



Foreign Trade Zones

A Georgia Case Study

What are Foreign Trade Zones?

- ▶ Under the *19 U.S. Code, paragraphs 81a-81u*, a foreign trade zone is.....

- ▶as directed by the Dept. of Homeland Security, Foreign Trade Zones are secure areas controlled by the U.S. Customs and Border Protection (CBP), that are generally located outside **CBP Ports of Entry**.....

.....where both foreign and domestic merchandise may be stored, exhibited, assembled, processed and/or manufactured, not subject to federal custom duties and excise taxes as well as local and state taxation.

These zones provide for the uninterrupted interstate transit of goods, by allowing for value added activities, again without adding duties and local taxes otherwise applicable. The direct activity of “*retail sales*” is **prohibited (sec 81.o.d)** within the FTZ’s.

- ▶ In Georgia, under the *Official Code of Georgia, Section 48-5-5*, Acquisition of Situs by Foreign Merchandise in Transit...
“Foreign merchandise in transit shall acquire no situs so as to become subject to ad valorem taxation by political subdivisions **of this state** in which the port of entry or export of such merchandise is located.”

- ▶ **In Georgia there *are 3 primary FTZ's....***
- ▶ **FTZ # 26 – The Port of Atlanta (H-J AP)**
- ▶ **FTZ # 104 – The Port of Savannah**
- ▶ **FTZ # 144 – The Port of Brunswick**

GEORGIA

FTZ #26
Port of Atlanta
Hartsfield-Jackson



FTZ #104
Port of Savannah



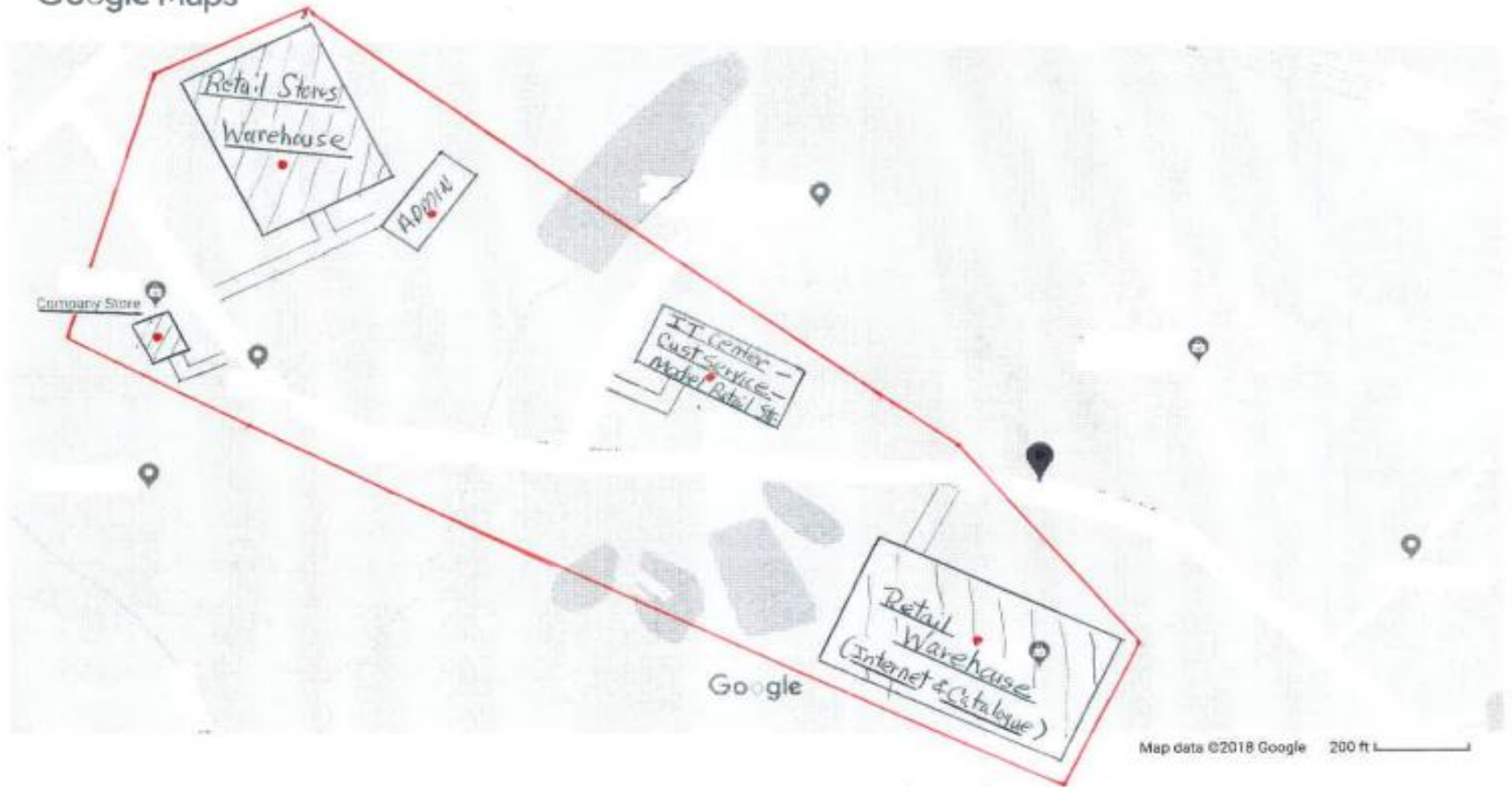
FTZ #144
Port of Brunswick



▶ A Georgia Case Study.....

- 1. National Retailer of Women's Clothing & Accessories.
- 2. Imports all Merchandise from Asia & China
- 3. **In FTZ** – Warehouse 1: Distribution to Stores
- 4. Warehouse 2: Ships to Internet Customers
- 5. Have a Retail Call Center & Model Retail Store
- 6. Administrative Offices
- 7. 112 Acres identified in FTZ as defined by CBP.

Google Maps



ORIGINAL FOREIGN TRADE ZONE

▶ *The Personal Property Issue...*

- ▶ It openly appears, that “*Retail Sales*” are being conducted within the boundaries of the FTZ....which are *strictly prohibited* by the CBP and the Georgia FTZ Association....
- ▶ *Are these inventories supporting direct retail sales now assessable by the County BOA.....?*

- ▶ While there is little to no Georgia Case Law to support the assessment or exemption of FTZ inventories at retail, here are 4 Case Law decisions or FTZ Rulings that help determine taxability.....

- ▶ 1. U.S. Supreme Court: **Minnesota v. Blausius** **290 U.S. 1 (1933)**: *Issue*: Are consigned cattle moved from one state to another taxable as transported...? Response stated “**continuity of transit**” is crucial question. If interstate transit is “interrupted” and the “continuity of transit” is broken, then local assessment may attach. *Establishes uninterrupted continuous interstate transit requirement.*

- ▶ **2. Los Angeles Tile Co. v. Chatham County Board of Tax Assessors** – Georgia Court of Appeals, June 28, 1993. *Issue*: When property “*comes to rest*” within a state and held there at the owner’s pleasure, so he can dispose of it as his interest dictates, it is deemed to be part of general property subject to local taxation. (An interruption of continuous interstate transit.)

- ▶ **3. Headquarters Ruling 217330 – 10/5/84:**
- ▶ This “ruling” concerning imported autos, stored and delivered from an FTZ storage lot directly to the retail customers. **Decision:** Local taxability did not attach because “*transfer of title*” and delivery by contract, occurred outside of the FTZ boundaries.

▶ U.S. International Trade Commission Ruling

4. Coach, (handbag mfgr & retailer) shipped from Jacksonville, Fla. handbags to stores & directly to customers, a retail sale to the end user. *Issue*: Is inventory taxable? **Ruling**:

No, Coach neither had a retail store nor salesmen in the FTZ...merely shipped from FTZ. **Sale & title transfer were made O/S of FTZ**. Inventories are exempt...

- ▶ So, in this GA case study, were “retail sales” affirmed and did taxability attach?
- ▶ **Answer:** No. One year after the original 112 acre FTZ was drawn up and approved, *a modification was submitted and approved by CBP limiting the FTZ boundaries to just 2 buildings... Warehouse 1 and 2.* The call center and model store were now outside of the FTZ where sales and title transfer took place.

▶ ***To Summarize.....***

1. Know the *exact boundaries of the FTZ* as approved by the CBP.
- ▶ 2. Question if the “*continuity of interstate transit*” *has been interrupted*, for the benefit of the owner? (*Has 48-5-5 been violated?*)
- ▶ 3. Determine if retail sales are made within the FTZ *evidenced by* transfer of title and end user delivery.
- ▶ **In general, FTZ’s mean exempt inventories.**

▶ Thanks Again for your attention and support today in our continuing North District GAAO education program. I hope you all learned something new today about Georgia personal property and the application of sound valuation policies and procedures.

▶ **With Our Personal Thanks !!**

Chuck Vrshek

▶ **Traylor Business Services, Inc.**