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REVENUE AND TAXATION

Ad Valorem Taxation of Property: Provide for a Technical Correction and Clarify Certain Provisions with Respect to an Ad Valorem Tax Exemption for Certain Farm Equipment Owned and Used By Family Owned Qualified Farm Products Producers.

CODE SECTION:	O.C.G.A. § 48-5-41.1 (amended)
BILL NUMBER:	HB 37
ACT NUMBER:	285
GEORGIA LAWS:	2001 Ga. Laws 887
SUMMARY:	The Act provides a technical correction to the Code. The Act changes the wording of the ad valorem taxation exemption provision pertaining to farm equipment. The Act clarifies that qualified farm product producers may exempt each owned piece of equipment which fits into a category of equipment mentioned in the Code. The Act also places a restriction on parties that may take advantage of the exemption; the Act specifies that only qualified farm products producers can take advantage of the exemption.
EFFECTIVE DATE:	April 27, 2001 ¹

History

In 2000 the Georgia General Assembly passed an exemption from ad valorem taxation for family farm owned equipment which was used in the production of qualified farm products.² The 2000 legislation left the word “qualified” out of its definition of which types of farmers would be allowed to take advantage of the tax exemption.³ This was important

1. See 2001 Ga. Laws 887, §§ 2-3, at 888. The Act became effective upon approval by the Governor. See *id.*, § 3, at 888.

2. See 2000 Ga. Laws 950, § 2, at 950-51 (formerly found at O.C.G.A. § 48-5-41.1 (Supp. 2000)); Audio Recording of House Proceedings, Jan. 26, 2001 (remarks by Rep. Richard Royal), at <http://www.state.ga.us/services/leg/audio/2001archive.html> [hereinafter House Audio].

3. See 2000 Ga. Laws 950, § 1, at 950 (formerly found at O.C.G.A. § 48-5-41.1 (Supp. 2000)); House Audio, *supra* note 2 (remarks by Rep. Richard Royal).

because other Georgia laws dealing with preferential treatment and conservation speak in terms of qualified farm products.⁴ One purpose of HB 37 was to correct that technical error by inserting the word “qualified” into the definition of what types of farmers could take advantage of the exemption.⁵

HB 37 also proposed redacting the word “is” from the phrase, “which is owned by and directly used in the production of agricultural products”⁶ and replacing it with the word “are.”⁷ This was a grammatical correction to clarify that a family farmer can use this exemption on more than one piece of farm equipment.⁸

HB 37

Introduction

HB 37 was introduced on the House floor on January 9, 2001.⁹ The bill was referred to the House Ways and Means Committee.¹⁰ The House Ways and Means Committee favorably reported the bill without change on January 25, 2001.¹¹ The House passed the bill without amendment on January 26, 2001.¹² The bill was introduced in the Senate on January 29, 2001.¹³ It was assigned to the Senate Ways and Means Committee,¹⁴ which favorably reported the bill without change on February 14, 2001.¹⁵ Senator Eric Johnson of the 1st District presented a floor substitute to the Senate on March 13, 2001.¹⁶ The floor substitute was

4. See House Audio, *supra* note 2 (remarks by Rep. Richard Royal).

5. See *id.*; Telephone Interview with Rep. Richard Royal, House District No. 164 (May 29, 2001) [hereinafter Royal Interview]; HB 37, as introduced, 2001 Ga. Gen. Assem.

6. 2000 Ga. Laws 950, § 1, at 950 (formerly found at O.C.G.A. § 48-5-41.1 (Supp. 2000)) (emphasis added).

7. See HB 37, as introduced, 2001 Ga. Gen. Assem. The proposed phrase stated that the pieces of farm equipment that would be exempt are those “which *are* owned by and directly used in the production of agricultural products.” *Id.* (emphasis added).

8. See Royal Interview, *supra* note 5.

9. See State of Georgia Final Composite Status Sheet, HB 37, Mar. 21, 2001.

10. See *id.*

11. See *id.*

12. See State of Georgia Final Composite Status Sheet, HB 37, Mar. 21, 2001; Georgia House of Representatives Voting Record, HB 37 (Jan. 26, 2001).

13. See State of Georgia Final Composite Status Sheet, HB 37, Mar. 21, 2001.

14. See *id.*

15. See *id.*

16. See Audio Recording of Senate Proceedings, Mar. 13, 2001 (remarks by Sen. Eric Johnson), *at*

adopted and passed the Senate on March 13, 2001.¹⁷ The Senate then receded from its substitute on March 21, 2001 and passed the original version of the bill on the same day.¹⁸

Consideration by the House

HB 37 was introduced on January 9, 2001 and was subsequently referred to the House Committee on Ways and Means.¹⁹ The Committee favorably reported the bill, without change, on January 25, 2001.²⁰ The House passed the bill, without amendment, on January 26, 2001, by a vote of 115 to 0.²¹

Consideration by the Senate

HB 37 was introduced in the Senate on January 29, 2001.²² It was assigned to the Ways and Means Committee, which favorably reported the bill without change on February 14, 2001.²³

Senate Floor Substitute

On March 13, 2001 Senator Eric Johnson presented a floor substitute to the version approved by the Ways and Means Committee.²⁴ In addition to creating an ad valorem tax exemption for family farm equipment, the floor substitute would have replaced Code section 48-5-41(a)(12) with a provision extending the ad valorem tax exemption for

<http://www.state.ga.us/services/leg/audio/2001archive.html> [hereinafter Senate Audio I].

17. See State of Georgia Final Composite Status Sheet, HB 37, Mar. 21, 2001; Georgia Senate Voting Record, HB 37 (Mar. 13, 2001). Compare HB 37, as introduced, 2001 Ga. Gen. Assem., with HB 37 (SFS), 2001 Ga. Gen. Assem.

18. See Audio Recording of Senate Proceedings, Mar. 21, 2001 (remarks by Sen. Nathan Dean), at <http://www.state.ga.us/services/leg/audio/2001archive.html> [hereinafter Senate Audio II]; State of Georgia Final Composite Status Sheet, HB 37, Mar. 21, 2001. Compare HB 37 (SFS), 2001 Ga. Gen. Assem., with HB 37, as passed, 2001 Ga. Gen. Assem.

19. See State of Georgia Final Composite Status Sheet, HB 37, Mar. 21, 2001.

20. See *id.*

21. See *id.*; Georgia House of Representatives Voting Record, HB 37 (Jan. 26, 2001).

22. See State of Georgia Final Composite Status Sheet, HB 37, Mar. 21, 2001.

23. See *id.*

24. See Senate Audio I, *supra* note 16 (remarks by Rep. Richard Royal).

charitable old age homes to groups who indirectly owned such homes.²⁵ The Senate passed the floor substitute by a vote of 41 to 0.²⁶

However, this additional language changed the scope of HB 37 in a way which likely violated the sections of the Georgia Constitution which prohibit bills with more than one subject matter.²⁷ Deputy Legislative Counsel G. Joseph Scheuer advised the Senate that legislation relating to tax exemptions for farm equipment and nonprofit homes for the elderly violated the Georgia Constitution because the basic purposes of each of the parts of the legislation were not sufficiently related to each other.²⁸

The floor substitute was subsequently receded on March 21, 2001 by a vote of 48 to 0.²⁹ The provision added by the floor substitute was handled by a different bill, HB 821.³⁰ HB 821 would have amended Code section 48-5-41 to allow limited liability companies to take an ad valorem tax exemption for homes for the aged.³¹ HB 821 was introduced on March 5, 2001 and was assigned to the House Ways and Means Committee.³² HB 821 was never favorably reported by the Ways and Means Committee.³³

HB 37 passed without the floor substitute language by a vote of 48 to 0.³⁴ The Governor signed HB 37 into law on April 27, 2001.³⁵

The Act

The Act provides for two technical corrections of Code section 48-5-41.³⁶ The first correction clarifies that qualified family farmers may

25. Compare HB 37, as introduced, 2001 Ga. Gen. Assem., with HB 37 (SFS), 2001 Ga. Gen. Assem. The floor substitute added a new subsection to O.C.G.A. § 48-5-41(a)(12), stating that “[f]or purposes of this paragraph, indirect ownership of such home for the aged through a limited liability company that is fully owned by such an exempt organization shall be considered direct ownership.” HB 37 (SFS), 2001 Ga. Gen. Assem.

26. See Georgia Senate Voting Record, HB 37 (Mar. 13, 2001).

27. See GA. CONST. art. III, § V, para. III; Letter from G. Joseph Sheuer, Georgia Deputy Legislative Counsel, to Senator Nathan Dean (Mar. 12, 2001), incorporated in HB 37 (SFS), 2001 Ga. Gen. Assem.

28. See Letter from G. Joseph Sheuer, Georgia Deputy Legislative Counsel, to Senator Nathan Dean (Mar. 12, 2001), incorporated in HB 37 (SFS), 2001 Ga. Gen. Assem.

29. See Senate Audio II, *supra* note 18 (voting on consideration of floor substitute).

30. See *id.*; HB 821, as introduced, 2001 Ga. Gen. Assem.

31. See HB 821, as introduced, 2001 Ga. Gen. Assem.

32. See State of Georgia Final Composite Status Sheet, HB 821, Mar. 21, 2001.

33. See *id.*

34. Compare HB 37 (SFS), 2001 Ga. Gen. Assem., with HB 37, as passed, 2001 Ga. Gen. Assem.

35. See 2001 Ga. Laws 887, § 3, at 888.

36. Compare 2000 Ga. Laws 950, § 1, at 950 (formerly found at O.C.G.A. § 48-5-41.1 (Supp. 2000)), with O.C.G.A. § 48-5-41.1 (Supp. 2001).

exempt all of their qualified equipment or just one piece of the equipment.³⁷ The second correction clearly defines the individuals who may use the exemption as those who produce qualified farm products.³⁸

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37. *Compare* 2000 Ga. Laws 950, § 1, at 950 (formerly found at O.C.G.A. § 48-5-41.1 (Supp. 2000)), with O.C.G.A. § 48-5-41.1 (Supp. 2001).

38. *Compare* 2000 Ga. Laws 950, § 1, at 950 (formerly found at O.C.G.A. § 48-5-41.1 (Supp. 2000)), with O.C.G.A. § 48-5-41.1 (Supp. 2001).