

House Bill 1138 (AS PASSED HOUSE AND SENATE)

By: Representatives O`Neal of the 146th and Knight of the 126th

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 define the terms "Internal Revenue Code" and "Internal Revenue Code of
3 1986" and thereby incorporate certain provisions of the federal law into Georgia law; to
4 provide that certain corporate income tax elections made for federal income tax purposes
5 shall also apply for state income tax purposes; to change certain electronic filing
6 requirements; to provide an effective date; to provide applicability; to repeal conflicting laws;
7 and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 SECTION 1.

10 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
11 amended in Code Section 48-1-2, relating to definitions regarding revenue and taxation, by
12 revising paragraph (14) as follows:

13 "(14) 'Internal Revenue Code' or 'Internal Revenue Code of 1986' means for taxable years
14 beginning on or after January 1, 2009, the provisions of the United States Internal Revenue
15 Code of 1986, as amended, provided for in federal law enacted on or before January 1,
16 ~~2009~~ 2010, except that Section 85(c), Section 108(i), Section 163(e)(5)(F), Section
17 164(a)(6), Section 164(b)(6), Section 168(b)(3)(I), Section 168(e)(3)(B)(vii), Section
18 168(e)(3)(E)(ix), Section 168(e)(8), Section 168(k) (but not excepting Section
19 168(k)(2)(A)(i), Section 168(k)(2)(D)(i), and Section 168(k)(2)(E)), Section 168(m),
20 Section 168(n), ~~Section 172(b)(1)(F), Section 172(b)(1)(H), Section 172(b)(1)(J), Section~~
21 172(j), Section 199, Section 810(b)(4), Section 1400L, Section 1400N(d)(1), Section
22 1400N(f), Section 1400N(j), Section 1400N(k), and Section 1400N(o) of the Internal
23 Revenue Code of 1986, as amended, shall be treated as if they were not in effect, and
24 except that Section 168(e)(7), Section 172(b)(1)(F), Section 172(i)(1), and Section 1221
25 of the Internal Revenue Code of 1986, as amended, shall be treated as they were in effect
26 before the 2008 enactment of federal Public Law 110-343, and except that Section

27 163(i)(1) of the Internal Revenue Code of 1986, as amended, shall be treated as it was in
 28 effect before the 2009 enactment of federal Public Law 111-5, and except that Section
 29 13(e)(4) of 2009 federal Public Law 111-92 shall be treated as if it was not in effect. For
 30 taxable years beginning on or after January 1, 2009, the terms 'Internal Revenue Code' or
 31 'Internal Revenue Code of 1986' shall also include the provisions of federal Public Law
 32 111-126 as enacted on January 22, 2010. In the event a reference is made in this title to the
 33 Internal Revenue Code or the Internal Revenue Code of 1954 as it existed on a specific
 34 date prior to January 1, ~~2009~~ 2010, the term means the provisions of the Internal Revenue
 35 Code or the Internal Revenue Code of 1954 as it existed on the prior date. Unless
 36 otherwise provided in this title, any term used in this title shall have the same meaning as
 37 when used in a comparable provision or context in the Internal Revenue Code of 1986, as
 38 amended. For taxable years beginning on or after January 1, 2009, provisions of the
 39 Internal Revenue Code of 1986, as amended, which were as of January 1, ~~2009~~ 2010,
 40 enacted into law but not yet effective shall become effective for purposes of Georgia
 41 taxation on the same dates upon which they become effective for federal tax purposes."

42 **SECTION 2.**

43 Said title is further amended in Code Section 48-7-21, relating to the calculation of Georgia
 44 taxable net income for corporations, by revising paragraph (5) of subsection (b) as follows:
 45 "(5) ~~Reserved~~ All elections under Section 338 of the Internal Revenue Code of 1986 shall
 46 also apply under this article."

47 **SECTION 3.**

48 Said title is further amended by revising Code Section 48-7-54, relating to electronic filing,
 49 as follows:
 50 "48-7-54.
 51 The commissioner may require any nonindividual taxpayer and any return preparer who
 52 prepares any return, report, or other document required to be filed by this chapter to
 53 electronically file any return, report, or other document required to be filed by this chapter
 54 when the federal counterpart of such return, report, or other document is required to be
 55 filed electronically pursuant to the Internal Revenue Code of 1986 or Internal Revenue
 56 Service regulations. The commissioner shall be authorized to prescribe forms and
 57 promulgate rules and regulations deemed necessary in order to effectuate this Code
 58 section."

59

SECTION 4.

60 (a) This Act shall become effective upon its approval by the Governor or upon its
61 becoming law without such approval.

62 (b) Section 1 of this Act shall be applicable to all taxable years beginning on or after
63 January 1, 2009.

64 (c) Section 2 of this Act shall apply with respect to stock purchases and sales occurring on
65 or after the effective date of this Act.

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SECTION 5.

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