

House Bill 696

By: Representatives Kelley of the 16th, Coomer of the 14th, Watson of the 172nd, Shaw of the 176th, Stephens of the 164th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 48-8-3 of the Official Code of Georgia Annotated, relating to
2 exemptions from state sales and use taxes, so as to create an exemption for certain computer
3 equipment sold or leased to certain entities for use in high-technology data centers; to
4 provide for definitions; to provide for related matters; to repeal conflicting laws; and for
5 other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Code Section 48-8-3 of the Official Code of Georgia Annotated, relating to exemptions from
9 state sales and use taxes, is amended by revising paragraph (68) as follows:

10 "(68)(A)(i) The sale or lease of computer equipment to be incorporated into a facility
11 or facilities in this state to any high-technology company classified under North
12 American Industrial Classification System code 51121, 51331, 51333, 51334, 51421,
13 52232, 54133, 54171, 54172, 334413, 334611, 513321, 513322, 514191, 541511,
14 541512, 541513, or 541519 where such sale of computer equipment for any calendar
15 year exceeds \$15 million or, in the event of a lease of such computer equipment, the
16 fair market value of such leased computer equipment for any calendar year exceeds
17 \$15 million; or

18 (ii) The sale or lease of computer equipment or high-technology data center
19 equipment to be incorporated or used in a high-technology data center.

20 (B)(i) Any person making a sale or lease of computer equipment to a high-technology
21 company as specified in subparagraph (A) of this paragraph or of computer equipment
22 or high-technology data center equipment to be incorporated or used in a
23 high-technology data center shall collect the tax imposed on the sale by this article
24 unless the purchaser furnishes such seller with a certificate issued by the
25 commissioner certifying that the purchaser is entitled to purchase the computer
26 equipment without paying the tax. As a condition precedent to the issuance of the

27 certificate, the commissioner, at ~~such commissioner's~~ his or her discretion, may
 28 require a good and valid bond with a surety company authorized to do business in this
 29 state as surety or may require legal securities, in an amount fixed by the
 30 commissioner, conditioned upon payment by the purchaser of all taxes due under this
 31 article in the event it should be determined that the sale fails to meet the requirements
 32 of this subparagraph.

33 (ii) As a further condition precedent to the issuance of such a certificate for sales of
 34 high-technology data center equipment for use in a high-technology data center, the
 35 commissioner, at his or her discretion, may require any information deemed necessary
 36 to determine if the high-technology data center is complying with its investment
 37 budgeting plan to meet the high-technology data center minimum investment
 38 threshold.

39 (C)(i) As used in this paragraph, the term '~~computer equipment~~':

40 (i) 'Computer equipment' means any individual computer or organized assembly of
 41 hardware or software, such as a server farm, mainframe or midrange computer,
 42 mainframe driven high-speed print and mailing devices, and workstations connected
 43 to those devices via high bandwidth connectivity such as a local area network, wide
 44 area network, or any other data transport technology which performs one of the
 45 following functions: storage or management of production data, hosting of production
 46 applications, hosting of application systems development activities, or hosting of
 47 applications systems testing.

48 (ii) The term shall not include:

49 ~~(F) Telephone~~ telephone central office equipment or other voice data transport
 50 technology; or

51 ~~(H) Equipment~~ equipment with ~~imbedded~~ embedded computer hardware or
 52 software which is primarily used for training, product testing, or in a manufacturing
 53 process.

54 (ii) 'High-technology data center' means a facility, campus of facilities, or array of
 55 interconnected facilities in the state that powers, cools, secures, and connects the
 56 computer equipment of customers, tenants, or licensees of a data center owner and
 57 operator and that:

58 (I) Can maintain shelter-in-place security and operations for 100 hours;

59 (II) Has a dual, nonflammable roof that protects the computer equipment and can
 60 withstand up to 200 mile per hour winds;

61 (III) Has cooling systems that can cool the computer equipment indefinitely
 62 without using water;

63 (IV) Offers denial of service mitigation services;

- 64 (V) Has a design that allows the data center itself to be constructed without
 65 flammable material; and
- 66 (VI) Has an investment budget plan which meets the high-technology data center
 67 minimum investment threshold.
- 68 (iii) 'High-technology data center equipment' means the materials, components,
 69 machinery, hardware, software, or equipment, including but not limited to emergency
 70 backup generators, air handling units, cooling towers, energy storage or energy
 71 efficiency technology, switches, power distribution units, switching gear, peripheral
 72 computer devices, routers, batteries, wiring, cabling, conduit, which equipment or
 73 materials are used to:
- 74 (I) Create, manage, facilitate, or maintain the physical and digital environments for
 75 such computer equipment;
- 76 (II) Protect the high-technology data center or computer equipment from physical,
 77 environmental, or digital threats; or
- 78 (III) Generate or provide constant delivery of power, environmental conditioning
 79 and air cooling, and telecommunication services in the data center.
- 80 (iv) 'High-technology data center minimum investment threshold' means \$250
 81 million in aggregate cost for the design, construction, and high-technology data center
 82 equipment and customer equipment deployed or used in or to support the facility over
 83 its initial ten years of operation.
- 84 (D) Any corporation, partnership, limited liability company, or any other similar entity
 85 which qualifies for the exemption and is affiliated in any manner with a nonqualified
 86 corporation, partnership, limited liability company, or any other similar entity must
 87 conduct at least a majority of its business with entities with which it has no affiliation;"

88 **SECTION 2.**

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