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REVENUE AND TAXATION Income Taxes: Increase Amount of Personal and Dependent Exemptions with Respect to Georgia Taxable Net Income; Provide for Periodic Additional Increases with Respect to Dependent Exemption Amounts; Increase Amount of Deduction in Lieu of Personal Exemptions with Respect to Estates or Trusts; Increase Amount of Deductions that Elderly or Blind Taxpayers May Take; Change Amount of Certain Taxable Withholding Exemption Allowances

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REVENUE AND TAXATION

Income Taxes: Increase Amount of Personal and Dependent Exemptions with Respect to Georgia Taxable Net Income; Provide for Periodic Additional Increases with Respect to Dependent Exemption Amounts; Increase Amount of Deduction in Lieu of Personal Exemptions with Respect to Estates or Trusts; Increase Amount of Deductions that Elderly or Blind Taxpayers May Take; Change Amount of Certain Taxable Withholding Exemption Allowances

CODE SECTIONS:	O.C.G.A. §§ 48-7-26 to -27, -101 (amended)
BILL NUMBER:	HB 1162
ACT NUMBER:	499
GEORGIA LAWS:	1998 Ga. Laws 1
SUMMARY:	The Act provides for changes in the income taxation of individuals by increasing both exemptions and deductions and makes prior law gender neutral. Beginning in the 1998 tax year, individuals filing a joint tax return may claim a $5400 exemption, while an individual filing separately may claim a $2700 exemption. Further, an individual may claim a $2700 exemption for each dependent until the 2003 tax year when the dependent exemption increases to $3000. In lieu of the personal exemption, an individual may claim an exemption of $2700 for an estate and $1350 for a trust. Further, the Act increases to $1300 the additional deduction allowed to taxpayers who reach the age of sixty-five before the close of the tax year and to taxpayers who are blind. Finally, the Act provides for withholding exemption increases in two areas: the personal withholding exemption for employees increased by approximately forty-five percent and the dependent withholding exemption increased by approximately eight percent.

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EFFECTIVE DATE: January 28, 1998[1]

History

Georgia taxpayers pay lower state taxes than taxpayers in almost every other state in the country.[2] Prior to the Act, the projected State of Georgia surplus for the 1999 fiscal year was more than $700 million.[3] This surplus prompted Governor Zell Miller and the majority Democratic party to propose a $205 million income tax reduction as the cornerstone of the 1998 legislative agenda.[4]

The Act is the third tax cut the Georgia General Assembly has considered and ultimately passed in the last five years.[5] In 1994, the General Assembly passed a $100 million income tax reduction.[6] Then, in 1996, the General Assembly passed the largest tax cut in Georgia history when it eliminated the sales tax on groceries, which was estimated to be a $550 million reduction.[7]

Although the Governor's proposed 1998 income tax cut was less than the 1996 elimination of the grocery sales tax, the proposal quickly gained support from the Speaker of the House and other majority party "heavyweights."[8] The proposal focused on increasing personal exemptions for taxpayers filing Georgia income tax returns.[9]

Some legislators viewed the Governor's proposal as part of his desire to be remembered as a tax-cutting Governor and many found

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1. *See* 1998 Ga. Laws 1, § 4, at 3. Section 4 of the Act states that "[t]his Act shall become effective upon its approval by the Governor and should be applicable to all taxable years beginning on or after January 1, 1998." *Id.* Therefore, unlike most other legislation, which became effective July 1, 1998, this Act became effective upon the Governor's signature. *See id.*

2. *See* Tony Heffernan, *Tax Cut Sails Through Senate, Heads to Miller*, MACON TELEGRAPH, Jan. 28, 1998, at 1A. According to the Cato Institute, Georgia ranks "as the 47th or 48th lowest-taxed state." *Id.* at 4A.

3. *See* E-mail Interview with Rep. Burke Day, House District No. 153 (May 30, 1998) [hereinafter Day Interview].

4. *See* Remarks by Gov. Zell Miller, FY 99 Budget Address (Jan. 13, 1998) [hereinafter Miller Remarks] (available in Georgia State University College of Law Library); *see also* Day Interview, *supra* note 3.

5. *See* Miller Remarks, *supra* note 4.

6. *See* Cathy Pruitt, *Tax Cut Gets Fast OK; Parole Issues Lags*, ATLANTA J. & CONST., Jan. 29, 1998, at C5

7. *See* Kevin Sack, *Tax Cuts Popular Among States*, ROME NEWS TRIB., Jan. 4, 1998, at A9.

8. Day Interview, *supra* note 3.

9. *See* O.C.G.A. § 48-7-26 (Supp. 1998).

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the proposal difficult to oppose in an election year.[10] One legislator called the decision to vote for the proposal a "no brainer."[11]

However, many legislators favored abolishing the income tax altogether or supported a tax cut double or triple the amount proposed by the Governor.[12] The minority Republican party proposed a plan to eliminate the state income tax over a period of eighteen years by decreasing state income taxes 5.5% per year, leading to an annual revenue reduction of about 1.6%.[13] Other legislators argued that the tax cut should equal the projected state surplus, thereby freezing spending at the current year's levels.[14] Some legislators argued that abolishing the income tax or passing too big a tax cut would harm Georgia's bond rating and lead to budget shortfalls.[15]

Despite these varied proposals, almost all legislators in both the House and the Senate voted for the Act, which was virtually unchanged from its original version.[16] Legislators agreed that voting for a tax cut in an election year was both noncontroversial and politically smart.[17]

HB 1162

Introduction

Georgia Code sections 48-7-26 to -27 provide for the exemption limits a taxpayer can claim and set forth the deductions that taxpayers age sixty-five and older and blind taxpayers can take to offset their Georgia net income.[18] The Act increases the amounts for these exemptions and deductions.[19] Further, the Act modifies Code section

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10. *See* Day Interview, *supra* note 3; *see also* E-mail Interview with Rep. Dan Lakly, House District No. 105 (May 29, 1998) [hereinafter Lakly Interview].
11. Lakly Interview, *supra* note 10.
12. *See id.*; Heffernan, *supra* note 2.
13. *See* E-mail Interview with Rep. Tom Rice, House District No. 79 (May 31, 1998) [hereinafter Rice Interview].
14. *See* Day Interview, *supra* note 3.
15. *See* Heffernan, *supra* note 2, at A4.
16. *See* Dick Pettys, *Democrats Win Showdown with GOP Over Tax Cut*, VALDOSTA DAILY TIMES, Jan. 15, 1998, at A2.
17. *See* Day Interview, *supra* note 3.
18. *See* O.C.G.A. §§ 48-7-26(b), -27(a)(1)(D)-(E) (Supp. 1998).
19. *See* text accompanying *infra* notes 24-38.

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48-7-101 by increasing the allowed withholding exemption applicable to an employee's wage payment.[20]

As a result of the Act, a family of four should pay approximately $168 less per year in taxes.[21] The Department of Audits and Accounts estimated that, overall, the Act will reduce tax liabilities by $205 million in 1999.[22] Although the Act will result in less revenue for the State, legislators intended to give Georgians a tax break given the projected revenue surplus.[23]

Personal Exemptions

The Act raises the allowable personal exemptions in several categories. A taxpayer calculates taxable income by subtracting itemized deductions and personal exemptions from the taxpayer's adjusted gross income.[24] Under prior law, Code section 48-7-26 provided that spouses filing a joint tax return could claim a $3000 personal exemption.[25] The Act raises this exemption to $5400 beginning in the 1998 taxable year.[26] Further, former Code section 48-7-26 provided that a taxpayer filing individually could claim a $1500 personal exemption; the Act raises this exemption to $2700 beginning in the 1998 taxable year.[27]

The Act also amends Code section 48-7-26 by allowing taxpayers, beginning in the 1998 tax year, to take a $2700 exemption for each dependent.[28] This is a $200 increase over the $2500 exemption

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20. *Compare* O.C.G.A. § 48-7-101 (Supp. 1998), *with* 1994 Ga. Laws 381, § 3, at 382-83 (formerly found at O.C.G.A. § 48-7-101 (1995)).

21. *See* Miller Remarks, *supra* note 4.

22. *See* Letter from Claude L. Vickers, State Auditor, Department of Audits and Accounts, and Tim Burgess, Director, Office of Planning and Budget, Department of Audits and Accounts, to Honorable Thomas B. Buck III, Chairman, House Ways and Means Committee (Jan. 12, 1998) (available in Georgia State University College of Law Library).

23. *See* Day Interview, *supra* note 3; Rice Interview, *supra* note 13.

24. *See* J. MARTIN BURKE & MICHAEL K. FRIEAL, TAXATION OF INDIVIDUAL INCOME 18 (4th ed. 1997).

25. *See* 1987 Ga. Laws 191, § 2, at 204 (formerly found at O.C.G.A. § 48-7-26(b)(1) (1995)).

26. *See* O.C.G.A. § 48-7-26(b)(1) (Supp. 1998).

27. *Compare* 1994 Ga. Laws 381, § 1, at 381-82 (formerly found at O.C.G.A. § 48-7-26(b)(2) (1995)), *with* O.C.G.A. § 48-7-26(b)(2) (Supp. 1998).

28. *See* O.C.G.A. § 48-7-26(b)(3)(C) (Supp. 1998).

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previously allowed.[29] The Act also provides that the dependent exemption will increase to $3000 beginning in the 2003 tax year.[30]

Finally, under prior law, Code section 48-7-26 provided that a taxpayer could claim a deduction for estates and trusts in lieu of a personal exemption in the amounts of $1500 for an estate and $750 for a trust.[31] The Act raises these deductions to $2700 for an estate and $1350 for trusts.[32]

Deductions for Elderly and Blind Taxpayers

The Act increases the allowable deduction that taxpayers year may use to offset their net income if they reach the age of sixty-five before the end of the tax.[33] A taxpayer subtracts any allowable deduction from adjusted gross income when calculating taxable income.[34] Prior to the Act, Code section 48-7-27 provided that a taxpayer sixty-five years or older could take an additional $700 deduction when calculating taxable income.[35] Further, the law provided that the additional deduction doubled when the taxpayer filed a joint return with a spouse who was also sixty-five or older.[36] The Act increases the additional deduction to $1300 for individual taxpayers and $2600 for taxpayers filing jointly.[37]

Similarly, the Act increases the additional deduction that blind taxpayers can claim from $700 to $1300, with an additional $1300 if filing a joint return with a blind spouse.[38]

Withholding Exemptions

The Act increases the withholding exemption for both single and joint tax filers and the withholding exemption for dependents.[39] A

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29. *Compare* 1994 Ga. Laws 381, § 1, at 381-82 (formerly found at O.C.G.A. § 48-7-26(b)(3)(B) (1995)), *with* O.C.G.A. § 48-7-26(b)(3)(B)-(C) (Supp. 1998).

30. *See* O.C.G.A. § 48-7-26(b)(4) (Supp. 1998).

31. *See* 1987 Ga. Laws 191, § 2, at 204 (formerly found at O.C.G.A. § 48-7-26(d)(1)-(2) (1995)).

32. *See* O.C.G.A. § 48-7-26(d)(1)-(2) (Supp. 1998).

33. *See id.* § 48-7-27(a)(1)(D).

34. *See* BURKE & FRIEAL, *supra* note 24, at 18.

35. *See* 1987 Ga. Laws 191, § 2, at 205 (formerly found at O.C.G.A. § 48-7-27(a)(1)(D) (1995)).

36. *See id.*

37. *See* O.C.G.A. § 48-7-27(a)(1)(D) (Supp. 1998).

38. *Compare* 1987 Ga. Laws 191, § 2, at 205 (formerly found at O.C.G.A. § 48-7-27(a)(1)(E) (1995)), *with* O.C.G.A. § 48-7-27(a)(1)(E) (Supp. 1998).

39. *Compare* 1994 Ga. Laws 381, § 3, at 382-83 (formerly found at O.C.G.A. § 48-7-

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withholding tax is money that the taxing authority takes from an employee's wages to pay for income tax or social security purposes.[40] The withholding exemption amount depends on the length of the payroll period, whether the employee plans to file a joint or separate return, and the number of dependents the taxpayer intends to claim.[41] The Act increases the personal withholding exemptions by approximately eighty percent[42] and the dependent withholding exemptions by approximately eight percent for each payroll period.[43]

Committee Amendments

The General Assembly referred HB 1162 to the House Ways and Means Committee.[44] An amendment in the Committee modified the bill by increasing the income tax exemption for dependents to $3000 beginning in the taxable year 2003.[45] The House Ways and Means Committee substitute ultimately became the Act.[46]

Debate

After HB 1162 was approved by the Committee, it went to the House floor where an amendment to the bill was proposed to phase out the state income tax over eighteen years.[47] However, "[S]peaker [of the House Thomas B. Murphy] would not allow a vote on the [proposed] amendment" and ruled that it "was not germane" to the bill.[48] Subsequently, the House passed HB 1162 with a vote of 175-0.[49]

101(b)(1) (1995)), *with* O.C.G.A. § 48-7-101(b)(1) (Supp. 1998).

40. *See* BLACK'S LAW DICTIONARY 1602 (6th ed. 1990).

41. *See* O.C.G.A. § 48-7-101(b)(1) (Supp. 1998).

42. *Compare* 1994 Ga. Laws 381, § 3, at 382-83 (formerly found at O.C.G.A. § 48-7-101(b)(1) (1995)), *with* O.C.G.A. § 48-7-101(b)(1) (Supp. 1998).

43. *Compare* 1994 Ga. Laws 381, § 3, at 382-83 (formerly found at O.C.G.A. § 48-7-101(b)(1) (1995)), *with* O.C.G.A. § 48-7-101(b)(1) (Supp. 1998).

44. *See HB 1162 Summary Sheet* (updated Apr. 20, 1998) <http://www2.state.ga.us/Legis/1997_1998/leg> [hereinafter *Summary Sheet*].

45. *Compare* HB 1162, as introduced, 1998 Ga. Gen. Assem., *with* HB 1162 (HCA), 1998 Ga. Gen. Assem.

46. *Compare* HB 1162 (HCA), 1998 Ga. Gen. Assem., *with* O.C.G.A. § 48-7-26(b)(4) (Supp. 1998).

47. *See Summary Sheet, supra* note 44; E-mail Interview with Rep. Bob Snelling, House District No. 99 (May 30, 1998) [hereinafter Snelling Interview].

48. *See* Snelling Interview, *supra* note 47.

49. *See* Georgia House of Representatives Voting Record, HB 1162 (Jan. 14, 1998); Kathy Pruitt & Charles Walston, *House OKs $205 Million in Tax Cuts*, ATLANTA J. & CONST., Jan. 15, 1998, at C3.

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The bill was then sent to the Senate, where it was assigned to the Senate Finance and Public Utilities Committee.[50] Although Committee members introduced several amendments to the bill, the Committee ultimately made no changes to HB 1162 and approved it unanimously.[51] On the Senate floor, Senator Chuck Clay of the 37th District, introduced seven amendments to HB 1162.[52] The amendments proposed approximately $3.425 billion in tax cuts.[53] All of these amendments failed, and the Senate ultimately passed the bill 54-0.[54] The Governor signed the bill into law on January 28, 1998.[55]

David L. Hoffman

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50. *See Summary Sheet, supra* note 44.
51. *See* Tony Heffernan, *Tax Cut Nearing Approval*, MACON TELEGRAPH, Jan. 16, 1998, at 10A.
52. *See Lawmakers '98* (GPTV Broadcast, Jan. 27, 1998) (available in Georgia State University College of Law Library).
53. *See id.*
54. *See id.*; Georgia Senate Voting Record, HB 1162 (Jan. 27, 1998).
55. *See Summary Sheet, supra* note 44; Pruitt, *supra* note 6.

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