

House Bill 419 (AS PASSED HOUSE AND SENATE)

By: Representatives Knight of the 130<sup>th</sup>, Harrell of the 106<sup>th</sup>, Powell of the 171<sup>st</sup>, Carson of the 46<sup>th</sup>, Martin of the 49<sup>th</sup>, 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.

103

**SECTION 4.**

104 All laws and parts of laws in conflict with this Act are repealed.