

House Bill 334

By: Representatives Knight of the 126th, Peake of the 137th, O`Neal of the 146th, and Roberts of the 154th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 2 of Title 48 of the Official Code of Georgia Annotated,
2 relating to administration of revenue and taxation, so as to change certain provisions
3 regarding forms of payment; to provide for penalties when taxpayers who are required to file
4 electronically do not do so; to provide an effective date; to repeal conflicting laws; and for
5 other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 2 of Chapter 2 of Title 48 of the Official Code of Georgia Annotated, relating to
9 administration of revenue and taxation, is amended in subsection (f) of Code Section
10 48-2-32, relating to forms of payment, by revising paragraph (2.1) to read as follows:

11 "(2.1) The commissioner may require that any person or business owing more than
12 ~~\$5,000.00~~ \$500.00 in connection with any return, report, or other document pertaining
13 to sales tax, use tax, withholding tax, or motor fuel distributor tax required to be filed
14 with the department on or after ~~July 1, 2006~~ January 1, 2010, shall pay any such sales tax,
15 use tax, withholding tax, or motor fuel distributor tax liability to the state by electronic
16 funds transfer so that the state receives collectable funds on the date such payment is
17 required to be made. In emergency situations, the commissioner may authorize
18 alternative means of payment in funds immediately available to the state on the date of
19 payment."

20 **SECTION 2.**

21 Said article is further amended by adding a new Code section to read as follows:

22 "48-2-44.1.

23 (a) When this title requires that any return pertaining to sales tax, use tax, withholding tax,
24 or motor fuel distributor tax be electronically transmitted or filed, or provides that the
25 commissioner may by rule or regulation require that any return pertaining to sales tax, use

26 tax, withholding tax, or motor fuel distributor tax be electronically transmitted or filed, and
27 a taxpayer fails to electronically transmit or file such return, the taxpayer shall be deemed
28 to have failed to make the required filing; provided, however, that such deemed failure to
29 make the required filing shall comply with Internal Revenue Service policy with respect
30 to returns which are required to be electronically transmitted or filed. Such deemed failure
31 to make the required filing shall also result in the forfeiture of the compensation of dealers
32 for reporting and paying tax provided in Code Section 48-8-50 since such Code section
33 provides such compensation only if such return is timely filed. The penalty imposed on the
34 taxpayer for such failure shall be the greater of \$25.00 for each such return or five percent
35 of the tax due on each such return before application of any payments or credits. Such
36 \$25.00 penalty amount shall be consistent with the penalty imposed on the failure to file
37 a withholding tax return as provided in Code section 48-7-126.
38 (b) No penalties shall be assessed pursuant to this Code section upon a showing by the
39 taxpayer or the tax return preparer that the failure was due to reasonable cause and not due
40 to gross or willful neglect or disregard of the law or of regulations or instructions issued
41 pursuant to the law.
42 (c) The penalties provided by this Code section shall be in addition to any other penalties
43 provided by law."

44 **SECTION 3.**
45 This Act shall become effective on January 1, 2010.

46 **SECTION 4.**
47 All laws and parts of laws in conflict with this Act are repealed.