

Senate Bill 184

By: Senator Rogers of the 21st

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to
2 income taxes, so as to provide for new definitions; to modify the computation of deductible
3 business expenses; to provide for related matters; to repeal conflicting laws; and for other
4 purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to income taxes,
8 is amended by adding a new paragraph to subsection (b) of Code Section 48-7-21 to read as
9 follows:
10 "(15) Georgia taxable income shall be increased by the amount of the payments,
11 compensation, or other economic benefit disallowed by Code Section 48-7-21.1."

12 **SECTION 2.**

13 Said chapter is further amended by revising Code Section 48-7-21.1, relating to
14 compensation paid by taxpayer disallowed as a business expense, as follows:
15 "48-7-21.1

16 (a) As used in this Code section, the term:

17 (1) 'Authorized employee' means any individual ~~authorized~~ whose hiring for employment
18 or continuing employment in the United States ~~as defined in paragraph (2) of~~
19 ~~subsection (a)~~ does not violate the provisions of 8 U.S.C. Section 1324a.

20 (2) 'Basic pilot program' shall mean the electronic verification of a work authorization
21 program of the Illegal Immigration Reform and Immigration Responsibility Act of 1996,
22 P. L. 104-208, Division C, Section 1324a note, and operated by the United States
23 Department of Homeland Security.

24 ~~(2)~~(3) 'Labor services' means the physical performance of services in this state.

1 (b) On or after January 1, 2008, no ~~wages~~ payment or compensation or other remuneration,
 2 including but not limited to wages, salaries, bonuses, benefits, in-kind exchanges, expenses,
 3 or any other economic benefit, paid for labor services to an individual ~~of \$600.00 or more~~
 4 per annum totaling \$600.00 or more in a taxable year, may be claimed and allowed as a
 5 deductible business expense for state income tax purposes by a taxpayer unless such
 6 individual is an authorized employee. The provisions of this subsection shall apply
 7 whether or not an Internal Revenue Service Form 1099 or Form W-2 is issued in
 8 conjunction with ~~the wages~~ such payments, compensation, or other remuneration.

9 (c) This Code section shall not apply to any business ~~domiciled in this state~~ which: is

10 (1) Has enrolled and participates in the basic pilot program; or

11 (2) Is exempt from compliance with federal employment verification procedures under
 12 federal law which makes the employment of unauthorized aliens unlawful.

13 (d) This Code section shall not apply to any individual hired by the taxpayer prior to
 14 January 1, 2008.

15 (e) This Code section shall not apply to any taxpayer where the individual being paid is
 16 not directly compensated or employed by said taxpayer.

17 (f) This Code section shall not apply to ~~wages~~ payments, compensation, or other
 18 remuneration paid for labor services to any individual who holds and presents to the
 19 taxpayer a valid license or identification card issued by the Georgia Department of Driver
 20 Services.

21 (g) The commissioner is authorized to prescribe forms and promulgate rules and
 22 regulations deemed necessary in order to administer and effectuate this Code section."

23 SECTION 3.

24 Said chapter is further amended by adding a new paragraph to subsection (b) of Code Section
 25 48-7-27, relating to the computation of taxable net income, to read as follows:

26 "(12) Georgia taxable income shall be increased by the amount of the payments,
 27 compensation, or other economic benefit disallowed by Code Section 48-7-21.1."

28 SECTION 4.

29 Said chapter is further amended by adding a new paragraph to Code Section 48-7-100,
 30 relating to definitions regarding current income tax payment, to read as follows:

31 "(11) 'Withholding agent' means any person required to deduct and withhold any tax
 32 under the provisions of Code Section 18-7-101."

33 SECTION 5.

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