

2005 Legislative Analysis For Enacted Legislation

Income Tax

Setoff of State Board of Pardons and Paroles Debt and Department of Juvenile Justice Debt – House Bill 172 (O.C.G.A. § 48-7-161) The income tax provisions of this bill add the State Board of Pardons and Paroles and the Department of Juvenile Justice to the list of claimant agencies that may receive an individual taxpayer's state income tax refund to offset a debt for court ordered restitution. Debts may be submitted by a claimant agency to the Department of Revenue for collection through setoff of an individual income tax refund under O.C.G.A. § 48-7-161. Previously the Department of Human Resources, Georgia Student Finance Authority, Georgia Higher Education Assistance Corporation, State Medical Education Board, the Department of Labor, and the Department of Corrections were the only state agencies statutorily allowed to offset debt using Georgia income tax refunds. The Governor signed this bill on April 11, 2005, and it becomes effective July 1, 2005.

House Bill 172 can be viewed at the following link

http://www.legis.state.ga.us/legis/2005_06/fulltext/hb172.htm

Intangible Expenses Paid to Related Members and Phase in of the Single Sales Factor – House Bill 191 (O.C.G.A. §§ 48-7-21, 48-7-27, 48-7-28.3, 48-7-31) Disallows intangible expenses and associated interest expenses paid to related members for taxable years beginning on or after January 1, 2006. It also makes the following changes to how income is apportioned to Georgia:

- For tax years beginning on or after January 1, 2006, and before January 1, 2007, the apportionment factors are 80% sales, 10% property, and 10% payroll.
- For tax years beginning on or after January 1, 2007, and before January 1, 2008, the apportionment factors are 90% sales, 5% property, and 5% payroll.
- For tax years beginning on or after January 1, 2008, and forward the apportionment factor is 100% sales.
- For tax years beginning on or after January 1, 2006, the bill provides that a company whose net income is derived from the manufacture, production, or sale of tangible personal property, and from business other than the manufacture, production, or sale of tangible personal property, must include gross receipts from both activities in their receipts factor.
- For tax years beginning on or after January 1, 2006, the bill provides that a company whose net income is derived from business other than the manufacture, production, or sale of tangible personal property, only includes gross receipts from activities which constitute the taxpayer's regular trade or business in their receipts factor.

This bill was signed by the Governor on April 6, 2005. The provisions are applicable to the tax years previously mentioned.

House Bill 191 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/fulltext/hb191.htm

Eligible Educator Exemption of up to \$250 – House Bill 263 (O.C.G.A. § 48-7-27)

Allows the \$250 deduction for school teachers provided and allowed by Section 62(a)(2)(D) of the Internal Revenue Code, to the extent the deduction has not been included in federal adjusted gross income. This bill became effective upon the Governor's signature on March 28, 2005, and is applicable to taxable years beginning on or after January 1, 2004.

House Bill 263 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/versions/hb263_HB_263_AP_4.htm

Allowance of Depreciation of Business Assets and Allowance for Contribution to the Georgia National Guard Foundation – House Bill 282 (O.C.G.A. §§ 48-7-21, 48-7-27, 48-7-62) The provisions of this bill are as follows:

Section 1 – Allowance of increased IRC § 179 for corporations . Amends O.C.G.A. § 48-7-21 and allows corporations to deduct the increased federal Section 179 amounts (\$105,000 in 2005).

Section 2 – Allowance of increased IRC § 179 for others. Amends O.C.G.A. § 48-7-27 and allows individuals, partnerships, and trusts to deduct the increased federal Section 179 amounts (\$105,000 in 2005).

Section 3 – Contributions to the Georgia National Guard Foundation. Adds a new § 48-7-62 which requires each Georgia income tax return, for tax years beginning January 1, 2005, to contain language offering the taxpayer the opportunity to contribute to the Georgia National Guard Foundation. Taxpayers will be offered the alternative of either: (a) donating all or any part of any tax refund due (by authorizing a reduction in the refund check otherwise payable); or (b) contributing an amount over and above any amount of tax owed by adding that amount to the taxpayer's balance due payment.

This bill became effective upon the Governor's signature on April 12, 2005, and is applicable to taxable years beginning on or after January 1, 2005.

House Bill 282 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/versions/hb282_HB_282_AP_6.htm

HB 389 –Job Tax Credit (O.C.G.A. § 48-7-40) Amends O.C.G.A. § 48-7-40 to allow an additional \$500 job tax credit for business enterprises which have been in existence for at least three years. This is a one-time credit for jobs that meet Year One eligibility standards; the credit can be claimed in Year Two. There is no carry-forward provision for this additional credit. The regular job tax credit amounts and eligibility requirements remain unchanged. This bill became effective upon the Governor's signature on April 21, 2005, and is applicable to taxable years beginning on or after January 1, 2006.

House Bill 389 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/versions/hb389_HB_389_AP_4.htm

Contributions to the Dog and Cat Sterilization Fund – House Bill 452 (O.C.G.A. § 4-15-1). Requires each Georgia income tax return, for tax years beginning January 1, 2006, to contain language offering the taxpayer the opportunity to contribute to the Dog and Cat Sterilization Fund. Taxpayers are offered the alternative of either: (a) donating all or any part of any tax refund due (by authorizing a reduction in the refund check otherwise payable); or (b) contributing an amount over and above any amount of tax owed by adding that amount to the taxpayer's balance due payment. The Governor signed this bill on May 9, 2005, and it becomes effective July 1, 2005.

House Bill 452 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/versions/hb452_HB_452_AP_6.htm

State and Local Tax Revision Act of 2005 – House Bill 488 (O.C.G.A. §§ 48-1-2, 48-2-18.1, 48-2-32, 48-2-35, 48-7-1, 48-7-21, 48-7-24, 48-7-27, 48-7-31, 48-7-40.15, 48-7-42, 48-7-58, 48-7-100, 48-7-121, 48-12-1.1) The income tax and estate tax provisions of this bill are as follows:

Section 2 – Annual Update Provision. The amendment to O.C.G.A. § 48-1-2 is the annual update to follow the IRC as it exists on January 1, 2005. This update includes all applicable provisions of Federal tax legislation signed into law during 2004 (as they relate to the computation of Federal adjusted gross income and Federal taxable income), except that it specifically excludes I.R.C. Section 168(k) (30% and 50% bonus depreciation), I.R.C. Section 1400L (tax benefits for the New York Liberty Zone), and I.R.C. Section 199 (income attributable to domestic production activities). Further, it adopts the increased I.R.C. Section 179 deduction (\$105,000 in 2005) that was enacted as part of the Jobs and Growth Tax Relief Reconciliation Act of 2003. This section of the bill became effective upon the Governor's signature on April 12, 2005, and is applicable to taxable years beginning on or after January 1, 2005.

Section 3 – Tax Settlement and Compromise Procedures. The amendment to O.C.G.A. § 48-2-18.1 requires that a \$100 nonrefundable application fee accompany each offer-in-compromise submitted. If the offer is accepted by the Commissioner, the application fee is treated as part of the offer. The fee is waived if the applicant's total monthly income is at or below poverty level guidelines established by the U.S. Department of Health and Human Services. The Governor signed the bill on April 12, 2005, and this section becomes effective July 1, 2005.

Section 4 – Required EFT Form of Payment. Amends O.C.G.A. § 48-2-32(f) and requires use tax (in addition to sales tax, withholding tax, motor fuel distributor tax, corporate estimated income tax and individual estimated income tax) in excess of \$10,000 to be remitted by electronic funds transfer. Additionally, this section amends O.C.G.A. § 48-2-32(f) to require every third-party payroll provider who prepares and/or remits Georgia withholding tax for more than 250 employers to remit payment by

electronic funds transfer. This section of the bill became effective when the Governor signed the bill on April 12, 2005, and is applicable to all payments made on or after July 1, 2005.

Sections 5 and 21– Interest on Credits. The amendments to O.C.G.A. §§ 48-2-35 and 48-7-121 clarify that interest is not paid on amended returns filed to claim credits. These sections of the bill became effective when the Governor signed the bill on April 12, 2005.

Section 7 – Definition of “Taxable Nonresident”. Amends the O.C.G.A. § 48-7-1(11) definition of a “taxable nonresident”. The definition now specifically excludes a legal resident of another state whose only activity for financial gain or profit in this state consists of services performed for an employer *as an employee* when the remuneration for services performed does not exceed the lesser of 5% of the income received by the person for services performed in all places during any taxable year *or \$5,000* (emphasis added to indicate change). This section of the bill became effective when the Governor signed the bill on April 12, 2005, and is applicable to taxable years beginning on or after January 1, 2005.

Sections 8 – Expenses on U.S. Obligations for Corporations. Amends O.C.G.A. § 48-7-21(b)(1)(B) by disallowing direct and indirect interest expenses on exempt U.S. treasury obligations. This section of the bill became effective when the Governor signed the bill on April 12, 2005, and is applicable to taxable years beginning on or after January 1, 2005.

Sections 9 – Like Kind Exchanges for Corporations. The amendment to O.C.G.A. § 48-7-21(b)(5) repeals the provision that certain federal “like kind” exchanges (those where the replacement property is located outside Georgia) are considered taxable for Georgia purposes. Because Georgia law is now silent, all applicable federal provisions under the Internal Revenue Code will govern. This section of the bill became effective when the Governor signed the bill on April 12, 2005, and is applicable to taxable years beginning on or after January 1, 2004.

Section 10 – Consolidated Returns. The amendment to O.C.G.A. § 48-7-21(b)(7)(A)(i) requires that businesses that conduct 100% of their business in Georgia must request permission in the same manner as other businesses. It also clarifies that an election to file a consolidated return must be made on or before the date provided by the Commissioner. Failure to make a timely election will result in the filing of separate returns for the year. This section of the bill became effective when the Governor signed the bill on April 12, 2005.

Section 11 – Corporate Net Operating Losses. A new paragraph (10) added to § 48-7-21(b) provides for the treatment of corporate net operating losses in a manner similar to the IRS. It also specifically provides that the provisions of Sections 108, 381, 382, and 384 of the Internal Revenue Code, as they relate to net operating losses, also apply for Georgia purposes. This section of the bill became effective when the Governor signed the

bill on April 12, 2005, and is applicable to taxable years beginning on or after January 1, 2005.

Section 12 – Exclusion of Earnings from a Limited Partnership or Similar Nontaxable Entity Deriving Income Exclusively from Securities. This amends O.C.G.A. § 48-7-24(c). Previously only family limited partnerships were not entitled to the exclusion provided by this subsection. Now both a family limited partnership and a similar nontaxable entity do not qualify for the exclusion.

Also, a provision was added that the exclusion provided by O.C.G.A. § 48-7-24(c) does not apply to a person who participates in the management of the resident limited partnership or other similar nontaxable entity, or that is engaged in a unitary business with another person that participates in the management of the resident limited partnership or other similar entity.

This section of the bill became effective when the Governor signed the bill on April 12, 2005.

Section 13 – Expenses on U.S. Obligations for Non-Corporate Taxpayers. Amends O.C.G.A. § 48-7-27(b)(2) by disallowing direct and indirect interest expenses on exempt U.S. treasury obligations for all non-corporate taxpayers. This section of the bill became effective when the Governor signed the bill on April 12, 2005, and is applicable to taxable years beginning on or after January 1, 2005.

Section 14 – Like Kind Exchanges for Non-Corporate Taxpayers . This amendment to O.C.G.A § 48-7-27(b)(6) repeals the provision for non-corporate taxpayers (individuals, trusts, partnerships, LLCs, etc.) that certain federal “like kind” exchanges (those where the replacement property is located outside Georgia) are considered taxable for Georgia purposes. Because Georgia law is now silent, all applicable federal provisions under the Internal Revenue Code will govern. This section of the bill became effective when the Governor signed the bill on April 12, 2005, and is applicable to taxable years beginning on or after January 1, 2004.

Section 15 – Deriving Sources. The amendment to O.C.G.A. § 48-7-31(a) clarifies that corporate taxpayers who derive income from sources within Georgia are subject to taxation. This section of the bill became effective when the Governor signed the bill on April 12, 2005.

Section 16 – Port Traffic Credit. The amendment to O.C.G.A. § 48-7-40.15(e)(3) makes technical corrections to the port traffic credit statute to coincide with the changes made to the law in 2001. This section of the bill became effective when the Governor signed the bill on April 12, 2005.

Section 17 – Transfer of Credit. The amendment to O.C.G.A. § 48-7-42(b) clarifies that the election to transfer a credit must be made on or before the due date for filing the return (including extensions). This section of the bill became effective when the Governor signed the bill on April 12, 2005.

Section 18 – Commissioner’s Authority to Make Adjustments. The amendment to O.C.G.A. § 48-7-58 clarifies the Commissioner’s authority to make adjustments when a taxpayer structures transactions in a manner which shifts Georgia income to other states. This section of the bill became effective when the Governor signed the bill on April 12, 2005.

Section 19 – Clarified Definition of “Nonresident”. This amendment revises paragraph (6.2) of O.C.G.A. § 48-7-100 to clarify that a “nonresident” (for certain withholding purposes including distributions to nonresident members of partnerships, Subchapter “S” corporations, and limited liability companies) is an individual or fiduciary member who resides outside this state and all other members whose headquarters or principal place of business is located outside this state. This section of the bill became effective when the Governor signed the bill on April 12, 2005.

Section 20 – Revised Exclusion from the Definition of “Wages”. Revises O.C.G.A. §48-7-100(10)(k) to exclude from the definition of “wages” services performed by a nonresident if the nonresident has been employed within this state for no more than 23 calendar days during the calendar quarter *and the nonresident is not a taxable nonresident as defined in OCGA § 48-7-1* (emphasis added to indicate change). This section of the bill became effective when the Governor signed the bill on April 12, 2005, and is applicable to all calendar quarters beginning on or after July 1, 2005.

Section 26 – Estate Tax Returns. New O.C.G.A. § 48-12-1.1 removes the requirement to file an estate tax return when the date of death occurs in a year during which the Georgia estate tax does not apply. This section of the bill became effective when the Governor signed the bill on April 12, 2005, and is applicable to estates of decedents with a date of death after December 31, 2004.

House Bill 488 can be viewed at the following link

http://www.legis.state.ga.us/legis/2005_06/fulltext/hb488.htm

Income Tax Credit for any Member of the National Guard or Air National Guard on Active Duty for More than 90 Days – House Bill 538 (O.C.G.A. § 48-7-29.9). Amends the Georgia Code by adding new § 48-7-29.9. This code section provides that any Georgia resident who is a member of the National Guard or Air National Guard and who is on active duty for a period of more than 90 consecutive days, or active duty for training for a period of more than 90 consecutive days, is allowed a tax credit against their individual income tax. The amount of the tax credit cannot exceed the amount expended for qualified life insurance premiums nor exceed the taxpayer’s income tax liability. Qualified life insurance premiums are the premiums paid for insurance coverage

through the Service member's Group Life Insurance Program administered by the United States Department of Veterans Affairs. Any unused tax credit is allowed to be carried forward to the taxpayer's succeeding year's tax liability.

The bill also adds a new § 48-7-6. This provides, for any member of the National Guard or reserve component of the armed services of the United States who serves on active duty for at least 90 consecutive days, an extension (except for attorneys) to file for annual licenses or registrations required under any other provision of law by the state, or any agency, department, board, bureau, or commission of the state, and an exemption from any continuing education requirements during the extension period.

This bill became effective upon the Governor's signature on April 21, 2005, and is applicable to taxable years beginning on or after January 1, 2005.

House Bill 538 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/versions/hb538_HB_538_AP_9.htm

Georgia Entertainment Industry Investment Act and Repeal of the Small Business Growth Tax Credit – House Bill 539 (O.C.G.A. §§ 48-7-40.13 and 48-7-40.26)

Section 1 repeals the small business growth tax credit (O.C.G.A. § 48-7-40.13). This section of the bill became effective when the Governor signed the bill on May 9, 2005, and is applicable to taxable years beginning on or after January 1, 2006.

Section 2 creates O.C.G.A. § 48-7-40.26 to allow a tax credit for production companies which produce new film, video, or digital projects in this state. The production company must make a minimum base investment of \$500,000 in qualified production activities in a state certified production. The credit is equal to 9 percent of the base investment with the potential to increase the amount of the tax credit by claiming an additional credit of:

- 3 percent of any base investment made in a Tier 1 or Tier 2 county;
- 3 percent of the total aggregate payroll of Georgia residents; and
- 2 percent of a base investment that is in excess of \$20 million for multiple television projects.

There are special rules for companies whose average annual total production expenditures in Georgia exceeded \$30 million in 2002, 2003, and 2004 (see O.C.G.A. § 48-7-40.26(d) for details).

The credit may be claimed first against a production company's income tax liability with any excess being allowed against the production company's payroll withholding. Any credits not used by the production company may be transferred or sold to another Georgia taxpayer. The credit may not be acquired for less than 60 percent of the credit value and the transferee may claim the credit against their income tax liability only. The production company is the only entity which may sell the credit and the transferee will have the same rights to use the credit against income taxes as were available to the production company at the time of transfer. The credit may be carried forward for five years from the end of the tax year in which the investment occurred.

This section of the bill became effective when the Governor signed the bill on May 9, 2005, and is applicable to taxable years beginning on or after January 1, 2005.

House Bill 539 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/versions/hb539_HB_539_AP_7.htm

Repeal of Obsolete Sections – House Bill 556 (O.C.G.A. §§ 48-7-27(e) and 48-7-55)

This income tax provisions of this bill repeal the obsolete adjustment for capital gains taken for federal purposes. This is not necessary since there is no exclusion or deduction for federal income tax purposes. It also repeals the requirement to include the question relating to intangible returns. This is no longer necessary since the intangible tax has been repealed. The Governor signed this bill on May 2, 2005, and it becomes effective July 1, 2005.

House Bill 556 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/fulltext/hb556.htm

2005 Sales and Use Tax

Sales Tax Holiday – House Bill 5 (O.C.G.A. § 48-8-3(75)(A)) Amends the statute to provide for a four (4) day sales tax holiday (July 28-31, 2005) on clothing or footwear costing \$100 or less per item, a single purchase of computer items costing \$1,500 or less, and school supplies costing \$20 or less per item. This bill became effective upon the Governor's signature on May 9, 2005.

House Bill 5 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/versions/hb5_HB_5_AP_7.htm

Sales and Use Tax on Motor Vehicles – House Bill 22 (O.C.G.A. § 48-8-2(8)) Amends the statute to change the point of sale (tax situs) of a motor vehicle and/or a lease of greater than 30 days to Georgia residents, to the county of registration, as opposed to the county where the dealer is located. This amendment does not change the tax situs for sales and/or leases of greater than 30 days to nonresidents. The Governor signed this bill on May 4, 2005, and it becomes effective July 1, 2005.

House Bill 22 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/versions/hb22_HB_22_AP_8.htm

Sales and Use Tax Exemption for the Georgia Regional Transportation Authority – House Bill 281 (O.C.G.A. §§ 50-32-37 and 50-32-71) Exempts the Georgia Regional Transportation Authority (GRTA) from sales and use tax on its purchases. It also relieves GRTA from the Department of Motor Vehicle Safety's common carrier regulatory authority for any bus, other motor vehicle, or rapid rail system of GRTA that provides transit services. This bill became effective upon the Governor's signature on April 1, 2005.

House Bill 281 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/versions/hb281_HB_281_AP_7.htm

Government Purchased Construction Materials for Contractors – House Bill 306

(O.C.G.A. § 48-8-63) This bill requires the State, University System of Georgia, or any county, municipality, local board of education, or other political subdivision of Georgia that purchases construction materials for real property construction to be used by a contractor, to provide the contractor with written notice of any sales or use tax that may be due. If the purchasing entity does not provide advance written notice to the contractor, then the entity will be liable for the tax due. The Governor signed this bill on May 2, 2005, and it becomes effective July 1, 2005.

House Bill 306 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/versions/hb306_HB_306_AP_8.htm

Sales and Use Tax Exemption for Qualified Airlines: Jet Fuel and Food and Non-Alcoholic Beverage – House Bill 341

(O.C.G.A. § 48-8-3) Amends the statute to provide for a partial sales and use tax exemption for jet fuel purchased by a qualified airline. The exemption expires after two years and is only applicable to state and local taxes exceeding \$15 million per fiscal year beginning July 1, 2005. The jet fuel tax exemption does *not* apply to the educational sales and use tax. The bill also provides for a permanent sales and use tax exemption for the purchase of food and non-alcoholic beverages provided at no charge aboard the aircraft of a qualified airline. The Governor signed this bill on May 3, 2005, and it becomes effective July 1, 2005.

House Bill 341 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/versions/hb341_HB_341_AP_11.htm

Proof of Sales and Use Tax Payment for Out of State Motor Vehicle Purchases – House Bill 364

(O.C.G.A. § 40-3-20) Amends the statute to require proof that Georgia state and local sales and use tax has been paid, or is not due to Georgia, prior to the acceptance and processing of the motor vehicle title application for a vehicle purchased outside the state. The Governor signed this bill on May 9, 2005, and it becomes effective January 1, 2006.

House Bill 364 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/versions/hb364_HB_364_AP_9.htm

Mass Transit Buses Motor Fuel Tax Exemption – House Bill 384

(O.C.G.A. § 48-9-3) This bill amends the statute to create a three-year exemption for motor fuel tax used in mass transit buses operated on a fare basis that are owned by governments or entities created by local law through the General Assembly. The exemption period begins July 1, 2005, and extends until June 30, 2008. The Governor signed this bill on May 2, 2005, and it becomes effective July 1, 2005.

House Bill 384 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/versions/hb384_HB_384_AP_4.htm

911 Fees and Sales Tax and Situs Requirements for Cellular Telephone Companies – House Bill 470 (O.C.G.A. §§ 16-10-24.3, 19-13-51, 31-11-1, 31-11-53.1, 33-9-39, 36-60-19, 38-3-20, 38-3-27, 46-5-120, 46-5-121, 46-5-122, 46-5-123, 46-5-124, 46-5-124.1, 46-5-125, 46-5-126, 46-5-127, 46-5-128, 46-5-129, 46-5-130, 46-5-131, 46-5-132, 46-5-133, 46-5-134, 46-5-134.1, 46-5-135, 46-5-136, 46-5-137, 46-5-138, 46-5-138.1, 46-5-139, 48-8-13, 50-18-72) Amends various 911 statutes to correct 9-1-1 spelling, to change the number of 911 advisory committee members, and amends O.C.G.A. § 48-8-13 to require cellular telephone companies to collect sales tax and 911 fees using the jurisdiction designated through the enhanced zip code of the street address in order to be held harmless upon audit. Also, effective July 1, 2006, cellular telephone companies must provide the Georgia Emergency Management Agency (GEMA) with a quarterly report of the total number of customers plus verification that the enhanced zip code is used by the company. Cellular providers will be required to print all applicable tax information (county and rates) on the customer's bill and provide the customer with contact information to correct errors. The Governor signed this bill on May 3, 2005, and it becomes effective July 1, 2005.

House Bill 470 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/versions/hb470_HB_470_AP_13.htm

Sales and Use Tax Exemption for Fuel for Irrigation Systems and Sales by Child Caring Institutions – House Bill 487 (O.C.G.A. § 48-8-3) Amends the statute to expand the exemption for fuel used to operate irrigation systems on farms to include other fuels. Prior to this amendment, only electricity used to operate irrigation systems on farms was exempt from sales and use tax. This bill also clarifies the exemption from sales tax collection for certain fundraising activities conducted by a qualified child-caring institution, child-placing agency and/or maternity home. The Governor signed this bill on April 12, 2005, and it becomes effective July 1, 2005.

House Bill 487 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/versions/hb487_HB_487_AP_9.htm

State and Local Tax Revision Act of 2005 – House Bill 488 (O.C.G.A. §§ 48-8-14, 48-8-50, 48-8-67, 48-9-8) The sales tax provisions of this bill are as follows:

Section 4 – Required EFT Form of Payment. Amends O.C.G.A. § 48-2-32(f) and requires use tax (in addition to sales tax, withholding tax, motor fuel distributor tax, corporate estimated income tax and individual estimated income tax) in excess of \$10,000 to be remitted by electronic funds transfer. Additionally, this section amends O.C.G.A. § 48-2-32(f) to require every third-party payroll provider who prepares and/or remits Georgia withholding tax for more than 250 employers to remit payment by electronic funds transfer. This section of the bill became effective when the Governor signed the bill on April 12, 2005, and is applicable to all payments made on or after July 1, 2005.

Section 22 – Registration for Sales and Use Tax. New O.C.G.A. § 48-8-14 places in the tax code the requirement for companies and their affiliates doing business with the State of Georgia to register for collection of sales and use tax. This section of the bill became effective when the Governor signed the bill on April 12, 2005.

Section 23 – Vendor’s Compensation for Sales and Use Tax. This amendment to O.C.G.A. §48-8-50(b) adds the requirement to “timely file a return,” as well as make a timely payment *before* a dealer (taxpayer) is entitled to claim a deduction for vendor’s compensation for any sales tax paid. The Governor signed this bill on April 12, 2005, and this section becomes effective July 1, 2005.

Section 24 – Unidentifiable Sales and Use Tax Proceeds. This amendment to O.C.G.A. § 48-8-67(h) extends the previous sunset provision to December 31, 2007, to enable the Department of Revenue to continue distributing unidentifiable sales and use tax proceeds to the appropriate jurisdiction. This section of the bill became effective when the Governor signed the bill on April 12, 2005.

Section 25 – Vendor’s Compensation for the First Motor Fuel Tax. This amendment to O.C.G.A. §48-9-8(b) adds the requirement to “timely file a return,” as well as make a timely payment *before* a dealer (taxpayer) is entitled to claim a deduction for vendor’s compensation for any first motor fuel tax paid. The Governor signed this bill on April 12, 2005, and this section becomes effective July 1, 2005.

House Bill 488 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/fulltext/hb488.htm

Four-Day Sales and Use Tax Exemption for the Purchase of Energy Efficient Products – House Bill 559 (O.C.G.A. § 48-8-3) Amends the statute to create a four-day (October 6-9, 2005) sales and use tax exemption for the purchase of noncommercial home or personal use energy efficient products (specifically any dishwasher, clothes washer, air conditioner, ceiling fan, incandescent or fluorescent light bulb, dehumidifier, programmable thermostat, or refrigerator) with a sales price of \$1,500 or less per item. To qualify, the product purchased must have been designated by the United States Environmental Protection Agency and the United States Department of Energy as meeting or exceeding the requirements of each agency’s *Energy Star* program. This exemption does not extend to any purchases for trade, business, or resale. The sales tax exemption does *not* apply to local sales or use taxes. Also, this exemption does *not* apply to the purchase of furnaces or clothes dryers. The Governor signed this bill on May 4, 2005, and it becomes effective July 1, 2005.

House Bill 559 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/versions/hb559_HB_559_AP_10.htm