

House Bill 1291 (AS PASSED HOUSE AND SENATE)

By: Representatives Smith of the 133rd, Williams of the 148th, Wiedower of the 119th, Williamson of the 115th, and Frye of the 118th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 48-8-3 of the Official Code of Georgia Annotated, relating to
2 exemptions from sales and use tax, so as to revise the terms and extend the sunset date for
3 a sales tax exemption for the sale or lease of computer equipment to be incorporated into
4 facilities of high-technology companies; to extend the sunset and revise certain terms of an
5 exemption for certain high-technology data center equipment; to provide for related matters;
6 to provide for effective dates and applicability; to repeal conflicting laws; and for other
7 purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Code Section 48-8-3 of the Official Code of Georgia Annotated, relating to exemptions from
11 sales and use tax, is amended in paragraph (68) by revising subparagraph (G) as follows:

12 "(G) This paragraph shall stand repealed and reserved by operation of law at the last
13 moment of ~~June 30~~ December 31, 2023."

14 **SECTION 2.**

15 Said Code section is further amended by revising paragraph (68) as follows:

16 “(68)(A)(i) The sale or lease of computer equipment to be incorporated into a facility
17 or facilities in this state to any high-technology company classified under the 2017
18 North American Industrial Classification System code 334413, 334614, 511210,
19 517311, 517312, 517410, 517911, 517919, 518210, 522320, 541330, 541511,
20 541512, 541513, 541519, 541713, 541715, or 541720, provided that the exemption
21 allowed under this paragraph shall be limited to those purchases or leases made by
22 such a high-technology company for calendar years during which the high-technology
23 company made taxable purchases or leases of at least \$15 million worth of such
24 computer equipment where such sale of computer equipment for any calendar year
25 exceeds \$15 million or, in the event of a lease of such computer equipment, the fair
26 market value of such leased computer equipment for any calendar year exceeds \$15
27 million.

28 (ii) Notwithstanding the provisions of division (i) of this subparagraph to the
29 contrary, on and after January 1, 2024, the exemption allowed under this paragraph
30 shall be limited such that each person claiming the exemption allowed by this
31 paragraph shall be subject to paying 10 percent of all taxes imposed by this chapter
32 on the first \$15 million of its eligible purchases or leases for which an exemption is
33 claimed under this paragraph.

34 (B) Any person making a sale or lease of computer equipment to a high-technology
35 company as specified in subparagraph (A) of this paragraph shall collect the tax
36 imposed on the sale by this article unless the purchaser furnishes such seller with a
37 certificate issued by the commissioner certifying that the purchaser is entitled to
38 purchase the computer equipment without paying the tax. As a condition precedent to
39 the issuance of the certificate, the commissioner, at such commissioner's discretion,
40 may require a good and valid bond with a surety company authorized to do business in
41 this state as surety or may require legal securities, in an amount fixed by the
42 commissioner, conditioned upon payment by the purchaser of all taxes due under this

43 article in the event it should be determined that the sale fails to meet the requirements
44 of this subparagraph.

45 (C)(i) As used in this paragraph, the term 'computer equipment' means any individual
46 computer or organized assembly of hardware or software, ~~such as~~ including, but not
47 limited to, a server farm, mainframe or midrange computer, mainframe driven
48 high-speed print and mailing devices, and workstations connected to those devices via
49 high bandwidth connectivity such as a local area network, wide area network, or any
50 other data transport technology which performs one of the following functions:
51 storage or management of production data, hosting of production applications, hosting
52 of application systems development activities, or hosting of applications systems
53 testing.

54 (ii) ~~The~~ Such term shall not include:

55 (I) Telephone central office equipment or other voice data transport technology,
56 including any wireline or wireless telecommunication system; ~~or~~

57 (II) Equipment with imbedded computer hardware or software which is primarily
58 used for training, product testing, or in a manufacturing process;

59 (III) Computers or devices issued to employees, which shall include, but not be
60 limited to, smartphones, tablets, wearables, personal computers, and laptops; or

61 (IV) Prewritten computer software.

62 (D) Any corporation, partnership, limited liability company, or any other similar entity
63 which qualifies for the exemption and is affiliated in any manner with a nonqualified
64 corporation, partnership, limited liability company, or any other similar entity must
65 conduct at least a majority of its business with entities with which it has no affiliation.

66 (E) Each high-technology company that has been issued a certificate of exemption
67 pursuant to this paragraph shall report annually to the commissioner a list of the
68 facilities for which all computer equipment exempted by this paragraph during the
69 preceding calendar year was incorporated, as well as the amount of taxes exempted

70 under this paragraph during the preceding calendar year. Such report shall be filed
71 within 90 days after the end of the calendar year for which the high-technology
72 company utilized a certificate of exemption pursuant to this paragraph and shall be
73 subject to the confidentiality provisions of Code Section 48-2-15. The commissioner
74 shall not issue a certificate of exemption under this paragraph for the calendar year next
75 succeeding the reporting date to any high-technology company that has failed to
76 comply with the reporting required by this subparagraph.

77 (F) The commissioner shall promulgate such rules and regulations as are necessary to
78 implement the provisions of this paragraph.

79 (G) This paragraph shall stand repealed and reserved by operation of law at the last
80 moment of ~~June 30, 2023~~ December 31, 2028."

81

SECTION 3.

82 Said Code section is further amended by revising subparagraph (A), division (v) of
83 subparagraph (G), and subparagraph (H) of paragraph (68.1) as follows:

84 "(68.1)(A) For the period commencing on July 1, 2018, and ending on December 31,
85 ~~2028~~ 2031, high-technology data center equipment to be incorporated or used in a
86 high-technology data center that meets the high-technology data center minimum
87 investment threshold and other conditions provided in this paragraph."

88 "(v) 'High-technology data center minimum investment threshold' means ~~the creation~~
89 ~~of 20 new quality jobs and:~~

90 (I) For high-technology data centers located in a county in this state having a
91 population greater than 50,000 according to the United States decennial census of
92 2010 or any future such census, the creation of 25 new quality jobs and \$250
93 million in aggregate expenditures incurred over any consecutive seven-year period
94 between July 1, 2018, and December 31, ~~2028~~ 2031, on the design and construction

95 of the high-technology data center and high-technology data center equipment to be
96 used or incorporated in the high-technology data center;

97 (II) For high-technology data centers located in a county in this state having a
98 population greater than 30,000 and less than 50,001 according to the United States
99 decennial census of 2010 or any future such census, ~~\$150~~ the creation of ten new
100 quality jobs and \$75 million in aggregate expenditures incurred over any
101 consecutive seven-year period between July 1, 2018, and December 31, ~~2028~~ 2031,
102 on the design and construction of the high-technology data center and
103 high-technology data center equipment to be used or incorporated in the
104 high-technology data center; and

105 (III) For high-technology data centers located in a county in this state having a
106 population less than 30,001 according to the United States decennial census of 2010
107 or any future such census, ~~\$100~~ the creation of five new quality jobs and \$25
108 million in aggregate expenditures incurred over any consecutive seven-year period
109 between July 1, 2018, and December 31, ~~2028~~ 2031, on the design and construction
110 of the high-technology data center and high-technology data center equipment to be
111 used or incorporated in the high-technology data center."

112 "(H) This paragraph shall stand repealed by operation of law on January 1, ~~2029~~ 2032."

113 **SECTION 4.**

114 This Act shall become effective upon its approval by the Governor or upon its becoming law
115 without such approval; provided, however, that Section 2 of this Act shall become effective
116 on January 1, 2024, and shall be applicable to transactions occurring on or after such date.

117 **SECTION 5.**

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