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REVENUE AND TAXATION

Tax Evasion: Provide for Criminal Penalties

CODE SECTION:	O.C.G.A. § 48-7-5 (new)
BILL NUMBER:	SB 119
ACT NUMBER:	559
SUMMARY:	The Act provides for the enforcement of criminal penalties against those who willfully evade or willfully attempt to evade the payment of taxes or any other amount imposed under Title 48.
EFFECTIVE DATE:	April 2, 1987

History

The evasion or attempted evasion of taxes was proscribed under O.C.G.A. § 48-7-2, which provided a misdemeanor penalty.¹ For many crimes such as drug trafficking, however, in which the evidence of criminal activity usually is found in the form of unreported income, misdemeanor penalties do little to deter the criminal activity.² Since federal law imposes felony penalties for tax evasion, state drug enforcement officials were forced to take their cases to federal court.³ As part of recent anti-drug legislation, state felony penalties for tax evasion were needed to aid state drug enforcement officials.⁴

SB 119

As originally introduced in the Senate, SB 119 provided felony penalties for those who willfully evade or willfully attempt to evade any "tax, license, penalty, interest, or other amount imposed under [Title 48]."⁵ The aforementioned felony would allow for the imposition of fines up to \$100,000 for individuals and \$500,000 for corporations. The offender also would be subject to a possible prison sentence up to five years.⁶ The Senate Judiciary Committee substitute placed SB 119 in Chapter 7 of Title

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1. O.C.G.A. § 48-7-2 (1982).
 2. Telephone interview with Russell N. Sewell, Governor's General Counsel (Apr. 30, 1987).
 3. *Id.*
 4. *Id.*
 5. SB 119, as introduced, 1987 Ga. Gen. Assem.
 6. *Id.*

48,⁷ which deals with income taxes, rather than in Chapter 1, which addresses general revenue, where SB 119 originally placed this provision.⁸

SB 119 also was amended in the House where, in place of the word "penalty," the following was substituted: "as a result of income gained in illegal activity for which the person is convicted of a felony under the laws of the state of Georgia."⁹ Also, a threshold sum of \$2,000 was required to make such tax evasion a felony.¹⁰ The bill as passed raised this sum to \$3,000 in an attempt to preserve the misdemeanor penalty for "small offenders," but reinstated the word "penalty" for the proposed substitute language.¹¹

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7. O.C.G.A. § 48-7-5 (Supp. 1987).

8. SB 119, as introduced, 1987 Ga. Gen. Assem.

9. SB 119 (HFA), 1987 Ga. Gen. Assem.

10. *Id.*

11. O.C.G.A. § 48-7-5 (Supp. 1987).