SEYFARTH SHAW LLP
ATTORNEYS

# TRENDS
## in projects and incentives

**Daniel M. McRae**

Seyfarth Shaw LLP

404-888-1883

dmcrae@seyfarth.com

danmcrae.com

FACEBOOK
http://facebook.com/danmcrae68

LINKEDIN
http://linkedin.com/in/danmcrae2

TWITTER
@McRaeDan


December 2016

# FIRST- THE BIG QUESTION
# WHY DO WE USE
# BONDS FOR TITLE?

©2016 Seyfarth Shaw LLP

# WHY- BONDS FOR TITLE

- PROPERTY TAX ABATEMENT IS A LOCAL INCENTIVE
  - A TRANSACTION IS REQUIRED BECAUSE OF THE STATE CONSTITUTION
    - "UNIFORMITY OF TAXATION"
    - NO "GIFTS OR GRATUITIES" FROM PUBLIC SECTOR TO PRIVATE SECTOR
      - A BOND IS PART OF THE BARGAIN THAT JUSTIFIES GRANTING THE PROSPECT A $1 PURCHASE OPTION ON THE PROJECT WHEN IT CONVEYS THE PROJECT TO THE DEVELOPMENT AUTHORITY
      - WITHOUT THAT…

      “A gift of any portion of access rights to the property owner would be a prohibited gratuity under the Constitution…” Op. Ga. Att’y Gen. No. 97-14 (April 7, 1997)(GDOT wanted to reconvey access rights to the property owner from whom GDOT had originally acquired the property).

 ©2016 Seyfarth Shaw LLP

# WHY- BONDS FOR TITLE

- ALSO WANT TO AVOID TAXPAYER SUITS OVER "SHAMS“
  - SOME QUOTES FROM THE ATTORNEYS FOR THE PLAINTIFF TAXPAYER AND THE DEVELOPMENT AUTHORITY AFTER THE GEORGIA SUPREME COURT RULED IN FAVOR OF THE COUNTY’S 10 YEAR RAMP-UP TAX SAVINGS FORMULA
  - PLAINTIFF: "would expect continuing assaults on this illegal tax abatement scam, not only in Fulton County, but also in Cobb where it is starting to grow like black mold."
  - DEVELOPMENT AUTHORITY: “They might try to go after discrete projects arguing as to whether or not the ramp-up fits the specific transaction in future bond deals…”
    Source: Fulton Daily Report
- THE BOND STRUCTURE IS PART OF LEASEHOLD VALUATION
  - FROM AN AGREEMENT WITH THE ASSESSORS RELATED TO FULTON COUNTY’S FORMULA: [The] ten (10) year schedule… has been determined based on the precedent established in the Harris Case and utilizes approximate percentages to reflect the discounted cash flow analysis, with a seven percent (7%) discount rate over the successive years of said ten (10) year schedule…”

 ©2016 Seyfarth Shaw LLP

# IT'S NOT JUST GEORGIA!



## *Industrial Revenue Bond/ Tax-Exempt Entity Ownership*

- Typically an arrangement structured where a tax-exempt entity holds title to a new facility
- Could allow the tax-exempt entity to construct the facility free of property tax and sales tax
- Actual project owner would enter into a lease with the tax-exempt entity for a certain number of years, may be up to 30
- Property taxes are not assessed; however, PILOTs would typically be made as lease payments
- Everything is negotiated in advance
- This arrangement is typically found states that allow local tax exempt entities the abilities to enter into such arrangements, including Arkansas, Georgia, Louisiana, Tennessee, and Texas

NO SALES TAX EXEMPTION OCCURS IN GEORGIA

ACTUAL TAXES APPLY IF LEASEHOLD VALUATION USED

ALSO KANSAS AND MISSOURI

# MACRO TRENDS

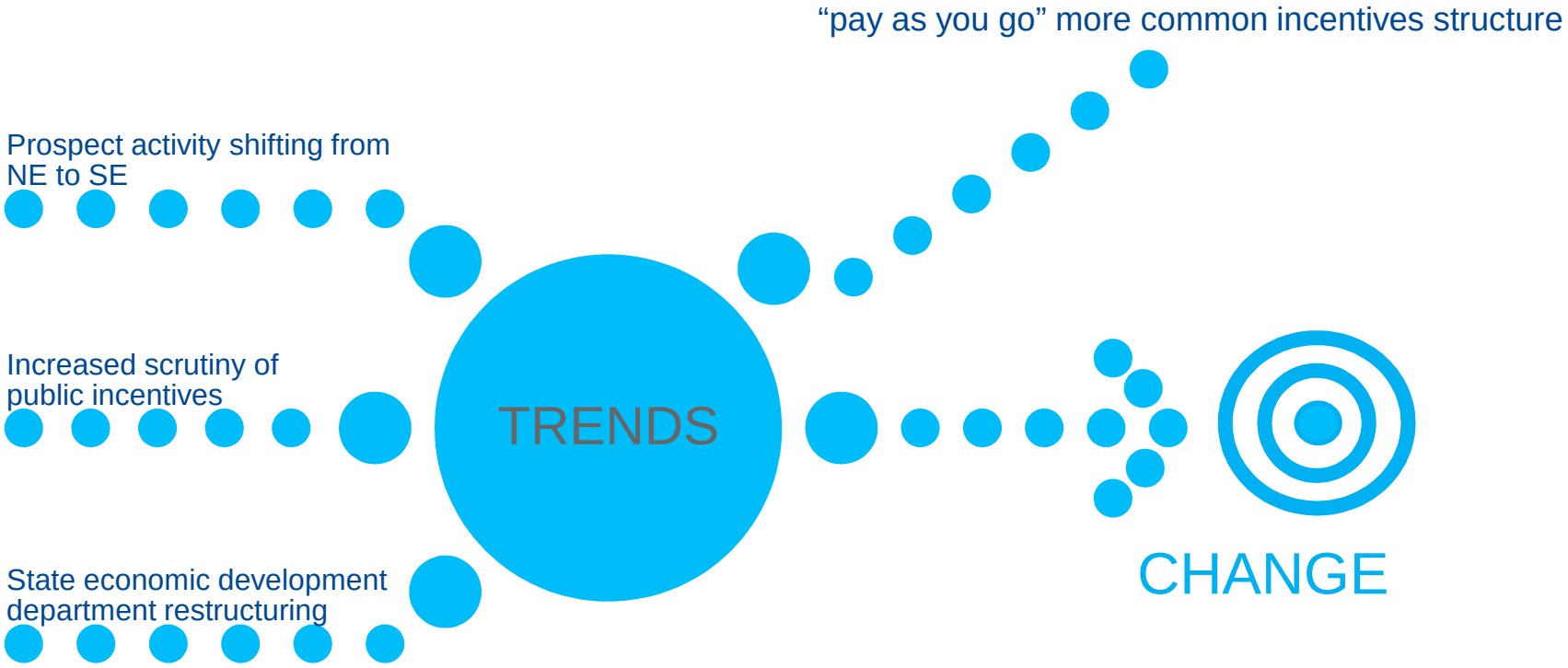
©2016 Seyfarth Shaw LLP

# TRENDING
## IN ECONOMIC DEVELOPMENT

©2016 Seyfarth Shaw LLP

# CHANGE IS GOOD

## YOU GO FIRST




FL- Enterprise Florida
MD- Dept. of Bus. & Econ. Devel. -> Dept. of Commerce
NC- Dept. of Commerce -> Econ. Devel. Partnership

**Data Source:**
Paul Lo, Ryan, and Matt Lowell, Ryan
**Data Visualization:**
Dan McRae

©2016 Seyfarth Shaw LLP

# SOMETIMES CHANGE IS NOT OUR FRIEND

## FAIL OR SUCCEED?

INCENTIVES GURUS KNOW WHAT WILL HAPPEN
WHEN STATES CHANGE THEIR INCENTIVES POLICIES

### POLICIES AND POLICY CHANGES

- Florida, North Carolina, and Louisiana are at risk
- Alabama, Mississippi and Georgia are well positioned
- The “at risk" states are cutting back on incentives
  - Cuts can involve both statutory incentives (credits) and discretionary incentives (grants)
- The "well positioned” states are expanding or preserving effective incentives
  - Both statutory and discretionary

### UNINTENDED CONSEQUENCES

- Cut backs can be due to policy changes (to lower overall tax rate) or fiscal issues (balance the budget)
- Either way, there is blowback
- Incentives alone don’t locate an economic development project
- But there is no substitute for them
- And incentives are what the public wants

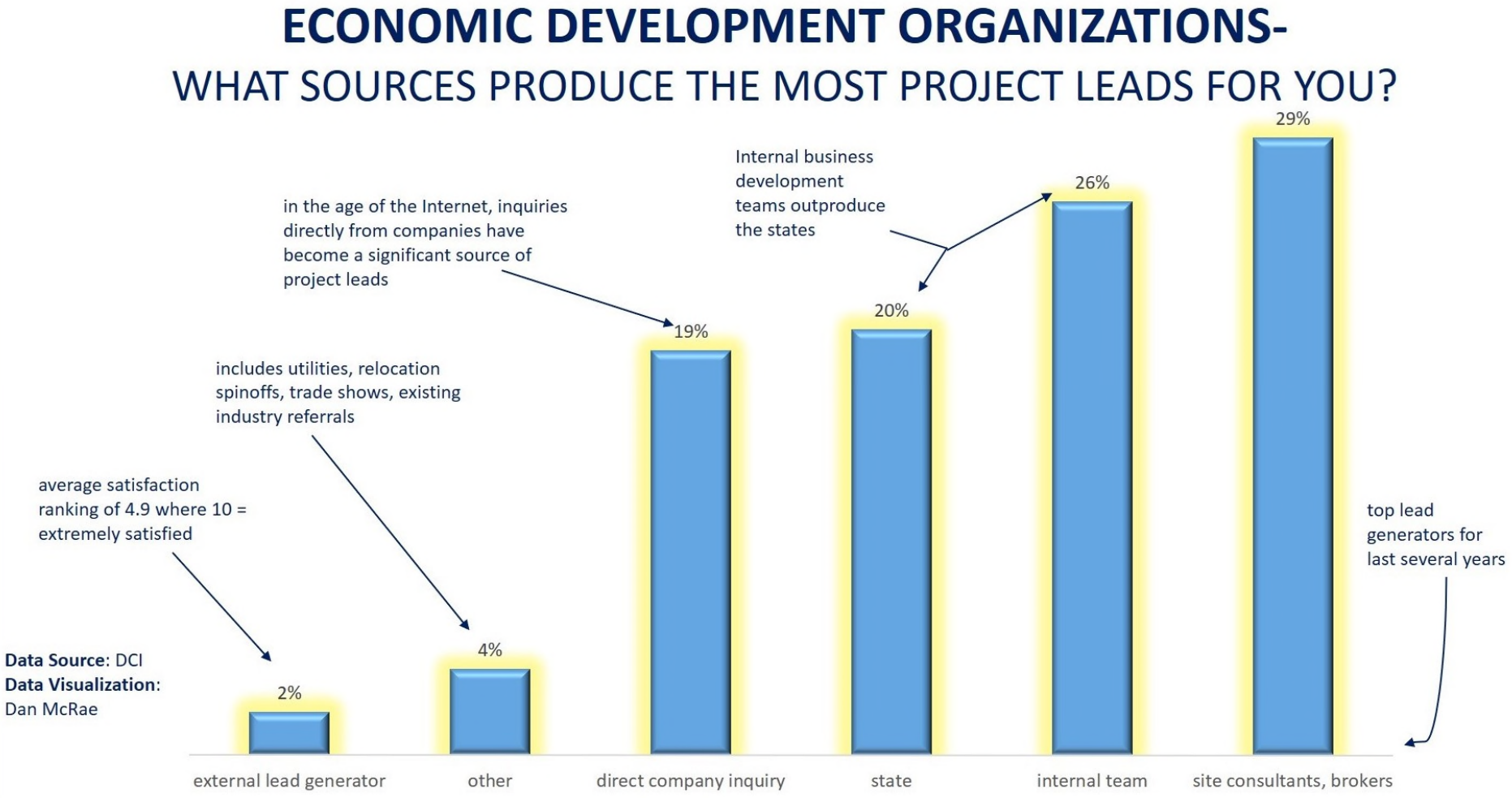
### 6 REASONS WHY WE WILL ALWAYS HAVE INCENTIVES

- Even if the dollars are the same, the public supports tax code incentives over outright governmental spending
- The public believes tax expenditures are cheaper than equivalent spending programs
- Simplification of a program does not affect the public's view
- But "who benefits" does matter
- Partisanship and ideology matter
- Keeping in place programs that are already publicly accepted also does seem to matter

Data Sources for 6 reasons: Conor Clarke; Smart Incentives
Data Visualization: Dan McRae

©2016 Seyfarth Shaw LLP

# WHAT'S WORKING WITH LEAD GENERATION?



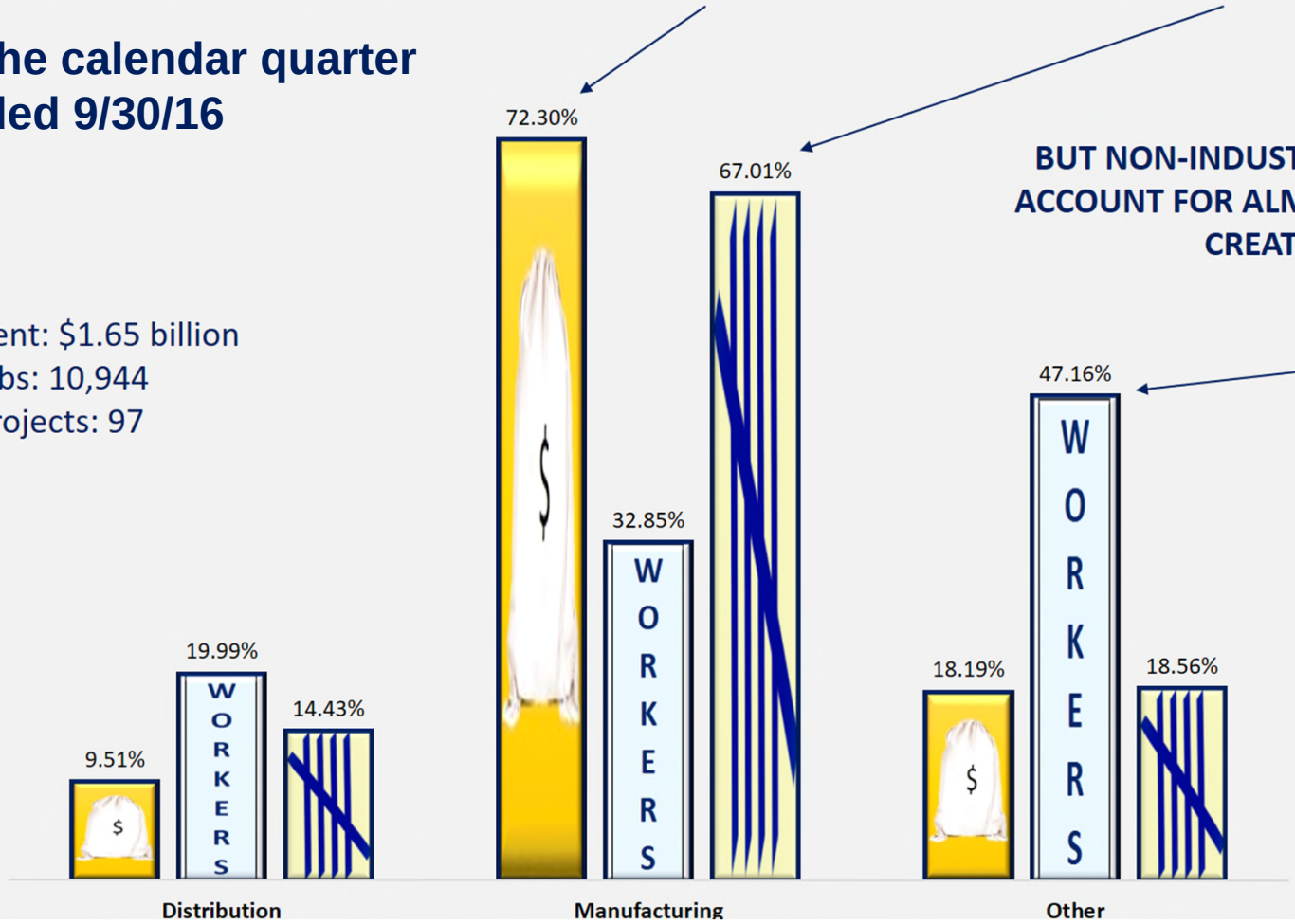

©2016 Seyfarth Shaw LLP

# THIS DATA IS HELPFUL FOR GOAL SETTING

## MANUFACTURING PROJECTS ACCOUNT FOR 3/4 OF INVESTMENT AND 2/3 OF PROJECTS

**in the calendar quarter ended 9/30/16**

Total investment: $1.65 billion
Total Jobs: 10,944
Total projects: 97




**BUT NON-INDUSTRIAL PROJECTS ACCOUNT FOR ALMOST 1/2 OF JOB CREATION**

**Data Source**: GDEcD; some classification assumptions made
**Data Visualization**: Dan McRae

©2016 Seyfarth Shaw LLP

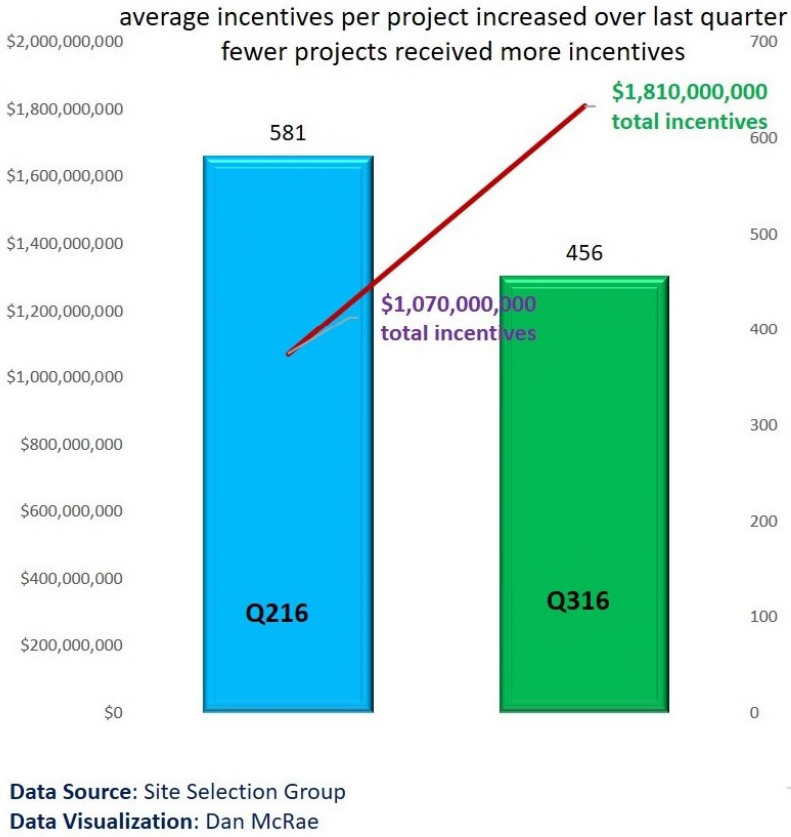
# THE INCENTIVES DILEMMA
# “HOW MUCH IS ENOUGH”

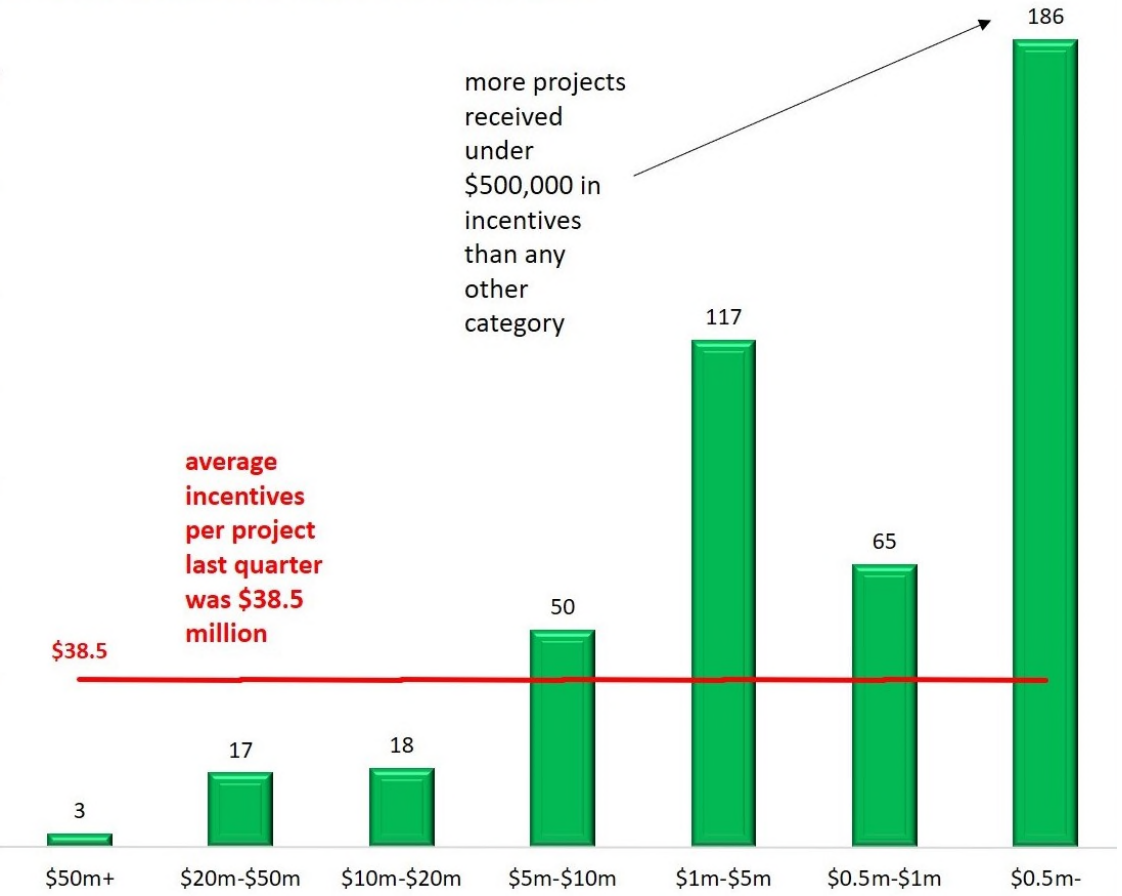
©2016 Seyfarth Shaw LLP

# THE BREAKING POINT
## ACROSS THE NATION

### $5 MILLION IS THE BREAKING POINT IN ECONOMIC DEVELOPMENT INCENTIVES

81% OF PROJECTS RECEIVED THAT AMOUNT OR LESS




**Data Source**: Site Selection Group
**Data Visualization**: Dan McRae

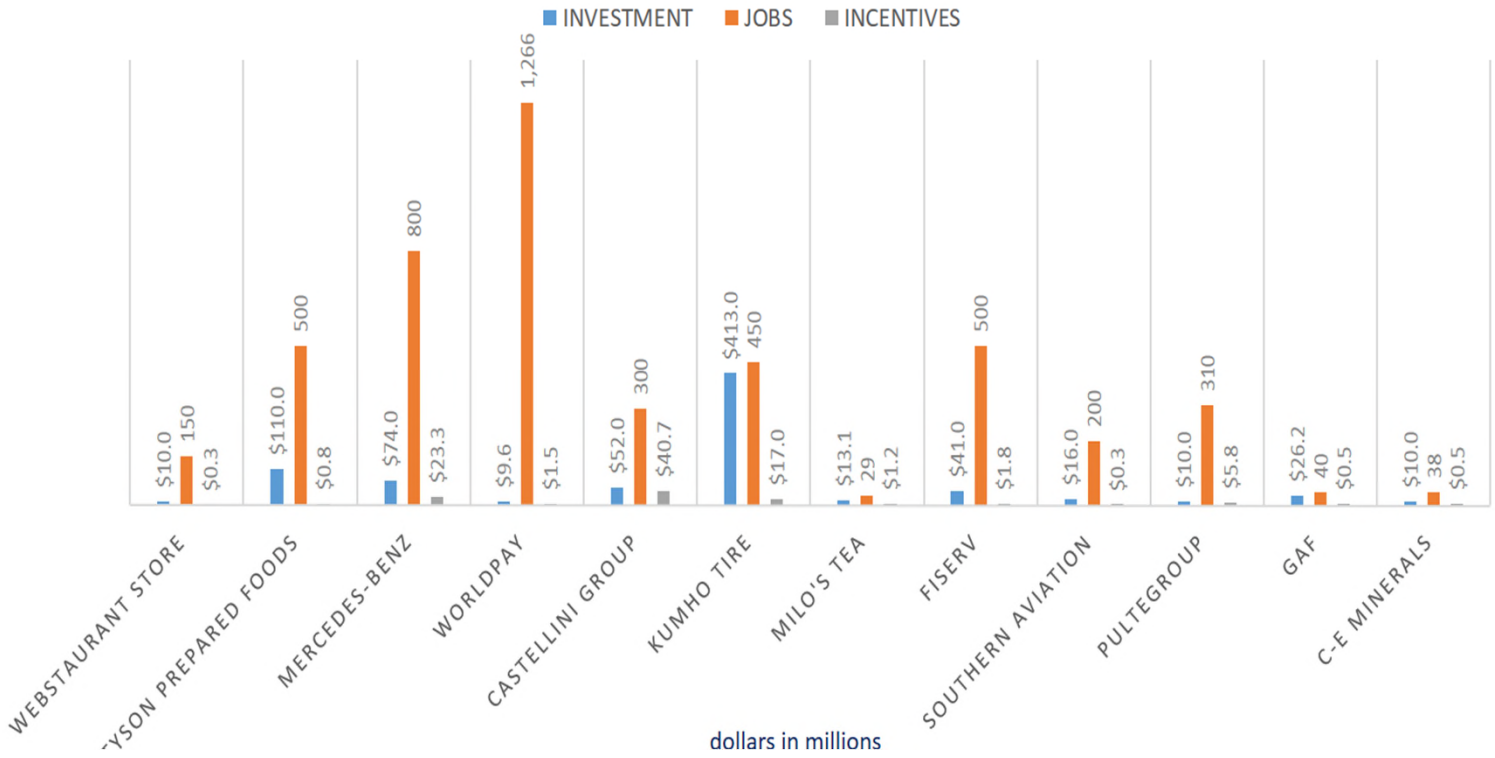
©2016 Seyfarth Shaw LLP

# INCENTIVES IN GEORGIA

## INCENTIVES GURU

KNOW THE MARKET

WHAT IS THE INCENTIVES VALUE OF A PROJECT?




Data Source
Cushman & Wakefield: "Georgia's Most Recently Awarded Incentives" (2015)
Data Visualization
Dan McRae

# HOW ABOUT LOCALLY?

Tax Savings
- Retained by Company

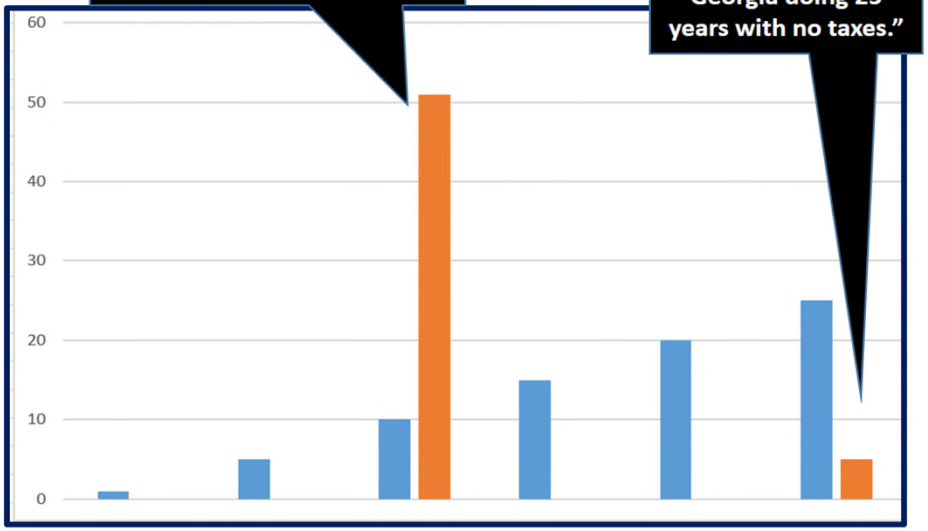
Payments In Lieu Of Taxes
- Paid to Development Authority

"PILOT fees are paid to the Rome-Floyd County Development Authority. The Authority uses the money to fund environmental studies at potential industrial sites and extend infrastructure — water, sewer, gas lines, access roads — to sites."

HOW DO YOUR COMMUNITY'S INCENTIVES COMPARE TO ROME, GEORGIA?

"Ten years with no taxes is almost the norm in this current frenzy."

"There are communities in Georgia doing 25 years with no taxes."



"Rome and Floyd County have so far not been willing to give away land."

Data source: http://www.northwestgeorgianews.com/rome/business/competition-is-intense-to-attract-new-jobs-big-industries-to/article_11afc054-1960-11e6-b4d0-1f07ce6120cb.html?mode=jqm

©2016 Seyfarth Shaw LLP

# INTERNATIONAL PROSPECTS
## FOREIGN DIRECT INVESTMENT

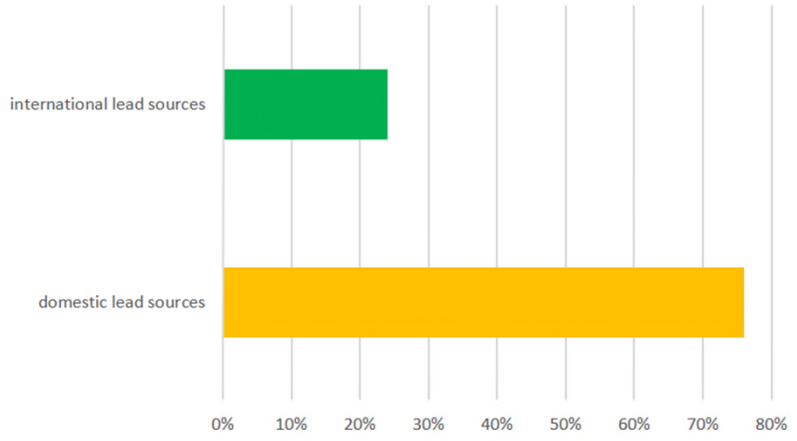
©2016 Seyfarth Shaw LLP

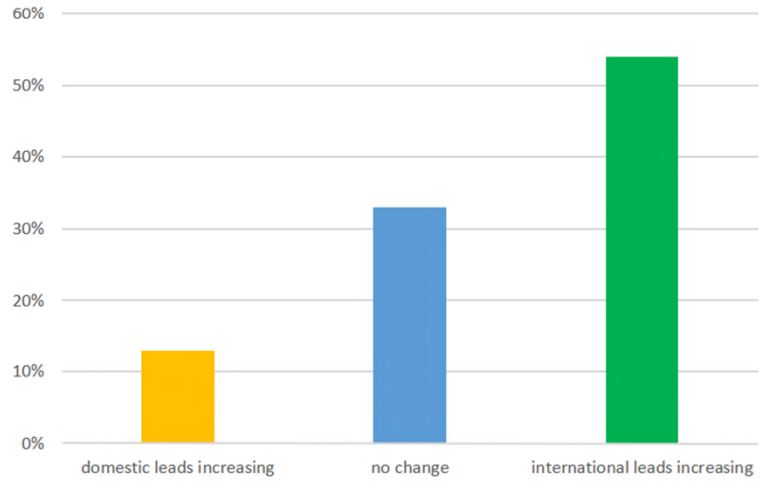
# FOREIGN PROSPECTS
## WHERE TO FIND THEM

### INTERNATIONAL PROJECTS

WHERE SHOULD A COMMUNITY LOOK FOR LEADS?

DOMESTIC SOURCES VERSUS INTERNATIONAL SOURCES



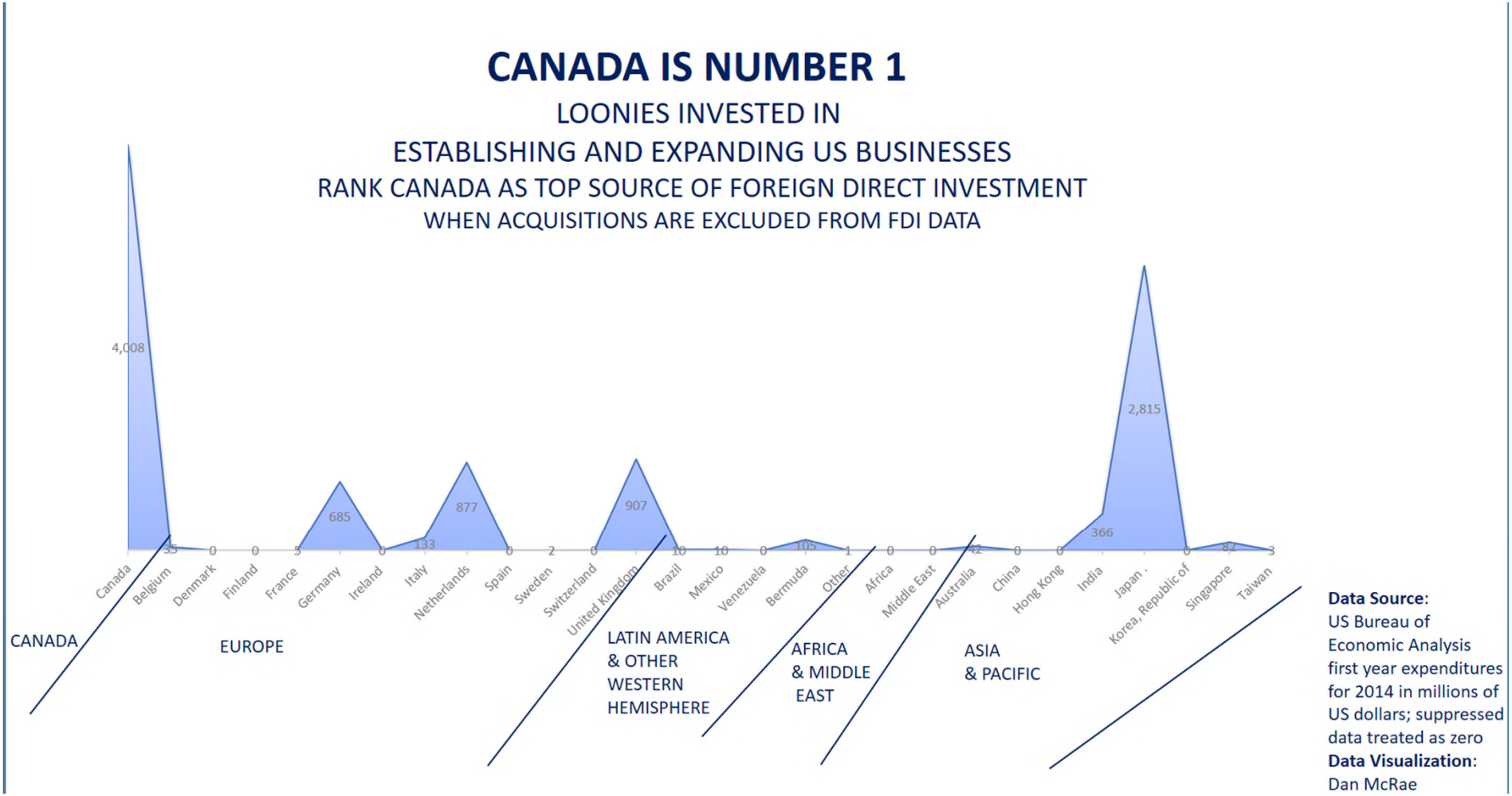

76% of foreign direct investment leads last year came from **domestic** sources

but over the last 3 years, 54% of communities are increasing their share of **international** leads for FDI

**Data Source:** DCI
**Data Visualization:** Dan McRae

©2016 Seyfarth Shaw LLP

# CANADA
# IS THE BEST BET FOR FDI
## ON A NATIONAL BASIS

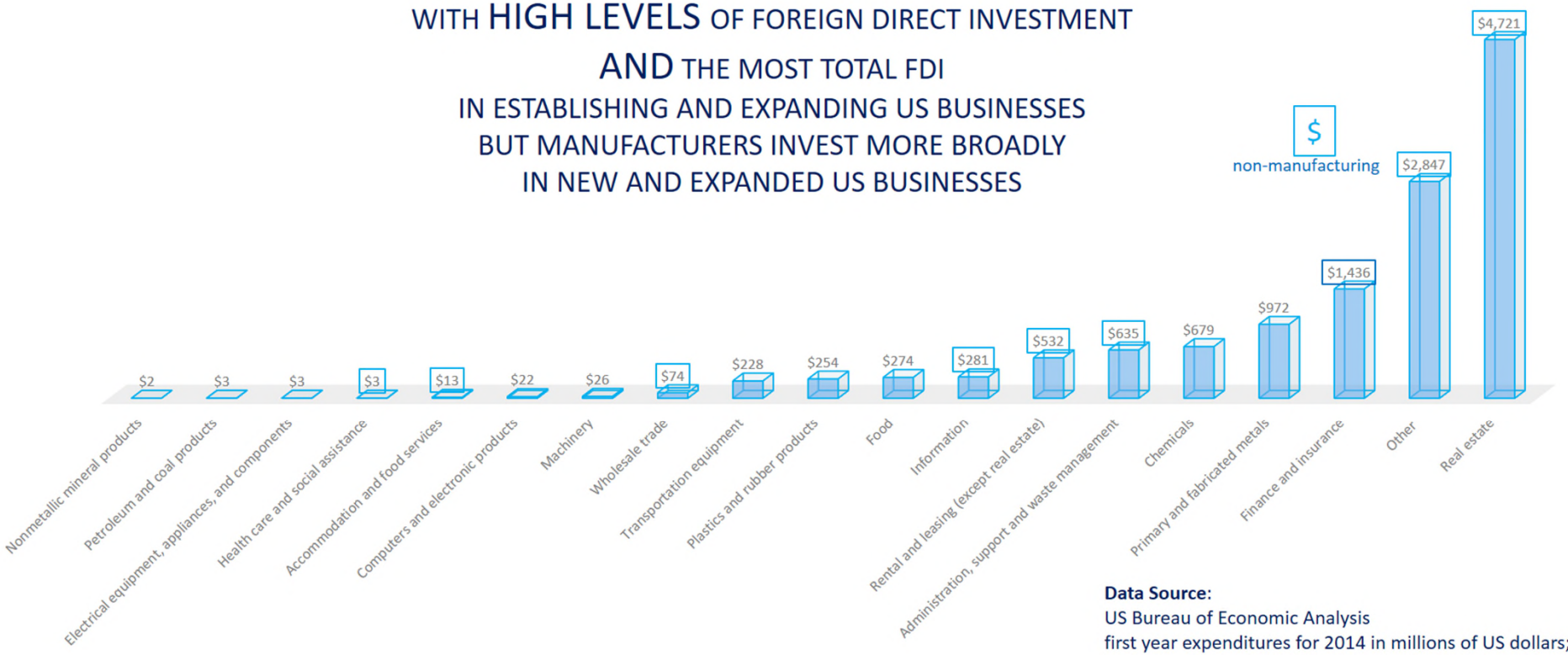



©2016 Seyfarth Shaw LLP

# WHAT TYPE
## OF FOREIGN INVESTMENT
### TO SEEK

## NON-MANUFACTURING HAS THE MOST SECTORS

WITH HIGH LEVELS OF FOREIGN DIRECT INVESTMENT
AND THE MOST TOTAL FDI
IN ESTABLISHING AND EXPANDING US BUSINESSES
BUT MANUFACTURERS INVEST MORE BROADLY
IN NEW AND EXPANDED US BUSINESSES




**Data Source:**
US Bureau of Economic Analysis
first year expenditures for 2014 in millions of US dollars;
suppressed data treated as zero except for totaling
**Data Visualization:** Dan McRae

©2016 Seyfarth Shaw LLP

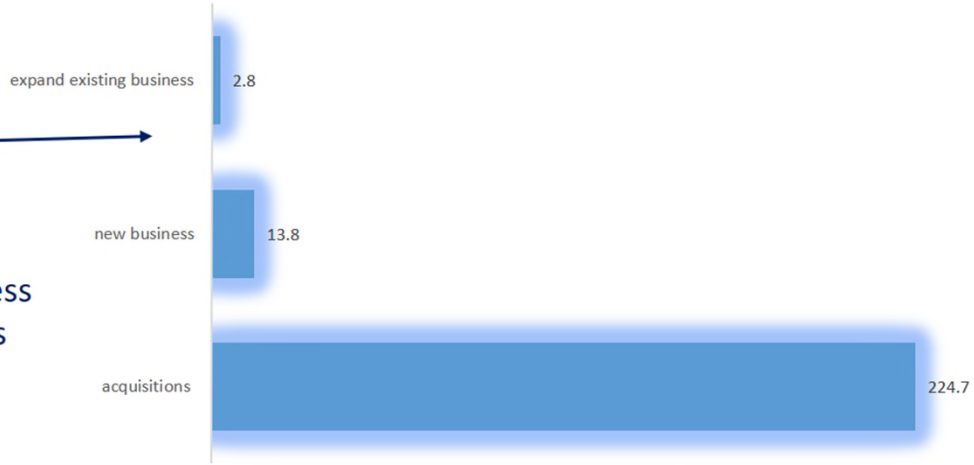
# A FOREIGN INVESTOR IS MORE LIKELY
## TO BUY YOUR EXISTING INDUSTRY
### THAN TO START A BUSINESS

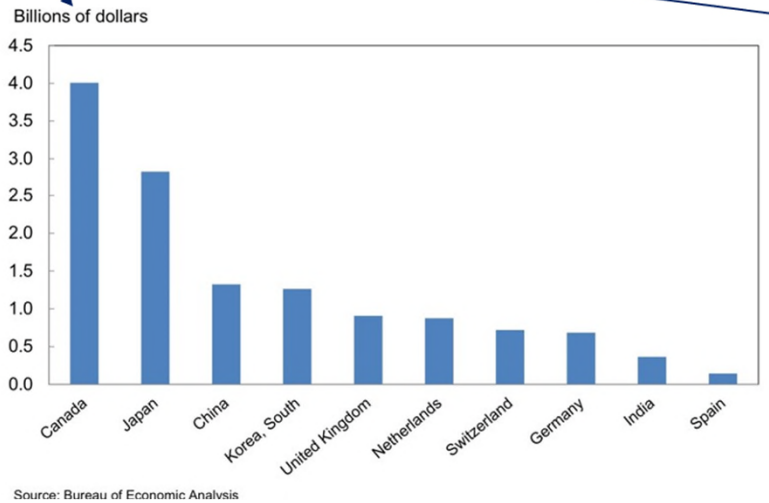
**Foreign Direct Investment**

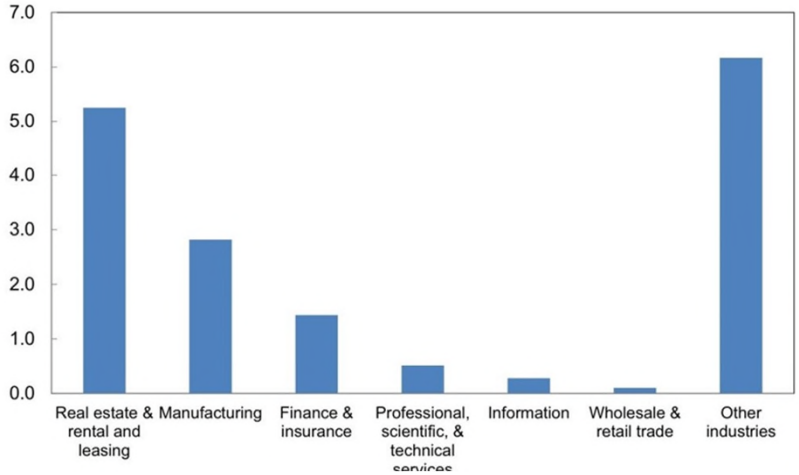
**These** charts show total foreign direct investment in the US.

But **this** chart shows less than 10 cents out of every dollar is invested in establishing or expanding a business

Over 90% of all FDI goes into acquiring US businesses



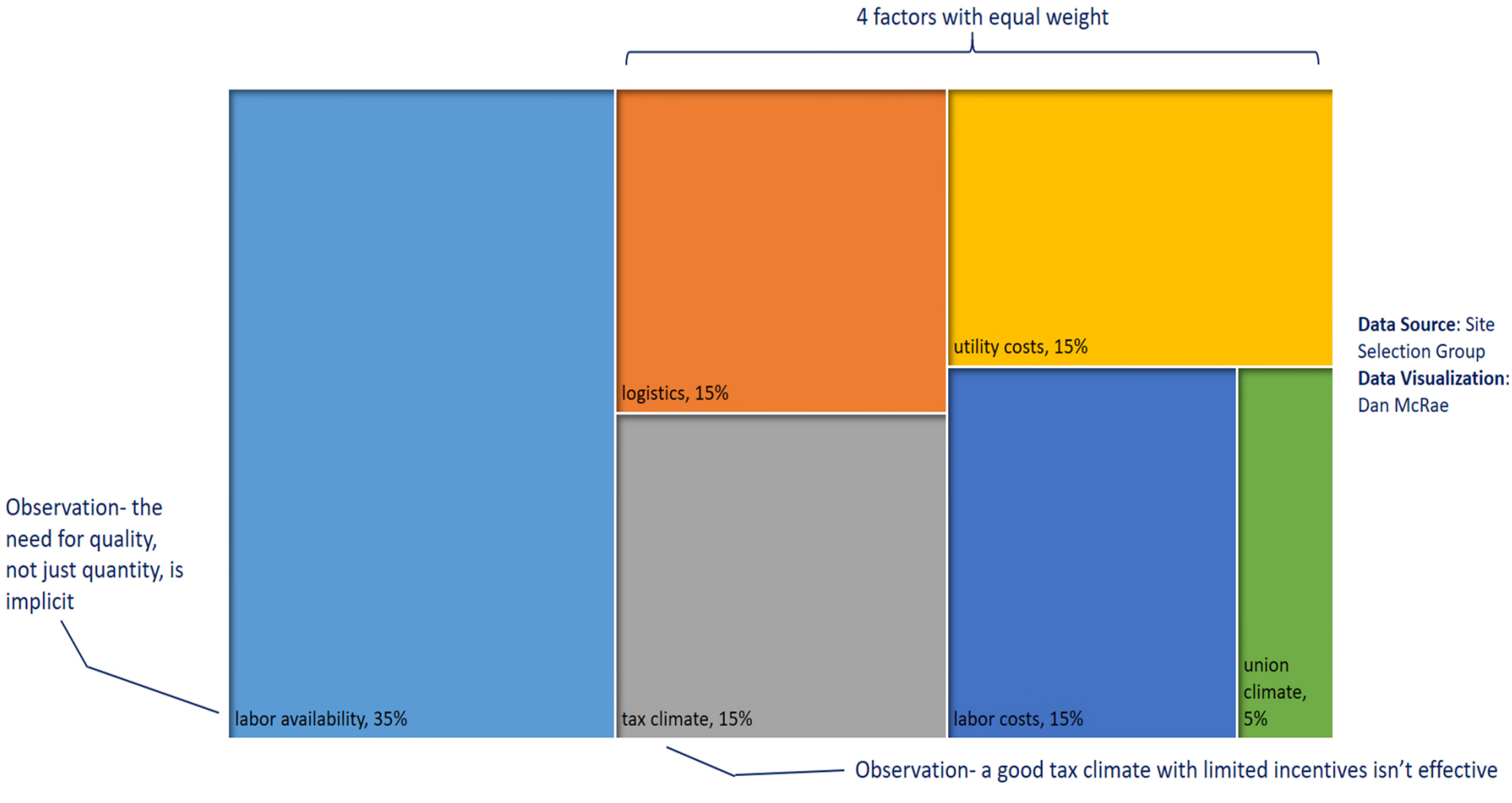

Data Source: US Bureau of Economic Analysis
for 2014 in billions of dollars
Data Visualizations: source and sector- BEA
type of investment- Dan McRae

©2016 Seyfarth Shaw LLP

# MANUFACTURING

©2016 Seyfarth Shaw LLP

# WHAT'S IMPORTANT TO A MANUFACTURER IN SITE LOCATION?



# HOW WOULD A SITE LOCATION CONSULTANT EVALUTE YOU?

| Ranking Criteria | Weighting |
|---|---|
| Labor availability | 35% |
| Logistics | 15% |
| Tax climate | 15% |
| Utility costs | 15% |
| Labor costs | 15% |
| Union climate | 5% |

Source: Site Selection Group

# WORKFORCE DEVELOPMENT IS THE KEY
## TO
## HAVING A MANUFACTURING BASE

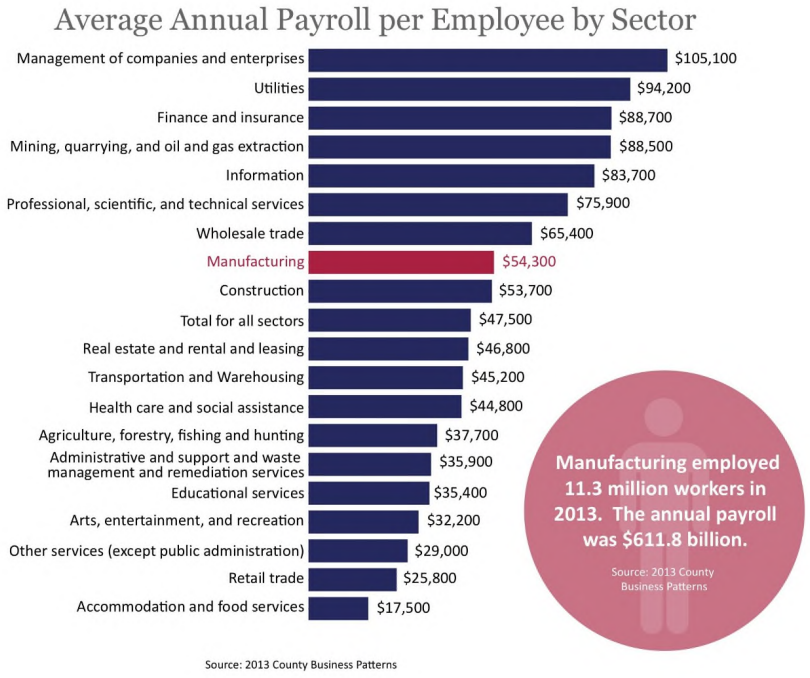
### MANUFACTURING QUESTIONS FOR "JEOPARDY"

30% of key workforce have at least BA degree

4th largest employer

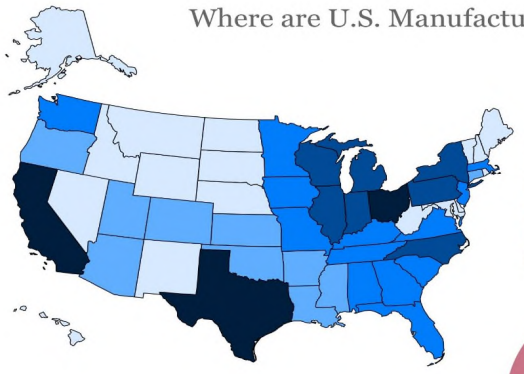
8th highest payroll

concentrated in Ohio, Texas and California



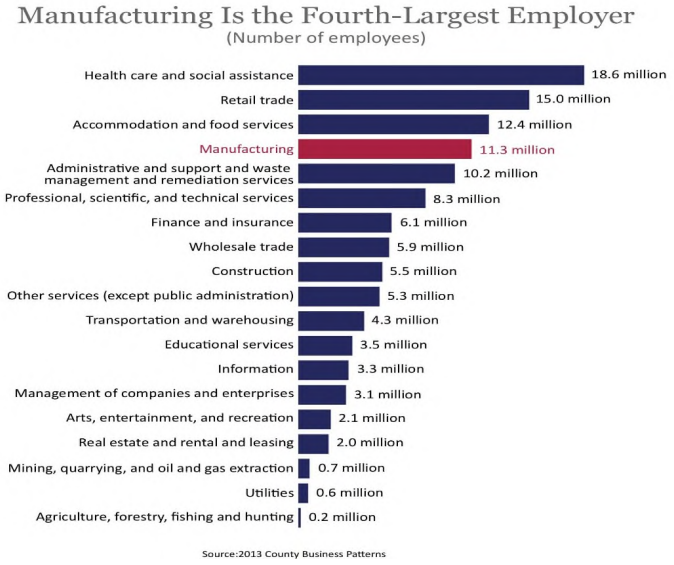

Manufacturing employed 11.3 million workers in 2013. The annual payroll was $611.8 billion.

Source: 2013 County Business Patterns




In 2013, 29.7 percent of manufacturing employees 25 and older had a bachelor's degree or higher.

Source: 2013 Current Population Survey




©2016 Seyfarth Shaw LLP

Data Source: Census Bureau

# HAVING A MANUFACTURING "HOT SPOT"

## IS A GOOD WAY TO GET MORE MANUFACTURERS LIKE THAT

**Manufacturers look for locations with**

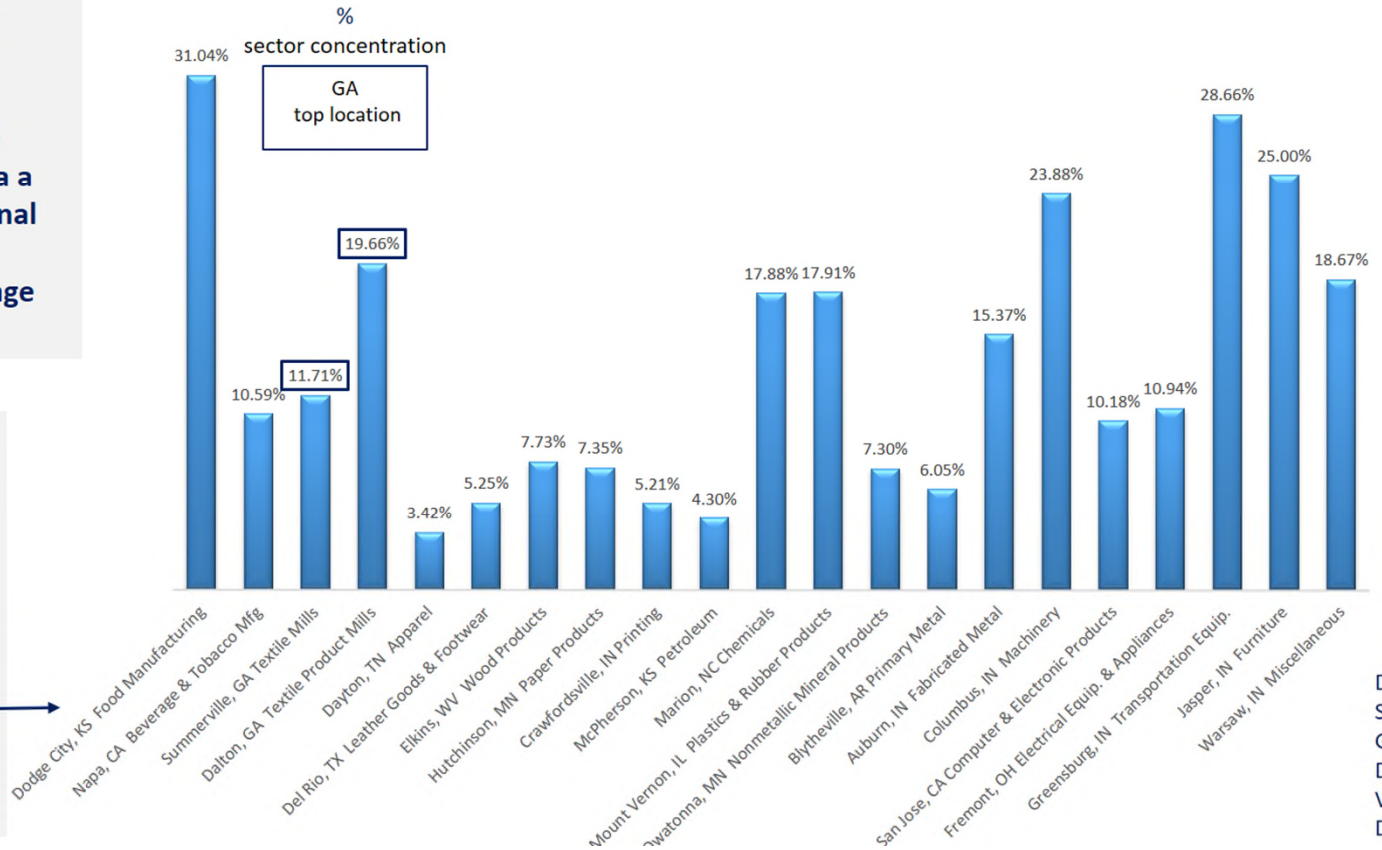
- **good existing manufacturing base**
- **pipeline of talent via a technical or vocational school**
- **low to moderate wage pressures**

**And many prefer areas where similar manufacturers have operations for clusters of unique processes and skill sets.**

**These cities are tops for total manufacturing employment and concentration in the associated sector.**

**MANUFACTURING HOT SPOTS**

WHERE HIGHEST MANUFACTURING EMPLOYMENT COMBINES WITH MOST CONCENTRATED SECTORS




Data Source: Site Selection Group
Data Visualization: Dan McRae

©2016 Seyfarth Shaw LLP

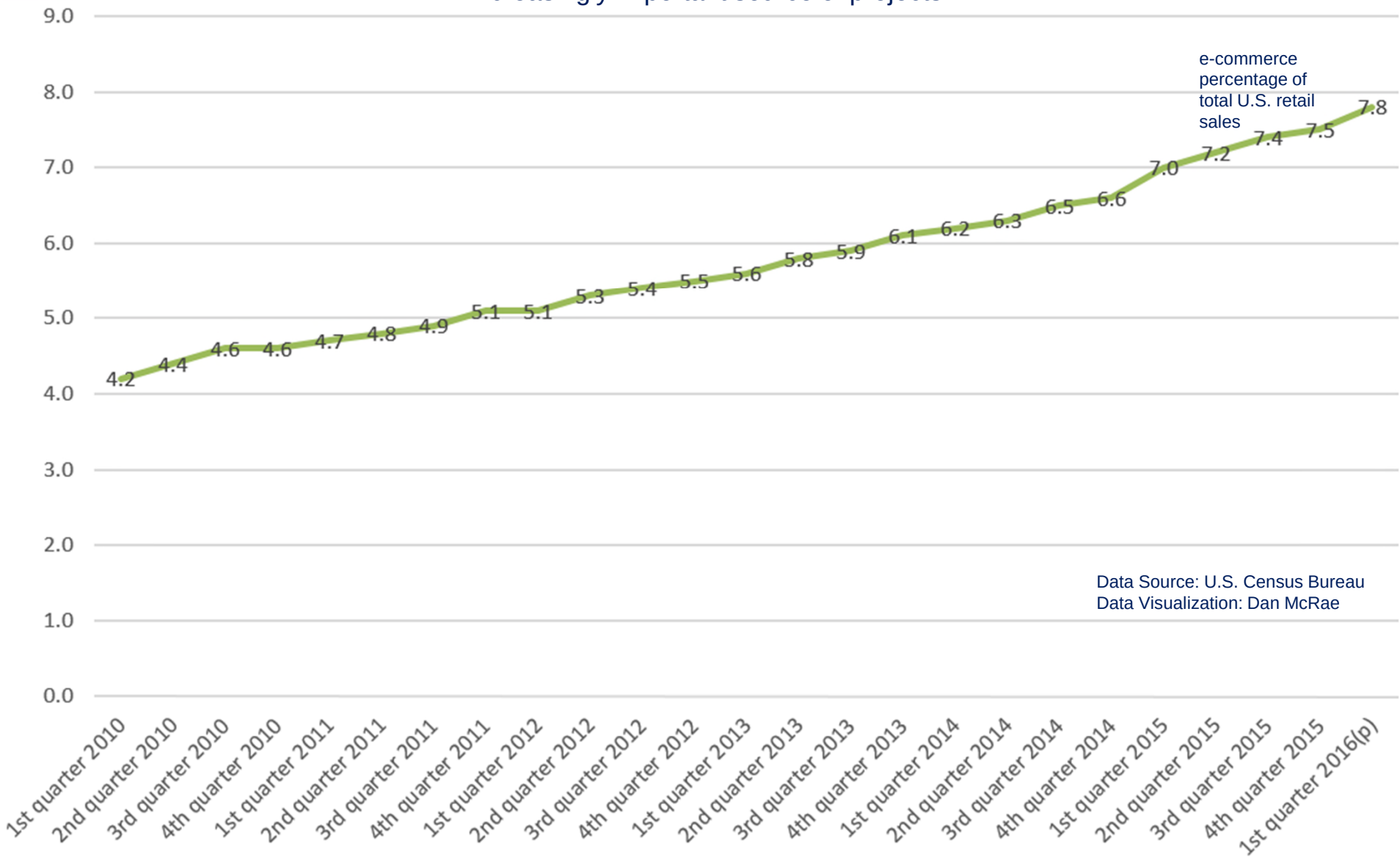
# E-COMMERCE

©2016 Seyfarth Shaw LLP

# E-COMMERCE GAINS MARKET SHARE

ALMOST DOUBLES OVER 6 YEARS

An increasingly important source of projects




Data Source: U.S. Census Bureau
Data Visualization: Dan McRae

# E-COMMERCE MEANS

## WIDER-SPREAD DISTRIBUTION PROJECT OPPORTUNITIES

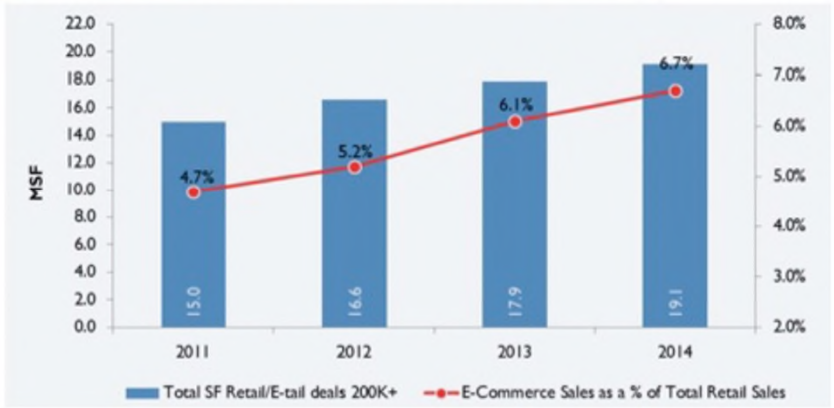
## GO SMALL, OR GO HOME

### E-COMMERCE IMPACT ON COMMERCIAL REAL ESTATE

- Mega-big boxes landing well outside major metropolitan areas
- Mid-sized distribution/fulfillment centers seeking to locate inside the "ring of faster gratification"
- Medium to large sortation centers popping up within major urban centers to accelerate delivery and mitigate risks
- Small depots emerging seemingly on a corner near you, where the last mile really begins.

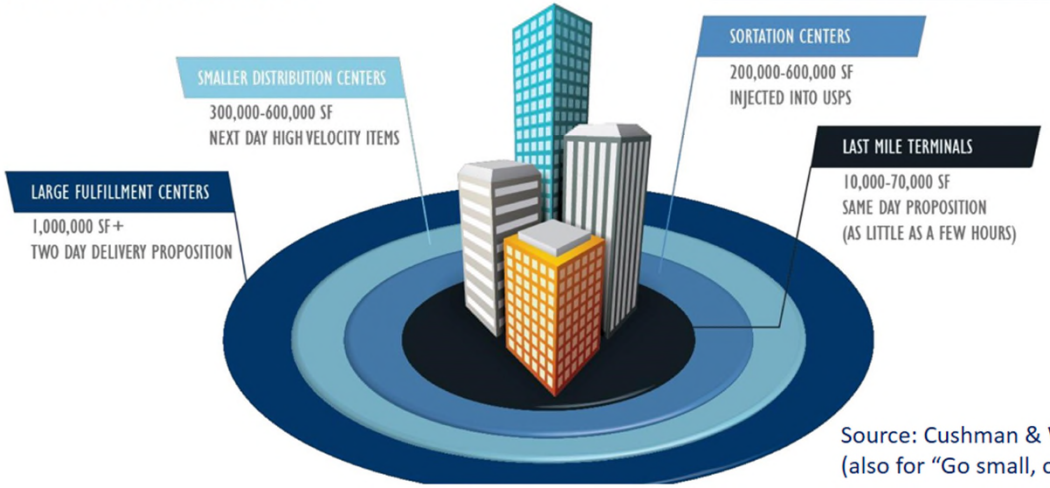
Source: Site Selection Magazine

U.S. E-COMMERCE ACTIVITY IN TOP U.S. INDUSTRIAL MARKETS




Source: Site Selection Magazine

THE RING OF GRATIFICATION




Source: Cushman & Wakefield
(also for "Go small, or go home.")

©2016 Seyfarth Shaw LLP

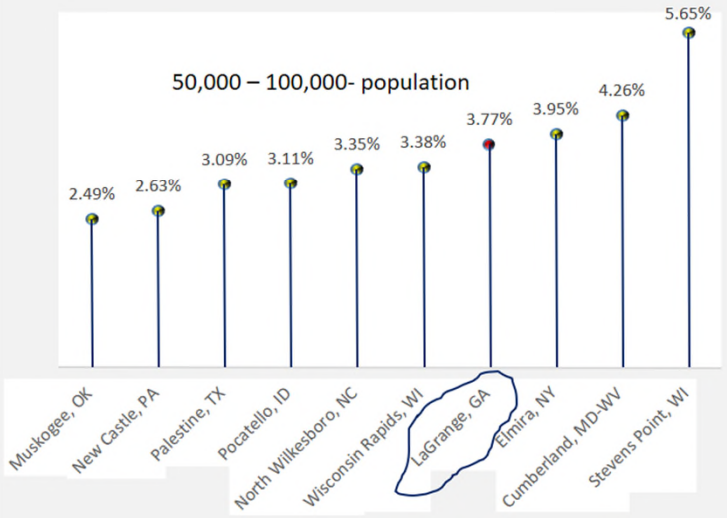
# CALL CENTERS

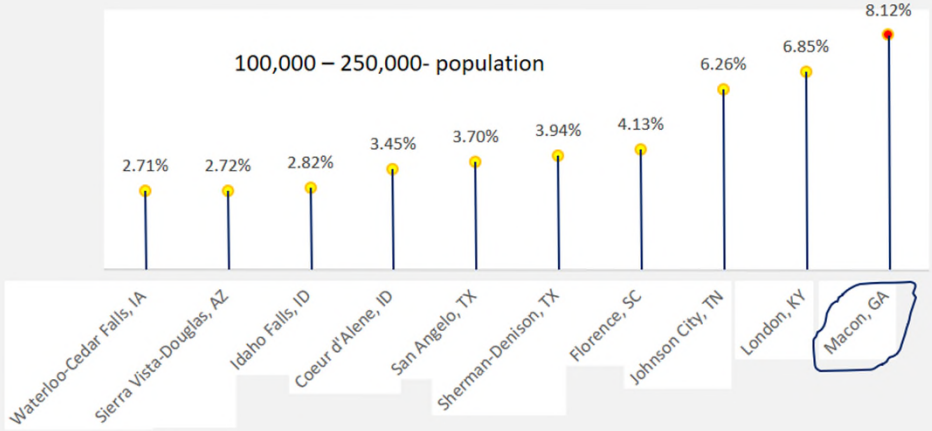
©2016 Seyfarth Shaw LLP

# CALL CENTERS
## WHAT'S IMPORTANT

**CALL CENTERS**

- **Georgia ranks 8 nationally (jobs and number of call centers)**
- **But in 3 out of 5 population categories a Georgia city is among the top 10 for saturation rate**
- **Not good- this is the percentage of call center workers compared to the commutable labor force**
  - **Sensitive to call center operators because labor is typically 80% of a center's operating budget**
  - **Could affect future site location decisions**




Data Source:
Site Selection Grou
Data Visualization:
Dan McRae

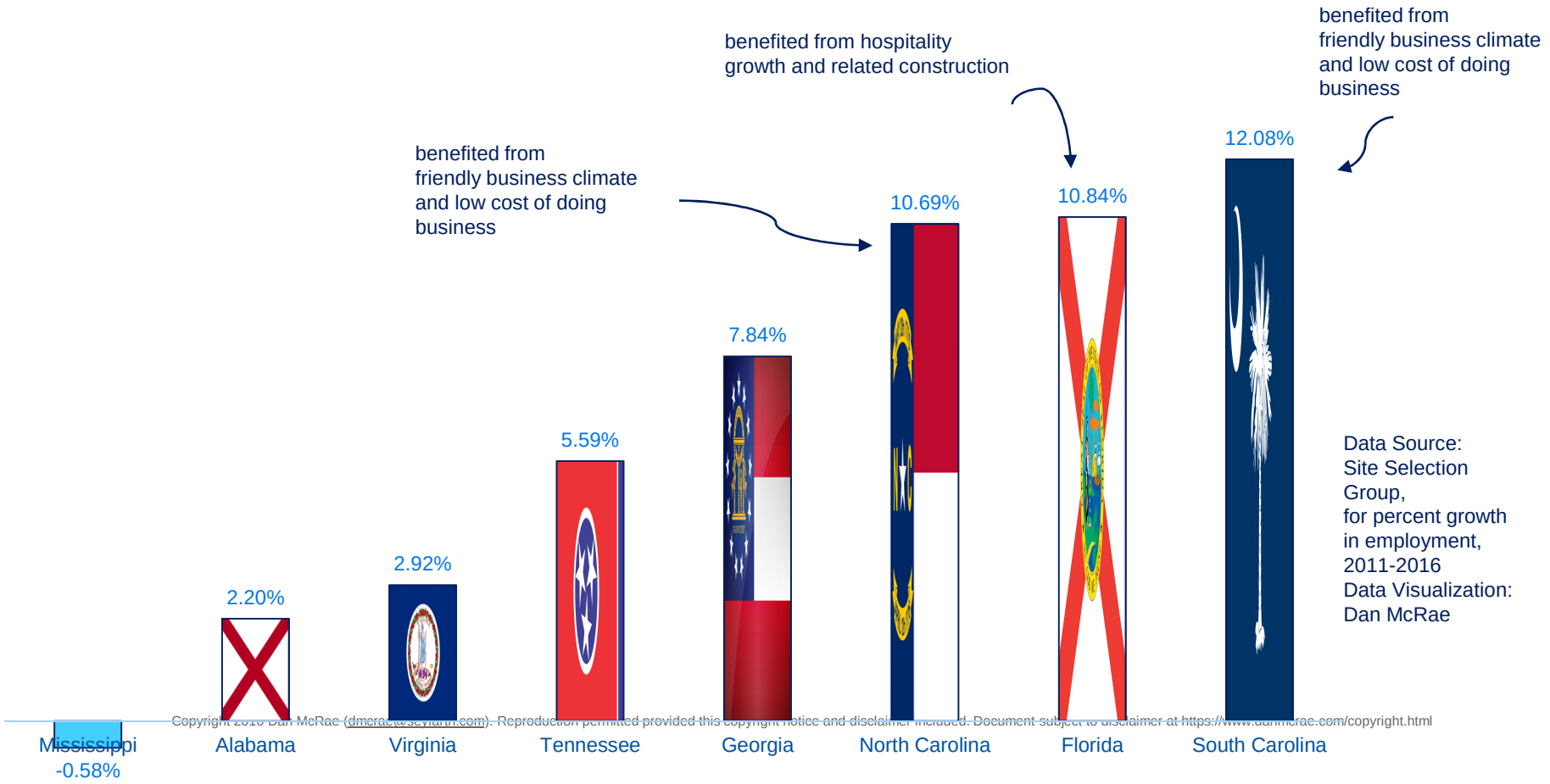
©2016 Seyfarth Shaw LLP

# COMPETITION IN THE REGION

©2016 Seyfarth Shaw LLP

# THE TEST RESULTS ARE IN

## WHICH STATES IN THE REGION HAVE SUCCESSFUL ECONOMIC DEVELOPMENT PROGRAMS MEASURED BY JOB GROWTH




Copyright 2016 Dan McRae (dmcrae@seyfarth.com). Reproduction permitted provided this copyright notice and disclaimer included. Document subject to disclaimer at https://www.danmcrae.com/copyright.html

©2016 Seyfarth Shaw LLP

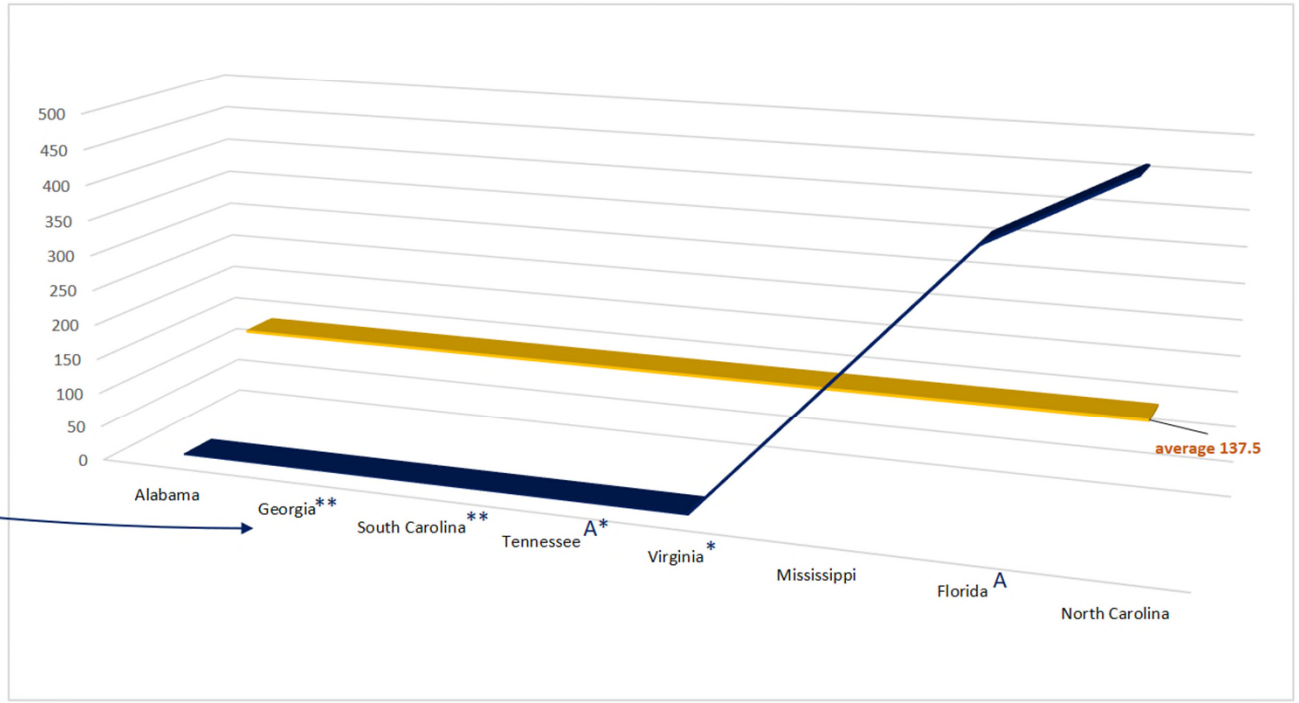
# FOREIGN DIRECT INVESTMENT

## IN OPERATING BUSINESSES

### NORTH CAROLINA, FLORIDA AND MISSISSIPPI

LEAD FOR 2015 IN JOBS CREATED FROM FOREIGN DIRECT INVESTMENT
IN NEW AND EXPANDED BUSINESSES
BEFORE ADJUSTMENTS

- empirical evidence suggests job creation under-reported to BEA
- Georgia announced 7,277 jobs from FDI in 2015
  - includes planned plus current employment




ADJUSTMENTS
* add < 50 jobs
** add < 100 jobs
A add 1-499 jobs
A* add 2-548 jobs

**Data Source:** Bureau of Economic Analysis, for 2015 for current employment in new and expanded businesses
**Data Visualization:** Dan McRae

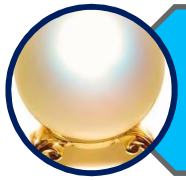
©2016 Seyfarth Shaw LLP

# IN CONCLUSION

©2016 Seyfarth Shaw LLP

# THE QUESTION TO ASK YOURSELF
## WHICH PROSPECT IS MY BEST BET?

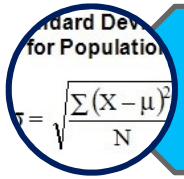
**Are there plans to relocate portions or all the business within the next few years?**



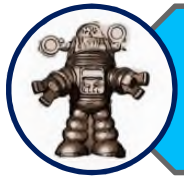
**What are the market predictions for your industry over the next few years?**

**What is the company's strategy for addressing market risks?**

**What is your company's rate of attrition?**




**Does the attrition vary by location, department, sector, etc.?**



**Are there plans to upgrade or automate?**

Data Source:
Mike Eickhoff, Grant Thornton; Brandon Hayes, Altus Group
Data Visualization: Dan McRae

©2016 Seyfarth Shaw LLP

# MORE INFORMATION

©2016 Seyfarth Shaw LLP

# QUESTIONS?

If you have any questions or comments on this presentation, please do not hesitate to let me know.

Daniel M. McRae, Partner
Seyfarth Shaw LLP
1075 Peachtree Street, N.E.
Suite 2500
Atlanta, GA 30309
404.888.1883
404.892.7056 fax
dmcrae@seyfarth.com
dan@danmcrae.info

©2016 Seyfarth Shaw LLP

# SCOPE

This presentation is a quick-reference guide for company executives and managers, elected and appointed officials and their staffs, economic developers, participants in the real estate and financial industries, and their advisors. The information in this presentation is general in nature. Various points which could be important in a particular case have been condensed or omitted in the interest of readability. Specific professional advice should be obtained before this information is applied to any particular case. Any tax information or written tax advice contained herein is not intended to be and cannot be used by any taxpayer for the purpose of avoiding tax penalties that may be imposed on the taxpayer. (The foregoing legend has been affixed pursuant to U.S. Treasury Regulations governing tax practice.) 15899134

©2016 Seyfarth Shaw LLP
 © 2015 Seyfarth Shaw LLP