



2019 SUMMARY OF ENACTED LEGISLATION

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ADMINISTRATIVE

HB 197 (O.C.G.A. §§ 45-12-150 to 155)

This bill establishes the Georgia Data Analytic Center ("GDAC") which compiles both aggregate and personally identifiable information from all State of Georgia entities. Prior to sharing data, each State of Georgia entity must execute an agreement with the Georgia Data Analytic Center. After executing an agreement and receiving approval from the Attorney General, each State of Georgia entity must make "all data housed within its office" available to GDAC. This bill does not overrule any other overarching federal or state law to protect data.

HB 288 (O.C.G.A. §§ 9-15-4, 15-6-77, 15-6-77.1 to 15-6-77.4, and 19-8-13)

HB 288 amends the Georgia Code to simplify fee schedules for court filings by raising the cost of some filings and making the Title 15 fees inclusive of all of the other fees located throughout the Georgia Code. The new legislation separates out lien filings by state or local government agencies from those filed by private entities and changes the costs of filing and releasing a tax lien by a state agency. Pursuant to O.C.G.A. § 15-6-77(f)(1)(A)(iii), beginning January 1, 2020, the new costs for filing an instrument pertaining to real estate and personal property, including a lien on real estate and personal property, are as follows:

\$5.00 for the first page*

\$2.00 for each additional page

\$2.00 for other documents referencing a previously filed tax lien

* According to O.C.G.A. §§ 15-6-77 and 47-14-51, the \$5.00 fee for the first page includes the \$0.50 sum that the clerks of the superior courts are required to collect for the clerk's retirement fund.

INCOME TAX

HB 68 (O.C.G.A. § 20-2A-1)

This bill provides with respect to the Qualified Education Expense Credit that no entity which operates, owns, is affiliated with, or is a subsidiary of an association, organization, or other entity that provides accreditation of elementary or secondary schools shall be eligible to be a student scholarship organization pursuant to Chapter 2A. Effective date July 1, 2019.

HB 186 and HB 321 (O.C.G.A. § 48-7-29.20)

The income tax portions of these bills:

- Modifies the Qualified Rural Hospital Organization Expense Tax Credit. The bill increases the time that is allowed to make a donation from 60 days to 180 days but the donation must be made in the calendar year for which the donation is preapproved. The bill requires the Department to provide certain information on its website. The bill also has provisions relating to third parties that participate in soliciting, advertising, or managing donations. This portion of the bill is applicable to taxable years beginning on or after January 1, 2019.

HB 224 (O.C.G.A. §§48-7-29.8, 48-7-40.17, 48-7-40.2, 48-7-40.3, and 48-7-40.4)

This bill:

- Modifies the Historic Rehabilitation Credit by allowing the credit to be claimed in the year that the certified rehabilitation is placed in service, which may be up to two years after the end of the taxable year for which the credit was originally reserved.
- Modifies the quality jobs tax credit by allowing a lower threshold to initially qualify for the credit if the jobs are located in a rural county (10 jobs if the rural county is a tier 1 county and 25 jobs if the county is a tier 2 county). “Rural county” means a county that has a population of less than 50,000 with 10 percent or more of such population living in poverty based upon the most recent, reliable, and applicable data published by the United States Bureau of the Census. On or before December 31 of each year, the Commissioner of the Department of Community Affairs is required to publish a list of such counties. These new provisions apply to taxpayers that initially qualify to claim the credit in a taxable year beginning on or after January 1, 2020.
- Modifies the investment tax credit:
 - Increases the minimum threshold to \$100,000 for qualified investment property purchased or acquired in a tax year beginning on or after January 1, 2020.
 - For qualified investment property purchased or acquired by a taxpayer with a manufacturing or telecommunications facility located in a tier 1 or tier 2 rural county in a tax year beginning on or after January 1, 2020, the taxpayer may apply to use up to \$1 million of the credit against the taxpayer’s payments under Code Section 48-7-103 (income tax withholding payments). There is also a yearly cap for all taxpayers of \$10 million. “Rural county” means a county that has a population of less than 50,000 with 10 percent or more of such population living in poverty based upon the most recent, reliable, and applicable data published by the United States Bureau of the Census. On or before December 31 of each year, the Commissioner of the Department of Community Affairs is required to publish a list of such counties. Also, certain carryovers for certain taxpayers are allowed to be used against withholding subject to the same requirements and caps.

HB 266 (O.C.G.A. §§ 48-7-27)

This bill increases the deductible amounts for Georgia’s 529 plan. The bill increases the deductible amount of contributions for a separate or single return to \$4,000 per beneficiary and for joint returns the amount has been increased to \$8,000 per beneficiary. HB 266 is applicable to taxable years beginning on or after January 1, 2020.

HB 287 (O.C.G.A. §§ 48-7-27 and 48-7-29.22)

This bill eliminates the current deduction for physicians who served as community based faculty physicians and replaces it with an income tax credit for community based faculty preceptors. “Community based faculty preceptor” is an individual who is a physician as defined in Code Section 43-34-21, an advanced practice registered nurse as defined in Code Section 43-26-3, or a physician assistant as defined in Code Section 43-34-102 and who is licensed as such by this state. The credit is allowed for each preceptor rotation with a maximum of 10 rotations being eligible for the credit. The credit amount for the first through third preceptor rotations is \$500 per rotation and \$1,000 per rotation for the fourth through tenth rotations. HB 287 is applicable to taxable years beginning on or after January 1, 2019.

HB 324 (O.C.G.A. §16-12-218)

This bill provides that a low THC oil licensee shall not be eligible for any income tax credit allowed pursuant to any of the following Code Sections: 48-7-29.8, 48-7-29.11, 48-7-40, 48-7-40.1, 48-7-40.2, 48-7-40.3, 48-7-40.4, 48-7-40.5, 48-7-40.7, 48-7-40.8, 48-7-40.9, 48-7-40.12, 48-7-40.17, 48-7-40.18, 48-7-40.20, 48-7-40.21, 48-7-40.22, 48-7-

40.24, 48-7-40.25, 48-7-40.26, 48-7-40.26A, 48-7-40.27, 48-7-40.28, 48-7-40.29, 48-7-40.30, 48-7-40.31, 48-7-40.32, 48-7-40.33, or 48-7-40.35. Effective date July 1, 2019.

HB 419 (O.C.G.A. §§ 48-1-2 and 48-7-53)

For taxable years beginning on or after January 1, 2018 (thus it also includes the 2018 tax year), with exceptions discussed below, the bill adopts the provisions of all federal laws related to the computation of Federal Adjusted Gross Income (Federal Taxable Income for non-individuals) that were enacted on or before January 1, 2018.

For 2018, Georgia has adopted the increased I.R.C. Section 179 deduction of \$1M as well as the \$2.5M phaseout. Georgia has not, however, adopted the Section 179 deduction for certain real property (I.R.C. Sections 179(d)(1)(B)(ii) and 179(f)).

For losses incurred in taxable years ending after December 31, 2017, Georgia follows the new federal laws relating to no carryback and unlimited carryforward of net operating losses and also adopts the 2 year carryback for farming losses and the 2 year carryback and 20 year carryforward for certain insurance company net operating losses.

For losses incurred in taxable years beginning on or after January 1, 2018, Georgia follows the 80% limitation on the usage of net operating losses (the state 80% limitation is based on Georgia taxable net income). As with federal law, the state 80% limitation does not apply to certain insurance company net operating losses.

While Georgia adopts many federal provisions, Georgia has not adopted I.R.C. Section 168(k) (the 30%, 50% and 100% bonus depreciation rules) and Georgia has not adopted I.R.C. Section 199 (federal deduction for income attributable to domestic production activities).

Georgia has also not adopted the following:

- 20% qualified business income deduction, I.R.C. Section 199A.
- 30% limitation on business interest (Georgia follows the provisions of I.R.C. Section. 163(j) that existed before enactment of federal Public Law 115-97).
- New 2017 rules relating to contributions to capital (Georgia follows the provisions of I.R.C. Section 118 that existed before enactment of federal Public Law 115-97). Therefore, the value of land or other property contributed to a corporation by a governmental unit or by a civic group for the purpose of inducing the corporation to locate its business in a particular community, or to enable the corporation to expand its operating facilities, is still treated as a tax-free contribution to capital by a nonshareholder, rather than as a contribution in aid of construction (CIAC). In addition, the exception still applies under which money or property received as a CIAC from any person (whether or not a shareholder) by a regulated public utility that provided water or sewerage disposal services is still nontaxable, provided that certain requirements are met. However, no deduction can be taken by the contributor and the basis of property contributed as a nontaxable CIAC is zero.
- Deferral of debt income from reacquisitions of business debt at a discount in 2009 and 2010 which is federally deferred for up to five years, then included ratably over five years, I.R.C. Section 108(i).
- Modified rules for high yield original issue discount obligations, I.R.C. Sections 163(e)(5)(F) and 163(i)(1).
- New York Liberty Zone Benefits, I.R.C. Section 1400L.
- 50% first year depreciation for post 8/28/2006 Gulf Opportunity Zone property, I.R.C. Section 1400N(d)(1).
- 50% bonus depreciation for most tangible property and computer software bought after May 4, 2007 and placed in service in the Kansas Disaster Area, I.R.C. Section 1400N(d)(1).
- 50% bonus depreciation for “qualified reuse and recycling property”, I.R.C. Section 168(m).
- 50% bonus depreciation in connection with disasters federally declared after 2007, I.R.C. Section 168(n).
- Increased (\$8,000) first-year depreciation limit for passenger automobiles if the passenger automobile is “qualified property,” I.R.C. Section 168(k).

- For assets placed in service on or before December 31, 2017, 15 year straight-line cost recovery period for certain improvements to retail space, I.R.C. Sections 168(e)(3)(E)(ix), 168(e)(8), and 168(b)(3)(I).
- For assets placed in service on or before December 31, 2017, modified rules relating to the 15 year straight-line cost recovery for qualified restaurant property (allowing buildings to now be included), I.R.C. Section 168(e)(7).
- 5 year depreciation life for most new farming machinery and equipment, I.R.C. Section 168(e)(3)(B)(vii).
- Special rules relating to Gulf Opportunity Zone public utility casualty losses, I.R.C. Section 1400N(j).
- 5 year carryback of NOLs attributable to Gulf Opportunity Zone losses, I.R.C. Section 1400N(k).
- 5 year carryback of NOLs incurred in the Kansas disaster area after May 3, 2007, I.R.C. Section 1400N(k).
- The election to deduct public utility property losses attributable to May 4, 2007 Kansas storms and tornadoes in the fifth tax year before the year of the loss, I.R.C. Section 1400N(o).
- Temporary tax relief provisions relating to the Midwestern disaster area, I.R.C. Sections 1400N(f) and 1400N(k).

HB 446 (O.C.G.A. § 48-7-40.36)

This bill modifies the timber tax credit. The bill allows the credit to not only be claimed when the replanting 90% requirement is met but also allows the credit to be claimed in the taxable year in which the taxpayer first completes the restoration of each acre for which timber casualty losses were incurred to a condition that has an adequately stocked stand that is expected to result in forest products or ecological services in the foreseeable future. The bill also disallows the refundability provision of the credit to a purchaser of the credit. Effective date April 18, 2019.

HB 481 (O.C.G.A. § 48-7-27)

For the 2020 tax year, the income tax portion of this bill modifies the definition of dependent for purposes of the Georgia dependency exemption to mean the same as in the Internal Revenue Code of 1986; provided, however, that any unborn child with a detectable human heartbeat, as such term is defined in Code Section 1-2-1, shall qualify as a dependent minor.

SB 138 (O.C.G.A. § 48-7-27)

For the 2019 tax year, the income tax portion of this bill provides a subtraction for individual taxpayers for an amount equal to 100 percent of the payments made to and received by a disabled first responder pursuant to Code Section 45-9-85 (Payment of indemnification for death or disability) provided that and to the extent such amounts are included in the taxpayer's federal adjusted gross income and are not otherwise exempt from Georgia income tax under any other provision of law. The term 'disabled first responder' means a law enforcement officer, fireman, publicly employed emergency medical technician, or a surviving spouse of such an individual, receiving payments pursuant to Code Section 45-9-85 (Payment of indemnification for death or disability) due to total permanent disability, partial permanent disability, organic brain damage, or death occurring in the line of duty.

SB 183 (O.C.G.A. §§ 48-2-32, 48-7-105, and 48-7-106)

This bill:

- Requires each person that files or is required to file Form 1099-K with the Internal Revenue Service to electronically file a copy of such Form 1099-K with the commissioner in the manner specified by the commissioner. Such filing shall be completed on or before the time that is required for filing such Form 1099-K with the Internal Revenue Service."
- Provides for penalties for the late provision and filing of W-2s and 1099s.

Effective date May 7, 2019.

MOTOR FUEL TAX

SB 127 (O.C.G.A. § 48-9-8)

This bill requires motor fuel distributors to file monthly reports electronically and permits the Department to determine the method of electronic filing. Effective date May 7, 2019.

MOTOR VEHICLE TAX

HB 307 (O.C.G.A. §§ 15-10-2, 40-3-36, 40-3-54, 40-11-2 – 40-11-19.5, 44-12-211.1 and 44-12-215)

This bill creates the Abandoned Motor Vehicle Act and provides for the disposition of excess funds received after the foreclosure and sale of an abandoned motor vehicle. Additionally, this bill outlines a process for an insurance company to obtain a certificate of title in a total loss claim when the insurance company is unable to obtain the certificate of title from the owner of the vehicle.

Specifically, this bill:

- Specifies a process for an unattended motor vehicle check by a peace officer, including a detailed process for the removal of unattended vehicles from public or private property.
- Outlines the process to foreclose a lien on an abandoned motor vehicle along with the procedure and requirements for filing a petition in the Magistrate Court.
- Provides for the submission to the Department of the following:
 - Certain documents related to the foreclosure sale of the abandoned motor vehicle; and
 - All remaining proceeds or excess funds.
- Requires the Department to deposit the excess funds with the GA Unclaimed Property Program and publish this information to its website.
- Amends the process for the issuance of a salvage title to insurance companies when the insurance company acquires a damaged vehicle in a total loss claim. Allows the insurance company to apply for a salvage title when the insurance company is unable to obtain the original title from the motor vehicle owner, within 30 days after the acceptance of the total loss claim and after two or more written attempts to contact the vehicle owner.

Effective September 1, 2019

HB 339 (O.C.G.A. § 40-2-86)

This bill:

- Creates specialty revenue-sharing license plates for Alabama A&M University, Autism Alliance of Georgia, and Alpha Kappa Alpha Sorority, Inc.
- Modifies the terms for the Georgia Aquarium revenue-sharing plate so that there is no manufacturing fee charged and revising the allocations:
 - Initial plate: \$5 to state; \$1 to county; \$19 to Georgia Aquarium
 - Renewal: \$5 to state; \$20 to Georgia Aquarium

Effective May 7, 2019.

SB 8 (O.C.G.A. § 40-2-86)

This bill creates a new revenue-sharing license plate for Atlanta United Foundation. Effective May 6, 2019.

SB 65 (O.C.G.A. § 48-5C-1)

This bill amends the law governing Title Ad Valorem Tax (TAVT), the tax that applies when a motor vehicle title is issued. The bill makes several changes:

- Lowers TAVT rate to 6.6% of the fair market value (FMV) of the motor vehicle.
- Changes cutoff year for reduced TAVT rate (1%) for older vehicles to 1989, so the reduced rate applies to any person who purchases a 1963 through 1989 model year motor vehicle for which such person obtains a title.
- No TAVT liability for the transfer of a title from one legal entity in which an individual holds an ownership interest of at least 50% to another legal entity in which the same individual holds an ownership interest of at least 50%, provided that the TAVT has been previously levied on such motor vehicle.
- Changes the following definitions of "fair market value" of motor vehicles for TAVT purposes:
 - o For a used motor vehicle purchased from a dealer other than a "buy here pay here" dealer, the retail selling price of the motor vehicle, less any reduction for the trade-in value of another motor vehicle.
 - o For a used motor vehicle purchased from a "buy here pay here" dealer or from a person who is not a dealer (casual sale), the average of the current FMV and the current wholesale value of a motor vehicle for a vehicle listed in the current Georgia Motor Vehicle Assessment Manual for TAVT (DRIVES value); provided, however, that, if the motor vehicle is not listed in the current Georgia Motor Vehicle Assessment Manual, the FMV shall be the value from a reputable used car market guide designated by the commissioner and, in the case of a motor vehicle purchased from a "buy here pay here" dealer, less any reduction for the trade-in value of another motor vehicle.
 - o For a new motor vehicle, the retail selling price, less any reduction for the trade-in value of another motor vehicle and any rebate.

Effective January 1, 2020.

SB 122 (O.C.G.A. §§ 10-1-622, -632, -641, -645, -651, -661, 10-1-662)

This bill:

- Modifies the requirements applicable to agreements between manufacturers and franchise dealerships regarding reimbursement for warranty work performed by the dealership. The Department must accept and store the following documents, if so provided by the manufacturer: a sample of such an agreement, a certification under oath, the required notice, and a list of dealers that entered the agreement.
- Annually the Department must accept a manufacturer's certification under oath regarding reimbursement rates.
- The Department already had a duty to store certain documents submitted by manufacturers with respect to these agreements. The statute just changes the nature of the documents the manufacturer must provide.
- The Department must hold a hearing to resolve a manufacturer's claim of fraud against a dealer if the dealer files a petition with the Department.

Effective July 1, 2019.

SB 137 (O.C.G.A. § 40-2-86)

This bill creates a new revenue-sharing license plate for Tuskegee University Alumni Club, Inc. Effective May 7, 2019.

SB 138 (O.C.G.A. §§ 40-2-63.1, 40-2-86, 48-5C-1, 48-7-27)

This bill:

- Provides for a TAVT exemption and a free prestige plate for public safety first responders, including law enforcement officers, firefighters, EMS personnel, ambulance drivers, injured in the line of duty that leads to permanent disability or disfigurement. The TAVT exemption is limited to a maximum \$50,000 during any three-year period.

- For the income tax breaks for injured first responders provided under this bill, see the summary of SB 138 above under the Income Tax heading.
- Creates a revenue-sharing plate to support the Sickle Cell Foundation of Georgia, Inc.

Effective July 1, 2019.

SB 227 (O.C.G.A. § 40-2-38)

This bill:

- Creates a new alternative fuel license plate for manufacturers, distributors, and manufacturer's headquarters. Vehicles bearing this plate are subject to the alternative fuel vehicle fees under O.C.G.A. § 40-2-151(a)(19).
- Creates new revenue sharing plates for Georgia Alliance of Boys & Girls Clubs, Inc. and Autism Alliance of Georgia.

Effective May 2, 2019.

SALES AND USE TAX

HB 35 (O.C.G.A. § 48-8-3)

This bill provides a sales and use tax exemption for sales to or by any nonprofit organization which has its primary purpose providing poultry diagnostic and disease monitoring services if such organization qualifies as a tax-exempt organization under Section 501(C)(5) of the Internal Revenue Code. Effective date July 1, 2019.

HB 168 (O.C.G.A. § 48-8-3)

This bill extends, until June 30, 2024, the sales and use tax exemption for sales of tangible personal property to a nonprofit health center in this state which has been established under the authority of and is receiving funds pursuant to the United States Public Health Service Act, 42 U. S. C. Section 254b. The bill further extends, until June 30, 2024, the sales and use tax exemption for sales of tangible personal property and services to a nonprofit volunteer health clinic which primarily treats indigent persons with incomes below 200 percent of the federal poverty level and which property and services are used exclusively by such volunteer health clinic in performing a general treatment function in this state when such volunteer health clinic is a tax exempt organization under the Internal Revenue Code.

HB 182 (O.C.G.A. § 48-8-2 and 48-8-30)

This bill amends, effective January 1, 2020, the definition of "dealer" to include sellers who do not have physical presence in Georgia but obtain gross revenue of more than \$100,000 from retail sales transactions in the previous or current calendar year. The bill further repeals O.C.G.A 48-8-30(c.2) in its entirety.

HB 352 (O.C.G.A. § 48-8-3)

This bill extends, until June 30, 2021, the sales and use tax exemption for sales of tangible personal property used for and in the construction of a competitive project of regional significance.