

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 **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.