

The House Committee on Ways and Means offers the following substitute to HB 428:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to sales
2 and use taxes, so as to revise an exemption for the sale or lease of certain computer
3 equipment; to provide for reporting; to provide for related matters; to provide an effective
4 date; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

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

10 "(68)(A) The sale or lease of computer equipment to be incorporated into a facility or
11 facilities in this state to any high-technology company classified under the 2017 North
12 American Industrial Classification System code ~~51121, 51331, 51333, 51334, 51421,~~
13 ~~52232, 54133, 54171, 54172,~~ 334413, 334611, ~~513321, 513322, 514191,~~ 334614,
14 511210, 517311, 517312, 517410, 517911, 517919, 518210, 522320, 541330, 541511,
15 541512, 541513, or 541519, 541713, 541715, or 541720 where such sale of computer
16 equipment for any calendar year exceeds \$15 million or, in the event of a lease of such

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17 computer equipment, the fair market value of such leased computer equipment for any
18 calendar year exceeds \$15 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 term shall not include:

39 (I) Telephone central office equipment or other voice data transport technology; or
40 (II) Equipment with imbedded computer hardware or software which is primarily
41 used for training, product testing, or in a manufacturing process.

42 (D) Any corporation, partnership, limited liability company, or any other similar entity
43 which qualifies for the exemption and is affiliated in any manner with a nonqualified

44 corporation, partnership, limited liability company, or any other similar entity must
45 conduct at least a majority of its business with entities with which it has no affiliation.
46 (E) Each high-technology company that has been issued a certificate of exemption
47 pursuant to this paragraph shall report annually to the commissioner a list of the
48 facilities for which all computer equipment exempted by this paragraph during the
49 preceding calendar year is incorporated, as well as the amount of taxes exempted under
50 this paragraph during the preceding calendar year. The commissioner shall not reissue
51 a certificate of exemption under this paragraph to any high-technology company that
52 has failed to comply with the reporting required by this subparagraph.
53 (F) The commissioner shall promulgate such rules and regulations as are necessary to
54 implement the provisions of this paragraph;”

55 **SECTION 2.**

56 This Act shall become effective on January 1, 2022.

57 **SECTION 3.**

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