

House Bill 946

By: Representatives Everson of the 106th, Lunsford of the 110th, Hamilton of the 23rd, and Davis of the 109th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 48-7-27 of the Official Code of Georgia Annotated, relating to
2 computation of Georgia taxable net income of an individual taxpayer, so as to provide for an
3 exclusion with respect to certified new business income; to provide for definitions,
4 procedures, conditions, and limitations; to provide an effective date; to provide for
5 applicability; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Code Section 48-7-27 of the Official Code of Georgia Annotated, relating to computation
9 of Georgia taxable net income of an individual taxpayer, is amended by adding a new
10 subsection to read as follows:

11 "(e)(1) As used in this subsection, the term:

12 (A) 'Certified new business' means a new business:

13 (i) For which the taxpayer has applied for and received from the Internal Revenue
14 Service a new taxpayer identification number; and

15 (ii) For which the taxpayer has completed an application affidavit approved by the
16 department certifying:

17 (I) Any and all businesses in which the taxpayer has any ownership interest as of
18 the date of such application;

19 (II) That the new business is not a continuation, rebranding, or reorganization of an
20 existing business; and

21 (III) That the taxpayer actually works in and is not merely a passive owner of such
22 new business.

23 (B) 'Taxpayer' means an individual, sole proprietorship, partnership, S corporation,
24 limited liability company, or limited liability partnership, except as otherwise provided
25 in this subsection.

26 (2) Subject to the conditions and limitations specified in this subsection, a taxpayer may
27 exclude an amount not to exceed \$50,000.00 from such taxpayer's Georgia taxable net
28 income from such certified new business during the first two taxable years of bona fide
29 operations of one or more certified new businesses.

30 (3) The exclusion amount specified in paragraph (2) of this subsection shall be
31 cumulative regardless of the number of certified new businesses.

32 (4) If a taxpayer is married, each spouse shall be authorized to calculate the exclusion
33 amount separately so that taxpayers who are married filing jointly may exclude an
34 amount not to exceed \$100,000.00 from their Georgia taxable net income during the first
35 two taxable years of bona fide operations of one or more certified new businesses.

36 (5) A taxpayer shall not qualify for the exclusion under this subsection unless such
37 taxpayer is a least 18 years of age or older in the year for which the exclusion is claimed.

38 (6) A taxpayer shall not qualify for the exclusion under this subsection if such taxpayer
39 is claimed as a dependant on another taxpayer's income tax return in the year for which
40 the exclusion is claimed.

41 (7) If otherwise qualified under this subsection, there shall be no limit on the number of
42 business owners of a certified new business who are eligible for the exclusion under this
43 subsection.

44 (8) In the case of a C corporation, a taxpayer who is otherwise qualified under this
45 subsection may claim the exclusion authorized under this subsection for dividends
46 declared by such C corporation and paid to such taxpayer.

47 (9) The exclusion amount shall be authorized only for taxpayers who start certified new
48 businesses. An individual or group of owners who purchase a certified new business
49 shall not be authorized to claim and receive the exclusion for that certified new business.

50 (10) Any deductible losses from any certified new business shall be netted against any
51 W-2 compensation paid to the taxpayer from any certified new business and any income
52 from any other certified new business such that the combined W-2 compensation and net
53 income from all certified new businesses of the taxpayer shall be combined in order to
54 determine the exclusion amount under this subsection.

55 (11) For a taxable year in which a certified new business has a loss and there is no W-2
56 compensation paid to the taxpayer and no income from any other certified new
57 businesses, the exclusion amount under this subsection shall be zero.

58 (12) Other Georgia taxable net income adjustments related to a certified new business
59 W-2 compensation and income, such as one-half of self-employment taxes; SEP, IRA,
60 or SIMPLE funding; and self-employed health care insurance, shall be netted against the
61 calculation of exclusion amount under this subsection."

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SECTION 2.

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

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SECTION 3.

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