



State of Georgia Department of Revenue

Major Income and Sales Tax Legislation

2005

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**State of Georgia
Department of Revenue**

**Intangible Expenses Paid to Related
Members and Phase in of the Single
Sales Factor**

House Bill 191

(O.C.G.A. §§ 48-7-21, 48-7-27, 48-7-28.3, 48-7-31)

**Disallows intangible expenses and assoc. interest exps.
paid to related members for taxable years beginning on
or after January 1, 2006.**

Phases in new apportionment formula:

2006 - 80% Sales, 10% Prop. & 10% payroll

2007 - 90% Sales, 5% Prop. & 5% payroll

2008 - 100% Sales



**State of Georgia
Department of Revenue**

Eligible Educ. Exempt. - \$250

House Bill 263 (O.C.G.A. § 48-7-27)

Applies to Eligible Educators

Allowed by IRC § 62(a)(2)(D)

IRS position – deductible under IRC § 162 as ordinary and necessary paid or incurred in carrying on a trade or business.



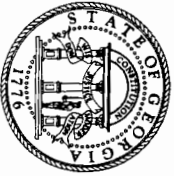
**State of Georgia
Department of Revenue**

Business Assets Depreciation

House Bill 282 (O.C.G.A. § 48-7-21, 48-7-27)

Allows incr. IRC § 179 for corps. (\$105, 000 in 2005)

Allows incr. IRC § 179 for others (\$105,000 in 2005)

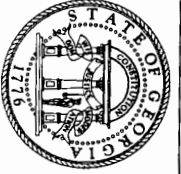


**State of Georgia
Department of Revenue**

Job Tax Credit

House Bill 389 (O.C.G.A. § 48-7-40)

**Allows add. \$500 credit for businesses in
existence for at least 3 years.
One-time credit.
No carryforward provisions for this credit.
Applicable for tax years beginning on or after
January 1, 2006.**



State of Georgia Department of Revenue

State & Local Tax Revision Act House

Bill 488 -

1 of 3

Section 2 – Annual Update Provisions (OCGA 48-1-2)

Updates all appl. Fed tax legis. signed into law during 2004 as they relate to Fed AGI & Income

Sect. 3 – Tax Settlement and Compromise Procs.

Sect. 4 – Req. EFT Form of Payment (OCGA 48-2-32)

Sects. 5 & 21 – NO Interest on Credits (O.C.G.A. §§ 48-2-35 & 48-7-121)

Sect. 7 – Definition of “Taxable Nonresident” (OCGA § 48-7-1(11))

Sect. 8 – Exps. On U.S. Obligations for Corps. (O.C.G.A. § 48-7-21(b)(1))

Sect. 9 – Like Kind Exchanges for Corps.

Sect. 10 – Consolidated Returns (OCGA § 48-7-21(b)(7)(A)(i))

Sect. 11 – Corporate NOLs (OCGA § 48-7-21(b)) Provides for the treatment of corp. NOLs in a manner similar to that of the IRS.

O.C.G.A. § 48-7-21(b)(5)

(OCGA § 48-7-21(b)(7)(A)(i))

Sect. 12-Exclu. of Earnings for Flow-thru Entities (OCGA 48-7-24(c))



State of Georgia Department of Revenue

State & Local Tax Revision Act House Bill 488 - 2 of 3

Sect. 13 – Exps. On U.S. Obligations for Non-Corp. taxpayers except indiv. (O.C.G.A. § 48-7-21(b)(2))

Sect. 14 – Like-Kind Exch. For Non-Corps. (O.C.G.A. § 48-7-21(b)(6))

Sect. 15 – Deriving Sources (O.C.G.A. § 48-7-31(a))

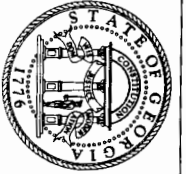
Clarifies tha corp. taxpayers who derive income from sources within GA are subject to taxation.

Sect. 18 – Comm’s Auth. To Make Adjustments (O.C.G.A. § 48-7-58)

Sect. 19 – Clarified Def. of “Nonresident” (OCGA § 48-7-100 para. 6.2)

Sect. 20 – Revised Exclus. from Def. of “Wages”. (OCGA § 48-7-100(10)(k))

Sect. 26 - Estate Tax Returns (O.C.G.A. § 48-12-1.1)



State of Georgia
Department of Revenue

State & Local Tax Revision Act

House Bill 488 - Sales Tax Provisions 3 of 3

Sect. 4 - Required EFT Form of Payment

Sect. 22 - Registration for S/U Tax

Sect. 23 - Vendor's Comp. for S/U Tax

OCGA § 48-2-32(f)

O.C.G.A. § 48-8-14

(OCGA §48-8-50(b))

Requires Use Tax (in addition to sales tax, w/h, motor fuel, corp. est. and indiv. est taxes) in excess of \$10,000 to be remitted by electronic funds transfer

Requires companies and their affiliates doing business in the State to register for collection of sales and use taxes.

Adds the requirement to "timely file a return," as well as make a timely payment before a dealer is entitled to claim a deduction for vendor's compensation for any sales tax paid.

Sect. 24 - Unidentifiable S/U Tax Proceeds
OCGA § 48-8-67(h)

Sect. 25 - Vendor's Comp. 1st Motor Fuel Tax
O.C.G.A. § 48-9-8(b)

Adds the requirement to "timely file a return," as well as make a timely payment before a dealer is entitled to claim a deduction for vendor's compensation for any motor fuel tax paid.



**State of Georgia
Department of Revenue**

Repeal of Obsolete Sections

House Bill 556 - O.C.G.A. §§ 48-7-27(e) & 48-7-55

Repeals the obsolete adjustment for capital gains taken for federal purposes.

Repeals the requirement to include the question relating to intangible returns. This is no longer necessary since the intangible tax has been repealed.

Effective 07/01/05.



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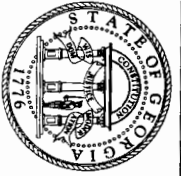
Sales Tax Holiday

House Bill 5 – O.C.G.A. § 48-8-3(75)(A)

Provided for a 4-day sales tax holiday (July 28-31, 2005) on

- **clothing or footwear (\$100 or less per item),**
- **computer items (\$1500 or less per item) and**
- **school supplies (\$20 or less per item).**

Effective May 09, 2005.



**State of Georgia
Department of Revenue**

S/U Tax on Motor Vehicles

House Bill 22 - O.C.G.A. § 48-8-2(8)

Amends the statute to change the point of sale (tax situs) of a motor vehicle and/or a lease of greater than 30 days to Georgia residents to the county of registration as opposed to the county where the dealer is located.

Effective July 01, 2005.



**State of Georgia
Department of Revenue**

**Proof of S/U Tax Payment for Out of
State Motor Vehicle Purchases**

House Bill 364 – O.C.G.A. § 48-3-20

**Amends the statute to require proof that Georgia state and local sales and use tax has been paid, or is not due to Georgia, prior to the acceptance and processing of the motor vehicle title application for a vehicle purchased outside the state.
Effective Jan. 01, 2006.**

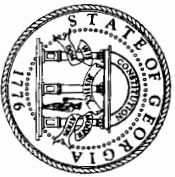


**State of Georgia
Department of Revenue**

**Gov't. Purchased Construction
Materials for Contractors**

House Bill 306 O.C.G.A. § 48-8-63

Requires the State, University System of Georgia, or any county, municipality, local board of education, or other political subdiv. of GA that purchases construction materials for real property construction to be used by a contractor, to provide the contractor with written notice of any sales or use tax that may be due. If the purchasing entity does not provide advance written notice to the contractor, then the entity will be liable for the tax due.



**State of Georgia
Department of Revenue**

**State & Local Tax Revision Act
House Bill 488**

Section 2 – Annual Update Provisions (O.C.G.A. § 48-1-2)

**Updates all appl. Fed tax legis. signed into law during
2004 as they relate to Fed AGI & income**

EXCLUDES:

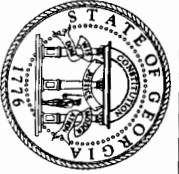
IRC 168(k) – 30% & 50% Bonus Deprec.

IRC 1400L – Tax ben. for NY Liberty Zone

IRC 199 – Income from dom. prod. activities

Adopts the increased IRC 179 deduction

Applicable for tax years begin. on after Jan 1, 2005



**State of Georgia
Department of Revenue**

**State & Local Tax Revision Act
House Bill 488 O.C.G.A. § 48-2-18.1**

Sect. 3 – Tax Settlement and Compromise Procs.

Requires \$100 nonrefundable application fee.

If offer accepted, fee treated as part of offer.

Fee is waived if applicant's total monthly income is at or below poverty level guidelines set by US Dept of HHS.

Effective July 1, 2005.



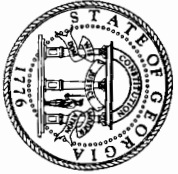
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Department of Revenue**

**State & Local Tax Revision Act
House Bill 488**

**Sect. 4 – Req. EFT Form of Payment
(O.C.G.A. §48-2-32)**

**Requires every 3rd party payroll provider and/or
remitter who remits GA W/H tax for more than
250 employees to remit payment by electronic
funds transfer.**

Effective July 1, 2005



**State of Georgia
Department of Revenue**

**State & Local Tax Revision Act
House Bill 488**

**Sects. 5 & 21 – NO Interest on Credits
(O.C.G.A. §§ 48-2-35 & 48-7-121)**

**Clarifies that interest is not paid on amended
returns filed to claim credits**

Effective April 12, 2005



**State of Georgia
Department of Revenue**

**State & Local Tax Revision Act
House Bill 488**

**Sect. 7 – Definition of “Taxable Nonresident”
(O.C.G.A. § 48-7-1(11))**

Amends definition to specifically exclude a legal resident of another state whose only activity for financial gain in this state consists of services performed as an employee when the remuneration for services does not exceed the lessor of 5% of the income of for services performed in all places during any taxable year or \$500.

Applicable for tax years on or after Jan. 1, 2005.



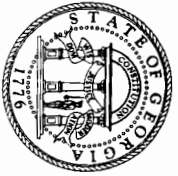
**State of Georgia
Department of Revenue**

**State & Local Tax Revision Act
House Bill 488**

**Sect. 8 – Exps. On U.S. Obligations for Corps.
(O.C.G.A. § 48-7-21(b)(1))**

**Disallows direct and indirect interest expenses
on exempt U.S. Treasury obligations.**

**Applicable to tax years beginning on or after
Jan. 01, 2005.**



**State of Georgia
Department of Revenue**

**State & Local Tax Revision Act
House Bill 488**

**Sect. 9 – Like Kind Exchanges for Corps.
O.C.G.A. § 48-7-21(b)(5)**

**Repeals the provision that certain federal “like-kind” exchanges are considered taxable for GA purposes.
GA law now silent.
Applicable provision under IRC now govern.
Applicable to tax. years on or after Jan. 1, 2004.**



**State of Georgia
Department of Revenue**

**State & Local Tax Revision Act
House Bill 488**

**Sect. 10 – Consolidated Returns
(O.C.G.A. § 48-7-21(b)(7)(A)(i))**

Businesses that conduct 100% of bus. in Georgia must request permission just as other businesses to file cons. return.

**Election to file a consolidated return must be made on or before date provided by Comm.
Effective April 12, 2005**



**State of Georgia
Department of Revenue**

**State & Local Tax Revision Act
House Bill 488**

**Sect. 11 – Corporate NOLs
(O.C.G.A. § 48-7-21(b))**

Provides for the treatment of corp. NOLs in a manner similar to that of the IRS.

Provisions of IRS §§ 108, 381, 382, & 384 also apply for Georgia purposes.

Effective for tax yrs. Beginning Jan. 1, 2005.



**State of Georgia
Department of Revenue**

**State & Local Tax Revision Act
House Bill 488**

**Sect. 12-Exclu. of Earnings for Flow-thru Entities
(O.C.G.A. 48-7-24(c)) Effective April 12, 2005.**

The distributive share of a nonresident member of a resident limited partnership or other similar nontaxable entity which derives income exclusively from buying, selling, dealing in, and holding securities on its own behalf and not as a broker shall not constitute taxable income under this code section.

This section shall not apply to a person that participates in the management of the resident limited partnership or other similar nontaxable entity or that is engaged in a unitary business with another person that participates in the management of the resident limited partnership or other similar nontaxable entity.



**State of Georgia
Department of Revenue**

**State & Local Tax Revision Act
House Bill 488**

**Sect. 13 - Exps. On U.S. Obligations for Non-Corp. taxpayers.
(O.C.G.A. § 48-7-21(b)(2))**

**Disallows direct and indirect interest expenses
on exempt U.S. Treasury obligations.**

**Applicable to tax years beginning on or after
Jan. 01, 2005.**



**State of Georgia
Department of Revenue**

**State & Local Tax Revision Act
House Bill 488**

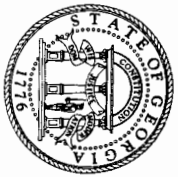
**Sect. 14 – Like-Kind Exch. For Non-Corps.
O.C.G.A. § 48-7-21(b)(6)**

Repeals the provision that certain federal “like-kind” exchanges are considered taxable for GA purposes.

GA law now silent.

Applicable provisions under IRC now govern.

Applicable to tax. years on or after Jan. 1, 2004.



**State of Georgia
Department of Revenue**

**State & Local Tax Revision Act
House Bill 488**

**Sect. 15 – Deriving Sources
O.C.G.A. § 48-7-31(a)**

**Clarifies that corporate taxpayers who derive
income from sources within Georgia are
subject to taxation.**

Effective as of April 12, 2005.



**State of Georgia
Department of Revenue**

**State & Local Tax Revision Act
House Bill 488**

**Sect. 18 – Comm.’s Auth. To Make Adjustments
O.C.G.A. § 48-7-58**

**Clarifies the Commissioner’s authority to make
adjustments when a taxpayer structures
transactions in a manner which shift Georgia
income to other states.
Effective April 12, 2005.**



**State of Georgia
Department of Revenue**

**State & Local Tax Revision Act
House Bill 488**

**Sect. 19 – Clarification of “Nonresident”
O.C.G.A. § 48-7-100**

**Clarifies that a “nonresident” (for certain withholding purposes including distributions to nonresident members of partnerships, Subchapter “S” corporations, and limited liability companies) is an individual or fiduciary member who resides outside this state and all other members whose headquarters or principal place of business is located outside this state.
Effective April 12, 2005.**



**State of Georgia
Department of Revenue**

**State & Local Tax Revision Act
House Bill 488**

**Sect. 20 – Rev. Exclusion from Def. of “Wages”
O.C.G.A. §48-7-100(10)(k)**

**Excludes from the definition of “wages”, services performed by a nonresident if the nonresident has been employed within this state for no more than 23 calendar days during the calendar quarter *and the nonresident is not a taxable nonresident as defined in OCGA § 48-7-1* (emphasis added to indicate change).
Applicable to all calendar quarters beginning on or after
July 1, 2005**



**State of Georgia
Department of Revenue**

**State & Local Tax Revision Act
House Bill 488**

**Sect. 26 – Estate Tax Returns
New O.C.G.A. § 48-12-1.1**

Removes the requirement to file an estate tax return when the date of death occurs in a year during which the Georgia estate tax does not apply.

Applicable to estates of decedents with a date of death after December 31, 2004.

Effective April 12, 2005.



**State of Georgia
Department of Revenue**

**State & Local Tax Revision Act
House Bill 488**

**Sect. 4 – Required EFT form of payment
O.C.G.A. § 48-2-32(f)**

**Requires use tax in excess of \$10,000 to be
remitted by EFT.**

**Requires 3rd party payroll provider who prepares
and remits GA w/h tax for more than 250 ERS
to remit by EFT**

Applies to all payments on or after July 1, 2005.



**State of Georgia
Department of Revenue**

**State & Local Tax Revision Act
House Bill 488**

**Sect. 22 - Registration for S/U Tax.
O.C.G.A. § 48-8-14**

**Places in the tax code the requirement for
companies and their affiliates doing business
with the State of Georgia to register for
collection of sales and use tax.
Effective April 12, 2005.**

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**State of Georgia
Department of Revenue**

**State & Local Tax Revision Act
House Bill 488**

**Section 23 – Vendor’s Comp. for S/U Tax
O.G.G.A. §48-8-50(b)**

**Adds the requirement to “timely file a return,” as well as make a timely payment before a dealer (taxpayer) is entitled to claim a deduction for vendor’s compensation for any sales tax paid.
Effective July 1, 2005.**



**State of Georgia
Department of Revenue**

**State & Local Tax Revision Act
House Bill 488**

**Sect. 24 - Unidentifiable S/U Tax Proceeds
O.C.G.A § 48-8-67(h)**

**Extends the previous sunset provision to
December 31, 2007, to enable the Department
of Revenue to continue distributing
unidentifiable sales and use tax proceeds to
the appropriate jurisdiction.
Effective April 12, 2005.**



**State of Georgia
Department of Revenue**

**State & Local Tax Revision Act
House Bill 488**

**Sect. 25 – Vendor’s Comp. 1st Motor Fuel Tax
O.C.G.A §48-9-8(b)**

Adds the requirement to “timely file a return,” as well as make a timely payment *before* a dealer (taxpayer) is entitled to claim a deduction for vendor’s compensation for any first motor fuel tax paid.

Effective July 1, 2005.



**State of Georgia
Department of Revenue**

Credits - House Bill 488

Sect 16 - Port Traffic Credit

O.C.G.A. § 48-7-40.15(e)(3)

Makes technical corrections to the port traffic credit statute to coincide with the changes made to the law in 2001.

Effective April 12, 2005.



**State of Georgia
Department of Revenue**

Credits - House Bill 488

**Sect. 17 - Transfer of Credit
O.C.G.A. § 48-7-42(b)**

**Clarifies that the election to transfer a credit must be made on or before the due date for filing the return (including extensions).
Effective April 12, 2005.**



**State of Georgia
Department of Revenue**

Credits - House Bill 538

Nat'l Guard/Air Nat'l Guard Income Tax Credit

O.C.G.A. § 48-7-29.9

Provides that any Georgia resident who is a member of the National Guard or Air National Guard and who is on active duty for a period of more than 90 consecutive days, or active duty for training for a period of more than 90 consecutive days, is allowed a tax credit against their individual income tax. The amount of the tax credit cannot exceed the amount expended for qualified life insurance premiums nor exceed the taxpayer's income tax liability.

Applicable to taxable years beginning on or after January 1, 2005.



**State of Georgia
Department of Revenue**

Credits - House Bill 539

Repeal of the Small Business Growth Tax Credit

O.C.G.A. § 48-7-40.13

Applicable to taxable years beginning on or after January 1, 2006.

Georgia Entertainment Industry Investment Act

O.C.G.A. § 48-7-40.26

Allows a tax credit for production companies which produce new film, video, or digital projects in this state. Applicable to taxable years beginning on or after January 1, 2005.



**State of Georgia
Department of Revenue**

Setoff Agencies – House Bill 172

O.C.G.A. § 48-7-161

**Adds the State Board of Pardons and Paroles
and the Department of Juvenile Justice to the
list of claimant agencies that may receive an
individual taxpayer's state income tax refund
to offset a debt for court ordered restitution.**

Effective July 1, 2005.



**State of Georgia
Department of Revenue**

**Contribution to Nat'l Guard
Foundation**

House Bill 282 - OCGA § 48-7-62

Adds a new § 48-7-62 which requires each Georgia income tax return, for tax years beginning January 1, 2005, to contain language offering the taxpayer the opportunity to contribute to the Georgia National Guard Foundation.

Applicable to taxable years beginning on or after January 1, 2005.

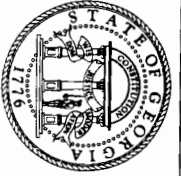


**State of Georgia
Department of Revenue**

**Contribution to the Dog and Cat
Sterilization Fund - House Bill 452
O.C.G.A. § 48-15-1**

**Requires each Georgia income tax return, for tax
years beginning January 1, 2006, to contain
language offering the taxpayer the opportunity
to contribute to the Dog and Cat Sterilization
Fund.**

Law Effective July 1, 2005.



**State of Georgia
Department of Revenue**

WEBSITES

Georgia General Assembly

<http://www.legis.state.ga.us/legis>

Georgia Department of Revenue

<http://www.etax.dor.ga.gov>

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**State of Georgia
Department of Revenue**

CONTACT INFORMATION

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processing, etc. -**

Call Taxpayer Service Division at 404 417-2300

**Legal Interpretation of Laws, Code &
Regs.**

Call Tax Law & Policy at 404 417-6649

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