



2009

LEGISLATIVE ANALYSIS
FOR ENACTED LEGISLATION

ADMINISTRATIVE

HB 126 (O.C.G.A. §§ 10-12-1, and others) This bill makes a number of changes regarding electronic transactions and signatures including:

1. Provides for the option of electronic signatures on legal documents regarding property and state government disclosure requirements.
2. Permits each state agency to determine whether to accept electronic records or signatures and implement security measures regarding those electronic records.
3. Permits each state agency the option of converting written records to electronic records.

This bill is effective July 1, 2009.

House Bill 126 can be viewed at the following link:

http://www.legis.ga.gov/legis/2009_10/pdf/hb126.pdf

HB 334 (O.C.G.A. §§ 48-2-32 and 48-2-44.1)

This bill amends and revises O.C.G.A. § 48-2-32(f)(2.1) relating to payments required to be remitted via electronic funds transfer (EFT) for any return, report, or other document pertaining to sales tax, use tax, withholding tax, or motor fuel distributor tax:

1. The former minimum \$5,000 payment has been lowered to \$1,000 for returns required to be filed for tax periods beginning on or after January 1, 2010, but prior to January 1, 2011.
2. It then lowers the \$1,000 minimum payment to \$500 for returns required to be filed for tax periods beginning on or after January 1, 2011.

This bill also adds a new O.C.G.A. § 48-2-44.1, which imposes a penalty for any sales tax, use tax, withholding tax, or motor fuel distributor tax return which is required to be filed electronically and is not:

1. The taxpayer will have been considered not to have filed the required return, which is similar to the Internal Revenue Code electronic filing provisions. However, any such taxpayer whose electronic filing was first transmitted on or before the due date of the return, including any extensions, and which was rejected shall be allowed to perfect the electronic filing under rules consistent with those applied by the Internal Revenue Service with respect to rejections of returns which are required to be electronically transmitted or filed.
2. Vendors compensation will be forfeited by taxpayers failing to make the required filing as provided for in O.C.G.A. § 48-8-50.
3. The penalty is the greater of \$25 for each such return, or 5% of the tax due on each such return (before applying any payments or credits).
4. The penalty will not be imposed if the failure to file was due to reasonable cause and not due to gross or willful neglect or disregard for the law.

This bill is effective January 1, 2010.

House Bill 334 can be viewed at the following link:

http://www.legis.ga.gov/legis/2009_10/pdf/hb334.pdf

HB 444 (O.C.G.A. § 48-2-62) This bill adds a new O.C.G.A. § 48-2-62 to provide for preparer penalties that are modeled after the IRS preparer penalties. This bill specifically:

1. Defines ‘tax return preparer’ as any person who prepares for compensation, or who employs one or more persons to prepare for compensation, any return of tax imposed under Chapter 7, 7A, or 8 (income and sales taxes) or any claim for refund of such taxes.
2. Provides various civil penalties for certain actions such as:
 - a. Preparing a return with a position that does not have a reasonable basis, \$500 per return.
 - b. Preparing a return with a willful attempt to understate the liability and a reckless or intentional disregard of the law, greater of \$5,000 or 50% of the income to be derived, per return.
 - c. Failure to sign a return, \$50 per return with a maximum of \$25,000 per year.
 - d. Failure to furnish the tax preparer’s identification number, \$50 per return with a maximum of \$25,000 per year.
 - e. Fraudulently endorsing any check which is issued to a taxpayer, \$500 per check.
3. In addition, the bill allows the Commissioner to seek an injunction to stop a tax return preparer from preparing returns when the preparer has demonstrated a pattern of committing certain of the actions described above.

This bill is effective May 4, 2009.

House Bill 444 can be viewed at the following link:

http://www.legis.ga.gov/legis/2009_10/pdf/hb444.pdf

HB 485 (O.C.G.A. §§ 48-2-8, 48-2-35, 48-2-35.1, 48-2-55, 48-7-29.16, and 48-7-40.15A) The administrative provisions of this bill are as follows (see below for additional income tax provisions):

1. The Commissioner can serve subpoenas by registered or certified mail or statutory overnight delivery as opposed to the current practice of service by a marshal.
2. Requires taxpayers to list specific transactions within a refund claim. Gives taxpayers the same right to administratively protest a refund claim denial as they currently have for protests of tax assessments.
3. Allows taxpayers the option of getting a sales tax refund directly from the vendor or the taxpayer may still seek a refund directly from the Department.
4. The Commissioner can serve summons of garnishment by registered or certified mail or statutory overnight delivery as opposed to the current practice of service by a marshal.

These provisions of this bill are effective May 5, 2009.

House Bill 485 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2009_10/pdf/hb485.pdf

INCOME TAX

HB 74 (O.C.G.A. § 48-1-2) This bill updates and conforms Georgia’s adoption of certain portions of the Internal Revenue Code (“IRC”) to the IRC as amended through January 1, 2009. In addition to the “annual update”, this bill also adds a new code section to make this same update applicable retroactively to the 2008 tax year. This bill thus incorporates most of the provisions of the federal tax bills that were passed during 2008 for purposes of both the Georgia 2008 and 2009 tax years.

Georgia has not adopted I.R.C. Section 168(k) (the 30% and 50% bonus depreciation rules) except for I.R.C. Section 168(k)(2)(A)(i) (the definition of qualified property), I.R.C. Section 168(k)(2)(D)(i) (exceptions to the definition of qualified property), and I.R.C. Section 168(k)(2)(E) (special rules for qualified property).

Georgia has not adopted I.R.C. Section 199 (federal deduction for income attributable to domestic production activities).

Georgia has also not adopted the following:

1. New York Liberty Zone Benefits, I.R.C. Section 1400L
2. 50% first year depreciation for post 8/28/2006 Gulf Opportunity Zone property, I.R.C. Section 1400N(d)(1)
3. 50% bonus depreciation for most tangible property and computer software bought after May 4, 2007 and placed in service in the Kansas Disaster Area before Jan. 1, 2009 (before Jan. 1, 2010 for buildings), I.R.C. Section 1400N(d)(1)
4. 50% bonus depreciation for "qualified reuse and recycling property," I.R.C. Section 168(m)
5. 50% bonus depreciation in connection with disasters federally declared after 2007 and occurring before 2010, I.R.C. Section 168(n)
6. Increased (\$8,000) first-year depreciation limit for passenger automobiles if the passenger automobile is "qualified property," I.R.C. Section 168(k)
7. 15 year straight-line cost recovery period for certain improvements to retail space, I.R.C. Sections 168(e)(3)(E)(ix), 168(e)(8), and 168(b)(3)(I)
8. Modified rules relating to the 15 year straight-line cost recovery for qualified restaurant property (allowing buildings to now be included) placed in service after Dec. 31, 2008 and before Jan. 1, 2010, I.R.C. Section 168(e)(7)
9. 5 year depreciation life for most new farming machinery and equipment placed in service before January 1, 2010, I.R.C. Section 168(e)(3)(B)(vii)
10. Special rules relating to Gulf Opportunity Zone public utility casualty losses, I.R.C. Section 1400N(j)
11. 5 year carryback of NOLs attributable to Gulf Opportunity Zone losses, I.R.C. Section 1400N(k)
12. 5 year carryback of NOLs incurred in the Kansas disaster area after May 3, 2007 and before 2010, I.R.C. Section 1400N(k)
13. 5 year carryback of certain disaster losses, I.R.C. Sections 172(b)(1)(J) and 172(j)
14. The election to deduct public utility property losses attributable to May 4, 2007 Kansas storms and tornadoes in the fifth tax year before the year of the loss, I.R.C. Section 1400N(o)
15. Special rules relating to a financial institution being able to use ordinary gain or loss treatment for the sale or exchange of certain preferred stock after Dec. 31, 2007, I.R.C. Section 1221
16. Temporary tax relief provisions relating to the Midwestern disaster area, I.R.C. Sections 1400N(f) and 1400N(k)

House Bill 74 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2009_10/pdf/hb74.pdf

HB 186 (O.C.G.A. § 48-7-29.11) This bill extends the Telework Tax Credit for an additional two years. The Telework Credit first became effective in 2008. For 2008 and 2009 a maximum credit of \$2 million was allowed. This bill extends the credit to calendar years 2010 and 2011. It specifies that in no event shall the aggregate amount of tax credits approved by the Commissioner for credits earned in calendar years 2010 or 2011 exceed a \$2.5 million cap. This bill specifies that the Commissioner shall make available a public report on or before December 31, 2012, for credits allowed in calendar year 2010; and on or before December 31, 2013, for credits allowed in calendar year 2011.

This bill is effective May 11, 2009.

House Bill 186 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2009_10/pdf/hb186.pdf

HB 228 (O.C.G.A. §§ 49-1-7, 48-7-29.15, 48-7-161, and others) This bill reorganizes and reestablishes various state health and human services agencies. The portions that relate to the Department of Revenue are as follows:

1. Section 2-1 of the bill renumbers O.C.G.A. § 49-1-9 as O.C.G.A. § 49-1-7.
2. Section 2-1 of the bill, within the newly re-numbered O.C.G.A. § 49-1-7(f)(1) continues to provide that Georgia income tax forms shall contain language offering taxpayers the opportunity to contribute to the Home Delivered Meals, Transportation Service for the Elderly, and Preschool Children with Special Needs Fund (currently shown on returns as the Georgia Children and Elderly Fund).
3. Section 2-2 of the bill amends O.C.G.A. § 48-7-29.15 by replacing “Department of Human Resources” wherever it occurs with “Department of Human Services”.
4. Section 2-21 of the bill amends O.C.G.A. § 48-7-161(1) to modify the definition of “Claimant agency” by deleting the “Department of Human Resources” and adding the “Department of Human Services and the Department of Behavioral Health and Developmental Disabilities” as claimant agencies.

This bill is effective July 1, 2009.

House Bill 228 can be viewed at the following link:

http://www.legis.ga.gov/legis/2009_10/pdf/hb228.pdf

HB 261 (O.C.G.A. § 48-7-29.17) This bill establishes an income tax credit against individual income tax for the purchase of an eligible single-family residence located in Georgia.

An eligible single-family residence is a single-family structure (including a condominium unit as defined in O.C.G.A. § 44-3-71) that is occupied for residential purposes by a single family, that is:

- a) Any residence (including a new residence, one occupied at the time of sale, or a previously occupied residence) that was for sale prior to May 11, 2009 and that remained for sale after May 11, 2009; or
- b) A residence with respect to which a foreclosure event has taken place and which is owned by the mortgagor or the mortgagor’s agent; or
- c) An owner-occupied residence with respect to which the owner’s acquisition indebtedness was in default on or before March 1, 2009.

Acquisition indebtedness is debt incurred in acquiring, constructing, or substantially improving a qualified residence and which is secured by such residence. Refinanced debt is acquisition debt if at least a portion of such debt refinances the principal amount of existing acquisition indebtedness.

A taxpayer is allowed the tax credit for a purchase of one eligible single-family residence made between June 1, 2009 and November 30, 2009. The credit amount is the lesser of 1.2 percent of the purchase price of the eligible single-family residence or \$1,800.00. The amount of the tax credit that may be claimed and allowed in a single taxable year cannot exceed the lesser of 1/3 of the credit or the taxpayer’s income tax liability. This means a maximum of \$600 may be claimed each year. Any unused tax credit can be carried forward but cannot be carried back.

House Bill 261 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2009_10/pdf/hb261.pdf

HB 379 (O.C.G.A. §§ 48-7-21, 48-7-27, and 48-7-28.4) This bill establishes a new Code Section which requires expenses paid to captive real estate investment trusts to be added back to Georgia income. This

bill does allow the adjustment to be reduced to the extent the captive real estate investment trust has expenses that were paid to unrelated third parties. It also allows the adjustment to be reduced to the extent the captive real estate investment trust's income is taxed by another state.

This bill is effective for tax years beginning on or after January 1, 2010.

House Bill 379 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2009_10/pdf/hb379.pdf

HB 410 (O.C.G.A. §§ 33-8-4, 33-8-8.1, 33-8-8.2, 48-7-27 and 48-7-29.13) Sections 1 and 3 of this bill increase the exemption from state insurance premium taxes and local insurance premium taxes on non life insurance companies that are administered by the Commissioner of Insurance for certain insurance products involving high deductible health plans. Previously, the high deductible health plan had to be sold or maintained in connection with a health savings account. Now, the high deductible health plan only needs to be a high deductible health plan as defined in Section 223 of the Internal Revenue Code. Section 2 now also applies the same exemption to local premium taxes imposed on life insurance companies.

Sections 4 and 5 of this bill change the income tax deduction and the income tax credit for high deductible health plans that were enacted in HB 977 during the 2008 Legislative Session. Previously, the high deductible health plan had to be established and used with a health savings account. Now, the high deductible health plan only needs to be a high deductible health plan as defined in Section 223 of the Internal Revenue Code.

The income tax provisions of this bill are effective for tax years beginning on or after January 1, 2009.

House Bill 410 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2009_10/pdf/hb410.pdf

HB 438 (O.C.G.A. § 48-7-40.24) This bill makes changes to the credit provided by O.C.G.A. § 48-7-40.24 and the changes are summarized as follows:

1. This bill broadens the definition of business enterprise from any business or the headquarters of any such business which is engaged in manufacturing, to any enterprise or organization which is registered and authorized to use the federal employment verification system known as "E-Verify" or any successor federal employment verification system and is engaged in or carrying on any business activities within this state. Retail businesses are still not included in the definition of a business enterprise.
2. This bill provides a new requirement that an "eligible full-time employee" must: (1) possess a valid Georgia driver's license or identification card issued by the Georgia Department of Driver Services; or (2) submit a notarized affidavit swearing to be a United States citizen or lawfully present alien authorized to work in the United States.
3. It specifies that a "qualified project" means a project which meets the job creation requirement and either the payroll requirement or qualified investment property requirement. Current law requires that they meet both the job creation requirement and the investment property requirement and does not include a payroll requirement.
4. If the taxpayer selects the qualified investment property requirement, the property must involve the construction of one or more new facilities in this state or the expansion of one or more existing facilities in this state. For purposes of this paragraph, the term facilities means all facilities comprising a single project, including noncontiguous parcels of land, improvements to such land, buildings, building improvements, and any personal property that is used in the facility or facilities. Current law requires that the facilities be contiguous to the manufacturing facility.
5. It provides that projects certified by the panel before January 1, 2009, shall be governed by this code section as it was in effect for the taxable year the project was certified.

This bill is effective for tax years beginning on or after January 1, 2009.

House Bill 438 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2009_10/pdf/hb438.pdf

HB 439 (O.C.G.A. §§ 48-7-40, 48-7-40.1, 48-7-40.5, 48-7-40.12, 48-7-40.15 and 48-7-40.17) This bill changes a number of income tax credits. The changes are summarized as follows:

This bill amends O.C.G.A. § 48-7-40, jobs tax credit:

1. Adds to the definition of a business enterprise a business or headquarters of a business that provides services for the elderly and persons with disabilities.
2. Allows the credit to be claimed beginning with the year the job is created as opposed to the year after the job is created.
3. Allows the credit to be claimed against withholding tax for a business enterprise engaged in a competitive project (as certified by the Department of Economic Development) which is located in a tier 2, 3, or 4 county.
4. Allows the additional \$500.00 tax credit to be claimed in the year the job is created as opposed to the year after the job is created.
5. Provides that additional new full-time jobs created in the 4 years after the initial year shall be eligible for the credit.
6. Requires that the credit be claimed within 1 year instead of the normal 3 year statute of limitation period.
7. Provides that taxpayers that initially claimed this credit for any taxable year beginning before January 1, 2009, shall be governed, for purposes of all such credits claimed as well as any credits claimed in subsequent taxable years related to such initial claim, by this code section as it was in effect for the taxable year in which the taxpayer made such claim.

This bill amends O.C.G.A. § 48-7-40.1, jobs tax credits for business enterprises in less developed areas:

1. Allows the credit to be claimed beginning with the year the job is created as opposed to the year after the job is created.
2. Provides that additional new full-time jobs created in the 4 years after the initial year shall be eligible for the credit.
3. Requires that the credit be claimed within 1 year instead of the normal 3 year statute of limitation period.
4. Provides that taxpayers that initially claimed this credit for any taxable year beginning before January 1, 2009, shall be governed, for purposes of all such credits claimed as well as any credits claimed in subsequent taxable years related to such initial claim, by this code section as it was in effect for the taxable year in which the taxpayer made such claim.

This bill amends O.C.G.A. § 48-7-40.5, tax credits for approved retraining:

1. Provides that approved retraining shall not include any retraining on commercially, mass produced software packages for word processing, data base management, presentations, spreadsheets, e-mail, personal information management, or computer operating systems except a retraining tax credit shall be allowable for those providing support or training on such software.
2. Provides a cap of \$1,250 per year per full-time employee who has successfully completed more than one approved retraining program.
3. Requires that the credit be claimed within 1 year instead of the normal 3 year statute of limitation period.

This bill amends O.C.G.A. § 48-7-40.12, tax credit for qualified research expenses:

1. Changes the definition of base amount to use a calculation based on "Georgia gross receipts" instead of "Georgia taxable net income."
2. Specifies that "Georgia gross receipts" shall be the numerator of the gross receipts factor provided in subsection (d) of Code Section 48-7-31.
3. Specifies that a business enterprise need not have had a positive taxable net income for the preceding three taxable years in order to claim the research tax credit.

4. Allows the credit to be claimed against withholding tax in the first five years of a newly formed business enterprise's operations in this state.

This bill amends O.C.G.A. § 48-7-40.15, the port activity tax credit:

1. Specifies that the current definition of "base year port traffic" shall apply to taxable years beginning prior to January 1, 2010.
2. Specifies that for all taxable years beginning on or after January 1, 2010, "base year port traffic" means the amount of imports and exports during the second preceding 12 month period. For example, if the taxpayer is trying to claim the credit for 2010, they would compare 2009 to 2008 and if the increase is more than 10% they would qualify.
3. Specifies that the current definition of "port traffic" shall apply to taxable years beginning prior to January 1, 2010.
4. Specifies that for all taxable years beginning on or after January 1, 2010, "port traffic" means the amount of imports and exports as opposed to the current law which only allows exports.

This bill amends O.C.G.A. § 48-7-40.17, the headquarters job tax credit:

1. Defines the term "new quality job" to mean a job that: 1) Has a regular work week of 30 hours or more; 2) Is not a job that is or was already located in Georgia regardless of which taxpayer the individual performed services for; and 3) Pays at or above 110 percent of the average wage of the county in which it is located;
2. Changes the headquarters credit so that it applies to all taxpayers creating at least 50 "new quality jobs" instead of the current law which allows the credit based on a taxpayer moving their headquarters to Georgia.
3. Specifies that the credit amount shall be based on the pay of the new quality job and provides different credit amounts depending upon the pay.
4. Requires that the credit be claimed within 1 year instead of the normal 3 year statute of limitation period.
5. Provides that taxpayers that initially claimed this credit for any taxable year beginning before January 1, 2009, shall be governed, for purposes of all such credits claimed as well as any credits claimed in subsequent taxable years related to such initial claim, by this code section as it was in effect for the taxable year in which the taxpayer made such claim.

This bill is effective for tax years beginning on or after January 1, 2009.

House Bill 439 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2009_10/pdf/hb439.pdf

HB 473 (O.C.G.A. §§ 50-23-21 and 50-25-8) The portion of this bill that relates to the Department of Revenue specifies that a person receiving a grant from GEFA under O.C.G.A. § 50-23-21 shall not be eligible to claim any tax credit under O.C.G.A. § 48-7-29.14 (Clean Energy Property Tax Credit), or any other grant under O.C.G.A. § 50-23-21, with respect to the same clean energy property.

This bill is effective May 22, 2009.

House Bill 473 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2009_10/pdf/hb473.pdf

HB 485 (O.C.G.A. §§ 48-2-8, 48-2-35, 48-2-35.1, 48-2-55, 48-7-29.16, and 48-7-40.15A) The income tax provisions of this bill are summarized as follows:

1. Amends the qualified education expense tax credit to allow preapproved taxpayers that claim the credit to file electronically. The bill does not require the Student Scholarship Organization's letter of confirmation be attached to the return; the taxpayer must make it available upon request by the Commissioner. This provision of the bill is effective for tax years beginning on or after January 1, 2008.

2. Creates O.C.G.A. § 48-7-40.15A which establishes a new port tax credit:
 - a. The definitions of “base year port traffic” and “port traffic” include imports and exports of product.
 - b. Allows the credit to any business enterprise located in a tier two or three county established pursuant to O.C.G.A. § 48-7-40 and in a less developed area established pursuant to O.C.G.A. § 48-7-40.1 and which qualifies and receives the tax credit under O.C.G.A. § 48-7-40.1 and which:
 - i. Consists of a distribution facility of greater than 650,000 square feet in operation in this state prior to December 31, 2008;
 - ii. Distributes product to retail stores owned by the same legal entity or its subsidiaries as such distribution facility; and
 - iii. Has a minimum of 8 retail stores in this state in the first year of operations.
 - c. Provides that no business enterprise shall be authorized to claim both this credit and the port credit provided in O.C.G.A. § 48-7-40.15, unless such business enterprise has increased its port traffic of products during the previous twelve month period by more than 20 percent above its base year port traffic, and also has increased employment by 400 or more no sooner than January 1, 1998.
 - d. Provides that this tax credit, in addition to the tax credit under O.C.G.A. § 48-7-40, shall be limited to an amount not greater than 50 percent of the taxpayer’s state income tax liability which is attributable to income derived from operations in this state for that taxable year.
 - e. Specifies that the sale, merger, acquisition, or bankruptcy of any taxpayer shall not create new eligibility for any succeeding taxpayer, but any unused credit may be transferred and continued by any transferee of the taxpayer.
 - f. Provides that no credit may be claimed and allowed under this code section for any jobs created on or after January 1, 2015.

The O.C.G.A. § 48-7-40.15A provisions of this bill are effective May 5, 2009.

House Bill 485 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2009_10/pdf/hb485.pdf

SB 165 (O.C.G.A. §§ 49-4-146.1 and 49-5-273) This bill amends Title 49 of the Official Code of Georgia Annotated, relating to social services, so as to authorize the Department of Community Health to obtain income eligibility verification from the Department of Revenue for the Medicaid Program and the PeachCare for Kids Program applicants.

This bill is effective January 1, 2010.

Senate Bill 165 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2009_10/pdf/sb165.pdf

SB 168 (O.C.G.A. §§ 21-5-6, 21-5-30.1, 21-5-34, 21-5-34.1, 21-5-50, 21-5-51, 21-5-52, and 28-1-8 (redesignated to 28-1-8.1)) The portion of this bill that relates to the Department of Revenue adds a new Code Section which provides that the Commissioner must report Senators and Representatives who have not filed a Georgia personal income tax return or who are defaulters for state income taxes in violation of Article II, Section II, Paragraph III of the Constitution. In this new code section, the Commissioner is required to report the name of the Senator or Representative to the chairperson of the Senate Ethics Committee or the chairperson of the House Committee on Ethics, respectively. The Senator and/or Representative will be informed by the Department of Revenue by registered or certified mail, return receipt requested, or statutory overnight delivery that a report is being made under this Code Section at least 30 days prior to the release of such report.

This bill is effective May 4, 2009.

Senate Bill 168 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2009_10/pdf/sb168.pdf

SB 201 (O.C.G.A. § 31-12-14) Currently individual taxpayers are allowed to contribute money on their returns to the “Breast Cancer, Prostate Cancer, and Ovarian Cancer Research Program Fund”. This bill changes the name of the fund to the “Cancer Research Program fund”. The purpose is now to provide research for all types of cancer.

This bill is effective July 1, 2009.

Senate Bill 201 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2009_10/pdf/sb201.pdf

MOTOR FUEL

HB 46 (O.C.G.A. § 48-8-16) This bill ratifies the Executive Order of the Governor exempting dyed fuels from state sales and use taxation, if used primarily for off-road, agricultural use, including timber growing and harvesting, mining, or construction. The period for exemption is May 12, 2008 through April 30, 2009.

This bill is effective April 21, 2009.

House Bill 46 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2009_10/pdf/hb46.pdf

HB 121 (O.C.G.A. §§ 48-8-17 and 48-8-17.1) This bill ratifies the Executive Order of the Governor regarding the exemption on collecting state sales and use tax on motor fuel for the period of July 1, 2008 through December 31, 2008. The exemption did not apply to local sales and use tax.

This bill is effective April 21, 2009.

House Bill 121 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2009_10/pdf/hb121.pdf

SB 30 (O.C.G.A. §§ 10-1-232, 10-1-234.1, and 10-1-240) This bill gives distributors the right to purchase unblended fuel and blend it themselves and regulates the market for blended gasoline to prevent suppliers from refusing to sell unblended gasoline to distributors.

This bill is effective July 1, 2009.

Senate Bill 30 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2009_10/pdf/sb30.pdf

MOTOR VEHICLE DIVISION

HB 57 (O.C.G.A. §§ 40-2-1, 40-2-140, 46-7-12.1, 46-7-15, 46-7-15.1, and § 46-7-16) This bill brings the interstate and intrastate motor carriers for hire into compliance with the federal Unified Carrier Registration Act (UCRA) and eliminates redundant rules. This legislation will not affect private carriers such as furniture companies. Section 1 amends § 40-2-1 to provide definitions for several terms which the

Title uses in order to conform to UCRA. Section 2 adds a new paragraph to the Chapter and creates § 40-2-140, to incorporate provisions required under the UCRA. Section 3 adds § 46-7-12.1, and provides definitions as used in the added section. Limits impact on intermodal interchange facilities agreements. Sections 4, 5, and 6 concern the Department of Public Safety and repeal: § 46-7-15 subsections (a) through (d), but leaves subsection (e) intact, § 46-7-15.1 and § 46-7-16. Sections 7 and 8 concern Department of Public Safety and address equipment safety requirements. Section 9 provides for the enforcement of “out-of-service order” or prohibition against the driver operating a specific motor vehicle.

This bill is effective May 4, 2009.

House Bill 57 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2009_10/pdf/hb57.pdf

HB 318 (O.C.G.A. §§ 48-5-444 and 48-5-506.1) This bill amends O.C.G.A. § 48-5-444 to provide that the place of the return for a farm or business vehicle, if the motor vehicle is located in a different county, shall be where the owner claims homestead or is domiciled. This bill amends the Code to apply only to passenger cars or trucks used by a “family owned qualified farm products producer.” The Code defines “Family owned qualified farm products producer” as an individual or family owned farm entity primarily engaged in the direct cultivation of the soil, including soil removed from the land and placed in pots or containers, or in the operation of land for the production of qualified farm products. A family owned qualified farm products producer shall not include wholesalers, distributors, storage facility owners, manufacturers, processors, or other similar entities that primarily prepare qualified farm products for any intermediate or final market or that primarily operate to move or facilitate the movement of qualified farm products from a producer to any intermediate or final markets.

This bill creates O.C.G.A. § 48-5-506.1 to provide for a one-year exemption from all ad valorem taxes for the first \$100,000.00 of full value for heavy-duty equipment. It includes mainly heavy equipment used for road building, industrial, maritime, or mining uses by small firms expressly excluding publicly traded companies, heavy equipment motor vehicle dealers, and natural persons or entities in the year of purchase. This exemption terminates as of December 31, 2010.

This bill is effective May 11, 2009.

House Bill 318 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2009_10/pdf/hb318.pdf

HB 584 (O.C.G.A. § 40-5-21(a)(1)(A)) This bill repeals existing law allowing for a non-staggered, four-month vehicle registration period. Mitchell county will now operate under O.C.G.A § 40-5-21(a)(1)(A) or Birthday Month registration.

This bill is effective May 11, 2009.

House Bill 584 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2009_10/pdf/hb584.pdf

HB 639 (O.C.G.A. § 40-2-86.21) This bill amends O.C.G.A. § 40-2-86.21 (o)(23) to change language to “Atlanta Falcons Youth Foundation.” Funds from the sale of the plate are to be disbursed to the “Atlanta Falcons Youth Foundation.” This bill adds paragraph (40) for the Georgia Aquarium; Funds from the sale of the Georgia Aquarium plate shall be disbursed to “Georgia Aquarium, Inc.” It provides that the space at the bottom of the license plate will be the appropriate specialty plate name.

This bill is effective July 1, 2009.

House Bill 639 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2009_10/pdf/hb639.pdf

SB 82 (O.C.G.A. §§ 10-1-350, 10-1-351, 10-1-352.1, and 16-8-12) This bill addresses sale of metals to secondary metals recyclers.

1. Amends § 10-1-350 to require that a secondary metals recycler retain a copy of the photo ID of the person who sells the metal along with the other information required under § 10-1-351.
2. Adds § 10-1-351(c) which provides if a motor vehicle is being sold to a secondary metals recycler then the recycler shall send a copy of the title or DOR Form MV-1SP to DOR, Motor Vehicle Division,.
3. Form MV-1SP is presently being used by motor vehicle Scrap and Parts Dealers to report a vehicle that is presented for sale and purchased by the dealers at their facility as required by § 40-3-36. The form requires documentation as to ownership along with a sworn statement by the seller if there is not a title. The form is used for motor vehicles: with a value of less than \$750.00; at least 12 model years old; and which are not subject to any secured interest or lien.
4. Adds § 10-1-352.1, which requires:
 - a. A twenty-four hour hold on cash payments by recyclers for copper, catalytic converter or aluminum.
 - b. For copper, catalytic converter or aluminum, checks can only be made payable to the recorded deliverer; if delivering on behalf of a government entity, or a business entity specified as the owner, then checks may be made payable to the government or business entity.
 - c. This Code Section does not apply to transactions between business entities.
5. Amends § 16-8-12 to provide criminal penalties for stolen metals as defined in § 10-1-350 and the aggregate amount of the value of the property and the cost of recovery exceeds \$500.00 the penalty is not less than 1 year nor more than 5 years and a fine not to exceed \$5,000.00.

This bill is effective July 1, 2009.

Senate Bill 82 can be viewed at the following link:

http://www.legis.ga.gov/legis/2009_10/pdf/sb82.pdf

SB 128 (O.C.G.A. § 40-8-50) This bill allows option for owners of boat trailers, utility trailers, or noncommercial cattle and livestock trailers to register with a permanent trailer license plate. This bill makes the following changes:

- | | |
|---------------------------|--------------------------|
| a. Regular Issue: \$12.00 | Permanent Issue: \$48.00 |
| b. Renewal fee \$12.00 | Renewal Fee: no renewal |

This bill includes a section that affects O.C.G.A. § 40-8-50, relating to motor vehicle brakes. It does not affect DOR

This bill is effective January 1, 2010.

Senate Bill 128 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2009_10/pdf/sb128.pdf

PROPERTY TAX

HB 143 (O.C.G.A. § 45-12-86) Section 1 of this bill requires the General Assembly to appropriate the funding to the Department for Fiscal Year 2009 to provide the homeowner tax relief grants to the counties,

municipalities, and county or independent school districts in the Supplemental Budget. Language added to prevent the funds being removed from the budget if the amount appropriated is sufficient to pay the grants at the level stipulated in the General Appropriations Act. For FY2009 if the funds are appropriated in the supplemental appropriation bill the bill will specify the amount appropriated and the eligible assessed value of each qualified homestead in the state for the specified tax year. If the amount appropriated is not sufficient to fund the eligible assessed value stipulated in the supplemental appropriation bill, the amount appropriated may be funding from the next fiscal year budget. If the amount is sufficient, reduction or withdrawal of the amount is prohibited. For fiscal years beginning after July 1, 2009, the General Assembly is required to appropriate to the Department funds to pay the grants to the taxing jurisdictions. The supplemental appropriation bill will state the amount of the eligible assessed value for each qualified homestead and the applicable tax year. If the funds appropriated are insufficient to pay the total amount of the grant, funds may be appropriated in the next fiscal year budget. Appropriation for grants in future years allowed only when the amount of total revenue is estimated to exceed by 3% plus the percent change in the rate of economic inflation on individual taxpayers as determined under the Consumer Price Index for all urban consumers published by the bureau of Labor Statistics of the U.S. Department of Labor, of the last year the grant was funded. Taxing jurisdictions are only required to provide the credit to the taxpayers when the funds are appropriated in accordance with this amendment.

Section 2 of this bill amends 45-12-86 by adding new paragraph (c) which provides that the Governor shall require the Department to reserve any appropriations made until a budget reduction can be recommended to the General Assembly.

This bill is effective February 17, 2009.

House Bill 143 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2009_10/pdf/hb143.pdf

HB 233 (§ 48-5B-1) This bill prohibits increases in assessment values on all classes of property subject to ad valorem taxation from January 1, 2009 through the second Monday in January of 2011. This bill does not prohibit corrections of any manifest, factual error or omission in the valuation of the property by tax officials pursuant to current Code.

This bill is effective May 5, 2009.

House Bill 233 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2009_10/pdf/hb233.pdf

HB 304 (O.C.G.A. §§ 48-5-48 and 48-5-264.1) This bill amends O.C.G.A. § 48-5-48 by adding (b.1) to provide for application of an exemption for the surviving spouse of a disabled veteran to a subsequent homestead within the county of the original homestead.

Amends O.C.G.A. § 48-5-264.1 to require agents of a county board of tax assessors to provide reasonable notice to the homeowner before they enter onto the property and requires the county tax commissioner to provide notice to homeowners that they have the right to file an ad valorem property tax return.

This bill is effective May 4, 2009.

House Bill 304 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2009_10/pdf/hb304.pdf

HB 482 (O.C.G.A. § 48-5-41.2) This bill, if adopted by referendum in a general election, would exempt all personal property constituting business inventory from state ad valorem taxation at a rate of ¼ mill.

This bill is effective July 1, 2009.

House Bill 482 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2009_10/pdf/hb482.pdf

SB 55 (O.C.G.A. §§ 48-5-2, 48-5-7.7, 48-5-274(c), and 48-5-306(a)) This bill amends O.C.G.A. § 48-5-2(3)(B) by adding that tax commissioners shall consider foreclosures and the sale of bank-owned properties acquired through foreclosure to the list of factors affecting fair market value that are to be considered by the tax assessors. Also provides that the assessors shall consider if conservation use easements have decreased the market value of property due to limitations and restrictions on use and development of the property. For 2009 only, amends § 48-5-7.7 to extend the deadline for filing applications for forest land conservation covenants from the date that the return book closes in the county until June 1, 2009. This bill amends O.C.G.A. § 48-5-274(c) to provide for the amendment in Section 1 of this bill to be considered by the Department of Audits in the Sales Ratio Study conducted for the purposes of establishing an equalized and adjusted property tax digest. It amends O.C.G.A. § 48-5-306(a) to require that the board of tax assessors send an assessment change notice to property owners when the value of property is increased or decreased.

This bill is effective April 14, 2009.

Senate Bill 55 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2009_10/pdf/sb55.pdf

SB 240 (O.C.G.A. §§ 48-5-311(f)(4), 48-5-7.7, 48-5-161, 48-5-306, and 48-5-511) This bill adds § 48-5-311(f)(4) regarding the current administration process for ad valorem appeals by allowing the taxpayer to choose binding arbitration to determine fair market value. For 2009 only, it amends § 48-5-7.7 to extend the deadline for filing applications for forest land conservation covenants from the date that the return book closes in the county until June 1, 2009. This bill amends § 48-5-161 to provide the county with the ability to recover costs incurred for the filing of state tax executions. It amends § 48-5-306 to align with Georgia case law involving official property tax mailing notices. It amends § 48-5-511 to require public utilities to provide the actual street address in returns of property for property tax purposes.

This bill is effective April 29, 2009.

Senate Bill 240 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2009_10/pdf/sb240.pdf

SR 685 This resolution creates a Senate Study Committee to evaluate current methods used to assess residential and commercial property. The Committee would also evaluate the appeals process for such property.

This bill was Senate passed and adopted on April 1, 2009. (Governor signature not required).

Senate Resolution 685 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2009_10/pdf/sr685.pdf

SALES & USE TAX

HB 46 (O.C.G.A. § 48-8-16) This bill extends the Governor's Executive Order providing an exemption from the payment of the 4 percent state sales and use tax on purchases of dyed fuels used exclusively off-road for agricultural, timber growing or harvesting, mining, or construction purposes.

The Executive Order took effect May 12, 2008, and expired on May 31, 2009.

House Bill 46 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2009_10/pdf/hb46.pdf

HB 59 (O.C.G.A. §§ 48-8-18 and 48-8-3) This bill ratifies the Executive Order suspending collection of sales and use tax on drugs provided as free samples and used in clinical trials, and creates a new sales and use tax exemption for drugs provided as free samples and used in clinical trials.

This bill is effective April 21, 2009.

House Bill 59 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2009_10/pdf/hb59.pdf

HB 116 (O.C.G.A. § 48-8-3) This bill extends, from June 30, 2009 until June 30, 2011, the sunset date for a sales and use tax exemption for the sale or use of engines, parts, equipment, or other tangible personal property used in the maintenance or repair of aircraft when such engines, parts, equipment, and other tangible personal property are installed on such aircraft that is being repaired or maintained in this state so long as such aircraft is not registered in this state.

This bill is effective July 1, 2009.

House Bill 116 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2009_10/pdf/hb116.pdf

HB 120 (O.C.G.A. § 48-8-3) This bill changes the dates for the annual 4-day school supplies sales tax holiday exemption to July 30, 2009 through August 2, 2009. For the general/school 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 costing \$20 or less per item.

This bill further changes the dates for the annual 4-day energy and water efficient products sales tax holiday to October 1, 2009 through October 4, 2009. Covered items for the energy and water 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; and toilets, bathroom sink faucets, showerheads, and weather or sensor-based landscape irrigation control technologies which have been designated as meeting or exceeding the requirements under the United States Environmental Protection Agency's Water Sense program.

This bill is effective May 4, 2009.

House Bill 120 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2009_10/pdf/hb120.pdf

HB 129 (O.C.G.A. § 48-8-3) This bill provides for an exemption for a limited period of time with respect to sales of certain tangible personal property used for and in the renovation or expansion of a zoological institution.

This bill is effective May 5, 2009.

House Bill 129 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2009_10/pdf/hb129.pdf

HB 181 (O.C.G.A. § 48-8-67) This bill extends to December 31, 2011 the state revenue commissioner's authority to make distributions of unidentifiable sales and use tax proceeds.

This bill is effective May 5, 2009.

House Bill 181 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2009_10/pdf/hb181.pdf

HB 212 (O.C.G.A. § 48-8-3) This bill extends for 2 years the current partial sales and use tax exemption for certain purchases of jet fuel until June 30, 2011. The rate of the partial exemption has not changed; it would apply to the first 1.80 percent of the 4 percent state sales and use tax on sales on jet fuel to qualifying airlines at airports with in excess of 750,000 takeoffs and landings in a calendar year.

This bill is effective July 1, 2009.

House Bill 212 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2009_10/pdf/hb212.pdf

HB 349 (O.C.G.A. § 48-8-3) This bill provides an exemption from sales and use tax for the purchase of tangible personal property to, or used in or for the new construction of a civil rights museum.

This bill is effective May 5, 2009.

House Bill 349 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2009_10/pdf/hb349.pdf

HB 358 (O.C.G.A. § 48-8-3) This bill amends O.C.G.A. § 48-8-3 to extend for 2 years the sales and use tax exemptions for prepared food and beverages which are donated to a qualified nonprofit for hunger relief purposes (57.2); and prepared food and beverages donated for disaster relief purposes (57.3). This bill will extend the sunset for both exemptions until June 30, 2011.

This bill is effective May 4, 2009.

House Bill 358 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2009_10/pdf/hb358.pdf

HB 364 (O.C.G.A. § 48-8-3) This bill provides a 2-year exemption (July 1, 2009 through June 30, 2011) for the sale or use of an airplane flight simulation training device when the device is approved by the Federal Aviation Administration.

This bill is effective July 1, 2009.

House Bill 364 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2009_10/pdf/hb364.pdf

HB 395 (O.C.G.A. § 48-8-3(78)(a)) This bill extends until September 1, 2011 the exemption offered by O.C.G.A. § 48-8-3(78)(A) for sales of tangible personal property used in direct connection with the construction of a new symphony hall facility owned or operated by an organization which is exempt from taxation under Internal Revenue Code § 501(c)(3) when the aggregate construction cost is \$200 million or more. The exemption does not apply to sales of tangible personal property used for maintenance or operations of the symphony hall facility.

This bill is effective July 1, 2009.

House Bill 395 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2009_10/pdf/hb395.pdf

HB 441 (O.C.G.A. §§ 48-8-35.1 and 48-9-10.1) Section 1 of this bill amends O.C.G.A. § 48-8-35.1 relating to sales and use tax refund claims. An expedited refund may be paid to a taxpayer who applies for an expedited refund claim and as part of such application files a bond that is satisfactory to the Commissioner as security for the repayment of such refund (tax, penalty, interest, fees, and costs). Section 1 further provides for penalties associated with frivolously filed sales and use tax refund claims for an excessive amount. Any taxpayer who frivolously files a sales and use tax claim for refund for an excessive amount would be subject to a penalty of 20 percent of the excessive amount. No penalty shall be assessed against any portion of an excessive amount for which a refund is claimed in good faith and the filing of which was not due to negligence or disregard of the law. In addition to the 20% penalty, when all or part of the excessive amount of the taxpayer's claim for refund is based on a position which is knowingly and willfully advanced in bad faith and is patently improper, such taxpayer shall be guilty of a misdemeanor and, upon conviction thereof, fined not more than \$1,000.00. Section 2 of this bill creates O.C.G.A. §48-9-10.1 to provide for a sales and use tax refund for certain credit card issuers who make sales of motor fuel for highway use to certain qualified tax-exempt government entities, when such credit card issuer invoices and bills the qualified tax-exempt government entity net of the applicable taxes. Refunds under this code section will be made without interest.

This bill is effective May 5, 2009.

House Bill 441 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2009_10/pdf/hb441.pdf

HB 473 (O.C.G.A. §§ 50-23-21 and 50-25-8) The sales tax portion of this bill exempts the Georgia Technology Authority from sales and use taxes.

This bill is effective May 22, 2009.

House Bill 473 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2009_10/pdf/hb473.pdf