

The House Committee on Ways and Means offers the following substitute to HB 93:

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 that no interest shall be
3 paid on certain refunds of sales and use taxes to certain purchasers under certain
4 circumstances; to amend Part 2 of Article 1 of Chapter 8 of Title 48 of the Official Code of
5 Georgia Annotated, relating to the imposition, rate, collection, and assessment of sales and
6 use taxes, so as to require the Department of Revenue to establish and maintain a direct pay
7 permit program that permits a qualified taxpayer to accrue and pay directly to the department
8 certain state and local sales and use taxes; to provide for related matters; to provide for an
9 effective date; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 style="text-align:center">**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 by revising Code Section 48-2-35.1,
14 relating to refunds of sales and use taxes, as follows:

15 "(a)(1) If a certificate or exemption determination letter issued by the commissioner
16 certifying that the purchaser is entitled to purchase tangible personal property or taxable
17 services without the payment of sales and use tax has not been obtained and used prior
18 to purchasing such tangible personal property or taxable services, a refund of sales and
19 use taxes shall be made to such purchaser without interest.

20 (2)(A) For refunds of overpayments of state and local sales and use taxes made
21 pursuant to a direct payment permit issued in accordance with Code Section 48-8-49.1,
22 interest shall be paid on the overpaid amount of the taxes or fees pursuant to subsection
23 (a) of Code Section 48-2-35; however, if a taxpayer has overpaid its actual liability by
24 20 percent or more for any one payment during a filing period, interest shall not be paid
25 on any overpaid amounts by such taxpayer for all of such filing period, unless such

26 taxpayer demonstrates to the commissioner a good faith effort to avoid such
 27 overpayment.

28 (B) Interest shall only be paid pursuant to this paragraph after the calculation of net
 29 payments at the end of a filing period.

30 (C) The commissioner shall pay and a taxpayer shall not waive the interest on refunds
 31 owed to such taxpayer pursuant to this paragraph."

32 **SECTION 2.**

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

36 "48-8-49.1.

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

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

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

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

46 (B) Was classified under the previous year's federal income tax return under any
 47 industry classification code as determined by the commissioner that may facilitate and
 48 expedite the collection of the taxes imposed by this chapter or equivalent to one of the
 49 following North American Industry Classification System (NAICS) codes as they
 50 existed on January 1, 2017:

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

52 (ii) National Industry Code 517210 - Wireless Telecommunications Carriers (except
 53 Satellite);

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

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

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

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

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

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

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

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

65 (1) Purchases of fuels subject to prepaid local tax as such term is defined in Code Section
 66 48-8-2;

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

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

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

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

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

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

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

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

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

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

83 (5) Revocation of direct pay permits."

84 **SECTION 3.**

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

87 **SECTION 4.**

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