

House Bill 1414

By: Representatives Carpenter of the 4th, Williamson of the 115th, Blackmon of the 146th, Jasperse of the 11th, Knight of the 130th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to
2 income taxes, so as to revise the definition and taxation of income of taxable nonresidents
3 with respect to the Georgia Entertainment Industry Investment Act; to revise the allocation
4 and apportionment of income from state certified productions for corporations; to require
5 registration and location of intellectual property associated with a state certified production;
6 to provide for related matters; to provide for an effective date and applicability; to repeal
7 conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to income taxes,
11 is amended in paragraph (11) of Code Section 48-7-1, relating to definitions, by deleting
12 "and" at the end of subparagraph (D), deleting the "." at the end of subparagraph (E) and
13 inserting in lieu thereof "; and", and by adding a new subparagraph to read as follows:

14 "(F) Every person that is not otherwise a resident of this state for income tax purposes
15 that receives income which is, at any time, derived from residual payments due to
16 employment, trade, business, profession, or other activity performed or carried on

17 within this state with respect to a state certified production as defined in Code
18 Section 48-7-40.26."

19 **SECTION 2.**

20 Said chapter is further amended by revising subsection (b) of Code Section 48-7-30, relating
21 to taxation of nonresident's entire net income derived from activities within state, separate
22 accounting possible, applicability, allowed deductions, applicability of provisions for
23 corporations to nonresidents, as follows:

24 "(b) A taxable nonresident whose income is derived from employment, trade, business,
25 professional, or other activity performed or carried on within and outside this state shall be
26 taxed only upon the income derived from carrying on the activity within this state;
27 provided, however, that all income derived from residual payments to a taxable nonresident
28 due to employment, trade, business, profession, or other activity performed or carried on
29 within this state, with respect to a state certified production as defined in Code Section
30 48-7-40.26, shall be taxable income whether such income is received within or outside of
31 this state. The amount of taxable income may be determined by a separate accounting of
32 the income if the commissioner is satisfied that the separate accounting reflects correctly
33 the income fairly attributable to this state. Otherwise, the amount of taxable income shall
34 be determined in the manner prescribed by this chapter for the allocation and
35 apportionment of income of corporations engaged in business within and outside this state."

36 **SECTION 3.**

37 Said chapter is further amended by adding a new subsection to Code Section 48-7-31,
38 relating to taxation of corporations, allocation and apportionment of income, formula for
39 apportionment, to read as follows:

40 "(f) To the full extent permitted by the United States Constitution, the tax imposed by this
41 chapter shall apply to the entire net income of any foreign or domestic corporation which

42 is derived directly or indirectly from the sale, use, or lease of any state certified production
43 for which a tax credit was claimed pursuant to Code Section 48-7-40.26, or any intellectual
44 property derived therefrom shall be subject to taxation by this state, regardless of whether
45 such income was derived from sources or business occurring from within or outside of this
46 state."

47 **SECTION 4.**

48 Said chapter is further amended by adding a new subsection to Code Section 48-7-40.26 of
49 the Official Code of Georgia Annotated, the "Georgia Entertainment Industry Investment
50 Act," to read as follows:

51 "(m) On and after July 1, 2022, each production company, as a condition precedent to
52 claiming a tax credit pursuant to this Code section for a state certified production, shall
53 permanently register and locate all intellectual property associated with such state certified
54 production in Georgia for income tax purposes. The commissioner shall ensure that the tax
55 situs of such intellectual property and all income derived therefrom remains in Georgia.
56 The production company and all of its successors and assignees or any entity that takes an
57 ownership stake in the state certified production shall be subject to the tax imposed by this
58 article on all income derived from the sale, use, or lease of any property rights connected
59 with a state certified production for which a tax credit is claimed under this Code section."

60 **SECTION 5.**

61 This Act shall become effective upon its approval by the Governor or upon its becoming law
62 without such approval and shall be applicable to taxable years beginning on or after
63 January 1, 2022.

64 **SECTION 6.**

65 All laws and parts of laws in conflict with this Act are repealed.