

House Bill 793 (AS PASSED HOUSE AND SENATE)

By: Representatives LaRiccia of the 169th, Pirkle of the 155th, Lott of the 122nd, Dubnik of the 29th, and Hanson of the 80th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated,
2 relating to general provisions regarding sales and use tax, so as to provide for an exemption
3 for certain aquarium construction; to provide for an exemption for personal property used for
4 construction of a certain museum; to provide for automatic repeal; to provide for related
5 matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 1 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to
9 general provisions regarding sales and use tax, is amended by revising paragraph (76) of
10 Code Section 48-8-3, relating to exemptions from sales tax, as follows:

11 "(76)(A) The sale or use of tangible personal property used for or in the renovation or
12 expansion of an aquarium located in this state that charges for admission and that is
13 owned or operated by an organization which is exempt from taxation under
14 Section 501(c)(3) of the Internal Revenue Code, to the extent provided in
15 subparagraphs (B) and (C) of this paragraph.

16 (B) This exemption shall apply from July 1, ~~2015~~ 2018, until January 1, ~~2017~~ 2022, or
17 until the aggregate state sales and use tax refunded pursuant to this paragraph exceeds
18 ~~\$750,000.00~~ \$4.5 million, whichever occurs first. A qualifying aquarium must pay
19 sales and use tax on all purchases and uses of tangible personal property and may obtain
20 the benefit of this exemption from state sales and use tax by filing a claim for refund
21 of tax paid on qualifying items. All refunds made pursuant to this paragraph will not
22 include interest.

23 (C) This exemption shall apply from July 1, ~~2015~~ 2018, until January 1, ~~2017~~ 2022, to
24 any local sales and use tax levied or imposed at any time in any area consisting of less
25 than the entire state, however authorized, including, but not limited to, such taxes
26 authorized by or pursuant to Section 25 of an Act approved March 10, 1965

27 (Ga. L. 1965, p. 2243), as amended, the 'Metropolitan Atlanta Rapid Transit Authority
 28 Act of 1965,' or such taxes as authorized by or pursuant to Article 2, 2A, 3, 4, or 5,
 29 or 5A of this chapter.

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

36 (E) Items qualifying for exemption include all tangible personal property that will
 37 remain at the aquarium facility after completion of construction and all tangible
 38 personal property that becomes incorporated into the real property structures of the
 39 aquarium facility. The exemption excludes all items that remain tangible personal
 40 property in the possession of a contractor after the completion of construction.

41 (F) Notwithstanding Code Sections 48-2-15, 48-7-60, and 48-7-61, by June 30 each
 42 year, any taxpayer seeking to claim the exemption provided for in subparagraph (A) of
 43 this paragraph shall electronically submit to the department, at the time of application
 44 for the exemption and any such annual renewal, the total number of visitors admitted,
 45 the average monthly number of full-time employees, and the total amount of exempt
 46 purchases made by the taxpayer in the preceding calendar year. The department shall
 47 then issue a report to the chairpersons of the House Committee on Ways and Means and
 48 the Senate Finance Committee containing such information;”

49 **SECTION 2.**

50 Said article is further amended in Code Section 48-8-3, relating to exemptions from sales tax,
 51 by deleting "or" at the end of subparagraph (E) of paragraph (99), by replacing the period
 52 with "; or" at the end of subparagraph (C) of paragraph (100), and by adding a new paragraph
 53 to read as follows:

54 “(101)(A) The sale or use of tangible personal property used for the construction of a
 55 museum. For purposes of this exemption, the term 'museum' means a facility that
 56 contains a main building with a permanent gallery that is at least 57,000 square feet in
 57 size, three temporary galleries, a theater, a garage for restoration or storage that is at
 58 least 26,500 square feet, and an outdoor pavilion; is owned or operated, either directly
 59 or indirectly, by an entity that is incorporated in this state as a nonprofit organization
 60 exempt from taxation under Section 501(c)(3) of the Internal Revenue Code; and
 61 celebrates, as its primary mission, the diverse heritage of automobiles through changing
 62 exhibits while providing educational and engaging experiences for the benefit of the

63 citizens of this state, to the extent provided in subparagraphs (B) and (C) of this
64 paragraph.

65 (B) This exemption shall apply from July 1, 2018, until December 31, 2020.
66 Notwithstanding the foregoing, the aggregate state and local sales and use tax refunded
67 pursuant to this paragraph shall not exceed \$960,000.00. A qualifying organization
68 must pay sales and use tax on all purchases and uses of tangible personal property and
69 may obtain the benefit of this exemption from state sales and use tax by filing a claim
70 for refund of tax paid on qualifying items. All refunds made pursuant to this paragraph
71 shall not include interest.

72 (C) This exemption shall apply from July 1, 2018, until December 31, 2020, to any
73 local sales and use tax levied or imposed at any time in any area consisting of less than
74 the entire state, however authorized, including, but not limited to, such taxes authorized
75 by or pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243),
76 as amended, the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965' or such
77 taxes as authorized by or pursuant to Article 2, 2A, 3, 4, 5, or 5A of this chapter.

78 (D) Notwithstanding any provision of Code Section 48-8-63 to the contrary, purchases
79 by a contractor may qualify for the exemption provided for in this paragraph; provided,
80 however, that when a contractor purchases qualifying tangible personal property, the
81 contractor shall pay the tax at the time of purchase or at the time of first use in this
82 state, and the ultimate owner of the property may file a claim for refund of the tax paid
83 on the qualifying property.

84 (E) Items qualifying for exemption include all tangible personal property that will
85 remain at the museum after completion of construction and all tangible personal
86 property that becomes incorporated into the real property structures of the museum. The
87 exemption excludes all items that remain tangible personal property in the possession
88 of a contractor after the completion of construction.

89 (F) Notwithstanding Code Sections 48-2-15, 48-7-60, and 48-7-61, by June 30 of each
90 year, any taxpayer seeking to claim the exemption provided for in subparagraph (A) of
91 this paragraph shall electronically submit to the department, at the time of application
92 for the exemption and any such annual renewal, the total number of visitors admitted,
93 the average monthly number of full-time employees, and the total amount of exempt
94 purchases made by the taxpayer in the preceding calendar year. The department shall
95 then issue a report to the chairpersons of the House Committee on Ways and Means and
96 the Senate Finance Committee containing such information.

97 (G) This paragraph shall be automatically repealed on January 1, 2021."

98

SECTION 3.

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

101

SECTION 4.

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