

Frank M. O'Connell
State Revenue Commissioner



Kelsey Finn
Director, Tax Policy Division

Georgia Department of Revenue
2595 Century Parkway, NE | Atlanta, Georgia 30345

NOTICE SUT-2025-001

RE: Proposal to Adopt Rule 560-12-2-.107.

TO ALL INTERESTED PERSONS AND PARTIES:

In compliance with O.C.G.A. § 50-13-4, the Georgia Department of Revenue gives notice that it proposes to amend Rule 560-12-2-.107.

Attached to this notice are an exact copy and synopsis of the proposed Rule. The proposed Rule is being amended under the authority of O.C.G.A. §§ 48-2-12 & 48-8-3.

The Department of Revenue will consider the proposed amendment of the above Rule at a remote regulation hearing held at 10:00 a.m. on Thursday, July 10, 2025, which can be accessed through the following link: <https://meet.goto.com/429301909> or via telephone at +1 (646) 749-3129 (local) and 1 877 309 2073 (toll-free) with the access code: 429-301-909. At the beginning of the hearing, attendees will be required to announce themselves and notify the Department if they plan to make oral comments during the hearing.

The Department must receive all comments regarding the above-referenced Rule from interested persons and parties no later than 10 a.m. on Thursday, July 10, 2025. Electronic comments must be sent to regcomments@dor.ga.gov. Please reference "SUT-2025-001" on all comments.

Dated: 06/02/2025

A handwritten signature in blue ink that reads "Frank M. O'Connell".

Frank M. O'Connell
State Revenue Commissioner

SYNOPSIS

GEORGIA DEPARTMENT OF REVENUE SALES AND USE TAX DIVISION

CHAPTER 560-12-2 SUBSTANTIVE RULES AND REGULATIONS

560-12-2-.107. Computer Equipment

HB 1291 (2022) made amendments to the computer equipment sales tax exemption. The regulation is being updated in conformity with those changes. In particular, the first \$15 million in purchases each year are taxable at 10% of the ordinary state and local rate, and the items which qualify for the exemption have changed.

CHAPTER 560-12
SALES AND USE TAX DIVISION

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560-12-2-.107 Computer Equipment

(a) “Computer Equipment” means any individual computer or organized assembly of hardware or software, including, but not limited to, a server farm, mainframe or midrange computer, mainframe driven high-speed print and mailing devices, and workstations connected to those devices via high bandwidth connectivity such as a local area network, wide area network, or any other data transport technology which performs one of the following functions: storage or management of production data, hosting of production applications, hosting of application

33 systems development activities, or hosting of applications
34 systems testing.

35 1. Beginning January 1, 2001, "Computer Equipment"
36 excludes:

37 (i) Telephone central office equipment or other voice
38 data transport technology, including any wireline or
39 wireless telecommunication system; and

40 (ii) Equipment with imbedded computer hardware or
41 software which is primarily used for training, product
42 testing, or in a manufacturing process.

43 2. Beginning January 1, 2024, "Computer Equipment"
44 also excludes:

45 (i) Computers or devices issued to employees,
46 including, but not limited to, smartphones, tablets,
47 wearables, personal computers, and laptops; and

48 (ii) Prewritten computer software.

49 3. Examples of items that do not qualify as Computer
50 Equipment include, but, are not limited to: cable;
51 telephone central office equipment; voice data
52 transmission equipment; equipment with imbedded
53 hardware or software used primarily for training, product
54 testing or in manufacturing; scanners; printers and paper;
55 ink and toner; wrist and mouse pads; tools; all removable
56 storage media such as, diskettes, compact disks or tapes;
57 and parts for maintenance or repair of computer system
58 hardware.

59 (2) Exemption limitation. Pursuant to O.C.G.A. §
60 48-8-3(68)(A)(ii), beginning July 1, 2024, each taxpayer
61 claiming the exemption must pay ten percent of all state
62 and local sales and use taxes imposed under the laws of

63 this state on the first \$15 million of Computer Equipment
64 purchased each year for which this exemption is claimed.

65 (a) Persons making a tax-free purchase under this
66 exemption must report and remit to the Department the
67 tax imposed under O.C.G.A. § 48-8-3(68)(A)(ii) on the
68 sales and use tax return that is next due after the
69 purchase.

70 (b) Persons claiming this exemption by refund will
71 receive a refund of ninety percent of tax imposed on the
72 first \$15 million of eligible purchases for which exemption
73 is claimed under O.C.G.A. § 48-8-3(68).

74 **(3) Exemption requirements.** To qualify for the
75 exemption, ~~the following conditions must be met:~~

76 (a) ~~The computer equipment~~ Computer Equipment
77 must be purchased or leased exclusively for operational
78 use in this state at a ~~high-technology company~~ High-
79 Technology Company ~~as defined in this Regulation;~~ and
80 For purposes of this Regulation.

81 1. "High-Technology Company" means a business
82 entity or Company Facility classified under the North
83 American Industrial Classification System codes ("NAICS
84 code") specified in O.C.G.A. § 48-8-3(68).

85 (i) For taxpayers other than those applying on a
86 Company Facility basis, the NAICS code on a taxpayer's
87 income tax return determines whether the taxpayer is a
88 High-Technology Company, unless the commissioner, in
89 his or her sole discretion, determines that the NAICS code
90 does not accurately reflect the taxpayer's business
91 activity.

92 **2. "Company Facility" means a single physical**
93 **establishment in this state, as defined in the North**
94 **American Industrial Classification System (NAICS)**
95 **United States Manual, where the primary business**
96 **activity is designated within the NAICS codes as specified**
97 **in O.C.G.A. § 48-8-3(68)(A) and approved by the**
98 **commissioner.**

99 **(i) For taxpayers applying on a Company Facility**
100 **basis, the NAICS code designated on the Application for**
101 **Certificate of Exemption (Form ST-CE1) determines**
102 **whether the facility is a High-Technology Company,**
103 **unless the commissioner, in his or her sole discretion,**
104 **determines that the NAICS code does not accurately**
105 **reflect the facility's business activity.**

106 **(b) The total combined value of all Computer**
107 **Equipment purchased or leased during any calendar year**
108 **must meet the following thresholds:**

109 **1. From January 1, 2001 through December 31, 2023,**
110 **The the total fair market value of computer**
111 **equipmentComputer Equipment purchased or leased**
112 **during any calendar year must exceed \$15 million, or the**
113 **fair market value of leased computer equipment, as**
114 **defined in paragraph (2)(b) of this Regulation, must**
115 **exceed \$15 million during any calendar year.**

116 **2. Beginning January 1, 2024, the total fair market**
117 **value of taxable Computer Equipment purchased or**
118 **leased during any calendar year must equal or exceed \$15**
119 **million.**

120 **(c) Any combination of purchases and leases exceeding**
121 **\$15 million during any calendar year shall also qualify for**
122 **exemption. 3. For calculating the \$15 million threshold,**

123 the fair market value of leased Computer Equipment is
124 the book value of the Computer Equipment at the time of
125 lease's inception. The book value of leased Computer
126 Equipment counts toward the exemption threshold for the
127 initial calendar year of the lease and does not count
128 toward the threshold in subsequent years. In addition, the
129 exercise of any option to purchase such Computer
130 Equipment under a qualifying lease must not be used in
131 subsequent years to meet the \$15 million requirement.

132 (c) For entities qualifying for the exemption on a
133 Company Facility basis, only Computer Equipment
134 purchased or leased exclusively for operational use at the
135 Company Facility are eligible for the exemption and count
136 toward the threshold.

137 (d) Beginning July 1, 2021, each taxpayer claiming the
138 exemption must comply with the reporting requirement in
139 paragraph (6) of this Regulation.

140 **(2) Definitions.** For purposes of qualifying for the
141 exemption provided for by *O.C.G.A. § 48-8-3(68)*, and as
142 used in this Regulation, the following definitions and
143 explanations of terms shall apply.

144 **(a) Classification Codes.** The term "classification
145 codes" means the designated codes associated with the
146 North American Industrial Classification System, as
147 specified in *O.C.G.A. § 48-8-3(68)(A)*.

148 **(b) Computer Equipment.** The term "computer
149 equipment means any individual computer or organized
150 assembly of hardware or software, such as a server farm,
151 mainframe or midrange computer, mainframe-driven high
152 speed print and mail devices and workstations connected
153 to those devices via high bandwidth connectivity such as a

154 ~~local area network, wide area network, or any other data~~
155 ~~transport technology which performs one of the following~~
156 ~~functions: storage or management of production data,~~
157 ~~hosting of production application system development~~
158 ~~activities, or hosting of applications systems testing which~~
159 ~~are not otherwise exempt under Chapter 8 of Title 48 of~~
160 ~~the Official Code of Georgia Annotated.~~

161 **(c) Company Facility.** The term "company facility"
162 means a single physical establishment, as defined in the
163 North American Industrial Classification System United
164 States Manual 1997, where the primary business activity
165 is designated within the classification codes as specified
166 in *O.C.G.A. § 48-8-3(68)(A)* and approved by the
167 commissioner.

168 **(d) Fair Market Value.** The term "fair market
169 value," for the purpose of qualifying a lease for this
170 exemption, means the book value of the computer
171 equipment being purchased by the leasing company at the
172 time of the lease's inception. The fair market value of the
173 computer equipment for leases entered into prior to
174 January 1, 2001, will be determined by the book value of
175 the computer equipment as of January 1, 2001.

176 **(e) High technology Company.** The term "high-
177 technology company" means a company or specific
178 company facility that has been assigned a classification
179 code as specified in *O.C.G.A. § 48-8-3(68)(A)*. This
180 includes, but is not limited to, a company that is engaged
181 in providing computer programming and design services,
182 providing data processing services, manufacturing semi-
183 conductors and related devices, and providing telephone
184 and telegraph communications.

185 ~~(f) Majority of Business.~~ The term "majority of
186 business" means greater than fifty (50) percent of the
187 gross revenues derived from the services designated in
188 the classification code.

189 **~~(3) General Requirements for the Computer~~**
190 **~~Equipment Exemption.~~**

191 ~~(a)~~ In order to qualify for the computer equipment
192 exemption provided for in *O.C.G.A. § 48-8-3(68)* and this
193 Regulation the following conditions must be met:

194 ~~1.(e)~~ The qualified eligible purchasers or lessees of
195 such ~~computer equipment~~ Computer Equipment must
196 obtain a Certificate of Exemption from the commissioner
197 as provided in paragraph ~~(4)(3)(b)~~ of this Regulation. The
198 application for such Certificate must contain a specific
199 schedule of planned purchases or leases, or both, of
200 qualified ~~computer equipment~~ Computer Equipment for
201 the calendar year for which the application is filed.

202 ~~2.(f)~~ The ~~computer equipment~~ Computer Equipment
203 must be purchased or leased exclusively for operational
204 use in this state by a High-Technology Company ~~high-~~
205 ~~technology company which is classified under specific~~
206 ~~classification codes as designated in O.C.G.A. § 48-8-3(68).~~

207 ~~3.~~ The exemption is applicable only for qualified
208 ~~computer equipment which is purchased or leased~~
209 ~~exclusively for operational use in this state by a high-~~
210 ~~technology company on or after January 1, 2001.~~

211 ~~4.~~ Effective October 1, 2002, to qualify for the
212 exemption, any corporation, partnership, limited liability
213 company, or any similar entity which qualifies for the
214 exemption and is

215 (g) A High-Technology Company, other than a
216 Company Facility, that is affiliated in any manner with a
217 nonqualified corporation, partnership, limited liability
218 company, or other similar entity, must ~~conduct~~ derive
219 more than fifty (50) percent of its gross revenues from the
220 activities designated by its NAICS code from the services
221 ~~at least a majority of its business, as measured by gross~~
222 ~~revenues received in arms-length transactions, with~~
223 entities with which it has no affiliation.

224 **(b)(4) Certificates of exemption.**

225 (a) Any purchaser or lessee desiring to secure the
226 benefits of the exemption provided by O.C.G.A. § 48-8-
227 3(68) must file an Application for Certificate of Exemption
228 (Form ST-CE1). The application shall must include
229 disclosure of business name, address, specific company
230 ~~facility~~ Company Facility location (if applicable), ~~North~~
231 ~~American Industry Classification Code~~ NAICS code as
232 indicated on the ~~Federal Income Tax~~ federal income tax
233 return for the high-technology company High-Technology
234 Company, North American Industry Classification Code
235 NAICS code for a specific company facility Company
236 Facility (if applicable), whether equipment is purchased,
237 leased or both, anticipated dates of purchase or lease, and
238 a schedule of the ~~computer equipment~~ Computer
239 Equipment to be purchased or leased for the entire
240 calendar year including purchase price, or in the case of a
241 lease, the book value. In addition ~~thereto~~, the
242 commissioner may require such other information as
243 deemed necessary for the determination of the claim for
244 exemption. These requirements are applicable to all
245 purchasers and lessees, including holders of a direct pay
246 permits.

247 ~~(e)(b)~~ Upon approval of an application, the
248 commissioner will issue a ~~Certificate of Exemption~~
249 certificate of exemption (Form ST-CE2) to the company.
250 The certificate of exemption that relieves the ~~computer~~
251 ~~equipment~~ Computer Equipment supplier from the
252 collection of the sales and use tax on ~~computer equipment~~
253 Computer Equipment if the supplier accepts the
254 certificate in accordance with O.C.G.A. § 48-8-38, from a
255 High-Technology Company solely used by a qualifying
256 company in this state or solely used at a designated and
257 approved company facility in this state (if applicable).

258 ~~(d)(c)~~ Where the ~~Certificate of Exemption~~ certificate
259 of exemption (Form ST-CE2) has not previously been
260 obtained and tax is collected on the purchase or lease of
261 ~~computer equipment~~ Computer Equipment ~~which that~~
262 may be qualified for exemption, the purchaser or lessee
263 may apply for a refund of such tax. The Claim for Refund
264 (Form ST-12) ~~shall~~ must be accompanied by an
265 Application for Exemption (Form ST-CE1). As provided by
266 O.C.G.A. § 48-2-35.1, refunds issued pursuant to this
267 exemption do not bear interest.

268 **(4) Specific Applications; Exemptions and**
269 **Exceptions Relating Thereto (5) Tax, penalty, and**
270 **interest.**

271 ~~(a)~~ For purposes of determining the appropriate
272 classification code for a high technology company, the
273 classification code of the high technology company as
274 indicated on its Federal Income Tax Return shall be used
275 unless that classification code is determined by the
276 commissioner to be inappropriate for purposes of the
277 exemption; or in the case of a specific company facility the
278 classification code designated and approved by the

279 ~~commissioner on the Application for Certificate of~~
280 ~~Exemption (Form ST-CE1) shall be used.~~

281 ~~(b) In determining the \$15 million requirement for a~~
282 ~~specific company facility meeting the designated North~~
283 ~~American Industry Classification Code, only computer~~
284 ~~equipment purchases or leases solely designated for that~~
285 ~~specific company facility in this state are eligible for the~~
286 ~~exemption.~~

287 ~~(c) The purchase price of all computer equipment or~~
288 ~~the fair market value of all leased computer equipment, or~~
289 ~~any combination thereof, used by a high technology~~
290 ~~company in this state, regardless of the number of~~
291 ~~purchases or leases entered into during a calendar year,~~
292 ~~shall be used when determining the \$15 million~~
293 ~~requirement.~~

294 ~~(d) In determining the \$15 million requirement for a~~
295 ~~qualifying lease, the fair market value of the computer~~
296 ~~equipment under the qualifying lease shall only be used~~
297 ~~in the initial year's determination and shall not be used in~~
298 ~~subsequent years. In addition, the exercise of any option~~
299 ~~to purchase such computer equipment under a qualifying~~
300 ~~lease shall not be used in subsequent years to meet the~~
301 ~~\$15 million requirement.~~

302 ~~(e) If, after obtaining the Certificate of Exemption~~
303 ~~required under paragraph (3)(c) of this Regulation, the~~
304 ~~actual any purchases(s) or leases(s) fails to meet the~~
305 ~~requirements for of this exemption, the high technology~~
306 ~~company High-Technology Company will be liable for tax,~~
307 ~~penalty and interest on the purchases(s) or leases(s).~~

308 ~~(f) Any Certificate of Exemption issued prior to the~~
309 ~~effective date of this Regulation for calendar year 2002 to~~

310 ~~a high technology company that fails to conduct at least a~~
311 ~~majority of its business with nonaffiliated entities shall~~
312 ~~not be valid for purchases made on or after October 1,~~
313 ~~2002. This paragraph shall not apply to any Certificate of~~
314 ~~Exemption extended on a company facility basis.~~

315 ~~(g) Examples of items that do not qualify for the~~
316 ~~exemption include, but are not limited to: cable; telephone~~
317 ~~central office equipment; voice data transmission~~
318 ~~equipment; equipment with imbedded hardware or~~
319 ~~software used primarily for training, product testing or in~~
320 ~~manufacturing; scanners; printers and paper; ink and~~
321 ~~toner; wrist and mouse pads; tools; all removable storage~~
322 ~~media such as, diskettes, compact disks or tapes; and~~
323 ~~parts for maintenance or repair of computer system~~
324 ~~hardware.~~

325 **(6) Reporting.**

326 (a) Beginning July 1, 2021, each High-Technology
327 Company that has been issued a certificate of exemption
328 must report to the Department a list of the facilities into
329 which Computer Equipment exempted under O.C.G.A. §
330 48-8-3(68) during the preceding calendar year was
331 incorporated, as well as the amount of taxes exempted
332 under O.C.G.A. § 48-8-3(68) during the preceding
333 calendar year.

334 (b) The report is due by March 31st of each year
335 following the year the High-Technology Company utilized
336 a certificate of exemption pursuant to O.C.G.A. § 48-8-
337 3(68).

338 (c) The report is subject to the confidentiality
339 provisions of O.C.G.A. § 48-2-15.

340 (d) The Department will not issue a certificate of
341 exemption under O.C.G.A. § 48-8-3(68) for the calendar
342 year following the reporting year to any High-Technology
343 Company that has failed to comply with the reporting
344 required by O.C.G.A. § 48-8-3(68).

345 (e) The report must be submitted by email to the
346 Department's Tax Policy Division at
347 tax.policy@dor.ga.gov.

348
349 AUTHORITY: O.C.G.A. Secs. §§ 48-2-12, 48-8-3.