



## 2020 SUMMARY OF ENACTED LEGISLATION

12-7-2020

The full text of each bill summarized can be accessed at the Georgia General Assembly's Legislation Advanced Search webpage: <http://www.legis.ga.gov/Legislation/en-US/Search.aspx>

### **ADMINISTRATIVE**

#### **HB 953 (O.C.G.A. §§ 50-5-51, -64.1, and -67)**

This bill affects the general rules of contracting and purchasing that affect the Department as a state agency. First, the bill alters the duties and authority of the Department of Administrative Services (DOAS) by allowing DOAS to approve contracts with "cooperative purchasing" organizations instead of "private non-profit" organizations. The bill continues by codifying previous Attorney General opinions and Georgia constitutional rules to make certain contract provisions void and unenforceable. Specifically, the below are unenforceable against state agencies that are subject to DOAS contracting rules:

- Any contract clause that requires the State or any related entity to:
  - Defend, indemnify, or hold harmless another person;
  - Be bound by terms and conditions that are unknown at the time of signing such contract or which may be unilaterally changed by the other party;
- Any contract clause that provides for:
  - A person other than the Attorney General to serve as legal counsel for the state or for any agency, authority, board, bureau, commission, department, institution, or any other entity thereof;
  - A venue for any action or dispute other than the Superior Court of Fulton County, Georgia, as provided in Code Section 50-21-1;
  - The contract to be construed in accordance with the laws of a state other than the State of Georgia;
  - Binding arbitration; or
  - An automatic renewal such that state funds are or would be obligated in subsequent fiscal years;or
- Any contract clause that is inconsistent with the provisions of Article 4 of Chapter 18 of Title 50, relating to open records.

Effective January 1, 2021

### **ALCOHOL & TOBACCO**

#### **SB 144 (O.C.G.A. § 48-11-4)**

This bill creates a special event tobacco permit. A licensed dealer may now apply for a permit for off-premises sales of cigars, cigarettes, or loose or smokeless tobacco for a special event held at a temporary location other than the licensed premises. This permit shall not exceed a 10-day period and the fee for a special event tobacco permit is \$10.00.

Effective July 29, 2020

**SB 375 (O.C.G.A. §§ 16-12-170 to -176 and 48-11-1 to -4.2, -4.5, -5, -8 to -19, -22, -25 and -27)**

- This bill amends various sections of Title 16 – Chapter 12 (Crimes and Offenses) and Title 48 – Chapter 11 (Taxes on Tobacco Products) to:
  - Increase the minimum age from 18 to 21 for the sale or distribution of cigarettes, tobacco products, tobacco related objects, alternative nicotine, and vapor products;
  - Require licensing of manufacturers, importers, distributors and dealers of alternative nicotine products and vapor products, including registration/licensing fees. The fees are:
    - \$250 – Registration fee for manufacturers, importers, and distributors starting a new business in Georgia;
    - \$10 – 1<sup>st</sup> year vapor products license fee;
    - \$10 – Annual renewal vapor products fee. The bill also levies an excise tax on the sale of vapor devices and consumable vapor products:
      - 5 cents per fluid milliliter - Consumable vapor product in a closed system;
      - 7 percent wholesale cost - Consumable vapor product in an open system;
      - 7 percent wholesale cost – Single-use vapor devices containing consumable vapor product at the time of sale; and
  - Provide for an additional criminal offense for the use of vapor products in a school safety zone and to provide for and revise certain fines and penalties.

Effective July 22, 2020

**HB 879 (O.C.G.A. §§ 3-2-7.1, 3-3-1.1, -7, -10, -21 and -26, 3-4-25 and 3-15-1 to -4).**

- This bill requires the Department of Revenue to develop and implement a state-wide centralized license application process for alcohol retailers (initial applications and renewals) to be used by both the state and local licensing authorities. Currently, distinct retail applications are filed with both the local licensing authority and the Georgia Department of Revenue.
- The bill provides methods for counties and municipalities to extend the hours of Sunday sales of alcoholic beverages and to provide procedures for referendums, ordinances, and resolutions.
- The bill permits certain alcohol retailers and third parties to provide for the retail delivery of alcoholic beverages pursuant to specific terms and conditions. The bill requires all drivers to undergo training. The Department of Revenue can either develop a training curriculum for delivery drivers *or* set standards for and approve third-party delivery training courses.
- The bill changes the rules which restrict the retail sales of alcoholic beverages for consumption off the premises near college campus to allow local governments to be less restrictive.
- The bill allows manufacturers and wholesalers to provide samples of alcoholic beverages to owners and employees of retail package liquor stores.
- The bill allows retail package stores to conduct tastings events for customers. The retail package store may conduct up to 52 tasting events per year. Any given tasting can only be for wine, malt beverages, or distilled spirits; and only one tasting event can occur per day. A consumer may not receive more than eight ounces of malt beverages, five ounces of wine, or one and one-half ounces of distilled spirits depending on the type of tasting event being held. The retail package store may provide food, but only those food items ordinarily permitted for sale in a package store under regulations of the Department of Revenue. The package store must notify the local licensing authority prior to holding a tasting event.

Effective August 2, 2020

## **INCOME TAX**

### **HB 105 (O.C.G.A. § 48-7-27)**

The income tax portion of this bill (Part 1), provides that for taxpayers that compute their income pursuant to O.C.G.A. § 48-7-27 (individuals, etc.) there is a subtraction from income for taxable years beginning on or after January 1, 2019, and ending on or before December 31, 2023. The subtraction is for income received as payments from a federal disaster relief or assistance grant program administered by Georgia or its instrumentalities or the United States Department of Agriculture, if such federal grant program was established specifically to address agricultural losses suffered due to Hurricane Michael, which was declared to be a major disaster in Georgia by the President of the United States during the 2018 calendar year. The subtraction is only allowed to the extent the income is included in federal adjusted gross income or federal taxable income.

### **HB 846 (O.C.G.A. §§ 48-1-2, 48-7-40, -40.1, -40.1A, and -40.17)**

This bill has three sections that affect income tax.

#### **Section 1-1**

For taxable years beginning on or after January 1, 2019 (thus it also includes the 2019 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 March 27, 2020.

For taxable years beginning on or after January 1, 2018 and before January 1, 2019, Georgia has not adopted any of the 2019 or 2020 federal changes including the federal CARES Act. If an amended federal return is filed due to these federal changes, an amended Georgia return is not required.

HB 846 did not adopt the revised net operating loss provisions in the CARES Act and the modification to the Code Section 461(l) limitation in the CARES Act. As such:

- For losses incurred in taxable years ending after December 31, 2017, there is no carryback but unlimited carryforward of net operating losses, with a 2 year carryback for farming losses and a 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, there is an 80% limitation on the usage of net operating losses (the 80% limitation is based on Georgia taxable net income). The 80% limitation does not apply to certain insurance company net operating losses.
- The I.R.C. Section 461(l) adjustment (limitation on losses for noncorporate taxpayers) is required in the same manner as was required before the CARES Act.

Georgia has not adopted the Section 179 deduction for certain real property (I.R.C. Section 179(d)(1)(B)(ii)).

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:

- 30%, 50%, and 100% bonus depreciation rules, I.R.C. Section 168(k).
- Federal deduction for income attributable to domestic production activities, I.R.C. Section 199.
- 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). Since Georgia follows the prior rules of I.R.C. Section 163(j), Georgia does not recognize the provisions for an electing real property trade or business

(163(j)(7)(a)(ii) and 163(j)(7)(B)). Thus, for purposes of computing federal income for Georgia income tax purposes, the taxpayer would not be subject to the alternative depreciation method under I.R.C. Section 168(g), and would therefore depreciate assets as if the new provisions of 163(j) had not been enacted. This will cause different depreciation for federal and Georgia purposes.

- New 2017 and later 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).

## Section 2-1

This section of the bill provides that for taxable years beginning on and after January 1, 2020 and if certain requirements are met, a personal protective equipment manufacturer that qualifies for and claims the jobs tax credit under O.C.G.A. § 48-7-40 or O.C.G.A. § 48-7-40.1 may claim an additional job tax credit of \$1,250 per job for jobs engaged in the qualifying activity of manufacturing personal protective equipment. The credit may be used to offset 100 percent of the taxpayer’s Georgia income tax liability in the taxable year. Where the amount of such credit exceeds the taxpayer’s tax liability in a taxable year, the excess may be taken as a credit against such taxpayer’s quarterly or monthly withholding tax. No credit shall be claimed and allowed for jobs created on or after January 1, 2025. For more information reference O.C.G.A. § 48-7-40.1A.

### **Section 3-1 and 3-2**

This section of the bill provides that for taxable years beginning in 2020 and 2021, taxpayers that claimed the jobs tax credit under O.C.G.A. § 48-7-40 or O.C.G.A. § 48-7-40.1 in a taxable year beginning in 2019 have the option, for each of the 2020 and 2021 tax years, to use the number of new full-time jobs that the taxpayer claimed in 2019 instead of using the actual number of such jobs otherwise claimable for 2020 or 2021.

### **Section 3-3**

This section of the bill provides that for taxable years beginning in 2020 and 2021, taxpayers that claimed the quality jobs tax credit under O.C.G.A. § 48-7-40.17 in a taxable year beginning in 2019 have the option, for each of the 2020 and 2021 tax years, to use the number of new full-time jobs that the taxpayer claimed in 2019 instead of using the actual number of such jobs otherwise claimable for 2020 or 2021.

### **HB 1037 (O.C.G.A. § 48-7-40.26)**

This bill modifies the film tax credit by requiring a mandatory audit of the film tax credit. For projects certified by the Department of Economic Development (DECD) on or after January 1, 2021 that exceed \$2.5 million in credit, the project must be audited pursuant to O.C.G.A. § 48-7-40.26 before the credit can be claimed or utilized in any manner. This threshold is lowered to \$1.25 million for projects certified by DECD on or after January 1, 2022, and then the mandatory audit requirement extends to all projects certified by DECD on or after January 1, 2023.

## **MOTOR VEHICLES AND MOTOR FUELS**

### **HB 511 (O.C.G.A. § 48-9-3)**

The motor fuel portion of this bill (Section 6) extends the expiration date for the use of the Consumer Price Index from July 1, 2022 to July 1, 2025.

Effective January 1, 2021

### **HB 808 (O.C.G.A. § 48-5C-1)**

This bill extends the period a motor vehicle dealer may loan a courtesy vehicle to a customer from 30 days to 45 days in a 366-day period. It gives a motor vehicle dealer more flexibility in loaning vehicles from dealer inventory before incurring title ad valorem tax (TAVT).

Effective January 1, 2021

### **HB 819 (O.C.G.A. § 40-2-8)**

This bill loosens eligibility for veteran's license plates in two ways. First, it removes the two-year residency requirement, allowing all veterans who are current residents of Georgia to obtain the plates. Second, it provides eligibility for Georgia residents who are U.S. citizens and served in the armed forces of a U.S. ally during the period of a U.S. war or conflict.

Effective August 4, 2020

### **HB 877 (O.C.G.A. §§ 40-1-1, 40-2-27, and 40-3-30 and -30.1)**

This bill allows motor vehicle owners to convert vehicles that were not manufactured to comply with Federal Motor Vehicle Safety Standards (FMVSS) into street-legal, low-speed vehicles and to title and register such vehicles. The

owner is required to have the converted vehicle inspected for compliance with special FMVSS rules for low-speed vehicles, for compliance with a maximum speed of 25 miles per hour, and for compliance with state equipment requirements.

Effective January 1, 2021

**SB 336 (O.C.G.A. §§ 40-2-85.1, -85.4, -86 and -86.1)**

This bill, with a number of provisions regarding specialty license plates:

- Provides that motorcycle plates will be made available for all special license plates under O.C.G.A. §§ 40-2-86 and 40-2-86.1;
- Expands the list of “military medal award” plates by adding a plate for the Meritorious Service Medal;
- Creates the U.S. Army Rangers plate, to be issued with no minimum order requirements;
- Creates a Georgia Tennis Foundation plate (revenue sharing); and
- Creates a Georgia Recovers plate (revenue sharing to be split between two nonprofits).

Effective August 4, 2020

**PROPERTY TAX**

**HB 779 (O.C.G.A. § 48-5C-1)**

This bill revises title ad valorem tax (TAVT) distribution formulas for cities and counties.

Effective June 29, 2020

**SB 410 (O.C.G.A. § 48-5-311)**

This bill requires public utilities to file returns electronically. It also allows an appeal administrator, in his/her discretion and with consent of all parties, to conduct an appeal hearing by audio or video teleconference or any other remote communication medium. It further provides that, if the board of assessors appeals to superior court and the final determination of value on appeal is 85% or less of the valuation set by the board of assessors as to any real property, the taxpayer, in addition to interest, shall recover costs of litigation and reasonable attorney's fees incurred in the action.

Effective July 22, 2020 and applicable to tax years beginning on or after 1/1/21

**SALES TAX**

**HB 105 (O.C.G.A. §§ 48-8-3(25) and 48-13-140)**

Parts II and III of this bill provide for a new excise tax on certain transportation services. An excise tax is imposed on for hire ground transport trips (50 cents per trip) and shared for hire ground transport trips (25 cents per trip). The bill further exempts from sales and use taxation any transportation services subject to the transportation services excise tax

Effective August 5, 2020

**HB 276 (O.C.G.A. §§ 48-8-2 and 48-2-30)**

This bill expands the definition of “dealer” in O.C.G.A § 48-8-2 to include those who act as marketplace facilitators to facilitate retail sales that are taxable to be delivered, held for pickup, used, consumed, distributed, stored for use

or consumption, or rendered as a service within this state, if the total value of the sales price of all such retail sales, combined across all its marketplace sellers and the marketplace facilitator itself, equals or exceeds \$100,000 in aggregate in the previous or current calendar year. The bill further requires marketplace facilitators meeting the definition of “dealer” to collect and remit sales tax on behalf of their marketplace sellers.

Effective April 1, 2020

**HB 846 (O.C.G.A. §§ 48-8-49.1, 48-2-35, and 48-2-35.1)**

The sales tax portions of this bill (Sections 1-2, 1-3, and 1-4) create a statutory framework for the Department to issue direct payment permits. 'Direct payment permit' means a license that permits a qualified taxpayer to accrue and pay directly to the department certain state and local sales and use taxes imposed by this chapter. Taxpayers are no longer required to waive interest as a condition to obtaining a direct pay permit. Interest is now payable on refunds, but rather than accruing from the date of the overpayment, interest only begins accruing from the date an amended return or refund claim is filed. The bill further allows some refund claims of local regional significance to be paid over a time period less than or equal to the number of periods included in the refund claim (at the discretion of the impacted political subdivision).

Effective September 1, 2020

**HB 1102 (O.C.G.A. § 48-8-109.15 et seq.)**

This bill revises Article 2A of Chapter 8 of Title 48 (regarding HOST) by adding a new part that allows for a local referendum to implement a Revised Homestead Option Sales and Use Tax.

Effective August 5, 2020

**SB 104 (O.C.G.A. § 48-8-3)**

This bill removes the sunset date for the following sales and use tax exemptions:

- Non-profit health centers;
- Non-profit volunteer health clinics;
- Qualified food banks;
- Donations of food to qualified nonprofit agencies when the food is used for hunger or disaster relief; and
- Donations of food that is donated following a natural disaster and is used for disaster relief purposes.

It also extends the sunset date for the following exemption from July 1, 2021 to July 1, 2026:

- The sale or use of noncommercial written materials or mailings by an IRC 501(c)(3) organization located in Georgia which provides such materials to charity supporters for educational, charitable, religious, or fundraising purposes.

Finally it adds an exemption for organ procurement organizations as defined in Code Section 44-5-141.

Effective August 5, 2020