

House Bill 1648

By: Representative Lim of the 99th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to
2 income taxes, so as to revise the income tax code relating to corporations; to provide for
3 separate tax rates for short-term capital gains; to revise the calculations for Georgia taxable
4 net income; to provide for definitions; to revise conditions for tax filings; to provide for
5 related matters; to provide for an effective date and applicability; to repeal conflicting laws;
6 and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to income taxes,
10 is amended by adding new paragraphs Code Section 48-7-1, relating to definitions, to read
11 as follows:

12 “(1) 'Common ownership' means the direct or indirect control or ownership of more than
13 50 percent of the outstanding voting stock, ownership of which is determined pursuant
14 to Section 1563 of the Internal Revenue Code, as that section may be amended or
15 renumbered, of:

16 (A) A parent-subsiary controlled group as defined in Section 1563 of the Internal
17 Revenue Code, except that 50 percent shall be substituted for 80 percent;

18 (B) A brother-sister controlled group as defined in Section 1563 of the Internal
19 Revenue Code; or

20 (C) Three or more corporations each of which is a member of a group of corporations
21 described in subparagraphs (A) or (B) of this paragraph, and one of which is:

22 (i) A common parent corporation included in a group of corporations described in
23 subparagraph (A) of this paragraph; and

24 (ii) Included in a group of corporations described in subparagraph (B) of this
25 paragraph.

26 (.2) 'Consolidated group' means the group of entities properly filing a federal
27 consolidated return under the Internal Revenue Code for the taxable year.

28 (.3) 'Corporate net income' means:

29 (A) The base income of a corporation properly filing a tax return as a separate entity;
30 or

31 (B) The combined base income and losses of corporations that are part of a filing group
32 that is computed after eliminating intercompany income and expense in a manner
33 consistent with the consolidated filing requirements of the Internal Revenue Code and
34 Section 48-7-21."

35 "(3.1) 'Filing group' means a group of corporations properly included in a return
36 pursuant to Code Section 48-7-21 for a particular taxable year."

37 "(9.1) 'Related corporation' means a corporation that is under common ownership with
38 one or more corporations but that is not included in the same tax return."

39 "(10.1) 'Return' means any tax or information return, including a water's-edge or
40 worldwide combined return, a consolidated return, a declaration of estimated tax or a
41 claim for refund, including any amendments or supplements to the return, required or

42 permitted pursuant to a law subject to administration and enforcement pursuant to Title
43 48 and filed with the department by or on behalf of any person."

44 "(13) 'Unitary group' means a group of two or more corporations, including a captive real
45 estate investment trust, but excluding an S corporation; an insurance company subject to
46 the provisions of Title 33, an insurance company that would be subject to Title 33 if the
47 insurance company engaged in business in this state, or a real estate investment trust that
48 is not a captive real estate investment trust, that are:

49 (A) Related through common ownership; and

50 (B) Economically interdependent as demonstrated by the following factors:

51 (i) Centralized management;

52 (ii) Functional integration; and

53 (iii) Economies of scale.

54 (14) 'Water's-edge group' means all corporations that are part of a unitary group, except:

55 (A) Corporations that are exempt from corporate income tax pursuant to Code Section
56 48-7-25; and

57 (B) Corporations wherever organized or incorporated that have less than 20 percent of
58 their property, payroll, and sales sourced to locations within the United States following
59 the sourcing rules of the Uniform Division of Income for Tax Purposes Act.

60 (15) 'Worldwide combined group' means all members of a unitary group, except
61 members that are exempt from corporate income tax pursuant to Code Section 48-7-25,
62 irrespective of the country in which the corporations are incorporated or conduct business
63 activity."

64 **SECTION 2.**

65 Said chapter is further amended by adding a new subsection to Code Section 48-7-20,
66 relating to individual tax rates, credit for withholding and other payments, and applicability
67 to estates and trusts, to read as follows:

68 "(e) Notwithstanding the provisions of subsections (a) and (b) of this Code section, for any
 69 amount of Georgia taxable net income derived from net short-term capital gains as defined
 70 in 26 U.S. Code Section 1222(5), the tax imposed pursuant to subsection (a) of this Code
 71 section shall be computed in accordance with the following tables:

72 SINGLE PERSON

<u>If Georgia Taxable</u>	<u>The Tax Is:</u>
<u>Net Income Is:</u>	
75 <u>Not over \$750.00</u>	<u>2%</u>
76 <u>Over \$750.00 but not over \$2,250.00</u>	<u>\$7.50 plus 3% of amount over \$750.00</u>
77 <u>Over \$2,250.00 but not over \$3,750.00</u>	<u>\$37.50 plus 4% of amount over</u> <u>\$2,250.00</u>
78 <u>Over \$3,750.00 but not over \$5,250.00</u>	<u>\$82.50 plus 5% of amount over</u> <u>\$3,750.00</u>
79 <u>Over \$5,250.00 but not over \$7,000.00</u>	<u>\$142.50 plus 6% of amount over</u> <u>\$5,250.00</u>
80 <u>Over \$7,000.00</u>	<u>\$230.00 plus 7% of amount over</u> <u>\$7,000.00</u>

81 MARRIED PERSON FILING A SEPARATE RETURN

<u>If Georgia Taxable</u>	<u>The Tax Is:</u>
<u>Net Income Is:</u>	
84 <u>Not over \$500.00</u>	<u>2%</u>
85 <u>Over \$500.00 but not over \$1,500.00</u>	<u>\$5.00 plus 3% of amount over \$500.00</u>

86	<u>Over \$1,500.00 but not over \$2,500.00</u>	<u>\$25.00 plus 4% of amount over</u> <u>\$1,500.00</u>
87	<u>Over \$2,500.00 but not over \$3,500.00</u>	<u>\$55.00 plus 5% of amount over</u> <u>\$2,500.00</u>
88	<u>Over \$3,500.00 but not over \$5,000.00</u>	<u>\$95.00 plus 6% of amount over</u> <u>\$3,500.00</u>
89	<u>Over \$5,000.00</u>	<u>\$170.00 plus 7% of amount over</u> <u>\$5,000.00</u>

90 HEAD OF HOUSEHOLD AND MARRIED PERSONS
 91 FILING A JOINT RETURN

92	<u>If Georgia Taxable</u>	<u>The Tax Is:</u>
93	<u>Net Income Is:</u>	
94	<u>Not over \$1,000.00</u>	<u>2%</u>
95	<u>Over \$1,000.00 but not over \$3,000.00</u>	<u>\$10.00 plus 3% of amount over</u> <u>\$1,000.00</u>
96	<u>Over \$3,000.00 but not over \$5,000.00</u>	<u>\$50.00 plus 4% of amount over</u> <u>\$3,000.00</u>
97	<u>Over \$5,000.00 but not over \$7,000.00</u>	<u>\$110.00 plus 5% of amount over</u> <u>\$5,000.00</u>
98	<u>Over \$7,000.00 but not over \$10,000.00</u>	<u>\$190.00 plus 6% of amount over</u> <u>\$7,000.00</u>

99 Over \$10,000.00 \$340.00 plus 7% of amount over
\$10,000.00"

100 **SECTION 3.**

101 Said chapter is further amended by revising subsection (a) of Code Section 48-7-21, relating
102 to taxation of corporations as follows:

103 "(a) Every domestic corporation, ~~and every foreign corporation, and group of such~~
104 corporations shall pay annually an income tax equivalent to 5.75 percent of its Georgia
105 taxable net income. Georgia taxable net income of a corporation shall be the corporation's
106 taxable income from property owned or from business done in this state. A corporation's
107 taxable income from property owned or from business done in this state shall consist of the
108 corporation's taxable income as defined in the Internal Revenue Code of 1986, with the
109 adjustments provided for in subsection (b) of this Code section and allocated and
110 apportioned as provided in Code Section 48-7-31."

111 **SECTION 4.**

112 Said chapter is further amended by revising paragraph (3) of subsection (b) of Code Section
113 48-7-27, relating to computation of taxable net income, as follows:

114 "(3) There shall be added to taxable income any income taxes imposed by any tax
115 jurisdiction ~~except the State of Georgia~~ to the extent deducted in determining federal
116 taxable income."

117 **SECTION 5.**

118 Said chapter is further amended by adding a new Code section to read as follows:

119 "48-7-43.
120 Notwithstanding any provision of law to the contrary, on and after July 1, 2022, no
121 members, shareholders, or partners of a pass-through entity, regardless of the entity's tax
122 liability, shall be eligible to earn any tax credit allowed under this article."

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SECTION 6.

125 Said chapter is further amended by revising Code Section 48-7-51, relating to corporation
126 returns, contents, consolidated returns of two or more corporations, returns by receivers,
127 trustees, and assignees, and collection, as follows:

128 "48-7-51.

129 (a) Every corporation or group of corporations subject to taxation under this chapter shall
130 make a return stating specifically the items of its gross income and the deductions and
131 credits allowed by this chapter. ~~The income of two or more corporations shall not be~~
132 ~~included in a single return except with the express consent of the commissioner.~~ When a
133 receiver, trustee in bankruptcy, or assignee is operating the property or business of a
134 corporation, the receiver, trustee, or assignee shall make returns for the corporation in the
135 same manner and form as the corporation is required to make returns. Any tax due on the
136 basis of returns made by a receiver, trustee, or assignee shall be collected in the same
137 manner as if collected from the corporation of whose business or property he has custody
138 and control.

139 (b)(1) Any corporation that is part of a unitary group shall file a return properly reporting
140 and paying tax on taxable income as a worldwide combined group unless such
141 corporation properly elects to report and pay tax on taxable income as a water's-edge or
142 consolidated group, pursuant to department rules and instructions, on the first original
143 return required to be filed for taxable years beginning on or after January 1, 2020.
144 Corporations electing to file a consolidated return must file on that same basis for federal
145 income tax purposes. Once a unitary or consolidated group has properly made an

146 election to file as a water's-edge or consolidated group, the group and any of the group's
147 members shall file a return on that basis for at least seven consecutive years unless or
148 until the commissioner grants permission otherwise. Corporations that are part of a
149 unitary group filing a return are jointly and severally liable for the tax imposed pursuant
150 to paragraph (1) of subsection (b) of this Code section.
151 (2) Corporations required to file a return as part of a filing group pursuant to this Code
152 section may designate a member of the group to act as the principal corporation to file the
153 return, make any elections, claim tax credits or refunds or perform any other act on behalf
154 of the group with respect to the corporate income tax; provided, however, that the
155 members of the group remain jointly and severally liable for the taxes due pursuant to
156 paragraph (1) of subsection (b) of this Code section."

157 **SECTION 7.**

158 (a) This Act shall become effective on July 1, 2022.

159 (b) This Act shall be applicable to taxable years beginning on or after July 1, 2022.

160 **SECTION 8.**

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