Senate Research Office

AT ISSUE

A Review of Major 2012 Tax Legislation

By Brian Scott Johnson
Deputy Director

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The Georgia General Assembly had a monumental year during the 2012 Legislative Session, and one of the reasons is the passage of a major tax reform package, in addition to other important legislation.

Tax Reform

House Bill 386

The cornerstone of this year's tax legislation was House Bill 386, which was the product of the Tax Reform Council and the Special Joint Committee on Revenue Structure created in 2010 by House Bill 1405. House Bill 386 enjoyed a specially-created legislative process for it to be debated and considered by the House and the Senate. After several drafts and committee decisions during the 2011 Legislative Session, the components of tax reform finally received passage, receiving unanimous endorsement by the Georgia Senate.

The tax reform legislation touches a wide variety of areas in Georgia. Perhaps the most universally lauded portion benefits the manufacturing community and workers. Georgia was one of only 14 states that levied a sales tax on the energy used to produce goods. In the South—only Alabama allows for local taxation (of which Georgia will allow counties and cities to exercise if they choose pursuant to Senate Bill 332—which places stronger requirements for special purpose sales tax revenue reporting). The new energy exemption will be phased in over the next four years; each year, from 2013 on, sales taxes on energy will decrease 25 percent of the fully imposed state rate. So, in 2013, the state will have reduced the tax by 25 percent. In 2014, the rate would decrease by 50 percent and in 2015 by 75 percent. By 2016, the energy used for manufacturing goods and products in Georgia will be fully exempted. This is very important for Georgia's traditional manufacturing industry and will be crucial in retaining and luring goods-producers for Georgia.

Alongside the sales tax exemption for energy used in manufacturing is a new exemption for goods used to grow and produce agriculture commodities in Georgia. This "input" sales tax exemption will apply to things that are necessary for growing food or raising livestock. It could be feed, seed, machinery, equipment or energy; however, the farmer or producer claiming the credit with the Department of Agriculture must prove that he is producing in a full-time capacity.

Perhaps the most talked about piece of the tax reform legislation is the elimination of the dreaded and often-misunderstood "birthday tax." Ad valorem taxes on motor vehicle possession used to be levied at the start of each year, but it was changed to coincide with the owner's birthday rather than during the Christmas and holiday season. Each county levies an ad valorem tax on personal property such as cars and boats; the tax due is determined by the millage rate applied to 40 percent of the value of that specific property. Counties use these tax collections to fund basic operations, so the revenue is important. Under House Bill 386, the birthday tax is axed and replaced with a state title fee that will eventually replace both sales tax and the annual ad valorem tax.

This is how it will work:
The official transition date whereby all motor vehicle purchases will be exempt from the birthday tax is March 1, 2013. No sales taxes will be collected after this date, but the new title fee of 6.5 percent of the purchase price during 2013 will apply. All vehicles purchases made between January 1, 2012, through February 28, 2013, will be eligible for an opt-in to the birthday tax exemption. The opt-in will require an additional fee that will be assessed against the sales tax already paid on the purchase. The Georgia Department of Revenue is currently drafting rules and forms to govern the new title fee and the opt-in transfers. The best course of action is to hold on to the sales contract so that the local tax and tag office may have access to the best information when transferring the eligible title so that it may enjoy the birthday tax exemption.

Other important components of the tax reform legislation include the statutory correction of the long-endured marriage penalty under Georgia income tax. The personal exemption for married couples filing jointly will be increased to $7,400 from $5,400. The exemption for dependents will continue to be $3,000. The standard deduction is not changed.

Further, large regional construction projects for economic development purposes will be eligible for a sales tax exemption on materials used in construction; this will help Georgia be more competitive in luring good jobs to the Peach State. Airlines purchasing jet fuel in Georgia will be able to exempt one percent of the total 4-cent state sales tax; moreover, House Bill 743 further exempts jet fuel purchases from local sales taxes.

The popular sales tax holiday for school supplies returns for 2012 and 2013, and the same applies for purchases of energy efficient appliances.

Georgia will start collecting sales tax for certain online purchases if the seller has an affiliate based in Georgia, and that seller does more than $50 thousand worth of sales per year. Online purchases have soared during the last decade, but Main Street retail stores (often referred to as "brick and mortar" stores) continue to be required to charge sales tax so many consumers choose to not patronize local stores in favor of cyber-shopping. This helps even the playing field for Georgia retailers.

Georgia passed legislation in 2010 to eventually fully exclude retirement income from state income tax. Under the tax reform legislation, the phase-out will stop at $65 thousand annual retirement income per person and for permanently or totally disabled Georgia residents. Retirement income does not include normal wages that are accompanied by W-2 forms.

Other Notable Legislation:
House Bill 808
Disabled Veterans
Georgia's disabled veterans will be exempt from state income tax; this mirrors federal law. "Disabled veteran" is defined as a wartime veteran honorably discharged with at least 90 percent disability and who is eligible due to loss of one or both feet, hands, or eyes.

House Bill 48
Freeport Exemptions
Georgia will expand local Freeport Exemptions for business inventory by authorizing a new category of business goods that could fall under a "catch all" inventory exemption. Further, the exemption is expanded to include inventory in transit that may be on docks in the state. Eleven Georgia counties currently do not exercise a Freeport Exemption:

1. Baker
2. Bleckley
3. Calhoun
4. Echols
5. Glascock
6. Heard
7. Oglethorpe
8. Rabun
9. White
10. Wilcox
11. Wilkinson

House Bill 1071
Tobacco Products
Georgia will change the way it taxes tobacco products in order to minimize fraudulent activities. The rate does not change, but the tobacco definition is altered to include little cigars, and the current excise tax will be levied against the dealer or licensed distributor and collected on the first transaction in the State. Moreover, tobacco products will be prohibited from being received, sold, or shipped into Georgia unless originating from a licensed person or duly permitted imported. Current inventories must be documented by invoices to be produced on demand for inspection. Other records may be kept at other locations and produced within two days of demand by Department of Revenue. New license and registration fees and penalties will be assessed for tobacco dealers.

Senate Bill 284
Land Banks
Georgia strengthened the role that land banks play in local development and revitalization and preservation. Dilapidated, abandoned, and tax delinquent housing lowers property values and tax revenues, increases costs of fire and police protection, and undermines community cohesion. Land banks that acquire these properties and make them available for new investment are one means of returning them to a productive use; therefore, the Georgia Land Bank Act of 2012 provides for the creation and rules of operation for land banks. Land banks would acquire properties and transfer or sell them to parties who will use the land for publicly-beneficial uses, such as affordable housing, conservation areas, land trusts, or long-term investment into local private enterprise. The banks have no power of eminent domain; moreover, the banks cannot own or hold property beyond their geographical jurisdiction. Importantly, counties may join to form regional land banks which will be especially useful in rural Georgia.

House Bill 868
Job Creation
Tax credits for creating jobs in Georgia will be easier to attain if a company expands in a less-developed area, expends funds for research and development, and relocates a headquarters to Georgia. The credit is good for five years and may be carried forward against future tax liabilities. This is good for Georgia workers and businesses seeking to expand.