

House Bill 532

By: Representative Kidd of the 141st

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 5 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated,
2 relating to current income tax payment and withholding, so as to provide for the taxability
3 of compensation paid to entertainers and professional athletes; to provide for income tax
4 withholding on such compensation; to provide for withholding without regard to whether an
5 entertainer or professional athlete is considered an employee for other purposes; to provide
6 for applicability and reporting; to provide for other related matters; to provide for an effective
7 date; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 SECTION 1.

10 Article 5 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to
11 current income tax payment and withholding, is amended by adding a new Code section to
12 read as follows:

13 "48-7-100.2.

14 (a) Any person who or which maintains an office or transacts business within this state and
15 during a calendar year pays compensation, in cash or otherwise, for personal services as
16 an entertainer or professional athlete in connection with a performance or athletic event to
17 an entertainer or professional athlete who is:

18 (1) A resident individual shall withhold Georgia income tax from such compensation,
19 whether or not the performance or athletic event is held within Georgia; or

20 (2) A nonresident individual shall withhold Georgia income tax from the portion of such
21 compensation that is derived from or connected with sources within this state.

22 (b) Compensation described in subsection (a) of this Code section shall be subject to
23 Georgia income taxation notwithstanding any other provision of law to the contrary.

24 (c) Withholding as provided for in subsection (a) of this Code section shall be required
25 without regard to whether the entertainer or professional athlete is or is not considered an

26 employee for federal withholding tax purposes. Such withholding shall apply without
 27 regard to:

28 (1) Whether the entertainer or professional athlete is or is not a taxable nonresident as
 29 defined in Code Section 48-7-1; and

30 (2) The number of days which the person is employed within the state, notwithstanding
 31 any provision of subparagraph (K) of paragraph (10) of Code Section 48-7-100 to the
 32 contrary.

33 (d) The value of compensation in the form of noncash prizes and awards shall be fair
 34 market value. For purposes of this Code section, compensation paid for personal services
 35 in a performance includes, but is not limited to, compensation paid to actors, singers,
 36 musicians, dancers, circus performers, writers, directors, and set designers; any person
 37 appearing in a television, radio, stage, hotel show, or night club performance; and any
 38 person whose performance is recorded or filmed.

39 (e) Even though a person whose services are covered by this Code section is not
 40 considered an employee for federal withholding tax purposes, such person shall be treated
 41 as an employee, and the person paying compensation to such person, or to the agent
 42 thereof, shall be treated as an employer, for purposes of this article. The person treated as
 43 an employer shall:

44 (1) Register for Georgia income tax withholding purposes and deduct and withhold
 45 Georgia income tax on the compensation at the highest marginal rate; and

46 (2) Show the amount of Georgia income tax deducted and withheld on the federal Form
 47 1099-MISC that is to be furnished to each person treated as an employee under this Code
 48 section by the person treated as an employer under this Code section on or before the last
 49 day of January of the next succeeding calendar year."

50 **SECTION 2.**

51 This Act shall become effective on January 1, 2012.

52 **SECTION 3.**

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