

House Bill 974

By: Representatives West of the 101st, Jamieson of the 22nd, Walker of the 141st, Ray of the 128th and Stallings of the 100th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to ad
2 valorem taxation of property, so as to change certain provisions regarding ad valorem
3 taxation of heavy-duty equipment motor vehicles; to change certain definitions; to change
4 certain procedures; to change the method of evaluation; to provide for related matters; to
5 provide for severability; to provide for effective dates and applicability; to repeal conflicting
6 laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to ad valorm
10 taxation of property, is amended by striking Code Section 48-5-505, relating to definitions,
11 and inserting in its place a new Code Section 48-5-505, to read as follows:

12 "48-5-505.

13 As used in this article, the term:

14 (1) 'Dealer' means any person who is engaged in the business of selling heavy-duty
15 equipment motor vehicles at retail and who holds a valid current dealer's resale tax
16 exemption number.

17 (2) 'Heavy-duty equipment motor vehicle' means a motor vehicle with all its attachments
18 and parts which is self-propelled, weighs 5,000 pounds or more, and is ~~primarily designed~~
19 ~~and~~ used for construction, industrial, maritime, or mining uses or is agricultural
20 equipment for use by a family-owned qualified farm products producer ; and which is
21 owned by a dealer and held in inventory for sale or resale provided that such motor
22 ~~vehicles are~~ vehicle is not required to be registered and have a license plate."

1 (2) ~~Any~~ Except as provided in paragraph (5) of this subsection, any person or entity
 2 which purchases a heavy-duty equipment motor vehicle from a dealer shall, for the
 3 taxable year in which the heavy-duty equipment motor vehicle is purchased only, return
 4 such heavy-duty equipment motor vehicle for ad valorem taxation purposes, within 30
 5 days of the end of the month in which such purchase is made, to the appropriate county
 6 ~~and shall pay a tax for such taxable year~~ official authorized to receive returns in the
 7 county where the owner resides or in the county where such equipment will be located
 8 if used in connection with a business. Upon receipt of such return, the official authorized
 9 to receive returns shall immediately forward it to the tax commissioner who shall within
 10 five days prepare and bill the purchaser for the ad valorem tax. Such tax shall be equal
 11 ~~to 33 1/3 percent of the amount derived by multiplying the amount of ad valorem tax~~
 12 ~~which would otherwise be due on the heavy-duty equipment motor vehicle and shall be~~
 13 ~~based on the selling price to the end user times 40 percent, thus deriving the taxable~~
 14 ~~assessment,~~ determined as follows: the selling price, including any rent or lease payments
 15 paid by the purchaser and credited to the original purchase price and including any
 16 trade-in allowances credited toward the original purchase price, shall be multiplied times
 17 40 percent, thus deriving the assessed value; and the assessed value shall be multiplied
 18 times 1/3, then times the tax rate imposed by the tax authority for the preceding tax year,
 19 then by a fraction the numerator of which is the number of months remaining in the
 20 calendar year not counting the month of purchase and the denominator of which is 12.
 21 In no event shall the ad valorem tax due be less than \$100.00 for the year of purchase.
 22 The taxes levied under this subsection shall be due and payable 60 days after the billing
 23 therefor.

24 (3) ~~Any ad valorem tax due shall be based on the selling price of the heavy-duty~~
 25 ~~equipment motor vehicle purchased~~ Reserved.

26 (4) In the event that any heavy-duty equipment motor vehicle is purchased other than for
 27 resale by a person or entity not domiciled in this state, at the time of the sale the dealer
 28 shall collect the ad valorem tax which would be applicable under paragraph (2) of this
 29 subsection for the county where the heavy-duty equipment motor vehicle was held in
 30 inventory at the time of the sale. Each dealer, on or before the last day of the month
 31 following a sale to such person or entity, shall transmit returns to the official authorized
 32 to receive returns and remit the ad valorem taxes collected to the tax commissioner of the
 33 county where the heavy-duty equipment motor vehicle was held in inventory at the time
 34 of the sale. Such returns shall show all sales and purchases taxable under this article
 35 during the preceding calendar month. The returns required by this subsection shall be
 36 made upon forms prescribed, prepared, and furnished by the state revenue commissioner.
 37 If any dealer liable for any tax, interest, or penalty imposed by this article sells out his or

1 her business's heavy-duty equipment motor vehicles or quits the business, he or she shall
 2 make a final return and payment within 30 days after the date of selling or quitting the
 3 business. Any dealer who does not collect tax as required under this paragraph or who
 4 fails to properly remit taxes collected under this paragraph shall be liable for the tax and
 5 the tax commissioner shall collect such tax, penalty, and interest in the same manner that
 6 other taxes are collected.

7 (5) In the event that any heavy-duty equipment motor vehicle is purchased by a family
 8 owned qualified farm products producer, as such producer is defined in paragraph (2) of
 9 subsection (a) of Code Section 48-5-41.1, and such equipment will qualify for an
 10 exemption from any ad valorem taxation under subsection (c) of Code Section 48-5-41.1,
 11 then no return shall be required to be made, no taxes shall be due, and such purchase shall
 12 be exempt from any and all ad valorem taxes that would otherwise be due and payable
 13 on such equipment under this article.

14 ~~(c) Except as otherwise provided in this subsection, heavy-duty equipment motor vehicles~~
 15 ~~which are owned by a dealer are not included within the distinct subclassification of~~
 16 ~~tangible property made by this article for all other heavy-duty equipment motor vehicles.~~
 17 ~~The procedures prescribed in this article for returning heavy-duty equipment motor~~
 18 ~~vehicles for ad valorem taxation, determining the applicable rates for taxation, and~~
 19 ~~collecting the ad valorem taxes imposed on heavy-duty equipment motor vehicles do not~~
 20 ~~apply to heavy-duty equipment motor vehicles which are owned by a dealer. Heavy-duty~~
 21 ~~equipment motor vehicles which are owned by a dealer shall not be returned for ad valorem~~
 22 ~~taxation, shall not be taxed, and no taxes shall be collected on such heavy-duty equipment~~
 23 ~~motor vehicles until they become subject to taxation as provided in subsections (a) and (b)~~
 24 ~~of this Code section. No A heavy-duty equipment motor vehicle held by a dealer in~~
 25 ~~inventory for resale shall be subject to ad valorem taxation unless such heavy-duty~~
 26 ~~equipment motor vehicle if it was in the dealer's inventory on January 1 of the taxable year~~
 27 ~~and continued to remain in such dealer's inventory on December 20 of such taxable year,~~
 28 ~~in which case the dealer shall be required to return the heavy-duty equipment motor vehicle~~
 29 ~~it for ad valorem taxation on December 21 of that taxable year to the official authorized to~~
 30 ~~receive returns in the county where the dealership is located, who shall immediately~~
 31 ~~forward it to the tax commissioner.~~ The assessed value of each heavy-duty equipment
 32 motor vehicle owned by a dealer shall be 40 percent of the its fair market value ~~of the~~
 33 ~~heavy-duty equipment motor vehicle~~ on January 1 of that taxable year. The tax
 34 commissioner shall prepare and mail a tax bill within five days of receipt of such dealer's
 35 return. The taxes levied under this subsection shall be due 60 days after the billing
 36 therefor.

- 1 ~~(d) Within 30 days of the last day of a month during which there is a sale of any~~
2 ~~heavy-duty equipment motor vehicle other than for resale, the dealer shall mail to the tax~~
3 ~~commissioner of the county where the purchaser is domiciled a statement notifying the tax~~
4 ~~commissioner of the sale which shall include information such as the date of the sale, the~~
5 ~~selling price, and the name and address of the purchaser. Such statement shall be upon~~
6 ~~forms prescribed, prepared, and furnished by the state revenue commissioner Reserved.~~
7 (e) The failure of any person or entity to return property as required by this Code section
8 shall subject such person or entity to penalties as provided in Code Section 48-5-299. The
9 failure of any person or entity to pay the taxes as required by this Code section shall subject
10 such person or entity to penalties and interest as provided by Code Section 48-2-44."

11 **SECTION 4.**

12 In the event any section, subsection, sentence, clause, or phrase of this Act shall be declared
13 or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other
14 sections, subsections, sentences, clauses, or phrases of this Act, which shall remain of full
15 force and effect as if the section, subsection, sentence, clause, or phrase so declared or
16 adjudged invalid or unconstitutional were not originally a part hereof. The General
17 Assembly declares that it would have passed the remaining parts of this Act if it had known
18 that such part or parts hereof would be declared or adjudged invalid or unconstitutional.

19 **SECTION 5.**

20 This Act shall become effective on January 1, 2003, and shall be applicable to all taxable
21 years beginning on or after that date.

22 **SECTION 6.**

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