

House Bill 419

By: Representatives Knight of the 130th, Harrell of the 106th, Powell of the 171st, Carson of the 46th, Martin of the 49th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and
2 taxation, so as to define the terms "Internal Revenue Code" and "Internal Revenue Code of
3 1986" and thereby incorporate certain provisions of the federal law into Georgia law; to
4 revise provisions relating to partnership returns and adjustments; to provide an effective date
5 and applicability; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
9 amended by revising paragraph (14) of Code Section 48-1-2, relating to definitions regarding
10 revenue and taxation, as follows:

11 "(14) 'Internal Revenue Code' or 'Internal Revenue Code of 1986' means for taxable years
12 beginning on or after January 1, ~~2017~~ 2018, the provisions of the United States Internal
13 Revenue Code of 1986, as amended, provided for in federal law enacted on or before
14 ~~February 9, 2018~~ January 1, 2019, except that Section 108(i), Section 163(e)(5)(F),
15 Section 168(b)(3)(I), Section 168(e)(3)(B)(vii), Section 168(e)(3)(E)(ix), Section
16 168(e)(8), Section 168(k) , Section 168(m), Section 168(n), Section 179(d)(1)(B)(ii),
17 Section 179(f), Section 199, Section 381(c)(20), Section 382(d)(3), Section 810(b)(4),
18 Section 1400L, Section 1400N(d)(1), Section 1400N(f), Section 1400N(j), Section
19 1400N(k), and Section 1400N(o) of the Internal Revenue Code of 1986, as amended,
20 shall be treated as if they were not in effect, and except that Section 168(e)(7), Section
21 172(b)(1)(F), and Section 172(i)(1) of the Internal Revenue Code of 1986, as amended,
22 shall be treated as they were in effect before the 2008 enactment of federal Public Law
23 110-343, and except that Section 163(i)(1) of the Internal Revenue Code of 1986, as
24 amended, shall be treated as it was in effect before the 2009 enactment of federal Public
25 Law 111-5, and except that Section 13(e)(4) of 2009 federal Public Law 111-92 shall be
26 treated as if it was not in effect, and except that Section 118, Section 163(j), and Section

27 382(k)(1) of the Internal Revenue Code of 1986, as amended, shall be treated as they
 28 were in effect before the 2017 enactment of federal Public Law 115-97, and except that
 29 the limitations provided in Section 179(b)(1) shall be \$250,000.00 for tax years beginning
 30 in 2010, shall be \$250,000.00 for tax years beginning in 2011, shall be \$250,000.00 for
 31 tax years beginning in 2012, shall be \$250,000.00 for tax years beginning in 2013, and
 32 shall be \$500,000.00 for tax years beginning in 2014, and except that the limitations
 33 provided in Section 179(b)(2) shall be \$800,000.00 for tax years beginning in 2010, shall
 34 be \$800,000.00 for tax years beginning in 2011, shall be \$800,000.00 for tax years
 35 beginning in 2012, shall be \$800,000.00 for tax years beginning in 2013, and shall be \$2
 36 million for tax years beginning in 2014, and provided that Section 1106 of federal Public
 37 Law 112-95 as amended by federal Public Law 113-243 shall be treated as if it is in
 38 effect, except the phrase 'Code Section 48-2-35 (or, if later, November 15, 2015)' shall
 39 be substituted for the phrase 'section 6511(a) of such Code (or, if later, April 15, 2015),'
 40 and notwithstanding any other provision in this title, no interest shall be refunded with
 41 respect to any claim for refund filed pursuant to Section 1106 of federal Public Law
 42 112-95, and provided that subsection (b) of Section 3 of federal Public Law 114-292 shall
 43 be treated as if it is in effect, except the phrase 'Code Section 48-2-35' shall be substituted
 44 for the phrase 'section 6511(a) of the Internal Revenue Code of 1986' and the phrase 'such
 45 section' shall be substituted for the phrase 'such subsection.' In the event a reference is
 46 made in this title to the Internal Revenue Code or the Internal Revenue Code of 1954 as
 47 it existed on a specific date prior to ~~February 9, 2018~~ January 1, 2019, the term means the
 48 provisions of the Internal Revenue Code or the Internal Revenue Code of 1954 as it
 49 existed on the prior date. Unless otherwise provided in this title, any term used in this
 50 title shall have the same meaning as when used in a comparable provision or context in
 51 the Internal Revenue Code of 1986, as amended. For taxable years beginning on or after
 52 January 1, ~~2017~~ 2018, provisions of the Internal Revenue Code of 1986, as amended,
 53 which were as of ~~February 9, 2018~~ January 1, 2019, enacted into law but not yet effective
 54 shall become effective for purposes of Georgia taxation on the same dates upon which
 55 they become effective for federal tax purposes."

56 **SECTION 2.**

57 Said title is further amended by revising paragraph (3) of subsection (c) of Code Section
 58 48-7-53, relating to partnership returns, contents, oath, reporting of final federal adjustments,
 59 administrative adjustment request, and rules and regulations, as follows:

60 "(3) ~~Election~~ Irrevocable election for partnership or tiered partners to pay. If an audited
 61 partnership, or a tiered partner that would receive an amended schedule K-1 under
 62 paragraph (2) of this subsection, makes an election under this paragraph, it shall:

63 (A) File a completed federal adjustments report, notify the commissioner that it is
 64 making the election under this paragraph, notify each of its direct partners of their
 65 distributive share of the adjustments, and pay an amount as provided in this paragraph,
 66 including any penalty and interest, on behalf of its partners within one of the following
 67 time periods:

68 (i) For the audited partnership, no later than 90 days after the final determination date
 69 of the audited partnership;

70 (ii) For a direct tiered partner, no later than 180 days after the final determination
 71 date of the audited partnership; or

72 (iii) For an indirect tiered partner, within 90 days after the time for filing and
 73 furnishing statements to tiered partners and their partners as established by Section
 74 6226 of the Internal Revenue Code of 1986 and the regulations thereunder;

75 (B) Exclude from final federal adjustments and any positive reallocation adjustments
 76 the distributive share of such adjustments made to an exempt partner, that holds an
 77 interest directly in the audited partnership if the audited partnership is making the
 78 election or that holds an interest directly in the tiered partner if the tiered partner is
 79 making the election, that is not unrelated business income;

80 (C) Determine the total distributive share of all final federal adjustments and positive
 81 reallocation adjustments as modified by this title and apportion and allocate such
 82 adjustments as provided in Code Section 48-7-31 for such electing partnership or such
 83 electing tiered partner and determine the total distributive share of such amounts that
 84 are allocated to all corporate partners, all tiered partners, all exempt partners and that
 85 is unrelated business income, all nonresident individual partners, and all nonresident
 86 fiduciary partners. If the commissioner determines that a partnership or tiered partner
 87 fraudulently underreported its income on a return, the commissioner shall treat any
 88 income attributable to a tiered partner of such partnership or tiered partner as being
 89 apportioned and allocated entirely to Georgia to the extent the direct and indirect
 90 partners of such tiered partner are resident partners;

91 (D) Determine the total distributive share of all final federal adjustments and positive
 92 reallocation adjustments as modified by this title, but without the allocation and
 93 apportionment of such adjustments as provided by Code Section 48-7-31, that are
 94 allocated to all other partners, including but not limited to resident individual partners
 95 and resident fiduciary partners; and

96 (E) Total the amount computed pursuant to subparagraphs (C) and (D) of this
 97 paragraph and multiply by ~~6 percent~~ the rate provided in subsection (a) of Code Section
 98 48-7-21."

99

SECTION 3.

100 This Act shall become effective upon its approval by the Governor or upon its becoming law
101 without such approval. Section 1 of this act shall be applicable to all taxable years beginning
102 on or after January 1, 2018.

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SECTION 4.

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