

The House Committee on Ways and Means offers the following substitute to HB 1198:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 48-7-1 of the Official Code of Georgia Annotated, relating to  
2 definitions regarding income taxes, so as to change the definition of taxable nonresident; to  
3 provide for an effective date; to provide for applicability; to repeal conflicting laws; and for  
4 other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 style="text-align:center">**SECTION 1.**

7 Code Section 48-7-1 of the Official Code of Georgia Annotated, relating to definitions  
8 regarding income taxes, is amended by revising paragraph (11) as follows:

9 "(11) 'Taxable nonresident' means:

10 (A) Every individual who is not otherwise a resident of this state for income tax  
11 purposes and who regularly ~~and not~~ or casually or intermittently engages within this  
12 state, by himself or herself or by means of employees, agents, or partners, in  
13 employment, trade, business, professional, or other activity for financial gain or profit  
14 including, but not limited to, the rental of real or personal property located within this  
15 state or for use within this state. 'Taxable nonresident' does not include a legal resident  
16 of another state whose only activity for financial gain or profit in this state consists of  
17 performing services in this state for an employer as an employee when the remuneration  
18 for the services does not exceed the lesser of 5 percent of the income received by the  
19 person for performing services in all places during any taxable year or \$5,000.00;

20 (B) Every individual who is not otherwise a resident of this state for income tax  
21 purposes and who sells, exchanges, or otherwise disposes of tangible property which  
22 at the time of the sale, exchange, or other disposition has a taxable situs within this state  
23 or who sells, exchanges, or otherwise disposes of intangible personal property which  
24 has acquired at the time of the sale, exchange, or other disposition a business or  
25 commercial situs within this state;

26 (C) Every individual who is not otherwise a resident of this state for income tax  
27 purposes and who receives the proceeds of any lottery prize awarded by the Georgia  
28 Lottery Corporation; and

29 (D) Every individual who is not a resident of this state for income tax purposes and  
30 who makes a withdrawal as provided for in paragraph (10) of subsection (b) of Code  
31 Section 48-7-27; and

32 (E) Every individual who is not otherwise a resident of this state for income tax  
33 purposes and who regularly or casually or intermittently engaged in a prior year within  
34 this state, by himself or herself, in activity for financial gain or profit and who receives  
35 income from such activity in the form of deferred compensation or income from the  
36 exercise of stock options and such income exceeds the lesser of 5 percent of the income  
37 received by the person in all places during the taxable year or \$5,000.00; provided,  
38 however, that this subparagraph shall not apply in the case of an individual who  
39 receives such income when the state is prohibited from taxing such income pursuant to  
40 federal law."

41 **SECTION 2.**

42 This Act shall become effective upon its approval by the Governor or upon its becoming law  
43 without such approval and shall be applicable to all taxable years beginning on or after  
44 January 1, 2010.

45 **SECTION 3.**

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