



New Georgia Tax Legislation: Some Important & Consequential Changes

Georgia has just enacted major income tax changes in response to the federal Tax Cuts and Job Act of 2017 ("TCJA"). Governor Nathan Deal signed the legislation into law on March 2, 2018.

The new Georgia tax rules include:

- Reducing the top individual and corporate income tax rates;
- Doubling the standard deductions for individuals;
- Updating the Internal Revenue Code ("IRC") conformity rules, with important exceptions;
- Adopting federal laws relating to net operating losses ("NOLs"); and
- Revising successor and assignment rules for certain Georgia income tax credits.

Here are some specifics:

1. Reduced Individual and Corporate Income Tax Rates

The new law reduces both the top individual and corporate income tax rates to 5.75%. The individual income tax rate reduction applies to those taxpayers with Georgia taxable net income over \$7,000 and the corporate income tax rate reduction applies to all corporations doing business in Georgia. *The income tax rate reductions are applicable to tax years beginning on or after January 1, 2019 and expire December 31, 2025.*

The income tax rates could be further reduced to 5.5% in 2020 but only if both the Legislature and Governor can agree in future legislative sessions.

2. Increased Standard Deduction Amounts

Standard deductions under the new law have doubled:

- For *single or head of household taxpayers*, an increase from \$2,300 to \$4,600;
- For *married taxpayers filing a separate return*, an increase from \$1,500 to \$3,000; and
- For *married taxpayers filing a joint return*, an increase from \$3,000 to \$6,000.

These increases are applicable to tax years beginning January 1, 2018 and expire December 31, 2025.

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3. Updated IRC Conformity Date

The new law, with certain exceptions for individual and corporate income tax, updates Georgia's income tax code to conform to the changes introduced in the Federal Tax Cuts and Jobs Act of 2017. Specifically, unless otherwise stated in the new law, Georgia has adopted all TCJA provisions—related to the computation of Federal Adjusted Gross Income or Federal Taxable Income for corporations—that were enacted as of February 9, 2018. *See Item 8 below for important non-conforming Georgia provisions.*

4. Adopted New IRC §179 Expensing Deduction Rules

Federal IRC §179 allows businesses to deduct/expense the purchase price of qualifying equipment and/or software purchased or financed during the tax year. For 2017, the IRC §179 deduction, for both Federal and Georgia purposes, is limited to \$510,000 and the related phase out is \$2,030,000. For 2018, the limitation is \$1,000,000 and the related phase out is \$2,500,000. Georgia *did not adopt the IRC §179 deduction for “qualifying real property”* under §179(f).

5. Adopted New Federal NOL Rules

For losses incurred in tax years ending on or after December 31, 2017, Georgia follows the new Federal NOL laws; generally:

1. No carryback and unlimited carryforward;
2. Two-year carryback for farming losses; and
3. Two-year carryback and 20-year carryforward for certain insurance company NOLs.

For losses incurred in table years beginning on or after January 1, 2018, Georgia adopts the 80% limitation on the usage of NOLs. This limitation is based on Georgia taxable net income. Following Federal law, the limitation does not apply to certain insurance company NOLs.

6. Revised Assignment of Corporate Tax Credits Rules

The new rules change Georgia tax law to allow greater flexibility in assigning certain corporate income tax credits amongst members of an affiliated group of corporations. Under prior law, corporate income tax credits could be assigned to an affiliate, but only for use against Georgia income taxes by such affiliate. Under the new law, credits that may be claimed by the originating entity against employer withholding taxes (e.g., Georgia jobs tax credits earned in certain counties) may now also be claimed against employer withholding taxes (or income taxes) by the assignee. These new provisions do not change the existing transferability rules for certain Georgia credits such as film tax credits, conservation easement credits, historic rehabilitation credits and post-production film credits.



7. Revised Modification Relating to Certain Foreign Dividend Income

Current GA law (O.C.G.A. §48-7-21(b)(8)(A)) allows for the subtraction from taxable income of foreign-source dividends and certain other inclusions such as Subpart F income, passive foreign investment companies (PFICs) qualified electing fund income and earnings invested in U.S. property under IRC §956. The new legislation continues this treatment *with certain important exceptions*:

- There is no reduction in Georgia taxable income when global intangible low-taxed income (GILTI) under the new IRC §951A is included in federal income; and
- The federal deductions, exclusions or subtractions (e.g., IRC §245A, IRC §965(a), and IRC §250(a)(1)) do not apply to the extent the related income is otherwise excluded under the traditional foreign-source dividend subtraction under O.C.G.A. §48-7-21(b)(8)(A)).

8. IRC Provisions Not Adopted

It is important to note that certain provisions of the TCJA were not adopted by Georgia law, which remains independent and decoupled from federal tax reporting in certain areas.

The following Federal provisions, while not an exhaustive list, *were not adopted into Georgia law*:

- 20% qualified business income deduction, IRC §199A;
- Bonus depreciation rules, IRC §168(k);
- Increased (\$8,000) first-year depreciation limit for passenger automobiles if the passenger automobile is “qualified property,” IRC §168(k)
- Domestic production activities deduction, IRC §199;
- Deferral and ratable inclusion of income arising from business indebtedness by the reacquisition of a debt instrument, IRC §108(i);
- Modified rules for high yield original issue discount obligations, IRC §163(e)(5)(F);
- For assets placed in service on or before December 31, 2017, modified rules relating to the 15-year straight-line cost recovery for qualified restaurant property (allowing buildings to now be included), IRC §168(e)(7);
- Accelerated cost recovery system rules, IRC §§168(b)(3)(I), 168(e)(3)(B)(vii), 168(e)(3)(e)(ix), 168(e)(8), 168(k), 168(m), and 168(n); and
- Deductions for certain real property as noted above, IRC §§179(d)(1)(B)(ii) and 179(f).



Implications

These are the most important Georgia income tax law changes in decades. In Georgia, there are some “winners” and some taxpayers who will pay more, but there are more differences than ever from Federal tax rules. As a rule, the corporate rules—like the federal provisions—are permanent, but the individual provisions have temporary status with sunset dates within 10 years. Careful attention is necessary for accurate reporting and to take advantage of these new financial benefits whenever possible.

For more information on new tax legislation in Georgia or for any tax-related concerns, please contact your BT Tax Advisor by calling 770.396.2200.

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