

House Bill 468

By: Representative Martin of the 47<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated,  
2 relating to imposition, rate, computation, and exemptions regarding income taxes, so as to  
3 change certain provisions relating to taxation of corporations; to change certain provisions  
4 regarding expenses from transactions with certain related persons or members; to provide an  
5 effective date; to provide for applicability; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to  
9 imposition, rate, computation, and exemptions regarding income taxes, is amended in  
10 subsection (b) of Code Section 48-7-21, relating to taxation of corporations, by adding a new  
11 paragraph to read as follows:

12 "(16)(A) As used in this paragraph, the term 'related member' shall have the same  
13 meaning as provided in Code Section 48-7-28.3.

14 (B) There shall be subtracted from taxable income, before the income is apportioned  
15 or allocated as provided by Code Section 48-7-31, any amount received or accrued  
16 from a related member during the taxable year to the extent such amount corresponds  
17 to expenses or costs the related member was required to add back and thereby include  
18 in its taxable income prior to the apportionment and allocation of such income pursuant  
19 to paragraph (10) of this subsection."

20 **SECTION 2.**

21 Said article is further amended in Code Section 48-7-28.3, relating to expenses from  
22 transactions with related members, by revising paragraph (2) of subsection (d) as follows:

23 "(2) The amount of the adjustment required by subsection (b) of this Code section shall  
24 be reduced, but not below zero, to the extent the corresponding interest expenses and  
25 costs and intangible expenses and costs:

26 (A) Are received as income in an arm's length transaction by the related member;  
27 provided, however, that the subtraction from taxable income permitted by paragraph  
28 (16) of subsection (b) of Code Section 48-7-21 shall not be taken into account for  
29 purposes of determining whether such expenses and costs are received as income by the  
30 related member; and

31 (B) Such income is allocated or apportioned, or both, to and taxed by Georgia or  
32 another state that imposes a tax on or measured by the income of the related member."

33 **SECTION 3.**

34 This Act shall become effective upon its approval by the Governor or upon its becoming law  
35 without such approval and shall be applicable to all taxable years beginning on or after  
36 January 1, 2009.

37 **SECTION 4.**

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