

House Bill 450

By: Representatives Pruett of the 144<sup>th</sup>, May of the 111<sup>th</sup>, Coan of the 101<sup>st</sup>, Roberts of the 154<sup>th</sup>, Royal of the 171<sup>st</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 48-8-63 of the Official Code of Georgia Annotated, relating to sales  
2 and use taxation of contractors, so as to provide for the sales and use tax treatment of tangible  
3 personal property sold to certain persons engaged in the maintenance, repair, or improvement  
4 of real property and improvements thereon; to define a terms; to provide for the taxable situs  
5 of sales; to provide that subsequent use, consumption, or installation of the property already  
6 taxed shall not constitute a further taxable transaction; to provide for related matters; to  
7 provide for an effective date and applicability; to repeal conflicting laws; and for other  
8 purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

10 Code Section 48-8-63 of the Official Code of Georgia Annotated, relating to sales and use  
11 taxation of contractors, is amended by revising subsection (b) as follows:

12       "(b)(1) Each person who orally, in writing, or by purchase order contracts to furnish  
13 tangible personal property and to perform services under the contract within this state  
14 shall be deemed to be the consumer of the tangible personal property and shall pay the  
15 sales tax imposed by this article at the time of the purchase. Any person so contracting  
16 who fails to pay the sales tax at the time of the purchase or at the time the sale is  
17 consummated outside the limits of this state shall be liable for the payment of the sales  
18 or use tax. This Code section shall not relieve the dealer who made the sale from such  
19 dealer's liability to collect and pay the tax on purchases by a contractor.

20       (2)(A) As used in this paragraph, the term 'maintenance contracting' means the  
21 maintenance, repair, or improvement (or any combination thereof) of real property and  
22 improvements thereon but does not include the original construction of, reconstruction  
23 of, or construction of additions to improvements on real property.

24       (B) Where a person engaged in maintenance contracting pays the tax as provided under  
25 paragraph (1) of this subsection upon the purchase of tangible personal property to be  
26

1 used in maintenance contracting, the situs of the transaction shall be determined by (i)  
2 the location to which the tangible personal property is delivered; or (ii) the location of  
3 the principal place of business of the person engaged in maintenance contracting if the  
4 tangible personal property is not delivered.

5 (C) Where a person engaged in maintenance contracting pays the tax as provided under  
6 paragraph (1) of this subsection, such payment shall fully and completely satisfy all tax  
7 obligations arising under this chapter; and no further taxable transaction shall occur  
8 when the tangible personal property is used, consumed, or installed at any place in the  
9 state, whether the same or different from the taxable situs specified in subparagraph (B)  
10 of this paragraph."

## 11 **SECTION 2.**

12 This Act shall apply with respect to transactions on or after its effective date. With respect  
13 to transactions prior to the effective date of this Act, no penalty shall be imposed on or after  
14 the effective date of this Act for failure to report or remit tax on a transaction which would  
15 not be taxable if it had occurred on or after the effective date of this Act.

## 16 **SECTION 3.**

17 This Act shall become effective upon its approval by the Governor or upon its becoming law  
18 without such approval.

## 19 **SECTION 4.**

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