



This Week in State Tax (TWIST)

April 10, 2023



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Georgia: Pending Bill Taxes Digital Goods; Decouples from TCJA-Changes to IRC section 174

Senate Bill 56, which has been sent to Governor Kemp for signature, would make a number of tax changes, including updating the state's connection to the Internal Revenue Code. Specifically, for tax years beginning on or after January 1, 2022, Georgia would adopt the Code as amended through January 1, 2023. However, IRC section 174 would be treated as it was in effect before the enactment of the Tax Cuts and Jobs Act. This means that Georgia would continue to allow taxpayers to deduct research and experimental expenses in the year in which they are incurred.

On the sales and use tax side, effective for transactions occurring on or after January 1, 2024, Senate Bill 56 would impose sales and use tax on the retail purchase of specified digital products, other digital goods, or digital codes sold to an end user in Georgia, provided that the end user receives or will receive the right of permanent use of such products or codes and the transaction is not conditioned on continued payment by the end user. The tax would apply regardless of whether possession of the goods is maintained by a seller or a third party. "Specified digital products," would mean digital audio-visual works, digital audio works, or digital books transferred electronically to an end user. "Other digital products" would mean the following if transferred electronically: artwork, photographs, periodicals, newspapers, magazines, video or audio greeting cards, and video games or electronic entertainment. Senate Bill 56 would also adopt a new sales and use tax exemption for Internet access services (as defined) and would modify the existing exemption for sales of prewritten computer software delivered electronically to capture prewritten computer software transferred electronically to purchasers. "Transferred electronically" would be defined to include a product that is "available, accessed or available to be accessed" other than on a tangible medium. The bill further makes clear that the exemption for prewritten computer software would not apply to sales of specified digital products, digital goods, or digital codes. Other sections of the bill affect individual income taxes and rates. Please contact [Ben Cella](#) with questions on the digital goods taxation.



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