

The Senate Committee on Finance offered the following substitute to HB 329:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated,
2 relating to imposition, rate, and computation of and exemptions from income taxes, so as to
3 modify the rate of tax imposed on the Georgia taxable net income of individuals; to provide
4 for an inflationary index rate and to adjust the amounts of the personal exemptions and
5 standard deductions based on such inflationary index rate; to add Georgia income tax paid
6 by an individual to his or her Georgia taxable income to the extent deducted in determining
7 federal taxable income; to provide for rules and regulations; to amend Article 1 of Chapter 8
8 of Title 48 of the Official Code of Georgia Annotated, relating to state sales and use tax, so
9 as to provide for definitions; to provide for certain legal actions, injunctions, and appeals
10 under certain circumstances; to require certain retailers to either collect and remit sales and
11 use taxes or provide certain notifications to certain purchasers and the state; to provide for
12 penalties; to provide for related matters; to provide effective dates and applicability; to repeal
13 conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I
SECTION 1-1.

17 Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to
18 imposition, rate, and computation of and exemptions from income taxes, is amended by
19 revising Code Section 48-7-20, relating to individual tax rates and tables, as follows:

20 "48-7-20.

21 (a) A tax is imposed upon every resident of this state with respect to the Georgia taxable
22 net income of the taxpayer as defined in Code Section 48-7-27. A tax is imposed upon
23 every nonresident with respect to such nonresident's Georgia taxable net income not
24 otherwise exempted which is received by the taxpayer from services performed, property
25 owned, proceeds of any lottery prize awarded by the Georgia Lottery Corporation, or from

26 business carried on in this state. Except as otherwise provided in this chapter, the tax
27 imposed by this subsection shall be levied, collected, and paid annually.

28 (b)(1) The tax imposed pursuant to subsection (a) of this Code section shall be computed
29 in accordance with the following tables:

30 SINGLE PERSON

31 If Georgia Taxable The Tax Is:

32 Net Income Is:

33	Not over \$750.00	1%
34	Over \$750.00 but not over \$2,250.00	\$7.50 plus 2% of amount over \$750.00
35	Over \$2,250.00 but not over \$3,750.00	\$37.50 plus 3% of amount over \$2,250.00
36	Over \$3,750.00 but not over \$5,250.00	\$82.50 plus 4% of amount over \$3,750.00
37	Over \$5,250.00 but not over \$7,000.00	\$142.50 plus 5% of amount over \$5,250.00
38	Over \$7,000.00	\$230.00 plus 6% <u>5.65%</u> of amount over
39		\$7,000.00

40 MARRIED PERSON FILING A SEPARATE RETURN

41 If Georgia Taxable The Tax Is:

42 Net Income Is:

43	Not over \$500.00	1%
44	Over \$500.00 but not over \$1,500.00	\$5.00 plus 2% of amount over \$500.00
45	Over \$1,500.00 but not over \$2,500.00	\$25.00 plus 3% of amount over \$1,500.00
46	Over \$2,500.00 but not over \$3,500.00	\$55.00 plus 4% of amount over \$2,500.00
47	Over \$3,500.00 but not over \$5,000.00	\$95.00 plus 5% of amount over \$3,500.00
48	Over \$5,000.00	\$170.00 plus 6% <u>5.65%</u> of amount over
49		\$5,000.00

50 HEAD OF HOUSEHOLD AND MARRIED PERSONS

51 FILING A JOINT RETURN

52 If Georgia Taxable The Tax Is:

53 Net Income Is:

54	Not over \$1,000.00	1%
55	Over \$1,000.00 but not over \$3,000.00	\$10.00 plus 2% of amount over \$1,000.00
56	Over \$3,000.00 but not over \$5,000.00	\$50.00 plus 3% of amount over \$3,000.00
57	Over \$5,000.00 but not over \$7,000.00	\$110.00 plus 4% of amount over \$5,000.00
58	Over \$7,000.00 but not over \$10,000.00	\$190.00 plus 5% of amount over \$7,000.00
59	Over \$10,000.00	\$340.00 plus 6% <u>5.65%</u> of amount over
60		\$10,000.00

61 (2) To facilitate the computation of the tax by those taxpayers whose federal adjusted
 62 gross income together with the adjustments set out in Code Section 48-7-27 for use in
 63 arriving at Georgia taxable net income is less than \$10,000.00, the commissioner may
 64 construct tax tables which may be used by the taxpayers at their option. The tax shown
 65 to be due by the tables shall be computed on the bases of the standard deduction and the
 66 tax rates specified in paragraph (1) of this subsection. Insofar as practicable, the tables
 67 shall produce a tax approximately equivalent to the tax imposed by paragraph (1) of this
 68 subsection.

69 (c) The amount deducted and withheld by an employer from the wages of an employee
 70 pursuant to Article 5 of this chapter, relating to current income tax payments, shall be
 71 allowed the employee as a credit against the tax imposed by this Code section. Amounts
 72 paid by an individual as estimated tax under Article 5 of this chapter shall constitute
 73 payments on account of the tax imposed by this Code section. The amount withheld or paid
 74 during any calendar year shall be allowed as a credit or payment for the taxable year
 75 beginning in the calendar year in which the amount is withheld or paid.

76 (d) The tax imposed by this Code section applies to the Georgia taxable net income of
 77 estates and trusts, which shall be computed in the same manner as in the case of a single
 78 individual. The tax shall be computed on the Georgia taxable net income and shall be paid
 79 by the fiduciary.

80 (e) The monetary values set forth in this Code section shall be adjusted annually to reflect
 81 changes, if any, due to the inflationary index rate published by the department in
 82 accordance with Code Section 48-7-26.1."

83 SECTION 1-2.

84 Said article is further amended by revising subsections (b) and (d) of and by adding a new
 85 subsection to Code Section 48-7-26, relating to personal exemptions, to read as follows:

86 "(b)(1) An exemption of ~~\$7,400.00~~ \$8,000.00 shall be allowed as a deduction in
 87 computing Georgia taxable income of a taxpayer and spouse, but only if a joint return is
 88 filed. If a taxpayer and spouse file separate returns, ~~\$3,700.00~~ \$4,000.00 shall be allowed
 89 to each person as a deduction in computing Georgia taxable income.

90 (2) An exemption of ~~\$2,700.00~~ \$3,000.00 shall be allowed as a deduction in computing
 91 Georgia taxable income for all taxpayers other than taxpayers who qualify for the
 92 exemption provided for in paragraph (1) of this subsection.

93 (3) Commencing with the taxable year beginning January 1, 2003, an exemption of
 94 \$3,000.00 for each dependent of a taxpayer shall be allowed as a deduction in computing
 95 Georgia taxable income of the taxpayer."

96 "(d) A deduction in lieu of a personal exemption deduction shall be allowed an estate or
97 a trust as follows:

98 (1) An estate - ~~\$2,700.00~~ \$3,000.00; and

99 (2) A trust - ~~\$1,350.00~~ \$1,500.00.

100 (e) The monetary values set forth in this Code section shall be adjusted annually to reflect
101 changes, if any, due to the inflationary index rate published by the department in
102 accordance with Code Section 48-7-26.1."

103 SECTION 1-3.

104 Said article is further amended by adding a new Code section to read as follows:

105 "48-7-26.1.

106 (a)(1) The department shall prescribe and maintain rules establishing and governing an
107 annual inflationary index rate which reflects the effects of the rate of inflation and
108 deflation on the cost-of-living for residents of this state.

109 (2)(A) Such rules shall provide for the determination and use of an appropriate
110 cost-of-living index which fairly reflects the effects of inflation and deflation on
111 residents of this state.

112 (B) Such rules shall utilize the Consumer Price Index as reported by the Bureau of
113 Labor Statistics of the United States Department of Labor or any other similar index
114 established by the federal government.

115 (b) On or before January 15 of each year, the department shall publish such inflationary
116 index rate based upon the prior calendar year."

117 SECTION 1-4.

118 Said article is further amended by revising paragraph (1) of subsection (a) and paragraph (3)
119 of subsection (b) of Code Section 48-7-27, relating to computation of taxable net income, as
120 follows:

121 "(1) Either the sum of all itemized nonbusiness deductions used in computing federal
122 taxable income if the taxpayer used itemized nonbusiness deductions in computing
123 federal taxable income or, if the taxpayer could not or did not itemize nonbusiness
124 deductions, then a standard deduction as provided for in the following subparagraphs:

125 (A) In the case of a single taxpayer or a head of household, \$2,300.00;

126 (B) In the case of a married taxpayer filing a separate return, \$1,500.00;

127 (C) In the case of a married couple filing a joint return, \$3,000.00;

128 (D) An additional deduction of \$1,300.00 for the taxpayer if the taxpayer has attained
129 the age of 65 before the close of the taxpayer's taxable year. An additional deduction
130 of \$1,300.00 for the spouse of the taxpayer shall be allowed if a joint return is made by

131 the taxpayer and the taxpayer's spouse and the spouse has attained the age of 65 before
 132 the close of the taxable year; ~~and~~
 133 (E) An additional deduction of \$1,300.00 for the taxpayer if the taxpayer is blind at the
 134 close of the taxable year. An additional deduction of \$1,300.00 for the spouse of the
 135 taxpayer shall be allowed if a joint return is made by the taxpayer and the taxpayer's
 136 spouse and the spouse is blind at the close of the taxable year. For the purposes of this
 137 subparagraph, the determination of whether the taxpayer or the spouse is blind shall be
 138 made at the close of the taxable year except that, if either the taxpayer or the spouse
 139 dies during the taxable year, the determination shall be made as of the time of the death;
 140 and
 141 (F) The monetary values set forth in this paragraph shall be adjusted annually to reflect
 142 changes, if any, due to the inflationary index rate published by the department in
 143 accordance with Code Section 48-7-26.1."
 144 "(3) There shall be added to taxable income any income taxes imposed by any tax
 145 jurisdiction ~~except the State of Georgia~~ to the extent deducted in determining federal
 146 taxable income."

147 PART II

148 SECTION 2-1.

149 Article 1 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to state
 150 sales and use tax, is amended in paragraph (8) of Code Section 48-8-2, relating to definitions,
 151 by adding two new subparagraphs to read as follows:

152 "(M.1) Obtained gross revenue, in an amount exceeding \$250,000.00 in the previous
 153 calendar year, from retail sales of tangible personal property delivered electronically
 154 or physically to a location within this state to be used, consumed, distributed, or stored
 155 for use or consumption in this state;

156 (M.2) Conducted 200 or more separate retail sales of tangible personal property in the
 157 previous calendar year delivered electronically or physically to a location within this
 158 state to be used, consumed, distributed, or stored for use or consumption in this state;"

159 SECTION 2-2.

160 Said article is further amended in Code Section 48-8-30, relating to imposition of tax, rates,
 161 and collection, by revising subsection (c.1) and by adding a new subsection to read as
 162 follows:

163 "(c.1)(1)(A) Every purchaser of tangible personal property at retail outside this state
 164 from a dealer, as defined in Code Section 48-8-2, when such property is to be used,

165 consumed, distributed, or stored ~~within~~ for use or consumption in this state, shall be
 166 liable for a tax on the purchase at the rate of 4 percent of the sales price of the purchase.
 167 ~~It shall be prima-facie evidence that such property is to be used, consumed, distributed,~~
 168 ~~or stored within this state if that property is delivered in this state to the purchaser or~~
 169 ~~agent thereof.~~ The tax shall be paid by the purchaser to the retailer making the sale, as
 170 provided in this article. The retailer shall remit the tax to the commissioner as provided
 171 in this article, and, when received by the commissioner, the tax shall be a credit against
 172 the tax imposed on the retailer.

173 ~~(B) Every dealer that makes a retail~~ Every person who is a dealer, as defined in Code
 174 ~~Section 48-8-2, and who makes any sale of tangible personal property at retail outside~~
 175 ~~this state which property is to be delivered in~~ electronically or physically to a location
 176 within this state ~~to a purchaser or purchaser's agent shall be a retailer and a dealer for~~
 177 ~~purposes of this article and shall be liable for a tax on the sale at the rate of 4 percent~~
 178 ~~of such sales price or the amount of tax as collected by that person~~ such dealer from
 179 purchasers having their purchases delivered in this state, whichever is greater.

180 (C) It shall be prima-facie evidence that such property is to be used, consumed,
 181 distributed, or stored for use or consumption in this state if that property is delivered
 182 electronically or physically to a location within this state to the purchaser or agent
 183 thereof.

184 ~~(2)(D)~~ (D) No retail sale shall be taxable to the retailer or dealer which is not taxable to the
 185 purchaser at retail. The tax imposed by this subsection shall be subject to the credit
 186 otherwise granted by this article for like taxes previously paid in another state. This
 187 ~~subsection paragraph~~ shall not be construed to require a duplication in the payment of
 188 the tax.

189 (2) The department may bring an action for a declaratory judgment in any superior court
 190 against any person the department believes meets the definition of dealer provided in
 191 subparagraph (M.1) or (M.2) of paragraph (8) of Code Section 48-8-2 in order to
 192 establish that the collection obligation created by this subsection is applicable and valid
 193 under state and federal law with respect to such a dealer. If such action presents a
 194 question for judicial determination related to the constitutionality of the imposition of
 195 taxes upon such a dealer, the court shall, upon motion, enjoin the state from enforcing the
 196 collection obligation against such a dealer. The superior court shall act on such
 197 declaratory judgment action and issue a final decision in an expeditious manner.

198 (c.2)(1) For the purposes of this subsection, the term:

199 (A) 'Delivery retailer' means a retailer that is not a dealer, does not collect and remit
 200 the tax imposed by this Code section, and in the previous calendar year:

201 (i) Obtained gross revenue, in an amount exceeding \$250,000.00 from retail sales of
 202 tangible personal property delivered electronically or physically to a location within
 203 this state or used, consumed, distributed, or stored for use or consumption in this
 204 state; or

205 (ii) Conducted 200 or more retail sales of tangible personal property delivered
 206 electronically or physically to a location within this state or used, consumed,
 207 distributed, or stored for use or consumption in this state.

208 (B) 'Existing delivery retailer' means a retailer that is not a dealer, and who was a
 209 delivery retailer that collected and remitted the tax imposed by this Code section during
 210 the prior calendar year.

211 (C) 'Purchaser' means a person or agent thereof that gives consideration to a delivery
 212 retailer in exchange for tangible personal property to be delivered electronically or
 213 physically to a location within this state or used, consumed, distributed, or stored for
 214 use or consumption in this state.

215 (2) Each delivery retailer and existing delivery retailer shall collect and remit the tax
 216 imposed by this Code section or shall:

217 (A) Notify each potential purchaser immediately prior to the completion of each retail
 218 sale transaction with the following statement: 'Sales or use tax may be due to the State
 219 of Georgia on this purchase. Georgia law requires certain consumers to file a sales and
 220 use tax return remitting any unpaid taxes due to the State of Georgia.';

221 (B) On or before January 31 of each year, send a sales and use tax statement to each
 222 purchaser that completed one or more retail sales with such delivery retailer or existing
 223 delivery retailer that totaled \$500.00 or more in aggregate during the prior calendar year
 224 in an envelope containing the words 'IMPORTANT TAX DOCUMENT ENCLOSED'
 225 on the exterior of the mailing by first class mail and separate from any other shipment;
 226 and

227 (C) On or before January 31 of each year, file a copy of each sales and use tax
 228 statement required under subparagraph (B) of this paragraph with the department in a
 229 manner to be prescribed by the department.

230 (3) For the purposes of this subsection, a sales and use tax statement shall:

231 (A) Be on a form to be prescribed by the department;

232 (B) Contain the total amount paid by the purchaser for retail sales from the delivery
 233 retailer or existing delivery retailer during the previous calendar year, as well as, if
 234 available, the dates of purchases, the amounts of each purchase, and the category of
 235 each purchase, including, if known by the delivery retailer or existing delivery retailer,
 236 whether the purchase is exempt from taxation under this article; and

237 (C) Include the following statement: 'Sales or use taxes may be due to the State of
 238 Georgia on the purchase(s) identified in this statement as Georgia taxes were not
 239 collected at the time of purchase. Georgia law requires certain consumers to file a sales
 240 and use tax return remitting any unpaid taxes due to the State of Georgia.'

241 (4) Unless determined by the commissioner upon a showing of reasonable cause:

242 (A) Failure to provide the notice required by subparagraph (A) of paragraph (2) of this
 243 subsection shall subject a delivery retailer or existing delivery retailer to a penalty of
 244 \$5.00 for each failure;

245 (B) Failure to send a sales and use statement as required by subparagraph (B) of
 246 paragraph (2) of this subsection shall subject a delivery retailer or existing delivery
 247 retailer to a penalty of \$10.00 for each failure; and

248 (C) Failure to file a copy of a sales and use tax statement with the department as
 249 required by subparagraph (C) of paragraph (2) of this subsection shall subject a delivery
 250 retailer or existing delivery retailer to a penalty of \$10.00 for each failure.

251 (5) It shall be prima-facie evidence that such property is to be used, consumed,
 252 distributed, or stored for use or consumption in this state if that property is delivered
 253 electronically or physically to a location within this state to the purchaser or agent
 254 thereof."

255 **PART III**

256 **SECTION 3-1.**

257 (a) This section and Sections 1-1 and 3-2 of this Act shall become effective on January 1,
 258 2018.

259 (b) Sections 1-2, 1-3, and 1-4 of this Act shall become effective January 1, 2019.

260 (c) Part II of this Act shall become effective on January 1, 2018, and shall apply to all sales
 261 made on or after January 1, 2018.

262 **SECTION 3-2.**

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