

**RULES
OF
DEPARTMENT OF REVENUE
SALES AND USE TAX DIVISION**

**CHAPTER 560-12-2
SUBSTANTIVE RULES AND REGULATIONS**

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560-12-2-.117 High-Technology Data Center Equipment

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Equipment**

(1) Purpose. This Rule addresses the sales and use tax exemption in O.C.G.A. § 48-8-3(68.1) for certain High-Technology Data Center Equipment.

(2) Definitions. For purposes of this Rule, the following definitions apply:

(a) “Data Center Owner” means the owner of a High-Technology Data Center or any Related Members.

(b) “Exemption Start Date,” used synonymously with the term “Investment Start Date,” means the date on or after July 1, 2018, chosen by the Data Center Owner and indicated on its certificate of exemption application, which begins the seven-year period during which the Minimum Investment Threshold must be met.

(c) “High-Technology Data Center” means a facility, campus of facilities, or array of interconnected facilities in this state that:

1. Is developed to power, cool, secure, and connect the Data Center Owner's equipment or the computer equipment of the Data Center Owner's High-Technology Data Center Customers;

2. Has an investment budget plan that meets the High-Technology Data Center Minimum Investment Threshold; and

3. Is located wholly within one county in this state, unless otherwise approved by the Commissioner.

(d) "High-Technology Data Center Customer" means a client, tenant, licensee, or end user of a High-Technology Data Center that is a party to a contract with a Data Center Owner that holds a High-Technology Data Center exemption certificate under this Rule. The contract is subject to the requirements in paragraph (2)(d)1.

1. Contract Requirements.

- (i) The Data Center Owner must be a party to the contract;

- (ii) The contract must be for data center services provided by the Data Center Owner at the High-Technology Data Center location stated on the Data Center Owner's High-Technology Data Center exemption certificate; and

- (iii) The initial term of the contract must be at least 36 months.

2. A client, tenant, licensee, or end user of a High-Technology Data Center is a High-Technology Data Center

Customer only while such client, tenant, licensee, or end user is a party to a contract described in paragraph (2)(d)1.

3. The initial term of the contract may begin before the Exemption Start Date for purposes of meeting the initial 36-month term. However, the High-Technology Data Center Customer may only make exempt purchases and uses of High-Technology Data Center Equipment during the period set forth in paragraph (3)(b).

4. If a qualifying contract is extended for any consecutive term after the initial term, the customer remains a High-Technology Data Center Customer during such term so long as the requirements of this Rule are met.

(e) “High-Technology Data Center Equipment.”

1. Subject to the exclusion in paragraph (2)(e)2., High-Technology Data Center Equipment means:

(i) Computer equipment, as defined in O.C.G.A. § 48-8-3(68), of a Data Center Owner or such equipment of a High-Technology Data Center Customer that is used or deployed in the High-Technology Data Center; and

(ii) The Data Center Owner’s or High-Technology Data Center Customer's materials, components, machinery, hardware, software, or equipment, including but not limited to, emergency backup generators, air handling units, cooling towers, energy storage or energy efficiency technology, switches, power distribution units, switching gear, peripheral computer devices, routers, batteries, wiring, cabling, or conduit, which equipment or materials are used to:

(I) Create, manage, facilitate, or maintain the physical and digital environments for computer equipment in the High-Technology Data Center;

(II) Protect the High-Technology Data Center Equipment from physical, environmental, or digital threats; or

(III) Generate or provide constant delivery of power, environmental conditioning, air cooling, or telecommunications services for the High-Technology Data Center.

2. This term does not include Real Property, as defined in this Rule.

(f) “High-Technology Data Center Minimum Investment Threshold,” used synonymously with the term “Minimum Investment Threshold,” means:

1. Creating and maintaining an average of the qualifying number of New Quality Jobs during the Investment Period as described in paragraph (4); and

2. Making the qualifying aggregate expenditures during the Investment Period, as described in paragraph (4).

(g) “Investment Period” means the seven-year period, chosen by the Data Center Owner, during which the Minimum Investment Threshold must be met.

1. The Investment Period begins on the Investment Start Date.

2. The Investment Period ends seven consecutive years after the Investment Start Date on the same month and date as the Investment Start Date.

3. The Investment Period may be any consecutive seven-year period that begins on or after July 1, 2018, and ends on or before December 31, 2031.

(h) “New Quality Job” means a new quality job, as defined in O.C.G.A. § 48-7-40.17(a)(2), that is created and maintained by the Data Center Owner or its customers and that meets the requirements in paragraph (4).

(i) “Real Property” means land, any buildings thereon, and any fixtures attached thereto. Fixtures are tangible personal property that has been installed or attached to land or to any building thereon and that is intended to remain permanently in its place. A consideration for whether tangible property is a fixture is whether its removal would cause significant damage to such property or to the real property to which it is attached.

(j) “Related Member” means a related member as defined in O.C.G.A. § 48-7-28.3 with respect to the owner of a High-Technology Data Center.

(3) Scope of the Exemption.

(a) The purchase and use of High-Technology Data Center Equipment to be incorporated or used in a High-Technology Data Center are exempt from state and local sales and use tax, subject to the following conditions:

1. The High-Technology Data Center Equipment must be incorporated or used in the High-Technology Data

Center named or described on the Data Center Owner's exemption certificate;

2. The purchaser must be a Data Center Owner or a High Technology Data Center Customer;

3. Such Data Center Owner must meet the High-Technology Data Center Minimum Investment Threshold at the High-Technology Data Center named or described on the Data Center Owner's exemption certificate;

4. Such Data Center Owner must obtain a certificate of exemption; and

5. If the purchaser is a High-Technology Data Center Customer, the High-Technology Data Center Customer must obtain a certificate of exemption.

(b) Subject to the terms and conditions of this Rule,

1. A Data Center Owner holding a High-Technology Data Center exemption certificate may make exempt purchases and uses of High-Technology Data Center Equipment from the Exemption Start Date through and including December 31, 2031; and

2. A High-Technology Data Center Customer holding an exemption certificate may make exempt purchases and uses of High-Technology Data Center Equipment only during the effective dates on its exemption certificate.

(i) A High-Technology Data Center Customer exemption certificate is effective beginning the later of the Data Center Owner's Exemption Start Date or the start date of the contract for data center services between the Data Center Owner and the High-Technology Data Center

Customer. A High-Technology Data Center Customer exemption certificate ends the earlier of the date such contract ends or December 31, 2031.

(4) Minimum Investment Threshold.

(a) To meet the High-Technology Data Center's Minimum Investment Threshold, the following conditions must be met:

1. An average of the qualifying number of New Quality Jobs must be created and maintained, as set forth in paragraphs (4)(b) and (c), during the Investment Period; and

2. The required amount of qualifying aggregate expenditures must be spent, as set forth in paragraphs (4)(b) and (d), during the Investment Period.

(b) The New Quality Jobs and aggregate expenditure requirements are based on the population of the county in which the High-Technology Data Center is located as reported in the United States decennial census of 2010. If county population data from a more recent United States decennial census is available as of the Investment Start Date, county population must be based upon such data.

1. For Data Center Owners that apply for and receive a High-Technology Data Center exemption certificate prior to May 9, 2022, the New Quality Jobs and aggregate expenditure requirements are as follows:

(i) For a High-Technology Data Center located in a county in this state having a population greater than 50,000:

(I) An average of 20 New Quality Jobs; and

(II) \$250 million in qualifying aggregate expenditures.

(ii) For a High-Technology Data Center located in a county in this state having a population greater than 30,000 and less than 50,001:

(I) An average of 20 New Quality Jobs; and

(II) \$150 million in qualifying aggregate expenditures.

(iii) For a High-Technology Data Center located in a county in this state having a population less than 30,001:

(I) An average of 20 New Quality Jobs; and

(II) \$100 million in qualifying aggregate expenditures.

2. For Data Center Owners that apply for and receive a High-Technology Data Center exemption certificate on or after May 9, 2022, the Data Center Owner must meet the following New Quality Jobs and aggregate expenditure requirements during the Investment Period, even if the Investment Start Date begins before May 9, 2022:

(i) For a High-Technology Data Center located in a county in this state having a population greater than 50,000:

(I) An average of 25 New Quality Jobs; and

(II) \$250 million in qualifying aggregate expenditures.

(ii) For a High-Technology Data Center in a county in this state having a population greater than 30,000 and less than 50,001:

(I) An average of 10 New Quality Jobs; and

(II) \$75 million in qualifying aggregate expenditures.

(iii) For a High-Technology Data Center located in a county in this state having a population less than 30,001:

(I) An average of 5 New Quality Jobs; and

(II) \$25 million in qualifying aggregate expenditures.

(c) New Quality Jobs.

1. An employee occupying a New Quality Job must:

(i) Regularly work 30 hours or more per week in the county where the High-Technology Data Center is located on matters directly related to the High-Technology Data Center; and

(ii) Receive compensation for such work described in paragraph (4)(c)1.(i) in an amount equaling or exceeding 110% of the average wage for all industries of the county where the High-Technology Data Center is located, as reported in the most recent Georgia Employment & Wages report available on the day that the New Quality Job is first filled during the Investment Period. The county average wage remains constant with respect to that job position for the duration of the Investment Period.

2. For purposes of satisfying the Minimum Investment Threshold, a Data Center Owner may count New Quality Jobs created and maintained by the Data Center Owner and New Quality Jobs created and maintained by the Data Center Owner's customers.

3. To determine the average number of New Quality Jobs created and maintained during the Investment Period, a Data Center Owner must count the number of New Quality Jobs on the payroll by the last payroll period of each month during the Investment Period, add the monthly numbers, and divide the sum by the number of months in the Investment Period.

(d) Qualifying Aggregate Expenditures.

1. Qualifying expenditures are:

(i) Expenditures on the design and construction of the High-Technology Data Center (including expenditures on Real Property); and

(ii) High-Technology Data Center Equipment to be used or incorporated in the High-Technology Data Center.

2. Qualifying expenditures made by either the Data Center Owner or the High-Technology Data Center Customer may count towards the Minimum Investment Threshold.

3. Real Property expenditures count towards the Minimum Investment Threshold only to the extent that the expenditures are made by the Data Center Owner as part of the construction and design of the High-Technology Data Center. The purchase of a pre-existing High-Technology Data Center campus does not constitute “the construction and design of the High-Technology Data Center” and therefore does not count toward the Minimum Investment Threshold. While Real Property expenditures may count toward the Minimum Investment Threshold, Real Property is not exempt under this Rule.

4. If a qualifying expenditure is made pursuant to a lease, the term of which extends before or after the Investment Period, the expenditure amount that may be used for purposes of satisfying the expenditure requirement must be determined by dividing the total amount to be paid pursuant to the lease by the number of calendar years in the lease term and then multiplying that quotient by the number of calendar years in the lease term that are during the Investment Period.

5. A Data Center Owner may not count the purchase or lease of the same High-Technology Data Center Equipment more than once. For example, if a Data Center Owner purchases High-Technology Data Center Equipment and subsequently leases it to a High-Technology Data Center Customer or a related member (as defined at O.C.G.A. § 48-7-28.3), only one transaction, either the original purchase or the subsequent lease, may count for purposes of satisfying the Minimum Investment Threshold.

(5) Certificates of Exemption.

(a) Application Process.

1. A Data Center Owner or High-Technology Data Center Customer desiring to secure the benefits of the exemption provided by O.C.G.A. § 48-8-3(68.1) must file an application for a certificate of exemption.

2. Only the owner of the High-Technology Data Center or one Related Member may apply for a certificate of exemption for a High-Technology Data Center.

3. Applications must be filed electronically with the Department.

4. A High-Technology Data Center exemption application may request the applicant's legal name, mailing address, the High-Technology Data Center location, Investment Start Date, the applicant's Georgia income tax filing and payment history, the value of the applicant's title or interest in Real Property owned in this state, a limited waiver of confidentiality for the administration of this exemption, documentation sufficient to show the likelihood of satisfying the High-Technology Data Center Minimum Investment Threshold, and any other information required by the Department for the determination of the claim for exemption.

5. A High-Technology Data Center Customer exemption application may request the applicant's legal name, mailing address, name of the Data Center Owner that holds an exemption certificate and that has contract with the applicant to provide data services at the High-Technology Data Center listed on the Data Center Owner's exemption certificate, a copy of such contract for data center services, and any other information required by the Department for the determination of the claim for exemption.

(i) The Department will not issue a certificate of exemption to a High-Technology Data Center Customer until a certificate of exemption has been issued to its corresponding Data Center Owner.

6. This application requirement is applicable to holders of direct payment permits granted under Regulation 560-12-1-.16.

(b) Issuance of Certificate.

1. Upon approval of the application, including a determination that a Data Center Owner will more likely than not meet the Minimum Investment Threshold, the Department will issue a certificate of exemption to such Data Center Owner.

2. A certificate of exemption issued to a High-Technology Data Center Customer is for the exclusive use of the qualifying applicant. A certificate of exemption issued to a Data Center Owner is for the exclusive use of the owner of the High-Technology Data Center and its Related Members but may be transferrable upon the sale of the High-Technology Data Center and the approval of the Commissioner.

(c) Bond.

1. As a condition precedent to the issuance of a certificate of exemption to a Data Center Owner, the Department, in the Commissioner's discretion, may require a good and valid bond with a surety company authorized to do business in this state.

2. In determining whether to require a bond and the value of such bond, the Commissioner will consider factors, including, but not limited to, the value of the Data Center Owner's title or interest in Real Property owned in this state as of the application date and the Data Center Owner's Georgia tax filing and payment history.

3. If required, the bond must be in an amount fixed by the Department, not to exceed \$20 million.

4. Such bond must be forfeited and paid to the general fund in an amount representing all taxes and interest required to be repaid if the Data Center Owner fails to meet the Minimum Investment Threshold prior to the expiration of the seven-year Investment Period.

5. Such bond will be released when the Data Center Owner timely meets the Minimum Investment Threshold.

6. High-Technology Data Center Customers are not required to obtain a bond.

(d) Revocation.

1. A certificate of exemption issued pursuant to this exemption to a Data Center Owner is subject to revocation if the Department determines that such Data Center Owner has not complied with the provisions of the exemption, including, but not limited to, the following:

(i) During the Investment Period, the Department determines that the Data Center Owner is not likely to meet the applicable Minimum Investment Threshold;

(ii) At the conclusion of the Investment Period, the Department determines the Data Center Owner failed to meet the applicable Minimum Investment Threshold;

(iii) The Data Center Owner does not file the annual report as required in paragraph (7); or

(iv) The Data Center Owner claims an income tax credit in violation of paragraph (9).

2. A certificate of exemption issued pursuant to this Rule to a High-Technology Data Center Customer is

subject to revocation if the Department determines that such certificate holder has not complied with the provisions of the exemption, including, but not limited to, the following:

(i) The certificate of exemption of its corresponding Data Center Owner is revoked; or

(ii) The High-Technology Data Center Customer is not, or is no longer, a party to a contract in accordance with paragraph (2)(d).

3. Revocation procedures for Data Center Owner's certificates of exemption.

(i) If it is determined that there are grounds for revocation of a Data Center Owner's certificate of exemption, the Department will send written notice to the Data Center Owner stating the grounds for revocation. Effective the 31st day following the date of the notice, the Department will revoke the Data Center Owner's certificate of exemption, unless:

(I) within 30 days from the date of the notice, the Data Center Owner provides the Department with a detailed plan to remedy each cause for revocation; and

(II) the Department determines that the Data Center owner is more likely than not to remedy each cause for revocation within 90 days from the Department's receipt of the plan.

(ii) If the Department determines that the Data Center Owner has failed to remedy each cause for revocation within 90 days from the Department's receipt of the plan,

then the Department will revoke the Data Center Owner's certificate of exemption effective the 91st day after the Department's receipt of the plan. The Department will notify the Data Center Owner in writing of the grounds for revocation, the revocation date, and the procedure by which the certificate holder may dispute the revocation.

4. Once a certificate of exemption has been revoked, the certificate holder must immediately notify all vendors to which such certificate holder furnished the certificate of exemption that such certificate of exemption is no longer valid. The certificate holder must maintain records of notifications of revocation sent to vendors.

5. It is unlawful for any person to attempt to evade sales and use taxes by using a certificate of exemption obtained through fraud or by using a certificate of exemption to which a purchaser is not entitled.

6. Upon the revocation of the Data Center Owner's certificate of exemption, the owner of the High-Technology Data Center and its Related Members will be liable for all tax exempted or refunded under this exemption, plus interest as computed under O.C.G.A. § 48-2-40. If tax and interest are not paid within 90 days of the revocation of the certificate of exemption, penalties will accrue pursuant to O.C.G.A. § 48-8-66.

7. If a High-Technology Data Center Customer's certificate of exemption is revoked, the customer, the owner of the customer's corresponding High-Technology Data Center, and the owner's Related Members may be liable, as provided below, for all tax exempted or refunded under this exemption on the customer's purchases, plus interest as

computed under O.C.G.A. § 48-2-40. If tax and interest are not paid within 90 days of the revocation of the certificate of exemption, penalties will accrue pursuant to O.C.G.A. § 48-8-66.

(i) If a High-Technology Data Center Customer's certificate of exemption is revoked solely because its corresponding Data Center Owner's certificate of exemption is revoked, the High-Technology Data Center Customer is not required to repay the tax exempted or refunded under this exemption on the customer's purchases. The owner of the customer's corresponding High-Technology Data Center and the owner's Related Members are required to repay such tax.

(ii) If a High-Technology Data Center Customer certificate of exemption is revoked because the certificate holder does not meet the definition of High-Technology Data Center Customer, the purported customer is required to repay the tax exempted or refunded under this exemption for periods when the purported customer did not meet the definition of High-Technology Data Center Customer.

(iii) If a High-Technology Data Center Customer's certificate of exemption is revoked solely because of the expiration of a qualifying contract with a certificated Data Center Owner, neither the High-Technology Data Center Customer nor the Data Center Owner is required to repay the tax exempted or refunded for periods when the customer met the definition of a High-Technology Data Center Customer.

8. Nothing in this Rule prohibits the reinstatement or reissuance of a certificate of exemption to a qualified Data Center Owner or its customer.

(e) All certificates of exemption issued to Data Center Owners pursuant to this exemption expire on December 31, 2031, by operation of law.

(6) Claiming the Benefit of the Exemption.

(a) Any person making a sale or lease of High-Technology Data Center Equipment must collect the sales and use tax unless the purchaser furnishes such seller with a valid and complete certificate of exemption.

(b) A High-Technology Data Center Equipment supplier is relieved from the collection of sales and use tax on the sale or lease of High-Technology Data Center Equipment if the supplier takes a certificate of exemption from a certificate holder in good faith.

(c) Refund Claims.

1. Subject to paragraph (6)(c)5. of this Rule and other applicable laws, a refund claim may be filed for taxes paid on purchases or uses qualifying for this exemption for any period on or after July 1, 2018, during which the Data Center Owner or customer had not yet applied for or received its certificate of exemption from the Department.

2. Claimants must submit refund claims electronically.

3. As a condition precedent to the issuance of a refund, the claimant must apply for and receive its certificate of exemption.

4. As provided by O.C.G.A. § 48-2-35.1, refunds issued pursuant to this exemption do not bear interest.

5. A refund claim may be filed by the taxpayer at any time within three years after the date of the payment of the tax to the Department.

(d) Notwithstanding otherwise applicable recordkeeping requirements, any Data Center Owner or High-Technology Data Center Customer claiming the benefit of this exemption must keep and preserve all books and records as long as needed to support such claim.

(7) Annual Report.

(a) Each Data Center Owner holding an exemption certificate pursuant to this Rule must submit an annual report electronically to the Department. The annual report is due on the dates set forth in this paragraph or the first day following that is not a Saturday, Sunday, legal holiday, or day on which the Federal Reserve Bank is closed.

1. The annual report must be submitted by April 30 of each calendar year if the Data Center Owner or its High-Technology Data Center Customer claimed or will claim the benefit of the exemption for purchases in the prior calendar year.

2. Notwithstanding paragraph (7)(a)(1), if the Data Center Owner's Investment Start Date begins in a calendar year prior to the calendar year of application, the annual report(s) for those prior year(s) are due 30 days following the date the Department grants the exemption certificate or April 30th of the year of application, whichever is later.

(i) Example: If the Department grants an exemption certificate on January 1, 2021 to a Data Center Owner with an investment start date of July 1, 2018, the annual reports for years 2018 through 2020 are due on April 30, 2021. The annual report for 2021 is due May 2, 2022 (because April 30, 2022 is a Saturday).

(ii) Example: If the Department grants an exemption certificate on April 15, 2021 to a Data Center Owner with an investment start date of July 1, 2018, the annual reports for years 2018 to 2020 are due May 17, 2021 (because May 15, 2021 is a Saturday). The annual report for 2021 is due May 2, 2022 (because April 30, 2022 is a Saturday).

3. The Department may exercise its discretion to approve a Data Center Owner's request for an extension beyond the applicable deadline.

4. The annual reporting requirement does not end at the expiration of the Investment Period. The annual report is required for every year in which the Data Center Owner holds a valid exemption certificate pursuant to this Rule.

(b) The annual report must include the following:

1. The amount of tax exempted or refunded under this exemption on purchases by the owner of the High-Technology Data Center and its Related Members during the preceding calendar year;

2. A list of the Data Center Owner's High-Technology Data Center Customers holding exemption certificates under this Rule;

3. The amount of tax exempted or refunded under this exemption on purchases by each High-Technology Data Center Customer during the preceding calendar year;

4. The number of New Quality Jobs created or maintained in accordance with paragraph (4) on a monthly basis during the preceding calendar year;

5. A list of each New Quality Job created and maintained in accordance with paragraph (4), including a description of each position, each position's wage, each position's regular work hours, and the location at which each position's job duties are performed;

6. A methodology to verify that employees are working at least 30 hours per week on matters directly related to the High-Technology Data Center in the county where the High-Technology Data Center is located;

7. The total amount of High-Technology Data Center's employee payroll during the preceding calendar year;

8. The total amount of qualifying aggregate expenditures made since the Investment Start Date that the Data Center Owner counts for purposes of satisfying the expenditure requirement of its Minimum Investment Threshold. This amount does not need to be reported after the Data Center Owner submits its investment report as described in Paragraph (8) of this Rule at the conclusion of the Investment Period; and

9. A list of expenditures that count toward the Data Center Owner's Minimum Investment Threshold, including the dollar amount of each purchase, the name of the purchaser, the date of purchase, the vendor, and

description of the purchase. This list is not required after the Data Center Owner submits its investment report as described in paragraph (8) of this Rule at the conclusion of the Investment Period.

(c) A Data Center Owner's failure to submit a complete and accurate annual report is grounds for the revocation of the Data Center Owner's certificate of exemption.

(8) Investment Report.

(a) Within 60 days after the end of the Investment Period, the Data Center Owner must file a report electronically with the Department.

(b) The report must detail the following:

1. The expenditures incurred that count toward its Minimum Investment Threshold, including the name of the purchaser, the expenditure date, the vendor, the dollar amount, and a description of each purchase;

2. The average number of New Quality Jobs created and maintained during the Investment Period, as calculated in paragraph (4)(c);

3. A description of each position and each position's wage and regular work hours; and

4. Any other information that the Commissioner may reasonably require to determine whether the Data Center Owner has met the Minimum Investment Threshold.

(c) If it is determined that a Data Center Owner failed to meet its Minimum Investment Threshold, such owner of the High-Technology Data Center and its Related

Members must repay all taxes exempted or refunded pursuant to the Data Center Owner's certificate of exemption and all taxes exempted or refunded pursuant to the certificates of exemption of the Data Center Owner's High-Technology Data Center Customers.

1. Interest will be due at the rate specified in O.C.G.A. § 48-2-40 computed from the date such taxes would have been due but for this exemption.

2. Such repayment of taxes and interest must be made within 90 days after notification of such failure.

3. Such repayment will be calculated notwithstanding otherwise applicable periods of limitation for assessment.

(9) Impact on Certain Income Tax Credits.

(a) During any tax year in which a Data Center Owner holds a valid exemption certificate under this Rule with respect to a High-Technology Data Center, the owner of such High-Technology Data Center is not entitled to claim any credit authorized under O.C.G.A. §§ 48-7-40 through 48-7-40.33 or O.C.G.A. § 36-62-5.1 for jobs, investments, or any business activity created by, arising from, related to, or connected in any way with such High-Technology Data Center.

(b) A Related Member is not entitled to claim any credit authorized under O.C.G.A. §§ 48-7-40 through 48-7-40.33 or O.C.G.A. § 36-62-5.1 in any tax year for jobs, investments, or any business activity created by, arising from, related to, or connected in any way with a High-Technology Data Center, if, during that tax year such Related Member or the associated owner of such High-

Technology Data Center holds a valid exemption certificate and the Related Member takes any of the following actions:

1. Makes expenditures for such High-Technology Data Center that count toward the Minimum Investment Threshold;
2. Makes exempt purchases of High-Technology Data Center Equipment that is used or deployed in such High-Technology Data Center;
3. Employs persons to fill New Quality Jobs at such High-Technology Data Center; or
4. Contracts with High-Technology Data Center Customers for data center services at such High-Technology Data Center.

(c) If a determination is made by the Department that the Data Center Owner must repay all taxes exempted or refunded pursuant this exemption, the owner of the High-Technology Data Center and its Related Members may, notwithstanding otherwise applicable periods of limitation, file amended income tax returns claiming any credit to which they would have been entitled under O.C.G.A. §§ 48-7-40 through 48-7-40.33 or O.C.G.A. § 36-62-5.1 but for having claimed the exemption set forth in this Rule.

Authority: O.C.G.A. §§ 48-2-12, 48-7-40.17, 48-8-3, 48-8-3.2.