
2002 Legislative Tax Summary

Sales & Use Tax

Agricultural Commodities Exemption

-- **House Bill 1180 (O.C.G.A. §48-8-3(6.2)). Effective Date: July 1, 2002.** Bill creates a new sales and use tax exemption for sales to any agricultural commodities commission created by and regulated pursuant to Chapter 8 of Title 2. There are 12 Commissions: apple, canola, corn, cotton, egg, milk, peach, pecan, peanut, soybean, sweet potatoes, and tobacco. This exemption is anticipated to be administered through the Certificate of Exemption (Form ST-5).

Sale Tax Holidays -- House Bill 1312 (O.C.G.A. §48-8-3 (75)). Effective Date: March 5, 2002. Legislation enacts a new sales and use tax exemption for two periods (March 29-30, 2002 and Aug. 2-3, 2002). The Sales Tax Holiday exempts certain clothing where the sales price does not exceed \$100 per item, the first \$1,500 of the sales price on computers and computer related accessories when purchased with a personal computer base unit, and the sale of school supplies where the sales price does not exceed \$20 per item. The exemption does not apply to rentals, sales in theme parks, entertainment complexes, public lodging establishments, restaurants or airports or to purchases for a trade, business or resale.

Computer Equipment Exemption -- House Bill 1441 (O.C.G.A. §48-8-3(68)). Effective Date: Oct. 1, 2002. Bill amends the exemption for computer equipment to change the definition of computer equipment; and to exclude telephone central office equipment (telephone switching equipment); and to exclude certain other computer equipment. It provides that any technology company qualified for the exemption that is affiliated with a non-qualifying entity must conduct a majority of its business with nonaffiliated third party companies. The regulation and exemption application will be revised to address the changes.

Mobile Telecommunications -- House Bill 1443 (O.C.G.A. §§48-8-6, 48-8-13 and 46-5-134). Effective Date: May 14, 2002. Bill creates a new section under the sales

tax statutes and amends O.C.G.A. § 46-5-134 to be consistent with the federal Mobile Telecommunications Sourcing Act, 4 U.S.C. Section 116-124, effective Aug. 1, 2002. Primarily, it provides a national uniform method of sourcing state and local taxes and fees on mobile telecommunication services. It also provides for an administrative remedy for consumers to correct local tax billing errors by the service provider before any legal action can be initiated against the provider.

Section 1: Amends O.C.G.A. §48-8-6 to source any sales tax or fee to the customer's primary place of use within the boundaries of the political subdivision (i.e. state or county) imposing the tax or fee.

Section 2:

(a) Creates a new section 48-8-13, adopting all terms and definitions from the federal act;

(b) Limits the application of this section to only taxes on mobile telecommunication services to consumers with a primary place of use in Georgia;

(c) Consumer administrative remedy provision;

(d) Allows provider to bundle taxable and nontaxable services into one charge without taxing the entire charge (only taxing the taxable portion), provided the company can identify the taxable and nontaxable services within its books and records;

(e) Allows the provider to be "held harmless" from any past tax liability, penalty or interest due solely as a result of incorrect assignment of the customer's primary place of use, under certain conditions; the provider must obtain and maintain the customers primary place of use subject to review by the Department.

Section 3: Amends O.C.G.A. §46-5-134 such that the provider will source local 911 charges like the mobile telecommunications sales tax charges (e.g. to the county of the customers primary place of use).

Section 4: Provides that if any of the provisions of the federal act are substantially limited or impaired by a court of competent jurisdiction, then all provisions are to be declared invalid. This will not materially effect Georgia's ability to tax these services (O.C.G.A. §48-8-2(6)(B)).

Section 5: Effective date to apply to charges billed on or after Aug. 2, 2002, con-

sistent with the effective date of the federal act (Aug. 1, 2002).

Revenue Regulation 560-12-2-.24 Communication Services will be amended.

Local Sales Tax Cap -- House Bill 1444 (O.C.G.A. §§48-8-6 and 48-8-111). Effective Date: July 1, 2002. Bill amends the cap on local county sales taxes of two percent to exclude the sales tax for educational purposes (ELOST exempted by constitution) and to allow MARTA to be excluded when a special purpose tax (SPLOST) is imposed exclusively for water and or sewer projects. If this SPLOST is imposed, it shall not apply to sales of accommodations or motor vehicles. Currently, this provision could only effect DeKalb and Fulton counties and would allow the overall rate in these two counties to increase to eight percent.

Additionally, this legislation amends the Special Purpose Tax Section (O.C.G.A. §48-8-111) to expand the definition of capital outlay projects to include a hospital operated by a county, hospital authority or nonprofit organization operating under contract with a county or hospital authority.

Gross Sales Definition -- House Bill 1446 (O.C.G.A. §48-8-2(4)). Effective Date: May 14, 2002. This legislation amends the definition of gross sales as it relates to local telephone service to allow the telephone service provider to bundle taxable and nontaxable services into one charge without taxing the entire charge (only taxing the taxable portion), provided the company can identify the taxable and nontaxable services within its books and records. The bill also entitles a customer to obtain the charges associated with the nontaxable portion from the phone company.

Georgia State Society of Daughters of the American Revolution -- House Bill 1521 (O.C.G.A. §48-8-3(7.2)). Effective Date: July 1, 2002. Bill creates a new sales tax exemption for sales to any chapter of the Georgia State Society of Daughters of the American Revolution that has been granted nonprofit status under Internal Revenue Code 501(c) (3) and obtains a certificate from the commissioner. This exemption is anticipated to be administered

through the issuance of a letter of authorization.

Income Tax

Annual Update -- House Bill 1026 (O.C.G.A. §48-1-2). Effective Date: April 18, 2002. Bill includes the amendment referred to as the "annual update" legislation. The amendment to O.C.G.A. §48-1-2 is the annual update to follow the Internal Revenue Code as it exists on Jan. 1, 2002. This update includes all applicable provisions of tax legislation signed into law during 2001. Applicable to taxable years beginning on or after Jan. 1, 2002. It is important to note that this bill does not include the Job Creation and Worker Assistance Act of 2002. Accordingly, adjustments must be made on Georgia returns for the 2002 act.

State Auditor -- House Bill 1285 (O.C.G.A. §§50-6-4, 50-6-9 and 50-6-29). Effective Date: May 1, 2002. Bill authorizes the State Auditor to inspect, compel production of and copy confidential information in any form unless the law making the information confidential expressly refers to this law and qualifies or supersedes it.

Retirement Exclusion -- House Bill 1313 (O.C.G.A. §48-7-27(a)(5)). Bill increases the retirement exclusion to \$14,500, for tax years beginning on or after Jan. 1, 2002, and prior to Jan. 1, 2003. For tax years beginning on or after Jan. 1, 2003, the retirement exclusion increases to \$15,000.

Zero Emission Tax Credit -- House Bills 1389 and 1439 (O.C.G.A. §48-7-40.16). Effective Date: April 25, 2002. Bills represent changes to the current law granting a Zero Emission Tax Credit. The bills define a "low speed vehicle" and create a mechanism for special tags and titles for the "low speed vehicles," as well as establishing rules of the road for the vehicles. Clarification is provided that a "low speed vehicle" does not qualify for the Zero Emission Tax Credit. The law creates a window of opportunity for claiming the Zero Emission Tax Credit by owners of a "low speed vehicle" who purchased or leased such vehicle and placed it in service during the 2001 calendar year.

Technical Corrections -- House Bill

1434 (O.C.G.A. §§48-7-1, 48-7-27, 48-7-30, 48-7-31.1, 48-7-40.22, 48-7-60, 20-3-632, 20-3-633, 20-3-634, 20-3-635, 20-3-637, 20-3-638 and 20-3-642).

The major income tax provisions of this bill are listed below.

1. Changes various provisions regarding the Georgia Higher Education Savings Plan:

a) Clarifies that the \$2,000 deduction is only available to parents and guardians who are the owner(s) of the account.

b) Clarifies the treatment of withdrawals from the account.

c) Eliminates the previous annual contribution limit of \$8,000.

d) Previously the limit of total contributions for each beneficiary was \$120,000. Contributions can now be made until the total account balance for each beneficiary reaches \$235,000.

2. Changes O.C.G.A. §48-7-31.1 (Conditions for allocating taxpayer's income pursuant to agreement) by specifying which records are public records open for inspection and provides criteria for determining whether a proposal has significant economic benefit on the region for which it is planned.

3. Changes O.C.G.A. §48-7-60 confidentiality provisions when it is necessary to conduct research commissioned by the Department.

4. Changes O.C.G.A. §48-7-40.22 (Credit to business enterprises for leased motor vehicles) by:

a) Defining a motor vehicle.

b) Clarifying that each vehicle for which a credit is claimed must have an average daily ridership of not less than four employees for an entire taxable year.

c) Clarifying that if the Low or Zero Emission Tax Credit is claimed when the vehicle is purchased, the credit authorized in HB 1434 will not be allowed.

d) Providing for recapture provisions for the credit.

Items 1 and 4 took effect on April 11, 2002, and are applicable to taxable years beginning on or after Jan. 1, 2002. Items 2 and 3 took effect on April 11, 2002.

Restoration Tax Credit for Certified Structures and Historic Homes -- House Bill 1441 (O.C.G.A. §48-7-29.8). Effective Date: Jan. 1, 2004, and will be applicable to all taxable years beginning on or

after that date. Bill creates tax credit rewards for "certified rehabilitation" of a certified structure or a historic home. The credit requires meeting standards set by the Department of Natural Resources. The maximum amount allowable for the credit is \$5,000.

Transfer of Credit -- House Bill 1441 (O.C.G.A. §48-7-42). Effective Date: May 14, 2002. Bill changes the current law allowing the transfer of credits among affiliated entities. Prior to the passage of this bill, a credit had to be transferred in its entirety to one affiliated member by a transferring entity. Based on the changes presented in this bill, Companies will be able to transfer credits in whole or in part to affiliated entities.

Rural Physicians Tax Credit -- House Bill 1565 (O.C.G.A. §48-7-29). Effective Date: Jan. 1, 2003, applies to all taxable years beginning on or after that date. Changes the definition of "rural hospital" to be an acute-care hospital located in a rural county that contains fewer than 100 beds (instead of fewer than 80 beds). Prior law required a physician to live in a rural county. This bill now also allows a rural physician living in a county contiguous to the rural county in which he practices to qualify for the credit.

Georgia Limited Liability Act -- Senate Bill 253 (O.C.G.A. §§14-11-101, 14-11-308, 14-11-405, 14-11-502, 14-11-601, 14-11-601.1 and 14-11-602). Bill makes various "technical corrections" to the "Georgia Limited Liability Act." Included are changes to the approval rights of members, changes to provisions relating to distributions upon the event of dissociation, changes to provisions relating to assignment of a limited liability interest, changes to provisions relating to cessation of membership, and changes to limit the withdrawal from a limited liability company.

Property Tax

Tax Sales Excess Funds Payment -- House Bill 337 (O.C.G.A. 48-3-19, 48-4-1, 48-4-5 and 48-4-42). Effective Date: May 21, 2002. Bill repeals completely the law providing for the sale and transfer of tax executions to individuals or in lot

blocks, thus removing the ability of individuals to purchase fifas and exercise the same power and authority as the tax commissioner in collecting such fifas.

Bill modifies the provision of O.C.G.A. 48-4-1, which permits two or more tax executions to be combined and a single sale held to collect the tax, and adds a provision that notice only has to be given to the defendant on at least one of the executions. It also provides that the 12-month period of redemption on all such consolidated executions starts on the date of the sale.

Bill also deals with the excess funds left over from a tax sale and allows the tax commissioner to deposit the funds with the superior court where actions may be filed by interested parties for such excess (O.C.G.A. 48-4-5).

Bill reduces the amount that must be paid by a former owner to redeem property that has been sold at a tax sale in certain instances. The first year premium remains at 20 percent of the sale price, but the subsequent year premiums have been reduced from 20 percent to 10 percent. Also the 20 percent premium added when the new owner has sent the required notice that the right of redemption is about to be lost in 30 days has been eliminated altogether and the new owner can only recover the cost of such notice.

Waive Interest Unpaid Taxes -- House Bill 547 (O.C.G.A. 48-5-242). Effective Date: July 1, 2002. Bill allows the tax commissioner to waive interest on delinquent state, county, municipal or school taxes they collect subject to the approved of the county governing authority, which may reserve the right to rule on waiver requests on a case by case basis or delegate the authority to waive interest to the tax commissioner subject to strict rules and regulations or general guidelines as suits the commissioners.

Distribution Forfeited Property -- House Bill 783 (O.C.G.A. 16-13-49). Effective Date: May 16, 2002. Bill adds new options for the court to distribute confiscated real property which is forfeited due to the presence of certain contraband items on the property. It allows such property to be turned over to the state, counties, cities or land bank authorities.

Butts County Homestead Exemption -- House Bill 1106 (O.C.G.A. 48-5-40(3)(L)). Effective Date: July 1, 2002. Bill revises the population brackets in the code to the new 2000 census numbers to allow Butts County homeowners living on leased property, primarily lake lots, to continue receiving a homestead exemption. Normally, ownership of the land is required to qualify.

Surviving Spouses of Certain Military Personnel -- House Bill 1217 (O.C.G.A. 48-5-52.1). Effective Date: May 13, 2002. Bill amends the code and extends the disabled veterans exemption to unremarried surviving spouses of veterans who were not killed in a war or armed conflict (current law) but died later as a result. **Bill must be ratified by the citizens of Georgia in the November 2002 election, if ratified the act will be in effect Jan. 1, 2003.**

Certain Historic Property Exemption -- House Bill 1244 (O.C.G.A. 48-5-41) Effective Date: May 14, 2002. Bill establishes a tax exemption for certain historic property, which is listed on the National or Georgia Register for Historic Places and owned by a nonprofit corporation, which houses a medical museum or medical society. **Bill must be ratified by the citizens of Georgia in the November 2002 election, if ratified the act will be in effect Jan. 1, 2003.**

Removal of Board of Tax Assessors Members -- House Bill 1278 (O.C.G.A. 48-5-295) Effective Date: July 1, 2002. Bill adds a provision that a hearing before a judge is required before removing any assessor from office (current law affords this right only when the assessor is also an appraiser). The bill further adds a pattern of incorrect assessments or the failure to maintain uniformity as grounds for removing an assessor from office.

Certain Commercial Dockside Facilities Ad Valorem Tax Exemption -- House Bill 1288 (O.C.G.A. 48-5-7) Bill provides for the assessment for ad valorem tax purposes of certain commercial dockside facilities whose primary use is the landing and processing of seafood at 20 percent of its fair market value rather than 40 percent. Effective Date: January 1, 2003 provided the voters of Georgia in the November 2002 election ratify the companion House Reso-

lution 364, otherwise it stands repealed.

Property Preferential Use Covenant -- House Bill 1321 (O.C.G.A. 48-5-7.1, 48-5-7.4, 36-89-1, 36-89-2, 36-89-4, and 36-89-5). Effective Date: May 14, 2002. Applicable to all taxable years beginning on or after January 1, 2002. Bill provides an "early out" option three years into a renewal conservation or preferential use covenant where the taxpayer is at least 65 years old. Normally the covenants are for a full 10 years.

Bill also allows the property owner to use the property for hunting purposes and still qualify for conservation use assessment. Previous law only allowed the hunting rights to be leased to others.

This bill clarifies some of the language on the administration of the homeowner tax relief grant credits and extends the credits to apply to taxes levied by municipalities and within special tax districts.

Ad Valorem Tax Exemption Certain Fishing Vessels -- House Bill 1391 (O.C.G.A. 48-5-41). Effective Date: May 14, 2002. Bill seeks to provide a tax exemption for commercial fishing vessels whose primary use is the catching of seafood. **Bill must be ratified by the citizens of Georgia in the November 2002 election, if ratified the act will be in effect Jan. 1, 2003.**

Clarke County Population Bracket -- House Bill 1449 (O.C.G.A. 48-5-18 paragraph h). Effective Date: July 1, 2002. Bill updates a population bracket, which only includes Clarke County, to continue to permit them to use March as a deadline for filing property tax returns. Normal deadline is April 1.

DeKalb, Cobb County Population Brackets -- House Bill 1489 (O.C.G.A. 48-5-24). Effective Date: July 1, 2002. Bill updates the population brackets to allow DeKalb County to continue their provisions for two-installment ad valorem tax billing. Bill updates the population brackets to allow Fulton County to continue charging an additional 12 percent interest on tax bills that exceed \$1,000.

Bill updates the population brackets to allow Cobb County to continue to bill in installments with a first installment deadline of Aug. 15 and a second installment

deadline of Oct. 15.

Clarke County Homestead Exemption -- House Bill 1559. (O.C.G.A. 48-5-45). Effective Date: July 1, 2002 Bill updates the population bracket to allow Clarke County to continue to use March 31 as the deadline for taking homestead exemptions. Normally this deadline is June 1.

Tax Defaulter -- House Resolution 126 (Article X, Section I, Paragraph II of the Constitution) Effective Date: This resolution must be ratified by the voters of Georgia in the November 2002 election, if ratified this resolution becomes law immediately. Resolution, if ratified by the voters, would make a person ineligible to hold an elected or appointed office if they are a defaulter on any federal, state, county, municipal or school systems taxes. The ineligibility may be removed by the payment of the tax.

Certain Dockside Facilities -- House Resolution 364. (Article VII, Section I, Paragraph III of the Constitution). Effective Date: This resolution must be ratified by the voters of Georgia in the November 2002 election, if ratified this resolution becomes law immediately. Resolution authorizes the General Assembly to establish a separate class of property and separate methods of taxing commercial dockside facilities consisting of real and personal property whose primary use is the landing and processing of seafood. The enabling legislation is HB 1288, which would tax this type property at 20 percent rather than 40 percent of fair market value.

Community Redevelopment Tax Incentive Program -- House Resolution 391. (Article IX, Section II, Paragraph VII of the Constitution). Effective Date: Resolution must be ratified by the voters of Georgia in the November 2002 election, if ratified this resolution becomes law immediately. Resolution empowers counties and cities to establish community redevelopment tax incentive programs for properties, other than homes, maintained in a blighted condition area, and tax the properties in such districts at a higher rate of taxation. It also provides for the counties and municipalities to decrease the taxation, even below taxes charged similar properties not in

the blighted area, if the owners submit an acceptable plan to rehabilitate the properties over time.

Certain Low-Income Projects -- House Resolution 1073. (Article VII, Section I, Paragraph III of the Constitution). Effective Date: Resolution must be ratified by the voters of Georgia in the November 2002 election, if ratified this resolution becomes law immediately. Resolution authorizes the General Assembly to create a separate class of property for ad valorem tax purposes for qualified low-income building projects and allow different rates, methods and assessment dates for this type of property.

Cobb, Gwinnett County Tax Collector's Commissions -- Senate Bill 354 (O.C.G.A. 48-6-73). Effective Date: July 1, 2002. Bill revises the population brackets to prevent Cobb and Gwinnett from moving into a different bracket that would have reduced their commissions on recording intangible tax from 6 percent to 4 percent. Currently only DeKalb and Fulton are in the 4 percent bracket, but Cobb and Gwinnett would have joined them without this bill.

DeKalb Ad Valorem Installment Payments -- Senate Bill 405 (O.C.G.A. 48-5-24) Effective Date: July 1, 2002. Bill updates the population brackets to permit DeKalb County to continue collecting ad valorem taxes in two installments with different due dates and penalty provisions than that provided in the general statute.

Alcohol Division

Regional Economic Assistance Project -- House Bill 1482 (O.C.G.A. § 50-8-191). Effective Date: April 25, 2002. Changes provisions relating to the minimum criteria for application as a regional economic assistance project (REAP). Authorizes the commissioner of the Department of Community Affairs to waive criteria under certain conditions.

(REAP) minimum criteria:

A project, in combination with any adjacent facility included by a reciprocal use agreement shall:

- Be not less than 250 acres in size or be located on or adjacent to a lake of not

less than 2,500 acres

- Have zoning which is appropriate to the planned uses and plans and be consistent with land use regulations; and
- Meet at least three of the following criteria
 - One or more regulation 18-hole golf courses with a clubhouse providing food service or have a commercial boat marina of not less than 300 boat slips with a facility providing food service;
 - A full-service restaurant with minimum seating for 75 or more persons;
 - At least 100 residential units;
 - At least 200 rooms for overnight stays;
 - Conference facilities with capacity for 150 participants; or
 - Be located in a county in which a state operated facility or authority provides services or products, or both to the general public.

The commissioner of the Department of Community Affairs may waive not more than one of the criteria set forth in the Code and regulations if the commissioner determines that the project will confer substantial benefits upon the local jurisdiction.

Internal Administration

Check Deposit -- SB 323 (O.C.G.A. §48-2-17). Effective Date: May 16, 2002. Bill changes provisions related to payment of money and collections received by the Department of Revenue to the Office of Treasury and Fiscal Services, by setting a maximum of 45 days between receipt of monies and date of deposit.