

2006 Legislative Analysis For Enacted Legislation

Alcohol

HB 1248 (O.C.G.A. §§ 3-1-2, 3-1-3, 3-2-13, 3-2-14, 3-2-33, 3-3-2, 3-3-23.1, 3-4-22, 3-4-23 and 3-6-21) Amends several Code Sections to:

Provide for the removal of language related to “tax stamps” previously placed on distilled spirits. The stamps are no longer required under the current excise tax payment reporting method.

Provide for local license jurisdictions to fingerprint only upon initial application for a license and not annually for each renewal.

Allow law enforcement to issue citations, accusations, or summonses for most violations related to underage sales, furnishing or consumption of alcohol, in lieu of obtaining a warrant and making a physical arrest.

Allow for distilled spirits bonds to be written for a term of up to five years with the required annual amount of the bond remaining unchanged. Removes the wine bond requirement at the retail level and allows other wine bonds to be written for a term of up to five years. The Governor signed this bill on April 19, 2006, and it will become effective on July 1, 2006.

House Bill 1248 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/hb1248.pdf

HB 1501 (O.C.G.A. § 3-3-2.2) Allows a local licensing jurisdiction, which issues more than 300 consumption-on-premises alcohol licenses, to impose a fine of up to \$2,500.00 for each violation of local alcoholic beverage licensing ordinances. This legislation concerns local jurisdictions only and does not impact State enforcement or administration. The Governor signed this bill on May 5, 2006, and it will become effective on July 1, 2006.

HB 1501 may be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/hb1501.pdf

Income Tax

HB 1042 (O.C.G.A. § 48-7-33) Amends the Code Section to provide for a 52-53 week taxable year in a manner similar to the IRC. The Governor signed this bill on April 19, 2006, it became effective on that date, and is applicable to all taxable years beginning on or after January 1, 2006, and to all taxable years which pursuant to HB 1042 would be considered as beginning on January 1, 2006.

House Bill 1042 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/hb1042.pdf

HB 1080 (O.C.G.A. § 48-7-29.10) Amends the Code Section to provide for an income tax credit for taxpayers who incur child and dependent care expenses necessary for gainful employment. The Act shall be applicable to tax years beginning on or after January 1, 2006. The tax credit will be phased-in over a three-year period beginning in 2006. This bill allows a taxpayer, who is allowed and claims the dependent care services credit under IRC § 21 on his or her federal income tax return, to claim a qualified child and dependent care expense credit on his or her Georgia individual income tax return. The Governor signed this bill on April 6, 2006, and it became effective on that date, and is applicable to all taxable years beginning on or after January 1, 2006.

House Bill 1080 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/hb1080.pdf

HB 1160 (O.C.G.A. § 48-7-27) Amends the Code Section to provide for an adjustment to the distributive share of the federal adjusted gross income of an individual who is a partner in a partnership, a shareholder in an S-Corp., or a member of a limited liability company that is either taxed as a partnership or that is disregarded for tax purposes, where the partnership or LLC has been taxed at the entity level by another state or S-Corp. status is not recognized by the other state. Adjustments shall be allowed only for that portion of the income on which the tax was actually paid by the S-Corp., partnership, or limited liability company. The Governor signed this bill on April 28, 2006, it became effective on that date, and is applicable to all taxable years beginning on or after January 1, 2006.

House Bill 1160 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/hb1160.pdf

HB 1310 (O.C.G.A. §§ 48-1-2, 48-2-15, 48-2-32 and 48-2-36) Amends several Code Sections to provide for the following amendments that affect Georgia Income Tax:

O.C.G.A. § 48-1-2 is amended to include the annual update provision that updates and conforms the Georgia Public Revenue Code to the IRS Code. It excludes Gulf Opportunity Zone bonus depreciation and increased net operating losses.

O.C.G.A. § 48-2-15 is amended to ensure that tax information obtained by third parties contracting with the Department of Revenue will fall under confidentiality requirements. This is necessary to allow electronically filed sales and use tax returns to be processed in a manner similar to that allowed for withholding tax returns as already provided in Chapter 7.

O.C.G.A. § 48-2-32 is amended to reduce the threshold requirement for electronic funds transfer from \$10,000 to \$5,000 for sales tax, use tax, withholding tax, and motor fuel distributor tax. This Code Section retains the current \$10,000 limit for corporate and individual estimated payments.

O.C.G.A. § 48-2-36 is amended to allow the Commissioner to provide extensions for filing returns and making tax payments in a manner similar to the IRS in the event of a presidentially declared disaster, terrorist, or military action. The Governor signed this bill on April 19, 2006, and it became effective on that date with the exception that the amendment to O.C.G.A. § 48-1-2 shall apply to all taxable years beginning on or after January 1, 2006.

House Bill 1310 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/hb1310.pdf

SB 529 (O.C.G.A. § 48-7-21.1) Creates a new Code Section to define the terms “authorized employee” and “labor services.” It also provides that on or before January 1, 2008, no wages or remuneration for labor services to an individual of \$600.00 or more per annum may be claimed and allowed as a deductible business expense for state income purposes by a taxpayer unless such individual is an authorized employee. The Governor signed this bill on April 17, 2006, and it will become effective on July 1, 2007.

Senate Bill 529 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/sb529.pdf

SB 545 (O.C.G.A. § 16-12-51) Amends Code Section 16-12-51 related to definitions for bingo games to define a “nonprofit, tax-exempt organization.” The Governor signed this bill on April 21, 2005, and it will become effective on July 1, 2006.

Senate Bill 545 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/sb545.pdf

Credits & Incentives

HB 194 (O.C.G.A. §§ 48-7-29.11 and 48-7-40.26) Creates a new Code Section to allow income tax credits for employers who allow their employees to telework. The credit may be claimed:

- By employers who incur expenses on behalf of their employees to enable those employees to telework- up to \$1,200 per participating employee with the percentage of allowed expenditures between 100%, 75% and 25%, depending upon: eligible expenses pursuant to a telework agreement, telework days per month, and a business which is located in a Federal “nonattainment area”; and,
- By employers conducting a telework assessment in the year of implementation for 100% of the cost of preparing the assessment up to a maximum of \$20,000 per employer.
- The aggregate maximum that can be claimed is \$2 million in 2008 and \$2 million in 2009.

Further, O.C.G.A. § 48-7-40.26 is amended to create a new paragraph clarifying the tier designation:

- By allowing a certified production occurring in more than one year to be redesignated by the commissioner so that the production company can still claim the credits within the old tier designation for their production should the tier change.

The Governor signed this bill on April 20, 2006, and it will become effective on July 1, 2006 for the amendment to O.C.G.A. § 48-7-40.26, and on July 1, 2007 for the amendment to O.C.G.A. § 48-7-29.11.

House Bill 194 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/hb194.pdf

HB 1107 (O.C.G.A. § 48-7-29.12) Provides for an income tax credit for the qualified donation of real property that qualifies as conservation land pursuant to Chapter 22 of Title 36. The Act shall be applicable to taxable years beginning on or after January 1, 2006. Such a “qualified donation” is defined in the statute and includes a conservation easement under Paragraph (4) of Code Section 36-22-2. Property donated to increase building density levels or property that will be used or is associated with the playing of golf shall not be eligible. If the conservation easement or land donation meets the goals of the Georgia Land Conservation Act, taxpayers will be able to claim a credit against their state income tax liability of 25 percent of the fair market value of the donated property, up to a maximum credit of \$250,000 per individual and \$500,000 per corporation. The amount of the credit used in any one year may not exceed the amount of state income tax otherwise due. Any unused portion of the credit may be carried forward for five succeeding years. The Governor signed this bill on April 21, 2006, and it became effective on the same date and applicable to taxable periods beginning on or after January 1, 2006.

House Bill 1107 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/hb1107.pdf

Motor Fuel

HB 1244 (O.C.G.A. § 48-9-3(10)) Amends the Code Section related to the Mass Transit motor fuel tax exemption to extend the exemption for two years (July 1, 2006 through June 30, 2008) to any vehicle with a capacity of seven or more passengers that transports passengers on a fare basis, and to enable any public transportation system that is eligible to receive grants under 49 U.S.C. § 5307 and 5311 to qualify for the exemption. It also requires the motor fuel to be purchased at bulk fuel facilities approved by the Department of Revenue. The exemption includes public campus transportation systems that do not receive Federal or State funds and which also provide free transfers from a public transportation system. The Governor signed this bill on April 28, 2006, and it will become effective on July 1, 2006.

House Bill 1244 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/hb1244.pdf

Motor Vehicle Division

HB 363 (O.C.G.A. §§ 40-2-31 and 40-2-37) Establishes the dimensions for motorcycle license plates and requires the Department to adopt rules and regulations for the design and issuance of new metal license plates.

Further, the bill changes the government license plate fee to \$3.00 and prohibits the transfer of a government license plate from one government vehicle to another.

The Governor signed this bill on April 27, 2006, and it will become effective on July 1, 2006 for the amendment to O.C.G.A. § 40-2-31, and on January 1, 2007 for the amendment to O.C.G.A. § 40-2-37.

House Bill 363 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/hb363.pdf

HB 710 (O.C.G.A. § 40-2-86.22) Clarifies the legislative intent to issue certain special tags to support agencies, funds, or programs administered by nonprofit corporations for the benefit of Georgia citizens. It provides for special license plates for persons with diabetes, veterans of the U.S. armed services, and the Georgia Association of Realtors if 1,000 applications and a manufacturing fee are received with each application by December 31, 2008. Upon approval of the General Assembly, the agency, fund or nonprofit corporation may receive funds resulting from the sale and annual renewal of these special license plates. The Governor signed the bill on April 27, 2006, and it will become effective on July 1, 2006.

House Bill 710 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/hb710.pdf

HB 1006 (O.C.G.A. § 40-2-86.8) Provides that the proceeds, from the sale and renewal of Breast Cancer Awareness license plates since January 1, 2005 less a \$1.00 fee retained by the county tag agent for each tag sold, shall be deposited into the Indigent Care Trust Fund to fund cancer screening and treatment for the medically indigent that may have breast cancer. The Governor signed the bill on May 1, 2006, and it will become effective on July 1, 2006.

House Bill 1006 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/hb1006.pdf

HB 1052 (O.C.G.A. § 40-2-38) Provides for a distinctive transporter license for persons that transport motor vehicles and manufactured homes. It also creates a definition for a "wholesaler" and provides for distinctive "wholesaler" license plates. The Governor signed this bill on April 27, 2006, and it became effective on that date.

House Bill 1052 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/hb1052.pdf

HB 1053 (O.C.G.A. § 40-2-86.21) Provides that the proceeds from the issuance and renewal of NASCAR license plates be divided between the Department to purchase the license plates, and the Governor's Highway Safety Program if 1,000 applications and manufacturing fees are received by December 31, 2007. It provides that proceeds from the issuance and renewal of the following license plates be divided among the state, organization/fund, and county tag agent if 1,000 applications and manufacturing fees are received by December 31, 2008: Georgia Center for the Book, Children's Healthcare of Atlanta, Georgia War Veteran's Nursing Home, Alzheimer's Association Georgia Chapter, School Health and Physical Education, Stroke Awareness, Project Lifesaver, Cure Kids' Cancer, Support Improved Child Care, In God We Trust, Prevent Child Abuse, Thanks Mom and Dad, Pediatric Cancer Research, Support Cobb County Beautification Projects, AIDS Survival Project, Support Research/Education on ALS, Support Programs for Foster Parents, Atlanta Braves Foundation, Atlanta Falcons Foundation, Support Georgia Beautification Projects, Choose Life, Support Georgia's Coast Maritime History Education, Support Programs for Persons with Brain-related Disorders, Promote Georgia Agriculture, Promote the Georgia Equine Industry, Promote African American History, Bronze Star Veterans, Civil War Battlefields and Historic Sites, Promote Historic Preservation Efforts, Promote Bicycle Safety, Honor Families with family member in military, and Support Georgia Troops. Also provides that the following license plates shall continue to be issued and proceeds from the issuance and renewal of these tags be divided among the state, organization/fund, and county tag agent: Georgia Automobile Racing Hall of Fame, Sons of Confederate Veterans, U.S. Disabled Athletes Fund 'Blaze', Wildlife 'eagle', Wildlife 'hummingbird', Wildlife 'bobwhite quail' and Wildlife 'trout'. Bill provides for a \$25 manufacturing fee and \$25 special tag renewal fee for all of these plates. The Governor signed this bill on May 5, 2006, and it will become effective on January 1, 2007, if the referendum on the November 2006 statewide general election ballot is ratified by the voters.

House Bill 1053 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/hb1053.pdf

HB 1190 (O.C.G.A. § 40-2-135) Provides that a \$25 per violation fee be imposed for a registered vehicle owner's failure to pay tolls. If a claim is made that the vehicle was stolen, then a copy of the theft report predating the violation must be presented. The bill also provides that multiple failures to pay tolls may be referred to the Office of State Administrative Hearings which can impose a penalty of \$70 per violation, and if the registered owner fails to pay, then the vehicle's registration will be suspended by the Department upon notification from the State Road and Tollway Authority. For vehicles registered in the name of a business, the bill provides that the vehicle's driver will be liable only if the business provides information to locate the driver. The Governor signed this bill on April 21, 2006, and it will become effective on January 1, 2007.

House Bill 1190 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/hb1190.pdf

HB 1193 (O.C.G.A. § 16-11-4) Provides penalties for persons that install, own, drive or sell vehicles, planes, and boats with false or secret compartments in order to prevent law enforcement's discovery of something illegal. Upon arrest, the vehicle's license plate will be seized, surrendered to the county tag office, and a temporary permit issued until the vehicle's false or secret compartment is removed. The license plate will be returned once removal of the false or secret compartment has been verified. The Governor signed this bill on April 18, 2006, and it became effective on that date.

House Bill 1193 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/hb1193.pdf

HB 1217 (O.C.G.A. § 40-2-3) Transfers statutes pertaining to the issuance of disabled persons parking permits from the Uniform Rules of the Road statutes to the Registration and Licensing of Motor Vehicles statutes. The bill changes the expiration date of permanent parking placards from two years to four years. It also removes the authority for the issuance of disabled persons' parking decals and provides that any parking decal issued will not be renewed upon expiration. The Governor signed this bill on May 1, 2006, and it became effective on that date.

House Bill 1217 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/hb1217.pdf

HB 1236 (O.C.G.A. § 48-5-444) Defines a "functionally located vehicle" as a passenger car that is located for 184 days or more in a Georgia county which is not the owner's county of residence. The bill provides that a functionally located vehicle can be registered in the county where the vehicle is functionally located as long as vehicle ad valorem taxes are paid in the owner's county of residence. Vehicles used by students enrolled in Georgia colleges or universities in counties where the students do not legally reside cannot be functionally located. The Governor signed this bill on May 5, 2006, and it will become effective on July 1, 2006.

House Bill 1236 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/hb1236.pdf

HR 1564 (Georgia Constitution, Article III, Section IX, Paragraph VI)

This resolution provides for an amendment to the Constitution, if ratified by the voters, to allow the General Assembly to authorize issuance of special license plates and dedicate the funds derived from the sale of the license plates to agencies, funds, or nonprofit corporations when there is a benefit to Georgia citizens. The Governor signed this resolution on May 5, 2006, and it will become effective if the referendum on the November 2006 statewide general election ballot is ratified by the voters.

House Resolution 1564 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/hb1564.pdf

SB 253 (O.C.G.A. §§ 8-2-180 thru 191) Provides that a manufactured home must be titled unless it is converted to real property by filing a certificate of permanent location with the clerk of superior court in the county where the manufactured home is located. The Governor signed this bill on May 3, 2006, and it will become effective on July 1, 2006.

Senate Bill 253 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/sb253.pdf

SB 523 (O.C.G.A. § 40-2-86.18) Provides for the issuance of a Gold Star license plate on July 1, 2007, to the spouse, mother and father of a U.S. Armed Services member killed in action who was a Georgia resident at the time of his or her death. Except for vehicle ad valorem taxes, one license plate will be issued free of charge to each family member as long as the license plate is renewed prior to the expiration of the family member's registration deadline. The Governor signed this bill on May 3, 2006, and it will become effective on January 1, 2007.

Senate Bill 523 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/sb523.pdf

SB 538 (O.C.G.A. § 40-2-86.20) Provides for the issuance of a "Global War on Terrorism/Iraqi Freedom" license plate if 1,000 applications and a \$25 manufacturing fee for each application are received between January 1, 2007 and December 31, 2008. The bill also provides that un-remarried spouses of U.S. Reservists and National Guard members killed in combat shall continue to be eligible for U.S. Reservists and National Guard license plates effective July 1, 2006. The Governor signed this bill on May 3, 2006, and it will become effective on July 1, 2006.

Senate Bill 538 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/sb538.pdf

SB 539 (O.C.G.A. § 40-2-86.19) Provides for the issuance of a "Global War on Terrorism/Operation Enduring Freedom" license plate if 1,000 applications and a \$25 manufacturing fee for each application are received between January 1, 2007 and December 31, 2008. The Governor signed this bill on May 3, 2006, and it will become effective on July 1, 2006.

Senate Bill 539 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/sb539.pdf

Property Tax

HB 81 (O.C.G.A. §§ 48-5-40, 48-5-48.4 and 48-5-54) Amends various Code Sections of Chapter 5 of Title 48 as follows:

Amends Code Section 48-5-40 to define an “applicant” for homestead tax purposes to match the definition in motor vehicle Code Section 40-5-1.

Adds new Code Section 48-5-48.4, to fully exempt the homesteads of unremarried spouses of peace officers or firefighters killed in the line of duty from all property taxes.

Amends Code Section 48-5-54 to allow the unremarried surviving spouse, upon application and qualification, to continue a base-year homestead exemption at the value established for the deceased spouse. The Governor signed this bill on May 8, 2006, and it will become effective on July 1, 2006 for all taxable years on or after January 1, 2007, if the referendum on the November 2006 statewide general election ballot is ratified by the voters.

House Bill 81 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/hb81.pdf

HB 173 (O.C.G.A. § 48-5-41) Amends Code Section 48-5-41 to exempt property owned and used exclusively by a veterans organization to refurbish historic military aircraft which are made airworthy and held for display to the public for educational purposes. The Governor signed this bill on April 20, 2006, and it will become effective on January 1, 2007, if the referendum on the November 2006 statewide general election ballot is ratified by the voters.

House Bill 173 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/hb173.pdf

HB 560 (O.C.G.A. § 48-5-299) Amends Code Section 48-5-299(c) to prohibit a county board of tax assessors from increasing values for property that are under a two-year freeze solely because of errors found in property records. The Governor signed this bill on April 27, 2006, and it will become effective on July 1, 2006.

House Bill 560 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/hb560.pdf

HB 848 (O.C.G.A. §§ 48-5-41, 48-5-48.3, and 48-5-48.5) Amends Code Section 48-5-41 to exempt property owned by charitable institutions which is used exclusively for charitable purposes, even if income is derived from the property, as long as the income is used exclusively for its operation.

Amends Code Section 48-5-48.3 to exempt from state tax the homestead and up to 10 acres of land for a taxpayer age 65 or older.

The Governor signed this bill on April 25, 2006, and it will become effective on January 1, 2007, if the referendum on the November 2006 statewide general election ballot is ratified by the voters.

House Bill 848 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/hb848.pdf

HB 1249 (O.C.G.A. § 48-5-504.40) Adds new Code Section 48-5-504.40, which exempts from ad valorem tax the inventory of a watercraft (boat) dealer. This bill defines a “dealer” as a person engaged in the business of selling watercraft at retail, and “watercraft” as any vehicle that is self-propelled or capable of self-propelled water transportation. This bill has a sunset date of December 31, 2008. Therefore, it will apply to tax years 2007 and 2008 only.

The Governor signed this bill on May 1, 2006, and it will become effective on January 1, 2007 for tax years 2007 and 2008.

House Bill 1249 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/hb1249.pdf

HB 1293 (O.C.G.A. § 48-5-7.4) Amends Code Section 48-5-7.4 to provide that under the following circumstances, the penalty for breach of a conservation use covenant is only one-times the tax: if the owner entered into the covenant for the first time after reaching age 67; has either owned the property for at least 15 years or inherited the property and kept it in a qualifying use under a covenant for 3 years; and has filed a written election to breach the covenant with the county board of tax assessors. The Governor signed this bill on May 1, 2006, and it will become effective on July 1, 2006.

House Bill 1293 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/hb1293.pdf

HB 1361 Amends several Code Sections in Chapter 44 of Title 36, as they relate to local governments who establish Tax Allocation Districts (TAD). When the tax allocation increment base rate is established, motor vehicle values are never included. And unless specified in the resolution, values for personal property, public utilities, and railroad companies are not included either. The Governor signed this bill on May 5, 2006, and it will become effective on July 1, 2006, except for allocations made prior to July 1, 2006.

House Bill 1361 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/hb1361.pdf

HB 1502 (O.C.G.A. § 48-5-7.4, 48-5-290, 48-5-291 and 48-5-295) Amends Code Section 48-5-7.4 by granting the Commissioner the ability to promulgate regulations prescribing soil maps and proper types of documentation to determine eligibility of ownership and land use for conservation use covenants.

Amends Code Sections 48-5-290, 48-5-291, and 48-5-295 to authorize the Commissioner to promulgate regulations establishing the certification procedures for county tax assessors, including training requirements, transmittal of certificates of appointment, and reappointment provisions. The Governor signed this bill on May 5, 2006, and it will become effective on July 1, 2006.

House Bill 1502 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/hb1502.pdf

SB 195 (O.C.G.A. § 1-4-16, 10-1-529.1 through 10-1-529.7, 44-12-93 and 44-12-214) Amends Code Section 1-4-16 to declare 2006 as the “Year of the Museum.” This provision sunsets on December 31, 2006.

Establishes new Article 17B of Chapter 1 of Title 10, which includes Code Sections 10-1-529.1 through 10-1-529.7, cited as the “Georgia Museum Property Act.”

Amends Code Sections 44-12-93 and 44-12-214 of the Unclaimed Property Act to exempt museums which are holding unclaimed property on loan to, or in possession of the museum, from reporting and remitting the property to the state. The Governor signed this bill on May 3, 2006, and it will become effective on July 1, 2006.

Senate Bill 195 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/sb195.pdf

SB 525 (O.C.G.A. § 48-3-3) Amends Code Section 48-3-3 to establish a deadline of 90 days for taxpayers who have transferred property since the lien date and received notice of tax executions from the local tax commissioner, to notify the tax commissioner of the transfer, whereby the execution is vacated and refiled under the new owner’s name. The bill also provides that the real estate transfer tax form must contain the correct property identification number before being accepted by the clerk of superior court for recording. The Governor signed this bill on May 3, 2006, and it will become effective on July 1, 2006.

Senate Bill 525 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/sb525.pdf

SB 585 (O.C.G.A. §§ 9-13-36, 48-3-19, 48-4-1, 48-4-5, 48-4-44 and 48-6-2) Amends Code Section 9-13-36 by removing the provisions relating to tax executions and placing the administration of those types of executions under Chapters 3 and 4 of Title 48. Reinstates Code Section 48-3-19, previously repealed in 2002, to allow at the discretion of the tax commissioner transfers of executions issued for ad valorem tax purposes.

This bill also establishes procedures for notification by a transferee, timelines for levying on the execution, and requires that any transferee that pays more than \$2 million dollars in any calendar year for executions must maintain an accessible office within 50 miles of the courthouse where the transferred execution is located and such office must be available to the public 8 hours per day, 5 days per week, except on state holidays.

Amends Code Section 48-4-1 to include notice provisions for executions issued by a municipal officer for ad valorem taxes.

Amends Code Section 48-4-5 by providing procedures for claiming excess funds from a tax sale by a local tax official. It also provides that any unclaimed excess funds held by a local officer for five years after the tax sale must be paid over to DOR in the same manner as other unclaimed

property. These funds can only be claimed and released by DOR after a court order from an interpleader action is filed in the county where the tax sale occurred and was filed.

Amends Code Section 48-4-44 by adding procedures for filing quitclaim deeds at the time of redemption of property sold at a tax sale.

Amends Code Section 48-6-2 exempting real estate transfer tax for any deed filed for redeemed property sold at a tax sale.

The Governor signed this bill on May 3, 2006, and it will become effective on July 1, 2006.

Senate Bill 585 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/sb585.pdf

SB 597 (O.C.G.A. § 48-5-311) Amends Code Section 48-5-311 by authorizing taxpayers to recover litigation costs involving property, other than commercial property, when the value determined by an appeal to superior court is 85% or less than the value set by the county board of tax assessors. Previously, the 85% threshold applied to the value set by the county board of equalization. The Governor signed this bill on May 3, 2006, and it will become effective on July 1, 2006.

Senate Bill 597 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/sb597.pdf

Sales and Use Tax

HB 111 (O.C.G.A. §§ 48-8-2(3) and 48-8-63) Amends the definition of “dealer” for sales and use tax purposes and amends the contractor retainage provisions, as follows:

O.C.G.A. § 48-8-2(3)

The definition of a “dealer” no longer includes a seller whose only contacts with Georgia are: (1) Advertising or solicitation activities conducted without a physical presence in the state (e.g., direct mail, radio or television ads, Internet ads, etc.); or (2) Delivery of items within Georgia solely by common carrier or United States mail. Numerous court decisions have deemed such activity as insufficient to require the out-of-state company to collect Georgia sales and use tax.

The definition of a “dealer” was also amended to include an affiliate that is selling or soliciting through a related in-state dealer UNLESS:

- (1) The in-state company refrains from providing any of the following activities on behalf of the affiliate:
 - a. Advertising (e.g., website address promotion on bags, cash register receipts, or other advertising activity);
 - b. Marketing (e.g., distribution of affiliate’s catalogs, promotional materials bearing the affiliate location, or other promotional activities);
 - c. Sales (e.g., in-store kiosks, in-store Internet ordering, or other sales activities); or
 - d. Other services; and
- (2) The in-state dealer must accept returns of items from any person or dealer that is not an affiliate under the same terms and conditions that it accepts returns from the affiliated entity.

The term “affiliate” is defined to mean any person that is related, directly or indirectly, through one or more intermediaries, controls, is controlled by, is under common control with, or is subject to the control of a “dealer” as defined in O.C.G.A. § 48-8-2.

This amendment requires sellers located outside of Georgia that are affiliated with dealers located in Georgia to collect Georgia sales and use tax on their sales unless they meet the exception stated above. The intent is to clarify the sales and use tax collection responsibilities of out-of-state sellers that are affiliated with brick and mortar stores located in Georgia.

O.C.G.A. § 48-8-63

Amends the contractor provision that requires a general or prime contractor to withhold a portion of a subcontractor’s payment (2%) or accept a surety bond to ensure payment of sales and use tax for materials used in performing any construction contract in excess of \$250,000. The amendment limits the “retainage” requirement to **nonresident contractors**. It also defines a nonresident contractor to be a person that does not have a bona fide place of business in Georgia through a permanent domicile or business facility that engages in the business of real property contracting work.

Resident contractors generally pay the tax on items used in a construction contract to their supplier at the time of purchase. Thus, the requirement to withhold payment or require a surety bond for sales and use tax purposes is unnecessary and only creates additional burdens for resident contractors and the Department of Revenue. This will streamline the process for contractors and the Department of Revenue.

The Governor signed this bill on April 6, 2006, and it will become effective on July 1, 2006.

House Bill 111 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06//versions/hb111_HB_111_AP_8.htm

HB 834 (O.C.G.A. § 48-8-3(49.1)) Creates a new two-year (July 1, 2006 – June 30, 2008) sales and use tax exemption for liquefied petroleum gas or other fuel used in a structure where swine are raised. The exemption does not apply to local sales and use tax. The Governor signed this bill on April 27, 2006, and it will become effective on July 1, 2006.

House Bill 834 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/hb834.pdf

HB 841 (O.C.G.A. § 48-8-3(85)) Creates a new sales and use tax exemption for the sale of tangible personal property and services sold to a “qualified job training organization.” It defines a “qualified job training organization” to be an organization located in Georgia, exempt from income tax under IRC Section 501(c)(3), that specializes in the retail sale of donated goods, provides training and employment to disabled individuals, and uses the majority of its revenues for job training, placement programs, and other community services. This exemption does not apply to local sales and use taxes. Any taxpayer who believes they qualify for the exemption as a qualified job training organization must obtain an exemption determination letter from the Department. The Governor signed this bill on April 28, 2006, and it will become effective on July 1, 2006. It has a sunset date of July 1, 2008.

House Bill 841 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/hb841.pdf

HB 970 (O.C.G.A. § 48-8-15) Creates a new Code Section to provide for a temporary 2% exemption from the 4% State sales and use tax for the amounts charged for natural and propane gas commodity sold for residential heating purposes. The exemption for sales of propane gas begins with deliveries occurring on or after January 1, 2006 and ends on March 31, 2006. The exemption for natural gas begins with the first billing cycle for which the service date is on or after January 1, 2006, and concludes at the end of the third completed billing cycle that ends on or before April 30, 2006. The exemption does not apply to any charges other than for the sale of the commodity itself and does not apply to any local sales and use taxes. The bill also makes it a violation of the "Fair Business Act" if dealers do not pass along the tax exemption to the consumer. The Governor signed this bill on January 25, 2006, and it became effective on that date.

House Bill 970 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/hb970.pdf

HB 1014 (O.C.G.A. § 48-8-3(58)) Amends the Code Section to extend the current sunset provision (January 1, 2007) to January 1, 2009 for the sales and use tax exemption for overhead materials used by United States Defense Contractors or National Aeronautics and Space Administration Contractors on qualifying government contracts. The Governor signed this bill on April 19, 2006, and it will become effective on July 1, 2006.

House Bill 1014 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/hb1014.pdf

HB 1018 (O.C.G.A. § 48-8-3(83)) Creates a new sales and use tax exemption for the sale of biomass materials used to produce electricity or steam or used to produce electricity and steam intended for sale. Biomass materials are organic materials including agricultural crops, plants, trees, wood, wood wastes and residues, sawmill waste, sawdust, wood chips, bark chips, forest thinning, harvesting, or clearing residues, wood waste from pallets or other wood demolition debris; peanut shells, pecan shells, cotton plants, corn stalks, plant matter including aquatic plants, grasses, stalks, vegetation; and residues including hulls, shells, or cellulose containing fiber. Fossil fuels are not considered “biomass materials” for purposes of the exemption. The Governor signed this bill on April 20, 2006, and it will become effective on July 1, 2006.

House Bill 1018 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/hb1018.pdf

HB 1040 (O.C.G.A. § 48-8-39) Amends the Code Section relating to a manufacturer’s sales and use tax liability on items used beyond demonstration, display, or inventory retention. Defines “total raw material cost” as it relates to carpet samples. “Total raw material cost,” for purposes of determining the fair market value of carpet samples, is defined to include the following:

- Supplies used in the manufacturing of carpet samples such as bindings, grommets, and other similar items.
- Carpet sample display devices such as racks, binders, and similar items.
- Inbound freight charges.

The term does not include labor or overhead for assembling or producing samples from finished carpet nor outbound freight charges to the expense account for the carpet sample. The Governor signed this bill on April 27, 2006, and it became effective on that date.

House Bill 1040 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/hb1040.pdf

HB 1083 (O.C.G.A. § 20-15-2) Amends the Code Section that created the Georgia Medical Center Authority to expand the definition of projects, purpose, and locations for biomedical and biotechnical research centers and programs. The bill also provides for a sales and use tax exemption on property purchased by the authority or for use by the authority. The Governor signed this bill on May 5, 2006, and it will become effective on July 1, 2006.

House Bill 1083 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/hb1083.pdf

HB 1120 (O.C.G.A. § 48-8-49) Amends the Code Section relating to the threshold requirement for a dealer obligated to make estimated sales and use tax payments by changing the threshold amount from \$2,500 to \$5,000. The Governor signed this bill on April 28, 2006, and it will become effective on July 1, 2006.

House Bill 1120 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/hb1120.pdf

HB 1121 (O.C.G.A. § 48-8-3(84)) Creates a new two-year (July 1, 2006 – June 30, 2008) sales and use tax exemption for the sale of tangible personal property used in direct connection with the construction or improvement of the National Infantry Museum and Heritage Park facility in Georgia. It requires the issuance of an exemption determination letter from the Commissioner in order to make purchases without payment of tax. The Governor signed this bill on April 28, 2006, and it will become effective on July 1, 2006.

House Bill 1121 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/hb1121.pdf

HB 1219 (O.C.G.A. §§ 48-8-3(75) and (82)) Amends the Code Sections related to the four-day sales tax holiday exemption (O.C.G.A. § 48-8-3(75)) and the four-day energy efficient holiday (O.C.G.A. § 48-8-3(82)) to establish a single period for 2006 (August 3 through August 6, 2006). Doors and windows were added to the energy efficient holiday and incandescent light bulbs were removed. Both exemptions extend to state and local sales and use taxes. The Governor signed this bill on April 28, 2006, and it became effective on that date.

House Bill 1219 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/hb1219.pdf

HB 1301 (O.C.G.A. § 48-8-3(57.1)) Creates a new two-year (July 1, 2006 – June 30, 2008) sales and use tax exemption applicable to sales of food and beverage (as defined under the federal Food Stamp Act) to a “qualified food bank” for on-premises or off-premises consumption. A qualified food bank is defined as any food bank that is determined to be nonprofit under IRC § 501(c)(3) and operated primarily for the purpose of providing hunger relief to low income persons. The food bank must obtain an exemption determination letter from the Commissioner in order to qualify for the exemption. The Governor signed this bill on April 27, 2006, and it will become effective on July 1, 2006. The bill contains a sunset date of June 30, 2008.

House Bill 1301 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/hb1301.pdf

HB 1310 (O.C.G.A. §§ 48-2-15, 48-2-32, 48-2-36 and 48-8-58) Provides for the following amendments related to Georgia sales and use tax:

O.C.G.A. § 48-2-15 was amended to ensure that all tax information obtained by third parties contracting with the Department of Revenue falls under confidentiality requirements. This will allow for similar treatment for electronically filed sales tax returns to that governing withholding tax returns as already provided for in Chapter 7.

O.C.G.A. § 48-2-32 was amended to reduce the threshold requirement for electronic funds transfer from \$10,000 to \$5,000 for sales and use tax, withholding tax, and motor fuel distributor tax. It retains the \$10,000 threshold for corporate and individual estimated payments.

O.C.G.A. § 48-2-36 was amended to allow the Commissioner to provide extensions for filing returns and making payments of tax in a manner similar to the IRS in the event of a presidentially declared disaster, terrorist, or military action.

O.C.G.A. § 48-8-58 was amended to allow dealers who accept returned items past 90 days from the date of purchase, to deduct the amount of the return on their current sales and use tax return instead of filing an amended return for credit. The Governor signed this bill on April 19, 2006, and it will become effective on July 1, 2006.

House Bill 1310 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/hb1310.pdf

HB 1506 (O.C.G.A. §§ 48-8-7, 48-8-8, 48-8-9 and 48-8-10) Amends various Code Sections related to sales and use tax to make the first offense for knowingly and willfully failing to timely report and remit sales and use tax or filing a fraudulent return, a misdemeanor of a high and aggravated nature, punishable by a fine of not more than \$5,000 or imprisonment for not more than one year or both. A second offense will constitute a felony, punishable by a fine of not more than \$10,000 or imprisonment for not more than five years or both. The Governor signed this bill on April 19, 2006, and it will become effective on July 1, 2006.

House Bill 1506 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/hb1506.pdf

Local Tax

HB 1030 (O.C.G.A. § 48-13-51(2.2)) Amends the Code Section related to Local Excise Tax on Rooms, Lodging and Accommodations to allow a county or municipality to call for a five percent excise tax. The tax may only be levied when a convention facility of 50,000 square feet is owned by a development authority and the facility is leased to a charitable trust or related entity. Additionally, the county or municipality must have entered into a contract or other agreement with a charitable trust on or before December 31, 2005 relating to the use of the tax proceeds. The proceeds may be used to promote, attract, stimulate, and develop conventions and tourism, or to fund the construction or improvement of buildings that have an effect of promoting, attracting, stimulating, or developing conventions, or tourism such as a hotel, infrastructure, or other such facilities. The tax may not cease until all bond debt is satisfied. The Governor signed this bill on May 1, 2006, and it became effective on that date.

House Bill 1030 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/hb1030.pdf

HB 1403 (O.C.G.A. § 48-8-89.1) Amends the Code Section related to the local option tax distribution certificate process to allow municipalities experiencing growth in boundaries to seek a new local option sales tax distribution certificate if their population has increased by more than 15%.

A “new qualified municipality” is defined as a municipality chartered since the date of the most recent certificate of distribution and where the population of the unincorporated area of the county constitutes less than 20% of the population of the county after removal of the new municipality population.

A “newly expanded qualified municipality” is defined as a municipality that has experienced an increase in population of greater than 15% (due to one or more annexations) since the last certificate of distribution was filed with the Department of Revenue.

This bill also requires the Department to notify a county when either a new qualified municipality or newly expanded qualified municipality within their jurisdiction has notified the Department of Revenue of their eligibility to obtain a new certificate of distribution.

The Governor signed this bill on May 5, 2006, and it became effective on that date.

House Bill 1403 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/hb1403.pdf

HB 1575 This bill is local legislation that provides for a formula for distribution of educational local option sales and use tax proceeds between the City of Buford Independent School District, Hall County School District, and Gainesville Independent School District. The formula provides that the first \$50,000 distributed per month for sixty months is to be paid to the City of Buford Independent School District. The remaining portion is to be distributed based upon the FTE ratio between the remaining two school districts. The Governor signed this bill on May 3, 2006, and it will become effective on July 1, 2006.

House Bill 1575 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2005_06/pdf/hb1575.pdf