House Bill 918

By: Representatives Efstration of the 104th, Rogers of the 10th, and Rhodes of the 120th

A BILL TO BE ENTITLED

AN ACT

To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, so as to define the terms "Internal Revenue Code" and "Internal Revenue Code of 1986" and thereby incorporate certain provisions of the federal law into Georgia law; to revise the individual exemption amounts; to revise provisions relating to assignment of corporate income tax credits; to provide for related matters; to provide for an effective date and applicability; to provide for automatic repeal; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

"(14) 'Internal Revenue Code' or 'Internal Revenue Code of 1986' means for taxable years beginning on or after January 1, ~~2016~~ 2018, the provisions of the United States Internal Revenue Code of 1986, as amended, provided for in federal law enacted on or before January 1, ~~2017~~ 2018, except that ~~Section 85(c),~~ Section 108(i), Section 163(e)(5)(F), ~~Section 164(a)(6), Section 164(b)(6),~~ Section 168(b)(3)(I), Section 168(e)(3)(B)(vii), Section 168(e)(3)(E)(ix), Section 168(e)(8), Section 168(k) ~~(but not excepting Section 168(k)(2)(A)(i), Section 168(k)(2)(D)(i), and Section 168(k)(2)(E))~~, Section 168(m), Section 168(n), ~~Section 172(b)(1)(H), Section 172(b)(1)(J), Section 172(j),~~ Section 179(d)(1)(B)(ii), Section 179(f), Section 199, Section 381(c)(20), Section 382(d)(3), Section 810(b)(4), Section 1400L, Section 1400N(d)(1), Section 1400N(f), Section 1400N(j), Section 1400N(k), and Section 1400N(o) of the Internal Revenue Code of 1986, as amended, shall be treated as if they were not in effect, and except that Section 168(e)(7), Section 172(b)(1)(F), and Section 172(i)(1), ~~and Section 1221~~ of the Internal Revenue Code of 1986, as amended, shall be treated as they were in effect before the

2008 enactment of federal Public Law 110-343, and except that Section 163(i)(1) of the Internal Revenue Code of 1986, as amended, shall be treated as it was in effect before the 2009 enactment of federal Public Law 111-5, and except that Section 13(e)(4) of 2009 federal Public Law 111-92 shall be treated as if it was not in effect, <u>and except that Section 118, Section 163(j), and Section 382(k)(1) of the Internal Revenue Code of 1986, as amended, shall be treated as they were in effect before the 2017 enactment of federal Public Law 115-97,</u> and except that the limitations provided in Section 179(b)(1) shall be $250,000.00 for tax years beginning in 2010, shall be $250,000.00 for tax years beginning in 2011, shall be $250,000.00 for tax years beginning in 2012, shall be $250,000.00 for tax years beginning in 2013, and shall be $500,000.00 for tax years beginning in 2014, and except that the limitations provided in Section 179(b)(2) shall be $800,000.00 for tax years beginning in 2010, shall be $800,000.00 for tax years beginning in 2011, shall be $800,000.00 for tax years beginning in 2012, shall be $800,000.00 for tax years beginning in 2013, and shall be $2 million for tax years beginning in 2014, and provided that Section 1106 of federal Public Law 112-95 as amended by federal Public Law 113-243 shall be treated as if it is in effect, except the phrase 'Code Section 48-2-35 (or, if later, November 15, 2015)' shall be substituted for the phrase 'section 6511(a) of such Code (or, if later, April 15, 2015),' and notwithstanding any other provision in this title, no interest shall be refunded with respect to any claim for refund filed pursuant to Section 1106 of federal Public Law 112-95, and provided that subsection (b) of Section 3 of federal Public Law 114-292 shall be treated as if it is in effect, except the phrase 'Code Section 48-2-35' shall be substituted for the phrase 'section 6511(a) of the Internal Revenue Code of 1986' and the phrase 'such section' shall be substituted for the phrase 'such subsection.' In the event a reference is made in this title to the Internal Revenue Code or the Internal Revenue Code of 1954 as it existed on a specific date prior to January 1, ~~2017~~ <u>2018</u>, the term means the provisions of the Internal Revenue Code or the Internal Revenue Code of 1954 as it existed on the prior date. Unless otherwise provided in this title, any term used in this title shall have the same meaning as when used in a comparable provision or context in the Internal Revenue Code of 1986, as amended. For taxable years beginning on or after January 1, ~~2016~~ <u>2018</u>, provisions of the Internal Revenue Code of 1986, as amended, which were as of January 1, ~~2017~~ <u>2018</u>, enacted into law but not yet effective shall become effective for purposes of Georgia taxation on the same dates upon which they become effective for federal tax purposes.″

SECTION 2.

Said title is further amended by revising subparagraphs (b)(8)(A) and (b)(10.1)(A) of Code Section 48-7-21, relating to taxation of corporations, as follows:

"(A) A corporation from sources outside the United States as defined in the Internal Revenue Code of 1986. For purposes of this subparagraph, dividends received by a corporation from sources outside of the United States shall include amounts treated as a dividend and income deemed to have been received under provisions of the Internal Revenue Code of 1986 by such corporation if such amounts could have been subtracted from taxable income under this paragraph, had such amounts actually been received<u>, but shall not include income specified in Section 951A of the Internal Revenue Code of 1986. The deduction provided by Section 250 shall apply to the extent the same income is included in Georgia taxable net income. Deductions, exclusions, or subtractions provided by Section 245A, Section 965, or any other section of the Internal Revenue Code of 1986 shall not apply to the extent the related income has been subtracted pursuant to this subparagraph</u>. Amounts to be subtracted under this subparagraph shall include the following <u>unless previously excluded by this subparagraph</u>, as defined by the Internal Revenue Code of 1986:

(i) Qualified electing fund income;

(ii) Subpart F income; and

(iii) Income attributable to an increase in United States property by a controlled foreign corporation.

The amount subtracted under this subparagraph shall be reduced by any expenses directly attributable to the dividend income; and"

"(A) For any taxable year in which the taxpayer takes a federal net operating loss deduction on its federal income tax return, the amount of such deduction shall be added back to federal taxable income, and Georgia taxable net income for such taxable year shall be computed from the taxpayer's federal taxable income as so adjusted. There shall be allowed as a separate deduction from Georgia taxable net income so computed an amount equal to the aggregate of the Georgia net operating loss carryovers to such year, plus the Georgia net operating loss carrybacks to such year <u>if such carrybacks are allowed by the Internal Revenue Code of 1986. 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</u>;"

SECTION 3.

Said title is further amended by revising subsection (b) of Code Section 48-7-26, relating to personal exemptions, to read as follows:

"(b)(1) An exemption of ~~$7,400.00~~ $9,250.00 shall be allowed as a deduction in computing Georgia taxable income of a taxpayer and spouse, but only if a joint return is filed. If a taxpayer and spouse file separate returns, ~~$3,700.00~~ $4,625.00 shall be allowed to each person as a deduction in computing Georgia taxable income.

(2) An exemption of ~~$2,700.00~~ $3,375.00 shall be allowed as a deduction in computing Georgia taxable income for all taxpayers other than taxpayers who qualify for the exemption provided for in paragraph (1) of this subsection.

(3) Commencing with the taxable year beginning January 1, ~~2003~~ 2018, an exemption of ~~$3,000.00~~ $3,750.00 for each dependent of a taxpayer shall be allowed as a deduction in computing Georgia taxable income of the taxpayer."

SECTION 4.

Said title is further amended by revising paragraph (1) of subsection (a) and adding a new paragraph to subsection (b) of Code Section 48-7-27, relating to computation of taxable income of individuals, to read as follows:

"(1) Either the sum of all itemized nonbusiness deductions the taxpayer used or was eligible to use in computing federal taxable income ~~if the taxpayer used itemized nonbusiness deductions in computing federal taxable income~~ or~~, if the taxpayer could not or did not itemize nonbusiness deductions, then~~ a standard deduction as provided for in the following subparagraphs:

(A) In the case of a single taxpayer or a head of household, $2,300.00;

(B) In the case of a married taxpayer filing a separate return, $1,500.00;

(C) In the case of a married couple filing a joint return, $3,000.00;

(D) An additional deduction of $1,300.00 for the taxpayer if the taxpayer has attained the age of 65 before the close of the taxpayer's taxable year. An additional deduction of $1,300.00 for the spouse of the taxpayer shall be allowed if a joint return is made by the taxpayer and the taxpayer's spouse and the spouse has attained the age of 65 before the close of the taxable year; and

(E) An additional deduction of $1,300.00 for the taxpayer if the taxpayer is blind at the close of the taxable year. An additional deduction of $1,300.00 for the spouse of the taxpayer shall be allowed if a joint return is made by the taxpayer and the taxpayer's spouse and the spouse is blind at the close of the taxable year. For the purposes of this subparagraph, the determination of whether the taxpayer or the spouse is blind shall be made at the close of the taxable year except that, if either the taxpayer or the spouse dies during the taxable year, the determination shall be made as of the time of the death;″

″(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.″

SECTION 5.

Said title is further amended by revising subsection (c) and adding a new subsection to Code Section 48-7-42, relating to affiliated entities and assignment of corporate income tax credits, to read as follows:

″(c) The recipient of a tax credit assigned under subsection (b) of this Code section shall attach a statement to its return identifying the assignor of the tax credit, in addition to providing any other information required to be provided by a claimant of the assigned tax credit. With the exception of the transferable credits in Code Sections 48-7-29.8, 48-7-29.12, 48-7-40.26, and 48-7-40.26A, the recipient of a tax credit assigned under subsection (b) of this Code section shall also be eligible to take any credit against payments due under Code Section 48-7-103, subject to the same requirements as the assignor of such credit at the time of the assignment.″

″(g) For the purposes of all credits provided for by this chapter, the sale, merger, acquisition, or bankruptcy of any taxpayer shall not create new eligibility for the succeeding transferee in such transaction or event, but any unused credit eligible to be applied against income tax liability under this article may be transferred and continued by such transferee with the same rights and subject to the same requirements and restrictions as were applicable to the predecessor entity at the time of the sale, merger, acquisition, or bankruptcy.″

SECTION 6.

(a) This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval and shall be applicable to all taxable years beginning on or after January 1, 2018.

(b) Section 3 of this Act shall expire by operation of law on the last moment of December 31, 2025, and revert to the language of subsection (b) of Code Section 48-7-26 as it existed on the day immediately preceding the effective date of this Act.

(c) The revisions to paragraph (1) of subsection (a) of Code Section 48-7-27 contained in Section 4 of this Act shall expire by operation of law on the last moment of December 31, 2025, and revert to the language contained in such paragraph as it existed on the day immediately preceding the effective date of this Act.

(d) The revisions to subsection (c) of Code Section 48-7-42 contained in Section 5 of this Act shall be applicable to tax credits that are assigned in taxable years beginning on or after January 1, 2018. New subsection (g) of Code Section 48-7-42 contained in Section 5 of this Act shall be applicable to sales, mergers, acquisitions, or bankruptcies occurring in taxable years beginning on or after January 1, 2018.

SECTION 7.

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