OFFICIAL CODE OF GEORGIA ANNOTATED

2025 Supplement

Including Acts of the 2025 Regular
Session of the General Assembly

Prepared by

The Code Revision Commission

The Office of Legislative Counsel

and

The Editorial Staff of LexisNexis®

Published Under Authority of the State of Georgia

Volume 37

2024 Edition

Title 48. Revenue and Taxation (Chapters 7—8)

Including Annotations to the Georgia Reports
and the Georgia Appeals Reports

Place in Pocket of Corresponding Volume of Main Set

LexisNexis®
Miamisburg, Ohio

ISBN 978-0-327-11074-3 (set)
ISBN 978-1-66338-193-4

509422

(Pub. 41805)

THIS SUPPLEMENT CONTAINS

Statutes:

All laws specifically codified by the General Assembly of the State of Georgia through the 2025 Regular Session of the General Assembly.

Annotations of Judicial Decisions:

Case annotations reflecting decisions posted to LexisNexis® through May 12, 2025. These annotations will appear in the following traditional reporter sources: Georgia Reports; Georgia Appeals Reports; Southeastern Reporter; Supreme Court Reporter; Federal Reporter; Federal Supplement; Federal Rules Decisions; Lawyers' Edition; United States Reports; and Bankruptcy Reporter.

Annotations of Attorney General Opinions:

Constructions of the Official Code of Georgia Annotated, prior Codes of Georgia, Georgia Laws, the Constitution of Georgia, and the Constitution of the United States by the Attorney General of the State of Georgia posted to LexisNexis® through May 12, 2025.

Other Annotations:

References to:

Emory Bankruptcy Developments Journal.
Emory International Law Review.
Emory Law Journal.
Georgia Journal of International and Comparative Law.
Georgia Law Review.
Georgia State University Law Review.
John Marshall Law Review.
Mercer Law Review.
Georgia State Bar Journal.
Georgia Journal of Intellectual Property Law.
American Jurisprudence, Second Edition.
American Jurisprudence, Pleading and Practice Forms Annotated.
American Jurisprudence, Proof of Facts.
American Jurisprudence, Trials.
Corpus Juris Secundum.
Uniform Laws Annotated.
American Law Reports, First through Seventh Series.
American Law Reports, Federal.

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ARTICLE 2

IMPOSITION, RATE, COMPUTATION, EXEMPTIONS, AND CREDITS

48-7-20. Individual tax rates; credit for withholding and other payments; applicability to estates and trusts.

(a) A tax is imposed upon every resident of this state with respect to the Georgia taxable net income of the taxpayer as defined in Code Section 48-7-27. A tax is imposed upon every nonresident with respect to such nonresident's Georgia taxable net income not otherwise exempted which is received by the taxpayer from services performed, property owned, proceeds of any lottery prize awarded by the Georgia Lottery Corporation, or from business carried on in this state. Except as otherwise provided in this chapter, the tax imposed by this subsection shall be levied, collected, and paid annually.

(a.1)(1) On and after January 1, 2025, the tax imposed pursuant to subsection (a) of this Code section shall be 5.19 percent for taxable years beginning on or after January 1, 2025; provided, however, that such rate shall be reduced by 0.10 percent annually beginning on January 1, 2026, until the rate reaches 4.99 percent, provided that such annual reductions in the tax rate shall be subject to delays as provided in paragraph (2) of this subsection.

(2) Each prospective annual reduction in the tax rate that would otherwise occur as provided in paragraph (1) of this subsection shall be delayed by one year for each year that any of the following are true as of December 1:

(A) The Governor's revenue estimate for the succeeding fiscal year is not at least 3 percent above the Governor's revenue estimate for the present fiscal year;

(B) The prior fiscal year's net revenue collection was not higher than each of the preceding three fiscal years' net tax revenue collection; or

(C) The Revenue Shortfall Reserve provided for in Code Section 45-12-93 does not contain a sum that exceeds the amount of the decrease in state revenue projected to occur as a result of the prospective reduction in the tax rates set to occur the following year.

(3) The Office of Planning and Budget shall make the determinations necessary to implement the provisions of paragraph (2) of this subsection and shall report its determinations by December 1 of each year to the department, the Speaker of the House of Representatives,

the President of the Senate, and the chairpersons of the House Appropriations Committee, the House Ways and Means Committee, the Senate Appropriations Committee, and the Senate Finance Committee. This paragraph shall not be applicable after the final reduction to the rate of 4.99 percent occurs.

(b) Reserved.

(c) The amount deducted and withheld by an employer from the wages of an employee pursuant to Article 5 of this chapter, relating to current income tax payments, shall be allowed the employee as a credit against the tax imposed by this Code section. Amounts paid by an individual as estimated tax under Article 5 of this chapter shall constitute payments on account of the tax imposed by this Code section. The amount withheld or paid during any calendar year shall be allowed as a credit or payment for the taxable year beginning in the calendar year in which the amount is withheld or paid.

(d) The tax imposed by this Code section applies to the Georgia taxable net income of estates and trusts, which shall be computed in the same manner as in the case of a single individual. The tax shall be computed on the Georgia taxable net income and shall be paid by the fiduciary.

History.

Ga. L. 1931, Ex. Sess., p. 3, § 24; Code 1933, § 92-3101; Ga. L. 1937, p. 109, § 2; Ga. L. 1937-38, Ex. Sess., p. 150, § 2; Ga. L. 1955, Ex. Sess., p. 27, § 1; Ga. L. 1960, p. 1005, § 1; Ga. L. 1971, p. 605, §§ 1, 2; Ga. L. 1975, p. 857, § 1; Code 1933, § 91A-3601, enacted by Ga. L. 1978, p. 309, § 2; Ga. L. 1979, p. 5, § 62; Ga. L. 1987, p. 191, § 2; Ga. L. 1994, p. 597, § 2; Ga. L. 2018, p. 8, § 1-2/HB 918; Ga. L. 2022, p. 114, § 2-1/HB 1437; Ga. L. 2023, p. 335, § 2-2/SB 56, effective January 1, 2024; Ga. L. 2023, p. 730, § 7(12)/HB 475, effective July 1, 2023; Ga. L. 2024, p. 18, § 1/HB 1015, effective July 1, 2024; Ga. L. 2025, p. 16, § 1/HB 111, effective July 1, 2025.

Amendments.

The 2025 amendment, effective July 1, 2025, in paragraph (a.1)(1), substituted "January 1, 2025" for "January 1, 2024" twice, substituted "5.19 percent" for "5.39 percent" and "January 1, 2026" for "January 1, 2025" and added "that" following "provided" near the end. See Editor's notes for applicability.

Editor's notes.

Ga. L. 2025, p. 16, § 2/HB 111, not codified by the General Assembly, make the amendment to subsection (a.1) applicable to all taxable years beginning on or after January 1, 2025.

48-7-20.3. Tax refund credit for qualified taxpayers filing in the 2023 and 2024 tax years.

(a) As used in this Code section, the term "qualified taxpayer" means an individual taxpayer who filed an individual income tax return for both the 2023 and 2024 taxable years by the due date for filing the income tax return for the 2024 taxable year, including any extensions which have been granted. Such term shall:

(1) Not include any:

(A) Nonresident alien individual;

(B) Individual who was claimed as a dependent by another taxpayer for federal or Georgia income tax purposes for the 2023 taxable year; or

(C) Estate or trust; and

(2) Include any individual taxpayer excluded solely due to subparagraph (B) of paragraph (1) of this subsection, provided that such individual had earned income for the 2023 taxable year.

(b)(1) Once a qualified taxpayer files an individual income tax return for the 2024 taxable year, the department shall automatically credit such qualified taxpayer with a one-time refund amount equal to the lesser of:

(A) The qualified taxpayer's 2023 individual income tax liability as properly reported on Line 16 of the 2023 Georgia Form 500 or Line 4 of the 2023 Georgia Form 500EZ; or

(B) An amount, which is based on such taxpayer's filing status for the 2023 taxable year, equal to:

(i) In the case of a single taxpayer or a married taxpayer filing a separate return, $250.00;

(ii) In the case of a head of household, $375.00; or

(iii) In the case of a married couple filing a joint return, $500.00.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, in the case of any taxable nonresident or part-year resident whose tax was prorated as provided by Code Section 48-7-85, the amount of the refund credit determined pursuant to paragraph (1) of this subsection shall be prorated based on the ratio of income taxable to Georgia as properly reported on Schedule 3, Line 9 of the Georgia Form 500 for the 2023 taxable year.

(3) In no event shall the department credit pursuant to this Code section any taxpayer with a refund greater than the taxpayer's individual income tax liability as properly reported on Line 16 of the 2023 Georgia Form 500 or Line 4 of the 2023 Georgia Form 500EZ.

(c) The refunds and credits provided for in this Code section shall not constitute taxable income for Georgia individual income tax purposes.

(d) Any refunds due under this Code section to a taxpayer shall be either electronically transmitted or sent by check to such taxpayer, based on the taxpayer's refund instructions, if any, as indicated on the

taxpayer's income tax return for the 2024 taxable year, provided that such refund shall first be credited against any outstanding liability existing at the time the refund provided for in this Code section is to be issued.

(e) In no event shall the amount of a refund or credit provided for in this Code section accrue interest for the benefit of the taxpayer or be paid or credited to the taxpayer with interest.

(f) Any amount due to be refunded or credited to a taxpayer pursuant to this Code section shall be subject to the setoff debt collection provisions of Article 7 of this chapter.

(g) The commissioner may promulgate any rules and regulations necessary to implement and administer this Code section.

History.
Code 1981, § 48-7-20.3, enacted by Ga. L. 2025, p. 8, § 1/HB 112, effective April 15, 2025.

Effective date.
This Code section became effective April 15, 2025.

48-7-27. (Effective until January 1, 2027.) Computation of taxable net income.

(a) Georgia taxable net income of an individual shall be the taxpayer's federal adjusted gross income, as defined in the United States Internal Revenue Code of 1986, less:

(1) At the taxpayer's election, either:

(A) The sum of all itemized nonbusiness deductions used in computing such taxpayer's federal taxable income; or

(B) A standard deduction in an amount as follows:

(i) In the case of a married couple filing a joint return, $24,000.00; or

(ii) In the case of a single taxpayer, head of household, or married taxpayer filing a separate return, $12,000.00;

(2) The exemptions provided for in Code Section 48-7-26 together with the adjustments provided for in subsection (b) of this Code section;

(3) The amount of salary and wage expenses eliminated in computing the individual's federal adjusted gross income because the individual has taken a federal jobs tax credit which requires, as a condition to using the federal jobs tax credit, the elimination of related salary and wage expenses;

(3.1) The amount of mortgage interest eliminated from federal

itemized deductions for the purpose of computing mortgage interest credit on the federal return;

(4)(A) Income received from public pension or retirement funds, programs, or systems the income from which is exempted by federal law or treaty when the income is otherwise included in the taxpayer's federal adjusted gross income.

(B) Except as specifically provided in subparagraph (A) of this paragraph, paragraph (5) of this subsection, and paragraph (7) of this subsection, for taxable years beginning on or after January 1, 1989, no income from a public pension or retirement fund, program, or system (including those pension or retirement funds, programs, or systems provided for in Title 47) shall be exempt from income taxation in this state, notwithstanding any provision of Title 47 or any other provision of law to the contrary;

(5)(A) Retirement income otherwise included in Georgia taxable net income shall be subject to an exclusion amount as follows:

(i) For taxable years beginning on or after January 1, 1989, and prior to January 1, 1990, retirement income not to exceed an exclusion amount of $8,000.00 per year received from any source;

(ii) For taxable years beginning on or after January 1, 1990, and prior to January 1, 1994, retirement income not to exceed an exclusion amount of $10,000.00 per year received from any source;

(iii) For taxable years beginning on or after January 1, 1994, and prior to January 1, 1995, retirement income from any source not to exceed an exclusion amount of $11,000.00;

(iv) For taxable years beginning on or after January 1, 1995, and prior to January 1, 1999, retirement income from any source not to exceed an exclusion amount of $12,000.00;

(v) For taxable years beginning on or after January 1, 1999, and prior to January 1, 2000, retirement income from any source not to exceed an exclusion amount of $13,000.00;

(vi) For taxable years beginning on or after January 1, 2000, and prior to January 1, 2001, retirement income not to exceed an exclusion amount of $13,500.00 per year received from any source;

(vii) For taxable years beginning on or after January 1, 2001, and prior to January 1, 2002, retirement income from any source not to exceed an exclusion amount of $14,000.00;

(viii) For taxable years beginning on or after January 1, 2002,

and prior to January 1, 2003, retirement income from any source not to exceed an exclusion amount of $14,500.00;

(ix) For taxable years beginning on or after January 1, 2003, and prior to January 1, 2006, retirement income from any source not to exceed an exclusion amount of $15,000.00;

(x) For taxable years beginning on or after January 1, 2006, and prior to January 1, 2007, retirement income from any source not to exceed an exclusion amount of $25,000.00;

(xi) For taxable years beginning on or after January 1, 2007, and prior to January 1, 2008, retirement income from any source not to exceed an exclusion amount of $30,000.00;

(xii) For taxable years beginning on or after January 1, 2008, and prior to January 1, 2012, retirement income from any source not to exceed an exclusion amount of $35,000.00; and

(xiii) For taxable years beginning on or after January 1, 2012, retirement income from any source not to exceed an exclusion amount of $35,000.00 for each taxpayer meeting the eligibility requirement set forth in division (i) or (ii) of subparagraph (D) of this paragraph or an amount of $65,000.00 for each taxpayer meeting the eligibility requirement set forth in division (iii) of subparagraph (D) of this paragraph.

(B) In the case of a married couple filing jointly, each spouse shall if otherwise qualified be individually entitled to exclude retirement income received by that spouse up to the exclusion amount.

(C) The exclusions provided for in this paragraph shall not apply to or affect and shall be in addition to those adjustments to net income provided for under any other paragraph of this subsection.

(D) A taxpayer shall be eligible for the exclusions granted by this paragraph only if the taxpayer:

(i) Is 62 years of age or older but less than 65 years of age during any part of the taxable year;

(ii) Is permanently and totally disabled in that the taxpayer has a medically demonstrable disability which is permanent and which renders the taxpayer incapable of performing any gainful occupation within the taxpayer's competence; or

(iii) Is 65 years of age or older during any part of the year.

(E)(i) For the purposes of this paragraph, retirement income shall include but not be limited to income from military retirement, interest income, dividend income, net income from rental

property, capital gains income, income from royalties, income from pensions and annuities, and no more than $5,000.00 of an individual's earned income. Earned income in excess of $5,000.00, including but not limited to net business income earned by an individual from any trade or business carried on by such individual, wages, salaries, tips, and other employer compensation, shall not be regarded as retirement income. The receipt of earned income shall not diminish any taxpayer's eligibility for the retirement income exclusions allowed by this paragraph except to the extent of the express limitation provided in this division.

(ii) Any income received by a surviving family member that is based on the service record of a deceased veteran shall be excluded from Georgia taxable net income without regard to the age of the surviving family member.

(F) The commissioner shall by regulation require proof of the eligibility of the taxpayer for the exclusions allowed by this paragraph.

(G) The commissioner shall by regulation provide that for taxable years beginning on or after January 1, 1989, and ending before October 1, 1990, penalty and interest may be waived or reduced for any taxpayer whose estimated tax payments and tax withholdings are less than 70 percent of such taxpayer's Georgia income tax liability if the commissioner determines that such underpayment or deficiency is due to an increase in net taxable income attributable directly to amendments to this paragraph or paragraph (4) of this subsection enacted at the 1989 special session of the General Assembly and not due to willful neglect or fraud;

(5.1)(A) Up to $17,500.00 of income received by an individual who is less than 62 years of age paid to such individual as retirement benefits from military service in the armed forces of the United States or the reserve components thereof and an additional amount of up to $17,500.00 of such income, provided that he or she has Georgia earned income otherwise included in his or her Georgia taxable net income in an amount that exceeds $17,500.00.

(B) In the case of a married couple filing jointly, each spouse who is otherwise qualified for an exclusion allowed by this paragraph shall be individually entitled to exclude retirement income received by that spouse up to the exclusion amount.

(C) The exclusions provided for in this paragraph shall not apply to or affect and shall be in addition to those adjustments to net income provided for under any other paragraph of this subsection;

(6) A portion of the qualified payments to classified subcontractors, as provided in Code Section 48-7-38;

(7) Social security benefits and tier 1 railroad retirement benefits, to the extent included in federal taxable income;

(8) The amount of a dependent's unearned income included in federal adjusted gross income of a parent's return;

(9) An amount equal to the amount of contributions to the Teachers Retirement System of Georgia made by a taxpayer between July 1, 1987, and December 31, 1989, which contributions were not subject to federal income taxation but were subject to Georgia income taxation. The purpose of the exclusion provided for in this paragraph is to allow a taxpayer a recovery adjustment for such amount after commencement of distributions by such retirement system to such taxpayer and to establish the same basis for federal and state income tax purposes;

(10) With respect to a taxpayer who is a self-employed individual treated as an employee pursuant to Section 401(c)(1) of the Internal Revenue Code, an amount equal to the amount paid by the taxpayer during the taxable year for insurance which constitutes medical care for the taxpayer and the spouse and dependents of the taxpayer which is not otherwise deductible by the taxpayer for federal income tax purposes because the applicable percentage for that taxable year as specified pursuant to Section 162(l) of the Internal Revenue Code is less than 100 percent;

(11) For taxable years beginning on or after January 1, 2002, and prior to January 1, 2007:

(A) An amount equal to the amount of contributions by parents or guardians of a designated beneficiary to a savings trust account established pursuant to Article 11 of Chapter 3 of Title 20 on behalf of the designated beneficiary who is claimed as a dependent on the Georgia income tax return of the beneficiary's parents or guardians, but not exceeding $2,000.00 per beneficiary;

(B) If the parents or guardians file joint returns, separate returns, or single returns, the sum of contributions constituting deductions on their returns under this paragraph shall not exceed $2,000.00 per beneficiary;

(C) In order to claim the deduction for a taxable year:

(i) Such parent or guardian must have claimed and been allowed itemized deductions pursuant to Section 63(d) of the Internal Revenue Code of 1986 and paragraph (1) of this subsection;

(ii) The federal adjusted gross income for such taxable year cannot exceed $100,000.00 for a joint return or $50,000.00 for a separate or single return except as provided in subparagraph (D) of this paragraph; and

(iii) Such parent or guardian must be the account owner of the designated beneficiary's account;

(D) The maximum deduction authorized by this paragraph for each beneficiary shall decrease by $400.00 for each $1,000.00 of federal adjusted gross income over $100,000.00 for a joint return or $50,000.00 for a separate or single return; and

(E) For purposes of this paragraph, contributions or payments for any such taxable year may be made during or after such taxable year but on or before the deadline for making contributions to an individual retirement account pursuant to Section 219(f)(3) of the Internal Revenue Code of 1986;

(11.1) For taxable years beginning on or after January 1, 2020:

(A) An amount equal to the amount of contributions to a savings trust account established pursuant to Article 11 of Chapter 3 of Title 20 on behalf of the designated beneficiary, but not exceeding $4,000.00 per beneficiary;

(B) If the contributor files a separate return or single return, the sum of contributions constituting deductions on the contributor's return under this paragraph shall not exceed $4,000.00 per beneficiary;

(C) If the contributor files a joint return, the sum of contributions constituting deductions on the contributor's return under this paragraph shall not exceed $8,000.00 per beneficiary; and

(D) For purposes of this paragraph, contributions or payments for any such taxable year may be made during or after such taxable year but on or before the deadline for making contributions to an individual retirement account under federal law for such taxable year;

(11.2) For taxable years beginning on or after January 1, 2019, and ending on or before December 31, 2023, income received as payments from a federal disaster relief or assistance grant program administered by this state or its instrumentalities or the United States Department of Agriculture, if such federal grant program was established specifically to address agricultural losses suffered due to Hurricane Michael which was a weather event declared to be a major disaster in this state by the President of the United States during the 2018 calendar year, to the extent such income is included in federal adjusted gross income or federal taxable income;

(11.3) For taxable years beginning on or after January 1, 2025, and ending on or before December 31, 2029, income received as payments from a federal disaster relief or assistance grant program administered by this state or its instrumentalities or the United States Department of Agriculture, if such federal grant program was established specifically to address agricultural losses suffered due to Hurricane Helene which was a weather event declared to be a major disaster in this state by the President of the United States during the 2024 calendar year, to the extent such income is included in federal adjusted gross income or federal taxable income;

(11.4) For taxable years beginning on or after January 1, 2025, and ending on or before December 31, 2025, federal crop insurance proceeds received for the destruction or damage to crops due to Hurricane Helene which was a weather event declared to be a major disaster in this state by the President of the United States during the 2024 calendar year, to the extent such proceeds are included in federal adjusted gross income or federal taxable income;

(12) Military income received by a member of the National Guard or any reserve component of the armed services of the United States stationed in a combat zone or stationed in defense of the borders of the United States pursuant to military orders. The exclusion provided under this paragraph:

(A) Shall apply with respect to each taxable year, or portion thereof, covered by such military orders; and

(B) Shall apply only with respect to such member of the National Guard or any reserve component of the armed forces and only with respect to military income earned during the period covered by such military orders;

(12.1)(A) Disability income from the United States Department of Veterans Affairs received by a disabled veteran who is a citizen and resident of Georgia.

(B) As used in this paragraph, the term "disabled veteran" means any wartime veteran who was discharged under honorable conditions and who has been adjudicated by the United States Department of Veterans Affairs as being at least 90 percent totally and permanently disabled and entitled to receive service connected benefits and any veteran who is receiving or who is entitled to receive a statutory award from the United States Department of Veterans Affairs for:

(i) Loss or permanent loss of use of one or both feet;

(ii) Loss or permanent loss of use of one or both hands;

(iii) Loss of sight in one or both eyes; or

(iv) Permanent impairment of vision of both eyes of the following status: Central visual acuity of 20/200 or less in the better eye, with corrective glasses, or central visual acuity of more than 20/200 if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends on angular distance no greater than 20 degrees in the better eye;

(12.2) Payments received by a firefighter pursuant to paragraph (2) of subsection (b) of Code Section 25-3-23, to any extent such amounts are included in the taxpayer's federal adjusted gross income and are not otherwise exempt under any other provision of this Code section;

(12.3) An amount equal to 100 percent of any premium paid by the individual taxpayer during the taxable year for coverage pursuant to paragraph (2) of subsection (b) of Code Section 25-3-23, to any extent such deduction has not been included in the taxpayer's federal adjusted gross income and such amount is not otherwise deductible under any other provision of this Code section;

(12.4)(A) An amount equal to 100 percent of the payments made to and received by a disabled first responder pursuant to Code Section 45-9-85, provided that and to the extent such amounts are included in the taxpayer's federal adjusted gross income and are not otherwise exempt from the tax imposed by this article under any other provision of law.

(B) As used in this paragraph, the term "disabled first responder" means a law enforcement officer, fireman, publicly employed emergency medical technician, or a surviving spouse of such an individual, receiving payments pursuant to Code Section 45-9-85 due to total permanent disability, partial permanent disability, organic brain damage, or death occurring in the line of duty;

(12.5) Payments received by a first responder pursuant to subsection (b) of Code Section 45-25-3, to any extent such amounts are included in the taxpayer's federal adjusted gross income and are not otherwise exempt under any other provision of this Code section;

(13)(A) An amount equal to the actual amount expended for organ donation expenses not to exceed the amount of $25,000.00 incurred in accordance with the "National Organ Procurement Act."

(B) In order to qualify for the exclusion under subparagraph (A) of this paragraph, such taxpayer must, while living, donate all or part of such person's liver, pancreas, kidney, intestine, lung, or bone marrow. In the taxable year in which the donation is made, the

taxpayer shall be entitled to claim the exclusion provided in subparagraph (A) of this paragraph only with respect to unreimbursed travel expenses, lodging expenses, and lost wages incurred as a direct result of the organ donation;

(13.1) An amount equal to 100 percent of the premium paid by the taxpayer during the taxable year for high deductible health plans as defined by Section 223 of the Internal Revenue Code to the extent the deduction has not been included in federal adjusted gross income, as defined under the Internal Revenue Code of 1986, and the expenses have not been provided from a health reimbursement arrangement and have not been included in itemized nonbusiness deductions;

(14) The deduction for school teachers provided and allowed by Section 62(a)(2)(D) of the Internal Revenue Code of 1986 as enacted on or before January 1, 2005, to the extent the deduction has not been included in federal adjusted gross income, as defined under the Internal Revenue Code of 1986, and the expenses have not been included in itemized nonbusiness deductions; and

(15) The deduction provided and allowed by Section 179 of the Internal Revenue Code of 1986 as enacted on or before January 1, 2005, to the extent the deduction has not been included in federal adjusted gross income, as defined under the Internal Revenue Code of 1986, and the expenses have not been included in itemized nonbusiness deductions.

(b)(1) There shall be added to the taxable income:

(A) Dividend or interest income, to the extent that the dividend or interest income is not included in gross income for federal income tax purposes, on obligations of any state except this state or of political subdivisions except political subdivisions of this state;

(B) Interest or dividends on obligations of the United States or of any authority, commission, instrumentality, territory, or possession of the United States which by the laws of the United States are exempt from federal income taxes but not from state income taxes; and

(C) Income consisting of lump sum distributions from an annuity, pension plan, or similar source which were removed from federal adjusted gross income for the purposes of special federal tax computations or treatment.

(2) There shall be subtracted from taxable income interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent includable in gross income for federal income tax purposes but exempt from state income taxes under the

laws of the United States. Any amount subtracted under this paragraph shall be reduced by any interest expenses directly or indirectly attributable to the production of the interest or dividend income.

(3) There shall be added to taxable income any amount deducted pursuant to Section 164 of the Internal Revenue Code in determining federal taxable income that exceeds the following:

(A) For a single taxpayer, a taxpayer filing as head-of-household, or a married taxpayer filing jointly, $10,000.00; or

(B) For a married taxpayer filing separately, $5,000.00.

(4) No portion of any deductions or losses including, but not limited to, net operating losses, which occurred in a year in which the taxpayer was not subject to taxation in this state, may be deducted in any tax year. When federal adjusted gross income includes deductions or losses not allowed pursuant to this paragraph, an adjustment deleting them shall be made under rules established by the commissioner.

(5) Income, losses, and deductions previously used in computing Georgia taxable income shall not again be used in computing Georgia taxable income; and the commissioner shall provide for needed adjustments by regulation.

(6) Reserved.

(7) Except as otherwise provided in paragraph (4) of subsection (a) of this Code section, this chapter shall not be construed to repeal any tax exemptions contained in other laws of this state not referred to in this Code section. Those exemptions and the exemptions provided by federal law and treaty shall be deducted on forms provided by the commissioner.

(8) All elections made by the taxpayer under the Internal Revenue Code of 1954 or the Internal Revenue Code of 1986 shall also apply under this article.

(9) If the taxpayer claims the tax credit provided for in subsection (d) of Code Section 48-7-40.6 with respect to qualified child care property, Georgia taxable income shall be increased by any depreciation deductions attributable to such property to the extent such deductions are used in determining federal taxable income.

(10)(A) Except as otherwise provided in subparagraph (C) of this paragraph, the amount of any qualified withdrawals from a savings trust account under Article 11 of Chapter 3 of Title 20 shall not be subject to state income tax under this chapter.

(B) For withdrawals other than qualified withdrawals from such a savings trust account, the proportion of earnings in the account

balance at the time of the withdrawal shall be applied to the total funds withdrawn to determine the earnings portion to be included in the account owner's taxable net income in the year of withdrawal.

(C) For withdrawals other than qualified withdrawals from such a savings trust account and for withdrawals from such a savings trust account which are rolled over to a qualified tuition program other than the qualified tuition program established under Article 11 of Chapter 3 of Title 20, the proportion of the contributions in an account balance at the time of a withdrawal which previously have been used to reduce taxable net income pursuant to subsection (a) of this Code section shall be applied to the nonearnings portion of the total funds withdrawn to determine an amount to be included in the account owner's taxable net income in the same taxable year.

(10.1)(A) The amount of any qualified withdrawals from an ABLE account established pursuant to a Georgia ABLE program or any Qualified ABLE Program, as such programs are defined under Chapter 9 of Title 30, shall not be subject to state income tax under this chapter.

(B) For withdrawals other than qualified withdrawals from such an ABLE account, the proportion of earnings in the account balance at the time of the withdrawal shall be applied to the total funds withdrawn to determine the earnings portion to be included in the designated beneficiary's taxable net income in the year of withdrawal.

(11) Georgia taxable income shall be adjusted as provided in Code Section 48-7-28.3.

(12) Georgia taxable income shall be increased by the amount of the payments, compensation, or other economic benefit disallowed by Code Section 48-7-21.1.

(13) Georgia taxable income shall be adjusted as provided in Code Section 48-7-28.4.

(14) Georgia net operating losses shall be treated in the same manner as provided in paragraph (10.1) of subsection (b) of Code Section 48-7-21 but shall be based on the income as computed pursuant to this Code section. Any limitations included in the Internal Revenue Code of 1986 on the amount of net operating loss that can be used in a taxable year shall be applied for purposes of this Code section; provided, however, that such limitations, including, but not limited to, the 80 percent limitation, shall be applied to Georgia taxable net income.

(15) Georgia taxable net income shall be adjusted as provided in Code Section 48-7-53.

(16) Georgia taxable net income shall be adjusted as provided in subparagraph (b)(7)(C) of Code Section 48-7-21 and subsection (b) of Code Section 48-7-23.

(c) Georgia taxable income shall, if the taxpayer so elects, be adjusted with respect to federal depreciation deductions as provided in Code Section 48-7-39.

(d)(1)(A) As used in this paragraph, the term "individual" shall mean the same as is defined in Code Section 48-1-2.

(B) Georgia resident shareholders of Subchapter "S" corporations may make an adjustment to federal adjusted gross income for Subchapter "S" corporation income where another state does not recognize a Subchapter "S" corporation.

(C) A Georgia individual resident who is a partner in a partnership, who is a member of a limited liability company taxed as a partnership, or who is a single member of a limited liability company which is disregarded for federal income tax purposes may make an adjustment to federal adjusted gross income for the entity's income taxed in another state which imposes on the entity a tax on or measured by income.

(D) Adjustments pursuant to this paragraph shall only be allowed for the portion of the income on which such tax was actually paid by such Subchapter "S" corporation, partnership, or limited liability company. In multitiered situations, the adjustment for such individual shall be determined by allocating such income between the shareholders, partners, or members at each tier based upon their profit/loss percentage.

(2) Nonresident shareholders of a Georgia Subchapter "S" corporation shall execute a consent agreement to pay Georgia income tax on their portion of the corporate income in order for such Subchapter "S" corporation to be recognized for Georgia purposes. A consent agreement for each shareholder shall be filed by the corporation with its corporate tax return in the year in which the Subchapter "S" corporation is first required to file a Georgia income tax return. For a Subchapter "S" corporation in existence prior to January 1, 2008, the consent agreement shall be filed for each shareholder in the first Georgia tax return filed for a year beginning on or after January 1, 2008. A consent agreement shall also be filed in any subsequent year for any additional nonresident who first becomes a shareholder of the Subchapter "S" corporation in that year. Shareholders of a federal Subchapter "S" corporation which is not recognized for Georgia purposes may make an adjustment to federal adjusted gross income in order to avoid double taxation on this type of income. Adjustments shall not be allowed unless tax was actually paid by such corporation.

The provisions of this paragraph shall not apply to an electing Subchapter "S" corporation as defined in paragraph (7) of subsection (b) of Code Section 48-7-21.

History.

Code 1933, § 92-3107, enacted by Ga. L. 1971, p. 605, § 4; Ga. L. 1975, p. 843, § 1; Ga. L. 1978, p. 1456, § 1; Ga. L. 1979, p. 888, § 2; Code 1933, § 91A-3607, enacted by Ga. L. 1978, p. 309, § 2; Ga. L. 1979, p. 5, § 67; Ga. L. 1979, p. 888, § 4; Ga. L. 1980, p. 10, §§ 17, 18; Ga. L. 1981, p. 1857, §§ 35, 36; Ga. L. 1981, p. 1903, §§ 3, 4; Ga. L. 1982, p. 3, § 48; Ga. L. 1984, p. 1644, § 2; Ga. L. 1986, p. 749, § 1; Ga. L. 1986, p. 1480, § 1; Ga. L. 1987, p. 191, § 2; Ga. L. 1988, p. 475, § 2; Ga. L. 1989, p. 1112, §§ 1-3; Ga. L. 1989, Ex. Sess., p. 5, § 1; Ga. L. 1990, p. 1369, § 1; Ga. L. 1992, p. 1296, § 1; Ga. L. 1992, p. 2977, § 1; Ga. L. 1994, p. 381, § 2; Ga. L. 1998, p. 1, § 2; Ga. L. 1998, p. 1515, § 1; Ga. L. 1998, p. 1516, § 1; Ga. L. 1999, p. 13, § 2; Ga. L. 2000, p. 408, § 1; Ga. L. 2001, p. 76, §§ 2, 3; Ga. L. 2002, p. 372, §§ 2, 3; Ga. L. 2002, p. 1149, § 1; Ga. L. 2003, p. 637, § 1; Ga. L. 2003, p. 665, §§ 4, 5; Ga. L. 2004, p. 102, § 1; Ga. L. 2005, p. 18, § 1/HB 263; Ga. L. 2005, p. 30, § 1/HB 191; Ga. L. 2005, p. 60, § 48/HB 95; Ga. L. 2005, p. 157, § 2/HB 282; Ga. L. 2005, p. 159, §§ 13, 14/HB 488; Ga. L. 2005, p. 529, § 1/HB 556; Ga. L. 2006, p. 526, § 1/HB 1160; Ga. L. 2007, p. 112, § 2/HB 225; Ga. L. 2007, p. 271, §§ 3, 4/SB 184; Ga. L. 2008, p. 159, §§ 7, 8/HB 1014; Ga. L. 2008, p. 292, § 4/HB 977; Ga. L. 2008, p. 324, § 48/SB 455; Ga. L. 2008, p. 898, §§ 6, 7/HB 1151; Ga. L. 2009, p. 8, § 48/SB 46; Ga. L. 2009, p. 652, § 4/HB 410; Ga. L. 2009, p. 796, § 2/HB 379; Ga. L. 2010, p. 9, § 4-1/HB 1055; Ga. L. 2012, p. 108, § 1/HB 808; Ga. L. 2012, p. 257, § 2-2/HB 386; Ga. L. 2013, p. 141, § 48/HB 79; Ga. L. 2014, p. 83, § 2-1/SB 391; Ga. L. 2016, p. 588, § 2/HB 768; Ga. L. 2016, p. 805, § 1/HB 802; Ga. L. 2017, p. 336, § 5/HB 146; Ga. L. 2018, p. 8, §§ 1-7, 1-8/HB 918; Ga. L. 2018, p. 308, § 1/HB 749; Ga. L. 2018, p. 319, § 2/HB 849; Ga. L. 2019, p. 195, § 3/HB 287; Ga. L. 2019, p. 455, § 1/HB 266; Ga. L. 2019, p. 908, § 4/SB 138; Ga. L. 2020, p. 903, § 1-1/HB 105; Ga. L. 2021, p. 4, § 2/HB 593; Ga. L. 2021, p. 277, § 4/HB 149; Ga. L. 2022, p. 94, § 1/HB 1064; Ga. L. 2022, p. 114, §§ 2-3, 2-4/HB 1437; Ga. L. 2022, p. 188, § 3/HB 275; Ga. L. 2023, p. 43, § 2/HB 128, effective January 1, 2024; Ga. L. 2023, p. 335, § 2-4/SB 56, effective January 1, 2024; Ga. L. 2024, p. 522, § 3/HB 451, effective January 1, 2025; Ga. L. 2024, p. 1052, § 5(27)/SB 448, effective July 1, 2024; Ga. L. 2025, p. 231, § 2-1/HB 223, effective May 8, 2025.

Delayed effective date.

Code Section 48-7-27 is set out twice in this Code. This version is effective until January 1, 2027. For version effective January 1, 2027, see the following version.

Amendments.

The first 2025 amendment, effective May 8, 2025, added paragraphs (a)(11.3) and (a)(11.4).

The second 2025 amendment, effective July 1, 2025, part of an Act to revise, modernize, and correct the Code, redesignated former subparagraph (a)(3)(A) as paragraph (a)(3) and substituted a period for a semicolon at the end; redesignated former subparagraph (a)(3)(B) as paragraph (a)(3.1); and deleted "or" at the end of division (a)(5)(D)(i).

Editor's notes.

Ga. L. 2025, p. 231, § 1-1/HB 223, not codified by the General Assembly, provides: "This part shall be known and may be cited as the 'Timberlands Recovery, Exemption, and Earnings Stability (TREES) Act.'"

Ga. L. 2025, p. 231, § 1-2/HB 223, not codified by the General Assembly, provides: "The General Assembly finds that:

"(1) Hurricane Helene has had a catastrophic impact on the citizens and the economy of many areas in this state, has particularly devastated the timber industry on which the citizens of southwest Georgia are heavily dependent for their livelihood by reducing or eliminating the long-held investments in standing timber and timberlands of businesses and families, and has created both a public fire

hazard and a danger of insect infestations due to the massive amounts of downed timber caused by the severity of this natural disaster;

"(2) As of November, 2024, the estimated losses to standing timber caused by Hurricane Helene as measured by the State Forestry Commission were nearly $1.3 billion;

"(3) Timberlands as investments are unique as an agriculture product in this state, as timber products often take ten years or longer to realize any return on the investment;

"(4) Many counties, municipalities, and local school districts rely on the taxes levied at the time of timber's harvest or sale pursuant to Code Section 48-5-7.5, but with the destruction of timberlands throughout this state, that tax revenue will likely not be realized; and

"(5) It is the intent of the General Assembly to authorize local governing authorities to provide temporary tax relief from the taxes levied pursuant to Code 48-5-7.5 so that the timber industry, and the businesses and families that provide timber products to such industry, will realize a reduced cost for growing new product and recovering from the devastating effects of Hurricane Helene. These reduced costs will help stabilize the market and allow for quicker harvesting and recovery of lands where some timber is still salvageable."

48-7-27. (Effective January 1, 2027.) Computation of taxable net income.

(a) Georgia taxable net income of an individual shall be the taxpayer's federal adjusted gross income, as defined in the United States Internal Revenue Code of 1986, less:

(1) At the taxpayer's election, either:

(A) The sum of all itemized nonbusiness deductions used in computing such taxpayer's federal taxable income; or

(B) A standard deduction in an amount as follows:

(i) In the case of a married couple filing a joint return, $24,000.00; or

(ii) In the case of a single taxpayer, head of household, or married taxpayer filing a separate return, $12,000.00;

(2) The exemptions provided for in Code Section 48-7-26 together with the adjustments provided for in subsection (b) of this Code section;

(3) The amount of salary and wage expenses eliminated in computing the individual's federal adjusted gross income because the individual has taken a federal jobs tax credit which requires, as a condition to using the federal jobs tax credit, the elimination of related salary and wage expenses;

(3.1) The amount of mortgage interest eliminated from federal itemized deductions for the purpose of computing mortgage interest credit on the federal return;

(4)(A) Income received from public pension or retirement funds,

programs, or systems the income from which is exempted by federal law or treaty when the income is otherwise included in the taxpayer's federal adjusted gross income.

(B) Except as specifically provided in subparagraph (A) of this paragraph, paragraph (5) of this subsection, and paragraph (7) of this subsection, for taxable years beginning on or after January 1, 1989, no income from a public pension or retirement fund, program, or system (including those pension or retirement funds, programs, or systems provided for in Title 47) shall be exempt from income taxation in this state, notwithstanding any provision of Title 47 or any other provision of law to the contrary;

(5)(A) Retirement income otherwise included in Georgia taxable net income shall be subject to an exclusion amount as follows:

(i) For taxable years beginning on or after January 1, 1989, and prior to January 1, 1990, retirement income not to exceed an exclusion amount of $8,000.00 per year received from any source;

(ii) For taxable years beginning on or after January 1, 1990, and prior to January 1, 1994, retirement income not to exceed an exclusion amount of $10,000.00 per year received from any source;

(iii) For taxable years beginning on or after January 1, 1994, and prior to January 1, 1995, retirement income from any source not to exceed an exclusion amount of $11,000.00;

(iv) For taxable years beginning on or after January 1, 1995, and prior to January 1, 1999, retirement income from any source not to exceed an exclusion amount of $12,000.00;

(v) For taxable years beginning on or after January 1, 1999, and prior to January 1, 2000, retirement income from any source not to exceed an exclusion amount of $13,000.00;

(vi) For taxable years beginning on or after January 1, 2000, and prior to January 1, 2001, retirement income not to exceed an exclusion amount of $13,500.00 per year received from any source;

(vii) For taxable years beginning on or after January 1, 2001, and prior to January 1, 2002, retirement income from any source not to exceed an exclusion amount of $14,000.00;

(viii) For taxable years beginning on or after January 1, 2002, and prior to January 1, 2003, retirement income from any source not to exceed an exclusion amount of $14,500.00;

(ix) For taxable years beginning on or after January 1, 2003,

and prior to January 1, 2006, retirement income from any source not to exceed an exclusion amount of $15,000.00;

(x) For taxable years beginning on or after January 1, 2006, and prior to January 1, 2007, retirement income from any source not to exceed an exclusion amount of $25,000.00;

(xi) For taxable years beginning on or after January 1, 2007, and prior to January 1, 2008, retirement income from any source not to exceed an exclusion amount of $30,000.00;

(xii) For taxable years beginning on or after January 1, 2008, and prior to January 1, 2012, retirement income from any source not to exceed an exclusion amount of $35,000.00; and

(xiii) For taxable years beginning on or after January 1, 2012, retirement income from any source not to exceed an exclusion amount of $35,000.00 for each taxpayer meeting the eligibility requirement set forth in division (i) or (ii) of subparagraph (D) of this paragraph or an amount of $65,000.00 for each taxpayer meeting the eligibility requirement set forth in division (iii) of subparagraph (D) of this paragraph.

(B) In the case of a married couple filing jointly, each spouse shall if otherwise qualified be individually entitled to exclude retirement income received by that spouse up to the exclusion amount.

(C) The exclusions provided for in this paragraph shall not apply to or affect and shall be in addition to those adjustments to net income provided for under any other paragraph of this subsection.

(D) A taxpayer shall be eligible for the exclusions granted by this paragraph only if the taxpayer:

(i) Is 62 years of age or older but less than 65 years of age during any part of the taxable year;

(ii) Is permanently and totally disabled in that the taxpayer has a medically demonstrable disability which is permanent and which renders the taxpayer incapable of performing any gainful occupation within the taxpayer's competence; or

(iii) Is 65 years of age or older during any part of the year.

(E)(i) For the purposes of this paragraph, retirement income shall include but not be limited to income from military retirement, interest income, dividend income, net income from rental property, capital gains income, income from royalties, income from pensions and annuities, and no more than $5,000.00 of an individual's earned income. Earned income in excess of

$5,000.00, including but not limited to net business income earned by an individual from any trade or business carried on by such individual, wages, salaries, tips, and other employer compensation, shall not be regarded as retirement income. The receipt of earned income shall not diminish any taxpayer's eligibility for the retirement income exclusions allowed by this paragraph except to the extent of the express limitation provided in this division.

(ii) Any income received by a surviving family member that is based on the service record of a deceased veteran shall be excluded from Georgia taxable net income without regard to the age of the surviving family member.

(F) The commissioner shall by regulation require proof of the eligibility of the taxpayer for the exclusions allowed by this paragraph.

(G) The commissioner shall by regulation provide that for taxable years beginning on or after January 1, 1989, and ending before October 1, 1990, penalty and interest may be waived or reduced for any taxpayer whose estimated tax payments and tax withholdings are less than 70 percent of such taxpayer's Georgia income tax liability if the commissioner determines that such underpayment or deficiency is due to an increase in net taxable income attributable directly to amendments to this paragraph or paragraph (4) of this subsection enacted at the 1989 special session of the General Assembly and not due to willful neglect or fraud;

(5.1)(A) Income received by an individual who is less than 65 years of age paid to such individual as retirement benefits from military service in the armed forces of the United States or the reserve components thereof in an amount that shall not exceed $65,000.00.

(B) In the case of a married couple filing jointly, each spouse who is otherwise qualified for an exclusion allowed by this paragraph shall be individually entitled to exclude retirement income received by that spouse up to the exclusion amount.

(C) The exclusions provided for in this paragraph shall not apply to or affect and shall be in addition to those adjustments to net income provided for under any other paragraph of this subsection; provided, however, that no individual shall be allowed an exclusion provided for in this paragraph in addition to any exclusion provided for in paragraph (5) of this subsection;

(6) A portion of the qualified payments to classified subcontractors, as provided in Code Section 48-7-38;

(7) Social security benefits and tier 1 railroad retirement benefits, to the extent included in federal taxable income;

(8) The amount of a dependent's unearned income included in federal adjusted gross income of a parent's return;

(9) An amount equal to the amount of contributions to the Teachers Retirement System of Georgia made by a taxpayer between July 1, 1987, and December 31, 1989, which contributions were not subject to federal income taxation but were subject to Georgia income taxation. The purpose of the exclusion provided for in this paragraph is to allow a taxpayer a recovery adjustment for such amount after commencement of distributions by such retirement system to such taxpayer and to establish the same basis for federal and state income tax purposes;

(10) With respect to a taxpayer who is a self-employed individual treated as an employee pursuant to Section 401(c)(1) of the Internal Revenue Code, an amount equal to the amount paid by the taxpayer during the taxable year for insurance which constitutes medical care for the taxpayer and the spouse and dependents of the taxpayer which is not otherwise deductible by the taxpayer for federal income tax purposes because the applicable percentage for that taxable year as specified pursuant to Section 162(l) of the Internal Revenue Code is less than 100 percent;

(11) For taxable years beginning on or after January 1, 2002, and prior to January 1, 2007:

(A) An amount equal to the amount of contributions by parents or guardians of a designated beneficiary to a savings trust account established pursuant to Article 11 of Chapter 3 of Title 20 on behalf of the designated beneficiary who is claimed as a dependent on the Georgia income tax return of the beneficiary's parents or guardians, but not exceeding $2,000.00 per beneficiary;

(B) If the parents or guardians file joint returns, separate returns, or single returns, the sum of contributions constituting deductions on their returns under this paragraph shall not exceed $2,000.00 per beneficiary;

(C) In order to claim the deduction for a taxable year:

(i) Such parent or guardian must have claimed and been allowed itemized deductions pursuant to Section 63(d) of the Internal Revenue Code of 1986 and paragraph (1) of this subsection;

(ii) The federal adjusted gross income for such taxable year cannot exceed $100,000.00 for a joint return or $50,000.00 for a separate or single return except as provided in subparagraph (D) of this paragraph; and

(iii) Such parent or guardian must be the account owner of the designated beneficiary's account;

(D) The maximum deduction authorized by this paragraph for each beneficiary shall decrease by $400.00 for each $1,000.00 of federal adjusted gross income over $100,000.00 for a joint return or $50,000.00 for a separate or single return; and

(E) For purposes of this paragraph, contributions or payments for any such taxable year may be made during or after such taxable year but on or before the deadline for making contributions to an individual retirement account pursuant to Section 219(f)(3) of the Internal Revenue Code of 1986;

(11.1) For taxable years beginning on or after January 1, 2020:

(A) An amount equal to the amount of contributions to a savings trust account established pursuant to Article 11 of Chapter 3 of Title 20 on behalf of the designated beneficiary, but not exceeding $4,000.00 per beneficiary;

(B) If the contributor files a separate return or single return, the sum of contributions constituting deductions on the contributor's return under this paragraph shall not exceed $4,000.00 per beneficiary;

(C) If the contributor files a joint return, the sum of contributions constituting deductions on the contributor's return under this paragraph shall not exceed $8,000.00 per beneficiary; and

(D) For purposes of this paragraph, contributions or payments for any such taxable year may be made during or after such taxable year but on or before the deadline for making contributions to an individual retirement account under federal law for such taxable year;

(11.2) For taxable years beginning on or after January 1, 2019, and ending on or before December 31, 2023, income received as payments from a federal disaster relief or assistance grant program administered by this state or its instrumentalities or the United States Department of Agriculture, if such federal grant program was established specifically to address agricultural losses suffered due to Hurricane Michael which was a weather event declared to be a major disaster in this state by the President of the United States during the 2018 calendar year, to the extent such income is included in federal adjusted gross income or federal taxable income;

(11.3) For taxable years beginning on or after January 1, 2025, and ending on or before December 31, 2029, income received as payments from a federal disaster relief or assistance grant program adminis-

tered by this state or its instrumentalities or the United States Department of Agriculture, if such federal grant program was established specifically to address agricultural losses suffered due to Hurricane Helene which was a weather event declared to be a major disaster in this state by the President of the United States during the 2024 calendar year, to the extent such income is included in federal adjusted gross income or federal taxable income;

(11.4) For taxable years beginning on or after January 1, 2025, and ending on or before December 31, 2025, federal crop insurance proceeds received for the destruction or damage to crops due to Hurricane Helene which was a weather event declared to be a major disaster in this state by the President of the United States during the 2024 calendar year, to the extent such proceeds are included in federal adjusted gross income or federal taxable income;

(12) Military income received by a member of the National Guard or any reserve component of the armed services of the United States stationed in a combat zone or stationed in defense of the borders of the United States pursuant to military orders. The exclusion provided under this paragraph:

(A) Shall apply with respect to each taxable year, or portion thereof, covered by such military orders; and

(B) Shall apply only with respect to such member of the National Guard or any reserve component of the armed forces and only with respect to military income earned during the period covered by such military orders;

(12.1)(A) Disability income from the United States Department of Veterans Affairs received by a disabled veteran who is a citizen and resident of Georgia.

(B) As used in this paragraph, the term "disabled veteran" means any wartime veteran who was discharged under honorable conditions and who has been adjudicated by the United States Department of Veterans Affairs as being at least 90 percent totally and permanently disabled and entitled to receive service connected benefits and any veteran who is receiving or who is entitled to receive a statutory award from the United States Department of Veterans Affairs for:

(i) Loss or permanent loss of use of one or both feet;

(ii) Loss or permanent loss of use of one or both hands;

(iii) Loss of sight in one or both eyes; or

(iv) Permanent impairment of vision of both eyes of the following status: Central visual acuity of 20/200 or less in the

better eye, with corrective glasses, or central visual acuity of more than 20/200 if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends on angular distance no greater than 20 degrees in the better eye;

(12.2) Payments received by a firefighter pursuant to paragraph (2) of subsection (b) of Code Section 25-3-23, to any extent such amounts are included in the taxpayer's federal adjusted gross income and are not otherwise exempt under any other provision of this Code section;

(12.3) An amount equal to 100 percent of any premium paid by the individual taxpayer during the taxable year for coverage pursuant to paragraph (2) of subsection (b) of Code Section 25-3-23, to any extent such deduction has not been included in the taxpayer's federal adjusted gross income and such amount is not otherwise deductible under any other provision of this Code section;

(12.4)(A) An amount equal to 100 percent of the payments made to and received by a disabled first responder pursuant to Code Section 45-9-85, provided that and to the extent such amounts are included in the taxpayer's federal adjusted gross income and are not otherwise exempt from the tax imposed by this article under any other provision of law.

(B) As used in this paragraph, the term "disabled first responder" means a law enforcement officer, fireman, publicly employed emergency medical technician, or a surviving spouse of such an individual, receiving payments pursuant to Code Section 45-9-85 due to total permanent disability, partial permanent disability, organic brain damage, or death occurring in the line of duty;

(12.5) Payments received by a first responder pursuant to subsection (b) of Code Section 45-25-3, to any extent such amounts are included in the taxpayer's federal adjusted gross income and are not otherwise exempt under any other provision of this Code section;

(13)(A) An amount equal to the actual amount expended for organ donation expenses not to exceed the amount of $25,000.00 incurred in accordance with the "National Organ Procurement Act."

(B) In order to qualify for the exclusion under subparagraph (A) of this paragraph, such taxpayer must, while living, donate all or part of such person's liver, pancreas, kidney, intestine, lung, or bone marrow. In the taxable year in which the donation is made, the taxpayer shall be entitled to claim the exclusion provided in subparagraph (A) of this paragraph only with respect to unreim-

bursed travel expenses, lodging expenses, and lost wages incurred as a direct result of the organ donation;

(13.1) An amount equal to 100 percent of the premium paid by the taxpayer during the taxable year for high deductible health plans as defined by Section 223 of the Internal Revenue Code to the extent the deduction has not been included in federal adjusted gross income, as defined under the Internal Revenue Code of 1986, and the expenses have not been provided from a health reimbursement arrangement and have not been included in itemized nonbusiness deductions;

(14) The deduction for school teachers provided and allowed by Section 62(a)(2)(D) of the Internal Revenue Code of 1986 as enacted on or before January 1, 2005, to the extent the deduction has not been included in federal adjusted gross income, as defined under the Internal Revenue Code of 1986, and the expenses have not been included in itemized nonbusiness deductions; and

(15) The deduction provided and allowed by Section 179 of the Internal Revenue Code of 1986 as enacted on or before January 1, 2005, to the extent the deduction has not been included in federal adjusted gross income, as defined under the Internal Revenue Code of 1986, and the expenses have not been included in itemized nonbusiness deductions.

(b)(1) There shall be added to the taxable income:

(A) Dividend or interest income, to the extent that the dividend or interest income is not included in gross income for federal income tax purposes, on obligations of any state except this state or of political subdivisions except political subdivisions of this state;

(B) Interest or dividends on obligations of the United States or of any authority, commission, instrumentality, territory, or possession of the United States which by the laws of the United States are exempt from federal income taxes but not from state income taxes; and

(C) Income consisting of lump sum distributions from an annuity, pension plan, or similar source which were removed from federal adjusted gross income for the purposes of special federal tax computations or treatment.

(2) There shall be subtracted from taxable income interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent includable in gross income for federal income tax purposes but exempt from state income taxes under the laws of the United States. Any amount subtracted under this paragraph shall be reduced by any interest expenses directly or indirectly attributable to the production of the interest or dividend income.

(3) There shall be added to taxable income any amount deducted pursuant to Section 164 of the Internal Revenue Code in determining federal taxable income that exceeds the following:

(A) For a single taxpayer, a taxpayer filing as head-of-household, or a married taxpayer filing jointly, $10,000.00; or

(B) For a married taxpayer filing separately, $5,000.00.

(4) No portion of any deductions or losses including, but not limited to, net operating losses, which occurred in a year in which the taxpayer was not subject to taxation in this state, may be deducted in any tax year. When federal adjusted gross income includes deductions or losses not allowed pursuant to this paragraph, an adjustment deleting them shall be made under rules established by the commissioner.

(5) Income, losses, and deductions previously used in computing Georgia taxable income shall not again be used in computing Georgia taxable income; and the commissioner shall provide for needed adjustments by regulation.

(6) Reserved.

(7) Except as otherwise provided in paragraph (4) of subsection (a) of this Code section, this chapter shall not be construed to repeal any tax exemptions contained in other laws of this state not referred to in this Code section. Those exemptions and the exemptions provided by federal law and treaty shall be deducted on forms provided by the commissioner.

(8) All elections made by the taxpayer under the Internal Revenue Code of 1954 or the Internal Revenue Code of 1986 shall also apply under this article.

(9) If the taxpayer claims the tax credit provided for in subsection (d) of Code Section 48-7-40.6 with respect to qualified child care property, Georgia taxable income shall be increased by any depreciation deductions attributable to such property to the extent such deductions are used in determining federal taxable income.

(10)(A) Except as otherwise provided in subparagraph (C) of this paragraph, the amount of any qualified withdrawals from a savings trust account under Article 11 of Chapter 3 of Title 20 shall not be subject to state income tax under this chapter.

(B) For withdrawals other than qualified withdrawals from such a savings trust account, the proportion of earnings in the account balance at the time of the withdrawal shall be applied to the total funds withdrawn to determine the earnings portion to be included

in the account owner's taxable net income in the year of withdrawal.

(C) For withdrawals other than qualified withdrawals from such a savings trust account and for withdrawals from such a savings trust account which are rolled over to a qualified tuition program other than the qualified tuition program established under Article 11 of Chapter 3 of Title 20, the proportion of the contributions in an account balance at the time of a withdrawal which previously have been used to reduce taxable net income pursuant to subsection (a) of this Code section shall be applied to the nonearnings portion of the total funds withdrawn to determine an amount to be included in the account owner's taxable net income in the same taxable year.

(10.1)(A) The amount of any qualified withdrawals from an ABLE account established pursuant to a Georgia ABLE program or any Qualified ABLE Program, as such programs are defined under Chapter 9 of Title 30, shall not be subject to state income tax under this chapter.

(B) For withdrawals other than qualified withdrawals from such an ABLE account, the proportion of earnings in the account balance at the time of the withdrawal shall be applied to the total funds withdrawn to determine the earnings portion to be included in the designated beneficiary's taxable net income in the year of withdrawal.

(11) Georgia taxable income shall be adjusted as provided in Code Section 48-7-28.3.

(12) Georgia taxable income shall be increased by the amount of the payments, compensation, or other economic benefit disallowed by Code Section 48-7-21.1.

(13) Georgia taxable income shall be adjusted as provided in Code Section 48-7-28.4.

(14) Georgia net operating losses shall be treated in the same manner as provided in paragraph (10.1) of subsection (b) of Code Section 48-7-21 but shall be based on the income as computed pursuant to this Code section. Any limitations included in the Internal Revenue Code of 1986 on the amount of net operating loss that can be used in a taxable year shall be applied for purposes of this Code section; provided, however, that such limitations, including, but not limited to, the 80 percent limitation, shall be applied to Georgia taxable net income.

(15) Georgia taxable net income shall be adjusted as provided in Code Section 48-7-53.

(16) Georgia taxable net income shall be adjusted as provided in

subparagraph (b)(7)(C) of Code Section 48-7-21 and subsection (b) of Code Section 48-7-23.

(c) Georgia taxable income shall, if the taxpayer so elects, be adjusted with respect to federal depreciation deductions as provided in Code Section 48-7-39.

(d)(1)(A) As used in this paragraph, the term "individual" shall mean the same as is defined in Code Section 48-1-2.

(B) Georgia resident shareholders of Subchapter "S" corporations may make an adjustment to federal adjusted gross income for Subchapter "S" corporation income where another state does not recognize a Subchapter "S" corporation.

(C) A Georgia individual resident who is a partner in a partnership, who is a member of a limited liability company taxed as a partnership, or who is a single member of a limited liability company which is disregarded for federal income tax purposes may make an adjustment to federal adjusted gross income for the entity's income taxed in another state which imposes on the entity a tax on or measured by income.

(D) Adjustments pursuant to this paragraph shall only be allowed for the portion of the income on which such tax was actually paid by such Subchapter "S" corporation, partnership, or limited liability company. In multitiered situations, the adjustment for such individual shall be determined by allocating such income between the shareholders, partners, or members at each tier based upon their profit/loss percentage.

(2) Nonresident shareholders of a Georgia Subchapter "S" corporation shall execute a consent agreement to pay Georgia income tax on their portion of the corporate income in order for such Subchapter "S" corporation to be recognized for Georgia purposes. A consent agreement for each shareholder shall be filed by the corporation with its corporate tax return in the year in which the Subchapter "S" corporation is first required to file a Georgia income tax return. For a Subchapter "S" corporation in existence prior to January 1, 2008, the consent agreement shall be filed for each shareholder in the first Georgia tax return filed for a year beginning on or after January 1, 2008. A consent agreement shall also be filed in any subsequent year for any additional nonresident who first becomes a shareholder of the Subchapter "S" corporation in that year. Shareholders of a federal Subchapter "S" corporation which is not recognized for Georgia purposes may make an adjustment to federal adjusted gross income in order to avoid double taxation on this type of income. Adjustments shall not be allowed unless tax was actually paid by such corporation. The provisions of this paragraph shall not apply to an electing

Subchapter "S" corporation as defined in paragraph (7) of subsection (b) of Code Section 48-7-21.

History.

Code 1933, § 92-3107, enacted by Ga. L. 1971, p. 605, § 4; Ga. L. 1975, p. 843, § 1; Ga. L. 1978, p. 1456, § 1; Ga. L. 1979, p. 888, § 2; Code 1933, § 91A-3607, enacted by Ga. L. 1978, p. 309, § 2; Ga. L. 1979, p. 5, § 67; Ga. L. 1979, p. 888, § 4; Ga. L. 1980, p. 10, §§ 17, 18; Ga. L. 1981, p. 1857, §§ 35, 36; Ga. L. 1981, p. 1903, §§ 3, 4; Ga. L. 1982, p. 3, § 48; Ga. L. 1984, p. 1644, § 2; Ga. L. 1986, p. 749, § 1; Ga. L. 1986, p. 1480, § 1; Ga. L. 1987, p. 191, § 2; Ga. L. 1988, p. 475, § 2; Ga. L. 1989, p. 1112, §§ 1-3; Ga. L. 1989, Ex. Sess., p. 5, § 1; Ga. L. 1990, p. 1369, § 1; Ga. L. 1992, p. 1296, § 1; Ga. L. 1992, p. 2977, § 1; Ga. L. 1994, p. 381, § 2; Ga. L. 1998, p. 1, § 2; Ga. L. 1998, p. 1515, § 1; Ga. L. 1998, p. 1516, § 1; Ga. L. 1999, p. 13, § 2; Ga. L. 2000, p. 408, § 1; Ga. L. 2001, p. 76, §§ 2, 3; Ga. L. 2002, p. 372, §§ 2, 3; Ga. L. 2002, p. 1149, § 1; Ga. L. 2003, p. 637, § 1; Ga. L. 2003, p. 665, §§ 4, 5; Ga. L. 2004, p. 102, § 1; Ga. L. 2005, p. 18, § 1/HB 263; Ga. L. 2005, p. 30, § 1/HB 191; Ga. L. 2005, p. 60, § 48/HB 95; Ga. L. 2005, p. 157, § 2/HB 282; Ga. L. 2005, p. 159, §§ 13, 14/HB 488; Ga. L. 2005, p. 529, § 1/HB 556; Ga. L. 2006, p. 526, § 1/HB 1160; Ga. L. 2007, p. 112, § 2/HB 225; Ga. L. 2007, p. 271, §§ 3, 4/SB 184; Ga. L. 2008, p. 159, §§ 7, 8/HB 1014; Ga. L. 2008, p. 292, § 4/HB 977; Ga. L. 2008, p. 324, § 48/SB 455; Ga. L. 2008, p. 898, §§ 6, 7/HB 1151; Ga. L. 2009, p. 8, § 48/SB 46; Ga. L. 2009, p. 652, § 4/HB 410; Ga. L. 2009, p. 796, § 2/HB 379; Ga. L. 2010, p. 9, § 4-1/HB 1055; Ga. L. 2012, p. 108, § 1/HB 808; Ga. L. 2012, p. 257, § 2-2/HB 386; Ga. L. 2013, p. 141, § 48/HB 79; Ga. L. 2014, p. 83, § 2-1/SB 391; Ga. L. 2016, p. 588, § 2/HB 768; Ga. L. 2016, p. 805, § 1/HB 802; Ga. L. 2017, p. 336, § 5/HB 146; Ga. L. 2018, p. 8, §§ 1-7, 1-8/HB 918; Ga. L. 2018, p. 308, § 1/HB 749; Ga. L. 2018, p. 319, § 2/HB 849; Ga. L. 2019, p. 195, § 3/HB 287; Ga. L. 2019, p. 455, § 1/HB 266; Ga. L. 2019, p. 908, § 4/SB 138; Ga. L. 2020, p. 903, § 1-1/HB 105; Ga. L. 2021, p. 4, § 2/HB 593; Ga. L. 2021, p. 277, § 4/HB 149; Ga. L. 2022, p. 94, § 1/HB 1064; Ga. L. 2022, p. 114, §§ 2-3, 2-4/HB 1437; Ga. L. 2022, p. 188, § 3/HB 275; Ga. L. 2023, p. 43, § 2/HB 128, effective January 1, 2024; Ga. L. 2023, p. 335, § 2-4/SB 56, effective January 1, 2024; Ga. L. 2024, p. 522, § 3/HB 451, effective January 1, 2025; Ga. L. 2024, p. 1052, § 5(27)/SB 448, effective July 1, 2024; Ga. L. 2025, p. 231, § 2-1/HB 223, effective May 8, 2025; Ga. L. 2025, p. 531, § 1/HB 266, effective January 1, 2027; Ga. L. 2025, p. 1029, § 48(4)/SB 153, effective July 1, 2025.

Delayed effective date.

Code Section 48-7-27 is set out twice in this Code. This version is effective January 1, 2027. For version effective until January 1, 2027, see the preceding version.

Amendments.

The first 2025 amendment, effective May 8, 2025, added paragraphs (a)(11.3) and (a)(11.4).

The second 2025 amendment, effective January 1, 2027, rewrote subparagraph (a)(5)(A). See Editor's notes for applicability.

The third 2025 amendment, effective July 1, 2025, part of an Act to revise, modernize, and correct the Code, redesignated former subparagraph (a)(3)(A) as paragraph (a)(3) and substituted a period for a semicolon at the end; redesignated former subparagraph (a)(3)(B) as paragraph (a)(3.1); and deleted "or" at the end of division (a)(5)(D)(i).

Editor's notes.

Ga. L. 2025, p. 231, § 1-1/HB 223, not codified by the General Assembly, provides: "This part shall be known and may be cited as the 'Timberlands Recovery, Exemption, and Earnings Stability (TREES) Act.'"

Ga. L. 2025, p. 231, § 1-2/HB 223, not codified by the General Assembly, provides: "The General Assembly finds that:

"(1) Hurricane Helene has had a catastrophic impact on the citizens and the economy of many areas in this state, has particularly devastated the timber industry on which the citizens of southwest Georgia are heavily dependent for their

livelihood by reducing or eliminating the long-held investments in standing timber and timberlands of businesses and families, and has created both a public fire hazard and a danger of insect infestations due to the massive amounts of downed timber caused by the severity of this natural disaster;

"(2) As of November, 2024, the estimated losses to standing timber caused by Hurricane Helene as measured by the State Forestry Commission were nearly $1.3 billion;

"(3) Timberlands as investments are unique as an agriculture product in this state, as timber products often take ten years or longer to realize any return on the investment;

"(4) Many counties, municipalities, and local school districts rely on the taxes levied at the time of timber's harvest or sale pursuant to Code Section 48-5-7.5, but with the destruction of timberlands throughout this state, that tax revenue will likely not be realized; and

"(5) It is the intent of the General Assembly to authorize local governing authorities to provide temporary tax relief from the taxes levied pursuant to Code 48-5-7.5 so that the timber industry, and the businesses and families that provide timber products to such industry, will realize a reduced cost for growing new product and recovering from the devastating effects of Hurricane Helene. These reduced costs will help stabilize the market and allow for quicker harvesting and recovery of lands where some timber is still salvageable."

Ga. L. 2025, p. 531, § 3(b)/HB 266, not codified by the General Assembly, provides that the 2025 amendment shall be applicable to all taxable years beginning on or after January 1, 2027.

48-7-28.5. Catastrophe savings accounts; contributions and distributions; deductions and exemptions.

(a) As used in this Code section, the term:

(1) "Catastrophe savings account" means a regular savings account or money market account established by a resident taxpayer to pay for qualified catastrophe expenses.

(2) "Catastrophic event" means windstorms, cyclones, earthquakes, hurricanes, ice storms, tornadoes, high winds, floods, hail storms, and any other weather events or occurrences, provided that such event or occurrence has been declared as a disaster or emergency by the Governor.

(3) "Qualified catastrophe expenses" means:

(A) A qualified deductible paid for damage resulting from a catastrophic event; and

(B) Expenses incurred in repairing or replacing damage to a taxpayer's primary residence as a result of a catastrophic event that are not covered by a homeowner's insurance policy.

(4) "Qualified deductible" means the deductible for the homeowner's insurance policy of the taxpayer covering catastrophic event damage for his or her primary residence. If such policy provides for more than one deductible, the deductible with the highest amount shall constitute the qualified deductible.

(b) A taxpayer may establish one catastrophe savings account pur-

suant to this Code section which shall be labeled as a catastrophe savings account and shall specify that the purpose of the account is to cover qualified catastrophe expenses. No more than one catastrophe savings account pursuant to this Code section shall be established for a primary residence.

(c)(1) For a taxpayer whose qualified deductible is $1,000.00 or less, the total amount that may be contributed to a catastrophe savings account shall not exceed $2,000.00.

(2) For a taxpayer whose qualified deductible is greater than $1,000.00, the total amount that may be contributed to a catastrophe savings account shall not exceed the lesser of twice the amount of the taxpayer's qualified deductible or $25,000.00.

(3) For a self-insured taxpayer who chooses not to obtain insurance on his or her primary residence, the total amount that may be contributed to a catastrophe savings account shall not exceed $250,000.00; provided, however, that in no case shall the amount contributed to the catastrophe savings account exceed the fair market value of the taxpayer's primary residence.

(d)(1) An individual taxpayer shall be allowed a deduction from the tax imposed pursuant to this article for amounts contributed to a catastrophe savings account in accordance with this Code section.

(2) All interest income earned by a catastrophe savings account in compliance with this Code section shall be exempt from the tax imposed pursuant this article.

(3) A distribution from a catastrophe savings account shall be included in the income of the taxpayer unless the amount of the distribution is used to cover qualified catastrophe expenses; provided, however, that no such amount shall be included in the income of the taxpayer if the qualified catastrophe expenses of the taxpayer during the taxable year are equal to or greater than the aggregate distributions from such account during the taxable year. If the aggregate distributions during the taxable year from such account exceed the qualified catastrophe expenses of the taxpayer during the taxable year, the amount otherwise included in the taxpayer's income shall be reduced by the amount of the distributions for qualified catastrophe expenses and the amount of interest income earned by the catastrophe savings account.

(e)(1) If a taxpayer contributes in excess of the limits provided in this Code section and claimed a deduction pursuant to subsection (d) of this Code section, the taxpayer shall withdraw the amount of the excess contributions and include that amount in the income of the taxpayer in the year of withdrawal.

(2) If a taxpayer who owns a catastrophe savings account dies, his or her account shall be included in the income of the person who receives the account, unless that person is the surviving spouse of the taxpayer. Upon the death of such a surviving spouse, the amount in the account shall be included in the income of the person who receives the account.

(f) The department shall promulgate any rules and regulations necessary to implement and administer the provisions of this Code section.

History.
Code 1981, § 48-7-28.5, enacted by Ga. L. 2025, p. 664, § 1/HB 511, effective July 1, 2025.

Effective date.
This Code section became effective July 1, 2025. See Editor's notes for applicability.

Editor's notes.
Ga. L. 2025, p. 664, § 2/HB 511, not codified by the General Assembly, makes this Code section applicable to taxable years beginning on or after January 1, 2026.

48-7-29.8. (Reserved effective December 31, 2029.) Tax credits for the rehabilitation of historic structures.

(a) As used in this Code section, the term:

(1) "Certified rehabilitation" means repairs or alterations to a certified structure which are certified by the Department of Community Affairs as meeting the United States Secretary of the Interior's Standards for Rehabilitation or the Georgia Standards for Rehabilitation as provided by the Department of Community Affairs.

(2) "Certified structure" means a historic building or structure that is located within a national historic district, individually listed on the National Register of Historic Places, individually listed in the Georgia Register of Historic Places, or is certified by the Department of Community Affairs as contributing to the historic significance of a Georgia Register Historic District; provided, however, that on and after January 1, 2026, such term, as it relates to historic homes, means a historic building or structure that is certified by the Department of Community Affairs as contributing to the historic significance of a listed National Register Historic District, individually listed on the National Register of Historic Places, is certified by the Department of Community Affairs as contributing to the historic significance of a listed Georgia Register Historic District, individually listed in the Georgia Register of Historic Places, or designated as a historic property or contributing to a district under local law and certified by the Department of Community Affairs as meeting National Register criteria.

(3) "Historic home" means a certified structure which, or any

portion of which is or will, within a reasonable period, be owned and used as the principal residence of the person claiming the tax credit allowed under this Code section. Historic home shall include any structure or group of structures that constitute a multifamily or multipurpose structure, including a cooperative or condominium. If only a portion of a building is used as such person's principal residence, only those qualified rehabilitation expenditures that are properly allocable to such portion shall be deemed to be made to a historic home.

(4) "Qualified rehabilitation expenditure" means any qualified rehabilitation expenditure as defined by Section 47(c)(2) of the Internal Revenue Code of 1986 and any amount properly chargeable to a capital account expended in the substantial rehabilitation of a structure that by the end of the taxable year in which the certified rehabilitation is completed is a certified structure. This term does not include the cost of acquisition of the certified structure, the cost attributable to enlargement or additions to an existing building, site preparation, or personal property.

(5) "Substantial rehabilitation" means rehabilitation of a certified structure for which the qualified rehabilitation expenditures, at least 5 percent of which must be allocable to the exterior during the 24 month period selected by the taxpayer ending with or within the taxable year, exceed:

(A) For a historic home, the lesser of $25,000.00 or 50 percent of the adjusted basis of the property as defined in subparagraph (a)(1)(B) of Code Section 48-5-7.2; or, in the case of a historic home located in a target area, $5,000.00; or

(B) For any other certified structure, the greater of $5,000.00 or the adjusted basis of the property.

(6) "Target area" means a qualified census tract under Section 42 of the Internal Revenue Code of 1986, found in the United States Department of Housing and Urban Development document number N-94-3821; FR-3796-N-01.

(b) A taxpayer shall be allowed a tax credit against the tax imposed by this chapter in the year that the certified rehabilitation is placed in service, which may be up to two years after the end of the taxable year for which the credit was originally reserved:

(1) In the case of a historic home, equal to 25 percent of qualified rehabilitation expenditures, except that, in the case of a historic home located within a target area, an additional credit equal to 5 percent of qualified rehabilitation expenditures shall be allowed; and

(2) In the case of any other certified structure, equal to 25 percent of qualified rehabilitation expenditures.

Qualified rehabilitation expenditures may only be counted once in determining the amount of the tax credit available, and more than one entity may not claim a credit for the same qualified rehabilitation expenditures.

(b.1) Notwithstanding the provisions of subsections (b) and (c) of this Code section, any taxpayer that was preapproved by the commissioner to claim tax credits pursuant to this Code section for certified structures other than historic homes for tax year 2027 or 2028 shall be authorized to claim the tax credits allowed pursuant to this Code section for a certified rehabilitation in the authorized tax year or in tax year 2026, provided that such taxpayer obtains a certificate of occupancy for such certified structure on or before July 1, 2026; provided, however, that any taxpayer that claims tax credits pursuant to this subsection in tax year 2026 shall only be allowed to claim such credits in an amount:

(A) Not to exceed 90 percent of the amount otherwise allowed pursuant to this Code section if such credit was preapproved for tax year 2027; or

(B) Not to exceed 85 percent of the amount otherwise allowed pursuant to this Code section if such credit was preapproved for tax year 2028.

(c)(1) In no event shall credits for a historic home exceed $100,000.00 in any 120 month period.

(2) The maximum credit for any other individual certified structure shall be $5 million for any taxable year, except in the case that the project creates 200 or more full-time, permanent jobs or $5 million in annual payroll within two years of the placed in service date, in which case the project is eligible for credits up to $10 million for an individual certified structure. In no event shall more than one application for any individual certified structure under this paragraph be approved in any 120 month period.

(3)(A) In no event shall credits issued under this Code section for historic homes exceed $5 million in aggregate per year.

(B) In no event shall credits issued under this Code section for certified structures other than historic homes exceed $30 million in aggregate per year.

(C) On and after January 1, 2030, in no event shall credits be issued under this Code section.

(d)(1) A taxpayer seeking to claim a tax credit under paragraph (2) of subsection (b) of this Code section shall submit an application to the commissioner for preapproval of such tax credit. Such application shall include a precertification from the Department of Community

Affairs certifying that the improvements to the certified structure are to be consistent with the Department of Community Affairs Standards for Rehabilitation. The Department shall have the authority to require electronic submission of such application in the manner specified by the department. The commissioner shall preapprove the tax credits within 30 days based on the order in which properly completed applications were submitted. In the event that two or more applications were submitted on the same day and the amount of funds available will not be sufficient to fully fund the tax credits requested, the commissioner shall prorate the available funds between or among the applicants. Applications submitted after the annual limitations provided for in paragraph (3) of subsection (c) of this Code section have been met shall be given priority the following year.

(2) In order to be eligible to receive the credit authorized under subsection (b) of this Code section, a taxpayer must attach to the taxpayer's state tax return a copy of the completed certification of the Department of Community Affairs verifying that the improvements to the certified structure are consistent with the Department of Community Affairs Standards for Rehabilitation.

(e)(1) If the credit allowed under paragraph (1) of subsection (b) of this Code section in any taxable year exceeds the total tax otherwise payable by the taxpayer for that taxable year, the taxpayer may apply the excess as a credit for succeeding years until the earlier of:

(A) The full amount of the excess is used; or

(B) The expiration of the tenth taxable year after the taxable year in which the certified rehabilitation has been completed.

(2) Any tax credits with respect to credits earned by a taxpayer under paragraph (2) of subsection (b) of this Code section and previously claimed but not used by such taxpayer against its income tax may be transferred or sold in whole or in part by such taxpayer to another Georgia taxpayer, subject to the following conditions:

(A) A taxpayer who makes qualified rehabilitation expenditures may sell or assign all or part of the tax credit that may be claimed for such costs and expenses to one or more entities, but no further sale or assignment of any credit previously sold or assigned pursuant to this subparagraph shall be allowed. All such transfers shall be subject to the maximum total limits provided by subsection (c) of this Code section;

(B) A taxpayer who sells or assigns a credit under this Code section and the entity to which the credit is sold or assigned shall jointly submit written notice of the sale or assignment to the

department not later than 30 days after the date of the sale or assignment. The notice must include:

(i) The date of the sale or assignment;

(ii) The amount of the credit sold or assigned;

(iii) The names and federal tax identification numbers of the entity that sold or assigned the credit or part of the credit and the entity to which the credit or part of the credit was sold or assigned; and

(iv) The amount of the credit owned by the selling or assigning entity before the sale or assignment and the amount the selling or assigning entity retained, if any, after the sale or assignment;

(C) The sale or assignment of a credit in accordance with this Code section does not extend the period for which a credit may be carried forward and does not increase the total amount of the credit that may be claimed. After an entity claims a credit for eligible costs and expenses, another entity may not use the same costs and expenses as the basis for claiming a credit;

(D) Notwithstanding the requirements of this subsection, a credit earned or purchased by, or assigned to, a partnership, limited liability company, Subchapter "S" corporation, or other pass-through entity may be allocated to the partners, members, or shareholders of that entity and claimed under this Code section in accordance with the provisions of any agreement among the partners, members, or shareholders of that entity and without regard to the ownership interest of the partners, members, or shareholders in the rehabilitated certified structure, provided that the entity or person that claims the credit must be subject to Georgia tax; and

(E) Only a taxpayer who earned a credit, and no subsequent good faith transferee, shall be responsible in the event of a recapture, reduction, disallowance, or other failure related to such credit.

(3) No such credit shall be allowed the taxpayer against prior years' tax liability.

(f) In the case of any rehabilitation which may reasonably be expected to be completed in phases set forth in architectural plans and specifications completed before the rehabilitation begins, a 60 month period may be substituted for the 24 month period provided for in paragraph (5) of subsection (a) of this Code section.

(g)(1) Except as otherwise provided in subsection (h) of this Code section, in the event a tax credit under this Code section has been

claimed and allowed the taxpayer, upon the sale or transfer of the certified structure, the taxpayer shall be authorized to transfer the remaining unused amount of such credit to the purchaser of such certified structure. If a historic home for which a certified rehabilitation has been completed by a nonprofit corporation is sold or transferred, the full amount of the credit to which the nonprofit corporation would be entitled if taxable shall be transferred to the purchaser or transferee at the time of sale or transfer.

(2) Such purchaser shall be subject to the limitations of subsection (e) of this Code section. Such purchaser shall file with such purchaser's tax return a copy of the approval of the rehabilitation by the Department of Community Affairs as provided in subsection (d) of this Code section and a copy of the form evidencing the transfer of the tax credit.

(3) Such purchaser shall be entitled to rely in good faith on the information contained in and used in connection with obtaining the approval of the credit including, without limitation, the amount of qualified rehabilitation expenditures.

(h)(1) If an owner other than a nonprofit corporation sells a historic home within three years of receiving the credit, the seller shall recapture the credit to the Department of Revenue as follows:

(A) If the property is sold within one year of receiving the credit, the recapture amount will equal the lesser of the credit or the net profit of the sale;

(B) If the property is sold within two years of receiving the credit, the recapture amount will equal the lesser of two-thirds of the credit or the net profit of the sale; or

(C) If the property is sold within three years of receiving the credit, the recapture amount will equal the lesser of one-third of the credit or the net profit of the sale.

(2) The recapture provisions of this subsection shall not apply to a sale resulting from the death of the owner.

(i)(1) In the event that a taxpayer claims the tax credit under paragraph (2) of subsection (b) of this Code section and leases such certified structure, the department shall aggregate all total sales tax receipts from the certified structure.

(2) Any taxpayer claiming credits under paragraph (2) of subsection (b) of this Code section shall report to the department the average full-time employees employed at the certified structure. A full-time employee for the purposes of this Code section shall mean a person who works a job that requires 30 or more hours per week.

Such reports must be submitted to the department for five calendar years following the year in which the credit is claimed by the taxpayer.

(3) In the event that a taxpayer claims the tax credit under paragraph (2) of subsection (b) of this Code section and leases such certified structure, the department shall aggregate all total full-time employees at the certified structure.

(j) Notwithstanding Code Sections 48-2-15, 48-7-60, and 48-7-61, the department shall furnish a report to the chairperson of the House Committee on Ways and Means and the chairperson of the Senate Finance Committee by June 30 of each year. Such report shall contain the total sales tax collected in the prior calendar year and the average number of full-time employees at the certified structure and the total value of credits claimed for each taxpayer claiming credits under paragraph (2) of subsection (b) of this Code section.

(k) The tax credit allowed under paragraph (1) of subsection (b) of this Code section, and any recaptured tax credit, shall be allocated among some or all of the partners, members, or shareholders of the entity owning the project in any manner agreed to by such persons, whether or not such persons are allocated or allowed any portion of any other tax credit with respect to the project.

(l) The Department of Community Affairs and the Department of Revenue shall prescribe such regulations as may be appropriate to carry out the purposes of this Code section.

(m) The Department of Community Affairs shall report, on an annual basis, on the overall economic activity, usage, and impact to the state from the rehabilitation of eligible properties for which credits provided by this Code section have been allowed.

(n) This Code section shall stand repealed and reserved by operation of law on December 31, 2029.

History.

Code 1981, § 48-7-29.8, enacted by Ga. L. 2002, p. 954, § 1; Ga. L. 2008, p. 1179, §§ 1, 2/HB 851; Ga. L. 2015, p. 1340, § 1/HB 308; Ga. L. 2016, p. 864, § 48/HB 737; Ga. L. 2017, p. 774, § 48/HB 323; Ga. L. 2019, p. 661, § 1-1/HB 224; Ga. L. 2020, p. 38, § 9/SB 473; Ga. L. 2020, p. 493, § 48/SB 429; Ga. L. 2021, p. 289, § 6-1/SB 6; Ga. L. 2022, p. 517, § 1/HB 469; Ga. L. 2024, p. 14, § 1/SB 496, effective July 1, 2024; Ga. L. 2025, p. 643, § 1/HB 360, effective July 1, 2025.

Amendments.

The 2025 amendment, effective July 1, 2025, added (b.1).

48-7-29.10. Tax credits for qualified child and dependent care expenses.

(a) A taxpayer shall be allowed a credit against the tax imposed by Code Section 48-7-20 for qualified child and dependent care expenses.

The amount of such credit shall be equal to 50 percent of the amount of the credit provided for in Section 21 of the Internal Revenue Code which is claimed and allowed pursuant to the Internal Revenue Code.

(b) In no event shall the total amount of the tax credit under this Code section for a taxable year exceed the taxpayer's income tax liability. Any unused tax credit shall not be allowed to be carried forward to apply to the taxpayer's succeeding years' tax liability. No such tax credit shall be allowed the taxpayer against prior years' tax liability.

(c) The commissioner shall be authorized to promulgate any rules and regulations necessary to implement and administer this Code section.

History.

Code 1981, § 48-7-29.10, enacted by Ga. L. 2006, p. 64, § 1/HB 1080; Ga. L. 2025, p. 537, § 1-1/HB 136, effective July 1, 2025.

Amendments.

The 2025 amendment, effective July 1, 2025, rewrote subsection (a).

Editor's notes.

Ga. L. 2025, p. 537, § 3-1(a)/HB 136, not codified by the General Assembly, provides that the 2025 amendment applicable to all taxable years beginning on or after January 1, 2026.

48-7-29.20. (Reserved effective December 31, 2029.) Tax credits for contributions to rural hospital organizations.

(a) As used in this Code section, the term:

(1) "Qualified rural hospital organization expense" means the contribution of funds by an individual or corporate taxpayer to a rural hospital organization for the direct benefit of such organization during the tax year for which a credit under this Code section is claimed.

(2) "Rural hospital organization" means an organization that is approved by the Department of Community Health pursuant to Code Section 31-8-9.1.

(b) An individual taxpayer shall be allowed a credit against the tax imposed by this chapter for qualified rural hospital organization expenses as follows:

(1) In the case of a single individual or a head of household, the actual amount expended;

(2) In the case of a married couple filing a joint return, the actual amount expended; or

(3) In the case of an individual who is a member of a limited liability company duly formed under state law, a shareholder of a Subchapter "S" corporation, or a partner in a partnership, the

amount expended; provided, however, that tax credits pursuant to this paragraph shall be allowed only for the portion of the income on which such tax was actually paid by such individual.

(b.1) From January 1 to June 30 each taxable year, an individual taxpayer shall be limited in its qualified rural hospital organization expenses allowable for credit under this Code section, and the commissioner shall not approve qualified rural hospital organization expenses incurred from January 1 to June 30 each taxable year, which exceed the following limits:

(1) In the case of a single individual or a head of household, $5,000.00;

(2) In the case of a married couple filing a joint return, $10,000.00; or

(3) In the case of an individual who is a member of a limited liability company duly formed under state law, a shareholder of a Subchapter "S" corporation, or a partner in a partnership, $25,000.00.

(c) A corporation or other entity shall be allowed a credit against the tax imposed by this chapter for qualified rural hospital organization expenses in an amount not to exceed the actual amount expended or 75 percent of the corporation's income tax liability, whichever is less.

(d) In no event shall the total amount of the tax credit under this Code section for a taxable year exceed the taxpayer's income tax liability. Any unused tax credit shall be allowed the taxpayer against the succeeding five years' tax liability. No such credit shall be allowed the taxpayer against prior years' tax liability.

(e)(1) In no event shall the aggregate amount of tax credits allowed under this Code section exceed $100 million per taxable year.

(2)(A) No more than $4 million of the aggregate limit established by paragraph (1) of this subsection shall be contributed to any individual rural hospital organization in any taxable year. From January 1 to June 30 each taxable year, the commissioner shall only preapprove contributions submitted by individual taxpayers in an amount not to exceed $2 million, and from corporate donors in an amount not to exceed $2 million. From July 1 to December 31 each taxable year, subject to the aggregate limit in paragraph (1) of this subsection and the individual rural hospital organization limit in this paragraph, the commissioner shall approve contributions submitted by individual taxpayers and corporations or other entities.

(B) In the event an individual or corporate donor desires to make a contribution to an individual rural hospital organization that has

received the maximum amount of contributions for that year, the Department of Community Health shall provide the individual or corporate donor with a list, ranked in order of financial need, as determined by the Department of Community Health, of rural hospital organizations still eligible to receive contributions for the year.

(C) In the event an individual or corporate donor desires to make a contribution to an individual rural hospital organization that would cause such rural hospital organization to exceed its maximum amount of contributions for that year, the commissioner shall not deny such desired contribution, but shall approve the proportional amount of the desired contribution up to the rural hospital organization's maximum allowed amount and any remainder shall be attributed as provided for in subparagraph (D) of this paragraph.

(D) In the event that an individual or corporate donor desires to make a contribution to an unspecified or undesignated rural hospital organization, either directly to the department or through a third party that participates in soliciting, administering, or managing donations, such donation shall be attributed to the rural hospital organization ranked with the highest financial need that has not yet received the maximum amount of contributions for that year, regardless of whether a third party has a contractual relationship or agreement with such rural hospital organization.

(E) Any third party that participates in soliciting, advertising, or managing donations shall provide the complete list of rural hospital organizations eligible to receive the tax credit provided pursuant to this Code section, including their ranking in order of financial need as determined by the Department of Community Health pursuant to Code Section 31-8-9.1, to any potential donor regardless of whether a third party has a contractual relationship or agreement with such rural hospital organization.

(3) For purposes of paragraphs (1) and (2) of this subsection, a rural hospital organization shall notify a potential donor of the requirements of this Code section. Before making a contribution to a rural hospital organization, the taxpayer shall electronically notify the department, in a manner specified by the department, of the total amount of contribution that the taxpayer intends to make to the rural hospital organization. The commissioner shall preapprove or deny the requested amount or a portion of such amount, if applicable pursuant to subparagraph (C) of paragraph (2) of this subsection, within 30 days after receiving the request from the taxpayer and shall provide written notice to the taxpayer and rural hospital organization of such preapproval or denial which shall not require

any signed release or notarized approval by the taxpayer. In order to receive a tax credit under this Code section, a taxpayer preapproved by the commissioner on or before September 30 shall make the contribution to the rural hospital organization within 180 days after receiving notice of preapproval from the commissioner, but not later than October 31. A taxpayer preapproved by the commissioner after September 30 shall make the contribution to the rural hospital organization on or before December 31. If the taxpayer does not comply with this paragraph, the commissioner shall not include this preapproved contribution amount when calculating the limits prescribed in paragraphs (1) and (2) of this subsection.

(4)(A) Preapproval of contributions by the commissioner shall be based solely on the availability of tax credits subject to the aggregate total limit established under paragraph (1) of this subsection and the individual rural hospital organization limit established under paragraph (2) of this subsection.

(B) Any taxpayer preapproved by the commissioner pursuant to this subsection shall retain such approval in the event the credit percentage in this Code section is modified for the year in which the taxpayer was preapproved.

(C) Upon the rural hospital organization's confirmation of receipt of donations that have been preapproved by the commissioner, any taxpayer preapproved by the commissioner pursuant to subsection (c) of this Code section shall receive the full benefit of the income tax credit established by this Code section even though the rural hospital organization to which the taxpayer made a donation does not properly comply with the reports or filings required by this Code section.

(5) Notwithstanding any laws to the contrary, the department shall not take any adverse action against donors to rural hospital organizations if the commissioner preapproved a donation for a tax credit prior to the date the rural hospital organization is removed from the Department of Community Health list pursuant to Code Section 31-8-9.1, and all such donations shall remain as preapproved tax credits subject only to the donor's compliance with paragraph (3) of this subsection.

(f) In order for the taxpayer to claim the tax credit under this Code section, a letter of confirmation of donation issued by the rural hospital organization to which the contribution was made shall be attached to the taxpayer's tax return. However, in the event the taxpayer files an electronic return, such confirmation shall only be required to be electronically attached to the return if the Internal Revenue Service allows such attachments when the return is transmitted to the depart-

ment. In the event the taxpayer files an electronic return and such confirmation is not attached because the Internal Revenue Service does not, at the time of such electronic filing, allow electronic attachments to the Georgia return, such confirmation shall be maintained by the taxpayer and made available upon request by the commissioner. The letter of confirmation of donation shall contain the taxpayer's name, address, tax identification number, the amount of the contribution, the date of the contribution, and the amount of the credit.

(g) No credit shall be allowed under this Code section with respect to any amount deducted from taxable net income by the taxpayer as a charitable contribution to a bona fide charitable organization qualified under Section 501(c)(3) of the Internal Revenue Code.

(h) The commissioner shall be authorized to promulgate any rules and regulations necessary to implement and administer the provisions of this Code section.

(i) The department shall post the following information in a prominent location on its website:

(1) All pertinent timelines relating to the tax credit, including, but not limited to:

(A) Beginning date when contributions can be submitted for preapproval by donors for the January 1 to June 30 period;

(B) Ending date when contributions can be submitted for preapproval by donors for the January 1 to June 30 period;

(C) Beginning date when contributions can be submitted for preapproval by donors for the July 1 to December 31 period;

(D) Ending date when contributions can be submitted for preapproval by donors for the July 1 to December 31 period; and

(E) Date by which preapproved contributions are required to be sent to the rural hospital organization;

(2) The list and ranking order of rural hospital organizations eligible to receive contributions established pursuant to paragraph (1) of subsection (b) of Code Section 31-8-9.1;

(3) A monthly progress report including:

(A) Total preapproved contributions to date by rural hospital organization;

(B) Total contributions received to date by rural hospital organization;

(C) Total aggregate amount of preapproved contributions made to date; and

(D) Aggregate amount of tax credits available; and

(4) A list of all preapproved contributions that were made to an unspecified or undesignated rural hospital organization and the rural hospital organizations that received such contributions.

(j) The Department of Audits and Accounts shall annually conduct an audit of the tax credit program established under this Code section, including the amount and recipient rural hospital organization of all contributions made, all tax credits received by individual and corporate donors, and all amounts received by third parties that solicited, administered, or managed donations pertaining to this Code section and Code Section 31-8-9.1.

(k) This Code section shall stand automatically repealed and reserved on December 31, 2029.

History.

Code 1981, § 48-7-29.20, enacted by Ga. L. 2016, p. 166, § 7/SB 258; Ga. L. 2017, p. 511, § 2/SB 180; Ga. L. 2018, p. 132, § 7/HB 769; Ga. L. 2019, p. 148, § 1-15/HB 186; Ga. L. 2019, p. 183, § 5/HB 321; Ga. L. 2022, p. 597, § 1/HB 1041; Ga. L. 2024, p. 45, § 11/HB 1339, effective January 1, 2025; Ga. L. 2025, p. 1029, § 48(5)/SB 153, effective July 1, 2025.

Amendments.

The 2025 amendment, effective July 1, 2025, part of an Act to revise, modernize, and correct the Code, revised punctuation in subparagraph (e)(2)(E); and substituted "such approval" for "their approval" in subparagraph (e)(4)(B).

Law reviews.

For article on the 2024 amendment of this Code section, see 41 Ga. L. Rev. 95 (2024).

48-7-29.22. (Repealed effective December 31, 2030.) Tax credits for certain medical preceptor rotations.

(a) As used in this Code section, the term:

(1) "Advanced practice registered nurse student" means an individual participating in a training program in this state that is accredited by a nationally recognized accrediting body for advanced practice registered nursing programs for the training of individuals to become advanced practice registered nurses as defined in Code Section 43-26-3.

(2) "Community based faculty preceptor" means an individual who is a physician as defined in Code Section 43-34-21, a licensed dentist as defined in Code Section 43-11-1, an advanced practice registered nurse as defined in Code Section 43-26-3, or a physician assistant as defined in Code Section 43-34-102 and who is licensed as such by this state.

(3) "Medical student" means an individual participating in a training program in this state that is approved by the Georgia

Composite Medical Board for the training of doctors of medicine or doctors of osteopathic medicine or by the Georgia Board of Dentistry for the training of dentists.

(4) "Physician assistant student" means an individual participating in a training program in this state that is approved by the Georgia Composite Medical Board for the training of individuals to become physician assistants as defined in Code Section 43-34-102.

(5) "Preceptorship rotation" means a period of preceptorship training of one or more medical students, physician assistant students, or advanced practice registered nurse students that in aggregate totals 160 hours.

(6) "Preceptorship training" means uncompensated community based training of a medical student, advanced practice registered nurse student, or physician assistant student matriculating in a training program in Georgia.

(b)(1) A community based faculty preceptor shall be allowed a credit against the tax imposed by Code Section 48-7-20 if he or she conducts a preceptorship rotation.

(2) Such credit shall be accrued on a per preceptorship rotation basis in the amount of $1,000.00 for each preceptorship rotation completed in one calendar year by a community based faculty preceptor who is a physician as defined in Code Section 43-34-21 or a licensed dentist as defined in Code Section 43-11-1 and $750.00 for each preceptorship rotation completed in one calendar year by a community based faculty preceptor who is an advanced practice registered nurse as defined in Code Section 43-26-3 or a physician assistant as defined in Code Section 43-34-102.

(3) An individual shall not accrue credit for more than ten preceptorship rotations in one calendar year.

(4) The aggregate amount of tax credits allowed pursuant to this Code section shall not exceed $6 million for any calendar year.

(c)(1) A community based faculty preceptor shall not be eligible to earn hours credited toward preceptorship training if he or she has not registered with the state-wide Area Health Education Centers (AHEC) Program Office at Augusta University.

(2) The AHEC Program Office at Augusta University shall administer the Preceptor Tax Incentive Program established pursuant to this Code section and certify preceptorship rotations for the department on behalf of all eligible public and private training programs for medicine, osteopathic medicine, dentistry, advanced practice nursing, and physician assistant at institutions in this state for the department.

(d) To receive the credit allowed by this Code section, a community based faculty preceptor shall claim such credit on his or her return for the tax year in which he or she completed the preceptorship rotation; shall certify that he or she did not receive payment during such tax year from any source for the training of a medical student, advanced practice registered nurse student, or physician assistant student; and shall submit supporting documentation as prescribed by the commissioner.

(e) In no event shall the total amount of the tax credit under this Code section for a taxable year exceed the taxpayer's income tax liability. No such tax credit shall be allowed the taxpayer against prior or succeeding years' tax liability.

(f)(1) On August 1, 2020, and annually thereafter, the commissioner and the AHEC Program Office at Augusta University shall issue a report to the Governor, the chairperson of the Senate Finance Committee, and the chairperson of the House Committee on Ways and Means concerning the tax credit created by this Code section.

(2) Such report shall include, for the prior calendar year, the:

(A) Number of community based faculty preceptors claiming a credit;

(B) Total number of preceptorship rotations completed;

(C) Number of medical students, advanced practice registered nurse students, and physician assistant students who participated in a preceptorship rotation; and

(D) Total amount of credits awarded pursuant to this Code section.

(g) The commissioner shall be authorized to promulgate any rules and regulations necessary to implement and administer the provisions of this Code section.

(h) This Code section shall stand repealed by operation of law at the last moment of December 31, 2030.

History.

Code 1981, § 48-7-29.22, enacted by Ga. L. 2019, p. 195, § 4/HB 287; Ga. L. 2020, p. 493, § 48/SB 429; Ga. L. 2023, p. 335, § 2-6/SB 56, effective January 1, 2024; Ga. L. 2025, p. 158, § 1/HB 144, effective July 1, 2025.

Amendments.

The 2025 amendment, effective July 1, 2025, inserted "a licensed dentist as defined in Code Section 43-11-1," in paragraph (a)(2); added "or by the Georgia Board of Dentistry for the training of dentists" at the end of paragraph (a)(3); in paragraph (b)(2), substituted "$1,000.00 for each" for "$500.00 for the first, second, or third preceptorship rotation and $1,000.00 for the fourth, fifth, sixth, seventh, eighth, ninth, or tenth" and "or a licensed dentist as defined in Code Section 43-11-1 and $750.00 for each" for "and $375.00 for the first, second, or third preceptorship rotation and $750.00 for the fourth, fifth, sixth, seventh, eighth, ninth, or tenth"; added paragraph (b)(4); in paragraph (c)(2), inserted "established pursu-

ant to this Code section" and "dentistry"; and substituted "2030" for "2026" at the end of subsection (h). See Editor's notes for applicability.

Editor's notes.

Ga. L. 2025, p. 158, § 2/HB 144, not codified by the General Assembly, provides that the 2025 amendment shall be applicable to all taxable years beginning on or after January 1, 2026.

48-7-29.24. Tax credits for contributions to foster child support organizations.

(a) As used in this Code section, the term:

(1) "Aging foster children" means:

(A) Foster children aged 16 through 18; and

(B) Former foster children aged 16 through 25 who were in foster care for at least six months after reaching age 14.

(2) "Aging-out program" means a program with the primary function of supporting aging foster children and justice involved youth.

(2.1) "Business enterprise" means any insurance company or the headquarters of any insurance company required to pay the tax provided for in Code Section 33-8-4.

(3) "Division" means the Division of Family and Children Services of the Department of Human Services.

(4) "Foster child support organization" means:

(A) The aging-out program of the Technical College System of Georgia Foundation;

(B) The aging-out program of the University System of Georgia Foundation, provided that such program is certified by the Governor's Office of Planning and Budget as an aging-out program; or

(C) Any domestic nonprofit corporation which maintains nonprofit status under Section 501(c)(3) of the Internal Revenue Code and tax exempt status under Code Section 48-7-25, that has the primary function of:

(i) Operating an aging-out program that primarily supports aging foster children or operating as or supporting a Georgia licensed child-placing agency or licensed child-caring institution; or

(ii) Disbursing funds directly to one or more of the entities identified in subparagraphs (A) or (B) or division (C)(i) of this paragraph.

(4.1) "Justice involved youth" means youth aged 18 through 25 who:

(A) Were previously or are currently committed to the Department of Juvenile Justice pursuant to a court order as authorized by paragraph (11) of subsection (a) of Code Section 15-11-601; and

(B) As a result of such commitment, have been previously placed or are currently placed in a nonsecure facility or community setting.

(4.2) "Mentorship services" means support services directly provided to an aging foster child or justice involved youth by a mentor, such as role modeling, informal counseling, guiding, motivating, and sharing time together.

(5) "Qualified contributions" means the preapproved contribution of funds made during the taxable year by a taxpayer or a business enterprise to a qualified organization under the terms and conditions of this Code section.

(6) "Qualified expenditures" means expenditures made by a qualified organization for the following purposes; provided, however, that such term shall not include any expenditures for which the qualified organization has received or is eligible to receive reimbursement from the division:

(A) The costs associated with tuition waivers granted pursuant to Code Section 20-3-660;

(B) Wraparound services for aging foster children and justice involved youth who are:

(1) Enrolled in a public or private postsecondary educational institution;

(2) Enrolled in a program to obtain a high school diploma or its equivalent;

(3) Enrolled in a recognized vocational school; or

(4) Participating in a registered apprenticeship program, provided that the participant and the organization for which the participant is an apprentice document that the participant is compliant with the rules of the apprenticeship program; or

(C) Mentorship services provided to aging foster children and justice involved youth; provided, however, that such expenditures shall not include:

(1) Compensation for a single mentor which exceeds $100.00 per month for an aging foster child or justice involved youth or $1,200.00 per year for any aging foster child or justice involved youth; or

(2) Payments made to employees of a qualified organization who perform duties other than providing mentorship services for the organization.

(7) "Qualified organization" means a foster child support organization that has been certified and listed by the division pursuant to subsection (d) of this Code section.

(8) "Wraparound services" means services provided directly to aging foster children or justice involved youth to support their education through high school completion, vocational, and post-secondary education services, housing services, vocation services, medical services, counseling services, mentorship services, nutrition services, transportation services, daily living essentials and clothing, and up to $200.00 per month in direct cash payments for use on personal necessities.

(b)(1) The aggregate amount of tax credits allowed under this Code section shall not exceed $20 million for calendar year 2025. For calendar years 2026 and after, the aggregate amount of tax credits allowed under this Code section shall not exceed $30 million per calendar year, and no more than $10 million of such aggregate amount shall be allowed for business enterprises.

(2) Subject to the aggregate limit provided in paragraph (1) of this subsection and the limitations of subsections (b.1), (b.2), and (k) of this Code section, each:

(A) Taxpayer shall be allowed a credit against the tax imposed by this chapter for qualified contributions, as follows:

(i) In the case of a single individual or a head of household, the actual amount of qualified contributions made;

(ii) In the case of a married couple filing a joint return, the actual amount of qualified contributions made;

(iii) Anything to the contrary contained in division (i) or (ii) of this subparagraph notwithstanding, in the case of an individual taxpayer who is a member of a limited liability company duly formed under state law, a shareholder of a Subchapter "S" corporation, or a partner in a partnership, the actual amount of qualified contributions it made; provided, however, that tax credits pursuant to this paragraph shall only be allowed for the portion of the income on which such tax was actually paid by such member of the limited liability company, shareholder of a Subchapter "S" corporation, or partner in a partnership; or

(iv) In the case of a corporation or other entity not provided for in divisions (i) through (iii) of this subparagraph, the actual amount of qualified contributions made; and

(B) Business enterprise shall be allowed a credit against the tax imposed by Code Section 33-8-4 in an amount equal to its qualified contributions.

(b.1) For the period beginning on January 1 and ending on June 30 of each year, a taxpayer shall not be allowed a credit for contributions, and the commissioner shall not preapprove any contributions, that exceed the following limits:

(1) In the case of a single individual or a head of household, $2,500.00;

(2) In the case of a married couple filing a joint return, $5,000.00;

(3) In the case of an individual who is a member of a limited liability company duly formed under state law, a shareholder of a Subchapter "S" corporation, or a partner in a partnership, $5,000.00; or

(4) In the case of a corporation or other entity not provided for in paragraphs (1) through (3) of this subsection, 30 percent of such entity's income tax liability.

(b.2) For the period beginning on July 1 and ending on December 31 of each year, to the extent that the aggregate amounts of tax credits authorized by subsection (b) of this Code section have not been reached, the commissioner shall preapprove, deny, or prorate additional requested amounts on a first come, first served basis and shall provide notice to such taxpayer and the qualified organization of such preapproval, denial, or proration.

(b.3) A taxpayer that is preapproved for a tax credit allowed pursuant to this Code section and that does not make a qualified contribution of the total preapproved amount shall be allowed such credit in an amount not to exceed 95 percent of the amount of the qualified contribution actually made by the taxpayer.

(c) The commissioner shall establish a page on the department's public website for the purpose of implementing this Code section. Such page shall contain, at a minimum:

(1) A link to the division's web based application for certification as a qualified organization as provided for in subsection (d) of this Code section;

(2) The current list of all qualified organizations;

(3) The total amount of tax credits remaining and available for preapproval for each year;

(4) A web based method for taxpayers or business enterprises seeking the preapproval status for contributions; and

(5) The information received by the department from each qualified organization pursuant to paragraph (1) of subsection (g) except for division (g)(1)(B)(iv) of this Code section.

(d)(1) The division shall establish and maintain a web based application process for the purpose of certifying foster child support organizations as qualified organizations. At a minimum, such application created by the division shall include an agreement submitted by the applicant to fully comply with the terms and conditions of this Code section.

(2)(A) Subject to the requirements of this subsection, the division shall certify any valid foster child support organization as a qualified organization upon successful completion of such application process and shall decertify an organization that fails to maintain the requirements to be a qualified organization or that the division determines to have violated any other law.

(B) For any foster child support organization that is not a Georgia licensed child-placing agency or licensed child-caring institution or that meets the definition of such term only as set forth in division (a)(4)(C)(ii) of this Code section to be certified as a qualified organization, such organization shall provide documentation demonstrating that for a period of at least two calendar years prior to the submission of its application, the organization has operated an aging-out program and, during that period, has provided services to at least 100 aging foster children or justice involved youth.

(C) After receiving certification pursuant to this subsection, each qualified organization other than a Georgia licensed child-placing agency or licensed child-caring institution shall annually demonstrate to the division's satisfaction that it continues to maintain the requirements to be a qualified organization, and shall annually submit to the division a copy of such organization's most recent annual audit.

(3) The division shall certify any foster child support organization operating as a Georgia licensed child-placing agency or licensed child-caring institution as a qualified organization within ten days of receipt of a written request or application.

(4) The division shall establish a process for rolling applications and certifications consistent with the requirements of this Code section.

(e)(1) Prior to making a contribution to any qualified organization, the taxpayer or business enterprise shall electronically notify the department, in a manner specified by the commissioner, of the total

amount of contribution that such taxpayer or business enterprise intends to make to such qualified organization.

(2) Within 30 days after receiving a request for preapproval of contributions, the commissioner shall preapprove, deny, or prorate requested amounts on a first come, first served basis and shall provide notice to such taxpayer or business enterprise and the qualified organization of such preapproval, denial, or proration. Such notices shall not require any signed release or notarized approval by the taxpayer or business enterprise. The preapproval of contributions by the commissioner shall be based solely on the availability of tax credits subject to the aggregate total limit established under paragraph (1) of subsection (b) of this Code section.

(3) Within 60 days after receiving the preapproval notice issued by the commissioner pursuant to paragraph (2) of this subsection, the taxpayer or business enterprise shall contribute the preapproved amount to the qualified organization or such preapproved contribution amount shall expire. The commissioner shall not include such expired amounts in determining the remaining amount available under the aggregate limit for the respective calendar year.

(f)(1) Each qualified organization shall issue to each contributor a letter of confirmation of contribution, which shall include the taxpayer's or business enterprise's name, address, tax identification number, the amount of the qualified contribution, the date of the qualified contribution, and the total amount of the credit allowed to the taxpayer or business enterprise.

(2)(A) In order for a taxpayer or business enterprise to claim the tax credit allowed under this Code section, all such applicable letters as provided for in paragraph (1) of this subsection shall be attached to the taxpayer's tax return or a business enterprise's tax return provided for in Code Section 33-8-6.

(B) If the taxpayer files an electronic return, such confirmation shall only be required to be electronically attached to the return if the Internal Revenue Service allows such attachments to be affixed and transmitted to the department. In any such event, the taxpayer shall maintain such confirmation and such confirmation shall only be made available to the commissioner upon request.

(C) With respect to a business enterprise's tax return provided for in Code Section 33-8-6, the Commissioner of Insurance is authorized to promulgate rules and regulations regarding the manner in which such letters of confirmation of donations shall be filed in the case of tax returns filed electronically.

(3) The commissioner shall allow tax credits for any preapproved contributions made to a qualified organization at the time the

contributions were made if such organization was a qualified organization at the time of the commissioner's preapproval of the contributions and the taxpayer or business enterprise has otherwise complied with this Code section.

(g)(1) Each qualified organization shall annually submit to the department no later than July 15 of each year:

(A) A complete copy of its IRS Form 990 including applicable attachments, or for any qualified organization that is not required by federal law to file an IRS Form 990, such organization shall submit to the commissioner equivalent information on a form prescribed by the commissioner; provided, however, that, if the organization's IRS Form 990 is not prepared by the filing deadline, the organization shall provide such form at the same time it submits such form to the Internal Revenue Service; and

(B) A report detailing the contributions received during the calendar year pursuant to this Code section on a date determined by, and on a form provided by, the commissioner which shall include:

(i) The total number and dollar value of individual contributions and tax credits approved. Individual contributions shall include contributions made by those filing income tax returns as a single individual or head of household and those filing joint returns;

(ii) The total number and dollar value of corporate contributions and tax credits approved;

(iii) The total number and dollar value of all qualified expenditures made;

(iv) A list of contributors, including the dollar value of each contribution and the dollar value of each approved tax credit; and

(v) An accounting of the funds withheld from qualified contributions demonstrating that no more than 20 percent of such funds were withheld from qualified expenditures, as required by subparagraph (j)(1)(A) of this Code section.

(2) Except for the information published in accordance with subsection (c) of this Code section, all information or reports relative to this Code section that were provided by qualified organizations to the department shall be confidential taxpayer information, governed by Code Sections 48-2-15, 48-7-60, and 48-7-61, whether such information relates to the contributor or the qualified organization.

(h) By April 1 of each year, each qualified organization shall post on its public website in a prominent place:

(1) A copy of its prior year's annual financials containing the total amount of funds received from all sources relative to the amount of qualified contributions it received and the total amount and a description of how such contributions were utilized; and

(2) A certification, signed by the chief executive officer of the qualified organization and attested to by an independent accounting firm, which substantially complies with the following statement:

"I hereby certify that:
(A) The organization has materially complied with the requirements of subparagraph (j)(1)(A) of O.C.G.A. Section 48-7-29.24 in that no more than 20 percent of qualified contributions received by [the qualified organization] were retained by, withheld by, or otherwise paid to the organization; and
(B) The description of how [the qualified organization] utilized the qualified contributions is true and correct."

(i)(1) A taxpayer or business enterprise shall not be allowed to designate or direct the taxpayer's or business enterprise's qualified contributions to any particular purpose or for the direct benefit of any particular individual.

(2) A taxpayer or business enterprise that operates, owns, or is a subsidiary of an association, organization, or other entity that contracts directly with a qualified organization shall not be eligible for tax credits allowed under this Code section for contributions made to such qualified organization.

(3) In soliciting contributions, no person shall represent or direct that, in exchange for making qualified contributions to any qualified organization, a taxpayer or business enterprise shall receive any direct or particular benefit. The status as a qualified organization shall be revoked for any qualified organization determined to be in violation of this paragraph and shall not be renewed for at least two years.

(j)(1)(A) Each qualified organization shall use at least 80 percent of the funds received by it from qualified contributions to make qualified expenditures. Each qualified organization shall maintain accurate and current records of all expenditures of such funds and provide such records to the commissioner upon his or her request. In no event shall a qualified organization retain for its own use or apply to its overhead or administrative expenses more than 20 percent of the funds received pursuant to this Code section.

(B) No foster child support organization that meets only the definition of such term as provided in division (a)(4)(C)(ii) of this Code section shall retain more than 2.5 percent of qualified

contributions for itself for any reason and shall only serve to pass all of its qualified contributions to one or more qualified organizations that are foster child support organizations as such term is defined in subparagraphs (a)(4)(A), (a)(4)(B), or division (a)(4)(C)(i) of this Code section.

(2) A qualified organization that fails to comply with any of the requirements under this Code section shall be given written notice by the department of such failure to comply by certified mail and shall have 90 days from the receipt of such notice to correct all deficiencies.

(3) Upon failure to correct all deficiencies within 90 days, the department shall revoke the foster child support organization's status as a qualified organization and such entity shall be immediately removed from the department's list of organizations. All applications for preapproval of tax credits for contributions to such foster child support organization under this Code section made on or after the date of such removal shall be rejected.

(4) Each foster child support organization that has had its status revoked and has been delisted pursuant to this Code section, shall immediately cease all expenditures of funds received relative to this Code section, and shall transfer all of such funds that are not yet expended, to a properly operating qualified organization within 30 calendar days of its removal from the department's list of qualified organizations.

(k)(1) No credit shall be allowed under this Code section to a taxpayer for any amount of qualified contributions that were utilized as deductions or exemptions from taxable income.

(2) In no event shall the total amount of the tax credit used under this Code section for a taxable year exceed the taxpayer's income tax liability or the business enterprise's state tax liability owed pursuant to Code Section 33-8-4. Any unused tax credit shall be allowed the taxpayer or business enterprise against the succeeding three years' tax liability. No such credit shall be allowed the taxpayer or business enterprise against prior years' tax liability.

(l) The chairperson of the House Appropriations Committee and the chairperson of the Senate Committee on Appropriations shall have the authority to request an audit concerning this Code section as a whole or of any one or more qualified organizations. The commissioner, the state auditor, each qualified organization, each aging-out program, and the director of the division shall cooperate to the full extent necessary to conduct such audits.

(m) At the discretion of the commissioner or the director of the division, any suspected misuse of funds contributed or expended

pursuant to this Code section shall be forwarded to the Attorney General for investigation and prosecution.

(n) The commissioner shall promulgate rules and regulations necessary to implement and administer the provisions of this Code section.

History.
Code 1981, § 48-7-29.24, enacted by Ga. L. 2022, p. 729, § 1/HB 424; Ga. L. 2024, p. 794, § 1-10/HB 1181, effective January 1, 2025; Ga. L. 2025, p. 537, § 2-1/HB 136, effective July 1, 2025.

Amendments.
The 2025 amendment, effective July 1, 2025, rewrote this Code section. See Editor's notes for applicability.

Editor's notes.
Ga. L. 2025, p. 537, § 3-1(a)/HB 136, not codified by the General Assembly, provides that the 2025 amendment shall be applicable to all taxable years beginning on or after January 1, 2026.

48-7-29.25. Tax credits for contributions to law enforcement foundations.

(a) As used in this Code section, the term:

(1) "Law enforcement foundation" means any domestic nonprofit corporation with the sole function of supporting law enforcement through a formal relationship with one or more local law enforcement units or which provides support to law enforcement state wide and which maintains nonprofit status under Section 501(c)(3) of the Internal Revenue Code and tax exempt status under Code Section 48-7-25.

(2) "Local law enforcement unit" means any agency, office, or department of a county, municipality, or consolidated government of this state whose primary functions include the enforcement of criminal or traffic laws, preservation of public order, protection of life and property, or the prevention, detection, or investigation of crime. Such term shall include any sheriff's office in this state. Such term shall not include any agency, office, or department conducting similar functions for any court, state board, state authority, state law enforcement division or department, railroad police, or any unit appointed under the authority of Chapter 9 of Title 35 of the Official Code of Georgia Annotated.

(3) "Qualified contributions" means the preapproved contribution of funds by a taxpayer to a qualified law enforcement foundation under the terms and conditions of this Code section.

(4) "Qualified expenditures" means expenditures made by a qualified law enforcement foundation:

(A)(i) For salary supplements paid no more than twice annually or training provided directly to law enforcement officers and

other employees employed by any local law enforcement unit affiliated with such qualified law enforcement foundation;

(ii) For the purchase, lease, maintenance, or improvement of equipment to be used by such officers or employees;

(iii) For the purchase or lease of supplies and materials for technology updates, including computer hardware and software; or

(iv) For the lease of facilities or purchase of goods or services to be used for the promotion of community engagement; or

(B) To cover any costs incurred by any local law enforcement unit affiliated with such law enforcement foundation for the operation of an emergency response team that combines law enforcement officers and behavioral health specialists, provided that such costs shall not include salaries or other regular compensation.

(5) "Qualified law enforcement foundation" means any law enforcement foundation that:

(A) Has been certified and listed by the commissioner pursuant to subsection (d) of this Code section; and

(B)(i) Has been designated as the law enforcement foundation for a local law enforcement unit or combination of neighboring local law enforcement units; or

(ii) Is a law enforcement foundation which provides support to law enforcement state wide.

(b)(1) The aggregate amount of tax credits allowed under this Code section shall not exceed $75 million per calendar year. Each qualified law enforcement foundation shall be limited to accepting $3 million per year of contributions made under this Code section.

(2) Subject to the aggregate limit provided in paragraph (1) of this subsection for taxable years beginning on or after January 1, 2023, and ending on or before December 31, 2031, each taxpayer shall be allowed a credit against the tax imposed by this chapter for qualified contributions made by the taxpayer as follows:

(A) In the case of a single individual or a head of household, the actual amount of qualified contributions made or $5,000.00 per tax year, whichever is less;

(B) In the case of a married couple filing a joint return, the actual amount of qualified contributions made or $10,000.00 per tax year, whichever is less;

(C) Anything to the contrary contained in subparagraph (A) or (B) of this paragraph notwithstanding, in the case of an individual taxpayer who is a member of a limited liability company duly formed under state law, a shareholder of a Subchapter "S" corporation, or a partner in a partnership, the actual amount of qualified contributions it made or $10,000.00 per tax year, whichever is less; provided, however, that tax credits pursuant to this paragraph shall only be allowed for the portion of the income on which such tax was actually paid by such member of the limited liability company, shareholder of a Subchapter "S" corporation, or partner in a partnership; or

(D) A corporation or other entity not provided for in subparagraphs (A) through (C) of this paragraph shall be allowed a credit against the tax imposed by this chapter, for qualified contributions in an amount not to exceed the actual amount of qualified contributions made or 75 percent of such corporation's or other entity's income tax liability, whichever is less.

(3) Nothing in this Code section shall be construed to limit the ability of a local law enforcement unit to receive gifts, grants, and other benefits from any source allowed by law; provided, however, that no local law enforcement unit shall, under this Code section, accept or receive more than $3 million in contributions in any calendar year.

(c) The commissioner shall establish a page on the department's public website for the purpose of implementing this Code section. Such page shall contain, at a minimum:

(1) The application and requirements to be certified as a qualified law enforcement foundation;

(2) The current list of all qualified law enforcement foundations and their affiliate law enforcement units;

(3) The total amount of tax credits remaining and available for preapproval for each year;

(4) A web based method for taxpayers seeking the preapproval status for contributions; and

(5) The information received by the department from each qualified law enforcement foundation pursuant to paragraph (1) of subsection (g) except for division (g)(1)(B)(iv) of this Code section.

(d) Any valid law enforcement foundation as a qualified law enforcement foundation shall be certified by the commissioner following the commissioner's receipt of a properly completed application and after the commissioner has confirmed that a local law enforcement unit has

validly designated the applicant as its law enforcement foundation; provided, however, that such designation shall not be required for an applicant that provides support to law enforcement state wide. Such application shall be prescribed by the commissioner and shall include an agreement by the applicant to fully comply with the terms and conditions of this Code section.

(e)(1) Prior to making a contribution to any qualified law enforcement foundation, the taxpayer shall request preapproval by electronically notifying the department, in a manner specified by the commissioner, of the total amount of contribution that such taxpayer intends to make to such qualified law enforcement foundation.

(2) Within 30 days after receiving a request for preapproval of contributions, the commissioner shall preapprove, deny, or prorate requested amounts on a first come, first served basis and shall provide notice to such taxpayer and the qualified law enforcement foundation of such preapproval, denial, or proration. Such notices shall not require any signed release or notarized approval by the taxpayer. The preapproval of contributions by the commissioner shall be based on the availability of tax credits subject to the limits established under paragraph (1) of subsection (b) of this Code section.

(3) Within 60 days after receiving the preapproval notice issued by the commissioner pursuant to paragraph (2) of this subsection, the taxpayer shall contribute the preapproved amount to the qualified law enforcement foundation or such preapproved contribution amount shall expire. The commissioner shall not include such expired amounts in determining the remaining amounts available under the limits provided in paragraph (1) of subsection (b) of this Code section for the respective calendar year.

(f)(1) Each qualified law enforcement foundation shall issue to each contributor making a contribution pursuant to this Code section a letter of confirmation of contribution, which shall include the taxpayer's name, address, tax identification number, the amount of the qualified contribution, the date of the qualified contribution, and the total amount of the credit allowed to the taxpayer.

(2) In order for a taxpayer to claim the tax credit allowed under this Code section, all such applicable letters as provided for in paragraph (1) of this subsection shall be attached to the taxpayer's tax return. When the taxpayer files an electronic return such confirmation shall only be required to be electronically attached to the return if the Internal Revenue Service allows such attachments to be affixed and transmitted to the department. In any such event, the taxpayer shall maintain such confirmation and such confirmation shall only be made available to the commissioner upon request.

(3) The commissioner shall allow tax credits for any preapproved contributions made to a qualified law enforcement foundation at the time the contributions were made if such foundation was a qualified law enforcement foundation at the time of the commissioner's preapproval of the contributions and the taxpayer has otherwise complied with this Code section.

(4)(A) For the period beginning on July 1 and ending on December 31 of each year, to the extent that the aggregate amount of tax credits authorized by subsection (b) of this Code section has not been reached, the commissioner shall preapprove, deny, or prorate additional requested amounts on a first come, first served basis and shall provide notice to such taxpayer and the qualified law enforcement foundation of such preapproval, denial, or proration.

(B) A taxpayer that is preapproved for the tax credit allowed pursuant to this Code section during the period provided for in subparagraph (A) of this paragraph shall only be allowed such credit in an amount that shall not exceed 95 percent of the amount otherwise allowed pursuant to this Code section.

(g)(1) Each qualified law enforcement foundation shall annually submit to the department:

(A) A complete copy of its IRS Form 990 and other applicable attachments, or for any qualified law enforcement foundation that is not required by federal law to file an IRS Form 990, equivalent information on a form prescribed by the commissioner; and

(B) A report detailing the contributions received during the calendar year pursuant to this Code section on a date determined by, and on a form provided by, the commissioner which shall include:

(i) The total number and dollar value of individual contributions and tax credits approved. Individual contributions shall include contributions made by those filing income tax returns as a single individual or head of household and those filing joint returns;

(ii) The total number and dollar value of corporate contributions and tax credits approved;

(iii) The total number and dollar value of all qualified expenditures made; and

(iv) A list of contributors, including the dollar value of each contribution and the dollar value of each approved tax credit.

(2) Except for the information published in accordance with paragraph (c) or (h) of this Code section, all information or reports relative

to this Code section that were provided by qualified law enforcement foundations to the department shall be confidential taxpayer information, governed by Code Sections 48-2-15, 48-7-60, and 48-7-61, whether such information relates to the contributor or the qualified law enforcement foundation.

(h) Each qualified law enforcement foundation shall publish on its public website a copy of its affiliated local law enforcement unit's prior year's annual budget containing the total amount of funds received from its local governing body. If a qualified law enforcement foundation does not maintain a public website, such information shall be otherwise made available by the qualified law enforcement foundation to the public upon request.

(i)(1) A taxpayer shall not be allowed to designate or direct the taxpayer's qualified contributions to a qualified law enforcement foundation pursuant to this Code section to any particular purpose or for the direct benefit of any particular individual.

(2) A taxpayer that operates, owns, is affiliated with, or is a subsidiary of an association, organization, or other entity that contracts directly with a qualified law enforcement foundation or any local law enforcement unit that is affiliated with a qualified law enforcement foundation shall not be eligible for tax credits allowed under this Code section for contributions made to such qualified law enforcement foundation.

(3) In soliciting contributions, no person shall represent or direct that, in exchange for making qualified contributions to any qualified law enforcement foundation, a taxpayer shall receive any direct or particular benefit. The status as a qualified law enforcement foundation shall be revoked for any law enforcement foundation determined to be in violation of this paragraph and shall not be renewed for at least two years.

(j)(1) Qualified contributions shall only be used for qualified expenditures. Each qualified law enforcement foundation shall maintain accurate and current records of all expenditures of qualified contributions and provide such records to the commissioner upon his or her request.

(2) A qualified law enforcement foundation that fails to comply with any of the requirements under this Code section shall be given written notice by the department of such failure to comply by certified mail and shall have 90 days from the receipt of such notice to correct all deficiencies.

(3) Upon failure of a qualified law enforcement foundation to correct all deficiencies within 90 days pursuant to the requirements

of paragraph (2) of this subsection, the department shall revoke the law enforcement foundation's status as a qualified law enforcement foundation and such entity shall be immediately removed from the department's list of qualified law enforcement foundations. All applications for preapproval of tax credits for contributions to such law enforcement foundation under this Code section made on or after the date of such removal shall be rejected.

(4) Each law enforcement foundation that has had its status revoked and has been delisted pursuant to this Code section shall immediately cease all expenditures of funds received relative to this Code section and shall transfer all of such funds that are not yet expended to a properly operating qualified law enforcement foundation within 30 calendar days of its removal from the department's list of qualified law enforcement foundations.

(k)(1) No credit shall be allowed under this Code section to a taxpayer for any amount of qualified contributions that were utilized as deductions or exemptions from taxable income.

(2) In no event shall the total amount of the tax credit under this Code section for a taxable year exceed the taxpayer's income tax liability. No unused tax credit shall be allowed the taxpayer against succeeding years' tax liability. No such credit shall be allowed the taxpayer against prior years' tax liability.

(l) The commissioner shall promulgate rules and regulations necessary to implement and administer the provisions of this Code section.

History.
Code 1981, § 48-7-29.25, enacted by Ga. L. 2022, p. 716, § 2/SB 361; Ga. L. 2024, p. 794, § 1-11/HB 1181, effective January 1, 2025; Ga. L. 2025, p. 531, § 2/HB 266, effective July 1, 2025.

Amendments.
The 2025 amendment, effective July 1, 2025, rewrote this Code section. See Editor's notes for applicability.

Editor's notes.
Ga. L. 2025, p. 531, § 3(a)/HB 266, not codified by the General Assembly, provides that the 2025 amendment shall be applicable to all taxable years beginning on or after January 1, 2026.

48-7-29.27. Tax credits for qualifying child.

(a) As used in this Code section, the term "qualifying child" shall have the same meaning as set forth in Section 24(c) of the Internal Revenue Code, provided that such child has not yet attained age six.

(b) For taxable years beginning on or after January 1, 2026, a taxpayer shall be allowed a credit against the tax imposed by Code Section 48-7-20 in an amount equal to $250.00 for each qualifying child of the taxpayer.

(c) In no event shall more than one taxpayer be allowed the tax credit granted under this Code section for the same qualifying child. In the case of parents or legal guardians who do not file income taxes jointly for any reason, the child shall be the qualifying child for only one parent or legal guardian, which shall be the parent or legal guardian who had custody of the qualifying child for more than one-half of the tax year in question; provided, however, that the noncustodial parent or legal guardian may claim the credit if:

(1) A court of competent jurisdiction has unconditionally awarded, in writing, the noncustodial parent or legal guardian the tax credit authorized under this Code section, and such parent or legal guardian attaches a copy of the court order with his or her tax return; or

(2) The noncustodial parent or legal guardian attaches a copy of a written declaration made by the custodial parent or legal guardian of a qualifying child that he or she assigns the credit to the noncustodial parent or legal guardian and will not claim the credit allowed under this Code section with respect to such child for such tax year.

(d) Notwithstanding the provisions of subsection (b) of this Code section, in the case of any taxable nonresident or part-year resident whose tax was prorated as provided by Code Section 48-7-85, the amount of the credit determined pursuant to such subsection shall be prorated based on the ratio of income taxable to this state as properly reported on Schedule 3, Line 9 of the Georgia Form 500 for the taxable year.

(e) In no event shall the total amount of the tax credit under this Code section for a taxable year exceed the taxpayer's income tax liability. Any unused tax credit shall not be allowed to be carried forward to apply to the taxpayer's succeeding years' tax liability. No such tax credit shall be allowed the taxpayer against prior years' tax liability.

(f) The commissioner shall be authorized to promulgate rules and regulations necessary to implement and administer the provisions of this Code section.

History.

Code 1981, § 48-7-29.27, enacted by Ga. L. 2025, p. 537, § 1-2/HB 136, effective July 1, 2025.

Effective date.

This Code section became effective July 1, 2025. See Editor's notes for applicability.

Editor's notes.

Ga. L. 2025, p. 537, § 3-1(a)/HB 136, not codified by the General Assembly, provides that this Code section shall be applicable to all taxable years beginning on or after January 1, 2026.

48-7-29.28. (Reserved effective December 31, 2030.) Tax credit for eligible child care payments.

(a) As used in this Code section, the term:

(1) "Child care facility" means a child care learning center or family child care learning home that is permitted, licensed, or commissioned by the Department of Early Care and Learning pursuant to Chapter 1A of Title 20.

(2) "Eligible child care payments for employees" means payments:

(A) Made directly to a child care facility in the name and for the benefit of an employee whose child is enrolled in such facility and is under the age of six;

(B) Which total at least $1,000.00 per taxable year for each employee for which such payments are made; and

(C) That are made for an employee in addition to, and not in lieu of, any other compensation and benefits for such employee.

(b) For taxable years beginning on or after January 1, 2026, a taxpayer shall be allowed a credit against the tax imposed under this article for eligible child care payments for employees in an amount:

(1) Equal to $500.00 per child for which such payments are made per taxable year; or

(2) Equal to $1,000.00 per child for which such payments are made if it is the first taxable year in which the taxpayer provided eligible child care payments for employees and prior to such taxable year the taxpayer did not pay for, reimburse for, or otherwise subsidize the costs of child care for employees.

(c) The aggregate amount of tax credits allowed pursuant to this Code section shall not exceed $20 million per year.

(d) In no event shall the total amount of the tax credit under this Code section for a taxable year exceed the taxpayer's income tax liability. Any unused tax credit shall not be allowed to be carried forward to apply to the taxpayer's succeeding years' tax liability. No such tax credit shall be allowed the taxpayer against prior years' tax liability.

(e) A taxpayer seeking to claim a tax credit pursuant to this Code section shall submit an application to the department for preapproval of such tax credit in the manner specified by the department. The department shall preapprove such application within 30 days based on the order in which properly completed applications were submitted. In the event that two or more applications were submitted on the same

day and the amount of funds available will not be sufficient to fully fund the amount requested, the department shall prorate the available funds between or among the applicants.

(f) The commissioner shall promulgate any rules and regulations necessary to implement and administer the provisions of this Code section.

(g) This Code section shall stand repealed and reserved on December 31, 2030.

History.
Code 1981, § 48-7-29.28, enacted by Ga. L. 2025, p. 537, § 1-3/HB 136, effective July 1, 2025.

Effective date.
This Code section became effective July 1, 2025. See Editor's notes for applicability.

Editor's notes.
Ga. L. 2025, p. 537, § 3-1(a)/HB 136, not codified by the General Assembly, provides that this Code section shall be applicable to all taxable years beginning on or after January 1, 2026.

48-7-31. Taxation of corporations; computation, allocation, and apportionment of income.

(a) The tax imposed by this chapter shall apply to the entire net income, as defined in this article, received by every foreign or domestic corporation owning property within this state, doing business within this state, or deriving income from sources within this state to the extent permitted by the United States Constitution. A corporation shall be deemed to be doing business within this state if it engages within this state in any activities or transactions for the purpose of financial profit or gain whether or not:

(1) The corporation qualifies to do business in this state;

(2) The corporation maintains an office or place of doing business within this state; or

(3) Any such activity or transaction is connected with interstate or foreign commerce.

(b)(1) If the entire business income of the corporation is derived from property owned or business done in this state, the tax shall be imposed on the entire business income.

(2) If the business income of the corporation is derived in part from property owned or business done in this state and in part from property owned or business done outside this state, the tax shall be imposed only on that portion of the business income which is reasonably attributable to the property owned and business done within this state, such portion to be determined as provided in subsections (c) and (d) of this Code section.

(c)(1) Interest received on bonds held for investment and income received from other intangible property held for investment are not subject to apportionment. All expenses connected with such investment income shall be applied against the investment income. The net investment income from intangible property shall be allocated to this state if the situs of the corporation is in this state or if the intangible property was acquired as income from property held in this state or as a result of business done in this state.

(2) Rentals received from real estate held purely for investment purposes and not used in the operation of any business are not subject to apportionment. All expenses connected with such investment income shall be applied against the investment income. The net investment income from tangible property located in this state shall be allocated to this state.

(3) Gains from the sale of tangible or intangible property not held, owned, or used in connection with the trade or business of the corporation nor held for sale in the regular course of business shall be allocated to this state if the property sold is real or tangible personal property situated in this state or intangible property having an actual situs or a business situs within this state. Otherwise, the gains shall not be allocated to this state.

(d) Net income of the classes described in subsection (c) of this Code section having been separately allocated and deducted, the remainder of the net business income shall be apportioned as follows:

(1) Where the net business income of the corporation is derived principally from the manufacture, production, or sale of tangible personal property, the portion of net income therefrom attributable to property owned or business done within this state shall be taken to be the portion arrived at by application of the following formula:

(A) Gross receipts factor.

(i) The gross receipts factor is a fraction, the numerator of which is the total gross receipts from business done within this state during the tax period and the denominator of which is the total gross receipts from business done everywhere during the tax period. For the purposes of this subparagraph, receipts shall be deemed to have been derived from business done within this state only if the receipts are received from products shipped to customers in this state, or from products delivered within this state to customers. In determining the gross receipts within this state, receipts from sales negotiated or effected through offices of the taxpayer outside this state and delivered from storage in this state to customers outside this state shall be excluded;

(ii) Where a taxpayer's gross receipts are also derived from

activities described in paragraph (2) of this subsection, gross receipts shall also include the gross receipts from the activities described in paragraph (2) of this subsection and shall be attributed to Georgia based upon division (2)(A)(i) of this subsection;

(B) Apportionment formula. The net income of the corporation shall be apportioned to this state according to the gross receipts factor pursuant to subparagraph (A) of this paragraph;

(2) Except as otherwise provided in paragraph (2.1) or (2.2) of this subsection, where the net business income is derived principally from business other than the manufacture, production, or sale of tangible personal property, the net business income of the corporation shall be determined by applying the following formula:

(A) Gross receipts factor.

(i) The gross receipts factor is a fraction, the numerator of which is the total gross receipts from business done within this state during the tax period and the denominator of which is the total gross receipts from business done everywhere during the tax period. For purposes of this subparagraph, the term "gross receipts" means all gross receipts received from activities which constitute the taxpayer's regular trade or business. Gross receipts are in this state if the receipts are derived from customers within this state or if the receipts are otherwise attributable to this state's marketplace;

(ii) Where a taxpayer's gross receipts are also derived from activities described in paragraph (1) of this subsection, gross receipts shall also include the gross receipts from the activities described in paragraph (1) of this subsection and shall be attributed to Georgia based upon division (1)(A)(i) of this subsection;

(B) Apportionment formula. The net income of the corporation shall be apportioned to this state according to the gross receipts factor pursuant to subparagraph (A) of this paragraph;

(C) If the allocation and apportionment provisions provided for in this paragraph do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition the commissioner for, or the commissioner may by regulation require, with respect to all or any part of the taxpayer's business activity, if reasonable:

(i) Separate accounting;

(ii) The exclusion of any one or more of the factors;

(iii) The inclusion of one or more additional factors that will fairly represent the taxpayer's business activity within this state; or

(iv) The employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

The denial of a petition under this subparagraph shall be appealable pursuant to Code Section 48-2-59. Such an appeal shall be filed within 45 days of the date of the commissioner's notice of denial;

(2.1)(A) Except as otherwise provided in this paragraph, all terms used in this paragraph shall have the same meaning as such terms are defined in 49 U.S.C. Section 1301 and the United States Department of Transportation's Uniform System of Accounts and Reports for Large Certificated Air Carriers, 14 C.F.R. Part 241, as now or hereafter amended.

(B) Where the net business income of the corporation is derived principally from transporting passengers or cargo in revenue flight, the portion of the net income therefrom attributable to property owned or business done within this state shall be taken to be the portion arrived at by application of the following three-factor formula:

(i) Revenue air miles factor. The revenue air miles factor is a fraction, the numerator of which shall be equal to the total, for each flight stage which originates or terminates in this state, of revenue passenger miles by aircraft type flown in this state and revenue cargo ton miles by aircraft type flown in this state and the denominator of which shall be equal to the total, for all flight stages flown everywhere, of total revenue passenger miles by aircraft type and total revenue cargo ton miles by aircraft type;

(ii) Tons handled factor. The tons handled factor is a fraction, the numerator of which shall be equal to the total of revenue passenger tons by aircraft type handled in this state and revenue cargo tons by aircraft type handled in this state and the denominator of which shall be equal to the total of revenue passenger tons by aircraft type flown everywhere and revenue cargo tons by aircraft type flown everywhere. For purposes of this division, the term "handled" means the product of 60 percent multiplied by the revenue passenger tons flown on each flight stage which originates in this state or 60 percent multiplied by the revenue cargo tons flown on each flight stage which originates in this state;

(iii) Originating revenue factor. The originating revenue factor is a fraction, the numerator of which shall be equal to the

total of passenger and cargo revenue by aircraft type which is attributable to this state and the denominator of which shall be the total of passenger and cargo revenue by aircraft type everywhere. For purposes of this division, passenger or cargo revenue which is attributable to this state shall be equal to the product of passenger or cargo revenue everywhere by aircraft type multiplied by the ratio of revenue passenger miles or revenue cargo ton miles in this state to total revenue passenger miles everywhere or total revenue cargo ton miles everywhere for each aircraft type as separately determined in division (i) of this subparagraph. If records of total passenger revenue everywhere by aircraft type or total cargo revenue everywhere by aircraft type are not maintained, then for purposes of this division, total passenger revenue everywhere for all aircraft types or total cargo revenue everywhere for all aircraft types shall be allocated to each aircraft type based on the ratio of total revenue passenger miles everywhere for that aircraft type to all aircraft types or total revenue cargo ton miles everywhere for that aircraft type to all aircraft types;

(iv) The revenue air miles factor, the tons handled factor, and the originating revenue factor shall be separately determined and an apportionment fraction shall be calculated using the following formula:

(I) The revenue air miles factor shall represent 25 percent of the fraction;

(II) The tons handled factor shall represent 25 percent of the fraction; and

(III) The originating revenue factor shall represent 50 percent of the fraction.

The net income of the corporation shall be apportioned to this state according to such average fraction;

(2.2)(A) As used in this paragraph, the term:

(i) "Credit card data processing and related services" shall include, but not be limited to, the provision of infrastructure services for bank credit card and private label card issuers, such as new account application processing, international and domestic clearing, statement preparation, point-of-sale authorization processing, card embossing, and other related processing services for managing cardholder accounts.

(ii) "Customer" means the banks and institutions to whom credit card data processing and related services are provided.

(iii) "Gross receipts factor" means a fraction, the numerator of

which is the total gross receipts from the taxpayer's customers during the tax period, if the principal office of the customer's credit card operation is in this state or if the principal office of the taxpayer's customer is in this state, and the denominator of which is the total gross receipts from all of the taxpayer's customers during the tax period.

(B) Where more than 60 percent of the total gross receipts of a corporation are derived from the provision of credit card data processing and related services to banks and other institutions, the portion of the net income attributable to business done in this state shall be determined by multiplying the corporation's net income by the gross receipts factor in division (iii) of subparagraph (A) of this paragraph;

(3) For the purposes of this subsection, the term "sale" shall include, but not be limited to, an exchange, and the term "manufacture" shall include, but not be limited to, the extraction and recovery of natural resources and all processes of fabricating and curing.

(e) The net income of a domestic or foreign corporation which is a subsidiary of another corporation or which is closely affiliated with another corporation by stock ownership shall be determined by eliminating all payments to the parent corporation or affiliated corporation in excess of fair value and by including fair compensation to the domestic business corporation for its commodities sold to or services performed for the parent corporation or affiliated corporation. For the purposes of determining net income as provided in this subsection, the commissioner may equitably determine the net income by reasonable rules of apportionment of the combined income of the subsidiary, its parent, and affiliates, or any combination of the subsidiary, its parent, and any one or more of its affiliates.

History.

Ga. L. 1931, Ex. Sess., p. 24, § 15; Ga. L. 1931, p. 7, § 85; Code 1933, § 92-3113; Ga. L. 1935, p. 121, § 4; Ga. L. 1937, p. 109, § 9; Ga. L. 1941, p. 210, § 5; Ga. L. 1950, p. 299, § 1; Ga. L. 1962, p. 455, § 1; Ga. L. 1969, p. 114, §§ 3, 4; Ga. L. 1974, p. 406, § 1; Code 1933, § 91A-3611, enacted by Ga. L. 1978, p. 309, § 2; Ga. L. 1979, p. 5, § 69; Ga. L. 1987, p. 191, § 2; Ga. L. 1995, p. 714, §§ 1, 2; Ga. L. 1996, p. 181, §§ 7, 8; Ga. L. 1996, p. 220, § 1; Ga. L. 1997, p. 459, §§ 1, 2; Ga. L. 1998, p. 6, § 1; Ga. L. 2001, p. 984, § 5; Ga. L. 2002, p. 415, § 48; Ga. L. 2005, p. 30, §§ 4-6/HB 191; Ga. L. 2005, p. 159, § 15/HB 488; Ga. L. 2012, p. 318, § 10/HB 100; Ga. L. 2025, p. 738, § 1-8/SB 141, effective July 1, 2025.

Amendments.

The 2025 amendment, effective July 1, 2025, substituted "45 days" for "30 days" in the ending undesignated paragraph following division (d)(2)(C)(iv).

48-7-40.22. (Reserved effective December 31, 2029.) Tax credits for business enterprises that purchase or lease a motor vehicle to provide transportation for employees.

(a) As used in this Code section, the term:

(1) "Broadcasting" means the transmission or licensing of audio, video, text, or other programming content to the general public, subscribers, or to third parties via radio, television, cable, satellite, or the internet or IP and includes motion picture and sound recording, editing, production, postproduction, and distribution. Such term is limited to establishments classified under the 2007 North American Industry Classification System Codes 515, broadcasting; 519, internet publishing and broadcasting; 517, telecommunications; and 512, motion picture and sound recording industries.

(2) "Business enterprise" means any business or the headquarters of any such business which is engaged in manufacturing, warehousing and distribution, processing, telecommunications, broadcasting, tourism, research and development industries, child care businesses, or retail businesses.

(3) "Headquarters" means the principal central administrative office of a taxpayer.

(4) "Tier" means a tier as designated pursuant to Code Section 48-7-40, as amended.

(b) A business enterprise which is located in a tier 1 or tier 2 county which purchases or leases a new motor vehicle as defined in paragraph (34) of Code Section 40-1-1 in this state which is used for the exclusive purpose of providing transportation for its employees shall be allowed a credit for taxes imposed under this article as follows:

Tier	Credit amount per vehicle
1	$ 3,000.00
2	2,000.00

(c) In order to qualify for the tax credit under this Code section, a business enterprise must certify that each vehicle for which a credit is claimed carries an average daily ridership of not less than four employees for an entire taxable year.

(d) In no event shall the aggregate amount of the tax credit provided by this Code section exceed the income tax liability of the business enterprise. Any unused tax credit shall be allowed to be carried forward to apply to the three succeeding years' tax liability of such business enterprise. No such credit shall be allowed the business enterprise against prior years' tax liability.

(e) No business enterprise shall be authorized to claim on a tax return the credit provided for in this Code section with respect to a vehicle if such business enterprise claims any of the credits authorized under subsection (b) of Code Section 48-7-40.16 with respect to such vehicle.

(f)(1) If a business enterprise sells a new motor vehicle within three years of receiving the credit, the business enterprise shall recapture the credit as follows:

(A) If the motor vehicle is sold within one year of receiving the credit, the recapture amount will equal the lesser of the credit or the net profit from the sale;

(B) If the motor vehicle is sold within two years of receiving the credit, the recapture amount will equal the lesser of two-thirds of the credit or the net profit from the sale; and

(C) If the motor vehicle is sold within three years of receiving the credit, the recapture amount will equal the lesser of one-third of the credit or the net profit from the sale.

(2) The recapture provisions of this subsection shall not apply to:

(A) Any sale by reason of death;

(B) Any sale between spouses or incident to divorce;

(C) Any transaction to which Section 381(a) of the Internal Revenue Code of 1986 applies;

(D) Any change in the form of conducting the taxpayer's trade or business so long as the property is retained in such trade or business and the taxpayer retains a substantial interest in such trade or business; or

(E) Any accident or casualty.

(g) The commissioner shall promulgate any rules and regulations necessary to implement and administer the Code section.

(h) This Code section shall stand repealed and reserved on December 31, 2029.

History.

Code 1981, § 48-7-40.22, enacted by Ga. L. 2001, p. 105, § 3; Ga. L. 2002, p. 372, § 6; Ga. L. 2008, p. 874, § 6/HB 1246; Ga. L. 2013, p. 141, § 48/HB 79; Ga. L. 2024, p. 794, §§ 1-28, 2-3/HB 1181, effective January 1, 2025; Ga. L. 2024, p. 1052, § 5(43)/SB 448, effective July 1, 2024; Ga. L. 2025, p. 1029, § 48(6)/SB 153, effective July 1, 2025.

Amendments.

The 2025 amendment, effective July 1, 2025, part of an Act to revise, modernize, and correct the Code, revised punctuation in the table in subsection (b).

48-7-40.26. (Effective until January 1, 2026.) Tax credits for film, gaming, video, or digital production.

(a) This Code section shall be known and may be cited as the "Georgia Entertainment Industry Investment Act."

(b) As used in this Code section, the term:

(1) "Affiliates" means those entities that are included in the production company's or qualified interactive entertainment production company's affiliated group as defined in Section 1504(a) of the Internal Revenue Code and all other entities that are directly or indirectly owned 50 percent or more by members of the affiliated group.

(2) "Base investment" means the aggregate funds actually invested and expended by a production company or qualified interactive entertainment production company as production expenditures incurred in this state that are directly used in a state certified production or productions.

(3) "Game platform" means the electronic delivery system used to launch or play an interactive game.

(4) "Game sequel" means an interactive game which builds upon the theme of a previously released interactive game, is distinguished by a new title, and features objectives or characters that are recognizably different from the original game.

(5) "Multimarket commercial distribution" means paid commercial distribution with media buys which extend to markets outside the State of Georgia.

(6) "Prereleased interactive game" means a new game, the offering of an existing game on a new game platform, or a game sequel that is in the developmental stages of production, which may be available to individuals for testing purposes but is not generally made available or distributed to consumers or to the general public.

(7) "Production company" means a company, other than a qualified interactive entertainment production company, primarily engaged in qualified production activities which have been approved by the Department of Economic Development. This term shall not mean or include any form of business owned, affiliated, or controlled, in whole or in part, by any company or person which is in default on any tax obligation of the state, or a loan made by the state or a loan guaranteed by the state.

(8) "Production expenditures" means:

(A) Preproduction, production, and postproduction expenditures incurred in this state that are directly used in a qualified produc-

tion activity, including, but not limited to, the following: set construction and operation; wardrobes, make-up, accessories, and related services; costs associated with photography and sound synchronization; expenditures excluding license fees incurred with Georgia companies for sound recordings and musical compositions; sound recording projects used in feature films, series, pilots, or movies; lighting and related services and materials; editing and related services; rental of facilities and equipment; leasing of vehicles; costs of food and lodging; digital or tape editing; film processing; transfers of film to tape or digital format; sound mixing; computer graphics services; special effects services; animation services; total aggregate payroll; airfare, if purchased through a Georgia travel agency or travel company; insurance costs and bonding, if purchased through a Georgia insurance agency; and other direct costs of producing the project in accordance with generally accepted entertainment industry practices.

(B) This term shall not include:

(i) Postproduction expenditures for footage shot outside the State of Georgia, marketing, story rights, or distribution;

(ii) Any expenditure for work or services not conducted or rendered in Georgia. Expenditures for services not performed at the filming site shall only qualify if the vendor is a Georgia vendor. Expenditures for services conducted or rendered both in Georgia and outside Georgia shall only qualify to the extent the service is conducted or rendered in Georgia;

(iii) Expenditures for goods that were not purchased or rented or leased in this state from a Georgia vendor. Expenditures for goods shall only qualify to the extent such goods are used in this state. A vendor that acts as a conduit to enable purchases or rentals to qualify that would not otherwise qualify shall not be considered a Georgia vendor with respect to such purchases, rentals, or leases; or

(iv) Any transaction subject to taxation imposed by Chapter 8 or 13 of this title for which taxes have not been demonstrably paid.

(C) This term includes payments to a loan-out company by a production company or qualified interactive entertainment production company that has met its withholding tax obligations as set out below. The production company or qualified interactive entertainment production company shall withhold Georgia income tax at the rate imposed by subsection (a) of Code Section 48-7-21 on all payments to loan-out companies for services performed in Georgia. Any amounts so withheld shall be deemed to have been withheld by

the loan-out company on wages paid to its employees for services performed in Georgia pursuant to Article 5 of this chapter notwithstanding the exclusion provided in subparagraph (K) of paragraph (10) of Code Section 48-7-100. The amounts so withheld shall be allocated to the loan-out company's employees based on the payments made to the loan-out company's employees for services performed in Georgia. For purposes of this chapter, loan-out company nonresident employees performing services in Georgia shall be considered taxable nonresidents and the loan-out company shall be subject to income taxation in the taxable year in which the loan-out company's employees perform services in Georgia, notwithstanding any other provisions in this chapter. Such withholding liability shall be subject to penalties and interest in the same manner as the employee withholding taxes imposed by Article 5 of this chapter and the commissioner shall provide by regulation the manner in which such liability shall be assessed and collected.

(D) Production expenditures by a production company shall be subject to any limitations or reductions imposed by subsection (l) of this Code section.

(9) "Qualified Georgia promotion" means a qualified promotion of this state approved by the Department of Economic Development consisting of a:

(A) Qualified movie production which includes a five-second long static or animated logo that promotes Georgia in the end credits before the below-the-line crew crawl for the life of the project and which includes a link to Georgia on the project's web page;

(B) Qualified TV production which includes an embedded five-second long Georgia promotion during each broadcast worldwide for the life of the project and which includes a link to Georgia on the project's web page;

(C) Qualified music video which includes the Georgia logo at the end of each video and within online promotions; or

(D) Qualified interactive game which includes a 15 second long Georgia advertisement in units sold and embedded in online promotions.

(10) "Qualified interactive entertainment production company" means a company that:

(A) Maintains a business location physically located in Georgia;

(B)(i) Through December 31, 2017, in the calendar year directly preceding the start of the taxable year of the qualified interactive

entertainment production company, had a total aggregate payroll of $500,000.00 or more for employees working within the state; or

(ii) On or after January 1, 2018, had a total aggregate payroll of $250,000.00 or more for employees working within the state in the taxable year the qualified interactive entertainment production company claims the tax credits;

(C) Has gross income less than $100 million for the taxable year; and

(D) Is primarily engaged in qualified production activities related to interactive entertainment which have been approved by the Department of Economic Development.

This term shall not mean or include any form of business owned, affiliated, or controlled, in whole or in part, by any company or person which is in default on any tax obligation of the state, or a loan made by the state or a loan guaranteed by the state.

(11) "Qualified production activities" means the production of new film, video, or digital projects produced in this state and approved by the Department of Economic Development as state certified productions, including only the following: feature films, series, pilots, movies for television, televised commercial advertisements, music videos, interactive entertainment, or prereleased interactive games. Such activities shall include projects recorded in this state, in whole or in part, in either short or long form, animation and music, fixed on a delivery system which includes without limitation film, videotape, computer disc, laser disc, and any element of the digital domain, from which the program is viewed or reproduced, and which is intended for multimarket commercial distribution via theaters, video on demand, direct to DVD, digital platforms designed for the distribution of interactive games, licensing for exhibition by individual television stations, groups of stations, networks, advertiser supported sites, cable television stations, or public broadcasting stations. Such term shall not include the coverage of news or athletic events, local interest programming, instructional videos, corporate videos, any project that is not intended for multimarket commercial distribution, or any project not shot, recorded, or originally created in Georgia.

(12) "Resident" means an individual as designated pursuant to paragraph (10) of Code Section 48-7-1, as amended.

(13) "State certified production" means a production engaged in qualified production activities which have been approved by the Department of Economic Development in accordance with regulations promulgated pursuant to this Code section. In the instance of a

"work for hire" in which one production company or qualified interactive entertainment production company hires another production company or qualified interactive entertainment production company to produce a project or contribute elements of a project for pay, the hired company shall be considered a service provider for the hiring company, and the hiring company shall be entitled to the film tax credit.

(14) "Total aggregate payroll" means the total sum expended by a production company or qualified interactive entertainment production company on salaries paid to employees working within this state in a state certified production or productions. For purposes of this paragraph:

(A) With respect to a single employee, the portion of any salary which exceeds $500,000.00 for a single production shall not be included when calculating total aggregate payroll; and

(B) All payments to a single employee and any legal entity in which the employee has any direct or indirect ownership interest shall be considered as having been paid to the employee and shall be aggregated regardless of the means of payment or distribution.

(c) For any production company or qualified interactive entertainment production company and its affiliates that invest in a state certified production approved by the Department of Economic Development and whose average annual total production expenditures in this state did not exceed $30 million for 2002, 2003, and 2004, there shall be allowed an income tax credit against the tax imposed under this article. The tax credit under this subsection shall be allowed if the base investment in this state equals or exceeds $500,000.00 for qualified production activities, except that any qualified interactive entertainment production company shall be allowed the tax credit under this subsection if the base investment in this state equals or exceeds $250,000.00 for qualified production activities on or after January 1, 2018, and shall be calculated as follows:

(1) The production company or qualified interactive entertainment production company shall be allowed a tax credit equal to 20 percent of the base investment in this state; and

(2)(A) The production company or qualified interactive entertainment production company shall be allowed an additional tax credit equal to 10 percent of such base investment if the qualified production activity includes a qualified Georgia promotion. Such additional tax credit shall be allowed for any qualified production that includes a qualified Georgia promotion upon its release to the general public. In lieu of the inclusion of the Georgia promotional logo, the production company or qualified interactive entertain-

ment production company may offer alternative marketing opportunities to be evaluated by the Department of Economic Development to ensure that they offer equal or greater promotional value to the State of Georgia. The Department of Economic Development shall electronically certify to the Department of Revenue when the requirements of this paragraph and paragraph (2) of subsection (d) of this Code section have been met.

(B) The Department of Economic Development shall prepare an annual report detailing the marketing opportunities it has approved under the provisions of subparagraph (A) of this paragraph. The report shall include, but not be limited to:

(i) The goals and strategy behind each marketing opportunity approved pursuant to the provisions of subparagraph (A) of this paragraph;

(ii) The names of all production companies approved by the Department of Economic Development to provide alternative marketing opportunities;

(iii) The estimated value to the state of each approved alternative marketing opportunity compared to the estimated value of the Georgia promotional logo; and

(iv) The names of all production companies who chose to include the Georgia promotional logo in their final production instead of offering the state an alternative marketing proposal.

The report required under this subparagraph shall be completed no later than January 1 of each year and presented to each member of the House Committee on Ways and Means, the Senate Finance Committee, the Senate Economic Development and Tourism Committee, the House Committee on Economic Development and Tourism, and the Governor.

(C) The additional percentage of tax credit allowed by this paragraph and by paragraph (2) of subsection (d) of this Code section shall not be allowed to a production company for any qualified production activity or state certified production that has not been commercially distributed in multiple markets.

(D) The additional percentage of tax credit that is allowed by this paragraph and by paragraph (2) of subsection (d) of this Code section shall not be issued final certification pursuant to subsection (l) of this Code section unless and until the state certified production has been commercially distributed in multiple markets within five years of the date that the project was first certified by the Department of Economic Development.

(3) The base investment and the amount of the credit allowed by

this subsection and by subsection (d) of this Code section with respect to a production company shall be subject to the limitations of and any reductions required by subsection (l) of this Code section.

(d) For any production company or qualified interactive entertainment production company and its affiliates that invest in a state certified production approved by the Department of Economic Development and whose average annual total production expenditures in this state exceeded $30 million for 2002, 2003, and 2004, there shall be allowed an income tax credit against the tax imposed under this article. For purposes of this subsection, the excess base investment in this state is computed by taking the current year production expenditures in a state certified production and subtracting the average of the annual total production expenditures for 2002, 2003, and 2004. The tax credit shall be calculated as follows:

(1) If the excess base investment in this state equals or exceeds $500,000.00, or $250,000.00 for qualified interactive entertainment production activities on or after January 1, 2018, the production company or qualified interactive entertainment production company and its affiliates shall be allowed a tax credit of 20 percent of such excess base investment; and

(2)(A) The production company or qualified interactive entertainment production company and its affiliates shall be allowed an additional tax credit equal to 10 percent of the excess base investment if the qualified production activities include a qualified Georgia promotion. Such additional tax credit shall be allowed for any qualified production that includes a qualified Georgia promotion upon its release to the general public. In lieu of the inclusion of the Georgia promotional logo, the production company or qualified interactive entertainment production company may offer marketing opportunities to be evaluated by the Department of Economic Development to ensure that they offer equal or greater promotional value to the State of Georgia.

(B) The Department of Economic Development shall prepare an annual report detailing the marketing opportunities it has approved under the provisions of subparagraph (A) of this paragraph. The report shall include, but not be limited to:

(i) The goals and strategy behind each marketing opportunity approved pursuant to the provisions of subparagraph (A) of this paragraph;

(ii) The names of all production companies approved by the Department of Economic Development to provide alternative marketing opportunities;

(iii) The estimated value to the state of each approved alter-

native marketing opportunity compared to the estimated value of the Georgia promotional logo; and

(iv) The names of all production companies who chose to include the Georgia promotional logo in their final production instead of offering the state an alternative marketing proposal.

The report required under this paragraph shall be completed no later than January 1 of each year and presented to each member of the House Committee on Ways and Means, the Senate Finance Committee, the Senate Economic Development and Tourism Committee, the House Committee on Economic Development and Tourism, and the Governor.

(e)(1) In no event shall the aggregate amount of tax credits allowed under this Code section for qualified interactive entertainment production companies and affiliates exceed $25 million for taxable years beginning on or after January 1, 2013, and before January 1, 2014. The maximum credit for any qualified interactive entertainment production company and its affiliates shall be $5 million for such taxable year. When the $25 million cap is reached, the tax credit for qualified interactive entertainment production companies shall expire for such taxable years.

(2) For taxable years beginning on or after January 1, 2014, and before January 1, 2015, the amount of tax credits allowed under this Code section for qualified interactive entertainment production companies and affiliates shall not exceed $12.5 million.

(3) For taxable years beginning on or after January 1, 2015, and before January 1, 2016, the amount of tax credits allowed under this Code section for qualified interactive entertainment production companies and affiliates shall not exceed $12.5 million.

(4) For taxable years beginning on or after January 1, 2016, and before January 1, 2018, the amount of tax credits allowed under this Code section for qualified interactive entertainment production companies and affiliates shall not exceed $12.5 million for each taxable year.

(5)(A) For taxable years beginning on or after January 1, 2018, the amount of tax credits allowed under this Code section for qualified interactive entertainment production companies and affiliates shall not exceed $12.5 million for each taxable year.

(B) Beginning on or after January 1, 2018, qualified interactive entertainment production companies are eligible for tax credits for prereleased interactive game production; provided, however, that such credits shall not be available for a period which exceeds three years.

(6) The maximum allowable credit claimed for any qualified interactive entertainment production company and its affiliates shall not exceed $1.5 million in any single year.

(7) Qualified interactive entertainment production companies seeking to claim a tax credit under the provisions of this Code section shall submit an application to the commissioner for preapproval of such tax credit. The commissioner shall be authorized to promulgate any rules and regulations and forms necessary to implement and administer the provisions of this Code section. The commissioner shall preapprove the tax credits based on the order in which properly completed applications were submitted. In the event that two or more applications were submitted on the same day and the amount of funds available will not be sufficient to fully fund the tax credits requested, the commissioner shall prorate the available funds between or among the applicants.

(8) No qualified interactive entertainment production company shall be allowed to claim an amount of tax credits under this Code section for any single year in excess of its total aggregate payroll expended to employees working within this state for the calendar year that the qualified interactive entertainment production company claims the tax credits. Any amount in excess of such limit shall not be eligible for carry forward to the succeeding years' tax liability, nor shall such excess amount be eligible for use against the qualified interactive entertainment production company's quarterly or monthly payment under Code Section 48-7-103, nor shall such excess amount be assigned, sold, or transferred to any other taxpayer.

(9) Before the Department of Economic Development issues its approval to the qualified interactive entertainment production company for the qualified production activities related to interactive entertainment, the qualified interactive entertainment production company must certify to the department that:

(A) The qualified interactive entertainment production company maintains a business location physically located in this state; and

(B) The qualified interactive entertainment production company had expended a total aggregate payroll of $500,000.00 or more, or $250,000.00 or more on or after January 1, 2018, for employees working within this state during the taxable year of the qualified interactive entertainment production company.

The department shall issue a certification that the qualified interactive entertainment production company meets the requirements of this paragraph; provided, however, that the department shall not issue any certifications before July 1, 2014. The qualified interactive entertainment production company shall provide such certification to

the Department of Economic Development. The Department of Economic Development shall not issue its approval until it receives such certification.

(10)(A) For taxable years beginning on or after January 1, 2016, the qualified interactive entertainment production company shall report to the Department of Revenue on its Georgia income tax return the monthly average number of full-time employees subject to Georgia income tax withholding for the taxable year as provided in subparagraphs (B) and (C) of this paragraph. For purposes of this paragraph, a full-time employee shall mean a person who performs a job that requires a minimum of 35 hours a week, and pays at or above the average wage earned in the county with the lowest average wage earned in this state, as reported in the most recently available annual issue of the Georgia Employment and Wages Averages Report of the Department of Labor.

(B) For taxable years beginning on or after January 1, 2016, and before January 1, 2017, the qualified interactive entertainment production company shall report such number for such taxable year and separately for each of the prior two taxable years.

(C) For taxable years beginning on or after January 1, 2017, the qualified interactive entertainment production company shall report such number for each respective taxable year.

(D) Notwithstanding Code Sections 48-2-15, 48-7-60, and 48-7-61, for such taxable years, the commissioner shall report yearly to the House Committee on Ways and Means and the Senate Finance Committee. The report shall include the name, tax year beginning, and monthly average number of full-time employees for each qualified interactive entertainment production company. The first report shall be submitted by June 30, 2016, and each year thereafter by June 30.

(f)(1) Where the amount of such credit or credits exceeds the production company's or qualified interactive entertainment production company's liability for such taxes in a taxable year, the excess may be taken as a credit against such production company's or qualified interactive entertainment production company's quarterly or monthly payment under Code Section 48-7-103. Each employee whose employer receives credit against such production company's or qualified interactive entertainment production company's quarterly or monthly payment under Code Section 48-7-103 shall receive credit against his or her income tax liability under Code Section 48-7-20 for the corresponding taxable year for the full amount which would be credited against such liability prior to the application of the credit provided for in this subsection. Credits against quarterly or monthly

payments under Code Section 48-7-103 and credits against liability under Code Section 48-7-20 established by this subsection shall not constitute income to the production company or qualified interactive entertainment production company.

(2) If a production company and its affiliates, or a qualified interactive entertainment production company and its affiliates, claim the credit authorized under Code Section 48-7-40, 48-7-40.1, 48-7-40.17, or 48-7-40.18, then the production company and its affiliates, or the qualified interactive entertainment production company and its affiliates, will only be allowed to claim the credit authorized under this Code section to the extent that the Georgia resident employees included in the credit calculation authorized under this Code section and taken by the production company and its affiliates, or the qualified interactive entertainment production company and its affiliates, on such tax return under this Code section have been permanently excluded from the credit authorized under Code Section 48-7-40, 48-7-40.1, 48-7-40.17, or 48-7-40.18.

(g) Any tax credits with respect to a state certified production earned by a production company or qualified interactive entertainment production company and previously claimed but not used by such production company or qualified interactive entertainment production company against its income tax may be transferred or sold in whole or in part by such production company or qualified interactive entertainment production company to another Georgia taxpayer, subject to the following conditions:

(1) Such production company or qualified interactive entertainment production company may make only a single transfer or sale of tax credits earned in a taxable year; however, the transfer or sale may involve one or more transferees;

(2) Such production company or qualified interactive entertainment production company shall submit to the Department of Economic Development and to the Department of Revenue a written notification of any transfer or sale of tax credits within 30 days after the transfer or sale of such tax credits. The notification shall include such production company's or qualified interactive entertainment production company's tax credit balance prior to transfer, the credit certificate number, the remaining balance after transfer, all tax identification numbers for each transferee, the date of transfer, the amount transferred, and any other information required by the Department of Economic Development or the Department of Revenue;

(3) Failure to comply with this subsection shall result in the disallowance of the tax credit until the production company or

qualified interactive entertainment production company is in full compliance;

(4) The transfer or sale of this tax credit does not extend the time in which such tax credit can be used. The carry-forward period for a tax credit that is transferred or sold shall begin on the date on which the tax credit was originally earned or for a tax credit subject to the provisions of subsection (l) of this Code section, the date on which the final certification for such tax credit was issued pursuant to said subsection;

(5) A transferee shall have only such rights to claim and use the tax credit that were available to such production company or qualified interactive entertainment production company at the time of the transfer, except for the use of the credit in paragraph (1) of subsection (f) of this Code section. To the extent that such production company or qualified interactive entertainment production company did not have rights to claim or use the tax credit at the time of the transfer, the Department of Revenue shall either disallow the tax credit claimed by the transferee or recapture the tax credit from the transferee; provided, however, that the Department of Revenue shall not recapture a tax credit from the transferee if the tax credit was issued a valid final certification pursuant to subsection (l) of this Code section. The transferee's recourse is against such production company or qualified interactive entertainment production company; and

(6) The transferee must acquire the tax credits in this Code section for a minimum of 60 percent of the amount of the tax credits so transferred.

(h) The credit granted under this Code section shall be subject to the following conditions and limitations; provided, however, that this subsection shall not apply to a production company subject to the requirements of subsection (h.1) or (l) of this Code section:

(1) The credit may be taken beginning with the taxable year in which the production company or qualified interactive entertainment production company has met the investment requirement. For each year in which such production company or qualified interactive entertainment production company either claims or transfers the credit, the production company or qualified interactive entertainment production company shall attach a schedule to the production company's or qualified interactive entertainment production company's Georgia income tax return which will set forth the following information, as a minimum:

(A) A description of the qualified production activities, along with the certification from the Department of Economic Development;

(B) A detailed listing of the employee names, social security numbers, and Georgia wages when salaries are included in the base investment;

(C) The amount of tax credit claimed for the taxable year;

(D) Any tax credit previously taken by the production company or qualified interactive entertainment production company against Georgia income tax liabilities or the production company's or qualified interactive entertainment production company's quarterly or monthly payments under Code Section 48-7-103;

(E) The amount of tax credit carried over from prior years;

(F) The amount of tax credit utilized by the production company or qualified interactive entertainment production company in the current taxable year; and

(G) The amount of tax credit to be carried over to subsequent tax years;

(2) In the initial year in which the production company or qualified interactive entertainment production company claims the credit granted in this Code section, the production company or qualified interactive entertainment production company shall include in the description of the qualified production activities required by subparagraph (A) of paragraph (1) of this subsection information which demonstrates that the activities included in the base investment or excess base investment equal or exceed $500,000.00 during such year, or $250,000.00 on or after January 1, 2018, for qualified interactive entertainment production companies; and

(3) In no event shall the amount of the tax credit under this Code section for a taxable year exceed the production company's or qualified interactive entertainment production company's income tax liability. Any unused credit amount shall be allowed to be carried forward for three years from the close of the taxable year in which the investment occurred. No such credit shall be allowed the production company or qualified interactive entertainment production company against prior years' tax liability.

(h.1)(1) For any projects certified by the Department of Economic Development on or after January 1, 2021, the tax credit provided for in this Code section if covered under the schedule provided in paragraph (1) of subsection (l) of this Code section shall not be allowed, claimed, assigned, sold, transferred, or utilized in any manner by a production company until final certification is issued pursuant to subsection (l) of this Code section and except under the following conditions and limitations of this subsection.

(2) A production company seeking the tax credit allowed by this

Code section shall apply for the tax credit in the manner provided by the Department of Revenue within one year from the date that it completes a state certified production. The following information shall be submitted with the application or prior to the commencement of an audit required by subsection (l) of this Code section:

(A) A description of the state certified production, along with its certification as a state certified production by the Department of Economic Development;

(B) A detailed accounting of all qualified production activities and the attendant production expenditures included in the base investment for the state certified production;

(C) A detailed listing of the employee names, social security numbers, and Georgia wages when salaries are included in the base investment;

(D) Receipts for tangible personal property included in the base investment as requested by the Department of Revenue or the eligible auditor hired to conduct the audit for the state certified production;

(E) Contracts for goods or services included in the base investment as requested by the Department of Revenue or the eligible auditor hired to conduct the audit for the state certified production;

(F) An Internal Revenue Service Form W-9 completed and issued by each vendor for which expenditures are included in the base investment as requested by the Department of Revenue or the eligible auditor hired to conduct the audit for the state certified production;

(G) Notification as provided for in paragraph (7) of subsection (l) of this Code section of any intent to utilize an eligible auditor;

(H) A description of the status of the distribution of the state certified production and information related to any qualified Georgia promotion connected with such production;

(I) The total amount of the tax credit sought for the state certified production; and

(J) A statement affirming that the contents of the application are true and correct.

(3) If a production company is issued final certification of a tax credit pursuant to subsection (l) of this Code section, such tax credit shall be considered earned in the taxable year in which it is issued final certification.

(4) For each year in which the production company either claims or transfers the tax credit, the production company shall attach a

schedule to the production company's Georgia income tax return which will set forth the following information, as a minimum:

(A) The amount of tax credit claimed for the taxable year;

(B) Any tax credit previously taken by the production company against Georgia income tax liabilities or the production company's quarterly or monthly payments under Code Section 48-7-103;

(C) The amount of tax credit carried over from prior years;

(D) The amount of tax credit utilized by the production company in the current taxable year; and

(E) The amount of tax credit to be carried over to subsequent tax years.

(5) In no event shall the amount of the tax credit subject to subsection (l) of this Code section for a taxable year exceed the production company's income tax liability. Any unused credit amount shall be allowed to be carried forward for three years from the close of the taxable year in which the tax credit was issued its final certification pursuant to subsection (l) of this Code section. No such credit shall be allowed the production company against prior years' tax liability.

(6) This subsection shall not apply to qualified interactive entertainment production companies.

(i) The Department of Economic Development shall determine through the promulgation of rules and regulations what projects qualify for the tax credits authorized under this Code section. Certification shall be submitted to the state revenue commissioner.

(j) The state revenue commissioner shall promulgate such rules and regulations as are necessary to implement and administer this Code section.

(k) Any production company, except as provided in subsection (l) of this Code section, or qualified interactive entertainment production company claiming, transferring, or selling the tax credit shall be required to reimburse the Department of Revenue for any department initiated audits relating to the tax credit. This subsection shall not apply to routine tax audits of a taxpayer which may include the review of the credit provided in this Code section.

(l)(1)(A) For any project certified by the Department of Economic Development on or after January 1, 2021, a tax credit allowed by this Code section to a production company shall not be claimed, assigned, sold, transferred, or utilized in any manner until the production company applies for the tax credit as provided in

subsection (h.1) of this Code section and the department issues a final certification of the tax credit pursuant to this subsection if the total amount of such tax credit sought for the project exceeds $2.5 million.

(B) For any project certified by the Department of Economic Development on or after January 1, 2022, a tax credit allowed by this Code section to a production company shall not be claimed, assigned, sold, transferred, or utilized in any manner until the production company applies for the tax credit as provided in subsection (h.1) of this Code section and the department issues a final certification of the tax credit pursuant to this subsection if the total amount of such tax credit sought for the project exceeds $1.25 million.

(C) For any project certified by the Department of Economic Development on or after January 1, 2023, a tax credit allowed by this Code section to a production company shall not be claimed, assigned, sold, transferred, or utilized in any manner until the production company applies for the tax credit as provided in subsection (h.1) of this Code section and the department issues a final certification of the tax credit pursuant to this subsection.

(2) In accordance with the schedule provided in paragraph (1) of this subsection, prior to certifying a tax credit pursuant to this Code section, the Department of Revenue shall conduct or cause to be conducted an audit of each tax credit allowed by this Code section by either the department or an independent third party certified by the department in accordance with paragraph (3) of this subsection as an eligible auditor.

(3)(A) The Department of Revenue shall provide for the certification and decertification of certified public accountants as eligible auditors.

(B) To obtain certification as an eligible auditor, an accountant shall:

(i) Register with the department;

(ii) Maintain its registration with the Georgia State Board of Accountancy;

(iii) Agree to and be capable of completing audits related to this Code section in accordance with this Code section and procedures developed by the department;

(iv) Successfully complete all training required by the department;

(v) Pay to the department a registration fee that the depart-

ment shall set in an amount that reflects the expenses incurred by the department as a result of this paragraph; and

(vi) Post and maintain any bond that the department establishes for each eligible auditor.

(C) The Department of Revenue shall decertify an eligible auditor if such auditor:

(i) Fails to meet the conditions or comply with the provisions of subparagraph (B) of this paragraph; or

(ii) Completes an audit and violates the requirements of subparagraph (E) of paragraph (4) of this subsection.

(D) The Department of Revenue may decertify an eligible auditor if such auditor fails to complete an audit in accordance with subparagraph (A), (B), (C), (D), (F), or (G) of paragraph (4) of this subsection or meets any other grounds for decertification as provided in regulations promulgated by the department.

(4) Each audit shall:

(A) Be completed in accordance with this Code section and procedures developed by the department;

(B) Utilize sampling methods that the department may adopt;

(C) Follow regulations that shall be published by the department regarding expenditures incurred with related persons or related members as such terms are defined in Code Section 48-7-28.3;

(D) Verify each reported expenditure that is included in the audit and identify and exclude each such expenditure that does not fully meet the conditions of this Code section;

(E) Exclude any expenditure not submitted with or that was incurred after the application required by subsection (h.1) of this Code section was submitted;

(F) Not be performed by an eligible accounting entity that is not determined to be independent as provided in the American Institute of Certified Public Accountants Code of Professional Conduct with respect to the production company or any of its related persons or related members as such terms are defined in Code Section 48-7-28.3 or as otherwise provided by the Department of Revenue; and

(G) Be submitted to the department which shall review the audit, make adjustments as necessary, and issue a final certification to the production company.

(5) The Department of Revenue shall:

(A) Promulgate rules and regulations and implement this subsection;

(B) Publish and regularly update a list of all eligible auditors that a production company may hire to conduct the audit required by this subsection;

(C) Publish on its website the application for certification of eligible auditors as well as all requirements related to certification and conducting an audit pursuant to this subsection;

(D) Publish the registration fee required by division (3)(B)(v) of this subsection and any bond required pursuant to division (3)(B)(vi) of this subsection;

(E) Determine whether a sampling method shall be used for the audits required by this subsection, the appropriate sample method and size, and if a sampling method is used, ensure that it accurately captures a truly representative sample of all ineligible expenditures across all submitted expenditures and projects the type, rate, and amount of ineligible expenditures across all submitted expenditures;

(F) Perform the audit of expenditures when, due to confidentiality of information, the eligible auditor is unable to access necessary information that the department is able access;

(G) Review each audit conducted by an eligible auditor, conduct the portions of the audit described in subparagraph (F) of this paragraph, perform additional auditing as necessary, adjust the value of the tax credit as necessary, finalize the audit, and issue the final certification of the tax credit to the taxpayer; and

(H) For an audit that it conducts without an eligible auditor, complete the audit, adjust the value of the tax credit as necessary, and issue the final certification of the tax credit to the taxpayer.

(6) The production company applying for a final certification of a tax credit pursuant to this subsection shall agree and be required to reimburse the department for all costs incurred by the performance of a related audit, or any portion thereof, including for review of an audit conducted by an eligible auditor, prior to the issuance of such final certification.

(7) The cost of any such audit whether conducted in whole or in part by the department, an eligible auditor, or a combination of the two shall be borne by the production company and shall not be included as an expenditure claimed pursuant to this Code section.

(8) This subsection shall not apply to qualified interactive entertainment production companies.

History.

Code 1981, § 48-7-40.26, enacted by Ga. L. 2005, p. 1125, § 2/HB 539; Ga. L. 2006, p. 242, § 2/HB 194; Ga. L. 2008, p. 317, § 1/HB 1100; Ga. L. 2012, p. 976, § 2/HB 1027; Ga. L. 2013, p. 141, § 48/HB 79; Ga. L. 2014, p. 51, § 1/HB 958; Ga. L. 2015, p. 125, § 1/HB 339; Ga. L. 2017, p. 59, § 1/HB 199; Ga. L. 2017, p. 774, § 48/HB 323; Ga. L. 2020, p. 630, § 1/HB 1037; Ga. L. 2024, p. 794, § 1-30/HB 1181, effective January 1, 2025; Ga. L. 2025, p. 468, §§ 1, 2/HB 475, effective January 1, 2026; Ga. L. 2025, p. 1029, § 48(7)/SB 153, effective July 1, 2025.

Delayed effective date.

Code Section 48-7-40.26 is set out twice in this Code. This version is effective until January 1, 2026. For version effective January 1, 2026, see the following version.

Amendments.

The 2025 amendment, effective July 1, 2025, part of an Act to revise, modernize, and correct the Code, substituted "subparagraph" for "paragraph" in the undesignated text at the end of subparagraph (c)(2)(B).

48-7-40.26. (Effective January 1, 2026.) Tax credits for film, gaming, video, or digital production.

(a) This Code section shall be known and may be cited as the "Georgia Entertainment Industry Investment Act."

(b) As used in this Code section, the term:

(1) "Affiliates" means those entities that are included in the production company's or qualified interactive entertainment production company's affiliated group as defined in Section 1504(a) of the Internal Revenue Code and all other entities that are directly or indirectly owned 50 percent or more by members of the affiliated group.

(2) "Base investment" means the aggregate funds actually invested and expended by a production company or qualified interactive entertainment production company as production expenditures incurred in this state that are directly used in a state certified production or productions.

(3) "Game platform" means the electronic delivery system used to launch or play an interactive game.

(4) "Game sequel" means an interactive game which builds upon the theme of a previously released interactive game, is distinguished by a new title, and features objectives or characters that are recognizably different from the original game.

(5) "Multimarket commercial distribution" means paid commercial distribution with media buys which extend to markets outside the State of Georgia.

(6) "Prereleased interactive game" means a new game, the offering

of an existing game on a new game platform, or a game sequel that is in the developmental stages of production, which may be available to individuals for testing purposes but is not generally made available or distributed to consumers or to the general public.

(7) "Production company" means a company, other than a qualified interactive entertainment production company, primarily engaged in qualified production activities which have been approved by the Department of Economic Development. This term shall not mean or include any form of business owned, affiliated, or controlled, in whole or in part, by any company or person which is in default on any tax obligation of the state, or a loan made by the state or a loan guaranteed by the state.

(8) "Production expenditures" means:

(A) Preproduction, production, and postproduction expenditures incurred in this state that are directly used in a qualified production activity, including, but not limited to, the following: set construction and operation; wardrobes, make-up, accessories, and related services; costs associated with photography and sound synchronization; expenditures excluding license fees incurred with Georgia companies for sound recordings and musical compositions; sound recording projects used in feature films, series, pilots, or movies; lighting and related services and materials; editing and related services; rental of facilities and equipment; leasing of vehicles; costs of food and lodging; digital or tape editing; film processing; transfers of film to tape or digital format; sound mixing; computer graphics services; special effects services; animation services; total aggregate payroll; airfare, if purchased through a Georgia travel agency or travel company; insurance costs and bonding, if purchased through a Georgia insurance agency; and other direct costs of producing the project in accordance with generally accepted entertainment industry practices.

(B) This term shall not include:

(i) Postproduction expenditures for footage shot outside the State of Georgia, marketing, story rights, or distribution;

(ii) Any expenditure for work or services not conducted or rendered in Georgia. Expenditures for services not performed at the filming site shall only qualify if the vendor is a Georgia vendor. Expenditures for services conducted or rendered both in Georgia and outside Georgia shall only qualify to the extent the service is conducted or rendered in Georgia;

(iii) Expenditures for goods that were not purchased or rented or leased in this state from a Georgia vendor. Expenditures for

goods shall only qualify to the extent such goods are used in this state. A vendor that acts as a conduit to enable purchases or rentals to qualify that would not otherwise qualify shall not be considered a Georgia vendor with respect to such purchases, rentals, or leases; or

(iv) Any transaction subject to taxation imposed by Chapter 8 or 13 of this title for which taxes have not been demonstrably paid.

(C) This term includes payments to a loan-out company by a production company or qualified interactive entertainment production company that has met its withholding tax obligations as set out below. The production company or qualified interactive entertainment production company shall withhold Georgia income tax at the rate imposed by subsection (a) of Code Section 48-7-21 on all payments to loan-out companies for services performed in Georgia. Any amounts so withheld shall be deemed to have been withheld by the loan-out company on wages paid to its employees for services performed in Georgia pursuant to Article 5 of this chapter notwithstanding the exclusion provided in subparagraph (K) of paragraph (10) of Code Section 48-7-100. The amounts so withheld shall be allocated to the loan-out company's employees based on the payments made to the loan-out company's employees for services performed in Georgia. For purposes of this chapter, loan-out company nonresident employees performing services in Georgia shall be considered taxable nonresidents and the loan-out company shall be subject to income taxation in the taxable year in which the loan-out company's employees perform services in Georgia, notwithstanding any other provisions in this chapter. Such withholding liability shall be subject to penalties and interest in the same manner as the employee withholding taxes imposed by Article 5 of this chapter and the commissioner shall provide by regulation the manner in which such liability shall be assessed and collected.

(D) Production expenditures by a production company shall be subject to any limitations or reductions imposed by subsection (l) of this Code section.

(9) "Qualified Georgia promotion" means a qualified promotion of this state approved by the Department of Economic Development consisting of a:

(A) Qualified movie production which includes a five-second long static or animated logo that promotes Georgia in the end credits before the below-the-line crew crawl for the life of the project and which includes a link to Georgia on the project's web page;

(B) Qualified TV production which includes an embedded five-second long Georgia promotion during each broadcast worldwide for the life of the project and which includes a link to Georgia on the project's web page;

(C) Qualified music video which includes the Georgia logo at the end of each video and within online promotions; or

(D) Qualified interactive game which includes a 15 second long Georgia advertisement in units sold and embedded in online promotions.

(10) "Qualified interactive entertainment production company" means a company that:

(A) Maintains a business location physically located in Georgia;

(B)(i) Through December 31, 2017, in the calendar year directly preceding the start of the taxable year of the qualified interactive entertainment production company, had a total aggregate payroll of $500,000.00 or more for employees working within the state; or

(ii) On or after January 1, 2018, had a total aggregate payroll of $250,000.00 or more for employees working within the state in the taxable year the qualified interactive entertainment production company claims the tax credits;

(C) Has gross income less than $100 million for the taxable year; and

(D) Is primarily engaged in qualified production activities related to interactive entertainment which have been approved by the Department of Economic Development.

This term shall not mean or include any form of business owned, affiliated, or controlled, in whole or in part, by any company or person which is in default on any tax obligation of the state, or a loan made by the state or a loan guaranteed by the state.

(11) "Qualified production activities" means the production of new film, video, or digital projects produced in this state and approved by the Department of Economic Development as state certified productions, including only the following: feature films, series, pilots, movies for television, commercial advertisements, music videos, interactive entertainment, or prereleased interactive games. Such activities shall include projects recorded in this state, in whole or in part, in either short or long form, animation and music, fixed on a delivery system which includes without limitation film, videotape, computer disc, and any element of the digital domain, from which the program is viewed or reproduced, and which is intended for multimarket

commercial distribution via theaters, video on demand, direct to DVD, digital platforms designed for the distribution of interactive games, licensing for exhibition by individual television stations, groups of stations, networks, paid subscription based platforms, free advertiser supported streaming television (FAST) channels, cable television stations, or public broadcasting stations. Such term shall not include the coverage of news or athletic events, local interest programming, instructional videos, corporate videos, any project that is not intended for multimarket commercial distribution, user-generated content distributed exclusively via social media platforms, or any project not shot, recorded, or originally created in Georgia.

(12) "Resident" means an individual as designated pursuant to paragraph (10) of Code Section 48-7-1, as amended.

(13) "State certified production" means a production engaged in qualified production activities which have been approved by the Department of Economic Development in accordance with regulations promulgated pursuant to this Code section. In the instance of a "work for hire" in which one production company or qualified interactive entertainment production company hires another production company or qualified interactive entertainment production company to produce a project or contribute elements of a project for pay, the hired company shall be considered a service provider for the hiring company, and the hiring company shall be entitled to the film tax credit.

(14) "Total aggregate payroll" means the total sum expended by a production company or qualified interactive entertainment production company on salaries paid to employees working within this state in a state certified production or productions. For purposes of this paragraph:

(A) With respect to a single employee, the portion of any salary which exceeds $500,000.00 for a single production shall not be included when calculating total aggregate payroll; and

(B) All payments to a single employee and any legal entity in which the employee has any direct or indirect ownership interest shall be considered as having been paid to the employee and shall be aggregated regardless of the means of payment or distribution.

(c) For any production company or qualified interactive entertainment production company and its affiliates that invest in a state certified production approved by the Department of Economic Development and whose average annual total production expenditures in this state did not exceed $30 million for 2002, 2003, and 2004, there shall be allowed an income tax credit against the tax imposed under this article. The tax credit under this subsection shall be allowed if the base

investment in this state equals or exceeds $500,000.00 for qualified production activities, except that any qualified interactive entertainment production company shall be allowed the tax credit under this subsection if the base investment in this state equals or exceeds $250,000.00 for qualified production activities on or after January 1, 2018, and shall be calculated as follows:

(1) The production company or qualified interactive entertainment production company shall be allowed a tax credit equal to 20 percent of the base investment in this state; and

(2)(A) The production company or qualified interactive entertainment production company shall be allowed an additional tax credit equal to 10 percent of such base investment if the qualified production activity includes a qualified Georgia promotion. Such additional tax credit shall be allowed for any qualified production that includes a qualified Georgia promotion upon its release to the general public. In lieu of the inclusion of the Georgia promotional logo, the production company or qualified interactive entertainment production company may offer alternative marketing opportunities to be evaluated by the Department of Economic Development to ensure that they offer equal or greater promotional value to the State of Georgia. The Department of Economic Development shall electronically certify to the Department of Revenue when the requirements of this paragraph and paragraph (2) of subsection (d) of this Code section have been met.

(B) The Department of Economic Development shall prepare an annual report detailing the marketing opportunities it has approved under the provisions of subparagraph (A) of this paragraph. The report shall include, but not be limited to:

(i) The goals and strategy behind each marketing opportunity approved pursuant to the provisions of subparagraph (A) of this paragraph;

(ii) The names of all production companies approved by the Department of Economic Development to provide alternative marketing opportunities;

(iii) The estimated value to the state of each approved alternative marketing opportunity compared to the estimated value of the Georgia promotional logo; and

(iv) The names of all production companies who chose to include the Georgia promotional logo in their final production instead of offering the state an alternative marketing proposal.

The report required under this subparagraph shall be completed no later than January 1 of each year and presented to each member of

the House Committee on Ways and Means, the Senate Finance Committee, the Senate Economic Development and Tourism Committee, the House Committee on Economic Development and Tourism, and the Governor.

(C) The additional percentage of tax credit allowed by this paragraph and by paragraph (2) of subsection (d) of this Code section shall not be allowed to a production company for any qualified production activity or state certified production that has not been commercially distributed in multiple markets.

(D) The additional percentage of tax credit that is allowed by this paragraph and by paragraph (2) of subsection (d) of this Code section shall not be issued final certification pursuant to subsection (l) of this Code section unless and until the state certified production has been commercially distributed in multiple markets within five years of the date that the project was first certified by the Department of Economic Development.

(3) The base investment and the amount of the credit allowed by this subsection and by subsection (d) of this Code section with respect to a production company shall be subject to the limitations of and any reductions required by subsection (l) of this Code section.

(d) For any production company or qualified interactive entertainment production company and its affiliates that invest in a state certified production approved by the Department of Economic Development and whose average annual total production expenditures in this state exceeded $30 million for 2002, 2003, and 2004, there shall be allowed an income tax credit against the tax imposed under this article. For purposes of this subsection, the excess base investment in this state is computed by taking the current year production expenditures in a state certified production and subtracting the average of the annual total production expenditures for 2002, 2003, and 2004. The tax credit shall be calculated as follows:

(1) If the excess base investment in this state equals or exceeds $500,000.00, or $250,000.00 for qualified interactive entertainment production activities on or after January 1, 2018, the production company or qualified interactive entertainment production company and its affiliates shall be allowed a tax credit of 20 percent of such excess base investment; and

(2)(A) The production company or qualified interactive entertainment production company and its affiliates shall be allowed an additional tax credit equal to 10 percent of the excess base investment if the qualified production activities include a qualified Georgia promotion. Such additional tax credit shall be allowed for any qualified production that includes a qualified Georgia promo-

tion upon its release to the general public. In lieu of the inclusion of the Georgia promotional logo, the production company or qualified interactive entertainment production company may offer marketing opportunities to be evaluated by the Department of Economic Development to ensure that they offer equal or greater promotional value to the State of Georgia.

(B) The Department of Economic Development shall prepare an annual report detailing the marketing opportunities it has approved under the provisions of subparagraph (A) of this paragraph. The report shall include, but not be limited to:

(i) The goals and strategy behind each marketing opportunity approved pursuant to the provisions of subparagraph (A) of this paragraph;

(ii) The names of all production companies approved by the Department of Economic Development to provide alternative marketing opportunities;

(iii) The estimated value to the state of each approved alternative marketing opportunity compared to the estimated value of the Georgia promotional logo; and

(iv) The names of all production companies who chose to include the Georgia promotional logo in their final production instead of offering the state an alternative marketing proposal.

The report required under this paragraph shall be completed no later than January 1 of each year and presented to each member of the House Committee on Ways and Means, the Senate Finance Committee, the Senate Economic Development and Tourism Committee, the House Committee on Economic Development and Tourism, and the Governor.

(e)(1) In no event shall the aggregate amount of tax credits allowed under this Code section for qualified interactive entertainment production companies and affiliates exceed $25 million for taxable years beginning on or after January 1, 2013, and before January 1, 2014. The maximum credit for any qualified interactive entertainment production company and its affiliates shall be $5 million for such taxable year. When the $25 million cap is reached, the tax credit for qualified interactive entertainment production companies shall expire for such taxable years.

(2) For taxable years beginning on or after January 1, 2014, and before January 1, 2015, the amount of tax credits allowed under this Code section for qualified interactive entertainment production companies and affiliates shall not exceed $12.5 million.

(3) For taxable years beginning on or after January 1, 2015, and

before January 1, 2016, the amount of tax credits allowed under this Code section for qualified interactive entertainment production companies and affiliates shall not exceed $12.5 million.

(4) For taxable years beginning on or after January 1, 2016, and before January 1, 2018, the amount of tax credits allowed under this Code section for qualified interactive entertainment production companies and affiliates shall not exceed $12.5 million for each taxable year.

(5)(A) For taxable years beginning on or after January 1, 2018, the amount of tax credits allowed under this Code section for qualified interactive entertainment production companies and affiliates shall not exceed $12.5 million for each taxable year.

(B) Beginning on or after January 1, 2018, qualified interactive entertainment production companies are eligible for tax credits for prereleased interactive game production; provided, however, that such credits shall not be available for a period which exceeds three years.

(6) The maximum allowable credit claimed for any qualified interactive entertainment production company and its affiliates shall not exceed $1.5 million in any single year.

(7) Qualified interactive entertainment production companies seeking to claim a tax credit under the provisions of this Code section shall submit an application to the commissioner for preapproval of such tax credit. The commissioner shall be authorized to promulgate any rules and regulations and forms necessary to implement and administer the provisions of this Code section. The commissioner shall preapprove the tax credits based on the order in which properly completed applications were submitted. In the event that two or more applications were submitted on the same day and the amount of funds available will not be sufficient to fully fund the tax credits requested, the commissioner shall prorate the available funds between or among the applicants.

(8) No qualified interactive entertainment production company shall be allowed to claim an amount of tax credits under this Code section for any single year in excess of its total aggregate payroll expended to employees working within this state for the calendar year that the qualified interactive entertainment production company claims the tax credits. Any amount in excess of such limit shall not be eligible for carry forward to the succeeding years' tax liability, nor shall such excess amount be eligible for use against the qualified interactive entertainment production company's quarterly or monthly payment under Code Section 48-7-103, nor shall such excess amount be assigned, sold, or transferred to any other taxpayer.

(9) Before the Department of Economic Development issues its approval to the qualified interactive entertainment production company for the qualified production activities related to interactive entertainment, the qualified interactive entertainment production company must certify to the department that:

(A) The qualified interactive entertainment production company maintains a business location physically located in this state; and

(B) The qualified interactive entertainment production company had expended a total aggregate payroll of $500,000.00 or more, or $250,000.00 or more on or after January 1, 2018, for employees working within this state during the taxable year of the qualified interactive entertainment production company.

The department shall issue a certification that the qualified interactive entertainment production company meets the requirements of this paragraph; provided, however, that the department shall not issue any certifications before July 1, 2014. The qualified interactive entertainment production company shall provide such certification to the Department of Economic Development. The Department of Economic Development shall not issue its approval until it receives such certification.

(10)(A) For taxable years beginning on or after January 1, 2016, the qualified interactive entertainment production company shall report to the Department of Revenue on its Georgia income tax return the monthly average number of full-time employees subject to Georgia income tax withholding for the taxable year as provided in subparagraphs (B) and (C) of this paragraph. For purposes of this paragraph, a full-time employee shall mean a person who performs a job that requires a minimum of 35 hours a week, and pays at or above the average wage earned in the county with the lowest average wage earned in this state, as reported in the most recently available annual issue of the Georgia Employment and Wages Averages Report of the Department of Labor.

(B) For taxable years beginning on or after January 1, 2016, and before January 1, 2017, the qualified interactive entertainment production company shall report such number for such taxable year and separately for each of the prior two taxable years.

(C) For taxable years beginning on or after January 1, 2017, the qualified interactive entertainment production company shall report such number for each respective taxable year.

(D) Notwithstanding Code Sections 48-2-15, 48-7-60, and 48-7-61, for such taxable years, the commissioner shall report yearly to the House Committee on Ways and Means and the Senate

Finance Committee. The report shall include the name, tax year beginning, and monthly average number of full-time employees for each qualified interactive entertainment production company. The first report shall be submitted by June 30, 2016, and each year thereafter by June 30.

(f)(1) Where the amount of such credit or credits exceeds the production company's or qualified interactive entertainment production company's liability for such taxes in a taxable year, the excess may be taken as a credit against such production company's or qualified interactive entertainment production company's quarterly or monthly payment under Code Section 48-7-103. Each employee whose employer receives credit against such production company's or qualified interactive entertainment production company's quarterly or monthly payment under Code Section 48-7-103 shall receive credit against his or her income tax liability under Code Section 48-7-20 for the corresponding taxable year for the full amount which would be credited against such liability prior to the application of the credit provided for in this subsection. Credits against quarterly or monthly payments under Code Section 48-7-103 and credits against liability under Code Section 48-7-20 established by this subsection shall not constitute income to the production company or qualified interactive entertainment production company.

(2) If a production company and its affiliates, or a qualified interactive entertainment production company and its affiliates, claim the credit authorized under Code Section 48-7-40, 48-7-40.1, 48-7-40.17, or 48-7-40.18, then the production company and its affiliates, or the qualified interactive entertainment production company and its affiliates, will only be allowed to claim the credit authorized under this Code section to the extent that the Georgia resident employees included in the credit calculation authorized under this Code section and taken by the production company and its affiliates, or the qualified interactive entertainment production company and its affiliates, on such tax return under this Code section have been permanently excluded from the credit authorized under Code Section 48-7-40, 48-7-40.1, 48-7-40.17, or 48-7-40.18.

(g) Any tax credits with respect to a state certified production earned by a production company or qualified interactive entertainment production company and previously claimed but not used by such production company or qualified interactive entertainment production company against its income tax may be transferred or sold in whole or in part by such production company or qualified interactive entertainment production company to another Georgia taxpayer, subject to the following conditions:

(1) Such production company or qualified interactive entertainment production company may make only a single transfer or sale of

tax credits earned in a taxable year; however, the transfer or sale may involve one or more transferees;

(2) Such production company or qualified interactive entertainment production company shall submit to the Department of Economic Development and to the Department of Revenue a written notification of any transfer or sale of tax credits within 30 days after the transfer or sale of such tax credits. The notification shall include such production company's or qualified interactive entertainment production company's tax credit balance prior to transfer, the credit certificate number, the remaining balance after transfer, all tax identification numbers for each transferee, the date of transfer, the amount transferred, and any other information required by the Department of Economic Development or the Department of Revenue;

(3) Failure to comply with this subsection shall result in the disallowance of the tax credit until the production company or qualified interactive entertainment production company is in full compliance;

(4) The transfer or sale of this tax credit does not extend the time in which such tax credit can be used. The carry-forward period for a tax credit that is transferred or sold shall begin on the date on which the tax credit was originally earned or for a tax credit subject to the provisions of subsection (l) of this Code section, the date on which the final certification for such tax credit was issued pursuant to said subsection;

(5) A transferee shall have only such rights to claim and use the tax credit that were available to such production company or qualified interactive entertainment production company at the time of the transfer, except for the use of the credit in paragraph (1) of subsection (f) of this Code section. To the extent that such production company or qualified interactive entertainment production company did not have rights to claim or use the tax credit at the time of the transfer, the Department of Revenue shall either disallow the tax credit claimed by the transferee or recapture the tax credit from the transferee; provided, however, that the Department of Revenue shall not recapture a tax credit from the transferee if the tax credit was issued a valid final certification pursuant to subsection (l) of this Code section. The transferee's recourse is against such production company or qualified interactive entertainment production company; and

(6) The transferee must acquire the tax credits in this Code section for a minimum of 60 percent of the amount of the tax credits so transferred.

(h) The credit granted under this Code section shall be subject to the following conditions and limitations; provided, however, that this

subsection shall not apply to a production company subject to the requirements of subsection (h.1) or (l) of this Code section:

(1) The credit may be taken beginning with the taxable year in which the production company or qualified interactive entertainment production company has met the investment requirement. For each year in which such production company or qualified interactive entertainment production company either claims or transfers the credit, the production company or qualified interactive entertainment production company shall attach a schedule to the production company's or qualified interactive entertainment production company's Georgia income tax return which will set forth the following information, as a minimum:

(A) A description of the qualified production activities, along with the certification from the Department of Economic Development;

(B) A detailed listing of the employee names, social security numbers, and Georgia wages when salaries are included in the base investment;

(C) The amount of tax credit claimed for the taxable year;

(D) Any tax credit previously taken by the production company or qualified interactive entertainment production company against Georgia income tax liabilities or the production company's or qualified interactive entertainment production company's quarterly or monthly payments under Code Section 48-7-103;

(E) The amount of tax credit carried over from prior years;

(F) The amount of tax credit utilized by the production company or qualified interactive entertainment production company in the current taxable year; and

(G) The amount of tax credit to be carried over to subsequent tax years;

(2) In the initial year in which the production company or qualified interactive entertainment production company claims the credit granted in this Code section, the production company or qualified interactive entertainment production company shall include in the description of the qualified production activities required by subparagraph (A) of paragraph (1) of this subsection information which demonstrates that the activities included in the base investment or excess base investment equal or exceed $500,000.00 during such year, or $250,000.00 on or after January 1, 2018, for qualified interactive entertainment production companies; and

(3) In no event shall the amount of the tax credit under this Code section for a taxable year exceed the production company's or quali-

fied interactive entertainment production company's income tax liability. Any unused credit amount shall be allowed to be carried forward for three years from the close of the taxable year in which the investment occurred. No such credit shall be allowed the production company or qualified interactive entertainment production company against prior years' tax liability.

(h.1)(1) For any projects certified by the Department of Economic Development on or after January 1, 2021, the tax credit provided for in this Code section if covered under the schedule provided in paragraph (1) of subsection (l) of this Code section shall not be allowed, claimed, assigned, sold, transferred, or utilized in any manner by a production company until final certification is issued pursuant to subsection (l) of this Code section and except under the following conditions and limitations of this subsection.

(2) A production company seeking the tax credit allowed by this Code section shall apply for the tax credit in the manner provided by the Department of Revenue within one year from the date that it completes a state certified production. The following information shall be submitted with the application or prior to the commencement of an audit required by subsection (l) of this Code section:

(A) A description of the state certified production, along with its certification as a state certified production by the Department of Economic Development;

(B) A detailed accounting of all qualified production activities and the attendant production expenditures included in the base investment for the state certified production;

(C) A detailed listing of the employee names, social security numbers, and Georgia wages when salaries are included in the base investment;

(D) Receipts for tangible personal property included in the base investment as requested by the Department of Revenue or the eligible auditor hired to conduct the audit for the state certified production;

(E) Contracts for goods or services included in the base investment as requested by the Department of Revenue or the eligible auditor hired to conduct the audit for the state certified production;

(F) An Internal Revenue Service Form W-9 completed and issued by each vendor for which expenditures are included in the base investment as requested by the Department of Revenue or the eligible auditor hired to conduct the audit for the state certified production;

(G) Notification as provided for in paragraph (7) of subsection (l) of this Code section of any intent to utilize an eligible auditor;

(H) A description of the status of the distribution of the state certified production and information related to any qualified Georgia promotion connected with such production;

(I) The total amount of the tax credit sought for the state certified production; and

(J) A statement affirming that the contents of the application are true and correct.

(3) If a production company is issued final certification of a tax credit pursuant to subsection (l) of this Code section, such tax credit shall be considered earned in the taxable year in which it is issued final certification.

(4) For each year in which the production company either claims or transfers the tax credit, the production company shall attach a schedule to the production company's Georgia income tax return which will set forth the following information, as a minimum:

(A) The amount of tax credit claimed for the taxable year;

(B) Any tax credit previously taken by the production company against Georgia income tax liabilities or the production company's quarterly or monthly payments under Code Section 48-7-103;

(C) The amount of tax credit carried over from prior years;

(D) The amount of tax credit utilized by the production company in the current taxable year; and

(E) The amount of tax credit to be carried over to subsequent tax years.

(5) In no event shall the amount of the tax credit subject to subsection (l) of this Code section for a taxable year exceed the production company's income tax liability. Any unused credit amount shall be allowed to be carried forward for three years from the close of the taxable year in which the tax credit was issued its final certification pursuant to subsection (l) of this Code section. No such credit shall be allowed the production company against prior years' tax liability.

(6) This subsection shall not apply to qualified interactive entertainment production companies.

(i)(1) The Department of Economic Development shall determine through the promulgation of rules and regulations what projects qualify for the tax credits authorized under this Code section. Such

rules and regulations shall include, but not be limited to, certification application deadlines, qualified project content types and distribution methods, certification application process and required supporting documentation, and certification application fees. Certification shall be submitted to the state revenue commissioner.

(2) The Department of Economic Development may charge reasonable fees associated with the certification process established pursuant to this subsection and such fees shall be remitted to the state general fund.

(3) If the Department of Economic Development prevails in the litigation of an appeal on the denial of certification, the plaintiff production company shall pay all court costs associated with such litigation.

(j) The state revenue commissioner shall promulgate such rules and regulations as are necessary to implement and administer this Code section.

(k) Any production company, except as provided in subsection (l) of this Code section, or qualified interactive entertainment production company claiming, transferring, or selling the tax credit shall be required to reimburse the Department of Revenue for any department initiated audits relating to the tax credit. This subsection shall not apply to routine tax audits of a taxpayer which may include the review of the credit provided in this Code section.

(l)(1)(A) For any project certified by the Department of Economic Development on or after January 1, 2021, a tax credit allowed by this Code section to a production company shall not be claimed, assigned, sold, transferred, or utilized in any manner until the production company applies for the tax credit as provided in subsection (h.1) of this Code section and the department issues a final certification of the tax credit pursuant to this subsection if the total amount of such tax credit sought for the project exceeds $2.5 million.

(B) For any project certified by the Department of Economic Development on or after January 1, 2022, a tax credit allowed by this Code section to a production company shall not be claimed, assigned, sold, transferred, or utilized in any manner until the production company applies for the tax credit as provided in subsection (h.1) of this Code section and the department issues a final certification of the tax credit pursuant to this subsection if the total amount of such tax credit sought for the project exceeds $1.25 million.

(C) For any project certified by the Department of Economic Development on or after January 1, 2023, a tax credit allowed by

this Code section to a production company shall not be claimed, assigned, sold, transferred, or utilized in any manner until the production company applies for the tax credit as provided in subsection (h.1) of this Code section and the department issues a final certification of the tax credit pursuant to this subsection.

(2) In accordance with the schedule provided in paragraph (1) of this subsection, prior to certifying a tax credit pursuant to this Code section, the Department of Revenue shall conduct or cause to be conducted an audit of each tax credit allowed by this Code section by either the department or an independent third party certified by the department in accordance with paragraph (3) of this subsection as an eligible auditor.

(3)(A) The Department of Revenue shall provide for the certification and decertification of certified public accountants as eligible auditors.

(B) To obtain certification as an eligible auditor, an accountant shall:

(i) Register with the department;

(ii) Maintain its registration with the Georgia State Board of Accountancy;

(iii) Agree to and be capable of completing audits related to this Code section in accordance with this Code section and procedures developed by the department;

(iv) Successfully complete all training required by the department;

(v) Pay to the department a registration fee that the department shall set in an amount that reflects the expenses incurred by the department as a result of this paragraph; and

(vi) Post and maintain any bond that the department establishes for each eligible auditor.

(C) The Department of Revenue shall decertify an eligible auditor if such auditor:

(i) Fails to meet the conditions or comply with the provisions of subparagraph (B) of this paragraph; or

(ii) Completes an audit and violates the requirements of subparagraph (E) of paragraph (4) of this subsection.

(D) The Department of Revenue may decertify an eligible auditor if such auditor fails to complete an audit in accordance with subparagraph (A), (B), (C), (D), (F), or (G) of paragraph (4) of this

subsection or meets any other grounds for decertification as provided in regulations promulgated by the department.

(4) Each audit shall:

(A) Be completed in accordance with this Code section and procedures developed by the department;

(B) Utilize sampling methods that the department may adopt;

(C) Follow regulations that shall be published by the department regarding expenditures incurred with related persons or related members as such terms are defined in Code Section 48-7-28.3;

(D) Verify each reported expenditure that is included in the audit and identify and exclude each such expenditure that does not fully meet the conditions of this Code section;

(E) Exclude any expenditure not submitted with or that was incurred after the application required by subsection (h.1) of this Code section was submitted;

(F) Not be performed by an eligible accounting entity that is not determined to be independent as provided in the American Institute of Certified Public Accountants Code of Professional Conduct with respect to the production company or any of its related persons or related members as such terms are defined in Code Section 48-7-28.3 or as otherwise provided by the Department of Revenue; and

(G) Be submitted to the department which shall review the audit, make adjustments as necessary, and issue a final certification to the production company.

(5) The Department of Revenue shall:

(A) Promulgate rules and regulations and implement this subsection;

(B) Publish and regularly update a list of all eligible auditors that a production company may hire to conduct the audit required by this subsection;

(C) Publish on its website the application for certification of eligible auditors as well as all requirements related to certification and conducting an audit pursuant to this subsection;

(D) Publish the registration fee required by division (3)(B)(v) of this subsection and any bond required pursuant to division (3)(B)(vi) of this subsection;

(E) Determine whether a sampling method shall be used for the audits required by this subsection, the appropriate sample method

and size, and if a sampling method is used, ensure that it accurately captures a truly representative sample of all ineligible expenditures across all submitted expenditures and projects the type, rate, and amount of ineligible expenditures across all submitted expenditures;

(F) Perform the audit of expenditures when, due to confidentiality of information, the eligible auditor is unable to access necessary information that the department is able access;

(G) Review each audit conducted by an eligible auditor, conduct the portions of the audit described in subparagraph (F) of this paragraph, perform additional auditing as necessary, adjust the value of the tax credit as necessary, finalize the audit, and issue the final certification of the tax credit to the taxpayer; and

(H) For an audit that it conducts without an eligible auditor, complete the audit, adjust the value of the tax credit as necessary, and issue the final certification of the tax credit to the taxpayer.

(6) The production company applying for a final certification of a tax credit pursuant to this subsection shall agree and be required to reimburse the department for all costs incurred by the performance of a related audit, or any portion thereof, including for review of an audit conducted by an eligible auditor, prior to the issuance of such final certification.

(7) The cost of any such audit whether conducted in whole or in part by the department, an eligible auditor, or a combination of the two shall be borne by the production company and shall not be included as an expenditure claimed pursuant to this Code section.

(8) This subsection shall not apply to qualified interactive entertainment production companies.

History.

Code 1981, § 48-7-40.26, enacted by Ga. L. 2005, p. 1125, § 2/HB 539; Ga. L. 2006, p. 242, § 2/HB 194; Ga. L. 2008, p. 317, § 1/HB 1100; Ga. L. 2012, p. 976, § 2/HB 1027; Ga. L. 2013, p. 141, § 48/HB 79; Ga. L. 2014, p. 51, § 1/HB 958; Ga. L. 2015, p. 125, § 1/HB 339; Ga. L. 2017, p. 59, § 1/HB 199; Ga. L. 2017, p. 774, § 48/HB 323; Ga. L. 2020, p. 630, § 1/HB 1037; Ga. L. 2024, p. 794, § 1-30/HB 1181, effective January 1, 2025; Ga. L. 2025, p. 468, §§ 1, 2/HB 475, effective January 1, 2026; Ga. L. 2025, p. 1029, § 48(7)/SB 153, effective July 1, 2025.

Delayed effective date.

Code Section 48-7-40.26 is set out twice in this Code. This version is effective January 1, 2026. For version effective until January 1, 2026, see the preceding version.

Amendments.

The first 2025 amendment, effective January 1, 2026, in paragraph (b)(11), deleted "televised" preceding "commercial" in the first sentence, in the second sentence, deleted "laser disc," following "computer disc," and substituted "paid subscription based platforms, free advertiser supported streaming television

(FAST) channels" for "advertiser supported sites", and inserted "user-generated content distributed exclusively via social media platforms," in the third sentence; and rewrote subsection (i). See Editor's notes for applicability.

The second 2025 amendment, effective July 1, 2025, part of an Act to revise, modernize, and correct the Code, substituted "subparagraph" for "paragraph" in the undesignated text at the end of subparagraph (c)(2)(B).

Editor's notes.

Ga. L. 2025, p. 468, § 3/HB 475, not codified by the General Assembly, provides that the 2025 amendment shall be applicable to taxable years beginning on or after January 1, 2026.

48-7-40.26A. Tax credits for postproduction expenditures.

(a) This Code section shall be known and may be cited as the "Georgia Entertainment Industry Postproduction Investment Act."

(b) As used in this Code section, the term:

(1) "Affiliates" means those entities that are included in the postproduction company's affiliated group as defined in Section 1504(a) of the Internal Revenue Code and all other entities that are directly or indirectly owned 50 percent or more by members of the affiliated group.

(2) "Multimarket commercial distribution" means paid commercial distribution media buys which extend to markets outside the State of Georgia.

(3) "Postproduction company" means a company that:

(A) Maintains a business location physically located in this state;

(B) Has a total aggregate payroll of $250,000.00 or more for employees working within the state in the taxable year the postproduction company claims the tax credits;

(C) Is engaged in qualified postproduction activities; and

(D) Has been approved by the Department of Revenue.

This term shall not mean or include any form of business owned, affiliated, or controlled, in whole or in part, by any company or person which is in default on any tax obligation of the state, or a loan made by the state or a loan guaranteed by the state. In the instance of a "work for hire" in which one postproduction company hires another postproduction company to engage in qualified postproduction activities for pay, the hired company shall be considered a service provider for the hiring company and the hiring company shall be entitled to the postproduction tax credit only if the Department of Revenue certifies that the hired company is a Georgia company employing workers in this state and that the work is done solely in this state.

(4) "Qualified postproduction activities" means the activities per-

formed on a qualified production employing traditional, emerging, and new workflow techniques used in postproduction for picture, sound, and music editing, rerecording and mixing, visual effects, graphic design, original scoring, animation, musical composition, and other activities performed after initial production and including activities performed on previously produced and edited content.

(5) "Qualified postproduction expenditures" means expenditures incurred in this state directly in qualified postproduction activities, including without limitation the following:

(A) Costs associated with photography and sound synchronization;

(B) Expenditures, excluding license fees, incurred with Georgia companies for sound recordings and musical compositions, lighting, and related services and materials;

(C) Editing and related services;

(D) Rental of facilities and equipment;

(E) Leasing of vehicles;

(F) Costs of food and lodging;

(G) Digital or tape editing, film processing, transfers of film to tape or digital format, sound mixing, computer graphics services, special effects services, and animation services;

(H) Total aggregate payroll;

(I) Airfare, if purchased through a Georgia travel agency or travel company;

(J) Insurance costs and bonding, if purchased through a Georgia insurance agency; and

(K) Other direct postproduction costs for the project in accordance with generally accepted entertainment industry practices.

This term includes expenditures incurred in this state for footage shot inside or outside this state.

(6) "Qualified production" means a film, video, or digital project, including only the following: feature films, series, pilots, movies for television, televised commercial advertisements, music videos, interactive entertainment, or sound recording projects used in feature films, series, pilots, or movies for television. This term shall include projects shot, recorded, or originally created in either short or long form, animation and music, fixed on a delivery system which includes without limitation film, videotape, computer disc, laser disc, and any element of the digital domain, from which the program is viewed or

reproduced, and which is intended for multimarket commercial distribution via theaters, video on demand, direct to DVD, digital platforms designed for the distribution of interactive games, licensing for exhibition by individual television stations, groups of stations, networks, advertiser supported sites, cable television stations, or public broadcasting stations. Such term shall not include the coverage of news and athletic events, local interest programming, instructional videos, and corporate videos.

(7) "Total aggregate payroll" means the total sum expended by a postproduction company on salaries paid to employees working within this state on qualified postproduction activities.

(c)(1) A postproduction company that has incurred qualified postproduction expenditures of at least $500,000.00 in a taxable year shall be allowed a tax credit against the tax imposed by this article, subject to the conditions and limitations set forth in this Code section.

(2)(A) The tax credit allowed shall be equal to 20 percent of the qualified postproduction expenditures actually invested and expended by the postproduction company in a taxable year.

(B) An additional tax credit equal to 10 percent of the qualified postproduction expenditures shall be allowed if the qualified production expenditures, as defined in Code Section 48-7-40.26, were incurred in this state.

(C) An additional tax credit equal to 5 percent of the qualified production expenditures shall be allowed if the qualified production expenditures were incurred in a tier 1 or tier 2 county as designated by the commissioner of community affairs pursuant to Code Section 48-7-40.

(3) The amount of tax credits allowed to a postproduction company under this Code section for any single taxable year shall not exceed the postproduction company's total aggregate payroll expended to employees working within this state for the taxable year the postproduction company claims the tax credit.

(c.1)(1) A postproduction company that has incurred qualified postproduction expenditures of at least $100,000.00 but less than $500,000.00 and has a total aggregate payroll in this state of at least $100,000.00 but less than $500,000.00 in a taxable year shall be allowed a tax credit against the tax imposed by this article, subject to the additional limitations set forth in this subsection.

(2) The tax credit allowed shall be equal to 20 percent of the qualified postproduction expenditures actually invested and expended by the postproduction company in a taxable year.

(3) The aggregate amount of tax credits allowed under this sub-

section for smaller postproduction companies shall not exceed $1 million per taxable year. This $1 million aggregate amount of tax credits is separate from, and shall not be included in, the aggregate amount of tax credits under subsection (d) of this Code section.

(d) The tax credits allowed under this Code section for all postproduction companies shall be subject to the following aggregate annual caps:

(1) For taxable years beginning on or after January 1, 2026, and before January 1, 2031, the aggregate amount of tax credits allowed under this Code section shall not exceed $10 million; and

(2) If the aggregate amount of tax credits claimed by taxpayers under this Code section during a year is less than the aggregate annual cap applicable to such year, the unclaimed portion of the aggregate annual cap shall be added to the aggregate annual cap applicable to the next succeeding year or years until it is fully claimed.

(e)(1) The maximum allowable tax credit under this Code section claimed by a single postproduction company and its affiliates shall not exceed, in any single taxable year, 20 percent of the aggregate amount of tax credits available for such taxable year under subsection (d) of this Code section, including the amount of any aggregate annual caps rolled over from prior years.

(2) Postproduction companies seeking to claim a tax credit under this Code section shall submit an application to the Department of Revenue for preapproval of such tax credit. The Department of Revenue shall preapprove the tax credits based on the order in which properly completed applications were submitted. In the event that two or more applications were submitted on the same day and the amount of funds available will not be sufficient to fully fund the tax credits requested, the Department of Revenue shall prorate the available funds between or among the applicants.

(f) For taxable years beginning on or after January 1, 2026, and before January 1, 2031, the postproduction company shall report to the Department of Revenue on its Georgia income tax return the monthly average number of full-time employees subject to Georgia income tax withholding for the taxable year. For purposes of this subsection, the term "full-time employee" shall mean a person who performs a job that requires a minimum of 35 hours per week, and pays at or above the average wage earned in the county with the lowest average wage earned in this state, as reported in the most recently available annual issue of the Georgia Employment and Wages Averages Report of the Department of Labor. Notwithstanding Code Sections 48-2-15, 48-7-60, and 48-7-61, for such taxable years, the commissioner shall annually

report to the House Committee on Ways and Means and the Senate Finance Committee. The report shall include the name, tax year beginning, and monthly average number of full-time employees for each postproduction company. The first report shall be submitted by June 30, 2018, and each year thereafter by June 30.

(g)(1) Any qualified postproduction expenditures for which a production company claims a tax credit under Code Section 48-7-40.26 shall not be eligible for postproduction expenditures for purposes of the credit authorized under this Code section.

(2) If a postproduction company and its affiliates claim the credit authorized under Code Section 48-7-40, 48-7-40.1, 48-7-40.17, or 48-7-40.18, then the postproduction company and its affiliates will only be allowed to claim the credit authorized under this Code section to the extent that the Georgia resident employees included in the credit calculation authorized under this Code section and taken by the postproduction company and its affiliates on such tax return under this Code section have been permanently excluded from the credit authorized under Code Section 48-7-40, 48-7-40.1, 48-7-40.17, or 48-7-40.18.

(h) The credit granted under this Code section shall be subject to the following conditions and limitations:

(1) The credit may be taken beginning with the taxable year in which the postproduction company has incurred the qualified postproduction expenditures. For each year in which such postproduction company either claims or transfers the credit, the postproduction company shall attach a schedule to the postproduction company's Georgia income tax return which will set forth the following information, as a minimum:

(A) A description of the qualified postproduction activities;

(B) A certification that the postproduction company maintains a business location physically located in this state;

(C) A certification that the postproduction company expended a total aggregate payroll of $250,000.00 or more for employees working within this state during the taxable year of the postproduction company;

(D) In the initial year in which the postproduction company claims the credit granted in this Code section only, information demonstrating that the qualified postproduction expenditures equal or exceed $500,000.00 during such year;

(E) A detailed listing of the employee names, social security numbers, and Georgia wages when salaries are included in the qualified postproduction expenditures;

(F) The amount of tax credit claimed for the taxable year;

(G) Any tax credit previously taken by the postproduction company against Georgia income tax liabilities or the postproduction company's quarterly or monthly payments under Code Section 48-7-103;

(H) The amount of tax credit carried over from prior years;

(I) The amount of tax credit utilized by the postproduction company in the current taxable year; and

(J) The amount of tax credit to be carried over to subsequent tax years.

The postproduction company shall file a copy of the schedule with the Department of Economic Development within 30 days after the schedule is filed with its income tax return;

(2) Where the amount of tax credits under this Code section exceeds the postproduction company's income tax liability in a taxable year, any unused credit amount:

(A) May be carried forward for three years from the close of the taxable year in which the investment occurred; or

(B) May be taken as a credit against such postproduction company's quarterly or monthly payment under Code Section 48-7-103. Each employee whose employer receives credit against such postproduction company's quarterly or monthly payment under Code Section 48-7-103 shall receive credit against his or her income tax liability under Code Section 48-7-20 for the corresponding taxable year for the full amount which would be credited against such liability prior to the application of the credit provided for in this subparagraph. Credits against quarterly or monthly payments under Code Section 48-7-103 and credits against liability under Code Section 48-7-20 established by this subparagraph shall not constitute income to the postproduction company.

No such credit shall be allowed the postproduction company against prior years' tax liability; and

(3) Any tax credits earned by a postproduction company under this Code section and previously claimed but not used by such postproduction company against its income tax or its monthly payment under Code Section 48-7-103 may be transferred or sold in whole or in part by such postproduction company to another Georgia taxpayer, subject to the following conditions:

(A) Such postproduction company may make only a single transfer or sale of tax credits earned in a taxable year; however, the transfer or sale may involve one or more transferees;

(B) Such postproduction company shall submit to the Department of Economic Development and to the Department of Revenue a written notification of any transfer or sale of tax credits within 30 days after the transfer or sale of such tax credits. The notification shall include such postproduction company's tax credit balance prior to transfer, the credit certificate number, the remaining balance after transfer, all tax identification numbers for each transferee, the date of transfer, the amount transferred, and any other information required by the Department of Economic Development or the Department of Revenue;

(C) Failure to comply with this paragraph shall result in the disallowance of the tax credit until the postproduction company is in full compliance;

(D) The transfer or sale of this tax credit does not extend the time in which such tax credit can be used. The carry-forward period for a tax credit that is transferred or sold shall begin on the date on which the tax credit was originally earned;

(E) A transferee shall have only such rights to claim and use the tax credit that was available to such postproduction company at the time of the transfer, except for the use of the credit in subparagraph (B) of paragraph (2) of this subsection. To the extent that such postproduction company did not have rights to claim or use the tax credit at the time of the transfer, the Department of Revenue shall either disallow the tax credit claimed by the transferee or recapture the tax credit from the transferee. The transferee's recourse is against such postproduction company; and

(F) Any postproduction company claiming, transferring, or selling the tax credit shall be required to reimburse the Department of Revenue for any department initiated audits relating to the tax credit. This subparagraph shall not apply to routine tax audits of a taxpayer that may include the review of the credit provided in this Code section.

(i) The Department of Revenue and the Department of Economic Development shall promulgate such rules and regulations as are necessary to implement and administer this Code section.

History.

Code 1981, § 48-7-40.26A, enacted by Ga. L. 2017, p. 59, § 2/HB 199; Ga. L. 2024, p. 794, § 1-31/HB 1181, effective January 1, 2025; Ga. L. 2025, p. 618, § 2/HB 129, effective May 14, 2025.

Amendments.

The 2025 amendment, effective May 14, 2025, in paragraph (d)(1), substituted "2026" for "2018" and "2031" for "2019"; added "and" at the end of paragraph (d)(1); deleted former paragraphs (d)(2) through (d)(4); redesignated former paragraph (d)(5) as present paragraph (d)(2); and, in subsection (f), substituted "2026" for "2018", "2031" for "2023" in the first sentence and substituted "hours per week" for "hours a" in the second sentence. See Editor's notes for applicability.

Editor's notes.

Ga. L. 2025, p. 618, § 3/HB 129, not codified by the General Assembly,

provides that the 2025 amendment shall be applicable to all taxable years beginning on or after January 1, 2026.

48-7-40.29. (For effective date, see note.) Tax credits for certain qualified equipment that reduces business or domestic energy or water usage.

Editor's notes.

Ga. L. 2010, p. 1163, § 7/HB 1069, not codified by the General Assembly, provides, in part: "(c) Section 1 of this Act shall become effective on January 1 of the year following the year in which federal funds are made available for the purpose of funding the credit provided by Section 1 of this Act and in which the state auditor certifies in writing to the commissioner of natural resources and the state revenue commissioner that such funds have been received, have been deposited in the general fund, and are available for purposes of Section 1 of this Act." As of May 2025, this condition had not been met.

48-7-40.30. Tax credits for certain qualified investments for limited period of time.

(a) The General Assembly finds that entrepreneurial businesses significantly contribute to the economy of this state. The intent of this Code section is to achieve the following:

(1) To encourage individual investors to invest in early stage, innovative, wealth-creating businesses;

(2) To enlarge the number of high quality, high paying jobs within this state both to attract qualified individuals to move to and work within this state and to retain young people educated in Georgia's universities and colleges;

(3) To expand the economy of Georgia by enlarging its base of wealth-creating businesses; and

(4) To support businesses seeking to commercialize technology invented in Georgia's universities and colleges.

(b) As used in this Code section, the term:

(1) "Allowable credit" means the credit as it may be reduced pursuant to paragraph (3) of subsection (i) of this Code section.

(2) "Headquarters" means the principal central administrative office of a business located in this state which conducts significant operations of such business.

(3) "Net income tax liability" means income tax liability reduced by all other credits allowed under this chapter.

(4) "Pass-through entity" means a partnership, an S-corporation, or a limited liability company taxed as a partnership.

(5) "Professional services" means those services specified in paragraph (2) of Code Section 14-7-2 or any service which requires as a condition precedent to the rendering of such service the obtaining of a license from a state licensing board pursuant to Title 43.

(6) "Qualified business" means a registered business that:

(A) Is either a corporation, limited liability company, or a general or limited partnership located in this state;

(B) Was organized no more than three years before the qualified investment was made;

(C) Has its headquarters located in this state at the time the investment was made and has maintained such headquarters for the entire time the qualified business benefited from the tax credit provided for pursuant to this Code section;

(D) Employs 20 or fewer people in this state at the time it is registered as a qualified business;

(E) Has had in any complete fiscal year before registration gross annual revenue as determined in accordance with the Internal Revenue Code of $500,000.00 or less on a consolidated basis;

(F) Has not obtained during its existence more than $1 million in aggregate gross cash proceeds from the issuance of its equity or debt investments, not including commercial loans from chartered banking or savings and loan institutions;

(G) Has not utilized the tax credit described in Code Section 48-7-40.26;

(H) Is primarily engaged in manufacturing, processing, online and digital warehousing, online and digital wholesaling, software development, information technology services, or research and development or is a business providing services other than those described in subparagraph (I) of this paragraph; and

(I) Does not engage substantially in:

(i) Retail sales;

(ii) Real estate or construction;

(iii) Professional services;

(iv) Gambling;

(v) Natural resource extraction;

(vi) Financial, brokerage, or investment activities or insurance; or

(vii) Entertainment, amusement, recreation, or athletic or fitness activity for which an admission or membership is charged.

A business shall be substantially engaged in one of the above activities if its gross revenue from such activity exceeds 25 percent of its gross revenues in any fiscal year or it is established pursuant to its articles of incorporation, articles of organization, operating agreement, or similar organizational documents to engage in such activity as one of its primary purposes.

(7) "Qualified investment" means an investment by a qualified investor of cash in a qualified business for common or preferred stock or an equity interest or a purchase for cash of qualified subordinated debt in a qualified business; provided, however, that funds constituting a qualified investment cannot have been raised or be raised as a result of other tax incentive programs. Furthermore, no investment of common or preferred stock or an equity interest or purchase of subordinated debt shall qualify as a qualified investment if a broker fee or commission or a similar remuneration is paid or given directly or indirectly for soliciting such investment or purchase.

(8) "Qualified investor" means an accredited investor as that term is defined by the United States Securities and Exchange Commission who is:

(A) An individual person who is a resident of this state or a nonresident who is obligated to pay taxes imposed by this chapter; or

(B) A pass-through entity which is formed for investment purposes, has no business operations, has committed capital under management of equal to or less than $5 million, and is not capitalized with funds raised or pooled through private placement memoranda directed to institutional investors. A venture capital fund or commodity fund with institutional investors or a hedge fund shall not qualify as a qualified investor.

(9) "Qualified subordinated debt" means indebtedness that is not secured, that may or may not be convertible into common or preferred stock or other equity interest, and that is subordinated in payment to all other indebtedness of the qualified business issued or to be issued for money borrowed and no part of which has a maturity date less than five years after the date such indebtedness was purchased.

(10) "Registered" or "registration" means that a business has been certified by the commissioner as a qualified business at the time of application to the commissioner.

(c) A qualified business shall register with the commissioner for purposes of this Code section. Approval of such registration shall

constitute certification by the commissioner for 12 months after being issued. A business shall be permitted to renew its registration with the commissioner so long as, at the time of renewal, the business remains a qualified business.

(d) Any individual person making a qualified investment directly in a qualified business in the 2011, 2012, 2013, 2014, 2015, 2016, 2017, or 2018 calendar year shall be allowed a tax credit of 35 percent of the amount invested against the tax imposed by this chapter commencing on January 1 of the second year following the year in which the qualified investment was made as provided in this Code section.

(e) Any pass-through entity making a qualified investment directly in a qualified business in the 2011, 2012, 2013, 2014, 2015, 2016, 2017, or 2018 calendar year shall be allowed a tax credit of 35 percent of the amount invested against the tax imposed by this chapter commencing on January 1 of the second year following the year in which the qualified investment was made as provided in this Code section. Each individual who is a shareholder, partner, or member of an entity shall be allocated the credit allowed the pass-through entity in an amount determined in the same manner as the proportionate shares of income or loss of such pass-through entity would be determined. If an individual's share of the pass-through entity's credit is limited due to the maximum allowable credit under this Code section for a taxable year, the pass-through entity and its owners may not reallocate the unused credit among the other owners.

(f) Tax credits claimed pursuant to this Code section shall be subject to the following conditions and limitations:

(1) The qualified investor shall not be eligible for the credit for the taxable year in which the qualified investment is made but shall be eligible for the credit for the second taxable year beginning after the qualified investment is made as provided in subsection (d) or (e) of this Code section;

(2) The aggregate amount of credit allowed an individual for one or more qualified investments in a single taxable year under this Code section, whether made directly or by a pass-through entity and allocated to such individual, shall not exceed $50,000.00;

(3) In no event shall the amount of the tax credit allowed an individual under this Code section for a taxable year exceed such individual's net income tax liability. Any unused credit amount shall be allowed to be carried forward for three years from the close of the taxable year in which the qualified investment was made. No such credit shall be allowed against prior years' tax liability;

(4) The qualified investor's basis in the common or preferred stock, equity interest, or subordinated debt acquired as a result of the

qualified investment shall be reduced for purposes of this chapter by the amount of the allowable credit; and

(5) The credit shall not be transferable by the qualified investor except to the heirs and legatees of the qualified investor upon his or her death and to his or her spouse or incident to divorce.

(g) The registration of a business as a qualified business shall be subject to the following conditions and limitations:

(1) If the commissioner finds that any of the information contained in an application of a business for registration under this Code section is false, the commissioner shall revoke the registration of such business. The commissioner shall not revoke the registration of a business solely because it ceases business operations for an indefinite period of time, as long as the business renews its registration;

(2) A registration as a qualified business may not be sold or otherwise transferred, except that, if a qualified business enters into a merger, conversion, consolidation, or other similar transaction with another business and the surviving company would otherwise meet the criteria for being a qualified business, the surviving company retains the registration for the 12 month registration period without further application to the commissioner. In such a case, the qualified business must provide the commissioner with written notice of the merger, conversion, consolidation, or similar transaction and such other information as required by the commissioner; and

(3) The commissioner shall report to the House Committee on Ways and Means and the Senate Finance Committee each year all of the businesses that have registered with the commissioner as a qualified business. The report shall include the name and address of each business, the location of its headquarters, a description of the types of business in which it engages, the number of jobs created by the business during the period covered by the report, and the average wages paid by these jobs.

(h) Any credit claimed under this Code section shall be recaptured in the following situations and shall be subject to the following conditions and limitations:

(1) If within two years after the qualified investment was made, the qualified investor transfers any of the securities or subordinated debt received in the qualified investment to another person or entity, other than a transfer resulting from one of the following:

(A) The death of the qualified investor;

(B) A transfer to the spouse of the qualified investor or incident to divorce; or

(C) A merger, conversion, consolidation, sale of the qualified business's assets, or similar transaction requiring approval by the owners of the qualified business under applicable law, to the extent the qualified investor does not receive cash or tangible property in such merger, conversion, consolidation, sale, or other similar transaction;

(2) Except as provided in paragraph (1) of this subsection, if within five years after the qualified investment was made, the qualified business makes a redemption with respect to the securities received or pays any principal of the subordinated debt;

(3) If within two years after the qualified investment was made, the qualified investor participates in the operation of the qualified business. For the purpose of this paragraph, a qualified investor participates in the operation of a qualified business if the qualified investor, or the qualified investor's spouse, parent, sibling, or child, or a business controlled by any of these individuals, provides services of any nature to the qualified business for compensation, whether as an employee, a contractor, or otherwise. However, a person who provides uncompensated professional advice to a qualified business, whether as an officer, a member of the board of directors or managers or otherwise, or participates in a stock or membership option or stock or membership plan, or both, shall be eligible for the credit;

(4) The amount of the credit recaptured shall apply only to the qualified investment in the particular qualified business in which the investment was made;

(5) The amount of the recaptured tax credit determined under this subsection shall be added to the qualified investor's income tax liability for the taxable year in which the recapture occurs under this subsection; and

(6) In the event the credit is recaptured because the qualified business ceases business operations, dissolves, or liquidates, the qualified investor may claim either the credit authorized under this Code section or any capital loss the qualified investor otherwise would be able to claim regarding that qualified business, but shall not be authorized to claim and be allowed both.

(i)(1) A qualified investor seeking to claim a tax credit provided for under this Code section shall submit an application to the commissioner for tentative approval of such tax credit between September 1 and October 31 of the year for which the tax credit is claimed or allowed. The commissioner shall promulgate the rules and forms on which the application is to be submitted. Amounts specified on such application shall not be changed by the qualified investor after the application is approved by the commissioner. The commissioner shall

review such application and shall tentatively approve such application upon determining that it meets the requirements of this Code section.

(2) The commissioner shall provide tentative approval of the applications by the date provided in paragraph (3) of this subsection as follows:

(A) The total aggregate amount of all tax credits allowed to qualified investors or pass-through entities for investments made in the 2011 calendar year and claimed and allowed in the 2013 taxable year shall not exceed $10 million in such year;

(B) The total aggregate amount of all tax credits allowed to qualified investors or pass-through entities for investments made in the 2012 calendar year and claimed and allowed in the 2014 taxable year shall not exceed $10 million in such year;

(C) The total aggregate amount of all tax credits allowed to qualified investors or pass-through entities for investments made in the 2013 calendar year and claimed and allowed in the 2015 taxable year shall not exceed $10 million in such year;

(D) The total aggregate amount of all tax credits allowed to qualified investors or pass-through entities for investments made in the 2014 calendar year and claimed and allowed in the 2016 taxable year shall not exceed $5 million in such year;

(E) The total aggregate amount of all tax credits allowed to qualified investors or pass-through entities for investments made in the 2015 calendar year and claimed and allowed in the 2017 taxable year shall not exceed $5 million in such year;

(F) The total aggregate amount of all tax credits allowed to qualified investors or pass-through entities for investments made in the 2016 calendar year and claimed and allowed in the 2018 taxable year shall not exceed $5 million in such year;

(G) The total aggregate amount of all tax credits allowed to qualified investors or pass-through entities for investments made in the 2017 calendar year and claimed and allowed in the 2019 taxable year shall not exceed $5 million in such year; and

(H) The total aggregate amount of all tax credits allowed to qualified investors or pass-through entities for investments made in the 2018 calendar year and claimed and allowed in the 2020 taxable year shall not exceed $5 million in such year.

(3) The commissioner shall notify each qualified investor of the tax credits tentatively approved and allocated to such qualified investor by December 31 of the year in which the application was submitted.

In the event that the credit amounts on the tax credit applications filed with the commissioner exceed the maximum aggregate limit of tax credits under this subsection, then the tax credits shall be allocated among the qualified investors who filed a timely application on a pro rata basis based upon the amounts otherwise allowed by this Code section. Once the tax credit application has been approved and the amount approved has been communicated to the applicant, the qualified investor may then apply the amount of the approved tax credit to its tax liability for the tax year for which the approved application applies.

(j) The commissioner shall promulgate any rules and regulations necessary to implement and administer this Code section.

History.

Code 1981, § 48-7-40.30, enacted by Ga. L. 2010, p. 1163, § 2/HB 1069; Ga. L. 2013, p. 141, § 48/HB 79; Ga. L. 2013, p. 243, § 6/HB 318; Ga. L. 2015, p. 371, § 1/HB 237; Ga. L. 2024, p. 794, § 1-35/HB 1181, effective January 1, 2025; Ga. L. 2025, p. 1029, § 48(8)/SB 153, effective July 1, 2025.

Amendments.

The 2025 amendment, effective July 1, 2025, part of an Act to revise, modernize, and correct the Code, revised language in paragraph (f)(5).

48-7-40.37. Tax credits for timber producers incurring losses from Hurricane Helene.

(a)(1) The General Assembly finds and determines that Hurricane Helene has had a catastrophic impact on the citizens and the economy of Georgia, has particularly devastated the timber industry on which the citizens of Georgia are heavily dependent for their livelihood, and has created both a public fire hazard and a danger of insect infestations due to the massive amounts of downed timber caused by the severity of this natural disaster.

(2) The General Assembly further finds and declares that it is appropriate and advisable to provide relief to the timber industry in the form of a tax credit targeted to those taxpayers that have suffered substantial economic losses and that will have to incur significant expenses for salvaging downed timber, site clearance, restoration, and reforestation over the coming years.

(b) As used in this Code section, the term:

(1) "Disaster area" means the real property encompassed by the borders of the 66 counties included in the renewal of the State of Emergency pronounced in the Executive Order of the Governor dated October 29, 2024, and filed in the official records of the office of the Governor as Executive Order No. 10.29.24.01.

(2) "Eligible timber property" means timber which on September 24, 2024, was being grown by a taxpayer in a disaster area as part of a trade or business or a transaction entered into for profit.

(3) "Timber" means trees grown for the primary purpose of commercial production of food or wood or wood fiber products.

(4) "Timber casualty loss" means the amount of the diminution of value included in the computation of the casualty loss deduction for such casualty losses claimed and allowed pursuant to Section 165 of the Internal Revenue Code of 1986 as casualty losses incurred by a taxpayer between September 24, 2024, and December 31, 2024, as a result of damage to or destruction of eligible timber property caused by Hurricane Helene.

(c)(1) A taxpayer shall be allowed tax credits against the tax imposed by this article in an amount equal to 100 percent of such taxpayer's timber casualty loss; provided, however, that the credit amount shall not exceed the number of the taxpayer's affected acres of eligible timber property in such disaster areas multiplied by $550.00.

(2) To be allowed such tax credits, a taxpayer shall submit an application for preapproval of such credits based on timber casualty losses incurred by such taxpayer by December 31, 2025.

(d)(1) The commissioner shall require preapproval applications to contain such information as is necessary to substantiate a taxpayer's eligibility for tax credits allowed pursuant to this Code section.

(2) The commissioner is authorized to require electronic submission of preapproval applications in the manner specified by the commissioner.

(3) The commissioner shall review completed preapproval applications in the order in which such applications were submitted and shall provide notice to each taxpayer that submitted an application within 30 days of receipt stating whether such taxpayer's application is complete or incomplete.

(4) In no event shall the commissioner preapprove tax credits pursuant to this Code section in an amount that exceeds $200 million in aggregate.

(5) In the event that properly completed and timely submitted preapproval applications are submitted for an amount that exceeds the amount of funds available to fully fund the tax credits requested, the commissioner shall prorate the available funds between or among the applicants.

(6) The commissioner shall approve properly completed and timely submitted preapproval applications and issue a preapproval certificate to the taxpayer by January 31, 2026, certifying the amount of credits such taxpayer is eligible to claim if the taxpayer meets the conditions of this Code section.

(e) In no event shall the amount of the tax credits allowed pursuant to this Code section exceed $200 million in aggregate.

(f)(1)(A) Tax credits allowed pursuant to this Code section shall be eligible to be claimed only by the taxpayer to which the commissioner issued a preapproval certificate.

(B) Tax credits allowed pursuant to this Code section shall only be claimed in the taxable year in which the taxpayer first completes:

(i) The restoration of each acre for which timber casualty losses were incurred to a condition that has an adequately stocked stand that is expected to result in forest products or ecological services in the foreseeable future; or

(ii) The replanting of timber in a quantity projected to yield at maturity at least 90 percent of the value of the timber casualty loss claimed. Such timber shall be planted within the same county in which the eligible timber property was being grown when the timber casualty loss was incurred. Timber market conditions as of September 25, 2024, shall be used for the purposes of establishing projected value.

(2) To claim tax credits allowed pursuant to this Code section, a taxpayer shall attach to such taxpayer's state tax return certification from the taxpayer that the requirements of this Code section have been met and any other information required by the commissioner, including information which demonstrates that it has completed the restoration or replanting of timber required pursuant to paragraph (1) of this subsection.

(3) Any tax credits allowed pursuant to this Code section shall be claimed on or before December 31, 2030.

(g)(1) The total amount of the tax credits allowed pursuant to this Code section for a taxable year may exceed the taxpayer's income tax liability. Such tax credits allowed in excess of a taxpayer's income tax liability shall be refundable to such taxpayer, provided that such taxpayer is the same taxpayer that incurred the timber casualty loss.

(2) Tax credits claimed pursuant to this Code section but not used in any taxable year may be carried forward for ten years from the close of the taxable year in which the credits are claimed.

(h) Tax credits claimed pursuant to this Code section but neither used by the taxpayer against its income tax liability nor refunded may be transferred or sold one time to one single other Georgia taxpayer, subject to the following conditions:

(1) Only the taxpayer that claimed the tax credits allowed pursu-

ant to this Code section shall make the transfer or sale of such tax credits;

(2) The taxpayer that claimed the tax credits allowed pursuant to this Code section shall submit to the commissioner written notification of any transfer or sale of such tax credits within 30 days after the transfer or sale of the tax credits. Such written notification shall include:

(A) Such taxpayer's credit balance prior to transfer;

(B) The credit certificate number;

(C) The remaining balance of credits after transfer;

(D) The tax identification number of the transferee;

(E) The date of transfer;

(F) The amount of credits transferred; and

(G) Other information as may be required by the department;

(3) Failure to comply with any provision of this subsection shall result in the disallowance of the tax credits allowed pursuant to this Code section until the taxpayer that claimed the credits is in full compliance;

(4) The transfer or sale of the tax credits shall not extend the time during which such tax credits may be used. The carry-forward period for tax credits that are transferred or sold shall begin on the date on which such tax credits were originally claimed;

(5) A transferee shall have only such rights to claim and use the tax credits that were available to the transferor at the time of the transfer; provided, however, that a transferee shall not be eligible to transfer or receive a refund of such tax credits. To the extent that the transferor did not have rights to claim or use the tax credits at the time of the transfer, the commissioner shall disallow the tax credits claimed by the transferee or recapture the tax credits from the transferee or transferor. The transferee's recourse shall not be against the commissioner; and

(6) The transferee shall acquire the tax credits allowed pursuant to this Code section for a minimum of 60 percent of the amount of the tax credits so transferred.

(i)(1) A taxpayer claiming, transferring, or selling tax credits allowed pursuant to this Code section shall be required to reimburse the department for any department initiated audits relating to the tax credits, provided that such amount shall not exceed the value of the credits claimed by the taxpayer. This paragraph shall not apply to

routine tax audits of such taxpayer that may include the review of the tax credits provided in this Code section.

(2) The commissioner shall have access to timber property for the purpose of determining eligibility for both the preapproval and claiming of tax credits allowed and conducting audits pursuant to this Code section, provided that prior notice is given to any taxpayer that submitted a preapproval application or transferred or claimed tax credits pursuant to this Code section and the owner of the underlying real property.

(3) The commissioner may pursue all remedies available by law as necessary to recapture tax credits wrongfully preapproved, allowed, or claimed by a taxpayer or a taxpayer's transferee.

(4) The commissioner shall be authorized to consult with the State Forestry Commission as necessary to administer and enforce the provisions of this Code section.

(j) The commissioner shall be authorized to promulgate any rules and regulations necessary to implement and administer the provisions of this Code section.

History.

Code 1981, § 48-7-40.37, enacted by Ga. L. 2025, p. 231, § 2-2/HB 223, effective May 8, 2025.

Effective date.

This Code section became effective May 8, 2025.

Editor's notes.

Ga. L. 2025, p. 231, § 1-1/HB 223, not codified by the General Assembly, provides: "This part shall be known and may be cited as the 'Timberlands Recovery, Exemption, and Earnings Stability (TREES) Act.'"

Ga. L. 2025, p. 231, § 1-2/HB 223, not codified by the General Assembly, provides: "The General Assembly finds that:

"(1) Hurricane Helene has had a catastrophic impact on the citizens and the economy of many areas in this state, has particularly devastated the timber industry on which the citizens of southwest Georgia are heavily dependent for their livelihood by reducing or eliminating the long-held investments in standing timber and timberlands of businesses and families, and has created both a public fire hazard and a danger of insect infestations due to the massive amounts of downed timber caused by the severity of this natural disaster;

"(2) As of November, 2024, the estimated losses to standing timber caused by Hurricane Helene as measured by the State Forestry Commission were nearly $1.3 billion;

"(3) Timberlands as investments are unique as an agriculture product in this state, as timber products often take ten years or longer to realize any return on the investment;

"(4) Many counties, municipalities, and local school districts rely on the taxes levied at the time of timber's harvest or sale pursuant to Code Section 48-5-7.5, but with the destruction of timberlands throughout this state, that tax revenue will likely not be realized; and

"(5) It is the intent of the General Assembly to authorize local governing authorities to provide temporary tax relief from the taxes levied pursuant to Code 48-5-7.5 so that the timber industry, and the businesses and families that provide timber products to such industry, will realize a reduced cost for growing new product and recovering from the devastating effects of Hurricane Helene. These reduced costs will help stabilize the

market and allow for quicker harvesting and recovery of lands where some timber is still salvageable."

ARTICLE 3

RETURNS AND FURNISHING OF INFORMATION

48-7-60. Confidentiality of tax information; exceptions; authorized inspection by certain officials; furnishing information to local tax authorities; furnishing information to nonofficials; conditions; effect of Code section.

(a) Except in accordance with proper judicial order or as otherwise provided by law, it is unlawful for the commissioner, other officer, employee, or agent, or any former officer, employee, or agent to divulge or make known in any manner the amount of income or any particulars set forth or disclosed in any report or return required under the law of this state or any return or return information required by the Internal Revenue Code when the information or return is received from the Internal Revenue Service or submitted by the taxpayer as provided by the laws of this state. Nothing contained in this Code section shall be construed to prohibit the print or electronic publication of statistics so presented as to prevent the identification of particular reports or returns and the items thereof, or the inspection by the Attorney General or other legal representative of the state, or use as evidence, of the report or return of a taxpayer in the event of any action or proceeding involving any tax liability of the taxpayer. Reports and returns shall be preserved for three years and thereafter until the commissioner orders them to be destroyed.

(b) The commissioner may permit the commissioner of internal revenue of the United States, the proper officer of any state imposing an income tax similar to that imposed by this chapter, or the authorized representative of either such officer to inspect the income tax returns of any taxpayer, or may furnish to the officer or his authorized representative an abstract of the return of income of any taxpayer or supply him with information concerning any item of income contained in any return or disclosed by the report of any investigation of the income or return of income of any taxpayer. The permission shall be granted or the information shall be furnished to the officer or his representative only if:

(1) The request is only for state tax information including federal tax information required by the state to be filed by the taxpayer with his state return;

(2) The requested information will be used solely for tax purposes;

(3) The requesting state has a confidentiality statute which complies with the requirements of Section 6103(p)(8) of the Internal Revenue Code; and

(4) The statutes of the United States or of such other state, as the case may be, grant substantially similar privileges to the proper officer of this state charged with the administration of this chapter.

(c) The commissioner may permit the disclosure of inventories, depreciable assets, accumulated depreciation, and book value of depreciable assets to local tax authorities in this state to be used solely for ad valorem tax purposes, provided that the furnishing of the information is not prohibited by Section 6103 of the Internal Revenue Code; and provided, further, that the furnishing of the information to the local tax authorities shall not be deemed to change the confidential character of the information, and any persons receiving the information pursuant to this subsection shall be subject to Code Section 48-7-61, relating to the sanctions to be imposed for the unauthorized disclosure of confidential material.

(d) This Code section shall not be construed to prohibit persons or groups of persons other than employees of the department from having access to tax information where necessary to conduct research commissioned by the department or where necessary in connection with the processing, storage, transmission, and reproduction of such tax information; the programming, maintenance, repair, testing, and procurement of equipment; and the providing of other services for purposes of tax administration. Any such access shall be pursuant to a written agreement with the department providing for the handling, permitted uses, and destruction of such tax information, requiring security clearance checks for such persons or groups of persons similar to those required of employees of the department, and including such other terms and conditions as the department may require to protect the confidentiality of the tax information to be disclosed. Any person who divulges or makes known any tax information obtained under this subsection shall be subject to the same civil and criminal penalties as those provided for divulgence of information by employees of the department.

(d.1) The commissioner shall be authorized in his or her sole discretion to share information necessary to efficiently administer and enforce the provisions of this chapter for the purpose of tax credit administration when another state agency has statutory authority to administer such tax credits. Any confidential information furnished pursuant to this Code section shall retain its character as confidential and privileged information. Any person who divulges confidential information obtained pursuant to this Code section shall be subject to the same penalties as provided under Code Section 48-7-61 for unlawful divulgence of confidential taxpayer information.

(e) Notwithstanding any other law, this Code section shall remain in full force and effect unless specific reference is made in such other law to this Code section and to the disclosure of income tax information contained in any report or return required under this Code section.

History.
Code 1933, § 91A-3711, enacted by Ga. L. 1979, p. 5, § 72; Ga. L. 1982, p. 3, § 48; Ga. L. 1987, p. 191, § 9; Ga. L. 2002, p. 372, § 7; Ga. L. 2010, p. 838, § 11/SB 388; Ga. L. 2011, p. 297, § 4/HB 346; Ga. L. 2025, p. 537, § 2-2/HB 136, effective July 1, 2025.

Amendments.
The 2025 amendment, effective July 1, 2025, added subsection (d.1). See Editor's notes for applicability.

Editor's notes.
Ga. L. 2025, p. 537, § 3-1(a)/HB 136, not codified by the General Assembly, provides that the 2025 amendment shall be applicable to all taxable years beginning on or after January 1, 2026.

ARTICLE 4

PAYMENT: DEFICIENCIES, ASSESSMENT, AND COLLECTION

48-7-82. Periods of limitation for assessment of taxes; collection by execution; change or correction of net income.

(a) Except as otherwise provided in this Code section, the amount of income tax imposed by this chapter shall be assessed within the time periods specified in Code Section 48-2-49.

(b)(1) In the case of income received during the lifetime of a decedent, by the estate of a decedent during the period of administration, or by a corporation, the tax shall be assessed within three years after the return is filed, and any proceeding in court without assessment for the collection of the tax shall begin within 18 months after written request for the commencement of the proceeding (filed after the return is made) by the personal representative or other fiduciary representing the estate of the decedent or by the corporation. No such proceeding shall begin after the expiration of three years from the date the return is filed. This paragraph shall not apply in the case of a corporation unless:

(A) The written request notifies the commissioner that the corporation contemplates dissolution at or before the expiration of the 18 month period;

(B) The dissolution is begun in good faith before the expiration of the 18 month period; and

(C) The dissolution is completed.

(2) If the taxpayer omits from gross income an amount properly includable in gross income which exceeds 25 percent of the amount of

gross income less business expenses stated in the return, the tax may be assessed or a proceeding in court for the collection of the tax may begin without assessment at any time within six years after the return is filed.

(3) If the taxpayer omits from gross income an amount properly includable in gross income as an amount distributed in liquidation of a corporation, the tax may be assessed or a proceeding in court for the collection of the tax may begin without assessment at any time within five years after the return is filed.

(c) When the assessment of any income tax has been made within the period of limitation properly applicable to the assessment, the tax may be collected by execution, provided that the commissioner may transmit such execution electronically. The general provisions for tax executions as contained in Chapter 3 of this title shall apply to executions pursuant to this subsection.

(d) Reserved.

(e)(1) Except as provided in Code Section 48-7-53, when a taxpayer's amount of net income for any year under this chapter as returned to the United States Department of the Treasury is changed or corrected by the commissioner of internal revenue or other officer of the United States of competent authority, the taxpayer, within 180 days after the final determination date of the changed or corrected net income, shall make a return to the commissioner of the changed or corrected income, and the commissioner shall make assessment within one year from the date the return required by this paragraph is filed or the taxpayer shall claim a refund based on the change or correction within one year from the date the return required by this paragraph is filed. If the taxpayer does not make the return reflecting the changed or corrected net income and the commissioner receives from the United States government or one of its agents a report reflecting the changed or corrected net income, the commissioner shall make assessment for taxes due based on the change or correction within five years from the date the report from the United States government or its agent is actually received. If he or she chooses, the commissioner shall have the authority to establish a de minimis amount upon which a taxpayer shall not be required to comply with this subsection. For purposes of this subsection the final determination date shall be determined as follows:

(A) Except as provided in subparagraphs (B) and (C) of this paragraph, the final determination date is the first day on which no changes or corrections for a particular audit remain to be finally determined, whether by agreement, or, if appealed or contested, by a final decision with respect to which all rights of appeal have been

waived or exhausted. For agreements required to be signed by the commissioner of internal revenue and the taxpayer, the final determination date is the date on which the last party signed the agreement;

(B) If the taxpayer filed as a member of a combined or consolidated group, the final determination date is the first day on which no related changes or corrections for a particular audit remain to be finally determined for the entire group; or

(C) If the federal adjustment results from filing an amended federal return, a federal refund claim, or an administrative adjustment request, or if it is a federal adjustment reported on an amended federal return or other similar report filed pursuant to Section 6225(c) of the Internal Revenue Code, the final determination date is the day on which the amended return, refund claim, administrative adjustment request, or other similar report was filed.

(2) In the event the taxpayer fails to notify the commissioner of the final determination of his or her United States income taxes, the commissioner shall proceed to determine, upon evidence that the commissioner has brought to his or her attention or that he or she otherwise acquires, the corrected income of the taxpayer for the fiscal or calendar year. If additional tax is determined to be due, the tax shall be assessed and collected. If it is determined that there has been an overpayment of tax for the year, the taxpayer, by his or her failure to notify the commissioner as required in paragraph (1) of this subsection, shall forfeit his or her right to any refund due by reason of the change or correction. A taxpayer who so fails to notify the commissioner, however, shall be entitled to equitable recoupment of 90 percent of any overpayment so determined against any additional tax liability so determined, the remaining 10 percent of the overpayment being totally forfeited as a penalty for failure to make a return as required by paragraph (1) of this subsection.

History.

Ga. L. 1931, Ex. Sess., p. 24, § 36; Code 1933, § 92-3303; Ga. L. 1937, p. 109, § 18; Ga. L. 1952, p. 405, § 5; Ga. L. 1953, Jan.-Feb. Sess., p. 279, § 6; Ga. L. 1965, p. 276, § 1; Ga. L. 1975, p. 862, § 1; Code 1933, § 91A-3802, enacted by Ga. L. 1978, p. 309, § 2; Ga. L. 1985, p. 1350, § 2; Ga. L. 1986, p. 1480, § 2; Ga. L. 1997, p. 734, § 5; Ga. L. 2018, p. 319, § 4/HB 849; Ga. L. 2025, p. 738, § 1-9/SB 141, effective July 1, 2025.

Amendments.

The 2025 amendment, effective July 1, 2025, inserted "within one year from the date the return required by this paragraph is filed" following "assessment" in the first sentence of paragraph (e)(1); in subparagraph (e)(1)(A), substituted "subparagraphs (B) and (C)" for "subparagraph (B)" in the first sentence and deleted "or" at the end of the second sentence; inserted "or" at the end of subparagraph (e)(1)(B); and added subparagraph (e)(1)(C).

48-7-86. Penalties for nonpayment, failure to pay, or underpayment of taxes; reduction of tax by partial payments and credits; relief of liability on joint return.

(a)(1) In case of failure to pay:

(A) The amount shown as tax on a return on or before the date prescribed for payment of the tax, such date to be determined with regard to any extension of time for payment, there shall be added to the amount of tax required to be shown on the return one-half of 1 percent of the amount of the tax if the failure is for not more than one month and with an additional one-half of 1 percent for each additional month or fraction of a month during which the failure continues. For the purposes of this subparagraph, the amount of tax shown on the return shall be reduced, for the purpose of computing the addition for any month, by the amount of any part of the tax which is paid on or before the beginning of the month and by the amount of any credit against the tax which is claimed on the return;

(B) Any amount in respect of any tax required to be shown on a return which is not so shown within ten days of the date of the notice and demand for the payment, the amount of tax stated in the notice and demand shall be increased by one-half of 1 percent of the amount of the tax if the failure is for not more than one month and by an additional one-half of 1 percent for each additional month or fraction of a month during which the failure continues. For the purposes of this subparagraph, the amount of tax stated in the notice and demand shall be reduced, for the purpose of computing the addition for any month, by the amount of any part of the tax which is paid before the beginning of the month.

(2) No penalty shall be assessed pursuant to this subsection which exceeds in the aggregate 25 percent of the amount of the tax or when it is shown that the failure is due to reasonable cause and not due to willful neglect.

(b) With respect to any return, the maximum amount of the addition permitted under subparagraph (a)(1)(B) of this Code section shall be reduced by the amount of the addition under subsection (a) of Code Section 48-7-57 which is attributable to the tax for which the notice and demand are made and which is not paid within ten days of such notice and demand.

(c) If the amount required to be shown as tax on a return is less than the amount shown as tax on the return, subparagraph (a)(1)(A) of this Code section shall be applied by substituting the lower amount.

(d) For purposes of subsections (e) and (f) of this Code section, the

term "underpayment" means a deficiency as defined in Code Section 48-7-1.

(e) If any part of any underpayment of tax required to be shown on a return is due to a negligent or intentional disregard of rules and regulations, but without intent to defraud, an amount equal to 5 percent of the underpayment shall be added to the tax.

(f) If any part of any underpayment of tax required to be shown on a return is due to fraud, an amount equal to 50 percent of the underpayment shall be added to the tax. This amount shall be in lieu of any amount determined under subsection (e) of this Code section. If any penalty is assessed under this subsection for an underpayment of tax which is required to be shown on a return, no penalty under Code Section 48-7-57 or subsection (a) of this Code section shall be assessed with respect to the same underpayment.

(g)(1) Notwithstanding any other provision of this Code section to the contrary, if:

(A)(i) A joint return has been made for a taxable year;

(ii) On such return there is an understatement of tax attributable to erroneous items of one individual filing the joint return;

(iii) The other individual filing the joint return establishes that in signing the return he or she did not know, and had no reason to know, that there was such understatement; and

(iv) Taking into account all the facts and circumstances, it is inequitable to hold the other individual liable for the deficiency in tax for such taxable year attributable to such understatement; or

(B) The other individual has made the proper election pursuant to Section 6015 of the Internal Revenue Code, if applicable

then the other individual shall be relieved of liability for tax, including interest, penalties, and other amounts, for such taxable year to the extent such liability is attributable to such understatement, if such other individual has been relieved of liability for federal income taxes pursuant to Section 6015 of the Internal Revenue Code, if applicable.

(2) The commissioner shall promulgate any rules and regulations necessary to implement and administer this subsection.

History.

Ga. L. 1931, Ex. Sess., p. 24, § 38; Ga. L. 1931, p. 7, § 85; Code 1933, § 92-3305; Ga. L. 1952, p. 405, § 8; Ga. L. 1953, Jan.-Feb. Sess., p. 279, § 7; Ga. L. 1953, Jan.-Feb. Sess., p. 294, § 1; Code 1933, § 92-3305, enacted by Ga. L. 1971, p. 376, § 1; Code 1933, § 91A-3804, enacted by Ga. L. 1978, p. 309, § 2; Ga. L. 1993, p. 1649, § 3; Ga. L. 1999, p. 483, § 2; Ga. L.

2001, p. 984, § 12; Ga. L. 2004, p. 410, § 6.

Editor's notes.

This Code section is set out in the supplement to correct a formatting issue.

ARTICLE 5

CURRENT INCOME TAX PAYMENT

48-7-128. Withholding tax on sale or transfer of real property and associated tangible personal property by nonresidents.

(a) As used in this Code section, the term "nonresident of Georgia" shall include individuals, trusts, partnerships, corporations, and unincorporated organizations. Any seller or transferor who meets all of the following conditions and who provides the buyer or transferee with an affidavit signed under oath swearing or affirming that the following conditions are met will be deemed a resident for purposes of this Code section:

(1) The seller or transferor has filed Georgia income tax returns or appropriate extensions have been received for the two income tax years immediately preceding the year of sale;

(2) The seller or transferor is in business in Georgia and will continue substantially the same business in Georgia after the sale or the seller or transferor has real property remaining in the state at the time of closing of equal or greater value than the withholding tax liability as measured by the 100 percent property tax assessment of such remaining property;

(3) The seller or transferor will report the sale on a Georgia income tax return for the current year and file it by its due date; and

(4) If the seller or transferor is a corporation or limited partnership, it is registered to do business in Georgia.

(b)(1) Except as otherwise provided in this Code section, in the case of any sale or transfer of real property and related tangible personal property located in Georgia by a nonresident of Georgia, the buyer or transferee shall be required to withhold and remit to the commissioner on forms provided by the commissioner a withholding tax equal to 3 percent of the purchase price or consideration paid for the sale or transfer; provided, however, that, if the amount required to be withheld pursuant to this subsection exceeds the net proceeds payable to the seller or transferor, the buyer or transferee shall withhold and pay over to the commissioner only the net proceeds otherwise payable to the seller or transferor. Any buyer or transferee who fails

to withhold such amount shall be personally liable for the amount of such tax.

(2) The liability imposed by this subsection shall be paid upon notice and demand by the commissioner or the commissioner's delegate and shall be assessed and collected in the same manner as all other withholding taxes imposed by this article.

(3) The person or entity identified as the seller on the settlement statement shall be considered the seller for all purposes regarding this Code section, including, but not limited to, executing and delivering to the buyer or transferee all forms or other documents incident to determining the appropriate amount of tax to be withheld or the appropriate amount exempt from withholding requirements.

(c) If the seller or transferor determines that the amount required to be withheld pursuant to paragraph (1) of subsection (b) of this Code section will result in excess withholding on any gain required to be recognized from the sale, the seller or transferor may provide the buyer or transferee with an affidavit signed under oath swearing or affirming to the amount of the gain required to be recognized from the sale, and the buyer or transferee shall withhold 3 percent of the amount of the gain required to be recognized, if any, stated in the affidavit rather than as provided in paragraph (1) of subsection (b) of this Code section. If, however, the amount required to be withheld pursuant to this subsection exceeds the net proceeds payable to the seller or transferor, the buyer or transferee shall withhold and pay over to the commissioner only the net proceeds otherwise payable to the seller or transferor.

(d) Subsection (b) of this Code section shall not apply where:

(1) The real property being sold or transferred is a principal residence of the seller or transferor within the meaning of Section 1034 of the Internal Revenue Code;

(2) The seller or transferor is a mortgagor conveying the mortgaged property to a mortgagee in foreclosure or in a transfer in lieu of foreclosure with no additional consideration; or

(3) The transferor or transferee is an agency or authority of the United States of America, an agency or authority of the State of Georgia, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Government National Mortgage Association, or a private mortgage insurance company.

The commissioner may by regulation set a purchase price amount below which no withholding is required.

(e)(1) Unless otherwise provided, if the seller or transferor is a partnership or Subchapter "S" corporation or other unincorporated

organization which certifies to the buyer or transferee that a composite return is being filed on behalf of the nonresident partners, shareholders, or members and that the partnership, Subchapter "S" corporation, or unincorporated organization remits the tax on the gain on behalf of the nonresident partners, shareholders, or members, the buyer or transferee shall not be required to withhold as provided in this Code section. Any nonresident partner, shareholder, or member who falsely certifies that a composite return is being filed on behalf of such partner, shareholder, or member shall be liable for a penalty in the amount of $500.00 or 10 percent of the amount required to be withheld, whichever is greater.

(2) The penalty imposed by this subsection shall be paid upon notice and demand by the commissioner or the commissioner's delegate and shall be assessed and collected in the same manner as the withholding tax imposed by this article.

(f) Every buyer or transferee of real property located in Georgia who is required to deduct and withhold the withholding tax imposed by subsection (b) of this Code section shall file the required return and remit payment to the department on or before the last day of the calendar month following the calendar month within which the sale or transfer giving rise to the withholding tax occurred.

History.
Code 1981, § 48-7-128, enacted by Ga. L. 1993, p. 768, § 2; Ga. L. 2011, p. 674, § 2-1/HB 117; Ga. L. 2024, p. 1052, § 5(46)/SB 448, effective July 1, 2024.

Editor's notes.
This Code section is set out in the supplement to correct a formatting issue.

CHAPTER 8

SALES AND USE TAXES

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ARTICLE 1

STATE SALES AND USE TAX

Part 1

General Provisions

48-8-2. Definitions.

As used in this article, the term:

(1) "Alcoholic beverages" means beverages that are suitable for human consumption and contain one-half of one percent or more of alcohol by volume.

(2) "Ancillary services" means services that are associated with or incidental to the provision of telecommunications services, including but not limited to detailed telecommunications billing service, directory assistance, vertical service, and voice mail services.

(3)(A) "Bundled transaction" means the retail sale of two or more products, except real property and services to real property, where the products are otherwise distinct and identifiable and the products are sold for one nonitemized price. A bundled transaction does

not include the sale of any products in which the sales price varies, or is negotiable, based on the selection by the purchaser of the products included in the transaction.

(B) As used in this paragraph, the term "distinct and identifiable products" shall not include:

(i) Packaging such as containers, boxes, sacks, bags, and bottles or other materials such as wrapping, labels, tags, and instruction guides, that accompanies the retail sale of the products and are incidental or immaterial to the retail sale thereof. Examples of packaging that are incidental or immaterial include grocery sacks, shoe boxes, dry cleaning garment bags, and express delivery envelopes and boxes;

(ii) A product provided free of charge with the required purchase of another product. A product is provided free of charge if the sales price of the product purchased does not vary depending on the inclusion of the product provided free of charge; or

(iii) Items included in the sales price.

(C) As used in this paragraph, the term "one nonitemized price" shall not include a price that is separately identified by product on binding sales or other supporting sales related documentation made available to the customer in paper or electronic form including, but not limited to, an invoice, bill of sale, receipt, contract, service agreement, lease agreement, periodic notice of rates and services, rate card, or price list.

(D) A transaction that otherwise meets the definition of a bundled transaction as provided under this paragraph shall not be a bundled transaction if such transaction is:

(i) The retail sale of tangible personal property and a service where the tangible personal property is essential to the use of the service, is provided exclusively in connection with the service, and the true object of the transaction is the service;

(ii) The retail sale of services where one service is provided that is essential to the use or receipt of a second service, the first service is provided exclusively in connection with the second service, and the true object of the transaction is the second service;

(iii)(I) A transaction that includes taxable products and nontaxable products and the purchase price or sales price of the taxable products is de minimis. As used in this subparagraph, the term "de minimis" means the seller's purchase price or sales price of the taxable product is 10 percent or

less of the total purchase price or sales price of the bundled products.

(II) Sellers shall use either the purchase price or the sales price of the products to determine if the taxable products are de minimis. Sellers may not use a combination of the purchase price and sales price of the products to determine if the taxable products are de minimis.

(III) Sellers shall use the full term of a service contract to determine if the taxable products are de minimis; or

(iv) The retail sale of exempt tangible personal property and taxable tangible personal property where:

(I) The transaction includes food and food ingredients, drugs, durable medical equipment, mobility enhancing equipment, over-the-counter drugs, or prosthetic devices; and

(II) The seller's purchase price or sales price of the taxable tangible personal property is 50 percent or less of the total purchase price or sales price of the bundled tangible personal property. Sellers may not use a combination of the purchase price and sales price of the tangible personal property when making the 50 percent determination for a transaction.

(4) "Business" means any activity engaged in by any person or caused to be engaged in by any person with the object of direct or indirect gain, benefit, or advantage.

(5) "Coin operated telephone service" means a telecommunications service paid for by inserting money into a telephone accepting direct deposits of money to operate.

(6) "Computer software" means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task.

(7) "Conference bridging service" means an ancillary service that links two or more participants of an audio or video conference call and may include the provision of a telephone number. Conference bridging service shall not include the telecommunications services used to reach the conference bridge.

(8) "Dealer" means every person who:

(A) Has sold at retail, used, consumed, distributed, or stored for use or consumption in this state tangible personal property and who cannot prove that the tax levied by this article has been paid on the sale at retail or on the use, consumption, distribution, or storage of the tangible personal property;

(B) Imports or causes to be imported tangible personal property from any state or foreign country for sale at retail, or for use, consumption, distribution, or storage for use or consumption in this state;

(C) Is the lessee or renter of tangible personal property and who pays to the owner of the property a consideration for the use or possession of the property in this state without acquiring title to the property;

(D) Leases or rents tangible personal property for a consideration, permitting the use or possession of the property in this state without transferring title to the property;

(E) Maintains or utilizes within this state an office, distribution center, salesroom or sales office, warehouse, service enterprise, or any other place of business, whether owned by such person or any other person, other than a common carrier acting in its capacity as such;

(F) Manufactures or produces tangible personal property for sale at retail or for use, consumption, distribution, or storage for use or consumption in this state;

(G) Sells at retail, offers for sale at retail, or has in his possession for sale at retail, or for use, consumption, distribution, or storage for use or consumption in this state tangible personal property;

(H) Solicits business by an agent, employee, representative, or any other person;

(I) Engages in the regular or systematic solicitation of a consumer market in this state, unless the dealer's only activity in this state is:

(i) Advertising or solicitation by:

(I) Direct mail, catalogs, periodicals, or advertising fliers;

(II) Means of print, radio, or television media; or

(III) Telephone, computer, the internet, cable, microwave, or other communication system;

(ii) The delivery of tangible personal property within this state solely by common carrier or United States mail; or

(iii) To engage in convention and trade show activities as described in Section 513(d)(3)(A) of the Internal Revenue Code, so long as such activities are the dealer's sole physical presence in this state and the dealer, including any of its representatives,

agents, salespersons, canvassers, independent contractors, or solicitors, does not engage in those convention and trade show activities for more than five days, in whole or in part, in this state during any 12 month period and did not derive more than $100,000.00 of net income from those activities in this state during the prior calendar year. A retailer engaging in convention and trade show activities, as described in Section 513(d)(3)(A) of the Internal Revenue Code, is a retailer engaged in business in this state and liable for collection of the applicable sales or use tax with respect to any sale of tangible personal property occurring at the convention and trade show activities and with respect to any sale of tangible personal property made pursuant to an order taken at or during those convention and trade show activities.

The exceptions provided in divisions (i), (ii), and (iii) of this subparagraph shall not apply to any requirements under Code Section 48-8-14;

(J) Is an affiliate that sells at retail, offers for sale at retail in this state, or engages in the regular or systematic solicitation of a consumer market in this state through a related dealer located in this state unless:

(i) The in-state dealer to which the affiliate is related does not engage in any of the following activities on behalf of the affiliate:

(I) Advertising;

(II) Marketing;

(III) Sales; or

(IV) Other services; and

(ii) The in-state dealer to which the affiliate is related accepts the return of tangible personal property sold by the affiliate and also accepts the return of tangible personal property sold by any person or dealer that is not an affiliate on the same terms and conditions as an affiliate's return;

As used in this subparagraph, the term "affiliate" means any person that is related directly or indirectly through one or more intermediaries, controls, is controlled by, is under common control with, or is subject to the control of a dealer described in subparagraphs (A) through (I) of this paragraph or in this subparagraph;

(K)(i) Makes sales of tangible personal property or services that are taxable under this chapter if a related member, as defined in Code Section 48-7-28.3, other than a common carrier acting in its capacity as such, that has substantial nexus in this state:

(I) Sells a similar line of products as the person and does so under the same or a similar business name; or

(II) Uses trademarks, service marks, or trade names in this state that are the same or substantially similar to those used by the person.

(ii) The presumption that a person described in this subparagraph qualifies as a dealer in this state may be rebutted by showing that the person does not have a physical presence in this state and that any in-state activities conducted on its behalf are not significantly associated with the person's ability to establish and maintain a market in this state;

(L)(i) Makes sales of tangible personal property or services that are taxable under this chapter if any other person, other than a common carrier acting in its capacity as such, who has a substantial nexus in this state:

(I) Delivers, installs, assembles, or performs maintenance services for the person's customers within this state;

(II) Facilitates the person's delivery of property to customers in this state by allowing the person's customers to pick up property sold by the person at an office, distribution facility, warehouse, storage place, or similar place of business maintained by the person in this state; or

(III) Conducts any other activities in this state that are significantly associated with the person's ability to establish and maintain a market in this state for the person's sales.

(ii) The presumption that a person described in this subparagraph qualifies as a dealer in this state may be rebutted by showing that the person does not have a physical presence in this state and that any in-state activities conducted on its behalf are not significantly associated with the person's ability to establish and maintain a market in this state;

(M)(i) Enters into an agreement with one or more other persons who are residents of this state under which the resident, for a commission or other consideration, based on completed sales, directly or indirectly refers potential customers, whether by a link on an internet website, an in-person oral presentation, telemarketing, or otherwise, to the person, if the cumulative gross receipts from sales by the person to customers in this state who are referred to the person by all residents with this type of an agreement with the person is in excess of $50,000.00 during the preceding 12 months.

(ii) The presumption that a person described in this subpara-

graph is a dealer in this state may be rebutted by submitting proof that the residents with whom the person has an agreement did not engage in any activity within this state that was significantly associated with the person's ability to establish or maintain the person's market in the state during the preceding 12 months. Such proof may consist of sworn written statements from all of the residents with whom the person has an agreement stating that they did not engage in any solicitation in this state on behalf of the person during the preceding year, provided that such statements were provided and obtained in good faith. This subparagraph shall take effect December 31, 2012, and shall apply to sales made, uses occurring, and services rendered on or after December 31, 2012, without regard to the date the person and the resident entered into the agreement described in this subparagraph;

(M.1) Obtains gross revenue, in an amount exceeding $100,000.00 in the previous or current calendar year, from conducting retail sales of tangible personal property to be delivered electronically or physically to a location within this state to be used, consumed, distributed, or stored for use or consumption in this state;

(M.2) Conducts 200 or more separate retail sales of tangible personal property in the previous or current calendar year to be delivered electronically or physically to a location within this state to be used, consumed, distributed, or stored for use or consumption in this state;

(M.3) Acts as a marketplace facilitator to facilitate retail sales that are taxable under this chapter to be delivered, held for pickup, used, consumed, distributed, stored for use or consumption, or rendered as a service within this state, if the total value of the sales price of all such retail sales, combined across all its marketplace sellers and the marketplace facilitator itself, equals or exceeds $100,000.00 in aggregate in the previous or current calendar year;

(N) Notwithstanding any of the provisions contained in this paragraph, with respect to a person that is not a resident or domiciliary of Georgia, that does not engage in any other business or activity in Georgia, and that has contracted with a commercial printer for printing to be conducted in Georgia, such person shall not be deemed a dealer in Georgia merely because such person:

(i) Owns tangible or intangible property which is located at the Georgia premises of a commercial printer for use by such printer in performing services for the owner;

(ii) Makes sales and distributions of printed material pro-

duced at and shipped or distributed from the Georgia premises of the commercial printer;

(iii) Performs activities of any kind at the Georgia premises of the commercial printer which are directly related to the services provided by the commercial printer; or

(iv) Has printing, including any printing related activities, and distribution related activities performed by the commercial printer in Georgia for or on its behalf,

nor shall such person, absent any contact with Georgia other than with or through the use of the commercial printer or the use of the United States Postal Service or a common carrier, have an obligation to collect sales or use tax from any of its customers located in Georgia based upon the activities described in divisions (i) through (iv) of this subparagraph. In no event described in this subparagraph shall such person be considered to have a fixed place of business in Georgia at either the commercial printer's premises or at any place where the commercial printer performs services on behalf of that person;

(O) Any ruling, agreement, or contract, whether written or oral and whether express or implied, between a person and this state's executive branch or any other state agency or department stating, agreeing, or ruling that such person is not a dealer required to collect sales and use tax in this state despite the presence of a warehouse, distribution center, or fulfillment center in this state that is owned or operated by the person or a related member shall be null and void unless it is specifically approved by a majority vote of each body of the General Assembly. For purposes of this subparagraph, the term "related member" has the same meaning as in Code Section 48-7-28.3;

(P) Each dealer shall collect the tax imposed by this article from the purchaser, lessee, or renter, as applicable, and no action seeking either legal or equitable relief on a sale, lease, rental, or other transaction may be had in this state by the dealer unless the dealer has fully complied with this article; or

(Q) The commissioner shall promulgate such rules and regulations necessary to administer this paragraph, including other such information, applications, forms, or statements as the commissioner may reasonably require.

(9) "Delivered electronically" means delivered to the purchaser by means other than tangible storage media.

(10) "Delivery charges" means charges by the seller of personal property or services for preparation and delivery to a location

designated by the purchaser of personal property or services, including, but not limited to, transportation, shipping, postage, handling, crating, and packing. Delivery charges shall not include postage charges for the delivery of direct mail when the postage charge is passed on dollar-for-dollar without being marked up to the purchaser of the direct mail and separately stated on an invoice or other similar billing document given to the purchaser.

(11) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

(11.1) "Dietary supplement" means any product, other than tobacco, intended to supplement the diet that:

(A) Contains one or more of the following dietary ingredients:

(i) A vitamin;

(ii) A mineral;

(iii) An herb or other botanical;

(iv) An amino acid;

(v) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(vi) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in this subparagraph;

(B) Is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or if not intended for ingestion in such a form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and

(C) Is required to be labeled as a dietary supplement, identifiable by the "Supplements Facts" box found on the label as required pursuant to 21 C.F.R. Section 101.36.

(11.2) "Digital audio-visual works" means any series of related images, together with accompanying sounds, if any and which, when shown in succession, impart an impression of motion.

(11.3) "Digital audio works" means digitized works that result from the fixation of a series of musical, spoken, or other sounds. Such term shall include digitized sound files that are downloaded onto a device and that may be used to alert an end user with respect to a communication.

(11.4) "Digital code" means a key, activation, or enabling code that conveys a right to obtain one or more specified digital goods or other digital goods. Such term shall not include a code that represents a

stored monetary value that is deducted from a total as it is used by the purchaser or a redeemable card, gift card, or gift certificate that entitles the holder to select specified digital goods or other digital goods of an indicated cash value.

(12) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the costs of the items are not billed directly to the recipients. Direct mail includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail seller for inclusion in the package containing the printed material. Direct mail does not include multiple items of printed material delivered to a single address.

(13) "Directory assistance" means an ancillary service of providing telephone number information or address information, or both.

(14) "Drug" means a compound, substance, or preparation, and any component of a compound, substance, or preparation, other than food and food ingredients, dietary supplements, or alcoholic beverages:

(A) Recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or supplement to any of them;

(B) Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or

(C) Intended to affect the structure or any function of the body.

(15) "Durable medical equipment" means equipment including repair and replacement parts for the same, but does not include mobility enhancing equipment, which:

(A) Can withstand repeated use;

(B) Is primarily and customarily used to serve a medical purpose;

(C) Generally is not useful to a person in the absence of illness or injury; and

(D) Is not worn in or on the body.

(15.1) "End user" means any person other than a person that receives by contract a product transferred electronically for further commercial broadcast, rebroadcast, transmission, retransmission, licensing, relicensing, distribution, redistribution, or exhibition of the product, in whole or in part, to another person or persons.

(16) "Food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. Food and food ingredients shall not include alcoholic beverages, dietary supplements, or tobacco.

(16.05) "Internet access service" shall have the same meaning as such term is defined in 47 U.S.C. Section 151, note.

(16.1) "Jet fuel" means any form of fuel that is designed for or used in the operation of aircraft powered by jet turbine or turboprop engines, including but not limited to Jet-A, and excludes aviation gasoline designed for or used in piston engines, including but not limited to avgas.

(17) "Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental may include future options to purchase or extend. Lease or rental includes agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 U.S.C. Section 7701(h)(1). Lease or rental shall not include:

(A) A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(B) A transfer of possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of $100.00 or 1 percent of the total required payments; or

(C) Providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed. For the purpose of this subparagraph, an operator must do more than maintain, inspect, or install the tangible personal property.

(18) "Load and leave" means delivery to the purchaser by use of a tangible storage media where the tangible storage media is not physically transferred to the purchaser.

(18.1) "Marketplace facilitator" means a person that contracts with a seller in exchange for any form of consideration to make available or facilitate a retail sale that is taxable under this chapter on behalf of such seller by directly or through any agreement or arrangement with another person:

(A) Providing a service that makes available or facilitates such retail sale in any manner, including, but not limited to, promoting, marketing, advertising, taking orders or reservations for, providing the physical or electronic infrastructure that brings purchasers and marketplace sellers together for, or otherwise similarly assisting the seller in making such retail sale, or transmitting or otherwise similarly communicating the offer and acceptance between the marketplace seller and the purchaser for, or otherwise similarly assisting the seller for such retail sale, but excluding merely processing the payments for such retail sale; and

(B) Collecting, charging, processing, or otherwise similarly facilitating payment for such retail sale on behalf of the marketplace seller.

(18.2) "Marketplace seller" means a person that conducts a retail sale through or facilitated by any physical or electronic marketplace or platform operated directly or indirectly by a marketplace facilitator, regardless of whether such marketplace seller is required to be registered with the department pursuant to Code Section 48-8-59.

(19) "Mobile wireless service" means a telecommunications service that is transmitted, conveyed, or routed regardless of the technology used, by which the origination or termination points, or both, of the transmission, conveyance, or routing are not fixed, including, by way of example only, telecommunications services that are provided by a commercial mobile radio service provider.

(20) "Mobility enhancing equipment" means equipment including repair and replacement parts to the same, but does not include durable medical equipment, which:

(A) Is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either in a home or a motor vehicle;

(B) Is not generally used by persons with normal mobility; and

(C) Does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.

(20.05) "Other digital goods" means the following items transferred electronically to an end user:

(A) Artwork;

(B) Photographs;

(C) Periodicals;

(D) Newspapers;

(E) Magazines;

(F) Video or audio greeting cards; or

(G) Video games or electronic entertainment.

(20.1) "Over-the-counter drug" means a drug that contains a label that identifies the product as a drug as required by 21 C.F.R. Section 201.66. The over-the-counter drug label includes:

(A) A "Drug Facts" panel; or

(B) A statement of the "active ingredient(s)" with a list of those ingredients contained in the compound, substance, or preparation.

(21) "Place of primary use" means the street address representative of where the customer's use of the telecommunications service primarily occurs, which must be the residential street address or the primary business street address of the customer. In the case of mobile telecommunications services, place of primary use must be within the licensed service area of the home service provider.

(22) "Prepaid calling service" means the right to access exclusively telecommunications services, which must be paid for in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount.

(23) "Prepaid local tax" means any local sales and use tax which is levied on the sale or use of motor fuel and imposed in an area consisting of less than the entire state, however authorized, including, but not limited to, such taxes authorized by or pursuant to constitutional amendment; by or pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, known as the "Metropolitan Atlanta Rapid Transit Authority Act of 1965"; or by or pursuant to Article 2, 2A, 3, or 4 of this chapter. Such tax is based on the same average retail sales price as compiled by the Energy Information Agency of the United States Department of Energy, the Oil Pricing Information Service, or a similar reliable published index less taxes imposed under Code Section 48-9-3 and all local sales and use or excise taxes levied on motor fuel. Such price shall be used to compute the prepaid sales tax rate for local jurisdictions by multiplying such retail price by the applicable rate imposed by the jurisdiction. The person collecting and reporting the prepaid local tax for the local jurisdiction shall provide a schedule as to which jurisdiction these collections relate. This determination shall be based upon the shipping papers of the conveyance that delivered the motor fuel to the dealer or consumer in the local jurisdiction. A seller may rely upon the representation made by the

purchaser as to which jurisdiction the shipment is bound and prepare shipping papers in accordance with those instructions.

(24) Reserved.

(25) "Prepaid wireless calling service" means a telecommunications service that provides the right to utilize mobile wireless service as well as other nontelecommunications services including the download of digital products delivered electronically, content, and ancillary services, which must be paid for in advance that is sold in predetermined units or dollars of which the number declines with use in a known amount.

(26) Reserved.

(27) "Prepared food" means:

(A) Food:

(i) Sold in a heated state or heated by the seller;

(ii) With two or more food ingredients mixed or combined by the seller for sale as a single item; or

(iii) Sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport the food; and

(B) Prepared food shall not include food:

(i) That is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as in Chapter 3, part 401.11 of the United States Food and Drug Administration Food Code so as to prevent food borne illnesses;

(ii) Sold by a seller whose proper primary North American Industrial Classification System code is subsector 311, food manufacturing, except for industry group 3118, bakeries and tortilla manufacturing, if sold without eating utensils provided by the seller; or

(iii) Sold by a seller whose proper primary North American Industrial Classification System code is industry group 3121, beverage manufacturing.

(28) "Prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed practitioner authorized by the laws of this state.

(28.1) "Prewritten computer software" means computer software, including prewritten upgrades, which is not designed and developed

by the author or other creator to the specifications of a specific purchaser. The combining of two or more prewritten computer software programs or prewritten portions thereof does not cause the combination to be other than prewritten computer software. Prewritten computer software includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the specific purchaser. Where a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of such person's modifications or enhancements. Prewritten computer software or a prewritten portion thereof that is modified or enhanced to any degree, where such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains prewritten computer software; provided, however, that where there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for such modification or enhancement, such modification or enhancement shall not constitute prewritten computer software.

(29) "Prosthetic device" means a replacement, corrective, or supportive device including repair and replacement parts for the same worn on or in the body to:

(A) Artificially replace a missing portion of the body;

(B) Prevent or correct physical deformity or malfunction; or

(C) Support a weak or deformed portion of the body.

Prosthetic device shall not include hearing aids.

(30) "Purchase price" applies to the measure subject to use tax and has the same meaning as sales price.

(31) "Retail sale" or a "sale at retail" means any sale, lease, or rental for any purpose other than for resale, sublease, or subrent. Sales for resale must be made in strict compliance with the commissioner's rules and regulations. Any dealer making a sale for resale which is not in strict compliance with the commissioner's rules and regulations shall be liable for and shall pay the tax. The terms "retail sale" or "sale at retail" include but are not limited to the following:

(A) Except as otherwise provided in this chapter, the sale of natural or artificial gas, oil, electricity, solid fuel, transportation, local telephone services, alcoholic beverages, and tobacco products, when made to any purchaser for purposes other than resale;

(B) The sale or charges for any room, lodging, or accommodation furnished to transients by any hotel, inn, tourist camp, tourist cabin, or any other place in which rooms, lodgings, or accommoda-

tions are regularly furnished to transients for a consideration. This tax shall not apply to rooms, lodgings, or accommodations supplied for a period of 90 continuous days or more;

(C) Sales of tickets, fees, or charges made for admission to places of amusement, sports, or entertainment, including, but not limited to:

(i) Billiard and pool rooms;

(ii) Bowling alleys;

(iii) Amusement devices;

(iv) Musical devices;

(v) Theaters;

(vi) Opera houses;

(vii) Moving picture shows;

(viii) Vaudeville;

(ix) Amusement parks;

(x) Athletic contests, including, but not limited to, wrestling matches, prize fights, boxing and wrestling exhibitions, football games, and baseball games;

(xi) Skating rinks;

(xii) Race tracks;

(xiii) Public bathing places;

(xiv) Public dance halls; and

(xv) Any other place at which any exhibition, display, amusement, or entertainment is offered to the public or any other place where an admission fee is charged;

(D) Charges made for participation in games and amusement activities;

(E) Sales of tangible personal property to persons for resale when there is a likelihood that the state will lose tax funds due to the difficulty of policing the business operations because:

(i) Of the operation of the business;

(ii) Of the very nature of the business;

(iii) Of the turnover of so-called independent contractors;

(iv) Of the lack of a place of business in which to display a certificate of registration;

(v) Of the lack of a place of business in which to keep records;

(vi) Of the lack of adequate records;

(vii) The persons are minors or transients;

(viii) The persons are engaged in essentially service businesses; or

(ix) Of any other reasonable reason.

The commissioner may promulgate rules and regulations requiring vendors of persons described in this subparagraph to collect the tax imposed by this article on the retail price of the tangible personal property. The commissioner shall refuse to issue certificates of registration and may revoke certificates of registration issued in violation of his rules and regulations;

(E.1)(i) Sales of digital codes.

(ii) Sales of specified digital products or other digital goods;

(F) Charges, which applied to sales of telephone service, made for local exchange telephone service, except coin operated telephone service, except as otherwise provided in subparagraph (G) of this paragraph; or

(G) If the price is attributable to products that are taxable and products that are nontaxable, the portion of the price attributable to the nontaxable products may be subject to tax unless the provider can identify by reasonable and verifiable standards such portion from its books and records that are kept in the regular course of business for other purposes, including, but not limited to, nontax purposes. If the price is attributable to products that are subject to tax at different tax rates, the total price may be treated as attributable to the products subject to tax at the highest tax rate unless the provider can identify by reasonable and verifiable standards the portion of the price attributable to the products subject to tax at the lower rate from the provider's books and records that are kept in the regular course of business for other purposes, including, but not limited to, nontax purposes.

(32) "Retailer" means every person making sales at retail or for distribution, use, consumption, or storage for use or consumption in this state and has the same meaning as "seller" in Code Section 48-8-161.

(33)(A) "Sale" means any transfer of title or possession, transfer of title and possession, exchange, barter, lease, or rental, conditional or otherwise, in any manner or by any means of any kind of tangible personal property for a consideration except as otherwise

provided in subparagraph (B) of this paragraph and includes, but is not limited to:

(i) The fabrication of tangible personal property for consumers who directly or indirectly furnish the materials used in such fabrication;

(ii) The furnishing, repairing, or serving for a consideration of any tangible personal property consumed on the premises of the person furnishing, repairing, or serving the tangible personal property; or

(iii) A transaction by which the possession of property is transferred but the seller retains title as security for the payment of the price.

(B) Notwithstanding a dealer's physical presence, in the case of a motor vehicle retail sale, excluding lease or rental, the taxable situs of the transaction for the purposes of collecting local sales and use taxes shall be the county of motor vehicle registration of the purchaser.

(34)(A) "Sales price" applies to the measure subject to sales tax and means the total amount of consideration, including cash, credit, property, and services, for which personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise without any deduction for the following:

(i) The seller's cost of the property sold;

(ii) The cost of materials used, labor, or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;

(iii) Charges by the seller for any services necessary to complete the sale; and

(iv) Delivery charges.

(B) Sales price shall not include:

(i) Discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale;

(ii) Interest, financing, and carrying charges from credit extended on the sale of personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;

(iii) Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the purchaser;

(iv) Installation charges if they are separately stated on the invoice, billing, or similar document given to the purchaser;

(v) Telecommunications nonrecurring charges if they are separately stated on the invoice, billing, or similar document; and

(vi) Credit for any trade-in.

(C) Sales price shall include consideration received by the seller from third parties if:

(i) The seller actually receives consideration from a party other than the purchaser and the consideration is directly related to a price reduction or discount on the sale;

(ii) The seller has an obligation to pass the price reduction or discount through to the purchaser;

(iii) The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and

(iv) One of the following criteria is met:

(I) The purchaser presents a coupon, certificate, or other documentation to the seller to claim a price reduction or discount where the coupon, certificate, or documentation is authorized, distributed, or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate, or documentation is presented;

(II) The purchaser identifies himself or herself to the seller as a member of a group or organization entitled to a price reduction or discount; provided, however, that a preferred customer card that is available to any patron shall not constitute membership in such a group; or

(III) The price reduction or discount is identified as a third-party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate, or other documentation presented by the purchaser.

(34.1) "Specified digital products" means the following items transferred electronically to an end user:

(A) Digital audio-visual works;

(B) Digital audio works; or

(C) Digital books.

(35) "Storage" means any keeping or retention in this state of tangible personal property for use or consumption in this state or for

any purpose other than sale at retail in the regular course of business.

(36) "Streamlined sales tax agreement" means the Streamlined Sales and Use Tax Agreement under Code Section 48-8-162.

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

(38) "Telecommunications nonrecurring charges" means an amount billed for the installation, connection, change, or initiation of telecommunications service received by the customer.

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

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

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

(C) Tangible personal property;

(D) Advertising, including but not limited to directory advertising;

(E) Billing and collection services provided to third parties;

(F) Internet access service;

(G) Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance, and routing of such services by the programming service provider. Radio and television audio and video programming services shall include but not be limited to cable service as

defined in 47 U.S.C. Section 522(6) and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 C.F.R. Section 20.3;

(H) Ancillary services; or

(I) Digital products delivered electronically, including but not limited to software, music, video, reading materials, or ring tones.

(39.1) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that includes tobacco.

(39.2) "Transferred electronically" means obtained, accessed, or available to be accessed by means other than tangible storage media.

(40) "Use" means the exercise of any right or power over tangible personal property incident to the ownership of the property including, but not limited to, the sale at retail of the property in the regular course of business.

(41) "Use tax" includes the use, consumption, distribution, and storage of tangible personal property as defined in this article.

(42) "Vertical service" means an ancillary service that is offered in connection with one or more telecommunications services, which offers advanced calling features that allow customers to identify callers and to manage multiple calls and call connections, including conference bridging services.

(43) "Voice mail service" means an ancillary service that enables the customer to store, send, or receive recorded messages. Voice mail service does not include any vertical services that the customer may be required to have in order to utilize the voice mail service.

History.

Ga. L. 1951, p. 360, §§ 3, 4; Ga. L. 1960, p. 153, § 3; Ga. L. 1971, p. 85, § 1; Ga. L. 1978, p. 1664, § 1; Code 1933, § 91A-4501, enacted by Ga. L. 1978, p. 309, § 2; Ga. L. 1979, p. 5, §§ 81-84; Ga. L. 1980, p. 10, § 22; Ga. L. 1982, p. 3, § 48; Ga. L. 1990, p. 1243, § 1; Ga. L. 1992, p. 1521, § 1; Ga. L. 1994, p. 928, § 4A; Ga. L. 1995, p. 10, § 48; Ga. L. 1996, p. 220, § 7; Ga. L. 1998, p. 124, § 3; Ga. L. 2002, p. 415, § 48; Ga. L. 2002, p. 975, § 1; Ga. L. 2003, p. 355, § 3; Ga. L. 2003, p. 665, § 10; Ga. L. 2005, p. 788, § 1/HB 22; Ga. L. 2006, p. 59, § 1/HB 111; Ga. L. 2007, p. 309, § 1/HB 219; Ga. L. 2009, p. 8, § 48/SB 46; Ga. L. 2010, p. 662, § 1/HB 1221; Ga. L. 2011, p. 38, §§ 2, 3/HB 168; Ga. L. 2011, p. 674, §§ 1-2, 1-3/HB 117; Ga. L. 2012, p. 257, § 6-1/HB 386; Ga. L. 2012, p. 694, § 3/HB 729; Ga. L. 2013, p. 141, § 48/HB 79; Ga. L. 2014, p. 700, § 1/HB 816; Ga. L. 2014, p. 866, § 48/SB 340; Ga. L. 2015, p. 5, § 48/HB 90; Ga. L. 2015, p. 236, § 5-2/HB 170; Ga. L. 2016, p. 864, § 48/HB 737; Ga. L. 2017, p. 154, § 1/HB 117; Ga. L. 2018, p. 259, § 1/HB 61; Ga. L. 2018, p. 1112, § 48/SB 365; Ga. L. 2018, Ex. Sess., p. ES7, § 3-1/HB 5EX; Ga. L. 2019, p. 282, § 1/HB 182; Ga. L. 2020, p. 1, § 1/HB 276; Ga. L. 2023, p. 335, § 3-1/SB 56, effective January 1, 2024; Ga. L. 2024, p. 1052, § 5(47)/SB 448, effective July 1, 2024; Ga. L. 2025, p. 1029, § 48(9)/SB 153, effective July 1, 2025.

Amendments.

The 2025 amendment, effective July 1, 2025, part of an Act to revise, modernize, and correct the Code, substituted

"Voice over Internet Protocol" for "voice over internet protocol" in the second sentence of paragraph (39).

48-8-3. (Effective until January 1, 2027.) Exemptions.

The sales and use taxes levied or imposed by this article shall not apply to:

(1)(A) Sales to the United States government, this state, any county or municipality of this state, fire districts which have elected governing bodies and are supported by, in whole or in part, ad valorem taxes, or any bona fide department of such governments when paid for directly to the seller by warrant on appropriated government funds; or

(B) Sales to any authority created by local law enacted by the General Assembly or local constitutional amendment, which authority provides public water or sewer service;

(2) Transactions in which tangible personal property is furnished by the United States government or by a county or municipality of this state to any person who contracts to perform services for the governmental entity for the installation, repair, or extension of any public water, gas, or sewage system of the governmental entity when the tangible personal property is installed for general distribution purposes, notwithstanding Code Section 48-8-63 or any other provision of this article. No exemption is granted with respect to tangible personal property installed to serve a particular property site;

(3) The federal retailers' excise tax if the tax is billed to the consumer separately from the selling price of the product or from the tax imposed by Article 1 of Chapter 9 of this title relating to motor fuel taxes;

(4) Sales by counties and municipalities arising out of their operation of any public transit facility and sales by public transit authorities or charges by counties, municipalities, or public transit authorities for the transportation of passengers upon their conveyances;

(5)(A) Fares and charges, except charges for charter and sightseeing service, collected by an urban transit system for the transportation of passengers.

(B) As used in this paragraph, the term:

(i) "Public transit system primarily urban in character" shall include a transit system operated by any entity which provides passenger transportation services by means of motor vehicles having passenger-carrying capacity within or between standard

metropolitan areas and urban areas, as those terms are defined in Code Section 32-2-3, of this state.

(ii) "Urban transit system" means a public transit system primarily urban in character which is operated by a street railroad company or a motor carrier, is subject to the jurisdiction of the Department of Public Safety, and whose fares and charges are regulated by the Department of Public Safety, or is operated pursuant to a franchise contract with a municipality of this state so that its fares and charges are regulated by or are subject to the approval of the municipality. An urban transit system certificate shall be issued by the Department of Public Safety, or by the municipality which has regulatory authority, upon an affirmative showing that the applicant operates an urban transit system. The certificate shall be obtained and filed with the commissioner and shall continue in effect so long as the holder of such certificate qualifies as an urban transit system. Any urban transit system certificate granted prior to January 1, 2002, shall be deemed valid as of the date it was issued;

(6) Sales to any hospital authority created by Article 4 of Chapter 7 of Title 31;

(6.1) Sales to any housing authority created by Article 1 of Chapter 3 of Title 8, the "Housing Authorities Law";

(6.2) (Reserved effective December 31, 2029.)

(A) Sales to any local government authority created on or after January 1, 1980, by local law, which authority has as its principal purpose or one of its principal purposes the construction, ownership, or operation of a coliseum and related facilities to be used for athletic contests, games, meetings, trade fairs, expositions, political conventions, agricultural events, theatrical and musical performances, conventions, or other public entertainments or any combination of such purposes.

(B) This paragraph shall stand repealed and reserved on December 31, 2029;

(6.3) (Reserved effective December 31, 2029.)

(A) Sales to any agricultural commodities commission created by and regulated pursuant to Chapter 8 of Title 2.

(B) This paragraph shall stand repealed and reserved on December 31, 2029;

(7) Sales of tangible personal property and services to a nonprofit licensed nursing home, nonprofit licensed in-patient hospice, or a nonprofit general or mental hospital used exclusively by such nursing

home, in-patient hospice, or hospital in performing a general nursing home, in-patient hospice, hospital, or mental hospital treatment function in this state when such nursing home, in-patient hospice, or hospital is a tax exempt organization under the Internal Revenue Code and obtains an exemption determination letter from the commissioner;

(7.05)(A) Sales of tangible personal property to a nonprofit health center in this state which has been established under the authority of and is receiving funds pursuant to the United States Public Health Service Act, 42 U.S.C. Section 254b if such health clinic obtains an exemption determination letter from the commissioner.

(B)(i) For the purposes of this paragraph, the term "local sales and use tax" shall mean any sales tax, use tax, or local sales and use tax which is levied and imposed in an area consisting of less than the entire state, however authorized, including, but not limited to, such taxes authorized by or pursuant to constitutional amendment; by or pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, the "Metropolitan Atlanta Rapid Transit Authority Act of 1965"; or by or pursuant to Article 2, 2A, 3, or 4 of this chapter.

(ii) The exemption provided for in subparagraph (A) of this paragraph shall not apply to any local sales and use tax levied or imposed at any time.

(C) Notwithstanding Code Sections 48-2-15, 48-7-60, and 48-7-61, any taxpayer seeking to claim the exemption provided for within subparagraph (A) of this paragraph shall electronically submit to the department, at the time of application for the exemption and any such annual renewal, the total number of patients treated in the previous calendar year, the average monthly number of full-time employees, and the total amount of exempt purchases made by the taxpayer in the preceding calendar year. The department shall then issue a report to the chairpersons of the House Committee on Ways and Means and the Senate Finance Committee detailing the total number of patients treated, average monthly number of full-time employees, and the total amount of sales and use tax exempted sales for the previous calendar year, by June 30 each year;

(7.1) Sales of tangible personal property and services to a nonprofit organization, the primary function of which is the provision of services to intellectually disabled persons, when such organization is a tax exempt organization under the Internal Revenue Code and obtains an exemption determination letter from the commissioner;

(7.2) (Reserved effective December 31, 2029.)

(A) Sales of tangible personal property or services to any chapter of the Georgia State Society of the Daughters of the American Revolution which is tax exempt under Section 501(c)(3) of the Internal Revenue Code and obtains an exemption determination letter from the commissioner.

(B) This paragraph shall stand repealed and reserved on December 31, 2029;

(7.3)(A) Sales of tangible personal property and services to a nonprofit volunteer health clinic which primarily treats indigent persons with incomes below 200 percent of the federal poverty level and which property and services are used exclusively by such volunteer health clinic in performing a general treatment function in this state when such volunteer health clinic is a tax exempt organization under the Internal Revenue Code and obtains an exemption determination letter from the commissioner.

(B) Notwithstanding Code Sections 48-2-15, 48-7-60, and 48-7-61, any taxpayer seeking to claim the exemption provided for within subparagraph (A) of this paragraph shall electronically submit to the department, at the time of application for the exemption and any such annual renewal, the total number of patients treated in the previous calendar year, the average monthly number of full-time employees, and the total amount of exempt purchases made by the taxpayer in the preceding calendar year. The department shall then issue a report to the chairpersons of the House Committee on Ways and Means and the Senate Finance Committee detailing the total number of patients treated, average monthly number of full-time employees, and the total amount of sales and use tax exempted sales for the previous calendar year, by June 30 each year;

(8) Sales of tangible personal property and services to the University System of Georgia and its educational units;

(9) Sales of tangible personal property and services to be used exclusively for educational purposes by those private colleges and universities in this state whose academic credits are accepted as equivalents by the University System of Georgia and its educational units;

(10) Sales of tangible personal property and services to be used exclusively for educational purposes by those bona fide private elementary and secondary schools which have been approved by the commissioner as organizations eligible to receive tax deductible contributions if application for exemption is made to the department and proof of the exemption is established;

(10.1) (Repealed effective December 31, 2033.)

(A) Notwithstanding any provision of Code Section 48-8-63 to the contrary, the sale or use of qualifying construction materials used in capital outlay projects for educational purposes.

(B) The exemption provided for in this paragraph shall only apply to local sales and use taxes.

(C)(i) Notwithstanding the exemption provided for in subparagraph (A) of this paragraph, all sales and use taxes imposed on the sale or use of qualifying construction materials shall be paid and collected pursuant to the requirements of this chapter.

(ii) The benefit of the exemption allowed by this paragraph may be claimed by the local school system for which the qualifying construction materials were used. To claim the exemption, the local school system shall file a request for refund in the manner prescribed by the department. The department shall refund to the local school system the amount of taxes paid on qualifying construction materials used in the capital outlay project for educational purposes. No refund made pursuant to this paragraph shall include interest.

(iii) Any refund received by a local school system pursuant to this paragraph shall be allocated to a fund or account for capital outlay projects and used in accordance with the requirements for sales taxes for educational purposes authorized pursuant to Article VIII, Section VI, Paragraph IV of the Constitution of Georgia.

(D) As used in this paragraph, the term:

(i) "Capital outlay project for educational purposes" means a project that:

(I) Was approved and funded through a sales tax for educational purposes authorized pursuant to Article VIII, Section VI, Paragraph IV of the Constitution of Georgia; and

(II) Is for a local school system which has in effect a base year value homestead exemption or adjusted base year value homestead exemption from ad valorem taxation for educational purposes for all residents of the local school system.

(ii) "Local sales and use taxes" mean sales taxes, use taxes, or local sales and use taxes levied or imposed at any time in any area consisting of less than the entire state, however authorized, including, but not limited to, such taxes authorized by or pursuant to a constitutional amendment; by or pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, the "Metropolitan Atlanta Rapid Transit Authority Act

of 1965"; and by or pursuant to Articles 2, 2A, 2B, 3, 4, 5, 5A, and 5B of this chapter.

(iii) "Qualifying construction materials" means any materials used in the construction of a capital outlay project for educational purposes that will remain as part of such project after completion of construction or that become incorporated into such project's real property. Such term shall not include any materials that remain in the possession of a contractor after the completion of construction.

(E) This paragraph shall stand repealed on December 31, 2033;

(11) (Reserved effective December 31, 2029.)

(A) Sales of tangible personal property or services to, and the purchase of tangible personal property or services by, any educational or cultural institute which:

(i) Is tax exempt under Section 501(c)(3) of the Internal Revenue Code;

(ii) Furnishes at least 50 percent of its programs through universities and other institutions of higher education in support of their educational programs;

(iii) Is paid for by government funds of a foreign country; and

(iv) Is an instrumentality, agency, department, or branch of a foreign government operating through a permanent location in this state.

(B) This paragraph shall stand repealed and reserved on December 31, 2029;

(12) Food and food ingredients and prepared food sold and served to pupils and employees of public schools as part of a school lunch program;

(13) Sales of prepared food and food and food ingredients consumed by pupils and employees of bona fide private elementary and secondary schools which have been approved by the commissioner as organizations eligible to receive tax deductible contributions when application for exemption is made to the department and proof of the exemption is established;

(14) (Reserved effective December 31, 2029.)

(A) Sales of objects of art and of anthropological, archeological, geological, horticultural, or zoological objects or artifacts and other similar tangible personal property to or for the use by any museum or organization which is tax exempt under Section 501(c)(3) of the

Internal Revenue Code of such tangible personal property for display or exhibition in a museum within this state when the museum is open to the public and has been approved by the commissioner as an organization eligible to receive tax deductible contributions.

(B) This paragraph shall stand repealed and reserved on December 31, 2029;

(15) Sales:

(A) Of any religious paper in this state when the paper is owned and operated by religious institutions or denominations and no part of the net profit from the operation of the institution or denomination inures to the benefit of any private person;

(B) By religious institutions or denominations when:

(i) The sale results from a specific charitable fundraising activity;

(ii) The number of days upon which the fundraising activity occurs does not exceed 30 in any calendar year;

(iii) No part of the gross sales or net profits from the sales inures to the benefit of any private person; and

(iv) The gross sales or net profits from the sales are used for the purely charitable purposes of:

(I) Relief to the aged;

(II) Church related youth activities;

(III) Religious instruction or worship; or

(IV) Construction or repair of church buildings or facilities;

(15.1) (Repealed effective December 31, 2029.)

(A) Sales of pipe organs or steeple bells to any church which is qualified as an exempt religious organization under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

(B) This paragraph shall stand repealed on December 31, 2029;

(16) The sale or use of Holy Bibles, testaments, and similar books commonly recognized as being Holy Scripture regardless of by or to whom sold;

(17) The sale of fuel and supplies for use or consumption aboard ships plying the high seas either in intercoastal trade between ports in this state and ports in other states of the United States or its possessions or in foreign commerce between ports in this state and ports of foreign countries;

(18) Charges made for the transportation of tangible personal property except delivery charges by the seller associated with the sale of taxable tangible personal property, including, but not limited to, charges for accessorial services such as refrigeration, switching, storage, and demurrage made in connection with interstate and intrastate transportation of the property;

(19) All tangible personal property purchased outside of this state by persons who at the time of purchase are not domiciled in this state but who subsequently become domiciled in this state and bring the property into this state for the first time as a result of the change of domicile, if the property is not brought into this state for use in a trade, business, or profession;

(20) The sale of water delivered to consumers through water mains, lines, or pipes;

(21) Sales, transfers, or exchanges of tangible personal property made as a result of a business reorganization when the owners, partners, or stockholders of the business being reorganized maintain the same proportionate interest or share in the newly formed business reorganization;

(22) Professional, insurance, or personal service transactions which involve sales as inconsequential elements for which no separate charges are made;

(23) Fees or charges for services rendered by repairmen for which a separate charge is made;

(24) The rental of videotape or motion picture film to any person who charges an admission fee to view such film or videotape;

(25) Transportation that is subject to the tax imposed by Article 8 of Chapter 13 of this title;

(26) Reserved;

(27) Reserved;

(28) Reserved;

(29) Reserved;

(30) (Reserved effective December 31, 2029.)

(A) The sale of a vehicle to a service connected disabled veteran when the veteran received a grant from the United States Department of Veterans Affairs to purchase and specially adapt the vehicle to his or her disability.

(B) This paragraph shall stand repealed and reserved on December 31, 2029;

(31) The sale of tangible personal property manufactured or assembled in this state for export when delivery is taken outside this state;

(32) Aircraft, watercraft, motor vehicles, and other transportation equipment manufactured or assembled in this state when sold by the manufacturer or assembler for use exclusively outside this state and when possession is taken from the manufacturer or assembler by the purchaser within this state for the sole purpose of removing the property from this state under its own power when the equipment does not lend itself more reasonably to removal by other means;

(33)(A) The sale of aircraft, watercraft, railroad locomotives and rolling stock, motor vehicles, and major components of each, which will be used principally to cross the borders of this state in the service of transporting passengers or cargo by common carriers and by carriers who hold common carrier and contract carrier authority in interstate or foreign commerce under authority granted by the United States government. Replacement parts installed by carriers in such aircraft, watercraft, railroad locomotives and rolling stock, and motor vehicles which become an integral part of the craft, equipment, or vehicle shall also be exempt from all taxes under this article;

(B) In lieu of any tax under this article which would apply to the purchase, sale, use, storage, or consumption of the tangible personal property described in this paragraph but for this exemption, the tax under this article shall apply with respect to all fuel purchased and delivered within this state by or to any common carrier and with respect to all fuel purchased outside this state and stored in this state irrespective, in either case, of the place of its subsequent use;

(33.1) Sales of mechanically propelled watercraft by a dealer licensed under this article to an individual who resides outside of this state, provided that:

(A) Such watercraft is to be taken immediately by such individual outside of this state and used exclusively outside of this state; and

(B) The purchaser provides documentation of his or her residency to the dealer on a form to be prescribed by the commissioner, which shall be filed with the commissioner together with a copy of the bill of sale;

(34) Reserved;

(34.1)(A) The sale of primary material handling equipment which is used for the handling and movement of tangible personal

property and racking systems used for the conveyance and storage of tangible personal property in a warehouse or distribution facility located in this state when such equipment is either part of an expansion worth $5 million or more of an existing warehouse or distribution facility or part of the construction of a new warehouse or distribution facility where the total value of all real and personal property purchased or acquired by the taxpayer for use in the warehouse or distribution facility is worth $5 million or more.

(B) In order to qualify for the exemption provided for in subparagraph (A) of this paragraph, a warehouse or distribution facility may not make retail sales from such facility to the general public if the total of the retail sales equals or exceeds 15 percent of the total revenues of the warehouse or distribution facility. If retail sales are made to the general public by a warehouse or distribution facility and at any time the total of the retail sales equals or exceeds 15 percent of the total revenues of the facility, the taxpayer will be disqualified from receiving such exemption as of the date such 15 percent limitation is met or exceeded. The taxpayer may be required to repay any tax benefits received under subparagraph (A) of this paragraph on or after that date plus penalty and interest as may be allowed by law;

(34.2) (Reserved effective December 31, 2029.)

(A) The sale or use of machinery or equipment, or both, which is used in the remanufacture of aircraft engines or aircraft engine parts or components in a remanufacturing facility located in this state. For purposes of this paragraph, "remanufacture of aircraft engines or aircraft engine parts or components" means the substantial overhauling or rebuilding of aircraft engines or aircraft engine parts or components.

(B) Any person making a sale of machinery or equipment, or both, for the remanufacture of aircraft engines or aircraft engine parts or components shall collect the tax imposed on the sale by this article unless the purchaser furnishes a certificate issued by the commissioner certifying that the purchaser is entitled to purchase the machinery or equipment without paying the tax.

(C) This paragraph shall stand repealed and reserved on December 31, 2029;

(34.3) Reserved;

(34.4)(A) Notwithstanding any provision of Code Section 48-8-63 to the contrary, sales of tangible personal property to, or used in or for the construction of, an alternative fuel facility primarily dedicated to the production and processing of ethanol, biodiesel,

butanol, and their by-products, when such fuels are derived from biomass materials such as agricultural products, or from animal fats, or the wastes of such products or fats.

(B) As used in this paragraph, the term:

(i) "Alternative fuel facility" means any facility located in this state which is primarily dedicated to the production and processing of ethanol, biodiesel, butanol, and their by-products for sale.

(ii) "Used in or for the construction" means any tangible personal property incorporated into a new alternative fuel facility that loses its character of tangible personal property. Such term does not mean tangible personal property that is temporary in nature, leased or rented, tools, or other items not incorporated into the facility.

(C) Any person making a sale of tangible personal property for the purpose specified in this paragraph shall collect the tax imposed on this sale unless the purchaser furnishes an exemption certificate issued by the commissioner certifying that the purchaser is entitled to purchase the tangible personal property without payment of tax.

(D) Any corporation, partnership, limited liability company, or any other entity or person that qualifies for this exemption must conduct at least a majority of its business with entities or persons with which it has no affiliation.

(E) The exemption provided for under subparagraph (A) of this paragraph shall not apply to sales of tangible personal property that occur after the production and processing of biodiesel, ethanol, butanol, and their by-products have begun at the alternative fuel facility.

(F) The exemption provided for under subparagraph (A) of this paragraph shall apply only to sales occurring during the period July 1, 2007, through June 30, 2012.

(G) The commissioner shall promulgate any rules and regulations necessary to implement and administer this paragraph;

(35) Reserved;

(36) (Reserved effective December 31, 2029.)

(A) The sale of machinery and equipment and any repair, replacement, or component parts for such machinery and equipment which is used for the primary purpose of reducing or eliminating air or water pollution;

(B) Any person making a sale of machinery and equipment or repair, replacement, or component parts for such machinery and

equipment for the purposes specified in this paragraph shall collect the tax imposed on the sale by this article unless the purchaser furnishes a certificate issued by the commissioner certifying that the purchaser is entitled to purchase the machinery and equipment or repair, replacement, or component parts for such machinery and equipment without paying the tax.

(C) This paragraph shall stand repealed and reserved on December 31, 2029;

(36.1)(A) The sale of machinery and equipment which is incorporated into any qualified water conservation facility and used for water conservation.

(B) As used in this paragraph, the term:

(i) "Qualified water conservation facility" means any facility, including buildings, and any machinery and equipment used in the water conservation process resulting in a minimum 10 percent reduction in permit by relinquishment or transfer of annual permitted water usage from existing permitted ground-water sources. In addition, such facility shall have been certified pursuant to rules and regulations promulgated by the Department of Natural Resources as necessary to promote its ground-water management efforts for areas with a multiyear record of consumption at, near, or above sustainable use signaled by declines in ground-water pressure, threats of salt-water intrusion, need to develop alternate sources to accommodate economic growth and development, or any other indication of growing inadequacy of the existing resource.

(ii) "Water conservation" means a minimum 10 percent reduction resulting in the relinquishment of transfer of annual permitted water usage from existing ground-water sources due to increased manufacturing process efficiencies or recycling of manufacturing process water which results in reduced ground-water usage, or a change from a ground-water source to a surface-water source or an alternate source.

(C) Any person making a sale of machinery and equipment for the purposes specified in this paragraph shall collect the tax imposed on this sale unless the purchaser furnishes such person with a certificate issued by the commissioner certifying that the purchaser is entitled to purchase the machinery and equipment without paying the tax;

(37) Reserved;

(38) (Reserved effective December 31, 2029.)

(A) Sales of tangible personal property and fees and charges for services by the Rock Eagle 4-H Center.

(B) This paragraph shall stand repealed and reserved on December 31, 2029;

(39) Sales by any public or private school containing any combination of grades kindergarten through 12 of tangible personal property, concessions, or tickets for admission to a school event or function, provided that the net proceeds from such sales are used solely for the benefit of such public or private school or its students;

(39.1) The use of cargo containers and their related chassis which are owned by or leased to persons engaged in the international shipment of cargo by ocean-going vessels which containers and chassis are directly used for the storage and shipment of tangible personal property in or through this state in intrastate or interstate commerce;

(40) The sale of major components and repair parts installed in military craft, vehicles, and missiles;

(41)(A) Sales of tangible personal property and services to a child-caring institution as defined in paragraph (1) of Code Section 49-5-3, as amended; a child-placing agency as defined in paragraph (2) of Code Section 49-5-3, as amended; or a maternity home as defined in paragraph (14) of Code Section 49-5-3, as amended, when such institution, agency, or home is engaged primarily in providing child services and is a nonprofit, tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code and obtains an exemption determination letter from the commissioner; and

(B) Sales by an institution, agency, or home as described in subparagraph (A) of this paragraph when:

(i) The sale results from a specific charitable fundraising activity;

(ii) The number of days upon which the fundraising activity occurs does not exceed 30 in any calendar year;

(iii) No part of the gross sales or net profits from the sales inures to the benefit of any private person; and

(iv) The gross sales or net profits from the sales are used purely for charitable purposes in providing child services;

(42) The use by, or lease or rental of tangible personal property to, a person who acquires the property from another person where both persons are under 100 percent common ownership and where the person who furnishes, leases, or rents the property has:

(A) Previously paid sales or use tax on the property; or

(B) Been credited under Code Section 48-8-42 with paying a sales or use tax on the property so furnished, leased, or rented, and the tax credited is based upon the fair rental or lease value of the property;

(43) Gross revenues generated from all bona fide coin operated amusement machines which vend or dispense music or are operated for skill, amusement, entertainment, or pleasure which are in commercial use and are provided to the public for play which will require a permit fee under Chapter 27 of Title 50;

(44) Sales of motor vehicles, as defined in Code Section 48-5-440, to nonresident purchasers for immediate transportation to and use in another state in which the vehicles are required to be registered, provided the seller obtains from the purchaser and retains an affidavit stating the name and address of the purchaser, the state in which the vehicle will be registered and operated, the make, model, and serial number of the vehicle, and such other information as the commissioner may require;

(45) The sale, use, storage, or consumption of paper stock which is manufactured in this state into catalogs intended to be delivered outside this state for use outside this state;

(46) Sales to blood banks and organ procurement organizations as defined in Code Section 44-5-141 having a nonprofit status pursuant to Section 501(c)(3) of the Internal Revenue Code. Each organ procurement organization exempt under this paragraph shall submit an annual report to the Department of Community Health which includes the number of donors and transplants facilitated by such organization in the organization's previous fiscal year;

(47)(A)(i) The sale or use of drugs which are lawfully dispensable only by prescription for the treatment of natural persons, the sale or use of insulin regardless of whether the insulin is dispensable only by prescription, and the sale or use of prescription eyeglasses and contact lenses including, without limitation, prescription contact lenses distributed by the manufacturer to licensed dispensers as free samples not intended for resale and labeled as such; and

(ii) The sale or use of drugs lawfully dispensable by prescription for the treatment of natural persons which are dispensed or distributed without charge to physicians, dentists, clinics, hospitals, or any other person or entity located in Georgia by a pharmaceutical manufacturer or distributor; and the use of drugs and durable medical equipment lawfully dispensed or

distributed without charge solely for the purposes of a clinical trial approved by either the United States Food and Drug Administration or by an institutional review board.

(B) For purposes of this paragraph, the term:

(i) "Drug" means the same as provided in Code Section 48-8-2 but shall not include over-the-counter drugs or tobacco.

(ii) "Institutional review board" means an institutional review board as provided in 21 C.F.R. Section 56.

(C) The commissioner is authorized to prescribe forms and promulgate rules and regulations deemed necessary in order to administer and effectuate this paragraph;

(48) (Reserved effective December 31, 2029.)

(A) Sales to licensed commercial fishermen of bait for taking crabs and the use by licensed commercial fishermen of bait for taking crabs.

(B) This paragraph shall stand repealed and reserved on December 31, 2029;

(49) Reserved;

(49.1)(A) From July 1, 2008, until June 30, 2010, the sale or use of liquefied petroleum gas or other fuel used in a structure in which swine are raised.

(B)(i) For the purposes of this paragraph, the term "local sales and use tax" shall mean any sales tax, use tax, or local sales and use tax which is levied and imposed in an area consisting of less than the entire state, however authorized, including, but not limited to, such taxes authorized by or pursuant to constitutional amendment; by or pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, the "Metropolitan Atlanta Rapid Transit Authority Act of 1965"; by or pursuant to Article 2 of this chapter; by or pursuant to Article 2A of this chapter; by or pursuant to Part 1 of Article 3 of this chapter; by or pursuant to Part 2 of Article 3 of this chapter; and by or pursuant to Article 4 of this chapter.

(ii) The exemption provided for in subparagraph (A) of this paragraph shall not apply to any local sales and use tax levied or imposed at any time;

(50) Sales of insulin syringes and blood glucose level measuring strips dispensed without a prescription;

(51) Sales of oxygen prescribed by a licensed physician;

(52) The sale or use of hearing aids;

(53) Sales transactions for which food stamps or WIC coupons are used as the medium of exchange;

(54) The sale or use of any durable medical equipment that is sold or used pursuant to a prescription or prosthetic device that is sold or used pursuant to a prescription;

(55) The sale of lottery tickets authorized by Chapter 27 of Title 50;

(56) (Reserved effective December 31, 2029.)

(A) Sales by any parent-teacher organization qualified as a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code.

(B) This paragraph shall stand repealed and reserved on December 31, 2029;

(57)(A) The sale of food and food ingredients to an individual consumer for off-premises human consumption, to the extent provided in this paragraph.

(B) For the purposes of this paragraph, the term "food and food ingredients" as defined in Code Section 48-8-2 shall not include prepared food, drugs, or over-the-counter drugs.

(C) The exemption provided for in this paragraph shall not apply to the sale or use of food and food ingredients when purchased for any use in the operation of a business.

(D)(i) Except in counties in which a tax authorized under Part 1 of Article 3 of this chapter in connection with an equalized homestead option sales tax pursuant to Part 2 of Article 2A of this chapter is imposed, the exemption provided for in this paragraph shall not apply to any local sales and use tax levied or imposed at any time.

(ii) For the purposes of this subparagraph, the term "local sales and use tax" shall mean any sales tax, use tax, or local sales and use tax which is levied and imposed in an area consisting of less than the entire state, however authorized, including, but not limited to, such taxes authorized by or pursuant to constitutional amendment; by or pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, the "Metropolitan Atlanta Rapid Transit Authority Act of 1965"; or by or pursuant to any article of this chapter but shall not mean a tax authorized under Part 1 of Article 3 of this chapter in connection with an equalized homestead option sales tax pursuant to Part 2 of Article 2A of this chapter.

(E) The commissioner shall adopt rules and regulations to carry out the provisions of this paragraph;

(57.1)(A) Sales of food and food ingredients to a qualified food bank.

(B) As used in this paragraph, the term "qualified food bank" means any food bank which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code and which is operated primarily for the purpose of providing hunger relief to low-income persons residing in this state.

(C) Notwithstanding Code Sections 48-2-15, 48-7-60, and 48-7-61, any taxpayer seeking to claim the exemption provided for within subparagraph (A) of this paragraph shall electronically submit to the department, at the time of application for the exemption and any such annual renewal, the total number of clients served in the previous calendar year, total pounds of food donated by retailers, and total amount of exempt purchases made in the preceding year. The department shall then issue a report to the chairpersons of the House Committee on Ways and Means and the Senate Finance Committee detailing the total number of clients served, total pounds of food donated by retailers, and total amount of sales and use tax exempted sales for the previous calendar year, by June 30 each year.

(D) The commissioner is authorized to promulgate rules and regulations deemed necessary in order to administer and effectuate this paragraph;

(57.2)(A) The use of food and food ingredients donated to a qualified nonprofit agency and used for hunger relief or disaster relief purposes.

(B) As used in this paragraph, the term "qualified nonprofit agency" means any entity which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code and which provides hunger relief.

(C) For the purposes of this paragraph, the term "food and food ingredients" as defined in Code Section 48-8-2 shall not include drugs or over-the-counter drugs.

(D) The commissioner is authorized to promulgate rules and regulations deemed necessary in order to administer and effectuate this paragraph;

(57.3)(A) The use of food and food ingredients which is donated following a natural disaster and which is used for disaster relief purposes.

(B) For the purposes of this paragraph, the term "food and food ingredients" as defined in Code Section 48-8-2 shall not include drugs or over-the-counter drugs.

(C) The commissioner is authorized to promulgate rules and regulations deemed necessary in order to administer and effectuate this paragraph;

(58) Reserved;

(59)(A) Sales of food and food ingredients to and by member councils of the Girl Scouts of the U.S.A. in connection with fundraising activities of any such council.

(B) Sales of food and food ingredients to and by member councils of the Boy Scouts of America in connection with fundraising activities of any such council;

(60) (Reserved effective December 31, 2029.)

(A) The sale of machinery and equipment which is incorporated into any telecommunications manufacturing facility and used for the primary purpose of improving air quality in advanced technology clean rooms of Class 100,000 or less, provided such clean rooms are used directly in the manufacture of tangible personal property.

(B) This paragraph shall stand repealed and reserved on December 31, 2029;

(61) Printed advertising inserts or advertising supplements distributed in this state in or as part of any newspaper for resale;

(62) The sale of grass sod of all kinds and character when such sod is in the original state of production or condition of preparation for sale. The exemption provided for by this paragraph shall only apply to a sale made by the sod producer, a member of such producer's family, or an employee of such producer. The exemption provided for by this paragraph shall not apply to sales of grass sod by a person engaged in the business of selling plants, seedlings, nursery stock, or floral products;

(63) (Reserved effective December 31, 2029.)

(A) The sale or use of funeral merchandise, outer burial containers, and cemetery markers as defined in Code Section 43-18-1, which are purchased with funds received from the Georgia Crime Victims Emergency Fund under Chapter 15 of Title 17.

(B) This paragraph shall stand repealed and reserved on December 31, 2029;

(64) Reserved;

(65) (Reserved effective December 31, 2029.)

(A) Sales of dyed diesel fuel exclusively used to operate vessels or boats in the commercial fishing trade by licensed commercial fishermen.

(B) Any person making a sale of dyed diesel fuel for the purposes specified in this paragraph shall collect the tax imposed on the sale by this article unless the purchaser furnishes such person with a certificate issued by the commissioner certifying that the purchaser is entitled to purchase the dyed diesel fuel without paying the tax.

(C) This paragraph shall stand repealed and reserved on December 31, 2029;

(66) Sales of gold, silver, or platinum bullion or any combination of such bullion, provided that the dealer maintains proper documentation, as specified by rule or regulation to be promulgated by the department, to identify each sale or portion of a sale which is exempt under this paragraph;

(67) (Reserved effective December 31, 2029.)

(A) Sales of coins or currency or a combination of coins and currency, provided that the dealer maintains proper documentation, as specified by rule or regulation to be promulgated by the department, to identify each sale or portion of a sale which is exempt under this paragraph.

(B) This paragraph shall stand repealed and reserved on December 31, 2029;

(68) (Reserved effective December 31, 2028.)

(A)(i) The sale or lease of computer equipment to be incorporated into a facility or facilities in this state to any high-technology company classified under the 2017 North American Industrial Classification System code 334413, 334614, 511210, 517311, 517312, 517410, 517911, 517919, 518210, 522320, 541330, 541511, 541512, 541513, 541519, 541713, 541715, or 541720, provided that the exemption allowed under this paragraph shall be limited to those purchases or leases made by such a high-technology company for calendar years during which the high-technology company made taxable purchases or leases of at least $15 million worth of such computer equipment.

(ii) Notwithstanding the provisions of division (i) of this subparagraph to the contrary, on and after January 1, 2024, the exemption allowed under this paragraph shall be limited such that each person claiming the exemption allowed by this paragraph shall be subject to paying 10 percent of all taxes imposed

by this chapter on the first $15 million of its eligible purchases or leases for which an exemption is claimed under this paragraph.

(B) Any person making a sale or lease of computer equipment to a high-technology company as specified in subparagraph (A) of this paragraph shall collect the tax imposed on the sale by this article unless the purchaser furnishes such seller with a certificate issued by the commissioner certifying that the purchaser is entitled to purchase the computer equipment without paying the tax. As a condition precedent to the issuance of the certificate, the commissioner, at such commissioner's discretion, may require a good and valid bond with a surety company authorized to do business in this state as surety or may require legal securities, in an amount fixed by the commissioner, conditioned upon payment by the purchaser of all taxes due under this article in the event it should be determined that the sale fails to meet the requirements of this subparagraph.

(C)(i) As used in this paragraph, the term "computer equipment" means any individual computer or organized assembly of hardware or software, including, but not limited to, a server farm, mainframe or midrange computer, mainframe driven high-speed print and mailing devices, and workstations connected to those devices via high bandwidth connectivity such as a local area network, wide area network, or any other data transport technology which performs one of the following functions: storage or management of production data, hosting of production applications, hosting of application systems development activities, or hosting of applications systems testing.

(ii) Such term shall not include:

(I) Telephone central office equipment or other voice data transport technology, including any wireline or wireless telecommunication system;

(II) Equipment with imbedded computer hardware or software which is primarily used for training, product testing, or in a manufacturing process;

(III) Computers or devices issued to employees, which shall include, but not be limited to, smartphones, tablets, wearables, personal computers, and laptops; or

(IV) Prewritten computer software.

(D) Any corporation, partnership, limited liability company, or any other similar entity which qualifies for the exemption and is affiliated in any manner with a nonqualified corporation, partnership, limited liability company, or any other similar entity must

conduct at least a majority of its business with entities with which it has no affiliation.

(E) Each high-technology company that has been issued a certificate of exemption pursuant to this paragraph shall report annually to the commissioner a list of the facilities for which all computer equipment exempted by this paragraph during the preceding calendar year was incorporated, as well as the amount of taxes exempted under this paragraph during the preceding calendar year. Such report shall be filed within 90 days after the end of the calendar year for which the high-technology company utilized a certificate of exemption pursuant to this paragraph and shall be subject to the confidentiality provisions of Code Section 48-2-15. The commissioner shall not issue a certificate of exemption under this paragraph for the calendar year next succeeding the reporting date to any high-technology company that has failed to comply with the reporting required by this subparagraph.

(F) The commissioner shall promulgate such rules and regulations as are necessary to implement the provisions of this paragraph.

(G) This paragraph shall stand repealed and reserved by operation of law at the last moment of December 31, 2028;

(68.1) (Repealed effective January 1, 2032.)

(A) For the period commencing on July 1, 2018, and ending on December 31, 2031, high-technology data center equipment to be incorporated or used in a high-technology data center that meets the high-technology data center minimum investment threshold and other conditions provided in this paragraph.

(B) Any person making a sale or lease of high-technology data center equipment shall collect the tax imposed on such sale by this article unless the purchaser furnishes such seller with a certificate issued by the commissioner certifying that such sale or lease is exempted pursuant to this paragraph.

(C)(i) The commissioner shall not issue a certificate of exemption from sales and use tax to a high-technology data center or high-technology data center customer as provided in this paragraph unless the commissioner makes a determination that the high-technology data center will more likely than not meet the high-technology data center minimum investment threshold.

(ii) The commissioner may require any information necessary to determine if such high-technology data center is in compliance with its investment budgeting plan to meet the high-technology data center minimum investment threshold.

(iii)(I) Within 60 days after the end of the seventh year following its exemption start date, a high-technology data center shall file a final report with the commissioner listing the expenditures incurred that count toward its minimum investment threshold, the number of new quality jobs created, and any other information that the commissioner may reasonably require to determine whether the high-technology data center has met the minimum investment threshold.

(II) If the commissioner determines that a high-technology data center failed to meet its high-technology data center minimum investment threshold, such high-technology data center shall be required to repay all taxes exempted or refunded pursuant to its certificate of exemption issued pursuant to this paragraph within 90 days after notification of such failure. Interest shall be due with such repayment at the rate specified in Code Section 48-2-40 computed from the date such taxes would have been due but for this exemption. Such repayment shall be calculated notwithstanding otherwise applicable periods of limitation for assessment of taxes under Code Section 48-2-49.

(iv)(I) As a condition precedent to the issuance of a certificate of exemption, the commissioner, at his or her discretion, may require a good and valid bond with a surety company authorized to do business in this state, in an amount fixed by the commissioner not to exceed $20 million. The commissioner shall consider past performance and in-state investment when determining the value of the bond, if one is required.

(II) The bond that may be required by this division shall be forfeited and paid to the general fund in an amount representing all taxes and interest required to be repaid pursuant to division (iii) of this subparagraph if the high-technology data center fails to meet the high-technology data center minimum investment threshold prior to the expiration of the seven-year period.

(v) The commissioner shall have the authority to revoke the certificate of exemption at any time he or she believes that the high-technology data center is not likely to meet its high-technology minimum investment threshold.

(vi) Each high-technology data center that has been issued a certificate of exemption pursuant to this paragraph shall provide a list of high-technology data center customers that are deploy-

ing high-technology data center equipment in its facility and shall notify the commissioner within 30 days of any change to the list.

(D)(i) The commissioner shall require annual reporting by the high-technology data center of the amount of taxes exempted under this paragraph, the number of new quality jobs, and the total payroll resulting from construction, maintenance, and operation in and on its facility during the preceding year.

(ii) The commissioner shall issue an annual report to the chairperson of the Senate Finance Committee and the chairperson of the House Committee on Ways and Means concerning the exemption allowed by this paragraph. Notwithstanding the confidentiality provisions of Code Section 48-2-15, such report shall include, for the prior calendar year for each high-technology data center issued a certificate of exemption pursuant to this paragraph, the amount of tax exempted and the number of new quality jobs created by each high-technology data center.

(E) The commissioner shall promulgate such rules and regulations as are necessary to implement the provisions of this paragraph.

(F) A high-technology data center shall not be entitled to claim any credit authorized under Code Sections 48-7-40 through 48-7-40.33 or Code Section 36-62-5.1 on its tax return if it has received a certificate of exemption from the commissioner pursuant to this paragraph. If a determination is made by the commissioner pursuant to division (iii) of subparagraph (C) of this paragraph that the high-technology data center must repay all taxes exempted or refunded pursuant to this paragraph, such high-technology data center may file amended income tax returns claiming any credit to which it would have been entitled under the foregoing Code sections but for having claimed the exemption under this paragraph.

(G) As used in this paragraph, the term:

(i) "Exemption start date" means the date on or after July 1, 2018, chosen by the high-technology data center and indicated on its application filed on or after January 1, 2019, which begins the seven-year period during which the minimum investment threshold must be met. A refund claim must be filed for taxes paid on purchases qualifying for this exemption for any period on or after July 1, 2018, during which the high-technology data center has not yet applied for and received its certificate of exemption from the commissioner.

(ii) "High-technology data center" means a facility, campus of

facilities, or array of interconnected facilities in this state that is developed to power, cool, secure, and connect its own equipment or the computer equipment of high-technology data center customers and that has an investment budget plan which meets the high-technology data center minimum investment threshold.

(iii) "High-technology data center customer" means a client, tenant, licensee, or end user of a high-technology data center that signs at least a 36 month contract for service with the high-technology data center.

(iv) "High-technology data center equipment" means computer equipment as defined in paragraph (68) of this Code section of a high-technology data center or such equipment of a high-technology data center customer to be used or deployed in the high-technology data center; and the materials, components, machinery, hardware, software, or equipment, including, but not limited to, emergency backup generators, air handling units, cooling towers, energy storage or energy efficiency technology, switches, power distribution units, switching gear, peripheral computer devices, routers, batteries, wiring, cabling, or conduit, which equipment or materials are used to:

(I) Create, manage, facilitate, or maintain the physical and digital environments for computer equipment;

(II) Protect the high-technology data center equipment from physical, environmental, or digital threats; or

(III) Generate or provide constant delivery of power, environmental conditioning, air cooling, or telecommunications services for the high-technology data center.

Such term shall not include real property as defined in Code Section 48-8-3.2. A high-technology data center may not count high-technology data center equipment that it purchases or that is purchased by the high-technology data center customer and subsequently leased to another party more than once for purposes of satisfying the high-technology data center minimum investment threshold.

(v) "High-technology data center minimum investment threshold" means:

(I) For high-technology data centers located in a county in this state having a population greater than 50,000 according to the United States decennial census of 2010 or any future such census, the creation of 25 new quality jobs and $250 million in aggregate expenditures incurred over any consecutive seven-year period between July 1, 2018, and December 31, 2031, on

the design and construction of the high-technology data center and high-technology data center equipment to be used or incorporated in the high-technology data center;

(II) For high-technology data centers located in a county in this state having a population greater than 30,000 and less than 50,001 according to the United States decennial census of 2010 or any future such census, the creation of ten new quality jobs and $75 million in aggregate expenditures incurred over any consecutive seven-year period between July 1, 2018, and December 31, 2031, on the design and construction of the high-technology data center and high-technology data center equipment to be used or incorporated in the high-technology data center; and

(III) For high-technology data centers located in a county in this state having a population less than 30,001 according to the United States decennial census of 2010 or any future such census, the creation of five new quality jobs and $25 million in aggregate expenditures incurred over any consecutive seven-year period between July 1, 2018, and December 31, 2031, on the design and construction of the high-technology data center and high-technology data center equipment to be used or incorporated in the high-technology data center.

(vi) "New quality jobs" shall have the same meaning as provided in paragraph (2) of subsection (a) of Code Section 48-7-40.17.

(H) This paragraph shall stand repealed by operation of law on January 1, 2032;

(69) The sale of machinery, equipment, and materials incorporated into and used in the construction or operation of a clean room of Class 100 or less in this state, not to include the building or any permanent, nonremovable component of the building that houses such clean room, provided that such clean room is used directly in the manufacture of tangible personal property in this state;

(70)(A) For the purposes of this paragraph, the term "local sales and use tax" shall mean any sales tax, use tax, or local sales and use tax which is levied and imposed in an area consisting of less than the entire state, however authorized, including, but not limited to, such taxes authorized by or pursuant to constitutional amendment; by or pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, the "Metropolitan Atlanta Rapid Transit Authority Act of 1965"; by or pursuant to Article 2 of this chapter; by or pursuant to Article 2A of this chapter; by or pursuant to Part 1 of Article 3 of this chapter; or by or pursuant to Part 2 of Article 3 of this chapter.

(B) The sale of natural or artificial gas used directly in the production of electricity which is subsequently sold.

(C) The exemption provided for in subparagraph (B) of this paragraph shall not apply to any local sales and use tax levied or imposed at any time.

(D) The commissioner shall adopt rules and regulations to carry out the provisions of this paragraph;

(70.1)(A) For the period commencing July 1, 2008, and concluding on December 31, 2010, the sale of natural or artificial gas, No. 2 fuel oil, No. 6 fuel oil, propane, petroleum coke, and coal used directly or indirectly in the manufacture or processing, in a manufacturing plant located in this state, of tangible personal property primarily for resale, and the fuel cost recovery component of retail electric rates used directly or indirectly in the manufacture or processing, in a manufacturing plant located in this state, of tangible personal property primarily for resale.

(B) The exemption provided for in subparagraph (A) of this paragraph shall not apply to the first $7.60 per decatherm of the sales price or cost price of natural or artificial gas, the first $2.48 per gallon of the sales price or cost price of No. 2 fuel oil, the first $1.72 per gallon of the sales price or cost price of No. 6 fuel oil, the first $1.44 per gallon of the sales price or cost price of propane, the first $57.90 per ton of petroleum coke, the first $57.90 per ton of coal, or the first 3.44¢ per kilowatt hour of the fuel cost recovery component of retail electricity rates whether such fuel recovery charges are charged separately or are embedded in such electric rates. Dealers with such embedded rates may exempt from the electricity sales upon which the sales tax is calculated no more than the amount, if any, by which the fuel cost recovery charge approved by the Georgia Public Service Commission for transmission customers of electric utilities regulated by the Georgia Public Service Commission exceeds 3.44¢ per kilowatt hour.

(C)(i) For the purposes of this paragraph, the term "local sales and use tax" shall mean any sales tax, use tax, or local sales and use tax which is levied and imposed in an area consisting of less than the entire state, however authorized, including, but not limited to, such taxes authorized by or pursuant to constitutional amendment; by or pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, the "Metropolitan Atlanta Rapid Transit Authority Act of 1965"; or by or pursuant to Article 2, 2A, 3, or 4 of this chapter.

(ii) The exemption provided for in subparagraph (A) of this paragraph shall not apply to any local sales and use tax levied or imposed at any time.

(D) Any person making a sale of items qualifying for exemption under subparagraph (A) of this paragraph shall be relieved of the burden of proving such qualification if the person receives in good faith a certificate from the purchaser certifying that the purchase is exempt under this paragraph.

(E) Any person who qualifies for this exemption shall notify and certify to the person making the qualified sale that this exemption is applicable to the sale;

(71) (Reserved effective December 31, 2029.)

(A) Sales to or by any nonprofit organization which has as its primary purpose the raising of funds for books, materials, and programs for public libraries if such organization qualifies as a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code.

(B) This paragraph shall stand repealed and reserved on December 31, 2029;

(72) (Reserved effective December 31, 2029.)

(A) The sale or use of all mobility enhancing equipment prescribed by a physician.

(B) This paragraph shall stand repealed and reserved on December 31, 2029;

(73) Reserved;

(74)(A)(i) Except as otherwise provided in divisions (ii) and (iii) of this subparagraph, the sale or use of digital broadcast equipment sold to, leased to, or used by a federally licensed commercial or public radio or television broadcast station, a cable network, or a cable distributor that enables a radio or television station, cable network, or cable distributor to originate and broadcast or transmit or to receive and broadcast or transmit digital signals, including, but not limited to, digital broadcast equipment required by the Federal Communications Commission.

(ii) For commercial or public television broadcasters and cable distributors, such equipment shall be limited to antennas, transmission lines, towers, digital transmitters, studio to transmitter links, digital routing switchers, character generators, Advanced Television Systems Committee video encoders and multiplexers, monitoring facilities, cameras, terminal equipment, tape recorders, and file servers.

(iii) For radio broadcasters, such equipment shall be limited to transmitters, digital audio processors, and diskettes.

(B) As used in this paragraph, the term:

(i) "Digital broadcast equipment" means equipment purchased, leased, or used for the origination or integration of program materials for broadcast over the airwaves or transmission by cable, satellite, or fiber optic line which uses or produces an electronic signal where the signal carries data generated, stored, and processed as strings of binary data. Data transmitted or stored as digital data consists of strings of positive or nonpositive elements of a transmission expressed in strings of 0's and 1's which a computer or processor can reconstruct as an electronic signal.

(ii) "Federally licensed commercial or public radio or television broadcast station" means any entity or enterprise, either commercial or noncommercial, which operates under a license granted by the Federal Communications Commission for the purpose of free distribution of audio and video services when the distribution occurs by means of transmission over the public airwaves.

(C) The exemption provided under this paragraph shall not apply to any of the following:

(i) Repair or replacement parts purchased for the equipment described in this paragraph;

(ii) Equipment purchased to replace equipment for which an exemption was previously claimed and taken under this paragraph;

(iii) Any equipment purchased after a television station, cable network, or cable distributor has ceased analog broadcasting, or purchased after November 1, 2004, whichever occurs first; or

(iv) Any equipment purchased after a radio station has ceased analog broadcasting, or purchased after November 1, 2008, whichever occurs first.

(D) Any person making a sale of digital broadcasting equipment to a federally licensed commercial or public radio or television broadcast station, cable network, or cable distributor shall collect the tax imposed on the sale by this article unless the purchaser furnishes a certificate issued by the commissioner certifying that the purchaser is entitled to purchase the equipment without paying the tax;

(75)(A) The sale of eligible property. The exemption provided by this paragraph applies only to sales occurring during the period commencing at 12:01 A.M. on July 30, 2016, and concluding at 12:00 Midnight on July 31, 2016.

(B) As used in this paragraph, the term:

(i) "Clothing" means all human wearing apparel suitable for general use and includes footwear. The term "clothing" excludes belt buckles sold separately; costume masks sold separately; patches and emblems sold separately; sewing equipment and supplies, including but not limited to knitting needles, patterns, pins, scissors, sewing machines, sewing needles, tape measures, and thimbles; sewing materials that become part of clothing, including but not limited to buttons, fabric, lace, thread, yarn, and zippers; and clothing accessories or equipment.

(ii) "Clothing accessories or equipment" means incidental items worn on the person or in conjunction with clothing.

(iii) "Computer" means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions. The term "computer" excludes cellular phones.

(iv) "Computer software" means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task.

(v) "Eligible property" means:

(I) Articles of clothing with a sales price of $100.00 or less per item;

(II) Computers, computer components, and prewritten computer software purchased for noncommercial home or personal use with a sales price of $1,000.00 or less per item; and

(III) School supplies, school art supplies, school computer supplies, and school instructional materials purchased for noncommercial use with a sales price of $20.00 or less per item.

(vi) "Prewritten computer software" means computer software, including prewritten upgrades, which is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more prewritten computer software programs or prewritten portions thereof does not cause the combination to be other than prewritten computer software. Prewritten computer software includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the specific purchaser. Where a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of such person's modifications or enhancements.

Prewritten computer software or a prewritten portion thereof that is modified or enhanced to any degree, where such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains prewritten computer software; provided, however, that, where there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for such modification or enhancement, such modification or enhancement shall not constitute prewritten computer software.

(vii) "School art supply" means an item commonly used by a student in a course of study for artwork.

(viii) "School computer supply" means an item commonly used by a student in a course of study in which a computer is used.

(ix) "School instructional material" means written material commonly used by a student in a course of study as a reference and to learn the subject being taught.

(x) "School supply" means an item commonly used by a student in a course of study.

(C) The commissioner shall promulgate any rules and regulations necessary to implement and administer this paragraph including but not be limited to a list of those articles and items qualifying for the exemption pursuant to this paragraph;

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

(B) This exemption shall apply from July 1, 2023, until December 31, 2026, or until the aggregate sales and use tax refunded pursuant to this paragraph exceeds $4.5 million, whichever occurs first. A qualifying aquarium must pay sales and use tax on all purchases and uses of tangible personal property and may obtain the benefit of this exemption from sales and use tax by filing a claim for refund of tax paid on qualifying items. All refunds made pursuant to this paragraph will not include interest.

(C) Notwithstanding any provision of Code Section 48-8-63 to the contrary, purchases by a contractor may qualify for the exemption provided for in this paragraph. However, when a contractor purchases qualifying tangible personal property, the contractor shall pay the tax at the time of purchase or at the time of first use in this state; and the ultimate owner of the property

may file a claim for refund of the tax paid on the qualifying property.

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

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

(77) Reserved;

(78)(A) Notwithstanding any provision of Code Section 48-8-63 to the contrary, from May 5, 2004, until September 1, 2011, sales of tangible personal property used in direct connection with the construction of a new symphony hall facility owned or operated by an organization which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code if the aggregate construction cost of such facility is $200 million or more.

(B) Any person making a sale of tangible personal property for the purpose specified in this paragraph shall collect the tax imposed on this sale unless the purchaser furnishes such person with an exemption determination letter issued by the commissioner certifying that the purchaser is entitled to purchase the tangible personal property without paying the tax;

(79) Reserved;

(80)(A) Notwithstanding any provision of Code Section 48-8-63 to the contrary, from May 17, 2004, until December 31, 2007, sales of tangible personal property to, or used in or for the new construction of an eligible corporate attraction.

(B) As used in this paragraph, the term "corporate attraction" means any tourist attraction facility constructed on or after May 17, 2004, dedicated to the history and products of a corporation

which costs exceeds $50 million, is greater than 60,000 square feet of space, and has associated facilities, including but not limited to parking decks and landscaping owned by the same owner as the eligible corporate attraction.

(C) Any person making a sale of tangible personal property for the purpose specified in this paragraph shall collect the tax imposed on this sale unless the purchaser furnishes such person with an exemption determination letter issued by the commissioner certifying that the purchaser is entitled to purchase the tangible personal property without paying the tax;

(81) The sale of food and food ingredients to a qualifying airline for service to passengers and crew in the aircraft, whether in flight or on the ground, and the furnishing without charge of food and food ingredients to qualifying airline passengers and crew in the aircraft, whether in flight or on the ground; and for purposes of this paragraph a "qualifying airline" shall mean any person which is authorized by the Federal Aviation Administration or appropriate agency of the United States to operate as an air carrier under an air carrier operating certificate and which provides regularly scheduled flights for the transportation of passengers or cargo for hire. As used in this paragraph, "food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. Food and food ingredients shall not include alcoholic beverages or tobacco;

(82)(A) Purchase of Energy Star Qualified Products or WaterSense Products with a sales price of $1,500.00 or less per product purchased for noncommercial home or personal use. The exemption provided by this paragraph shall apply only to sales occurring during the period commencing at 12:01 A.M. on September 30, 2016, and concluding at 12:00 Midnight on October 2, 2016.

(B) As used in this paragraph, the term:

(i) "Energy Star Qualified Product" means any dishwasher, clothes washer, air conditioner, ceiling fan, fluorescent light bulb, dehumidifier, programmable thermostat, refrigerator, door, or window that meets the energy efficient guidelines set by the United States Environmental Protection Agency and the United States Department of Energy and is authorized to carry the Energy Star label.

(ii) "WaterSense Product" means a product authorized to bear the United States Environmental Protection Agency WaterSense label.

(C) The exemption provided for in subparagraph (A) of this

paragraph shall not apply to purchases of Energy Star Qualified Products or WaterSense Products purchased for trade, business, or resale.

(D) The commissioner shall promulgate any rules and regulations necessary to implement and administer this paragraph;

(83)(A) The sale or use of biomass material, including pellets or other fuels derived from compressed, chipped, or shredded biomass material, utilized in the production of energy, including without limitation the production of electricity, steam, or the production of electricity and steam, which is subsequently sold.

(B) As used in this paragraph, the term "biomass material" means organic matter, excluding fossil fuels, including agricultural crops, plants, trees, wood, wood wastes and residues, sawmill waste, sawdust, wood chips, bark chips, and forest thinning, harvesting, or clearing residues; wood waste from pallets or other wood demolition debris; peanut shells; pecan shells; cotton plants; corn stalks; and plant matter, including aquatic plants, grasses, stalks, vegetation, and residues, including hulls, shells, or cellulose containing fibers;

(84)(A) Notwithstanding any provision of Code Section 48-8-63 to the contrary, from July 1, 2006, until June 30, 2008, sales of tangible personal property used in direct connection with the construction of a national infantry museum and heritage park facility.

(B) As used in this paragraph, the term "national infantry museum and heritage park facility" means a museum and park facility which is constructed after July 1, 2006; is dedicated to the history of the American foot soldier; has more than 130,000 square feet of space; and has associated facilities, including, but not limited to, parking, parade grounds, and memorial areas.

(C) Any person making a sale of tangible personal property for the purpose specified in this paragraph shall collect the tax imposed on this sale unless the purchaser furnishes such person with an exemption determination letter issued by the commissioner certifying that the purchaser is entitled to purchase the tangible personal property without paying the tax;

(85) Reserved;

(86) The sale or use of engines, parts, equipment, and other tangible personal property used in the maintenance or repair of aircraft when such engines, parts, equipment, and other tangible personal property are installed on such aircraft that is being repaired or maintained in this state, so long as such aircraft is not registered in this state;

(87)(A) The sale or use of tangible personal property used for or in the renovation or expansion of a zoological institution to the extent provided in this paragraph.

(B) As used in this paragraph, the term "zoological institution" means a nonprofit wildlife park, terrestrial institution, or facility which:

(i) Is open to the public, charges for admission, exhibits and cares for a collection consisting primarily of animals other than fish, and has received accreditation from the Association of Zoos and Aquariums; and

(ii) Is located in this state and owned or operated by an organization which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.

(C) This exemption shall apply from July 1, 2023, until December 31, 2026, or until the aggregate sales and use tax refunded pursuant to this paragraph exceeds $800,000.00, whichever occurs first. A qualifying zoological institution shall pay sales and use tax on all purchases and uses of tangible personal property and may obtain the benefit of this exemption from sales and use tax by filing a claim for refund of tax paid on qualifying items. All refunds made pursuant to this paragraph shall not include interest.

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

(E) Items qualifying for exemption include all tangible personal property that will remain at the zoological institution after completion of construction and all tangible personal property that becomes incorporated into the real property structures of the zoological institution. This exemption excludes all items that remain tangible personal property in the possession of a contractor after the completion of construction;

(88)(A) Notwithstanding any provision of Code Section 48-8-63 to the contrary, from July 1, 2009, until July 30, 2015, sales of tangible personal property to, or used in or for the new construction of, a civil rights museum.

(B) As used in this paragraph, the term "civil rights museum" means a museum which is constructed after July 1, 2009; is owned

or operated by an organization which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code; has more than 40,000 square feet of space; and has associated facilities, including, but not limited to, special event space and retail space.

(C) Any person making a sale of tangible personal property for the purpose specified in this paragraph shall collect the tax imposed on this sale unless the purchaser furnishes such person with an exemption determination letter issued by the commissioner certifying that the purchaser is entitled to purchase the tangible personal property without paying the tax.

(D) The exemption provided for under subparagraph (A) of this paragraph shall not apply to sales of tangible personal property that occur after the museum is opened to the public;

(89) For the period commencing on July 1, 2009, and ending on June 30, 2011, the sale or use of an airplane flight simulation training device approved by the Federal Aviation Administration under Appendices A and B, 14 C.F.R. Part 60;

(90) Internet access service;

(91) The sale of prewritten computer software transferred electronically to the purchaser or delivered to the purchaser by means of load and leave; provided, however, that the exemption granted by this paragraph shall not include sales of specified digital products, other digital goods, or digital codes;

(92) For the period commencing July 1, 2012, and ending on December 31, 2013, sales to an organization defined by the Internal Revenue Service as an instrumentality of the states relating to the holding of an annual meeting in this state;

(93)(A) For the period commencing January 1, 2012, until December 31, 2026, sales of tangible personal property used for and in the construction of a competitive project of regional significance.

(B) The exemption provided in subparagraph (A) of this paragraph shall apply to purchases made during the entire time of construction of the competitive project of regional significance so long as such project meets the definition of a competitive project of regional significance within the period commencing January 1, 2012, until December 31, 2026.

(C) The department shall not be required to pay interest on any refund claims filed for local sales and use taxes paid on purchases made prior to the implementation of this paragraph.

(D) As used in this paragraph, the term “competitive project of regional significance” means the location or expansion of some or

all of a business enterprise's operations in this state where the commissioner of economic development determines that the project would have a significant regional impact. The commissioner of economic development shall promulgate regulations in accordance with the provisions of this paragraph outlining the guidelines to be applied in making such determination;

(94) The sale, use, consumption, or storage of materials, containers, labels, sacks, or bags used for packaging tangible personal property for shipment or sale. To qualify for the packaging exemption, the items shall be used solely for packaging and shall not be purchased for reuse. The packaging exemption shall not include materials purchased at a retail establishment for consumer use;

(95) The sale or purchase of any motor vehicle titled in this state on or after March 1, 2013, pursuant to Code Section 48-5C-1. Except as otherwise provided in this paragraph, this exemption shall not apply to rentals of motor vehicles for periods of 31 or fewer consecutive days. Lease payments for a motor vehicle that is leased for more than 31 consecutive days for which a state and local title ad valorem tax is paid shall be exempt from sales and use taxes as provided for in this paragraph. No sales and use taxes shall be imposed upon state and local title ad valorem tax fees imposed pursuant to Chapter 5C of this title as a part of the purchase price of a motor vehicle or any portion of a lease or rental payment that is attributable to payment of state and local title ad valorem tax fees under Chapter 5C of this title;

(96)(A) The sale or use of construction materials used for or in the construction of buildings at a private college to the extent provided in subparagraphs (B) and (C) of this paragraph. As used in this paragraph, the term "private college" means a college in this state which is operated by an organization which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code and has an enrollment of between 1,000 and 3,000 students.

(B) This exemption shall apply from July 1, 2015, until June 30, 2016, or until the aggregate state sales and use tax refunded pursuant to this paragraph exceeds $350,000.00, whichever occurs first. A qualifying private college shall pay sales and use tax on all purchases and uses of construction materials and may obtain the benefit of this exemption from state sales and use tax by filing a claim for refund of tax paid on qualifying items. All refunds made pursuant to this paragraph shall not include interest.

(C)(i) This exemption shall apply from July 1, 2015, until June 30, 2016. A qualifying private college shall pay sales and use tax on all purchases and uses of construction materials and may

obtain the benefit of this exemption from local sales and use tax by filing a claim for refund of tax paid on qualifying items. All refunds made pursuant to this paragraph shall not include interest.

(ii) For purposes of this subparagraph, local sales and use tax shall be defined as any local sales and use tax levied or imposed at any time in any area consisting of less than the entire state, however authorized, including, but not limited to, such taxes authorized by or pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, the "Metropolitan Atlanta Rapid Transit Authority Act of 1965," or such taxes as authorized by or pursuant to Article 2, 2A, 3, 4, or 5 of this chapter.

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

(E) Items qualifying for exemption include all construction materials that will remain at the private college after completion of construction and all construction materials that become incorporated into the real property structures of the private college. This exemption excludes all items that remain in the possession of a contractor after the completion of construction;

(97) (Repealed effective December 31, 2031.)

(A) Sales of admissions to nonrecurring major sporting events in this state expected to generate over $50 million in the host locality.

(B) As used in this paragraph, the term "major sporting event" means the National Football League championship game; any semifinal game or championship game of a national collegiate tournament; a Major League Baseball, Major League Soccer, or National Basketball Association all-star game; any match of a FIFA World Cup; or any other nonrecurring major sporting event determined by the commissioner of economic development and the state revenue commissioner to be a major sporting event.

(C) As used in this paragraph, the term "nonrecurring" means not occurring in this state more than once every three years.

(D) The revenue projections for purposes of this paragraph shall include, but not be limited to, lodging, meals, vehicle rentals, and admissions to tourist attractions.

(E) Determinations made under this paragraph by the commissioners on or after July 1, 2016, shall be made prior to the date of the convening of the General Assembly immediately preceding the awarding of the sales tax exemption for a major sporting event. Such a determination shall become effective either 30 days prior to the major sporting event or on the first fiscal day of the fiscal year immediately following a year during which such determination was made, whichever is earlier. Such a determination may be rendered null and void by a joint resolution passed by both chambers of the General Assembly. In the event that the presiding officers of the General Assembly, in their discretion, choose to introduce such a joint resolution, a special committee in each respective chamber of the General Assembly will be appointed by the presiding officers of both chambers of the General Assembly for the purpose of considering such a joint resolution, subject to the rules of both respective chambers.

(F) This paragraph shall stand automatically repealed on December 31, 2031; provided, however, that this repeal shall not apply to any event for which an application has been submitted prior to December 31, 2031;

(98)(A) For the period beginning July 1, 2017, and ending June 30, 2020, sales of tangible personal property and services to a qualified job training organization when such organization obtains an exemption determination letter from the commissioner.

(B) For the purposes of this paragraph, the term "qualified job training organization" means an organization which:

(i) Is located in this state;

(ii) Is exempt from income taxation under Section 501(c)(3) of the Internal Revenue Code;

(iii) Specializes in the retail sale of donated items;

(iv) Provides job training and employment services to individuals with workplace disadvantages and disabilities, including, but not limited to, reentry citizens who shall be persons released from incarceration, persons with disabilities, and veterans; and

(v) Uses a majority of its revenues for job training and placement programs.

(C)(i) For the purposes of this paragraph, the term "local sales and use tax" means any sales tax, use tax, or local sales and use tax which is levied and imposed in an area consisting of less than the entire state, however authorized, including, but not limited

to, such taxes authorized by or pursuant to constitutional amendment; by or pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, the "Metropolitan Atlanta Rapid Transit Authority Act of 1965"; or by or pursuant to Article 2, Article 2A, Part 1 or Part 2 of Article 3, Article 4, or Article 5 of this chapter.

(ii) The exemption provided for in subparagraph (A) of this paragraph shall not apply to any local sales and use tax levied or imposed at any time.

(D) Any qualified job training organization which is granted an exemption under this paragraph shall provide an annual report to the department which contains, but is not limited to, the following:

(i) The number of individuals trained in the program;

(ii) The number of individuals employed by the organization after receiving such training; and

(iii) The number of individuals employed in full-time positions outside the organization after such training.

Such data shall be compiled by the department and presented to the House Committee on Ways and Means and the Senate Finance Committee for consideration prior to any renewal or extension of the exemption provided by this paragraph.

(E) The commissioner shall promulgate any rules and regulations necessary to implement and administer this paragraph;

(99)(A) The sale or use of tangible personal property used for or in the renovation or expansion of a theater located within a facility in this state that contains an art museum, symphonic hall, and theater that charges for admission and is owned or operated by an organization which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, if such organization's primary mission is to provide arts and education programming for the benefit of the citizens of this state, to the extent provided in subparagraphs (B) and (C) of this paragraph.

(B) This exemption shall apply from July 1, 2017, until January 1, 2019, and until the aggregate state sales and use tax refunded pursuant to this paragraph exceeds $750,000.00. A qualifying organization must pay sales and use tax on all purchases and uses of tangible personal property and may obtain the benefit of this exemption from state sales and use tax by filing a claim for refund of tax paid on qualifying items. All refunds made pursuant to this paragraph shall not include interest.

(C) This exemption shall apply from July 1, 2017, until January 1, 2019, to any local sales and use tax levied or imposed at any time

in any area consisting of less than the entire state, however authorized, including, but not limited to, such taxes authorized by or pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, the "Metropolitan Atlanta Rapid Transit Authority Act of 1965," or such taxes as authorized by or pursuant to Article 2, 2A, 3, 4, or 5 of this chapter.

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

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

(100) (Reserved effective December 31, 2027.)

(A) Sales of tickets, fees, or charges for admission to a fine arts performance or exhibition conducted within a facility in this state that is owned or operated by an organization which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, or a museum of cultural significance, if such organization's or museum's mission is to advance the arts in this state and to provide arts, educational, and culturally significant programming and exhibits for the benefit and enrichment of the citizens of this state.

(B) As used in this paragraph, the term "fine arts" means music performed by a symphony orchestra, poetry, photography, ballet, dance, opera, theater, dramatic arts, painting, sculpture, ceramics, drawing, watercolor, graphics, printmaking, and architecture.

(C) This paragraph shall stand repealed and reserved on December 31, 2027;

(101)(A) The sale or use of noncommercial written materials or mailings by an organization which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, if the organization is located in this state and provides such materials to charity supporters for educational, charitable, religious, or fundraising purposes, to the extent provided in subparagraph (B) of this paragraph.

(B) This exemption shall apply from July 1, 2018, until July 1, 2026. A qualifying organization must pay sales and use tax on all purchases and uses of tangible personal property and may obtain the benefit of this exemption from sales and use taxes by filing a claim for refund of tax paid on qualifying items. All refunds made pursuant to this paragraph shall not include interest;

(102)(A) Fifty percent of the sales price of a manufactured home if such manufactured home is installed pursuant to Code Section 8-2-160 and will be converted to real property pursuant to Code Section 8-2-183.1 within 30 days of the retail sale.

(B) As used in this paragraph, the term "manufactured home" means a structure built on a permanent chassis that:

(i) Is designed to be used as a dwelling;

(ii) Is transportable in one or more sections;

(iii) Contains plumbing, heating, air-conditioning, and electrical systems; and

(iv) Is designed to have an angled roof and contain an area of at least 650 square feet.

(C) Within 30 days of a sale exempted as provided for in subparagraph (A) of this paragraph, the seller shall complete the requirements of Code Section 8-2-183.1 and properly file a copy of the Certificate of Permanent Location with the clerk of superior court, or the commissioner shall recover from the seller 1.5 times the amount of tax exempted by this paragraph.

(D) A manufactured home that is exempted as provided in subparagraph (A) of this paragraph shall not be eligible for a Certificate of Removal from Permanent Location provided in Part 4 of Article 2 of Chapter 2 of Title 8, or any other manner of a return to tangible personal property unless the amount exempted pursuant to subparagraph (A) of this paragraph is paid to the commissioner.

(E) The exemption provided for in subparagraph (A) of this paragraph shall not apply to any sales and use tax levied or imposed in an area consisting of less than the entire state, however authorized, including, but not limited to, such taxes authorized by or pursuant to:

(i) Constitutional amendment;

(ii) Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, the "Metropolitan Atlanta Rapid Transit Authority Act of 1965"; or

(iii) Article 2, 2A, 3, 4, 5, or 5A of this chapter;

(103) Reserved;

(104) (Reserved effective December 31, 2029.)

(A) Sales to or by any nonprofit organization which has as its primary purpose providing poultry diagnostic and disease monitoring services if such organization qualifies as a tax-exempt organization under Section 501(c)(5) of the Internal Revenue Code.

(B) This paragraph shall stand repealed and reserved on December 31, 2029; or

(105) Sales to or by an eligible recipient, as defined in Code Section 31-8-300, which provides pharmacy related services only for the purpose of dispensing donated or purchased drugs pursuant to the drug repository program established under Article 10 of Chapter 8 of Title 31, if such organization qualifies as a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code or is an organization that is treated for federal income tax purposes as a disregarded entity of a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code.

History.

Ga. L. 1951, p. 360, §§ 3, 22; Ga. L. 1953, Jan.-Feb. Sess., p. 182, §§ 1, 2; Ga. L. 1953, Jan.-Feb. Sess., p. 191, § 1; Ga. L. 1953, Jan.-Feb. Sess., p. 192, § 1; Ga. L. 1953, Jan.-Feb. Sess., p. 194, § 1; Ga. L. 1953, Jan.-Feb. Sess., p. 199, § 1; Ga. L. 1953, Jan.-Feb. Sess., p. 301, § 1; Ga. L. 1960, p. 153, § 2; Ga. L. 1963, p. 13, § 1; Ga. L. 1963, p. 132, § 1; Ga. L. 1963, p. 613, § 1; Ga. L. 1964, p. 57, § 3; Ga. L. 1964, p. 206, § 1; Ga. L. 1964, p. 672, § 1; Ga. L. 1965, p. 13, § 1; Ga. L. 1966, p. 211, § 1; Ga. L. 1966, p. 507, § 1; Ga. L. 1966, p. 537, §§ 1, 2; Ga. L. 1967, p. 282, § 1; Ga. L. 1967, p. 283, § 1; Ga. L. 1967, p. 286, § 1; Ga. L. 1968, p. 129, § 1; Ga. L. 1968, p. 136, § 1; Ga. L. 1968, p. 201, § 1; Ga. L. 1968, p. 545, § 1; Ga. L. 1968, p. 559, § 1; Ga. L. 1970, p. 16, § 1; Ga. L. 1970, p. 252, § 2; Ga. L. 1970, p. 254, § 1; Ga. L. 1970, p. 460, § 1; Ga. L. 1970, p. 631, § 1; Ga. L. 1971, p. 80, § 1; Ga. L. 1971, p. 265, § 1; Ga. L. 1971, p. 474, § 1; Ga. L. 1971, p. 653, § 1; Ga. L. 1972, p. 457, § 1; Ga. L. 1972, p. 504, § 1; Ga. L. 1973, p. 276, § 1; Ga. L. 1976, p. 411, § 1; Ga. L. 1976, p. 672, § 1; Ga. L. 1976, p. 987, § 1; Ga. L. 1977, p. 590, § 1; Code 1933, § 91A-4503, enacted by Ga. L. 1978, p. 309, § 2; Ga. L. 1978, p. 1160, §§ 1-4; Ga. L. 1978, p. 1634, § 1; Ga. L. 1978, p. 1664, § 2; Ga. L. 1978, p. 1666, § 1; Ga. L. 1979, p. 5, §§ 85-92; Ga. L. 1979, p. 1278, §§ 1, 2; Ga. L. 1980, p. 10, §§ 25, 26; Ga. L. 1980, p. 586, § 1; Ga. L. 1980, p. 805, § 1; Ga. L. 1980, p. 1188, § 1; Ga. L. 1981, p. 1857, § 41; Ga. L. 1984, p. 1466, § 1; Ga. L. 1985, p. 491, § 1; Ga. L. 1985, p. 624, § 1; Ga. L. 1985, p. 625, § 1; Ga. L. 1985, p. 1177, § 1; Ga. L. 1986, p. 10, § 48; Ga. L. 1986, p. 1453, § 1; Ga. L. 1986, p. 1459, § 1; Ga. L. 1986, p. 1464, § 2; Ga. L. 1986, p. 1467, §§ 1, 2; Ga. L. 1986, p. 1584, § 1; Ga. L. 1987, p. 191, § 9; Ga. L. 1989, p. 62, §§ 2, 3; Ga. L. 1989, p. 622, § 1; Ga. L. 1990, p. 45, § 1; Ga. L. 1991, p. 87, § 2; Ga. L. 1992, p. 1276, § 1; Ga. L. 1992, p. 1521, § 2; Ga. L. 1992, p. 3173, § 1; Ga. L. 1994, p. 132, § 1; Ga. L. 1994, p. 552, § 1; Ga. L. 1994, p. 928, §§ 5, 6; Ga. L. 1994, p. 1269, § 1; Ga. L. 1995, p. 364, § 1; Ga. L. 1995, p. 585, § 8; Ga. L. 1995, p. 991, § 1; Ga. L. 1995, p. 1302, §§ 13, 14; Ga. L. 1996, p. 1, § 1; Ga. L. 1996, p. 220, §§ 8-10; Ga. L. 1996, p. 738, § 1; Ga. L. 1996, p. 1025, § 2; Ga. L. 1996, p. 1643, §§ 1-3; Ga. L. 1997, p. 157, § 1; Ga. L. 1997, p. 1295, § 1; Ga. L. 1997, p. 1412, §§ 1, 2; Ga. L.

1998, p. 128, § 48; Ga. L. 1998, p. 602, §§ 1-3; Ga. L. 1999, p. 634, §§ 1, 2; Ga. L. 2000, p. 409, § 1; Ga. L. 2000, p. 411, § 1; Ga. L. 2000, p. 414, § 1; Ga. L. 2000, p. 415, § 1; Ga. L. 2000, p. 468, § 1; Ga. L. 2000, p. 485, § 1; Ga. L. 2000, p. 615, §§ 1-3; Ga. L. 2000, p. 1202, §§ 1, 2; Ga. L. 2001, p. 4, § 48; Ga. L. 2001, p. 202, §§ 1, 2; Ga. L. 2001, p. 984, §§ 13-16; Ga. L. 2001, p. 1049, § 1; Ga. L. 2001, p. 1068, § 1; Ga. L. 2002, p. 6, § 1; Ga. L. 2002, p. 415, § 48; Ga. L. 2002, p. 575, § 1; Ga. L. 2002, p. 804, § 1; Ga. L. 2002, p. 855, § 1; Ga. L. 2002, p. 954, § 3; Ga. L. 2002, p. 984, § 1; Ga. L. 2003, p. 337, § 1; Ga. L. 2003, p. 665, §§ 11, 12; Ga. L. 2004, p. 154, § 1; Ga. L. 2004, p. 328, § 1; Ga. L. 2004, p. 403, § 1; Ga. L. 2004, p. 628, § 1; Ga. L. 2004, p. 690, § 22; Ga. L. 2004, p. 947, § 1; Ga. L. 2004, p. 1073, § 1; Ga. L. 2005, p. 60, § 48/HB 95; Ga. L. 2005, p. 142, §§ 1, 2/HB 487; Ga. L. 2005, p. 334, § 29-6/HB 501; Ga. L. 2005, p. 725, §§ 1, 2, 3, 4/HB 341; Ga. L. 2005, p. 794, § 1/HB 559; Ga. L. 2005, p. 983, § 1/HB 5; Ga. L. 2006, p. 222, § 1/HB 1014; Ga. L. 2006, p. 263, § 1/HB 1018; Ga. L. 2006, p. 419, § 1/HB 834; Ga. L. 2006, p. 471, § 1/HB 1301; Ga. L. 2006, p. 524, §§ 1, 2/HB 1219; Ga. L. 2006, p. 527, § 1/HB 1121; Ga. L. 2006, p. 538, § 1/HB 841; Ga. L. 2007, p. 47, § 48/SB 103; Ga. L. 2007, p. 207, §§ 1, 2/HB 128; Ga. L. 2007, p. 419, § 1/HB 186; Ga. L. 2007, p. 594, § 1/HB 169; Ga. L. 2007, p. 604, § 1/HB 282; Ga. L. 2007, p. 709, § 1/HB 193; Ga. L. 2008, p. 316, § 1/HB 1178; Ga. L. 2008, p. 340, §§ 1, 2/HB 948; Ga. L. 2008, p. 644, § 3-1/SB 342; Ga. L. 2008, p. 739, §§ 1, 2, 3/HB 957; Ga. L. 2008, p. 773, § 1/HB 1078; Ga. L. 2008, p. 1148, § 1/HB 1023; Ga. L. 2008, p. 1151, § 1/HB 1110; Ga. L. 2008, p. 1160, § 1/HB 237; Ga. L. 2008, p. 1163, § 1/HB 272; Ga. L. 2009, p. 8, § 48/SB 46; Ga. L. 2009, p. 79, § 2/HB 59; Ga. L. 2009, p. 636, § 1/HB 116; Ga. L. 2009, p. 637, §§ 1, 2/HB 120; Ga. L. 2009, p. 642, § 1/HB 212; Ga. L. 2009, p. 650, § 1/HB 358; Ga. L. 2009, p. 651, § 1/HB 395; Ga. L. 2009, p. 777, § 1/HB 129; Ga. L. 2009, p. 794, § 1/HB 349; Ga. L. 2009, p. 795, § 1/HB 364; Ga. L. 2010, p. 662, § 2/HB 1221; Ga. L. 2011, p. 38, § 4/HB 168; Ga. L. 2011, p. 47, § 1/HB 322; Ga. L. 2011, p. 302, § 1/HB 234; Ga. L. 2012, p. 257, §§ 1-5, 4-1, 5-1, 5-5, 5-6, 6-2/HB 386; Ga. L. 2012, p. 580, § 18/HB 865; Ga. L. 2012, p. 694, § 4/HB 729; Ga. L. 2012, p. 775, § 48/HB 942; Ga. L. 2012, p. 1348, § 2/HB 743; Ga. L. 2013, p. 7, § 4/HB 266; Ga. L. 2013, p. 37, § 2-2/HB 487; Ga. L. 2013, p. 141, § 48/HB 79; Ga. L. 2013, p. 190, § 1/HB 164; Ga. L. 2013, p. 243, § 6.1/HB 318; Ga. L. 2014, p. 51, § 2/HB 958; Ga. L. 2014, p. 633, § 1/HB 933; Ga. L. 2014, p. 866, § 48/SB 340; Ga. L. 2015, p. 236, § 5-3/HB 170; Ga. L. 2015, p. 284, § 1/HB 428; Ga. L. 2015, p. 385, § 4-17/HB 252; Ga. L. 2015, p. 1219, § 26/HB 202; Ga. L. 2015, p. 1262, § 7/HB 225; Ga. L. 2015, p. 1313, §§ 1, 1A/HB 426; Ga. L. 2016, p. 62, § 1/HB 951; Ga. L. 2016, p. 758, § 4/SB 379; Ga. L. 2016, p. 772, § 1/HB 937; Ga. L. 2016, p. 796, § 1/HB 763; Ga. L. 2016, p. 864, § 48/HB 737; Ga. L. 2017, p. 46, § 2/HB 265; Ga. L. 2017, p. 530, § 1/SB 156; Ga. L. 2017, p. 774, § 48/HB 323; Ga. L. 2018, p. 307, § 1/HB 697; Ga. L. 2018, p. 624, § 1/HB 696; Ga. L. 2018, p. 644, § 4/HB 217; Ga. L. 2018, p. 674, § 1/HB 871; Ga. L. 2018, p. 1075, §§ 1, 2/HB 793; Ga. L. 2018, p. 1112, § 48/SB 365; Ga. L. 2018, Ex. Sess., p. ES7, § 3-2/HB 5EX; Ga. L. 2019, p. 90, § 1/HB 35; Ga. L. 2019, p. 892, § 1/HB 352; Ga. L. 2019, p. 1044, § 1/HB 168; Ga. L. 2019, p. 1056, § 48/SB 52; Ga. L. 2020, p. 792, § 1/SB 104; Ga. L. 2020, p. 903, § 2-1/HB 105; Ga. L. 2021, p. 289, §§ 5-1, 5-2, 7-2/SB 6; Ga. L. 2021, p. 511, § 1/HB 374; Ga. L. 2021, p. 602, § 1-1/HB 498; Ga. L. 2021, p. 922, § 48/HB 497; Ga. L. 2022, p. 285, § 1/HB 1034; Ga. L. 2022, p. 352, § 48/HB 1428; Ga. L. 2022, p. 655, §§ 1, 3/HB 1291; Ga. L. 2022, p. 741, § 1/HB 586; Ga. L. 2022, p. 655, § 2/HB 1291; Ga. L. 2023, p. 335, § 3-2/SB 56, effective January 1, 2024; Ga. L. 2023, p. 344, §§ 1, 2/HB 86, effective July 1, 2023; Ga. L. 2023, p. 727, § 1/HB 408, effective July 1, 2023; Ga. L. 2024, p. 347, § 2-6/HB 1072, effective April 23, 2024; Ga. L. 2024, p. 794, § 3-4/HB 1181, effective January 1, 2025; Ga. L. 2024, p. 1052, § 5(48)/SB 448, effective July 1, 2024; Ga. L. 2025, p. 4, § 2-1/HB 92, effective April 1, 2025.

Delayed effective date.

Code Section 48-8-3 is set out twice in this Code. This version is effective until January 1, 2027. For version effective January 1, 2027, see the following version.

Amendments.

The 2025 amendment, effective April 1, 2025, added paragraph (10.1). See Editor's notes for applicability.

Editor's notes.

Ga. L. 2025, p. 4, § 4-1(a)/HB 92, not codified by the General Assembly, provides that the addition of paragraph (10.1) is applicable on or after April 1, 2025.

48-8-3. (Effective January 1, 2027.) Exemptions.

The sales and use taxes levied or imposed by this article shall not apply to:

(1)(A) Sales to the United States government, this state, any county or municipality of this state, fire districts which have elected governing bodies and are supported by, in whole or in part, ad valorem taxes, or any bona fide department of such governments when paid for directly to the seller by warrant on appropriated government funds; or

(B) Sales to any authority created by local law enacted by the General Assembly or local constitutional amendment, which authority provides public water or sewer service;

(2) Transactions in which tangible personal property is furnished by the United States government or by a county or municipality of this state to any person who contracts to perform services for the governmental entity for the installation, repair, or extension of any public water, gas, or sewage system of the governmental entity when the tangible personal property is installed for general distribution purposes, notwithstanding Code Section 48-8-63 or any other provision of this article. No exemption is granted with respect to tangible personal property installed to serve a particular property site;

(3) The federal retailers' excise tax if the tax is billed to the consumer separately from the selling price of the product or from the tax imposed by Article 1 of Chapter 9 of this title relating to motor fuel taxes;

(4) Sales by counties and municipalities arising out of their operation of any public transit facility and sales by public transit authorities or charges by counties, municipalities, or public transit authorities for the transportation of passengers upon their conveyances;

(5)(A) Fares and charges, except charges for charter and sightseeing service, collected by an urban transit system for the transportation of passengers.

(B) As used in this paragraph, the term:

(i) "Public transit system primarily urban in character" shall include a transit system operated by any entity which provides

passenger transportation services by means of motor vehicles having passenger-carrying capacity within or between standard metropolitan areas and urban areas, as those terms are defined in Code Section 32-2-3, of this state.

(ii) "Urban transit system" means a public transit system primarily urban in character which is operated by a street railroad company or a motor carrier, is subject to the jurisdiction of the Department of Public Safety, and whose fares and charges are regulated by the Department of Public Safety, or is operated pursuant to a franchise contract with a municipality of this state so that its fares and charges are regulated by or are subject to the approval of the municipality. An urban transit system certificate shall be issued by the Department of Public Safety, or by the municipality which has regulatory authority, upon an affirmative showing that the applicant operates an urban transit system. The certificate shall be obtained and filed with the commissioner and shall continue in effect so long as the holder of such certificate qualifies as an urban transit system. Any urban transit system certificate granted prior to January 1, 2002, shall be deemed valid as of the date it was issued;

(6) Sales to any hospital authority created by Article 4 of Chapter 7 of Title 31;

(6.1) Sales to any housing authority created by Article 1 of Chapter 3 of Title 8, the "Housing Authorities Law";

(6.2) (Reserved effective December 31, 2029.)

(A) Sales to any local government authority created on or after January 1, 1980, by local law, which authority has as its principal purpose or one of its principal purposes the construction, ownership, or operation of a coliseum and related facilities to be used for athletic contests, games, meetings, trade fairs, expositions, political conventions, agricultural events, theatrical and musical performances, conventions, or other public entertainments or any combination of such purposes.

(B) This paragraph shall stand repealed and reserved on December 31, 2029;

(6.3) (Reserved effective December 31, 2029.)

(A) Sales to any agricultural commodities commission created by and regulated pursuant to Chapter 8 of Title 2.

(B) This paragraph shall stand repealed and reserved on December 31, 2029;

(7) Sales of tangible personal property and services to a nonprofit licensed nursing home, nonprofit licensed in-patient hospice, or a

nonprofit general or mental hospital used exclusively by such nursing home, in-patient hospice, or hospital in performing a general nursing home, in-patient hospice, hospital, or mental hospital treatment function in this state when such nursing home, in-patient hospice, or hospital is a tax exempt organization under the Internal Revenue Code and obtains an exemption determination letter from the commissioner;

(7.05)(A) Sales of tangible personal property to a nonprofit health center in this state which has been established under the authority of and is receiving funds pursuant to the United States Public Health Service Act, 42 U.S.C. Section 254b if such health clinic obtains an exemption determination letter from the commissioner.

(B)(i) For the purposes of this paragraph, the term "local sales and use tax" shall mean any sales tax, use tax, or local sales and use tax which is levied and imposed in an area consisting of less than the entire state, however authorized, including, but not limited to, such taxes authorized by or pursuant to constitutional amendment; by or pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, the "Metropolitan Atlanta Rapid Transit Authority Act of 1965"; or by or pursuant to Article 2, 2A, 3, or 4 of this chapter.

(ii) The exemption provided for in subparagraph (A) of this paragraph shall not apply to any local sales and use tax levied or imposed at any time.

(C) Notwithstanding Code Sections 48-2-15, 48-7-60, and 48-7-61, any taxpayer seeking to claim the exemption provided for within subparagraph (A) of this paragraph shall electronically submit to the department, at the time of application for the exemption and any such annual renewal, the total number of patients treated in the previous calendar year, the average monthly number of full-time employees, and the total amount of exempt purchases made by the taxpayer in the preceding calendar year. The department shall then issue a report to the chairpersons of the House Committee on Ways and Means and the Senate Finance Committee detailing the total number of patients treated, average monthly number of full-time employees, and the total amount of sales and use tax exempted sales for the previous calendar year, by June 30 each year;

(7.1) Sales of tangible personal property and services to a nonprofit organization, the primary function of which is the provision of services to intellectually disabled persons, when such organization is a tax exempt organization under the Internal Revenue Code and obtains an exemption determination letter from the commissioner;

(7.2) (Reserved effective December 31, 2029.)

(A) Sales of tangible personal property or services to any chapter of the Georgia State Society of the Daughters of the American Revolution which is tax exempt under Section 501(c)(3) of the Internal Revenue Code and obtains an exemption determination letter from the commissioner.

(B) This paragraph shall stand repealed and reserved on December 31, 2029;

(7.3)(A) Sales of tangible personal property and services to a nonprofit volunteer health clinic which primarily treats indigent persons with incomes below 200 percent of the federal poverty level and which property and services are used exclusively by such volunteer health clinic in performing a general treatment function in this state when such volunteer health clinic is a tax exempt organization under the Internal Revenue Code and obtains an exemption determination letter from the commissioner.

(B) Notwithstanding Code Sections 48-2-15, 48-7-60, and 48-7-61, any taxpayer seeking to claim the exemption provided for within subparagraph (A) of this paragraph shall electronically submit to the department, at the time of application for the exemption and any such annual renewal, the total number of patients treated in the previous calendar year, the average monthly number of full-time employees, and the total amount of exempt purchases made by the taxpayer in the preceding calendar year. The department shall then issue a report to the chairpersons of the House Committee on Ways and Means and the Senate Finance Committee detailing the total number of patients treated, average monthly number of full-time employees, and the total amount of sales and use tax exempted sales for the previous calendar year, by June 30 each year;

(8) Sales of tangible personal property and services to the University System of Georgia and its educational units;

(9) Sales of tangible personal property and services to be used exclusively for educational purposes by those private colleges and universities in this state whose academic credits are accepted as equivalents by the University System of Georgia and its educational units;

(10) Sales of tangible personal property and services to be used exclusively for educational purposes by those bona fide private elementary and secondary schools which have been approved by the commissioner as organizations eligible to receive tax deductible contributions if application for exemption is made to the department and proof of the exemption is established;

(10.1) (Repealed effective December 31, 2033.)

(A) Notwithstanding any provision of Code Section 48-8-63 to the contrary, the sale or use of qualifying construction materials used in capital outlay projects for educational purposes.

(B) The exemption provided for in this paragraph shall only apply to local sales and use taxes.

(C)(i) Notwithstanding the exemption provided for in subparagraph (A) of this paragraph, all sales and use taxes imposed on the sale or use of qualifying construction materials shall be paid and collected pursuant to the requirements of this chapter.

(ii) The benefit of the exemption allowed by this paragraph may be claimed by the local school system for which the qualifying construction materials were used. To claim the exemption, the local school system shall file a request for refund in the manner prescribed by the department. The department shall refund to the local school system the amount of taxes paid on qualifying construction materials used in the capital outlay project for educational purposes. No refund made pursuant to this paragraph shall include interest.

(iii) Any refund received by a local school system pursuant to this paragraph shall be allocated to a fund or account for capital outlay projects and used in accordance with the requirements for sales taxes for educational purposes authorized pursuant to Article VIII, Section VI, Paragraph IV of the Constitution of Georgia.

(D) As used in this paragraph, the term:

(i) "Capital outlay project for educational purposes" means a project that:

(I) Was approved and funded through a sales tax for educational purposes authorized pursuant to Article VIII, Section VI, Paragraph IV of the Constitutionof Georgia; and

(II) Is for a local school system which has in effect a base year value homestead exemption or adjusted base year value homestead exemption from ad valorem taxation for educational purposes for all residents of the local school system.

(ii) "Local sales and use taxes" mean sales taxes, use taxes, or local sales and use taxes levied or imposed at any time in any area consisting of less than the entire state, however authorized, including, but not limited to, such taxes authorized by or pursuant to a constitutional amendment; by or pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as

amended, the "Metropolitan Atlanta Rapid Transit Authority Act of 1965"; and by or pursuant to Articles 2, 2A, 2B, 3, 4, 5, 5A, and 5B of this chapter.

(iii) "Qualifying construction materials" means any materials used in the construction of a capital outlay project for educational purposes that will remain as part of such project after completion of construction or that become incorporated into such project's real property. Such term shall not include any materials that remain in the possession of a contractor after the completion of construction.

(E) This paragraph shall stand repealed on December 31, 2033;

(11) (Reserved effective December 31, 2029.)

(A) Sales of tangible personal property or services to, and the purchase of tangible personal property or services by, any educational or cultural institute which:

(i) Is tax exempt under Section 501(c)(3) of the Internal Revenue Code;

(ii) Furnishes at least 50 percent of its programs through universities and other institutions of higher education in support of their educational programs;

(iii) Is paid for by government funds of a foreign country; and

(iv) Is an instrumentality, agency, department, or branch of a foreign government operating through a permanent location in this state.

(B) This paragraph shall stand repealed and reserved on December 31, 2029;

(12) Food and food ingredients and prepared food sold and served to pupils and employees of public schools as part of a school lunch program;

(13) Sales of prepared food and food and food ingredients consumed by pupils and employees of bona fide private elementary and secondary schools which have been approved by the commissioner as organizations eligible to receive tax deductible contributions when application for exemption is made to the department and proof of the exemption is established;

(14) (Reserved effective December 31, 2029.)

(A) Sales of objects of art and of anthropological, archeological, geological, horticultural, or zoological objects or artifacts and other similar tangible personal property to or for the use by any museum

or organization which is tax exempt under Section 501(c)(3) of the Internal Revenue Code of such tangible personal property for display or exhibition in a museum within this state when the museum is open to the public and has been approved by the commissioner as an organization eligible to receive tax deductible contributions.

(B) This paragraph shall stand repealed and reserved on December 31, 2029;

(15) Sales:

(A) Of any religious paper in this state when the paper is owned and operated by religious institutions or denominations and no part of the net profit from the operation of the institution or denomination inures to the benefit of any private person;

(B) By religious institutions or denominations when:

(i) The sale results from a specific charitable fundraising activity;

(ii) The number of days upon which the fundraising activity occurs does not exceed 30 in any calendar year;

(iii) No part of the gross sales or net profits from the sales inures to the benefit of any private person; and

(iv) The gross sales or net profits from the sales are used for the purely charitable purposes of:

(I) Relief to the aged;

(II) Church related youth activities;

(III) Religious instruction or worship; or

(IV) Construction or repair of church buildings or facilities;

(15.1) (Repealed effective December 31, 2029.)

(A) Sales of pipe organs or steeple bells to any church which is qualified as an exempt religious organization under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

(B) This paragraph shall stand repealed on December 31, 2029;

(16) The sale or use of Holy Bibles, testaments, and similar books commonly recognized as being Holy Scripture regardless of by or to whom sold;

(17) The sale of fuel and supplies for use or consumption aboard ships plying the high seas either in intercoastal trade between ports in this state and ports in other states of the United States or its

possessions or in foreign commerce between ports in this state and ports of foreign countries;

(18) Charges made for the transportation of tangible personal property except delivery charges by the seller associated with the sale of taxable tangible personal property, including, but not limited to, charges for accessorial services such as refrigeration, switching, storage, and demurrage made in connection with interstate and intrastate transportation of the property;

(19) All tangible personal property purchased outside of this state by persons who at the time of purchase are not domiciled in this state but who subsequently become domiciled in this state and bring the property into this state for the first time as a result of the change of domicile, if the property is not brought into this state for use in a trade, business, or profession;

(20) The sale of water delivered to consumers through water mains, lines, or pipes;

(21) Sales, transfers, or exchanges of tangible personal property made as a result of a business reorganization when the owners, partners, or stockholders of the business being reorganized maintain the same proportionate interest or share in the newly formed business reorganization;

(22) Professional, insurance, or personal service transactions which involve sales as inconsequential elements for which no separate charges are made;

(23) Fees or charges for services rendered by repairmen for which a separate charge is made;

(24) The rental of videotape or motion picture film to any person who charges an admission fee to view such film or videotape;

(25) Transportation that is subject to the tax imposed by Article 8 of Chapter 13 of this title;

(26) Reserved;

(27) Reserved;

(28) Reserved;

(29) Reserved;

(30) (Reserved effective December 31, 2029.)

(A) The sale of a vehicle to a service connected disabled veteran when the veteran received a grant from the United States Department of Veterans Affairs to purchase and specially adapt the vehicle to his or her disability.

(B) This paragraph shall stand repealed and reserved on December 31, 2029;

(31) The sale of tangible personal property manufactured or assembled in this state for export when delivery is taken outside this state;

(32) Aircraft, watercraft, motor vehicles, and other transportation equipment manufactured or assembled in this state when sold by the manufacturer or assembler for use exclusively outside this state and when possession is taken from the manufacturer or assembler by the purchaser within this state for the sole purpose of removing the property from this state under its own power when the equipment does not lend itself more reasonably to removal by other means;

(33)(A) The sale of aircraft, watercraft, railroad locomotives and rolling stock, motor vehicles, and major components of each, which will be used principally to cross the borders of this state in the service of transporting passengers or cargo by common carriers and by carriers who hold common carrier and contract carrier authority in interstate or foreign commerce under authority granted by the United States government. Replacement parts installed by carriers in such aircraft, watercraft, railroad locomotives and rolling stock, and motor vehicles which become an integral part of the craft, equipment, or vehicle shall also be exempt from all taxes under this article;

(B) In lieu of any tax under this article which would apply to the purchase, sale, use, storage, or consumption of the tangible personal property described in this paragraph but for this exemption, the tax under this article shall apply with respect to all fuel purchased and delivered within this state by or to any common carrier and with respect to all fuel purchased outside this state and stored in this state irrespective, in either case, of the place of its subsequent use;

(33.1) Sales of mechanically propelled watercraft by a dealer licensed under this article to an individual who resides outside of this state, provided that:

(A) Such watercraft is to be taken immediately by such individual outside of this state and used exclusively outside of this state; and

(B) The purchaser provides documentation of his or her residency to the dealer on a form to be prescribed by the commissioner, which shall be filed with the commissioner together with a copy of the bill of sale;

(34) Reserved;

(34.1)(A) The sale of primary material handling equipment which is used for the handling and movement of tangible personal property and racking systems used for the conveyance and storage of tangible personal property in a warehouse or distribution facility located in this state when such equipment is either part of an expansion worth $5 million or more of an existing warehouse or distribution facility or part of the construction of a new warehouse or distribution facility where the total value of all real and personal property purchased or acquired by the taxpayer for use in the warehouse or distribution facility is worth $5 million or more.

(B) In order to qualify for the exemption provided for in subparagraph (A) of this paragraph, a warehouse or distribution facility may not make retail sales from such facility to the general public if the total of the retail sales equals or exceeds 15 percent of the total revenues of the warehouse or distribution facility. If retail sales are made to the general public by a warehouse or distribution facility and at any time the total of the retail sales equals or exceeds 15 percent of the total revenues of the facility, the taxpayer will be disqualified from receiving such exemption as of the date such 15 percent limitation is met or exceeded. The taxpayer may be required to repay any tax benefits received under subparagraph (A) of this paragraph on or after that date plus penalty and interest as may be allowed by law;

(34.2) (Reserved effective December 31, 2029.)

(A) The sale or use of machinery or equipment, or both, which is used in the remanufacture of aircraft engines or aircraft engine parts or components in a remanufacturing facility located in this state. For purposes of this paragraph, "remanufacture of aircraft engines or aircraft engine parts or components" means the substantial overhauling or rebuilding of aircraft engines or aircraft engine parts or components.

(B) Any person making a sale of machinery or equipment, or both, for the remanufacture of aircraft engines or aircraft engine parts or components shall collect the tax imposed on the sale by this article unless the purchaser furnishes a certificate issued by the commissioner certifying that the purchaser is entitled to purchase the machinery or equipment without paying the tax.

(C) This paragraph shall stand repealed and reserved on December 31, 2029;

(34.3) Reserved;

(34.4)(A) Notwithstanding any provision of Code Section 48-8-63 to the contrary, sales of tangible personal property to, or used in or

for the construction of, an alternative fuel facility primarily dedicated to the production and processing of ethanol, biodiesel, butanol, and their by-products, when such fuels are derived from biomass materials such as agricultural products, or from animal fats, or the wastes of such products or fats.

(B) As used in this paragraph, the term:

(i) "Alternative fuel facility" means any facility located in this state which is primarily dedicated to the production and processing of ethanol, biodiesel, butanol, and their by-products for sale.

(ii) "Used in or for the construction" means any tangible personal property incorporated into a new alternative fuel facility that loses its character of tangible personal property. Such term does not mean tangible personal property that is temporary in nature, leased or rented, tools, or other items not incorporated into the facility.

(C) Any person making a sale of tangible personal property for the purpose specified in this paragraph shall collect the tax imposed on this sale unless the purchaser furnishes an exemption certificate issued by the commissioner certifying that the purchaser is entitled to purchase the tangible personal property without payment of tax.

(D) Any corporation, partnership, limited liability company, or any other entity or person that qualifies for this exemption must conduct at least a majority of its business with entities or persons with which it has no affiliation.

(E) The exemption provided for under subparagraph (A) of this paragraph shall not apply to sales of tangible personal property that occur after the production and processing of biodiesel, ethanol, butanol, and their by-products have begun at the alternative fuel facility.

(F) The exemption provided for under subparagraph (A) of this paragraph shall apply only to sales occurring during the period July 1, 2007, through June 30, 2012.

(G) The commissioner shall promulgate any rules and regulations necessary to implement and administer this paragraph;

(35) Reserved;

(36) (Reserved effective December 31, 2029.)

(A) The sale of machinery and equipment and any repair, replacement, or component parts for such machinery and equipment which is used for the primary purpose of reducing or eliminating air or water pollution;

(B) Any person making a sale of machinery and equipment or repair, replacement, or component parts for such machinery and equipment for the purposes specified in this paragraph shall collect the tax imposed on the sale by this article unless the purchaser furnishes a certificate issued by the commissioner certifying that the purchaser is entitled to purchase the machinery and equipment or repair, replacement, or component parts for such machinery and equipment without paying the tax.

(C) This paragraph shall stand repealed and reserved on December 31, 2029;

(36.1)(A) The sale of machinery and equipment which is incorporated into any qualified water conservation facility and used for water conservation.

(B) As used in this paragraph, the term:

(i) "Qualified water conservation facility" means any facility, including buildings, and any machinery and equipment used in the water conservation process resulting in a minimum 10 percent reduction in permit by relinquishment or transfer of annual permitted water usage from existing permitted ground-water sources. In addition, such facility shall have been certified pursuant to rules and regulations promulgated by the Department of Natural Resources as necessary to promote its ground-water management efforts for areas with a multiyear record of consumption at, near, or above sustainable use signaled by declines in ground-water pressure, threats of salt-water intrusion, need to develop alternate sources to accommodate economic growth and development, or any other indication of growing inadequacy of the existing resource.

(ii) "Water conservation" means a minimum 10 percent reduction resulting in the relinquishment of transfer of annual permitted water usage from existing ground-water sources due to increased manufacturing process efficiencies or recycling of manufacturing process water which results in reduced ground-water usage, or a change from a ground-water source to a surface-water source or an alternate source.

(C) Any person making a sale of machinery and equipment for the purposes specified in this paragraph shall collect the tax imposed on this sale unless the purchaser furnishes such person with a certificate issued by the commissioner certifying that the purchaser is entitled to purchase the machinery and equipment without paying the tax;

(37) Reserved;

(38) (Reserved effective December 31, 2029.)

(A) Sales of tangible personal property and fees and charges for services by the Rock Eagle 4-H Center.

(B) This paragraph shall stand repealed and reserved on December 31, 2029;

(39) Sales by any public or private school containing any combination of grades kindergarten through 12 of tangible personal property, concessions, or tickets for admission to a school event or function, provided that the net proceeds from such sales are used solely for the benefit of such public or private school or its students;

(39.1) The use of cargo containers and their related chassis which are owned by or leased to persons engaged in the international shipment of cargo by ocean-going vessels which containers and chassis are directly used for the storage and shipment of tangible personal property in or through this state in intrastate or interstate commerce;

(40) The sale of major components and repair parts installed in military craft, vehicles, and missiles;

(41)(A) Sales of tangible personal property and services to a child-caring institution as defined in paragraph (1) of Code Section 49-5-3, as amended; a child-placing agency as defined in paragraph (2) of Code Section 49-5-3, as amended; or a maternity home as defined in paragraph (14) of Code Section 49-5-3, as amended, when such institution, agency, or home is engaged primarily in providing child services and is a nonprofit, tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code and obtains an exemption determination letter from the commissioner; and

(B) Sales by an institution, agency, or home as described in subparagraph (A) of this paragraph when:

(i) The sale results from a specific charitable fundraising activity;

(ii) The number of days upon which the fundraising activity occurs does not exceed 30 in any calendar year;

(iii) No part of the gross sales or net profits from the sales inures to the benefit of any private person; and

(iv) The gross sales or net profits from the sales are used purely for charitable purposes in providing child services;

(42) The use by, or lease or rental of tangible personal property to, a person who acquires the property from another person where both

persons are under 100 percent common ownership and where the person who furnishes, leases, or rents the property has:

(A) Previously paid sales or use tax on the property; or

(B) Been credited under Code Section 48-8-42 with paying a sales or use tax on the property so furnished, leased, or rented, and the tax credited is based upon the fair rental or lease value of the property;

(43) Gross revenues generated from all bona fide coin operated amusement machines which vend or dispense music or are operated for skill, amusement, entertainment, or pleasure which are in commercial use and are provided to the public for play which will require a permit fee under Chapter 27 of Title 50;

(44) Sales of motor vehicles, as defined in Code Section 48-5-440, to nonresident purchasers for immediate transportation to and use in another state in which the vehicles are required to be registered, provided the seller obtains from the purchaser and retains an affidavit stating the name and address of the purchaser, the state in which the vehicle will be registered and operated, the make, model, and serial number of the vehicle, and such other information as the commissioner may require;

(45) The sale, use, storage, or consumption of paper stock which is manufactured in this state into catalogs intended to be delivered outside this state for use outside this state;

(46) Sales to blood banks and organ procurement organizations as defined in Code Section 44-5-141 having a nonprofit status pursuant to Section 501(c)(3) of the Internal Revenue Code. Each organ procurement organization exempt under this paragraph shall submit an annual report to the Department of Community Health which includes the number of donors and transplants facilitated by such organization in the organization's previous fiscal year;

(47)(A)(i) The sale or use of drugs which are lawfully dispensable only by prescription for the treatment of natural persons, the sale or use of insulin regardless of whether the insulin is dispensable only by prescription, and the sale or use of prescription eyeglasses and contact lenses including, without limitation, prescription contact lenses distributed by the manufacturer to licensed dispensers as free samples not intended for resale and labeled as such; and

(ii) The sale or use of drugs lawfully dispensable by prescription for the treatment of natural persons which are dispensed or distributed without charge to physicians, dentists, clinics, hospitals, or any other person or entity located in Georgia by a

pharmaceutical manufacturer or distributor; and the use of drugs and durable medical equipment lawfully dispensed or distributed without charge solely for the purposes of a clinical trial approved by either the United States Food and Drug Administration or by an institutional review board.

(B) For purposes of this paragraph, the term:

(i) "Drug" means the same as provided in Code Section 48-8-2 but shall not include over-the-counter drugs or tobacco.

(ii) "Institutional review board" means an institutional review board as provided in 21 C.F.R. Section 56.

(C) The commissioner is authorized to prescribe forms and promulgate rules and regulations deemed necessary in order to administer and effectuate this paragraph;

(48) (Reserved effective December 31, 2029.)

(A) Sales to licensed commercial fishermen of bait for taking crabs and the use by licensed commercial fishermen of bait for taking crabs.

(B) This paragraph shall stand repealed and reserved on December 31, 2029;

(49) Reserved;

(49.1)(A) From July 1, 2008, until June 30, 2010, the sale or use of liquefied petroleum gas or other fuel used in a structure in which swine are raised.

(B)(i) For the purposes of this paragraph, the term "local sales and use tax" shall mean any sales tax, use tax, or local sales and use tax which is levied and imposed in an area consisting of less than the entire state, however authorized, including, but not limited to, such taxes authorized by or pursuant to constitutional amendment; by or pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, the "Metropolitan Atlanta Rapid Transit Authority Act of 1965"; by or pursuant to Article 2 of this chapter; by or pursuant to Article 2A of this chapter; by or pursuant to Part 1 of Article 3 of this chapter; by or pursuant to Part 2 of Article 3 of this chapter; and by or pursuant to Article 4 of this chapter.

(ii) The exemption provided for in subparagraph (A) of this paragraph shall not apply to any local sales and use tax levied or imposed at any time;

(50) Sales of insulin syringes and blood glucose level measuring strips dispensed without a prescription;

(51) Sales of oxygen prescribed by a licensed physician;

(52) The sale or use of hearing aids;

(53) Sales transactions for which food stamps or WIC coupons are used as the medium of exchange;

(54) The sale or use of any durable medical equipment that is sold or used pursuant to a prescription or prosthetic device that is sold or used pursuant to a prescription;

(55) The sale of lottery tickets authorized by Chapter 27 of Title 50;

(56) (Reserved effective December 31, 2029.)

(A) Sales by any parent-teacher organization qualified as a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code.

(B) This paragraph shall stand repealed and reserved on December 31, 2029;

(57)(A) The sale of food and food ingredients to an individual consumer for off-premises human consumption, to the extent provided in this paragraph.

(B) For the purposes of this paragraph, the term "food and food ingredients" as defined in Code Section 48-8-2 shall not include prepared food, drugs, or over-the-counter drugs.

(C) The exemption provided for in this paragraph shall not apply to the sale or use of food and food ingredients when purchased for any use in the operation of a business.

(D)(i) Except in counties in which a tax authorized under Part 1 of Article 3 of this chapter in connection with an equalized homestead option sales tax pursuant to Part 2 of Article 2A of this chapter is imposed, the exemption provided for in this paragraph shall not apply to any local sales and use tax levied or imposed at any time.

(ii) For the purposes of this subparagraph, the term "local sales and use tax" shall mean any sales tax, use tax, or local sales and use tax which is levied and imposed in an area consisting of less than the entire state, however authorized, including, but not limited to, such taxes authorized by or pursuant to constitutional amendment; by or pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, the "Metropolitan Atlanta Rapid Transit Authority Act of 1965"; or by or pursuant to any article of this chapter but shall not mean a tax authorized under Part 1 of Article 3 of this chapter in connection

with an equalized homestead option sales tax pursuant to Part 2 of Article 2A of this chapter.

(E) The commissioner shall adopt rules and regulations to carry out the provisions of this paragraph;

(57.1)(A) Sales of food and food ingredients to a qualified food bank.

(B) As used in this paragraph, the term "qualified food bank" means any food bank which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code and which is operated primarily for the purpose of providing hunger relief to low-income persons residing in this state.

(C) Notwithstanding Code Sections 48-2-15, 48-7-60, and 48-7-61, any taxpayer seeking to claim the exemption provided for within subparagraph (A) of this paragraph shall electronically submit to the department, at the time of application for the exemption and any such annual renewal, the total number of clients served in the previous calendar year, total pounds of food donated by retailers, and total amount of exempt purchases made in the preceding year. The department shall then issue a report to the chairpersons of the House Committee on Ways and Means and the Senate Finance Committee detailing the total number of clients served, total pounds of food donated by retailers, and total amount of sales and use tax exempted sales for the previous calendar year, by June 30 each year.

(D) The commissioner is authorized to promulgate rules and regulations deemed necessary in order to administer and effectuate this paragraph;

(57.2)(A) The use of food and food ingredients donated to a qualified nonprofit agency and used for hunger relief or disaster relief purposes.

(B) As used in this paragraph, the term "qualified nonprofit agency" means any entity which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code and which provides hunger relief.

(C) For the purposes of this paragraph, the term "food and food ingredients" as defined in Code Section 48-8-2 shall not include drugs or over-the-counter drugs.

(D) The commissioner is authorized to promulgate rules and regulations deemed necessary in order to administer and effectuate this paragraph;

(57.3)(A) The use of food and food ingredients which is donated

following a natural disaster and which is used for disaster relief purposes.

(B) For the purposes of this paragraph, the term "food and food ingredients" as defined in Code Section 48-8-2 shall not include drugs or over-the-counter drugs.

(C) The commissioner is authorized to promulgate rules and regulations deemed necessary in order to administer and effectuate this paragraph;

(58) Reserved;

(59)(A) Sales of food and food ingredients to and by member councils of the Girl Scouts of the U.S.A. in connection with fundraising activities of any such council.

(B) Sales of food and food ingredients to and by member councils of the Boy Scouts of America in connection with fundraising activities of any such council;

(60) (Reserved effective December 31, 2029.)

(A) The sale of machinery and equipment which is incorporated into any telecommunications manufacturing facility and used for the primary purpose of improving air quality in advanced technology clean rooms of Class 100,000 or less, provided such clean rooms are used directly in the manufacture of tangible personal property.

(B) This paragraph shall stand repealed and reserved on December 31, 2029;

(61) Printed advertising inserts or advertising supplements distributed in this state in or as part of any newspaper for resale;

(62) The sale of grass sod of all kinds and character when such sod is in the original state of production or condition of preparation for sale. The exemption provided for by this paragraph shall only apply to a sale made by the sod producer, a member of such producer's family, or an employee of such producer. The exemption provided for by this paragraph shall not apply to sales of grass sod by a person engaged in the business of selling plants, seedlings, nursery stock, or floral products;

(63) (Reserved effective December 31, 2029.)

(A) The sale or use of funeral merchandise, outer burial containers, and cemetery markers as defined in Code Section 43-18-1, which are purchased with funds received from the Georgia Crime Victims Emergency Fund under Chapter 15 of Title 17.

(B) This paragraph shall stand repealed and reserved on December 31, 2029;

(64) Reserved;

(65) (Reserved effective December 31, 2029.)

(A) Sales of dyed diesel fuel exclusively used to operate vessels or boats in the commercial fishing trade by licensed commercial fishermen.

(B) Any person making a sale of dyed diesel fuel for the purposes specified in this paragraph shall collect the tax imposed on the sale by this article unless the purchaser furnishes such person with a certificate issued by the commissioner certifying that the purchaser is entitled to purchase the dyed diesel fuel without paying the tax.

(C) This paragraph shall stand repealed and reserved on December 31, 2029;

(66) Sales of gold, silver, or platinum bullion or any combination of such bullion, provided that the dealer maintains proper documentation, as specified by rule or regulation to be promulgated by the department, to identify each sale or portion of a sale which is exempt under this paragraph;

(67) (Reserved effective December 31, 2029.)

(A) Sales of coins or currency or a combination of coins and currency, provided that the dealer maintains proper documentation, as specified by rule or regulation to be promulgated by the department, to identify each sale or portion of a sale which is exempt under this paragraph.

(B) This paragraph shall stand repealed and reserved on December 31, 2029;

(68) (Reserved effective December 31, 2028.)

(A)(i) The sale or lease of computer equipment to be incorporated into a facility or facilities in this state to any high-technology company classified under the 2017 North American Industrial Classification System code 334413, 334614, 511210, 517311, 517312, 517410, 517911, 517919, 518210, 522320, 541330, 541511, 541512, 541513, 541519, 541713, 541715, or 541720, provided that the exemption allowed under this paragraph shall be limited to those purchases or leases made by such a high-technology company for calendar years during which the high-technology company made taxable purchases or leases of at least $15 million worth of such computer equipment.

(ii) Notwithstanding the provisions of division (i) of this subparagraph to the contrary, on and after January 1, 2024, the exemption allowed under this paragraph shall be limited such

that each person claiming the exemption allowed by this paragraph shall be subject to paying 10 percent of all taxes imposed by this chapter on the first $15 million of its eligible purchases or leases for which an exemption is claimed under this paragraph.

(B) Any person making a sale or lease of computer equipment to a high-technology company as specified in subparagraph (A) of this paragraph shall collect the tax imposed on the sale by this article unless the purchaser furnishes such seller with a certificate issued by the commissioner certifying that the purchaser is entitled to purchase the computer equipment without paying the tax. As a condition precedent to the issuance of the certificate, the commissioner, at such commissioner's discretion, may require a good and valid bond with a surety company authorized to do business in this state as surety or may require legal securities, in an amount fixed by the commissioner, conditioned upon payment by the purchaser of all taxes due under this article in the event it should be determined that the sale fails to meet the requirements of this subparagraph.

(C)(i) As used in this paragraph, the term "computer equipment" means any individual computer or organized assembly of hardware or software, including, but not limited to, a server farm, mainframe or midrange computer, mainframe driven high-speed print and mailing devices, and workstations connected to those devices via high bandwidth connectivity such as a local area network, wide area network, or any other data transport technology which performs one of the following functions: storage or management of production data, hosting of production applications, hosting of application systems development activities, or hosting of applications systems testing.

(ii) Such term shall not include:

(I) Telephone central office equipment or other voice data transport technology, including any wireline or wireless telecommunication system;

(II) Equipment with imbedded computer hardware or software which is primarily used for training, product testing, or in a manufacturing process;

(III) Computers or devices issued to employees, which shall include, but not be limited to, smartphones, tablets, wearables, personal computers, and laptops; or

(IV) Prewritten computer software.

(D) Any corporation, partnership, limited liability company, or any other similar entity which qualifies for the exemption and is

affiliated in any manner with a nonqualified corporation, partnership, limited liability company, or any other similar entity must conduct at least a majority of its business with entities with which it has no affiliation.

(E) Each high-technology company that has been issued a certificate of exemption pursuant to this paragraph shall report annually to the commissioner a list of the facilities for which all computer equipment exempted by this paragraph during the preceding calendar year was incorporated, as well as the amount of taxes exempted under this paragraph during the preceding calendar year. Such report shall be filed within 90 days after the end of the calendar year for which the high-technology company utilized a certificate of exemption pursuant to this paragraph and shall be subject to the confidentiality provisions of Code Section 48-2-15. The commissioner shall not issue a certificate of exemption under this paragraph for the calendar year next succeeding the reporting date to any high-technology company that has failed to comply with the reporting required by this subparagraph.

(F) The commissioner shall promulgate such rules and regulations as are necessary to implement the provisions of this paragraph.

(G) This paragraph shall stand repealed and reserved by operation of law at the last moment of December 31, 2028;

(68.1) (Repealed effective January 1, 2032.)

(A) For the period commencing on July 1, 2018, and ending on December 31, 2031, high-technology data center equipment to be incorporated or used in a high-technology data center that meets the high-technology data center minimum investment threshold and other conditions provided in this paragraph.

(B) Any person making a sale or lease of high-technology data center equipment shall collect the tax imposed on such sale by this article unless the purchaser furnishes such seller with a certificate issued by the commissioner certifying that such sale or lease is exempted pursuant to this paragraph.

(C)(i) The commissioner shall not issue a certificate of exemption from sales and use tax to a high-technology data center or high-technology data center customer as provided in this paragraph unless the commissioner makes a determination that the high-technology data center will more likely than not meet the high-technology data center minimum investment threshold.

(ii) The commissioner may require any information necessary to determine if such high-technology data center is in compliance

with its investment budgeting plan to meet the high-technology data center minimum investment threshold.

(iii)(I) Within 60 days after the end of the seventh year following its exemption start date, a high-technology data center shall file a final report with the commissioner listing the expenditures incurred that count toward its minimum investment threshold, the number of new quality jobs created, and any other information that the commissioner may reasonably require to determine whether the high-technology data center has met the minimum investment threshold.

(II) If the commissioner determines that a high-technology data center failed to meet its high-technology data center minimum investment threshold, such high-technology data center shall be required to repay all taxes exempted or refunded pursuant to its certificate of exemption issued pursuant to this paragraph within 90 days after notification of such failure. Interest shall be due with such repayment at the rate specified in Code Section 48-2-40 computed from the date such taxes would have been due but for this exemption. Such repayment shall be calculated notwithstanding otherwise applicable periods of limitation for assessment of taxes under Code Section 48-2-49.

(iv)(I) As a condition precedent to the issuance of a certificate of exemption, the commissioner, at his or her discretion, may require a good and valid bond with a surety company authorized to do business in this state, in an amount fixed by the commissioner not to exceed $20 million. The commissioner shall consider past performance and in-state investment when determining the value of the bond, if one is required.

(II) The bond that may be required by this division shall be forfeited and paid to the general fund in an amount representing all taxes and interest required to be repaid pursuant to division (iii) of this subparagraph if the high-technology data center fails to meet the high-technology data center minimum investment threshold prior to the expiration of the seven-year period.

(v) The commissioner shall have the authority to revoke the certificate of exemption at any time he or she believes that the high-technology data center is not likely to meet its high-technology minimum investment threshold.

(vi) Each high-technology data center that has been issued a certificate of exemption pursuant to this paragraph shall provide

a list of high-technology data center customers that are deploying high-technology data center equipment in its facility and shall notify the commissioner within 30 days of any change to the list.

(D)(i) The commissioner shall require annual reporting by the high-technology data center of the amount of taxes exempted under this paragraph, the number of new quality jobs, and the total payroll resulting from construction, maintenance, and operation in and on its facility during the preceding year.

(ii) The commissioner shall issue an annual report to the chairperson of the Senate Finance Committee and the chairperson of the House Committee on Ways and Means concerning the exemption allowed by this paragraph. Notwithstanding the confidentiality provisions of Code Section 48-2-15, such report shall include, for the prior calendar year for each high-technology data center issued a certificate of exemption pursuant to this paragraph, the amount of tax exempted and the number of new quality jobs created by each high-technology data center.

(E) The commissioner shall promulgate such rules and regulations as are necessary to implement the provisions of this paragraph.

(F) A high-technology data center shall not be entitled to claim any credit authorized under Code Sections 48-7-40 through 48-7-40.33 or Code Section 36-62-5.1 on its tax return if it has received a certificate of exemption from the commissioner pursuant to this paragraph. If a determination is made by the commissioner pursuant to division (iii) of subparagraph (C) of this paragraph that the high-technology data center must repay all taxes exempted or refunded pursuant to this paragraph, such high-technology data center may file amended income tax returns claiming any credit to which it would have been entitled under the foregoing Code sections but for having claimed the exemption under this paragraph.

(G) As used in this paragraph, the term:

(i) "Exemption start date" means the date on or after July 1, 2018, chosen by the high-technology data center and indicated on its application filed on or after January 1, 2019, which begins the seven-year period during which the minimum investment threshold must be met. A refund claim must be filed for taxes paid on purchases qualifying for this exemption for any period on or after July 1, 2018, during which the high-technology data center has not yet applied for and received its certificate of exemption from the commissioner.

(ii) "High-technology data center" means a facility, campus of facilities, or array of interconnected facilities in this state that is developed to power, cool, secure, and connect its own equipment or the computer equipment of high-technology data center customers and that has an investment budget plan which meets the high-technology data center minimum investment threshold.

(iii) "High-technology data center customer" means a client, tenant, licensee, or end user of a high-technology data center that signs at least a 36 month contract for service with the high-technology data center.

(iv) "High-technology data center equipment" means computer equipment as defined in paragraph (68) of this Code section of a high-technology data center or such equipment of a high-technology data center customer to be used or deployed in the high-technology data center; and the materials, components, machinery, hardware, software, or equipment, including, but not limited to, emergency backup generators, air handling units, cooling towers, energy storage or energy efficiency technology, switches, power distribution units, switching gear, peripheral computer devices, routers, batteries, wiring, cabling, or conduit, which equipment or materials are used to:

(I) Create, manage, facilitate, or maintain the physical and digital environments for computer equipment;

(II) Protect the high-technology data center equipment from physical, environmental, or digital threats; or

(III) Generate or provide constant delivery of power, environmental conditioning, air cooling, or telecommunications services for the high-technology data center.

Such term shall not include real property as defined in Code Section 48-8-3.2. A high-technology data center may not count high-technology data center equipment that it purchases or that is purchased by the high-technology data center customer and subsequently leased to another party more than once for purposes of satisfying the high-technology data center minimum investment threshold.

(v) "High-technology data center minimum investment threshold" means:

(I) For high-technology data centers located in a county in this state having a population greater than 50,000 according to the United States decennial census of 2010 or any future such census, the creation of 25 new quality jobs and $250 million in aggregate expenditures incurred over any consecutive seven-

year period between July 1, 2018, and December 31, 2031, on the design and construction of the high-technology data center and high-technology data center equipment to be used or incorporated in the high-technology data center;

(II) For high-technology data centers located in a county in this state having a population greater than 30,000 and less than 50,001 according to the United States decennial census of 2010 or any future such census, the creation of ten new quality jobs and $75 million in aggregate expenditures incurred over any consecutive seven-year period between July 1, 2018, and December 31, 2031, on the design and construction of the high-technology data center and high-technology data center equipment to be used or incorporated in the high-technology data center; and

(III) For high-technology data centers located in a county in this state having a population less than 30,001 according to the United States decennial census of 2010 or any future such census, the creation of five new quality jobs and $25 million in aggregate expenditures incurred over any consecutive seven-year period between July 1, 2018, and December 31, 2031, on the design and construction of the high-technology data center and high-technology data center equipment to be used or incorporated in the high-technology data center.

(vi) "New quality jobs" shall have the same meaning as provided in paragraph (2) of subsection (a) of Code Section 48-7-40.17.

(H) This paragraph shall stand repealed by operation of law on January 1, 2032;

(69) The sale of machinery, equipment, and materials incorporated into and used in the construction or operation of a clean room of Class 100 or less in this state, not to include the building or any permanent, nonremovable component of the building that houses such clean room, provided that such clean room is used directly in the manufacture of tangible personal property in this state;

(70)(A) For the purposes of this paragraph, the term "local sales and use tax" shall mean any sales tax, use tax, or local sales and use tax which is levied and imposed in an area consisting of less than the entire state, however authorized, including, but not limited to, such taxes authorized by or pursuant to constitutional amendment; by or pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, the "Metropolitan Atlanta Rapid Transit Authority Act of 1965"; by or pursuant to Article 2 of this chapter; by or pursuant to Article 2A of this

chapter; by or pursuant to Part 1 of Article 3 of this chapter; or by or pursuant to Part 2 of Article 3 of this chapter.

(B) The sale of natural or artificial gas used directly in the production of electricity which is subsequently sold.

(C) The exemption provided for in subparagraph (B) of this paragraph shall not apply to any local sales and use tax levied or imposed at any time.

(D) The commissioner shall adopt rules and regulations to carry out the provisions of this paragraph;

(70.1)(A) For the period commencing July 1, 2008, and concluding on December 31, 2010, the sale of natural or artificial gas, No. 2 fuel oil, No. 6 fuel oil, propane, petroleum coke, and coal used directly or indirectly in the manufacture or processing, in a manufacturing plant located in this state, of tangible personal property primarily for resale, and the fuel cost recovery component of retail electric rates used directly or indirectly in the manufacture or processing, in a manufacturing plant located in this state, of tangible personal property primarily for resale.

(B) The exemption provided for in subparagraph (A) of this paragraph shall not apply to the first $7.60 per decatherm of the sales price or cost price of natural or artificial gas, the first $2.48 per gallon of the sales price or cost price of No. 2 fuel oil, the first $1.72 per gallon of the sales price or cost price of No. 6 fuel oil, the first $1.44 per gallon of the sales price or cost price of propane, the first $57.90 per ton of petroleum coke, the first $57.90 per ton of coal, or the first 3.44¢ per kilowatt hour of the fuel cost recovery component of retail electricity rates whether such fuel recovery charges are charged separately or are embedded in such electric rates. Dealers with such embedded rates may exempt from the electricity sales upon which the sales tax is calculated no more than the amount, if any, by which the fuel cost recovery charge approved by the Georgia Public Service Commission for transmission customers of electric utilities regulated by the Georgia Public Service Commission exceeds 3.44¢ per kilowatt hour.

(C)(i) For the purposes of this paragraph, the term "local sales and use tax" shall mean any sales tax, use tax, or local sales and use tax which is levied and imposed in an area consisting of less than the entire state, however authorized, including, but not limited to, such taxes authorized by or pursuant to constitutional amendment; by or pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, the "Metropolitan Atlanta Rapid Transit Authority Act of 1965"; or by or pursuant to Article 2, 2A, 3, or 4 of this chapter.

(ii) The exemption provided for in subparagraph (A) of this paragraph shall not apply to any local sales and use tax levied or imposed at any time.

(D) Any person making a sale of items qualifying for exemption under subparagraph (A) of this paragraph shall be relieved of the burden of proving such qualification if the person receives in good faith a certificate from the purchaser certifying that the purchase is exempt under this paragraph.

(E) Any person who qualifies for this exemption shall notify and certify to the person making the qualified sale that this exemption is applicable to the sale;

(71) (Reserved effective December 31, 2029.)

(A) Sales to or by any nonprofit organization which has as its primary purpose the raising of funds for books, materials, and programs for public libraries if such organization qualifies as a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code.

(B) This paragraph shall stand repealed and reserved on December 31, 2029;

(72) (Reserved effective December 31, 2029.)

(A) The sale or use of all mobility enhancing equipment prescribed by a physician.

(B) This paragraph shall stand repealed and reserved on December 31, 2029;

(73) Reserved;

(74)(A)(i) Except as otherwise provided in divisions (ii) and (iii) of this subparagraph, the sale or use of digital broadcast equipment sold to, leased to, or used by a federally licensed commercial or public radio or television broadcast station, a cable network, or a cable distributor that enables a radio or television station, cable network, or cable distributor to originate and broadcast or transmit or to receive and broadcast or transmit digital signals, including, but not limited to, digital broadcast equipment required by the Federal Communications Commission.

(ii) For commercial or public television broadcasters and cable distributors, such equipment shall be limited to antennas, transmission lines, towers, digital transmitters, studio to transmitter links, digital routing switchers, character generators, Advanced Television Systems Committee video encoders and multiplexers, monitoring facilities, cameras, terminal equipment, tape recorders, and file servers.

(iii) For radio broadcasters, such equipment shall be limited to transmitters, digital audio processors, and diskettes.

(B) As used in this paragraph, the term:

(i) "Digital broadcast equipment" means equipment purchased, leased, or used for the origination or integration of program materials for broadcast over the airwaves or transmission by cable, satellite, or fiber optic line which uses or produces an electronic signal where the signal carries data generated, stored, and processed as strings of binary data. Data transmitted or stored as digital data consists of strings of positive or nonpositive elements of a transmission expressed in strings of 0's and 1's which a computer or processor can reconstruct as an electronic signal.

(ii) "Federally licensed commercial or public radio or television broadcast station" means any entity or enterprise, either commercial or noncommercial, which operates under a license granted by the Federal Communications Commission for the purpose of free distribution of audio and video services when the distribution occurs by means of transmission over the public airwaves.

(C) The exemption provided under this paragraph shall not apply to any of the following:

(i) Repair or replacement parts purchased for the equipment described in this paragraph;

(ii) Equipment purchased to replace equipment for which an exemption was previously claimed and taken under this paragraph;

(iii) Any equipment purchased after a television station, cable network, or cable distributor has ceased analog broadcasting, or purchased after November 1, 2004, whichever occurs first; or

(iv) Any equipment purchased after a radio station has ceased analog broadcasting, or purchased after November 1, 2008, whichever occurs first.

(D) Any person making a sale of digital broadcasting equipment to a federally licensed commercial or public radio or television broadcast station, cable network, or cable distributor shall collect the tax imposed on the sale by this article unless the purchaser furnishes a certificate issued by the commissioner certifying that the purchaser is entitled to purchase the equipment without paying the tax;

(75)(A) The sale of eligible property. The exemption provided by this paragraph applies only to sales occurring during the period

commencing at 12:01 A.M. on July 30, 2016, and concluding at 12:00 Midnight on July 31, 2016.

(B) As used in this paragraph, the term:

(i) "Clothing" means all human wearing apparel suitable for general use and includes footwear. The term "clothing" excludes belt buckles sold separately; costume masks sold separately; patches and emblems sold separately; sewing equipment and supplies, including but not limited to knitting needles, patterns, pins, scissors, sewing machines, sewing needles, tape measures, and thimbles; sewing materials that become part of clothing, including but not limited to buttons, fabric, lace, thread, yarn, and zippers; and clothing accessories or equipment.

(ii) "Clothing accessories or equipment" means incidental items worn on the person or in conjunction with clothing.

(iii) "Computer" means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions. The term "computer" excludes cellular phones.

(iv) "Computer software" means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task.

(v) "Eligible property" means:

(I) Articles of clothing with a sales price of $100.00 or less per item;

(II) Computers, computer components, and prewritten computer software purchased for noncommercial home or personal use with a sales price of $1,000.00 or less per item; and

(III) School supplies, school art supplies, school computer supplies, and school instructional materials purchased for noncommercial use with a sales price of $20.00 or less per item.

(vi) "Prewritten computer software" means computer software, including prewritten upgrades, which is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more prewritten computer software programs or prewritten portions thereof does not cause the combination to be other than prewritten computer software. Prewritten computer software includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the specific purchaser. Where a person modifies or enhances computer software of which the person is not the

author or creator, the person shall be deemed to be the author or creator only of such person's modifications or enhancements. Prewritten computer software or a prewritten portion thereof that is modified or enhanced to any degree, where such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains prewritten computer software; provided, however, that, where there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for such modification or enhancement, such modification or enhancement shall not constitute prewritten computer software.

(vii) "School art supply" means an item commonly used by a student in a course of study for artwork.

(viii) "School computer supply" means an item commonly used by a student in a course of study in which a computer is used.

(ix) "School instructional material" means written material commonly used by a student in a course of study as a reference and to learn the subject being taught.

(x) "School supply" means an item commonly used by a student in a course of study.

(C) The commissioner shall promulgate any rules and regulations necessary to implement and administer this paragraph including but not be limited to a list of those articles and items qualifying for the exemption pursuant to this paragraph;

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

(B) This exemption shall apply from July 1, 2023, until December 31, 2026, or until the aggregate sales and use tax refunded pursuant to this paragraph exceeds $4.5 million, whichever occurs first. A qualifying aquarium must pay sales and use tax on all purchases and uses of tangible personal property and may obtain the benefit of this exemption from sales and use tax by filing a claim for refund of tax paid on qualifying items. All refunds made pursuant to this paragraph will not include interest.

(C) Notwithstanding any provision of Code Section 48-8-63 to the contrary, purchases by a contractor may qualify for the exemption provided for in this paragraph. However, when a contractor purchases qualifying tangible personal property, the

contractor shall pay the tax at the time of purchase or at the time of first use in this state; and the ultimate owner of the property may file a claim for refund of the tax paid on the qualifying property.

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

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

(77) Reserved;

(78)(A) Notwithstanding any provision of Code Section 48-8-63 to the contrary, from May 5, 2004, until September 1, 2011, sales of tangible personal property used in direct connection with the construction of a new symphony hall facility owned or operated by an organization which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code if the aggregate construction cost of such facility is $200 million or more.

(B) Any person making a sale of tangible personal property for the purpose specified in this paragraph shall collect the tax imposed on this sale unless the purchaser furnishes such person with an exemption determination letter issued by the commissioner certifying that the purchaser is entitled to purchase the tangible personal property without paying the tax;

(79) Reserved;

(80)(A) Notwithstanding any provision of Code Section 48-8-63 to the contrary, from May 17, 2004, until December 31, 2007, sales of tangible personal property to, or used in or for the new construction of an eligible corporate attraction.

(B) As used in this paragraph, the term “corporate attraction” means any tourist attraction facility constructed on or after May

17, 2004, dedicated to the history and products of a corporation which costs exceeds $50 million, is greater than 60,000 square feet of space, and has associated facilities, including but not limited to parking decks and landscaping owned by the same owner as the eligible corporate attraction.

(C) Any person making a sale of tangible personal property for the purpose specified in this paragraph shall collect the tax imposed on this sale unless the purchaser furnishes such person with an exemption determination letter issued by the commissioner certifying that the purchaser is entitled to purchase the tangible personal property without paying the tax;

(81) The sale of food and food ingredients to a qualifying airline for service to passengers and crew in the aircraft, whether in flight or on the ground, and the furnishing without charge of food and food ingredients to qualifying airline passengers and crew in the aircraft, whether in flight or on the ground; and for purposes of this paragraph a "qualifying airline" shall mean any person which is authorized by the Federal Aviation Administration or appropriate agency of the United States to operate as an air carrier under an air carrier operating certificate and which provides regularly scheduled flights for the transportation of passengers or cargo for hire. As used in this paragraph, "food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. Food and food ingredients shall not include alcoholic beverages or tobacco;

(82)(A) Purchase of Energy Star Qualified Products or WaterSense Products with a sales price of $1,500.00 or less per product purchased for noncommercial home or personal use. The exemption provided by this paragraph shall apply only to sales occurring during the period commencing at 12:01 A.M. on September 30, 2016, and concluding at 12:00 Midnight on October 2, 2016.

(B) As used in this paragraph, the term:

(i) "Energy Star Qualified Product" means any dishwasher, clothes washer, air conditioner, ceiling fan, fluorescent light bulb, dehumidifier, programmable thermostat, refrigerator, door, or window that meets the energy efficient guidelines set by the United States Environmental Protection Agency and the United States Department of Energy and is authorized to carry the Energy Star label.

(ii) "WaterSense Product" means a product authorized to bear the United States Environmental Protection Agency WaterSense label.

(C) The exemption provided for in subparagraph (A) of this paragraph shall not apply to purchases of Energy Star Qualified Products or WaterSense Products purchased for trade, business, or resale.

(D) The commissioner shall promulgate any rules and regulations necessary to implement and administer this paragraph;

(83)(A) The sale or use of biomass material, including pellets or other fuels derived from compressed, chipped, or shredded biomass material, utilized in the production of energy, including without limitation the production of electricity, steam, or the production of electricity and steam, which is subsequently sold.

(B) As used in this paragraph, the term "biomass material" means organic matter, excluding fossil fuels, including agricultural crops, plants, trees, wood, wood wastes and residues, sawmill waste, sawdust, wood chips, bark chips, and forest thinning, harvesting, or clearing residues; wood waste from pallets or other wood demolition debris; peanut shells; pecan shells; cotton plants; corn stalks; and plant matter, including aquatic plants, grasses, stalks, vegetation, and residues, including hulls, shells, or cellulose containing fibers;

(84)(A) Notwithstanding any provision of Code Section 48-8-63 to the contrary, from July 1, 2006, until June 30, 2008, sales of tangible personal property used in direct connection with the construction of a national infantry museum and heritage park facility.

(B) As used in this paragraph, the term "national infantry museum and heritage park facility" means a museum and park facility which is constructed after July 1, 2006; is dedicated to the history of the American foot soldier; has more than 130,000 square feet of space; and has associated facilities, including, but not limited to, parking, parade grounds, and memorial areas.

(C) Any person making a sale of tangible personal property for the purpose specified in this paragraph shall collect the tax imposed on this sale unless the purchaser furnishes such person with an exemption determination letter issued by the commissioner certifying that the purchaser is entitled to purchase the tangible personal property without paying the tax;

(85) Reserved;

(86) The sale or use of engines, parts, equipment, and other tangible personal property used in the maintenance or repair of aircraft when such engines, parts, equipment, and other tangible personal property are installed on such aircraft that is being repaired

or maintained in this state, so long as such aircraft is not registered in this state;

(87)(A) The sale or use of tangible personal property used for or in the renovation or expansion of a zoological institution to the extent provided in this paragraph.

(B) As used in this paragraph, the term "zoological institution" means a nonprofit wildlife park, terrestrial institution, or facility which:

(i) Is open to the public, charges for admission, exhibits and cares for a collection consisting primarily of animals other than fish, and has received accreditation from the Association of Zoos and Aquariums; and

(ii) Is located in this state and owned or operated by an organization which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.

(C) This exemption shall apply from July 1, 2023, until December 31, 2026, or until the aggregate sales and use tax refunded pursuant to this paragraph exceeds $800,000.00, whichever occurs first. A qualifying zoological institution shall pay sales and use tax on all purchases and uses of tangible personal property and may obtain the benefit of this exemption from sales and use tax by filing a claim for refund of tax paid on qualifying items. All refunds made pursuant to this paragraph shall not include interest.

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

(E) Items qualifying for exemption include all tangible personal property that will remain at the zoological institution after completion of construction and all tangible personal property that becomes incorporated into the real property structures of the zoological institution. This exemption excludes all items that remain tangible personal property in the possession of a contractor after the completion of construction;

(88)(A) Notwithstanding any provision of Code Section 48-8-63 to the contrary, from July 1, 2009, until July 30, 2015, sales of tangible personal property to, or used in or for the new construction of, a civil rights museum.

(B) As used in this paragraph, the term "civil rights museum" means a museum which is constructed after July 1, 2009; is owned or operated by an organization which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code; has more than 40,000 square feet of space; and has associated facilities, including, but not limited to, special event space and retail space.

(C) Any person making a sale of tangible personal property for the purpose specified in this paragraph shall collect the tax imposed on this sale unless the purchaser furnishes such person with an exemption determination letter issued by the commissioner certifying that the purchaser is entitled to purchase the tangible personal property without paying the tax.

(D) The exemption provided for under subparagraph (A) of this paragraph shall not apply to sales of tangible personal property that occur after the museum is opened to the public;

(89) For the period commencing on July 1, 2009, and ending on June 30, 2011, the sale or use of an airplane flight simulation training device approved by the Federal Aviation Administration under Appendices A and B, 14 C.F.R. Part 60;

(90) Internet access service;

(91) The sale of prewritten computer software transferred electronically to the purchaser or delivered to the purchaser by means of load and leave; provided, however, that the exemption granted by this paragraph shall not include sales of specified digital products, other digital goods, or digital codes;

(92) For the period commencing July 1, 2012, and ending on December 31, 2013, sales to an organization defined by the Internal Revenue Service as an instrumentality of the states relating to the holding of an annual meeting in this state;

(93)(A) For the period commencing January 1, 2012, until December 31, 2026, sales of tangible personal property used for and in the construction of a competitive project of regional significance.

(B) The exemption provided in subparagraph (A) of this paragraph shall apply to purchases made during the entire time of construction of the competitive project of regional significance so long as such project meets the definition of a competitive project of regional significance within the period commencing January 1, 2012, until December 31, 2026.

(C) The department shall not be required to pay interest on any refund claims filed for local sales and use taxes paid on purchases made prior to the implementation of this paragraph.

(D) As used in this paragraph, the term "competitive project of regional significance" means the location or expansion of some or all of a business enterprise's operations in this state where the commissioner of economic development determines that the project would have a significant regional impact. The commissioner of economic development shall promulgate regulations in accordance with the provisions of this paragraph outlining the guidelines to be applied in making such determination;

(94) The sale, use, consumption, or storage of materials, containers, labels, sacks, or bags used for packaging tangible personal property for shipment or sale. To qualify for the packaging exemption, the items shall be used solely for packaging and shall not be purchased for reuse. The packaging exemption shall not include materials purchased at a retail establishment for consumer use;

(95) The sale or purchase of any motor vehicle titled in this state on or after March 1, 2013, pursuant to Code Section 48-5C-1. Except as otherwise provided in this paragraph, this exemption shall not apply to rentals of motor vehicles for periods of 31 or fewer consecutive days. Lease payments for a motor vehicle that is leased for more than 31 consecutive days for which a state and local title ad valorem tax is paid shall be exempt from sales and use taxes as provided for in this paragraph. No sales and use taxes shall be imposed upon state and local title ad valorem tax fees imposed pursuant to Chapter 5C of this title as a part of the purchase price of a motor vehicle or any portion of a lease or rental payment that is attributable to payment of state and local title ad valorem tax fees under Chapter 5C of this title;

(96)(A) The sale or use of construction materials used for or in the construction of buildings at a private college to the extent provided in subparagraphs (B) and (C) of this paragraph. As used in this paragraph, the term "private college" means a college in this state which is operated by an organization which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code and has an enrollment of between 1,000 and 3,000 students.

(B) This exemption shall apply from July 1, 2015, until June 30, 2016, or until the aggregate state sales and use tax refunded pursuant to this paragraph exceeds $350,000.00, whichever occurs first. A qualifying private college shall pay sales and use tax on all purchases and uses of construction materials and may obtain the benefit of this exemption from state sales and use tax by filing a claim for refund of tax paid on qualifying items. All refunds made pursuant to this paragraph shall not include interest.

(C)(i) This exemption shall apply from July 1, 2015, until June 30, 2016. A qualifying private college shall pay sales and use tax

on all purchases and uses of construction materials and may obtain the benefit of this exemption from local sales and use tax by filing a claim for refund of tax paid on qualifying items. All refunds made pursuant to this paragraph shall not include interest.

(ii) For purposes of this subparagraph, local sales and use tax shall be defined as any local sales and use tax levied or imposed at any time in any area consisting of less than the entire state, however authorized, including, but not limited to, such taxes authorized by or pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, the "Metropolitan Atlanta Rapid Transit Authority Act of 1965," or such taxes as authorized by or pursuant to Article 2, 2A, 3, 4, or 5 of this chapter.

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

(E) Items qualifying for exemption include all construction materials that will remain at the private college after completion of construction and all construction materials that become incorporated into the real property structures of the private college. This exemption excludes all items that remain in the possession of a contractor after the completion of construction;

(97) (Repealed effective December 31, 2031.)

(A) Sales of admissions to nonrecurring major sporting events in this state expected to generate over $50 million in the host locality.

(B) As used in this paragraph, the term "major sporting event" means the National Football League championship game; any semifinal game or championship game of a national collegiate tournament; a Major League Baseball, Major League Soccer, or National Basketball Association all-star game; any match of a FIFA World Cup; or any other nonrecurring major sporting event determined by the commissioner of economic development and the state revenue commissioner to be a major sporting event.

(C) As used in this paragraph, the term "nonrecurring" means not occurring in this state more than once every three years.

(D) The revenue projections for purposes of this paragraph shall

include, but not be limited to, lodging, meals, vehicle rentals, and admissions to tourist attractions.

(E) Determinations made under this paragraph by the commissioners on or after July 1, 2016, shall be made prior to the date of the convening of the General Assembly immediately preceding the awarding of the sales tax exemption for a major sporting event. Such a determination shall become effective either 30 days prior to the major sporting event or on the first fiscal day of the fiscal year immediately following a year during which such determination was made, whichever is earlier. Such a determination may be rendered null and void by a joint resolution passed by both chambers of the General Assembly. In the event that the presiding officers of the General Assembly, in their discretion, choose to introduce such a joint resolution, a special committee in each respective chamber of the General Assembly will be appointed by the presiding officers of both chambers of the General Assembly for the purpose of considering such a joint resolution, subject to the rules of both respective chambers.

(F) This paragraph shall stand automatically repealed on December 31, 2031; provided, however, that this repeal shall not apply to any event for which an application has been submitted prior to December 31, 2031;

(98)(A) For the period beginning July 1, 2017, and ending June 30, 2020, sales of tangible personal property and services to a qualified job training organization when such organization obtains an exemption determination letter from the commissioner.

(B) For the purposes of this paragraph, the term "qualified job training organization" means an organization which:

(i) Is located in this state;

(ii) Is exempt from income taxation under Section 501(c)(3) of the Internal Revenue Code;

(iii) Specializes in the retail sale of donated items;

(iv) Provides job training and employment services to individuals with workplace disadvantages and disabilities, including, but not limited to, reentry citizens who shall be persons released from incarceration, persons with disabilities, and veterans; and

(v) Uses a majority of its revenues for job training and placement programs.

(C)(i) For the purposes of this paragraph, the term "local sales and use tax" means any sales tax, use tax, or local sales and use

tax which is levied and imposed in an area consisting of less than the entire state, however authorized, including, but not limited to, such taxes authorized by or pursuant to constitutional amendment; by or pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, the "Metropolitan Atlanta Rapid Transit Authority Act of 1965"; or by or pursuant to Article 2, Article 2A, Part 1 or Part 2 of Article 3, Article 4, or Article 5 of this chapter.

(ii) The exemption provided for in subparagraph (A) of this paragraph shall not apply to any local sales and use tax levied or imposed at any time.

(D) Any qualified job training organization which is granted an exemption under this paragraph shall provide an annual report to the department which contains, but is not limited to, the following:

(i) The number of individuals trained in the program;

(ii) The number of individuals employed by the organization after receiving such training; and

(iii) The number of individuals employed in full-time positions outside the organization after such training.

Such data shall be compiled by the department and presented to the House Committee on Ways and Means and the Senate Finance Committee for consideration prior to any renewal or extension of the exemption provided by this paragraph.

(E) The commissioner shall promulgate any rules and regulations necessary to implement and administer this paragraph;

(99)(A) The sale or use of tangible personal property used for or in the renovation or expansion of a theater located within a facility in this state that contains an art museum, symphonic hall, and theater that charges for admission and is owned or operated by an organization which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, if such organization's primary mission is to provide arts and education programming for the benefit of the citizens of this state, to the extent provided in subparagraphs (B) and (C) of this paragraph.

(B) This exemption shall apply from July 1, 2017, until January 1, 2019, and until the aggregate state sales and use tax refunded pursuant to this paragraph exceeds $750,000.00. A qualifying organization must pay sales and use tax on all purchases and uses of tangible personal property and may obtain the benefit of this exemption from state sales and use tax by filing a claim for refund of tax paid on qualifying items. All refunds made pursuant to this paragraph shall not include interest.

(C) This exemption shall apply from July 1, 2017, until January 1, 2019, to any local sales and use tax levied or imposed at any time in any area consisting of less than the entire state, however authorized, including, but not limited to, such taxes authorized by or pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, the "Metropolitan Atlanta Rapid Transit Authority Act of 1965," or such taxes as authorized by or pursuant to Article 2, 2A, 3, 4, or 5 of this chapter.

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

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

(100) (Reserved effective December 31, 2027.)

(A) Sales of tickets, fees, or charges for admission to a fine arts performance or exhibition conducted within a facility in this state that is owned or operated by an organization which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, or a museum of cultural significance, if such organization's or museum's mission is to advance the arts in this state and to provide arts, educational, and culturally significant programming and exhibits for the benefit and enrichment of the citizens of this state.

(B) As used in this paragraph, the term "fine arts" means music performed by a symphony orchestra, poetry, photography, ballet, dance, opera, theater, dramatic arts, painting, sculpture, ceramics, drawing, watercolor, graphics, printmaking, and architecture.

(C) This paragraph shall stand repealed and reserved on December 31, 2027;

(101)(A) The sale or use of noncommercial written materials or mailings by an organization which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, if the organization is located in this state and provides such materials to charity

supporters for educational, charitable, religious, or fundraising purposes, to the extent provided in subparagraph (B) of this paragraph.

(B) This exemption shall apply from July 1, 2018, until July 1, 2026. A qualifying organization must pay sales and use tax on all purchases and uses of tangible personal property and may obtain the benefit of this exemption from sales and use taxes by filing a claim for refund of tax paid on qualifying items. All refunds made pursuant to this paragraph shall not include interest;

(102)(A) Fifty percent of the sales price of a manufactured home if such manufactured home is installed pursuant to Code Section 8-2-160 and will be converted to real property pursuant to Code Section 8-2-183.1 within 30 days of the retail sale.

(B) As used in this paragraph, the term "manufactured home" means a structure built on a permanent chassis that:

(i) Is designed to be used as a dwelling;

(ii) Is transportable in one or more sections;

(iii) Contains plumbing, heating, air-conditioning, and electrical systems; and

(iv) Is designed to have an angled roof and contain an area of at least 650 square feet.

(C) Within 30 days of a sale exempted as provided for in subparagraph (A) of this paragraph, the seller shall complete the requirements of Code Section 8-2-183.1 and properly file a copy of the Certificate of Permanent Location with the clerk of superior court, or the commissioner shall recover from the seller 1.5 times the amount of tax exempted by this paragraph.

(D) A manufactured home that is exempted as provided in subparagraph (A) of this paragraph shall not be eligible for a Certificate of Removal from Permanent Location provided in Part 4 of Article 2 of Chapter 2 of Title 8, or any other manner of a return to tangible personal property unless the amount exempted pursuant to subparagraph (A) of this paragraph is paid to the commissioner.

(E) The exemption provided for in subparagraph (A) of this paragraph shall not apply to any sales and use tax levied or imposed in an area consisting of less than the entire state, however authorized, including, but not limited to, such taxes authorized by or pursuant to:

(i) Constitutional amendment;

(ii) Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, the "Metropolitan Atlanta Rapid Transit Authority Act of 1965"; or

(iii) Article 2, 2A, 3, 4, 5, or 5A of this chapter;

(103) Reserved;

(104) (Reserved effective December 31, 2029.)

(A) Sales to or by any nonprofit organization which has as its primary purpose providing poultry diagnostic and disease monitoring services if such organization qualifies as a tax-exempt organization under Section 501(c)(5) of the Internal Revenue Code.

(B) This paragraph shall stand repealed and reserved on December 31, 2029;

(105) Sales to or by an eligible recipient, as defined in Code Section 31-8-300, which provides pharmacy related services only for the purpose of dispensing donated or purchased drugs pursuant to the drug repository program established under Article 10 of Chapter 8 of Title 31, if such organization qualifies as a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code or is an organization that is treated for federal income tax purposes as a disregarded entity of a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code; or

(106) Sale or use of exempt special fuel as such term is defined in Code Section 48-9-2.

History.

Ga. L. 1951, p. 360, §§ 3, 22; Ga. L. 1953, Jan.-Feb. Sess., p. 182, §§ 1, 2; Ga. L. 1953, Jan.-Feb. Sess., p. 191, § 1; Ga. L. 1953, Jan.-Feb. Sess., p. 192, § 1; Ga. L. 1953, Jan.-Feb. Sess., p. 194, § 1; Ga. L. 1953, Jan.-Feb. Sess., p. 199, § 1; Ga. L. 1953, Jan.-Feb. Sess., p. 301, § 1; Ga. L. 1960, p. 153, § 2; Ga. L. 1963, p. 13, § 1; Ga. L. 1963, p. 132, § 1; Ga. L. 1963, p. 613, § 1; Ga. L. 1964, p. 57, § 3; Ga. L. 1964, p. 206, § 1; Ga. L. 1964, p. 672, § 1; Ga. L. 1965, p. 13, § 1; Ga. L. 1966, p. 211, § 1; Ga. L. 1966, p. 507, § 1; Ga. L. 1966, p. 537, §§ 1, 2; Ga. L. 1967, p. 282, § 1; Ga. L. 1967, p. 283, § 1; Ga. L. 1967, p. 286, § 1; Ga. L. 1968, p. 129, § 1; Ga. L. 1968, p. 136, § 1; Ga. L. 1968, p. 201, § 1; Ga. L. 1968, p. 545, § 1; Ga. L. 1968, p. 559, § 1; Ga. L. 1970, p. 16, § 1; Ga. L. 1970, p. 252, § 2; Ga. L. 1970, p. 254, § 1; Ga. L. 1970, p. 460, § 1; Ga. L. 1970, p. 631, § 1; Ga. L. 1971, p. 80, § 1; Ga. L. 1971, p. 265, § 1; Ga. L. 1971, p. 474, § 1; Ga. L. 1971, p. 653, § 1; Ga. L. 1972, p. 457, § 1; Ga. L. 1972, p. 504, § 1; Ga. L. 1973, p. 276, § 1; Ga. L. 1976, p. 411, § 1; Ga. L. 1976, p. 672, § 1; Ga. L. 1976, p. 987, § 1; Ga. L. 1977, p. 590, § 1; Code 1933, § 91A-4503, enacted by Ga. L. 1978, p. 309, § 2; Ga. L. 1978, p. 1160, §§ 1-4; Ga. L. 1978, p. 1634, § 1; Ga. L. 1978, p. 1664, § 2; Ga. L. 1978, p. 1666, § 1; Ga. L. 1979, p. 5, §§ 85-92; Ga. L. 1979, p. 1278, §§ 1, 2; Ga. L. 1980, p. 10, §§ 25, 26; Ga. L. 1980, p. 586, § 1; Ga. L. 1980, p. 805, § 1; Ga. L. 1980, p. 1188, § 1; Ga. L. 1981, p. 1857, § 41; Ga. L. 1984, p. 1466, § 1; Ga. L. 1985, p. 491, § 1; Ga. L. 1985, p. 624, § 1; Ga. L. 1985, p. 625, § 1; Ga. L. 1985, p. 1177, § 1; Ga. L. 1986, p. 10, § 48; Ga. L. 1986, p. 1453, § 1; Ga. L. 1986, p. 1459, § 1; Ga. L. 1986, p. 1464, § 2; Ga. L. 1986, p. 1467, §§ 1, 2; Ga. L. 1986, p. 1584, § 1; Ga. L. 1987, p. 191, § 9; Ga. L. 1989, p. 62, §§ 2, 3; Ga. L.

1989, p. 622, § 1; Ga. L. 1990, p. 45, § 1; Ga. L. 1991, p. 87, § 2; Ga. L. 1992, p. 1276, § 1; Ga. L. 1992, p. 1521, § 2; Ga. L. 1992, p. 3173, § 1; Ga. L. 1994, p. 132, § 1; Ga. L. 1994, p. 552, § 1; Ga. L. 1994, p. 928, §§ 5, 6; Ga. L. 1994, p. 1269, § 1; Ga. L. 1995, p. 364, § 1; Ga. L. 1995, p. 585, § 8; Ga. L. 1995, p. 991, § 1; Ga. L. 1995, p. 1302, §§ 13, 14; Ga. L. 1996, p. 1, § 1; Ga. L. 1996, p. 220, §§ 8-10; Ga. L. 1996, p. 738, § 1; Ga. L. 1996, p. 1025, § 2; Ga. L. 1996, p. 1643, §§ 1-3; Ga. L. 1997, p. 157, § 1; Ga. L. 1997, p. 1295, § 1; Ga. L. 1997, p. 1412, §§ 1, 2; Ga. L. 1998, p. 128, § 48; Ga. L. 1998, p. 602, §§ 1-3; Ga. L. 1999, p. 634, §§ 1, 2; Ga. L. 2000, p. 409, § 1; Ga. L. 2000, p. 411, § 1; Ga. L. 2000, p. 414, § 1; Ga. L. 2000, p. 415, § 1; Ga. L. 2000, p. 468, § 1; Ga. L. 2000, p. 485, § 1; Ga. L. 2000, p. 615, §§ 1-3; Ga. L. 2000, p. 1202, §§ 1, 2; Ga. L. 2001, p. 4, § 48; Ga. L. 2001, p. 202, §§ 1, 2; Ga. L. 2001, p. 984, §§ 13-16; Ga. L. 2001, p. 1049, § 1; Ga. L. 2001, p. 1068, § 1; Ga. L. 2002, p. 6, § 1; Ga. L. 2002, p. 415, § 48; Ga. L. 2002, p. 575, § 1; Ga. L. 2002, p. 804, § 1; Ga. L. 2002, p. 855, § 1; Ga. L. 2002, p. 954, § 3; Ga. L. 2002, p. 984, § 1; Ga. L. 2003, p. 337, § 1; Ga. L. 2003, p. 665, §§ 11, 12; Ga. L. 2004, p. 154, § 1; Ga. L. 2004, p. 328, § 1; Ga. L. 2004, p. 403, § 1; Ga. L. 2004, p. 628, § 1; Ga. L. 2004, p. 690, § 22; Ga. L. 2004, p. 947, § 1; Ga. L. 2004, p. 1073, § 1; Ga. L. 2005, p. 60, § 48/HB 95; Ga. L. 2005, p. 142, §§ 1, 2/HB 487; Ga. L. 2005, p. 334, § 29-6/HB 501; Ga. L. 2005, p. 725, §§ 1, 2, 3, 4/HB 341; Ga. L. 2005, p. 794, § 1/HB 559; Ga. L. 2005, p. 983, § 1/HB 5; Ga. L. 2006, p. 222, § 1/HB 1014; Ga. L. 2006, p. 263, § 1/HB 1018; Ga. L. 2006, p. 419, § 1/HB 834; Ga. L. 2006, p. 471, § 1/HB 1301; Ga. L. 2006, p. 524, §§ 1, 2/HB 1219; Ga. L. 2006, p. 527, § 1/HB 1121; Ga. L. 2006, p. 538, § 1/HB 841; Ga. L. 2007, p. 47, § 48/SB 103; Ga. L. 2007, p. 207, §§ 1, 2/HB 128; Ga. L. 2007, p. 419, § 1/HB 186; Ga. L. 2007, p. 594, § 1/HB 169; Ga. L. 2007, p. 604, § 1/HB 282; Ga. L. 2007, p. 709, § 1/HB 193; Ga. L. 2008, p. 316, § 1/HB 1178; Ga. L. 2008, p. 340, §§ 1, 2/HB 948; Ga. L. 2008, p. 644, § 3-1/SB 342; Ga. L. 2008, p. 739, §§ 1, 2, 3/HB 957; Ga. L. 2008, p. 773, § 1/HB 1078; Ga. L. 2008, p. 1148, § 1/HB 1023; Ga. L. 2008, p. 1151, § 1/HB 1110; Ga. L. 2008, p. 1160, § 1/HB 237; Ga. L. 2008, p. 1163, § 1/HB 272; Ga. L. 2009, p. 8, § 48/SB 46; Ga. L. 2009, p. 79, § 2/HB 59; Ga. L. 2009, p. 636, § 1/HB 116; Ga. L. 2009, p. 637, §§ 1, 2/HB 120; Ga. L. 2009, p. 642, § 1/HB 212; Ga. L. 2009, p. 650, § 1/HB 358; Ga. L. 2009, p. 651, § 1/HB 395; Ga. L. 2009, p. 777, § 1/HB 129; Ga. L. 2009, p. 794, § 1/HB 349; Ga. L. 2009, p. 795, § 1/HB 364; Ga. L. 2010, p. 662, § 2/HB 1221; Ga. L. 2011, p. 38, § 4/HB 168; Ga. L. 2011, p. 47, § 1/HB 322; Ga. L. 2011, p. 302, § 1/HB 234; Ga. L. 2012, p. 257, §§ 1-5, 4-1, 5-1, 5-5, 5-6, 6-2/HB 386; Ga. L. 2012, p. 580, § 18/HB 865; Ga. L. 2012, p. 694, § 4/HB 729; Ga. L. 2012, p. 775, § 48/HB 942; Ga. L. 2012, p. 1348, § 2/HB 743; Ga. L. 2013, p. 7, § 4/HB 266; Ga. L. 2013, p. 37, § 2-2/HB 487; Ga. L. 2013, p. 141, § 48/HB 79; Ga. L. 2013, p. 190, § 1/HB 164; Ga. L. 2013, p. 243, § 6.1/HB 318; Ga. L. 2014, p. 51, § 2/HB 958; Ga. L. 2014, p. 633, § 1/HB 933; Ga. L. 2014, p. 866, § 48/SB 340; Ga. L. 2015, p. 236, § 5-3/HB 170; Ga. L. 2015, p. 284, § 1/HB 428; Ga. L. 2015, p. 385, § 4-17/HB 252; Ga. L. 2015, p. 1219, § 26/HB 202; Ga. L. 2015, p. 1262, § 7/HB 225; Ga. L. 2015, p. 1313, §§ 1, 1A/HB 426; Ga. L. 2016, p. 62, § 1/HB 951; Ga. L. 2016, p. 758, § 4/SB 379; Ga. L. 2016, p. 772, § 1/HB 937; Ga. L. 2016, p. 796, § 1/HB 763; Ga. L. 2016, p. 864, § 48/HB 737; Ga. L. 2017, p. 46, § 2/HB 265; Ga. L. 2017, p. 530, § 1/SB 156; Ga. L. 2017, p. 774, § 48/HB 323; Ga. L. 2018, p. 307, § 1/HB 697; Ga. L. 2018, p. 624, § 1/HB 696; Ga. L. 2018, p. 644, § 4/HB 217; Ga. L. 2018, p. 674, § 1/HB 871; Ga. L. 2018, p. 1075, §§ 1, 2/HB 793; Ga. L. 2018, p. 1112, § 48/SB 365; Ga. L. 2018, Ex. Sess., p. ES7, § 3-2/HB 5EX; Ga. L. 2019, p. 90, § 1/HB 35; Ga. L. 2019, p. 892, § 1/HB 352; Ga. L. 2019, p. 1044, § 1/HB 168; Ga. L. 2019, p. 1056, § 48/SB 52; Ga. L. 2020, p. 792, § 1/SB 104; Ga. L. 2020, p. 903, § 2-1/HB 105; Ga. L. 2021, p. 289, §§ 5-1, 5-2, 7-2/SB 6; Ga. L. 2021, p. 511, § 1/HB 374; Ga. L. 2021, p. 602, § 1-1/HB 498; Ga. L. 2021, p. 922, § 48/HB 497; Ga. L. 2022, p. 285, § 1/HB 1034; Ga. L. 2022, p. 352, § 48/HB 1428; Ga. L. 2022, p. 655, §§ 1, 3/HB 1291; Ga. L. 2022, p. 741, § 1/HB 586; Ga. L. 2022, p. 655, § 2/HB 1291; Ga.

L. 2023, p. 335, § 3-2/SB 56, effective January 1, 2024; Ga. L. 2023, p. 344, §§ 1, 2/HB 86, effective July 1, 2023; Ga. L. 2023, p. 727, § 1/HB 408, effective July 1, 2023; Ga. L. 2024, p. 347, § 2-6/HB 1072, effective April 23, 2024; Ga. L. 2024, p. 794, § 3-4/HB 1181, effective January 1, 2025; Ga. L. 2024, p. 1052, § 5(48)/SB 448, effective July 1, 2024; Ga. L. 2025, p. 4, § 2-1/HB 92, effective April 1, 2025; Ga. L. 2025, p. 563, § 2/HB 652, effective January 1, 2027.

Delayed effective date.

Code Section 48-8-3 is set out twice in this Code. This version is effective January 1, 2027. For version effective until January 1, 2027, see the preceding version.

Amendments.

The first 2025 amendment, effective April 1, 2025, added paragraph (10.1). See Editor's notes for applicability.

The second 2025 amendment, effective January 1, 2027, deleted "or" at the end of subparagraph (104)(B); substituted "; or" for a period at the end of paragraph (105); and added paragraph (106).

Editor's notes.

Ga. L. 2025, p. 4, § 4-1(a)/HB 92, not codified by the General Assembly, provides that the addition of paragraph (10.1) is applicable on and after April 1, 2025.

Ga. L. 2013, p. 37, § 3-1/HB 487, not codified by the General Assembly, provides, in part, that:

"(b) If any section of this Act is determined to be unconstitutional by a final decision of an appellate court of competent jurisdiction or by the trial court of competent jurisdiction if no appeal is made, with the exception of subsection (g) of Code Section 50-27-78 and Section 2-1 of this Act, this Act shall stand repealed by operation of law."

(c) This Act is not intended to and shall not be construed to affect the legality of the repair, transport, possession, or use of otherwise prohibited gambling devices on maritime vessels within the jurisdiction of the State of Georgia. To the extent that such repair, transport, possession, or use was lawful prior to the enactment of this Act, it shall not be made illegal by this Act; and to the extent that such repair, transport, possession, or use was prohibited prior to the enactment of this Act, it shall remain prohibited." As of May 2025, no such finding has been issued.

48-8-3.1. (Effective until January 1, 2027.) Exemptions for motor fuels.

(a) Except as provided in subsection (b) of this Code section, sales of motor fuels as defined in paragraph (9) of Code Section 48-9-2 shall be exempt from the state sales and use taxes levied or imposed by this article.

(b) Sales of motor fuel, other than gasoline, purchased for purposes other than propelling motor vehicles on public highways as defined in Article 1 of Chapter 9 of this title shall be fully subject to the state sales and use taxes levied or imposed by this article unless otherwise specifically exempted by this article.

(c) It is specifically declared to be the intent of the General Assembly that taxation imposed on sales of motor fuel wholly or partially subject to taxation under this Code section shall not constitute motor fuel taxes for purposes of any provision of the Constitution providing for the automatic or mandatory appropriation of any amount of funds equal to funds derived from motor fuel taxes.

History.
Code 1981, § 48-8-3.1, enacted by Ga. L. 1989, p. 62, § 4; Ga. L. 2015, p. 236, § 5-4/HB 170.
Delayed effective date.
Code Section 48-8-3.1 is set out twice in this Code. This version is effective until January 1, 2027. For version effective January 1, 2027, see the following version.

48-8-3.1. (Effective January 1, 2027.) Exemptions for motor fuels.

(a) Except as provided in subsection (b) of this Code section, sales of motor fuels as defined in Code Section 48-9-2 shall be exempt from the state sales and use taxes levied or imposed by this article.

(b) Sales of motor fuel, other than gasoline and exempt special fuel as such term is defined in Code Section 48-9-2, purchased for purposes other than propelling motor vehicles on public highways as defined in Article 1 of Chapter 9 of this title shall be fully subject to the state sales and use taxes levied or imposed by this article unless otherwise specifically exempted by this article.

(c) It is specifically declared to be the intent of the General Assembly that taxation imposed on sales of motor fuel wholly or partially subject to taxation under this Code section shall not constitute motor fuel taxes for purposes of any provision of the Constitution providing for the automatic or mandatory appropriation of any amount of funds equal to funds derived from motor fuel taxes.

History.
Code 1981, § 48-8-3.1, enacted by Ga. L. 1989, p. 62, § 4; Ga. L. 2015, p. 236, § 5-4/HB 170; Ga. L. 2025, p. 563, § 3/HB 652, effective January 1, 2027.
Delayed effective date.
Code Section 48-8-3.1 is set out twice in this Code. This version is effective January 1, 2027. For version effective until January 1, 2027, see the preceding version.
Amendments.
The 2025 amendment, effective January 1, 2027, deleted "paragraph (9) of" following "as defined in" in subsection (a); and inserted "and exempt special fuel as such term is defined in Code Section 48-9-2" in subsection (b).

48-8-3.2. Exemptions for manufacturing equipment, industrial materials, packing supplies, and energy.

(a) As used in this Code section, the term:

(1) "Consumable supplies" means tangible personal property, other than machinery and industrial materials, that is consumed or expended during the manufacture of tangible personal property. The term includes, but is not limited to, water treatment chemicals for use in, on, or in conjunction with machinery or equipment and items that are readily disposable. The term excludes packaging supplies and energy.

(2) "Energy" means natural or artificial gas, oil, gasoline, electricity, solid fuel, wood, waste, ice, steam, water, and other materials necessary and integral for heat, light, power, refrigeration, climate control, processing, or any other use in any phase of the manufacture of tangible personal property. The term excludes energy purchased by a manufacturer that is primarily engaged in producing electricity for resale.

(3) "Equipment" means tangible personal property, other than machinery and industrial materials. The term includes durable devices and apparatuses that are generally designed for long-term continuous or repetitive use. The term also includes consumable supplies. Examples of equipment include, but are not limited to, machinery clothing, cones, cores, pallets, hand tools, tooling, molds, dies, waxes, jigs, patterns, conveyors, safety devices, and pollution control devices. The term includes components and repair or replacement parts. The term excludes real property.

(4) "Fixtures" means tangible personal property that has been installed or attached to land or to any building thereon and that is intended to remain permanently in its place. A consideration for whether tangible property is a fixture is whether its removal would cause significant damage to such property or to the real property to which it is attached. Fixtures are classified as real property. Examples of fixtures include, but are not limited to, plumbing, lighting fixtures, slabs, and foundations.

(5) "Industrial materials" means materials for future processing, manufacture, or conversion into articles of tangible personal property for resale when the industrial materials become a component part of the finished product. The term also means materials that are coated upon or impregnated into the product at any stage of its processing, manufacture, or conversion, even though such materials do not remain a component part of the finished product for sale. The term includes raw materials.

(6) "Local sales and use tax" means any sales tax, use tax, or local sales and use tax which is levied and imposed in an area consisting of less than the entire state, however authorized, including, but not limited to, such taxes authorized by or pursuant to constitutional amendment; by or pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, the "Metropolitan Atlanta Rapid Transit Authority Act of 1965"; and by or pursuant to any article of this chapter.

(7) "Machinery" means an assemblage of parts that transmits force, motion, and energy one to the other in a predetermined manner to accomplish a specific objective. The term includes a machine and

all of its components, including, but not limited to, belts, pulleys, shafts, gauges, gaskets, valves, hoses, pipes, wires, blades, bearings, operational structures attached to the machine, including stairways and catwalks, or other devices that are required to regulate or control the machine, allow access to the machine, or enhance or alter its productivity or functionality. The term includes repair or replacement parts. The term excludes real property and consumable supplies.

(8) "Machinery clothing" means felts, screen plates, wires, or any other items used to carry, form, or dry work in process through the manufacture of tangible personal property.

(9) "Manufacture of tangible personal property," used synonymously with the term "manufacturing," means a manufacturing operation, series of continuous manufacturing operations, or series of integrated manufacturing operations engaged in at a manufacturing plant or among manufacturing plants to change, process, transform, or convert industrial materials by physical or chemical means into articles of tangible personal property for sale, for promotional use, or for further manufacturing that have a different form, configuration, utility, composition, or character. The term includes, but is not limited to, the storage, preparation, or treatment of industrial materials; assembly of finished units of tangible personal property to form a new unit or units of tangible personal property; movement of industrial materials and work in process from one manufacturing operation to another; temporary storage between two points in a continuous manufacturing operation; random and sample testing that occurs at a manufacturing plant; and a packaging operation that occurs at a manufacturing plant.

(10) "Manufacturer" means a person or business, or a location of a person or business, that is engaged in the manufacture of tangible personal property for sale or further manufacturing. To be considered a manufacturer, the person or business, or the location of a person or business, must be:

(A) Classified as a manufacturer under the 2007 North American Industrial Classification System Sectors 21, 31, 32, or 33, or North American Industrial Classification System industry code 22111 or specific code 511110; or

(B) Generally regarded as being a manufacturer.

Businesses that are primarily engaged in providing personal or professional services or in the operation of retail outlets, generally including, but not limited to, grocery stores, pharmacies, bakeries, or restaurants, are not considered manufacturers.

(11) "Manufacturing plant" means any facility, site, or other area

where a manufacturer engages in the manufacture of tangible personal property.

(12) "Packaging operation" means bagging, boxing, crating, canning, containerizing, cutting, measuring, weighing, wrapping, labeling, palletizing, or other similar processes necessary to prepare or package manufactured products in a manner suitable for sale or delivery to customers as finished goods or suitable for the transport of work in process at or among manufacturing plants for further manufacturing, and the movement of such finished goods or work in process to a storage or distribution area at a manufacturing plant.

(13) "Packaging supplies" means materials, including, but not limited to, containers, labels, sacks, boxes, wraps, fillers, cones, cores, pallets, or bags, used in a packaging operation solely for packaging tangible personal property.

(14) "Real property" means land, any buildings thereon, and any fixtures attached thereto.

(15) "Repair or replacement part" means a part for any machinery or equipment that is necessary and integral to the manufacture of tangible personal property. Repair or replacement parts must be used to maintain, repair, restore, install, or upgrade such machinery or equipment that is necessary and integral to the manufacture of tangible personal property. Examples of repair and replacement parts may include, but are not limited to, oils, greases, hydraulic fluids, coolants, lubricants, machinery clothing, molds, dies, waxes, jigs, and other interchangeable tooling.

(16) "Substantial purpose" means the purpose for which an item of tangible personal property is used more than one-third of the time of the total amount of time that the item is in use; alternatively, instead of time, the purpose may be measured in terms of other applicable criteria, including, but not limited to, the number of items produced.

(b) The sale, use, or storage of machinery or equipment which is necessary and integral to the manufacture of tangible personal property and the sale, use, storage, or consumption of industrial materials or packaging supplies shall be exempt from all sales and use taxation.

(c)(1) Except as otherwise provided in paragraph (4) of this subsection, the sale, use, storage, or consumption of energy which is necessary and integral to the manufacture of tangible personal property at a manufacturing plant in this state shall be exempt from all sales and use taxation except for the sales and use tax for educational purposes levied pursuant to Part 2 of Article 3 of this chapter and Article VIII, Section VI, Paragraph IV of the Constitution and except for local sales and use taxes for educational

purposes authorized by or pursuant to local constitutional amendment. This exemption shall be phased in over a four-year period as follows:

(A) For the period commencing January 1, 2013, and concluding at the last moment of December 31, 2013, such sale, use, storage, or consumption of energy shall be exempt from an amount equal to 25 percent of the total amount of state sales and use tax that would be collected at the rate of 4 percent on such sale, use, storage, or consumption of energy and shall be exempt from an amount equal to 25 percent of the total amount of each local sales and use tax that would be collected at the rate of 1 percent on such sale, use, storage, or consumption of energy;

(B) For the period commencing January 1, 2014, and concluding at the last moment of December 31, 2014, such sale, use, storage, or consumption of energy shall be exempt from an amount equal to 50 percent of the total amount of state sales and use tax that would be collected at the rate of 4 percent on such sale, use, storage, or consumption of energy and shall be exempt from an amount equal to 50 percent of the total amount of each local sales and use tax that would be collected at the rate of 1 percent on such sale, use, storage, or consumption of energy;

(C) For the period commencing January 1, 2015, and concluding at the last moment of December 31, 2015, such sale, use, storage, or consumption of energy shall be exempt from an amount equal to 75 percent of the total amount of state sales and use tax that would be collected at the rate of 4 percent on such sale, use, storage, or consumption of energy and shall be exempt from an amount equal to 75 percent of the total amount of each local sales and use tax that would be collected at the rate of 1 percent on such sale, use, storage, or consumption of energy; and

(D) On or after January 1, 2016, such sale, use, storage, or consumption of energy shall be fully exempt from such sales and use taxation.

(2)(A) Any person making a sale of items qualifying for exemption under paragraph (1) of this subsection shall be relieved of the burden of proving such qualification if the person making the sale receives a certificate from the purchaser certifying that the purchase is exempt under this subsection.

(B) Any person who qualifies for the exemption under paragraph (1) of this subsection shall notify and certify to the person making the qualified sale that such exemption is applicable to the sale.

(3) With respect to services which are regularly billed on a monthly basis, the exemption under paragraph (1) of this subsection shall

become effective with respect to and the exemption shall apply to services billed on or after January 1, 2013.

(4) If a competitive project of regional significance under paragraph (93) of Code Section 48-8-3 is started in a county or municipality, it shall not be subject to the phase-in period contained in subparagraphs (A), (B), and (C) of paragraph (1) of this subsection, but such project shall receive the full exemption provided for in subparagraph (D) of paragraph (1) of this subsection notwithstanding the January 1, 2016, limitation in that subparagraph.

(d) The exemptions under this Code section shall be applied as follows:

(1) The manufacture of tangible personal property commences as industrial materials are received at a manufacturing plant and concludes once the packaging operation is complete and the tangible personal property is ready for sale or shipment, regardless of whether the manufacture of tangible personal property occurs at one or more separate manufacturing plants;

(2) For machinery or equipment that has multiple purposes, some purposes necessary and integral to the manufacture of tangible personal property and some purposes not necessary and integral to the manufacture of tangible personal property, the substantial purpose of such machinery or equipment will prevail for purposes of determining the eligibility for exemption. The commissioner shall consider any reasonable methodology for measuring the substantial purpose of machinery or equipment for which the substantial purpose is not readily identifiable;

(3) For leased machinery or equipment that did not qualify for an exemption at the date of lease inception and subsequently qualifies for the exemption under this Code section, the exemption shall apply to all lease payments made subsequent to such qualification;

(4) Miscellaneous spare parts for which the ultimate use of the spare parts is unknown at the time of purchase are eligible for the exemption as repair or replacement parts. However, use tax must be accrued and remitted if spare parts are withdrawn from the inventory of spare parts and used for any purpose other than to maintain, repair, restore, install, or upgrade machinery or equipment that is necessary and integral to the manufacture of tangible personal property; and

(5) Energy necessary and integral to the manufacture of tangible personal property includes energy used to operate machinery or equipment, to create conditions necessary for the manufacture of tangible personal property, or to perform an actual part of the

manufacture of tangible personal properly; energy used in administrative or other ancillary activities that are located and performed at the manufacturing plant so long as such activities primarily benefit such manufacture of tangible personal property; energy used in related operations that convey, transport, handle, or store raw materials or finished goods at the manufacturing plant; energy used for heating, cooling, ventilation, illumination, fire safety or prevention, and personal comfort and convenience of the manufacturer's employees at the manufacturing plant; and energy used for any other purpose at a manufacturing plant.

(e) Examples that qualify as necessary and integral to the manufacture of tangible personal property include, but are not limited to:

(1) Machinery or equipment used to convey or transport industrial materials, work in process, consumable supplies, or packaging materials at or among manufacturing plants or to convey and transport finished goods to a distribution or storage point at the manufacturing plant. Specific examples may include, but are not limited to, forklifts, conveyors, cranes, hoists, and pallet jacks;

(2) Machinery or equipment used to gather, arrange, sort, mix, measure, blend, heat, cool, clean, or otherwise treat, prepare, or store industrial materials for further manufacturing;

(3) Machinery or equipment used to control, regulate, heat, cool, or produce energy for other machinery or equipment that is necessary and integral to the manufacture of tangible personal property. Specific examples may include, but are not limited to, boilers, chillers, condensers, water towers, dehumidifiers, humidifiers, heat exchangers, generators, transformers, motor control centers, solar panels, air dryers, and air compressors;

(4) Testing and quality control machinery or equipment located at a manufacturing plant used to test the quality of industrial materials, work in process, or finished goods;

(5) Starters, switches, circuit breakers, transformers, wiring, piping, and other electrical components, including associated cable trays, conduit, and insulation, located between a motor control center and exempt machinery or equipment or between separate units of exempt machinery or equipment;

(6) Machinery or equipment used to maintain, clean, or repair exempt machinery or equipment;

(7) Machinery or equipment used to provide safety for the employees working at a manufacturing plant, including, but not limited to, safety machinery and equipment required by federal or state law, gloves, ear plugs, face masks, protective eyewear, hard hats or helmets, or breathing apparatuses;

(8) Machinery or equipment used to condition air or water to produce conditions necessary for the manufacture of tangible personal property, including pollution control machinery or equipment and water treatment systems;

(9) Pollution control, sanitizing, sterilizing, or recycling machinery or equipment;

(10) Industrial materials bought for further processing in the manufacture of tangible personal property for sale or further processing or any part of the industrial material or by-product thereof which becomes a wasteful product contributing to pollution problems and which is used up in a recycling or burning process;

(11) Machinery or equipment used in quarrying and mining activities, including blasting, extraction, and crushing;

(12) For the period commencing on July 1, 2021, and ending on June 30, 2031, maintenance and replacement parts for machinery or equipment, stationary or in transit, used to mix, agitate, and transport freshly mixed concrete in a plastic and unhardened state, including but not limited to mixers and components, engines and components, interior and exterior operational controls and components, hydraulics and components, all structural components, and all safety components, provided that sales and use taxes on motor fuel used as energy in a concrete mixer truck shall not be exempt or refundable; and

(13) Energy used at a manufacturing plant.

History.
Code 1981, § 48-8-3.2, enacted by Ga. L. 2012, p. 257, § 5-2/HB 386; Ga. L. 2014, p. 229, § 1/HB 900; Ga. L. 2017, p. 568, § 1/HB 247; Ga. L. 2021, p. 289, § 5-3/SB 6; Ga. L. 2025, p. 266, § 1/HB 153, effective July 1, 2025.

Amendments.
The 2025 amendment, effective July 1, 2025, substituted "June 30, 2031" for "June 30, 2026" in paragraph (e)(12).

48-8-3.3. Exemptions for agricultural operations; establishment of Georgia Agricultural Trust Fund.

(a) As used in this Code section, the term:

(1)(A) "Agricultural machinery and equipment" means machinery and equipment used in the production of agricultural products, including, but not limited to, machinery and equipment used in the production of poultry and eggs for sale, including, but not limited to, equipment used in the cleaning or maintenance of poultry houses; in hatching and breeding of poultry and the breeding of livestock and equine; in production, processing, and storage of fluid milk for sale; in drying, ripening, cooking, further processing, or

storage of agricultural products, including, but not limited to, orchard crops; in production of livestock and equine for sale; by a producer of poultry, eggs, fluid milk, equine, or livestock for sale; for the purpose of harvesting agricultural products to be used on the farm by that producer as feed for poultry, equine, or livestock; in tilling the soil or in animal husbandry; machinery and equipment used exclusively for irrigation of agricultural products, including, but not limited to, fruit, vegetable, and nut crops regardless of whether the irrigation machinery or equipment becomes incorporated into real property; and machinery and equipment used to cool agricultural products in storage facilities.

(B) "Agricultural machinery and equipment" shall mean farm tractors and attachments to the tractors; off-road vehicles used primarily in the production of nursery and horticultural crops; self-propelled fertilizer or chemical application equipment sold to persons engaged primarily in producing agricultural products for sale and which are used exclusively in tilling, planting, cultivating, and harvesting agricultural products, including growing, harvesting, or processing onions, peaches, blackberries, blueberries, or other orchard crops, nursery, and other horticultural crops; devices and containers used in the transport and shipment of agricultural products; aircraft exclusively used for spraying agricultural crops; pecan sprayers, pecan shakers, and other equipment used in harvesting pecans sold to persons engaged in the growing, harvesting, and production of pecans; and off-road equipment and related attachments which are sold to or used by persons engaged primarily in the growing or harvesting of timber and which are used exclusively in site preparation, planting, cultivating, or harvesting timber. Equipment used in harvesting shall include all off-road equipment and related attachments used in every forestry procedure starting with the severing of a tree from the ground until and including the point at which the tree or its parts in any form has been loaded in the field in or on a truck or other vehicle for transport to the place of use. Such off-road equipment shall include, but not be limited to, skidders, feller bunchers, debarkers, delimbers, chip harvesters, tub-grinders, woods cutters, chippers of all types, loaders of all types, dozers, mid-motor graders, and the related attachments; grain bins and attachments to grain bins regardless of whether such grain bins or attachments are incorporated into real property; any repair, replacement, or component parts installed on agricultural machinery and equipment; trailers used to transport agricultural products; all-terrain vehicles and multipassenger rough-terrain vehicles; and any other off-road vehicles used in the production of agricultural or horticultural products.

(2)(A) "Agricultural operations" is used synonymously with the term "agricultural purposes" and means the following activities:

(i) Raising, growing, harvesting, or storing of crops, including, but not limited to, soil preparation and crop production services such as plowing, fertilizing, seed bed preparation, planting, cultivating, and crop protecting services;

(ii) Feeding, breeding, or managing livestock, equine, or poultry;

(iii) Producing or storing feed for use in the production of livestock, including, but not limited to, cattle, calves, swine, hogs, goats, sheep, equine, and rabbits, or for use in the production of poultry, including, but not limited to, chickens, hens, ratites, and turkeys;

(iv) Producing plants, trees, fowl, equine, or other animals;

(v) Producing aquacultural, horticultural, viticultural, silvicultural, grass sod, dairy, livestock, poultry, egg, and apiarian products;

(vi) Processing poultry;

(vii) Post-harvest services on crops with the intent of preparing them for market or further processing, including but not limited to crop cleaning, drying, shelling, fumigating, curing, sorting, grading, packing, ginning, canning, pickling, and cooling;

(viii) Slaughtering poultry and other animals; and

(ix) Manufacturing dairy products.

(B) "Agricultural operations" excludes constructing, installing, altering, repairing, dismantling, or demolishing real property structures or fixtures, including, but not limited to, grain bins, irrigation equipment, and fencing.

(2.1) "Agricultural products" means items produced by agricultural operations. Agricultural products are considered grown in this state if such products are grown, produced, or processed in this state, whether or not such products are composed of constituent products grown or produced outside this state.

(3)(A) "Agricultural production inputs" means seed; seedlings; plants grown from seed, cuttings, or liners; fertilizers; insecticides; livestock and poultry feeds, drugs, and instruments used for the administration of such drugs; fencing products and materials used to produce agricultural products regardless of whether the fencing products or materials become incorporated into real property;

fungicides; rodenticides; herbicides; defoliants; soil fumigants; plant growth regulating chemicals; desiccants, including, but not limited to, shavings and sawdust from wood, peanut hulls, fuller's earth, straw, and hay; feed for animals, including, but not limited to, livestock, fish, equine, hogs, or poultry; sugar used as food for honeybees kept for the commercial production of honey, beeswax, and honeybees; cattle, hogs, sheep, equine, poultry, or bees when sold for breeding purposes; ice or other refrigerants, including, but not limited to, nitrogen, carbon dioxide, ammonia, and propylene glycol used in the processing for market or the chilling of agricultural products in storage facilities, rooms, compartments, or delivery trucks; materials, containers, crates, boxes, labels, sacks, bags, or bottles used for packaging agricultural products when the product is either sold in the containers, sacks, bags, or bottles directly to the consumer or when such use is incidental to the sale of the product for resale; and containers, plastic, canvas, and other fabrics used in the care and raising of agricultural products or canvas used in covering feed bins, silos, greenhouses, and other similar storage structures.

(B)(i) For the period beginning on May 8, 2025, and ending on December 31, 2025, such term also means building materials used to repair or replace:

(I) Greenhouses; and

(II) Real property structures or fixtures used exclusively for the production of animals, including, but not limited to, poultry sheds and livestock barns.

(ii) Notwithstanding subsection (c) of Code Section 48-8-63, contractors shall not incur any use tax on any building materials that a qualified agricultural producer purchases tax-exempt under division (i) of this subparagraph for use in an agricultural operation and furnishes to such contractor for installation into real property.

(3.1) "Animal" shall be synonymous with livestock and means living organisms that are commonly regarded as farm animals, organisms that produce tangible personal property for sale, or organisms that are processed, manufactured, or converted into articles of tangible personal property for sale. The term does not include living organisms that are commonly regarded as domestic pets or companion animals.

(4) "Energy used in agriculture" means fuels used for agricultural purposes, other than fuels subject to prepaid tax as defined in Code Section 48-8-2. The term includes, but is not limited to, off-road diesel, propane, butane, electricity, natural gas, wood, wood products,

or wood by-products; liquefied petroleum gas or other fuel used in structures in which broilers, pullets, or other poultry are raised, in which swine are raised, in which dairy animals are raised or milked or where dairy products are stored on a farm, in which agricultural products are stored, and in which plants, seedlings, nursery stock, or floral products are raised primarily for the purposes of making sales of such plants, seedlings, nursery stock, or floral products for resale; electricity or other fuel for the operation of an irrigation system which is used on a farm exclusively for the irrigation of agricultural products; and electricity or other fuel used in the drying, cooking, or further processing of raw agricultural products, including, but not limited to, food processing of raw agricultural products.

(5) "Qualified agricultural producer" includes producers of agricultural products who meet one of the following criteria:

(A) The person or entity is the owner or lessee of agricultural land or other real property from which $5,000.00 or more of agricultural products in aggregate were produced and sold during the year, including payments from government sources;

(B) The person or entity is in the business of performing agricultural operations and has provided $5,000.00 of such services during the year;

(C) The person or entity is in the business of producing long-term agricultural products from which there might not be annual income, including, but not limited to, timber, pulpwood, orchard crops, pecans, livestock, and horticultural or other multiyear agricultural or farm products. Applicants must demonstrate that sufficient volumes of such long-term agricultural products will be produced which have the capacity to generate in aggregate at least $5,000.00 in annualized sales in the future; or

(D) The person or entity must establish, to the satisfaction of the Commissioner of Agriculture, that the person or entity is actively engaged in the production of agricultural products and has or will have created sufficient volumes to generate in aggregate at least $5,000.00 in annualized sales.

(b) The sales and use taxes levied or imposed by this article shall not apply to sales to, or use by, a qualified agricultural producer of agricultural production inputs, energy used in agriculture, diesel exhaust fluid for agricultural uses only, and agricultural machinery and equipment.

(c) The Commissioner of Agriculture shall require applicants to acknowledge and produce, upon request, at least one of the following forms to determine eligibility under this Code section:

(1) Business activity on IRS schedule F (Profit or Loss from Farming);

(2) Farm rental activity on IRS form 4835 (Farm Rental Income and Expenses) or schedule E (Supplemental Income and Loss);

(3) Irs form 4797;

(4) IRS Form 1065; or

(5) IRS Form 1120 or 1120(s).

If an applicant does not file any of the forms provided for in this subsection but claims eligibility for the exemption certificate pursuant to the criteria specified in paragraph (5) of subsection (a) of this Code section, the applicant shall provide to the Commissioner of Agriculture any documentation, tax returns, forms, or sales receipts required by the Commissioner of Agriculture and the commissioner, in his or her discretion, shall determine if the applicant has met such eligibility requirements in determining whether to issue or deny the issuance of the certificate.

(d)(1) Qualified agricultural producers that meet the criteria provided for in paragraph (5) of subsection (a) of this Code section must apply to the Commissioner of Agriculture to request an agricultural sales and use tax exemption certificate that contains an exemption number. Upon request, the qualified agricultural producer shall also produce the form or forms requested by the Commissioner of Agriculture under subsection (c) of this Code section to the commissioner. Such application shall be in a form prescribed by the Commissioner of Agriculture and shall contain, among other information, a warning to the agricultural producer of the consequences for providing false information on the application or for unauthorized use or misuse of the exemption applied for, an acknowledgment by the agricultural producer that the Commissioner of Agriculture is authorized, by the submission of the application, to share the information contained therein with the department, and an acknowledgment by the agricultural producer that records of purchases of qualified agricultural products exempt from sales and use tax shall be maintained and shall, upon request, be furnished to the Commissioner of Agriculture and the commissioner.

(2) The Commissioner of Agriculture shall not issue or renew an agricultural sales and use tax exemption until the agricultural producer requesting such certificate has provided the Commissioner of Agriculture with a valid state taxpayer identification number obtained through the Department of Revenue's Georgia Tax Center.

(3) Any agricultural sales and use tax exemption certificate issued or renewed on or after January 1, 2019, shall be valid for three years.

In order to have staggered renewal dates for such three-year certificates, the Commissioner of Agriculture shall, by rules and regulations, establish a schedule for the orderly renewal of existing certificates and shall prorate the application or renewal fee specified in paragraph (4) of subsection (e) of this Code section for the initial period, if less than three years, so renewed.

(4) To facilitate the use of the exemption certificate, a wallet sized card containing the producer's name, address, exemption number, and expiration date shall be issued by the Commissioner of Agriculture. Notwithstanding that exemption certificates are renewed for three-year periods, the Commissioner of Agriculture shall, upon renewal, issue a card each year that such certificate is in effect.

(e)(1) The Commissioner of Agriculture and the commissioner are authorized to cooperate in the promulgation of rules and regulations governing the issuance of agricultural exemption certificates and the administration and enforcement of this Code section.

(2) A seller shall, upon the first use of a new or renewed tax exemption certificate during any calendar year, verify that such certificate is valid by reviewing the producer's certificate. A seller shall be authorized to continue to honor the tax exemption certificate unless the seller receives actual notice of a suspension or revocation. A seller is prohibited from allowing the sales tax exemption if the producer cannot provide a valid tax exemption certificate.

(3) If an agricultural producer knowingly uses a tax exemption certificate unlawfully, the Commissioner of Agriculture, after verifying the unlawful use of the tax exemption certificate, and subject to notice and a hearing in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," shall suspend the certificate for up to one year. If a subsequent unlawful use is knowingly made within five years following the end of the suspension, the Commissioner of Agriculture, after notice and hearing, shall determine if the certificate should be revoked. Any agricultural producer who has had his or her certificate revoked pursuant to this paragraph shall not be eligible for the issuance of a new tax exemption certificate until three years from the date of such revocation.

(4) The Commissioner of Agriculture is authorized to establish an oversight board and direct staff and is authorized to charge a fee of $150.00 per three-year issuance or renewal.

(5)(A) There shall be established a Georgia Agricultural Trust Fund as a separate fund in the state treasury. The Commissioner of Agriculture shall be the trustee of the fund.

(B) The state treasurer shall invest the money held in the Georgia Agricultural Trust Fund in the same manner in which

state funds are invested as authorized by the State Depository Board pursuant to Article 3 of Chapter 17 of Title 50. Interest earned by the money held in the trust fund shall be accounted for separately and shall be credited to the trust fund to be disbursed as other moneys in the trust fund. The fund is authorized to accept donations from private individuals and entities.

(C) Under the authority granted and subject to the conditions imposed by Article III, Section IX, Paragraph VI(r) of the Constitution of Georgia, for the period beginning on July 1, 2022, and ending on June 30, 2032, all of the money collected pursuant to paragraph (4) of this subsection shall be annually appropriated to the Georgia Agricultural Trust Fund established by subparagraph (A) of this paragraph and such funds shall not lapse as otherwise required by Article III, Section IX, Paragraph IV(c) of the Constitution of Georgia. Each annual appropriation shall be made through the General Appropriations Act and shall include all of the money collected from such source during the most recently completed fiscal year.

(D) All of the money appropriated to the Georgia Agricultural Trust Fund pursuant to subparagraph (C) of this paragraph shall be dedicated for use and expended by the Commissioner of Agriculture for the purposes of marketing and promotion activities conducted by the Department of Agriculture in support of Georgia agricultural products and supporting the maintenance and operations of state farmers' markets.

(E) The Commissioner of Agriculture shall prepare an accounting of the funds expended pursuant to this paragraph during the most recently completed fiscal year to be provided to the Office of Planning and Budget, the House Budget and Research Office, and the Senate Budget and Evaluation Office by January 1 of each year.

(f)(1) The department, in conjunction with the Department of Agriculture, is authorized to conduct audits, as necessary, to monitor compliance with the provisions of this Code section.

(2) The department and the Department of Agriculture shall, and are hereby authorized to, share information that is necessary to efficiently administer and enforce the provisions of this Code section. Any information shared for these purposes, if confidential, shall retain its character as confidential and privileged information. The furnishing of information as permitted by this Code section shall not be deemed to change the confidential character of the information furnished. Any person who divulges any confidential information obtained under this Code section shall be subject to the same civil and criminal penalties as provided for divulgence of confidential information by employees of the department.

(3) Upon issuance of a new or renewed tax exemption certificate, the Department of Agriculture shall provide the applicant with informational material detailing the lawful use of the tax exemption certificate. Any seller of tax exempt products under this Code section shall also be provided with such informational material. Any person who knowingly uses such certificate unlawfully shall be subject to any civil or criminal penalties authorized by law in addition to the suspension or revocation of such certificate.

(g) A dealer that performs both manufacturing and agricultural operations at a single place of business may avail itself of the exemptions under either Code Section 48-8-3.2 or this Code section, but not both, for that place of business in any one calendar year.

(h) Notwithstanding subsection (c) of Code Section 48-8-63, contractors shall not incur any use tax on:

(1) Tangible personal property that a qualified agricultural producer purchases tax-exempt under this Code section and furnishes to such contractor for use in the performance of an agricultural operation, so long as such property retains the character of tangible personal property and is returned to the qualified agricultural producer upon the completion of the contract; or

(2) Grain bins, irrigation equipment, and fencing or the repair, replacement, or component parts to grain bins, irrigation equipment, or fencing that a qualified agricultural producer purchases tax-exempt under this Code section for use in an agricultural operation and furnishes to such contractor for installation into real property.

(i) The Department of Agriculture shall prepare an annual report for the chairpersons of the House Committee on Ways and Means and the Senate Finance Committee detailing the activity in administering and enforcing the provisions of this Code section. The report shall include but not be limited to the:

(1) Number of new tax exemption certificates issued;

(2) Number of renewed tax exemption certificates issued; and

(3) Number of tax exemption certificates revoked or suspended due to knowingly unlawful activity.

History.

Code 1981, § 48-8-3.3, enacted by Ga. L. 2012, p. 257, § 5-3/HB 386; Ga. L. 2013, p. 7, § 5/HB 266; Ga. L. 2014, p. 288, § 1/HB 983; Ga. L. 2016, p. 429, § 1/HB 822; Ga. L. 2018, p. 338, § 1/HB 886; Ga. L. 2021, p. 761, § 16/HB 511; Ga. L. 2022, p. 352, § 48/HB 1428; Ga. L. 2024, p. 454, § 1/SB 340, effective July 1, 2024; Ga. L. 2025, p. 231, § 2-3/HB 223, effective May 8, 2025.

Amendments.

The 2025 amendment, effective May 8, 2025, designated the existing provisions of paragraph (a)(3) as subparagraph (a)(3)(A) and added subparagraph (a)(3)(B).

Code Commission notes.

Pursuant to Code Section 28-9-5, in 2025, substituted "May 8, 2025," for "on the effective date of this Act" in division (b)(1)(B)(i).

Editor's notes.

Ga. L. 2025, p. 231, § 1-1/HB 223, not codified by the General Assembly, provides: "This part shall be known and may be cited as the 'Timberlands Recovery, Exemption, and Earnings Stability (TREES) Act.'"

Ga. L. 2025, p. 231, § 1-2/HB 223, not codified by the General Assembly, provides: "The General Assembly finds that:

"(1) Hurricane Helene has had a catastrophic impact on the citizens and the economy of many areas in this state, has particularly devastated the timber industry on which the citizens of southwest Georgia are heavily dependent for their livelihood by reducing or eliminating the long-held investments in standing timber and" timberlands of businesses and families, and has created both a public fire hazard and a danger of insect infestations due to the massive amounts of downed timber caused by the severity of this natural disaster;

"(2) As of November, 2024, the estimated losses to standing timber caused by Hurricane Helene as measured by the State Forestry Commission were nearly $1.3 billion;

"(3) Timberlands as investments are unique as an agriculture product in this state, as timber products often take ten years or longer to realize any return on the investment;

"(4) Many counties, municipalities, and local school districts rely on the taxes levied at the time of timber's harvest or sale pursuant to Code Section 48-5-7.5, but with the destruction of timberlands throughout this state, that tax revenue will likely not be realized; and

"(5) It is the intent of the General Assembly to authorize local governing authorities to provide temporary tax relief from the taxes levied pursuant to Code 48-5-7.5 so that the timber industry, and the businesses and families that provide timber products to such industry, will realize a reduced cost for growing new product and recovering from the devastating effects of Hurricane Helene. These reduced costs will help stabilize the market and allow for quicker harvesting and recovery of lands where some timber is still salvageable."

48-8-6. Prohibition of political subdivisions from imposing various taxes; ceiling on local sales and use taxes; taxation of mobile telecommunications.

(a)(1) Except as provided in this subsection, on and after July 1, 2024, there shall not be imposed in any jurisdiction in this state or on any transaction in this state local sales taxes, local use taxes, or local sales and use taxes in excess of 2 percent. For purposes of such 2 percent limitation, the taxes affected are any sales tax, use tax, or sales and use tax which is levied in an area consisting of less than the entire state, however authorized, including such taxes authorized by or pursuant to constitutional amendment, and regardless of whether another provision of law purports to the contrary except for the following:

(A) A 1 percent sales and use tax for educational purposes exempted from such limitation under Article VIII, Section VI, Paragraph IV of the Constitution;

(B) Up to 1 percent in aggregate of any of the transportation related sales and use taxes authorized under Articles 5, 5A, and 5B

of this chapter and Article 2 of Chapter 9 of Title 32, and in a county in which a tax is levied and collected pursuant to Part 2 of Article 2A of this chapter, any tax levied for purposes of a metropolitan area system of public transportation, as authorized by the amendment to the Constitution set out at Georgia Laws, 1964, page 1008, the continuation of such amendment under Article XI, Section I, Paragraph IV(d) of the Constitution, and the laws enacted pursuant to such constitutional amendment; and

(C) Up to 1 percent in aggregate of any sales and use taxes authorized under Code Section 48-8-96, Code Section 48-8-97, Article 2B of this chapter, Part 3 of Article 3 of this chapter, and Article 4 of this chapter.

(2) Notwithstanding any provision of law to the contrary, any tax that does not comply with the limitations provided in paragraph (1) of this subsection as of July 1, 2025, but was initiated in compliance with the law in effect prior to January 1, 2025, shall be allowed to continue as authorized under laws that existed prior to July 1, 2025; provided, however, that, upon the expiration or termination of any such tax, the jurisdiction that levied such tax shall be fully subject to the limitations imposed by this subsection.

(3) This subsection shall not limit the imposition of any local excise tax, which is separately authorized under Chapter 13 of this title.

(4) If the imposition of any otherwise authorized local sales tax, local use tax, or local sales and use tax would result in a tax rate in excess of that authorized by this subsection, then such otherwise authorized tax shall not be imposed.

(b) Reserved.

(c) Where the exception specified in paragraph (2) of subsection (a) of this Code section applies, the tax imposed under subparagraph (a)(1)(D) of Code Section 48-8-111 shall not apply to the sale of motor vehicles.

(c.1) Where the exception specified in paragraph (2) of subsection (a) of this Code section applies, on and after July 1, 2007, the aggregate amount of all excise taxes imposed under paragraph (5) of subsection (a) of Code Section 48-13-51 and all sales and use taxes shall not exceed 14 percent.

(d) Notwithstanding any law or ordinance to the contrary, any tax, charge, or fee levied by any political subdivision of this state and applicable to mobile telecommunications services, as defined in Section 124(7) of the federal Mobile Telecommunications Sourcing Act, 4 U.S.C. Section 124(7), shall apply only if the customer's place of primary use is located within the boundaries of the political subdivision levying such

local tax, charge, or fee. For purposes of this subsection, the provisions of Code Section 48-8-13 shall apply in the same manner and to the same extent as such provisions apply to the tax levied by Code Section 48-8-1 on mobile telecommunications services. This subsection shall not be construed to authorize the imposition of any tax, charge, or fee.

History.

Ga. L. 1951, p. 360, § 25; Ga. L. 1965, p. 451, § 3; Ga. L. 1971, p. 85, § 1A; Ga. L. 1971, p. 95, § 1; Ga. L. 1975, p. 984, § 1; Ga. L. 1975, p. 1002, § 6; Ga. L. 1977, p. 744, § 5; Code 1933, § 91A-4534, enacted by Ga. L. 1978, p. 309, § 2; Ga. L. 1983, p. 3, § 37; Ga. L. 1985, p. 232, § 3; Ga. L. 2002, p. 576, § 1; Ga. L. 2002, p. 970, § 1; Ga. L. 2003, p. 665, § 13; Ga. L. 2004, p. 69, § 5; Ga. L. 2005, p. 60, § 48/HB 95; Ga. L. 2010, p. 662, § 3/HB 1221; Ga. L. 2010, p. 778, § 5/HB 277; Ga. L. 2010, p. 813, § 1/HB 1393; Ga. L. 2010, p. 878, § 48/HB 1387; Ga. L. 2014, p. 475, § 1/HB 1009; Ga. L. 2014, p. 649, § 2/HB 265; Ga. L. 2015, p. 217, § 1/HB 215; Ga. L. 2015, p. 236, § 7-4/HB 170; Ga. L. 2018, p. 377, § 1-2/HB 930; Ga. L. 2018, Ex. Sess., p. ES7, § 3-4/HB 5EX; Ga. L. 2023, p. 47, § 1/HB 230, effective April 24, 2023; Ga. L. 2024, p. 20, § 3-1/HB 581, effective January 1, 2025; Ga. L. 2025, p. 4, § 3-1/HB 92, effective April 1, 2025.

Amendments.

The 2024 amendment, effective January 1, 2025, rewrote subsection (a). See Editor's notes for applicability.

The 2025 amendment, effective April 1, 2025, substituted "such" for "this" and "contrary" for "contrary," in paragraph (a)(1); inserted ", and in a county in which a tax is levied and collected pursuant to Part 2 of Article 2A of this chapter, any tax levied for purposes of a metropolitan area system of public transportation, as authorized by the amendment to the Constitution set out at Georgia Laws, 1964, page 1008, the continuation of such amendment under Article XI, Section I, Paragraph IV(d) of the Constitution, and the laws enacted pursuant to such constitutional amendment" in subparagraph (a)(1)(B); deleted "such tax shall not be renewed and" preceding "the jurisdiction" in paragraph (a)(2); and substituted "If" for "Except as provided in paragraph (2) of this subsection, if" at the beginning of paragraph (a)(4). See Editor's notes for applicability.

Editor's notes.

Ga. L. 2024, p. 20, § 4-1/HB 581, provides that the 2024 amendment becomes effective on January 1, 2025; provided, however, that, if a constitutional amendment which becomes effective on January 1, 2025 and which authorizes the General Assembly to provide by general law for a homestead exemption that applies statewide, but that permits political subdivisions to individually opt out of such homestead exemption, has not been ratified, then this Act shall stand automatically repealed on January 1, 2025. The constitutional amendment proposed in Ga. L. 2024, p. 20, authorizing the statewide homestead exemption, was approved by a majority of the qualified voters voting at the general election held on November 5, 2024.

Ga. L. 2025, p. 4, § 4-1(a)/HB 92, not codified by the General Assembly, provides that the amendment of subsection (a) is applicable on or after April 1, 2025.

48-8-15. Ratification of Executive Order on temporary and partial exemption for liquid propane gas commodity sold and delivered for residential heating.

(a) The General Assembly finds that:

(1) Liquid propane gas and natural gas are essential commodities used by all Georgians to heat their homes;

(2) There has been a substantial rise in the prices of liquid propane gas and natural gas since adjournment of the 2005 regular session of the General Assembly such that the prices for liquid propane gas and natural gas for 2006 are projected to far exceed the 2005 prices for these commodities;

(3) The significant increase in liquid propane gas and natural gas prices has burdened and will continue to burden financially all Georgians who must use these commodities to heat their homes during the winter months; and

(4) The significant increase in liquid propane gas and natural gas prices for the winter months of 2006 will result in a windfall to the state in the form of surplus sales and use taxes on these commodities.

(b)(1) For the time period commencing as specified in the Executive Order of the Governor dated December 19, 2005, and filed in the official records of the office of the Governor as Executive Order 12.19.05.01 and the time period concluding at the end of the third completed billing cycle ending on or before April 30, 2006, state sales and use taxation pursuant to Code Section 48-8-30 as that tax applies to charges for the natural gas commodity billed for residential use shall be governed by the provisions of this Code section notwithstanding any provisions of Code Section 48-8-30, or any other law, to the contrary.

(2) For the time period commencing as specified in the Executive Order of the Governor dated December 19, 2005, and filed in the official records of the office of the Governor as Executive Order 12.19.05.01 and concluding on the last moment of March 31, 2006, state sales and use taxation pursuant to Code Section 48-8-30 as that tax applies to sales of the liquid propane gas commodity when sold and delivered primarily for residential heating purposes shall be governed by the provisions of this Code section notwithstanding any provisions of Code Section 48-8-30, or any other law, to the contrary.

(c) Sales or use of fuels described in subsection (b) of this Code section shall be exempt from the first 2 percent of the 4 percent state sales and use tax imposed under this chapter and shall be subject to the remaining 2 percent of the 4 percent state sales and use tax imposed under this chapter. The temporary and partial sales and use tax exemption provided for in this subsection shall not apply to local sales and use taxes levied and imposed in an area consisting of less than the entire state, however authorized, including, but not limited to, such taxes authorized by or pursuant to constitutional amendment; by or pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, known as the "Metropolitan Atlanta Rapid Transit Authority Act of 1965"; or by or pursuant to Article 2, 2A, 3, or

4 of Chapter 8 of this title. Such local taxes shall remain applicable to sales of such fuels.

(d) The tax relief required under this Code section with respect to charges for the natural gas commodity billed for residential use shall be credited or otherwise reflected on a consumer's natural gas bill as soon as practicable and shall apply only with respect to charges billed for the natural gas commodity and not for other enumerated charges.

(e) The failure of the dealer to pass through to the purchaser of any of the fuels described in subsection (b) of this Code section the amount of the tax exemptions, decreases, or reduction under this Code section shall constitute an unfair or deceptive act or practice under Part 2 of Article 15 of Chapter 1 of Title 10, the "Fair Business Practices Act," as amended, and shall be subject to enforcement by the administrator of said Part 2 in the same manner as any other act or practice constituting a violation of said Part 2 and subject to the same remedies and penalties as any other act or practice constituting a violation of said Part 2.

(f) The commissioner is authorized to prescribe forms and promulgate rules and regulations deemed necessary in order to administer and effectuate this Code section.

History.

Code 1981, § 48-8-15, enacted by Ga. L. 2006, p. 1, § 2/HB 970; Ga. L. 2017, p. 774, § 48/HB 323; Ga. L. 2025, p. 1029, § 48(10)/SB 153, effective July 1, 2025.

Amendments.

The 2025 amendment, effective July 1, 2025, part of an Act to revise, modernize, and correct the Code, substituted "Chapter 1" for "Chapter 10" in subsection (e).

Part 2

Imposition, Rate, Collection, and Assessment

48-8-78. Appropriation for freight and logistic projects.

Editor's notes.

Pursuant to the terms of subsection (c), funds were appropriated in 2023 for FY 2024, in 2024 for FY 2025, and in 2025 for FY 2026.

ARTICLE 2

JOINT COUNTY AND MUNICIPAL SALES AND USE TAX (LOST)

48-8-89.1. Procedure for certifying additional qualified municipalities; issuance of new distribution certificate; cessation of authority to collect tax.

(a) If there exists within any special district in which the tax authorized by this article is imposed a qualified municipality which was not a qualified municipality on the date of filing with the commissioner of the most recently filed certificate under Code Section 48-8-89, such qualified municipality may request the commissioner to give notice of the qualified municipality's existence as provided in this subsection. Upon receipt of such a request, the commissioner shall, unless he determines that the requesting entity is not a qualified municipality, within 30 days give written notice of the qualified municipality's existence to the county which is conterminous with the special district in which the qualified municipality is located and to each other qualified municipality within the special district. Such written notice shall include the name of the new qualified municipality, the effective date of the notice, and a statement of the provisions of this Code section.

(b) Within 60 days after the effective date of the notice referred to in subsection (a) of this Code section, a new distribution certificate shall be filed with the commissioner for the special district or, within 30 days after the last day of the 60 day alternative dispute resolution period required by paragraph (3) of subsection (d) of Code Section 48-8-89, the county, any qualified municipality located wholly or partially within the special district, or any new qualified municipality as specified under subsection (a) of this Code section located wholly or partially within the special district may file a petition in superior court seeking resolution of the items remaining in dispute pursuant to the procedure set forth in paragraph (4) of subsection (d) of Code Section 48-8-89. In the event such a petition is filed, a new qualified municipality as specified under subsection (a) of this Code section located wholly or partially within the special district shall be subject to the same requirements applicable to qualified municipalities located wholly or partially within the special district under paragraph (4) of subsection (d) of Code Section 48-8-89. The new distribution certificate shall specify by percentage what portion of the proceeds of the tax available for distribution within the special district shall be received by the county in which the special district is located and by each qualified municipality located wholly or partially within the special district, including the new qualified municipality. No distribution certificate shall contain a total of specified percentages in excess of 100 percent.

(c) Except as otherwise provided in this subsection, a distribution

certificate required by this Code section must be executed by the governing authorities of the county within which the special district is located and each qualified municipality located wholly or partially within the special district, including the new qualified municipality. Notwithstanding the fact that a certificate shall not contain an execution in behalf of one or more qualified municipalities within the special district, if the combined total of the populations of all such absent municipalities is less than one-half of the aggregate population of all qualified municipalities located within the special district, the submitting political subdivisions shall, in behalf of the absent municipalities, specify a percentage of that portion of the remaining proceeds which each such municipality shall receive, which percentage shall not be less than that proportion which each absent municipality's population bears to the total population of all qualified municipalities within the special district multiplied by that portion of the remaining proceeds which are received by all qualified municipalities within the special district. For the purpose of determining the population of the absent municipalities, only that portion of the population of each such municipality which is located within the special district shall be computed.

(d) If a new certificate is not filed for any special district as required by this Code section, the authority to impose the tax authorized by Code Section 48-8-82 within that special district shall cease on the first day of January of the year following the year in which the required distribution certificate could last have been timely filed. In any special district in which the authority to impose the tax is terminated pursuant to this subsection, the tax may thereafter be reimposed only pursuant to the procedures specified in Code Sections 48-8-84 through 48-8-86.

(e) If a new certificate is filed as required by this Code section, the commissioner shall begin to distribute the proceeds as specified in the new certificate on the first day of January of the first calendar year which begins more than 60 days after the effective date of the notice referred to in subsection (b) of this Code section. The commissioner shall continue to distribute the proceeds of the tax according to the new certificate until a subsequent certificate is filed and becomes effective as provided in Code Section 48-8-89.

(f)(1) As used in this subsection, the term:

(A) "New qualified municipality" means a municipal corporation which has been chartered by local Act since the date of filing with the commissioner of the most recently filed certificate under Code Section 48-8-89 within a county which has a special district for the provision of local government services consisting of the unincorporated area of the county where the population of the unincorporated area of the county, after removal of the population of the new municipality from the unincorporated area, constitutes

less than 20 percent of the population of the county according to the most recent decennial census.

(B) "Newly expanded qualified municipality" means a municipal corporation which since the date of filing with the commissioner of the most recently filed certificate under Code Section 48-8-89 has increased its population by more than 15 percent through one or more annexations and is located in the same county as a new qualified municipality.

(2) Notwithstanding any other provision of this Code section, if there exists within any special district in which the tax authorized by this article is imposed a new qualified municipality or a newly expanded qualified municipality or both, such qualified municipality or municipalities may request the commissioner to give notice of the qualified municipality's or municipalities' existence and status as a new qualified municipality or newly expanded qualified municipality as provided in this subsection. Upon receipt of such a request, the commissioner shall, unless he or she determines that the requesting entity is not a new qualified municipality or newly expanded qualified municipality, within 30 days give written notice of the qualified municipality's existence and status to the county which is conterminous with the special district in which the qualified municipality is located and to each other qualified municipality within the special district. Such written notice shall include the name of the new qualified municipality or newly expanded qualified municipality, the effective date of the notice, and a statement of the provisions of this subsection.

(3) Within 60 days after the effective date of the notice referred to in paragraph (2) of this subsection, a new distribution certificate shall be filed with the commissioner for the special district or, within 30 days after the last day of the 60 day alternative dispute resolution period required by paragraph (3) of subsection (d) of Code Section 48-8-89, the county, any qualified municipality located wholly or partially within the special district, or any new qualified municipality or newly expanded qualified municipality located wholly or partially within the special district may file a petition in superior court seeking resolution of the items remaining in dispute pursuant to the procedure set forth in paragraph (4) of subsection (d) of Code Section 48-8-89. The new distribution certificate shall address only the proceeds of the tax available for distribution from the percentage allocated to the county in the current distribution certificate and shall specify as a percentage of the total proceeds of the tax what portion of the proceeds shall be received by the county in which the special district is located and by the new qualified municipality and newly expanded qualified municipality located wholly or partially within the special district, if any.

(4) Except as otherwise provided in this paragraph, a distribution certificate required by this subsection must be executed by the governing authorities of the county within which the special district is located, each new qualified municipality located wholly or partially within the special district, and each newly expanded qualified municipality, if any. If a new certificate is not filed within 60 days as required by paragraph (3) of this subsection, the commissioner shall distribute the proceeds of the tax available for distribution from the percentage allocated to the county in the current distribution certificate such that:

(A) The new qualified municipality receives an allocation equal on a per capita basis to the average per capita allocation to the other qualified municipalities in the county (according to population), to be expended as provided in paragraph (2) of subsection (a) of Code Section 48-8-89; and

(B) Any newly expanded qualified municipality receives a total allocation of tax proceeds (including any amount previously allocated) equal on a per capita basis to the average per capita allocation to the other qualified municipalities in the county (according to population), to be expended as provided in paragraph (2) of subsection (a) of Code Section 48-8-89.

Every other qualified municipality shall continue to receive the share provided by the existing distribution certificate or otherwise provided by law. The county shall receive the remaining proceeds of the tax, to be expended as provided in paragraph (2) of subsection (a) of Code Section 48-8-89. For the purpose of determining the population of qualified municipalities, only that portion of the population of each such municipality which is located within the special district shall be computed. For the purpose of determining population under this Code section, all calculations of population shall be according to the most recent decennial census, including the census data from such census applicable to any annexed territory.

(5) The commissioner shall begin to distribute the proceeds as specified in the newly filed certificate or, if such a certificate is not filed, as specified in paragraph (4) of this subsection on the first day of the first month which begins more than 60 days after the effective date of the notice referred to in paragraph (2) of this subsection. The commissioner shall continue to distribute the proceeds of the tax according to the existing certificate and the certificate applicable to the county and the new qualified municipality or, if such a certificate is not filed, as specified in paragraph (4) of this subsection until a subsequent certificate is filed and becomes effective as provided in Code Section 48-8-89.

History.
Code 1981, § 48-8-89.1, enacted by Ga. L. 1983, p. 1461, § 1; Ga. L. 1985, p. 149, § 48; Ga. L. 2005, p. 185, § 4/HB 36; Ga. L. 2006, p. 901, § 1/HB 1403; Ga. L. 2010, p. 958, §§ 2, 3/HB 991; Ga. L. 2013, p. 141, § 48/HB 79.
Editor's notes.
This Code section is set out in the supplement to correct a formatting issue.

ARTICLE 2A

HOMESTEAD OPTION SALES AND USE TAX (HOST)

PART 1

HOMESTEAD OPTION SALES AND USE TAX

48-8-104. Administration and collection of tax; disbursement of proceeds.

(a) The sales and use tax levied pursuant to this part shall be exclusively administered and collected by the commissioner for the use and benefit of each county whose geographical boundary is conterminous with that of a special district. Such administration and collection shall be accomplished in the same manner and subject to the same applicable provisions, procedures, and penalties provided in Article 1 of this chapter except that the sales and use tax provided in this part shall be applicable to sales of motor fuels as prepaid local tax as such term is defined in Code Section 48-8-2; provided, however, that all moneys collected from each taxpayer by the commissioner shall be applied first to such taxpayer's liability for taxes owed the state. Dealers shall be allowed a percentage of the amount of the sales and use tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting, and paying the amount due if such amount is not delinquent at the time of payment. The deduction shall be at the rate and subject to the requirements specified under subsections (b) through (f) of Code Section 48-8-50.

(b) Each sales and use tax return remitting sales and use taxes collected under this part shall separately identify the location of each retail establishment at which any of the sales and use taxes remitted were collected and shall specify the amount of sales and the amount of taxes collected at each establishment for the period covered by the return in order to facilitate the determination by the commissioner that all sales and use taxes imposed by this part are collected and distributed according to situs of sale.

(c) The proceeds of the sales and use tax collected by the commissioner in each special district under this part shall be disbursed as soon as practicable after collection as follows:

(1) One percent of the amount collected shall be paid into the

general fund of the state treasury in order to defray the costs of administration;

(2) Except for the percentage provided in paragraph (1) of this subsection and the amount determined under subsections (d) and (e) of this Code section, the remaining proceeds of the sales and use tax shall be distributed to the governing authority of the county whose geographical boundary is conterminous with that of the special district; provided, however, that a county and any qualified municipality shall be authorized by intergovernmental agreement to waive the equalization amount otherwise required under subsections (d) and (e) of this Code section and provide for a different distribution amount. In the event of such waiver, except for the percentage provided in paragraph (1) of this subsection, the remaining proceeds of the sales and use tax shall be distributed to the governing authority of the county whose geographical boundary is conterminous with that of the special district. As a condition precedent for the authority to levy the sales and use tax or to collect any proceeds from the tax authorized by this part for the year following the first complete calendar year in which it is levied and for all subsequent years except the year following the year in which the sales and use tax is terminated under Code Section 48-8-106, the county whose geographical boundary is conterminous with that of the special district shall, except as otherwise provided in subsection (c) of Code Section 48-8-102, expend such proceeds as follows:

(A) A portion of such proceeds shall be expended for the purpose of funding capital outlay projects as follows:

(i) The governing authority of the county whose geographical boundary is conterminous with that of the special district shall establish the capital factor which shall not exceed .200 and, for a county in which a qualified municipality is located, shall not be less than the level required by subsection (d) of this Code section; therefore, at a minimum, the county shall set the capital factor at a level that yields an amount of capital outlay proceeds that is equal to or greater than the sum of all equalization amounts due qualified municipalities and existing municipalities under subsection (e) of this Code section; and

(ii) Capital outlay projects shall be funded in an amount equal to the product of the capital factor multiplied by the net amount of the sales and use tax proceeds collected under this part during the previous calendar year, and this amount shall be referred to as capital outlay proceeds in subsections (d) and (e) of this Code section;

(B) A portion of such proceeds shall be expended for the purpose of funding services within the special district equal to the revenue

lost to the homestead exemption as provided in this Code section as follows:

(i) The homestead factor shall be calculated by multiplying the quantity 1.000 minus the capital factor times an amount equal to the net amount of sales and use tax collected in the special district pursuant to this part for the previous calendar year, and then dividing by the taxes levied for county purposes on only that portion of the county tax digest that represents net assessments on qualified homestead property after all other homestead exemptions have been applied, rounding the result to three decimal places;

(ii) If the homestead factor is less than or equal to 1.000, the amount of homestead exemption created under this part on qualified homestead property shall be equal to the product of the homestead factor multiplied times the net assessment of each qualified homestead remaining after all other homestead exemptions have been applied; and

(iii) If the homestead factor is greater than 1.000, the homestead exemption created by this part on qualified homestead property shall be equal to the net assessment of each homestead remaining after all other homestead exemptions have been applied; and

(C) If any of such proceeds remain following the distribution provided for in subparagraphs (A) and (B) of this paragraph and subsections (d) and (e) of this Code section:

(i) The millage rate levied for county purposes shall be rolled back in an amount equal to such excess divided by the net taxable digest for county purposes after deducting all homestead exemptions including the exemption under this part; and

(ii) In the event the rollback created by division (i) of this subparagraph exceeds the millage rate for county purposes, the governing authority of the county whose boundary is conterminous with the special district shall be authorized to expend the surplus funds for funding all or any portion of those services which are to be provided by such governing authorities pursuant to and in accordance with Article IX, Section II, Paragraph III of the Constitution of this state.

(d)(1) The commissioner shall distribute to the governing authority of each qualified municipality located in the special district a share of the capital outlay proceeds calculated as provided in this subsection and subsection (e) of this Code section which proceeds shall be expended for the purpose of funding capital outlay projects of such municipality.

(2) Both the tax commissioner and the governing authority for the county in which a qualified municipality is located shall cooperate with and assist the commissioner in the calculation of the equalization amounts under subsection (e) of this Code section and shall, on or before July 1 of each year, provide to the commissioner and the governing authority of each qualified municipality written certification of the following:

(A) The capital factor set by the county for the current calendar year; provided, however, that the capital factor may not exceed 0.200;

(B) The total amount, if any, due to be paid to existing municipalities from the capital outlay proceeds as required by any intergovernmental agreement between the county and such municipalities;

(C) The incorporated county millage rate in each qualified municipality;

(D) The net homestead digest for each qualified municipality;

(E) The total homestead digest; and

(F) The unincorporated county millage rate.

If the tax commissioner and the governing authority of the county fail to provide such certification on or before July 1, the commissioner shall not distribute to such county any additional proceeds of the sales and use tax collected after July 1 unless and until such certification is provided.

(3) The commissioner shall then calculate the equalization amount due each qualified municipality based on the certifications provided by the tax commissioner and the governing authority of the county and pay such amount to the governing authority of each qualified municipality in six equal monthly payments as soon as practicable during or after each of the last six months of the current calendar year. In the event an existing municipality that has entered into an intergovernmental agreement with a county at any time before January 1, 2007, to receive capital outlay proceeds of the homestead option sales and use tax and such intergovernmental agreement has become or does become null and void for any reason, such existing municipality shall be treated under this part the same as if it were a qualified municipality as defined in paragraph (4) of Code Section 48-8-101 and therefore receive payment of equalization amounts under this part as provided for under this part. The commissioner shall distribute to the governing authority of the county each month the net sales and use tax remaining after payment of equalization amounts to the qualified municipalities.

(e)(1) As used in this subsection, the term:

(A) "Equalization amount" means for a qualified municipality the product of the equalization millage times the net homestead digest for that qualified municipality.

(B) "Equalization millage" means for each qualified municipality the product of the homestead factor calculated pursuant to division (c)(2)(B)(i) of this Code section times the difference between the unincorporated county millage rate and the incorporated county millage rate for that qualified municipality.

(C) "Incorporated county millage rate" means the millage rate for all ad valorem taxes for county purposes levied by the county in each of the qualified municipalities in the county.

(D) "Net homestead digest" means for each qualified municipality the total net assessed value of all qualified homestead property located in that portion of the qualified municipality located in the county remaining after all other homestead exemptions are applied.

(E) "Total homestead digest" means the total net assessed value of all qualified homestead property located in the county remaining after all other homestead exemptions are applied.

(F) "Unincorporated county millage rate" means the millage rate for all ad valorem taxes for county purposes levied by the county in the unincorporated areas of the county.

(2) For illustration purposes, a hypothetical example of the calculation of the equalization amount is provided below.

First, calculate the homestead factor in accordance with division (c)(2)(B)(i) of this Code section as follows:

(A) Capital factor certified by county as required by subsection (d) of this Code section	0.150
(B) Net amount of sales and use tax collected in the special district pursuant to this part for the previous calendar year	$50 million
(C) Taxes levied for county purposes on only that portion of the county tax digest that represents net assessments on qualified homestead property after all other homestead exemptions have been applied	$100 million

(D) Calculation of homestead factor using figures above = [(1-.0150)($50 million/$100 million)]	.425

Next, calculate the equalization amount in accordance with paragraph (1) of this subsection as follows:

(E) Unincorporated county millage rate	15.0 mills
(F) Minus the incorporated county millage rate for qualified municipality "Y"	(10.0 mills)
Difference:	= 5.0 mills
(G) Times homestead factor (calculated above)	x .425
(H) Equals the equalization millage:	= 2.125 mills
(I) Times net homestead digest for qualified municipality "Y"	$200 million
(J) Equals the equalization amount payable to municipality "Y"	$425,000.00

(3) In the event the total amount payable in a calendar year to all existing municipalities as certified by the county pursuant to subparagraph (d)(2)(B) of this Code section plus the total equalization amount payable to all qualified municipalities in the special district exceeds the capital outlay proceeds calculated based on a maximum capital factor of 0.200, the commissioner shall pay to the governing authority of each qualified municipality a share of such proceeds calculated as follows:

(A) Determine the capital outlay proceeds based on a maximum capital factor of 0.200;

(B) Subtract the amount certified by the county as payable to existing municipalities pursuant to subparagraph (d)(2)(B) of this Code section;

(C) The remaining amount equals the portion of the capital outlay proceeds that may be used by the commissioner to pay equalization amounts to qualified municipalities.

The commissioner shall calculate each qualified municipality's share of such remaining amount by dividing the net homestead digest for each qualified municipality by the total homestead digest for all municipalities.

(4) In the event the incorporated county millage rate for a qualified municipality is greater than the unincorporated county millage rate, no payment shall be due from the governing authority of the qualified municipality to the governing authority of the county.

(5) In the event the amount of capital outlay proceeds exceeds the sum of the equalization amounts due all qualified municipalities plus the total amount certified under subparagraph (d)(2)(B) of this Code section as due all existing municipalities, the commissioner shall distribute to each qualified municipality a portion of such excess equal to the net homestead digest for such municipality divided by the total homestead digest.

(6) If any qualified municipality is located partially in the county then only that portion so located shall be considered in the calculations contained in this subsection.

History.
Code 1981, § 48-8-104, enacted by Ga. L. 1995, p. 655, § 1; Ga. L. 1997, p. 1, § 4; Ga. L. 2007, p. 309, § 7/HB 219; Ga. L. 2007, p. 598, § 3/HB 264; Ga. L. 2009, p. 8, § 48/SB 46; Ga. L. 2010, p. 662, § 23/HB 1221; Ga. L. 2015, p. 217, § 2/HB 215.
Editor's notes.
This Code section is set out in the supplement to correct a formatting issue.

ARTICLE 2B

SPECIAL DISTRICT OPTION SALES AND USE TAX

Effective date.
This article became effective January 1. 2025. See Editor's notes for applicability.
Editor's notes.
Ga. L. 2024, p. 20, § 4-1/HB 581, not codified by the General Assembly, provides that the 2024 amendments to this Code section become effective on January 1, 2025, upon the ratification of a resolution at the November, 2024, state-wide general election that amends the Constitution so as to authorize the General Assembly to provide by general law for a state-wide homestead exemption but that permits political subdivisions to individually opt out. If such a resolution is not so ratified, then the amendments to this Code section shall not become effective and shall stand repealed on January 1, 2025. The constitutional amendment proposed in Ga. L. 2024, p. 1191, was approved by a majority of the qualified voters voting at the general election held on November 5, 2024.
Ga. L. 2024, p. 20, § 4-1/HB 581, not codified by the General Assembly, makes this article applicable to taxable years beginning on or after January 1, 2025.

48-8-109.30. Creation of special districts.

Editor's notes.
For information as to the effective date of this Code section, see the Effective date note at the beginning of this article.

48-8-109.31. Imposition of special sales and use tax within special district; limited time and purpose.

(a) Subject to the requirement of approval by local referendum and

the other requirements of this article, there may be imposed within any given special district a special sales and use tax for a limited period of time for the limited purpose of property tax relief.

(b) Except as to rate, a tax imposed under this part shall correspond to the tax imposed by Article 1 of this chapter. No item or transaction which is not subject to taxation under Article 1 of this chapter shall be subject to a tax imposed under this article, except that a tax imposed under this article shall apply to sales of motor fuels as prepaid local tax as defined in Code Section 48-8-2 and shall be applicable to the sale of food and food ingredients and alcoholic beverages as provided for in Code Section 48-8-3.

(c) The special sales and use tax provided for in subsection (a) of this Code section may be imposed by a special district in 0.05 percent increments, but in no event shall such tax exceed 1 percent in total. The levy of such tax upon sales of motor fuels as defined in Code Section 48-9-2 shall only be imposed on the retail sales price of the motor fuel which is not more than $3.00 per gallon.

(d) As conditions precedent to the issuance of the call for the referendum:

(1) The governing authority of the county whose geographical boundary is conterminous with that of the special district and the governing authority or authorities of all municipalities in such county that levy an ad valorem tax on property, other than those municipalities that are excluded from the special district pursuant to subsection (f) of this Code section, shall have in effect a base year value homestead exemption or adjusted base year value homestead exemption, except that such condition precedent shall not apply with respect to any municipality that levies an ad valorem tax on property and that represents no more than 5 percent of the special district's residents of municipalities that levy an ad valorem tax on property; and

(2) The governing authority of the county whose geographical boundary is conterminous with that of the special district and the governing authority or authorities, if any, that represent at least 50 percent of the special district's residents of municipalities that levy an ad valorem tax on property, other than those municipalities that are excluded from the special district pursuant to subsection (f) of this Code section, shall enter into an intergovernmental agreement calling for the tax authorized under this article and specifying the proposed rate of the tax, the proposed maximum period of time that the tax is to be levied, and the proposed distribution of the tax.

(e)(1) As used in this subsection, the term "absent municipality" means any municipality that levies an ad valorem tax on property,

other than those municipalities that are excluded from the special district pursuant to subsection (f) of this Code section, and that did not enter into the intergovernmental agreement provided for in paragraph (2) of subsection (d) of this Code section.

(2) If the combined total of the populations of all absent municipalities is less than one-half of the aggregate population of all municipalities located within the special district that levy an ad valorem tax on property, the governing authorities entering into such intergovernmental agreement shall, in behalf of such absent municipalities, specify a percentage of that portion of the remaining proceeds which each municipality that levies an ad valorem tax on property shall receive, which percentage shall not be less than that proportion which each such absent municipality's population bears to the total population of all municipalities that levy ad valorem taxes on property within the special district multiplied by that portion of the remaining proceeds which are received by all such municipalities within the special district. No portion of the tax shall be apportioned to counties or municipalities that do not levy an ad valorem tax on property or do not have a base year value homestead exemption or adjusted base year value homestead exemption in effect.

(f) Subject to the limitation provided for in Code Section 48-8-6, any special district which wholly or partially contains a jurisdiction levying the tax provided for under Article 4 of this chapter is authorized to levy the tax authorized under this article. Such tax authorized under this article may only be levied in the areas of the special district outside of the jurisdiction levying the tax provided for under Article 4 of this chapter. Any jurisdiction levying the tax provided for under Article 4 of this chapter shall not be considered within the procedure necessary to levy the tax under this article and shall not be entitled to any portion of said tax.

History.

Code 1981, § 48-8-109.31, enacted by Ga. L. 2024, p. 20, § 3-2/HB 581, effective January 1, 2025; Ga. L. 2025, p. 4, § 3-2/HB 92, effective April 1, 2025.

Amendments.

The 2025 amendment, effective April 1, 2025, substituted "there may be imposed" for "to impose" in the middle of subsection (a); redesignated former paragraph (d)(1) as subsection (d); redesignated former subparagraphs (d)(1)(A) and (d)(1)(B) as present paragraphs (d)(1) and (d)(2), respectively; redesignated former paragraph (d)(2) as present paragraph (e)(2); redesignated former paragraph (d)(3) as present subsection (f); in subsection (d), substituted "conditions" for "a condition"; in paragraphs (d)(1) and (d)(2), substituted "subsection (f) of this Code section" for "paragraph (3) of this subsection"; inserted "homestead exemption" in paragraphs (d)(1) and (e)(2); in paragraph (d)(1), inserted "in such county" near the beginning and inserted "except that such condition precedent shall not apply with respect to any municipality that levies an ad valorem tax on property and that represents no more than 5 percent of the special district's residents of municipalities that levy an ad valorem tax on property" near the end; added paragraph (e)(1); and, in paragraph (e)(2), in the first sentence, deleted "such" following "of all",

and substituted "governing authorities entering into such intergovernmental agreement shall, in" for "political subdivisions entering into the intergovernmental agreement shall, on", and substituted "or municipalities" for "and municipalities" in the second sentence.

Editor's notes.

Ga. L. 2024, p. 20, § 4-1/HB 581, not codified by the General Assembly, makes this Code section applicable to taxable years beginning on or after January 1, 2025.

For information as to the effective date of this Code section, see the Effective date note at the beginning of this article.

Ga. L. 2025, p. 4, § 4-1(a)/HB 92, not codified by the General Assembly, provides that the amendment of subsections (a), (d), (e), and (f) of this Code section is applicable on and after April 1, 2025.

48-8-109.32. Maximum period of time of the tax; submission to voters to determine imposition of tax; ballot language; expenses of election; resolution.

(a) The intergovernmental agreement required by this article shall specify the maximum period of time of the tax, to be stated in calendar years or calendar quarters not to exceed five years in total.

(b) Each such intergovernmental agreement shall prescribe that the county election superintendent shall issue the call for an election for the purpose of submitting the question of the imposition of the tax authorized by this article to the voters of the county. The call for and conduct of any such election shall be in the manner authorized under Code Section 21-2-540, on a date specified by the intergovernmental agreement from among the dates allowed under paragraph (2) of subsection (c) of Code Section 21-2-540. Such election superintendent shall cause the date and purpose of the election to be published once a week for four weeks immediately preceding the date of the election in the legal organ of the county or in a newspaper having general circulation in the county at least equal to that of the legal organ.

(c) The exact ballot language shall be prescribed in the intergovernmental agreement which imposes the tax authorized by this article, but shall contain, at a minimum, the purpose of the tax, the rate of the tax, and the duration for which the tax shall be imposed.

(d) All persons desiring to vote in favor of imposing the tax shall vote "Yes" and all persons opposed to levying the tax shall vote "No." If more than one-half of the votes cast are in favor of imposing the tax, then the tax shall be imposed as provided in this article; otherwise, the tax shall not be imposed and the question of imposing the tax shall not again be submitted to the voters of the special district until after 12 months immediately following the month in which the election was held; provided, however, that, if an election date authorized under paragraph (2) of subsection (c) of Code Section 21-2-540 occurs during the twelfth month immediately following the month in which such election was held, the question of imposing the tax may be submitted to the voters of the special district on such date. The county election superintendent

shall hold and conduct the election under the same rules and regulations as govern special elections. Such election superintendent shall canvass the returns, declare the result of the election, and certify the result to the Secretary of State and to the commissioner. The expense of the election shall be paid from county funds.

(e) If no intergovernmental agreement is required pursuant to this article, the governing authority of the county or consolidated government whose geographical boundary is conterminous with that of the special district shall adopt a resolution which meets the requirements provided for in this Code section for intergovernmental agreements.

History.
Code 1981, § 48-8-109.32, enacted by Ga. L. 2024, p. 20, § 3-2/HB 581, effective January 1, 2025; Ga. L. 2025, p. 4, § 3-3/HB 92, effective April 1, 2025.

Amendments.
The 2025 amendment, effective April 1, 2025, added subsection (e). See Editor's notes for applicability.

Editor's notes.
For information as to the effective date of this Code section, see the Effective date note at the beginning of this article.

Ga. L. 2025, p. 4, § 4-1(a)/HB 92, not codified by the General Assembly, makes subsection (e) of this Code section applicable on and after April 1, 2025.

48-8-109.33. Timing for imposition of tax following approval; termination of tax.

(a)(1) If the imposition of the tax is approved by referendum, the tax shall be imposed on the first day of the next succeeding calendar quarter which begins more than 50 days after the date of the election at which the tax was approved by the voters.

(2) With respect to services that are regularly billed on a monthly basis, however, the tax shall apply to the first regular billing period coinciding with or following the effective date specified in paragraph (1) of this subsection. A certified copy of the intergovernmental agreement or resolution required to impose the tax authorized by this article shall be forwarded to the commissioner to ensure it is received within five business days after certification of the election results.

(b) The tax shall cease to be imposed on the final day of the maximum period of time specified for the imposition of the tax.

(c) For any special district in which a tax authorized by this article is in effect, the General Assembly may pass a local Act calling for a reimposition of a tax as authorized by this article upon the termination of the tax then in effect, and a referendum may be held for this purpose while the tax is in effect. Proceedings for such reimposition shall be in the same manner as proceedings for the initial imposition of the tax as provided for in Code Sections 48-8-109.31 and 48-8-109.32. Such newly authorized tax shall not be imposed until the expiration of the tax then in effect.

History.

Code 1981, § 48-8-109.33, enacted by Ga. L. 2024, p. 20, § 3-2/HB 581, effective January 1, 2025; Ga. L. 2025, p. 4, § 3-4/HB 92, effective April 1, 2025.

Amendments.

The 2025 amendment, effective April 1, 2025, in paragraph (a)(2), deleted "the resolution or ordinance imposing the tax shall become effective and" following "however," in the first sentence, and substituted "intergovernmental agreement or resolution required to impose the tax authorized by this article" for "ordinance or resolution imposing the tax" in the second sentence; and, in subsection (c), deleted "may, while such tax is in effect" following "effect" in the first sentence and substituted "Code Sections 48-8-109.31 and" for "Code Section" in the second sentence. See Editor's notes for applicability.

Editor's notes.

For information as to the effective date of this Code section, see the Effective date note at the beginning of this article.

Ga. L. 2025, p. 4, § 4-1(a)/HB 92, not codified by the General Assembly, makes paragraph (a)(2) and subsection (c) of this Code section applicable on and after April 1, 2025.

48-8-109.34. Administration and collection of tax.

Editor's notes.

For information as to the effective date of this Code section, see the Effective date note at the beginning of this article.

48-8-109.35. Remittance of taxes collected.

Editor's notes.

For information as to the effective date of this Code section, see the Effective date note at the beginning of this article.

48-8-109.36. Disbursement of proceeds.

Editor's notes.

For information as to the effective date of this Code section, see the Effective date note at the beginning of this article.

48-8-109.37. Credit for tax paid in another jurisdiction.

Editor's notes.

For information as to the effective date of this Code section, see the Effective date note at the beginning of this article.

48-8-109.38. Inapplicability of tax to property ordered and delivered outside taxing special district.

Editor's notes.

For information as to the effective date of this Code section, see the Effective date note at the beginning of this article.

48-8-109.39. Inapplicability of tax to certain sales or uses of building and construction materials for projects bid prior to referendum on tax.

Editor's notes.

For information as to the effective date of this Code section, see the Effective date note at the beginning of this article.

48-8-109.40. Rules and regulations.

Editor's notes. For information as to the effective date of this Code section, see the Effective date note at the beginning of this article.

48-8-109.41. Impact on other taxes.

Editor's notes. For information as to the effective date of this Code section, see the Effective date note at the beginning of this article.

48-8-109.42. Use of tax proceeds; property tax relief requirements; noncompliance.

Editor's notes. For information as to the effective date of this Code section, see the Effective date note at the beginning of this article.