

House Bill 1667

By: Representatives Davis of the 109th, Hatfield of the 177th, Walker of the 107th, May of the 111th, Loudermilk of the 14th, and others

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 abolish the state income tax; to increase the rate of tax on the retail
3 purchase, retail sale, rental, storage, use, or consumption of certain tangible property and on
4 certain services; to provide for applicability with respect to building and construction
5 materials and to certain services; to provide for application of sales and use taxes with
6 respect to certain sales of motor fuels; to provide for conforming changes with respect to
7 certain tax ceilings, imposition of taxes, collection from dealers, disposition of certain excess
8 taxes, compensation of dealers for reporting and paying taxes, and payment of taxes by
9 certain contractors; to provide for editorial revision; to provide for other matters relative to
10 the foregoing; to provide for an effective date; to repeal conflicting laws; and for other
11 purposes.

12 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

13 **SECTION 1.**

14 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
15 amended by repealing in its entirety Chapter 7, relating to income taxes.

16 **SECTION 2.**

17 Said title is further amended by adding a new Chapter 7 to read as follows:

18 **"CHAPTER 7**

19 48-7-1.

20 On and after January 1, 2007, there shall be no income taxes whatsoever levied or collected
21 by the state or any political subdivision thereof and no income tax returns are required."

SECTION 5.

Said title is further amended by striking Code Section 48-8-30, relating to the rate and imposition of the state sales and use tax, in its entirety and inserting in its place a new Code Section 48-8-30 to read as follows:

"48-8-30.

(a) There is levied and imposed a tax on the retail purchase, retail sale, rental, storage, use, or consumption of tangible personal property and on the services described in this article.

(b)(1) Every purchaser of tangible personal property at retail in this state shall be liable for a tax on the purchase at the rate of ~~4~~ 8 percent of the sales price of the purchase. The tax shall be paid by the purchaser to the retailer making the sale, as provided in this article. The retailer shall remit the tax to the commissioner as provided in this article and, when received by the commissioner, the tax shall be a credit against the tax imposed on the retailer. Every person making a sale or sales of tangible personal property at retail in this state shall be a retailer and a dealer and shall be liable for a tax on the sale at the rate of ~~4~~ 8 percent of the gross sale or gross sales; or the amount of taxes collected by him or her from his or her purchaser or purchasers, whichever is greater.

(2) No retail sale shall be taxable to the retailer or dealer which is not taxable to the purchaser at retail.

(c)(1) Upon the first instance of use, consumption, distribution, or storage within this state of tangible personal property purchased at retail outside this state, the owner or user of the property shall be a dealer and shall be liable for a tax at the rate of ~~4~~ 8 percent of the cost price, except as provided in paragraph (2) of this subsection.

(2) Upon the first instance of use, consumption, distribution, or storage within this state of tangible personal property purchased at retail outside this state and used outside this state for more than six months prior to its first use within this state, the owner or user of the property shall be a dealer and shall be liable for a tax at the rate of ~~4~~ 8 percent of the cost price or fair market value of the property, whichever is the lesser.

(3) This subsection shall not be construed to require a duplication in the payment of the tax. The tax imposed by this subsection shall be subject to the credit otherwise granted by this article for like taxes previously paid in another state.

(c.1)(1) Every purchaser of tangible personal property at retail outside this state from a dealer, as defined in subparagraph (H) of paragraph (3) of Code Section 48-8-2, when such property is to be used, consumed, distributed, or stored within this state, shall be liable for a tax on the purchase at the rate of ~~4~~ 8 percent of the sales price of the purchase. It shall be prima-facie evidence that such property is to be used, consumed, distributed, or stored within this state if that property is delivered in this state to the purchaser or agent thereof. The tax shall be paid by the purchaser to the retailer making the sale, as

1 provided in this article. The retailer shall remit the tax to the commissioner as provided
2 in this article and, when received by the commissioner, the tax shall be a credit against
3 the tax imposed on the retailer. Every person who is a dealer, as defined in subparagraph
4 (H) of paragraph (3) of Code Section 48-8-2₂, and who makes any sale of tangible
5 personal property at retail outside this state which property is to be delivered in this state
6 to a purchaser or purchaser's agent shall be a retailer and a dealer for purposes of this
7 article and shall be liable for a tax on the sale at the rate of ~~4~~ 8 percent of such gross sales
8 or the amount of tax as collected by that person from purchasers having their purchases
9 delivered in this state, whichever is greater.

10 (2) No retail sale shall be taxable to the retailer or dealer which is not taxable to the
11 purchaser at retail. The tax imposed by this subsection shall be subject to the credit
12 otherwise granted by this article for like taxes previously paid in another state. This
13 subsection shall not be construed to require a duplication in the payment of the tax.

14 (d)(1) Every person to whom tangible personal property in the state is leased or rented
15 shall be liable for a tax on the lease or rental at the rate of ~~4~~ 8 percent of the gross lease
16 or rental charge. The tax shall be paid to the person who leases or rents the property by
17 the person to whom the property is leased or rented. A person who leases or rents
18 property to others as a dealer under this article shall remit the tax to the commissioner,
19 as provided in this article. When received by the commissioner, the tax shall be a credit
20 against the tax imposed on the person who leases or rents the property to others. Every
21 person who leases or rents tangible personal property in this state to others shall be a
22 dealer and shall be liable for a tax on the lease or rental at the rate of ~~4~~ 8 percent of the
23 gross lease or rental proceeds; or the amount of taxes collected by him or her from
24 persons to whom he or she leases or rents tangible personal property, whichever is
25 greater.

26 (2) No lease or rental shall be taxable to the person who leases or rents tangible property
27 to another which is not taxable to the person to whom the property is leased or rented.

28 (3) The lessee of both taxable and exempt property in this state under a single lease
29 agreement containing a lease period of ten years or more shall have the option to
30 discharge in full all sales and use taxes imposed by this article relating to the tangible
31 personal property by paying in a lump sum ~~4~~ 8 percent of the fair market value of the
32 tangible personal property at the date of inception of the lease agreement in the same
33 manner and under the same conditions applicable to sales of the tangible personal
34 property.

35 (e) Upon the first instance of use within this state of tangible personal property leased or
36 rented outside this state, the person to whom the property is leased or rented shall be a
37 dealer and shall be liable for a tax at the rate of ~~4~~ 8 percent of the rental charge paid to the

1 person who leased or rented the property, subject to the credit authorized for like taxes
2 previously paid in another state.

3 (e.1)(1) Every person who leases, as lessor, or rents tangible personal property outside
4 this state for use within this state shall be liable for a tax at the rate of 4 8 percent of the
5 rental charge paid for that lease or rental if that person is a dealer, as defined in
6 subparagraph (H) of paragraph (3) of Code Section 48-8-2₂, and title to that property
7 remains in that person. It shall be prima-facie evidence that such property is to be used
8 within this state if that property is delivered in this state to the lessee or renter of such
9 property, or to the agent of either. The tax shall be paid by the lessee or renter and
10 payment of the tax shall be made to the lessor or person receiving rental payments for that
11 property, which person shall be the dealer for purposes of this article. The dealer shall
12 remit the tax to the commissioner as provided in this article; and, when received by the
13 commissioner, the tax shall be a credit against the tax imposed on the dealer. Every
14 person who is a dealer, as defined in subparagraph (H) of paragraph (3) of Code Section
15 48-8-2₂, and who leases or rents tangible personal property outside this state to be
16 delivered in this state to the lessee, renter, or agent of either shall be a dealer and shall be
17 liable as such for a tax on the lease or rental at the rate of 4 8 percent of the gross
18 proceeds from such leases or rentals or the amount of taxes collected by that dealer for
19 leases or rentals of tangible personal property delivered in this state, whichever is greater.

20 (2) No lease or rental shall be taxable to the dealer which is not taxable to the lessee or
21 renter. The tax imposed by this subsection shall be subject to the credit granted by this
22 article for like taxes previously paid in another state. This subsection shall not be
23 construed to require a duplication in the payment of the tax.

24 (f)(1) Every person purchasing or receiving any service within this state, the purchase
25 of which is a retail sale, shall be liable for tax on the purchase at the rate of 4 8 percent
26 of the gross charge or charges made for the purchase. The tax shall be paid by the person
27 purchasing or receiving the service to the person furnishing the service. The person
28 furnishing the service, as a dealer under this article, shall remit the tax to the
29 commissioner as provided in this article; and, when received by the commissioner, the
30 tax shall be a credit against the tax imposed on the person furnishing the service. Every
31 person furnishing a service, the purchase of which is a retail sale, shall be a dealer and
32 shall be liable for a tax on the sale at the rate of 4 8 percent of the gross charge or charges
33 made for furnishing the service; or the amount of taxes collected by him or her from the
34 person to whom the service is furnished, whichever is greater.

35 (2) No sale of services shall be taxable to the person furnishing the service which is not
36 taxable to the purchaser of the service.

1 (g) Whenever a purchaser of tangible personal property under subsection (b) or (c.1) of
 2 this Code section, a lessee or renter of the property under subsection (d) or (e.1) of this
 3 Code section, or a purchaser of taxable services under subsection (f) of this Code section
 4 does not pay the tax imposed upon him or her to the retailer, lessor, or dealer who is
 5 involved in the taxable transaction, the purchaser, lessee, or renter shall be a dealer himself
 6 or herself and the commissioner, whenever he or she has reason to believe that a purchaser
 7 or lessee has not so paid the tax, may assess and collect the tax directly against and from
 8 the purchaser, lessee, or renter, unless the purchaser, lessee, or renter shows that the
 9 retailer, lessor, or dealer who is involved in the transaction has nevertheless remitted to the
 10 commissioner the tax imposed on the transaction. If payment is received directly from the
 11 purchaser, it shall not be collected a second time from the retailer, lessor, or dealer who is
 12 involved.

13 (h) The tax imposed by this Code section shall be collected from the dealer and paid at the
 14 time and in the manner provided in this article. Any person engaging or continuing in
 15 business as a retailer and wholesaler or jobber shall pay the tax imposed on the gross
 16 proceeds of retail sales of the business at the rate specified when proper books are kept
 17 showing separately the gross proceeds of sales for each business. If the records are not
 18 kept separately, the tax shall be paid as a retailer or dealer on the gross sales of the
 19 business. For the purpose of this Code section, all sales through any one vending machine
 20 shall be treated as a single sale. The gross proceeds for reporting vending sales shall be
 21 treated as if the tax is included in the sale and the taxable proceeds shall be net of the tax
 22 included in the sale.

23 (i) The tax levied by this Code section is in addition to all other taxes, whether levied in
 24 the form of excise, license, or privilege taxes, and shall be in addition to all other fees and
 25 taxes levied."

26 SECTION 6.

27 Said title is further amended by striking Code Section 48-8-32, relating to collection of the
 28 tax from dealers, in its entirety and inserting in its place a new Code Section 48-8-32 to read
 29 as follows:

30 "48-8-32.

31 The tax at the rate of ~~4~~ 8 percent of the retail sales price at the time of sale or ~~4~~ 8 percent
 32 of the cost price at the time of purchase, as the case may be, shall be collectable from all
 33 persons engaged as dealers in the sale at retail, or in the use, consumption, distribution, or
 34 storage for use or consumption in this state of tangible personal property."

1 therein, and which trade and convention center authority is in existence on or before
2 March 21, 1988, and which trade and convention center authority has not constructed or
3 operated any facility before March 21, 1988, may levy a tax under this Code section at
4 a rate of 6 percent. A county or municipality levying a tax pursuant to this paragraph
5 shall expend (in each fiscal year during which the tax is collected under this paragraph
6 (3.1)) an amount equal to at least 62 1/2 percent of the total taxes collected at the rate of
7 6 percent for the purpose of: (A) promoting tourism, conventions, and trade shows; (B)
8 funding, supporting, acquiring, constructing, renovating, improving, and equipping
9 buildings, structures, and facilities, including, but not limited to, a trade and convention
10 center, exhibit hall, conference center, performing arts center, accommodations facilities
11 including food service, or any combination thereof, for convention, trade show, athletic,
12 musical, theatrical, cultural, civic, and performing arts purposes and other events and
13 activities for similar and related purposes, acquiring the necessary property therefor, both
14 real and personal, and funding all expenses incident thereto, and supporting, maintaining,
15 and promoting such facilities owned, operated, or leased by or to the local trade and
16 convention center authority; or (C) for some combination of such purposes; provided,
17 however, that at least 50 percent of the total taxes collected at the rate of 6 percent shall
18 be expended for the purposes specified in subparagraph (B) of this paragraph (3.1).
19 Amounts so expended shall be expended only through a contract or contracts with the
20 state, a department of state government, a state authority, a convention and visitors
21 bureau authority created by local Act of the General Assembly for a municipality, a local
22 building authority created by local constitutional amendment, and a trade and convention
23 center authority created by intergovernmental contract between a county and one or more
24 municipalities located therein, or a private sector nonprofit organization or through a
25 contract or contracts with some combination of such entities. The aggregate amount of
26 all excise taxes imposed under this paragraph (3.1) and all sales and use taxes, and other
27 taxes imposed by a county or municipality, or both, shall not exceed ~~13~~ 17 percent. Any
28 tax levied pursuant to this paragraph (3.1) shall terminate not later than December 31,
29 2029, provided that during any period during which there remains outstanding any
30 obligation issued to fund a facility as contemplated by this paragraph (3.1), secured in
31 whole or in part by a pledge of a tax authorized under this Code section, the powers of
32 the counties and municipalities to impose and distribute the tax imposed by this
33 paragraph (3.1) shall not be diminished or impaired by the state and no county or
34 municipality levying the tax imposed by this paragraph (3.1) shall cease to levy the tax
35 in any manner that will impair the interests and rights of the holder of any such
36 obligation. This proviso shall be for the benefit of the holder of any such obligation and,
37 upon the issuance of any such obligation by a building authority created by local

1 constitutional amendment, shall constitute a contract with the holder of such obligation.
 2 Notwithstanding any other provision of this Code section to the contrary, as used in this
 3 paragraph (3.1), the term: 'fund' or 'funding' shall include the cost and expense of all
 4 things deemed necessary by a building authority created by local constitutional
 5 amendment for the construction and operation of a facility or facilities including but not
 6 limited to the study, operation, marketing, acquisition, construction, financing, including
 7 the payment of principal and interest on any obligation of the building authority created
 8 by local constitutional amendment and any obligation of the building authority created
 9 by local constitutional amendment to refund any prior obligation of the building authority
 10 created by local constitutional amendment, development, extension, enlargement, or
 11 improvement of land, waters, property, streets, highways, buildings, structures,
 12 equipment, or facilities and the repayment of any obligation incurred by an authority in
 13 connection therewith; 'obligation' shall include bonds, notes, or any instrument creating
 14 an obligation to pay or reserve moneys and having an initial term of not more than 37
 15 years; and 'facility' or 'facilities' shall mean any of the buildings, structures, and facilities
 16 described in subparagraph (B) of this paragraph (3.1) and any associated parking areas
 17 or improvements originally owned or operated incident to the ownership or operation of
 18 such facility used for any purpose or purposes specified in subparagraph (B) of this
 19 paragraph (3.1) by a building authority created by local constitutional amendment."

20 "(4.1) Notwithstanding any other provision of this subsection, a county (within the
 21 territorial limits of the special district located within the county) or municipality within
 22 a county in which a coliseum authority has been created by local Act of the General
 23 Assembly and which authority is in existence on or before July 1, 1963, for the purpose
 24 of owning or operating a facility, may levy a tax under this Code section at a rate of 7
 25 percent. A county or municipality levying a tax pursuant to this paragraph shall expend
 26 (in each fiscal year during which the tax is collected under this paragraph (4.1)) an
 27 amount equal to at least 62 1/2 percent of the total taxes collected at the rate of 7 percent
 28 for the purpose of: (A) promoting tourism, conventions, and trade shows; (B) funding and
 29 supporting a facility owned or operated by such coliseum authority; or (C) for some
 30 combination of such purposes. Amounts so expended shall be expended only through a
 31 contract or contracts with the state, a department of state government, a state authority,
 32 a convention and visitors bureau authority created by local Act of the General Assembly
 33 for a municipality, a local coliseum authority, or a private sector nonprofit organization,
 34 or through a contract or contracts with some combination of such entities, except that
 35 amounts expended for purpose (B) may be so expended in any otherwise lawful manner
 36 without the necessity of a contract. The aggregate amount of all excise taxes imposed
 37 under this paragraph (4.1) and all sales and use taxes, and other taxes imposed by a

1 county or municipality, or both, shall not exceed ~~12~~ 16 percent. Any tax levied pursuant
 2 to this paragraph (4.1) shall terminate not later than December 31, 2028, provided that
 3 during any period during which there remains outstanding any obligation which is
 4 incurred prior to January 1, 1995, issued to fund a facility as contemplated by this
 5 paragraph (4.1), and secured in whole or in part by a pledge of a tax authorized under this
 6 Code section, the powers of the counties and municipalities to impose and distribute the
 7 tax imposed by this paragraph (4.1) shall not be diminished or impaired by the state and
 8 no county or municipality levying the tax imposed by this paragraph (4.1) shall cease to
 9 levy the tax in any manner that will impair the interest and rights of the holders of any
 10 such obligation. This proviso shall be for the benefit of the holder of any such obligation
 11 and, upon the issuance of any such obligation by a coliseum and exhibit hall authority,
 12 shall constitute a contract with the holder of such obligations. Notwithstanding any other
 13 provision of this Code section to the contrary, as used in this paragraph (4.1), the term:
 14 'fund' and 'funding' shall include the cost and expense of all things deemed necessary by
 15 a local coliseum authority for the construction, renovation, and operation of a facility
 16 including but not limited to the study, operation, marketing, acquisition, construction,
 17 finance, development, extension, enlargement, or improvement of land, waters, property,
 18 streets, highways, buildings, structures, equipment, or facilities, and the repayment of any
 19 obligation incurred by a local coliseum authority in connection therewith; 'obligation'
 20 shall include bonds, notes, or any instrument creating an obligation to pay or reserve
 21 moneys incurred prior to January 1, 1995, and having an initial term of not more than 30
 22 years; and 'facility' shall mean a coliseum or other facility and any associated parking
 23 areas or improvements originally owned or operated incident to the ownership or
 24 operation of a facility used for convention and trade show purposes or amusement
 25 purposes, educational purposes, or a combination thereof and for fairs, expositions, or
 26 exhibitions in connection therewith by a local coliseum authority."

27 "(5.1) Notwithstanding any other provision of this subsection, a county (within the
 28 territorial limits of the special district located within the county) and the municipalities
 29 within a county in which a coliseum and exhibit hall authority has been created by local
 30 Act of the General Assembly for a county and one or more municipalities therein, and
 31 which local coliseum and exhibit hall authority is in existence on or before January 1,
 32 1991, and which local coliseum and exhibit hall authority has not constructed or operated
 33 any facility before January 1, 1991, may levy a tax under this Code section at a rate of 8
 34 percent. A county or municipality levying a tax pursuant to this paragraph shall expend
 35 (in each fiscal year during which the tax is collected under this paragraph (5.1)) an
 36 amount equal to at least 62 1/2 percent of the total taxes collected at the rate of 8 percent
 37 for the purpose of: (A) promoting tourism, conventions, and trade shows; (B) funding,

1 supporting, acquiring, constructing, renovating, improving, and equipping buildings,
2 structures, and facilities, including, but not limited to, a coliseum, exhibit hall, conference
3 center, performing arts center, or any combination thereof, for convention, trade show,
4 athletic, musical, theatrical, cultural, civic, and performing arts purposes and other events
5 and activities for similar and related purposes, acquiring the necessary property therefor,
6 both real and personal, and funding all expenses incident thereto, and supporting,
7 maintaining, and promoting such facilities owned, operated, or leased by or to the local
8 coliseum and exhibit hall authority or a downtown development authority; or (C) for
9 some combination of such purposes; provided, however, that at least 50 percent of the
10 total taxes collected at the rate of 8 percent shall be expended for the purposes specified
11 in subparagraph (B) of this paragraph (5.1). Amounts so expended shall be expended
12 only through a contract or contracts with the state, a department of state government, a
13 state authority, a convention and visitors bureau authority created by local Act of the
14 General Assembly for a municipality, a local coliseum and exhibit hall authority, a
15 downtown development authority, or a private sector nonprofit organization or through
16 a contract or contracts with some combination of such entities, notwithstanding any
17 provision of paragraph (8) of this subsection to the contrary. The aggregate amount of
18 all excise taxes imposed under this paragraph (5.1) and all sales and use taxes, and other
19 taxes imposed by a county or municipality, or both, shall not exceed ~~13~~ 17 percent;
20 provided, however, that any sales tax for educational purposes which is imposed pursuant
21 to Article VIII, Section VI, Paragraph IV of the Constitution shall not be included in
22 calculating such limitation. Any tax levied pursuant to this paragraph (5.1) shall
23 terminate not later than December 31, 2028, provided that during any period during
24 which there remains outstanding any obligation issued to fund a facility as contemplated
25 by this paragraph (5.1), secured in whole or in part by a pledge of a tax authorized under
26 this Code section, the powers of the counties and municipalities to impose and distribute
27 the tax imposed by this paragraph (5.1) shall not be diminished or impaired by the state
28 and no county or municipality levying the tax imposed by this paragraph (5.1) shall cease
29 to levy the tax in any manner that will impair the interests and rights of the holder of any
30 such obligation. This proviso shall be for the benefit of the holder of any such obligation
31 and, upon the issuance of any such obligation by a local coliseum and exhibit hall
32 authority or a downtown development authority, shall constitute a contract with the
33 holder of such obligation. Notwithstanding any other provision of this Code section to
34 the contrary, as used in this paragraph (5.1), the term: 'fund' or 'funding' shall include the
35 cost and expense of all things deemed necessary by a local coliseum and exhibit hall
36 authority or a downtown development authority for the construction and operation of a
37 facility or facilities including but not limited to the study, operation, marketing,

1 acquisition, construction, financing, including the payment of principal and interest on
2 any obligation of the local coliseum and exhibit hall authority or the downtown
3 development authority and any obligation of the local coliseum and exhibit hall authority
4 or the downtown development authority to refund any prior obligation of the local
5 coliseum and exhibit hall authority or the downtown development authority,
6 development, extension, enlargement, or improvement of land, waters, property, streets,
7 highways, buildings, structures, equipment, or facilities and the repayment of any
8 obligation incurred by an authority in connection therewith; 'obligation' shall include
9 bonds, notes, or any instrument creating an obligation to pay or reserve moneys and
10 having an initial term of not more than 37 years; 'facility' or 'facilities' shall mean any of
11 the buildings, structures, and facilities described in subparagraph (B) of this paragraph
12 (5.1) and any associated parking areas or improvements originally owned or operated
13 incident to the ownership or operation of such facility used for any purpose or purposes
14 specified in subparagraph (B) of this paragraph (5.1) by a local coliseum and exhibit hall
15 authority or a downtown development authority; and 'downtown development authority'
16 shall mean a downtown development authority created by local Act of the General
17 Assembly for a municipality pursuant to a local constitutional amendment."

18 **SECTION 10.**

19 This Act shall become effective on January 1, 2007.

20 **SECTION 11.**

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