

## House Bill 227

By: Representatives Powell of the 171<sup>st</sup>, Kelley of the 16<sup>th</sup>, Harrell of the 106<sup>th</sup>, Duncan of the 26<sup>th</sup>, and Williamson of the 115<sup>th</sup>

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 provide for the value of interest  
3 to be paid on refunds of certain overpayments made pursuant to a direct payment permit; to  
4 amend Part 2 of Article 1 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated,  
5 relating to the imposition, rate, collection, and assessment of sales and use taxes, so as to  
6 require the Department of Revenue to establish and maintain a direct pay permit program that  
7 permits a qualified taxpayer to accrue and pay directly to the department certain state and  
8 local sales and use taxes; to provide for related matters; to provide for an effective date; to  
9 repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Article 2 of Chapter 2 of Title 48 of the Official Code of Georgia Annotated, relating to  
13 administration of revenue and taxation, is amended in Code Section 48-2-35, relating to  
14 refunds of taxes and fees, by revising subsection (b) as follows:

15 "(b)(1) No interest shall be paid if the taxes or fees were erroneously or illegally assessed  
16 and collected due to the taxpayer failing to claim any credits listed in Article 2 of Chapter  
17 7 of this title on or before the due date for filing the applicable income tax return,  
18 including any extensions which have been granted.

19 (2) For refunds of overpayments of state and local sales and use taxes made pursuant to  
20 a direct payment permit issued in accordance with Code Section 48-8-49.1, interest shall  
21 be paid on the overpaid amount of the taxes or fees from the date of payment of the tax  
22 or fee by the taxpayer to the department at an annual rate equal to the bank prime loan  
23 rate as described in subsection (a) of this Code section; however, if a taxpayer has  
24 overpaid its actual liability by 10 percent or more on two of such taxpayer's previous four  
25 payments, interest shall not be paid on such taxpayer's overpaid amounts for 12 months  
26 from the date of such second overpayment."

27 **SECTION 2.**

28 Part 2 of Article 1 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated,  
 29 relating to the imposition, rate, collection, and assessment of sales and use taxes, is amended  
 30 by adding a new Code section to read as follows:

31 "48-8-49.1.

32 (a) As used in this Code section, the term:

33 (1) 'Direct payment permit' means a license that permits a qualified taxpayer to accrue  
 34 and pay directly to the department certain state and local sales and use taxes imposed by  
 35 this chapter.

36 (2) 'Qualified taxpayer' means a taxpayer that:

37 (A) Purchased more than \$2 million of tangible personal property in the 12 months  
 38 prior to application, purchased an annual average amount exceeding \$2 million of  
 39 tangible personal property during the 36 months prior to application, or met a lower  
 40 purchase threshold prescribed the department; and

41 (B) Was classified under the previous year's federal income tax return under an  
 42 industry classification code prescribed by the department or equivalent to one of the  
 43 following North American Industry Classification System (NAICS) codes as they  
 44 existed on January 1, 2017:

45 (i) National Industry Code 517110 - Wired Telecommunications Carriers;

46 (ii) National Industry Code 517210 - Wireless Telecommunications Carriers (except  
 47 Satellite);

48 (iii) National Industry Code 517410 - Satellite Telecommunications;

49 (iv) NAICS Industry Code 48111 - Scheduled Air Transportation;

50 (v) NAICS Industry Code 48211 - Rail Transportation;

51 (vi) Industry Group Code 4841 - General Freight Trucking;

52 (vii) Economic Sector Code 21 - Mining, Quarrying, and Oil and Gas Extraction;

53 (viii) Economic Sector Code 22 - Utilities; or

54 (ix) Economic Sector Codes 31-33 - Manufacturing.

55 (b) The department shall establish and maintain a direct pay reporting program for the  
 56 purpose of enabling qualified taxpayers to directly pay to the department taxes that are  
 57 imposed on qualified taxpayers by this chapter provided that the commissioner may  
 58 exclude the following:

59 (1) Purchases of fuels subject to prepaid local tax as such term is defined in Code Section  
 60 48-8-2;

61 (2) Purchases of meals, beverages, or tobacco;

62 (3) Purchases of local telephone services, transportation of persons, or lodging  
 63 accommodations and ancillary charges associated with lodging accommodations;

64 (4) Purchases to places of amusement, entertainment, or athletic events; admissions to  
65 displays or exhibitions; participation in games or sports; or charges for the use of  
66 amusement devices; or

67 (5) Rental charges for periods of 31 days or less for motor vehicles required to be titled  
68 in this state.

69 (c) The department shall issue a direct pay permit to a qualified taxpayer upon application  
70 in a manner that the department shall prescribe by rule or regulation.

71 (d) The department shall, at a minimum, provide for the following by rule or regulation:

72 (1) Certain attestations to be made by a qualified taxpayer in its application for a direct  
73 pay permit;

74 (2) Responsibilities and duties for holders of direct pay permits;

75 (3) Transferability or nontransferability of direct pay permits;

76 (4) Expiration and renewal of direct pay permits; and

77 (5) Revocation of direct pay permits."

78 **SECTION 3.**

79 This Act shall become effective upon its approval by the Governor or upon its becoming law  
80 without such approval.

81 **SECTION 4.**

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