



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE

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SC INFORMATION LETTER #20-31

SUBJECT: Tax Legislative Update for 2020 – Subsequent Legislation

DATE: December 15, 2020

AUTHORITY: S.C. Code Ann. Section 12-4-320 (2014)
S.C. Code Ann. Section 1-23-10(4) (2005)
SC Revenue Procedure #09-3

SCOPE: An Information Letter is a written statement issued to the public to announce general information useful in complying with the laws administered by the Department. An Information Letter has no precedential value.

Overview of the 2020 Legislative Session

South Carolina's legislative sessions begin the second Tuesday in January and end the second Thursday in May. Due to the public health emergency associated with the Coronavirus (COVID-19), the General Assembly's legislative activity was limited during the normal legislative session.

On May 12, 2020, the General Assembly passed Senate Bill 1194, a concurrent resolution allowing the General Assembly to reconvene during the upcoming months with adjournment by November 8, 2020.

On May 18, 2020, the Governor signed House Bill 3411 (Act No. 135), a continuing resolution to provide, in part, for the continuing budget for fiscal year July 1, 2020 – June 30, 2021 during this challenging COVID-19 time. This Act provides that the effective dates of Act No. 91 of 2019, Parts IA and IB, (the budget in effect for fiscal year July 1, 2019 – June 30, 2020) are extended.

On September 15, 2020, the General Assembly reconvened and passed additional bills, including tax and regulatory laws administered by the Department. The session ended on September 24, 2020.

2020 Legislative Summaries

2020 Legislation – As of May 12, 2020. SC Information Letter #20-19 was issued on July 9, 2020, and briefly summarized significant changes in tax laws enacted by the General Assembly during the past legislative session through May 12, 2020.

2020 Legislation – As of September 24, 2020. On September 15, 2020, the General Assembly reconvened and passed additional tax and regulatory laws. The intent of this Information Letter is to provide a summary of the main points of this additional legislation. Senate Bills 207, 545, 993, 1099, 1121 and House Bills 3485, 3596, 3755, 4431, and 4963 are summarized below by subject matter. A list of the bills summarized and a link to the full text of each Act is also available at dor.sc.gov/policy.

Budget Provisos for Fiscal Year 2020 - 2021. Also attached is a summary of the budget provisos re-enacted by the General Assembly during the past legislative session as provided in Act No. 135 of 2020. Budget provisos are only effective for the State fiscal year (July 1 – June 30); they expire on June 30, 2021, unless re-enacted.

Text of Legislation. This summary is written in general terms for widest possible use and may not contain all the specific requirements or provisions of authority. Please refer to the full text of the legislation for specific details and requirements. A complete copy of these Acts can be obtained from the South Carolina Legislature website at scstatehouse.gov.

Reminders for 2020. For a summary of provisions that were enacted in a prior year that are being phased in or are effective in 2020 or thereafter, see SC Information Letter #19-23.

Disclaimer. This is intended to be a summary of the main points of the legislation; it is not an interpretation by the Department. It is written in general terms and may not contain all the specific requirements or provisions of authority. Please refer to the full text of the legislation for specific details and requirements.

INCOME TAXES

Senate Bill 545, Section 3 (Act No. 147)

Internal Revenue Code Conformity

Conformity Date. Code Section 12-6-40(A)(1)(a) has been amended, except as otherwise provided, to update South Carolina's income tax laws to conform to the Internal Revenue Code of 1986 through December 31, 2019, and includes the effective date provisions contained therein.

Extension of Federal Expiring Provisions. Code Section 12-6-40(A)(1)(c) provides that if during 2020 the federal government extends, without otherwise amending, Internal Revenue Code provisions that expired during 2020, then these sections or portions of sections which have been adopted by South Carolina will be extended in the same manner that they are for federal income tax purposes.

Federal "Taxpayer Certainty and Disaster Relief Act" Section 204(a) as it Impacts Internal Revenue Code Section 170 - Not Adopted for Individual Taxpayers. In an uncodified provision, Act No. 147 provides that South Carolina does not adopt Section 204(a) of the federal Taxpayer Certainty and Disaster Tax Relief Act of 2019 (Division Q of the Further Consolidated Appropriations Act of 2020; P.L. 116-94) as it pertains to individuals. Section 204(a), in part, temporarily suspends the individual charitable deduction limitation for charitable contributions associated with qualified disaster relief. A qualified charitable contribution is any charitable contribution (as defined in Internal Revenue Code Section 170(c)) if the contribution is paid January 1, 2018 through February 18, 2020, and made for relief in qualified disaster areas provided in Section 204.

Effective Date: September 28, 2020

Senate Bill 545, Section 2 (Act No. 147)

Federal Paycheck Protection Program Loans for Small Businesses due to COVID-19 – SC Tax Treatment for 2020

In an uncodified provision, Act No. 147 provides that for tax year 2020, to the extent loans under the federal paycheck protection program (Public Law 116-136, Title I, Section 1102) are forgiven and excluded from gross income for federal income tax purposes under Public Law 116-136, Title 1, Section 1106, those loans are excluded for South Carolina income tax purposes. Further, to the extent the federal government allows the deduction of expenses associated with the forgiven paycheck protection program loans, these expenses will be allowed as a deduction for South Carolina income tax purposes.

See SC Information Letter #20-28, “Federal Payroll Protection Program Loans for Small Businesses due to COVID-19,” for additional information on the tax treatment of the paycheck protection program loan and the forgiveness of the loan for tax year 2020.

Effective Date: September 28, 2020

House Bill 3485, Section 2 (Act No. 172)

Department of Archives and History – New Check-Off

Code Section 12-6-5060, providing for various voluntary contributions to certain funds and organizations on the South Carolina individual income tax return, has been amended to provide for a designation for a taxpayer to make a contribution to the Department of Archives and History. The funds are only to be used by the agency to purchase or preserve collections with significant historical value to South Carolina.

Effective Date: Applies to tax years beginning after 2019.

House Bill 3485, Section 1 (Act No. 172)

Credit for Rehabilitation of Certified Historic Structures – State Historic Preservation Grant Fund and Fee Schedule Created

Code Section 12-6-3535, providing two similar income tax credits to taxpayers making historic rehabilitation expenditures in South Carolina (one for taxpayers that qualify for the federal rehabilitation credit in Internal Revenue Code Section 47 and for individual taxpayers that do not qualify for the federal rehabilitation credit), has been amended.

Subsection (G) has been added to provide that a taxpayer claiming a credit under Code Section 12-6-3535 must pay a preliminary and a final fee to the South Carolina Department of Archives and History for the State Historic Preservation Grant Fund. The fee schedules are listed and are based on 0% to .5% of estimated and 0% to 1% of actual expenses. Prior to this amendment, subsection (E) provided for the Department of Archives and History to establish fees needed to administer the certification process.

Effective Date: Applies to tax years beginning after 2019.

PROPERTY TAXES

House Bill 3596 (Act No. 173)

Agricultural Use Property - Rollback Tax Period Reduced

Code Section 12-43-220(d)(4) provides that when real property is being valued, assessed, and taxed for agricultural use and then has a change in use to a non-agricultural purpose, it is subject to additional taxes, which are referred to as “rollback taxes.”

This section has been amended to reduce the period of applicable rollback taxes from five years to three years and to specify that the change in use of the property to a non-agricultural purpose is evidenced by actions taken by the owner of the real property which is inconsistent with agricultural use.

Effective Date: January 1, 2021, and applies for agricultural real property changed to another use after 2020.

Senate Bill 207, Section 1 (Act No. 145)

Resident in a Nursing Home or a Community Residential Care Facility – Eligibility for 4% Assessment Ratio

Code Section 12-43-220(c)(2) allows for a 4% special property tax assessment ratio on owner-occupied residential property if the taxpayer makes a timely application, the property is occupied by the owner of the residence, and the property is not rented in excess of 72 days. Subitem (ix) has been added to allow owners to retain the 4% assessment ratio, and applicable exemptions, if they are a patient at a nursing home or community residential care facility, as defined in Code Section 44-7-130.

To be eligible, the owner must (a) otherwise continue to qualify for the 4% assessment ratio, (b) have the intention of returning to the property, and (c) not have rented the property in excess of 72 days. The owner is allowed to retain the 4% assessment ratio and applicable exemptions for as long as the owner meets the above requirements.

Effective Date: Applies to property tax years beginning after 2020.

Senate Bill 207, Section 2 (Act No. 145)

Low-Income Housing Property Tax Exemption - Amended

Code Section 12-37-220(B)(11)(e) exempts from ad valorem property taxes all property of nonprofit housing corporations or instrumentalities of these corporations which are devoted to providing housing for low or very low income residents, if the safe harbor provisions of Internal Revenue Service Revenue Procedure 96-32 are satisfied.

The code section has been amended to provide that an instrumentality of a nonprofit housing corporation no longer has to be “solely” owned by that corporation for the exemption to apply. Further, for purposes of this exemption, the property of nonprofit housing corporations or their instrumentalities includes all leasehold interests in and improvements to the property owned by an entity that provides housing accommodations to persons of low or very low income, and in which a wholly owned affiliate or instrumentality of a nonprofit housing corporation is the general partner, managing member, or the equivalent. The nonprofit housing corporation or its instrumentalities must continue to satisfy the safe harbor provisions of Internal Revenue Service Revenue Procedure 96-32 to qualify for the exemption.

Effective Date: Applies to property tax years beginning after 2020.

Senate Bill 545, Section 1 (Act No. 147)

SCDOR Form PT-100 – Use by County Auditor

Code Section 12-39-70, which provides for the classification of property which is appraised and assessed by the county auditor, has been amended to provide that the county auditor must use the Department’s Form PT-100 “Business Personal Property Return.”

Effective Date: Applies to property tax returns due after December 31, 2020.

House Bill 3755, Section 3 (Act No. 174)

Delinquent Tax Sale in 2019 - Redemption Period Extended

If real property is sold at a delinquent tax sale, the defaulting taxpayer, any grantee of the owner, or any mortgage or judgement creditor generally has 12 months to pay the delinquent taxes, any penalties, interest or costs, and to redeem the property.

This uncodified provision provides that if the real property was sold at a delinquent tax sale in 2019, and the 12 month redemption period as provided in Code Section 12-51-90(A) has not expired as of September 30, 2020, then the redemption period for the real property is extended for 12 additional months.

If the property is redeemed during the 12 month extension, additional interest shall accrue in the same manner and rate as interest accrues in the original redemption period, as set forth in Code Section 12-51-90(B). The provisions of Chapter 51, Title 12, must be administered to account for the 12 month extension, including, but not limited to, the extension of affected deadlines.

Effective Date: September 30, 2020

Senate Bill 207, Section 3 (Act No. 145)

Tax Increment Financing for Redevelopment Projects in Municipalities – Amended

Tax increment financing allows tax revenues attributable to increases in the value of the property in a “redevelopment project area,” which is designated by a municipality, to be used to finance redevelopment projects that will improve the redevelopment project area. The definition of “redevelopment project” in Code Section 31-6-30(6) has been amended to clarify that all or part of a redevelopment project’s property tax revenues generated in the tax increment financing district can be used to provide or support both publicly and privately owned affordable housing in the district, or to provide infrastructure projects to support publicly or privately owned affordable housing in the district. The definition previously only allowed for support to publicly owned affordable housing in the district or infrastructure projects that supported privately owned affordable housing in the district.

Effective Date: September 28, 2020

Senate Bill 1121 (Act 184)

Consolidation of Hampton County School Districts 1 and 2 – Millage

Effective July 1, 2021, Hampton County School Districts 1 and 2 are abolished. The powers and duties of the two school districts’ respective boards of trustees will devolve on the board of trustees of a consolidated school district to be known as Hampton County School District.

For purposes of determining the 2021 property tax millage levy of the new Hampton County School District, the millage levy will be determined and calculated by the Department of Revenue based on the 2020 levy of Hampton County School Districts 1 and 2 and the value of a mill in each district. The millage levy for 2022, 2023, and 2024 must be the millage levy for the previous year. The allowed millage levy for 2021, 2022, 2023, and 2024 may be increased if necessary to comply with educational mandates imposed by state or federal law.

Beginning in 2025, the new board of trustees is authorized to impose an annual tax levy, exclusive of any millage imposed for bond debt service. Upon approval of the county governing body, Hampton County School District may raise its millage by two mills or less over the millage levied for the previous year in addition to any millage needed to adjust for the Education Finance Act inflation factor and sufficient to meet the requirements of Code Section 59-21-1030 (level of financial effort per pupil required for each school district). Any increase above the two mill increase for operations, may be levied only after a majority of the registered electors of the new consolidated district vote in favor of a millage increase in a referendum called by the county governing body and conducted by the county election commission at the same time as the general election. If these provisions conflict with the provisions of Code Section 6-1-320, relating to millage rate increase limitations, the provisions of Code Section 6-1-320 control.

Effective Date: October 28, 2020

REGULATORY

Senate Bill 1099 (Act No. 169)

Beer Manufacturers, Brewers, and Importers - Prohibited Acts

Code Section 61-4-940 restricts certain dealings between beer manufacturers, brewers, importers, wholesalers, and retailers. Code Section 61-4-942 was added and provides additional restrictions so as to prohibit a manufacturer, brewer, or importer of beer from requiring a wholesaler of beer to undertake certain actions. Notwithstanding any existing beer distribution agreement to the contrary, a beer manufacturer, brewer, or importer shall not:

1. Coerce or require a wholesaler to gather or submit sales records, retail placement, price, discount, rebate, or other details for beer brands not manufactured, brewed, or imported by the manufacturer, brewer, or importer;
2. Mandate wholesaler employee hiring decisions or payment rates, including incentives;
3. Require a wholesaler to pay or contribute marketing, advertising, or other funds for control or expenditure by the manufacturer, brewer, or importer; however, a wholesaler may agree, in writing and in advance of the payment or contribution, to spend or contribute wholesaler funds for a specified marketing or advertising plan or opportunity;
4. Ship, invoice, or initiate an electronic funds transfer payment for any quantity of beer exceeding any order or forecast submitted by a wholesaler, or include in a beer sales invoice charges for any items other than beer, freight, fuel, cooperage, dunnage, pallets, and related deposits;
5. Invoice or initiate an electronic funds transfer payment for point-of-sale advertising specialties or other items; however, a manufacturer, brewer, or importer may place an order and invoice or initiate an electronic funds transfer payment for point-of-sale advertising specialties or other items pursuant to a specific written agreement between the wholesaler and the manufacturer, brewer, or importer made prior to the placement of an order;
6. Attribute risk of loss, ownership, or other financial interest to a wholesaler for beer not in the wholesaler's possession; or
7. Require a wholesaler to pay for development, installation, or use of any software owned or mandated by the manufacturer, brewer, or importer; however, a wholesaler may be required to maintain data in a format compatible with data format standards adopted by a manufacturer, brewer, or importer.

Effective Date: September 30, 2020

House Bill 4963, Section 1 (Act No. 161)

Wine Samples Provided to Retailers by Producers and Wholesalers

Code Section 61-4-360 was added and provides that notwithstanding any other provision of law, (including Code Section 61-4-735(B)), a producer or wholesaler may give a sample of wine to a retailer who has not purchased the brand (as defined under 27 C.F.R. Section 6.11) from a producer or wholesaler in the past 365 days. A producer or wholesaler may not give a retail establishment more than 3 liters of any brand of wine annually. If a particular product is not available in a size within this quantity limitation, a producer or wholesaler may provide the next larger size to a retailer. Samples must be clearly marked “Sample - Not for resale.”

In addition, Code Section 61-4-360 does not allow samples to be sold or provided to any employees under the age of 21, or to any retailer’s customers. The producer or wholesaler must remove all bottles at the conclusion of the sampling.

Effective Date: September 28, 2020

House Bill 4963, Section 2 (Act No. 161)

Alcoholic Beverage Samples Provided to Retailers by Producers and Wholesalers

Code Section 61-6-1650 was added and provides that notwithstanding any other provision of law, a producer or wholesaler may give a sample of wine in excess of 16% alcohol, cordial, or distilled spirit to a retailer who has not purchased the brand (as defined under 27 C.F.R. Section 6.11) from a producer or wholesaler in the past 365 days. A producer or wholesaler may not give a retail establishment more than 3 liters of any brand of wine in excess of 16% alcohol, cordial, or distilled spirit annually. If a particular product is not available in a size within this quantity limitation, a producer or wholesaler may provide the next larger size to a retailer. Samples of each bottle or other container must be clearly marked “Sample - Not for resale.”

In addition, Code Section 61-6-1650 does not allow samples to be sold or provided to any employees under the age of 21, or to any retailer’s customers. The producer or wholesaler must remove all bottles at the conclusion of the sampling.

Effective Date: September 28, 2020

Senate Bill 993, Section 2 (Act No. 167)

Brewery Sales for Off-Premises Consumption – Volume Restriction Increased

Code Section 61-4-1515, which allows breweries to sell beer to consumers which is brewed on the permitted premises, has been amended to increase the maximum amount of beer that may be

sold to an individual per day for off-premises consumption to the equivalent of 576 ounces in total from the equivalent of 288 ounces in total.

Effective Date: September 29, 2020 and expires May 31, 2021.

Senate Bill 993, Section 1 (Act No. 167)

Winery – Fair and Special Function Permit

Code Section 61-4-730(A) provides that permitted wineries that produce and sell wine produced on their premises with at least 60% of the juice from fruit and berries that are grown in South Carolina may sell the wine at retail, wholesale, or both.

Code Section 61-4-730(A) has been amended to further provide that such a winery is eligible for a special permit pursuant to Code Section 61-4-550 for sales at fairs and special functions. The amendment further provides that the gross income from wine sold at events for which a special permit has been issued must not exceed 10% of a permitted winery's gross income per year from wine sales, and that income must be derived from sales at events that are promotional in nature.

Effective Date: September 29, 2020

Senate Bill 993, Section 3 (Act No. 167)

Fair and Special Function Beer and Wine Permit – New Notice Requirement

Code Section 61-4-550, which authorizes the Department to issue one-day beer and wine permits running for a period not exceeding 15 days, for a fee of \$10 per day, for locations at fairs and special functions, has been amended to add a new notification requirement for the applicant of a fair and special function permit.

Code Section 61-4-550(E) provides that beginning January 1, 2021 an applicant who has been issued a fair and special function permit under Code Section 61-4-550 must notify the State Law Enforcement Division and all local law enforcement with jurisdiction over the fair or special function site that alcohol will be served at the site. This notification must be made by the applicant at least 24 hours before the fair or special function begins.

Effective Date: September 29, 2020

OTHER

House Bill 4431 (Act No. 176)

South Carolina Business License Tax Standardization Act - New

The South Carolina Business License Tax Standardization Act was enacted in Article 1, Chapter 1 of Title 6. While this tax related legislation is not under the jurisdiction of the Department, a brief description of new Code Sections 6-1-400, 6-1-410, and 6-1-420 is provided below for general information purposes.

Code Section 6-1-400 defines taxing jurisdiction as a county or municipality levying a business license tax and provides when the tax is due, how the tax rates are determined, how the tax is calculated, and when taxpayers are entitled to refunds. It also provides for a standard business license application and a portal for reporting, calculating, and paying the tax.

Code Section 6-1-410 provides the procedures by which a county or municipality may issue a notice of assessment to a taxpayer for failure to pay a business license tax and defines the procedures by which the taxpayer may request an adjustment of the assessment, and if not resolved, appeal the notice of final assessment.

Code Section 6-1-420 provides conditions and limitations by which a taxing jurisdiction may contract with third parties to assist them with collecting property or business license taxes, when they can agree to pay these third parties contingent fees and provides a private right of action for violations of this section.

Effective Date: January 1, 2022 for Code Sections 6-1-400 and 6-1-410;
September 30, 2020 for Code Section 6-1-420.

REENACTED TEMPORARY PROVISOS

The following temporary provisos were enacted in a prior legislative session and were reenacted by the General Assembly in 2020. Temporary provisos are effective for the State fiscal year July 1, 2020 through June 30, 2021, and will expire June 30, 2021, unless reenacted by the General Assembly in the next legislative session.

INCOME TAXES

House Bill 3411, Part IB, Section 118, Proviso 118.10 (Act No. 135)

Consumer Protection Services – Individual Income Tax Deduction

This temporary proviso allows an individual an income tax deduction for the cost incurred to purchase identity theft protection and identity theft resolution services by monthly or annual contract or subscription. The deduction is equal to actual costs for the contract or subscription incurred in the tax year, up to \$300 for an individual taxpayer and up to \$1,000 for a joint return or a return claiming dependents.

The deduction is available to (1) a taxpayer who filed a return (paper or electronic) with the Department for any tax year from 1998 through 2012 or (2) a person whose personally identifiable information was on the return of another eligible person, including minor dependents. The deduction is not available to an individual who deducted the same actual cost as a business expense.

House Bill 3411, Part IB, Section 1A, Proviso 1A.9 (Act No. 135)

Teaching Supplies and Materials – Reimbursement Amount Not Taxable or Refundable Income Tax Credit

This temporary proviso allows public school teachers identified in the *Professional Certified Staff*, certified special school classroom teachers, certified media specialists, certified guidance counselors, and career specialists who are employed by a school district, charter school, or lead teachers employed in a publically funded full day 4K classroom approved by South Carolina First Steps to School Readiness, a \$275 reimbursement designed to offset expenses incurred for teaching supplies and materials. The reimbursement is not considered taxable income by South Carolina.

This proviso also provides that any classroom teacher, including a classroom teacher at a South Carolina private school, not eligible for the teacher supply reimbursement described above, may claim a refundable income tax credit on his 2020 tax return. The credit is the lesser of \$275 or the amount spent on teacher supplies and materials. The return or amended return claiming the credit must be filed on or before June 30, 2021, and may include expenses incurred after December 31, 2020. Note: Any person who receives the reimbursement provided by this proviso is not eligible for the income tax credit allowed by this proviso.

House Bill 3411, Part IB, Section 1A, Proviso 1A.10 (Act No. 135)

Teacher of the Year Awards – Not Subject to South Carolina Income Tax

This temporary proviso provides for the following teacher of the year awards: (a) a \$1,000 award to each district Teacher of the Year; (b) a \$25,000 award to the State Teacher of the Year; and (c) a \$10,000 award to each of the four Honor Roll Teachers of the Year. These awards are not subject to South Carolina income tax.

House Bill 3411, Part IB, Section 117, Proviso 117.121 (Act No. 135)

Retail Facilities Revitalization Act – Repeal of Act Suspended

The South Carolina Retail Facilities Revitalization Act (Title 6, Chapter 34) was enacted in 2006 (Act No. 285) to create an incentive for the renovation, improvement, and redevelopment of abandoned retail facility sites in South Carolina. A taxpayer who renovates, improves, or redevelops an abandoned retail facility at an eligible site may elect to take either an income tax credit or a property tax credit. Act No. 285 of 2006 contained a repeal provision stating that the Act is repealed on July 1, 2016.

Under this temporary proviso, the repeal of the South Carolina Retail Facilities Revitalization Act as to sites for which written notification of election of mode of credit has been provided to the Department prior to July 1, 2016, and for which a building permit has been issued prior to July 1, 2016, is suspended for fiscal year 2020 - 2021.

PROPERTY TAXES

House Bill 3411, Part IB, Section 109, Proviso 109.12 (Act No. 135)

Notification of Protest to Affected County and School District

This temporary proviso requires the Department to notify any affected county and school district when a taxpayer, other than an individual, files a written protest pursuant to Code Section 12-60-2120. Code Section 12-60-2120 allows a property taxpayer to protest a property tax assessment or the denial of a property tax exemption.

House Bill 3411, Part IB, Section 1, Proviso 1.47 (Act No. 135)

Index of Taxpaying Ability – Imputed Value for Owner-Occupied Residential Property

The index of taxpaying ability is used to determine state funding for education under the Education Finance Act of 1977, Chapter 20, Title 59. This index, prepared by the Department, shows a local school district’s relative fiscal capacity in relation to that of all other districts in the state based on the full market value of all taxable property of the district assessed for ad valorem taxes for the second completed property tax year preceding the fiscal year in which the index is used.

Code Section 12-37-220(B)(47) exempts 100% of the fair market value of owner-occupied residential property receiving a 4% assessment ratio pursuant to Code Section 12-43-220(c) from all property taxes imposed for school operating purposes. School districts are reimbursed for lost revenue based on a three-tier formula set forth in Code Section 11-11-156.

This temporary proviso clarifies that, for the current fiscal year, an index value for the exempt owner-occupied residential property must be imputed by adding the second preceding taxable year total school district reimbursements for Tiers 1, 2, and 3(A) of the three-tier formula and not to include the supplement distribution. The Department shall not include sales ratio data in its calculation of the index of taxpaying ability. The methodology for the calculation of value for classes of property other than exempt owner-occupied residential property is not affected by this temporary proviso.

House Bill 3411, Part IB, Section 113, Proviso 113.8 (Act No. 135)

Agricultural Use Exemption for Timberland – Impact of Additional County Requirements

Chapter 27 of Title 6 establishes the Local Government Fund (“Fund”) and requires that South Carolina’s annual general appropriations act allocate a specified amount of general fund revenues from the latest completed fiscal year to the Fund. No later than 30 days after the end of each calendar quarter, the State Treasurer must distribute Fund revenues to counties and municipalities in accordance with Code Section 6-27-40.

Code Section 12-43-230(a) and Code Section 12-43-232 provide certain requirements for a landowner to receive an agricultural use exemption. Under this temporary proviso, if a county imposes any additional requirements for an agricultural use exemption with respect to timberland, the county’s Fund distributions will be withheld.

House Bill 3411, Part IB, Section 117, Proviso 117.37 (Act No. 135)

Personal Property Tax Relief Fund

This temporary proviso provides that if a county imposes a personal property tax exemption sales tax in an effort to reduce ad valorem taxes on personal motor vehicles and a 2% sales tax rate on

gross proceeds of sales is insufficient to offset the property tax not collected, sufficient amounts must be credited to the Trust Fund for Tax Relief established under Code Section 11-11-150 to provide reimbursement to offset the shortfall in the manner provided in Code Section 4-10-540(A). Note: As of the date of this publication, no county has reduced the ad valorem taxes on personal motor vehicles by imposing this sales tax.

House Bill 3411, Part IB, Section 117, Proviso 117.121 (Act No. 135)

Retail Facilities Revitalization Act – Repeal of Act Suspended

The South Carolina Retail Facilities Revitalization Act (Title 6, Chapter 34) was enacted in 2006 (Act No. 285) to create an incentive for the renovation, improvement, and redevelopment of abandoned retail facility sites in South Carolina. A taxpayer who renovates, improves, or redevelops an abandoned retail facility at an eligible site may elect to take either an income tax credit or a property tax credit. Act No. 285 of 2006 contained a repeal provision stating that the Act is repealed on July 1, 2016.

Under this temporary proviso, the repeal of the South Carolina Retail Facilities Revitalization Act as to sites for which written notification of election of mode of credit has been provided to the Department prior to July 1, 2016, and for which a building permit has been issued prior to July 1, 2016, is suspended for fiscal year 2020 - 2021.

House Bill 3411, Part IB, Section 117, Proviso 117.128 (Act No. 135)

Improvements to Property Damaged by Catastrophic Weather Event – Time for Improvements for Eligible Events

This temporary proviso provides that any improvements made to real property or personal property used as a residence, such as a mobile home or manufactured housing unit, damaged during the catastrophic weather event in October 2015, Hurricane Matthew of 2016, or Hurricane Florence of 2018, after the event and before June 30, 2021, is not considered an improvement and does not require a re-appraisal.

This provision only applies if as a result of the catastrophic weather event, the improvements made to the property were funded by the United States Department of Housing and Urban Development Block Grant - Disaster Recovery program. This provision also applies if, at the discretion of the county, and using qualifications determined by the county, the improvements were made with the assistance of a volunteer organization active in disaster, or in a similar volunteer organization.

During the current fiscal year, the property tax value of an eligible property shall remain the same unless an assessable transfer of interest occurs. No refund is allowed on account of values adjusted as provided in this provision.

SALES AND USE TAXES

House Bill 3411, Part IB, Section 109, Proviso 109.13 (Act No. 135)

Clothing Used in Perishable Prepared Food Manufacturing Facilities

This temporary proviso exempts from sales and use tax certain clothing required by Current Good Manufacturing Practices as set forth in 21 C.F.R. Section 111.10, as it may be amended, used at perishable prepared food manufacturing facilities as defined by the North American Industry Classification System 311991 to prevent health hazards.

Clothing eligible for this exemption includes outer garments, gloves of an impermeable material, hairnets, headbands, beard covers, caps, hair covers or other effective hair restraints, and other attire required pursuant to 21 C.F.R. Section 110.10 for persons working in direct contact with food, food contact surfaces, and food packaging materials to protect against contamination of food in perishable prepared food manufacturing facilities.

House Bill 3411, Part IB, Section 50, Proviso 50.20 and Section 117, Proviso 117.127 (Act No. 135)

Navy Base Intermodal Facility and State Ports Authority – Distribution Facility Eligibility

Proviso 50.20 provides that the Navy Base Intermodal Facility owned by Palmetto Railways, a division of the Department of Commerce, shall be considered a distribution facility for the purpose of sales and use tax exemptions associated with the purchase of equipment and construction materials.

Proviso 117.127 provides that the State Ports Authority shall be considered a distribution facility for the purpose of sales and use tax exemptions associated with the purchase of equipment and construction materials.

Note: Exemptions implicated by these provisos include Code Section 12-36-2120(51) and (67).

House Bill 3411, Part IB, Section 117, Proviso 117.60 (Act No. 135)

Viscosupplementation Therapies – Sales and Use Tax Suspended

For this State fiscal year, sales and use taxes on viscosupplementation therapies are suspended. No refund or forgiveness of tax may be claimed as a result of this provision.

House Bill 3411, Part IB, Section 117, Proviso 117.56 (Act No. 135)

Respiratory Syncytial Virus Medicines Exemption – Effective Date

Act No. 69, Section 3.PP, of 2003 amended Code Section 12-36-2120(28)(a) to add an exemption for prescription medicines used to prevent respiratory syncytial virus; it was effective for sales on or after June 18, 2003. This temporary proviso changes the effective date of this exemption to January 1, 1999 and provides that no refund of sales and use taxes may be claimed as a result of this change in the effective date.

House Bill 3411, Part IB, Section 117, Proviso 117.36 (Act No. 135)

Private Schools – Use Tax Exemption

This temporary proviso exempts purchases of tangible personal property for use in private primary and secondary schools, including kindergarten and early childhood education programs, from the use tax if the school is exempt from income taxes under Internal Revenue Code Section 501(c)(3). This exemption does not apply to purchases subject to sales tax. This use tax exemption is also applicable to purchases occurring after 1995; however, no refund is due any taxpayer on purchases exempted by this provision. See SC Regulation 117-334 for information as to which tax, the sales tax or the use tax, applies when goods are shipped into South Carolina.

Miscellaneous (Administrative Matters and Miscellaneous Taxes)

Administrative Matters:

House Bill 3411, Part IB, Sections 41 and 117, Provisos 41.2 and 117.85 (Act No. 135)

3% Reduction on Interest Rate on Tax Refunds

The interest rate for tax refunds paid is reduced by 3% as follows:

1. Temporary Proviso 41.2 decreases by 2% the interest rate for tax refunds paid during the current fiscal year. The revenue resulting from this 2% reduction must be used for operations of the State's Guardian ad Litem Program.
2. Temporary Proviso 117.85 decreases by 1% the interest rate for tax refunds paid during the current fiscal year. Of the revenue resulting from this 1% reduction, \$300,000 must be used by the Senate for operating expenses of the Joint Citizens and Legislative Committee on Children. The remaining revenue must be used by the Department of Juvenile Justice for programs for mentoring or other alternatives to incarceration.

Voluntary Website Posting of Tax Return Information for Candidates and Gubernatorial Appointees

This temporary proviso provides that the Department must develop a program to process inquiries from a candidate for an office in South Carolina or its political subdivisions or any gubernatorial appointee concerning that candidate's or appointee's state income tax filings. Upon request by the candidate or appointee in connection with his own income tax return, the Department must determine if the candidate or appointee has filed his annual state income tax returns for the past ten years, paid all income taxes due during that time period, and, if applicable, satisfied all judgments, liens, or other penalties for failure to pay income taxes when due.

Unless the candidate or appointee requests otherwise, the following information will be posted on the Department's website:

1. The candidate's or appointee's name;
2. The years that the candidate or appointee was required to file income tax returns during the last ten years and any years that he was not required to file income tax returns;
3. Whether the candidate or appointee filed income tax returns in each of the ten years that he was required to file an income tax return;
4. Whether the candidate or appointee paid income taxes due each year that he was required to file an income tax return; and
5. Whether the candidate or appointee had a judgment, lien, or other penalty levied against him for failure to pay income taxes when due; the year of any levy; and whether the judgment, lien or other penalty has been satisfied.

A candidate's or appointee's inquiry constitutes a waiver of confidentiality with the Department concerning the information posted. The Department may not post complete income tax returns.

Miscellaneous Taxes:

House Bill 3411, Part IB, Section 1, Proviso 1.14 (Act No. 135)

Local Government School Buses – Motor Fuel User Fee Exemption

This temporary proviso provides that motor fuel used in school buses operated by school districts, other governmental agencies, and “head start” agencies for purposes of transporting students for school or school-related activities is exempt from the State motor fuel user fee.

Note: Motor fuel used in school buses owned by the State is exempt from the State motor fuel user fee under Code Section 12-28-710(12).

House Bill 3411, Part IB, Section 33, Proviso 33.10 (Act No. 135)

Nursing Home Bed Franchise Fee – Suspension

This temporary proviso continues to suspend the nursing home bed franchise fee imposed on February 1, 2002, but subsequently suspended July 1, 2002.

House Bill 3411, Part IB, Section 118, Proviso 118.7 (Act No. 135)

Admissions Tax Rebate – Motorsports, Tennis, and Soccer Facilities

This temporary proviso provides that up to \$114,000 in admissions tax revenue collected annually from all events held at a NASCAR sanctioned motor speedway or racetrack that hosts at least one race each year featuring the preeminent NASCAR cup series must be rebated to the motorsports entertainment complex facility in the current fiscal year to keep a NASCAR race at the facility. In addition, any sports facility that either hosts at least one preeminent Women’s Tennis Association-sanctioned tournament or that operates as the home venue for a professional soccer team participating in the United Soccer Leagues, second division or higher, must be rebated half of the facility’s admissions tax revenue for the fiscal year and used by that facility for marketing the events held at the facility.