



STATE OF SOUTH CAROLINA  
**DEPARTMENT OF REVENUE**

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**SC REVENUE RULING 22-11**

**SUBJECT:** Age 65 and Older Deduction Against Any Type Income;  
“General” Retirement Income Deduction at Any Age; and  
“Military” Retirement Income Deduction at Any Age  
(Income Tax)

**EFFECTIVE DATE:** Tax years beginning 2022.

**SUPERSEDES:** SC Revenue Ruling #21-13 and any and all previous advisory opinions  
and any oral directives in conflict herewith.

**REFERENCES:** S.C. Code Ann. Section 12-6-1170 (2014) (Supp. 2021)  
S.C. Code Ann. Section 12-6-1171 (Supp. 2021)  
Act No. 156 amending Code Section 12-6-1171(A) (Enacted May 13,  
2022)

**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:** The purpose of a Revenue Ruling is to provide guidance to the public and  
Department personnel. It is an advisory opinion issued to apply principles  
of tax law to a set of facts or general category of taxpayers. It is the  
Department’s position until superseded or modified by a change in statute,  
regulation, court decision, or another Department advisory opinion.

**PURPOSE OF UPDATE AND OVERVIEW**

Code Sections 12-6-1170 and 12-6-1171 contain income tax deductions for:

1. Individuals of any age receiving retirement income to reduce taxable retirement income;
2. Individuals age 65 and older to reduce taxable income of any type; and
3. Military retirees receiving military retirement income to eliminate taxable military retirement income.

An individual may be eligible for more than one of these deductions in one tax year. In limited situations, one deduction may reduce (partially or completely) the amount of another deduction an individual may claim. In addition, each of these deductions is also available to a surviving spouse receiving qualified retirement income attributable to a deceased spouse(s).

South Carolina Revenue Ruling #21-13 provided guidance and examples regarding eligibility requirements for, and the calculation of, the income tax deductions in Code Sections 12-6-1170 and 12-6-1171. Guidance was also provided for military retirees and surviving spouses, and for surviving spouses who inherit a qualifying retirement account and receive retirement income that is attributable to the deceased spouse.

The purpose of this advisory opinion is to update SC Revenue Ruling #21-13 to address the expansion of the “military” retirement income deduction by Act No. 156 of 2022, effective for tax years beginning 2022. The Act amended Code Section 12-6-1171(A) to allow an individual taxpayer to deduct all military retirement income that is included in South Carolina taxable income, regardless of age.<sup>1</sup> Military individuals and non-military individuals continue to be eligible for the “general” retirement deduction and the “age 65 and older deduction” allowed in Code Section 12-6-1170. Although these two “general” deductions in Code Section 12-6-1170 were not changed by Act No. 156 in 2022, the guidance and examples provided in SC Revenue Ruling #21-13 regarding the “general” income tax deductions in Code Section 12-6-1170 for all individuals (military or civilian) are also included in this update to clearly illustrate all deductions and amounts.

This advisory opinion is divided into the following sections to assist individuals and tax professionals with various deduction questions and computations.

Part I - South Carolina Law – Pages 4 – 6

- A. Code Section 12-6-1170
- B. Code Section 12-6-1171

Part II - Code Section 12-6-1170 Deductions – Pages 7 – 31

- A. “General” Retirement Income Based Deduction for Any Age – Summary
- B. Age Based “General” Deduction – Age 65 and Older Deduction for Any Type of Income (e.g., earned income, retirement income) – Summary
- C. Questions and Answers
- D. Examples Calculating Each Deduction (With Important Rules and Explanations):
  - Example 1 – Taxpayer is under Age 65 – Filing Status “Single”
  - Example 2 – Both Spouses are under Age 65 – Filing Status “Married Filing Joint”
  - Example 3 – One Spouse is under Age 65 and One Spouse is Age 65 or Older
  - Example 4 – Both Spouses are Age 65 or Older. Only One Spouse has Income.

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<sup>1</sup>This “full” military retirement income deduction replaces the previous two military retiree deductions: (1) the earned income deduction of up to \$17,500 for an individual of any age with both earned income and military retirement income and (2) the “military” retirement income deduction of up to \$30,000 for an individual age 65 or older with military retirement income. These deductions were provided in Code Section 12-6-1171(A)(1) and 12-6-1171(A)(2), respectively.

Example 5 – Both Spouses are Age 65 or Older. Only One Spouse has Retirement Income.

Example 6 – Both Spouses are Age 65 or Older. Year of Death of One Spouse. Filing Status “Married Filing Joint.”

Example 7 – Year Following Death of Spouse. Surviving Spouse is Age 65 or Older.

Part III - Code Section 12-6-1171 Deduction – Pages 32 – 62

A. “Military” Retirement Income Deduction for Military Retiree of Any Age - Summary

B. Surviving Spouse Deduction

C. Questions and Answers

D. Examples Calculating Each Deduction –

See page 41 for a description of specific principles illustrated in Examples 1 - 7:

Example 1 – Both Spouses are under Age 65

Example 2 – Both Spouses are under Age 65

Example 3 – Single Military Retiree is Age 65 or Older

Example 4 – Single Military Retiree is Age 65 or Older

Example 5 – Both Spouses are Age 65 or Older. One has military retirement income.

Example 6 – Military Spouse Dies during the Year at Age 70. Surviving Spouse is Age 65.

Example 7 – Year Following Death of Military Spouse. Surviving Spouse is Age 65 or Older.

**Important Points to Remember and Assumptions Used in Examples:**

- The examples assume all retirement income is qualified retirement income.
- The examples apply to any legal marriage. When necessary, to clearly illustrate a specific person’s income or deduction amounts, the examples will refer to one spouse as the “husband” and the other spouse as the “wife.”
- The examples use the term “general” retirement income deduction and “general” age 65 and older deduction to refer to the deductions in Code Section 12-6-1170 that are available to both non-military and military individuals.
- The age of a deceased individual had he or she been living on December 31<sup>st</sup> of the current tax year is used to calculate the deduction amounts (i.e., the deceased continues to age in the current tax year and thereafter, without regard to the actual date and year of his or her death).
- NOTE – Code Section 12-6-1171 Before Amendment in 2022: The two former military retiree deductions in Code Section 12-6-1171 (i.e., the earned income deduction for any age military retiree and the “military” retirement income deduction for a military retiree age 65 and older) allowed for tax years 2021 and earlier were both phased in from 2016 to 2020. For taxpayer’s filing original or amended returns for years prior to 2022, the phased-in amounts and the guidance provided in SC Revenue Ruling #21-13 remain applicable and should be used to compute the applicable prior year deductions.

**PART I**

**SOUTH CAROLINA LAW**

**Code Section 12-6-1170**

**Code Section 12-6-1171**

**Code Section 12-6-1170 reads:**

(A)(1) An individual taxpayer who is the original owner of a qualified retirement account is allowed an annual deduction from South Carolina taxable income of not more than three thousand dollars of retirement income received. Beginning in the year in which the taxpayer reaches age sixty-five, the taxpayer may deduct not more than ten thousand dollars of retirement income that is included in South Carolina taxable income.

**General Retirement  
Income Deduction**  
**< Age 65, up to  
\$3,000**  
**≥ Age 65, up to  
\$10,000**

(2) The term “retirement income”, as used in this subsection, means the total of all otherwise taxable income not subject to a penalty for premature distribution received by the taxpayer or the taxpayer’s surviving spouse in a taxable year from qualified retirement plans which include those plans defined in Internal Revenue Code Sections 401, 403, 408, and 457, and all public employee retirement plans of the federal, state, and local governments, including military retirement.

**Definition of  
Retirement Income**

(3) A surviving spouse receiving retirement income that is attributable to the deceased spouse shall apply this deduction in the same manner that the deduction applied to the deceased spouse. If the surviving spouse also has another retirement income, an additional retirement exclusion is allowed.

**Surviving Spouse -  
Special Rules**

(4) The department may require the taxpayer to provide information necessary for proper administration of this subsection.

(B) Beginning for the taxable year during which a resident individual taxpayer attains the age of sixty-five years, the resident individual taxpayer is allowed a deduction from South Carolina taxable income received in an amount not to exceed fifteen thousand dollars reduced by any amount the taxpayer deducts pursuant to subsection (A) not including amounts deducted as a surviving spouse. If married taxpayers eligible for this deduction file a joint federal income tax return, then the maximum deduction allowed is fifteen thousand dollars in the case when only one spouse has attained the age of sixty-five years and thirty thousand dollars when both spouses have attained such age.

**Age 65 & Older  
General Deduction  
(reduces any type of  
income)**  
**\$15,000 – one  
taxpayer is 65**  
**\$30,000 – married filing  
joint and both spouses  
are 65 or older**

(C)(1) Notwithstanding any other provision of this section, if a taxpayer claims a deduction pursuant to Section 12-6-1171, then the deduction allowed by this section must be reduced by the amount the taxpayer deducts pursuant to Section 12-6-1171; however, this subsection does not apply if the deduction claimed pursuant to Section 12-6-1171 is claimed by a surviving spouse.

**Military Retiree  
Claiming Section  
12-6-1171 Deduction:**  
**• Reduction &  
Income Tracing  
Required by  
Military Retiree**  
**• Surviving Spouse –  
Reduction Exception**

(2) In the case of married taxpayers who file a joint federal income tax return, the reduction required by item (1) applies to each individual separately, so that the reduction only applies to the amount the individual claiming the deduction pursuant to Section 12-6-1171 otherwise could have claimed pursuant to this section if the individual had not filed a joint return.

**Code Section 12-6-1171, providing for a military retirement income deduction, reads:**

(A) An individual taxpayer may deduct all military retirement income that is included in South Carolina taxable income. **Military Retirement Income Deduction (100% at any age)**

(B) The term “retirement income”, as used in this section, means the total of all otherwise taxable income not subject to a penalty for premature distribution received by the taxpayer or the taxpayer’s surviving spouse in a taxable year from a qualified military retirement plan. For purposes of a surviving spouse, “retirement income” also includes a retirement benefit plan and dependent indemnity compensation related to the deceased spouse's military service. **Definition of Retirement Income**

(C) A surviving spouse receiving military retirement income that is attributable to the deceased spouse shall apply this deduction in the same manner that the deduction applied to the deceased spouse. If the surviving spouse also has another retirement income, an additional retirement exclusion is allowed. **Surviving Spouse - Special Rules**

(D) The department may require the taxpayer to provide information necessary for proper administration of this subsection.

**PART II**

**“GENERAL” DEDUCTIONS**

**UNDER CODE SECTION 12-6-1170**

**“GENERAL” RETIREMENT INCOME DEDUCTION FOR ANY AGE**

**AGE BASED “GENERAL” DEDUCTION – “GENERAL” AGE 65 OR OLDER  
DEDUCTION REDUCING ANY TYPE OF INCOME**

**AND**

**SURVIVING SPOUSE “GENERAL” DEDUCTIONS**

## SUMMARY OF CODE SECTION 12-6-1170 DEDUCTIONS<sup>2</sup>

### **DEDUCTION 1: “GENERAL” RETIREMENT INCOME DEDUCTION FOR ANY AGE** **Maximum Amount: \$3,000 or \$10,000, depending on age of taxpayer receiving “qualified retirement income”**

**Law: Code Section 12-6-1170(A)**

General Provision. Code Section 12-6-1170(A) provides an annual income tax deduction from South Carolina taxable income for retirement income to the original owner of a qualified retirement account. The qualifying taxpayer receiving retirement income may deduct up to \$3,000 of such retirement income annually through age 64, and deduct up to \$10,000 of such retirement income annually at age 65 and thereafter.

Surviving Spouse Deduction Amounts. A surviving spouse is allowed this deduction for income received from his or her retirement plan, if any. Also, a surviving spouse is allowed a separate, additional deduction for retirement income that is attributable to the deceased spouse, if any, in the same manner that the deduction would have been applied to the deceased if still living.

Surviving Spouse Reduction Exception. Amounts deducted as a surviving spouse under Code Section 12-6-1170(A) do not reduce the \$3,000 or \$10,000 general retirement income deduction.

Note: Additional provisions for a surviving spouse of a military retiree are discussed on the following page and in Part III.

### **DEDUCTION 2: AGE BASED “GENERAL” DEDUCTION - AGE 65 OR OLDER** **DEDUCTION REDUCING ANY TYPE OF INCOME**

**Maximum Amount: \$15,000 or \$30,000, depending on age and filing status**

**Law: Code Section 12-6-1170(B)**

General Provision. Code Section 12-6-1170(B) provides an annual income tax deduction of up to \$15,000 from any South Carolina taxable income of a resident individual who is 65 or older by the end of the tax year. The deduction can reduce any taxable South Carolina income, including wages, investment income, rental income, Schedules C or F income, or retirement income.

Married Taxpayers - Joint Return Deduction Amount. Taxpayers filing a joint return are allowed a deduction of up to \$15,000 when only one spouse is 65 or older, by the end of the tax year. Taxpayers filing a joint return are allowed a deduction of up to \$30,000 when both spouses are 65 or older, by the end of the tax year.

Reduction Required for “General” Retirement Income Deduction Claimed. Amounts deducted as retirement income under Code Section 12-6-1170(A) (the general retirement income deduction discussed above) reduce the \$15,000 or \$30,000 general age 65 and older deduction.

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<sup>2</sup>This summary is a brief overview of Code Section 12-6-1170 written in general terms. See the examples in this Revenue Ruling for more detailed guidance.



Surviving Spouse Reduction Exception. Amounts deducted as a surviving spouse under Code Section 12-6-1170(A) (the general retirement income deduction discussed above) do not reduce the \$15,000 age 65 and older deduction.

Note: Additional provisions for a surviving spouse of a military retiree are discussed below and in Part III.

## **ADDITIONAL PROVISIONS FOR MILITARY RETIREES AND SURVIVING SPOUSES OF MILITARY RETIREES**

**CAUTION: A military retiree or surviving spouse receiving military retirement income that is attributable to the deceased military spouse should follow the guidance in Part III of this advisory opinion. A full 100% deduction is allowed for “military” retirement income under Code Section 12-6-1171. If non-military retirement income or other income exists, Code Section 12-6-1170 may require a reduction in the amount of any further “general” deductions allowed to the military retiree under Code Section 12-6-1170 (as described briefly below as deduction #1 and deduction #2). Part III of this advisory opinion contains additional guidance and a simplified calculation method for any required reductions to the “general” deductions for a military retiree claiming a “military” retirement income deduction.**

### **DEDUCTION 1: “GENERAL” RETIREMENT INCOME DEDUCTION FOR ANY AGE**

Reduction Required for “Military” Retirement Income Deduction Claimed. Amounts deducted by a military retiree under Code Section 12-6-1171 (“military” retirement income deduction) reduce his or her “general” retirement income deduction of up to \$3,000 if under age 65 or \$10,000 if 65 or older that is provided under Code Section 12-6-1170(A). However, for a married military retiree who files a joint federal income tax return, this reduction applies to each spouse separately. In other words, the reduction only applies to the amount the individual claiming the “military” retirement income deduction pursuant to Code Section 12-6-1171 otherwise could have claimed under Code Section 12-6-1170 if the individual had not filed a joint return. **(See Part III for additional guidance, examples, and a simplified calculation method for this reduction.)**

Surviving Spouse Reduction Exception. Amounts deducted as a surviving spouse under Code Section 12-6-1171 (“military” retirement income deduction) do not reduce the \$3,000 or \$10,000 “general” retirement income deduction under Code Section 12-6-1170(A).

### **DEDUCTION 2: AGE BASED “GENERAL” DEDUCTION - AGE 65 OR OLDER DEDUCTION REDUCING ANY TYPE OF INCOME**

Reduction Required for “Military” Retirement Income Deduction Claimed. Amounts deducted by a military retiree under Code Section 12-6-1171 (“military” retirement income deduction) reduce the \$15,000 “general” age 65 and older deduction allowed under Code Section 12-6-1170. However, for married taxpayers who file a joint federal income tax return, this reduction applies to each individual separately. In other words, the reduction only applies to the amount the

individual claiming the military deduction pursuant to Code Section 12-6-1171 otherwise could have claimed under Code Section 12-6-1170 if the individual had not filed a joint return. **(See Part III for additional guidance, examples, and a simplified calculation method for this reduction.)**

Surviving Spouse Reduction Exception. Amounts deducted as a surviving spouse under Code Section 12-6-1171 (“military” retirement income deduction) do not reduce the \$15,000 “general” age 65 and older deduction.

## QUESTIONS AND ANSWERS - CODE SECTION 12-6-1170 DEDUCTIONS

### **“GENERAL” RETIREMENT INCOME DEDUCTION FOR ANY AGE (up to \$3,000 or \$10,000)**

1. Q. What is “retirement income” for purposes of the \$3,000 or \$10,000 general retirement income deduction allowed by Code Section 12-6-1170(A)?
  - A. Code Section 12-6-1170(A)(2) defines the term “retirement income,” as used in this subsection, to mean the total of all otherwise taxable income not subject to a penalty for premature distribution<sup>3</sup> received by the taxpayer or the taxpayer’s surviving spouse in a taxable year from qualified retirement plans. These plans include:
    - All public employee retirement plans of the federal, state, and local governments, including military retirement.
    - Plans defined in Internal Revenue Code Sections:
      - 401, “Qualified Pension, Profit-Sharing, and Stock Bonus Plan”
      - 403, “Taxation of Employee Annuities”
      - 408, “Individual Retirement Accounts” and
      - 457, “Deferred Compensation Plans of State and Local Governments and Tax-Exempt Organizations.”
2. Q. Is retirement income that is not included in South Carolina taxable income eligible for the general retirement income deduction?
  - A. Based on the definition of “retirement income” in Code Section 12-6-1170(A)(2), retirement income eligible for the deduction must otherwise be taxable income. Income not included in South Carolina taxable income, such as social security income<sup>4</sup> or total and permanent disability retirement income<sup>5</sup> is not “otherwise taxable income” and, therefore, not eligible for the general retirement income deduction.
3. Q. Is an individual under age 65 eligible to claim the general retirement income deduction allowed by Code Section 12-6-1170?
  - A. Yes. An individual of any age is eligible to claim a deduction for retirement income allowed in Code Section 12-6-1170(A), providing the individual is the original owner of the retirement account (or a surviving spouse receiving qualified retirement income attributable to the deceased spouse who was the original owner of the retirement account, as discussed below). **See Examples 1 and 2.**

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<sup>3</sup> South Carolina does not impose a penalty for premature distribution. This penalty is imposed for federal income tax purposes under Internal Revenue Code Section 72(t).

<sup>4</sup> Code Section 12-6-1120(4) exempts social security from South Carolina tax.

<sup>5</sup> See Code Section 12-6-1140(4).

For example, an individual begins receiving a monthly distribution from a government pension at age 50 (e.g., \$12,000 annually). The individual, as the original owner of the account, may deduct up to \$3,000 a year of the taxable pension income received from South Carolina taxable income. At age 65 and thereafter, the individual may deduct up to \$10,000 a year of the taxable pension income received from South Carolina taxable income. See Code Section 12-6-1170(A).

4. Q. Is an individual who is not the original owner of a qualified retirement account eligible to claim the general retirement income deduction under Code Section 12-6-1170(A)?
- A. The general retirement income deduction is limited to the “original owner” of the qualified retirement account, with one exception. For example, if a sister inherits her brother’s 401(k) account, then the sister is not the “original owner” of the qualified account and is not eligible for the general retirement income deduction for distributions received from the inherited 401(k). However, if the sister has a qualified account of her own, she is eligible for the general retirement income deduction for qualified distributions from her own account. **See Example 1.**

An exception to the general rule limiting the general retirement income deduction is provided for a surviving spouse receiving retirement income attributable to a deceased spouse(s) who was the original owner of the retirement account. For a complete discussion, **see Questions 8 - 13** below under the Q and A section “Surviving Spouse and Year of Death Issues.”

#### **AGE BASED “GENERAL” DEDUCTION - AGE 65 OR OLDER DEDUCTION AGAINST ANY TYPE OF INCOME (up to \$15,000 or \$30,000)**

5. Q. For the age 65 and older deduction, is an individual required to have retirement income to qualify?
- A. No. The age 65 and older deduction is available as a deduction from any South Carolina taxable income. The age 65 and older deduction may offset income from wages, investments, Schedules C (sole proprietorship) or F (farming), capital gains, retirement income, etc. **See Examples 4 and 5.**
6. Q. For a married couple filing a joint return, is the income of each spouse separately traced when computing the age 65 and older deduction when one spouse is 65 or older but the other spouse is under age 65 at the end of the tax year?
- A. No. The age 65 and older deduction is \$15,000 for married taxpayers filing a joint return when only one spouse is 65 or older. Since the statute does not require that married taxpayers filing a joint return allocate income as if they had filed a separate return, the income reported on the joint return is not traced separately for each spouse in determining the deduction. Accordingly, the \$15,000 deduction may be used to offset any South Carolina taxable income on the joint return (even the income of the spouse who is under age 65). **See Example 3.**

See the exception for a married individual claiming the “military” retirement income deduction under Code Section 12-6-1171 discussed in Part III.

7. Q. How is the age 65 and older deduction amount determined for a married couple filing a joint return when both spouses are 65 or older at the end of the tax year if only one spouse has income?
- A. The age 65 and older deduction is available as a deduction from any South Carolina taxable income on the joint return (e.g., the husband’s wages, the wife’s wages, interest income, retirement income, inherited IRA, etc.). The deduction is \$30,000 for married taxpayers filing a joint return when both are 65 or older in the tax year. The deduction is \$30,000 per joint income tax return.

The statute does not require that married taxpayers filing a joint return allocate income as if they had filed separately.<sup>6</sup> In the case of married taxpayers who file a joint income tax return, the deduction is not based on each individual’s separate income.

For example, assume both spouses are age 65. Husband has \$100,000 wage income and the wife does not work. The return shows no other income. The couple may claim a \$30,000 age 65 and older deduction on their joint South Carolina income tax return. See **Examples 4 and 5**.

See the exception for a married individual claiming the “military” retirement income deduction under Code Section 12-6-1171 discussed in Part III.

## **SURVIVING SPOUSE AND YEAR OF DEATH ISSUES**

8. Q. What are the exceptions to the general provisions for the “general” retirement income deduction for any age and the “general” age 65 and older deduction reducing any type of income in Code Section 12-6-1170(A) and (B), respectively, for a surviving spouse receiving qualified retirement income attributable to the deceased spouse?
- A. Code Section 12-6-1170(A)(3) and (B) provides special provisions from the two general provisions discussed above for a surviving spouse receiving retirement income attributable to the deceased spouse(s).

**“General” Retirement Income Deduction – As a Surviving Spouse.** A surviving spouse receiving retirement income that is attributable to the deceased spouse applies the general retirement income deduction under Code Section 12-6-1170(A) (i.e., the \$3,000 or \$10,000 deduction) in the same manner that the deduction applied to the deceased spouse, as if the deceased was alive in the current tax year. Note: **See Questions 9 and 10** below for guidance to determine the “age” of the deceased spouse for purposes of calculating the deduction amount in the year of death and thereafter.

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<sup>6</sup> Code Section 12-6-1140(9) prior to amendment provided that if a married taxpayer eligible for this deduction files a joint federal income tax return with a spouse who is not eligible for this deduction, then their joint income must be allocated between them on a pro-rata basis in the manner the Department provides. Code Section 12-6-1140(9) was repealed in 1998.

“General” Age 65 and Older Deduction Claimed by the Surviving Spouse. Retirement income received by a surviving spouse that is attributable to a deceased spouse does not reduce the surviving spouse’s age 65 and older deduction (i.e., the deduction up to \$15,000 against any type of income) under Code Section 12-6-1170(B). **See Example 7.**

9. Q. In the year of death of an individual who dies at age 64 before turning age 65 in the current tax year, what is the age of the deceased spouse for purposes of the general retirement income deduction in Code Section 12-6-1170(A) or the age 65 and older deduction in Code Section 12-6-1170(B)?
- A. For purposes of Code Section 12-6-1170, it has been the Department’s longstanding position that the deceased continues to age, without regard to the actual date of his or her death. Accordingly, in the year of death and thereafter, the age of a deceased individual is determined as of each December 31<sup>st</sup>, and not on the date of death.

For example, assume a single individual dies June 1 at age 64, six months before his 65<sup>th</sup> birthday on December 1. Since the deceased continues to age for purposes of the deductions in Code Section 12-6-1170, on the final South Carolina individual income tax return filed in the year of death, the individual is eligible for the higher general retirement income deduction amount of \$10,000 allowed to a 65 year or older individual (increased from the \$3,000 amount for an age 64 or under individual) and is also eligible for the age 65 and older deduction of up to \$15,000. **See Examples 6 and 7.**

Note: For income tax purposes, if a spouse dies during the tax year, the couple may be considered married for the entire year for filing status purposes. If the surviving spouse does not marry before the end of the tax year, a joint return may be filed for the surviving spouse and deceased spouse, if the executor consents. See IRC Section 6013, “Joint Returns of Income Tax by Husband and Wife,” and IRS Publication 559, “Final Income Tax Return of Decedent.”

10. Q. In each year after the death of a spouse, what age of the deceased spouse does a surviving spouse use to calculate the “surviving spouse” general retirement income deduction amount?
- A. A surviving spouse (of any age) receiving retirement income attributable to the deceased spouse determines the retirement income deduction “as a surviving spouse” each year in the same manner that the deduction would have applied to the deceased spouse had he or she lived. It has been the Department’s longstanding position that the deceased spouse continues to age each year, without regard to the actual date of his or her death. As such, the age of the deceased spouse had he or she been living on December 31<sup>st</sup> of the current tax year is used to calculate the deduction amount; the age of the deceased spouse on the date of death or the age of the surviving spouse is not used to determine the deduction amount attributable to the deceased spouse.

For example, if a spouse dies at age 63 and the surviving spouse is age 70, then in the year of death the retirement income deduction claimed by the deceased spouse would be up to \$3,000 for the tax year (see Question 9 above for filing status guidance). The surviving spouse would also compute her own retirement income deduction, if any, separately from the deceased spouse's retirement income deduction.

In the year after death, when the deceased spouse would have been age 64 (had he lived), the surviving spouse receiving retirement income attributable to the deceased spouse may claim a maximum \$3,000 retirement income deduction attributable to the deceased spouse "as a surviving spouse." The surviving spouse computes her own retirement income deduction, if any, separately from the deceased spouse's retirement income deduction.

In the subsequent tax year when the deceased spouse would have been age 65 (had he lived), the retirement income deduction attributable to the deceased spouse does not remain at \$3,000; the surviving spouse retirement income deduction amount increases to a maximum of \$10,000 for the year the deceased spouse would have been 65 and older (had he not died) and for each year thereafter (i.e., the deduction is computed in the same manner as if the deceased spouse was alive in the current tax year). The surviving spouse computes her own retirement income deduction, if any, separately from the deceased spouse's retirement income deduction.

11. Q. Is a surviving spouse allowed a general retirement income deduction as a "surviving spouse" for qualifying retirement income attributable to the deceased spouse and also a general retirement income deduction as a "taxpayer" for his or her own retirement income?
- A. Yes. A surviving spouse receiving retirement income that is attributable to the deceased spouse applies the general retirement income deduction in the same manner as the deduction applied to the deceased. In addition, if a surviving spouse also has his or her own retirement income, then another, separate general retirement income deduction is allowed. **See Example 7.**
12. Q. Is a surviving spouse eligible to claim the "general" retirement income deduction as a surviving spouse for income attributable to the deceased spouse if the deceased spouse was not the original owner of the qualified retirement account that the surviving spouse inherited?
- A. No. The retirement income deduction is limited to the "original owner" of the qualified retirement account. For example, if a spouse (e.g., the husband) inherited his mother's 401(k) accounts, the husband is not eligible to claim the retirement income deduction for distributions from these accounts. Likewise, when the husband dies and his wife inherits the 401(k) accounts that were originally owned by the husband's mother, then the surviving spouse (wife) is not entitled to claim a retirement deduction for any distributions in which the deceased spouse was not the original owner (e.g., husband's mother's inherited accounts).

13. Q. How is the retirement deduction determined if the qualified retirement accounts of the deceased spouse and the surviving spouse are not maintained in separate accounts?

A. For reasons other than tax purposes,<sup>7</sup> funds of a deceased spouse may be maintained in a separate account (e.g., 401(k) spousal rollover IRA) or the funds may be combined in the surviving spouse’s retirement account (e.g., IRA) and may not be readily identifiable in the combined account.

For purposes of the retirement deduction, the question arises as to how to determine which retirement distributions arise from the deceased spouse’s qualified retirement accounts and which retirement distributions arise from the surviving spouse’s qualified retirement accounts. The statute provides that the surviving spouse receiving the retirement income attributable to the deceased spouse applies the retirement deduction in the same manner as the deduction applied to the deceased spouse. If the funds are commingled, then the method to allocate the accounts of each spouse is to use the fair market value of each spouse’s account at the date the assets are commingled by the surviving spouse. If the accounts are combined, the relative allocation as a percentage should remain fixed in subsequent years.

For example, assume the surviving spouse inherited the deceased spouse’s retirement accounts. The assets of the deceased spouse’s retirement accounts are transferred to, and commingled with, the surviving spouse’s account. At the time of transfer into the account, the fair market value of the deceased spouse’s account is \$100,000. The value of the surviving spouse’s own retirement account on the same date is \$300,000. The surviving spouse continues to take distributions from the account. The allocation method and computation of deductions are illustrated below.

<b>Original Owner of Qualified Retirement Account</b>	<b>Fair Market Value of Account at Time of Transfer</b>	<b>Allocation of Account to Each Spouse for Retirement Income Deduction Purposes</b>
Living (Surviving) Spouse	\$300,000	$\$300,000/\$400,000 = 75\%$
Deceased Spouse (Wife)	\$100,000	$\$100,000/\$400,000 = 25\%$
TOTAL	\$400,000	

Allocation of Distributions between Original Owners. Assume the surviving spouse and the deceased spouse (had she been living in the current tax year) are 65 or older. The surviving spouse takes distributions of \$30,000 from the combined account. The distributions made from the qualified retirement account are eligible for the retirement income deduction based on the ratios of 75% and 25%. As such, \$22,500 ( $\$30,000 \times 75\%$ ) of the account distribution is considered attributable to the living spouse’s qualified retirement and \$7,500 ( $\$30,000 \times 25\%$ ) of the account distribution is considered attributable to the deceased spouse’s qualified retirement.

<sup>7</sup> The purpose of this advisory opinion is to address the tax deductions available under Code Sections 12-6-1170 and 12-6-1171. This document is not intended to provide retirement planning advice. An appropriate professional or retirement advisor should be consulted to determine what funds may be rolled over into the survivor’s accounts.



Calculation of Retirement Income Deductions for the Living Taxpayer and as a Surviving Spouse, and Calculation of the Age 65 and Older Deduction for the Living Taxpayer. The taxpayer filing a single return calculates his total \$22,500 general retirement income deductions and general age 65 and older deduction as follows.

	Income Reported on Single Return	General Retirement Income Deduction Reported on Single Return <b>As Taxpayer</b>	General Retirement Income Deduction Reported on Single Return <b>As Surviving Spouse</b>	Age 65 and Older Deduction Reported on Single Return <b>As Taxpayer</b>	SC Taxable Income Computation
<b>Income:</b>					
Retirement Income – Living Spouse Account (Non-military)	\$22,500				\$22,500
Retirement Income – Received from Deceased Spouse Account (Non-military)	\$ 7,500				\$ 7,500
SC Taxable Income before Adjustments	\$30,000				\$30,000
<b>General Deductions:</b>					
<b>Taxpayer</b> – Age 65+ General Retirement Income Deduction 12-6-1170(A)(1)		\$10,000			(\$10,000)
<b>As Surviving Spouse</b> – General Retirement Income Deduction (Deceased Spouse Age 65+, if living in current year) 12-6-1170(A)(3)			\$7,500 limited  Lesser of \$10,000 or retirement income attributable to deceased spouse		(\$ 7,500)
Age 65 and Older Deduction 12-6-1170(B)				\$5,000  (\$15,000 - \$10,000 general retirement deduction of living taxpayer)	(\$ 5,000)
<b>Total 12-6-1170 Deductions on Single Return</b>					<b>\$22,500</b>

Explanation: The \$22,500 (\$30,000 x 75%) account distribution attributable to the living spouse is eligible for a \$10,000 general retirement income deduction. The \$7,500 (\$30,000 x 25%) account distribution attributable to the deceased spouse is also eligible for a \$10,000 general retirement income deduction “as a surviving spouse” (but is limited to \$7,500, the amount of retirement income attributable to the deceased spouse). The total deduction on the single return is \$22,500 (\$17,500 for two general retirement income deductions as the taxpayer and as the surviving spouse and a \$5,000 age 65 and older deduction for the taxpayer).

## EXAMPLES

### “GENERAL” RETIREMENT INCOME DEDUCTION FOR ANY AGE

AND

### AGE 65 AND OLDER “GENERAL” DEDUCTION REDUCING ANY TYPE OF INCOME

#### Examples Calculating Each Deduction in Code Section 12-6-1170:

**Example 1** – Taxpayer is under Age 65 – Filing Status “Single”

**Example 2** – Both Spouses are under Age 65 – Filing Status “Married Filing Joint”

**Example 3** – One Spouse is under Age 65 and One Spouse is Age 65 or Older

**Example 4** – Both Spouses are Age 65 or Older. Only One Spouse has Income.

**Example 5** – Both Spouses are Age 65 or Older. Only One Spouse has Retirement Income.

**Example 6** – Both Spouses are Age 65 or Older. Year of Death of One Spouse. Filing Status “Married Filing Joint.”

**Example 7** – Year Following Death of Spouse. Surviving Spouse is Age 65 or Older.

#### Important Points to Remember and Assumptions Used in Examples:

- The examples assume all retirement income is qualified retirement income.
- The examples apply to any legal marriage. When necessary, to clearly illustrate a specific person’s income or deduction amounts, the examples will refer to one spouse as the “husband” and the other spouse as the “wife.”
- The examples use the term “general” retirement income deduction and “general” age 65 and older deduction to refer to the deductions in Code Section 12-6-1170 that are available to both non-military and military individuals.
- The age of a deceased individual had he or she been living on December 31<sup>st</sup> of the current tax year is used to calculate the deduction amounts (i.e., the deceased continues to age in the current tax year and thereafter, without regard to the actual date and year of his or her death).

**EXAMPLE 1 – Taxpayer is under Age 65 - Filing Status “Single”**

Facts: Taxpayer age 50 has the following SC taxable income:

- Earned income - \$50,000
- Retirement income from pension - \$1,000
- Income from an IRA inherited from parent - \$2,000

Deduction Calculation: General Retirement Income Deduction = \$1,000

	Income Reported on Single Return	General Retirement Income Deduction Reported on Single Return	Age 65 and Older Deduction Reported on Single Return	SC Taxable Income Computation
<b>Income:</b>				
Earned Income	\$50,000			\$50,000
Retirement Income - Original Owner (Non-military)	\$ 1,000			\$ 1,000
Income from IRA Inherited from Parent	\$ 2,000			\$ 2,000
SC Taxable Income before Adjustments	\$53,000			\$53,000
<b>General Deductions:</b>				
<b>Taxpayer – Age 50</b> General Retirement Income Deduction 12-6-1170(A)(1)		\$1,000		(\$1,000)
Age 65 and Older Deduction 12-6-1170(B)				\$0
<b>Total SC Deduction on Single Return</b>				<b>\$1,000</b>

Explanation:

- **General Retirement Income Deduction:** The general retirement income deduction for the original owner of a retirement plan under age 65 is the lesser of: (1) the amount of qualified retirement income received or (2) \$3,000. Since the taxpayer received \$1,000 in qualified retirement income this year, the general retirement income deduction is limited to \$1,000.
- No general retirement income deduction is allowed for the \$2,000 received from an IRA inherited from the taxpayer’s parent, since the taxpayer was not the original owner of that retirement account.<sup>8</sup>
- Since the taxpayer is under age 65, the age 65 and older deduction to offset any type of income does not apply this year.

<sup>8</sup> If the taxpayer was a surviving spouse and had inherited the IRA account from his deceased spouse years ago, the taxpayer would be allowed a \$2,000 general retirement income deduction as a surviving spouse for the retirement income from this inherited IRA. See Code Section 12-6-1170(A)(3).

**EXAMPLE 2 – Both Spouses are under Age 65 – Filing Status “Married Filing Joint”**

Facts: Married couple filing a joint return has the following SC taxable income:

Husband (Age 50):

Earned income - \$5,000

Retirement income - \$1,000

Wife (Age 55):

Earned income - \$100,000

Retirement income - \$45,000

Deduction Calculations: Total General Retirement Income Deduction on Joint Return = \$4,000 (\$1,000 + \$3,000)

	Income Reported on Joint Return	General Retirement Income Deduction Reported on Joint Return	Age 65 and Older Deduction Reported on Joint Return (Based on Combined Income)	SC Taxable Income Computation
<b>Income:</b>				
Earned Income – Joint	\$105,000			\$105,000
Retirement Income - Husband (Non-military)	\$ 1,000			\$ 1,000
Retirement Income - Wife (Non-military)	\$ 45,000			\$ 45,000
SC Taxable Income before Adjustments	\$151,000			\$151,000
<b>General Deductions:</b>				
<b>Husband – Age 50</b> General Retirement Income Deduction 12-6-1170(A)(1)		\$1,000		(\$1,000)
<b>Wife – Age 55</b> General Retirement Income Deduction 12-6-1170(A)(1)		\$3,000		(\$3,000)
<b>Joint Return - Age 65 and Older Deduction 12-6-1170(B)</b>				(\$0)
<b>Total SC Deduction on Joint Return</b>				<b>\$4,000</b>

Important Rule for the General Retirement Income Deduction for This Example:

- The general retirement income deduction is computed separately for each individual taxpayer on the joint return (i.e., the total retirement income is not combined when computing the deduction). Code Section 12-6-1170(A)(1).

Explanation:

- **General Retirement Income Deductions:** The general retirement income deduction for the original owner of a retirement plan under age 65 is the lesser of: (1) the amount of qualified retirement income received or (2) \$3,000.

Since the husband (age 50) received \$1,000 in qualified retirement income, his general retirement income deduction is limited to \$1,000 this year. Since the wife (age 55) received \$45,000 in qualified retirement income, she is allowed the maximum \$3,000 general retirement income deduction this year.

**EXAMPLE 3 – One Spouse is under Age 65 and One Spouse is Age 65 or Older – Filing Status “Married Filing Joint”**

Facts: Married couple filing a joint return has the following SC taxable income:

Husband (Age 65):

Earned income - \$5,000

Retirement income - \$1,000

Wife (Age 50):

Earned income - \$45,000

Retirement income - \$4,000

Deduction Calculations: General Retirement Income Deductions = \$4,000 (\$1,000 + \$3,000) and Age 65 and Older Deduction to Offset Any Type of Income = \$14,000. Total \$18,000 deduction on the joint return.

	Income Reported on Joint Return	General Retirement Income Deduction Reported on Joint Return	Age 65 and Older Deduction Reported on Joint Return <b>(Based on Combined Income)</b>	SC Taxable Income Computation
<b>Income:</b>				
Earned Income – Joint	\$50,000			\$50,000
Retirement Income - Husband (Non-military)	\$ 1,000			\$ 1,000
Retirement Income - Wife (Non-military)	\$ 4,000			\$ 4,000
SC Taxable Income before Adjustments	\$55,000			\$55,000
<b>General Deductions:</b>				
<b>Husband</b> – Age 65 General Retirement Income Deduction 12-6-1170(A)(1)		\$1,000		(\$1,000)
<b>Wife</b> – Age 50 General Retirement Income Deduction 12-6-1170(A)(1)		\$3,000		(\$3,000)
<b>Joint Return</b> - Age 65 and Older Deduction 12-6-1170(B)			\$14,000  (\$15,000 less only husband’s \$1,000 retirement income deduction)	(\$14,000)
<b>Total SC Deduction on Joint Return</b>				<b>\$18,000</b>

Important Rules for General Retirement Income Deduction and Age 65 and Older Deduction for This Example:

- The general retirement income deduction is computed separately for each individual taxpayer on the joint return (i.e., the total retirement income is not combined when computing the deduction). Code Section 12-6-1170(A)(1).
- The age 65 and older deduction can offset any type of South Carolina taxable income on a joint return; joint income is used to calculate this deduction; income is not traced separately for each spouse. Code Section 12-6-1170(B).

Explanation:

- **General Retirement Income Deductions:** The general retirement income deduction for the original owner of a retirement plan under age 65 is the lesser of: (1) the amount of qualified retirement income received or (2) \$3,000. The general retirement income deduction for the original owner of a retirement plan age 65 or older is the lesser of: (1) the amount of qualified retirement income received or (2) \$10,000.

Since the husband (age 65) received \$1,000 in qualified retirement income this year, his general retirement income deduction is limited to \$1,000. Since the wife (age 50) received \$4,000 in qualified retirement income this year, her general retirement income deduction is the maximum \$3,000 this year.

- **Age 65 and Older Deduction:** The age 65 and older deduction when only one spouse is 65 or older is the lesser of: (1) the joint taxable income or (2) \$15,000 less the general retirement income deduction<sup>9</sup> claimed by the individual taxpayer age 65 or older. **The remainder offsets any remaining taxable income on the joint return.**

Therefore, the age 65 and older deduction on the joint return is \$14,000 (\$15,000 less husband's \$1,000 general retirement income deduction only). The \$14,000 deduction can offset any remaining taxable income on the joint return (e.g., husband's or wife's wages, interest income, retirement income, inherited IRA, etc.).

**Note:** Since the wife is under age 65, her \$3,000 "general" retirement income deduction does not reduce the husband's "general" age 65 and older deduction.

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<sup>9</sup>This reduction of the general retirement income deduction from the age 65 and older deduction does not apply to a surviving spouse for the retirement income received that is attributable to the deceased spouse. See Code Section 12-6-1170(A)(3) and Example 7.

**EXAMPLE 4 – Both Spouses are Age 65 or Older. Only One Spouse has Income of Any Type. Filing Status “Married Filing Joint”.**

Facts: Married couple filing a joint return has the following SC taxable income:

Husband (Age 70):  
 Earned income - \$50,000  
 Retirement income - \$0

Wife (Age 65):  
 Earned income - \$0  
 Retirement income - \$0

Deduction Calculations: General Retirement Income Deductions = \$0 and the Age 65 and Older Deduction to Offset Any Type of Income = \$30,000

	Income Reported on Joint Return	General Retirement Income Deduction Reported on Joint Return	Age 65 and Older Deduction Reported on Joint Return <b>(Based on Combined Income)</b>	SC Taxable Income Computation
<b>Income:</b>				
Earned Income	\$50,000			\$50,000
Retirement Income (Non-military)	\$0			\$0
SC Taxable Income before Adjustments	\$50,000			\$50,000
<b>General Deductions:</b>				
<b>Husband – Age 70</b> General Retirement Income Deduction 12-6-1170(A)(1)				\$0
<b>Wife – Age 65</b> General Retirement Income Deduction 12-6-1170(A)(1)				\$0
<b>Joint Return - Age 65 and Older Deduction</b> 12-6-1170(B)			\$30,000	\$30,000
<b>Total SC Deduction on Joint Return</b>				<b>\$30,000</b>

Important Rule for Age 65 and Older Deduction for This Example:

- The maximum \$30,000 deduction (and not the maximum \$15,000 deduction) applies when both spouses are age 65 and older, even if one spouse has no income. Code Section 12-6-1170(B).

Explanation:

- **General Retirement Income Deduction:** None. Neither individual taxpayer has qualified retirement income this year.
- **Age 65 and Older Deduction:** The age 65 and older deduction when both spouses are 65 or older is the lesser of: (1) the joint taxable income or (2) \$30,000 less the general retirement income deduction

claimed by each individual taxpayer age 65 or older, if any.<sup>10</sup> The remainder offsets any remaining South Carolina taxable income on the joint return.

Therefore, the age 65 and older deduction on this joint return is \$30,000 (the maximum \$15,000 for the husband and \$15,000 for the wife less \$0 general retirement income deduction) and can offset any taxable income on the joint return (e.g., the husband's earned income).

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<sup>10</sup>This reduction of the retirement deduction from the age 65 and older deduction does not apply to a surviving spouse for the retirement income received that is attributable to the deceased spouse. See Code Section 12-6-1170(A)(3) and Example 7.



**EXAMPLE 5 – Both Spouses are Age 65 or Older. Only One Spouse has Retirement Income. Filing Status “Married Filing Joint”.**

Facts: Married couple filing a joint return has the following SC taxable income:

Husband (Age 70):  
 Earned income - \$50,000  
 Retirement income - \$0

Wife (Age 65):  
 Earned income - \$0  
 Retirement income - \$45,000

Deduction Calculations: General Retirement Income Deduction = \$10,000 and Age 65 and Older Deduction to Offset Any Type of Income = \$20,000. Total \$30,000 deduction on the joint return.

	Income Reported on Joint Return	General Retirement Income Deduction Reported on Joint Return	Age 65 and Older Deduction Reported on Joint Return <b>(Based on Combined Income)</b>	SC Taxable Income Computation
<b>Income:</b>				
Earned Income	\$50,000			\$50,000
Retirement Income – Wife (Non-military)	\$45,000			\$45,000
SC Taxable Income before Adjustments	\$95,000			\$95,000
<b>General Deductions:</b>				
<b>Husband</b> – Age 70 General Retirement Income Deduction 12-6-1170(A)(1)		\$0		\$0
<b>Wife</b> – Age 65 General Retirement Income Deduction 12-6-1170(A)(1)		\$10,000		(\$10,000)
<b>Joint Return</b> - Age 65 and Older Deduction 12-6-1170(B)			\$20,000  (\$30,000 less \$10,000 retirement income deduction)	(\$20,000)
<b>Total SC Deduction on Joint Return</b>				<b>\$30,000</b>

Important Rules for General Retirement Income Deduction and Age 65 and Older Deduction for This Example:

- The general retirement income deduction is computed separately for each individual taxpayer on the joint return (i.e., the total retirement income is not combined when computing the deduction). Code Section 12-6-1170(A)(1).
- The age 65 and older deduction can offset any type of South Carolina taxable income on a joint return; joint income is used to calculate this deduction; income is not traced separately for each spouse. Code Section 12-6-1170(B).

Explanation:

•**General Retirement Income Deductions:** The general retirement income deduction for the original owner of a retirement plan age 65 or older is the lesser of: (1) the amount of qualified retirement income received or (2) \$10,000. Therefore, the husband's general retirement income deduction is \$0 this year. The wife's general retirement income deduction is \$10,000.

•**Age 65 and Older Deduction:** The age 65 and older deduction when both spouses are 65 or older is the lesser of: (1) the joint taxable income or (2) \$30,000 less the general retirement income deduction, if any, claimed by both individual taxpayer's age 65 or older.<sup>11</sup> Therefore, the age 65 or older deduction on the joint return is \$20,000 (\$30,000 maximum deduction less \$10,000 general retirement income deduction claimed). The \$20,000 deduction can offset any remaining South Carolina taxable income on the joint return (e.g., earned income or retirement income).

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<sup>11</sup>This reduction of the retirement income deduction from the age 65 and older deduction does not apply to a surviving spouse for the retirement income received that is attributable to the deceased spouse. See Code Section 12-6-1170(A)(3) and Example 7.

**EXAMPLE 6 – Both Spouses are Age 65 or Older. Year of Death of One Spouse. Filing Status “Married Filing Joint”.<sup>12</sup>**

Facts: Married couple filing a joint return has the following SC taxable income. The surviving spouse receives a retirement payment each month as beneficiary of the deceased spouse’s state pension.

Husband (Age 70):

Earned income - \$15,000  
 Retirement income - \$10,000  
 Retirement income attributable to deceased spouse - \$4,500\*

Wife (Age 65)<sup>13</sup> – Died During Tax Year:

Earned income - \$0  
 Retirement income - \$9,000 (received **before** death)

Deduction Calculations: General Retirement Income Deductions = \$23,500 (\$10,000 for the husband + \$9,000 for the wife + \$4,500 as the surviving spouse) and Age 65 and Older Deduction to Offset Any Type of Income = \$11,000 (\$30,000 less \$19,000.) Total \$34,500 deduction on the joint return.

	Income Reported on Joint Return	General Retirement Income Deduction Reported on Joint Return	Age 65 and Older Deduction Reported on Joint Return (Based on Combined Income)	SC Taxable Income Computation
<b>Income:</b>				
Earned Income	\$15,000			\$15,000
Retirement Income – Husband (Non-military)	\$10,000			\$10,000
Retirement Income – Husband (Non-military) *As Beneficiary of a Portion of Deceased Spouse’s Pension	\$ 4,500			\$ 4,500
Retirement Income – Wife (Non-military)	\$ 9,000			\$ 9,000
SC Taxable Income before Adjustments	\$38,500			\$38,500
<b>General Deductions:</b>				
<b>Husband</b> – Age 70 General Retirement Income Deduction 12-6-1170(A)(1)		\$10,000		(\$10,000)
<b>Wife</b> – Age 65 General Retirement Income Deduction 12-6-1170(A)(1)		\$ 9,000		(\$ 9,000)
<b>Joint Return</b> – Age 65 and Older Deduction 12-6-1170(B)			\$11,000	(\$11,000)

<sup>12</sup> For income tax purposes, if a spouse dies during the tax year, the couple may be considered married for the entire year for filing status purposes. If the surviving spouse does not marry before the end of the tax year, a joint return may be filed for the surviving spouse and deceased spouse, if the executor consents. See IRC Section 6013, “Joint Returns of Income Tax by Husband and Wife,” and IRS Publication 559, “Final Income Tax Return of Decedent.”

<sup>13</sup> It has been the Department’s longstanding position that the age of a deceased spouse is determined as of December 31 each year for purposes of the deductions in Code Sections 12-6-1170 and 12-6-1171. **See Question 9** above.

	Income Reported on Joint Return	General Retirement Income Deduction Reported on Joint Return	Age 65 and Older Deduction Reported on Joint Return <b>(Based on Combined Income)</b>	SC Taxable Income Computation
<b>As Surviving Spouse – General Retirement Income Deduction 12-6-1170(A)(3)</b>		\$4,500		(\$4,500)
<b>Total SC Deduction on Joint Return</b>				<b>\$34,500</b>

Important Rules for General Retirement Income Deductions (As the Taxpayer(s) and As a Surviving Spouse) and Age 65 and Older Deduction for This Example:

- The general retirement income deduction is computed separately for each individual taxpayer (one computation for the husband and one computation for the wife) on the joint return (i.e., the total retirement income is not combined when computing the deduction). Code Section 12-6-1170(A)(1).
- A surviving spouse is also allowed a separate, additional general retirement income deduction for retirement income received by the survivor that is attributable to the deceased spouse. The deduction is computed in the same manner that the deduction would have applied to the deceased if still living in the current tax year. Code Section 12-6-1170(A)(3).
- The age of a spouse who dies during the current tax year when she would have turned age 65 is determined at December 31 (not at the date of death or based on the age of the surviving spouse) for purposes of determining the eligible maximum deduction amounts (i.e., \$3,000 or \$10,000 general retirement income deduction amount or eligibility for the age 65 or older deduction).
- The age 65 and older deduction can offset any type of South Carolina taxable income on the joint return; income is not traced separately for each spouse. Code Section 12-6-1170(B).
- The age 65 and older deduction is reduced by amounts deducted for the general retirement income deduction for each taxpayer age 65 and older, however, any amount deducted as a “surviving spouse” for the separate, general retirement income deduction does not reduce the age 65 and older deduction on the return. Code Sections 12-6-1170(B) and 12-6-1170(A)(3).

Explanation:

- **General Retirement Income Deductions – As a Taxpayer:** The general retirement income deduction for the original owner of a retirement plan age 65 or older is the lesser of: (1) the amount of qualified retirement income received or (2) \$10,000.

Since the husband (age 70) received \$10,000 in qualified retirement income this year from his own retirement plan, his separate, general retirement income deduction is \$10,000. Since the wife (age 65) received \$9,000 in qualified retirement income this year before her death from her own retirement plan, her general retirement income deduction is limited to \$9,000.

- **General Retirement Income Deduction – As a Surviving Spouse:** The general retirement income deduction as a “surviving spouse” receiving retirement income that is attributable to the deceased spouse (i.e., the deceased spouse was the original owner of the retirement plan) is the lesser of: (1) the amount of qualified retirement income received or (2) \$10,000.

Since the husband received \$4,500 in qualified retirement income this year from the deceased spouse’s retirement plan, his separate, general retirement income deduction as a surviving spouse based on the deceased wife’s age (age 65) had she lived the entire year is \$4,500. Note: This deduction is not limited to \$3,000 based on the deceased age of 64 on the date of death this year.

- **Age 65 and Older Deduction:** The age 65 and older deduction when both spouses are 65 or older is the lesser of: (1) the joint taxable income or (2) \$30,000 less the general retirement income deduction claimed by each individual taxpayer age 65 or older, if any.<sup>14</sup> The remainder offsets any remaining South Carolina taxable income on the joint return.

Therefore, the age 65 and older deduction on this joint return is \$11,000 (\$30,000 maximum less \$10,000 of the husband's general retirement income deduction less \$9,000 of the wife's general retirement income deduction and less \$0 for the \$4,500 surviving spouse general retirement income deduction). The \$11,000 deduction can offset any remaining taxable income on the joint return (e.g., the husband's earned income).

NOTE: See **Question 13** above for information on calculating the general retirement income deduction if the qualified retirement accounts of the deceased spouse and the surviving spouse are not maintained in separate accounts.

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<sup>14</sup>This reduction of the retirement income deduction from the age 65 and older deduction does not apply to a surviving spouse for the retirement income received that is attributable to the deceased spouse. See Code Section 12-6-1170(A)(3) and Example 7.

**EXAMPLE 7 – Year Following Death of Spouse. Surviving Spouse is Age 71 - Filing Status “Single”.**

Facts: Taxpayer filing a single return has the following SC taxable income:

Husband (Age 71) Surviving Spouse:

Earned income - \$50,000

Retirement income - \$1,000

Retirement income attributable to deceased spouse - \$45,000

**Wife died in prior year (Age 66, the age the wife would be at the end of this tax year if still alive)**

Deduction Calculations: General Retirement Income Deduction as a “Taxpayer” = \$1,000; General Retirement Income Deduction as a “Surviving Spouse” = \$10,000; and Age 65 and Older Deduction to Offset Any Type of Income = \$14,000. Total \$25,000 deduction on the single return.

	Income Reported on Single Return	General Retirement Income Deduction Reported on Single Return As Taxpayer	General Retirement Income Deduction Reported As Surviving Spouse	Age 65 and Older Deduction Reported on Single Return	SC Taxable Income Computation
<b>Income:</b>					
Earned Income	\$50,000				\$50,000
Retirement Income (Non-military)	\$ 1,000				\$ 1,000
Retirement Income – Received from Deceased Spouse Account (Non-military)	\$45,000				\$45,000
SC Taxable Income before Adjustments	\$96,000				\$96,000
<b>General Deductions:</b>					
<b>Taxpayer</b> – Age 71 General Retirement Income Deduction 12-6-1170(A)(1)		\$1,000			(\$1,000)
<b>As Surviving Spouse</b> – General Retirement Income Deduction (Deceased Spouse Age 66, if still living) 12-6-1170(A)(3)			\$10,000		(\$10,000)
Age 65 and Older Deduction 12-6-1170(B)				\$14,000  (\$15,000 less \$1,000 retirement income deduction of taxpayer only)	(\$14,000)
<b>Total SC Deduction on Single Return</b>					<b>\$25,000</b>

Important Rules for General Retirement Income Deduction (As the Taxpayer and As a Surviving Spouse) and Age 65 and Older Deduction for This Example:

- The general retirement income deductions are computed separately for the individual as a “taxpayer” (i.e., the total retirement income is not combined when computing the deduction). Code Section 12-6-1170(A)(1).
- A surviving spouse is also allowed a separate, additional general retirement income deduction for retirement income received by the survivor that is attributable to the deceased spouse. The age of the deceased spouse had she been living in the current tax year (not the deceased spouse’s age on the date of death) is used for purposes of determining the eligible maximum deduction amounts (i.e., \$3,000 or \$10,000 general retirement income deduction amount or eligibility for the age 65 and older deduction). Code Section 12-6-1170(A)(3).
- The age 65 and older deduction can offset any type of South Carolina taxable income on the return. Code Section 12-6-1170(B).
- The age 65 and older deduction is reduced by amounts deducted for the general retirement income deduction for the taxpayer age 65 and older. A general retirement income deduction amount deducted as a “surviving spouse” does not reduce the age 65 and older deduction. Code Section 12-6-1170(A)(3).

Explanation:

- **General Retirement Income Deduction – As a Taxpayer:** The general retirement income deduction for the original owner of a retirement plan age 65 or older is the lesser of: (1) the amount of qualified retirement income received or (2) \$10,000. Therefore, the taxpayer (husband) is allowed a \$1,000 retirement income deduction this year.
- **General Retirement Income Deduction – As a Surviving Spouse:** The general retirement income deduction for a “surviving spouse” receiving retirement income that is attributable to a deceased spouse age 65 or older (i.e., the deceased spouse was the original owner of the retirement plan) is the lesser of: (1) the amount of qualified retirement income received or (2) \$10,000.

Since the husband received \$45,000 in qualified retirement income this year from the deceased spouse’s retirement plan, his separate, general retirement income deduction as a “surviving spouse” is \$10,000. The amount is based on the deceased wife’s age (age 66) as of December 31 of the current tax year; it is not \$3,000 based on her age of 64 on the date of death.

- **Age 65 and Older Deduction:** The age 65 and older deduction on a single return when the individual is 65 or older is the lesser of: (1) the taxable income or (2) \$15,000 less the general retirement income deduction claimed by the individual as the taxpayer (but not as the surviving spouse).

Therefore, the age 65 deduction on the single return is \$14,000 (\$15,000 maximum less \$1,000 general retirement income deduction of the individual taxpayer only). The \$14,000 deduction can offset any remaining South Carolina taxable income on the single return (e.g., earned income, retirement income, or income inherited from a deceased spouse).

NOTE: **See Question 13** above for information on calculating the general retirement income deduction if the qualified retirement accounts of the deceased spouse and the surviving spouse are not maintained in separate accounts.

**PART III**

**“MILITARY” RETIREMENT INCOME DEDUCTION**

**UNDER CODE SECTION 12-6-1171**

**FULL “MILITARY” RETIREMENT INCOME DEDUCTION FOR ANY AGE**

**AND**

**SURVIVING SPOUSE DEDUCTION**



**SUMMARY OF CODE SECTION 12-6-1171 DEDUCTION”<sup>15</sup> AND REQUIRED REDUCTIONS TO “GENERAL” DEDUCTIONS UNDER CODE SECTION 12-6-1170 BY MILITARY RETIREE**

**DEDUCTION: “MILITARY” RETIREMENT INCOME DEDUCTION FOR ANY AGE**

**Amount: No Limit - Full 100% Deduction**

**Law: Code Section 12-6-1171(A)**

General Provision – “Military” Retirement Income Deduction for Military Retiree. Code Section 12-6-1171(A) provides an annual income tax deduction from South Carolina taxable income for an individual of any age who has military retirement income. A qualifying taxpayer may deduct the entire amount<sup>16</sup> (100%) of military retirement income that is included in South Carolina taxable income each year.

Surviving Spouse “Military” Retirement Income Deduction Amounts. A surviving spouse receiving military retirement income that is attributable to the deceased spouse is allowed this full (100%) “military” retirement income deduction. The deduction is allowed in the same manner that the deduction would have applied to the deceased spouse had he or she lived in the current tax year. Note: If the surviving spouse also has his or her own qualified retirement income, a separate, additional deduction is allowed for his or her own retirement income. See Code Sections 12-6-1171(C) and 12-6-1170.

**REQUIRED REDUCTIONS FOR MILITARY RETIREE CLAIMING A “GENERAL” DEDUCTION UNDER CODE SECTION 12-6-1170 AND REDUCTION EXCEPTIONS FOR CIVILIAN SPOUSE OR SURVIVING SPOUSE:**

**Law: Code Section 12-6-1170(C)**

A. Reduction Amounts Applicable to Military Retiree

Notwithstanding any required reductions below, a qualifying military retiree may deduct the entire amount (100%) of military retirement income that is included in South Carolina taxable income each year.

Code Section 12-6-1170(C) requires certain reductions to the amounts allowed under the two “general” provisions of Code Section 12-6-1170(A) and (B) for a military retiree claiming a military retirement income deduction under Code Section 12-6-1171.

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<sup>15</sup> This summary is a brief overview of Code Sections 12-6-1171 and 12-6-1170(C) written in general terms. See the examples in this Revenue Ruling for more detailed guidance.

<sup>16</sup> For tax years beginning 2022, Act No. 156 of 2022 expanded this military deduction to a full (100%) deduction and to military retirees at any age.

For tax years 2021 and before, see SC Revenue Ruling #21-13 and Code Section 12-6-1171(A)(1) and (A)(2), before amendment in 2022, for guidance regarding the phased-in amounts and requirements of the two deductions available for individuals who had retired from the military (i.e., the earned income deduction at any age for a retiree with both earned income and military retirement income and the “military” retirement income deduction of up to \$30,000 for an individual age 65 and older).

## Review of Code Section 12-6-1170 “General” Deductions Discussed in Part II Above.

Code Section 12-6-1170(A) provides an annual income tax deduction from South Carolina taxable income for retirement income to the original owner of a qualified retirement account. The qualifying taxpayer receiving retirement income may deduct up to \$3,000 of such retirement income annually through age 64, and deduct up to \$10,000 of such retirement income annually at age 65 and thereafter.

Code Section 12-6-1170(B) provides an annual income tax deduction of up to \$15,000 from any South Carolina taxable income of a resident individual who is 65 or older by the end of the tax year. The deduction can reduce any taxable South Carolina income, including wages, investment income, rental income, Schedules C or F income, or retirement income. Taxpayers filing a joint return are allowed a deduction of up to \$30,000 when both spouses are 65 or older, by the end of the tax year. Amounts deducted as retirement income under Code Section 12-6-1170(A) (the “general” retirement income deduction) reduce the \$15,000 or \$30,000 general age 65 and older deduction.

For more information and exceptions to the “general” deductions summarized above, see Code Section 12-6-1170 and Part II above.

Reduction Required to “General” Retirement Income Deduction for Military Retiree. “Military” retirement income deducted by a military retiree under Code Section 12-6-1171 reduces the deduction allowed under Code Section 12-6-1170(A)(1), the up to \$3,000 or \$10,000 “general” retirement income deduction.

Depending on the amount of the “military” retirement income deduction and the amount of “civilian” retirement also received by the military retiree, this reduction may be none, a partial reduction, or a complete reduction to the \$3,000 or \$10,000 maximum deduction amount.

For most military retirees, this “general” deduction in Code Section 12-6-1170 will not apply. For example, when a military retiree’s “military” retirement deduction is \$3,000 or more under Code Section 12-6-1171, the “general” retirement income deduction of the military retiree under age 65 provided in Code Section 12-6-1170(A)(1) is offset to \$0. Likewise, when a military retiree’s “military” retirement deduction is \$10,000 or more, the “general” retirement income deduction of the military retiree age 65 or older provided in Code Section 12-6-1170(A)(1) is reduced to \$0.

For additional guidance on this reduction calculation, see **Example 1** below where there is no reduction to the “general” retirement income deduction and see **Example 2** below where there is complete offset of the “general” retirement income deduction by the “military” retirement income deduction.

Reduction Required to “General” Age 65 and Older Deduction for Military Retiree Only. “Military” retirement income deducted by a military retiree under Code Section 12-6-1171 reduces the deduction allowed to the military retiree under Code Section 12-6-1170(B), the up to \$15,000 “general” age 65 or older deduction against any type of income.

Depending on the amount of the military retirement income deduction and the amount of other South Carolina taxable income, this reduction may be a partial reduction or a complete reduction to the \$15,000 maximum deduction amount.

For most military retirees, this “general” deduction in Code Section 12-6-1170 will be completely offset. For example, the “general” age 65 and older deduction of \$15,000 against any type of income will be completely reduced to \$0 for a military retiree who claims a \$15,000 or more “military” retirement income deduction under Code Section 12-6-1171. **See Examples 3, 4, and 5** below illustrating the partial or complete offset calculations for this deduction.

#### B. Surviving Spouse Exception – No Reduction Amounts for Military Retirement

Surviving Spouse – Military Deduction Reductions Above Do Not Apply. Amounts deducted as a surviving spouse under Code Section 12-6-1171 do not reduce the \$3,000 or \$10,000 “general” retirement income deduction claimed as a surviving spouse under Code Section 12-6-1170.

#### C. Joint Return Calculations When a Military Spouse Receives Military Retirement Income

Steps to Calculate Deductions on Joint Return. The deductions in Code Sections 12-6-1170 and 12-6-1171 should be calculated in a specific order. See the Examples at the end of Part III for the order of steps in calculating the military and general deductions for a military retiree, a civilian spouse, and a surviving spouse.

Married Taxpayers Filing a Joint Return – Separate Reduction Calculation of Deductions. The two reductions discussed above apply to the military spouse only; these reductions do not apply to a civilian spouse. If one spouse (or both) receives qualified military retirement income, then the deduction amounts under Code Sections 12-6-1171 and 12-6-1170 for a return with filing status “married filing joint” must be calculated separately for each spouse (one deduction for the husband and one deduction for the wife).

The separate computation amount of the “general” age 65 and older deduction is a maximum of \$15,000 for each spouse. However, this “general” deduction can offset any type of remaining income on the joint return, after required reductions (e.g., each separate “general” age 65 and older deduction can offset both the civilian spouse’s or the military retiree spouse’s remaining income). See Code Section 12-6-1170(C).

## QUESTIONS AND ANSWERS – CODE SECTION 12-6-1171 DEDUCTION

### **“MILITARY” RETIREMENT INCOME DEDUCTION FOR ANY AGE (FULL DEDUCTION)**

1. Q. What is “military” retirement income for purposes of the 100% “military” retirement income deduction allowed by Code Section 12-6-1171?
  - A. Code Section 12-6-1171(B) defines the term “retirement income,” as used in this section, to mean the total of all otherwise taxable income not subject to a penalty for premature distribution<sup>17</sup> received by the taxpayer or the taxpayer’s surviving spouse in a taxable year from a qualified military retirement plan.

For purposes of a surviving spouse, “retirement income” also includes a retirement benefit plan and dependent indemnity compensation related to the deceased spouse’s military service.

2. Q. Who qualifies as “military” for purposes of their military retirement income when determining eligibility for the deduction allowed by Code Section 12-6-1171?
  - A. Resident individuals who actively served in the following areas prior to retirement who receive military retirement income are eligible for the full “military” retirement income deduction in Code Section 12-6-1171:<sup>18</sup>
    1. Active duty in the Armed Forces of the United States (i.e., Army, Navy, Air Force, Marine Corps, Space Force, and Coast Guard)<sup>19</sup> and
    2. Active service in a state National Guard, or reserve component of the Army, Navy, Air Force, Marine Corps, and Coast Guard (excluding retirement benefits received from the United States or any state for the customary annual training period not to exceed 15 days for guard members or 14 days plus travel time for reserve members, weekend drills, and inactive duty training).<sup>20</sup>

Examples of individuals not eligible for the full “military” retirement income deduction in Code Section 12-6-1171 include those receiving retirement income from service in the following: (1) National Oceanic and Atmospheric Administration;<sup>21</sup> (2) Public Health Service;<sup>22</sup> (3) National Guard or reserve component of the Armed Forces, unless such retirement is attributable to active military service; (4) South Carolina State Guard;

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<sup>17</sup> South Carolina does not impose a penalty for premature distribution. This penalty is imposed for federal income tax purposes under Internal Revenue Code Section 72(t).

<sup>18</sup> Generally, qualified military retirement plans are administered by either the Department of Defense’s Defense Finance and Accounting Service (DFAS) or the Department of Homeland Security’s U.S. Coast Guard Pay and Personnel Center (USCG). Treasury Reg. Section 1.61-11(a) provides, in general, pensions and retirement allowances paid either by the Government or by private persons constitute gross income unless excluded by law.

<sup>19</sup> See 10 U.S.C. Section 101 defining “armed forces.”

<sup>20</sup> See Code Section 12-6-1120(7) and SC Revenue Ruling #09-16 for more information.

<sup>21</sup> See 10 U.S.C. Section 101 defining “uniformed services.”

<sup>22</sup> See 10 U.S.C. Section 101 defining “uniformed services.”

(5) Civilian employees of the United States Coast Guard or Department of Defense; (6) Civilian employment of a military employer; (7) American Red Cross service to the Armed Forces; (8) Salvation Army; (9) Other private, nonprofit, or governmental organizations providing services to the Armed Forces; and (10) United States Merchant Marines.

3. Q. Is retirement income that is not included in South Carolina taxable income eligible for the deduction in Code Section 12-6-1171?

A. Based on the definition of “retirement income” in Code Section 12-6-1171(B), retirement income eligible for the deduction must otherwise be taxable income. Examples of military income not included in South Carolina taxable income are the portion of pension or retirement income received by retired service personnel, residents of this State, that can be attributed to time served in the National Guard or Reserve components of the Armed Forces of the United States. The non-taxable portion is determined by using a ratio of the time actually served in the National Guard or Reserve to the total time spent in military service, times total yearly pension or retirement. See Code Section 12-6-1120(7) and Regulation 117-640.3, “National Guard or Reserve Pension or Retirement Income.”

4. Q. Is a military retiree under age 65 eligible for both the 100% “military” retirement income deduction in Code Section 12-6-1171(A) and the up to \$3,000 “general” retirement income deduction in Code Section 12-6-1170(A)(1)?

A. Yes, a military retiree is eligible for the full “military” retirement income deduction in Code Section 12-6-1171(A) and the up to \$3,000 “general” retirement income deduction in Code Section 12-6-1170(A)(1) discussed in Part II. Code Section 12-6-1170(C)(1), however, reduces the “general” retirement income deduction claimed by a military retiree under Code Section 12-6-1170. As such, the “general” retirement income deduction in Code Section 12-6-1170(A)(1) may be either partially offset or completely offset by the “military” retirement income deduction claimed by the military retiree, depending upon the amount of the “military” retirement income deduction claimed.

Note: This reduction computation does not apply to a civilian spouse or a military retiree’s surviving spouse.

Reminder: Notwithstanding any required reductions below, a qualifying military retiree may deduct the entire amount (100%) of military retirement income that is included in South Carolina taxable income each year.

Method to Calculate Military Retiree’s Reduction for “General” Non-Military Retirement Income: For the military retiree only, the “general” retirement income deduction is reduced by the “military” retirement income deduction claimed. Two methods of calculating the required deduction are below; each method results in the same answer.

Method 1: For the military retiree only, the “general” retirement income deduction for the retiree under age 65 is the lesser of: (1) the amount of ALL qualified retirement income received by the military retiree or (2) 3,000\*maximum less the “military” retirement income deduction claimed by the military retiree.

Method 2: For the military retiree only, the “general” retirement income deduction is the lesser of: (1) the amount of non-military qualified retirement income received by the military retiree or (2) \$3,000\* maximum less the “military” retirement income deduction claimed by the military retiree.

\*Note: If the military retiree is age 65 or older, the higher maximum deduction amount \$10,000 should be used in place of the \$3,000 maximum deduction amount.

Calculation Example. Below illustrates one calculation method to determine a partial offset of the “general” retirement income deduction by the “military” retirement income deduction claimed by the military retiree.<sup>23</sup> Assume a military retiree under age 65 has \$3,250 of total combined retirement income (\$2,000 military retirement + \$1,250 civilian retirement). The “general” retirement income deduction for the original owner of a retirement plan under age 65 is the lesser of: (1) the amount of ALL qualified retirement income received or (2) \$3,000. As required under Code Section 12-6-1170, the \$3,000 maximum “general” retirement income deduction is reduced by the \$2,000 “military” retirement income deduction claimed under Code Section 12-6-1171, resulting in a \$1,000 remaining maximum “general” retirement income deduction. Therefore, after offset, the military retiree may claim a \$1,000 “general” retirement income deduction (i.e., the lesser of \$3,250 or \$1,000), and a \$2,000 “military” retirement income deduction. The military retiree may claim total retirement deductions of \$3,000. Note: This \$3,000 deduction by the military retiree is the same amount that a civilian retiree under age 65 would claim as a “general” retirement deduction on \$3,250 of civilian retirement income.

Also, **see Example 1** below illustrating no offset to the “general” retirement income deduction computation for the military retiree claiming a “military” retirement income deduction since the combined retirement income amount is under \$3,000 (e.g., \$2,000 military retirement income + \$750 civilian retirement income).

Reminder: Notwithstanding any required reductions above, a qualifying military retiree may deduct the entire amount (100%) of military retirement income that is included in South Carolina taxable income each year.

5. Q. Is a military retiree age 65 or older eligible for the 100% “military” retirement income deduction in Code Section 12-6-1171(A), the “general” retirement income deduction in Code Section 12-6-1170(A)(1), and the “general” age 65 and older deduction in Code Section 12-6-1170(B)?
- A. Yes, a military retiree is eligible for the full “military” retirement income deduction in Code Section 12-6-1171(A) and the two “general” deductions in Code Section 12-6-1170 discussed in Part II (i.e., the “general” retirement income deduction of up to \$10,000 and the “general” age 65 and older deduction of up to \$15,000 against any type of income).

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<sup>23</sup>An alternative computation method exists that gives the same answer. The alternative computation is illustrated in the Examples at the end of Part III below.

Code Section 12-6-1170(C)(1), however, reduces the two “general” deductions claimed by a military retiree under Code Section 12-6-1170. As such, the two deductions in Code Section 12-6-1170 will be either partially offset or completely offset by the “military” retirement income deduction claimed by the military retiree, depending on the amount of the “military” retirement income deduction claimed. See **Example 3** below illustrating the partial offset calculation for the military retiree receiving a combined total of \$15,000 of military and non-military retirement.

Note: The reduction computation does not apply to a civilian spouse or a military retiree’s surviving spouse. See **Examples 5 and 7** below.

Method to Calculate Military Retiree’s Reduction for “General” Age 65 and Older Deduction: For the military retiree only, the “general” age 65 and older deduction against any type of South Carolina income is the lesser of: (1) the taxable income on the return or (2) \$15,000 maximum deduction, less the “military” retirement income deduction claimed under Code Section 12-6-1171(A) and less the “general” retirement income deduction claimed by the military retiree age 65 or older under Code Section 12-6-1170(A)(1).

## **SURVIVING SPOUSE AND YEAR OF DEATH ISSUES**

6. Q. Do the reductions required in Code Section 12-6-1170(A) and (B) for computing the “general” retirement income deduction for any age and for computing the “general” age 65 and older deduction reducing any type of income applicable to a military retiree also apply to a surviving spouse who is receiving qualified “military” retirement income attributable to the deceased military spouse?
- A. No. Code Section 12-6-1170(C) provides exceptions for a surviving spouse receiving military retirement income that is attributable to the deceased spouse(s) from the two reductions required for a military retiree.

“General” Retirement Income Deduction – No Reduction for Amount Claimed as a Surviving Spouse. A surviving spouse receiving retirement income that is attributable to the deceased spouse computes the “general” retirement income deduction under Code Section 12-6-1170(A) (i.e., the \$3,000 or \$10,000 deduction) in the same manner that the deduction would have applied to the deceased spouse had he or she been living on December 31<sup>st</sup> of the current tax year, except the surviving spouse is not required to reduce the “general” retirement income deduction by the “military” retirement income deduction.

“General” Age 65 and Older Deduction of the Living Taxpayer – No Reduction for Amount Claimed as a Surviving Spouse. The age 65 and older deduction (i.e., the deduction up to \$15,000 against any type of income) continues to be reduced by any amount the surviving taxpayer deducts as a “general” retirement income deduction attributable to his or her own retirement income. However, amounts deducted as a surviving spouse under the “general” retirement deduction in Code Section 12-6-1170(A) for retirement income attributable to a deceased spouse do not reduce the surviving spouse’s age 65 and older deduction under Code Section 12-6-1170(B).

7. Q. On what date is the age determined for a military retiree who dies in the tax year for purposes of eligibility for the “general” retirement income deduction and the “general” age 65 and older deduction for any type of income for an individual age 65 and older in Code Section 12-6-1170?
- A. For purposes of calculating the deductions in Code Section 12-6-1170(A)(1) and (B), in the year of death and thereafter, the age of the deceased military spouse had he or she been living on December 31<sup>st</sup> of the current tax year is used to calculate the deduction amount; the age of the deceased military spouse on the date of death or the age of the surviving spouse is not used to determine the deduction amount attributable to the deceased military spouse.
8. Q. Is a surviving spouse allowed a “general” retirement income deduction for his own retirement income, a “general” age 65 and older deduction, a separate “general” retirement income deduction for retirement income received that is attributable to the deceased military spouse, and a separate “military” retirement income deduction for military retirement income received that is attributable to the deceased military spouse?
- A. Yes. A surviving spouse 65 or older is eligible for his own “general” retirement income deduction of up to \$10,000, his own “general” age 65 and older deduction of \$15,000 (reduced by his own general retirement deduction, if any). If the surviving spouse is also receiving retirement income attributable to the deceased military spouse who would have been 65 or older had she been living in the current tax year, then the surviving spouse is also eligible for a separate \$10,000 “general” retirement income deduction as a surviving spouse. In addition, if the surviving spouse is also receiving “military” retirement income attributable to the deceased military spouse, then he is eligible for a full, 100% “military” retirement income deduction. Any separate surviving spouse calculation for retirement income that is attributable to the deceased spouse does not affect the living spouse’s deductions allowed under Code Section 12-6-1171 or Code Section 12-6-1170. See Code Sections 12-6-1171(C) and 12-6-1170(C)(1). **See Example 7 below.**
9. Q. In the year of death, can the surviving spouse also receive a surviving spouse “general” retirement income deduction under Code Section 12-6-1170 if the deceased spouse also claims a “general” retirement income deduction on the final joint income tax return?
- A. Yes. Code Sections 12-6-1171(C) and 12-6-1170(C)(1) allow a surviving spouse a separate, additional “general” retirement income deduction for retirement income received by the survivor that is attributable to the deceased spouse. **See Example 6 below.**



## EXAMPLES

### Military Retiree or Surviving Spouse

#### Full (100%) “Military” Retirement Income Deduction At Any Age

##### Examples Calculating Each Deduction under Code Sections 12-6-1171 and 12-6-1170(A) and (B):

**Example 1** – Both Spouses are under Age 65

< \$3,000 total retirement income by military retiree; no offset to “general” retirement income deduction of military retiree; separate calculation for civilian spouse

**Example 2** – Both Spouses are under Age 65

> \$15,000 military retirement income; complete offset to “general” retirement income deduction of military retiree; separate calculation for civilian spouse

**Example 3** – Single Military Retiree Age 65 or Older

< \$15,000 military retirement income; partial offset to “general” retirement income deduction and partial offset to “general” age 65 and older deduction

**Example 4** – Single Military Retiree Age 65 or Older

> \$15,000 military retirement income; complete offset to both “general” deductions

**Example 5** – Both Spouses are Age 65 or Older. One has military retirement income.

< \$15,000 military retirement income; complete offset to “general” retirement income deduction and partial offset to “general” age 65 and older deduction against any income of military retiree; separate general retirement income deduction calculation for civilian spouse

**Example 6** – Military Spouse Dies during the Year at Age 70. Surviving Spouse is Age 65.

> \$15,000 military retirement income; complete offset to both “general” deductions of military retiree; separate calculations for civilian spouse general deductions; no reductions

**Example 7** – Year Following Death of Military Spouse. Surviving Spouse is Age 65 or Older.

Reductions do not apply to surviving spouse

#### Important Points to Remember and Assumptions Used in Examples

- The examples assume all retirement income is qualifying retirement income.
- The examples apply to any legal marriage. When necessary, to clearly illustrate a specific person’s income or deduction amounts, the examples will refer to one spouse as the “husband” and the other spouse as the “wife.” In examples illustrating military retiree deductions, it is assumed the “wife” is the military retiree.
- The examples use the term “general” retirement income deduction and “general” age 65 and older deduction to refer to the Code Section 12-6-1170 deductions and the term “military” retirement income deduction to refer to the Code Section 12-6-1171 deduction.
- The age of a deceased individual had he or she been living on December 31<sup>st</sup> of the current tax year is used to calculate the deduction amounts (i.e., the deceased continues to age in the current tax year and thereafter, without regard to the actual date and year of his or her death).

Other important points illustrated in Part III below include, but are not limited to:

“Military” Retirement Income Deduction:

- For tax year 2022 and after. The “military” retirement income deduction for a military retiree of any age who has military retirement income is 100% of the amount of qualified military retirement income received for tax years 2022 and thereafter. Code Section 12-6-1171(A).
- For tax years prior to 2022. For taxpayer’s filing original or amended returns for tax years 2021 and before, see SC Revenue Ruling #21-13 for the provisions in effect in Code Section 12-6-1171(A)(1) for the military retiree earned income deduction at any age and in Code Section 12-6-1171(A)(2) for the limited “military” retirement income deduction for age 65 and older.

Military Retiree Claiming Deduction Under Both “Military” and “General” Deductions – Order of Calculations:

- The order of steps in calculating each deduction for the military retiree is necessary to take into account the required “partial offset” or “complete offset” of the two “general” deductions in Code Section 12-6-1170 by the amount of the “military” retirement income deduction claimed by the military retiree under Code Section 12-6-1171.
- A military retiree’s combined deductions under Code Sections 12-6-1171 and 12-6-1170 of \$15,000 will be the same as a non-military individual’s deductions under Code Section 12-6-1170 (\$15,000) for the same income amounts (\$15,000); the offset requirements do not result in the military retiree receiving a lower combined deduction than a civilian individual. A military retiree, however, does not receive a deduction under both Code Sections 12-6-1171 and 12-6-1170 for the same dollar of income.

“Military” Retirement Income Deduction – Simplified Calculation:

- If the “military” retirement income deduction is \$15,000 or more, the steps in the calculation can be simplified since a “military” retirement income deduction of such an amount will always offset both deductions in Code Section 12-6-1170 for the military retiree.

Joint Return with a Military Retiree Spouse – “General” Deductions Allowed Under Code Section 12-6-1170 – Separate Calculation for Each Spouse:

- The deductions in Code Sections 12-6-1171 and 12-6-1170 should be calculated in a specific order – first calculate all deductions for the military retiree; calculate all deductions for the civilian spouse; and then calculate all surviving spouse deductions.
- All deductions under Code Sections 12-6-1171 and 12-6-1170 for this joint return must be calculated separately for each spouse (one computation for the husband and one computation for the wife) when the military deduction under Code Section 12-6-1171 is claimed. Code Sections 12-6-1170(C) and 12-6-1171(A).
- The “general” retirement income deduction is computed separately for each individual taxpayer on the joint return (i.e., the total retirement income is not combined when computing the deduction). Code Section 12-6-1170(C)(2).
- The “separate” amount of the “general” age 65 and older deduction is a maximum of **\$15,000** for each spouse. However, this deduction can offset any taxable income reported on the joint return. Code Section 12-6-1170(C) and (A)(1).

Additional Guidance and Examples for a Military Retiree and/or Spouse:

- For additional guidance regarding the “military” retirement income deduction and the application of the “general” deductions to a military retiree and spouse, see Examples 1 – 7 in Part III of this Revenue Ruling below.

**EXAMPLE 1 – Both Spouses are under Age 65 - Filing Status “Married Filing Joint”**

Facts: Married couple filing a joint return has the following SC taxable income:

Husband (Age 60) - Civilian:  
 Earned income - \$6,000  
 Retirement income - \$4,000

Wife (Age 50) – Military Retiree:  
 Earned income - \$100,000  
 Retirement income (Military) - \$2,000  
 Retirement income (Non-Military) - \$750

Deduction Calculations: “Military” Retirement Income Deduction = \$2,000; “General” Retirement Income Deductions = \$3,750 (\$750 + \$3,000). Total \$5,750 deduction on the joint return.

	Income Reported on Joint Return (traced to each individual)	Military Retirement Income Deduction for Any Age - Reported on Joint Return	General Retirement Income Deduction	General Age 65 and Older Deduction	SC Taxable Income Computation
<b>Income:</b>					
Earned Income – Husband	\$ 6,000				\$ 6,000
Retirement Income (Non-military) – Husband - Age 60	\$ 4,000				\$ 4,000
Earned Income – Wife	\$100,000				\$100,000
Retirement Income (Military) – Wife - Age 50	\$ 2,000				\$ 2,000
Retirement Income (Non-military) Wife – Age 50	\$ 750				\$ 750
SC Taxable Income before Adjustments	\$112,750				\$112,750
<b>Military Deduction:</b>					
Military Retirement Income 100% Deduction for Any Age 12-6-1171(A)		\$2,000			(\$2,000)
<b>General Deductions:</b>					
Wife – Age 50 General Retirement Income Deduction 12-6-1170(A)(1)			\$750		(\$ 750)
Husband – Age 60 General Retirement Income Deduction 12-6-1170(A)(1) and (C)			\$3,000 (the maximum)		(\$3,000)
Joint Return - Age 65 and Older Deduction 12-6-1170(B)					(\$0)
<b>Total SC Deduction on Joint Return</b>					<b>\$ 5,750</b>

Important Rules for the “Military” Deduction and Exceptions to “General” Deduction Rules for This Example:

- Steps to Calculate Deductions on a Joint Return - The deductions in Code Sections 12-6-1171 and 12-6-1170 should be calculated in a specific order – first calculate all deductions for the military retiree and then calculate all deductions for the civilian spouse.
- The “military” retirement income deduction for a military retiree under age 65 who has military retirement income is 100% of the amount of qualified military retirement income received. Code Section 12-6-1171(A).
- The “general” retirement income deduction is computed separately for each individual taxpayer on the joint return (i.e., the total retirement income is not combined when computing the deduction). Code Section 12-6-1170(C)(2).
- Reduction Calculation for “General” Retirement Income Deduction of Military Retiree Under Age 65 in Code Section 12-6-1170 – For the military retiree only, the “general” retirement income deduction for the original owner of a retirement plan under age 65 is the lesser of: (1) the amount of qualified “non-military” retirement income received or (2) \$3,000 maximum less the “military” retirement income deduction claimed by the military retiree. Code Sections 12-6-1170(C)(1) and 12-6-1170(A)(1).
- Note: The “general” retirement income deduction of the military retiree is not reduced to \$0 when the military retiree’s “military” retirement income deduction is less than \$3,000.

Explanation:

**Step 1: Calculate “Military” Retirement Income Deduction for Military Retiree of Any Age:**

The “military” retirement income deduction for a military retiree who has military retirement income is 100% of the amount of qualified military retirement income received. Since the wife received \$2,000 in a taxable military pension this year, she is allowed a full \$2,000 “military” retirement income deduction.

**Step 2: Calculate “General” Retirement Income Deduction of Military Retiree – Caution: A “Reduction” Calculation (an exception to the General Rule) Applies to the Retiree’s Calculation:**

For a military retiree under age 65, the “general” retirement income deduction is the lesser of: (1) the amount of qualified “non-military” retirement income received or (2) \$3,000 maximum. The maximum \$3,000 “general” retirement income deduction is reduced by the “military” retirement income deduction claimed by the military retiree in Step 1 (\$3,000 less \$2,000) to a \$1,000 remaining “general” retirement income deduction.

Therefore, the wife’s “general” retirement income deduction is the entire \$750, (i.e., the lesser of: (1) her \$750 “civilian” retirement income or (2) her remaining \$1,000 “general” retirement deduction after reduction by the \$2,000 full “military” retirement income deduction).

**Step 3: Calculate Civilian Spouse “General” Retirement Income Deduction:**

The general retirement income deduction for the original owner of a retirement plan under age 65 is the lesser of: (1) the amount of qualified retirement income received or (2) \$3,000. Since the husband (a civilian) received \$4,000 in qualified retirement income, he is allowed the maximum \$3,000 general retirement income deduction this year. This result calculated separately by the civilian spouse is not reduced by the “military” retirement income deduction claimed by the military spouse.

Note: Since both taxpayers are under age 65, the age 65 and older deduction to offset any type of income does not apply this year.

**EXAMPLE 2 – Both Spouses are under Age 65 - Filing Status “Married Filing Joint”**

Facts: Married couple filing a joint return has the following SC taxable income:

Husband (Age 60) - Civilian:  
 Earned income - \$6,000  
 Retirement income - \$4,000

Wife (Age 50) – Military Retiree:  
 Earned income - \$100,000  
 Retirement income (Military) - \$45,000  
 Retirement income (Non-Military) - \$750

Deduction Calculations: “Military” Retirement Income Deduction = \$45,000; “General” Retirement Income Deduction = \$3,000. Total \$48,000 deduction on the joint return.

	Income Reported on Joint Return (traced to each individual)	Military Retirement Income Deduction for Any Age - Reported on Joint Return	General Retirement Income Deduction	General Age 65 and Older Deduction	SC Taxable Income Computation
<b>Income:</b>					
Earned Income – Husband	\$ 6,000				\$ 6,000
Retirement Income (Non-military) – Husband - Age 60	\$ 4,000				\$ 4,000
Earned Income – Wife	\$100,000				\$100,000
Retirement Income (Military) – Wife - Age 50	\$ 45,000				\$ 45,000
Retirement Income (Non-military) Wife – Age 50	\$ 750				\$ 750
SC Taxable Income before Adjustments	\$155,750				\$155,750
<b>Military Deduction:</b>					
Military Retirement Income 100% Deduction for Any Age 12-6-1171(A)		\$45,000			(\$45,000)
<b>General Deductions:</b>					
Wife – Age 50 General Retirement Income Deduction 12-6-1170(A)(1)			\$0 – after offset by 12-6-1171 “military” retirement income deduction		(\$0)
Husband – Age 60 General Retirement Income Deduction 12-6-1170(A)(1) and (C)			\$3,000 (the maximum)		(\$3,000)
Joint Return - Age 65 and Older Deduction 12-6-1170(B)					(\$0)
<b>Total SC Deduction on Joint Return</b>					<b>\$48,000</b>

Important Rules for the “Military” Deduction and Exceptions to “General” Deduction Rules for This Example:

- Steps to Calculate Deductions on a Joint Return - The deductions in Code Sections 12-6-1171 and 12-6-1170 should be calculated in a specific order – first calculate all deductions for the military retiree and then calculate all deductions for the civilian spouse.
- The “military” retirement income deduction for a military retiree under age 65 who has military retirement income is 100% of the amount of qualified military retirement income received. Code Section 12-6-1171(A).
- The “general” retirement income deduction is computed separately for each individual taxpayer on the joint return (i.e., the total retirement income is not combined when computing the deduction). Code Section 12-6-1170(C)(2).
- Reduction Calculation Only for “General” Retirement Income Deduction of Military Retiree Under Age 65 in Code Section 12-6-1170 – For the military retiree only, the “general” retirement income deduction for the original owner of a retirement plan under age 65 is the lesser of: (1) the amount of qualified “non-military” retirement income received or (2) \$3,000 maximum less the “military” retirement income deduction claimed by the military retiree. This reduction does not apply to the civilian spouse. Code Section 12-6-1170(C)(1) and (A)(1).
- Note: The “general” retirement income deduction of the military spouse is reduced to \$0 when the military retiree’s “military” retirement income deduction is \$3,000 or more. See Simplified Step 2 reduction method below.

Explanation:

**Step 1: Calculate “Military” Retirement Income Deduction for Military Retiree of Any Age:**

The “military” retirement income deduction for a military retiree who has military retirement income is 100% of the amount of qualified military retirement income received. Since the wife received \$45,000 in a taxable military pension this year, she is allowed a full \$45,000 “military” retirement income deduction.

**Step 2: Calculate Military Retiree’s “General” Retirement Income Deduction, Including the Military Retiree’s Required “Reduction” of the “General” Deduction:**

**Simplified Deduction “Reduction” Calculation for Military Retiree -**

The “general” retirement income deduction for the original owner of a retirement plan under age 65 is the lesser of: (1) the amount of qualified retirement income received or (2) \$3,000 maximum. When a military retiree’s “military” retirement deduction is \$3,000 or more under Code Section 12-6-1171, the calculation to determine the deduction offset is simplified since a “military” retirement income deduction of \$3,000 or more will always offset the “general” retirement income deduction of the military retiree under Code Section 12-6-1170(A) to \$0.

Therefore, since the wife claimed a \$45,000 “military” retirement income deduction, her “general” retirement income deduction is completely reduced to \$0; she cannot claim a “general” retirement income deduction for her \$750 of civilian retirement income.

**Step 3: Calculate Civilian Spouse “General” Retirement Income Deduction:**

The general retirement income deduction for the original owner of a retirement plan under age 65 is the lesser of: (1) the amount of qualified retirement income received or (2) \$3,000 maximum. Since the husband (a civilian) received \$4,000 in qualified retirement income, he is allowed the maximum \$3,000 “general” retirement income deduction this year. This result calculated separately by the civilian spouse is not reduced by the “military” retirement income deduction claimed by the military spouse.

**EXAMPLE 3 – Single Military Retiree Age 65 or Older - Filing Status “Single”**

**Facts:** Individual (**Military Retiree**) age 65 has the following SC taxable income:  
 Retirement income from a civilian pension - \$13,000  
 Retirement income from a military pension - \$2,000

**Deduction Calculations:** “Military” Retirement Income Deduction = \$2,000; “General” Retirement Income Deduction = \$8,000; and “General” Age 65 and Older Deduction = \$5,000. Total \$15,000 deduction on the single return.

	Income Reported on Single Return	Military Retirement Income Deduction for Any Age - Reported on Single Return	General Retirement Income Deduction and General Age 65 and Older Deduction	SC Taxable Income Computation
<b>Income:</b>				
Retirement Income (Non-military) – Age 65	\$13,000			\$13,000
Retirement Income (Military) – Age 65	\$ 2,000			\$ 2,000
SC Taxable Income before adjustments	\$15,000			\$15,000
<b>Military Deduction:</b>				
Military Retirement Income 100% Deduction for Any Age 12-6-1171(A)		\$2,000		(\$2,000)
<b>General Deductions:</b>				
<b>Taxpayer</b> – Age 65 “General” Retirement Income Deduction 12-6-1170(A)(1)			\$8,000 – after partial offset by 12-6-1171 deduction (maximum \$10,000 - \$2,000 military)	(\$8,000)
Age 65 and Older Deduction 12-6-1170(B)			\$5,000 – after offset by 12-6-1170 and 12-6-1171 deductions (maximum (\$15,000 - \$8,000 - \$2,000))	(\$5,000)
<b>Total SC Deduction on Single Return</b>				<b>\$15,000</b>

Important Rules for the “Military” Deduction and Exceptions to “General” Deduction Rules for This Example:

- Steps to Calculate Deductions for a Single Taxpayer - The deduction in Code Section 12-6-1171 should be calculated first and then the deductions in Code Section 12-6-1170 should be calculated.
- The “military” retirement income deduction for a military retiree age 65 and older who has military retirement income is 100% of the amount of qualified military retirement income received. Code Section 12-6-1171(A).
- A single military retiree is eligible for the general deductions provided in Code Section 12-6-1170 (i.e., “general” retirement income deduction and the “general” age 65 and older deduction up to \$15,000 against any type of income), but these deductions are reduced by the “military” retirement income deduction. Code Section 12-6-1170(C)(1), (A), and (B).
- Reduction Calculation #1 for “General” Retirement Income Deduction of Military Retiree Age 65 or Older in Code Section 12-6-1170 – For the military retiree only, the “general” retirement income deduction for the original owner of a retirement plan age 65 or older is the lesser of: (1) the amount of qualified “non-military” retirement income received or (2) \$10,000 less the “military” retirement income deduction claimed by the military retiree. Code Section 12-6-1170(C)(1) and (A)(1).
- The “general” retirement income deduction of the military retiree is not reduced to \$0 when the military retiree’s “military” retirement income deduction is less than \$10,000.
- Reduction Calculation #2 for “General” Age 65 or Older Deduction of Military Retiree in Code Section 12-6-1170 – For the military retiree only, the “general” age 65 and older deduction against any type of South Carolina income is the lesser of: (1) the taxable income on the return or (2) \$15,000, less the “general” retirement income deduction claimed by the military retiree and less the “military” retirement income deduction claimed by the military retiree. Code Section 12-6-1170(C)(1) and (B).
- The “general” age 65 and older deduction of \$15,000 against any type of income will not be completely reduced to \$0 for a military retiree who claims less than a \$15,000 “military” retirement income deduction. Code Section 12-6-1170(C)(1).
- A military retiree’s combined deductions under Code Sections 12-6-1171 and 12-6-1170 of \$15,000 will be the same as a non-military individual’s deductions under Code Section 12-6-1170 (\$15,000) for the same income amounts (\$15,000); the offset requirements do not result in the military retiree receiving a lower combined deduction than a civilian individual. A military retiree, however, does not receive a deduction under both Code Sections 12-6-1171 and 12-6-1170 for the same dollar of income.

Explanation:

**Step 1: Calculate “Military” Retirement Income Deduction for Military Retiree of Any Age:** The “military” retirement income deduction for a military retiree who has military retirement income is 100% of the amount of qualified military retirement income received. Since the taxpayer received \$2,000 in a taxable military pension this year, she is allowed a full \$2,000 “military” retirement income deduction.

**Step 2: Calculate Military Retiree’s “General” Retirement Income Deduction – Caution: A “Reduction” Calculation (an exception to the General Rule) Applies to the Retiree’s Calculation:** For a military retiree age 65 or older, the “general” retirement income deduction is the lesser of: (1) the amount of qualified “non-military” retirement income received or (2) \$10,000 maximum. The maximum \$10,000 “general” retirement income deduction is reduced by the “military” retirement income deduction of \$2,000 claimed by the military retiree in Step 1 to an \$8,000 remaining “general” retirement income deduction (\$10,000 less \$2,000). Therefore, the taxpayer’s “general” retirement income deduction is reduced to \$8,000, (i.e., the lesser of: (1) her \$13,000 “civilian” retirement income or (2) her remaining \$8,000 “general” retirement deduction after partial reduction by the \$2,000 “military” retirement income deduction).



**Step 3: Calculate Military Retiree’s “General” Age 65 and Older Deduction against Any Type of Income – Caution: A “Reduction” Calculation (an exception to the General Rule) Applies to the Military Retiree’s Calculation:**

The “general” age 65 and older deduction against any type of South Carolina taxable income on a return is the lesser of: (1) the taxable income or (2) \$15,000, less the “general” retirement income deduction claimed by the military retiree in Step 2 and less the “military” retirement income deduction claimed by the military retiree in Step 1. The remainder, if any, offsets any remaining South Carolina taxable income on the return.

Therefore, since the taxpayer claimed a \$2,000 “military” retirement income deduction and an \$8,000 “general” retirement deduction, her \$15,000 “general” age 65 and older deduction is \$5,000 after partial offset by \$10,000 claimed in Steps 1 and 2 (\$15,000 maximum “general” age 65 and older deduction less \$2,000 “military” retirement income deduction and less \$8,000 “general” retirement income deduction). This \$5,000 deduction can offset any remaining income on the return (e.g., earned income, civilian retirement income).

**EXAMPLE 4 – Single Military Retiree Age 65 or Older - Filing Status “Single”**

**Facts:** Individual (**Military Retiree**) age 65 has the following SC taxable income:

- Earned income from a civilian job - \$20,000
- Retirement income from a civilian pension - \$10,000
- Retirement income from a military pension - \$40,000

**Deduction Calculations:** “Military” Retirement Income Deduction = \$40,000; “General” Retirement Income Deduction = \$0; and “General” Age 65 and Older Deduction = \$0. Total \$40,000 deduction on the single return.

	Income Reported on Single Return	Military Retirement Income Deduction for Any Age - Reported on Single Return	General Retirement Income Deduction and General Age 65 and Older Deduction	SC Taxable Income Computation
<b>Income:</b>				
Earned Income	\$20,000			\$20,000
Retirement Income (Non-military) – Age 65	\$10,000			\$10,000
Retirement Income (Military) – Age 65	\$40,000			\$40,000
SC Taxable Income before adjustments	\$70,000			\$70,000
<b>Military Deduction:</b>				
Military Retirement Income 100% Deduction for Any Age 12-6-1171(A)		\$40,000		(\$40,000)
<b>General Deductions:</b>				
Taxpayer – Age 65 “General” Retirement Income Deduction 12-6-1170(A)(1)			\$0 – after offset by 12-6-1171 deduction	(\$0)
Age 65 and Older Deduction 12-6-1170(B)			\$0 – after offset by 12-6-1171 deduction	(\$0)
<b>Total SC Deduction on Single Return</b>				<b>\$40,000</b>

**Important Rules for the “Military” Deduction and Exceptions to “General” Deduction Rules for This Example:**

- Steps to Calculate Deductions for a Single Taxpayer - The deduction in Code Section 12-6-1171 should be calculated first and then the deductions in Code Section 12-6-1170 should be calculated.
- The “military” retirement income deduction for a military retiree age 65 and older who has military retirement income is 100% of the amount of qualified military retirement income received. Code Section 12-6-1171(A).
- A single military retiree is eligible for the general deductions provided in Code Section 12-6-1170 (i.e., “general” retirement income deduction and “general” age 65 and older deduction up to \$15,000 against

any type of income), but these deductions are reduced by the “military” retirement income deduction. Code Section 12-6-1170(C)(1), (A), and (B).

- Reduction Calculation #1 for “General” Retirement Income Deduction of Military Retiree Age 65 or Older in Code Section 12-6-1170 – For the military retiree only, the “general” retirement income deduction for the original owner of a retirement plan age 65 or older is the lesser of: (1) the amount of qualified “non-military” retirement income received or (2) \$10,000 less the “military” retirement income deduction claimed by the military retiree. Code Section 12-6-1170(C)(1) and (A)(1).
- The “general” retirement income deduction of the military retiree age 65 or older is reduced to \$0 when the military retiree’s “military” retirement income deduction is \$10,000 or more.
- Reduction Calculation #2 for “General” Age 65 or Older Deduction of Military Retiree in Code Section 12-6-1170 – For the military retiree only, the “general” age 65 and older deduction against any type of South Carolina income is the lesser of: (1) the taxable income on the return or (2) \$15,000, less the “general” retirement income deduction claimed by the military retiree and less the “military” retirement income deduction claimed by the military retiree. Code Section 12-6-1170(C)(1) and (B).
- The “general” age 65 and older deduction of \$15,000 against any type of income will be completely reduced to \$0 for a military retiree who claims \$15,000 or more “military” retirement income deduction. Code Section 12-6-1170(C)(1).
- Note: Both deductions under Code Section 12-6-1170 (i.e., the “general” retirement income deduction of the military retiree and the “general” age 65 and older deduction of the military retiree) are reduced to \$0 when the military retiree’s “military” retirement income deduction is \$15,000 or more. **See Simplified Step 2 and Step 3 reduction calculations below.**

Explanation:

**Step 1: Calculate “Military” Retirement Income Deduction for Military Retiree of Any Age:** The “military” retirement income deduction for a military retiree of any age who has military retirement income is 100% of the amount of qualified military retirement income received. Since the taxpayer received \$40,000 in a taxable military pension this year, she is allowed a full \$40,000 military retirement income deduction.

**Step 2: Calculate Military Retiree’s “General” Retirement Income Deduction, Including the Military Retiree’s Required “Reduction” of this “General” Deduction:**

See below simplified calculation.

**Step 3: Calculate Military Retiree’s “General” Age 65 and Older Deduction against Any Type of Income, Including the Military Retiree’s Required “Reduction of this “General” Deduction:**

See below simplified calculation.

**Simplified Deduction “Reduction” Calculations for Military Retiree for Both “General” Deductions (Step 2 and Step 3 Calculations are Combined)**

The above order of calculation of Step 2 and Step 3 for the military retiree is necessary to take into account the required partial or complete offset of the deductions in Code Section 12-6-1170 by the amount of the “military” retirement deduction claimed under Code Section 12-6-1171. When a military retiree’s “military” retirement deduction is \$15,000 or more under Code Section 12-6-1171, these two calculations can be simplified since a “military” retirement deduction of such amount will always offset both deductions provided in Code Section 12-6-1170(A) and (B) to \$0.

Therefore, since the taxpayer claimed a \$40,000 “military” retirement income deduction, her \$10,000 “general” retirement income deduction is reduced to \$0 (\$10,000 less \$40,000 and her \$15,000 “general” age 65 and older deduction is reduced to \$0 after complete offset by the \$40,000 “military” retirement income deduction claimed in Step 1.

**EXAMPLE 5 – Both Spouses are Age 65 or Older. Wife has Military Retirement Income. Filing Status “Married Filing Joint”.**

Facts: Married couple filing a joint return has the following \$50,000 SC taxable income:

Husband (Age 70) - Civilian:  
 Earned income - \$4,000  
 Retirement income - \$10,000  
 Total Income = \$14,000

Wife (Age 65) – Military Retiree:  
 Earned income - \$14,000  
 Retirement income (Military) - \$13,000  
 Retirement income (Non-Military) - \$9,000  
 Total Income = \$36,000

Deduction Calculations: “Military” Retirement Income Deduction = \$13,000; “General” Retirement Income Deduction = \$10,000; and “General” Age 65 and Older Deduction = \$7,000 (\$2,000 + \$5,000). Total \$30,000 deduction on the joint return.

	Income Reported on Joint Return (traced to each individual)	Military Retirement Income Deduction for Any Age - Reported on Joint Return	General Retirement Income Deduction	General Age 65 and Older Deduction	Deductions On SC 1040
<b>Income – Separate Tracing: Military Wife</b>					
Wife – Earned Income	\$14,000				
Wife - Retirement Income (Military) – Age 65	\$13,000				
Wife - Retirement Income (Non-military) – Age 65	\$ 9,000				
<b>Military Deduction:</b>					
Military Retirement Income 100% Deduction for Any Age 12-6-1171(A)		\$13,000			(\$13,000)
<b>General Deductions:</b>					
General Retirement Income Deduction 12-6-1170(A)(1)			\$0 – after complete offset by amount claimed under 12-6-1171		
Age 65 and Older Deduction 12-6-1170(B)				\$2,000 - after partial offset by amount claimed under 12-6-1171	(\$ 2,000)

	Income Reported on Joint Return (traced to each individual)	Military Retirement Income Deduction for Any Age - Reported on Joint Return	General Retirement Income Deduction	General Age 65 and Older Deduction	Deductions On SC 1040
<b>Income - Separate Tracing: Civilian Husband</b>					
Husband – Earned Income	\$ 4,000				
Husband - Retirement Income (Non-military) – Age 70	\$10,000				
<b>General Deductions:</b>					
General Retirement Income Deduction – Per Separate Tracing of Husband’s Retirement Income (Age 70) 12-6-1170(A)(1)			\$10,000		(\$10,000)
Age 65 and Older Deduction <b>Per Joint Return</b> 12-6-1170(B)				\$5,000* Not limited *(See Step 5 below)	(\$5,000)
<b>Total SC Deduction on Joint Return</b>					<b>\$30,000</b>

Important Rules for the “Military” Deduction and Exceptions to “General” Deduction Rules for This Example:

**Computation Rules Applicable to the Joint Return:**

- Steps to Calculate Deductions on a Joint Return - The deduction in Code Sections 12-6-1171 and 12-6-1170 should be calculated in a specific order – first calculate all deductions for the military retiree and then calculate all deductions for the civilian spouse.
- All deductions under Code Sections 12-6-1171 and 12-6-1170 for this joint return must be calculated separately for each spouse since the military deduction under Code Section 12-6-1171 is claimed. Code Sections 12-6-1170(C)(2) and 12-6-1171(A).
- The “separate” amount of the “general” age 65 and older deduction is a maximum of **\$15,000 for each spouse**. However, this deduction can offset any taxable income reported on the joint return. Code Section 12-6-1170(C) and (A)(1).

**Military Retiree Computation Rules:**

- The “military” retirement income deduction for a military retiree of any age who has military retirement income is 100% of the amount of qualified military retirement income received. Code Section 12-6-1171(A).
- A military retiree is eligible for the general deductions provided in Code Section 12-6-1170 (i.e., “general” retirement income deduction and “general” age 65 and older deduction up to \$15,000 against any type of income), however, the military retirement income deduction claimed reduces the two “general” deductions allowed under Code Section 12-6-1170. Code Sections 12-6-1170(C), (A)(1), and (B).
- Reduction Calculation #1 for “General” Retirement Income Deduction of Military Retiree Age 65 or Older in Code Section 12-6-1170 – For the military retiree only, the “general” retirement income deduction for the original owner of a retirement plan age 65 or older is the lesser of: (1) the amount of

- qualified “non-military” retirement income received or (2) \$10,000 less the “military” retirement income deduction claimed by the military retiree. Code Section 12-6-1170(C)(1) and (A)(1).
- The “general” retirement income deduction of the military retiree age 65 or older is reduced to \$0 when the military retiree’s “military” retirement income deduction is \$10,000 or more.
  - Reduction Calculation #2 for “General” Age 65 or Older Deduction of Military Retiree in Code Section 12-6-1170 – For the military retiree only, the “general” age 65 and older deduction against any type of South Carolina income is the lesser of: (1) the taxable income on the return or (2) \$15,000, less any “general” retirement income deduction claimed by the military retiree and less the “military” retirement income deduction claimed by the military retiree. Code Section 12-6-1170(C)(1) and (B).
  - The “general” age 65 and older deduction of \$15,000 against any type of income is not completely reduced to \$0 for a military retiree who claims less than a \$15,000 “military” retirement income deduction. Code Section 12-6-1170(C)(1).
  - A military retiree’s combined deductions under Code Sections 12-6-1171 and 12-6-1170 of \$15,000 will be the same as a non-military individual’s deductions under Code Section 12-6-1170 (\$15,000) for the same income amounts (\$15,000); the offset requirements do not result in the military retiree receiving a lower combined deduction than a civilian individual. A military retiree, however, does not receive a deduction under both Code Sections 12-6-1171 and 12-6-1170 for the same dollar of income.

**Civilian Spouse Computation Rules:**

- The “general” retirement income deduction for the civilian spouse is computed separately from the military retiree spouse using the general rules in Part II, but it is not further reduced by any “military” retirement income deduction claimed by the spouse. Code Sections 12-6-1171 and 12-6-1170(A) and (C)(2).
- The age 65 and older deduction for the civilian spouse is the lesser of: (1) the income reported on the joint return or (2) \$15,000. **The deduction is not limited to only the civilian spouse’s separate income; it can reduce any remaining taxable income on the joint return.** Code Section 12-6-1170(B).

Explanation:

**Step 1: Calculate “Military” Retirement Income Deduction for Military Retiree of Any Age:**

The “military” retirement income deduction for a military retiree of any age who has military retirement income is 100% of the amount of qualified military retirement income received. Since the taxpayer received \$13,000 in a taxable military pension this year, she is allowed a full \$13,000 “military” retirement income deduction.

**Step 2: Calculate Military Retiree’s “General” Retirement Income Deduction, Including the Military Retiree’s Required “Reduction” of the “General” Deduction:**

**Simplified Deduction “Reduction” Calculation for Military Retiree -**

The “general” retirement income deduction for the original owner of a retirement plan age 65 or older is the lesser of: (1) the amount of qualified “non-military” retirement income received or (2) \$10,000 maximum less the “military” retirement income deduction claimed by the military retiree. When a military retiree’s “military” retirement deduction is \$10,000 or more under Code Section 12-6-1171, the calculation to determine the deduction offset is simplified since a “military” retirement income deduction of \$10,000 or more will always offset the “general” retirement income deduction of the military retiree under Code Section 12-6-1170(A) to \$0.

Therefore, since the wife claimed a \$13,000 “military” retirement income deduction, her “general” retirement income deduction is completely reduced to \$0; she cannot claim a “general” retirement income deduction for her \$9,000 of civilian retirement income.

**Step 3: Calculate Military Retiree’s “General” Age 65 and Older Deduction against Any Type of Income – Caution: A “Reduction” Calculation (an exception to the General Rule) Applies to the Military Retiree’s Calculation:**

The “general” age 65 and older deduction against any type of South Carolina taxable income on a return is the lesser of: (1) the **joint** taxable income or (2) **\$15,000**, less the “general” retirement income deduction claimed by the military retiree in Step 2 and less the “military” retirement income deduction claimed in Step 1. The remainder, if any, offsets any remaining South Carolina taxable income on the return.

Therefore, since the taxpayer claimed a \$13,000 “military” retirement income deduction (see Step 1) and a \$0 “general” retirement deduction (see Step 2), her \$15,000 “general” age 65 and older deduction is \$2,000 after partial offset by \$13,000 claimed in Step 1 (\$15,000 maximum “general” age 65 and older deduction less \$13,000 “military” retirement income deduction and less \$0 “general” retirement deduction).

**Step 4: Calculate Civilian Spouse “General” Retirement Income Deduction:**

The “general” retirement income deduction for the original owner of a retirement plan age 65 and older is the lesser of: (1) the amount of qualified retirement income received or (2) \$10,000. Since the husband received \$10,000 in qualified retirement income, his “general” retirement income deduction is the maximum \$10,000 this year.

**Step 5: Calculate Civilian Spouse “General” Age 65 and Older Deduction against Any Type of Income – Computed Separately from Military Spouse, but Applies to Joint Income:**

The “general” age 65 and older deduction against any type of South Carolina taxable income on a joint return is computed “as if separate” and is the lesser of: (1) the **joint** taxable income or (2) **\$15,000**, less the “general” retirement income deduction claimed by the civilian taxpayer. Therefore, the \$15,000 age 65 deduction on the joint return, after reduction of the civilian husband’s \$10,000 “general” retirement income deduction, may reduce up to \$5,000\* (\$15,000 less \$10,000) of any remaining taxable income on the joint return (e.g., earned income or retirement income of either spouse).

\*Note: The civilian husband’s income was \$10,000 of civilian retirement income and \$4,000 earned income (i.e., \$14,000 income). This \$15,000 “general” age 65 and older deduction, after reduction of the husband’s \$10,000 retirement income deduction, may reduce \$5,000 (\$15,000 less \$10,000) of any remaining taxable income on the joint return (e.g., \$4,000 of the civilian husband’s earned income, \$1,000 of the wife’s earned income or her non-military retirement income).

**EXAMPLE 6 – Military Wife Dies during the Tax Year at Age 70. Surviving Husband is Age 65 or Older - Filing Status “Married Filing Joint”.**

Facts: Married couple filing a joint return has the following SC taxable income:

<u>Husband (Age 70) – Civilian (Surviving Spouse)</u>	<u>Wife (Age 65) – Military Retiree:</u>
Earned income - \$10,000	Earned income - \$18,500
Dividend income - \$8,000	Retirement income (Military) - \$35,000
Retirement income (self; non-military) - \$0	Retirement income (Non-Military) - \$10,000
Retirement income (spousal IRA) - \$3,000	<b>Wife received income prior to death</b>

Deduction Calculations: “Military” Retirement Income Deduction = \$35,000; “General” Age 65 and Older Deduction against Any Type of Income = \$15,000; Surviving Spouse “General” Retirement Income Deduction = \$3,000. Total \$53,000 deduction on the joint return.

	Income Reported on Joint Return (traced to each individual)	Military Retirement Income Deduction for Any Age - Reported on Joint Return	General Retirement Deduction – As Taxpayer(s) or As Surviving Spouse	General Age 65 and Older Deduction	Deductions On SC 1040
<b>Income – Separate Tracing of Military Wife Earned Income and Retirement:</b>					
Wife - Earned Income	\$18,500				
Wife - Retirement Income (Military) – Age 65	\$35,000				
Wife - Retirement Income (Non-military) – Age 65	\$10,000				
<b>Military Deduction:</b>					
Military Retirement Income 100% Deduction for Any Age 12-6-1171(A)		\$35,000			(\$35,000)
<b>General Deductions:</b>					
General Retirement Income Deduction – Per Wife Only 12-6-1170(A)(1)			\$0 - after complete offset by amount claimed under 12-6-1171		
Age 65 and Older Deduction – Per Wife Only 12-6-1170(B)				\$0 - after complete offset by amount claimed under 12-6-1171	



	Income Reported on Joint Return (traced to each individual)	Military Retirement Income Deduction for Any Age - Reported on Joint Return	General Retirement Deduction – As Taxpayer(s) or As Surviving Spouse	General Age 65 and Older Deduction	Deductions On SC 1040
<b>Income - Civilian Husband Wages and Retirement:</b>					
Earned Income - Husband	\$10,000				
Dividend Income - Husband	\$ 8,000				
Husband - Retirement Income (Non-military) – Age 70	\$0				
<b>General Deductions:</b>					
General Retirement Income Deduction – Per Husband Only 12-6-1170(A)(1)			N/A		(\$0)
Age 65 and Older Deduction – Per Joint Return 12-6-1170(B)				\$15,000	(\$15,000)
As Surviving Spouse – General Retirement Income Deduction 12-6-1170(A)(1) – Spousal IRA Inherited (Non-military)	\$ 3,000		\$3,000		(\$ 3,000)
<b>Total SC Deduction on Joint Return</b>					<b>\$53,000</b>

Important Rules for the “Military” Deduction and Exceptions to “General” Deduction Rules for This Example:

**Computation Rules Applicable to the Joint Return:**

- Steps to Calculate Deductions on a Joint Return - The deductions in Code Sections 12-6-1171 and 12-6-1170 should be calculated in a specific order – first calculate all deductions for the military retiree; calculate all deductions for the civilian spouse; and then calculate all surviving spouse deductions.
- All deductions under Code Sections 12-6-1171 and 12-6-1170 for this joint return must be calculated separately for each spouse (one computation for the husband and one computation for the wife) since the military deduction under Code Section 12-6-1171 is claimed. Code Sections 12-6-1170(C) and 12-6-1171(A).
- The “separate” amount of the “general” age 65 and older deduction is a maximum of **\$15,000** for each spouse. However, this deduction can offset any taxable income reported on the joint return. Code Section 12-6-1170(C) and (A)(1).

**Military Retiree Computation Rules:**

- The “military” retirement income deduction for a military retiree of any age who has military retirement income is 100% of the amount of qualified military retirement income received. Code Section 12-6-1171(A).
- A military retiree is eligible for the general deductions provided in Code Section 12-6-1170 (i.e., the “general” retirement income deduction and the “general” age 65 and older deduction), however, the

“military” retirement income deduction claimed reduces the two “general” deductions allowed under Code Section 12-6-1170. Code Section 12-6-1170(C), (A)(1), and (B).

- Note: Both deductions under Code Section 12-6-1170 for the military retiree (i.e., the “general” retirement income deduction of the military spouse and the “general” age 65 and older deduction of the military spouse) are reduced to \$0 when the deceased military retiree’s “military” retirement income deduction is \$15,000 or more in the year of death.

#### **Civilian Spouse Computation Rules:**

- The “general” retirement income deduction for the civilian spouse is computed separately from the military retiree spouse using the general rules in Part II (i.e., the total retirement income on the joint return is not combined when computing the deduction), but it is not further reduced by any “military” retirement income deduction claimed by the spouse. Code Sections 12-6-1171 and 12-6-1170(A) and (C)(2).
- The age 65 and older deduction for the civilian spouse is the lesser of: (1) the income reported on the joint return or (2) \$15,000. The deduction is not limited to only the civilian spouse’s separate income; it can offset any remaining taxable income on the joint return. Code Section 12-6-1170(B).

#### **Surviving Spouse Rules:**

- A surviving spouse is also allowed a separate, additional general retirement income deduction for retirement income received by the survivor that is attributable to the deceased spouse. The deduction is computed in the same manner that the deduction would apply to the deceased had she been living in the current tax year. Code Section 12-6-1170(A)(3) and (C)(1).
- The age 65 and older deduction is NOT reduced by amounts deducted as a “surviving spouse” for the separate, general retirement income deduction. Code Section 12-6-1170(C), (A)(1), and (B).
- Additional surviving spouse deductions are allowed in the year of death of the military retiree spouse for income attributable to the deceased spouse. This includes the “military” retirement income deduction for military retirement income received after the spouse’s death that is attributable to the deceased spouse. Code Section 12-6-1171(C).

#### **Explanation:**

**Step 1: Calculate “Military” Retirement Income Deduction for Military Retiree of Any Age:** The “military” retirement income deduction for a military retiree of any age who has military retirement income is 100% of the amount of qualified military retirement income received. Since the taxpayer (wife) received \$35,000 in a taxable military pension this year, she is allowed a \$35,000 military retirement income deduction.

**Step 2: Calculate Military Retiree’s “General” Retirement Income Deduction, Including the Military Retiree’s Required “Reduction” of this “General” Deduction:**

See below simplified calculation.

**Step 3: Calculate Military Retiree’s “General” Age 65 and Older Deduction against Any Type of Income, Including the Military Retiree’s Required “Reduction of this “General” Deduction:**

See below simplified calculation.

#### **Simplified Deduction “Reduction” Calculations for Military Retiree for Both “General” Deductions (Step 2 and Step 3 Calculations are Combined)**

The above order of calculation of Step 2 and Step 3 for the military retiree is necessary to take into account the required partial or complete offset of the deductions in Code Section 12-6-1170 by the amount of the “military” retirement deduction claimed under Code Section 12-6-1171. When a military retiree’s “military” retirement deduction is \$15,000 or more under Code Section 12-6-1171, these two calculations can be simplified since a “military” retirement deduction of such amount will always offset both deductions provided in Code Section 12-6-1170(A) and (B) to \$0.

Therefore, since the taxpayer claimed a \$35,000 “military” retirement income deduction, her \$10,000 “general” retirement income deduction is reduced to \$0 (\$10,000 less \$35,000 and her \$15,000 “general” age 65 and older deduction is reduced to \$0 after complete offset by the \$35,000 “military” retirement income deduction claimed in Step 1.

**Step 4: Calculate Civilian Spouse “General” Retirement Income Deduction – As a Taxpayer:**

The general retirement income deduction for the original owner of a retirement plan age 65 and older is the lesser of: (1) the amount of qualified retirement income received or (2) \$10,000. Since the husband received \$0 in qualified retirement income, his “general” retirement income deduction is \$0 this year. Note: His \$8,000 dividend income is not “qualified retirement income.”

**Step 5: Calculate Civilian Spouse “General” Age 65 and Older Deduction against Any Type of Income – Computed Separately from Military Spouse, but Applies to Joint Income:**

The age 65 and older deduction against any type of South Carolina taxable income on a joint return is computed “as if separate” and is the lesser of: (1) the **joint** taxable income or (2) **\$15,000**, less the general retirement income deduction claimed by the civilian taxpayer. Therefore, the \$15,000 age 65 deduction on the joint return, after reduction of the civilian husband’s \$0 “general” retirement income deduction, may reduce up to \$15,000 of any remaining taxable income on the joint return (e.g., earned income, dividend income, or retirement income of either spouse).

**Step 6: Calculate Civilian Spouse “General” Retirement Income Deduction – As a Surviving Spouse:**

The general retirement income deduction as a “surviving spouse” receiving retirement income that is attributable to the deceased spouse (i.e., the deceased spouse was the original owner of the IRA) is the lesser of: (1) the amount of qualified retirement income received or (2) \$10,000. Since the husband received \$3,000 in qualified retirement income this year from the deceased spouse’s IRA, his separate, general retirement income deduction as a surviving spouse based on the deceased wife’s age (age 65) had she lived until December 31<sup>st</sup> of the current tax year is \$3,000.

**EXAMPLE 7 – Year Following Death of Military Spouse. Surviving Spouse Only. Survivor is Age 71 - Filing Status “Single”.**

Facts: The individual filing a single return has the following SC taxable income:

Husband – Surviving Spouse (Age 71) – Non-military:

Earned income of survivor - \$50,000

Retirement income of survivor - \$25,000

Retirement income attributable to deceased spouse - \$45,000 (Military)

Retirement income attributable to deceased spouse - \$10,000 (Non-military)

**Wife Deceased in prior year (Age 66, if still living)**

Deduction Calculations: General Retirement Income Deduction = \$10,000; General Age 65 and Older Deduction for Any Type of Income = \$5,000; and “Military” Retirement Income and “General” Deduction Amounts Allowed to a Surviving Spouse = \$55,000 (\$45,000 + \$10,000). Total \$70,000 deduction on the single return.

	Income Reported on Single Return	General Retirement Income Deduction Reported on Single Return (Age 71)	12-6-1170 and 12-6-1171 Deductions Allowed to a Surviving Spouse	Age 65 and Older Deduction Reported on Single Return	SC Taxable Income Computation
<b>Income:</b>					
Earned Income of Survivor	\$50,000				\$50,000
Retirement Income of Survivor (Non-military)	\$25,000				\$25,000
Retirement Income – Received from deceased spouse account (Military)	\$45,000				\$45,000
Retirement Income – Received from deceased spouse account (Non-Military)	\$10,000				\$10,000
SC Taxable Income before adjustments	\$130,000				\$130,000
<b>General Deductions:</b>					
<b>Taxpayer</b> - General Retirement Income Deduction – 12-6-1170(A)(1)		\$10,000			(\$10,000)
<b>Taxpayer</b> - General Age 65 and Older Deduction 12-6-1170(B)				\$5,000 – offset partially by general retirement deduction	(\$5,000)

	Income Reported on Single Return	General Retirement Income Deduction Reported on Single Return (Age 71)	12-6-1170 and 12-6-1171 Deductions Allowed to a Surviving Spouse	Age 65 and Older Deduction Reported on Single Return	SC Taxable Income Computation
<b>Military Deductions:</b>					
<b>As Surviving Spouse - Military Retirement Income Deduction for Any Age</b> 12-6-1171(A)			\$45,000		(\$45,000)
<b>As Surviving Spouse - General Retirement Income Deduction (Age 66, if still living)</b> 12-6-1170(A)(1)			\$10,000		(\$10,000)
<b>Total SC Deduction on Single Return</b>					<b>\$70,000</b>

Important Rules for the “Military” Deduction and Exceptions to “General” Deduction Rules for This Example:

**Computation Rules Applicable to the Single Return with Deductions as a Surviving Spouse of a Deceased Military Retiree:**

- The “general” retirement income deduction should be separately calculated first for the taxpayer based on the taxpayer’s own retirement income. Code Section 12-6-1170(A)(1) and (C)(1).
- The “general” retirement income deduction should then be separately calculated for amounts attributable to the deceased spouse based on the deceased’s originally owned retirement income (civilian or military). Any amounts deducted as a surviving spouse do not reduce the taxpayer’s general retirement income deduction. Code Section 12-6-1170(A)(3) and (C)(1).
- Under the general rule, the \$15,000 “general” age 65 and older deduction that applies to a return with a filing status “single” is reduced by any amount the taxpayer deducts as a general retirement income deduction, however, any amounts deducted as a surviving spouse do not reduce the taxpayer’s general age 65 and older deduction. Code Section 12-6-1170(B).
- A surviving spouse receiving military retirement income that is attributable to the deceased spouse is eligible for the “military” retirement income deduction, as if the surviving spouse “steps in the shoes” of the deceased. Any military retirement income amount deducted as a “surviving spouse” does not reduce the taxpayer’s “general” retirement income deduction or the taxpayer’s “general” age 65 and older deduction. Code Section 12-6-1171(A) and (C).
- A surviving spouse receiving retirement income that is attributable to the deceased spouse applies the deduction eligibility and amounts based on the age of the deceased spouse, as if the deceased was living on December 31<sup>st</sup> of the current tax year. Code Section 12-6-1171(C).

NOTE: See **Part II, Question 13** above for information on calculating the general retirement income deduction if the qualified retirement accounts of the deceased spouse and the surviving spouse are not maintained in separate accounts.

Explanation:

**Calculation of Deductions – “As the Taxpayer”**

**Step 1: Calculate Taxpayer’s “General” Retirement Income Deduction:**

The general retirement income deduction for the original owner of a retirement plan age 65 and older is the lesser of: (1) the amount of qualified retirement income received or (2) \$10,000. Since the single taxpayer (surviving husband) received \$25,000 in his own qualified retirement income, his general retirement income deduction is the maximum \$10,000 this year.

**Step 2: Calculate Taxpayer’s “General” Age 65 and Older Deduction against Any Type of Income:**

The “general” age 65 and older deduction against any type of South Carolina income is the lesser of: (1) the taxable income on the single return or (2) \$15,000, less the general retirement income deduction claimed by the individual taxpayer age 65 or older in Step 1. This result is NOT further reduced by any amounts deducted as a surviving spouse below. The remainder offsets any remaining taxable income on the return.

Therefore, the husband’s “general” age 65 and older deduction is \$5,000 (\$15,000 less husband’s \$10,000 “general” retirement income deduction). The \$5,000 deduction can offset any remaining taxable income on the return (e.g., earned income, retirement income, or income inherited from the deceased spouse).

**Calculation of Deductions – As a Surviving Spouse “Stepping Into the Shoes” of the Deceased Military Spouse:**

**Step 3: Calculate the “Military” Retirement Income Deduction for Military Retiree of Any Age – As a Surviving Spouse:**

The “military” retirement income deduction applies to the surviving spouse in the same manner as it applied to the deceased military retiree. The surviving spouse’s “military” retirement income deduction for a military retiree of any age is 100% of the amount of qualified military retirement income received by the surviving spouse. Since the taxpayer received \$45,000 in a taxable military pension this year attributable to the deceased military spouse, he is allowed a full \$45,000 “military” retirement income deduction.

**Step 4: Calculate “General” Retirement Income Deduction for Military Retiree – As a Surviving Spouse Caution: Reduction Calculations Required by Military Retiree DO NOT Apply to Military Surviving Spouse:**

The “general” retirement income deduction attributable to a deceased military spouse who was the original owner of the retirement plan and who would be 65 or older on December 31<sup>st</sup> of the current tax year had she lived is the lesser of: (1) the amount of qualified retirement income received by the surviving spouse or (2) \$10,000. This result is NOT further reduced by any “military” retirement income deduction claimed. Therefore, the taxpayer is allowed a \$10,000 “general” retirement income deduction as a surviving spouse.

Note: “General” age 65 and older deduction – As a surviving spouse. Since the taxpayer is filing a single return, the surviving taxpayer cannot also receive the “general” age 65 and older deduction up to \$15,000 the deceased spouse received in prior years when the couple filed a joint income tax return.

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/W. Hartley Powell  
\_\_\_\_\_  
W. Hartley Powell, Director

November 17 \_\_\_\_\_, 2022  
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