

House Bill 812

By: Representatives Bulloch of the 180th, Day of the 153rd, Royal of the 164th, Buck of the 135th and Jamieson of the 22nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated,
2 relating to imposition, rate, and computation of income taxes, so as to change certain
3 provisions regarding computation of taxable net income; to provide for taxation of capital
4 gains; to provide an effective date; to provide for applicability; to repeal conflicting laws; and
5 for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to
9 imposition, rate, and computation of income taxes, is amended by adding a new Code section
10 immediately following Code Section 48-7-26, to be designated Code Section 48-7-26.1, to
11 read as follows:

12 "48-7-26.1.

13 (a) As used in this Code section, the term 'capital gain net income' means the same as it
14 is defined under Section 1222 of the Internal Revenue Code of 1986, as amended.

15 (b) Notwithstanding any other provision of this chapter to the contrary, any income of the
16 taxpayer which is claimed and allowed as capital gain net income for federal income tax
17 purposes shall, if the taxpayer elects, be taxed under this Code section. The maximum
18 amount of the income that is eligible to be taxed under this Code section shall be equal to
19 the capital gain net income subject to the limitations in subsections (d) and (e) of this Code
20 section.

21 (c) Any capital gain net income that is taxed for federal income tax purposes at the rate
22 specified in Section 1(h)(1)(B) or 1(h)(2)(A) of the United States Internal Revenue Code
23 of 1986 shall be taxed at the rate of 4 percent. Any capital gain net income that is taxed
24 for federal income tax purposes at the rate specified in Section 1(h)(1)(C) or 1(h)(2)(B) of
25 the United States Internal Revenue Code of 1986 shall be taxed at the rate of 5 percent. If
26 the 5 percent rate applies to any of the capital gain net income, any reduction to the capital

1 gain net income as specified under subsection (d) or (e) of this Code section shall first
2 reduce the capital gain net income that is subject to the 5 percent rate.

3 (d) In the case where the capital gain net income is greater than the Georgia taxable
4 income as determined without regard to the adjustment provided for in paragraph (11) of
5 subsection (a) of Code Section 48-7-27, then the maximum amount that is eligible to be
6 taxed under this Code section shall be reduced by the difference between the capital gain
7 net income and the Georgia taxable income as determined without regard to the adjustment
8 provided for in paragraph (11) of subsection (a) of Code Section 48-7-27.

9 (e) The maximum amount of income that is eligible to be taxed under this Code section
10 shall be reduced by the amount of capital gain net income included in the computation of
11 the adjustment to Georgia taxable income as provided under paragraph (5) of subsection (a)
12 of Code Section 48-7-27.

13 (f) This Code section shall not apply with respect to taxation of corporations under Code
14 Section 48-7-21."

15 SECTION 2.

16 Said article is further amended in subsection (a) of Code Section 48-7-27, relating to
17 computation of taxable net income, by striking "and" at the end of paragraph (9); by striking
18 the period at the end of paragraph (10) and inserting in its place "; and"; and by adding a new
19 paragraph immediately following paragraph (10), to be designated paragraph (11), to read
20 as follows:

21 "(11) An amount equal to the amount of income taxed under Code Section 48-7-26.1."

22 SECTION 3.

23 Said article is further amended by repealing in its entirety subsection (e) of Code Section
24 48-7-27, relating to computation of taxable net income, which reads as follows:

25 "(e) Notwithstanding any other provision of this chapter to the contrary, Georgia taxable
26 net income shall, if the taxpayer so elects, be adjusted in an amount equal to the amount
27 of any full or partial deduction or exclusion from federal adjusted gross income for federal
28 income tax purposes with respect to capital gains."

29 SECTION 4.

30 This Act shall become effective on January 1, 2002, and shall be applicable to all taxable
31 years beginning on or after that date.

32 SECTION 5.

33 All laws and parts of laws in conflict with this Act are repealed.