

House Bill 1056

By: Representative Harrell of the 106th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to sales
2 and use taxes, so as to expand sales and use taxation to encompass certain transactions of
3 digital goods and services; to revise and provide for definitions; to provide for related
4 matters; to provide for an effective date and applicability; to repeal conflicting laws; and for
5 other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to sales and use
9 taxes, is amended in Code Section 48-8-2, relating to definitions regarding sales and use
10 taxes, by adding new paragraphs, by adding a new subparagraph to paragraph (31), and by
11 revising paragraphs (37) and (39) as follows:

12 "(11.2) 'Digital code' means a key, activation, or enabling code that provides a purchaser
13 with a right to obtain one or more specified digital products that may be obtained by any
14 means, including by electronic delivery or by tangible means; provided, however, that
15 such term does not include a code that represents stored monetary value that is deducted
16 from a total as it is used by the purchaser or a redeemable card, gift card, or gift
17 certificate that entitles the holder to select specified digital products of an indicated cash
18 value.

19 (11.3) 'Digital goods or services' means:

20 (A) Specified digital products or prewritten computer software delivered electronically
21 to an end user, regardless of whether the end user receives permanent or less than
22 permanent rights to access or utilize such products or software or whether the end user
23 is required to make continued payments for such rights;

24 (B) A digital code;

25 (C) Specified digital products or prewritten computer software for which rights may
26 be permitted for access or use and for which possession is maintained by the seller or

27 a third party, regardless of whether charges for access or utilization are on a per use, per
 28 user, per license, subscription, or some other basis; or
 29 (D) Rights, licenses, or benefits delivered electronically to enhance, maintain, update,
 30 renew, upgrade, or expand benefits for specified digital products or prewritten computer
 31 software."

32 "(D.1) Sales of digital goods or services:"

33 "(34.1) 'Specified digital products' means digital:

34 (A) Audiovisual works;

35 (B) Audio works;

36 (C) Books;

37 (D) Artwork;

38 (E) Photographs;

39 (F) Periodicals;

40 (G) Newspapers;

41 (H) Magazines;

42 (I) Video greeting cards;

43 (J) Audio greeting cards; or

44 (K) Video games."

45 "(37) 'Tangible personal property' means personal property that can be seen, weighed,
 46 measured, felt, or touched or that is in any other manner perceptible to the senses.
 47 Tangible personal property includes electricity, water, gas, steam, digital goods or
 48 services, and prewritten computer software. Tangible personal property does not mean
 49 stocks, bonds, notes, insurance, or other obligations or securities."

50 "(39) 'Telecommunications service' means the electronic transmission, conveyance, or
 51 routing of voice, data, audio, video, or any other information or signals to a point, or
 52 between or among points. The term telecommunications service includes such
 53 transmission, conveyance, or routing in which computer processing applications are used
 54 to act on the form, code, or protocol of the content for purposes of transmission,
 55 conveyance, or routing without regard to whether such service is referred to as voice over
 56 Internet protocol services or is classified by the Federal Communications Commission
 57 as enhanced or value added. Telecommunications service shall not include:

58 (A) Data processing and information services that allow data to be generated, acquired,
 59 stored, processed, or retrieved and delivered by an electronic transmission to a
 60 purchaser where such purchaser's primary purpose for the underlying transaction is the
 61 processed data or information;

62 (B) Installation or maintenance of wiring or equipment on a customer's premises;

63 (C) Tangible personal property;

- 64 (D) Advertising, including but not limited to directory advertising;
65 (E) Billing and collection services provided to third parties;
66 (F) Internet access service;
67 (G) Radio and television audio and video programming services, regardless of the
68 medium, including the furnishing of transmission, conveyance, and routing of such
69 services by the programming service provider. Radio and television audio and video
70 programming services shall include but not be limited to cable service as defined in 47
71 U.S.C. Section 522(6) and audio and video programming services delivered by
72 commercial mobile radio service providers, as defined in 47 C.F.R. Section 20.3; or
73 (H) Ancillary services; ~~or~~
74 ~~(I) Digital products delivered electronically, including but not limited to software,~~
75 ~~music, video, reading materials, or ring tones."~~

76 **SECTION 2.**

77 This Act shall become effective on July 1, 2020, and shall be applicable to transactions
78 occurring on or after January 1, 2021.

79 **SECTION 3.**

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