (376,973)	\$ 23,598	5.9%
Sales Tax Refunds/Adjustments	\$ (8,429)	\$ (4,348)	\$ 4,081	48.4%
Net Sales and Use Tax - General	\$ 345,787	\$ 416,566	\$ 70,779	20.5%
<b>Motor Fuel Taxes:</b>				
Pre Paid Motor Fuel Sales Tax	\$ 32,138	\$ 42,512	\$ 10,374	32.3%
Motor Fuel Excise Tax	\$ 38,990	\$ 40,118	\$ 1,128	2.9%
Total Motor Fuel Taxes	\$ 71,128	\$ 82,630	\$ 11,502	16.2%
Income Tax - Corporate	\$ 139,892	\$ 108,452	\$ (31,440)	-22.5%
Tobacco Taxes	\$ 18,492	\$ 19,184	\$ 692	3.7%
Alcohol Beverages Tax	\$ 13,370	\$ 13,724	\$ 354	2.6%
Estate Tax	\$ -	\$ -	\$ -	0.0%
Property Tax	\$ 5,154	\$ 1,784	\$ (3,370)	-65.4%
Motor Vehicle - Tag, Title & Fees (Footnote 2)	\$ 23,749	\$ 25,842	\$ 2,093	8.8%
<b>Total Tax Revenues</b>	<b>\$ 1,368,214</b>	<b>\$ 1,464,347</b>	<b>\$ 96,133</b>	<b>7.0%</b>
<b>Other Revenues:</b>				
Other Fees and Sales (Footnote 3)	\$ 3,742	\$ (14,522)	\$ (18,264)	-488.1%
<b>Total Taxes/Other Revenues</b>	<b>\$ 1,371,956</b>	<b>\$ 1,449,825</b>	<b>\$ 77,869</b>	<b>5.7%</b>

GENERAL FUND	Year-to-date		\$ Change	% Change
	FY 2010	FY 2011		
<b>Tax Revenues:</b>				
Income Tax - Individual	\$ 1,778,607	\$ 1,964,831	\$ 186,224	10.5%
Sales and Use Tax - General: (Footnote 1)				
Sales and Use Tax - Gross	\$ 2,326,020	\$ 2,418,479	\$ 92,459	4.0%
Local Sales Tax Distribution	\$ (1,113,762)	\$ (1,111,047)	\$ 2,715	0.2%
Sales Tax Refunds/Adjustments	\$ (19,363)	\$ (13,421)	\$ 5,942	30.7%
Net Sales and Use Tax - General	\$ 1,192,895	\$ 1,294,011	\$ 101,116	8.5%
<b>Motor Fuel Taxes:</b>				
Pre Paid Motor Fuel Sales Tax	\$ 88,166	\$ 124,031	\$ 35,865	40.7%
Motor Fuel Excise Tax	\$ 113,982	\$ 120,406	\$ 6,424	5.6%
Total Motor Fuel Taxes	\$ 202,148	\$ 244,437	\$ 42,289	20.9%
Income Tax - Corporate	\$ 170,916	\$ 117,950	\$ (52,966)	-31.0%
Tobacco Taxes	\$ 47,655	\$ 47,178	\$ (477)	-1.0%
Alcohol Beverages Tax	\$ 44,043	\$ 43,519	\$ (524)	-1.2%
Estate Tax	\$ -	\$ -	\$ -	0.0%
Property Tax	\$ 9,015	\$ 4,132	\$ (4,883)	-54.2%
Motor Vehicle - Tag, Title & Fees (Footnote 2)	\$ 70,261	\$ 76,644	\$ 6,383	9.1%
<b>Total Tax Revenues</b>	<b>\$ 3,515,540</b>	<b>\$ 3,792,702</b>	<b>\$ 277,162</b>	<b>7.9%</b>
<b>Other Revenues:</b>				
Other Fees and Sales (Footnote 3)	\$ 5,120	\$ (9,768)	\$ (14,888)	-290.8%
<b>Total Taxes/Other Revenues</b>	<b>\$ 3,520,660</b>	<b>\$ 3,782,934</b>	<b>\$ 262,274</b>	<b>7.4%</b>

**Footnotes:**

- As of FY2009, the local sales tax distribution changed to reflect exact cash distributions for the current month based upon total sales tax collections.
- The Motor Vehicle Division began collecting Auto Sales Tax funds in January 2006. An adjustment was made to reclassify Sales Tax collections from Motor Vehicle to Other Fees and Sales, to reflect the transaction in September FY2011. Revenue is then reclassified to Sales Tax in the following month.
- Other Fees and Sales include taxes and fees that have been deposited in the bank, but the returns have not been processed. The undistributed amounts, as processed, are reclassified to the proper accounts. It also includes unclaimed property collections.

As the previous chart indicates, for the 3 months ending 9/30/10, although gallons purchased by Georgians are up 5.6 percent, compared to the same time last year, the state sales tax collections on motor fuel are up 40.7 percent. Gasoline sales make up almost 75 percent of c-store sales, and as we all know, the customer will drive down the street for a lower price, even when it makes little economic sense.

Any tax policy that would include changes to Georgia's tax on motor fuels needs to take into effect the built in tax increase already in place when gas prices increase. It's a double whammy for Georgians at the worst possible time.

## 2. Tobacco

Tobacco customers spend an average of \$11.59 per visit, according to the National Association of Convenience Stores. (NACS). They are among our most valuable customers. The average convenience store in Georgia sells more than \$400,000 per year in tobacco products, generating \$36,000 per year in gross profit dollars. According to Nielsen data, the average convenience store made \$33,000 in net profit during the same period, hence my statement that this category keeps the lights on.

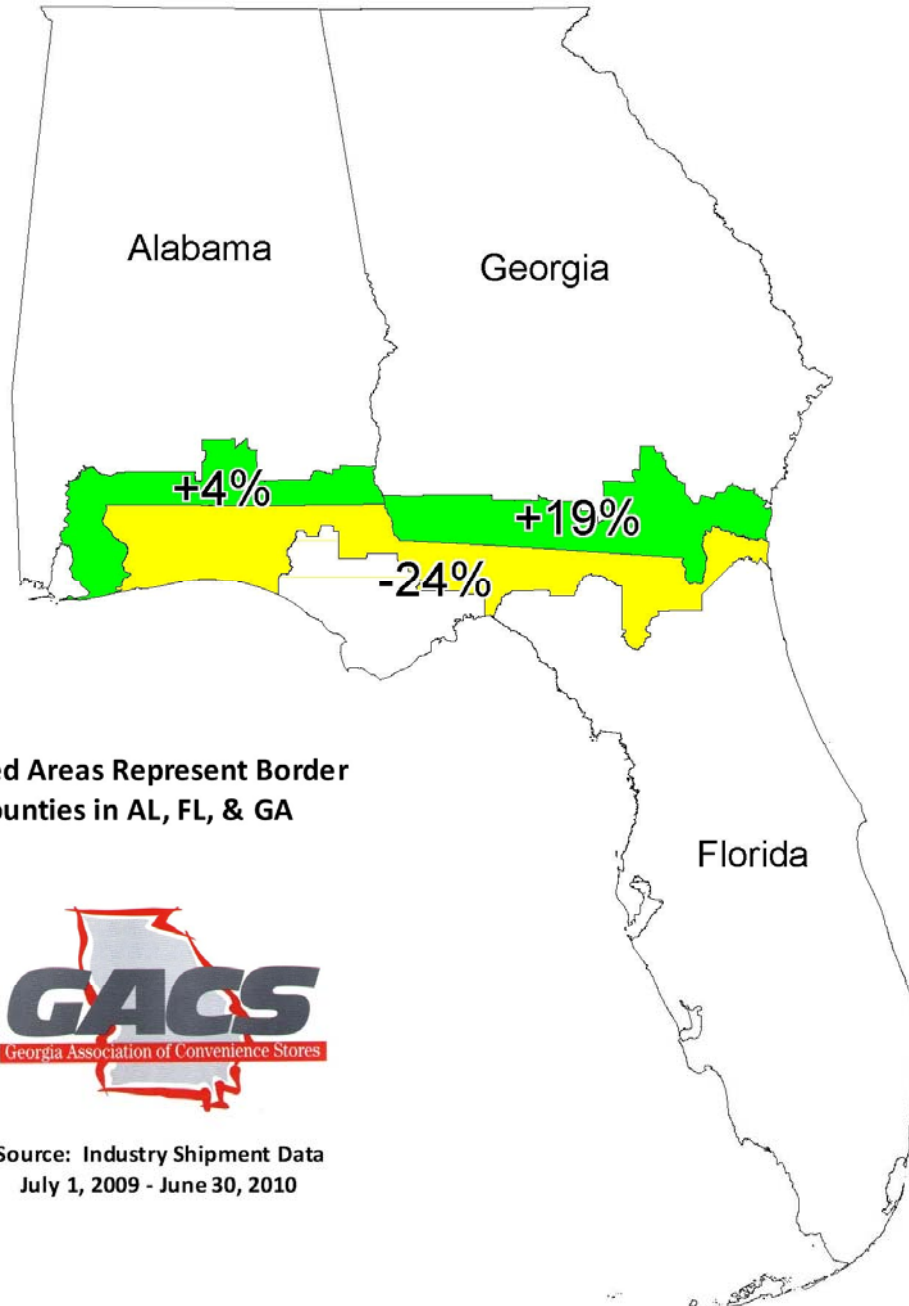
Cross border migration is real when tax policy creates an incentive to do so. Dr. Ries has inquired regarding the potential positive impact for Georgia retailers of the recent SC tobacco tax increase. Since the increase only went into effect on 7/1/10, the data is incomplete, however anecdotal evidence from retailers has indicated that the loss of sales to SC has begun to reverse, although still somewhat hampered by SC's lower gasoline prices.

Although data from SC is not yet available, there was significant data related to cross border sales along the Florida border in the one year period following Florida's increase of \$1.00 per pack on 7/1/2009.

Reviewing the chart on the next page, you can see that along the borders with AL and GA, counties averaged an increase of 4% and 19%, respectively, in comparison to FL border counties, which averaged a 24% decrease during the same one year period. Georgia's higher gain is attributed to our greater access to Florida's higher population areas, plus the impact of I-75 and I-95. In addition, Alabama's tobacco tax is higher than Georgia's.

# Long-Term Percent Change in Cigarette Volume

One Year after Florida's \$1 Per Pack Cigarette Tax Increase Became Effective



Colored Areas Represent Border Counties in AL, FL, & GA



Source: Industry Shipment Data  
July 1, 2009 - June 30, 2010



Tobacco tax policy must recognize that the border customer will travel and this potential loss of business has serious job loss implications for retailers that lose not just the tobacco sale, but the market basket of that customer. We are in the convenience business and the customer is not going to make two stops.

States have gotten better at actually estimating this loss of business to other states and the Internet. For instance, Florida's current revenue actual totals are "only" falling 5 percent short of projections. Of course Florida, unlike Georgia, shares a significant part of its total border area, as well as its major population centers, with bodies of water, rather than other states.

Georgia's most recent tobacco tax increase (2003) missed its revenue goal by 35%, with actual revenue increase equally \$117.10M, versus projected revenue of \$180M. (Source: Fiscal Planning Services, Inc.



Georgia shares three major metropolitan areas with nearby states, all with easy access via the interstate to cheaper motor fuel and or tobacco products.

**Question: Are Tobacco Tax Increases Reliable?**

2006-08 Tax Hikes	Effective Date	Volume Change	Projected Revenue Achieved?
New Jersey*	1-Jul-06	(9.2%)	No
Vermont*	1-Jul-06	(14.6%)	No
Alaska*	1-Jul-06	(11.30%)	No
Hawaii*	1-Aug-06	(8.20%)	No
Arizona*	4-Dec-06	(30.00%)	No
Texas*	1-Jan-07	(21.00%)	Yes
South Dakota*	1-Jan-07	(25.70%)	No
Iowa*	1-Apr-07	(30.00%)	Yes
New Hampshire*	1-Jul-07	(13.80%)	No
Tennessee*	1-Jul-07	(33.90%)	No
Connecticut*	1-Jul-07	(6%)	No
Indiana*	1-Jul-07	(19.6%)	No
Delaware	1-Aug-07	(27%)	No
Maryland*	1-Jan-08	(27%)	No
Wisconsin*	1-Jan-08	(19%)	Yes
New York*	3-Jun-08	(22.6%)	Yes
Massachusetts	1-Jul-08	(19.6%)	No
New Hampshire*	2-Oct-08	3%	Yes
District of Columbia*	1-Oct-08	(13%)	No
Florida*	1-Jul -09	(26%)	No

Source: State Department of Revenues  
 National Assoc of State Budget Officers Fiscal Survey of the States  
 NCSL State Budget & Tax Actions 2007  
 Preliminary Report and Newspaper Accounts

**19 states plus the District of Columbia have implemented tobacco tax increases since 2006. Of those, only 5 have actually obtained their targeted revenue goal. You cannot build a solid tax base on such an unreliable vehicle.**

**In conclusion, I want to thank you for your efforts in seeking to come up with tax policy recommendations that can provide a more stable tax base and create jobs. As for our industry and its almost 70,000 Georgia employees, we hope that we have addressed some of the issues Dr. Ries had raised previously and furthermore provided you with additional information on how sensitive our businesses are to changes in tax policy, especially along the border.**

**I said at the beginning that as retailers who compete with stores just like us across the border, we must depend on a fair tax policy that would not put us in a competitive disadvantage on the products that keep us in business. It costs almost 2 million dollars to build a convenience store, regardless of which side of the border you go. We receive no special tax incentives currently and are not seeking any. Any discussion of how Georgia ranks in terms of taxes nationally on certain products should have little bearing on tax policy. It does not matter what tax Massachusetts utilizes on tobacco or motor fuel. We don't compete there.**

**This Is Where We Compete – Not In Massachusetts**



**It is clear that tax policy does not stop at the border. With your help we will be successful in keeping our Georgia customers on our side of the street.**

**Thank you.**