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## REVENUE AND TAXATION Ad Valorem Taxation of Property: Change Certain Provisions Relating to Qualifications of Property as Bona Fide Conservation Use Property; Change Certain Provisions Relative to the Ownership of Such Property and the Gross Income Derived by a Family Owned Farm Entity

Brittany Tuggle

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## REVENUE AND TAXATION

*Ad Valorem Taxation of Property: Change Certain Provisions Relating to Qualification of Property as Bona Fide Conservation Use Property; Change Certain Provisions Relative to the Ownership of Such Property and the Gross Income Derived by a Family Owned Farm Entity*

<b>CODE SECTION:</b>	O.C.G.A. § 48-5-7.4 (amended)
<b>BILL NUMBER:</b>	HB 1217
<b>ACT NUMBER:</b>	829
<b>GEORGIA LAWS:</b>	2000 Ga. Laws 1338
<b>SUMMARY:</b>	The Act requires a family owned farm entity owning property for conservation use to be owned by one or more natural or naturalized citizens related to each other by blood or marriage. The Act allows an entity such as a corporation, a limited partnership, a limited corporation, or a limited liability company to serve as a general partner of a family limited partnership, but it may not hold more than a five percent interest in that family limited partnership. Finally, the Act requires a family owned entity to derive eighty percent or more of its gross income from bona fide conservation uses, including earnings or investments directly related to past or future bona fide conservation uses, and when the family farm entity is newly formed, an estimate of its income may be used to determine eligibility.
<b>EFFECTIVE DATE:</b>	May 1, 2000 <sup>1</sup>

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1. See 2000 Ga. Laws 1338, §§ 2-3, at 1339. The Act took effect upon approval by the

*History*

Many family farm entities were influential in getting HB 1217 introduced.<sup>2</sup> The bill was introduced to allow surviving spouses to benefit from the savings offered by the Conservation Use Tax law.<sup>3</sup>

*HB 1217*

Representatives Thomas Buck, Richard Royal, and Jeanette Jamieson of the 135th, 164th, and 22nd Districts, respectively, sponsored HB 1217.<sup>4</sup> Representative Thomas Buck introduced the bill on the House floor on February 14, 2000.<sup>5</sup> The House assigned the bill to its Ways and Means Committee.<sup>6</sup> The Committee substituted the bill to add language to include earnings and investments directly related to past or future bona fide conservation uses to the requirement that eighty percent of gross income be derived from bona fide conservation uses.<sup>7</sup> The Committee substitute also provided that a newly formed family farm entity's income may be estimated to determine its eligibility.<sup>8</sup> The House adopted the Committee substitute and unanimously passed the bill, as substituted, on February 14, 2000.<sup>9</sup>

The Senate unanimously passed the bill with no changes on February 28, 2000.<sup>10</sup> Governor Roy Barnes signed HB 1217 into law on May 1, 2000.<sup>11</sup>

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Governor. *See id.*

2. *See* Interview with Rep. Richard Royal, House District No. 164 (May 15, 2000) [hereinafter Royal Interview].

3. *See id.*

4. *See* HB 1217, as introduced, 2000 Ga. Gen. Assem.

5. *See* State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

6. *See id.*

7. *Compare* HB 1217, as introduced, 2000 Ga. Gen. Assem., *with* HB 1217 (HCS), 2000 Ga. Gen. Assem.

8. *Compare* HB 1217, as introduced, 2000 Ga. Gen. Assem., *with* HB 1217 (HCS), 2000 Ga. Gen. Assem.

9. *See* Georgia House of Representatives Voting Record, HB 1217 (Feb. 14, 2000); State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

10. *See* Georgia Senate Voting Record, HB 1217 (Feb. 28, 2000).

11. *See* 2000 Ga. Laws 1338, § 3, at 1339.

*The Act*

The Act amends Code section 48-5-7.4, regarding the definition of who can own bona fide conservation use property and residential transitional property.<sup>12</sup> It requires that the interest in a family owned farm entity, such as a family corporation, a family partnership, a family general partnership, a family limited partnership, a family limited corporation, or a family limited liability company, be owned by one or more natural or naturalized citizens related to each other by blood or marriage within the fourth degree of civil reckoning, with one exception.<sup>13</sup> That exception allows a family limited partnership to have a corporation, limited partnership, limited corporation, or limited liability company serve as a general partner of the family limited partnership, but such general partner may not hold more than a five percent interest in that family limited partnership.<sup>14</sup>

Further, although the former Code section already required that the family owned farm entity derive eighty percent or more of its gross income from bona fide conservation uses, the Act now allows earnings or investments directly related to past or future bona fide conservation uses to be considered in the eighty percent gross income requirement.<sup>15</sup> Finally, the Act provides that newly formed family farm entities may estimate the entity's income to determine its eligibility.<sup>16</sup>

*Brittany Tuggle*

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12. Compare 1999 Ga. Laws 656, § 1, at 656-57 (formerly found at O.C.G.A. § 48-5-7.4(a)(1)(C)(iv) (1999)), with O.C.G.A. § 48-5-7.4(a)(1)(C)(iv) (Supp. 2000).

13. Compare 1999 Ga. Laws 656, § 1, at 656-57 (formerly found at O.C.G.A. § 48-5-7.4(a)(1)(C)(iv) (1999)), with O.C.G.A. § 48-5-7.4(a)(1)(C)(iv) (Supp. 2000). Representative Royal stated that the "blood or marriage" requirement was added because widows were previously excluded from participating in the conservation use, even though their spouses were enrolled. See Royal Interview, *supra* note 2.

14. Compare 1999 Ga. Laws 656, § 1, at 656-57 (formerly found at O.C.G.A. § 48-5-7.4(a)(1)(C)(iv) (1999)), with O.C.G.A. § 48-5-7.4(a)(1)(C)(iv) (Supp. 2000).

15. Compare 1999 Ga. Laws 656, § 1, at 656-57 (formerly found at O.C.G.A. § 48-5-7.4(a)(1)(C)(iv) (1999)), with O.C.G.A. § 48-5-7.4(a)(1)(C)(iv) (Supp. 2000).

16. Compare 1999 Ga. Laws 656, § 1, at 656-57 (formerly found at O.C.G.A. § 48-5-7.4(a)(1)(C)(iv) (1999)), with O.C.G.A. § 48-5-7.4(a)(1)(C)(iv) (Supp. 2000).