

House Bill 1310

By: Representatives O`Neal of the 146th, Knight of the 126th, Cole of the 125th, Smith of the 131st, and Mosby of the 90th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and
2 taxation, so as to provide for the comprehensive revision of provisions regarding revenue
3 and taxation; to define the terms "Internal Revenue Code" and "Internal Revenue Code of
4 1986" and thereby incorporate certain provisions of federal law into Georgia law; to change
5 certain provisions relating to confidential information; to change certain provisions regarding
6 forms of payment; to change certain provisions regarding extension of time for certain
7 returns; to change certain provisions regarding sales and use tax return allowances; to
8 provide effective dates; to provide for applicability; to repeal conflicting laws; and for other
9 purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
13 amended by striking paragraph (14) of Code Section 48-1-2, relating to definitions regarding
14 revenue and taxation, and inserting in its place a new paragraph (14) to read as follows:

15 (14) 'Internal Revenue Code' or 'Internal Revenue Code of 1986' means for taxable years
16 beginning on or after January 1, ~~2005~~ 2006, the provisions of the United States Internal
17 Revenue Code of 1986 provided for in federal law enacted on or before January 1, ~~2005~~
18 2006, except Section 168(k), (but not excepting Section 168(k)(2)(A)(i), Section
19 168(k)(2)(D)(i), and Section 168(k)(2)(E)), Section 199, ~~and~~ Section 1400L, Section
20 1400N(d)(1), Section 1400N(j), and Section 1400N(k) of the Internal Revenue Code of
21 1986 shall be treated as if they were not in effect. In the event a reference is made in this
22 title to the Internal Revenue Code or the Internal Revenue Code of 1954 as it existed on
23 a specific date prior to January 1, ~~2005~~ 2006, the term means the provisions of the
24 Internal Revenue Code or the Internal Revenue Code of 1954 as it existed on the prior
25 date. Unless otherwise provided in this title, any term used in this title shall have the same
26 meaning as when used in a comparable provision or context in the Internal Revenue Code

1 of 1986. For taxable years beginning on or after January 1, ~~2005~~ 2006, provisions of the
 2 Internal Revenue Code of 1986 which were as of January 1, ~~2005~~ 2006, enacted into law
 3 but not yet effective shall become effective for purposes of Georgia taxation on the same
 4 dates upon which they become effective for federal tax purposes."

5 SECTION 2.

6 Said title is further amended in Code Section 48-2-15, relating to confidential information,
 7 by adding a new subsection (e) to read as follows:

8 "(e) This Code section shall not be construed to prohibit persons or groups of persons
 9 other than employees of the department from having access to tax information when
 10 necessary to conduct research commissioned by the department and when necessary for
 11 data processing operations and maintenance of data processing equipment, provided the
 12 persons or groups of persons have obtained prior written approval from the commissioner
 13 and are subject to the direct security control of department personnel during all periods of
 14 access. Any person who divulges or makes known any tax information obtained under this
 15 subsection shall be subject to the same civil and criminal penalties as those provided for
 16 divulgence of information by employees of the department."

17 SECTION 3.

18 Said title is further amended by striking paragraph (2) of subsection (f) of Code Section
 19 48-2-32, relating to forms of payment, and inserting in its place a new paragraph (2) to read
 20 as follows:

21 "~~(2)(A)~~ The commissioner may require that any person or business owing more than
 22 ~~\$10,000.00~~ \$5,000.00 in connection with any return, report, or other document,
 23 pertaining to sales tax, use tax, withholding tax, or motor fuel distributor tax, required
 24 to be filed with the department on or after July 1, ~~1992~~ 2006, shall pay any such sales
 25 tax, use tax, withholding tax, or motor fuel distributor tax, ~~corporate estimated income~~
 26 ~~tax, or individual estimated income tax~~ liability to the state by electronic funds transfer
 27 so that the state receives collectable funds on the date such payment is required to be
 28 made. In emergency situations, the commissioner may authorize alternative means of
 29 payment in funds immediately available to the state on the date of payment.

30 (B) The commissioner may require that any person or business owing more than
 31 \$10,000.00 in connection with any return, report, or other document, pertaining to
 32 corporate estimated income tax or individual estimated income tax, required to be filed
 33 with the department on or after July 1, 2006, shall pay any such corporate estimated
 34 income tax or individual estimated income tax liability to the state by electronic funds
 35 transfer so that the state receives collectable funds on the date such payment is required

1 to be made. In emergency situations, the commissioner may authorize alternative means
 2 of payment in funds immediately available to the state on the date of payment."

3 **SECTION 4.**

4 Said title is further amended by striking Code Section 48-2-36, relating to extension of time
 5 for returns, and inserting in its place a new Code Section 48-2-36 to read as follows:

6 "48-2-36.

7 (a) The commissioner may grant, upon written request, a reasonable extension of time for
 8 filing returns, declarations, or other documents required under state revenue laws
 9 whenever, in the reasonable exercise of his such commissioner's judgment, a good cause
 10 for the extension exists. The commissioner shall keep a record of every extension granted
 11 and the reason for the extension. No extension or extensions, except as otherwise expressly
 12 provided by law, shall aggregate more than six months, nor shall any extension of time for
 13 filing returns, except as otherwise expressly provided by law, operate to delay the payment
 14 of a tax unless a bond satisfactory to the commissioner is posted. In no event shall the
 15 commissioner extend the time of filing returns which are required to be filed with the tax
 16 receiver or tax commissioner.

17 (b) Notwithstanding any other provision in the laws of this state, in the case of a taxpayer
 18 determined by the commissioner to be affected by a presidentially declared disaster, as
 19 defined in Internal Revenue Code Section 1033(h)(3), or a terroristic or military action, as
 20 defined in Internal Revenue Code Section 692(c)(2), the commissioner may specify a
 21 period of up to one year that may be disregarded in determining, under the laws of this
 22 state, in respect of any tax liability, fee liability, or other liability of such taxpayer:

23 (1) Whether any of the actions described in subsection (c) of this Code section were
 24 performed within the time prescribed therefor, determined without regard to extension
 25 under any other provision of the laws of this state for periods after the date, as determined
 26 by the commissioner, of such disaster or action;

27 (2) The amount of any interest, penalty, or addition to the taxes, fees, or other liability
 28 for periods after the date, as determined by the commissioner, of such disaster or action;
 29 and

30 (3) The amount of any refund.

31 (c) Actions which may be extended:

32 (1) Filing any return of taxes, fees, or other liability;

33 (2) Payment of any taxes, fees, or other liability or any installment thereof;

34 (3) Filing a petition with the superior court or the office of state administrative hearings
 35 as allowed under the laws of this state;

36 (4) Allowance of a refund of any taxes, fees, or other liability;

- 1 (5) Filing a claim for refund of any taxes, fees, or other liability;
 2 (6) Bringing suit upon any such claim for refund;
 3 (7) Assessment of any taxes, fees, or other liability;
 4 (8) Giving or making any notice, assessment, or demand for the payment of any taxes,
 5 fees, or other liability;
 6 (9) Collection, by the commissioner, by tax execution, or otherwise, of the amount of
 7 any liability of any taxes, fees, or other liability;
 8 (10) Bringing suit by the department, or any officer on its behalf, in respect of any
 9 liability in respect of any taxes, fees, or other liability; and
 10 (11) Any other action required or permitted under the laws administered by the
 11 commissioner."

12 SECTION 5.

13 Said title is further amended by striking Code Section 48-8-58, relating to sales and use tax
 14 return allowances, and inserting in its place a new Code Section 48-8-58 to read as follows:

15 "48-8-58.

16 (a)(1) As used in this subsection, the term 'return allowance' means the amount of the
 17 sales price or cost price refunded by the dealer to the purchaser in cash or credit. No
 18 credit shall be allowed to the dealer under this subsection for taxes collected by ~~him~~ such
 19 dealer from the purchaser unless the taxes collected have been returned by ~~him~~ the dealer
 20 to the purchaser.

21 (2) When property sold is subsequently returned by agreement to the dealer by the
 22 purchaser, the dealer shall be entitled to credit for the tax imposed by this article with
 23 respect to the return allowance, in the manner prescribed by the commissioner, as
 24 follows:

25 ~~(A) If property is returned within 90 days from the date of sale, the~~ The dealer in his
 26 the original return for the taxable period in which the return of the property is allowed
 27 ~~by him~~ may deduct from his the dealer's gross sales the amount of the return allowance;
 28 or

29 ~~(B) If property is returned more than 90 days from the date of sale, no credit shall be~~
 30 ~~allowed except upon application for a credit memorandum in the amount of the tax~~
 31 ~~imposed with respect to the return allowance. The application shall be made and the~~
 32 ~~credit memorandum issued in the manner prescribed by the commissioner. The~~
 33 ~~application shall be made within the time provided by law for the filing of claims for~~
 34 ~~refund. The credit memorandum shall be applied by the dealer to his liability for each~~
 35 ~~succeeding taxable period until exhausted; or~~

