

March 2012

REVENUE AND TAXATION Income, Sales, and Use Taxes: Provide for Certain Technical Corrections and Modifications; Provide for Proper Administration of Certain Provisions Regarding Revenue and Taxation; Revise and Clarify Tax Liability for Limited Liability Entities; Allow Allocation and Apportionment Agreements with Taxpayers Other Than Corporations; Revise Income Tax Credit Provisions for Businesses in Certain Counties and Less Developed Areas; Revise Income Tax Credit Provisions for the Establishment or Relocation of Taxpayer Headquarters; Authorize Claiming of Certain

Recommended Citation

Georgia State University Law Review, *REVENUE AND TAXATION Income, Sales, and Use Taxes: Provide for Certain Technical Corrections and Modifications; Provide for Proper Administration of Certain Provisions Regarding Revenue and Taxation; Revise and Clarify Tax Liability for Limited Liability Entities; Allow Allocation and Apportionment Agreements with Taxpayers Other Than Corporations; Revise Income Tax Credit Provisions for Businesses in Certain Counties and Less Developed Areas; Revise Income Tax Credit Provisions for the Establishment or Relocation of Taxpayer Headquarters; Authorize Claiming of Certain Income Tax Credits on a Calendar Year Basis for a Certain Tax Year; Clarify the Relief from Joint and Several Liability on Joint Returns for Innocent Spouses When Applicable; Clarify the Phased-In Exemption for Certain Repair or Replacement Parts; Clarify the Exemption for Tangible Personal Property Acquired Under 100 Percent Common Ownership; Clarify the Exemption for Certain Sales or Leases of Computer Equipment to Certain High Technology Companies; Clarify the Exemption with Respect to the Sale of Certain Machinery, Equipment, and Materials Incorporated Into and Used in the Construction and Operation of Certain Clean Rooms; Extend the Date for Distribution of Certain Identifiable Sales and Use Tax Proceeds; Provide for Effective Dates*, 18 GA. ST. U. L. REV. (2012).

Available at: <https://readingroom.law.gsu.edu/gsulr/vol18/iss1/49>

Income Tax Credits on a Calendar Year Basis for a Certain Tax Year; Clarify the Relief from Joint and Several Liability on Joint Returns for Innocent Spouses When Applicable; Clarify the Phased-In Exemption for Certain Repair or Replacement Parts; Clarify the Exemption for Tangible Personal Property Acquired Under 100 Percent Common Ownership; Clarify the Exemption for Certain Sales or Leases of Computer Equipment to Certain High Technology Companies; Clarify the Exemption with Respect to the Sale of Certain Machinery, Equipment, and Materials Incorporated Into and Used in the Construction and Operation of Certain Clean Rooms; Extend the Date for Distribution of Certain Identifiable Sales and Use Tax Proceeds; Provide for Effective Dates

Georgia State University Law Review

Follow this and additional works at: <https://readingroom.law.gsu.edu/gsulr>

 Part of the [Law Commons](#)

REVENUE AND TAXATION

Income, Sales, and Use Taxes: Provide for Certain Technical Corrections and Modifications; Provide for Proper Administration of Certain Provisions Regarding Revenue and Taxation; Revise and Clarify Tax Liability for Limited Liability Entities; Allow Allocation and Apportionment Agreements with Taxpayers Other Than Corporations; Revise Income Tax Credit Provisions for Businesses in Certain Counties and Less Developed Areas; Revise Income Tax Credit Provisions for the Establishment or Relocation of Taxpayer Headquarters; Authorize Claiming of Certain Income Tax Credits on a Calendar Year Basis for a Certain Tax Year; Clarify the Relief from Joint and Several Liability on Joint Returns for Innocent Spouses When Applicable; Clarify the Phased-In Exemption of Certain Repair or Replacement Parts; Clarify the Exemption for Tangible Personal Property Acquired Under 100 Percent Common Ownership; Clarify the Exemption for Certain Sales or Leases of Computer Equipment to Certain High-Technology Companies; Clarify the Exemption with Respect to the Sale of Certain Machinery, Equipment, and Materials Incorporated Into and Used in the Construction and Operation of Certain Clean Rooms; Extend the Date for Distribution of Certain Unidentifiable Sales and Use Tax Proceeds; Provide for Effective Dates

CODE SECTIONS: O.C.G.A. §§ 14-8-15, 14-11-303, -1104, 48-2-52, 48-7-31 (amended), 48-7-31.1 (new), 48-7-40, -40.1, -40.17 (amended), 48-7-40.21 (new), 48-7-42, -86, 48-8-3, -30, -67, 48-13-53.4 (amended)

BILL NUMBER: HB 582

ACT NUMBER: 302

GEORGIA LAWS: 2001 Ga. Laws 984

SUMMARY: The Act provides for certain technical corrections and modifications to Georgia's income tax and sales and use tax laws. The Act also contains provisions relating to the proper administration of revenue and taxation. The Act revises and clarifies the level of tax liability for limited liability partnerships and limited liability companies.

Under the Act, the tax commissioner can enter into allocation and apportionment agreements with taxpayers other than corporations. The Act also revises tax credit provisions relating to businesses located in certain counties and areas designated as less developed areas, relating to taxpayer headquarters relocations, and relating to calendar years. The Act clarifies the relief from joint and several liability on joint returns for innocent spouses when applicable only to state income taxes. The Act clarifies several exemptions including: the phased-in exemption of certain repair or replacement parts; the exemption for tangible personal property acquired under 100 percent common ownership; the exemption for certain sales or leases of computer equipment to certain high-technology companies; and the exemption with respect to the sale of certain machinery, equipment, and materials incorporated into and used in the construction and operation of certain clean rooms. Finally, the Act extends the date for distribution of certain unidentifiable sales and use tax proceeds.

EFFECTIVE DATE: April 27, 2001¹

History

The Department of Revenue discovered several technical problems with Georgia's tax code and authored the language included in HB 582.² Examples of the technical problems included incorrect terminology and

1. See 2001 Ga. Laws 984, § 20-21, at 999. The Act became effective upon approval by the Governor. See *id.*, § 20, at 999. However, the amendments to O.C.G.A. §§ 48-7-31(d), 48-7-40(e), 48-7-40.1(e), and 48-7-40.17 and the newly enacted O.C.G.A. § 48-7-31.1 are "applicable to all taxable years beginning on or after January 1, 2001." *Id.*

2. See Telephone Interview with Chuck Meadows, Deputy Policy Director for Governor Roy Barnes (Mar. 30, 2001) [hereinafter Meadows Interview].

wording, confusing language, and references to obsolete guidelines.³ One of the technical corrections also arose from the decision by the Georgia Supreme Court in *Charter Medical Information Services, Inc. v. Collins*.⁴

The Department of Revenue also included language relating to its administration of the tax code.⁵ One area in particular drew attention from an organization outside the Department of Revenue: the Georgia Economic Developers Association (GEDA).⁶ GEDA publicly supported several of the tax credit revisions, stating that such revisions would help Georgia better compete for business and industry expansion and development.⁷

The Department of Revenue forwarded its language for the bill to the Governor's Office.⁸ The Governor's Office approved the language and forwarded the unchanged bill to Representative Thomas B. Buck.⁹ The Governor signed the bill into law on April 27, 2001.¹⁰

HB 582

Representatives Thomas B. Buck of the 135th District, Richard A. Royal of the 164th District, and Chuck Sims of the 167th District sponsored the bill, which was introduced on February 13, 2001.¹¹ The House assigned the bill to its Ways and Means Committee, which favorably reported the bill without changes on February 20, 2001.¹² Representative Royal discussed the bill on the House floor on February 22, 2001.¹³ During the floor discussion, Representative Royal

3. See Electronic Mail Interview with Ed Many, Director of Compliance for the Georgia Department of Revenue (Mar. 30, 2001) [hereinafter Many Interview].

4. 266 Ga. 720, 723, 470 S.E.2d 655, 657 (1996) (holding that "[s]ince there is no specific indication that the legislature intended to change the preexisting law when it adopted the Official Code, we view alterations of the Code Revision Commission in redrafting the statute and in substituting the words 'common ownership of the property' for 'persons under 100% common ownership,' as merely a scrivener's error."); see Many Interview, *supra* note 3.

5. See Meadows Interview, *supra* note 2.

6. See 2001 GEDA Legislative Policy Agenda, at www.geda.org/_download/2001LegislativePolicyAgenda.doc.

7. See *id.*

8. See Meadows Interview, *supra* note 2.

9. See *id.*

10. See 2001 Ga. Laws 984, § 21, at 999.

11. See HB 582, as introduced, 2001 Ga. Gen. Assem.; State of Georgia Final Composite Status Sheet, HB 582, Mar. 21, 2001.

12. See State of Georgia Final Composite Status Sheet, HB 582, Mar. 21, 2001.

13. See Audio Recording of House Proceedings, Feb. 22, 2001 (remarks by Rep. Richard A. Royal), at <http://www.state.ga.us/services/leg/audio/2001archive.html> [hereinafter House Audio].

clarified that Code sections 48-2-52 and 14-8-15 create the same tax liability for employees of limited liability partnerships as those for corporations, and that this liability attaches only when there is a willful failure by the individual.¹⁴ Representative Royal further clarified that Code section 48-7-86(g) was intended to improve the innocent spouse legislation passed by the 2000 General Assembly so that a qualifying “innocent spouse who only needs to apply for a Georgia tax return now receives the benefit of the innocent spouse legislation.”¹⁵ After this discussion, the House passed the bill as introduced on February 22, 2001, by a vote of 165 to 2.¹⁶

Representative Brian Joyce from the 1st District voted against the bill in the House.¹⁷ Representative Joyce opposed the bill because it “increased the liabilities of limited liability partnerships,” which is “counterproductive to . . . the concept of a limited liability partnership.”¹⁸ Representative Joyce felt that “businessmen and women need a vehicle to shelter their personal lives from their business lives.”¹⁹ Without this shelter, entrepreneurs would be less likely to start a business because of the risk of losing their personal assets.²⁰

On February 26, 2001, the bill was read in the Senate and referred to the Senate Committee on Finance and Public Utilities.²¹ The Committee favorably reported the bill without changes on March 12, 2001.²² The Senate discussed the bill on March 19, 2001.²³ Senator Terrell Star from the 44th District described the bill as “an annual update bill for the Revenue Department on the taxation code.”²⁴ Senator Nathan Dean from the 31st District clarified that the bill was necessary to update the Georgia tax laws in light of the various federal regulations now in place.²⁵

14. *See id.*

15. *Id.* (remarks by Reps. Lynn Smith and Richard A. Royal).

16. *See Georgia House of Representatives Voting Record, HB 582 (Feb. 22, 2001), available at* http://www.legis.state.ga.us/Legis/2001_02/votes/hv0193.htm.

17. *See id.*

18. Electronic Mail Interview with Representative Brian Joyce, House District No. 1 (May 15, 2001) [hereinafter Joyce Interview].

19. *Id.*

20. *See id.*

21. *See State of Georgia Final Composite Status Sheet, HB 582, Mar. 21, 2001.*

22. *See id.*

23. *See Audio Recording of Senate Proceedings, Mar. 19, 2001, at* <http://www.state.ga.us/services/leg/audio/2001archive.html> [hereinafter Senate Audio].

24. *Id.* (remarks by Sen. Terrell Star).

25. *See id.* (remarks by Sen. Nathan Dean).

Senator Mitch Seabaugh from the 28th District offered a floor amendment to Code section 48-7-40.21.²⁶ The Senate floor amendment would have increased the return compensation for small businesses collecting revenue for the state.²⁷ As introduced, HB 582 allowed for a three percent return, and the amendment would have increased that return to four-and-a-half percent.²⁸ Senator Seabaugh thought this amendment was necessary to help small businesses “offset the amount of effort and money [that] they have to put forth to collect the state’s money.”²⁹ However, Senator Starr urged the floor not to adopt the amendment because the Senate needed a fiscal note addressing any impact the change would have on the state’s revenue.³⁰ Senator Seabaugh’s amendment failed by a vote of 25 to 29.³¹

Senator Sonny Perdue from the 18th District also offered a floor amendment.³² This amendment would have added a new section to HB 582, amending Code section 45-12-80 by adding a new section relating to amendments to general appropriations acts passed by the General Assembly.³³ Senator Perdue withdrew the amendment after Senator Starr requested a ruling on the germaneness of the amendment.³⁴

Thus, after both floor amendments failed in the Senate, the Senate passed the bill, as introduced, on March 19, 2001, by a vote of 54 to 1.³⁵

The Act

The Act amends several Georgia Code sections; in an effort to provide a clearer analysis of the Act, this review groups the Code sections by topic.

26. See Failed Senate Floor Amendment to HB 582, introduced by Sen. Mitch Seabaugh, Mar. 19, 2001; see also Senate Audio, *supra* note 23 (remarks by Sen. Mitch Seabaugh).

27. See Failed Senate Floor Amendment to HB 582, introduced by Sen. Mitch Seabaugh, Mar. 19, 2001; see also Senate Audio, *supra* note 23 (remarks by Sen. Mitch Seabaugh).

28. See Failed Senate Floor Amendment to HB 582, introduced by Sen. Mitch Seabaugh, Mar. 19, 2001; see also Senate Audio, *supra* note 23 (remarks by Sen. Mitch Seabaugh).

29. Senate Audio, *supra* note 23 (remarks by Sen. Mitch Seabaugh).

30. See *id.* (remarks by Sen. Terrell Star).

31. See Georgia Senate Voting Record, HB 582 (Mar. 19, 2001), available at http://www.legis.state.ga.us/Legis/2001_02/votes/sv0357.htm.

32. See Withdrawn Senate Floor Amendment to HB 582, introduced by Sen. Sonny Perdue, Mar. 19, 2001; see also Senate Audio, *supra* note 23 (remarks by Sen. Sonny Perdue).

33. See Withdrawn Senate Floor Amendment to HB 582, introduced by Sen. Sonny Perdue, Mar. 19, 2001; see also Senate Audio, *supra* note 23 (remarks by Sen. Sonny Perdue).

34. See Senate Audio, *supra* note 23 (remarks by Sens. Sonny Perdue and Terrell Star).

35. See Georgia Senate Voting Record, HB 582 (Mar. 19, 2001), available at http://www.legis.state.ga.us/Legis/2001_02/votes/sv0358.htm.

Code Sections 48-2-52, 14-8-15 and 14-11-303: Personal Tax Liability for Limited Liability Companies and Partnerships

Section One of the Act amends Code section 48-2-52 and creates personal tax liability for members, managers, partners, or employees of limited liability companies and partnerships who fail to collect taxes, account for and pay taxes, or willfully attempt to evade tax obligations.³⁶ Prior to the Act, only officers or employees of corporations were subject to personal liability for tax delinquencies.³⁷

Section Two of the Act amends Code section 14-8-15, and further enforces the personal tax liability of partners in a limited liability partnership.³⁸ Prior to the Act, Code section 14-8-15 provided that

a partner in a limited liability partnership is not individually liable or accountable either directly or indirectly . . . for any debts, obligations, or liabilities of or chargeable to the partnership or another partner . . . solely by reason of being such a partner . . . or otherwise participating in the conduct of the activities of the limited liability partnership.³⁹

The Act clarifies that this protection from personal liability for partners may not extend to tax liability, and the Act also references Code section 48-2-52.⁴⁰

Section Three of the Act amends Code section 14-11-303 and relates to the personal tax liability of members, managers, agents, or employees of a limited liability company.⁴¹ Prior to the Act, Code section 14-11-303 provided that

[a] person who is a member, manager, agent or employee of a limited liability company is not liable, solely by reason of being a member, manager, agent or employee of the limited liability company . . . for the acts or omissions of any other member, manager, agent, or employee of the limited liability company.⁴²

36. Compare 1980 Ga. Laws 10, § 6, at 13 (formerly found at O.C.G.A. § 48-2-52 (1999)), with O.C.G.A. § 48-2-52 (Supp. 2001).

37. Compare 1980 Ga. Laws 10, § 6, at 13 (formerly found at O.C.G.A. § 48-2-52 (1999)), with O.C.G.A. § 48-2-52 (Supp. 2001).

38. Compare 1995 Ga. Laws 470, § 3, at 471 (formerly found at O.C.G.A. § 14-8-15 (Supp. 2000)), with O.C.G.A. § 14-8-15 (Supp. 2001).

39. 1995 Ga. Laws 470, § 3, at 471.

40. See O.C.G.A. § 14-8-15 (Supp. 2001).

41. Compare 1997 Ga. Laws 1380, § 5, at 1384 (formerly found at O.C.G.A. § 14-11-303 (Supp. 2000)), with O.C.G.A. § 14-11-303 (Supp. 2001).

42. 1997 Ga. Laws 1380, § 5, at 1384.

The Act clarifies that this protection from personal liability for individuals involved in a limited liability company may not extend to tax liability, and the Act also references Code section 48-2-52.⁴³

Code Section 14-11-1104: Income Tax for Limited Liability Companies

Section Four of the Act amends Code section 14-11-1104.⁴⁴ Prior to the Act, Code section 14-11-1104 stated that Georgia will, for Georgia tax purposes, classify a limited liability company “in the same manner as it is classified for federal income tax purposes.”⁴⁵ The Act clarifies that this Code section refers to Georgia income tax purposes only.⁴⁶

Code Sections 48-7-31 and 48-7-31.1: Special Allocation and Apportionment Agreements

Section Five of the Act amends Code section 48-7-31 by striking a portion of subsection (d), and Section Six of the Act moves the deleted language to new Code section, 48-7-31.1.⁴⁷ This structural change in the law clarifies that the commissioner may enter into an agreement for the special allocation and apportionment of income with taxpayers other than corporations, such as limited liability companies, limited partnerships, partnerships, and other flow-through entities.⁴⁸ This amendment is applicable for all taxable years beginning on or after January 1, 2001.⁴⁹

Code Sections 48-7-40 and 48-7-40.1: Average Wage Requirement for Job Tax Credits

Section Seven of the Act amends Code section 48-7-40.⁵⁰ Prior to the Act, the formula for calculating the average wage for new jobs that may qualify for the job tax credit varied depending on the county’s tier

43. See O.C.G.A. § 14-11-303 (Supp. 2001).

44. Compare 1993 Ga. Laws 123, § 1, at 1104 (formerly found at O.C.G.A. § 14-11-1104 (1994)), with O.C.G.A. § 14-11-1104 (Supp. 2001).

45. 1993 Ga. Laws 123, § 1, at 1104.

46. Compare 1993 Ga. Laws 123, § 1, at 1104 (formerly found at O.C.G.A. § 14-11-1104 (1994)), with O.C.G.A. § 14-11-1104 (Supp. 2001).

47. Compare 1987 Ga. Laws 191, § 5, at 212 (formerly found at O.C.G.A. § 48-7-31 (Supp. 2000)), with O.C.G.A. § 48-7-31 (Supp. 2001).

48. Compare 1987 Ga. Laws 191, § 5, at 212 (formerly found at O.C.G.A. § 48-7-31 (Supp. 2000)), with O.C.G.A. § 48-7-31 (Supp. 2001).

49. See 2001 Ga. Laws 984, § 20, at 999.

50. Compare 2000 Ga. Laws 605, § 1, at 607 (formerly found at O.C.G.A. § 48-7-40 (Supp. 2000)), with O.C.G.A. § 48-7-40 (Supp. 2001).

designation.⁵¹ The Act provides that to qualify for the job tax credit, “[t]he average wage of the new jobs created must be above the average wage of the county that has the lowest average wage of any county in the state.”⁵² The Act also clarifies that the tax credit allowed for tier one counties, which was \$3500 annually per eligible new full-time employee job, will be limited to “five years beginning with years two through six after the creation of such job.”⁵³ This provision is applicable for all taxable years beginning on or after January 1, 2001.⁵⁴

Section Eight of the Act amends Code section 48-7-40.1.⁵⁵ Prior to the Act, if the job tax credits claimed by a business in less developed census tracts exceeded fifty percent of the entity’s tax liability for a taxable year, the excess credit would be carried forward.⁵⁶ The Act deletes the fifty percent benchmark so that a business can claim a job tax credit up to the full amount of its tax liability.⁵⁷

Section Eight of the Act also provides that “[t]he average wage of the new jobs created must be above the average wage of the county that has the lowest wage of any county in the state.”⁵⁸ The Act further provides that to qualify for this job tax credit, “the employer must make health insurance coverage available to the employee filling the new full-time job,” although the Act does not “require the employer to pay for all or any part of health insurance coverage for” the employee in order to satisfy the requirements for the job tax credit.⁵⁹ These provisions are applicable for all taxable years beginning on or after January 1, 2001.⁶⁰

Code Section 48-7-40.17: Headquarters Job Tax Credit

Section Nine of the Act amends Code section 48-7-40.17.⁶¹ This amendment clarifies the Department of Revenue’s administration of income tax credits for establishing or relocating business headquarters.⁶²

51. See 2000 Ga. Laws 605, § 1, at 607.

52. O.C.G.A. § 48-7-40 (Supp. 2001).

53. *Id.* § 48-7-40.

54. See 2001 Ga. Laws 984, § 20, at 999.

55. Compare 2000 Ga. Laws 605, § 1, at 607 (formerly found at O.C.G.A. § 48-7-40 (Supp. 2000)), with O.C.G.A. § 48-7-40.1 (Supp. 2001).

56. See 2000 Ga. Laws 605, § 2, at 610.

57. Compare 2000 Ga. Laws 605, § 1, at 607 (formerly found at O.C.G.A. § 48-7-40.1 (Supp. 2000)), with O.C.G.A. § 48-7-40.1 (Supp. 2001).

58. Compare 2000 Ga. Laws 605, § 1, at 607 (formerly found at O.C.G.A. § 48-7-40 (Supp. 2000)), with O.C.G.A. § 48-7-40.1 (Supp. 2001).

59. *Id.* § 48-7-40.1.

60. See 2001 Ga. Laws 984, § 20, at 999.

61. Compare 2000 Ga. Laws 605, § 6, at 613 (formerly found at O.C.G.A. § 48-7-40 (Supp. 2000)), with O.C.G.A. § 48-7-40.17 (Supp. 2001).

62. Compare 2000 Ga. Laws 605, § 6, at 613 (formerly found at O.C.G.A. § 48-7-40 (Supp. 2000)), with O.C.G.A. § 48-7-40.17 (Supp. 2001).

The Act clarifies that the tax credit for each qualifying job is available for five years as long as the job is created within seven years of the taxpayer first becoming eligible for the credit.⁶³ This provision is applicable for all taxable years beginning on or after January 1, 2001.⁶⁴

Code Section 48-7-40.23: Calendar Year Filing Option

Section Ten of the Act creates new Code section 48-7-40.23.⁶⁵ This new section allows taxpayers that file taxes on a fiscal year calendar to apply for a one-time election to calculate new full-time jobs in 2001 on a calendar year basis rather than a fiscal year basis.⁶⁶ This new option will allow businesses to take advantage of the new job tax benefits created during the 2000 General Assembly session when they file their 2001 taxes.⁶⁷

Code Section 48-7-42: Technical Correction

Section Eleven of the Act amends Code section 48-7-42 by changing the term "limited liability corporation" to "limited liability company."⁶⁸

Code Section 48-7-86: Innocent Spouse Protection

Section Twelve of the Act amends Code section 48-7-86.⁶⁹ The Act clarifies that a taxpayer may file for innocent spouse protection in cases affecting only Georgia income tax.⁷⁰

Code Section 48-8-3: Technical Corrections

Sections Thirteen, Fourteen, and Fifteen of the Act provide for several technical corrections to Code section 48-8-3.⁷¹ Section Thirteen changes the word "sale" to "sales" to conform with the current

63. See O.C.G.A. § 48-7-40.17 (Supp. 2001).

64. See 2001 Ga. Laws 984, § 20, at 999.

65. See O.C.G.A. § 48-7-40.21 (Supp. 2001). "Pursuant to Code Section 28-9-5, in 2001, Code Section 48-7-40.21, as enacted by Ga. L. 2001, p. 984 § 10, was redesignated as Code Section 48-7-40.23." O.C.G.A. § 48-7-40.23 (Supp. 2001) (Code Commission notes).

66. See *id.* § 48-7-40.23.

67. See *id.* § 48-7-40.23.

68. Compare 2000 Ga. Laws 1339, § 1, at 1340 (formerly found at O.C.G.A. § 48-7-42 (Supp. 2000)), with O.C.G.A. § 48-7-42 (Supp. 2001).

69. Compare 1999 Ga. Laws 483, § 2, at 484 (formerly found at O.C.G.A. § 48-7-86 (Supp. 2000)), with O.C.G.A. § 48-7-42 (Supp. 2001).

70. Compare 1999 Ga. Laws 483, § 2, at 484 (formerly found at O.C.G.A. § 48-7-86 (Supp. 2000)), with O.C.G.A. § 48-7-42 (Supp. 2001).

71. Compare 2000 Ga. Laws 615, § 2, at 616 (formerly found at O.C.G.A. § 48-8-3 (Supp. 2000)), with O.C.G.A. § 48-8-3 (Supp. 2001).

definition used in the Code.⁷² Section Fourteen corrects language that was improperly transcribed when the statute was redrafted.⁷³ Section Fifteen removes obsolete references to the Standard Industrial Classification Code, which no longer exists.⁷⁴ Section Fifteen also allows for an exemption for leasing computer equipment and clarifies that the exemption only applies to computer equipment.⁷⁵ Section Sixteen of the Act amends Code section 48-8-3 to clarify that the exception for clean rooms applies only to those clean rooms existing in Georgia and “used directly in the manufacture of tangible personal property” in Georgia.⁷⁶

Code Section 48-8-30: Technical Corrections

Section Seventeen of the Act amends Code section 48-8-30 to correct improper wording.⁷⁷ The Act changes the word “tangible” to “taxable,” adds “or herself” to “himself,” and changes the word “rents” to “is.”⁷⁸

Code Section 48-8-67: Sunset Provision for Sales and Use Tax

Section Eighteen of the Act amends Code section 48-8-67 to allow the Department of Revenue an additional five years to distribute certain unidentifiable sales and use tax proceeds.⁷⁹

Code Section 48-13-53.4: Excise Tax Audits

Section Nineteen of the Act amends Code section 48-13-53.4.⁸⁰ The Act removes the requirement that local authorities base local excise tax audits on the most recent sales tax audit conducted by the Department

72. Compare 2000 Ga. Laws 615, § 2, at 616 (formerly found at O.C.G.A. § 48-8-3 (Supp. 2000)), with O.C.G.A. § 48-8-3 (Supp. 2001).

73. Compare 1973 Ga. Laws 5, § 92, at 82 (formerly found at O.C.G.A. § 48-8-3 (1995)), with O.C.G.A. § 48-8-3 (Supp. 2001). See also *Charter Med. Info. Servs., Inc. v. Collins*, 266 Ga. 720, 470 S.E.2d 655 (1996).

74. Compare 2000 Ga. Laws 615, § 3, at 617 (formerly found at O.C.G.A. § 48-8-3 (Supp. 2000)), with O.C.G.A. § 48-8-3 (Supp. 2001).

75. Compare 2000 Ga. Laws 615, § 3, at 617 (formerly found at O.C.G.A. § 48-8-3 (Supp. 2000)), with O.C.G.A. § 48-8-3 (Supp. 2001).

76. Compare 2000 Ga. Laws 615, § 3, at 617 (formerly found at O.C.G.A. § 48-8-3 (Supp. 2000)), with O.C.G.A. § 48-8-3 (Supp. 2001).

77. Compare 1990 Ga. Laws 1243, § 4, at 1246 (formerly found at O.C.G.A. § 48-8-30 (Supp. 2000)), with O.C.G.A. § 48-8-30 (Supp. 2001).

78. Compare 1990 Ga. Laws 1243, § 4, at 1246 (formerly found at O.C.G.A. § 48-8-30 (Supp. 2000)), with O.C.G.A. § 48-8-30 (Supp. 2001).

79. Compare 1999 Ga. Laws 769, § 1, at 770 (formerly found at O.C.G.A. § 48-8-67 (Supp. 2000)), with O.C.G.A. § 48-8-67 (Supp. 2001).

80. Compare 2000 Ga. Laws 1325, § 3, at 1329 (formerly found at O.C.G.A. § 48-13-53.4 (Supp. 2000)), with O.C.G.A. § 48-13-53.4 (Supp. 2001).

of Revenue.⁸¹ This change was necessary because the basis for taxation and exemptions are different for these two types of taxes and thus the sales tax audit information could not be used for the excise tax audits.⁸²

Kimberly A. Childs

81. Compare 2000 Ga. Laws 1325, § 3, at 1329 (formerly found at O.C.G.A. § 48-13-53.4 (Supp. 2000)), with O.C.G.A. § 48-13-53.4 (Supp. 2001).

82. See Many Interview, *supra* note 3.