



2007

ANALYSIS OF ENACTED LEGISLATION

ALCOHOL

SB 95 (O.C.G.A. §§ 16-12-171 and 16-12-173) Amends these Code Sections relating to the sale or distribution of, or possession by, minors of cigarettes and tobacco related objects. The bill makes it unlawful for a person under the age of 18 to attempt to purchase cigarettes or tobacco related objects. The bill prohibits the sale of any non-tobacco product from a vending machine that sells cigarettes, tobacco products or tobacco related products with the exception of matches.

Senate Bill 95 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/sb95.pdf

INCOME TAX

HB 225 (O.C.G.A. §§ 20-3-634 and §48-7-27) Amends these Code Sections relating to tax-deductible contributions to a Georgia Higher Education Savings Plan. Eligible contributors for taxable years beginning on or after January 1, 2007 are no longer limited to parents or guardians. The bill eliminates the federal AGI-based phase-out for claiming the deduction. The deduction limit of \$2,000 per year remains the same.

House Bill 225 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb225.pdf

HB 357 (O.C.G.A. § 48-1-2) This bill amends the version of the Internal Revenue Code applicable to tax years beginning between January 1, 2006 and December 31, 2006. For Georgia tax year 2006, a new paragraph 14.1 of Code Section 48-1-2 adopts a number of federal changes from the federal Tax Relief and Health Care Act of 2006 signed by the President on December 20, 2006. The second section of the bill amends Code Section 48-1-2 to provide for the annual update and conforms the Georgia Revenue Code to the IRS Code as of January 1, 2007 for taxable years beginning on or after January 1, 2007.

House Bill 357 can be viewed at the following link:

http://www.legis.ga.gov/legis/2007_08/pdf/hb357.pdf

SB 148 (O.C.G.A. §§ 31-46-1 through 31-46-5 and 48-7-63) Creates a new Code Section providing a new stem cell bank program designed to promote stem cell research and therapy. The bill also creates a Code Section to allow for contributions to the program by means of taxpayer-directed income tax return refunds or voluntary payments.

Senate Bill 148 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/sb148.pdf

SB 184 (O.C.G.A. §§ 48-7-21, 48-7-21.1, 48-7-27, 48-7-100 and 48-7-101) Amends several Code Sections to make technical corrections by adding cross references in Code Sections 48-7-21 and -27 (computation of income by corporations and individuals, respectively) that specifically require the application of existing Code Section 48-7-21.1 (passed in 2006 via SB 529). Existing law in Code Section 48-7-21.1 disallows business expenses to the extent that they consist of payments or compensation for labor services to an individual of \$600.00 or more in a taxable year where such individual is not an authorized employee. The bill adds a safe harbor for employers who use a federal database to verify that the employee is an authorized employee, and certain definitions are added or clarified.

The bill also amends Code Section 48-7-100 by adding a new paragraph (11) that defines a withholding agent as any person required to deduct and withhold tax under Code Section 48-7-101. It amends subsection (i) of Code Section 48-7-101 by specifying that a withholding agent is required to withhold income tax at a rate of 6% of the labor services reported on a Form 1099 if the individual being compensated: 1) failed to provide a TIN (taxpayer identification number); 2) provided an incorrect TIN; or 3) provided an IRS-issued TIN issued to nonresident aliens. If these requirements are not adhered to, the withholding agent is liable for the taxes required to be withheld, unless the agent is exempt for federal purposes and provides a copy of a properly filed IRS Form 8233.

Finally, the bill amends Code Section 48-7-27 to broaden the exclusion of U.S. military income received by certain members of the National Guard and reserve components of the armed forces of the United States. The bill allows such members stationed in defense of the borders of the U.S. pursuant to military orders to exclude military pay received for the period covered by such military orders.

Senate Bill 148 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/sb184.pdf

SR 139 This resolution urges the U.S. Congress to raise the allowable deduction for health savings accounts (HSAs), to allow persons 45 and older (currently 55 and older) to make extra catch-up contributions of up to \$10,000 per year (currently \$800 per year), and to allow all individuals to pay for their health insurance premiums with pre-tax dollars.

SR 139 can be viewed at the following link:

http://www.legis.ga.gov/legis/2007_08/pdf/sr139.pdf

MOTOR FUEL

SR 365 This resolution creates a Joint Study Committee on Transportation Funding. The Committee is comprised of eight members: the chairperson of the Senate Transportation Committee, the chairperson of the House Committee on Transportation, three members of the Senate appointed by the Lieutenant Governor, and three members appointed by the Speaker of the House of Representatives. The Committee is to study the conditions, needs, issues, and problems related to funding new sources and methods of funding transportation projects and to recommend any actions or legislation that the committee deems necessary or appropriate.

SR 365 can be viewed at the following link:

http://www.legis.ga.gov/legis/2007_08/pdf/sr365.pdf

MOTOR VEHICLE DIVISION

HB 144 (O.C.G.A. §§ 40-2-39.1, 40-6-201, and 43-47-8.1) Repeals Code Sections 40-6-201 and 43-47-8.1 and creates new Code Section 40-2-39.1. The bill prohibits an owner or lessee of real property from authorizing more than five (5) used vehicles, in any 12-month period, to be displayed or parked on such property for the purpose of selling or advertising the sale of such motor vehicles. (This practice is known as “curb stoning”.)

The bill further prohibits an owner or lessee of real property from authorizing more than two (2) used vehicles at the same time to be parked or displayed for sale.

House Bill 144 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb144.pdf

HB 171 (O.C.G.A. §§ 40-3-36 and 43-43-3) Amends these Code Sections to provide for an additional method or procedure for selling a vehicle for scrap metal or parts without the alleged owner having a certificate of title present at the time of sale. The method will allow the seller to provide a sworn statement prior to the sale. The language necessary for the statement is set forth in the bill. It includes certifying that the vehicle is worth less than \$750.00 and is at least 12 model years old. The bill directs the Department to promulgate a form for public use. The statement must then be submitted to the Department within 72 hours in order to cancel the Georgia certificate of title. Failure to do so will be punishable by fine and imprisonment. Note that a vehicle going through this process will not be titled again.

House Bill 171 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb171.pdf

HB 183 (O.C.G.A. §§ 40-3-2, 40-3-36 and 40-3-37) Amends these Code Sections to repeal the definition of “salvage-repaired” and in its place substitute the term “rebuilt” on the certificate of title. The term “rebuilt” shall appear in no larger than 12 point font. Also the bill provides that “at the time of inspection”, the word “rebuilt” must be affixed to the door post or other location in a clear and conspicuous manner if the vehicle was rebuilt with two or more major component parts.

House Bill 183 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb183.pdf

HB 457 (O.C.G.A. § 40-2-60.1) Amends the Code Section to authorize the Department to accept an application from an agency, fund, program or a group of individuals or vehicles for special license plates. The bill establishes fees, rules and regulations for the processing of such application. Applicants are to submit a bond of \$50,000. The commissioner shall design such special license plate in cooperation with the agency, fund or program and such design shall require a licensing agreement for use of such design. The application shall be approved or disapproved within 30 days of receipt. Upon approval the agency, fund or program must acquire 1,000 applications along with a \$25 manufacturing fee with each application. Upon receipt of 1,000 paid applications within two years of the date of approval by the commissioner, the commissioner shall provide a letter of certification to the sponsor and the sponsor may seek the enactment of appropriate legislation. With respect to special license plates that have been approved and are in use, the further issuance of such plates will cease if the number of active registrations falls below 500 in a calendar year.

House Bill 457 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb457.pdf

HB 518 (O.C.G.A. §§ 40-1-1, 40-2-37, 40-2-38, 40-2-38.1, 40-2-138, 40-2-151, 40-2-158, 40-3-21, 40-3-32, 40-3-33, 40-3-34, 40-3-36 and 50-19-2) Amends these Code Sections to provide a new definition for commercial motor vehicles. The bill also provides for the issuance of regular license plates to employees of the Georgia Lottery Corporation in lieu of government plates. The bill establishes the staggering of registration deadlines for manufacturers, distributors, dealers and transporters and makes the fees for a commercial motor vehicle registration consistent with the new definition. This bill puts into force a late application penalty for any certificate of title more than 30 days from the date of sale and allows the Georgia Lottery Corporation to operate vehicles without a visible state seal or decal.

House Bill 518 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb518.pdf

SB 38 (O.C.G.A. § 40-2-33) Amends the Code Section to provide that the initial issuance of a tag shall not be made unless the applicant presents either a valid Georgia driver's license or Georgia identification card. An exemption to this requirement is made if the applicant meets the provision for exemptions set forth in Code Section 40-5-21, which deals with the issuance of driver's licenses.

Senate Bill 38 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/sb38.pdf

SB 77 (O.C.G.A. § 40-2-88.1) Creates a new Code Section to direct the Department to "commence to initiate" an electronic filing system for registration of commercial vehicles under the International Registration Plan by January 1, 2008. The bill is silent on completion dates. The bill further provides for the issuance of temporary permits for renewals and transfers.

Senate Bill 77 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/sb77.pdf

SB 81 (O.C.G.A. §§ 40-2-69, 40-2-85.1, 40-2-85.2, 40-2-86.21 and 40-2-86.22) Amends these Code Sections to allow for prestige license plates and special plates for certain persons and vehicles. The bill allows surviving spouses of disabled veterans to continue to receive free disabled veterans plates. It specifies that certain existing license plates shall not be subject to the special tag renewal fee and provides for new revenue-sharing license plates and a new non-revenue-sharing license plate.

Senate Bill 81 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/sb81.pdf

PROPERTY TAX

HB 78 (O.C.G.A. § 48-5-7.4) This bill amends the Code Section to provide that property used for "agritourism" purposes qualifies for current use assessment. Agritourism is defined as: "charging admission for persons to visit, view, or participate in the operation of a farm or dairy or production of farm or dairy products for entertainment or educational purposes or selling farm or dairy products to persons who visit such farm or dairy."

House Bill 78 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb78.pdf

HB 182 (O.C.G.A. § 48-5-274) This bill amends the Code Section to provide that the equalized adjusted school digests established by the State Auditor excludes all exempt real and personal property and excludes the difference in the value of all taxable property for the current year and the value certified as the tax allocation increment base for tax allocation districts created by counties and municipalities.

House Bill 182 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb182.pdf

HB 222 (O.C.G.A. § 48-4-23) This bill adds a new Code Section which prohibits a local county Tax Commissioner or an employee working on behalf of the Tax Commissioner from directly or indirectly acquiring an interest in, buying, or profiting from real property sold for delinquent tax purposes, unless these persons had an interest in the property at the time the taxes became delinquent. Violations of this law subject the person to a misdemeanor charge and, upon conviction, imprisonment of up to one year, a fine of \$1,000, or both, and voids the sale.

House Bill 222 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb222.pdf

HB 321 (O.C.G.A. § 48-5-7.4) Amends the Code Section to provide that, for conservation use assessment purposes, a person's beneficial interest in property which is held through a family owned farm entity and which is under a conservation use covenant is limited to only that person's percentage of ownership of the farm entity and is not a beneficial interest in the entire tract held through the farm entity.

House Bill 321 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb321.pdf

HB 380 (O.C.G.A. § 48-3-3) This bill amends the Code Section to provide that whenever property has been transferred and the transferor provides a deed showing no current ownership or responsibility for the taxes at the time they were initially billed, the Tax Commissioner cannot charge the applicable interest and penalty amounts before 60 days after the date a new tax bill is forwarded to the new owner of record as shown in the tax records of the county board of tax assessors.

House Bill 380 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb380.pdf

HB 445 (O.C.G.A. § 48-5-41) This bill amends the Code Section to provide that a property tax exemption for charitable institutions is limited to only the building which is owned by and used exclusively for the purposes of the charitable institution, and not more than 15 acres of land on which the building is located.

House Bill 445 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb445.pdf

HB 486 (O.C.G.A. § 48-5-359.1) This bill amends the Code Section to provide that county governing authorities of counties with 50,000 or more parcels of property may contract with a municipality for the tax commissioner to prepare the tax digest and collect property taxes without the approval of the tax commissioner. Such contracts will specify an amount to be paid for the services. The tax commissioner may be compensated by the county for the additional duties and responsibilities. This bill affects approximately 20 counties.

House Bill 486 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb486.pdf

SB 103 (O.C.G.A. §§ 48-5-40 and 48-5-126.1) This bill amends Code Sections relating to property tax to correct certain language to make it gender neutral. It also re-enacts the language that deals with the training of tax commissioners which was inadvertently omitted from the supplement. The re-enacted language includes the provision that failure on the part of the tax commissioner to comply with the training requirements may subject the tax commissioner to removal from office by the Governor.

Senate Bill 103 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/sb103.pdf

SALES TAX

HB 128 (O.C.G.A. § 48-8-3) This bill changes the dates for the 4-day sales tax holiday exemption (O.C.G.A. § 48-8-3(75)) to August 2, 2007 through August 5, 2007. This bill also changes the dates for the 4-day energy efficient products sales tax holiday exemption (O.C.G.A. § 48-8-3(82)) to October 4, 2007 through October 7, 2007. Covered items have not changed. For the general sales tax holiday, the covered items include clothing or footwear costing \$100 or less per item, a single purchase of computer items for \$1,500 or less, and school supplies at \$20 or less per item. A list of specific items that do and do not qualify can be found in Ga. Reg. Sec. 560-12-2-.110. Covered items for the energy efficient products sales tax holiday include energy star rated doors, windows, dishwashers, clothes washers, air conditioners, ceiling fans, fluorescent light bulbs, dehumidifiers, programmable thermostats, or refrigerators with a sales price of \$1,500 or less.

House Bill 128 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb128.pdf

HB 169 (O.C.G.A. § 48-8-3) This bill creates two new two-year (July 1, 2007 – June 30, 2009) use tax exemptions. O.C.G.A. § 48-8-3(57.2) provides for a use tax exemption for persons donating prepared food and beverages to a qualified nonprofit agency to be used for hunger relief purposes. “Qualified nonprofit agency” is defined as any exempt IRC 501(c)(3) organization that provides hunger relief. As a condition of the exemption, the donor must obtain a letter of determination from the “qualified nonprofit agency” that receives and uses the donated items. O.C.G.A. § 48-8-3(57.3) provides for a use tax exemption for prepared food and beverages that are donated following a natural disaster and used for disaster relief purposes.

House Bill 169 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb169.pdf

HB 186 (O.C.G.A. § 48-8-3) This bill creates a new five-year (July 1, 2007 – June 30, 2012) sales and use tax exemption (O.C.G.A. § 48-8-3 (34.4)) for sales of tangible personal property to, or used in or for the construction of, a new alternative fuel facility primarily dedicated to the production and processing of ethanol, biodiesel, butanol, or their by-products when such fuels are derived from biomass materials such as agricultural products, animal fats, or the wastes of such products or fats. “Alternative fuel facility” means any new facility in Georgia primarily dedicated to production and processing of ethanol, biodiesel, butanol, or their by-products for sale. “Used in or for the construction of” means any tangible personal property used in the construction of the facility that loses its character as tangible personal property. Any entity seeking the exemption must conduct at least a majority of its business with nonaffiliated entities. Dealers seeking the exemption must apply for and receive an exemption certificate from the commissioner in order to qualify for the exemption.

House Bill 186 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb186.pdf

HB 193 (O.C.G.A. § 48-8-3) This bill amends the Code Section relating to the existing sales and use tax exemption for jet fuel. It exempts the first 1.8% of the 4% State sales tax and exempts the 1% Special Purpose Local Option Sales Tax on jet fuel sold to all commercial airlines at a qualifying airport with 750,000 or more takeoffs and landings in a calendar year (Hartsfield-Jackson Airport). The exemption will apply to transactions occurring between July 1, 2007 and July 1, 2009.

House Bill 193 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb193.pdf

HB 214 (O.C.G.A. §§ 12-3-20, 12-3-232, 12-3-233, 12-3-234, 12-3-241, 12-3-243.1, 12-3-247 and 12-3-274) This bill amends the creation statutes of the Jekyll Island State Park Authority to eliminate oversight by the Recreational Oversight Committee, and extends the authority’s existence for 40 additional years. This bill eliminates the Jekyll Island State Park Authority’s two member positions on the Recreational Oversight Committee on December 31, 2009. This bill also provides for development restrictions on the island and creates a joint committee (Jekyll Island State Park Authority Oversight Committee) to oversee the Jekyll Island State Park Authority. The bill also specifies the manner of submitting of reports to the Jekyll Island State Park Authority Oversight Committee. This bill extends an exemption from sales and use tax to the Authority.

House Bill 214 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb214.pdf

HB 219 (O.C.G.A. §§ 10-9-10, 12-3-274, 48-8-2, 48-8-30 and 52-2-37) This bill shifts the collection of local sales and use tax on retail sales of motor fuel from the retailer to a prepaid sales tax collected and remitted to the State by the motor fuel distributor through a new Paragraph added to the Code Section. The distributor will be collecting the tax on an average retail sales price per gallon published twice per year. This bill also amends the creation statutes of the George L. Smith II World Congress Center Authority, the Jekyll Island State Park Authority, and the Georgia Ports Authority to provide for a sales and use tax exemption for purchases of tangible personal property.

House Bill 219 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb219.pdf

HB 282 (O.C.G.A. § 48-8-3) This bill amends the Code Section to create a new two-year (July 1, 2007 through June 30, 2009) sales and use tax exemption for the sale or use of engines, parts, equipment and other tangible personal property used in the maintenance or repair of certain aircraft. The exemption extends to items that are installed on all aircraft that are not registered in this state.

House Bill 282 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb282.pdf

LOCAL LEGISLATION

HB 223 This bill is local legislation that provides for a formula for distribution of educational local option sales and use tax ("ELOST") proceeds between the Carroll County School District and the Independent School Districts located in Carroll County with respect to the ELOST that was approved on March 20, 2007. The distribution percentages are as follows: Carroll County School System – 75.30%; City of Carrollton School System – 20.75%; City of Bremen School District – 3.95%. This legislation becomes effective on July 1, 2007.

House Bill 223 can be viewed at the following link:

http://www.legis.ga.gov/legis/2007_08/pdf/hb223.pdf

HB 264 (O.C.G.A. §§ 48-8-101, 48-8-101.1 and 48-8-104) This bill amends the Code Section referring to the Homestead Option sales and use tax to expand the governmental entities ("qualified municipalities") entitled to receive distributions and to provide for an annual formula to distribute the tax between the county and qualifying municipalities. "Qualified municipalities" are defined as municipalities created on or after January 1, 2007, lying wholly within or partially within a county. A "qualified municipality" also includes: (1) any existing municipality that has entered into an intergovernmental agreement with a county at any time before January 1, 2007 so as to receive capital outlay proceeds of the homestead option sales and use tax; and (2) such intergovernmental agreement has become or does become null and void for any reason. The method of distribution is determined as follows:

1. Use the certified capital factor for the county (not to exceed 0.200) minus 1, multiplied by the total Homestead Option sales tax collected, and divided by the net assessments on qualified homestead property after all other exemptions have been taken.
2. This result is the "Homestead Factor."
3. The unincorporated county millage rate is then subtracted from the millage rate for a qualified municipality.
4. The difference is then multiplied by the Homestead Factor resulting in the Equalization Millage rate.
5. The Equalization Millage rate is then multiplied by the qualified municipality's Homestead Digest.
6. The result is the amount payable to the qualified municipality.

If the total amount payable to all qualified municipalities exceeds the maximum capital factor of 0.200, the distribution to the qualified municipality is calculated as follows:

1. Determine the total capital outlay proceeds based on the maximum factor of 0.200.
2. Subtract the amount certified by the county as payable to existing municipalities that have intergovernmental agreements.
3. The remaining amount is then divided by the net homestead digest; no payment will be due the county from the qualified municipality.

If the total cost of capital outlay projects exceeds the sum of the equalization amounts due, then any excess amount of tax will be distributed to each qualified municipality based upon the net homestead factor for such qualified municipality, divided by the total homestead digest.

House Bill 264 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb264.pdf