



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE

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SC INFORMATION LETTER #21-24

SUBJECT: Tax Legislative Update for 2021

DATE: September 15, 2021

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

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

Attached is a brief summary of most of the significant changes in tax and regulatory laws enacted during the past legislative session. The summary is divided into categories, by subject matter, as indicated below.

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DISCLAIMER:

This is intended to be a summary of the main points of the legislation; it is not an interpretation by the Department. It is written in general terms for widest possible use and may not contain all the specific requirements or provisions of authority. It is intended as a guide only, and the application of its contents to specific situations will depend on the particular circumstances involved. It does not represent official Department policy. Please refer to the full text of the legislation for specific details and requirements.

There may be instances where some tax or incentive related legislation briefly summarized is under the jurisdiction of another state agency or political subdivision and not the Department. In such cases, questions concerning these provisions should be made directly to the agency or political subdivision having primary responsibility for the administration of these acts.

TEXT OF LEGISLATION:

A complete copy of the legislation discussed can be obtained from the South Carolina Legislature’s website at scstatehouse.gov.

LIST OF BILLS BY SUBJECT CATEGORY

A list of significant changes in tax laws (both permanent and temporary) enacted during the 2021 legislative session is provided below. Temporary provisos are enacted in the State budget and are only effective for the State fiscal year (July 1 – June 30). Unless reenacted, temporary provisos expire on June 30, 2022.

Also included are reminders of provisions which were enacted in a prior year but are being phased in or are effective in 2021 and thereafter. These provisions are indicated as “reminders” in the chart below.

This list is divided by subject matter with the bills listed in numeric order.

INCOME TAXES, BANK TAXES, WITHHOLDING, and CORPORATE LICENSE FEES

BILL #	ACT #	SUBJECT
76, Sec. 1	138	Energy Efficient Manufactured Home – Credit Extended – Reminder
271, Sec. 1	21	Abandoned Buildings Revitalization Act – Repeal of Act Postponed
271, Sec. 2	21	Textile Rehabilitation Credit – Contiguous Parcel Amendment
314	45	Service as Preceptor for Clinical Rotations – New Credit and New Deduction - Reminder
436	83	Community Development Credits – Increase in Credit Limits for Tax Years 2021 and Thereafter
463	53	Geothermal Machinery and Equipment Credit – Repeal of Credit Extended
627	61	Active Trade or Business Income – New Election for “Qualified Entity” to Report Income and Pay Entity Tax
677	63	Partnership Allocation of Credit - Historic Rehabilitation Credit, South Carolina Housing Tax Credit, and Textile Mill Rehabilitation Credit
1043, Sec. 6.A	265	Increase in Purchases of South Carolina Agricultural Products – New Credit - Reminder
3516, Sec. 15	40	Motor Fuel User Fee Credit – New Refundable Credit – Reminder
3516, Sec. 16	40	South Carolina Earned Income Credit – New Credit - Reminder
3516, Sec. 17	40	Two-Wage Earner Credit – Credit Increased - Reminder
3595	15	Industry Partnership Fund Credit – Credit Amounts Amended – Reminder
3899, Secs. 2.A. and 4	79	Educational Credit for Exceptional Needs Children’s Fund – Funding Amendments

3899, Sec. 2.B.	79	Credit for Contributions to the “Educational Credit for Exceptional Needs Children’s Fund” – Increase in Annual Credit Allowed and New Carryforward Provision
4017, Secs. 1.A. and 2	87	Internal Revenue Code Conformity (Including Federal CARES Act of 2020 and Consolidated Appropriations Act of 2021)
4017, Sec. 1.B.	87	Federal Paycheck Protection Program Loans for Small Businesses due to COVID-19 – SC Tax Treatment of Forgiven Loans and Deduction of Expenses
4017, Sec. 1.B.	87	Tax Treatment of Certain Loan Forgiveness and Emergency Grants in Federal Consolidated Appropriations Act of 2021 – SC Tax Treatment
4017, Sec. 3	87	\$10,200 Unemployment Compensation Nontaxable in Tax Year 2020 - Federal American Rescue Plan of 2021 Amendment
4100, Part IB, Sec. 1A, Proviso 1A.9	94	Teaching Supplies and Materials – Reimbursement Amount Not Taxable or Refundable Income Tax Credit - Reenacted Temporary Proviso
4100, Part IB, Sec. 1A, Proviso 1A.10	94	Teacher of the Year Awards – Not Subject to South Carolina Income Tax - Reenacted Temporary Proviso
4100, Part IB, Sec. 109, Proviso 109.15	94	Renewable Fuel Credit – Placed in Service Date Extended - New Temporary Proviso
4100, Part IB, Sec. 117, Proviso 117.116	94	Retail Facilities Revitalization Act – Repeal of Act Suspended - Reenacted Temporary Proviso
4100, Part IB, Sec. 118, Proviso 118.10	94	Consumer Protection Services – Individual Income Tax Deduction - Reenacted Temporary Proviso
4100, Part IB, Sec. 118, Proviso 118.21	94	Abandoned Building Tax Credit – Additional Qualifying Site near Large University - New Temporary Proviso

PROPERTY TAXES

BILL #	ACT #	SUBJECT
207, Sec. 1	145	Resident in a Nursing Home or a Community Residential Care Facility – Eligibility for 4% Assessment Ratio - Reminder
207, Sec. 2	145	Low-Income Housing Property Tax Exemption – Amended - Reminder
271, Sec. 1	21	Abandoned Buildings Revitalization Act – Repeal of Act Postponed
271, Sec. 2	21	Textile Rehabilitation Credit – Contiguous Parcel Amendment
527	56	4% Assessment Ratio, Owner-occupied Residential Property – Separated Spouses

545, Sec. 1	147	SCDOR Form PT-100 – Use by County Auditor - Reminder
648, Sec. 5	106	Consolidation of Clarendon County School Districts 2 and 4 – Millage
3354, Sec. 1	68	Renewable Energy Resource Property - New Property Tax Exemption
3354, Sec. 2	68	Low-Income Housing Property Tax Exemption - Amended
3482	69	Installment Tax Payments – Alternative Payment Schedule Allowed
3516, Sec. 19	40	Manufacturing Property – New Partial Exemption - Reminder
3596	173	Agricultural Use Property - Rollback Tax Period Reduced - Reminder
4064, Sec. 1	39	Manufacturing Property - Partial Exemption Amended
4100, Part IB, Sec. 1, Proviso 1.47	94	Index of Taxpaying Ability – Imputed Value for Owner-Occupied Residential Property – Reenacted Temporary Proviso
4100, Part IB, Sec. 92D, Proviso 92D.1	94	Improvements to Property Damaged by Catastrophic Weather Event – Time for Improvements for Eligible Events – Reenacted Temporary Proviso
4100, Part IB, Sec. 109, Proviso 109.11	94	Notification of Protest to Affected County and School District – Reenacted Temporary Proviso
4100, Part IB, Sec. 113, Proviso 113.8	94	Agricultural Use Exemption for Timberland – Impact of Additional County Requirements – Reenacted Temporary Proviso
4100, Part IB, Sec. 117, Proviso 117.37	94	Personal Property Tax Relief Fund – Reenacted Temporary Proviso
4100, Part IB, Sec. 117, Proviso 117.116	94	Retail Facilities Revitalization Act – Repeal of Act Suspended – Reenacted Temporary Proviso
4100, Part IB, Sec. 118, Proviso 118.21	94	Abandoned Building Tax Credit – Additional Qualifying Site near Large University – New Temporary Proviso

SALES and USE TAXES

BILL #	ACT #	SUBJECT
3726	18	“Buydowns” – Excluded from “Gross Proceeds of Sales”
4100, Part IB, Sec. 50, Proviso 50.20	94	Navy Base Intermodal Facility – Distribution Facility Eligibility – Reenacted Temporary Proviso
4100, Part IB, Sec. 109, Proviso 109.12	94	Clothing Used in Perishable Prepared Food Manufacturing Facilities – Reenacted Temporary Proviso
4100, Part IB, Sec. 117, Proviso 117.36	94	Private Schools – Use Tax Exemption – Reenacted Temporary Proviso

4100, Part IB, Sec. 117, Proviso 117.55	94	Respiratory Syncytial Virus Medicines Exemption – Effective Date – Reenacted Temporary Proviso
4100, Part IB, Sec. 117, Proviso 117.59	94	Viscosupplementation Therapies – Sales and Use Tax Suspended – Reenacted Temporary Proviso
4100, Part IB, Sec. 117, Proviso 117.164	94	Agribusiness Facilities – Material Handling and Construction Material Exemptions – New Temporary Proviso

MISCELLANEOUS

BILL #	ACT #	SUBCATEGORY	SUBJECT
		Administrative and Procedural	
609	59		Federal Tax Information – Background Checks
4100, Part IB, Secs. 41 and 117, Provisos 41.2 and 117.83	94		3% Reduction on Interest Rate on Tax Refunds – Reenacted Temporary Proviso
4100, Part IB, Sec. 109, Proviso 109.6	94		Voluntary Website Posting of Tax Return Information for Candidates and Gubernatorial Appointees - Reenacted Temporary Proviso
4100, Part IB, Sec. 109, Proviso 109.17	94		Certain License or Permit Applications – New Electronic Filing Option under Penalties of Perjury – New Temporary Proviso
4100, Part IB, Sec. 109, Proviso 109.18	94		Advance Referendum Notification by Election Commission to SCDOR – New Temporary Proviso
		Miscellaneous Taxes	
3516, Sec. 2	40		Motor Fuel User Fee – Rate Change - Reminder
4100, Part IB, Sec. 1, Proviso 1.14	94		Local Government School Buses – Motor Fuel User Fee Exemption – Reenacted Temporary Proviso
4100, Part IB, Sec. 33, Proviso 33.10	94		Nursing Home Bed Franchise Fee – Suspension – Reenacted Temporary Proviso
4100, Part IB, Sec. 118, Proviso 118.7	94		Admissions Tax Rebate – Motorsports, Tennis, and Soccer Facilities – Reenacted Temporary Proviso

		Other Items	
3516, Sec. 3	40		Motor Carrier Road Tax – Rate Change - Reminder
4431	176		South Carolina Business License Tax Standardization Act – New - Reminder
		Regulatory	
619, Sec. 2	60		Wine Sold at Wineries – New Category of Winery and Increased Alcohol Content
619, Sec. 3	60		Winery Satellite Tasting Rooms
619, Secs. 4 through 8	60		Alcohol Content Restriction for Wines Increased from 16% to 16.5%
619, Sec. 9	60		Alcoholic Liquor Producer or Manufacturer – On Premises Consumption of Alcohol
619, Sec. 10	60		Tours, Tastings, and Retail Sales at Micro-Distilleries and Manufacturers
619, Sec. 11	60		Regulation 7-701 – Mandate to Conform to Act No. 60 of 2021 for Alcohol Content Percentages
4006	81		Brewery Sales for Off-Premises Consumption – Volume Restriction Increase Extended

INCOME TAXES, BANK TAXES, WITHHOLDING, AND CORPORATE LICENSE FEES

House Bill 4017, Sections 1.A. and 2 (Act No. 87)

Internal Revenue Code Conformity (Including Federal CARES Act of 2020 and Consolidated Appropriations Act of 2021)

Internal Revenue Code Conformity:

Conformity Date. Code Section 12-6-40(A)(1)(a) has been amended, except as otherwise provided, to update South Carolina’s income tax laws to conform to the Internal Revenue Code of 1986 through December 31, 2020, and includes the effective date provisions contained therein.

Extension of Federal Expiring Provisions. Code Section 12-6-40(A)(1)(c) provides that if during 2021 the federal government extends, without otherwise amending, any Internal Revenue Code provisions that expired during 2020, then these sections or portions of sections which have been adopted by South Carolina will be extended in the same manner that they are for federal income tax purposes.

Federal Coronavirus Aid, Relief, and Economic Security Act of 2020 (CARES Act) – Provisions Specifically Not Adopted by South Carolina. The following provisions of the CARES Act, Public Law 116-136 (enacted March 27, 2020), are specifically **not** adopted by South Carolina:

1. IRC Section 62(a)(22) relating to the \$300 charitable deduction allowed in 2020 for persons who claim the standard deduction;
2. CARES Act Section 2205(a), (b), and (c) relating to the modification of limitations on individual and corporate cash charitable contributions for 2020 and relating to the increase in limits on charitable contributions of food inventory for 2020;
3. IRC Section 172(a) relating to the modification of income limitations allowed for the use of net operating losses in tax years 2018, 2019, and 2020; and
4. IRC Section 461(l) relating to the modification of the limitation on losses allowed for noncorporate taxpayers in tax years 2018, 2019, and 2020.

Federal “Consolidated Appropriations Act of 2021” – Provisions Specifically Not Adopted by South Carolina. The following provisions of the Consolidated Appropriations Act of 2021, Public Law 116-260 (enacted December 27, 2020), are specifically **not** adopted by South Carolina:

1. Amendment to Division N Section 275 relating to the allowance of personal protective equipment expenses for the educator expense deduction under IRC Section 62(a)(2)(D)(ii);

2. IRC Section 274(n) relating to the temporary allowance of the full business deduction for business meals that are paid or incurred after December 30, 2020, and before January 1, 2023;
3. IRC Section 170(p) relating to the \$300 or \$600 charitable deduction allowed in 2021 for persons taking the standard deduction;
4. Amendment to CARES Act Section 2205 relating to the temporary extension of the modification of limitations on individual and corporate cash charitable contributions and the increase in limits on charitable contributions of food inventory to tax year 2021; and
5. Amendments to the Taxpayer Certainty and Disaster Tax Relief Act of 2020, Public Law 116-260 Division EE Section 304 relating to the special rules for qualified disaster relief for charitable contributions and special rules for qualified disaster-related personal casualty losses.

Effective Date: May 18, 2021

House Bill 4017, Section 1.B. (Act No. 87)

Federal Paycheck Protection Program Loans for Small Businesses due to COVID-19 – SC Tax Treatment of Forgiven Loans and Deduction of Expenses

Code Section 12-6-40(A)(1)(d) has been added to provide that to the extent loans are forgiven and excluded from gross income for federal income tax purposes under the federal paycheck protection program in Section 1102 of the Coronavirus Aid, Relief, and Economic Security Act of 2020 (CARES Act) (Public Law 116-136), or from any extension to the paycheck protection program, these loans are excluded for South Carolina income tax purposes. Further, to the extent the federal government allows the deduction of expenses associated with the forgiven paycheck protection program loans, these expenses will be allowed as a deduction for South Carolina income tax purposes.

Effective Date: May 18, 2021

House Bill 4017, Section 1.B. (Act No. 87)

Tax Treatment of Certain Loan Forgiveness and Emergency Grants in Federal Consolidated Appropriations Act of 2021 – SC Tax Treatment

Code Section 12-6-40(A)(1)(e) has been added to provide that South Carolina adopts the federal tax treatment for any exclusion from federal taxable income or allowance of expenses as provided in the federal Consolidated Appropriations Act of 2021 (Public Law 116-260) in Section 276 (Clarification of Tax Treatment of Forgiveness of Covered Loans), Section 277 (Emergency Financial Aid Grants), and Section 278 (Clarification of Tax Treatment of Certain Loan Forgiveness and Other Business Financial Assistance).

Effective Date: May 18, 2021

House Bill 4017, Section 3 (Act No. 87)

\$10,200 Unemployment Compensation Nontaxable in Tax Year 2020 - Federal American Rescue Plan of 2021 Amendment

Internal Revenue Code Section 85(a) provides that unemployment compensation is included in gross income. For tax year 2020, the Federal American Rescue Plan of 2021, Public Law 117-2 (enacted March 11, 2021), amended IRC Section 85 to exclude \$10,200 of unemployment compensation for a taxpayer with less than \$150,000 of gross income. In an uncodified provision, Act No. 87 provides that for tax year 2020, South Carolina specifically adopts this amendment in the federal American Rescue Plan of 2021.

See SC Information Letter #21-14, “Unemployment Compensation – Partial Exclusion for 2020,” for additional information on the taxation of unemployment compensation for tax year 2020, and SC Information Letter #20-15, “Unemployment Compensation,” for a general overview of the taxability of unemployment compensation in South Carolina and the option to elect withholding or make estimated tax payments.

Effective Date: Tax year 2020

Senate Bill 627 (Act No. 61)

Active Trade or Business Income – New Election for “Qualified Entity” to Report Income and Pay Entity Tax

Effective for tax years beginning in 2006, Code Section 12-6-545 permits individuals, estates, or trusts to use an “optional” income tax rate to compute the tax on “active trade or business income” received from a pass-through business in lieu of the “standard” income tax rate as provided under Code Section 12-6-510. Code Section 12-6-545(B)(2) provides that the reduced income tax rate applicable to active trade or business income is 3%. Code Section 12-6-545(A) defines certain terms, including “active trade or business income or loss” and “pass-through businesses.”

Code Section 12-6-545(G) has been added to allow a “qualified entity” to elect to directly pay its income tax on its active trade or business income at the rate provided in Section 12-6-545(B)(2). Code Section 12-6-545(G)(1)(a) defines “qualified entity” as a partnership or “S” Corporation, including a limited liability company taxed as a partnership or “S” Corporation, where all its owners are qualified owners or partnerships, and, where those partnerships are owned directly or through other partnerships by qualified owners. Code Section 12-6-545(G)(1)(b) defines “qualified owner” as a partner or shareholder of a qualified entity that is an individual, estate, trust, or any other entity except those taxed or exempted from tax pursuant to Code Sections 12-6-530 through 12-6-540 and 12-6-550, and except for any other entity exempt from South Carolina income tax.

In computing South Carolina taxable income, a “qualified owner” excludes active trade or business income from an electing “qualified entity” provided the entity properly filed a South Carolina income tax return and paid the taxes under Code Section 12-6-545 on its active trade or business income.

Active trade or business losses of a qualified owner from other pass-through entities that are reported directly by the owner may not reduce the owner’s tax at a rate higher than 3%.

Other provisions and requirements of Code Section 12-6-545(G) include:

1. The qualified entity makes the entity tax election each year. The election must be made by the due date for filing the applicable income tax return, including any extensions.
2. Code Section 12-8-590, dealing with tax withholding on distributions to nonresident shareholders of “S” Corporations and nonresident partners, does not apply to electing qualified entities to the extent the electing entities pay the tax on their active trade or business income.
3. An electing qualified entity is required to submit estimated tax payments pursuant to Code Section 12-6-3910 for tax years beginning after 2021.
4. If the electing entity fails to pay the amount owed to the Department with respect to the income as a result of the election, the Department may collect the amount from the electing entity or its direct or indirect owners based upon their proportionate share of the income, or both.
5. The basis of both resident and nonresident shareholders of a qualified “S” Corporation in their stock of the S Corporation, and the basis of a qualified partnership, is determined as if the election under Code Section 12-6-545(G) had not been made and each owner had properly taken into account each shareholder’s or partner’s pro rata share of the entity’s items of income, loss, and deduction in the manner required if no election was in effect.
6. Active trade or business income is apportioned by pass through entities pursuant to Code Section 12-6-2240, and none of it shall be treated as income from personal services that is allocated pursuant to Code Section 12-6-2220(6).

See SC Revenue Ruling #08-2, “Tax Rate Reduction on Active Trade or Business Income from a Pass-Through Business,” for additional information on Code Section 12-6-545(A) – (F).

Effective Date: Applies to tax years beginning after 2020.

Senate Bill 677 (Act No. 63)

Partnership Allocation of Credit - Historic Rehabilitation Credit, South Carolina Housing Tax Credit, and Textile Mill Rehabilitation Credit

Code Section 12-2-100 provides for the time frame for use of tax credits administered by the Department and refunds of tax credits.

Code Section 12-2-100(B) has been added to address allocations of the historic rehabilitation credit in Code Section 12-6-3535, the South Carolina housing tax credit in Code Section 12-6-3795, and the textile mill rehabilitation credit in Code Section 12-65-10.

Code Section 12-2-100(B) provides that to the extent a partnership or a limited liability company taxed as a partnership earns a historic rehabilitation credit, South Carolina housing tax credit, or textile mill rehabilitation credit, the credit, including any unused credit amount carried forward, may be passed through to the partners or members and may be allocated among any of its partners or members on an annual basis. This includes, without limitation, an allocation of the entire credit or unused credit carryforward to any partner or member who was a partner or member at any time in the year in which the credit or unused carryforward was allocated. Additionally, the allocation must be allowed without regard to any provision of the Internal Revenue Code, or regulation promulgated pursuant to it, that may be interpreted as contrary to the allocation, including and without limitation, the treatment of the allocation as a disguised sale.

Effective Date: Applies to a qualified project in service after January 1, 2020, but before December 31, 2030, provided that the qualified project is issued an eligibility statement after May 14, 2020.

Senate Bill 271, Section 1 (Act No. 21)

Abandoned Buildings Revitalization Act – Repeal of Act Postponed

The South Carolina Abandoned Buildings Revitalization Act (“Act”), Title 12, Chapter 67, provides qualifying taxpayers a credit against either income taxes or property taxes for rehabilitating an abandoned building in South Carolina.

Act No. 57 of 2013 contained a repeal provision stating that the Act would be repealed on December 31, 2019. Act No. 265 of 2018 postponed the termination of Act No. 57 until December 31, 2021. Act No. 21 of 2021 further postpones the termination of Act No. 57 from December 31, 2021 to December 31, 2025.

Effective Date: April 26, 2021

Senate Bill 463 (Act No. 53)

Geothermal Machinery and Equipment Credit – Repeal of Credit Extended

Code Section 12-6-3587 provides an income tax credit for costs incurred by a taxpayer in the purchase and installation of a solar energy system, small hydropower system, or geothermal machinery and equipment for heating water, space heating, air cooling, energy-efficient daylighting, heat reclamation, energy-efficient demand response, or the generation of electricity in or on a facility in South Carolina owned by the taxpayer. The credit for qualifying geothermal machinery and equipment was to be repealed on January 1, 2022. Act No. 53 postpones the repeal of the geothermal machinery and equipment credit until January 1, 2032.

Effective Date: May 17, 2021

House Bill 4100, Part IB, Section 118, Proviso 118.21 (Act No. 94)

Abandoned Building Tax Credit – Additional Qualifying Site near Large University

The Abandoned Building Revitalization Act of 2013 was enacted in Title 12, Chapter 67 to create an incentive for the rehabilitation, renovation, and redevelopment of abandoned buildings located in South Carolina. A taxpayer who rehabilitates an abandoned building, incurs a minimum \$75,000 to \$250,000 of rehabilitation expenses at each building site based on the building's location, and meets the other Act requirements, is eligible for either a credit against income taxes, bank taxes, savings and loan taxes, corporate license fee, or any combination of these taxes, or a credit against real property taxes.

This temporary proviso provides that for the income tax year that begins in the current fiscal year (July 1, 2021 through June 30, 2022), rehabilitation expenses made at a property that is located within half a mile of a public university with an enrollment of at least 30,000 students in a business district that has a commercial vacancy rate of at least 10%, qualify for the abandoned building revitalization tax credit if the building has been unoccupied for at least one year at the time of the filing of notice of intent to rehabilitate, and the estimated rehabilitation expenses exceed \$25 million, with respect to the entire abandoned building, without regard to any subdivision of the abandoned building into separate units or parcels.

To qualify under this provision, a notice of intent to rehabilitate for the abandoned building site must be filed during the current fiscal year, and the municipality or county in which the building site is located must certify the building site pursuant to Code Section 12-67-160(A), making any appropriate adjustments to the certification to be consistent with this proviso. Except as provided in this temporary proviso, the other Act requirements remain unchanged.

Effective Date: This temporary proviso is effective for State fiscal year July 1, 2021 through June 30, 2022. It will expire June 30, 2022, unless reenacted by the General Assembly in the next legislative session.

Senate Bill 271, Section 2 (Act No. 21)

Textile Rehabilitation Credit – Contiguous Parcel Amendment

The “South Carolina Textiles Communities Revitalization Act” (Chapter 65, Title 12) provides qualifying taxpayers a credit against either income taxes or real property taxes for the rehabilitation of an abandoned “textile mill site” in South Carolina.

Code Section 12-65-20(4)(a) contains a general definition of “textile mill site.” In addition, Code Section 12-65-20(4)(b) contains a definition of “textile mill site” for (a) sites acquired before January 1, 2008; (b) a site located on the Catawba River near Interstate 77; or (c) a site which on the date the notice of intent to rehabilitate is filed, is located in an area of the county designated as distressed by the applicable council of government. For such sites, the term “textile mill site” means the textile mill structure, together with all land and improvements which were used directly for textile manufacturing operations or ancillary uses, or were located on the same parcel or a contiguous parcel within 1000 feet of any textile mill structure or ancillary uses.

Act No. 21 amends Code Section 12-65-20(4)(b) to define a “contiguous parcel” of the textile mill site as any separate tax parcel sharing a common boundary with an adjacent parcel or separated only by private or public roads and railroad rights of way. Prior to this amendment, “railroad rights of way” were not included in the definition.

Effective Date: Applies to tax years beginning after 2020.

House Bill 3899, Section 2.B. (Act No. 79)

Credit for Contributions to the “Educational Credit for Exceptional Needs Children’s Fund” – Increase in Annual Credit Allowed and New Carryforward Provision

Code Section 12-6-3790(D)(2)(b), providing a nonrefundable credit for the amount of cash and the monetary value of any publicly traded securities a taxpayer contributes to the Exceptional Needs Children’s Fund (a public charity), has been amended. The credit may now be used to offset 75% of a taxpayer’s total income tax or bank tax liability for the tax year the contribution is made and any unused credit may be carried forward three tax years after the tax year in which the qualified contribution is first eligible to be claimed. Prior to this amendment, the credit was 60% of the taxpayer’s total tax liability and there was no carryforward.

See SC Revenue Ruling #21-4, “Impact of Treasury Regulations on Charitable Contribution Deduction and State Tax Credits” for additional guidance for a corporate and an individual South Carolina taxpayer receiving a state income tax credit.

Effective Date: May 17, 2021

House Bill 3899, Sections 2.A. and 4 (Act No. 79)

Educational Credit for Exceptional Needs Children’s Fund – Funding Amendments

Code Section 12-6-3790 created the “Educational Credit for Exceptional Needs Children’s Fund,” a public charity. Monies received in the Fund must be used to provide scholarships to exceptional needs children attending eligible schools. Code Sections 12-6-3790(H)(1) and (I) provide a nonrefundable credit for contributions to the Fund and Code Section 12-6-3790(H)(2) provides a refundable credit for tuition payments made by parents and guardians to an eligible independent school for their exceptional needs child to attend the school.

Code Section 12-6-3790(D)(1) provides that the total authorized nonrefundable credits available for contributions to the Fund may not exceed \$12 million annually and the total refundable tax credits for tuition payments may not exceed \$2 million, unless an increased limit is authorized by the General Assembly. If the total of all the credits claimed by all taxpayers exceed either limit amount, the Department may allow the total authorized credits on a first-come, first-served basis.

Act No. 79 amends Code Sections 12-6-3790(D)(1) and (D)(2) to provide funding flexibility. Specifically, for the \$12 million nonrefundable credit, the Fund may now carry over into the next year up to \$5 million of donations to provide credits in the next year. The amount carried forward, however, does not increase the \$12 million annual authorized amount. Further, if \$12 million of nonrefundable credits are not authorized in the year, then up to \$3 million may be shifted to increase the \$2 million refundable credit authorized amount to up to \$5 million in the year. However, only \$14 million of tax credits may be authorized as a result of shifting monies between the authorized credits.

Effective Date: May 17, 2021

Senate Bill 436 (Act No. 83)

Community Development Credits – Increase in Credit Limits for Tax Years 2021 and Thereafter

Code Section 12-6-3530 provides a credit against income taxes, bank taxes, or insurance premium taxes to taxpayers who make equity investments in, or cash donations to, a certified community development corporation or community development financial institution as defined in Code Sections 34-43-20(2) and (3). Taxpayers must apply for these tax credits, and the South Carolina Department of Commerce must authorize the tax credits on a first-come, first-served basis. Qualifying taxpayers are issued a certificate by the Department of Commerce.

Code Section 12-6-3530(B) contains a limit on the total amount of credits allowed for all taxpayers for all years (\$6 million), and an annual limit of up to \$1 million in tax credits for all taxpayers in a single year. Act No. 83 increases the aggregate limit for credits for all taxpayers for all years by \$3 million.

Of the additional \$3 million, \$1 million may be used for credits earned and certificates issued in tax year 2021, and the remaining \$2 million may only be used for credits earned and certificates issued for tax years beginning after 2021. Unless reauthorized by the General Assembly, Code Section 12-6-3530 is repealed on June 30, 2023.

Effective Date: May 18, 2021

House Bill 4100, Part IB, Section 109, Proviso 109.15 (Act No. 94)

Renewable Fuel Credit – Placed in Service Date Extended

Code Section 12-6-3610(A) provides an income tax credit equal to 25% of the cost to the taxpayer of purchasing, constructing, and installing property used for distribution or dispensing renewable fuel. Code Section 12-6-3610(B) provides an income tax credit equal to 25% of the cost to the taxpayer of constructing or renovating a building and equipping the facility for the purpose of producing renewable fuel. Code Section 12-6-3610(D) provides that the taxpayer must place the property or facility in service prior to January 1, 2020.

This temporary proviso extends the date the taxpayer must place property or facility into service that is used for distribution or dispensing renewable fuel until January 1, 2022.

Effective Date: This temporary proviso is effective for State fiscal year July 1, 2021 through June 30, 2022. It will expire June 30, 2022, unless reenacted by the General Assembly in the next legislative session.

REENACTED TEMPORARY PROVISOS

The following temporary provisos were enacted in a prior legislative session and were reenacted by the General Assembly in 2021. Temporary provisos are effective for the State fiscal year July 1, 2021 through June 30, 2022, and will expire June 30, 2022, unless reenacted by the General Assembly in the next legislative session.

House Bill 4100, Part IB, Section 118, Proviso 118.10 (Act No. 94)

Consumer Protection Services – Individual Income Tax Deduction

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

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

House Bill 4100, Part IB, Section 1A, Proviso 1A.9 (Act No. 94)

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

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

This proviso also provides that any classroom teacher, including a classroom teacher at a South Carolina private school, not eligible for the teacher supply reimbursement described above, may claim a refundable income tax credit on his 2021 tax return. The credit is the lesser of \$275 or the amount spent on teacher supplies and materials. The return or amended return claiming the credit must be filed on or before June 30, 2022, and may include expenses incurred after December 31, 2021. Note: Any person who receives the reimbursement provided by this proviso is not eligible for the income tax credit allowed by this proviso.

House Bill 4100, Part IB, Section 1A, Proviso 1A.10 (Act No. 94)

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

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

House Bill 4100, Part IB, Section 117, Proviso 117.116 (Act No. 94)

Retail Facilities Revitalization Act – Repeal of Act Suspended

The South Carolina Retail Facilities Revitalization Act (Title 6, Chapter 34) was enacted in 2006 (Act No. 285) to create an incentive for the renovation, improvement, and redevelopment of abandoned retail facility sites in South Carolina. A taxpayer who renovates, improves, or

redevelops an abandoned retail facility at an eligible site may elect to take either an income tax credit or a property tax credit. Act No. 285 of 2006 contained a repeal provision stating that the Act is repealed on July 1, 2016.

Under this temporary proviso, the repeal of the South Carolina Retail Facilities Revitalization Act as to sites for which written notification of election of mode of credit has been provided to the Department prior to July 1, 2016, and for which a building permit has been issued prior to July 1, 2016, is suspended for fiscal year 2021 - 2022.

REMINDERS

The following provisions were enacted prior to 2021 but are being phased in or are effective in 2021 and thereafter. The provisions are summarized below for informational purposes.

House Bill 3516, Section 15 (Act No. 40 of 2017)

Motor Fuel User Fee Credit – New Refundable Credit

Code Section 12-6-3780 has been added to allow a resident taxpayer a refundable income tax credit for preventative maintenance costs associated with a private passenger motor vehicle or motorcycle registered in South Carolina during the year, subject to certain limitations.

The credit is the lesser of: (1) the resident taxpayer’s preventative maintenance expenses; or (2) the resident taxpayer’s actual motor fuel user fee increase incurred for that motor vehicle as a result of increases in the motor fuel user fee pursuant to Code Section 12-28-310(D).

Other credit requirements and provisions include:

1. A resident taxpayer may claim the credit for up to two private passenger motor vehicles. The credit is calculated separately for each vehicle.
2. The credit must be claimed on the resident taxpayer’s income tax return.
3. The Department may require any documentation it deems necessary to implement the provisions of this section.
4. A maximum aggregate amount of credit is available per tax year as follows:

Tax Year	Total Credit Allowed for All Taxpayers
2018	\$40 million
2019	\$65 million
2020	\$85 million
2021	\$110 million
2022 and thereafter, if reauthorized	\$114 million

If the Revenue and Fiscal Affairs Office estimates that the total amount of credits claimed will exceed the maximum amount of aggregate credit allowed, it shall certify to the Department a pro rata adjustment to the credit otherwise provided.

For purposes of this credit, “private passenger motor vehicle,” “motor fuel expenditures,” and “preventative maintenance” are defined as follows:

1. “Private passenger motor vehicle” is defined in Code Section 56-3-630. Code Section 56-3-630 provides, in part, that a private passenger motor vehicle is a motor vehicle designed, used, and maintained for the transportation of ten or fewer persons and trucks having an empty weight of 9,000 pounds or less and a gross weight of 11,000 pounds or less.
2. “Motor fuel expenditures” are purchases of motor fuel within South Carolina to which the motor fuel user fee imposed pursuant to Code Section 12-28-310(D) applies.
3. “Preventative maintenance” includes costs incurred within South Carolina for new tires, oil changes, regular vehicle maintenance, and the like.

Expiration of Credit: Unless reauthorized by the General Assembly, the credit may not be claimed for any tax year beginning after 2022.

Additional Information: See SC Revenue Ruling #17-6 for more information regarding the credit.

Effective Date: Tax years beginning after 2017.

House Bill 3516, Section 16 (Act No. 40 of 2017)

South Carolina Earned Income Credit – New Credit

Code Section 12-6-3632 has been added to provide a full-year resident individual a nonrefundable South Carolina earned income tax credit. The credit is equal to 125% of the federal earned income tax credit allowed the taxpayer under Internal Revenue Code Section 32.

The credit will be phased in over six years in equal installments of 20.83% beginning in 2018 as follows:

Tax Year	Credit Amount
2018	20.83% of federal earned income credit
2019	41.67% of federal earned income credit
2020	62.5% of federal earned income credit
2021	83.33% of federal earned income credit
2022	104.17% of federal earned income credit
2023 and thereafter	125% of federal earned income credit

Effective Date: Tax years beginning after 2017.

House Bill 3516, Section 17 (Act No. 40 of 2017)

Two-Wage Earner Credit – Credit Increased

Code Section 12-6-3330, providing a two-wage earner income tax credit for married individuals filing a joint return when both spouses have South Carolina earned income, has been amended to increase the maximum credit available from \$210 to \$350. Prior to this amendment, the credit was limited to 0.7% of the lesser of \$30,000 or the South Carolina qualified earned income of the spouse with the lower South Carolina qualified earned income for the tax year.

The amendment increases the \$30,000 threshold to \$50,000. It is phased in over six years in equal installments of \$3,333 each tax year as follows:

Tax Year	A	B	Maximum Credit (Columns A x B)
	Earned Income Maximum Threshold	Factor	
2018	\$33,333	0.7%	\$233
2019	\$36,667	0.7%	\$257
2020	\$40,000	0.7%	\$280
2021	\$43,333	0.7%	\$303
2022	\$46,667	0.7%	\$327
2023 and thereafter	\$50,000	0.7%	\$350

Effective Date: Tax years beginning after 2017.

Senate Bill 1043, Section 6.A (Act No. 265 of 2018)

Increase in Purchases of South Carolina Agricultural Products – New Credit

Code Section 12-6-3378 has been added to provide a credit against income tax or withholding tax for eligible taxpayers who increase their purchases of agricultural products certified by the South Carolina Department of Agriculture as South Carolina grown.

Credit Amount. The amount of credit for each taxpayer is determined by the Coordinating Council for Economic Development (“Council”) at the Department of Commerce, but cannot exceed \$100,000 per taxpayer in any tax year. The Council has sole discretion in allocating the credits and must consider certain criteria provided in the statute in awarding credits. The credit may be allocated on a monthly, quarterly, or annual basis. The maximum amount of tax credits

allowed to all qualifying taxpayers for each calendar year from 2018 to 2027 is listed below:

Calendar Year	Total Credit Allowed for All Taxpayers
2018	\$500,000
2019	\$1,000,000
2020	\$1,500,000
2021 through 2027	\$2,000,000

Credit Duration. The tax credit is available for tax years 2018 through 2027.

Effective Date: Tax years beginning after 2017.

Senate Bill 314 (Act No. 45 of 2019)

Service as Preceptor for Clinical Rotations – New Credit and New Deduction

Overview. Code Section 12-6-3800 has been added to provide an income tax credit for eligible physicians, advanced practice registered nurses, or physician assistants who serve as a preceptor for qualifying clinical rotations required by a medical school, physician assistant program, or advanced practice nursing program. Code Section 12-6-1140(14) has been added to provide a deduction for additional rotations after the taxpayer has reached the credit maximum. Below is a summary of the credit and the deduction.

A. Preceptor Credit

Credit for Physician Preceptors. Code Section 12-6-3800(B) provides a credit for each clinical rotation a physician serves as preceptor for a qualifying medical school-required clinical rotation, advanced practice nursing program-required clinical rotation, or physician assistant program-required clinical rotation. The credit amount is as follows:

1. If at least 50% of the physician’s practice consists of a combined total of Medicaid insured, Medicare insured, and self-pay patients, then the credit is equal to \$1,000 for each rotation served, not to exceed \$4,000 a year.
2. If at least 30% of the physician’s practice consists of a combined total of Medicaid insured, Medicare insured, and self-pay patients, then the credit is equal to \$750 for each rotation served, not to exceed \$3,000 a year.

Credit for Advanced Practice Registered Nurse and Physician Assistant Preceptors. Code Section 12-6-3800(C) provides a credit for each clinical rotation an advanced practice registered nurse or physician assistant serves as preceptor for a qualifying advanced practice nursing program-required clinical rotation or physician assistant program-required clinical rotation. The credit amount is as follows:

1. If at least 50% of the advanced practice registered nurse’s or physician assistant’s practice consists of a combined total of Medicaid insured, Medicare insured, and self-pay patients, then the credit is equal to \$750 for each rotation served, not to exceed \$3,000 a year.
2. If at least 30% of the advanced practice registered nurse’s or physician assistant’s practice consists of a combined total of Medicaid insured, Medicare insured, and self-pay patients, then the credit is equal to \$500 for each rotation served, not to exceed \$2,000 a year.

Phase In. The credit is phased in over five years in equal and cumulative installments beginning in tax year 2020. The phased-in credit amounts are provided below and reflect completion of the maximum of four allowed rotations during the year.

Eligible Taxpayer: Physician Preceptor				
Tax Year	If 50% or More of Practice is Medicaid, Medicare, and Self Pay:		If 30% or More of Practice is Medicaid, Medicare, and Self Pay:	
	Credit Per Rotation (x)	Maximum Credit Per Year (4x)	Credit Per Rotation (x)	Maximum Credit Per Year (4x)
	2020	\$200	\$800	\$150
2021	\$400	\$1,600	\$300	\$1,200
2022	\$600	\$2,400	\$450	\$1,800
2023	\$800	\$3,200	\$600	\$2,400
2024	\$1,000	\$4,000	\$750	\$3,000
2025	\$1,000	\$4,000	\$750	\$3,000
2026	Credit Repealed			

Eligible Taxpayer: Advanced Practice Registered Nurse or Physician Assistant Preceptor				
Tax Year	If 50% or More of Practice is Medicaid, Medicare, and Self Pay:		If 30% or More of Practice is Medicaid, Medicare, and Self Pay:	
	Credit Per Rotation (x)	Maximum Credit Per Year (4x)	Credit Per Rotation (x)	Maximum Credit Per Year (4x)
	2020	\$150	\$600	\$100
2021	\$300	\$1,200	\$200	\$800
2022	\$450	\$1,800	\$300	\$1,200
2023	\$600	\$2,400	\$400	\$1,600
2024	\$750	\$3,000	\$500	\$2,000
2025	\$750	\$3,000	\$500	\$2,000
2026	Credit Repealed			

Credit Limit and Carryforward. Credits are considered to be earned in the tax year in which the rotation is served. The taxpayer may claim 50% of the credit in the tax year the credit is earned and 50% the following tax year. The credit claimed in a tax year may not exceed 50% of the taxpayer’s remaining tax liability after all other credits have been applied. Any unused credit may be carried forward to the following year, except that a carryforward may not be used for a

tax year that begins more than 10 years from the year the credit was earned. Code Section 12-6-3800(D).

B. Deduction Allowed for Taxpayers Who Maximize the Credit

If a taxpayer earns the maximum annual credit amount allowed by Code Section 12-6-3800(B) or (C), and the taxpayer serves as preceptor for additional rotations that otherwise would have qualified for the credit, then the taxpayer may claim a deduction in an amount equal to the amount that the credit would have equaled. The taxpayer may earn this deduction up to six times a tax year. The deduction is also subject to phase in. Code Section 12-6-1140(14) has been added to provide for this deduction.

C. Other Requirements and Limitations of the Credit and Deduction

Other requirements and limitations include:

1. A preceptor must provide a minimum of two program-required clinical rotations within a calendar year.
2. The preceptor cannot be otherwise compensated for serving as a preceptor.
3. The credit and deduction are not cumulative and may not be combined.

D. Definitions

“Preceptor” means a physician, advanced practice nurse practitioner, or physician assistant who provides supervision and instruction during student clinical training experiences, is otherwise not compensated for doing so, and provides a minimum of two required clinical rotations within a calendar year. Code Section 12-6-3800(A)(3). Definitions are also provided for: “independent institution of higher learning,” “medical school-required clinical rotation,” “physician assistant program-required clinical rotation,” and “advanced practice nursing program-required clinical rotation.”

E. Reporting by Department

By March 31 of each year the credit is allowed, the Department is required to report to the Senate Finance Committee, the House of Representatives Ways and Means Committee, and the Governor the number of taxpayers claiming the credit, the total amount of credits allowed, and the number of hours that the recipient taxpayers served as preceptors. Code Section 12-6-3800(F).

See SC Revenue Ruling #20-2 for more information regarding the credit and deduction.

Repeal Date: January 1, 2026

Effective Date: Applies to tax years 2020 through 2025.

Senate Bill 76, Section 1 (Act No. 138 of 2020)

Energy Efficient Manufactured Home – Credit Extended

Code Section 48-52-870 was enacted in 2008 (Act No. 354) to provide a \$750 nonrefundable income tax credit to any person who purchases from a retail dealership licensed by the South Carolina Manufactured Housing Board for use in South Carolina a manufactured home designated by the United States Environmental Protection Agency and the United States Department of Energy as meeting or exceeding each agency’s energy saving efficiency requirements or designated as meeting or exceeding such requirements under each agency’s ENERGY STAR program. The income tax credit was effective from July 1, 2009 through July 1, 2019. Act No. 91 of 2019 extended the credit for purchases of qualifying manufactured homes through June 30, 2020.

This Act extends the income tax credit for purchases of qualifying manufactured homes through July 1, 2024.

Effective Date: May 26, 2020

House Bill 3595 (Act No. 15 of 2019)

Industry Partnership Fund Credit – Credit Amounts Amended

Code Section 12-6-3585 allows a taxpayer to claim a credit against income taxes, bank taxes, license fees, insurance premium taxes, or any combination, for contributions made to the Industry Partnership Fund (“Fund”) at the South Carolina Research Authority (“SCRA”) or an SCRA-designated affiliate, or both, pursuant to Code Section 13-17-88(E).

Code Section 12-6-3585(A) has been amended to change the credit amounts for contributions to the Fund, or an SCRA-designated affiliate, or both, to \$250,000 for a single taxpayer, not to exceed an aggregate credit of \$9 million for all taxpayers. Prior to this amendment, the limit for a single taxpayer was \$2 million, and the aggregate limit for all taxpayers was \$6 million. The \$9 million annual aggregate credit amount is phased in over three years beginning with tax year 2019 as follows.

Tax Year Beginning In	Annual Credit Allowed for a Single Taxpayer	Annual Total Credit Allowed for All Taxpayers
2019	\$250,000	\$7 million
2020	\$250,000	\$8 million
2021	\$250,000	\$9 million

Code Section 12-6-3585(E), which defines “taxpayer,” was amended to provide that any member of the SCRA board of trustees or the SC Launch!, Inc. board of directors may not claim the credit.

Code Section 12-6-3585(F) has been amended to provide that a taxpayer who is certified by the SCRA as having priority entitlement to the credit for an applicable year must make a commitment satisfactory to SCRA, at such time as SCRA may deem appropriate, but not later than April 1 of such year, to make the contribution during such year.

Effective Date: Applies to tax years beginning after 2018, except that the amendment to Code Section 12-6-3585(F) takes effect January 1, 2020.

PROPERTY TAXES

House Bill 3482 (Act No. 69)

Installment Tax Payments – Alternative Payment Schedule Allowed

Code Section 12-45-75(A), allows a county, through ordinance, to provide for the payment of ad valorem property taxes in installments. A taxpayer electing to pay in installments must provide the county treasurer with written notice of that decision within a certain time frame or the taxpayer must pay the property taxes in the same manner as the taxes were paid in the previous taxable year. Under Code Section 12-45-75(B)(1), an electing taxpayer must make the installment payments on specified dates with a certain portion of taxes due on each of those dates.

Code Section 12-45-75(B)(2) has been added to allow a county's authorizing ordinance to provide the treasurer, tax collector, or other official charged with the collection of property taxes in a county with discretion in the scheduling and collection of installment payments from taxpayers as well as in the application process included in Code Section 12-45-75(A).

Effective Date: May 17, 2021

Senate Bill 527 (Act No. 56)

4% Assessment Ratio, Owner-occupied Residential Property – Separated Spouses

Code Section 12-43-220(c) allows for a 4% special property tax assessment ratio on owner-occupied residential property if the owner makes a timely application, the property is occupied by the owner of the residence, and the property is not rented in excess of 72 days. Under Code Section 12-43-220(c)(2)(ii)(B), in order to qualify for the 4% assessment ratio, the owner-occupant is required to certify "that neither I, nor a member of my household, claim the special assessment ratio allowed by this section on another residence." The following changes have been made to address owner-occupants and separated spouses for purposes of the required certification.

1. The definition of "a member of my household" has been revised to include the owner-occupant's spouse, except when that spouse has filed a complaint for separate support and maintenance with the appropriate family court, lives separate and apart in a different residence, and no longer cohabitates as husband and wife with the owner-occupant. Previously, the definition provided that "a member of any household" included an owner-occupant's spouse, unless the spouses were legally separated. The provision in the definition of "a member of my household" relating to dependent children has not been changed. Code Section 12-43-220(c)(2)(iii)(A).
2. To prove that a person is divorced or has filed a complaint for separate support and maintenance, an applicant for the 4% assessment ratio shall provide to the assessor a filed

and stamped copy of the caption page of the action, the first page of the pleadings, or a filed and stamped copy of the order. Language in the order related to the disposition of the legal residence, or other owner-occupied real property owned by either party, whether independently or jointly, must be provided to the assessor in order to claim the 4% assessment ratio. Code Section 12-43-220(c)(2)(iii)(B)(b).

3. If spouses who have been living apart subsequently reconcile, the spouse vacating a residence receiving the 4% assessment ratio shall notify the county assessor within six months of vacating that residence that it is no longer eligible for the 4% assessment ratio. Failure to provide timely notice subjects the owner to the existing penalty provisions of the statute. Code Section 12-43-220(c)(2)(iii)(B)(a).
4. An owner-occupant who has filed a complaint for separate support and maintenance, and otherwise meets the requirements for the 4% assessment ratio, must reapply and recertify annually on his or her independent, owner-occupied property until granted a divorce by a court of competent jurisdiction, or until reconciled with their spouse. Code Section 12-43-220(c)(2)(x).

Effective Date: May 17, 2021

House Bill 3354, Section 1 (Act No. 68)

Renewable Energy Resource Property - New Property Tax Exemption

Code Section 12-37-220(B)(53) has been added to exempt from ad valorem property taxes renewable energy resource property having a nameplate capacity of and operating at no greater than twenty kilowatts as measured in alternating current.

Code Section 58-40-10 provides that renewable energy resource property means solar photovoltaic and solar thermal resources, wind resources, hydroelectric resources, geothermal resources, tidal and wave energy resources, recycling resources, hydrogen fuel derived from renewable resources, combined heat and power derived from renewable resources, and biomass resources. It also includes, but is not limited to, all components that enhance the operational characteristics of the generating equipment, such as an advanced inverter or battery storage device, and equipment required to meet certain applicable safety, performance, interconnection, and reliability standards.

Effective Date: Property tax years beginning after 2020.

House Bill 3354, Section 2 (Act No. 68)

Low-Income Housing Property Tax Exemption - Amended

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

Prior to amendment, Code Section 12-37-220(B)(11)(e) provided that the property of nonprofit housing corporations or their instrumentalities included all leasehold interests in and improvements to property owned by an entity providing low income housing and in which a wholly owned affiliate or instrumentality of a nonprofit housing corporation is the general partner, managing member, or the equivalent. Act No. 68 removes from the property of a nonprofit housing corporation or their instrumentalities the provision for “improvements to” property.

Effective Date: Property tax years beginning after 2020.

House Bill 4064, Section 1 (Act No. 39)

Manufacturing Property - Partial Exemption Amended

Code Section 12-37-220(B)(52) exempts from ad valorem property taxes 14.2857% of the property tax value of manufacturing property assessed pursuant to Code Section 12-43-220(a)(1). The exemption is being phased-in over six years beginning in property tax year 2018. Code Section 12-37-220(B)(52) has been amended to clarify that the exemption does not apply to property owned or leased by a public utility as defined by Code Section 58-3-5 and regulated by the Public Service Commission, regardless of whether the property is used for manufacturing.

Code Section 58-3-5(6) defines a “public utility” as follows:

“Public utility” means public utility as defined in Section 58-5-10 [relating to persons delivering natural gas through pipeline or persons supplying a) heat (other than by means of electricity), b) water, c) sewerage collection, d) sewerage disposal, or e) street railway service, to the public for compensation], telephone utility as defined in Section 58-9-10, government-owned telecommunications service provider as defined in Section 58-9-2610, radio common carrier as defined in Section 58-11-10, carriers governed by Chapter 13 of Title 58, railroads and railways as defined in Section 58-17-10, motor vehicle carrier as defined in Section 58-23-10, or electrical utility as defined in Section 58-27-10.

To the extent any monies are refunded or credited to a public utility under this exemption provision, any refunds or credits must flow through to the customers of the public utility as a reduction in rates, as appropriate.

Effective Date: Property tax years beginning after 2020.

Senate Bill 271, Section 1 (Act No. 21)

Abandoned Buildings Revitalization Act – Repeal of Act Postponed

The South Carolina Abandoned Buildings Revitalization Act (“Act”), Title 12, Chapter 67, provides qualifying taxpayers a credit against either property taxes or income taxes for rehabilitating an abandoned building in South Carolina.

Act No. 57 of 2013 contained a repeal provision stating that the Act would be repealed on December 31, 2019. Act No. 265 of 2018 postponed the termination of Act No. 57 until December 31, 2021. Act No. 21 of 2021 further postpones the termination of Act No. 57 from December 31, 2021 to December 31, 2025.

Effective Date: April 26, 2021

House Bill 4100, Part IB, Section 118, Proviso 118.21 (Act No. 94)

Abandoned Building Tax Credit – Additional Qualifying Site near Large University

The Abandoned Building Revitalization Act of 2013 was enacted in Title 12, Chapter 67 to create an incentive for the rehabilitation, renovation, and redevelopment of abandoned buildings located in South Carolina. A taxpayer who rehabilitates an abandoned building, incurs a minimum \$75,000 to \$250,000 of rehabilitation expenses at each building site based on the building’s location, and meets the other Act requirements, is eligible for either a credit against income taxes, bank taxes, savings and loan taxes, corporate license fee, or any combination of these taxes, or a credit against real property taxes.

This temporary proviso provides that for the income tax year that begins in the current fiscal year (July 1, 2021 through June 30, 2022), rehabilitation expenses made at a property that is located within half a mile of a public university with an enrollment of at least 30,000 students in a business district that has a commercial vacancy rate of at least 10%, qualify for the abandoned building revitalization tax credit if the building has been unoccupied for at least one year at the time of the filing of notice of intent to rehabilitate, and the estimated rehabilitation expenses exceed \$25 million, with respect to the entire abandoned building, without regard to any subdivision of the abandoned building into separate units or parcels.

To qualify under this provision, a notice of intent to rehabilitate for the abandoned building site must be filed during the current fiscal year, and the municipality or county in which the building

site is located must certify the building site pursuant to Code Section 12-67-160(A), making any appropriate adjustments to the certification to be consistent with this proviso. Except as provided in this temporary proviso, the other Act requirements remain unchanged.

Effective Date: This temporary proviso is effective for State fiscal year July 1, 2021 through June 30, 2022. It will expire June 30, 2022, unless reenacted by the General Assembly in the next legislative session.

Senate Bill 271, Section 2 (Act No. 21)

Textile Rehabilitation Credit – Contiguous Parcel Amendment

The “South Carolina Textiles Communities Revitalization Act” (Chapter 65, Title 12) provides qualifying taxpayers a credit against either real property taxes or income taxes for the rehabilitation of an abandoned “textile mill site” in South Carolina.

Code Section 12-65-20(4)(a) contains a general definition of “textile mill site.” In addition, Code Section 12-65-20(4)(b) contains a definition of “textile mill site” for (a) sites acquired before January 1, 2008; (b) a site located on the Catawba River near Interstate 77; or (c) a site which on the date the notice of intent to rehabilitate is filed, is located in an area of the county designated as distressed by the applicable council of government. For such sites, the term “textile mill site” means the textile mill structure, together with all land and improvements which were used directly for textile manufacturing operations or ancillary uses, or were located on the same parcel or a contiguous parcel within 1000 feet of any textile mill structure or ancillary uses.

Act No. 21 amends Code Section 12-65-20(4)(b) to define a “contiguous parcel” of the textile mill site as any separate tax parcel sharing a common boundary with an adjacent parcel or separated only by private or public roads and railroad rights of way. Prior to this amendment, “railroad rights of way” were not included in the definition.

Effective Date: Applies to tax years beginning after 2020.

Senate Bill 648, Section 5 (Act No. 106)

Consolidation of Clarendon County School Districts 2 and 4 – Millage

Effective July 1, 2022, Clarendon County School District 2 and Clarendon County School District 4 are abolished. The powers and duties of the two school districts’ respective boards of trustees will devolve on the board of trustees of a consolidated school district to be known as Clarendon County School District.

For purposes of determining the 2022 property tax millage levy of the new Clarendon County School District, the millage levy will be determined and calculated by the Department of Revenue based on the 2021 levy of Clarendon County School Districts 2 and 4 and the value of a

mill in each district. The millage levy for 2023 must be the millage levy for the previous year. The allowed millage levy for 2022 and 2023 may be increased by the Department if necessary to comply with educational mandates imposed by state or federal law.

Beginning in 2024, the new board of trustees is authorized to impose an annual tax levy, exclusive of any millage imposed for bond debt service. Upon certification to the county auditor of the tax levy to be imposed, the auditor will levy, and county treasurer will collect, the certified millage upon all taxable property in the Clarendon County School District. Clarendon County School District may raise its millage by two mills or less over the millage levied for the previous year in addition to any millage needed to adjust for the Education Finance Act inflation factor and sufficient to meet the requirements of Code Section 59-21-1030 (level of financial effort per pupil required for each school district). Any increase above the two mill increase for operations, may be levied only after a majority of the registered electors of the new consolidated district vote in favor of a millage increase in a referendum called by the district school board and conducted by the county election commission. If the referendum is to be held at any time other than the general election, then the school district is required to pay the cost of the referendum. If these provisions conflict with the provisions of Code Section 6-1-320, relating to millage rate increase limitations, the provisions of Code Section 6-1-320 control.

Effective Date: April 12, 2021

REENACTED TEMPORARY PROVISOS

The following temporary provisos were enacted in a prior legislative session and were reenacted by the General Assembly in 2021. Temporary provisos are effective for the State fiscal year July 1, 2021 through June 30, 2022, and will expire June 30, 2022, unless reenacted by the General Assembly in the next legislative session.

House Bill 4100, Part IB, Section 109, Proviso 109.11 (Act No. 94)

Notification of Protest to Affected County and School District

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

House Bill 4100, Part IB, Section 1, Proviso 1.47 (Act No. 94)

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

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

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

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

House Bill 4100, Part IB, Section 113, Proviso 113.8 (Act No. 94)

Agricultural Use Exemption for Timberland – Impact of Additional County Requirements

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

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

House Bill 4100, Part IB, Section 117, Proviso 117.37 (Act No. 94)

Personal Property Tax Relief Fund

This temporary proviso provides that if a county imposes a personal property tax exemption sales tax in an effort to reduce ad valorem taxes on personal motor vehicles and a 2% sales tax rate on gross proceeds of sales is insufficient to offset the property tax not collected, sufficient amounts must be credited to the Trust Fund for Tax Relief established under Code Section 11-11-150 to provide reimbursement to offset the shortfall in the manner provided in Code Section 4-10-540(A). Note: As of the date of this publication, no county has reduced the ad valorem taxes on personal motor vehicles by imposing this sales tax.

House Bill 4100, Part IB, Section 117, Proviso 117.116 (Act No. 94)

Retail Facilities Revitalization Act – Repeal of Act Suspended

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

Under this temporary proviso, the repeal of the South Carolina Retail Facilities Revitalization Act as to sites for which written notification of election of mode of credit has been provided to the Department prior to July 1, 2016, and for which a building permit has been issued prior to July 1, 2016, is suspended for fiscal year 2021 – 2022.

House Bill 4100, Part IB, Section 92D, Proviso 92D.1 (Act No. 94)

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

This temporary proviso provides that any improvements made to real property or personal property used as a residence, such as a mobile home or manufactured housing unit, damaged during the catastrophic weather event in October 2015, Hurricane Matthew of 2016, or Hurricane Florence of 2018, after the event and before June 30, 2022, is not considered an improvement and may not be reassessed at a higher rate as a result of the assistance provided.

This provision only applies if as a result of the catastrophic weather event, the improvements made to the property were funded by the United States Department of Housing and Urban Development Block Grant - Disaster Recovery program, implemented by the Office of Resilience, Disaster Recovery Office. This provision also applies if, at the discretion of the county, and using qualifications determined by the county, the improvements were made with

the assistance of a volunteer organization active in disaster, or in a similar volunteer organization.

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

REMINDERS

The following provisions were enacted prior to 2021 but are being phased in or are effective in 2021 and thereafter. The provisions are summarized below for informational purposes.

House Bill 3596 (Act No. 173 of 2020)

Agricultural Use Property - Rollback Tax Period Reduced

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

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

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

Senate Bill 207, Section 1 (Act No. 145 of 2020)

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

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

To be eligible, the owner must (a) otherwise continue to qualify for the 4% assessment ratio, (b) have the intention of returning to the property, and (c) not have rented the property in excess of

72 days. The owner is allowed to retain the 4% assessment ratio and applicable exemptions for as long as the owner meets the above requirements.

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

Senate Bill 207, Section 2 (Act No. 145 of 2020)

Low-Income Housing Property Tax Exemption – Amended

Caution – See 2021 Amendment: See the amendment in House Bill 3354, Section 2 (Act No. 68) summarized above for amendments to Code Section 12-37-220(B)(11)(e) in the 2021 Legislative Session.

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

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

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

Senate Bill 545, Section 1 (Act No. 147 of 2020)

SCDOR Form PT-100 – Use by County Auditor

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

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

Manufacturing Property – New Partial Exemption

Note – See 2021 Amendment: See the amendment in House Bill 4064, Section 1 (Act No. 39) summarized above for an amendment to Code Section 12-37-220(B)(52) in the 2021 Legislative Session and SC Revenue Ruling #18-13, “Manufacturing Property – New Partial Tax Exemption.”

Code Section 12-37-220(B)(52) has been added to exempt from ad valorem property taxes 14.2857% of the property tax value of manufacturing property assessed for property tax purposes pursuant to Code Section 12-43-220(a)(1), both real and personal. If the exemption is applied to real property, then it must be applied to the property tax value as it may be adjusted downward to reflect the 15% cap on value provided in Section 6, Article X of the South Carolina Constitution.

The exemption amount is phased in over six equal and cumulative percentage installments, as follows:

Property Tax Year Beginning In	Exemption Amount
2018	2.38095%
2019	4.7619%
2020	7.14285%
2021	9.5238%
2022	11.90475%
2023 and thereafter	14.2857%

The revenue loss resulting from the exemption must be reimbursed and allocated to the political subdivisions of South Carolina, including school districts, in the same manner as the Trust Fund for Tax Relief, not to exceed \$85 million per year. For any year in which the reimbursements are projected by the Revenue and Fiscal Affairs Office to exceed the reimbursement cap, the exemption amount shall be proportionately reduced so as not to exceed the reimbursement cap. Property exempted from property taxes in the manner provided in Code Section 12-37-220(B)(52), as discussed above, is considered taxable property for purposes of bonded indebtedness pursuant to Section 15, Article X of the South Carolina Constitution.

Effective Date: Property tax years beginning after 2017.

SALES AND USE TAXES

House Bill 3726 (Act No. 18)

“Buydowns” – Excluded from “Gross Proceeds of Sales”

Code Section 12-36-90 defines the term “gross proceeds of sales,” the measure upon which sales tax is calculated. Code Section 12-36-90(2)(1) has been added to exclude amounts received from a “buydown” from gross proceeds of sales.

For purposes of Code Section 12-36-90(2)(1), “buydown” means an agreement between a retailer and a manufacturer or wholesaler in which the retailer receives a payment from the manufacturer or wholesaler that requires the retailer to reduce the sales price of the manufacturer’s or wholesaler’s product to the retail purchaser. This exclusion does not apply to amounts received by a retailer from a retail sales transaction in which the retail purchaser uses a manufacturer’s or wholesaler’s coupon.

Effective Date: April 16, 2021

House Bill 4100, Part IB, Section 117, Proviso 117.164 (Act No. 94)

Agribusiness Facilities – Material Handling and Construction Material Exemptions

This temporary proviso provides that material handling and construction materials for agribusiness facilities that invest at least \$100 million in South Carolina are exempt from state and local sales taxes.

Note: Exemptions implicated by this proviso are Code Section 12-36-2120(51) and Code Section 12-36-2120(67). See SC Revenue Ruling #15-2, “Construction Material Exemption for Manufacturing and Distribution Facilities” and SC Revenue Ruling #13-3, “Material Handling Systems and Material Handling Equipment.”

Effective Date: This temporary proviso is effective for State fiscal year July 1, 2021 through June 30, 2022. It will expire June 30, 2022, unless reenacted by the General Assembly in the next legislative session.

REENACTED TEMPORARY PROVISOS

The following temporary provisos were enacted in a prior legislative session and were reenacted by the General Assembly in 2021. Temporary provisos are effective for the State fiscal year July 1, 2021 through June 30, 2022, and will expire June 30, 2022, unless reenacted by the General Assembly in the next legislative session.

House Bill 4100, Part IB, Section 109, Proviso 109.12 (Act No. 94)

Clothing Used in Perishable Prepared Food Manufacturing Facilities

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

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

House Bill 4100, Part IB, Section 50, Proviso 50.20 (Act No. 94)

Navy Base Intermodal Facility – Distribution Facility Eligibility

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

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

House Bill 4100, Part IB, Section 117, Proviso 117.59 (Act No. 94)

Viscosupplementation Therapies – Sales and Use Tax Suspended

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

House Bill 4100, Part IB, Section 117, Proviso 117.55 (Act No. 94)

Respiratory Syncytial Virus Medicines Exemption – Effective Date

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

House Bill 4100, Part IB, Section 117, Proviso 117.36 (Act No. 94)

Private Schools – Use Tax Exemption

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

MISCELLANEOUS (Summarized by Subject Matter)

ADMINISTRATIVE and PROCEDURAL MATTERS

House Bill 4100, Part IB, Section 109, Proviso 109.17 (Act No. 94)

Certain License or Permit Applications – New Electronic Filing Option under Penalties of Perjury

This temporary proviso provides that the Department may require a statement subject to penalties of perjury instead of a statement under oath for the purpose of allowing certain applications for licenses or permits to be filed electronically.

Effective Date: This temporary proviso is effective for State fiscal year July 1, 2021 through June 30, 2022. It will expire June 30, 2022, unless reenacted by the General Assembly in the next legislative session.

House Bill 4100, Part IB, Section 109, Proviso 109.18 (Act No. 94)

Advance Referendum Notification by Election Commission to SCDOR

This temporary proviso provides that a county or municipal election commission must notify the Department 60 days prior to a referendum on the imposition of a local sales tax or local option permit.

Effective Date: This temporary proviso is effective for State fiscal year July 1, 2021 through June 30, 2022. It will expire June 30, 2022, unless reenacted by the General Assembly in the next legislative session.

Senate Bill 609 (Act No. 59)

Federal Tax Information – Background Checks

Code Section 12-2-140 has been added to authorize state agencies (including state departments and institutions) or political subdivisions of the State to require employees and contractors that have access to federal tax information (FTI) to undergo criminal background checks as necessary for the state agency or political subdivision to comply with Internal Revenue Service Publication 1075 “Tax Information Security Guidelines for Federal, State and Local Agencies, Safeguards for Protecting Federal Tax Returns and Return Information.”

An employee or contractor of a state agency (including state departments and institutions) or a political subdivision of the State with access to or that uses FTI must agree to: (1) a national background check and a release of investigative records concerning criminal history and (2) supply a fingerprint sample and submit to criminal history background checks to be conducted by the State Law Enforcement Division (SLED) and the Federal Bureau of Investigation (FBI).

The state agency or political subdivision shall pay any costs associated with these background checks and investigations or may require a contractor to pay for all background checks for all employees of the contractors. Each agency or political subdivision required to conduct background checks must establish written policies concerning implementation and use of background checks and investigations.

Effective Date: May 17, 2021

REGULATORY LEGISLATION

Senate Bill 619, Section 3 (Act No. 60)

Winery Satellite Tasting Rooms

Overview. Code Section 61-4-748 was added and provides that notwithstanding any other provision of law, a holder of a winery license, who meets certain investment and job creation requirements, is eligible for a manufacturer's satellite certificate. A manufacturer's satellite certificate allows a winery to establish up to three wholly-owned satellite locations for the tasting and sale of wine produced by the winery, or imported by the winery as the primary American source of supply.

Before operating a satellite tasting room, a winery must, on or after January 1, 2021, invest \$400 million in South Carolina in a Tier III or Tier IV county, as determined by Code Section 12-6-3360(B), and create at least 300 new jobs in South Carolina. The number of satellite tasting rooms a winery may operate is limited by the number of gallons of wine and alcoholic beverages the winery produces or bottles in South Carolina per calendar year: one satellite tasting room for 10 million gallons produced or bottled; two satellite tasting rooms for 20 million gallons produced or bottled; and three satellite tasting rooms for 30 million gallons produced or bottled.

The winery must submit to the Department separate applications for each tasting-room premises, as provided by Code Sections 61-2-90 and 61-2-140(C), and pay a biennial permit fee of \$5,000 per permitted tasting-room premises. No more than one tasting-room premises may be permitted in any one county, and each permit application is subject to protest as provided for in Code Section 61-4-525 for beer and wine permit applications.

Operational Requirements. On a satellite tasting-room premises, the winery may conduct tastings of or sell only wine that is produced or bottled by the winery, produced and packaged for the

winery within or outside of South Carolina, or for which the winery is the exclusive agent in the United States of an out-of-state vintner. Winery satellite tasting-rooms must:

1. Charge a consumer a tasting fee to participate in a tasting, or the customer may not purchase any wine for off-premises consumption;
2. Not provide more than 10 ounces of wine per day to an individual for on-premises consumption, or sell more than the equivalent of six 750 milliliter bottles of wine per calendar month to an individual for off-premises consumption;
3. Sell wine for off-premises consumption at a price approximating retail prices generally charged for identical wine in the county where the tasting room premises is located;
4. Remit applicable sales, use, and other state and local taxes for each of the licensed tasting-room premises;
5. Ensure that all wine handled, tasted, or sold in a satellite tasting-room premises is purchased and delivered only from licensed wholesalers;
6. Maintain all liability insurance required by Code Section 61-2-145;
7. Not provide tastings to, or sell wine to, an intoxicated person or a person under the age of 21; and
8. Open to the public not before 8:00 a.m. and close to the public at 5:30 p.m.

Penalties for any violations are specified in Code Section 61-4-250.

Other Licenses Held by Winery Satellite Tasting Rooms. Tastings and sales of wine under a permit for a satellite tasting-room premises do not prohibit a winery that also holds a brewery, micro-distillery, or liquor manufacturer license from applying for or holding any permit or license available to other breweries, micro-distilleries, or liquor manufacturers that allow the tasting or sale of beer or alcoholic liquor.

Effective Date: May 17, 2021

Senate Bill 619, Section 10 (Act No. 60)

Tours, Tastings, and Retail Sales at Micro-Distilleries and Manufacturers

Code Sections 61-6-1140 and 61-6-1150, concerning tours, tastings and retail sales at micro-distilleries and manufacturing facilities, have been amended to make the following changes:

Tours and Tastings. Code Section 61-6-1140 has been amended to provide that a micro-distillery or manufacturer of alcoholic liquor may not charge for alcoholic liquors consumed at a tasting, but may charge for the tour that is required in conjunction with the tasting. The amount charged for a tour must be on a scale that accords with the amount of alcoholic liquors for on-premises consumption that is dispensed to consumers, beginning with a base tour price that corresponds with a tasting of one ounce of alcoholic liquor and increases incrementally by one-half ounce. Liquor-by-the-drink excise tax is not assessed on the tour or the tasting of alcoholic liquors in conjunction with the tour. Additionally, the maximum amount of alcoholic liquors that may be dispensed in a tasting has been increased from three ounces to four and one-half ounces per

customer per day. Previously, a micro-distillery or manufacturer was permitted to charge for alcoholic liquors consumed at a tasting and was required to collect and remit the liquor-by-the-drink excise tax.

Code Section 61-6-1150(10) has been amended for a licensed micro-distillery or manufacturer that does not have a restaurant operation to allow minors into a tasting area, provided that the minor is accompanied by an adult. Previously, minors were not allowed in a tasting area.

Micro-Distillery or Manufacturer with Restaurant Operations. Code Section 61-6-1140 has been amended to add subsection (9), which provides that a licensed micro-distillery or manufacturer that is to have an area physically partitioned so as to be bona fide engaged primarily and substantially in the preparation and serving of meals, (restaurant operation) as allowed by new Code Section 61-6-1155 (Act No. 60, Section 9), must comply with the discount pricing provisions of Code Section 61-6-4550, and may not dispense alcoholic liquors for free at a tasting. The prohibition against tastings occurring in conjunction with the service of food in a restaurant setting, which was previously contained in Code Section 61-6-1140(7), has been removed.

Specified provisions contained in Code Section 61-6-1150 are inapplicable to a micro-distillery or manufacturer with a restaurant operation. These provisions include:

1. Sell of promotional items. Code Section 61-6-1150(7);
2. Sell or storage of other merchandise in or from the room in which alcoholic liquors are sold or tasted. Code Section 61-6-1150(8);
3. Sell of mixers. Code Section 61-6-1150(9); and
4. Allowance of minors in the portion of the facility where tastings are occurring. Code Section 61-6-1150(10).

Retail Sales. Code Section 61-6-1150 has been amended to increase the maximum amount of alcoholic liquors that may be sold by a micro-distillery or manufacturer to a consumer for off-premises consumption from the equivalent of three 750 milliliter bottles per day to the equivalent of six 750 milliliter bottles per day.

Effective Date: May 17, 2021

Senate Bill 619, Section 9 (Act No. 60)

Alcoholic Liquor Producer or Manufacturer – On Premises Consumption of Alcohol

Code Section 61-6-1155 was added and provides that, in addition to production or manufacture of alcoholic liquor for sale to a wholesaler, a holder of a valid micro-distillery or manufacturer license is authorized to sell alcoholic liquors distilled at the licensed premises to consumers for on-premises consumption, provided that it is served within an area that is bona fide engaged primarily and substantially in the preparation and serving of meals, as required by Code Section 61-6-1610.

Food Establishment Operations.

1. Designated Area. Sales for on-premises consumption of alcohol liquor by the drink in an alcoholic liquor producer's or manufacturer's premises must be in an area for food establishment operation that is physically partitioned from the distilling and manufacturing operation. The physical partition may be a wall or a permanent divider that prevents the general public from freely entering the distilling and manufacturing operation area. The micro-distillery or manufacturer may not sell or allow the consumption of alcoholic liquor by the drink in that part of the premises designated and permitted for distilling and manufacturing operation.
2. Allowance for Other Licenses. The restaurant operation may apply for separate beer and wine licenses, on-premises consumption of alcoholic liquor by the drink, and local option permits authorizing the purchase for resale of beer, wine, and alcoholic liquors from wholesalers through the three-tier distribution chain.
3. Sale of Bottles of Alcoholic Liquor. The restaurant operation may sell bottles of alcoholic liquor produced on the licensed premises, subject to the limitations provided in Code Sections 61-6-1140 and 61-6-1150. Such sales of alcoholic liquor for off-premises consumption are not considered in determining whether the restaurant operation is bona fide engaged primarily and substantially in the preparation and serving of meals.

Operational Requirements. A micro-distillery or manufacturer with a restaurant operation is subject to inspection, determination and reporting by the South Carolina Law Enforcement Division, and must meet the following operational requirements:

1. Remit the appropriate amount of excise taxes for alcoholic liquor distilled and sold at retail;
2. Post information at each entrance, each exit, and in places in a micro-distillery or manufacturer seen during a tour that states the alcoholic content by volume of the various types of alcoholic liquors available in the micro-distillery or manufacturer and the penalties for convictions for driving under the influence, unlawful transport of an alcoholic container, and unlawful transfer of alcohol to minors;
3. Sell its alcoholic liquors at a price approximating retail prices generally charged for identical beverages in the county where the permitted premises are located;
4. Maintain the books, records, and bank accounts of the restaurant operation separately from the books, records, and bank accounts of the distilling and manufacturing operations, and allocate expenses common to both operations in a reasonable manner;
5. Maintain a physical partition between the distilling and manufacturing operation and the restaurant operation; establish appropriate protocols to ensure that a consumer sold or served alcoholic liquors pursuant to this section is not intoxicated and is not under 21 years of age;
6. Remit to the Department the appropriate amount of sales, use, and other state and local taxes applicable to retail sales of beer, wine, and liquor;
7. Provide approved alcohol enforcement training for employees who serve alcoholic liquors;
8. Maintain all liability insurance as required under Code Section 61-2-145;

9. Comply with all state and local laws concerning the hours of operation applicable to eating and drinking establishments and other food service establishments holding permits to sell alcoholic liquors by the drink; and
10. Comply with the discount pricing provisions of Code Sections 61-4-160 and 61-6-4550, as applicable.

If a micro-distillery or a manufacturer ceases distilling or manufacturing on the permitted premises, the Department shall terminate each permit and license issued in connection with the on-premises consumption of beer, wine, or alcoholic liquor. The micro-distillery or manufacturer may re-apply for the permits and licenses if they resume distilling or manufacturing operations.

Effective Date: May 17, 2021

Senate Bill 619, Sections 4 through 8 (Act No. 60)

Alcohol Content Restriction for Wines Increased from 16% to 16.5%

Act 60, Sections 4 through 8, amend certain code sections relating to wines by increasing the stated percent alcohol from 16% to 16.5%. The amended code sections are summarized below.

Location of Certain Wines Sales. As amended, Code Sections 61-4-770 and 61-6-1540 require wines containing more than 16.5% alcohol by volume to be sold only in licensed alcoholic liquor stores or in establishments licensed to sell and permit consumption of alcoholic liquors by the drink. Previously, these code sections applied to wines containing more than 16% alcohol by volume.

Sampling of Wines. Code Sections 61-6-1035 and 61-6-1640, concerning sampling of wines by customers in a retail alcoholic liquor store or an establishment licensed to sell alcoholic liquor by the drink, have been amended to increase the threshold percent alcohol for samples from 16% to 16.5%.

Sample of Wines to Retailers by Manufacturers and Wholesalers. Code Section 61-6-1650, concerning the provision of samples of wine to retailers by manufacturers and wholesalers, has been amended to increase the percent alcohol for samples from 16% to 16.5%.

Effective Date: May 17, 2021

Senate Bill 619, Section 2 (Act No. 60)

Wine Sold at Wineries – New Category of Winery and Increased Alcohol Content

Code Section 61-4-720, which concern sales of wine by a licensed winery located in South Carolina, has been amended and subdivided into new subsections (A), (B), and (C). Subsection (A) increases the maximum allowable percent alcohol from 16% to 16.5% for wines sold on the

winery premises, or shipped and delivered to consumers' homes, provided that the licensed winery is the primary American source of supply for the wine sold, or the wine is produced on the licensed premises. Previously, the wine was required to be made on the premises, and the maximum allowable percent alcohol was 16%.

New subsection (B) provides that if the wine is not produced on the winery's licensed premises in South Carolina, but the winery is the primary American source of supply for the wine, then the winery may sell up to 24 bottles of wine each month directly to a South Carolina resident for personal use and not resale.

A provision allowing a winery to provide wine tasting samples, with or without cost, is unchanged and is now contained in subsection (C).

Effective Date: May 17, 2021

Senate Bill 619, Section 11 (Act No. 60)

Regulation 7-701 – Mandate to Conform to Act No. 60 of 2021 for Alcohol Content Percentages

This section provides that a state agency with regulations specifying alcohol content percentages different from the percentages passed in Act No. 60 must promulgate revised regulations to conform to the changes. Until the regulations are conformed, the percentages in Act No. 60 supersede any differing percentages in the regulations. See Regulation 7-701, "Restriction on Sales."

Effective Date: May 17, 2021

House Bill 4006 (Act No. 81)

Brewery Sales for Off-Premises Consumption – Volume Restriction Increase Extended

Code Section 61-4-1515(E) authorizes a brewery to sell beer brewed on premises to individuals for off-premises consumption. Act No. 167 of 2020 amended Code Section 61-4-1515(E) to increase the restriction on the quantity of beer that may be sold per day for off-premises consumption from the equivalent of 288 ounces in total to the equivalent of 576 ounces in total. The volume restriction increase was originally scheduled to be repealed on May 31, 2021. Act No. 81 postpones the repeal until May 31, 2022.

Effective Date: May 17, 2021

REENACTED TEMPORARY PROVISOS

The following temporary provisos were enacted in a prior legislative session and were reenacted by the General Assembly in 2021. Temporary provisos are effective for the State fiscal year July 1, 2021 through June 30, 2022, and will expire June 30, 2022, unless reenacted by the General Assembly in the next legislative session.

ADMINISTRATIVE and PROCEDURAL MATTERS

House Bill 4100, Part IB, Sections 41 and 117, Provisos 41.2 and 117.83 (Act No. 94)

3% Reduction on Interest Rate on Tax Refunds

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

1. Temporary Proviso 41.2 decreases by 2% the interest rate for tax refunds paid during the current fiscal year. The revenue resulting from this 2% reduction must be used for operations of the State's Guardian ad Litem Program.
2. Temporary Proviso 117.83 decreases by 1% the interest rate for tax refunds paid during the current fiscal year. Of the revenue resulting from this 1% reduction, \$300,000 must be used by the Senate for operating expenses of the Joint Citizens and Legislative Committee on Children. The remaining revenue must be used by the Department of Juvenile Justice for programs for mentoring or other alternatives to incarceration.

House Bill 4100, Part IB, Section 109, Proviso 109.6 (Act No. 94)

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

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

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

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

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

MISCELLANEOUS TAX LEGISLATION

House Bill 4100, Part IB, Section 1, Proviso 1.14 (Act No. 94)

Local Government School Buses – Motor Fuel User Fee Exemption

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

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

House Bill 4100, Part IB, Section 33, Proviso 33.10 (Act No. 94)

Nursing Home Bed Franchise Fee – Suspension

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

Admissions Tax Rebate – Motorsports, Tennis, and Soccer Facilities

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

REMINDERS

The following provisions were enacted prior to 2021 but are being phased in or are effective in 2021 and thereafter. The provisions are summarized below for informational purposes.

MISCELLANEOUS TAXES

House Bill 3516, Section 2 (Act No. 40 of 2017)

Motor Fuel User Fee – Rate Change

Code Section 12-28-310(A) imposes a user fee of sixteen cents per gallon on:

1. All gasoline, gasohol, or blended fuels containing gasoline that are used or consumed for any purpose in South Carolina; and
2. All diesel fuel, substitute fuels, or alternative fuels, or blended fuels containing diesel fuel that are used or consumed in South Carolina in producing or generating power for propelling motor vehicles.

Code Section 12-28-310(D) has been added to provide for a user fee increase by two cents a gallon each year for six years as follows:

Date of Rate Change	New User Fee Rate Per Gallon
July 1, 2017	18 cents
July 1, 2018	20 cents
July 1, 2019	22 cents
July 1, 2020	24 cents
July 1, 2021	26 cents
July 1, 2022	28 cents

Note: The inspection fee imposed under Code Section 12-28-2355(A) at the rate of one-quarter cent per gallon, and the environmental impact fee imposed under Code Section 12-28-2355(B) at the rate of one-half cent per gallon, remain unchanged.

Effective Date: July 1, 2017

OTHER ITEMS

House Bill 3516, Section 3 (Act No. 40 of 2017)

Motor Carrier Road Tax – Rate Change

Code Section 56-11-410 imposes a road tax on every motor carrier for the privilege of using the streets and highways of South Carolina. The road tax is calculated on the amount of gasoline or other motor fuel used by the motor carrier in its operations in South Carolina, provided the motor carrier is allowed a credit against the road tax for the South Carolina motor fuel user fee imposed by Code Section 12-28-310 and paid by the carrier for operations within and without South Carolina.

Prior to July 1, 2017, the road tax was sixteen cents per gallon. Code Section 56-11-410(A) was amended so that the road tax is imposed at the same rate as the motor fuel user fee imposed by Code Section 12-28-310. Therefore, the road tax will increase two cents a gallon each year for six years as follows:

Date of Rate Change	New Road Tax Rate Per Gallon
July 1, 2017	18 cents
July 1, 2018	20 cents
July 1, 2019	22 cents
July 1, 2020	24 cents
July 1, 2021	26 cents
July 1, 2022	28 cents

Effective Date: July 1, 2017

South Carolina Business License Tax Standardization Act - New

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

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

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

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

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

LIST OF TEMPORARY PROVISOS

Temporary provisos were enacted as part of the 2020 continuing resolution in House Bill 3411 (Act No.135). They are effective only for the current State fiscal year (July 1, 2021 – June 30, 2022). They expire on June 30, 2022, unless reenacted by the General Assembly.

The following is a list of provisos that were enacted in prior fiscal years and reenacted during this legislative session. A brief summary of the provisos can be found in this publication under the applicable subject matter categories.

The list is divided by subject matter with the provisos in numeric order.

NEW PROVISOS

Income Taxes

- 109.15 Renewable Fuel Credit – Placed in Service Date Extended
- 118.21 Abandoned Building Tax Credit – Additional Qualifying Site near Large University

Sales and Use Taxes

- 117.164 Agribusiness Facilities – Material Handling and Construction Material Exemptions

Administrative Taxes

- 109.17 Certain License or Permit Applications – New Electronic Filing Option under Penalties of Perjury
- 109.18 Advance Referendum Notification by Election Commission to SCDOR

REENACTED PROVISOS

Income Taxes

- Proviso 1A.9 Teaching Supplies and Materials - Reimbursement Amount Not Taxable or Refundable Income Tax Credit
- Proviso 1A.10 Teacher of the Year Awards - Not Subject to South Carolina Income Tax
- Proviso 117.116 Retail Facilities Revitalization Act – Repeal of Act Suspended
- Proviso 118.10 Consumer Protection Services – Individual Income Tax Deduction

Property Taxes

- Proviso 1.47 Index of Taxpaying Ability – Imputed Value for Owner-Occupied Residential Property
- Proviso 92D.1 Improvements to Property Damaged by Catastrophic Weather Event – Time for Improvements for Eligible Events
- Proviso 109.11 Notification of Protest to Affected County and School District
- Proviso 113.8 Agricultural Use Exemption for Timberland – Impact of Additional County Requirements
- Proviso 117.37 Personal Property Tax Relief Fund
- Proviso 117.116 Retail Facilities Revitalization Act – Repeal of Act Suspended

Sales and Use Taxes

- Proviso 50.20 Navy Base Intermodal Facility – Distribution Facility Eligibility
- Proviso 109.12 Clothing Used in Perishable Prepared Food Manufacturing Facilities – New Exemption
- Proviso 117.36 Private Schools – Use Tax Exemption
- Proviso 117.55 Respiratory Syncytial Virus Medicines Exemption – Effective Date
- Proviso 117.59 Viscosupplementation Therapies – Sales and Use Tax Suspended

Miscellaneous (Administrative and Procedural Matters, and Miscellaneous Taxes)

Administrative and Procedural Matters:

- Provisos 41.2 3% Reduction on Interest Rate on Tax Refunds
and 117.83
- Proviso 109.6 Voluntary Website Posting of Tax Return Information for Candidates and Gubernatorial Appointees

Miscellaneous Taxes:

- Proviso 1.14 Local Government School Buses – Motor Fuel User Fee Exemption
- Proviso 33.10 Nursing Home Bed Franchise Fee – Suspension
- Proviso 118.7 Admissions Tax Rebate – Motorsports, Tennis, and Soccer Facilities