



Georgia Department of Audits and Accounts

Performance Audit Division

Greg S. Griffin, State Auditor
Leslie McGuire, Director

Why we did this review

This audit assesses the effectiveness and efficiency of controls in place to ensure the requirements of the Georgia Agricultural Tax Exemption (GATE) Program are met. Specifically, the audit determines whether GATE application and approval processes adequately ensure cardholders meet eligibility requirements and whether monitoring processes of GATE cardholders and retailers adequately ensure appropriate card use. In addition, the audit addresses the impact of GATE on agricultural producers and retailers, as well as state and local governments.

About GATE

In Georgia, agricultural inputs have been exempt from sales and use tax since the 1960's. The earliest exemptions include fertilizer, seed, and livestock; other items were added over time. In January 2013, the GATE law (O.C.G.A. § 48-8-3.3) took effect. The law combined all previously existing agricultural exemptions under a single code section, expanded the types of items eligible to be purchased tax-free, and established eligibility criteria.

The Georgia Department of Agriculture (GDA) determines eligibility for GATE through an application and review process. Those meeting the requirements are issued a GATE card, which must be presented to retailers at the time of purchase to receive the exemption. In 2016, approximately 38,000 individuals and/or businesses had active GATE cards.

GATE Program

Improved Controls Needed to Ensure Proper Use of Exemption

What we found

GDA has implemented various controls intended to ensure that GATE cards are used properly. Weaknesses in the controls' design and implementation, however, increase the risk of the exemption's improper use.

GATE Card Eligibility: The GATE application does not collect the necessary information, such as income for each industry an applicant is engaged in, to properly assess eligibility. In addition, the application allows applicants to report that they have filed tax forms other than those required by law to demonstrate their eligibility. Forty-four percent (15,249) of active cardholders as of April 2016 indicated on their application that they filed a tax form other than those required by law.

The program manager follows up with all applicants by phone to clarify and obtain additional information to assess their eligibility. While the phone call may compensate for flaws in the application, each phone call takes about 15 minutes per applicant and continues to rely on self-reported information. The need for the phone call would be reduced if the application collected the relevant information needed to be make eligibility determinations.

Card Renewals: Although there is a risk that cardholders' eligibility may change from year to year—particularly those whose business income is close to the \$2,500 minimum requirement—there is no established interval in which cardholders are required to undergo subsequent eligibility reviews. Of 37,759 cardholders, approximately 89% (29,000) have had their cards for two to four years.

Sharing of Audit Results: GATE audits conducted by the Department of Revenue (DOR) are effective in identifying cardholders who are

not eligible for the GATE card and/or who have used the exemption on ineligible items. However, the effectiveness of this control is limited by the fact that, according to DOR, state law prohibits it from sharing audit results with GDA. In turn, GDA's lack of information about audit results limits its ability to revoke cards or pursue other enforcement actions. Of the 42 GATE audits conducted by DOR between November 2014 and April 2016, 29 audits revealed ineligible cardholders and/or ineligible purchases made with the GATE card. Although DOR collected the taxes owed on ineligible items, our analysis found that 5 of 13 ineligible cardholders continued to have active GATE cards following DOR's audit findings.

GATE Card: The GATE card issued by GDA does not include information about a cardholder's qualifying industry or industries. Although DOR holds retailers accountable for ensuring that tax-free sales to cardholders are valid, not including industry information on the printed card limits retailers' ability to ensure cardholders are making legitimate purchases tax-free.

Internal Guidance on GATE: GDA has not established internal guidance documenting: GDA's interpretation of the GATE law; tasks associated with reviewing applications and making eligibility decisions; and what items can and cannot be purchased with a GATE card. As a result, GDA cannot ensure staff have a full understanding of how to apply the legal requirements, that eligibility decisions are consistent over time, and information communicated to the public by GDA staff is accurate and consistent.

Economic Impact: It is estimated that GATE results in \$300 million in forgone state and local sales tax revenue annually.¹ However, the benefits of the exemption have not been determined because (1) the purpose or intent of the exemption is not stated in law, and (2) data necessary for determining the economic benefits of GATE have not been compiled. Typically, tax preferences are put in place to increase jobs, encourage business growth or expansion, etc. Until the purpose(s) are known and data on relevant metrics become available, GATE benefits cannot be fully evaluated.

What we recommend

To ensure applicants meet requirements and cardholders use the GATE card to make qualifying purchases, GDA should: improve the GATE application and eligibility review; periodically re-evaluate cardholders' continued eligibility; pursue legislative and/or administrative remedies that allow DOR to share GATE-related audit results with GDA; and improve the GATE card to include qualifying industry information.

If barriers to sharing, obtaining, and maintaining tax information cannot be overcome, consideration could be given to transferring responsibility for eligibility reviews and revocation of GATE cards to DOR, the state's tax and revenue administrator. DOR has legal access to tax information and can use it and its expertise to review eligibility and fully address GATE card misuse.

See [Appendix A](#) for a detailed listing of recommendations included in this report.

GDA's Response: GDA expressed its view that the law establishing GATE significantly limited the number of taxpayers seeking agricultural exemptions. According to GDA, "Prior to GATE, anyone could claim to be a farmer when purchasing feed, seed, etc., and the purchase would be considered tax exempt by the retail establishment." GDA noted, "GATE was established to require taxpayers to attest, under penalty of law, to their eligibility through the application process managed by the [department]." In addition, GDA noted its agreement and disagreement with various aspects of the report in its response. GDA's comments are included throughout the report.

¹ Georgia State University, Fiscal Research Center, *Tax Expenditure Report for Fiscal Year 2017*, December 2015.

Table of Contents

Purpose of the Audit	1
Background	
History of Agricultural Tax Exemptions	1
Overview of GATE	1
GATE Administration	4
Activity Data	7
Financial Information	7
Findings and Recommendations	
Improvements are needed to the GATE application and review process to increase the effectiveness and efficiency of the program.	9
GDA's current renewal process for the GATE card does not ensure cardholders continue to meet eligibility requirements.	14
Data sharing is needed to increase the impact of GATE cardholder audits and enforcement of program rules.	16
GDA should establish additional guidance to staff to ensure consistency in eligibility decisions and in communication with the public.	18
GATE cards could serve as a useful tool for ensuring only eligible items are being purchased.	20
Website improvements are needed to ensure applicants, cardholders, and retailers understand GATE eligibility and proper card use.	22
GATE revenue collections exceed the estimated cost of its administration.	23
As an exemption, the costs and benefits of GATE cannot be fully evaluated.	25
Appendices	
Appendix A: Table of Recommendations	28
Appendix B: Objectives, Scope, and Methodology	31
Appendix C: Agricultural Certificate of Exemption	34

Purpose of the Audit

This report examines the extent to which the Georgia Department of Agriculture (GDA) administers the Georgia Agricultural Tax Exemption (GATE) Program in an effective and efficient manner. Specifically, the audit objectives reviewed:

1. Whether current GATE application and approval processes adequately ensure cardholders meet eligibility requirements; and
2. Whether current monitoring processes of GATE cardholders and retailers adequately ensure appropriate card use.

In addition, the report examines the impact of GATE on agricultural producers and retailers, as well as state and local governments.

A description of the objectives, scope, and methodology used in this review is included in [Appendix B](#). A draft of the report was provided to the Department of Agriculture and the Department of Revenue for review, and pertinent responses were incorporated into the report.

Background

Agricultural inputs are the resources used in agricultural production, such as equipment, tools, feed, seed, energy and other items used in day-to-day business operations.

History of Agricultural Tax Exemptions

In Georgia, agricultural inputs have been exempted from sales and use tax since the 1960's. Some of the earliest exemptions were fertilizer, seed, livestock when sold for breeding purposes, and sugar when used as food for honeybees. Over time, exemptions were extended to include certain types of agricultural machinery, as well as off-road equipment and energy used in agricultural operations. To access the exemptions, users had to complete an exemption certificate indicating that purchased items would be used for the purposes stated in law. For example, an individual seeking to purchase a rubber-tired farm tractor had to certify that the equipment would be used "exclusively in tilling, planting, cultivating, or harvesting farm crops for sale" and that the "crops would be harvested within a twelve-month period." The certificate was presented to retailers at the time of purchase in order for the item to be exempted. (See [Appendix C](#) for a copy of the Agricultural Certificate of Exemption.)

Overview of GATE

Based on recommendations of the 2010 Special Council on Tax Reform and Fairness for Georgians, the General Assembly passed House Bill 386 in 2012, which created the GATE Program.² The legislation consolidated all previously existing agricultural exemptions under a single code section (O.C.G.A. § 48-8-3.3), expanded the types of items eligible to be purchased tax-free, and established eligibility criteria.³ The law categorizes items eligible for the exemption into three categories (machinery and equipment, production inputs, energy) and lists examples of eligible products in each category. Availability of the exemption depends on the type of agricultural operation

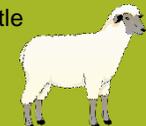
² The Special Council was created to study the state's tax revenue structure. In its report dated January 7, 2011, the Council recommended that agricultural input exemptions be 1) retained, 2) modified and simplified into a single exemption, and 3) accessible through a certification process for agriculture producers to qualify for the exemptions.

³ Under the 2012 GATE legislation, items such as repair parts for machinery and equipment, refrigerants, and fencing supplies became exempted from sales and use tax.

(or activity) an individual or business is engaged in. For example, an agricultural producer can apply the exemption toward items purchased for growing, harvesting, or storing crops; feeding, breeding, or managing livestock; processing poultry; and producing plants and trees. However, the producer cannot use the exemption to purchase items used in constructing, installing, altering, repairing, dismantling, or demolishing real property structures or fixtures, such as grain bins, irrigation equipment, and fencing.

O.C.G.A. § 48-8-3.3(a)(2)(A) lists broad categories of agricultural operations that the exemption applies to. Based on this list, GDA identified more than 50 different agricultural industries (or production activities) that qualified producers may be engaged in, and any item used for production in those industries can be purchased tax-free. Exhibit 1 provides examples of the types of items related to select industries.

Exhibit 1
GATE is Applicable to Production-related Items in Select Industries

	Forestry & Logging	Animal Production	Crop Production	Support Activities
Examples of Eligible Production Activities	 Timber tract	 Poultry  Hog & Pig  Cattle  Sheep & Goat	 Peanuts  Soybeans  Tree Fruit & Nuts  Melons	 Soil preparation Crop harvesting Farm labor Cotton ginning
Examples of Related Exempt Items	Machinery and/or equipment Seeds, seedlings Fertilizers Electricity	Machinery and/or equipment Livestock Feed, medicine Fuel	Machinery and/or equipment Seeds, seedlings Repair parts Herbicides, fungicides, fertilizers	Machinery and/or equipment

Source: O.C.G.A. § 48-8-3.3

Eligibility Requirements

GATE is available to qualified agricultural producers. According to O.C.G.A. § 48-8-3.3 (5), producers must fall into at least one of four categories to qualify:

- The person or entity is the **owner or lessee of agricultural land or other real property** from which **\$2,500** or more of agricultural products were produced and sold during the year, including payments from government sources;
- The person or entity is in the business of **performing agricultural operations** and has provided **\$2,500** of such services during the year;
- The person or entity is in the business of **producing long-term agricultural products** (e.g., timber, pulpwood, orchard crops, pecans) **from which there might not be annual income**, and the producer must demonstrate that sufficient volumes of such long-term agricultural products will be produced which have the capacity to generate at least **\$2,500** in sales annually in the future; or
- The person or entity must establish, to the satisfaction of the Commissioner of Agriculture, that the person or entity is **actively engaged in the production of agricultural products** and has or will have created sufficient volumes to generate at least **\$2,500** in sales annually.

According to section 560-12-2-.03(3)(e) of DOR's rules and regulations, inputs, machinery, equipment, and energy used in...activities that will generate less than \$2,500 in sales annually do not qualify for the exemption.

The Department of Revenue (DOR) has used its rulemaking authority related to GATE to specify that income requirements must be met for each activity/industry in which agricultural producers are seeking to qualify for GATE. For example, the producer who is engaged in the production of row crops and poultry farming would have to meet income requirements in both industries in order to purchase items for both activities tax-free.

At the time the GATE law was passed, it did not require agricultural producers to acknowledge or submit one of three listed tax forms (Schedule F, Schedule E, or Form 4835) to demonstrate their eligibility. In 2014, O.C.G.A. § 48-8-3.3(c) was amended to direct the Commissioner of Agriculture to require applicants to acknowledge and produce, upon request, "at least one" of six federal tax forms to demonstrate their eligibility for the exemption, as shown in Exhibit 2.

Exhibit 2 Federal Tax Forms Required to Demonstrate Eligibility

Form Name	Description
1040, Form 4797	Shows income from the sale of business property. The form includes a description of the property sold.
Form 4835	Shows farm and rental income and expenses. The form concerns crops and livestock share (not cash) received by a landowner or sub-lessor. Income and expenses are related to agriculture.
Form 1065	Shows income for business partnerships. Taxpayers must indicate the principal business activity and the principal product or service here, which can be tied back to agriculture.
1040, Schedule E	Shows supplemental income or loss. The taxpayer must describe the type of property; here "commercial" or "land" could relate to agriculture.
Form 1120 or 1120(s)	Shows income for corporations. If taxpayers fill out the 1120 or 1120s, they will indicate their business activity and product or service, which can be tied back to agriculture.
1040, Schedule F	Shows income or loss for farming activities as well as related expenses. The taxpayer must report the principal crop or activity.

Source: O.C.G.A. § 48-8-3.3 and Internal Revenue Service website

GATE Administration

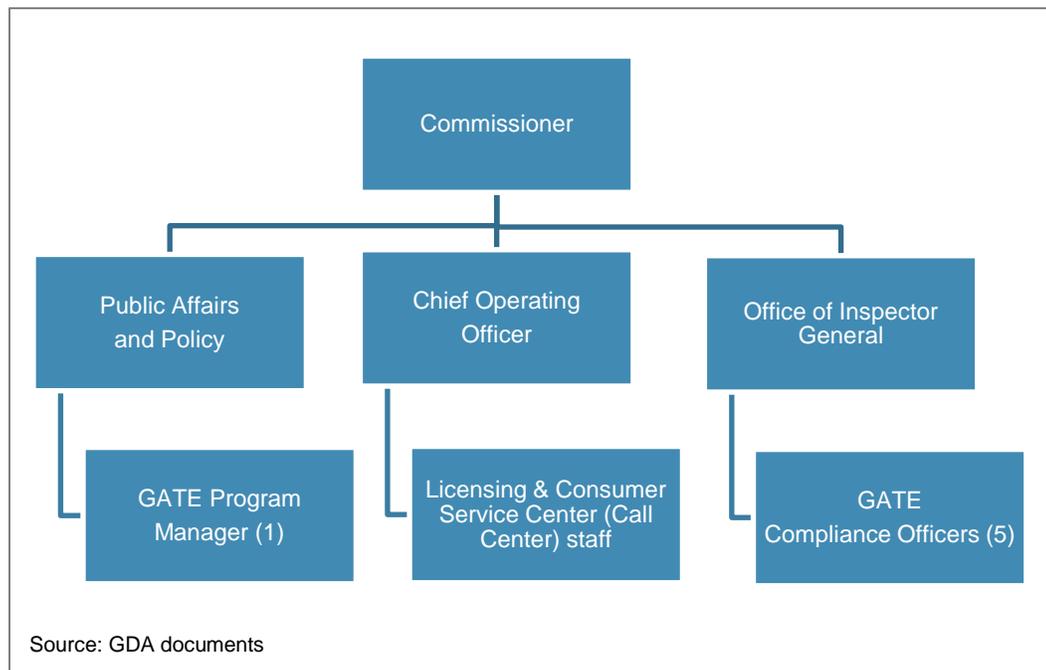
According to O.C.G.A. § 48-8-3.3, GDA determines eligibility for GATE and issues exemption certificates to qualified producers. The Department of Revenue (DOR), in coordination with GDA, conducts audits to monitor compliance with the law. In addition, the GATE law grants both GDA and DOR authority to establish rules governing their respective activities and “the administration of this code section.”

Department of Agriculture

GDA administers GATE through several different departmental units. Exhibit 3 shows how GATE-related functions are dispersed across GDA.

- The GATE program manager, who falls under the Policy Division, determines eligibility for GATE. The program manager is the only full-time position dedicated fully to GATE.
- GDA’s call center, which serves multiple programs, reports to the Chief Operating Officer. Through a dedicated toll-free number, agents field questions from the general public about GATE eligibility requirements and exempted items. In addition, call center agents may assist individuals in completing the application for GATE. Call center staff also help manage GATE fee collections.
- GATE compliance officers are part-time employees in the Office of Inspector General. These individuals are assigned to specific regions in the state where they educate retailers about GATE and act as liaisons between retailers and GDA.

Exhibit 3
GATE is Administered Across Several Units within GDA, as of July 2017



GDA's Application Process

To be considered for GATE, applicants must submit a complete application and required documentation, as described below and shown in **Exhibit 4**.

- **Application form:** Applicants may submit applications online, through the mail, or by phone with assistance from the GDA call center. As part of the application, applicants must (1) indicate the type of agricultural producer they are, (2) attest to meeting the income requirement, (3) identify the applicable federal tax forms they filed, and (4) select the qualifying agricultural industry in which they are engaged. In addition, under the threat of penalty, applicants attest to the accuracy of the information provided in the application form.
- **Secure and verifiable documents:** To ensure citizenship or residency requirements are met, GDA requires applicants to submit a signed and notarized affidavit and a recognized identification document (e.g., driver's license). Applicants can either mail the documents to GDA or they can be uploaded to GDA's system via the web.

The application and approval process typically takes three to five business days from application receipt to card issuance, according to GATE staff.

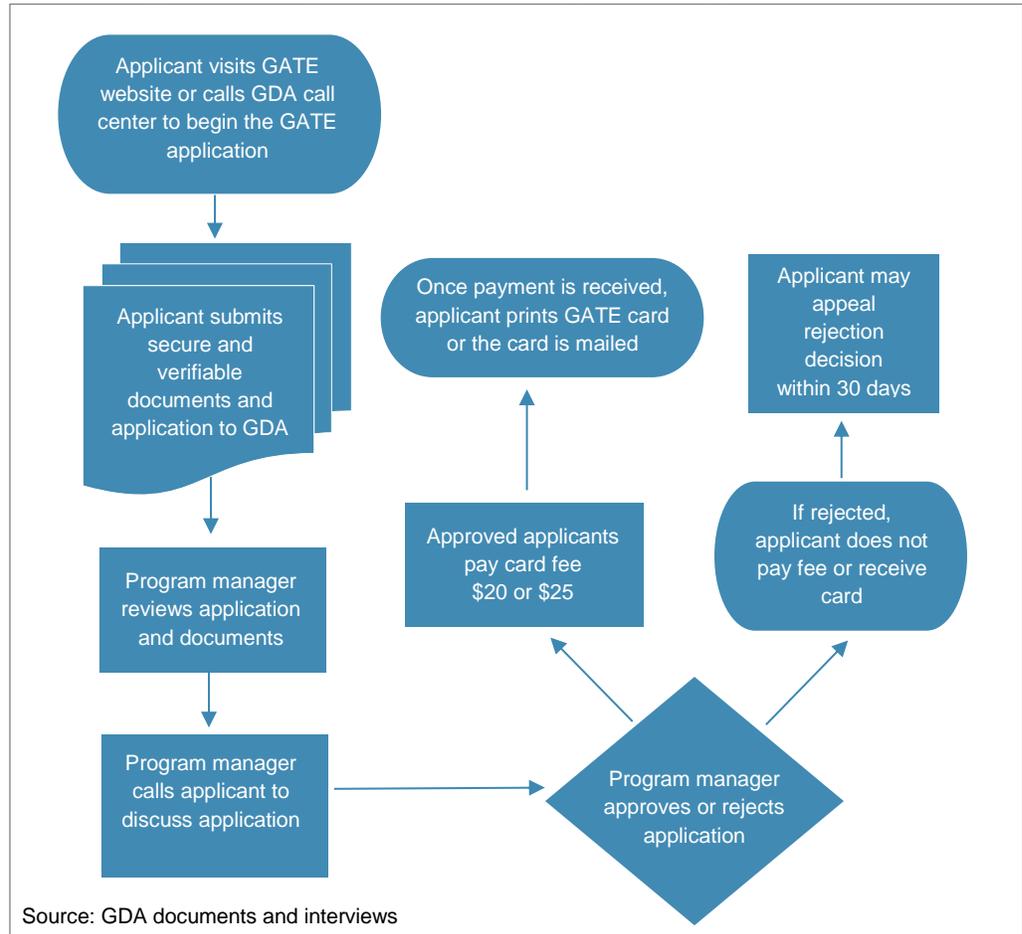
Once the applicant submits all documents, the program manager reviews the application and contacts each new applicant by phone to discuss GATE requirements and clarify information provided in the application. After reviewing all provided information, the program manager either approves or rejects the application. If approved, the applicant must pay a fee (\$20 for online applications, \$25 for written or call center-assisted applications).

If the program manager denies an application, the applicant may appeal the decision within 30 days of the rejection. An advisory board (established upon request of the Commissioner) reviews the appeal, and determines whether the applicant should be determined eligible for the exemption.

Pursuant to O.C.G.A. § 48-8-3.3(d), GDA issues approved producers a wallet-sized card containing an exemption number. Approved cardholders can either print the card themselves or request that GDA mail the card to them. Cardholders must present their new card to retailers the first time it is used and retailers are expected to keep records of their customers' GATE cards.

GATE cards expire December 31st of each year, and are renewed annually. GDA's call center staff mail renewal notices to all cardholders. Through the online application, cardholders must attest that they still meet eligibility requirements and pay a renewal fee of \$20 (or \$25 for call center-assisted or written applications).

Exhibit 4 GATE Program Manager Reviews and Approves Applications



Department of Revenue

The General Assembly began directing funding to DOR through GDA in fiscal year 2015 specifically for GATE audits. As a result, GDA entered into an agreement with DOR for two advanced level auditors in November 2014 to conduct GATE-specific sales and use tax audits. According to DOR officials, the audit procedures in place for GATE auditors are the same as those used by non-GATE auditors for sales and use tax audits.

GATE auditors have the ability to audit both GATE cardholders and retailers accepting GATE cards. Auditees are selected from either a list of cardholders provided by GDA, referrals from other sources, or previous audits. According to DOR, general sales tax audits, which are ongoing, also include GATE cardholders and retailers that accept GATE cards. Cardholder audits seek to identify whether or not the cardholder earns the required income to be eligible for GATE and if the items purchased with a GATE card were appropriate. Retailer audits seek to identify whether or not the retailer is keeping at least three years of sufficient records of exempt sales (including keeping copies of GATE cards on file), and if the exemptions were awarded properly. There are penalties associated with retailers' failure to keep proper records. Both retailers and cardholders can be liable for taxes owed (plus interest and penalties) on items in which the exemption was applied improperly.

Activity Data

As shown in Exhibit 5, approximately 49,000 applications have been submitted since GATE's inception. Most applications were submitted in the first two years of GATE, after which the volume of new applications declined. The program manager indicated that some applications have been rejected over time, but cardholder data obtained at the time of our review did not contain reliable information on the number of rejections.⁴ In addition, at the time of our review, no applicant had appealed a rejection decision. By the end of calendar year 2016, there were 38,000 active cardholders.

Exhibit 5 New Applications Have Decreased Since GATE's Inception, CY 2012 - 2016

Year	Applications Submitted	Applications Rejected	Applications Appealed	Newly Active Cardholders ¹	Cardholder Audits Completed
2012	15,313	unknown	0	13,008	n/a
2013	17,271	unknown	0	11,657	n/a
2014	5,412	unknown	0	4,354	4
2015	6,047	unknown	0	4,490	38
2016 ²	5,903	unknown	0	4,250	0 ³
Total	49,946	unknown	0	37,759	42

¹ 2012 – 2015 figures reflect the number of active cardholders (as of April 2016) by the year they first received the GATE card. Over time, some cardholders may not renew their GATE cards, which may partially explain the difference between applications submitted and active cardholders in any given year.

² Figures reported for the number of applications submitted and active cardholders are estimates based on end-of-year counts provided by GDA in June 2017.

³ Figures reported for the number of audits completed are as of April 2016. An additional number of audits were ongoing at the time of our review, but not yet completed.

Source: GATE cardholder database, GDA, and DOR data

According to DOR officials, audits are started throughout the year, and there is no specified number of audits that must occur each year per the agreement between DOR and GDA. As of April 2016, DOR had completed 42 cardholder audits and 0 retailer audits. According to DOR, while no retailer audits were completed as of April 2016, several retailers that accept GATE cards either had been selected for audit or were undergoing an audit at the time of our review.

Financial Information

GDA receives an annual appropriation, but GATE is not a line item or “program” in the state budget. In fiscal year 2017, the General Assembly increased state funds in GDA's Consumer Protection Program to be spent on GATE compliance officers. GDA also does not budget separately for GATE; however, as GATE-related expenditures occur, they are typically identified as such in the budgeting system.⁵

GATE fees paid during the initial application and renewal process are deposited into the General Fund of the State Treasury. As shown in Exhibit 6, fee revenues have exceeded the estimated cost to administer GATE each year since fiscal year 2013. Total

⁴ Cardholder data is as of April 2016.

⁵ Not all expenditures associated with GATE could be identified in TeamWorks. GDA staff helped identify some additional GATE-related expenses that were not specifically identified in the system as GATE expenses.

fee revenues totaled approximately \$600,000 in fiscal year 2013 and grew to \$818,000⁶ by fiscal year 2016. Estimated annual program administration costs ranged from \$350,000 to \$528,000 during the same time period. As noted above, the General Assembly specifically appropriated \$165,000 in state funds to GDA in fiscal year 2017 to hire GATE compliance officers.

Exhibit 6

GATE Fee Revenue and Estimated Expenditures, FY 2013 - 2017

Category	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017 ⁴
Fees Directed to State Treasury					
GATE card fees ¹	\$608,000	\$736,759	\$772,143	\$818,359	\$803,463
Expenditures²					
Personal Services	\$119,684	\$65,791	\$61,514	\$47,985	\$104,900
Regular Operating Expenses	57,438	29,063	43,006	40,857	66,021
Equipment	11,849	28,225	0	0	0
Computer Charges	23,491	4,063	6,874	2,500	15,704
Real Estate Rentals	42,452	8,501	0	0	0
Telecommunications	17,063	20,885	22,276	19,666	13,441
Contracts ³	78,075	215,725	258,169	416,865	226,372
TOTAL	\$350,052	\$372,029	\$391,838	\$527,873	\$426,438

¹ Data provided by GDA; TeamWorks data for fiscal years 2013 and 2014 is unavailable.

² Not all expenditures associated with GATE could be identified in TeamWorks. GDA staff helped identify some additional GATE-related expenses that were not specifically identified in the system as GATE expenses.

³ Contract costs primarily include temporary staffing (\$215,500 in FY 2014, \$141,868 in FY 2015, \$243,000 in FY 2016) and DOR auditors (\$115,910 in FY 2015, \$173,865 in FY 2016 and FY 2017).

⁴ Fiscal year 2017 figures represent a partial year and are reported as of May 24, 2017.

Source: TeamWorks financials & GDA reports

⁶ Figure reflects amount collected as of May 24, 2017.

Findings and Recommendations

Improvements are needed to the GATE application and review process to increase the effectiveness and efficiency of the program.

GDA has implemented two controls designed to work together to ensure GATE cards are issued to eligible applicants – an application and phone call review. Of the two controls, greater reliance is placed on the phone call review to ensure eligibility requirements have been satisfied. The phone call compensates for weaknesses in the application because the application does not collect information needed to clearly determine if income requirements have been met, lacks functionality to detect inconsistencies or errors in the information provided, and relies on self-reported information and attestations. However, the phone calls take approximately 15 minutes per call and any existing or new information gathered during the phone calls is still self-reported and not independently verified.

Weaknesses in the design and structure of the application lead applicants to provide information that may be incomplete, inaccurate, and inconsistent with legal and regulatory requirements. The phone call is made to clarify information in the application, but may not be necessary if the application is improved. Specific weaknesses we identified are discussed below.

- **Non-qualifying tax form can be selected.** As previously noted, O.C.G.A. § 48-8-3.3(c) requires applicants to acknowledge and produce upon request “at least one” of six specific Internal Revenue Service (IRS) forms in order to qualify for the GATE card. The application lists these forms, but provides the applicant the option to select “other,” as shown in **Exhibit 7**. Our review found 43% (15,000 of 34,800)⁷ of active cardholders entered a response under “other,” which is not permitted under the law.

Exhibit 7 Non-Qualifying Tax Forms Can be Selected on the GATE Application

Here, the applicant indicates which federal tax form(s) they file. While this is a required question, the applicant can also type in their own answer next to “Other.”

Eligibility Requirements

***For the purpose of meeting eligibility requirements, I file one of the following to meet my federal tax obligations**

IRS form 4797

IRS form 4835

IRS form 1065

IRS schedule E

IRS form 1120 or 1120S

IRS form 1040 , Schedule F

Other:

Source: GDA website, GATE application

⁷ The 34,800 figure represents the number of active cardholders as of April 2016.

- Application does not indicate which year’s tax form applicants should report. The instructions do not specify if the form should come from the previous year, from a range of previous years, or if, in the case of a new operation, the applicant should list a form that he/she intends to file in the future. In addition, for applicants engaged in long-term production activities such as timber, there is no place in the application for applicants to indicate when they expect to meet the income requirement.
- Information on all qualifying industries not collected. Applicants may qualify for GATE under one or multiple provisions. For example, an applicant may qualify as a landowner and a producer of long-term agricultural products, but there is no way to capture information for both in the application. Or, an applicant involved in the production of cattle and hay could qualify under both industries. However, while the form allows applicants to select multiple products, as shown in Exhibit 8, it does not (1) make clear that the \$2,500 income requirement applies to each category or “industry” as required by DOR regulation, and (2) require applicants to attest to meeting the income requirement for each industry if applying for the exemption in more than one category.

Exhibit 8
Application Design Lacks Features to Ensure Data Quality

The application form does not explain that each selected “Category” or industry should meet income eligibility criteria. If the form is revised as recommended, the form should also include a place for applicants to attest that each “Category” listed meets eligibility criteria.

In addition, the “Product” selection is not dependent on the “Type” and “Category” responses. Therefore, applicants may choose mismatching “Categories” and “Products.”

GATE Application - Section 1

Please complete the information below.
 Items marked with an asterisk (*) are required.

Type Agriculture Service

Type*

Category*

Product*

<input type="checkbox"/> Apples	<input type="checkbox"/> Dairy	<input type="checkbox"/> Onions	<input checked="" type="checkbox"/> Sorghum
<input type="checkbox"/> Beef	<input type="checkbox"/> Eggplant	<input type="checkbox"/> Ornamentals	<input type="checkbox"/> Soybeans
<input checked="" type="checkbox"/> Bees- Honey	<input type="checkbox"/> Eggs	<input type="checkbox"/> Peaches	<input type="checkbox"/> Squash
<input type="checkbox"/> Blackberries	<input checked="" type="checkbox"/> Goats	<input type="checkbox"/> Peanuts	<input type="checkbox"/> Strawberries
<input type="checkbox"/> Blueberries	<input type="checkbox"/> Grapes	<input checked="" type="checkbox"/> Peppers	<input type="checkbox"/> Tobacco
<input type="checkbox"/> Broilers	<input type="checkbox"/> Greens	<input type="checkbox"/> Poultry	<input type="checkbox"/> Tomatoes
<input type="checkbox"/> Cabbage	<input type="checkbox"/> Green House	<input type="checkbox"/> Rye	<input type="checkbox"/> Turfgrass
<input type="checkbox"/> Cantaloupe	<input type="checkbox"/> Hay	<input type="checkbox"/> Sheep	<input type="checkbox"/> Watermelon
<input type="checkbox"/> Carrots	<input type="checkbox"/> Hogs	<input type="checkbox"/> Snap Beans	<input type="checkbox"/> Wheat
<input checked="" type="checkbox"/> Corn	<input type="checkbox"/> Olives	<input type="checkbox"/> Southern Peas	<input type="checkbox"/> Zucchini
<input type="checkbox"/> Cotton			
<input type="checkbox"/> Cucumbers			

Source: GDA website, GATE application

- **Conditional logic is missing.** Conditional logic features would allow the application form to show or hide form fields or entire sections based on the answer a person selects for another field in the application. Our review of the application form found that the list of products does not change depending on the type of agricultural producer, which could cause applicants to enter illogical/erroneous information. For example, an applicant who provides farm management services, such as fumigation and irrigation services, is not producing a product. Yet, because product is a required field, as **Exhibit 8** shows, the applicant is forced to select one. As another example, an applicant selecting “1111 – Soybean Farming” as their category/industry may also select “sorghum” as their product, as shown in **Exhibit 8**.
- **Application elements not logically ordered.** Currently, applicants are required to attest to meeting eligibility requirements (income and filing IRS forms) prior to indicating what industry they are seeking qualification under. Presenting information in this order does not allow the applicant to consider eligibility requirements within the context of the particular industry or industries they are engaged in before attesting.
- **Secure and verifiable documents.** GDA requires applicants to submit secure and verifiable documents during the application process. The requirement exists to ensure compliance with O.C.G.A. § 50-36-1 relating to verification of lawful presence in the U.S., but our review found that 3% (909 of 34,800) of cardholders were approved without submitting the required documentation. It should be noted that GDA staff question whether the law applies to GATE. If it does not apply, GDA could be collecting, reviewing, and securely storing thousands of documents unnecessarily.

Although not required by law, GDA does not independently validate information provided in the application. Specifically, GDA does not have a mechanism to confirm that applicants (1) filed one of the six required IRS tax forms, (2) were engaged in at least one qualified industry, and (3) met the \$2,500 income threshold for each industry. A comparison of applicant submitted information against tax filings, for example, would increase assurance that applicants have met eligibility requirements. It should be noted that other sales tax exemptions administered by DOR require applicants to submit various pieces of information to substantiate their eligibility.

RECOMMENDATIONS

1. GDA should modify the GATE application to ensure information provided by applicants is complete, accurate, and consistent with legal and regulatory requirements. Improvements would limit the need for phone calls by the program manager, allowing the application to be the primary basis for eligibility decisions. Modifications should include:
 - a. removing the “other” tax form option;
 - b. specifying the relevant tax years the IRS forms should relate to;
 - c. providing applicants the opportunity to indicate all agricultural industries they are seeking GATE eligibility for and attest to their income for each reported industry;
 - d. including conditional logic functionality in the application; and
 - e. reordering application elements in a way that is more logical.

2. GDA should seek legal advice to confirm applicability of the law requiring verification of lawful presence in the U.S. to GATE applicants. If the law applies, GDA should ensure that all currently active accounts have proof of U.S. citizenship or legal residency on record. If the law does not apply, GDA should eliminate the requirement from its application process.
3. GDA should consider options for independently validating information provided by applicants. Federal income tax records would be the most reliable source. However, due to their confidential nature, GDA would be subject to federal requirements related to receiving, maintaining, sharing, transmitting, and storing taxpayer data. Options may include:
 - a. requiring applicants to submit tax documents along with the application to demonstrate their eligibility;
 - b. asking applicants to consent to the release of tax information by DOR to GDA; or
 - c. pursuing a change to O.C.G.A. § 48-2-15(a) to allow DOR to share applicants' tax information directly with GDA.

Alternatively, statutory authority for determining eligibility could be transferred to DOR. DOR is already in possession of taxpayer data and has both the expertise to review the information and processes in place to ensure it is properly safeguarded.

4. As discussed in the finding on page 18, GDA should develop written procedures on every aspect of the eligibility review process to ensure applications are evaluated consistently and conform to legal and regulatory requirements. Such procedures would include guidance on what tax year form filings should be based on (e.g., most recent year, future years), and any additional requirements long-term producers must meet.

GDA's and Auditor's Responses:

- *GDA acknowledges that it has chosen to recognize certain tax forms not specifically noted in law (e.g., IRS Form 990). Upon receipt of the draft of this report, GDA reports that it began taking steps to obtain additional information from the approximately 15,000 individuals who indicated tax documentation other than those required by law. GDA believes many of these cardholders applied for and received GATE cards prior to January 1, 2015 when specific tax forms were not required by law to determine eligibility. To fully meet the General Assembly's intent, GDA indicated that it "supports including several additional tax forms in the law, thus limiting the subjective consideration of other tax forms."*

Auditor's Response: Individuals granted a GATE card prior to January 2015 are still subject to current legal requirements. The law is specific about the forms that are required, indicating that eligible agricultural producers must file "at least one" of the six forms specified in law. The law no longer grants GDA permissive authority to consider forms other than those listed. If GDA believes additional forms are necessary, it should work with the General Assembly to revise the law. GDA should also eliminate the need for subjective consideration of other tax forms by removing the "other" tax form option from its application.

We recommend GDA continue its process of confirming eligibility or ineligibility of the 15,000 cardholders according to current law and rules and regulations. Its cardholder database should be updated to reflect any change in eligibility status and the relevant required tax forms for those that are eligible. Going forward, issues such as these could be mitigated if GDA were to implement a more rigorous renewal/reapplication process as recommended on page 15.

- *GDA indicated that DOR regulations do not “designate a specific time period for eligible tax forms to be filed.”*

Auditor’s Response: Both GDA and DOR have rulemaking authority relative to GATE. We recommend that GDA work with DOR to determine the tax year the application should relate to.

- *GDA indicated that it “follows the guidance of DOR and all applicable regulations regarding this income threshold,” which states that agricultural operations or “activities” generating less than \$2,500 in sales annually do not qualify for the agricultural tax exemption. GDA noted that it “will take steps to improve the industry sector selection process for the 2018 renewal season.” In addition, GDA stated that “After a closer review, as a result of the audit process, GDA believes all regulations referencing the by-sector [income] threshold deserve additional research to determine if [DOR’s] regulations accurately reflect the intent of the law.”*

Auditor’s Response: It is not clear what actions GDA may take as a result of its research, but any action under consideration should only be taken after consulting with DOR. The law gives both GDA and DOR separate rulemaking authority and, ultimately, these rules cannot be in conflict with one another. For example, conflicting rules or interpretation of rules could result in a taxpayer awarded a GATE card under one set of criteria having a significant tax liability if compliance with GATE is assessed against a different set of criteria. If necessary, GDA and DOR may find it appropriate to seek legal advice from the Attorney General.

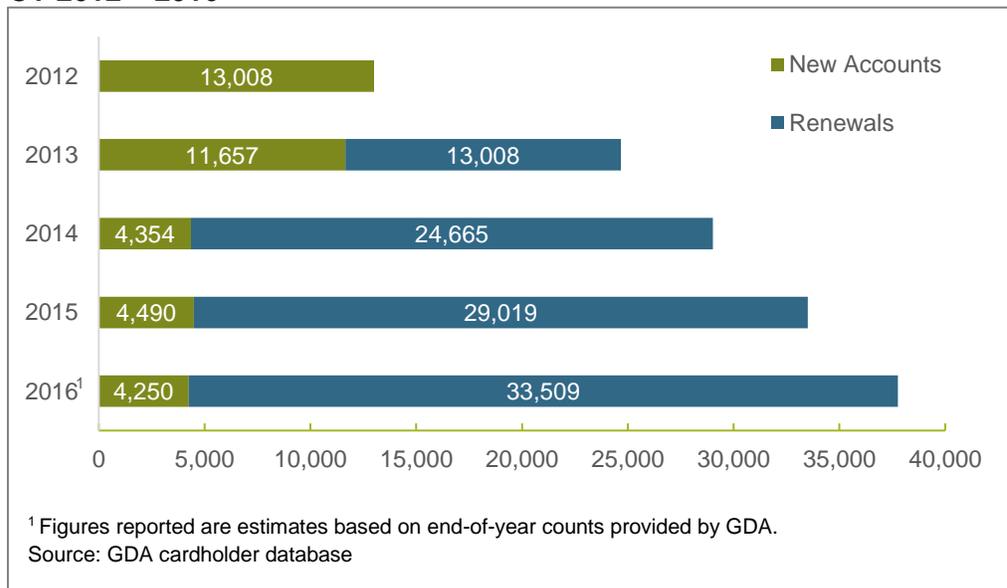
- *GDA indicated that it “will consider the suggestions for the ordering of information [in the application].”*
- *GDA indicated that its “legal division will consult with the State Attorney General’s Office to determine whether secure and verifiable documents are required for a GATE tax certificate.”*
- *GDA acknowledged its responsibility to administer the program, but indicated that it does not have a mechanism to securely maintain tax documents necessary to validate applicants’ information.*
- *GDA also noted its continued support for the phone call reviews, indicating that “personal phone calls to current cardholders and new applicants remains the most viable method for understanding an individual’s eligibility and educating the client on program rules and guidelines.”*

Auditor’s Response: We were not able to evaluate the effectiveness of phone call reviews because the applicant database is not used to capture changes in eligibility status based on the phone calls. Even if effective, the phone calls are a time consuming activity that would be less necessary for determining eligibility if the application was improved to collect all the required information.

GDA’s current renewal process for the GATE card does not ensure cardholders continue to meet eligibility requirements.

Once cardholders receive their GATE card, GDA does not conduct subsequent reviews to confirm continued eligibility for the exemption. GATE cardholders are only required to attest that they are still eligible when they renew their card each year. As shown in Exhibit 9, nearly 77% of active cardholders (or approximately 29,000) have had their cards for two to four years. Our review identified several risk areas that indicate that periodic eligibility reviews are needed to ensure that only intended beneficiaries receive the exemption.

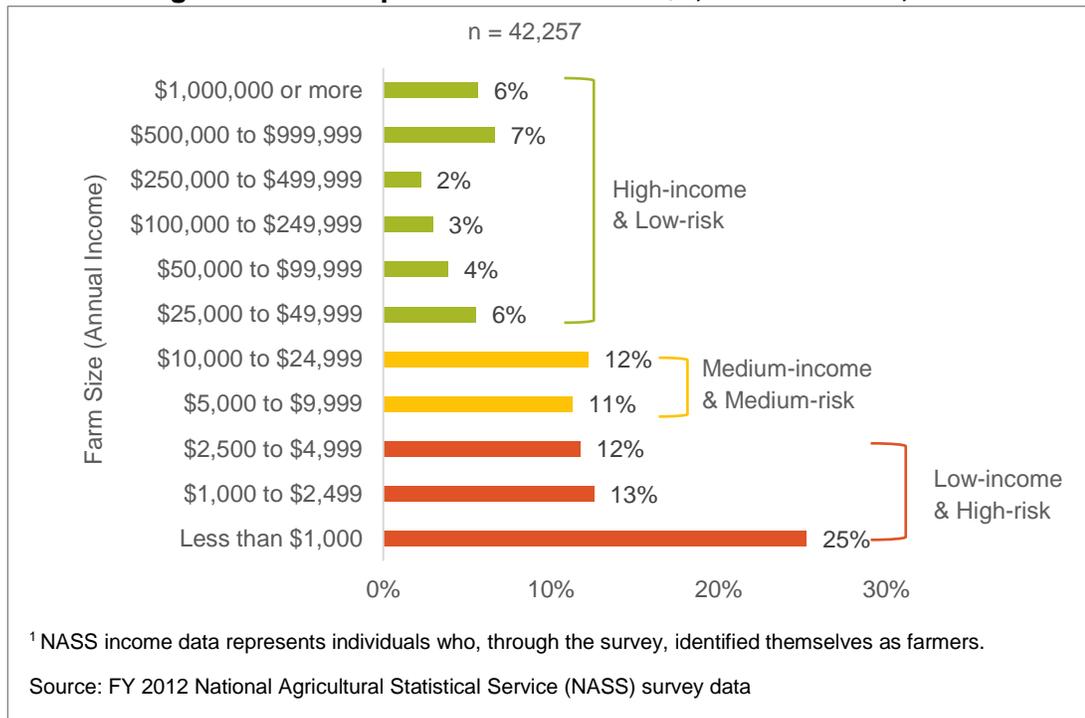
**Exhibit 9
The Majority of GATE Cardholders Have Possessed Cards Since 2013, CY 2012 – 2016**



- Changes in income:** Given the low (\$2,500) sales income threshold for the GATE exemption, there is a risk that cardholders near the threshold can fall out of eligibility after receiving the card. While income for GATE cardholders was not available, census data compiled by the National Agricultural Statistics Services (NASS) helps illustrate the potential range of incomes of Georgia farmers.⁸ According to NASS, 50% of 42,257 farmers reported income just above or below the \$2,500 income requirement, as shown in Exhibit 10.

⁸ NASS data is not representative of all GATE cardholders; not all GATE cardholders are farmers.

Exhibit 10
Half of Georgia Farmers Reported Income Near \$2,500 Threshold, 2012¹



- **Eligibility not reviewed initially:** There was less scrutiny of eligibility requirements of cardholders who received GATE cards prior to the implementation of GDA's current application and review process in 2015. When GATE was established, applicants were not required to report the IRS tax forms they filed. Although the program manager stated that he had reviewed a portion of those previously existing accounts, no records were available to show how many have been reviewed. As noted previously, over 29,000 currently active GATE cardholders received their card prior to 2015.
- **Changes in eligibility requirements:** Following the establishment of GATE, O.C.G.A. § 48-8-3.3 was changed in 2014 to exclude certain agricultural producers from qualifying for GATE. Specifically, Conservation Use Valuation Assessment (CUVA) landowners are no longer eligible for GATE unless they are engaged in other eligible activities. GDA reports that it required CUVA cardholders to recertify their eligibility. However, a review of GDA's cardholder database as of April 2016 indicates that 1,451 or 4% of active cardholders still list CUVA as their business description.

RECOMMENDATIONS

1. GDA should establish a timeframe for requiring cardholders to resubmit an application to demonstrate their continued eligibility for GATE.

GDA's Response: GDA indicated that it will take the audit's recommendation under advisement, but believes the current process is sufficient given the legislature's intent. GDA contends that the NASS data does not reflect all GATE cardholders. For example, GDA noted that out-of-state producers and

service providers who would be GATE cardholders would not be reflected in a survey of Georgia farmers. In addition, GDA indicated that cardholders who qualified under CUVA “were required to reapply.”

Auditor’s Response: We acknowledge that the NASS data is related to farmers’ income and that it may not reflect all GATE cardholders. However, 85% of active GATE cardholders as of April 2016 had identified themselves as farmers. The NASS data is included in the report to help illustrate that a portion of GATE cardholders likely have income near the \$2,500 income requirement and, given that, there is the possibility that income could fall below the \$2,500 in future years. The potential for income, a qualifying factor for GATE, to fluctuate is one of the reasons we recommend a more robust re-application or renewal process.

In addition, the extent to which the 1,451 individuals who initially qualified for GATE under CUVA are actually eligible under another provision could not be verified because the cardholder database is not updated to reflect changes in eligibility status.

Data sharing is needed to increase the impact of GATE cardholder audits and enforcement of program rules.

DOR’s audits have successfully identified cardholders not eligible for the GATE card and misuse by eligible cardholders. The effectiveness of the audits, however, is limited by DOR’s inability to share audit results with GDA. According to DOR, O.C.G.A. § 48-2-15(a) prohibits it from sharing taxpayer information (including audit results) with outside parties.⁹ Without complete audit results, GDA is unable to enforce program rules put in place to deter misuse and abuse.

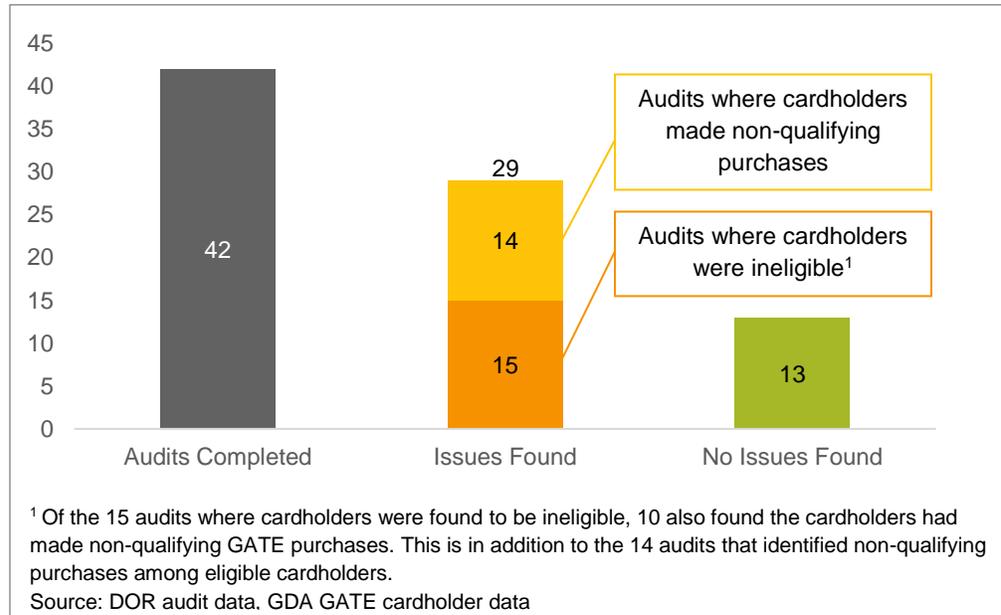
Our review of DOR’s audit findings (42 completed cardholder audits) shows that GATE has been misused, and that some cardholders are not actually eligible to use the exemption. As shown in Exhibit II, 29 of the 42 audits conducted (69%) found that GATE had been used improperly, or that cardholders were not eligible for GATE. Specifically, 14 audits found cardholders (33%) had made non-qualifying GATE purchases, and 15 (36%) found cardholders to be ineligible for GATE.

However, because DOR cannot share audit results, GDA cannot revoke cards or take other steps to prevent further misuse and abuse. According to DOR, if a cardholder is found to be ineligible for GATE, the auditor will recommend that the cardholder close their GATE account. Based on our analysis, five of the 13 cardholders found to be ineligible still had active GATE accounts as of April 2016.¹⁰

⁹ O.C.G.A. § 48-2-15(a) states, “Except as otherwise provided in this Code section, information secured by the [DOR] commissioner incident to the administration of any tax shall be confidential and privileged. Neither the commissioner nor any officer or employee of the department shall divulge or disclose any such confidential information obtained from the department’s records or from an examination of the business of any taxpayer to any person other than the commissioner, an officer or employee of the department, an officer of the state or local government entitled in his official capacity to have access to such information, or the taxpayer.”

¹⁰ The 15 audits where cardholders were found ineligible for GATE consisted of 13 unique cardholders (one cardholder was the subject of three separate audits).

Exhibit 11
Of 42 Cardholder Audits Completed, 29 Found Instances of GATE Misuse, as of April 2016



Both GDA and DOR have written rules and regulations that include penalties for misuse or abuse of the GATE program. For cardholders found to have misused the GATE card, DOR issued an assessment in the amount of the improperly exempted sales taxes as well as an interest rate of 1% per month and a tax penalty. GDA is not able to take enforcement actions for misuse since it did not receive audit findings.¹¹ Ultimately, lack of enforcement leaves the program vulnerable to misuse and abuse and reduces the deterrent effect of the audit function.

RECOMMENDATIONS

To prevent GATE card misuse and abuse, GDA should consider options for obtaining access to audit findings. Such options may include:

1. requiring applicants to consent to the release of audit findings by DOR to GDA; or
2. pursuing a change to O.C.G.A. § 48-2-15(a) to allow GDA access to cardholders' audit results.

Alternatively, the General Assembly could consider statutorily assigning responsibility for revocation of GATE cards to DOR. This would allow GATE card misuse to be fully enforced.

GDA's Response: GDA noted its agreement that "statutory changes to the program to authorize the Georgia Department of Revenue to share some types of taxpayer information with GDA would be of benefit."

¹¹ GDA's enforcement actions include revocation of the card, referral for investigation, and criminal prosecution.

GDA should establish additional guidance to staff to ensure consistency in eligibility decisions and in communication with the public.

GDA has not established the necessary guidance to staff to ensure the consistent administration of GATE. The GATE law and GDA rules and regulations, which currently serve as the primary sources of guidance, provide a foundation for understanding GATE. However, there is little to no written guidance documenting how (1) the legal provisions should be interpreted and applied operationally, (2) the application review and eligibility decision-making process should be conducted, and (3) the GATE card should be used. The lack of guidance documents increases the risk that the program is not being administered or implemented appropriately and consistently, especially considering the number of organizational units that are involved in its administration across GDA and DOR.

Staff in three separate GDA units—the GATE program manager, call center staff, and GATE compliance officers—interact with applicants, cardholders, and retailers about GATE. In addition, DOR's audit staff and call center staff interact with cardholders and retailers. The overlap in the groups that each of these units interact with highlights the importance of everyone operating from the same guiding policies and procedures.

Clarifications of Law and GDA Rules and Regulations

Our review found that both the GATE law and GDA regulations are silent or vague on some aspects of eligibility. In these cases, additional interpretation or clarification is needed by GDA to ensure its staff (e.g., program manager, call center staff) fully understand the requirements when making eligibility decisions and communicating the requirements to the public. However, GDA has not established supplemental guidance to assist staff in interpreting the requirements. Examples of areas we identified as requiring further interpretation or clarification by GDA are outlined below.

- *Income requirement for each eligible industry.* Under the GATE law, applicants must generate at least \$2,500 in income to qualify for GATE. Per GDA staff practice and DOR regulation, the income requirement applies to each industry an applicant is engaged in. However, the regulation and how it is to be applied is not provided in written guidance to staff.
- *Requirements for landowners/lessees.* The law allows agricultural landowners to qualify for GATE if at least \$2,500 of agricultural products were produced or sold during the year. However, GDA has not documented the specific circumstances under which these individuals may qualify, such as whether the income requirement can be met by rental income, whether the landowner should also be engaged in farming, or, if not, whether the income requirement can be met by someone other than the landowners themselves (e.g., another farmer). GDA also has not clarified the time-period the income requirement should be based on (e.g., current year, past year).
- *Requirements for long-term production activities.* As previously noted, the law allows producers of long-term products (e.g., timber, pulpwood, orchard crops, pecans) to qualify for GATE if they can “demonstrate that sufficient volumes of such long-term agricultural products will be produced which have the capacity to generate at least \$2,500 in sales annually in the future.” However, GDA has not established written guidance to aid staff in determining the type

of information needed to ensure producers' compliance with GATE income requirements at some future date and the timeframe in which such information should be provided.

- *Tax forms filed.* As noted earlier, the law requires applicants to “acknowledge and produce, upon request” one of six IRS tax forms to determine eligibility. However, additional clarification is needed on the time-period that applies to tax form filings (e.g., current year, past years' returns).
- *Eligibility of out-of-state producers.* Our review found that 1,070 of approximately 34,000 cardholders listed an out-of-state business address on their GATE application. However, neither the law nor GDA regulations mention eligibility of out-of-state producers. In addition, GDA has not documented its policy position on out-of-state applicants, such as whether businesses should be conducting business in Georgia to qualify for GATE and how this is to be determined by GDA staff.

Application and Eligibility Determination

A single individual, the GATE program manager, is responsible for reviewing applications and determining eligibility for GATE, which provides some assurance that GATE applicants are evaluated consistently. However, the lack of documentation of GDA's interpretations and the specific tasks associated with eligibility determination increases the risk that the program manager will generate his own interpretations of the requirements and that eligibility decisions will not be consistent over time as staff changes occur. For example, although the law lists only six IRS tax forms individuals can acknowledge in order to qualify for GATE, our review of cardholder data showed that approximately 15,000 cardholders qualified by indicating something other than the six listed forms, as noted in the finding on page 9. It is not clear that these exceptions are reviewed by GDA officials to determine their appropriateness.

Acceptable Uses of the GATE Card

GDA has not established a list of commonly used, tax-exempt items by industry to assist staff in responding to questions from the public about what can and cannot be purchased under GATE. GDA staff are provided reference material on exempted items prepared by DOR and industry groups, but the documentation does not categorize the exempted items by industry type. In addition, while the tax-exempt status of certain items may be straightforward, such as fertilizer or seed for a row crop operation, other items might be more nuanced. For example, the purchase of machinery and equipment under GATE may be subject to certain limitations depending on the primary purpose for the purchased item, type of activity it is being purchased for, and how it will be used. More specific guidance is needed to ensure staff convey this type of information to the public accurately and consistently.

RECOMMENDATIONS

1. GDA should document policies and procedures covering all aspects of the GATE program. Specifically, GDA should:
 - a. clarify or interpret and document various provisions in the GATE law related to eligibility;

- b. document policies and procedures for application review, phone call review, GATE card approval, and renewal processes;
 - c. establish a mechanism for oversight of eligibility decisions;
 - d. establish and document more specific guidance on eligible tax exempt items, possibly by industry; and
 - e. document other administrative functions relevant to GATE.
2. GDA should coordinate with DOR as needed and share the policies and procedures to ensure consistency among staff across agencies.

GDA's and Auditor's Responses:

- GDA indicated that its “policy is to implement program guidance based upon the language of the law” by providing staff with “the Official Code of Georgia and relevant Rules and Regulations” but that it will review the suggestions to improve its internal policies.
- GDA noted that while the “law is silent [with regard] to eligibility of out-of-state producers,...the General Assembly’s intent was clear in that any new changes brought [about by GATE] would not limit traditional agricultural sales tax exemptions offered [under] the previous [exemptions].”

Auditor’s Response: While the intent may have been discussed at the time of the law change, neither the law or GDA’s rules and regulations explain eligibility for out-of-state producers. We suggest that GDA formally document its interpretation.

- GDA disagreed that it has a “role in determining or interpreting what items qualify for GATE card purchases.” GDA believes “this responsibility lies with [DOR]” and that it has provided “in-depth” advice to DOR staff to assist them in “determining items eligible for exemption.”

Auditor’s Response: Both GDA and DOR are given statutory responsibility for administering various parts of the program. Given this dual responsibility, we encourage GDA to continue to work with DOR to improve the information available.

GATE cards could serve as a useful tool for ensuring only eligible items are being purchased.

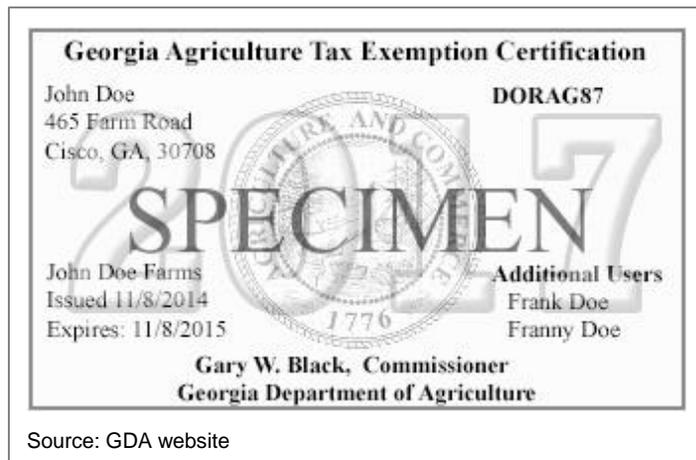
As previously noted, items purchased tax-free must be related to the particular industry cardholders qualified for GATE under. However, the GATE card does not include information about a cardholder’s qualifying industry or industries. As a result, retailers efforts to prevent ineligible purchases are hampered by the lack of information when making a sale. As previously noted, improper purchases can only be detected after the fact through DOR audits.

DOR policy states “the burden of proof that a sale is not subject to the tax is on the seller, unless he or she in good faith takes from the purchaser a valid GATE card. A seller takes a GATE card in good faith when the exemption could apply to the item

being purchased and is reasonable for the purchaser's type of business.” However, to be effective, retailers need additional information about cardholders.

As shown in Exhibit 12, no information pertaining to a cardholder’s qualifying category/industry is included on the GATE card. While a retailer can verify that a card is current by looking at the card’s expiration date, the lack of industry information makes it difficult for retailers to consider the appropriateness of exempted purchases. While this information is available through a search tool on GDA’s website, retailers’ inability to access this information quickly limits their efforts to ensure legitimate purchases are being made.

Exhibit 12
GATE Card Lacks Information Needed to Ensure Proper Use



Source: GDA website

RECOMMENDATIONS

1. More specific industry information should be included on the GATE card, along with the cardholder name and expiration date, to promote greater compliance with the law.

GDA’s Response: GDA indicated that the law does not require industry information be printed on the card and noted that “the applicant’s attestation is sufficient.” In addition, GDA noted “it would be impossible to list all... eligible categories for many farm operations on a wallet-sized tax certificate.” GDA noted that cardholders are obligated by law “to use the card in accordance with their farm operations” and retailers are responsible for accepting “the card in good faith for purchases made on agricultural inputs.” According to GDA, “a retailer accepting a GATE card for sales tax exemption on household furniture, [for example], would be negligent regardless of the qualifying industry.”

Auditor’s Response: While the law does not require industry information be included on the card, it does not limit GDA’s ability to include qualifying industries if it chooses. The only legal requirements related to the GATE card are that it be wallet-sized and contain the exemption number. We question the likelihood that an individual cardholder would qualify for so many industries that the relevant industries could not be printed on the card. This recommendation is intended to help facilitate compliance with the law.

Website improvements are needed to ensure applicants, cardholders, and retailers understand GATE eligibility and proper card use.

Our review found that GDA does not provide information on program requirements to cardholders at the time of issuance. GDA's website hosts information on GATE; however, the website does not present information in a way that is easily navigated. Documents on the website are not clearly organized or titled clearly, which makes it difficult for cardholders to locate the correct document to answer potential questions quickly. Additionally, extraneous or duplicative information is included among the links on the website, and the content of the documents that are available does not provide sufficient guidance for cardholders.

More Information Needed

The cardholder audits, results of our GATE cardholder survey, and our own review of the GATE website revealed that both applicants and existing cardholders need better information to ensure that they fully understand how GATE works. As discussed previously, DOR audits have uncovered misuse of the GATE card. While 95% of (700 of 735) respondents to our cardholder survey thought the information they received on GATE was clear, 33 respondents thought the information was unclear.¹² The respondents provided written comments expressing the need for improved information, such as a list of exempted items, an information packet for new cardholders, and laws and regulations written in plain language.

Website Issues Identified

The GATE website provides program information, but the information available is not easily understood by cardholders or well-organized, as discussed below.

- **Technical language** – The website includes links to GDA's rules and regulations and DOR's Agriculture Exemptions Policy Bulletin to assist the public in understanding GATE. However, these documents are founded on the GATE law and, thus, include technical language that the general public may find difficult to understand. GDA has not developed documents containing more user-friendly explanations of the program's requirements.
- **Document links unclear and not prioritized** – The website lists 15 links to documents, but no descriptions accompany the links and they are not listed in order of importance. For example, the two most informative document links we identified – DOR's Agriculture Exemptions Policy Bulletin and the Exemption Guide – are near the bottom of the list. Additionally, documents are not organized by topic area (e.g., applying for GATE, DOR guidance) or grouped by intended audience, such as an applicant, cardholder, retailer, or someone looking to report abuse of the program.
- **Information duplicative or unrelated to GATE** – Information provided on the website contains extraneous and duplicate documents. For example, GDA provides a link to a "Uniform Sales Tax Certificate" but it is not clear what

¹² We surveyed approximately 4,000 cardholders across 15 counties. (See Appendix B for the list of counties.) We received 735 responses to the survey (18% response rate). Because little is known about the respondents and non-respondents, we are unable to project the survey results to the population of cardholders in the 15 counties.

relationship this certificate has to the GATE program or why cardholders should access this information. Other items, such as the “GATE Retail Poster,” are not clear in their intended purpose, and list information already provided on the website, such as the email address and phone number needed to contact the GATE call center.

- **Lack of information about card use** – The majority of program information available concerns qualifying and applying for the GATE card, but not proper card usage. The GATE FAQ, for example, largely focuses on questions concerning eligibility for the card and completing the application. Very few questions in this document, and in the other links on the website, concern proper and appropriate card usage. Applicants require information on eligibility, while cardholders require different information concerning usage and renewals, and retailers require still different information on accepting the card at purchase.

RECOMMENDATIONS

1. GDA should take steps to improve the organization and content of its website by:
 - a. adding brief summaries describing the content of any linked documents;
 - b. removing information unrelated to GATE from the website;
 - c. organizing the information according to intended user and by listing the most relevant documents first; and
 - d. creating more user-friendly documents explaining how GATE works, including documents related to eligibility requirements and card use. For example, GDA could develop a guide for GATE cardholders that lists, by industry, the types of items that could be purchased under the exemption. GDA should consider coordinating with DOR to ensure any documents created are consistent with the GATE law.
2. To provide greater assurance that cardholders understand how the GATE card is to be used, GDA should send an information packet at the time the GATE card is issued, particularly for first-time cardholders. The materials provided would ideally be tailored to the specific industry or industries for which the cardholder has qualified.

GDA's Response: GDA indicated that it will continue to improve, but believes the resources available on the website are adequate.

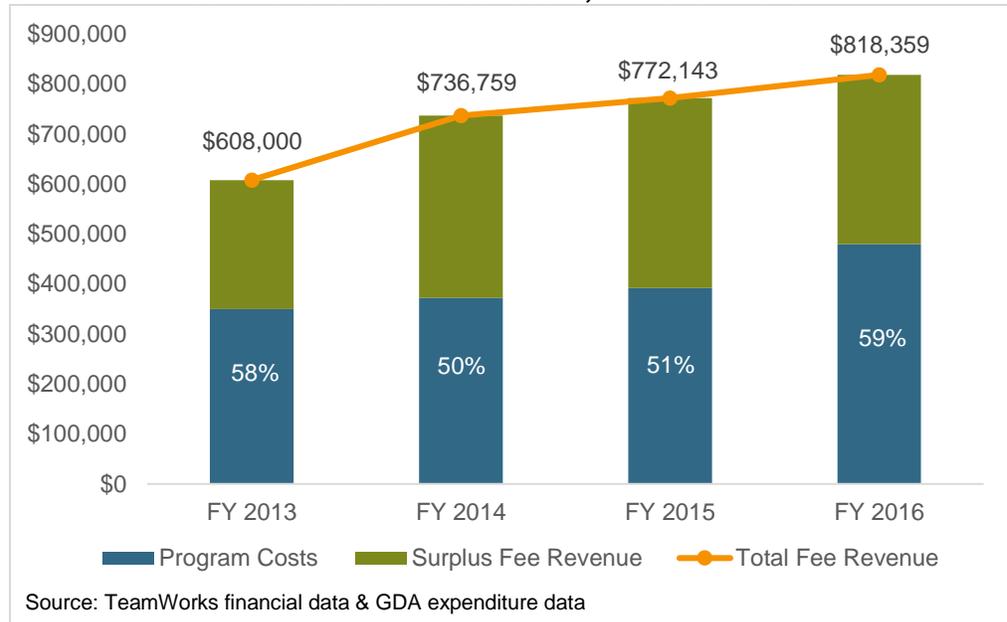
GATE revenue collections exceed the estimated cost of its administration.

O.C.G.A. § 48-8-3.3(e) authorizes GDA to collect annual fees associated with the issuance of GATE cards. GDA does so by charging a fee (\$20 for online applications, \$25 for call center assisted applications) to new applicants and existing cardholders each year. The law also indicates that fee revenues should not exceed the cost to administer the program. However, a comparison of GATE revenue collections to GATE-related expenditures revealed that GDA may not be in compliance with the law. A more thorough assessment of GATE-related expenditures is needed to

determine if all related costs are captured and what actions, if any, are needed to comply with the law.

With the help of GDA financial staff, we estimated GATE-related costs for the four-year period covering fiscal years 2013 to 2016. As shown in Exhibit 13, estimated GATE-related expenditures have increased over time, but have never consumed 100% of fee collections. Fiscal year 2017 fee collections were still on track to exceed program costs as of May 2017.

Exhibit 13
GATE Revenue Exceeds Estimated Costs, FY 2013 - 2016



A fee that significantly exceeds the cost of the services it is intended to pay for subsidizes unrelated state programs. Such factors should be taken into account when considering changes to how GATE is administered or changes to fee amounts (and possibly how funds are budgeted or appropriated to GATE).

RECOMMENDATIONS

1. Once GDA makes changes to both its initial application and renewal process, it should reassess the need for or purpose of the annual fee and ensure that the fee is aligned to the cost of administering the program.
2. GDA should establish a budget for GATE to ensure the full cost of administering the program is known.
3. GDA should periodically evaluate the fee amount to ensure it is in line with program expenditures, and in compliance with state law.

GDA's Response: GDA indicated that, "while [it] collects GATE application fees, those funds are submitted directly to the State Treasury. The General Assembly, in turn, annually appropriates a portion of those funds back to GDA to administer the program." GDA noted that any fees collected

“beyond the costs [to administer the program] have been retained in the General Fund, presumably as a safety net.”

GDA noted that “farmers are the only taxpayers required to pay for the privilege of accessing exemptions under law,” but believes that (at some level) the GATE card fee could discourage participation of individuals who are not legitimate agricultural producers. GDA further noted that reducing the fee would potentially present more challenges than managing the current revenue.

Auditor’s Response: While we agree the General Assembly decides how much to appropriate, the law allows GDA to assess annual fees ranging from \$15 to \$25. Therefore, GDA has some flexibility to set fees more aligned with the costs to administer the program.

As an exemption, the costs and benefits of GATE cannot be fully evaluated.

According to estimates prepared by Georgia State University’s Fiscal Research Center (FRC) in its *Georgia Tax Expenditure Report for Fiscal Year 2017*, the GATE exemption cost state and local governments approximately \$300 million in forgone sales and use tax revenue in fiscal year 2017.¹³ However, the economic impact of the exemption cannot be fully evaluated because its purpose or intent is not stated in law and data necessary for determining economic benefits have not been compiled. These are discussed in more detail below.

GATE Costs

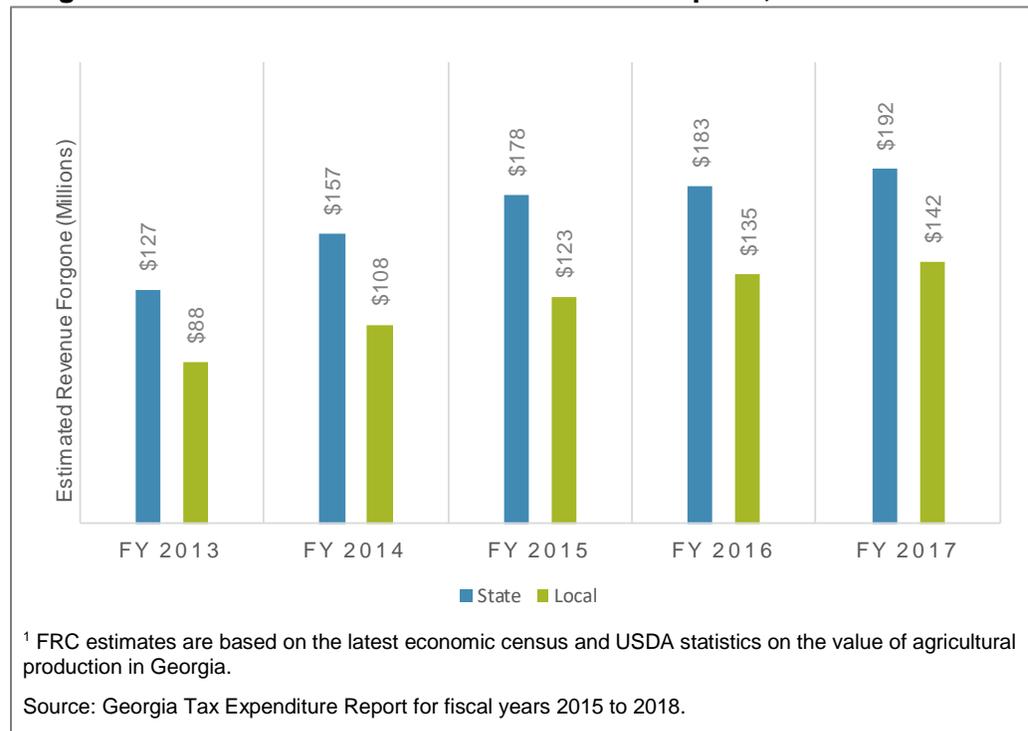
Our review of FRC’s tax expenditure reports found that estimated tax breaks provided to qualified producers on production inputs, energy, and machinery and equipment used in agriculture have increased between fiscal years 2013 and 2017. As shown in Exhibit 14, both state and local governments are impacted, with forgone tax revenue related to agricultural exemptions ranging from \$215 million to \$334 million since fiscal year 2013.¹⁴

O.C.G.A. § 45-12-75(8) requires an annual estimate of the value of all tax expenditures for the purposes of tracking the expenditures and their value over time.

¹³ Based on estimates included in FRC’s FY17 Tax Expenditure Report, published in December 2015.

¹⁴ In the Georgia Tax Expenditure Report, FRC indicates that local estimates represent the aggregate value of the exemptions that would accrue to the counties, municipalities, school districts, and special service districts, including tax allocation and community improvement districts.

Exhibit 14 Forgone Tax Revenue Related to the GATE Exemption, FY 2013 – 2017¹



Program Benefits

While the costs of GATE are known, the benefits received in return have not been determined. Based on our review of research conducted by the PEW Center on the States and other states, three broad questions are relevant to evaluating the benefits of tax incentives such as GATE. The questions and limitations that impede efforts to address them are discussed below.

- *What is the stated purpose or intent of GATE?* Research indicates that enabling legislation for tax incentives should document the purpose or intent of the incentive. These provide the basis for evaluating the effectiveness of tax incentives. However, O.C.G.A. § 48-8-3.3 does not include intent language or clearly state the purpose of GATE.
- *Who are the beneficiaries of GATE?* According to research, evaluations of tax incentives should consider the direct beneficiaries of the incentive, including unintended beneficiaries. While direct beneficiaries of GATE are identified as the approximately 38,000 qualified agricultural producers who have the GATE card, the amount of information collected on individual cardholders is limited. Collecting additional information about GATE cardholders would allow policymakers to identify needed changes to program requirements and either (1) expand access to include more beneficiaries, or (2) restrict access by unintended beneficiaries. Modifications to the GATE application to collect more information would allow for stratifications of cardholder data based on factors such as type of commodity produced and farm size (based on farm income and/or acres of crop/head of livestock). To ensure data quality, applicants could be required to provide an FEIN or

taxpayer identification number, which could be provided to DOR for the purposes of obtaining aggregate data on income earned on farm-related businesses.

- ***What are the impacts of GATE?*** According to research, evidence should be compiled to demonstrate direct and indirect benefits (or outcomes) flowing to beneficiaries, other taxpayers (businesses and individuals), and the state economy. However, information needed to determine the benefits resulting from GATE (or to determine the negative effects on these groups if the exemption is discontinued) is unavailable. The specific benefits would depend on the stated purpose or goal of the program. For example, if a goal of GATE is job creation, data on the number of new jobs created, average salary for new jobs, and whether the jobs were located in Georgia would need to be compiled. As another example, if the goal is to ensure continued presence of agriculture in Georgia, data necessary to determine the number of new farms established or business growth would need to be compiled. Also, additional efforts would be needed to establish GATE as the catalyst for these outcomes.

RECOMMENDATIONS

1. The General Assembly should consider:
 - a. specifying and including the purpose or intent for agricultural sales and use tax exemptions in O.C.G.A. § 48-8-3.3, and
 - b. requiring GDA or another entity to regularly evaluate and report on the effectiveness of the exemption in relation to the stated intent.
2. As part of the GATE application redesign recommended on page 11, GDA should consider collecting additional data to support evaluation efforts, including:
 - a. collecting relevant demographic and descriptive information about cardholders, and
 - b. requiring cardholders to provide an FEIN or taxpayer identification number, which could be shared with DOR for the purposes of obtaining aggregate data on income earned on farm-related businesses. This may require a change in the agreement between GDA and DOR.
3. At a minimum, the General Assembly should consider requiring GDA to report annually on the beneficiaries of GATE.

GDA's Response: GDA stated that “determining economic impact, gathering data, etc., may be a desire of the Department of Audits and may in fact be useful for policymakers.” GDA noted “that these responsibilities are not delegated to GDA.” In addition, GDA believes the auditors should have considered the fiscal impact of the exemption before and after GATE.

Auditor's Response: We were not attempting to show the impact of the legislative changes that took effect in 2013. Rather, our efforts were simply to show the estimated value of forgone tax revenues associated with agriculture-related tax exemptions over the last five years.

Appendix A: Table of Recommendations

Improvements are needed to the GATE application and review process to increase the effectiveness and efficiency of the program. (page 9)

1. GDA should modify the application to ensure information provided by applicants is complete, accurate, and consistent with legal requirements. Improvements would limit the need for phone calls by the program manager, allowing the application to be the primary basis for eligibility decisions. Modifications should include:
 - a. removing the “other” tax form option;
 - b. specifying the relevant tax years the IRS forms should relate to;
 - c. providing applicants the opportunity to indicate all agricultural industries they are seeking GATE eligibility for and attest to their income for each reported industry;
 - d. including conditional logic functionality in the application; and
 - e. reordering application elements in a way that is more logical.

2. GDA should seek legal advice to confirm applicability of the law requiring verification of lawful presence in the U.S. to GATE applicants. If the law applies, GDA should ensure that all currently active accounts have proof of U.S. citizenship or legal residency on record. If the law does not apply, GDA should eliminate the requirement from its application process.

3. GDA should consider options for independently validating information provided by applicants. Federal income tax records would be the most reliable source. However, due to its confidential nature, GDA would be subject to federal requirements related to receiving, maintaining, sharing, transmitting, and storing taxpayer data. Options may include:
 - a. requiring applicants to submit tax documents along with the application to demonstrate their eligibility; or
 - b. asking applicants to consent to the release of tax information by DOR to GDA; or
 - c. pursuing a change to O.C.G.A. § 48-2-15(a) to allow DOR to share applicants’ tax information directly with GDA.

Alternatively, GDA could contract with DOR to validate applications either as part of the application review process or within a specified period upon issuance of the GATE card. DOR is already in possession of taxpayer data and has processes in place to ensure the data is properly safeguarded.

4. As discussed in the finding on page 20, GDA should develop written procedures on every aspect of the eligibility review process to ensure applications are evaluated consistently and conform to legal and regulatory requirements. Such procedures would include guidance on what tax year form filings should be based on (e.g., most recent year, future years), and any additional requirements long-term producers must meet.

GDA’s current renewal process for the GATE card does not ensure cardholders continue to meet eligibility requirements. (page 14)

5. GDA should establish a timeframe for requiring cardholders to resubmit an application to demonstrate their continued eligibility for GATE.

Data sharing is needed to increase the impact of GATE cardholder audits and enforcement of program rules. (page 16)

6. To prevent GATE card misuse and abuse, GDA should consider options for obtaining access to audit findings. Such options may include:
 - a. requiring applicants to consent to the release of audit findings by DOR to GDA; or
 - b. pursuing a change to O.C.G.A. § 48-2-15(a) to allow GDA access to cardholders’ audit results.

GDA should establish additional guidance to staff to ensure consistency in eligibility decisions and in communication with the public. (page 18)

7. GDA should document policies and procedures covering all aspects of the GATE program. Specifically, GDA should:
- a. clarify or interpret and document various provisions in the GATE law related to eligibility;
 - b. document policies and procedures for application review, phone call review, GATE card approval, and renewal processes;
 - c. establish a mechanism for oversight of eligibility decisions;
 - d. establish and document more specific guidance on eligible tax exempt items, possibly by industry; and
 - e. document other administrative functions relevant to GATE.

8. GDA should coordinate with DOR as needed and share the policies and procedures to ensure consistency among staff across agencies.

GATE cards could serve as a useful tool for ensuring only eligible items are being purchased. (page 20)

9. More specific industry information should be included on the GATE card, along with the cardholder name and expiration date, to promote greater compliance with the law.

Website improvements are needed to ensure applicants, cardholders, and retailers understand GATE eligibility and proper card use. (page 22)

10. GDA should take steps to improve the organization and content of its website by:
- a. adding brief summaries describing the content of any linked documents;
 - b. removing information unrelated to GATE from the website;
 - c. organizing the information according to intended user and by listing the most relevant documents first; and
 - d. creating more user-friendly documents explaining how GATE works, including documents related to eligibility requirements and card use. For example, GDA could develop a guide for GATE cardholders that lists, by industry, the types of items that could be purchased under the exemption. GDA should consider coordinating with DOR to ensure any documents created are consistent with the GATE law.

11. To provide greater assurance that cardholders understand how the GATE card is to be used, GDA should send an information packet at the time the GATE card is issued, particularly for first-time cardholders. The materials provided would ideally be tailored to the specific industry or industries for which the cardholder has qualified.

GATE revenue collections exceed the estimated costs of its administration. (page 23)

12. Once GDA makes changes to both its initial application and renewal process, it should reassess the need for or purpose of the annual fee and ensure that the fee is aligned to the cost of administering the program.
13. GDA should establish a budget for GATE to ensure the full cost of administering the program is known.
14. GDA should periodically evaluate the fee amount to ensure it is in line with program expenditures, and in compliance with state law.

As an exemption, the costs and benefits of GATE cannot be fully evaluated. (page 25)

15. The General Assembly should consider:
- a. specifying and including the purpose or intent for agricultural sales and use tax exemptions in O.C.G.A. § 48-8-3.3, and
 - b. requiring GDA or another entity to regularly evaluate and report on the effectiveness of the exemption in relation to the stated intent.

16. As part of the GATE application redesign recommended on page 15, GDA should consider collecting additional data to support evaluation efforts, including:
 - a. collecting relevant demographic and descriptive information about cardholders; and
 - b. requiring cardholders to provide an FEIN or taxpayer identification number, which could be shared with DOR for the purposes of obtaining aggregate data on income earned on farm-related businesses. This may require a change in the agreement between GDA and DOR.
17. At a minimum, the General Assembly should consider requiring GDA to report annually on the beneficiaries of GATE.

Appendix B: Objectives, Scope, and Methodology

Objectives

This report examines the Georgia Agricultural Tax Exemption (GATE) Program administered by the Georgia Department of Agriculture (GDA). Specifically, our audit sought to determine:

1. whether current GATE application and approval processes adequately ensure cardholders meet eligibility requirements;
2. whether current monitoring processes of GATE cardholders and retailers adequately ensure appropriate card use; and
3. the impact of GATE on agricultural producers and retailers, as well as state and local governments.

Scope

This audit generally covered activity related to GATE occurring from January 2013 through April 2016, with consideration of earlier or later periods when relevant. Information used in this report was obtained by: reviewing relevant laws, rules and regulations, and policies; reviewing other GATE-related documents; interviewing GDA and Department of Revenue (DOR) officials and staff, as well as representatives of various stakeholder groups; and surveying GATE cardholders. We obtained and analyzed GDA's GATE cardholder data and DOR's GATE-related audit files. We also reviewed other states' tax incentives, research reports, and evaluations of tax incentives to identify best practices in tax incentive administration and evaluation.

GATE cardholder data was used to inform objectives 1 and 2. We assessed the controls over the data and determined the data to be sufficiently reliable for the purposes of our review.

Government auditing standards require that we also report the scope of our work on internal control that is significant within the context of the audit objectives. We reviewed internal controls as part of our work on objectives 1 and 2, and any deficiencies are noted in the respective findings. Specific information related to the scope of our internal control work is described by objective in the methodology section below.

Methodology

To determine whether current GATE application and approval processes adequately ensure cardholders meet eligibility requirements, we reviewed GATE legislation and GDA rules and regulations and conducted interviews with GDA officials and GATE-related staff to understand eligibility requirements and how requirements have changed over time. We reviewed the GATE application and interviewed GATE-related staff to determine the steps in the application, eligibility review, and approval processes. We sought to understand information and documentation requirements, and interviewed GDA officials to understand their rationale and associated limitations. We also reviewed relevant documents and interviewed GATE staff to determine the process for renewing GATE cards. We researched other tax exemptions available in Georgia for comparison purposes. In addition, we interviewed representatives of and reviewed websites of five contiguous states' (Alabama, Florida, North Carolina, South Carolina, Tennessee) tax administration agencies (e.g., Department of Revenue) to understand agricultural

exemptions, requirements, eligibility, and other related factors. We also researched data quality control features related to online applications to understand weaknesses in GATE application design. We conducted a literature review of academic journal articles on economics and tax policy analysis to identify generally accepted policies and methods for applying tax exemptions.

We obtained and analyzed GATE cardholder applicant data from the GDA database to determine if the cardholder information maintained in the database meets the eligibility requirements set by the GATE statute. We also obtained data maintained by the U.S. Department of Agriculture's National Agricultural Statistical Survey (NASS) to identify characteristics of Georgia farmers, including farming income. While we concluded that the information was sufficiently reliable for the purposes of our review, we did not independently verify the data.

To determine whether current monitoring processes of GATE cardholders and retailers adequately ensure appropriate card use, we analyzed legislation to determine the requirements for monitoring the GATE program, interviewed GDA and DOR staff about monitoring responsibilities for the program and analyzed the interagency agreement transferring monitoring duties to DOR. We obtained and reviewed DOR's policies and procedures related to sales tax audits and GATE-specific audits, as well as interviewed DOR staff to understand the audit selection process, audit process, documentation requirements, potential audit outcomes, and consequences if misuse is discovered. We also reviewed DOR audit files of GATE-related sales tax audits completed between November 2014 and April 2016. We analyzed audit files to determine what information is reviewed during a GATE sales tax audit and how card eligibility is reviewed/determined. We also used the audit data to determine taxes and penalties assessed related to GATE, to the extent possible when available in DOR records. We also interviewed other states to determine the best or standard practices related to the monitoring use of tax exemptions.

We reviewed GDA and DOR documents and interviewed officials from both agencies to understand information cardholders receive about proper card use, such as through audits and program-related publications.

To determine the impact of GATE on agricultural producers and retailers, as well as state and local governments, we obtained and reviewed various data sources including sales and use tax return/remittance data and DOR Commodity Reports. Our analysis was limited by the fact that North American Industry Classification System (NAICS) codes are self-reported by businesses and are not to the level of detail needed to isolate changes in sales and use tax remittances to exempted sales by agriculturally-based businesses or GATE. We also conducted an electronic survey of a sample of GATE cardholders to determine how agricultural producers believe GATE impacted their businesses. We surveyed approximately 4,000 active and former cardholders in 15 counties (Appling, Bulloch, Colquitt, Laurens, Glascock, Miller, Paulding, Rabun, Talbot, Bibb, Habersham, Carroll, Coffee, Franklin, and Gwinnett). We received 735 responses for a response rate of 18%. Because little is known about the respondents and non-respondents, we are unable to project the survey results to the population of cardholders in the 15 counties.

We reviewed tax expenditure reports prepared by Georgia State University's Fiscal Research Center to determine the estimated value of agricultural tax exemptions over time. We also reviewed various research reports and studies prepared by other states

(Arizona, Iowa, Washington, Arkansas, Connecticut, Kansas, Louisiana, Minnesota, Missouri, New Jersey, North Carolina, and Wisconsin) and the PEW Center on the States to understand aspects associated with evaluating the cost-effectiveness of tax incentives such as GATE.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix C: Agricultural Certificate of Exemption

ST-A1 (Rev 06/08)



STATE OF GEORGIA
DEPARTMENT OF REVENUE
AGRICULTURAL CERTIFICATE OF EXEMPTION - SALES AND USE TAX
Effective July 1, 2008

To: _____, 20____
(DEALER OR LESSOR) (DATE)

THE UNDERSIGNED HEREBY CERTIFIES that all tangible personal property purchased or leased on or after this date will be purchased or leased for the purpose indicated below, unless otherwise specified on a particular order, and that the purchases are used as a part of a pursuit engaged in for profit. This certificate shall remain in effect until revoked in writing. Any tangible personal property obtained under this certificate of exemption is subject to the sales and use tax if it is used or consumed by the purchaser in any manner other than indicated on this certificate. (Check proper box.)

- FARM MACHINERY AND EQUIPMENT -

- 1. Rubber-tired farm tractors and attachments which will be used exclusively in tilling, planting, cultivating or harvesting farm crops for sale. Such crops will be planted and harvested within a twelve-month period. O.C.G.A. § 48-8-3(29)(I)
- 2. Machinery and/or equipment which will be used on the farm directly in the production of poultry or eggs for sale. O.C.G.A. § 48-8-3(29)(A)
- 3. Machinery and/or equipment which will be used on the farm directly in the production, processing or storage of fluid milk for sale. O.C.G.A. § 48-8-3(29)(C)
- 4. Machinery and/or equipment which will be used on the farm directly in the production of livestock for sale. O.C.G.A. § 48-8-3(29)(D)
- 5. Machinery and/or equipment which will be used on the farm directly in harvesting farm crops grown and used on the farm as feed for poultry or livestock by a producer falling under the categories 2, 3, or 4 above. O.C.G.A. § 48-8-3(29)(E)
- 6. Machinery and/or equipment which will be used in the hatching and breeding of poultry and livestock for sale. O.C.G.A. § 48-8-3(29)(B)
- 7. Machinery and/or equipment which will be used in tilling the soil or in animal husbandry. O.C.G.A. § 48-8-3(29)(F), (G) & (H)
- 8. Machinery and/or equipment which will be used exclusively for irrigation of farm crops grown for sale including, but not limited to fruit, vegetable and nut crops. O.C.G.A. § 48-8-3(26)
- 9. Pecan sprayers, pecan shakers and/or other equipment used in harvesting pecans. O.C.G.A. § 48-8-3(29)(J)
- 10. Equipment which will be used on the farm exclusively in processing onions. O.C.G.A. § 48-8-3(29)(I)

- TIMBER EQUIPMENT AND RELATED ATTACHMENTS -

- 11. Off-road equipment and related attachments which will be used exclusively in the site preparation, planting, cultivation, or harvesting of timber. This shall include all off-road equipment and related attachments used in every forestry procedure starting with the severing of a tree from the ground until and including the point at which the tree or its parts in any form has been loaded in the field in or on a truck or other vehicle for transport to the place of use. O.C.G.A. § 48-8-3(29.1)

- LIVESTOCK, SEED, FERTILIZER, FEED, PACKAGING, ETC. -

- 12. Cattle, hogs, sheep, horses, poultry, and bees when sold for breeding purposes. O.C.G.A. § 48-8-3(28)
- 13. Seed, seedlings, fertilizers, insecticides, fungicides, rodenticides, herbicides, defoliants, soil fumigants, plant growth regulating chemicals, desiccants (including shavings and sawdust from wood, peanut hulls, fuller's earth, straw and hay) and feed for livestock, fish or poultry when used either directly in tilling the soil or in animal, fish or poultry husbandry; and/or nonreturnable materials used for packing farm products for shipment or sale. O.C.G.A. §§ 48-8-3(25) & (35)(A)(iii)

- FUELS USED IN POULTRY STRUCTURES, HORTICULTURAL STRUCTURES, SWINE STRUCTURES & ELECTRICITY USED IN IRRIGATION OF FARM CROPS -

- 14. The sale of electricity or any motor fuel for the operation of an irrigation system which is used on a farm exclusively for irrigation of crops when separately metered or to a tank used exclusively for the irrigation system. O.C.G.A. § 48-8-3(64)
- 15. Liquefied petroleum gas or other fuel used in a structure in which plants, seedlings, nursery stock, or floral products are raised primarily for resale when separately metered. O.C.G.A. § 48-8-3(77)
- 16. Liquefied petroleum gas or other fuel used in a structure in which broilers, pullets, or other poultry are raised when separately metered. O.C.G.A. § 48-8-3(49)
- 17. Liquefied petroleum gas or other fuel used in a structure where swine are raised when separately metered. This exemption only applies to transactions occurring between July 1, 2008 and June 20, 2010. This exemption only applies to the State (4%) Sales Tax. O.C.G.A. § 48-8-3(49.1)
- 18. Fuel delivered to a single tank, where a portion of the quantity delivered will be used in one of the above categories, may be exempt based upon a good faith estimate as stated on this form by the farmer. Fuel Type _____ Exempt Quantity _____

(PURCHASER OR LESSEE)

(BUSINESS ADDRESS OF PURCHASER OR LESSEE)

The dealer's acceptance of the Agricultural Certificate of Exemption, Form ST-A1, shall be deemed to be in good faith when properly executed and the item sold qualifies as being exempt. If the Department determines that the purchaser incorrectly executed the Certificate of Exemption, the Department will assess the purchaser for any sales and use tax liability due. Dealers must retain this Certificate of Exemption for inspection by the Georgia Department of Revenue. In the event the Certificate of Exemption is not provided at the time of audit, the dealer will be liable for any tax, interest, and penalty determined to be due.

The Performance Audit Division was established in 1971 to conduct in-depth reviews of state-funded programs. Our reviews determine if programs are meeting goals and objectives; measure program results and effectiveness; identify alternate methods to meet goals; evaluate efficiency of resource allocation; assess compliance with laws and regulations; and provide credible management information to decision makers. For more information, contact us at (404)656-2180 or visit our website at www.audits.ga.gov.