



*2010*  
**LEGISLATIVE ANALYSIS  
FOR ENACTED LEGISLATION**

**ADMINISTRATIVE**

**HB 1055 (Various)** This bill amended fees charged for services provided by the State. For the Department of Revenue, the fee changes affect the following divisions: Alcohol and Tobacco (including Coin Operated Amusement Machines), Motor Vehicle and Income Tax. Amendments are discussed in the appropriate sections.

This bill became effective upon its approval by the Governor on May 12, 2010.

House Bill 1055 can be viewed at the following link:

[http://www.legis.ga.gov/legis/2009\\_10/pdf/hb1055.pdf](http://www.legis.ga.gov/legis/2009_10/pdf/hb1055.pdf)

**HB 1284 (O.C.G.A. § 48-12-92)** This bill provides for information on user fees for the Open Georgia website.

- The Department of Revenue is required to provide an account of the user fees assessed for its operations.
- This information will be provided to the public on the Open Georgia website.

This bill became effective upon its approval by the Governor on May 20, 2010.

House Bill 1284 can be viewed at the following link:

[http://www.legis.ga.gov/legis/2009\\_10/pdf/hb1284.pdf](http://www.legis.ga.gov/legis/2009_10/pdf/hb1284.pdf)

**HB 1405 (O.C.G.A. §§ 28-12-1 through 28-12-4)** This bill creates the Special Council on Tax Reform and Fairness for Georgians. The Department is required to provide assistance to the Council, if so requested.

This bill became effective upon its approval by the Governor on June 1, 2010.

House Bill 1405 can be viewed at the following link:

[http://www.legis.ga.gov/legis/2009\\_10/pdf/hb1405.pdf](http://www.legis.ga.gov/legis/2009_10/pdf/hb1405.pdf)

**SB 206 (O.C.G.A. §§ 45-12-71 and 45-12-75)** This bill provides for a tax expenditure review. The Department is required to provide the Office of Planning and Budget with information on tax expenditures.

This bill became effective upon its approval by the Governor on May 20, 2010.

Senate Bill 206 can be viewed at the following link:

[http://www.legis.ga.gov/legis/2009\\_10/pdf/sb206.pdf](http://www.legis.ga.gov/legis/2009_10/pdf/sb206.pdf)

## ALCOHOL

**HB 1055 (O.C.G.A. §§ 48-17-1, 48-17-2, 48-17-9, and 48-17-11)** This bill provided for changes involving the licensing and fees for coin operated amusement machines. However, SB 454, which similarly provided for licensing and fees for coin operated amusement machines was signed after HB 1055 and therefore, SB 454 overrides HB 1055. (See Synopsis of SB 454 below).

**SB 454 (O.C.G.A. §§ 48-17-1, 48-17-2, 48-17-9, 48-17-11, 48-17-14 through 48-17-16)** This bill provides for changes regarding licensing and fees associated with the operation of coin operated amusement machines.

- Provides definitions for Class A machines and Class B machines.
- Provides for a period of July 1 through June 30.
- Provides that license applications are due by June 1.
- Provides that a master license owner must pay the following fees annually:
  - Class A
    - 1-5 Machines - \$ 500.00
    - 6 – 60 Machines - \$2,000.00
    - 61+ Machines - \$3,500.00
  - Class B- Any Number - \$5,000.00
- Provides for a location license to pay the following fees annually:
  - Class A- \$ 25.00 per Machine
  - Class B- \$125.00 per Machine
- Provides for annual permit fees paid by the owner as follows:
  - Class A - \$ 25.00 per Machine
  - Class B - \$125.00 per Machine
- Provides for permit penalties for failure to timely purchase as follows:
  - Class A - \$50.00 per Machine
  - Class B - \$250.00 per Machine
- Provides that Class B Machine operators must file a monthly report with the Department to ensure that not more than 50% of the monthly gross receipts of the business are derived from Class B Machines.

This bill became effective on July 1, 2010.

Senate Bill 454 can be viewed at the following link:

[http://www.legis.ga.gov/legis/2009\\_10/pdf/sb454.pdf](http://www.legis.ga.gov/legis/2009_10/pdf/sb454.pdf)

## INCOME TAX

**HB 168 (O.C.G.A. § 46-5-167)** This bill modernizes Georgia's telecommunications laws. Only one provision applies to income tax:

- Certain Georgia-headquartered telephone companies will be able to apply unused Georgia net operating loss carryforwards (from tax years prior to 2010) on a full dollar-for-dollar basis to reduce up to 50 percent of the company's contribution to the Universal Access Fund.
- The company must notify the Department of its election and its agreeing to forego any rights or claims to the Georgia net operating loss so used.

This bill became effective upon its approval by the Governor on June 4, 2010.

House Bill 168 can be viewed at the following link:

[http://www.legis.ga.gov/legis/2009\\_10/pdf/hb168.pdf](http://www.legis.ga.gov/legis/2009_10/pdf/hb168.pdf)

**HB 244 (O.C.G.A. § 48-7-29.14)** The portion of this bill that relates to income tax, changes the name of the “Georgia Environmental Facilities Authority” to the “Georgia Environmental Finance Authority” for purposes of the Clean Energy Property Tax Credit.

This bill became effective on July 1, 2010.

House Bill 244 can be viewed at the following link:

[http://www.legis.ga.gov/legis/2009\\_10/pdf/hb244.pdf](http://www.legis.ga.gov/legis/2009_10/pdf/hb244.pdf)

**HB 984 (O.C.G.A. §§ 48-7-140 through 48-7-149)** This bill repeals Article 6 of Chapter 7 of Title 48 which gave municipalities the authority to adopt a local income tax.

This bill became effective upon its approval by the Governor on May 20, 2010.

House Bill 984 can be viewed at the following link:

[http://www.legis.ga.gov/legis/2009\\_10/pdf/hb984.pdf](http://www.legis.ga.gov/legis/2009_10/pdf/hb984.pdf)

**HB 1055 (O.C.G.A. § 48-7-27)** The income tax portion of this bill which is located in Part IV, Section 4-1, increases the individual income tax retirement exclusion, for taxpayers who are 65 or older, from the current \$35,000 of retirement income to the following:

2012 - \$65,000  
2013 - \$100,000  
2014 - \$150,000  
2015 - \$200,000  
2016 – unlimited

Taxpayers, who are ages 62 through 64 or who are less than 62 years of age but qualify because they are permanently and totally disabled, are still entitled to the \$35,000 individual income tax retirement exclusion. Also, retirement income, regardless of how the taxpayer qualifies, still only includes \$4,000 of earned income.

House Bill 1055 can be viewed at the following link:

[http://www.legis.ga.gov/legis/2009\\_10/pdf/hb1055.pdf](http://www.legis.ga.gov/legis/2009_10/pdf/hb1055.pdf)

**HB 1069 (O.C.G.A. §§ 48-7-40.29, 48-7-40.30, 48-7-29.14, 48-7A-1, and 48-7A-3)** The portions of the bill that relate to income tax are as follows:

1. Energy or Water Efficient Equipment Credit - This section establishes an income tax credit for energy or water efficient equipment purchased for business or residential use. The credit is funded with federal funds and is 25% of the cost of the equipment or \$2,500, whichever is less. This becomes effective on January 1 of the year following the year in which federal funds are made available and in which the state auditor certifies in writing to DNR and DOR that such funds have been received, have been deposited in the general fund, and are available for purposes of the credit.

2. Investor Credit - This section provides a 35% credit for amounts invested in certain Georgia headquartered small businesses. However, the aggregate amount of credit allowed an individual for one or more qualified investments in a single taxable year, whether made directly or by a pass-through entity and allocated to such individual, shall not exceed \$50,000.00. The credit is available for investments made in 2011, 2012, and 2013. The credit is claimed 2 years later, in 2013, 2014, and 2015 respectively. The taxpayer must get approval as provided in O.C.G.A. § 48-7-40.30 before claiming the credit. This becomes effective January 1, 2011.

3. Clean Energy Property Credit - This section provides that a taxpayer, who was denied the clean energy property income tax credit because the annual cap had been reached, can reapply the following year and will have priority over other taxpayers for credit allocation in the year of such reapplication. This portion of the bill became effective upon its approval by the Governor on June 4, 2010 and is applicable to all taxable years beginning on or after January 1, 2010.

4. Low Income Credit - This section makes the credit nonrefundable; thus if a taxpayer does not have a tax liability, they will not be entitled to the credit. This portion of the bill became effective upon its approval by the Governor on June 4, 2010 and is applicable to all taxable years beginning on or after January 1, 2010.

House Bill 1069 can be viewed at the following link:

[http://www.legis.ga.gov/legis/2009\\_10/pdf/hb1069.pdf](http://www.legis.ga.gov/legis/2009_10/pdf/hb1069.pdf)

#### **HB 1138 (O.C.G.A. §§ 48-1-2, 48-7-21, and 48-7-54)**

Section 1 of this bill, for taxable years beginning on or after January 1, 2009, with exceptions discussed below, adopts the provisions of all federal acts (as they relate to the computation of federal adjusted gross income (AGI) or federal taxable income for non-individuals) that were enacted on or before January 1, 2010. For 2009, the I.R.C. Section 179 deduction is now \$250,000 and the related phase out is \$800,000.

House Bill 1138 also adopts Public Law 111-126, signed by the President on January 22, 2010. This bill allows a taxpayer, who makes a charitable contribution to the Haitian earthquake victims after Jan. 11, 2010, and before Mar. 1, 2010, to elect to claim a charitable deduction on their 2009 tax return (instead of having to wait to claim the deduction on their 2010 tax return).

#### Exceptions

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) and 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:

- The exclusion of \$2,400 of unemployment income, I.R.C. Section 85(c).
- Additional itemized deduction for the sales tax on the purchase of a new vehicle in 2009, I.R.C. Sections 164(a)(6) and 164(b)(6). Please note: Georgia also does not allow the increased standard deduction for sales tax on the purchase of a new vehicle in 2009 because Georgia has its own standard deduction.
- The election to increase the normal two year net operating loss carryback to 3, 4, or 5 years for tax years 2008 and 2009, I.R.C. Sections 172(b)(1)(H) and 810(b)(4).
- The transition rule that would allow a taxpayer to revoke a prior election to forego the net operating loss carryback period.
- Deferral of debt discharge income from reacquisitions of business debt at a discount in 2009 and 2010; federally deferred for up to five years, then included ratably over five years, I.R.C. Section 108(i).
- Modified rules for high yield original issue discount obligations, I.R.C. Sections 163(e)(5)(F) and 163(i)(1).
- New York Liberty Zone Benefits, I.R.C. Section 1400L.
- 50% first year depreciation for post 8/28/2006 Gulf Opportunity Zone property, I.R.C. Section 1400N(d)(1).

- 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).
- 50% bonus depreciation for “qualified reuse and recycling property”, I.R.C. Section 168(m).
- 50% bonus depreciation in connection with disasters federally declared after 2007 and occurring before 2010, I.R.C. Section 168(n).
- Increased (\$8,000) first-year depreciation limit for passenger automobiles if the passenger automobile is “qualified property,” I.R.C. Section 168(k).
- 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).
- 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).
- 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).
- Special rules relating to Gulf Opportunity Zone public utility casualty losses, I.R.C. Section 1400N(j).
- 5 year carryback of NOLs attributable to Gulf Opportunity Zone losses, I.R.C. Section 1400N(k).
- 5 year carryback of NOLs incurred in the Kansas disaster area after May 3, 2007, and before 2010, I.R.C. Section 1400N(k).
- 5 year carryback of certain disaster losses, I.R.C. Sections 172(b)(1)(J) and 172(j).
- 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).
- 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.
- Temporary tax relief provisions relating to the Midwestern disaster area, I.R.C. Sections 1400N(f) and 1400N(k).

Section 2 of this bill adopts the Federal 338 election for Georgia purposes and thus brings Georgia law into conformity with Federal law.

Section 3 of this bill requires return preparers who are required to file individual returns electronically for federal purposes to also file them electronically for Georgia purposes. The new rules apply to returns filed after December 31, 2010.

This bill became effective upon its approval by the Governor on June 3, 2010. The IRC update is applicable for all tax years beginning on or after January 1, 2009. The adoption of the IRC Sec. 338 asset sale treatment applies with respect to stock sales occurring on or after the effective date.

House Bill 1138 can be viewed at the following link:

[http://www.legis.ga.gov/legis/2009\\_10/pdf/hb1138.pdf](http://www.legis.ga.gov/legis/2009_10/pdf/hb1138.pdf)

**HB 1198 (O.C.G.A. § 48-7-1)** This bill requires a nonresident, who receives deferred compensation or income from the exercise of stock options that were earned in Georgia in a prior year, to pay tax on the income, but only if the prior year’s income exceeds the lesser of:

- 5 percent of the income received by the person in all places during the current taxable year; or
- \$5,000.00.

Note that the income is not taxed if federal law prohibits the state from taxing it. Federal law prohibits state taxation of some types of retirement income including pensions as well as income received from nonqualified deferred compensation plans if the income is paid out over the life expectancy of the person or at least 10 years.

The bill is effective on January 1, 2011 and is applicable to all taxable years beginning on or after January 1, 2011.

House Bill 1198 can be viewed at the following link:

[http://www.legis.ga.gov/legis/2009\\_10/pdf/hb1198.pdf](http://www.legis.ga.gov/legis/2009_10/pdf/hb1198.pdf)

### MOTOR VEHICLE

**HB 964 (Repeal of Previous Act)** This bill repeals a prior Act which established a four-month non-staggered period for motor vehicle registrations for MacIntosh County. MacIntosh County is now subject to the vehicle registration requirements under O.C.G.A. § 40-2-21.

This bill became effective upon its approval by the Governor on June 2, 2010.

House Bill 964 can be viewed at the following link:

[http://www.legis.ga.gov/legis/2009\\_10/pdf/hb964.pdf](http://www.legis.ga.gov/legis/2009_10/pdf/hb964.pdf)

**HB 1005 (O.C.G.A. §§ - Various Sections in Title 40, Chapter 2)** This bill provides for Limousine and Taxicab tags, "In God We Trust" decal, Zoo Atlanta profit-share tags, and mandatory insurance requirements.

This bill became effective upon its approval by the Governor on May 20, 2010.

House Bill 1005 can be viewed at the following link:

[http://www.legis.ga.gov/legis/2009\\_10/pdf/hb1005.pdf](http://www.legis.ga.gov/legis/2009_10/pdf/hb1005.pdf)

**HB 1055 (O.C.G.A. §§ 40-2-9, 40-2-22, 40-2-30, 40-2-31, 40-2-33, 40-2-60 through 40-2-62 and 40-2-64.1)**

**Section 1-64** – Amends § 40-2-9 relating to county name decals on license plates.

- Removes the requirement that the plates be metal.

**Section 1-65** – Amends § 40-2-22 – relating to application to local tag agents

- Allows application for vehicle registration to be made to the commissioner in addition to the local tag agent.

**Section 1-66** – Amends § 40-2-30 – relating to purchasing license plates by mail

- Adds that payment may be made by check
- Strikes language that allowed counties to waive the \$1.00 fee for plates or decals ordered through the mail.

**Section 1-67** – Amends § 40-2-31 - relating to the design of license plates and decals

- Provides that the commissioner may retain the costs of manufacturing and delivery of plates, decals, and county name decals from the registration fee.
- Removes the requirement that plates be metal.

**Section 1-68** – Amends § 40-2-33 - relating to issuance of plates and compensation of tag agents

- Provides § 40-2-22 as an exception to § 40-2-33(b) if license plates are issued by the department.

**Section 1-69** - Amends § 40-2-60 - relating to prestige license plates

- Provides for an increased manufacturing fee to be \$35.00
- Provides for an increased issuance and renewal fee to be \$35.00

**Section 1-70** – Amends § 40-2-60.1 - relating to standardized administrative process for special license plates

- The manufacturing fee, special license plate and special license plate renewal fee shall be remitted to the state treasury
- Provides for the manufacturing fee to be \$25.00
- Provides for an increased special license plate fee from \$25.00 to \$35.00
- Provides for an increased special license plate renewal fee from \$25.00 to \$35.00
- Provides that the number of numbers and letters be determined by the commissioner

- Removes the provision stating that the graphic be no larger than 3" x 3" and to the left of the numbers and letters
- All special plates are subject to additional fees for manufacturing, special fee and license renewal fee;
- Requires the fees for the first 1,000 plates be prepaid and the sponsor is not entitled to a refund of the manufacturing fee after 1,000 prepaid applications have been received.

**Section 1-71** – Amends § 40-2-61 - relating to special license plates for a United States Senator and Congressman, the Governor, the Lieutenant Governor, the Speaker of the House of Representatives, each Justice of the Supreme Court and each Justice of the Court of Appeals

- Provides for the manufacturing fee to be \$25.00
- Provides for an increased special license plate fee from \$25.00 to \$35.00

**Section 1-72** – Amends § 40-2-62 - relating to special plates for members of the General Assembly:

- Provides for the manufacturing fee to be \$25.00
- Provides for an increased special license plate fee from \$25.00 to \$35.00

**Section 1-73** – Amends § 40-2-64.1 - relating to special plates for foreign organizations:

- Provides for the manufacturing fee to be \$25.00
- Provides for a special license plate fee to be \$35.00
- Provides for a special license plate renewal fee to be \$35.00

**Section 1-74** – Reserves the following Code sections formerly designated as:

- § 40-2-32 – Colleges and universities
- § 40-2-75 – Amateur radio operators
- § 40-2-76 – Alternate fuels vehicles
- § 40-2-77 – Hobby or special interest vehicles
- § 40-2-78 – Certified firefighters

The above special license plates are adopted in a new Code section 40-2-86 – see **Section 1-77**.

**Section 1-75** – Repeals certain Code sections that designate special license plate programs and organizations, formerly designated as:

- § 40-2-49.2 – Conservation of wildflowers
- § 40-2-49.3 – Dog and cat reproductive sterilization
- § 40-2-86.5 – Honoring educators
- § 40-2-86.8 – Breast cancer programs for the medically indigent
- § 40-2-86.9 – Rotary International
- § 40-2-86.12 – EMS Star of Life Symbol

The above special license plates are adopted in a new Code section 40-2-86 – see **Section 1-77**.

**Section 1-76** – Re-designates and revises § 40-2-86.18 relating to license plates for family members of service members killed in action (Gold Star).

- Provides that the number of numbers and letters be determined by the commissioner
- Removes the provision stating that the graphic be no larger than 3" x 3" and to the left of the numbers and letters
- Re-designates the Code section as 40-2-85.3.

**Section 1-77** – Re-designates §§ 40-2-86.21 and 40-2-86.22, which was repealed, as §§ 40-2-86 and 40-2-86.1, respectively

- Provides that the number of numbers and letters be determined by the commissioner
- Removes the provision stating that the graphic be no larger than 3" x 3" and to the left of the numbers and letters
- Provides for the manufacturing fee to be \$25.00
  - \$1.00 to county tag agent
- Provides for an increased special license plate fee from \$25.00 to \$35.00
  - \$10.00 designated to an agency, fund or nonprofit corporation, unless otherwise provided for in Code.
- Provides for an increased special license plate renewal fee from \$25.00 to \$35.00
  - \$10.00 designated to an agency, fund or nonprofit corporation, unless otherwise provided for in the Code.

- All special plates are subject to additional costs for manufacturing fee, special license plate fee and license plate renewal fee;
- Requires 1,000 prepaid applications. No refunds of the manufacturing fee after the 1,000 applications have been received by DOR.
- The special licenses listed in the bill in subsection (l) of § 40-2-86 have a special license plate and special license plate renewal fee which are not currently subject to these fees;
- Provides for the specific license plates that will be subject to the increased annual license plate fee and annual license plate renewal fee.

The special licenses listed below are in subsection (m) of § 40-2-86:

- Provides for the manufacturing fee to be \$25.00;
  - \$1.00 to county tag agent
- Provides for an increased special license plate fee from \$25.00 to \$35.00
  - \$22.00 designated to an agency, fund or nonprofit corporation, unless otherwise provided for in the Code.
- Provides for an increased special license plate renewal fee from \$25.00 to \$35.00
  - \$22.00 designated to an agency, fund or nonprofit corporation, unless otherwise provided for in the Code.
- Provides that all special plates are subject to additional costs for manufacturing fee, special license plate fee and license plate renewal fee.
  - United States Disabled Athletes Fund
  - Civil War Battlefields and historic sites
  - Historic preservation efforts
  - Promoting bicycle safety
  - Honoring family members serving in the military
  - Support Georgia Troops
  - NASCAR
    - \$10.25 for purchasing NASCAR plates
    - \$14.75 to Office of Highway Safety
    - \$10.00 to general fund
  - Breast cancer related programs
    - \$22.05 to Indigent care Trust Fund
    - \$12.95 to general fund

The special license plates listed below in subsection (l) of § 40-2-86.1 are not revenue sharing license plates. All funds shall be deposited into the general fund:

- Provides for the manufacturing fee to be \$25.00
- Provides for an increased special license plate fee from \$25.00 to \$35.00
- Provides for an increased special license plate renewal fee from \$25.00 to \$35.00
  - Identifying persons with diabetes
  - Honoring all veterans
  - Georgia Association of Realtors
  - Georgia municipal clerks
  - Amateur radio station license
  - Alternative fueled vehicles
  - Antique or hobby or special interest vehicles
  - Certified Firefighters
  - Rotary International
  - Emergency medical technicians, paramedic or ambulance service

This bill became effective upon its approval by the Governor on May 12, 2010.

House Bill 1055 can be viewed at the following link:

[http://www.legis.ga.gov/legis/2009\\_10/pdf/hb1055.pdf](http://www.legis.ga.gov/legis/2009_10/pdf/hb1055.pdf)



**HB 1012 (O.C.G.A. § 40-2-82.16)** This bill provides for license plates for certain family members of Service Members Killed in Action.

- Expands definition of family member to include persons other than the spouse.
- Permits family members to purchase license plates, spouses plates remain free of charge.

This bill became effective on July 1, 2010.

House Bill 1012 can be viewed at the following link:

[http://www.legis.ga.gov/legis/2009\\_10/pdf/hb1012.pdf](http://www.legis.ga.gov/legis/2009_10/pdf/hb1012.pdf)

**SR 277 (Constitutional Amendment)** This resolution provides for a referendum to create a trauma trust fund by imposing a \$10.00 fee on vehicle registration.

This adopted resolution was sent to the Governor on May 7, 2010.

Senate Resolution 277 can be viewed at the following link:

[http://www.legis.ga.gov/legis/2009\\_10/pdf/sr277.pdf](http://www.legis.ga.gov/legis/2009_10/pdf/sr277.pdf)

#### PROPERTY

**HB 963 (O.C.G.A. §§ 48-5-15 and 48-5-52)** This bill revises information that is required on an affidavit for a taxpayer that is 62 years old, or older claiming the homestead exemption.

This bill became effective upon its approval by the Governor on May 27, 2010.

House Bill 963 can be viewed at the following link:

[http://www.legis.ga.gov/legis/2009\\_10/pdf/hb963.pdf](http://www.legis.ga.gov/legis/2009_10/pdf/hb963.pdf)

**HB 1050 (O.C.G.A. §§ 43-93A-1, 43-93A-2, 43-93A-7, 43-93A-13, 43-93A-14.1, 43-93A-21, and 43-93A-22)** This bill provides for the establishment and management of a private real estate appraisal management company.

This bill became effective on August 31, 2010, 90 days after its approval by the Governor.

House Bill 1050 can be viewed at the following link:

[http://www.legis.ga.gov/legis/2009\\_10/pdf/hb1050.pdf](http://www.legis.ga.gov/legis/2009_10/pdf/hb1050.pdf)

**HB 1105 (O.C.G.A. § 48-5-504.40)** This bill extends the time-frame for exempting watercraft inventory from ad valorem taxation, through 2013.

This bill becomes effective January 1, 2011.

House Bill 1105 can be viewed at the following link:

[http://www.legis.ga.gov/legis/2009\\_10/pdf/hb1105.pdf](http://www.legis.ga.gov/legis/2009_10/pdf/hb1105.pdf)

**HB 1128 (O.C.G.A. § 50-16-18)** This bill extends the time-frame for the mechanism that allows a State agency writing off small amounts owed the State, through 2013.

This bill became effective upon its approval from the Governor on May 27, 2010.

House Bill 1128 can be viewed at the following link:

[http://www.legis.ga.gov/legis/2009\\_10/pdf/hb1128.pdf](http://www.legis.ga.gov/legis/2009_10/pdf/hb1128.pdf)

HB 1186 (O.C.G.A. §§ 48-5-41 and 48-5-421.1) This bill provides an exemption from ad valorem taxation for public-private transportation projects.

This bill becomes effective January 1, 2011.

House Bill 1186 can be viewed at the following link:

[http://www.legis.ga.gov/legis/2009\\_10/pdf/hb1186.pdf](http://www.legis.ga.gov/legis/2009_10/pdf/hb1186.pdf)

HB 1191 (O.C.G.A. § 48-6-69) This bill provides for the manner in which intangible recording tax is calculated and apportioned for property in more than one county.

This bill became effective on July 1, 2010.

House Bill 1191 can be viewed at the following link:

[http://www.legis.ga.gov/legis/2009\\_10/pdf/hb1191.pdf](http://www.legis.ga.gov/legis/2009_10/pdf/hb1191.pdf)

HB 1192 (O.C.G.A. § 48-6-4) This bill provides for the manner in which intangible recording tax is calculated and apportioned for property in more than one county.

This bill became effective July 1, 2010.

House Bill 1192 can be viewed at the following link:

[http://www.legis.ga.gov/legis/2009\\_10/pdf/hb1192.pdf](http://www.legis.ga.gov/legis/2009_10/pdf/hb1192.pdf)

SB 346 (O.C.G.A. §§ 48-2-18, 48-5-2, 48-5-9.1, 48-5-18, 48-5-23, 48-5-32.1, 48-5-291, 48-5-303, 48-5-304, 48-5-306, 48-5-311, 48-5-380 and 45-5B-1) This bill provides for an overhaul of the notice, assessment, appeal, and calculation for real property taxes.

#### Section 1

- Amends § 48-5-306 and adds new procedures regarding the assessment change notices sent to taxpayers:
  - Use of an *uniform* assessment notice (created by Revenue Commissioner)
  - Send notices annually to all owners of real property regardless of it being higher, lower, or value same as prior year
  - Taxpayer can choose to receive notices electronically – if electronic transmission is made available by county
- All taxpayers now have 45 days to file an appeal. This applies to all counties.
- Notices will be mailed no later than July 1 except in the case of corrections or mapping changes.
- Undeliverable notices posted on the front of the courthouse –or – posted on the BOA website – in either case for 30 days.
- BOA must provide, upon taxpayer's request:
  - Copies of all documents reviewed in making the assessment,
  - The address and parcel identification number of all real property utilized as qualified comparables,
  - All factors considered in establishing the new assessment.

#### Section 2

- Amends 48-5-311 by adding a new provision for the governing authorities of two or more counties to establish a regional board of equalization.

- Clerk of superior court has responsibility to oversee and supervise the board of equalization and hearing officers.
- County governing authority must provide the:
  - resources required for supervision and appointment of hearing officers, and
  - facilities, secretarial, and clerical help to clerk for handling appeals
- When a property owner files an appeal, he must specify one of the following options:
  - County board of equalization and superior court
  - Arbitrator
    - Binding and decision cannot be appeal to superior court
  - Hearing officer and superior court
    - Property must be non-homesteaded and valued > \$1,000,000
- If BOA and the taxpayer mutually agree on a value, the appeal can be terminated upon execution of a written agreement between the parties and is effective as of the date the agreement is signed.
  - The 3-year freeze provision in O.C.G.A. 48-5-299(c) applies unless waived by both parties
- Hearing officer is required to verbally render their decision at the conclusion of the hearing and is required to notify the taxpayer in writing.
- When an attorney is acting as the taxpayer's agent, all notices regarding hearing times, dates, certifications, or officials actions shall be provided to the attorney.

#### Section 3

- Each tax commissioner and tax receiver is required to have his books open for the return of real or personal property ad valorem taxes between January 1 and April 1 of each year.

#### Section 4

- Revenue Commissioner is to provide training and updated materials to local tax officials and staff at least every 5 years.
- Offer some training online, if feasible, to save taxpayer money, and
- Make training courses open to the public if space is available and upon payment of "reasonable" fees.

#### Section 5

- Adds new definition to O.C.G.A. § 48-5-2 of an "Arms length, bona fide sale."
- Adds new language to the definition of "fair market value."
- Requires use of income approach, if data is available, on income-producing properties.
- Transaction price (sales price) is the taxable value for the next tax year.
- Adds restriction on tax assessors including value of intangible assets in determining the value of real property.

#### Section 7

- Eliminates option for non-binding arbitration.
- Adds definition of "certified appraisal" as an appraisal or appraisal report given, signed and certified as such by a real property appraiser as classified by the Georgia Real Estate Commission and the Georgia Real Estate Appraisers Board.
- Board of Assessors has 45 days after receipt of appraisal to review and either accept or reject the value on the appraisal.
- If the county does not act within the 45 day window, the certified appraisal becomes the final value.
- When appeal is certified to clerk of superior court, notice must be served to taxpayer, taxpayer's attorney or employee with a copy of the certification, any papers specified by the taxpayer and the civil file number.
- County board of tax assessors not required to maintain any value other than "moratorium value."
- County cannot be penalized the 1/4 mill recovery or the \$5/parcel penalty until moratorium ends.
- Requires county or municipality to refund taxes which are determined to be
  - Erroneously or illegally assessed, or
  - Voluntarily or involuntarily overpaid.

#### Section 8

- If the public utility values are not given to the county by August 1 the county may bill these companies at 85% of the taxpayer's bill for the previous year.
- Corrected bill mailed when the final assessment is determined.

#### Section 9

- Allows for taxes to be collected in installments:
  - Removes the word *two*, so county may elect for taxes to be paid in multiple installment payments.

#### Section 10

- Requires the county tax commissioner, or collecting officer for a municipality, to calculate and certify the "roll back rate" to the county or independent school system and to the Revenue Commissioner.
- Advertisements of property tax increases must be advertised in the newspaper and on the county website of both the recommending and levying authorities.
- The advertisement may include reasons for the tax increase.
- The commissioner shall not accept a digest for review or issue an order authorizing the collection of taxes if the recommending authority or levying authority has established a millage rate in excess of the correct rollback without complying fully with the procedures required by O.C.G.A. § 48-5-32.1.

#### Section 11

- Removes the appeal limitation to submit a digest
  - Current law
    - 3% value in dispute in a non-revaluation year
    - 5% value in dispute or number of parcel in a revaluation year
  - Digest can be submitted without regard to the percentage number of appeals pending.

#### Section 12

- Board of Assessors is given the authority to correct factual errors in the tax digest discovered within 3 years, if such correction benefits a taxpayer.

This bill becomes effective January 1, 2011.

Senate Bill 346 can be viewed at the following link:

[http://www.legis.ga.gov/legis/2009\\_10/pdf/sb346.pdf](http://www.legis.ga.gov/legis/2009_10/pdf/sb346.pdf)

### SALES AND USE TAX

**HB 277 (Numerous Sections)** This bill provides for the Transportation Investment Act of 2010. In pertinent part, specially related to sales and use taxes, the bill creates an Article 5 of Chapter 8 of Title 48. The new article will provide as follows:

- Creates 12 special transportation districts that correspond to the 12 regional commissions provided for in O.C.G.A. § 50-8-4.
- Provides for the imposition of a 1% special district transportation sales and use tax for a period of ten years.
- The tax would correspond to the state sales and use tax except the new tax would not apply to:
  - The sale or use of fuel used for off-road heavy-duty equipment, off-road farm or agricultural equipment, or locomotives;
  - The sale or use of jet fuel to or by a qualifying airline at a qualifying airport;
  - The sale or use of fuel that is used for propulsion of motor vehicles on the public highways;
  - The sale or use of energy used in the manufacturing or processing of tangible goods primarily for resale; and
  - The sale or use of motor fuel as defined at O.C.G.A. § 48-9-2(9) for public mass transit.
- The tax would only apply to the first \$5,000 of any sale or lease of a motor vehicle.

- The tax would apply to the sale of food and beverages as provided for in O.C.G.A. § 48-8-3(57)(D)(i).
- Provides for the creation of an approved investment list, and upon the prescribed delivery of the approved investment list there shall be a voter referendum as to whether the county's transportation system and the transportation system in the region and the state shall be improved by providing for a 1% special district transportation sales and use tax for the purpose of transportation projects and programs for a period of 10 years.
- If not approved, the tax shall not be resubmitted to the voters for 24 months.
- Tax would be administered and collected by the Department of Revenue for the use and benefit of the special district imposing the tax.
- Proceeds of the tax would be distributed into a trust fund maintained by the State Financing and Investment Commission on behalf of the special district imposing the tax.
- Proceeds shall be used within the special district exclusively for the projects on the approved investment list.
- The tax does not apply to sales when delivery is to the purchaser at a point outside the special district regardless of the point at which title passes.
- The tax does not apply to sales of building and construction materials when the contract pursuant to which the materials are purchased or used was advertised for bid prior to the voters' approval of the levy of the tax and the contract was entered into as a result of a bid actually submitted in response to the advertisement prior to approval of the levy of the tax.
- The tax shall not be subject to any allocation or balancing of state and federal funds provided for by general law, nor may such proceeds be considered or taken into account in any such allocation or balancing.

This bill became effective upon its approval by the Governor on June 2, 2010, except that Part 2 of Article 5 of Chapter 8 of Title 48 as set forth in Section 6 of this Act becomes effective January 1, 2011.

House Bill 277 can be viewed at the following link:

[http://www.legis.state.ga.us/legis/2009\\_10/pdf/hb277.pdf](http://www.legis.state.ga.us/legis/2009_10/pdf/hb277.pdf)

**HB 333 (O.C.G.A. § 50-9-13)** This bill provides a specific exemption from sales and use tax on property purchased, leased, or used by the Georgia Building Authority.

The bill became effective upon its approval by the Governor on May 20, 2010.

House Bill 333 can be viewed at the following link:

[http://www.legis.state.ga.us/legis/2009\\_10/pdf/hb333.pdf](http://www.legis.state.ga.us/legis/2009_10/pdf/hb333.pdf)

**HB 1013 (O.C.G.A. §§ 48-8-141 and 50-6-32)** This bill provides for an additional option for county and municipal governments to post reports that are related to various local projects utilizing certain sales and use tax funds. Historically, the report was required to be posted in a newspaper of general circulation, and now the report may also be posted on the searchable website provided by the Department of Audits and Accounts.

This bill became effective upon its approval by the Governor on June 3, 2010.

House Bill 1013 can be viewed at the following link:

[http://www.legis.state.ga.us/legis/2009\\_10/pdf/hb1013.pdf](http://www.legis.state.ga.us/legis/2009_10/pdf/hb1013.pdf)

**HB 1093 (O.C.G.A. § 48-13-20.1)** The bill creates Code Section 48-13-20.1 to allow any municipality or county levying an occupational tax or regulatory fee to gather taxpayer information and provide it to DOR.

- Any municipality or county that wants to participate must adopt an implementing resolution.

- Participating municipalities and counties must request the taxpayer's:
  - Business name and associated trade names;
  - The mailing address and the actual address of each physical location;
  - The sales and use tax identification number assigned by DOR; and
  - The North American Industry Classification System Code of the business.
- Within 30 days of the tax/fee payment, the participating county or municipality must submit the collected information to DOR in an electronic format.
- DOR must create an internet portal for the local governments to electronically submit the collected information.

This bill became effective upon its approval by the Governor on June 3, 2010.

House Bill 1093 can be viewed at the following link:

[http://www.legis.state.ga.us/legis/2009\\_10/pdf/hb1093.pdf](http://www.legis.state.ga.us/legis/2009_10/pdf/hb1093.pdf)

**HB 1221 (Numerous Sections)** This bill provides numerous statutory changes that are necessary to bring Georgia into substantial compliance with the Streamlined Sales Tax Agreement ("SSTA"). Some of the more substantive changes include:

- Section 1 – adds or modifies definitions in O.C.G.A § 48-8-2 as required by the SSTA. The section will now have 43 defined terms instead of only 13 terms.
- Section 2 – makes minor changes to sales and use tax exemptions listed in O.C.G.A § 48-8-3.
- Section 10 – changes requirements for vendor acceptance of a sales tax certificate of exemption.
- Section 18 – adds several new code sections to comply with portions of the SSTA, including uniform tax rate requirements, certified service providers for remote seller compliance, and some sourcing of sales provisions.
- Section 27 – provides that the Georgia members of the Streamlined Sales Tax Governing Board will include:
  - one member of the House of Representatives,
  - one member of the Senate, and
  - one designee of the Revenue Commissioner.

This bill will become effective January 1, 2011.

House Bill 1221 can be viewed at the following link:

[http://www.legis.state.ga.us/legis/2009\\_10/pdf/hb1221.pdf](http://www.legis.state.ga.us/legis/2009_10/pdf/hb1221.pdf)

**HB 1393 (O.C.G.A. § 48-8-6)** This bill provides an exception to the 2% cap in a county in which the tax levied for purposes of a metropolitan area system of public transportation (as authorized by certain Constitutional amendments and the laws enacted pursuant to such amendments) is first levied after January 1, 2010.

This bill became effective upon its approval by the Governor on June 3, 2010.

House Bill 1393 can be viewed at the following link:

[http://www.legis.state.ga.us/legis/2009\\_10/pdf/hb1393.pdf](http://www.legis.state.ga.us/legis/2009_10/pdf/hb1393.pdf)