

## House Bill 265

By: Representatives Efration of the 104<sup>th</sup>, Rogers of the 10<sup>th</sup>, Rhodes of the 120<sup>th</sup>, Kelley of the 16<sup>th</sup>, Stephens of the 164<sup>th</sup>, and others

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 from state income tax, so as to  
3 revise the provisions relating to the credit for establishing or relocating quality jobs; to  
4 amend Code Section 48-8-3 of the Official Code of Georgia Annotated, relating to  
5 exemptions from state sales and use taxes, so as to provide a state sales tax exemption for  
6 sales of tickets, fees, or charges of admission to certain facilities that provide certain arts and  
7 education programming; to provide a state and local sales tax exemption for sales of tangible  
8 personal property used for or in the renovation or expansion of certain theaters; to provide  
9 for related matters; to provide for an effective date and applicability; to repeal conflicting  
10 laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to  
14 imposition, rate, computation, and exemptions from state income tax, is amended by revising  
15 subsection (a) of Code Section 48-7-40.17, relating to an income tax credit for establishing  
16 or relocating quality jobs, as follows:

17 "48-7-40.17.

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

19 (1) 'Average wage' means the average wage of the county in which a new quality job is  
20 located as reported in the most recently available annual issue of the Georgia  
21 Employment and Wages Averages Report of the Department of Labor.

22 (2) 'New quality job' means employment for an individual which:

23 (A) Is located in this state;

24 (B) Has a regular work week of 30 hours or more;

25 (C) Is not a job that is or was already located in Georgia regardless of which taxpayer  
26 the individual performed services for; and

27 (D) Pays at or above 110 percent of the average wage of the county in which it is  
28 located.

29 (3) 'Qualified investment property' means all real and personal property purchased or  
30 acquired by a taxpayer for use in a qualified project, including, but not limited to,  
31 amounts expended on land acquisition, improvements, buildings, building improvements,  
32 and any personal property to be used in the facility or facilities.

33 (4) 'Qualified investment property requirement' means the requirement that a minimum  
34 of \$2.5 million in qualified investment property will have been purchased or acquired by  
35 the taxpayer to be used with respect to a qualified project. Such qualified investment  
36 property must be placed in service by the end of the two-year period specified in  
37 subsection (b) of this Code section.

38 (5) 'Qualified project' means a project which meets the qualified investment property  
39 requirement and which involves the construction of one or more new facilities in this  
40 state or the expansion of one or more existing facilities in this state. For purposes of this  
41 paragraph, the term 'facilities' means all facilities comprising a single project, including  
42 noncontiguous parcels of land, improvements to such land, buildings, building  
43 improvements, and any personal property that is used in the facility or facilities.

44 ~~(3)~~(6) 'Taxpayer' means any person required by law to file a return or to pay taxes,  
45 except that any taxpayer may elect to consider the jobs within its disregarded entities, as  
46 defined in the Internal Revenue Code, for purposes of calculating the number of new  
47 quality jobs created by the taxpayer under this Code section.

48 (b) A taxpayer establishing new quality jobs in this state or relocating quality jobs into this  
49 state which elects not to receive the tax credits provided for by Code Sections 48-7-40,  
50 48-7-40.1, 48-7-40.2, 48-7-40.3, 48-7-40.4, 48-7-40.7, 48-7-40.8, and 48-7-40.9 for such  
51 jobs and investments created by, arising from, related to, or connected in any way with the  
52 same project and, within one year of the first date on which the taxpayer pursuant to the  
53 provisions of Code Section 48-7-101 withholds wages for employees in this state and  
54 employs at least 50 persons in new quality jobs in this state, shall be allowed a credit for  
55 taxes imposed under this article; except that a taxpayer that initially qualifies to claim the  
56 credit in a taxable year beginning on or after January 1, 2017, has two years from the first  
57 date on or after January 1, 2017, on which the taxpayer, pursuant to the provisions of Code  
58 Section 48-7-101 withholds wages for employees in this state, to employ at least 50 persons  
59 in new quality jobs in this state:

60 (1) Equal to \$2,500.00 annually per eligible new quality job where the job pays 110  
61 percent or more but less than 120 percent of the average wage of the county in which the  
62 new quality job is located;

63 (2) Equal to \$3,000.00 annually per eligible new quality job where the job pays 120  
64 percent or more but less than 150 percent of the average wage of the county in which the  
65 new quality job is located;

66 (3) Equal to \$4,000.00 annually per eligible new quality job where the job pays 150  
67 percent or more but less than 175 percent of the average wage of the county in which the  
68 new quality job is located;

69 (4) Equal to \$4,500.00 annually per eligible new quality job where the job pays 175  
70 percent or more but less than 200 percent of the average wage of the county in which the  
71 new quality job is located; and

72 (5) Equal to \$5,000.00 annually per eligible new quality job where the job pays 200  
73 percent or more of the average wage of the county in which the new quality job is  
74 located;

75 provided, however, that where the amount of such credit exceeds a taxpayer's liability for  
76 such taxes in a taxable year, the excess may be taken as a credit against such taxpayer's  
77 quarterly or monthly payment under Code Section 48-7-103 but not to exceed in any one  
78 taxable year the credit amounts in paragraphs (1) through (5) of this subsection for each  
79 new quality job when aggregated with the credit applied against taxes under this article.  
80 Each employee whose employer receives credit against such taxpayer's quarterly or  
81 monthly payment under Code Section 48-7-103 shall receive a credit against his or her  
82 income tax liability under Code Section 48-7-20 for the corresponding taxable year for the  
83 full amount which would be credited against such liability prior to the application of the  
84 credit provided for in this subsection. Credits against quarterly or monthly payments under  
85 Code Section 48-7-103 and credits against liability under Code Section 48-7-20 established  
86 by this subsection shall not constitute income to the taxpayer. For each new quality job  
87 created, the credit established by this subsection may be taken for the first taxable year in  
88 which the new quality job is created and for the four immediately succeeding taxable years;  
89 provided, however, that such new quality jobs must be created within seven years from the  
90 close of the taxable year in which the taxpayer first becomes eligible for such credit. Credit  
91 shall not be allowed during a year if the net employment increase falls below the 50 new  
92 quality jobs required. Any credit received for years prior to the year in which the net  
93 employment increase falls below the 50 new quality jobs required shall not be affected  
94 except as provided in subsection (f) (g) of this Code section. The state revenue  
95 commissioner shall adjust the credit allowed each year for net new employment  
96 fluctuations above the 50 new quality jobs required.

97 (c) Only a taxpayer that creates a qualified project in a taxable year beginning on or after  
98 January 1, 2017, shall be eligible to begin a subsequent seven-year job creation period for  
99 the qualified project, provided that the taxpayer creates 50 or more new quality jobs, at the

100 site or sites of a qualified project or the facility or facilities resulting therefrom, above its  
101 single previous high yearly average number of new quality jobs during any prior  
102 seven-year job creation period. A subsequent seven-year job creation period is subject to  
103 all the requirements of this Code section. A taxpayer must notify the commissioner of their  
104 intent to begin a subsequent seven-year job creation period. The commissioner shall  
105 provide by regulation the time in which such notification shall occur. New quality jobs  
106 generated under previous seven-year job creation periods will continue to be eligible for  
107 the credit as provided by this Code section. No new quality jobs may be generated under  
108 previous periods of eligibility after a subsequent period of eligibility has begun. New  
109 quality jobs created in a subsequent seven-year job creation period shall not be counted as  
110 additional new quality jobs under a previous seven-year job creation period, instead those  
111 new quality jobs will count toward the subsequent period. For purposes of determining the  
112 number of new quality jobs in a particular year that are attributable to each seven-year job  
113 creation period, the taxpayer shall begin with the first seven-year job creation period and  
114 then attribute the remainder to each subsequent seven-year job creation period from the  
115 oldest to the newest. Such attributions shall be made up to the single high yearly average  
116 number of new quality jobs for each seven-year job creation period. A taxpayer may create  
117 more than one subsequent seven-year job creation period.

118 ~~(e)~~(d) The number of new quality jobs to which this Code section shall be applicable shall  
119 be determined by comparing the monthly average of new quality jobs subject to Georgia  
120 income tax withholding for the taxable year with the corresponding average for the prior  
121 taxable year.

122 ~~(d)~~(e) Any credit claimed under this Code section but not used in any taxable year may be  
123 carried forward for ten years from the close of the taxable year in which the new quality  
124 jobs were established.

125 ~~(e)~~(f) Notwithstanding Code Section 48-2-35, any tax credit claimed under this Code  
126 section shall be claimed within one year of the earlier of the date the original return was  
127 filed or the date such return was due as prescribed in subsection (a) of Code Section  
128 48-7-56, including any approved extensions.

129 ~~(f)~~(g) Taxpayers that initially claimed the credit under this Code section for any taxable  
130 year beginning before January 1, 2012, shall be governed, for purposes of all such credits  
131 claimed as well as any credits claimed in subsequent taxable years related to such initial  
132 claim, by this Code section as it was in effect for the taxable year in which the taxpayer  
133 made such initial claim.

134 ~~(g)~~(h) The state revenue commissioner shall promulgate any rules and regulations  
135 necessary to implement and administer this Code section."

136 **SECTION 2.**

137 Code Section 48-8-3 of the Official Code of Georgia Annotated, relating to exemptions from  
 138 state sales and use taxes, is amended by deleting "or" at the end of paragraph (97), by  
 139 deleting the period and adding ";" at the end of paragraph (98), and by adding two new  
 140 paragraphs to read as follows:

141 "(99) Sales of tickets, fees, or charges for admission to a performance or exhibition  
 142 conducted within a facility in this state that contains an art museum, symphonic hall, and  
 143 theater and that is owned or operated by an organization which is exempt from taxation  
 144 under Section 501(c)(3) of the Internal Revenue Code, if such organization's primary  
 145 mission is to provide arts and education programming for the benefit of the citizens of  
 146 this state; or

147 (100)(A) The sale or use of tangible personal property used for or in the renovation or  
 148 expansion of a theater located within a facility in this state that contains an art museum,  
 149 symphonic hall, and theater that charges for admission and is owned or operated by an  
 150 organization which is exempt from taxation under Section 501(c)(3) of the Internal  
 151 Revenue Code, if such organization's primary mission is to provide arts and education  
 152 programming for the benefit of the citizens of this state, to the extent provided in  
 153 subparagraphs (B) and (C) of this paragraph.

154 (B) This exemption shall apply from July 1, 2017, until January 1, 2019, and until the  
 155 aggregate state sales and use tax refunded pursuant to this paragraph exceeds  
 156 \$750,000.00. A qualifying organization must pay sales and use tax on all purchases and  
 157 uses of tangible personal property and may obtain the benefit of this exemption from  
 158 state sales and use tax by filing a claim for refund of tax paid on qualifying items. All  
 159 refunds made pursuant to this paragraph shall not include interest.

160 (C) This exemption shall apply from July 1, 2017, until January 1, 2019, to any local  
 161 sales and use tax levied or imposed at any time in any area consisting of less than the  
 162 entire state, however authorized, including, but not limited to, such taxes authorized by  
 163 or pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243),  
 164 as amended, the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965,' or such  
 165 taxes as authorized by or pursuant to Article 2, 2A, 3, 4, or 5 of this chapter.

166 (D) Notwithstanding any provision of Code Section 48-8-63 to the contrary, purchases  
 167 by a contractor may qualify for the exemption provided for in this paragraph. However,  
 168 when a contractor purchases qualifying tangible personal property, the contractor shall  
 169 pay the tax at the time of purchase or at the time of first use in this state; and the  
 170 ultimate owner of the property may file a claim for refund of the tax paid on the  
 171 qualifying property.

172 (E) Items qualifying for exemption include all tangible personal property that will

173 remain at the theater after completion of construction and all tangible personal property  
174 that becomes incorporated into the real property structures of the theater. The  
175 exemption excludes all items that remain tangible personal property in the possession  
176 of a contractor after the completion of construction."

177 **SECTION 3.**

178 This Act shall become effective upon its approval by the Governor or upon its becoming law  
179 without such approval and Section 1 of this Act shall be applicable to all taxable years  
180 beginning on or after January 1, 2017.

181 **SECTION 4.**

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