A BILL TO BE ENTITLED
AN ACT

To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, so as to define the terms "Internal Revenue Code" and "Internal Revenue Code of 1986" and thereby incorporate certain provisions of the federal law into Georgia law; to revise provisions relating to partnership returns and adjustments; to provide an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

"(14) 'Internal Revenue Code' or 'Internal Revenue Code of 1986' means for taxable years beginning on or after January 1, 2017, the provisions of the United States Internal Revenue Code of 1986, as amended, provided for in federal law enacted on or before January 1, 2019, except that Section 108(i), Section 163(e)(5)(F), Section 168(b)(3)(I), Section 168(e)(3)(B)(vii), Section 168(e)(3)(E)(ix), Section 168(e)(8), Section 168(k), Section 168(m), Section 168(n), Section 179(d)(1)(B)(ii), Section 179(f), Section 199, Section 381(c)(20), Section 382(d)(3), Section 810(b)(4), Section 1400L, Section 1400N(d)(1), Section 1400N(f), Section 1400N(j), Section 1400N(k), and Section 1400N(o) of the Internal Revenue Code of 1986, as amended, shall be treated as if they were not in effect, and except that Section 168(e)(7), Section 172(b)(1)(F), and Section 172(i)(1) of the Internal Revenue Code of 1986, as amended, shall be treated as they were in effect before the 2008 enactment of federal Public Law 110-343, and except that Section 163(i)(1) of the Internal Revenue Code of 1986, as amended, shall be treated as it was in effect before the 2009 enactment of federal Public Law 111-5, and except that Section 13(e)(4) of 2009 federal Public Law 111-92 shall be treated as if it was not in effect, and except that Section 118, Section 163(j), and Section

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382(k)(1) of the Internal Revenue Code of 1986, as amended, shall be treated as they were in effect before the 2017 enactment of federal Public Law 115-97, and except that the limitations provided in Section 179(b)(1) shall be $250,000.00 for tax years beginning in 2010, shall be $250,000.00 for tax years beginning in 2011, shall be $250,000.00 for tax years beginning in 2012, shall be $250,000.00 for tax years beginning in 2013, and shall be $500,000.00 for tax years beginning in 2014, and except that the limitations provided in Section 179(b)(2) shall be $800,000.00 for tax years beginning in 2010, shall be $800,000.00 for tax years beginning in 2011, shall be $800,000.00 for tax years beginning in 2012, shall be $800,000.00 for tax years beginning in 2013, and shall be $2 million for tax years beginning in 2014, and provided that Section 1106 of federal Public Law 112-95 as amended by federal Public Law 113-243 shall be treated as if it is in effect, except the phrase 'Code Section 48-2-35 (or, if later, November 15, 2015)' shall be substituted for the phrase 'section 6511(a) of such Code (or, if later, April 15, 2015),' and notwithstanding any other provision in this title, no interest shall be refunded with respect to any claim for refund filed pursuant to Section 1106 of federal Public Law 112-95, and provided that subsection (b) of Section 3 of federal Public Law 114-292 shall be treated as if it is in effect, except the phrase 'Code Section 48-2-35' shall be substituted for the phrase 'section 6511(a) of the Internal Revenue Code of 1986' and the phrase 'such section' shall be substituted for the phrase 'such subsection.' In the event a reference is made in this title to the Internal Revenue Code or the Internal Revenue Code of 1954 as it existed on a specific date prior to January 1, 2019, the term means the provisions of the Internal Revenue Code or the Internal Revenue Code of 1954 as it existed on the prior date. Unless otherwise provided in this title, any term used in this title shall have the same meaning as when used in a comparable provision or context in the Internal Revenue Code of 1986, as amended. For taxable years beginning on or after January 1, 2018, provisions of the Internal Revenue Code of 1986, as amended, which were as of February 9, 2018, enacted into law but not yet effective shall become effective for purposes of Georgia taxation on the same dates upon which they become effective for federal tax purposes.

SECTION 2.

Said title is further amended by revising paragraph (3) of subsection (c) of Code Section 48-7-53, relating to partnership returns, contents, oath, reporting of final federal adjustments, administrative adjustment request, and rules and regulations, as follows:

"(3) Election Irrevocable election for partnership or tiered partners to pay. If an audited partnership, or a tiered partner that would receive an amended schedule K-1 under paragraph (2) of this subsection, makes an election under this paragraph, it shall:
(A) File a completed federal adjustments report, notify the commissioner that it is making the election under this paragraph, notify each of its direct partners of their distributive share of the adjustments, and pay an amount as provided in this paragraph, including any penalty and interest, on behalf of its partners within one of the following time periods:

(i) For the audited partnership, no later than 90 days after the final determination date of the audited partnership;

(ii) For a direct tiered partner, no later than 180 days after the final determination date of the audited partnership; or

(iii) For an indirect tiered partner, within 90 days after the time for filing and furnishing statements to tiered partners and their partners as established by Section 6226 of the Internal Revenue Code of 1986 and the regulations thereunder;

(B) Exclude from final federal adjustments and any positive reallocation adjustments the distributive share of such adjustments made to an exempt partner, that holds an interest directly in the audited partnership if the audited partnership is making the election or that holds an interest directly in the tiered partner if the tiered partner is making the election, that is not unrelated business income;

(C) Determine the total distributive share of all final federal adjustments and positive reallocation adjustments as modified by this title and apportion and allocate such adjustments as provided in Code Section 48-7-31 for such electing partnership or such electing tiered partner and determine the total distributive share of such amounts that are allocated to all corporate partners, all tiered partners, all exempt partners and that is unrelated business income, all nonresident individual partners, and all nonresident fiduciary partners. If the commissioner determines that a partnership or tiered partner fraudulently underreported its income on a return, the commissioner shall treat any income attributable to a tiered partner of such partnership or tiered partner as being apportioned and allocated entirely to Georgia to the extent the direct and indirect partners of such tiered partner are resident partners;

(D) Determine the total distributive share of all final federal adjustments and positive reallocation adjustments as modified by this title, but without the allocation and apportionment of such adjustments as provided by Code Section 48-7-31, that are allocated to all other partners, including but not limited to resident individual partners and resident fiduciary partners; and

(E) Total the amount computed pursuant to subparagraphs (C) and (D) of this paragraph and multiply by the rate provided in subsection (a) of Code Section 48-7-21."
SECTION 3.
This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval. Section 1 of this act shall be applicable to all taxable years beginning on or after January 1, 2018.

SECTION 4.
All laws and parts of laws in conflict with this Act are repealed.