

House Bill 742 (AS PASSED HOUSE AND SENATE)

By: Representatives Knight of the 130th, Powell of the 171st, Harrell of the 106th, Carson of the 46th, Mosby of the 83rd, 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 revise the definition of the terms "Internal Revenue Code" and "Internal
3 Revenue Code of 1986" and thereby incorporate certain provisions of federal law into
4 Georgia law; to change certain dates for partnerships and corporations other than Georgia
5 Subchapter "S" corporations; to clarify certain provisions relating to statements of wages
6 paid; to change certain dates and clarify provisions relating to annual and final compensation
7 returns; to provide for related matters; to provide for an effective date and applicability; to
8 repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

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

14 "(14) 'Internal Revenue Code' or 'Internal Revenue Code of 1986' means for taxable years
15 beginning on or after January 1, ~~2014~~ 2015, the provisions of the United States Internal
16 Revenue Code of 1986, as amended, provided for in federal law enacted on or before
17 January 1, ~~2015~~ 2016, except that Section 85(c), Section 108(i), Section 163(e)(5)(F),
18 Section 164(a)(6), Section 164(b)(6), Section 168(b)(3)(I), Section 168(e)(3)(B)(vii),
19 Section 168(e)(3)(E)(ix), Section 168(e)(8), Section 168(k) (but not excepting Section
20 168(k)(2)(A)(i), Section 168(k)(2)(D)(i), and Section 168(k)(2)(E)), Section 168(m),
21 Section 168(n), Section 172(b)(1)(H), Section 172(b)(1)(J), Section 172(j), Section
22 179(f), Section 199, Section 810(b)(4), Section 1400L, Section 1400N(d)(1), Section
23 1400N(f), Section 1400N(j), Section 1400N(k), and Section 1400N(o) of the Internal
24 Revenue Code of 1986, as amended, shall be treated as if they were not in effect, and
25 except that Section 168(e)(7), Section 172(b)(1)(F), Section 172(i)(1), and Section 1221
26 of the Internal Revenue Code of 1986, as amended, shall be treated as they were in effect

27 before the 2008 enactment of federal Public Law 110-343, and except that Section
 28 163(i)(1) of the Internal Revenue Code of 1986, as amended, shall be treated as it was in
 29 effect before the 2009 enactment of federal Public Law 111-5, and except that Section
 30 13(e)(4) of 2009 federal Public Law 111-92 shall be treated as if it was not in effect, and
 31 except that the limitations provided in Section 179(b)(1) shall be \$250,000.00 for tax
 32 years beginning in 2010, shall be \$250,000.00 for tax years beginning in 2011, shall be
 33 \$250,000.00 for tax years beginning in 2012, shall be \$250,000.00 for tax years
 34 beginning in 2013, and shall be \$500,000.00 for tax years beginning in 2014, and except
 35 that the limitations provided in Section 179(b)(2) shall be \$800,000.00 for tax years
 36 beginning in 2010, shall be \$800,000.00 for tax years beginning in 2011, shall be
 37 \$800,000.00 for tax years beginning in 2012, shall be \$800,000.00 for tax years
 38 beginning in 2013, and shall be \$2 million for tax years beginning in 2014, and provided
 39 that Section 1106 of federal Public Law 112-95 as amended by federal Public Law
 40 113-243 shall be treated as if it is in effect, except the phrase 'Code Section 48-2-35 (or,
 41 if later, November 15, 2015)' shall be substituted for the phrase 'section 6511(a) of such
 42 Code (or, if later, April 15, 2015),' and notwithstanding any other provision in this title,
 43 no interest shall be refunded with respect to any claim for refund filed pursuant to Section
 44 1106 of federal Public Law 112-95. In the event a reference is made in this title to the
 45 Internal Revenue Code or the Internal Revenue Code of 1954 as it existed on a specific
 46 date prior to January 1, ~~2015~~ 2016, the term means the provisions of the Internal Revenue
 47 Code or the Internal Revenue Code of 1954 as it existed on the prior date. Unless
 48 otherwise provided in this title, any term used in this title shall have the same meaning
 49 as when used in a comparable provision or context in the Internal Revenue Code of 1986,
 50 as amended. For taxable years beginning on or after January 1, ~~2014~~ 2015, provisions
 51 of the Internal Revenue Code of 1986, as amended, which were as of January 1, ~~2015~~
 52 2016, enacted into law but not yet effective shall become effective for purposes of
 53 Georgia taxation on the same dates upon which they become effective for federal tax
 54 purposes."

55 **SECTION 2.**

56 Said title is further amended by revising subsection (a) of Code Section 48-7-56, relating to
 57 time and place of filing returns and extensions, as follows:

58 "(a) Returns of taxpayers other than corporations and partnerships shall be filed with the
 59 commissioner on or before April 15 in each year except that, in the case of taxpayers using
 60 a fiscal year, the return shall be filed on or before the fifteenth day of the fourth month after
 61 the close of the fiscal year. However, in the case a taxpayer's return is allowed to be filed
 62 at a later date, pursuant to the Internal Revenue Code of 1986 as it existed on or after

63 January 1, 2003, because the taxpayer has electronically filed returns, the date the return
 64 shall be filed shall be extended without interest and penalty to the date the return is allowed
 65 to be filed pursuant to the Internal Revenue Code of 1986 as it existed on or after January
 66 1, 2003. Returns of corporations other than Georgia Subchapter 'S' corporations made on
 67 the basis of a calendar year shall be filed on or before the fifteenth day of ~~March~~ April
 68 following the close of the calendar year, and returns of corporations other than Georgia
 69 Subchapter 'S' corporations made on the basis of a fiscal year shall be filed on or before the
 70 fifteenth day of the ~~third~~ fourth month following the close of the fiscal year. Returns of
 71 Georgia Subchapter 'S' corporations made on the basis of a calendar year shall be filed on
 72 or before the fifteenth day of March following the close of the calendar year, and returns
 73 of Georgia Subchapter 'S' corporations made on the basis of a fiscal year shall be filed on
 74 or before the fifteenth day of the third month following the close of the fiscal year. Returns
 75 of partnerships made on the basis of a calendar year shall be filed on or before the fifteenth
 76 day of March following the close of the calendar year, and returns of partnerships made on
 77 the basis of a fiscal year shall be filed on or before the fifteenth day of the third month
 78 following the close of the fiscal year. Returns required for a taxable year relating to returns
 79 of domestic import sales corporations and former domestic import sales corporations and
 80 foreign sales corporations shall be filed on or before the fifteenth day of the ninth month
 81 following the close of the taxable year. The commissioner may allow further time for
 82 filing returns in the case of sickness or other disability or whenever in his or her judgment
 83 good cause exists for the extension. In case a taxpayer is granted an extension of time to
 84 file a return, the commissioner may require a tentative return to be filed on or before the
 85 due date of the return for which the extension is granted. A tentative return shall be made
 86 on the usual form, shall be plainly marked 'tentative,' shall state the estimated amount of
 87 the tax believed to be due, and shall be properly signed by the taxpayer."

88

SECTION 3.

89 Said title is further amended by revising Code Section 48-7-80, relating to time and place of
 90 payment of tax on basis of calendar or fiscal year, as follows:

91 "48-7-80.

92 The total amount of tax imposed by this chapter on taxpayers other than corporations shall
 93 be paid to the commissioner on or before April 15 following the close of the calendar year.

94 If the return of a taxpayer other than a corporation is made on the basis of a fiscal year, the
 95 tax shall be paid to the commissioner on or before the fifteenth day of the fourth month
 96 following the close of the fiscal year. However, in the case a taxpayer's return is allowed
 97 to be filed at a later date, pursuant to the Internal Revenue Code of 1986 as it existed on or
 98 after January 1, 2003, because the taxpayer has electronically filed returns, the date of

99 payment shall be extended without interest and penalty to the date the return is allowed to
 100 be filed pursuant to the Internal Revenue Code of 1986 as it existed on or after January 1,
 101 2003. The total amount of tax imposed by this chapter on corporations other than Georgia
 102 Subchapter 'S' corporations shall be paid to the commissioner on or before ~~March~~ April 15,
 103 following the close of the calendar year. If the return of a corporation other than a Georgia
 104 Subchapter 'S' corporation is made on the basis of a fiscal year, the tax shall be paid to the
 105 commissioner on or before the fifteenth day of the ~~third~~ fourth month following the close
 106 of the fiscal year. The total amount of tax imposed by this chapter on Georgia Subchapter
 107 'S' corporations shall be paid to the commissioner on or before March 15, following the
 108 close of the calendar year. If the return of a Georgia Subchapter 'S' corporation is made on
 109 the basis of a fiscal year, the tax shall be paid to the commissioner on or before the fifteenth
 110 day of the third month following the close of the fiscal year."

111 **SECTION 4.**

112 Said title is further amended by revising Code Section 48-7-105, relating to statements of
 113 wages paid and taxes withheld to employees, time, and extensions, as follows:

114 "48-7-105.

115 (a) Not later than January 31 in each year and at such other dates as required by the
 116 commissioner, each person required to withhold taxes as provided in this article shall
 117 furnish each employee for whom taxes have been withheld or to whom remuneration has
 118 been paid in that year or other period a statement of wages paid and taxes withheld. The
 119 commissioner shall provide by rule for the enforcement and implementation of this Code
 120 section. This Code section shall also apply with respect to Form 1099s where Georgia
 121 withholding occurred.

122 (b) The commissioner may grant a reasonable extension of time, not exceeding 30 days,
 123 for furnishing the statement required by this Code section."

124 **SECTION 5.**

125 Said title is further amended by revising Code Section 48-7-106, relating to annual and final
 126 returns, time, extensions, return to be filed upon sale of business, withholding unpaid
 127 withholding taxes from purchase prices, and penalties for violations, as follows:

128 "48-7-106.

129 (a) ~~On~~ For calendar years beginning on or before December 18, 2015, on or before
 130 February 28 of each year for the preceding calendar year or on or before the thirtieth day
 131 after the date on which the final payment of wages is made by an employer who has ceased
 132 to pay wages, an employer shall file with the commissioner an annual or a final return, as
 133 the case may be, on a form prescribed by the commissioner. The employer shall attach to

134 the return copies of the statements required to be furnished under Code Section 48-7-105
135 for the period covered by the return, provided that in lieu of attaching copies, the
136 commissioner may authorize the reporting of such information by electronic or magnetic
137 media. This subsection shall continue to apply for calendar years beginning after
138 December 18, 2015, with respect to Form 1099s where Georgia withholding occurred and
139 which are required to be filed for any reason other than to report nonemployee
140 compensation.

141 (b) For calendar years beginning after December 18, 2015, on or before January 31 of each
142 year for the preceding calendar year or on or before the thirtieth day after the date on which
143 the final payment of wages is made by an employer who has ceased to pay wages, an
144 employer shall file with the commissioner an annual or a final return, as the case may be,
145 on a form prescribed by the commissioner. The employer shall attach to the return copies
146 of the statements required to be furnished under Code Section 48-7-105 for the period
147 covered by the return, provided that in lieu of attaching copies, the commissioner may
148 authorize the reporting of such information by electronic or magnetic media. This
149 subsection shall also apply with respect to Form 1099s where Georgia withholding
150 occurred and which are required to be filed to report nonemployee compensation.

151 ~~(b)~~(c) The commissioner may grant a reasonable extension of time, not exceeding 30 days,
152 for filing the annual or final return required by this Code section.

153 ~~(c)~~(d) If an employer liable for any withholding tax, interest, or penalty levied pursuant
154 to this chapter sells out his or her business or stock of goods or equipment or quits the
155 business, he or she shall file the final return as required in subsection (a) or (b) of this Code
156 section. The employer's successor or assigns, if any, shall withhold a sufficient amount of
157 the purchase money to cover the amount of the withholding taxes, interest, and penalties
158 due and unpaid until the former owner provides a receipt from the commissioner showing
159 that the taxes, interest, and penalties have been paid or a certificate from the commissioner
160 stating that no withholding taxes, interest, or penalties are due.

161 ~~(d)~~(e) If the purchaser of a business or stock of goods or equipment fails to withhold the
162 purchase money as required by this Code section, he or she shall be personally liable for
163 the payment of the withholding tax, interest, and penalties accruing and unpaid by any
164 former owner or assignor. The personal liability of the purchaser in such a case shall not
165 exceed the amount of the total purchase money, but the property being transferred shall in
166 all cases be subject to the full amount of the tax lien arising from the delinquencies of the
167 former owner."

168 **SECTION 6.**

169 Said title is further amended by revising Code Section 48-13-77, relating to corporate net
170 worth tax return and payment, procedure, and combining net worth tax return with state
171 income tax return, as follows:

172 "48-13-77.

173 Each corporation other than Georgia Subchapter 'S' corporations subject to the tax imposed
174 by this article shall file a return and pay the tax due on the fifteenth day of the ~~third~~ fourth
175 calendar month following the beginning of its tax period. Each Georgia Subchapter 'S'
176 corporation subject to the tax imposed by this article shall file a return and pay the tax due
177 on the fifteenth day of the third calendar month following the beginning of its tax period.

178 The commissioner may authorize combining the return required by this Code section with
179 the state income tax return required by law. The return shall be signed and sworn to by an
180 officer of the corporation and shall be forwarded to the commissioner."

181 **SECTION 7.**

182 Said title is further amended by revising Code Section 48-13-78, relating to period for
183 payment of tax and effect, as follows:

184 "48-13-78.

185 ~~The~~ For corporations other than Georgia Subchapter 'S' corporations, the tax imposed by
186 this article shall be paid to the commissioner on or before the fifteenth day of the ~~third~~
187 fourth calendar month beginning with the first calendar month of the tax period. For
188 Georgia Subchapter 'S' corporations, the tax imposed by this article shall be paid to the
189 commissioner on or before the fifteenth day of the third calendar month beginning with the
190 first calendar month of the tax period. Except as otherwise provided by law, the payment
191 of the tax shall authorize the corporation to exercise the privilege provided in Code Section
192 48-13-72 in any county of this state. The payment of this tax shall not be construed to
193 relieve a corporation or its agents of any other license or occupation tax."

194 **SECTION 8.**

195 This Act shall become effective upon its approval by the Governor or upon its becoming law
196 without such approval. Section 1 of this Act shall be applicable to all taxable years
197 beginning on or after January 1, 2015. Sections 2, 3, 6, and 7 of this Act shall be applicable
198 to all taxable years beginning on or after January 1, 2016.

199 **SECTION 9.**

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