

House Bill 1291

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

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 spending threshold and extend the  
3 sunset date for a sales tax exemption for the sale or lease of computer equipment to be  
4 incorporated into facilities of high-technology companies; to provide for related matters; to  
5 provide for an effective date and applicability; to repeal conflicting laws; and for other  
6 purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

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

11 "(68)(A) The sale or lease of computer equipment to be incorporated into a facility or  
12 facilities in this state to any high-technology company classified under the 2017 North  
13 American Industrial Classification System code 334413, 334614, 511210, 517311,  
14 517312, 517410, 517911, 517919, 518210, 522320, 541330, 541511, 541512, 541513,  
15 541519, 541713, 541715, or 541720 where such sale of computer equipment for any  
16 calendar year exceeds ~~\$15~~ \$18 million or, in the event of a lease of such computer

H. B. 1291

- 1 -

17 equipment, the fair market value of such leased computer equipment for any calendar  
18 year exceeds ~~\$15~~ \$18 million.

19 (B) Any person making a sale or lease of computer equipment to a high-technology  
20 company as specified in subparagraph (A) of this paragraph shall collect the tax  
21 imposed on the sale by this article unless the purchaser furnishes such seller with a  
22 certificate issued by the commissioner certifying that the purchaser is entitled to  
23 purchase the computer equipment without paying the tax. As a condition precedent to  
24 the issuance of the certificate, the commissioner, at such commissioner's discretion,  
25 may require a good and valid bond with a surety company authorized to do business in  
26 this state as surety or may require legal securities, in an amount fixed by the  
27 commissioner, conditioned upon payment by the purchaser of all taxes due under this  
28 article in the event it should be determined that the sale fails to meet the requirements  
29 of this subparagraph.

30 (C)(i) As used in this paragraph, the term 'computer equipment' means any individual  
31 computer or organized assembly of hardware or software, such as a server farm,  
32 mainframe or midrange computer, mainframe driven high-speed print and mailing  
33 devices, and workstations connected to those devices via high bandwidth connectivity  
34 such as a local area network, wide area network, or any other data transport  
35 technology which performs one of the following functions: storage or management  
36 of production data, hosting of production applications, hosting of application systems  
37 development activities, or hosting of applications systems testing.

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

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

41 (II) Equipment with imbedded computer hardware or software which is primarily  
42 used for training, product testing, or in a manufacturing process.

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

47 (E) Each high-technology company that has been issued a certificate of exemption  
48 pursuant to this paragraph shall report annually to the commissioner a list of the  
49 facilities for which all computer equipment exempted by this paragraph during the  
50 preceding calendar year was incorporated, as well as the amount of taxes exempted  
51 under this paragraph during the preceding calendar year. Such report shall be filed  
52 within 90 days after the end of the calendar year for which the high-technology  
53 company utilized a certificate of exemption pursuant to this paragraph and shall be  
54 subject to the confidentiality provisions of Code Section 48-2-15. The commissioner  
55 shall not issue a certificate of exemption under this paragraph for the calendar year next  
56 succeeding the reporting date to any high-technology company that has failed to  
57 comply with the reporting required by this subparagraph.

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

60 (G) This paragraph shall stand repealed and reserved by operation of law at the last  
61 moment of ~~June 30, 2023~~ December 31, 2033."

62 **SECTION 2.**

63 This Act shall become effective upon its approval by the Governor or upon its becoming law  
64 without such approval; provided, however, that the revisions to subparagraph (A) of  
65 paragraph (68) of Code Section 48-8-3 of the Official Code of Georgia Annotated made in  
66 Section 1 of this Act shall be applicable on and after January 1, 2023.

67

**SECTION 3.**

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