

House Bill 1459

By: Representatives Dunahoo of the 30th, Barr of the 103rd, Leverett of the 33rd, Hawkins of the 27th, Singleton of the 71st, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and
2 taxation, so as to repeal income taxes in their entirety; to completely revise sales and use
3 taxes; to repeal the corporate net worth tax; to provide for conditions and limitations; to
4 provide for legislative findings; to provide definitions; to provide a short title; to provide for
5 related matters; to provide an effective date; to repeal conflicting laws; and for other
6 purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 This Act shall be known and may be cited as the "Georgia FairTax Act."

10 **SECTION 2.**

11 The General Assembly makes the following findings:

12 (a) The Georgia income tax:

13 (1) Discourages the only two legal activities that raise overall living standards:
14 productive work and prudent capital investment;

- 15 (2) Retards economic growth and has reduced the standard of living of the Georgian
16 public;
- 17 (3) Impedes the competitiveness of Georgia industry;
- 18 (4) Reduces savings and investment in Georgia by taxing income multiple times;
- 19 (5) Slows the capital formation necessary for real wages to steadily increase;
- 20 (6) Impedes innovation and lowers productivity;
- 21 (7) Imposes unacceptable and unnecessary administrative and compliance costs on
22 individual and business taxpayers;
- 23 (8) Is unfair and inequitable;
- 24 (9) Unnecessarily intrudes upon the privacy and civil rights of Georgian citizens;
- 25 (10) Hides the true cost of government by embedding taxes in the costs of everything
26 Georgians buy;
- 27 (11) Is not being complied with at satisfactory levels and therefore raises the tax burden
28 on law-abiding citizens; and
- 29 (12) Impedes upward social mobility.
- 30 (b) The existing sales and use tax:
- 31 (1) Has too many exceptions which are unfair, increase complexity, and distort the
32 economy;
- 33 (2) Taxes business inputs which results in a hidden tax and reduces investment in
34 Georgia; and
- 35 (3) Has a disproportionately adverse impact on lower income Georgians.
- 36 (c) A broad based sales tax on goods and services purchased for final consumption:
- 37 (1) Will cause employers to create more jobs by encouraging investment in Georgia
38 across all businesses;
- 39 (2) Will encourage Georgians to seek employment by increasing take home pay;
- 40 (3) Is simpler and more fair than the sales and use tax in place;
- 41 (4) Will promote savings and investment;

- 42 (5) Will promote fairness;
- 43 (6) Will promote economic growth;
- 44 (7) Will raise the standard of living;
- 45 (8) Will increase investment;
- 46 (9) Will enhance productivity and competitiveness;
- 47 (10) Will reduce administrative burdens on the Georgian taxpayer;
- 48 (11) Will improve upward social mobility;
- 49 (12) Will exempt the poor from tax; and
- 50 (13) Will respect the privacy interests and civil rights of taxpayers.
- 51 (d) Recent advances in smartcard technology provide an opportunity to distribute monthly
- 52 rebates in an efficient and convenient manner.

53 **SECTION 3.**

54 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is

55 amended by repealing Chapter 7, relating to income taxes, and enacting a new Chapter 7 to

56 read as follows:

57 "CHAPTER 7

58 ARTICLE 1

59 48-7-1.

60 (a) Any court, the commissioner and the commissioner's delegates, and any other authority

61 shall consider the purposes of this chapter as the primary aid in statutory construction.

62 (b) The purposes of this chapter are to:

63 (1) Raise revenue needed by the State of Georgia in a manner consistent with the other

64 purposes of this chapter;

65 (2) Tax all consumption of goods and services in Georgia once, without exception, but
66 only once;

67 (3) Prevent double, multiple, or cascading taxation;

68 (4) Simplify the tax law and reduce the administration costs of, and the costs of
69 compliance with, the tax law; and

70 (5) Provide for the administration of the tax law in a manner that respects privacy, due
71 process, individual rights when interacting with the government, the presumption of
72 innocence in criminal proceedings, and the presumption of lawful behavior in civil
73 proceedings.

74 (c) As a secondary aid in statutory construction, any court, the commissioner and the
75 commissioner's delegates, and any other authority shall consider:

76 (1) The common law canons of statutory construction;

77 (2) The meaning and construction of concepts and terms used in this title as in effect
78 before the effective date of this chapter; and

79 (3) Construe any ambiguities in this chapter in favor of reserving powers to the people.

80 48-7-2.

81 As used in this chapter, the term:

82 (1) 'Affiliated firms' means a firm is affiliated with another if one firm owns 50 percent
83 or more of:

84 (A) The voting shares in a corporation; or

85 (B) The capital interests of a business firm that is not a corporation.

86 (2) 'Annual marriage penalty elimination amount' means the amount that is:

87 (A) Two times the annual level determined by the Department of Health and Human
88 Services poverty guidelines required by Sections 652 and 673(2) of the Omnibus
89 Reconciliation Act of 1981 for a family of one, less

- 90 (B) The annual level determined by the Department of Health and Human Services
91 poverty guidelines required by Sections 652 and 673(2) of the Omnibus Reconciliation
92 Act of 1981 for a family of two.
- 93 (3) 'Annual poverty level' means the sum of:
- 94 (A) The annual level determined by the Department of Health and Human Services
95 poverty guidelines required by Sections 652 and 673(2) of the Omnibus Reconciliation
96 Act of 1981 for a particular family size; and
- 97 (B) In case of families that include a married couple, the annual marriage penalty
98 elimination amount.
- 99 (4) 'Bad debt' means a business debt that becomes wholly or partially worthless to the
100 payee.
- 101 (5) 'Business debt' means a bona fide loan or debt made for a business purpose that both
102 parties intended be repaid.
- 103 (6) 'Business use ratio' means the ratio of business use to total use for a particular
104 calendar month or portion thereof if the property was owned for only part of such
105 calendar month. For vehicles, the business use ratio shall be the ratio of business purpose
106 miles to total miles in a particular calendar month. For real property, the business use
107 ratio shall be the ratio of floor space used primarily for business purposes to total floor
108 space in a particular calendar month. For tangible personal property, except for vehicles,
109 the business use ratio shall be the ratio of total time used for business purposes to total
110 time used in a particular calendar year. For other property or services, the business ratio
111 shall be calculated using a reasonable method. Reasonable records shall be maintained
112 to support a person's business use of the mixed use property or service.
- 113 (7) 'Designated commercial private courier service' means a firm designated as such by
114 the commissioner, upon application of the firm, if the firm:
- 115 (A) Provides its services to the general public;

116 (B) Records electronically to its data base kept in the regular course of its business the
117 date on which an item was given to such firm for delivery; and

118 (C) Has been operating for at least one year.

119 (8) 'Education and training' means tuition for primary, secondary, or postsecondary level
120 education, and job-related training courses. Such term shall not include room, board,
121 sports activities, recreational activities, hobbies, games, arts or crafts, or cultural
122 activities.

123 (9) 'Employee discount' means an employer's offer of taxable property or services for
124 sale to its employees or their families for less than the offer of such taxable property or
125 services to the general public.

126 (10) 'Employee discount amount' means the amount by which taxable property or
127 services are sold pursuant to an employee discount below the amount for which such
128 taxable property or services would have been sold to the general public.

129 (11) 'Explicitly charged fees for financial intermediation services' means and includes:

130 (A) Brokerage fees;

131 (B) Explicitly stated banking, loan origination, processing, documentation, credit check
132 fees, or other similar fees;

133 (C) Safe-deposit box fees;

134 (D) Insurance premiums, to the extent such premiums are not allocable to the
135 investment account of the underlying insurance policy;

136 (E) Trustees' fees; and

137 (F) Other financial services fees, including mutual fund management, sales, and exit
138 fees.

139 (12) 'Family members' means and includes:

140 (A) An individual;

141 (B) The individual's spouse;

142 (C) All lineal ancestors and descendants of such individual and such individual's
143 spouse;

144 (D) All legally adopted children of such individual and such individual's spouse; and

145 (E) All children under legal guardianship of such individual and such individual's
146 spouse.

147 (13) 'Financial intermediation services' means the sum of explicitly charged fees for
148 financial intermediation services, and implicitly charged fees for financial intermediation
149 services.

150 (14) 'Financing lease' means any lease under which the lessee has the right to acquire the
151 property for 50 percent or less of its fair market value at the end of the lease term.

152 (15) 'Gross imputed amount' means:

153 (A) With respect to any underlying interest-bearing investment or account, the product
154 of the excess, if any, of the basic interest rate over the rate paid on such investment, and
155 the amount of the investment or account; and

156 (B) With respect to any underlying interest-bearing debt, the product of the excess, if
157 any, of the rate paid on such debt over the basic interest rate, and the amount of the
158 debt.

159 (16) 'Gross payments' means payments for taxable property or services, including taxes
160 imposed by this chapter.

161 (17) 'Implicitly charged fees for financial intermediation services' means the gross
162 imputed amount in relation to any underlying interest-bearing investment, account, or
163 debt.

164 (18) 'Insurance contract' means a life insurance contract, a health insurance contract, a
165 property and casualty loss insurance contract, a general liability insurance contract, a
166 marine insurance contract, a fire insurance contract, an accident insurance contract, a
167 disability insurance contract, a long-term care insurance contract, or an insurance contract
168 that provides a combination of these types of insurance.

169 (19) 'Intangible property' includes copyrights, trademarks, patents, goodwill, financial
170 instruments, securities, commercial paper, debts, notes and bonds, and other property
171 deemed intangible at common law. Such term shall not include tangible personal
172 property, real property, or computer software and shall not include rents or leaseholds of
173 any term for tangible personal property or real property.

174 (20) 'Intermediate article' means a property or service that:

175 (A) Is used to produce, provide, render, or sell a taxable property or service if such
176 property or service is purchased by a person engaged in a trade or business for the
177 purpose of employing or using such taxable property or service in the production,
178 provision, rendering, or sale of other taxable property or services in the ordinary course
179 of that trade or business;

180 (B) Is used in a trade or business for the purpose of research, experimentation, testing,
181 and development;

182 (C) Purchased by an insurer on behalf of an insured, shall be treated as used to
183 produce, provide, render, or sell taxable property or services if the premium for the
184 insurance contract giving rise to the insurer's obligation was subject to tax pursuant to
185 this chapter; or

186 (D) Is education or training.

187 (21) 'Mixed use property or service' means a taxable property or taxable service used for
188 both taxable use or consumption and for a business purpose in a trade or business.

189 (22) 'Purchased for a business purpose in a trade or business' means purchased by a
190 person engaged in a trade or business and used in that trade or business:

191 (A) For resale;

192 (B) To produce, provide, render, or sell taxable property or services; or

193 (C) In furtherance of other bona fide business purposes.

194 (23) 'Purchased for an investment purpose' means property purchased exclusively for
195 purposes of appreciation or the production of income but not entailing more than minor
196 personal efforts.

197 (24) 'Qualified family' means one or more family members sharing a common residence.
198 All family members sharing a common residence shall be considered as part of one
199 qualified family. In order for a person to be counted as a member of the family for
200 purposes of determining the size of the qualified family, such person shall:

201 (A) Have a bona fide social security number; and

202 (B) Be a lawful resident of both the United States and the State of Georgia.

203 (25) 'Qualified not-for-profit organization' means a not-for-profit organization organized
204 and operated exclusively:

205 (A) For religious, charitable, scientific, testing for public safety, literary, or educational
206 purposes;

207 (B) As civic leagues or social welfare organizations;

208 (C) As labor, agricultural, or horticultural organizations;

209 (D) As chambers of commerce, business leagues, or trade associations; or

210 (E) As fraternal beneficiary societies, orders, or associations,

211 no part of the net earnings of which inures to the benefit of any private shareholder or
212 individual.

213 (26) 'Registered seller' means a person registered pursuant to Code Section 48-7-52.

214 (27) 'Responsible officers and partners' means:

215 (A) In the case of a corporation, any officer who is the president, the chief executive
216 officer, a vice president, the secretary, the treasurer, or the chief financial officer or who
217 serves a similar function for the corporation;

218 (B) In the case of a partnership, any partner other than limited partners; and

219 (C) In the case of a limited liability company, any officer serving the function of a
220 corporate president or chief executive officer, treasurer or chief financial officer, or
221 secretary and any member actively engaged in the management of the company.

222 (28) 'Tax inclusive fair market value' means the fair market value of taxable property or
223 services plus the tax imposed by this chapter.

224 (29) 'Taxable employer' means any household employing domestic servants and any
225 government. Such term shall not mean any employer which is engaged in a trade or
226 business, a not-for-profit organization as provided in Code Section 48-7-75, or a
227 government enterprise as provided in Code Section 48-7-73.

228 (30) 'Taxable gaming services' means:

229 (A) Gross receipts of the gaming sponsor from the sale of chances, minus

230 (B) The sum of total gaming payoffs to chance purchasers, and gaming specific taxes
231 imposed by the federal, state, or local government.

232 (31) 'Taxable property or service' means:

233 (A) Any property, including leaseholds of any term or rents of such property excluding
234 intangible property or used property; and

235 (B) Any service, which shall include financial intermediation services. For the
236 purposes of this paragraph, the term 'service' shall include any service performed by an
237 employee for which the employee is paid wages or a salary by a taxable employer, but
238 shall not include any service performed by an employee for which the employee is paid
239 wages or a salary by:

240 (i) An employer in the regular course of the employer's trade or business;

241 (ii) An employer that is a not-for-profit organization;

242 (iii) An employer that is a government enterprise; or

243 (iv) Taxable employers to employees directly providing education and training.

244 (32) 'Used property' means property on which the tax imposed by this chapter has been
245 collected and for which no credit has been allowed under Code Section 48-7-31, 48-7-32,

246 or 48-7-35, or property that was held other than for a business purpose on December 31,
247 2018.

248 (33) 'Wage' or 'salary' means all compensation paid for employment service, including
249 cash compensation, employee benefits, disability insurance, or wage replacement
250 insurance payments, unemployment compensation insurance, workers' compensation
251 insurance, and the fair market value of any other consideration paid by an employer to
252 an employee in consideration for employment services rendered.

253 ARTICLE 2

254 48-7-20.

255 (a) There is hereby imposed a tax on the use or consumption in the State of Georgia of
256 taxable property or services.

257 (b) The rate of tax is 6.70 percent of the gross payments for the taxable property or service.

258 (c)(1) The person using or consuming a taxable property or service in the State of
259 Georgia is liable for the tax imposed by this Code section, except as provided in
260 paragraph (2) of this subsection.

261 (2) A person using or consuming a taxable property or service in the State of Georgia is
262 not liable for the tax imposed by this Code section if the person pays the tax to a person
263 selling the taxable property or service and receives from such person a purchaser's receipt
264 within the meaning of Code Section 48-7-58.

265 48-7-21.

266 No tax shall be imposed under Code Section 48-7-20 on any taxable property or service
267 that is:

268 (1) Purchased for a business purpose in a trade or business;

269 (2) An intermediate article; or

270 (3) Purchased for an investment purpose and held exclusively for an investment purpose.
271 48-7-22.
272 (a) Except as provided otherwise by this Code section, any tax imposed by this chapter
273 shall be collected and remitted by the seller of taxable property or services, which shall
274 include financial intermediation services.
275 (b)(1) In the case of taxable property or services purchased outside of the State of
276 Georgia and brought into the State of Georgia for use or consumption in the State of
277 Georgia, the purchaser shall remit the tax imposed by Code Section 48-7-20.
278 (2) In the case of wages or salary paid by a taxable employer which are taxable services,
279 the employer shall remit the tax imposed by Code Section 48-7-20.
280 (c) Property or services purchased for a business purpose in a trade or business, for an
281 investment purpose or for sale outside of the State of Georgia and sold untaxed pursuant
282 to Code Section 48-7-20 that is subsequently converted to personal use in the State of
283 Georgia shall be deemed purchased at the time of conversion and shall be subject to the tax
284 imposed by Code Section 48-7-20 at the fair market value of the converted property as of
285 the date of conversion. The tax shall be due as if the property had been sold at the fair
286 market value during the month of conversion. The person using or consuming the
287 converted property is liable for and shall remit the tax.
288 (d) If gross payment for taxable property or services is not made in United States currency,
289 then the person responsible for collecting and remitting the tax shall remit the tax in United
290 States currency as if gross payment had been made in United States currency at the tax
291 inclusive fair market value of the taxable property or services purchased.

292

ARTICLE 3293 48-7-30.

294 (a) Each person shall be allowed a credit with respect to the taxes imposed by Code
295 Section 48-7-20 for each month in an amount equal to the sum of:

296 (1) Such person's business use conversion credit pursuant to Code Section 48-7-31 for
297 such month;

298 (2) Such person's intermediate and out-of-state sales credit pursuant to Code Section
299 48-7-32 for such month;

300 (3) The administrative credit pursuant to Code Section 48-7-33 for such month;

301 (4) The bad debt credit pursuant to Code Section 48-7-34 for such month;

302 (5) The insurance proceeds credit pursuant to Code Section 48-7-35 for such month;

303 (6) The transitional inventory credit pursuant to Code Section 48-7-100; and

304 (7) Any amount paid in excess of the amount due.

305 (b) Only one credit allowed by this Code section may be taken with respect to any
306 particular gross payment.

307 48-7-31.

308 (a) For purposes of Code Section 48-7-30, a person's business use conversion credit for
309 any month is the aggregate of the amounts determined under subsection (b) of this Code
310 section with respect to taxable property and services:

311 (1) On which tax was imposed by this chapter and actually paid; and

312 (2) Which commenced to be 95 percent or more used during such month for business
313 purposes.

314 (b) The amount determined under this Code section with respect to any taxable property
315 or service is the lesser of the product of:

316 (1) The rate imposed by Code Section 48-7-20 and the quotient that is the fair market
317 value of the property or service when its use is converted, divided by the quantity that is
318 one minus the tax rate imposed by Code Section 48-7-20; or

319 (2) The amount of tax paid with respect to such taxable property or service, including the
320 amount, if any, determined in accordance with Code Section 48-7-74.

321 48-7-32.

322 For purposes of Code Section 48-7-30, a person's intermediate and out-of-state sales credit
323 is the amount of sales tax paid on the purchase of any taxable property or service:

324 (1) Purchased for a business purpose in a trade or business; or

325 (2) Purchased for use or consumption outside the State of Georgia.

326 48-7-33.

327 (a) Every person filing a timely monthly report in compliance with Code Section 48-7-51
328 shall be entitled to a taxpayer administrative credit equal to the greater of \$200.00 or
329 one-quarter of 1 percent of the tax remitted.

330 (b) The credit allowed under this Code section shall not exceed 20 percent of the tax due
331 to be remitted prior to the application of any credit or credits permitted by Code Section
332 48-7-30.

333 48-7-34.

334 (a) Any person who has experienced a bad debt other than unpaid invoices shall be entitled
335 to a credit equal to the product of:

336 (1) The rate imposed by Code Section 48-7-20; and

337 (2) The quotient that is:

338 (A) The amount of the bad debt, divided by

339 (B) The quantity that is one minus the rate imposed by Code Section 48-7-20.

340 (b) Any person electing the accrual method pursuant to Code Section 48-7-53 that has with
341 respect to a transaction:

342 (1) Invoiced the tax imposed by Code Section 48-7-20;

343 (2) Remitted the invoiced tax;

344 (3) Actually delivered the taxable property or performed the taxable services invoiced;
345 and

346 (4) Not been paid 180 days after the date the invoice was due to be paid,

347 shall be entitled to a credit equal to the amount of tax remitted and unpaid by the purchaser.

348 (c) Any payment made with respect to a transaction subsequent to a credit being taken
349 pursuant to this Code section with respect to that transaction shall be subject to tax in the
350 month the payment was received as if a tax inclusive sale of taxable property and services
351 in the amount of the payment had been made.

352 (d) Partial payments shall be treated as pro rata payments of the underlying obligation and
353 shall be allocated proportionately:

354 (1) For fully taxable payments, between payment for the taxable property and service
355 and tax; and

356 (2) For partially taxable payments, among payment for the taxable property and service,
357 tax and other payment.

358 (e) The credit provided by this Code section shall not be available with respect to sales
359 made to affiliated firms or family members.

360 48-7-35.

361 (a) A person receiving a payment from an insurer by virtue of an insurance contract shall
362 be entitled to a credit in an amount determined by subsection (b) of this Code section, less
363 any amount paid to the insured by the insurer pursuant to subsection (c) of this Code
364 section, if the entire premium, except that portion allocable to the investment account of
365 the underlying policy, for the insurance contract giving rise to the insurer's obligation to

366 make a payment to the insured was subject to the tax imposed by this chapter and such tax
367 was paid.

368 (b) The amount of the credit shall be the product of:

369 (1) The rate imposed by Code Section 48-7-20; and

370 (2) The quotient that is:

371 (A) The amount of the payment made by the insurer to the insured, divided by

372 (B) The quantity that is one minus the rate imposed by Code Section 48-7-20.

373 (c) The credit determined in accordance with subsection (b) of this Code section shall be
374 paid by the insurer to the insured and the insurer shall be entitled to the credit in lieu of the
375 insured, except that the insurer may elect, in a form prescribed by the commissioner, to not
376 pay the credit and require the insured to make application for the credit. In the event of
377 such election, the insurer shall provide to the commissioner and the insured the name and
378 tax identification number of the insurer and of the insured and indicate the proper amount
379 of the credit.

380 (d) If taxable property or services purchased by an insurer on behalf of an insured are
381 purchased free of tax, then the credit provided by this Code section shall not be available
382 with respect to that purchase.

383 48-7-36.

384 (a) If a registered seller files a monthly tax report with an overpayment, then, upon
385 application by the registered seller in a form prescribed by the commissioner, the
386 overpayment shown on the report shall be refunded to the registered seller within 60 days
387 of receipt of such application. In the absence of such application, the overpayment may
388 be carried forward, without interest, by the person entitled to the credit.

389 (b) If a person other than a registered seller has an overpayment for any month, then, upon
390 application by the person in a form prescribed by the commissioner, the credit balance due
391 shall be refunded to the person within 60 days of receipt of such application.

392 (c) No interest shall be paid on any balance due from the commissioner under this Code
393 section for any month if such balance due is paid within 60 days after the application for
394 refund is received. Balances due not paid within 60 days after the application for refund
395 is received shall bear interest from the date of application. Interest shall be paid at the
396 federal short-term rate as described in Code Section 48-7-59.

397 ARTICLE 4

398 48-7-40.

399 Each qualified family shall be eligible to receive a sales tax rebate each month. The sales
400 tax rebate shall be in an amount equal to the product of the rate of tax imposed by Code
401 Section 48-7-20 and the monthly poverty level for that size family.

402 48-7-41.

403 (a) Any person who was a registered student during not fewer than five months in a
404 calendar year while living away from the common residence of a qualified family but who
405 receives over 50 percent of such person's support during a calendar year from members of
406 the qualified family shall be included as part of the family unit whose members provided
407 such support for purposes of this chapter.

408 (b) If a child's parents are divorced or legally separated, a child for purposes of this chapter
409 shall be treated as part of the qualified family of the custodial parent. In cases of joint
410 custody, the custodial parent for purposes of this chapter shall be the parent that has
411 custody of the child for more than one-half of the time during a given calendar year. A
412 parent entitled to be treated as the custodial parent pursuant to this subsection may release
413 this claim to the other parent if such release is in writing.

414 (c)(1) Registration is not mandatory for any qualified family; however, in order to
415 receive the family consumption allowance provided by Code Section 48-7-40, a qualified

416 family must register with the commissioner in a form prescribed by the commissioner.

417 The annual registration form shall provide:

418 (A) The name of each family member who shared the qualified family's residence on
419 the family determination date;

420 (B) The social security number of each family member on the family determination
421 date who shared the qualified family's residence on the family determination date;

422 (C) The family member or family members to whom the family consumption
423 allowance should be paid;

424 (D) A certification that all listed family members are lawful residents of the United
425 States;

426 (E) A certification that all listed family members are lawful residents of Georgia;

427 (F) A certification that all family members sharing the common residence are listed;

428 (G) A certification that no family members were incarcerated on the family
429 determination date; and

430 (H) The address of the qualified family.

431 Such annual registration form shall be signed by all members of the qualified family who
432 have attained the age of 21 years as of the date of filing.

433 (2) Any qualified family that fails to register in accordance with this subsection within
434 30 days of the family determination date shall cease receiving the monthly family
435 consumption allowance in the month beginning 90 days after the family determination
436 date.

437 (3) Any qualified family that failed to timely make its annual registration in accordance
438 with this subsection but subsequently cures its failure to register shall be entitled to up
439 to three months of lapsed sales tax rebate payments. No interest on lapsed payment
440 amount shall be paid.

441 (4) Annual registrations shall take effect for the month beginning 90 days after the
442 family registration date.

443 (5) A revised registration made pursuant to Code Section 48-7-44 shall take effect for
444 the first month beginning 60 days after the revised registration was filed. The existing
445 registration shall remain in effect until the effective date of the revised registration.

446 (6) An annual or revised registration shall be deemed filed when:

447 (A) Deposited in the United States mail, postage prepaid, to the designated address of
448 the Department of Revenue;

449 (B) Delivered and accepted at the designated offices of the Department of Revenue;
450 or

451 (C) Provided to a designated commercial private courier service for delivery within
452 two days to the commissioner at the designated address of the Department of Revenue.

453 (7) Thirty or more days before the family registration date, the commissioner shall mail
454 to the address shown on the most recent rebate registration or change of address notice
455 filed pursuant to subsection (d) of Code Section 48-7-44 a proposed registration that may
456 be simply signed by the appropriate family members if family circumstances have not
457 changed.

458 (d) An individual shall not be eligible under this chapter to be included as a member of any
459 qualified family if that individual:

460 (1) Is incarcerated in a local, state, or federal jail, prison, mental hospital, or other
461 institution on the family determination date; and

462 (2) Is scheduled to be incarcerated for six months or more in the 12 month period
463 following the effective date of the annual registration or the revised registration of such
464 qualified family.

465 (e) The family determination date is a date assigned to each family by the commissioner
466 for purposes of determining qualified family size and other information necessary for the
467 administration of this chapter. The commissioner shall promulgate regulations regarding
468 the issuance of family determination dates. In the absence of any regulations, the family
469 determination date for all families shall be October 1. The commissioner may assign

470 family determination dates for administrative convenience. Permissible means of assigning
471 family determination dates include a method based on the birth dates of family members.

472 48-7-42.

473 The monthly poverty level for any particular month shall be one-twelfth of the annual
474 poverty level.

475 48-7-43.

476 (a) The department shall issue a monthly sales tax rebate to duly registered qualified
477 families in an amount determined in accordance with this article.

478 (b) The payments shall be made to the persons designated by the qualifying family in the
479 annual or revised registration for each qualified family in effect with respect to the month
480 for which payment is being made. Payments may only be made to persons 18 years or
481 older. If more than one person is designated in a registration to receive the rebate, then the
482 rebate payment shall be divided evenly between or among those persons designated.

483 (c) Rebates shall be issued on or before the first business day of the month for which the
484 rebate is being provided.

485 (d)(1) The commissioner shall provide rebates in the form of smartcards that carry cash
486 balances in their memory for use in making purchases.

487 (2) The commissioner shall provide for the acquisition and distribution of smartcards
488 subject to the following conditions:

489 (A) There shall be no fees imposed for the use or against the balance of a smartcard;

490 (B) No interest shall be paid on smartcard balances;

491 (C) All funds shall be time stamped on deposit and shall be spent on a first in first out
492 basis; and

493 (D) All unused balances shall expire 12 months from deposit onto a smartcard. All
494 expired amounts shall be remitted to the general fund.

495 48-7-44.

496 (a) In the absence of the filing of a revised registration in accordance with this chapter, the
497 common residence of the qualified family, marital status, and number of persons in a
498 qualified family on the family registration date shall govern determinations required to be
499 made under this chapter for purposes of the following calendar year.

500 (b) In no event shall any person be considered part of more than one qualified family.

501 (c) A qualified family may file a revised registration to reflect a change in family
502 circumstances. A revised registration form shall provide:

503 (1) The name of each family member who shared the qualified family's residence on the
504 filing date of the revised registration;

505 (2) The social security number of each family member who shared the qualified family's
506 residence on the filing date of the revised registration;

507 (3) The family member or family members to whom the family consumption allowance
508 should be paid;

509 (4) A certification that all listed family members are lawful residents of the United
510 States;

511 (5) A certification that all listed family members are lawful residents of Georgia;

512 (6) A certification that all family members sharing the common residence are listed;

513 (7) A certification that no family members were incarcerated on the family determination
514 date; and

515 (8) The address of the qualified family.

516 Such revised registration shall be signed by all members of the qualified family who have
517 attained the age of 18 years as of the filing date of the revised registration.

518 (d) A change of address for a qualified family may be filed with the commissioner at any
519 time and shall not constitute a revised registration.

520 (e) Revised registrations reflecting changes in family status are not mandatory.

521

ARTICLE 5522 48-7-50.

523 (a) The tax imposed by this chapter is a destination principle tax. This Code section shall
524 govern for purposes of determining whether the destination of taxable property and
525 services is within or without the State of Georgia.

526 (b) Except as provided in subsection (g) of this Code section, the destination of tangible
527 personal property shall be the state or territory in which the property was first delivered to
528 the purchaser, including agents and authorized representatives of such purchaser.

529 (c) The destination of real property, or rents or leaseholds on real property, shall be the
530 state or territory in which the real property is located.

531 (d) The destination of any other taxable property shall be the residence of the purchaser.

532 (e)(1) The destination of services shall be the state or territory in which the use or
533 consumption of the services occurred. Allocation of service invoices relating to more
534 than one jurisdiction shall be on the basis of time or another method determined by
535 regulation.

536 (2) The destination of telecommunications services shall be the residence of the
537 purchaser. Telecommunications services include telephone, telegraph, beeper, radio,
538 cable television, satellite, and computer online or network services.

539 (3) For transportation services where the origin and the final destination are within the
540 State of Georgia, the destination of transportation services shall be the State of Georgia.
541 For transportation services where the final destination or origin of the trip is outside the
542 State of Georgia, the service amount shall be deemed 50 percent attributable to the
543 Georgia destination or origin.

544 (4) The destination of electrical services shall be the residence of the purchaser.

545 (f) The destination of financial intermediation services shall be the residence of the
546 purchaser.

547 (g)(1) Except as provided in paragraph (2) of this subsection, the destination of rents paid
548 for the lease of tangible property and leaseholds on such property shall be where the
549 property is located while in use.

550 (2) The destination of rental and lease payments on land vehicles, aircraft, and watercraft
551 shall be:

552 (A) In the case of rentals and leases of a term of one month or less, the location where
553 the land vehicle, aircraft, or watercraft was originally delivered to the renter or lessee;
554 and

555 (B) In the case of rentals and leases of a term greater than one month, the residence of
556 the renter or lessee.

557 48-7-51.

558 (a)(1) On or before the fifteenth day of each month, each person that is:

559 (A) Liable to collect and remit the tax imposed by this chapter by reason of subsection
560 (a) of Code Section 48-7-22; or

561 (B) Liable to pay tax imposed by this chapter which is not collected pursuant to
562 subsection (a) of Code Section 48-7-22

563 shall submit to the commissioner in a form to be prescribed by the commissioner a report
564 relating to the previous calendar month.

565 (2) The report required under paragraph (1) of this subsection shall set forth:

566 (A) The gross payments;

567 (B) The tax collected under Code Section 48-7-20 in connection with such payments;

568 (C) The amount and type of any credit claimed; and

569 (D) Other information reasonably required by the commissioner for the administration,
570 collection, and remittance of the tax imposed by this chapter.

571 (b)(1) The tax imposed by this chapter during any calendar month is due and shall be
572 paid to the department on or before the fifteenth day of the succeeding month.

573 (2) Subsection (e) of this Code section provides for the remitting of separate segregated
574 funds for sellers that are not small sellers.

575 (c)(1) On application, an extension of not more than 30 days to file reports under
576 subsection (a) of this Code section shall be automatically granted.

577 (2) On application, extensions of 30 to 60 days to file such reports shall be liberally
578 granted by the commissioner for reasonable cause. Extensions greater than 60 days may
579 be granted by the commissioner to avoid hardship.

580 (3) Notwithstanding paragraphs (1) and (2) of this subsection, no extension shall be
581 granted with respect to the time for paying or remitting the taxes under this chapter.

582 (d) The commissioner shall establish a system under which a violation of this chapter can
583 be brought to the attention of the commissioner for investigation through the use of a
584 toll-free telephone number and otherwise.

585 (e)(1) Any registered seller that is not a small seller shall deposit all sales taxes collected
586 pursuant to this chapter in a particular week in a separate segregated account maintained
587 at a bank or other financial institution within three business days of the end of such week.
588 Such registered seller shall also maintain in that account sufficient funds to meet the bank
589 or financial institution minimum balance requirements, if any, and to pay account fees
590 and costs.

591 (2) A large seller shall remit to the commissioner the entire balance of deposited taxes
592 in its separate segregated account on the first business day following the end of the
593 calendar week. The commissioner may by regulation require the electronic transfer of
594 funds due from large sellers.

595 (3) For purposes of this subsection, a small seller is any person that has not collected
596 \$5,000.00 or more of the taxes imposed by this chapter in any of the previous 12 months.

597 (4) For the purposes of this subsection, a large seller is any seller that has collected
598 \$50,000.00 or more of the taxes imposed by this chapter in any of the previous 12
599 months.

600 (5) For purposes of this subsection, the term 'week' means the seven-day period ending
601 on a Friday.

602 (f) A report filed pursuant to subsection (a) of this Code section shall be deemed filed
603 when:

604 (1) Deposited in the United States mail, postage prepaid, addressed to the designated
605 office of the department;

606 (2) Delivered and accepted at the designated office of the department;

607 (3) Provided to a designated commercial private courier service for delivery within two
608 days to the designated office of the department; or

609 (4) By other means permitted by the commissioner.

610 (g) A large seller within the meaning of subsection (e) of this Code section shall be
611 required to provide security in an amount equal to the greater of \$100,000.00 or one and
612 one-half times the seller's average monthly tax liability during the previous six calendar
613 months. Security may be a cash bond, a bond from a surety company approved by the
614 commissioner, a certificate of deposit, or a state or United States Treasury bond. A bond
615 qualifying under this subsection must be a continuing instrument for each calendar year or
616 portion thereof that the bond is in effect. The bond must remain in effect until the surety
617 or sureties are released and discharged. Failure to provide security in accordance with this
618 subsection shall result in revocation of the seller's Code Section 48-7-52 registration. If a
619 person who has provided security pursuant to this subsection:

620 (1) Fails to pay an amount indicated in a final notice within the meaning of subsection
621 (d) of Code Section 48-7-65 of an amount due under this chapter;

622 (2) No Taxpayer Assistance Order is in effect relating to the amount due;

623 (3) Either the time for filing an appeal pursuant to Code Section 48-7-63 has passed or
624 the appeal was denied; and

625 (4) The amount due is not being litigated in any judicial forum.

626 then the security or part of the security, as the case may be, may be forfeited in favor of the
627 commissioner to the extent of such tax due, plus interest if any.

628 (h) The commissioner is authorized to maintain a program of awards wherein individuals
629 who assist the commissioner in discovering or prosecuting tax fraud may be remunerated.

630 48-7-52.

631 (a) Any person liable to collect and remit taxes pursuant to subsection (a) of Code Section
632 48-7-22 that is engaged in a trade or business shall register as a seller with the
633 commissioner.

634 (b) Affiliated firms shall be treated as one person for purposes of this Code section.
635 Affiliated firms may elect, upon giving notice to the commissioner in a form prescribed by
636 the commissioner, to treat separate firms as separate persons for purposes of this chapter.

637 (c) Every person registered pursuant to subsection (a) of this Code section shall designate
638 a tax matters person who shall be an individual whom the commissioner may contact
639 regarding tax matters. Each person registered shall provide notice of a change in the
640 identity of the tax matters person within 30 days of such change.

641 (d) Any person that is required to register but fails to do so is prohibited from selling
642 taxable property or services. The commissioner may bring an action seeking a temporary
643 restraining order, an injunction, or such other order as may be appropriate to enforce this
644 Code section.

645 48-7-53.

646 (a) Registered sellers and other persons shall report transactions using the cash method of
647 accounting unless an election to use the accrual method of accounting is made pursuant to
648 subsection (b) of this Code section.

649 (b) A person may elect with respect to a calendar year to remit taxes and report
650 transactions with respect to the month where a sale was invoiced and accrued.

651 48-7-54.

652 (a) Each person who is required to register pursuant to Code Section 48-7-52 but fails to
653 do so prior to notification by the commissioner shall be liable for a penalty of \$500.00.

654 (b)(1) Each person who is required to and recklessly or willfully fails to collect taxes
655 imposed by this chapter shall be liable for a penalty equal to the greater of \$500.00 or 20
656 percent of tax not collected.

657 (2) Each person who is required to and willfully fails as part of a trade or business to
658 collect taxes imposed by this chapter may be fined an amount up to the amount
659 determined in accordance with paragraph (1) of this subsection or imprisoned for a period
660 of not more than one year, or both.

661 (c)(1) Each person who recklessly or willfully asserts an invalid intermediate or
662 out-of-state sales exemption from the taxes imposed by this chapter shall be liable for a
663 penalty equal to the greater of \$500.00 or 20 percent of the tax not collected or remitted.

664 (2) Each person who willfully asserts an invalid intermediate or out-of-state sales
665 exemption from the taxes imposed by this chapter may be fined an amount up to the
666 amount determined in accordance with paragraph (1) of this subsection or imprisoned for
667 a period of not more than one year, or both.

668 (d)(1) Each person who is required to and recklessly or willfully fails to remit taxes
669 imposed by this chapter and collected from purchasers shall be liable for a penalty equal
670 to the greater of \$1,000.00 or 50 percent of the tax not remitted.

671 (2) Each person who willfully fails to remit taxes imposed by this chapter and collected
672 from purchasers may be fined an amount up to the amount determined in accordance with
673 paragraph (1) of this subsection or imprisoned for a period of not more than two years,
674 or both.

675 (e) Each person who is required to and recklessly or willfully fails to pay taxes imposed
676 by this chapter shall be liable for a penalty equal to the greater of \$500.00 or 20 percent of
677 the tax not paid.

678 (f)(1) In the case of a failure by any person who is required to and fails to file a report
679 required by Section 501 of the Internal Revenue Code on or before the due date
680 (determined with regard to any extension) for such report, such person shall pay a penalty
681 for each month or fraction thereof that such report is late equal to the greater of \$50.00
682 or 0.5 percent of the gross payments required to be shown on the report.

683 (2) The amount of the penalty under paragraph (1) of this subsection shall be doubled
684 with respect to any report filed after a written inquiry with respect to such report is
685 received by the taxpayer from the commissioner.

686 (3) The penalty imposed under this subsection shall not exceed 12 percent of the tax not
687 paid.

688 (4)(A) No penalty shall be imposed under this subsection with respect to any failure
689 if it is shown that such failure is due to reasonable cause.

690 (B) In addition to penalties not imposed by reason of subparagraph (A) of this
691 paragraph, the commissioner, on application, shall waive the penalty imposed by
692 paragraph (1) of this subsection once per registered person per 24 month period. The
693 preceding sentence shall not apply to a penalty determined under paragraph (2) of this
694 subsection.

695 (g) A person who willingly or recklessly accepts a false intermediate or out-of-state sales
696 certificate shall pay a penalty equal to 20 percent of the tax not collected by reason of such
697 acceptance.

698 (h)(1) A person who is required to timely remit taxes imposed by this chapter and remits
699 taxes more than one month after such taxes are due shall pay a penalty equal to 1 percent
700 per month or fraction thereof from the due date.

701 (2) The penalty imposed under this subsection shall not exceed 24 percent of the tax not
702 paid.

703 (3) The penalty imposed under paragraph (1) of this subsection with respect to any late
704 remittance shall be reduced by one-half if it is shown that such late remittance is due to
705 reasonable cause.

706 (i)(1) A person who willingly or recklessly files a false claim for a family consumption
707 allowance rebate shall:

708 (A) Pay a penalty equal to the greater of \$500.00 or 50 percent of the claimed annual
709 rebate amount not actually due; and

710 (B) Repay any rebates received as a result of the false rebate claim together with
711 interest.

712 (2) A person who willingly files a false claim for a family consumption allowance rebate
713 may be fined an amount up to the amount determined in accordance with paragraph (1)
714 of this subsection or imprisoned for a period of not more than one year, or both.

715 (j) If any check or money order in payment of any amount receivable under this chapter
716 is not duly paid, in addition to other penalties provided by law, the person who tendered
717 such check shall pay a penalty equal to the greater of \$25.00 or 2 percent of the amount of
718 such check.

719 (k) Any person required to maintain a separate segregated account pursuant to subsection
720 (e) of Code Section 48-7-51 that fails to maintain such a separate segregated account shall
721 pay a penalty of \$500.00.

722 (l) Any person required to deposit collected taxes into a separate segregated account
723 maintained pursuant to subsection (e) of Code Section 48-7-51 that fails to timely deposit
724 such taxes into the separate segregated account shall pay a penalty equal to 1 percent of the
725 amount required to be deposited. Such penalty imposed shall be tripled unless such taxes
726 have been deposited in the separate segregated account or remitted to the commissioner
727 within 16 days of the date such deposit was due.

728 (m) The tax matters person designated pursuant to subsection (c) of Code Section 48-7-52
729 and responsible officers or partners of a firm shall be jointly and severally liable for the tax
730 imposed by this chapter and penalties imposed by this chapter.

731 (n) If more than one person is liable with respect to any tax or penalty imposed by this
732 chapter, each person who paid such tax or penalty shall be entitled to recover from other
733 persons who are liable for such tax or penalty an amount equal to the excess of the amount
734 paid by such person over such person's proportionate share of the tax or penalty in
735 accordance with regulations promulgated by the commissioner. Such regulations may take
736 culpability into account when allocating liability for tax or penalty among responsible
737 officers or partners.

738 (o)(1) The fact that a civil penalty has been imposed shall not prevent the imposition of
739 a criminal fine.

740 (2) The fact that a criminal fine has been imposed shall not prevent the imposition of a
741 civil penalty.

742 (p) Any person who violates the requirements relating to confidentiality of tax
743 information, as provided in subsection (e) of Code Section 48-7-65, may be fined up to
744 \$10,000.00 or imprisoned for a period of not more than one year, or both.

745 48-7-55.

746 In all disputes concerning taxes imposed by this chapter, the person engaged in a dispute
747 with the commissioner shall have the burden of production of documents and records but
748 the commissioner shall have the burden of persuasion. In all disputes concerning an
749 exemption claimed by a purchaser, if the seller has on file an intermediate sale or
750 out-of-state sale certificate from the purchaser and did not have reasonable cause to believe
751 that the certificate was improperly provided by the purchaser with respect to such purchase,
752 then the burden of production of documents and records relating to that exemption shall
753 rest with the purchaser and not with the seller.

754 48-7-56.

755 (a) Persons are subject to administrative summons by the commissioner for records,
756 documents, and testimony required by the commissioner to accurately determine liability
757 for tax under this chapter. A summons shall be served by the commissioner by an attested
758 copy delivered in hand to the person to whom it is directed or left at such person's last
759 known address. The summons shall describe with reasonable certainty what is sought.

760 (b) The commissioner has the authority to conduct at a reasonable time and place
761 examinations and audits of persons who are or may be liable to collect and remit tax
762 imposed by this chapter and to examine the books, papers, records, or other data of such
763 persons which may be relevant or material to the determination of tax due.

764 (c) No administrative summons shall be issued by the commissioner and no action shall
765 be commenced to enforce an administrative summons with respect to any person if a
766 referral to the Attorney General's office is in effect with respect to such person relating to
767 a tax imposed by this chapter. Such referral is in effect with respect to any person if the
768 commissioner has recommended to the Attorney General's office a grand jury investigation
769 of such person or a criminal prosecution of such person that contemplates criminal
770 sanctions under this chapter. A referral shall be terminated when:

771 (1) The Attorney General's office notifies the commissioner that the Attorney General
772 will not:

773 (A) Prosecute such person for any offense connected with the tax laws;

774 (B) Authorize a grand jury investigation of such person with respect to such offense;

775 or

776 (C) Continue such a grand jury investigation; or

777 (2) A final disposition has been made of any criminal proceeding connected with tax
778 laws against such person.

779 48-7-57.

780 Any person liable to remit taxes pursuant to this chapter shall keep records, including a
781 record of all Code Section 48-7-58 receipts provided, complete records of intermediate and
782 out-of-state sales, including the purchaser's intermediate and out-of-state sales certificates
783 and tax number and the net of tax amount of purchase, sufficient to determine the amounts
784 reported, collected, and remitted for a period of six years after the latter of the filing of the
785 report for which the records formed the basis or when the report was due to be filed. Any
786 purchaser who purchased taxable property or services but did not pay tax by reason of
787 asserting an intermediate and out-of-state sales exemption shall keep records sufficient to
788 determine whether such exemption was valid for a period of seven years after the purchase
789 of taxable property or services.

790 48-7-58.

791 (a) For each purchase of taxable property or services for which a tax is imposed by Code
792 Section 48-7-20, the seller shall charge the tax imposed by Code Section 48-7-20
793 separately from the purchase price. For purchase of taxable property or services for which
794 a tax is imposed by Code Section 48-7-20, the seller shall provide to the purchaser a receipt
795 for each transaction that includes:

796 (1) The property or service price exclusive of tax;

797 (2) The amount of tax paid;

798 (3) The property or service price inclusive of tax;

799 (4) The amount of tax paid divided by the property or service price inclusive of tax;

800 (5) The date that the good or service was sold;

801 (6) The name of the vendor; and

802 (7) The vendor registration number.

803 (b) The requirements of subsection (a) of this Code section shall be inapplicable in the
804 case of sales by vending machines. Vending machines for purposes of this subsection are

805 machines that dispense taxable property in exchange for coins or currency and that sell no
806 single item exceeding \$10.00 per unit in price.

807 (c) The requirements of subsection (a) of this Code section shall be inapplicable in the case
808 of sales of financial intermediation services. Receipts shall be issued when the tax is
809 imposed in accordance with Code Section 48-7-82.

810 48-7-59.

811 (a)(1) In the case of a debt instrument, investment, financing lease, or account with a
812 term of not over three years, the applicable interest rate is the federal short-term rate as
813 determined by the United States Secretary of the Treasury.

814 (2) In the case of a debt instrument, investment, financing lease, or account with a term
815 of over three years but not over nine years, the applicable interest rate is the federal
816 mid-term rate as determined by the United States Secretary of the Treasury.

817 (3) In the case of a debt instrument, investment, financing lease, or account with a term
818 of over nine years, the applicable interest rate is the federal long-term rate as determined
819 by the United States Secretary of the Treasury.

820 (b) The commissioner shall publish the applicable rate monthly. Should the United States
821 Secretary of the Treasury cease to determine or to publish the relevant federal interest rates,
822 then the commissioner shall determine and publish the applicable rate using the same
823 methodology used by the secretary, as nearly as is practical, prior to the secretary
824 discontinuing such determination or publication.

825 (c) The amount of interest due to be paid by the taxpayer with respect to past due taxes
826 imposed by this chapter shall be determined by the rate determined in accordance with
827 Code Section 48-2-44.

828

ARTICLE 6829 48-7-60.830 The commissioner shall collect the taxes imposed by this chapter.831 48-7-61.832 (a) The commissioner may levy and seize property, garnish wages or salary, and file liens
833 to collect amounts due under this chapter, pursuant to enforcement of:834 (1) A judgment duly rendered by a court of law;835 (2) An amount due if the taxpayer has failed to exercise his or her appeals rights under
836 Code Section 48-7-63; or837 (3) An amount due if the appeals process determined that an amount remained due and
838 the taxpayer has failed to timely petition a court for relief.839 (b) There shall be exempt from levy, seizure, and garnishment or penalty in connection
840 with any tax imposed by this chapter:841 (1) Wearing apparel, school books, fuel, provisions, furniture, personal effects, tools of
842 a trade or profession, and livestock in a household up to an aggregate value of
843 \$15,000.00; and844 (2) Monthly money income equal to 150 percent of the monthly poverty level.845 (c) Subject to such reasonable regulations as the commissioner may provide, any lien
846 imposed with respect to a tax imposed by this chapter shall be released not later than 30
847 days after:848 (1) The liability was satisfied or became unenforceable; or849 (2) A bond was accepted as security.

850 48-7-62.

851 (a) The commissioner shall establish an independent problem resolution office and appoint
852 an adequate number of problem resolution officers. The head of the problem resolution
853 office shall be appointed by, and serve at the pleasure of, the Governor.

854 (b) Problem resolution officers shall have the authority to investigate complaints and issue
855 a taxpayer assistance order to administratively enjoin any collection activity if, in the
856 opinion of the problem resolution officer, such collection activity is reasonably likely to
857 not be in compliance with law or to prevent hardship, other than by reason of having to pay
858 taxes lawfully due. Problem resolution officers shall also have the authority to issue
859 taxpayer assistance orders releasing or returning property that has been levied upon or
860 seized, ordering that a lien be released and that garnished wages be returned. A taxpayer
861 assistance order may only be rescinded or modified by the problem resolution officer that
862 issued it, by the commissioner, or by the general counsel of the Department of Revenue
863 upon a finding that the collection activity is justified by clear and convincing evidence.
864 The authority to reverse or modify a taxpayer assistance order shall not be delegated.

865 (c) The commissioner shall establish a form and procedure to aid persons requesting the
866 assistance of the problem resolution office and to aid the problem resolution office in
867 understanding the needs of the person seeking assistance. The use of this form, however,
868 shall not be a prerequisite to a problem resolution officer taking action, including issuing
869 a taxpayer assistance order.

870 (d) A taxpayer assistance order shall contain the name of the problem resolution officer,
871 any provision relating to the running of any applicable period of limitation, the name of the
872 person that the taxpayer assistance order assists, the government office to which it is
873 directed, and the action or cessation of action that the taxpayer assistance order requires of
874 such government office. The taxpayer assistance order need not contain findings of fact
875 or its legal basis; however, the problem resolution officer shall provide findings of fact and

876 the legal basis for the issuance of the taxpayer assistance order to the commissioner upon
877 the commissioner's request within two weeks of the receipt of such request.

878 (e) Problem resolution officers shall not be disciplined or adversely affected for the
879 issuance of administrative injunctions unless a pattern of issuing injunctions that are
880 manifestly unreasonable is proven by clear and convincing evidence in an administrative
881 hearing by a preponderance of the evidence. A finding against a problem resolution officer
882 shall be subject to de novo review by a court of competent jurisdiction.

883 (f) Nothing in this Code section shall limit the authority of the commissioner, the
884 registered person, or other person from pursuing any legal remedy in any court with
885 jurisdiction over the dispute at issue.

886 (g) The running of any applicable period of limitation shall be suspended for a period of
887 eight weeks following the issuance of a taxpayer assistance order or, if specified, for a
888 longer period set forth in the taxpayer assistance order provided the suspension does not
889 exceed six months.

890 48-7-63.

891 (a) The commissioner shall establish an administrative appeals process wherein the
892 registered person or other person in disagreement with a decision of the commissioner
893 asserting liability for tax is provided a full and fair hearing in connection with any disputes
894 such person has with the commissioner.

895 (b) Such administrative appeal must be made within 60 days of receiving a final notice of
896 amount due pursuant to subsection (d) of Code Section 48-7-65 unless leave for an
897 extension is granted by the appeals officer in a form prescribed by the commissioner.
898 Leave shall be granted to avoid hardship.

899 48-7-64.

900 In all disputes concerning taxes imposed by this chapter, the person engaged in a dispute
901 with the commissioner shall be entitled to reasonable attorneys' fees, accountancy fees, and
902 other reasonable professional fees incurred in direct relation to the dispute unless the
903 commissioner establishes that the commissioner's position was substantially justified.

904 48-7-65.

905 (a) The commissioner shall provide to any person against whom the commissioner has:

906 (1) Commenced an audit or investigation;

907 (2) Issued a final notice of amount due;

908 (3) Filed an administrative lien, levy, or garnishment;

909 (4) Commenced other collection action;

910 (5) Commenced an action for civil penalties; or

911 (6) Commenced any other legal action

912 a document setting forth the rights of the person. The document shall explain the
913 administrative appeals process, the authority of the problem resolution office and how to
914 contact that office, the burden of production and persuasion that the person and the
915 commissioner bear, the right of the person to professional fees, the right to record
916 interviews, and such other rights as the person may possess under this chapter. Such
917 document shall also set forth the procedures for entering into an installment agreement.

918 (b) In all dealings with the commissioner, a person shall have the right to assistance, at
919 such person's own expense, of one or more professional advisors.

920 (c) Any person who is interviewed by an agent of the commissioner shall have the right
921 to video or audio tape the interview at such person's own expense.

922 (d) No collection or enforcement action shall be commenced against a person until 30 days
923 after such person has been provided with a final notice of amount due under this chapter
924 by the commissioner. The final notice of amount due shall set forth the amount of tax due

925 along with any interest and penalties due and the factual and legal basis for such amounts
926 being due with sufficient specificity that such basis can be understood by a reasonable
927 person who is not a tax professional reading the notice. The final notice shall be sent by
928 certified mail, return receipt requested, to:

929 (1) The address last provided by a registered seller; or

930 (2) The best available address to a person who is not a registered seller.

931 (e)(1) All reports and report information provided to the commissioner pursuant to this
932 chapter shall be confidential, and except as authorized by this chapter:

933 (A) No officer or employee, including former officers and employees, of the State of
934 Georgia; and

935 (B) No other person who has had access to returns or return information
936 shall disclose any report or report information obtained by him or her in any manner in
937 connection with his or her service as such officer or employee or otherwise.

938 (2) The commissioner may, subject to such requirements as the commissioner may
939 impose, disclose the report and report information of a person to that person or persons
940 as that person may designate to receive such information or return.

941 (3) The commissioner may, subject to such requirements as the commissioner may
942 impose, disclose the report and report information to the committee, trustee, or guardian
943 of a person who is incompetent.

944 (4) The commissioner may disclose the report and report information to the decedent's:

945 (A) Personal representative, administrator, executor, or estate trustee; or

946 (B) Heir at law, next of kin, or beneficiary under a will who has a material interest that
947 will be affected by the information.

948 (5) The commissioner shall disclose the report and report information to a person's
949 trustee in bankruptcy.

950 (6) The commissioner shall disclose the report and report information in compliance with
951 a court order.

952 (7) Upon written request from the chairperson of the House Committee on Ways and
953 Means or the chairperson of the Senate Finance Committee, the commissioner shall
954 disclose the report and report information, except that any report or report information
955 that can be associated with or otherwise identify a particular person shall be furnished to
956 such committees only when sitting in closed executive session unless such person
957 otherwise consents in writing to such disclosure.

958 (8) A person may waive confidentiality rights provided by this subsection. Such waiver
959 shall be in writing.

960 (9) Disclosure of the report or report information by officers or employees of the
961 Department of Revenue to other officers or employees of the Department of Revenue in
962 the ordinary course of tax administration activities shall not constitute unlawful
963 disclosure of the report or report information.

964 (10) Upon request of the Governor, the commissioner shall furnish such reports and
965 report information to such officers and employees of the State of Georgia as the Governor
966 may prescribe by regulation or executive order for the purposes of, and only to the extent
967 necessary for, statistical activities authorized by law.

968 48-7-66.

969 The commissioner is authorized to enter into written agreements with any person under
970 which the person is allowed to satisfy liability for payment of any tax under this chapter,
971 and penalties and interest relating thereto, in installment payments if the commissioner
972 determines that such agreement will facilitate the collection of such liability. The
973 agreement shall remain in effect for the term of the agreement unless the information that
974 the person provided to the commissioner was materially inaccurate or incomplete. The
975 commissioner may compromise any amounts alleged to be due.

976 48-7-67.

977 No addition to tax shall be made under Code Section 48-7-54 with respect to a period
978 during which a case is pending under United States Code Title 11:

979 (1) If such tax was incurred by the estate and the failure occurred pursuant to an order
980 of the court finding probable insufficiency of funds of the estate to pay administrative
981 expenses; or

982 (2) Such tax was incurred by the debtor before the earlier of the order for relief or in the
983 involuntary case the appointment of a trustee, and the petition was filed before the due
984 date prescribed by law, including extensions, for filing a return of such tax, or the date
985 for making the addition to tax occurs on or after the date the petition was filed.

986 ARTICLE 7

987 48-7-70.

988 (a) Neither the exemption afforded by Code Section 48-7-21 for intermediate sales nor the
989 credits available pursuant to Code Section 48-7-31 or 48-7-32 shall be available for any
990 taxable property or service purchased for use in an activity if that activity is not engaged
991 in for profit.

992 (b) If the activity has received gross payments for the sale of taxable property or services
993 that exceed the sum of:

994 (1) Taxable property and services purchased;

995 (2) Wages and salary paid; and

996 (3) Taxes of any type paid

997 in two or more of the most recent three calendar years during which it operated, then the
998 business activity shall be conclusively deemed to be engaged in for profit.

999 48-7-71.

1000 (a) For purposes of this Code section, the term 'chance' means a lottery ticket, a raffle
1001 ticket, chips, other tokens, a bet or bets placed, a wager or wagers placed, or any similar
1002 device where the purchase of the right gives rise to an obligation by the gaming sponsor
1003 to pay upon the occurrence of a random or unpredictable event, or an event over which
1004 neither the gaming sponsor nor the person purchasing the chance has control over the
1005 outcome.

1006 (b) Any person selling one or more chances is a gaming sponsor and shall register, in a
1007 form prescribed by the commissioner, with the commissioner as a gaming sponsor;
1008 provided, however, that a not-for-profit organization that has gross receipts from the sale
1009 of chances of less than \$5,000.00 during any calendar year shall not be required to register.

1010 (c) Notwithstanding any other provision in this chapter, a chance is not taxable property
1011 or services for purposes of Code Section 48-7-20.

1012 (d) A tax is hereby imposed on the taxable gaming services of a gaming sponsor at the
1013 same rate at the tax imposed by Code Section 48-7-20. This tax shall be paid and remitted
1014 by the gaming sponsor. The tax shall be remitted by the fifteenth day of each month with
1015 respect to taxable gaming services during the previous calendar month. A not-for-profit
1016 organization that has gross receipts from the sale of chances of less than \$5,000.00 during
1017 any calendar year shall not be required to remit the tax imposed by this Code section.

1018 48-7-72.

1019 Notwithstanding any other provision of this chapter, the following entities shall be exempt
1020 from the tax imposed pursuant to Code Section 48-7-20:

1021 (1) The United States government, this state, any county, school district or municipality
1022 of this state, fire districts which have elected governing bodies and are supported by, in
1023 whole or in part, ad valorem taxes, or any bona fide department of such governments
1024 when paid for directly to the seller by warrant on appropriated government funds; and

1025 (2) Provided that the use or consumption of taxable property or services is for
1026 educational purposes:

1027 (A) The University System of Georgia and its educational units;

1028 (B) Private colleges and universities in this state whose academic credits are accepted
1029 as equivalents by the University System of Georgia and its educational units; and

1030 (C) Those bona fide private elementary and secondary schools which have been
1031 approved by the commissioner as organizations eligible to receive tax deductible
1032 contributions if application for exemption is made to the department and proof of the
1033 exemption is established.

1034 48-7-73.

1035 (a) Nothing in this chapter shall be construed to exempt any federal, state, or local
1036 governmental unit or political subdivision operating a government enterprise from
1037 collecting and remitting tax imposed by this chapter on any sale of taxable property or
1038 services. Government enterprises shall comply with all duties imposed by this chapter and
1039 shall be liable for penalties and subject to enforcement action in the same manner as private
1040 persons that are not government enterprises.

1041 (b) Any entity owned or operated by a federal, state, or local governmental unit or political
1042 subdivision that receives gross payments from private persons is a government enterprise,
1043 except that a government-owned entity shall not become a government enterprise for
1044 purposes of this Code section unless in any quarter it has revenues from selling taxable
1045 property or services that exceed \$2,500.00.

1046 (c) Government enterprises shall not be subject to tax on purchases that would not be
1047 subject to tax pursuant to Code Section 48-7-21 if the government enterprise were a private
1048 enterprise, provided that government enterprises shall not use such exemption to serve as
1049 a conduit for tax-free purchases by governmental units that would otherwise be subject to

1050 taxation on purchases. Transfers of taxable property or services purchased exempt from
1051 tax from a government enterprise to such governmental unit shall be taxable.

1052 (d) Any government enterprise shall maintain books of account, separate from the
1053 nonenterprise government accounts, maintained in accordance with generally accepted
1054 accounting principles.

1055 (e) A government enterprise shall be treated as a trade or business for purposes of this
1056 chapter.

1057 (f) A transfer of funds to a government enterprise by a government entity without full
1058 consideration shall constitute a taxable government purchase within the meaning of Code
1059 Section 48-7-73 to the extent that the transfer of funds exceeds the fair market value of the
1060 consideration.

1061 48-7-74.

1062 (a)(1) Mixed use property or service shall be subject to tax notwithstanding Code
1063 Section 48-7-21 unless such property or service is used more than 95 percent for purposes
1064 that would give rise to an exemption pursuant to Code Section 48-7-21 during each
1065 calendar year or portions thereof it is owned.

1066 (2) A person registered pursuant to Code Section 48-7-52 is entitled to a business use
1067 conversion credit pursuant to Code Section 48-7-31 equal to the product of:

1068 (A) The mixed use property amount;

1069 (B) The business use ratio; and

1070 (C) The rate of tax imposed by Code Section 48-7-20.

1071 (3) The mixed use property amount for each month or fraction thereof in which the
1072 property was owned shall be:

1073 (A) One-three-hundred-sixtieth of the gross payments for real property for 360 months
1074 or until the property is sold;

1075 (B) One-eighty-fourth of the gross payments for tangible personal property for 84
1076 months or until the property is sold;

1077 (C) One-sixtieth of the gross payments for vehicles for 60 months or until the property
1078 is sold; or

1079 (D) For other types of taxable property or services, a reasonable amount or in
1080 accordance with regulations prescribed by the commissioner.

1081 (b) A person entitled to a credit pursuant to paragraph (2) of subsection (a) of this Code
1082 section arising out of the ownership of mixed use property must account for the mixed use
1083 on a calendar year basis, and may file for the credit with respect to mixed use property in
1084 any month following the calendar year giving rise to the credit.

1085 48-7-75.

1086 (a) Dues, contributions, and similar payments to qualified not-for-profit organizations shall
1087 not be considered gross payments for taxable property or services for purposes of this
1088 chapter.

1089 (b) Upon application in a form prescribed by the commissioner, the commissioner shall
1090 provide qualification certificates to qualified not-for-profit organizations.

1091 (c) If a qualified not-for-profit organization provides taxable property or services in
1092 connection with contributions, dues, or similar payments to the organization, then it shall
1093 be required to treat the provision of such taxable property or services as a purchase taxable
1094 pursuant to this chapter at the fair market value of such taxable property or services.

1095 (d) Taxable property and services purchased by a qualified not-for-profit organization shall
1096 be eligible for the exemptions provided in Code Section 48-7-21 if purchased for resale or
1097 in connection with a trade or business operated by the qualified not-for-profit organization.

1098

ARTICLE 81099 48-7-80.1100 The seller of financial intermediation services shall be:1101 (1) In the case of explicitly charged fees for financial intermediation services, the person
1102 who receives the gross payments for the charged financial intermediation services;1103 (2) In the case of implicitly charged fees for financial intermediation services with
1104 respect to any underlying interest-bearing investment or account, the person making the
1105 interest payments on the interest-bearing investment or account; and1106 (3) In the case of implicitly charged fees for financial intermediation services with
1107 respect to any interest-bearing debt, the person receiving the interest payments on the
1108 interest-bearing debt.1109 48-7-81.1110 (a) No loan or debt shall be considered wholly or partially worthless unless it has been in
1111 arrears for 180 days or more, except that if a debt is discharged wholly or partially in
1112 bankruptcy before 180 days has elapsed, then it shall be deemed wholly or partially
1113 worthless on the date of discharge.1114 (b) A loan or debt that has been in arrears for 180 days or more may be deemed wholly or
1115 partially worthless by the holder unless a payment schedule has been entered into between
1116 the debtor and the lender.1117 48-7-82.1118 The tax on financial intermediation services with respect to an underlying investment
1119 account or debt shall be imposed and collected with the same frequency that statements are
1120 rendered by the financial institution in connection with the investment account or debt but
1121 not less frequently than quarterly.

1122 48-7-83.

1123 (a) Financing leases shall be taxed in the method set forth in this Code section.

1124 (b) The commissioner shall promulgate rules for disaggregating the principal and interest
1125 components of a financing lease. The principal amount shall be determined to the extent
1126 possible by examination of the contemporaneous sales price or prices of property the same
1127 as or similar to the leased property.

1128 (c) In the event that contemporaneous sales prices of property the same as or similar to the
1129 leased property are not available, the principal and interest components of a financing lease
1130 shall be disaggregated using the applicable interest rate plus 4 percent.

1131 (d) The principal component of the financing lease shall be subject to tax as if a purchase
1132 in the amount of the principal component had been made on the day on which such lease
1133 was executed.

1134 (e) The financial intermediation services amount with respect to the interest component
1135 of the financing lease shall be subject to tax under this chapter.

1136 (f) If the principal component and financial intermediation services amount with respect
1137 to the interest component of a lease have been taxed pursuant to this Code section, then the
1138 gross lease or rental payments shall not be subject to additional tax.

1139 48-7-84.

1140 For purposes of this chapter, the basic interest rate with respect to a debt instrument,
1141 investment, financing lease, or account shall be the applicable interest rate. For debt
1142 instruments, investments, or accounts of contractually fixed interest, the applicable interest
1143 rate of the month of issuance shall apply. For debt instruments, investments, or accounts
1144 of variable interest rates and which have no reference interest rate, the applicable interest
1145 shall be the federal short-term interest rate for each month. For debt instruments,
1146 investments, or accounts of variable interest rates and which have a reference interest rate,

1147 the applicable interest shall be the applicable interest rate for the reference interest rate for
1148 each month.

1149 48-7-85.

1150 (a) Financial intermediation services shall be deemed as used or consumed within the State
1151 of Georgia if the person purchasing the services is a resident of the State of Georgia.

1152 (b) Any person that provides financial intermediation services to Georgia residents must,
1153 as a condition of lawfully providing such services, designate, in a form prescribed by the
1154 commissioner, a tax representative for purposes of this chapter. The tax representative
1155 shall be responsible for ensuring that the taxes imposed by this chapter are collected and
1156 remitted and shall be jointly and severally liable for collecting and remitting these taxes.
1157 The commissioner may require reasonable bond of the tax representative. The
1158 commissioner may bring an action seeking a temporary restraining order, an injunction, or
1159 such other order as may be appropriate to enforce this Code section.

1160 ARTICLE 9

1161 48-7-90.

1162 (a) The sale of a copyright or trademark shall be treated as the sale of taxable services if
1163 the substance of the sales of copyright or trademark constituted the sale of the services that
1164 produced the copyrighted material or the trademark.

1165 (b) Up to \$1,000.00 of gross payments per calendar year shall be exempt from the tax
1166 imposed by this chapter if made:

1167 (1) By a person not in connection with a trade or business at any time during such
1168 calendar year prior to making such gross payments; and

1169 (2) To purchase any taxable property or service which is brought into Georgia by such
1170 person for use or consumption by such person in Georgia.

1171 (c) Up to \$5,000.00 per calendar year of gross payments shall be exempt from the tax
1172 imposed by this chapter if received:

1173 (1) By a person not in connection with a trade or business during such calendar year
1174 prior to the receipt of such gross payments; and

1175 (2) In connection with a casual or isolated sale.

1176 (d) Up to \$10,000.00 per calendar year of gross payments received by a person from the
1177 sale of financial intermediation services shall be exempt from the tax imposed by this
1178 chapter. The exemption provided by this subsection is in addition to other exemptions
1179 afforded by this chapter. The exemption provided by this subsection shall not be available
1180 to large sellers.

1181 (e) If a registered person provides taxable property or services to a person either as a gift,
1182 prize, reward, or as remuneration for employment, and such taxable property or services
1183 were not previously subject to tax pursuant to Code Section 48-7-20, then the provision of
1184 such taxable property or services by the registered person shall be deemed the conversion
1185 of such taxable property or services to personal use subject to tax pursuant to subsection
1186 (c) of Code Section 48-7-22 at the tax inclusive fair market value of such taxable property
1187 or services.

1188 (f) The substance of a transaction shall prevail over its form if the transaction has no bona
1189 fide economic purpose and is designed to evade tax imposed by this chapter.

1190 (g) If the employee discount amount exceeds 20 percent of the price that the taxable
1191 property or services would have been sold to the general public, then the sale of such
1192 taxable property or services by the employer shall be deemed the conversion of such
1193 taxable property or services to personal use and tax shall be imposed on the taxable
1194 employee discount amount. The taxable employee discount amount shall be the employee
1195 discount amount, minus 20 percent of the amount for which such taxable property or
1196 services would have been sold to the general public.

1197 (h) When the last day prescribed for performing any act required by this chapter falls on
1198 a Saturday, Sunday, or legal holiday, the performance of such act shall be considered
1199 timely if it is performed on the next day which is not a Saturday, Sunday, or legal holiday.

1200 ARTICLE 10

1201 48-7-100.

1202 (a)(1) Inventory held by a trade or business on the close of business on December 31,
1203 2021, shall be qualified inventory if it is sold:

1204 (A) Before December 31, 2022;

1205 (B) By a registered person; and

1206 (C) Subject to the tax imposed by this chapter.

1207 (2) For purposes of this subsection, qualified inventory shall have the cost that it had for
1208 federal income tax purposes for the trade or business as of December 31, 2021, including
1209 any amounts capitalized by reason of Section 263A of the Internal Revenue Code of 1986
1210 as in effect on December 31, 2021.

1211 (3) The trade or business which held the qualified inventory on the close of business on
1212 December 31, 2021, shall be entitled to a transitional inventory credit equal to the cost
1213 of the qualified inventory times the rate of tax imposed by Code Section 48-7-20.

1214 (4) The credit provided under paragraph (3) of this subsection shall be allowed with
1215 respect to the month when the inventory is sold subject to the tax imposed by this chapter.
1216 Such credit shall be reported as an intermediate and out-of-state sales credit, and the
1217 person claiming such credit shall attach supporting schedules in the form that the
1218 commissioner may prescribe.

1219 (b) For purposes of this Code section, inventory shall include work in progress.

1220 (c)(1) Qualified inventory held by a business that sells such qualified inventory not
1221 subject to tax pursuant to Code Section 48-7-21 shall be eligible for the transitional

1222 inventory credit only if that business or a business that has successor rights pursuant to
1223 paragraph (2) of this subsection receives certification in a form satisfactory to the
1224 commissioner that the qualified inventory was subsequently sold subject to the tax
1225 imposed by this chapter.

1226 (2) The business entitled to the transitional inventory credit may sell the right to receive
1227 such transitional inventory credit to the purchaser of the qualified inventory that gave rise
1228 to the credit entitlement. Any purchaser of such qualified inventory or property or
1229 services into which the qualified inventory has been incorporated may sell the right to
1230 such transitional inventory credit to a subsequent purchaser of such qualified inventory
1231 or property or services into which the qualified inventory has been incorporated.

1232 48-7-101.

1233 (a) Appropriations for any expenses of the Department of Revenue, including processing
1234 tax returns with respect to the state income taxes imposed prior to January 1, 2023, revenue
1235 accounting, and management for years after fiscal year 2023, are not authorized, except for
1236 expenses necessary to support ongoing litigation with respect to taxes owed or refunds due
1237 until final disposition of such litigation or the end of fiscal year 2023, whichever is sooner.

1238 (b) Records related to the administration of state income taxes imposed prior to January 1,
1239 2023, shall be destroyed by the end of fiscal year 2022, except that any records necessary
1240 to support ongoing litigation with respect to taxes owed or refunds due shall be retained
1241 until final disposition of such litigation.

1242 48-7-102.

1243 Income tax loss or tax credit carry forwards earned prior to the effective date of this chapter
1244 shall be terminated on the effective date of this chapter.

1245 48-7-103.
1246 For any entity whose fiscal year start date does not coincide with the effective date of this
1247 chapter, such entities shall file an income tax return for that portion of their fiscal year
1248 covering the beginning of that year up to the effective date of this chapter. On and after
1249 the effective date of this chapter, such entities shall no longer incur income tax liability."

1250 **SECTION 4.**

1251 Said title is further amended in Chapter 8, relating to sales and use tax, by revising Code
1252 Section 48-8-30, relating to imposition of tax, rates, and collection, as follows:

1253 "48-8-30.

1254 (a) There is levied and imposed a tax on the retail purchase, retail sale, rental, storage, use,
1255 or consumption of tangible personal property and on the services described in this article.

1256 (b)(1) Every purchaser of tangible personal property at retail in this state shall be liable
1257 for a tax on the purchase at the rate of 4 0 percent of the sales price of the purchase. The
1258 tax shall be paid by the purchaser to the retailer making the sale, as provided in this
1259 article. The retailer shall remit the tax to the commissioner as provided in this article and,
1260 when received by the commissioner, the tax shall be a credit against the tax imposed on
1261 the retailer. Every person making a sale or sales of tangible personal property at retail
1262 in this state shall be a retailer and a dealer and shall be liable for a tax on the sale at the
1263 rate of 4 0 percent of the sales price, or the amount of taxes collected by him such person
1264 from his or her purchaser or purchasers, whichever is greater.

1265 (2) No retail sale shall be taxable to the retailer or dealer which is not taxable to the
1266 purchaser at retail.

1267 (c)(1) Upon the first instance of use, consumption, distribution, or storage within this
1268 state of tangible personal property purchased at retail outside this state, the owner or user
1269 of the property shall be a dealer and shall be liable for a tax at the rate of 4 0 percent of
1270 the purchase price, except as provided in paragraph (2) of this subsection.

1271 (2) Upon the first instance of use, consumption, distribution, or storage within this state
1272 of tangible personal property purchased at retail outside this state and used outside this
1273 state for more than six months prior to its first use within this state, the owner or user of
1274 the property shall be a dealer and shall be liable for a tax at the rate of 4 0 percent of the
1275 purchase price or fair market value of the property, whichever is the lesser.

1276 (3) This subsection shall not be construed to require a duplication in the payment of the
1277 tax. The tax imposed by this subsection shall be subject to the credit otherwise granted
1278 by this article for like taxes previously paid in another state.

1279 (c.1)(1)(A) Every purchaser of tangible personal property at retail outside this state
1280 from a dealer when such property is to be used, consumed, distributed, or stored for use
1281 or consumption in this state, shall be liable for a tax on the purchase at the rate of 4 0
1282 percent of the sales price of the purchase. The tax shall be paid by the purchaser to the
1283 retailer making the sale, as provided in this article. The retailer shall remit the tax to
1284 the commissioner as provided in this article, and when received by the commissioner,
1285 the tax shall be a credit against the tax imposed on the retailer.

1286 (B) Every dealer who makes a retail sale of tangible personal property outside this state
1287 which is to be delivered electronically or physically to a location within this state shall
1288 be liable for a tax on the sale at the rate of 4 0 percent of such sales price or the amount
1289 of tax as collected by such dealer from purchasers having their purchases delivered in
1290 this state, whichever is greater.

1291 (C) It shall be prima-facie evidence that such property is to be used, consumed,
1292 distributed, or stored for use or consumption in this state if that property is delivered
1293 electronically or physically to a location within this state to the purchaser or agent
1294 thereof.

1295 (D) No retail sale shall be taxable to the retailer or dealer which is not taxable to the
1296 purchaser at retail. The tax imposed by this subsection shall be subject to the credit

1297 otherwise granted by this article for like taxes previously paid in another state. This
1298 paragraph shall not be construed to require a duplication in the payment of the tax.

1299 (2) The department may bring an action for a declaratory judgment in any superior court
1300 against any person the department believes meets the definition of dealer provided in
1301 subparagraph (M.1) or (M.2) of paragraph (8) of Code Section 48-8-2 in order to
1302 establish that the collection obligation created by this subsection is applicable and valid
1303 under state and federal law with respect to such a dealer. If such action presents a
1304 question for judicial determination related to the constitutionality of the imposition of
1305 taxes upon such a dealer, the court shall, upon motion, enjoin the state from enforcing the
1306 collection obligation against such a dealer. The superior court shall act on such
1307 declaratory judgment action and issue a final decision in an expeditious manner.

1308 (c.2)(1) A marketplace facilitator that meets the definition of a dealer provided in
1309 subparagraph (M.3) of paragraph (8) of Code Section 48-8-2 shall constitute the dealer
1310 and retailer for each retail sale taxable under this chapter at retail that it facilitates within
1311 or outside this state on behalf of a marketplace seller if such retail sale is sourced, as
1312 provided in Code Section 48-8-77, to a location within this state.

1313 (2)(A) All taxes levied or imposed by this chapter on retail sales described in paragraph
1314 (1) of this subsection shall be paid by the purchaser to the marketplace facilitator that
1315 facilitates the retail sale on behalf of a marketplace seller.

1316 (B) The marketplace facilitator shall remit such taxes to the commissioner as provided
1317 in this article and, when received by the commissioner, the taxes shall be credited
1318 against the taxes imposed on the retail sale.

1319 (C) Each marketplace facilitator shall be liable for the full amount of taxes levied or
1320 imposed by this chapter on all retail sales described in paragraph (1) of this subsection
1321 or the amount of tax collected by such marketplace facilitator from all purchasers on
1322 all such retail sales, whichever is greater.

1323 (3) For the purposes of this subsection, it shall be prima-facie evidence that a retail sale
1324 is sourced to a location within this state if it is to be held for pickup, used, consumed,
1325 distributed, stored for use or consumption, or rendered as a service within this state.

1326 (4) No retail sale that is not taxable to the purchaser at retail shall be taxable to the
1327 marketplace facilitator. Taxes collected and remitted by a marketplace facilitator
1328 pursuant to this subsection shall be subject to the credit otherwise granted by this article
1329 for like taxes previously paid in another state. This subsection shall not be construed to
1330 require a duplication in the payment of any tax.

1331 (5) A marketplace seller shall not be obligated to collect and remit or be liable for the
1332 taxes levied or imposed by this chapter on any retail sale for which its marketplace
1333 facilitator is obligated and liable.

1334 (6) The department may bring an action for a declaratory judgment in any superior court
1335 against any person that meets the definition of a dealer as provided in subparagraph (M.3)
1336 of paragraph (8) of Code Section 48-8-2, in order to establish that the collection
1337 obligation and liability established by this subsection is applicable and valid under state
1338 and federal law with respect to such a dealer. If such action presents a question for
1339 judicial determination related to the constitutionality of the imposition of taxes upon such
1340 a dealer, the court shall, upon motion, enjoin the state from enforcing the collection
1341 obligation against such a dealer. The superior court shall act on such declaratory
1342 judgment action and issue a final decision in an expeditious manner.

1343 (7) No class action may be brought against a marketplace facilitator in any court of this
1344 state on behalf of customers arising from or in any way related to an overpayment of sales
1345 or use tax collected on sales facilitated by the marketplace facilitator, regardless of
1346 whether that claim is characterized as a tax refund claim. Nothing in this subsection
1347 affects a customer's right to seek a refund of taxes erroneously paid.

1348 (8) The department shall solely audit the marketplace facilitator for sales made by
1349 marketplace sellers but facilitated by the marketplace facilitator. The department will not

1350 audit marketplace sellers for sales facilitated by a marketplace facilitator except to the
1351 extent the marketplace facilitator seeks relief under paragraph (9) of this subsection.

1352 (9) A marketplace facilitator is relieved of liability for failure to collect and remit the
1353 correct amount of tax imposed by this chapter to the extent that the marketplace facilitator
1354 demonstrates to the satisfaction of the department that the error was due to insufficient
1355 or incorrect information given to the marketplace facilitator by the marketplace seller and
1356 the marketplace facilitator made a reasonable effort to obtain correct and sufficient
1357 information from the marketplace seller; provided, however, that this paragraph shall not
1358 apply if the marketplace facilitator and the marketplace seller are related members as
1359 defined in Code Section 48-7-28.3. Where a marketplace facilitator is relieved of liability
1360 under this paragraph, the marketplace seller is solely liable for the amount of uncollected
1361 tax.

1362 (10) A person that is a franchisor as such term is defined by 16 C.F.R. 436.1 shall not be
1363 a marketplace facilitator with respect to any dealer that is its franchisee, as such term is
1364 defined by 16 C.F.R. 436.1, and that would otherwise be a marketplace seller of such
1365 franchisor, provided that:

1366 (A) In the prior calendar year, such franchisor and all of its franchisees combined made
1367 annual gross sales in the United States of at least \$500 million in aggregate;

1368 (B) Such franchisee maintains a valid certificate of registration as required by Code
1369 Section 48-8-59; and

1370 (C) Such franchisee and franchisor maintain a valid contract providing that the
1371 franchisee will collect and remit all applicable taxes and fees that the franchisor would
1372 otherwise be required to collect and remit as a marketplace facilitator for such
1373 franchisee.

1374 (11) A person shall not be a marketplace facilitator with respect to any dealer that would
1375 otherwise be its marketplace seller if:

- 1376 (A) In the prior calendar year, such dealer made annual gross sales in Georgia of at
1377 least \$500 million;
- 1378 (B) Such dealer maintains a valid certificate of registration as required by Code Section
1379 48-8-59; and
- 1380 (C) Such dealer and person that would otherwise be the marketplace facilitator
1381 maintain a valid contract providing that the dealer will collect and remit all applicable
1382 taxes and fees that such person would otherwise be required to collect and remit as a
1383 marketplace facilitator for such dealer.
- 1384 (12) A dealer shall return and report retail sales for which the dealer acted as a
1385 marketplace facilitator to the department as otherwise required by this chapter; provided,
1386 however, that such dealer may elect to return and report such retail sales either:
- 1387 (A) Separately from retail sales made directly by such dealer using a separate
1388 marketplace facilitator return that shall be published by the department for such
1389 purposes; or
- 1390 (B) Together with all other retail sales made directly by such dealer.
- 1391 (d)(1) Every person to whom tangible personal property in the state is leased or rented
1392 shall be liable for a tax on the lease or rental at the rate of ~~4~~ 0 percent of the sales price.
1393 The tax shall be paid to the person who leases or rents the property by the person to
1394 whom the property is leased or rented. A person who leases or rents property to others
1395 as a dealer under this article shall remit the tax to the commissioner as provided in this
1396 article. When received by the commissioner, the tax shall be a credit against the tax
1397 imposed on the person who leases or rents the property to others. Every person who
1398 leases or rents tangible personal property in this state to others shall be a dealer and shall
1399 be liable for a tax on the lease or rental at the rate of ~~4~~ 0 percent of the sales price, or the
1400 amount of taxes collected by ~~him~~ such person from persons to whom he or she leases or
1401 rents tangible personal property, whichever is greater.

1402 (2) No lease or rental shall be taxable to the person who leases or rents tangible property
1403 to another which is not taxable to the person to whom the property is leased or rented.

1404 (3) The lessee of both taxable and exempt property in this state under a single lease
1405 agreement containing a lease period of ten years or more shall have the option to
1406 discharge in full all sales and use taxes imposed by this article relating to the tangible
1407 personal property by paying in a lump sum $\neq 0$ percent of the fair market value of the
1408 tangible personal property at the date of inception of the lease agreement in the same
1409 manner and under the same conditions applicable to sales of the tangible personal
1410 property.

1411 (e) Upon the first instance of use within this state of tangible personal property leased or
1412 rented outside this state, the person to whom the property is leased or rented shall be a
1413 dealer and shall be liable for a tax at the rate of $\neq 0$ percent of the sales price paid to the
1414 person who leased or rented the property, subject to the credit authorized for like taxes
1415 previously paid in another state.

1416 (e.1)(1) Every person who leases, as lessor, or rents tangible personal property outside
1417 this state for use within this state shall be liable for a tax at the rate of $\neq 0$ percent of the
1418 sales price paid for that lease or rental if that person is a dealer, as defined in Code
1419 Section 48-8-2, and title to that property remains in that person. It shall be prima-facie
1420 evidence that such property is to be used within this state if that property is delivered in
1421 this state to the lessee or renter of such property, or to the agent of either. The tax shall
1422 be paid by the lessee or renter and payment of the tax shall be made to the lessor or
1423 person receiving rental payments for that property, which person shall be the dealer for
1424 purposes of this article. The dealer shall remit the tax to the commissioner as provided
1425 in this article and, when received by the commissioner, the tax shall be a credit against
1426 the tax imposed on the dealer. Every person who is a dealer, as defined in Code Section
1427 48-8-2, and who leases or rents tangible personal property outside this state to be
1428 delivered in this state to the lessee, renter, or agent of either shall be a dealer and shall be

1429 liable as such for a tax on the lease or rental at the rate of 4 0 percent of the sales price
1430 from such leases or rentals or the amount of taxes collected by that dealer for leases or
1431 rentals of tangible personal property delivered in this state, whichever is greater.

1432 (2) No lease or rental shall be taxable to the dealer which is not taxable to the lessee or
1433 renter. The tax imposed by this subsection shall be subject to the credit granted by this
1434 article for like taxes previously paid in another state. This subsection shall not be
1435 construed to require a duplication in the payment of the tax.

1436 (f)(1) Every person purchasing or receiving any service within this state, the purchase
1437 of which is a retail sale, shall be liable for tax on the purchase at the rate of 4 0 percent
1438 of the sales price made for the purchase. The tax shall be paid by the person purchasing
1439 or receiving the service to the person furnishing the service. The person furnishing the
1440 service, as a dealer under this article, shall remit the tax to the commissioner as provided
1441 in this article; and, when received by the commissioner, the tax shall be a credit against
1442 the tax imposed on the person furnishing the service. Every person furnishing a service,
1443 the purchase of which is a retail sale, shall be a dealer and shall be liable for a tax on the
1444 sale at the rate of 4 0 percent of the sales price made for furnishing the service, or the
1445 amount of taxes collected by ~~him~~ such person from the person to whom the service is
1446 furnished, whichever is greater.

1447 (2) No sale of services shall be taxable to the person furnishing the service which is not
1448 taxable to the purchaser of the service.

1449 (g) Whenever a purchaser of tangible personal property under subsection (b) or (c.1) of
1450 this Code section, a lessee or renter of the property under subsection (d) or (e.1) of this
1451 Code section, or a purchaser of taxable services under subsection (f) of this Code section
1452 does not pay the tax imposed upon him or her to the retailer, lessor, or dealer who is
1453 involved in the taxable transaction, the purchaser, lessee, or renter shall be a dealer himself
1454 or herself and the commissioner, whenever he or she has reason to believe that a purchaser
1455 or lessee has not so paid the tax, may assess and collect the tax directly against and from

1456 the purchaser, lessee, or renter, unless the purchaser, lessee, or renter shows that the
1457 retailer, lessor, or dealer who is involved in the transaction has nevertheless remitted to the
1458 commissioner the tax imposed on the transaction. If payment is received directly from the
1459 purchaser, it shall not be collected a second time from the retailer, lessor, or dealer who is
1460 involved.

1461 (h) The tax imposed by this Code section shall be collected from the dealer and paid at the
1462 time and in the manner provided in this article. Any person engaging or continuing in
1463 business as a retailer and wholesaler or jobber shall pay the tax imposed on the sales price
1464 of retail sales of the business at the rate specified when proper books are kept showing
1465 separately the gross proceeds of sales for each business. If the records are not kept
1466 separately, the tax shall be paid as a retailer or dealer on the gross sales of the business.
1467 For the purpose of this Code section, all sales through any one vending machine shall be
1468 treated as a single sale. The gross proceeds for reporting vending sales shall be treated as
1469 if the tax is included in the sale and the taxable proceeds shall be net of the tax included in
1470 the sale.

1471 (i) The tax levied by this Code section is in addition to all other taxes, whether levied in
1472 the form of excise, license, or privilege taxes, and shall be in addition to all other fees and
1473 taxes levied.

1474 (j) In the event any distributor licensed under Chapter 9 of this title purchases any motor
1475 fuel on which the prepaid state tax or prepaid local tax or both have been imposed pursuant
1476 to this Code section and resells the same to a governmental entity that is totally or partially
1477 exempt from such tax under paragraph (1) of Code Section 48-8-3, such distributor shall
1478 be entitled to either a credit or refund. The amount of the credit or refund shall be the
1479 prepaid state tax or prepaid local tax or both rates for which such governmental entity is
1480 exempt multiplied by the gallons of motor fuel purchased for its exclusive use. To be
1481 eligible for the credit or refund, the distributor shall reduce the amount such distributor
1482 charges for the fuel sold to such governmental entity by an amount equal to the tax from

1483 which such governmental entity is exempt. Should a distributor have a liability under this
1484 Code section, the distributor may elect to take a credit for those sales against such liability.
1485 (k) The prepaid local tax shall be imposed at the time tax is imposed under Code Section
1486 48-9-3."

1487 **SECTION 5.**

1488 Said title is further amended in said chapter by revising Code Section 48-8-32, relating to tax
1489 collectable from dealers and rate for retail sales price and purchase price, as follows:
1490 "48-8-32.

1491 The tax at the rate of ~~4~~ 0 percent of the retail sales price at the time of sale or ~~4~~ 0 percent
1492 of the purchase price at the time of purchase, as the case may be, shall be collectable from
1493 all persons engaged as dealers in the sale at retail, or in the use, consumption, distribution,
1494 or storage for use or consumption in this state of tangible personal property."

1495 **SECTION 6.**

1496 Said title is further amended in said chapter by adding a new article to read as follows:

1497 "ARTICLE 7

1498 48-8-300.

1499 On and after January 1, 2023, state sales and use tax shall not be imposed or collected as
1500 provided in this chapter; however, all other sales and use taxes imposed by this chapter
1501 shall continue to be imposed and collected as provided in this chapter."

1502 **SECTION 7.**

1503 Said title is further amended in Chapter 13, relating to specific, business, and occupation
1504 taxes, by repealing Article 4, relating to corporate net worth tax, and designating said article
1505 as reserved.

1506 **SECTION 8.**

1507 This Act shall become effective on January 1, 2023.

1508 **SECTION 9.**

1509 All laws and parts of laws in conflict with this Act are repealed.