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State of South Carolina  
Department of Revenue  
301 Gervais Street, P. O. Box 125, Columbia, South Carolina 29214

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SC REVENUE INFORMATIONAL BULLETIN #02-16

SUBJECT: Tax Legislative Update for 2002

DATE: September 4, 2002

AUTHORITY: S.C. Code Ann. Section 12-4-320 (2000)

SCOPE: A Revenue Informational Bulletin is a written statement issued to the public by the Department to announce general information useful in complying with the laws administered by the Department. **A Revenue Informational Bulletin has no precedential value, and is not binding on the public or the Department.**

Attached is a brief summary of most of the significant changes in laws that were enacted by the General Assembly during the past legislative session. The summary is divided into five categories of legislation and can be found as indicated below.

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The law changes are summarized by subject matter. There are several instances where more than one bill with related subject matters were enacted. In such case, these summaries are cross referenced. Further, some laws have not been assigned act numbers as of the date of this publication and this is indicated in the summary.

# INCOME TAXES AND WITHHOLDING

House Bill 4695 (Act No. 220)

## **Income Tax Conformity**

Code Section 12-6-40(A) has been amended to update South Carolina's income tax laws to conform to the Internal Revenue Code of 1986 as amended through December 31, 2001, and includes its effective date provisions.

Effective Date: April 22, 2002

Senate Bill 852, Section 19 (Act No. 334)

## **South Carolina College Investment Program - Amendments**

The South Carolina College Investment Program was added in Chapter 2 of Title 59 in 2001 (effective January 1, 2002). The program allows South Carolina residents to participate in an investment trust fund whereby contributions and investment earnings are used to pay for qualified higher education expenses of designated beneficiaries at eligible educational institutions, as defined in Internal Revenue Code Section 529. The program is under the direction of the Office of the State Treasurer.

Code Section 59-2-80 provides for the income tax treatment of fund contributions and earnings and has been amended as follows:

1. Contributions to each investment trust account and funds transferred to an investment trust account from another qualified plan are deductible from South Carolina income subject to tax up to the limit of maximum contributions allowed under Internal Revenue Code Section 529 and to the extent that the transferred funds were not permitted a state income tax deduction previously under South Carolina law. The statute continues to provide that any interest, dividends, gains, or income accruing are not included in South Carolina income of the account owner, contributor, or beneficiary if they remain in the fund or are withdrawn as a qualified withdrawal.
2. State income tax deductions as provided for in Code Section 59-2-80 may be taken in any taxable year for contributions and rollovers made during that taxable year, and up to April 15<sup>th</sup> of the succeeding year, or the due date of the taxpayer's state income tax return, excluding extensions, whichever is longer. Previously, the statute provided that funds transferred from another qualified college investment account were deductible in the year the funds were transferred if the funds were not previously allowed a state income tax deduction.

3. Withdrawals of the principal amount of contributions that are not qualified withdrawals must be recaptured into South Carolina income to the extent the contributions were previously deducted from South Carolina taxable income. The statute continues to provide that the earnings portion withdrawn that are not qualified withdrawals are included in South Carolina income of the resident recipient in the year of withdrawal.
4. Defines the term “qualified plan” to mean any plan qualified under Section 529 of the Internal Revenue Code of 1986, as amended. Previously, the statute referred to a “qualified investment account.”

In addition, an amendment was made to Title 12 (Taxation) to add a provision in Code Section 12-6-1140(11) that contributions to the South Carolina College Investment Program are deductible from South Carolina income to the extent provided in Code Section 59-2-80.

Effective Date: Tax years beginning after 2002.

House Bill 4337, Section 3 (Act No. 363)

#### **Volunteer Hazardous Materials Response Team – New Individual Income Tax Deduction**

Code Section 12-6-1140(10) has been amended to add an individual income tax deduction of an amount to be determined by the Board of Economic Advisors, but not more than \$3,000, for a volunteer member of a Hazardous Materials Response Team (HAZMAT) who earns a minimum number of performance points set by the State Fire Marshall pursuant to Code Section 23-9-190.

Further, Code Section 23-9-190(C) provides that the county emergency services director must provide written records to each member and the Department by January 31 of the year following the applicable tax year that shows the points obtained. Each member’s social security number must be included in the copies forwarded to the Department.

Effective Date: Taxable years beginning after 2002.

Senate Bill 852, Section 8. A (Act No. 334)

(See also House Bill 4337, Section 1. B (Act No. 363))

#### **Corporate Estimated Tax Payments – Payment Date Change and License Fee Included**

Code Section 12-6-3910(A)(3), providing for calculation and due dates of corporate estimated tax payments, has been amended to provide that the due date of the first installment payment for calendar year corporations is April 15<sup>th</sup> and the 15<sup>th</sup> day of the fourth month for fiscal year corporations. Previously, the due date was March 15<sup>th</sup> for calendar year corporations and the 15<sup>th</sup> day of the third month for fiscal year corporations.

Code Section 12-6-3910(B) has been expanded to provide that estimated tax payments are considered payments on account of income taxes imposed by Chapter 6 and license fees imposed by Chapter 20 for the tax year designated.

Code Section 12-6-3910(D) has been added to provide that for corporate taxpayers, estimated tax payments will be deemed first to apply to income taxes and then apply to license fees.

Effective Date: Applies for estimated taxes due after 2002.

Senate Bill 852, Section 8. B and C (Act No. 334)  
(See also House Bill 4337, Sections 1. C and D (Act No. 363))

### **Corporate Extensions of Time to File – Federal Extension Accepted**

Code Section 12-6-4980(B) has been amended to allow the Department to accept a federal corporate extension when a taxpayer is not required to make a payment of tax with the extension and the taxpayer has been granted a federal income tax return extension. Further, Code Section 12-20-20(C) has been amended to allow an extension of time for filing a corporate annual report.

Effective Date: June 24, 2002

Senate Bill 886, Section 1 (Act No. 332)

### **Job Tax Credit – New “Distressed County” Ranking**

Code Section 12-6-3360, providing a job tax credit for certain businesses creating new full time jobs, allows a credit for new jobs based, in part, on the number of new jobs created and the location of the taxpayer’s facility. This section has been amended as follows:

1. A new county ranking category – “distressed county” – has been created. Distressed counties are the twelve South Carolina counties with a combination of the highest unemployment rate and lowest per capita income, notwithstanding any other adjustments to county designations required by other provisions of the statute. Prior to this amendment, South Carolina’s counties were ranked in one of four categories - “least developed,” “under developed,” “moderately developed,” or “developed.”
2. The job tax credit is \$8,000 per year for each new job created in a “distressed” county. The credit continues to be \$4,500 per year for each job created in a “least developed” county, \$3,500 in an “under developed” county, \$2,500 in a “moderately developed” county, and \$1,500 in a “developed” county. The statute continues to allow a company located in a multi-county industrial park an additional \$1,000 credit per year.

3. Taxpayers that operate retail facilities and service related industries in a “distressed” county qualify for the job tax credit. Taxpayers that operate retail facilities and service related industries in a “least developed” county continue to qualify for the job tax credit.
4. The \$5,500 maximum credit limitation that may be claimed for any tax year per employee under the job tax credit and the credit for hiring family independence recipients does not apply to employees in a distressed county.

Note: The Department periodically publishes Revenue Informational Bulletins listing rankings of South Carolina’s 46 counties for job tax credit purposes. This information can be obtained from the Department’s website at [www.sctax.org](http://www.sctax.org).

Effective Date: June 18, 2002

Senate Bill 886, Section 5 (Act No. 332)

**Credit for Hiring Family Independence Recipient – Employees in a “Distressed County”**

Code Section 12-6-3470, providing a credit to employers who employ persons who receive family independence payments within South Carolina for three months immediately before becoming employed, has been expanded to provide that if an employer is located in a South Carolina county designated as a “distressed” county and employs a former family independence recipient to work full time in that county, the employer is allowed an additional \$175 credit per qualifying employee for each full month during the first 36 months of employment. The statute continues to allow the additional \$175 credit per employee for each qualifying year for an employer located in a South Carolina county designated as a “least developed” county.

Effective Date: June 18, 2002

House Bill 4548, Section 4 (Act No. 280)

**Brownfields Voluntary Cleanup Program Credit – New Corporate Income Tax Credit**

Code Section 12-6-3550 has been added to provide a corporate income tax credit for costs of voluntary cleanup activity by a nonresponsible party pursuant to the Brownfields Voluntary Cleanup Program in Title 44, Chapter 56, Article 7.

The credit is summarized as follows:

1. The credit is equal to 50% of the cleanup expenses paid or accrued or cash contributions for site cleanup conducted during the tax year the tax credit application is submitted. The total credit is limited to \$50,000 per tax year. Any unused credit up to \$100,000 may be carried forward 5 years. Multiple taxpayers working jointly to clean up a single site are allowed the credit in the same proportion as their contribution to payment of clean up costs.

2. In the final year of cleanup, as evidenced by the Department of Health and Environmental Control (DHEC) issuing a certificate of completion for the site, the taxpayer is allowed an additional 10% of the total cleanup costs, not to exceed \$50,000.
3. To qualify for the credit, the taxpayer must have entered into a nonresponsible party voluntary cleanup contract with DHEC pursuant to Code Section 44-56-750.
4. The taxpayer must file a tax credit application with DHEC annually in order to obtain a tax credit certificate. The tax credit application and required documentation must be received by DHEC by December 31.
5. Information included with the application form must include: (a) copies of contracts, invoices or payment records involving the actual costs incurred for the tax year related to the site rehabilitation and (b) a copy of an independent certified public accountant report attesting to the accuracy and validity of the costs.
6. DHEC will issue a tax credit certificate upon review of the application and documentation before April 1<sup>st</sup> if it determines that the applicant has met all requirements. The taxpayer must pay DHEC's administrative review costs pursuant to Code Section 44-56-750(D).
7. DHEC may revoke or modify any written decision granting eligibility for partial tax credits if it is discovered that the taxpayer submitted false information. DHEC and the taxpayer will notify the Department of Revenue of any change in the tax credit claimed.

Effective Date: For eligible cleanup expenses incurred after 2001, for taxpayers receiving a certification of completion from the Department of Health and Environmental Control after May 28, 2002.

House Bill 4548, Section 5 (Act No. 280)

### **Brownfields Voluntary Cleanup Program Participants – Additional Job Tax Credit**

Code Section 12-6-3360(E), providing an additional \$1,000 job tax credit for taxpayers located in a multi county industrial park, has been amended to provide an additional \$1,000 job tax credit per year for 5 years for taxpayers who create new full time jobs located on property where a response action has been completed pursuant to a nonresponsible party voluntary cleanup contract pursuant to Title 44, Article 7, Chapter 56. This additional credit is not allowed to a responsible party.

Effective Date: For jobs created after May 28, 2002, for taxpayers receiving a certification of completion from the Department of Health and Environmental Control after May 28, 2002.

**Historic Rehabilitation Credit – New Income Tax Credits**

Code Section 12-6-3535 has been added to enact the “South Carolina Historic Rehabilitation Incentive Act” to provide for two nonrefundable income tax credits. These credits are:

1. Credit for Rehabilitation of a Certified Historic Structure. A credit equal to 10% of the qualified rehabilitation expenditures for a certified historic structure located in South Carolina that qualify for the federal rehabilitation credit provided in Internal Revenue Code Section 47. The credit is claimed in equal amounts over a 5 year period beginning with the year that the property is placed in service. Any unused credit may be carried forward for the succeeding 5 years. To claim this credit, the taxpayer must attach to his South Carolina income tax return a copy of the appropriate federal forms showing the amount of federal rehabilitation credit claimed.

Definitions. The terms “taxpayer,” “qualified rehabilitation expenditures,” and “certified historic structure” have the same meaning as provided in Internal Revenue Code Section 47 and the applicable treasury regulations.

2. Credit for Rehabilitation of a Certified Historic Residential Structure. A credit equal to 25% of the rehabilitation expenses for a certified historic residential structure located in South Carolina. The rehabilitation expenses must, within a 36 month period, exceed \$15,000. To claim this credit, the taxpayer must attach a copy of the certification received from the State Historic Preservation Officer (*i.e.*, the Director of the Department of Archives and History or the director’s designee who administers the historic preservation programs within South Carolina). The credit is claimed in equal amounts over a 5 year period beginning with the year that the certified rehabilitation is completed. Any unused credit may be carried forward for the 5 succeeding years. A taxpayer shall not take more than one credit on the same certified historic residential structure within 10 years.

Definitions. The term “certified historic residential structure” is defined in Code Section 12-6-3535(B)(1) as a structure or portion of a structure that is an owner-occupied personal residence if the residence is not actively used in a trade or business, held for the production of income, or held for sale or disposition in the ordinary course of the taxpayer’s trade or business; and that is:

- (a) listed individually in the National Register of Historic Places;
- (b) considered by the State Historic Preservation Officer to contribute to the historic significance of a National Register Historic District;
- (c) considered by the State Historic Preservation Officer to meet the criteria for individual listing in the National Register of Historic Places; or

- (d) an outbuilding of an otherwise eligible property considered by the State Historic Preservation Officer to contribute to the historic significance of the property.

The term “certified rehabilitation” is defined in Code Section 12-6-3535(B)(2) as repairs or alterations consistent with the Secretary of the Interior’s Standards for Rehabilitation and certified as such by the State Historic Preservation Officer before commencement of the work. The review by the State Historic Preservation Officer shall include all repairs, alterations, rehabilitation, and new construction on the certified historic residential structure and the property on which it is located.

The term “rehabilitation expenses” is defined in Code Section 12-6-3535(B)(3) as expenses incurred in the certified rehabilitation of a certified historic residential structure, including preservation and rehabilitation work done to the exterior of a historic structure, repair and stabilization of historic structural systems, restoration of historic plaster, energy efficiency measures except insulation in frame walls, repairs or rehabilitation of heating, air-conditioning, or ventilating systems, repairs or rehabilitation of electrical or plumbing systems exclusive of new electrical appliances and electrical or plumbing fixtures, and architectural and engineering fees. The term “rehabilitation expenses” does not include the cost of acquiring or marketing the property, the cost of new construction beyond the volume of the existing building, the value of an owner’s personal labor, or the cost of personal property.

#### Additional Credit Provisions

1. An S corporation, limited liability company, or partnership that qualifies for this credit may pass the credit earned through to each shareholder, member, or partner. The amount of the credit allowed a shareholder, member, or partner is equal to the shareholder’s percentage of stock ownership, member’s interest in the limited liability company, or partner’s interest in the partnership for the taxable year multiplied by the amount of the credit earned by the entity. The credit earned pursuant to this section by an S corporation owing corporate level income tax must be used first at the entity level. Only the remaining credit passes through to each shareholder.
2. Additional work done by the taxpayer while the credit is being claimed, for a period of up to 5 years, must be consistent with the Secretary of the Interior’s Standards for Rehabilitation. During this period, the State Historic Preservation Officer may inspect and review additional work to the certified historic structure or certified historic residential structure. If this work is not consistent with the Standards for Rehabilitation, the taxpayer and Department must be notified in writing and any unused portion of the credit, including carry forward, is forfeited.
3. The South Carolina Department of Archives and History will develop applications and promulgate regulations to administer the certification process. A taxpayer may appeal a decision of the State Historic Preservation Officer to a committee of the State Review Board.

Effective Date: For taxable years beginning after 2002, for property placed in service after June 30, 2003.



Senate Bill 852, Section 14 (Act No. 334)  
(See also House Bill 4337, Section 2 (Act No. 363))

**Investment Credit Property Basis Reduction– Technical Correction**

Code Section 12-6-1130(9), providing a deduction for the amount of the basis reduction to Section 38 property under applicable sections of the Internal Revenue Code, has been amended to update the applicable Internal Revenue Code Section reference to Section 50(c) from Sections 48(q) and 49(d).

Effective Date: June 24, 2002

Senate Bill 852, Sections 7. F and H (Act No. 334)

**Job Development Credit – (Refunds of Wage Withholding) - Audited Report by CPA No Longer Required; New Department Audit Fee**

The auditing and reporting requirements of a business claiming more than \$10,000 of job development credits in a calendar year have been amended. The changes are:

1. Code Section 12-10-80(A)(9) has been amended to delete the requirement that the report itemizing the sources and uses of the funds be prepared by an independent certified public accountant.
2. Code Section 12-10-80(A)(9) has been amended to add a provision that the Department will audit each qualifying business claiming over \$10,000 of job development credits in one calendar year at least once every three years to verify proper sources and uses of funds.
3. Code Section 12-10-105 has been added to provide that a \$1,000 annual fee must be remitted to the Department by each business receiving over \$10,000 of job development credits in one calendar year. This fee will be used to reimburse the Department for costs incurred in auditing reports itemizing the sources and uses of the funds as required under Code Section 12-10-80(A).

Effective Date: June 24, 2002

Senate Bill 852, Section 7. G and Section 20 (Act No. 334)

**Job Development Credit – Use of Funds Expanded**

Code Section 12-10-80(C)(3), authorizing the expenditure of the job development credit for certain purposes, has been expanded to include the following:

1. Training for all relevant employees that enable a company to export or increase a company's ability to export its products, including training for logistics, regulatory, and administrative areas connected to the company's export process and other export process training that allows a qualified company to maintain or expand its business in South Carolina.
2. Apprenticeship programs.
3. Relocation expenses associated with new national corporate headquarters, as defined in Code Section 12-6-3410(J)(1)(a), that qualify for the personal property portion of the headquarters credit in Code Section 12-6-3410(D).

Effective Date: June 24, 2002

Senate Bill 886, Sections 2, 3, and 4 (Act No. 332)

**Job Development Credit – New Distressed County Ranking**

The provisions in Chapter 10 of Title 12 have been amended as follows with the addition of the "distressed" county ranking:

1. Code Section 12-10-80, containing the general job development credit provisions, and Code Section 12-10-81, containing job development provisions for tire manufacturers, have been expanded to provide that a business in a "distressed" county may claim 100% of the maximum allowable job development credit. The statute continues to allow 100% of the maximum allowable job development credit to be retained by a business located in a "least developed" county, 85% of the maximum allowable job development credit to be retained by a business located in an "under developed" county, 70% of the maximum allowable job development credit to be retained by a business located in a "moderately developed" county, and 55% of the maximum allowable job development credit to be retained by a business located in a "developed" county. The difference between the maximum job development credit and the job development credit actually claimed is remitted to the State Rural Infrastructure Fund.
2. Code Section 12-10-85(B), providing that Rural Infrastructure Fund grants must be available to benefit "least developed" counties, has been expanded to include "distressed" counties. Further, up to 25% of the funds annually available in excess of \$10 million must be set aside for grants to areas of "underdeveloped," "moderately developed," and "developed" counties. The Rural Infrastructure Fund is administered by the Coordinating Council for Economic

Development at the Department of Commerce and is used to provide financial assistance to local governments for infrastructure and other economic development activities.

Effective Date: June 18, 2002

House Bill 4878, Part IB, Section 27, Proviso 27.18 (Act No. 289)

Note: This temporary proviso, enacted in the last legislative session, was reenacted this year.

### **Job Development Credit – Fees**

This proviso allows the Council to increase the application fee for qualification for the Enterprise Zone Program from \$2,000 to \$4,000, \$500 of which must be shared with the Department. The Council is also authorized to establish an annual renewal fee of \$500 for qualifying businesses receiving job development credits which is to be shared equally with the Department for the purposes of meeting administrative, data collection, credit analysis, cost benefit analysis, reporting and other statutory obligations.

Effective Date: This temporary proviso is effective for the State fiscal year July 1, 2002 through June 30, 2003. Unless reenacted by the General Assembly in the next legislative session, the provisions of this Act expire on June 30, 2003.

House Bill 4878, Part IB, Section 64, Proviso 64.12 (Act No. 289)

Note: This temporary proviso, enacted in the last legislative session, was reenacted this year

### **Fees Charged for Infrastructure Credit Comfort Letter**

This proviso allows the Department to impose a \$35 fee for each informal, nonbinding, letter concerning eligibility for the infrastructure credit under Code Section 12-20-105. A qualifying company subject to the license tax imposed on South Carolina property and gross receipts, such as a power company, gas company, or telephone company, may claim an infrastructure credit for 100% of the amount paid in cash, up to \$300,000 a year, for qualifying infrastructure for an eligible project.

Effective Date: This temporary proviso is effective for the State fiscal year July 1, 2002 through June 30, 2003. Unless reenacted by the General Assembly in the next legislative session, the fees provided by this Act expire on June 30, 2003.

# **PROPERTY TAXES AND FEES IN LIEU OF PROPERTY TAXES**

House Bill 1005 (Act No. 271)

## **Property Tax - Assessment and Appeal Changes**

Code Section 12-60-2510(A)(1) has been amended to provide that for property tax assessments made by a county assessor in a reassessment year, substantially all these property tax assessment notices to taxpayers must be mailed by October 1<sup>st</sup> of the implementation year. If substantially all of the notices are not mailed by October 1<sup>st</sup>, the prior year's property tax must be the basis for all tax assessments for the current year. Previously, the notices had to be mailed by February 1<sup>st</sup> of the implementation year. Additionally, the assessment notice must now contain the value of the property as limited by Code Section 12-37-223A, if applicable. Code Section 12-37-223A limits increases in value of certain property in a county if the residents of the county vote to cap the value of such property.

Code Section 12-60-2510(A)(3) has been amended to provide that in years in which there is a notice of a property tax assessment, the taxpayer has 90 days from the date the assessor mails the notice of assessment to appeal the assessment. Previously, the taxpayer had 30 days to appeal.

Effective Date: May 28, 2002

Senate Bill 852, Section 15 (Act No. 334)

## **Certification for 4% Legal Residence Assessment Ratio – Clarified**

Code Section 12-43-220(c), allowing a 4% assessment ratio for a South Carolina primary residence, has been clarified. An applicant for the 4% assessment ratio must certify under penalties of perjury that he or she does not claim to be a legal resident of a jurisdiction other than South Carolina for any purpose.

Effective Date: June 24, 2002

House Bill 3601 (Act No. 336)

## **Primary Residence Vacation Property - 4% Assessment Ratio**

Code Section 12-43-220(c)(6) has been added to provide that a purchaser who purchases residential property with the intent that it shall become his primary residence, but the property is subject to vacation rentals as provided in Title 27, Chapter 50, Article 2 for no more than 90

days, may apply for the 4% assessment ratio when the purchaser actually occupies the property. If the owner actually occupies the property within 90 days of acquiring ownership and otherwise qualifies, the 4% ratio will apply retroactively to the date ownership was acquired.

Effective Date: January 1, 2003, and applies to covered residential transactions entered into on or after January 1, 2003.

House Bill 4386 (Act No. 297)

**Legal Residence – Assessment Ratio and Homestead Exemption**

Code Section 12-37-252(C) has been added to provide that the personal representative of a deceased taxpayer's estate may apply for the homestead exemption under Code Section 12-37-250 and the 4% assessment ratio provided for by Code Section 12-43-220(c). The timeliness of the filing and the property tax years they apply to are determined by the property tax years open immediately before the taxpayer's death.

Code Section 12-37-252(D) has been added to provide that a person who applies for the homestead exemption under Code Section 12-37-250 and was qualified for the exemption in the prior tax year in addition to the current tax year may be certified for the exemption not to extend beyond the immediate preceding tax year.

The deadline for filing an application for the 4% assessment ratio and the homestead exemption and for claims for refunds thereunder for property tax year 2001 is extended through August 3, 2002.

Effective Date: Applies for property tax years beginning after 2000.

House Bill 4548, Section 6 (Act No. 280)

**Brownfields Voluntary Cleanup Program – New Property Tax Exemption**

Code Section 12-37-220(B)(44) has been added to provide that, subject to approval of the county governing body, property and improvements subject to a nonresponsible party voluntary cleanup contract for which a certificate of completion has been issued by the Department of Health and Environmental Control pursuant to Article 7, Chapter 56 of Title 44 are exempt from county ad valorem property taxes for 5 years. The exemption applies beginning with the taxable year in which the certificate of completion is issued.

Effective Date: For projects receiving a certification of completion from the Department of Health and Environmental Control after May 28, 2002.

Senate Bill 852, Section 7. I (Act No. 334)

**Low Income Housing Property Tax Exemption - Expanded**

Code Section 12-37-220(B)(11)(e) has been added to exempt from ad valorem property taxes all property of nonprofit housing corporations or solely-owned instrumentalities of these corporations which are devoted to providing housing to low or very low income residents. A nonprofit housing corporation must satisfy the safe harbor provisions of Internal Revenue Service Revenue Procedure 96-32 to qualify for this exemption.

Effective Date: June 24, 2002

House Bill 4883, Section 1 (Act No. 222)

**Portion of Great Pee Dee River Designated as “Scenic River”**

Code Section 49-29-230(7) has been added to designate that portion of the Great Pee Dee River located between the U.S. Highway 378 bridge crossing and downstream to the U.S. Highway 17 bridge crossing the river as a “scenic river.” After a perpetual easement under the South Carolina Scenic Rivers Act is granted, the property is exempt from ad valorem property taxes under Code Section 49-29-100. The taxpayer may deduct from South Carolina income taxes the fair market value of the easement granted pursuant to Code Section 49-29-100.

Effective Date: April 22, 2002

House Bill 4878, Part IB, Section 72, Proviso 72.95 (Act No. 289)

**Personal Property Tax Relief Fund and Trust Fund for Tax Relief**

The Personal Property Tax Relief Fund was established pursuant to Code Section 12-37-2735 in 1999 to allocate funds among South Carolina’s 46 counties for the purpose of reducing property taxes on personal motor vehicles. This proviso reduces the amount in the Personal Property Tax Relief Fund from \$20 million to zero, notwithstanding the provisions in Code Section 12-37-2735.

Further, this proviso provides that if a county imposes a local sales and use tax to exempt all or a portion of personal motor vehicles from property taxes, and a sales tax rate of 2% of gross proceeds of sales is insufficient to offset the property taxes not collected, then sufficient amounts must be credited to the Trust Fund for Tax Relief established under Code Section 11-11-150 to make up any shortfall in the manner provided for by Code Section 4-10-540(A).

Effective Date: July 1, 2002

**Motor Vehicle License Tax Year**

The Department of Public Safety will implement system changes to ensure that once a newly acquired vehicle's tax year is set for an owner, either by initial registration and licensing of the vehicle or by transferring a license from another vehicle to the newly acquired vehicle, that tax year cannot be changed for that owner unless an error was made in setting the original tax year. A vehicle's tax year may be transferred to another vehicle only once by an individual owner of that vehicle, regardless of any break in ownership.

Effective Date: October 1, 2002

**Nonregistered Vehicles**

Code Section 56-3-150, concerning registration of a vehicle of a nonresident, has been amended to allow a county auditor to request information about a South Carolina nonregistered motor vehicle and the domicile of the owner of the vehicle if the public records show that the person owns or leases real or personal property in that county. The owner or operator of the nonregistered vehicle must respond within 30 days with a sworn written statement that describes each vehicle owned or operated by him, the registration location for each vehicle, the date each vehicle was first owned or operated by him, and affirms that the owner has not established domicile in the county. The written request from the auditor must be delivered in person, or sent by certified mail, return receipt requested to the nonresident's last known address, and must be based on a creditable report that the person may own or operate a nonregistered vehicle and that the nonresident may own or lease real or personal property in the county. The determination regarding whether the report is credible is within the discretion of the auditor.

The penalty for willfully failing to respond to an inquiry from the county if the vehicle is later determined to be a nonregistered vehicle, or for filing a false statement or otherwise willfully violating this statute is a fine of not more than \$1,000, imprisonment for not more than 1 year, or both. Additionally, the owner of the nonregistered vehicle must pay twice the amount of personal property taxes that are due and owing on the vehicle as well as all other nonregistered vehicles, owned now or earlier, as if the vehicle had been registered lawfully. Penalties and interest must also be paid.

Effective Date: May 29, 2002

House Bill 1288 (Act No. Unassigned)

**Lexington County Watercraft and Outboard Motors**

For property tax years beginning after 1999, the Department of Natural Resources may not transfer a certificate of title on a watercraft or outboard motor if it has notice that Lexington County property taxes are due on the watercraft or outboard motor. If transfer of title has been denied, a tax receipt from the official charged with collecting the tax in the owner's county of residence must be accepted as proof that the taxes have been paid. The bill of sale or title to the watercraft or outboard motor must have a certification that the property taxes for property tax years beginning after 1999 have been paid. At least annually, the appropriate Lexington County official must forward a list of delinquent taxes due on watercraft and outboard motors to the Department of Natural Resources.

Used watercraft and outboard motors acquired on or after October 3, 2000, which are obtained from a licensed dealer or an individual, are considered free and clear of the lien for Lexington County property taxes for property tax years before the 2000 property tax year. The Lexington County Treasurer or other official charged with collection of delinquent ad valorem taxes will seek collection of the delinquent taxes only from the previous owner of the used watercraft or outboard motor, not including a licensed boat dealer. Property taxes paid on watercraft and outboard motors for property tax years before 2000 are not refundable.

Effective Date: June 7, 2002

Senate Bill 852, Section 17 (Act No. 334)

**Multicounty Park Fee in Lieu**

Code Section 12-2-90(B) has been added to provide that for purposes of the collection and enforcement of the "fee in lieu of tax" the fee will be treated like a property tax and the owners must file returns and pay a fee in lieu of taxes as if it were a property tax. All provisions relating to collection and enforcement of property taxes, including penalty provisions, but excluding Code Section 12-54-155 (substantial understatement of tax), apply to a "fee in lieu of taxes" under this section. The provisions of Code Section 12-2-90 are in addition to any other provisions of law relating to the collection and enforcement of other forms of payments in lieu of taxes. See Code Sections 12-44-90, 4-12-30(Q), and 4-29-67(S).

For purposes of this section, "fee in lieu of tax" means the amount required to be paid by the owners or lessees of any property in an industrial or business park pursuant to the provisions of Section 13(D) of Article VIII of the SC Constitution and its implementing statutes. See Code Sections 12-2-90(A) and 4-1-170.

Effective Date: June 24, 2002



## **Fee In Lieu Provisions**

South Carolina has three Fee in lieu statutes commonly referred to as the “Little Fee” (Chapter 12 of Title 4), the “Big Fee” (Code Section 4-29-67), and the “Simplified Fee” (Chapter 44 of Title 12.) Special fee in lieu provisions exist for very large investments and are known as the “Super Fee” with respect to the Little Fee and the Big Fee, and the “Enhanced Investment Fee” with respect to the Simplified Fee.

The Fee statutes permit an investor (sometimes referred to as a sponsor) to negotiate to pay a Fee instead of paying property taxes. The 10.5% assessment ratio can be, an often is, negotiated to 6% (4% for very large investments under the Super Fee or the Enhanced Fee). In addition, the company and a county can agree to freeze the millage rate applicable to the property at a set millage, or adjust the millage rate every 5 years, for the period the Fee is in effect. During the period of the Fee, the value of the real property remains constant and the value of the personal property is deemed to decrease each year by the depreciation allowable for property tax purposes subject to a floor on the value.

Below is a summary of amendments made to the Fee provisions.

### Senate Bill 852, Sections 2 and 7 (Act No. 334)

#### **All Fees – Extension of Time for Filing Returns**

Code Sections 4-12-30(Q), 4-29-67(S), and 12-44-90(H) have been added to provide that the Department may, for good cause, allow additional time for filing required Fee returns. The extension may not exceed 60 days from the date the return is due. An extension request must be filed on or before the date the return is due and an extension request cannot be granted to a taxpayer who has been granted an extension for a previous period and has not fulfilled the requirements of the previous period.

Effective Date: June 24, 2002

### Senate Bill 852, Sections 3, 4, and 5 (Act No. 334)

#### **All Fees – Summary Document and Bill**

Code Sections 4-12-45, 4-29-67(X), and 12-44-55 have been added to require additional filings in connection with a Fee in lieu transaction.

All agreements entered into under a Fee in lieu transaction, must include as the first portion of

the document a recapitulation that includes:

1. The legal name of all parties to the agreement;
2. The county and street address of the project and property subject to the agreement;
3. The minimum investment agreed upon;
4. The length and term of the agreement;
5. The assessment ratio applicable for each year of the agreement;
6. The millage rate applicable for each year of the agreement;
7. A schedule showing the amount and calculation of the Fee for each year of the agreement;
8. A schedule showing the amount to be distributed annually to each of the affected taxing entities;
9. A statement which answers:
  - a. Is the project located in a multicounty park?
  - b. Is disposal of property subject to the Fee allowed?
  - c. Are infrastructure credits or special source revenue bonds allowed for the project?
  - d. Is the net present value method being used?
  - e. Is replacement property allowed?
10. Any other features of the agreement which may affect the calculation of items 7 and 8.
11. What effect there may be on the schedules described in 7 and 8 above of any feature listed in items 9 or 10, not already reflected in the schedules described in items 7 and 8.
12. Which party or parties to the agreement is/are responsible for updating the summary document.

The auditor of the county is required to prepare a bill for each installment of the Fee according to the schedule in 7 above or as modified pursuant to items 10, 11, or 12 above, and payment must be distributed to the affected taxing entities as provided in the schedule in 8 above unless modified pursuant to items 10, 11, and 12 above.

Effective Date: June 24, 2002

Senate Bill 852, Sections 1 and 7 (Act No. 334)

### **All Fees – Project Completion Period Extended**

Code Sections 4-12-30(C)(2), 4-29-67(C)(2), and 12-44-30(13) have been amended to provide that if an investor (sponsor) does not anticipate completing the project within the time period for making the minimum investment (generally 5 to 8 years), the investor (sponsor) may apply to the county before the end of the time period for making the minimum investment for an extension of up to 5 years to complete the project. Previously, a 2 year extension was available. The time for making the minimum investment may not be extended.

Effective Date: June 24, 2002

House Bill 4548, Sections 1, 2, and 3 (Act No. 280)

**All Fees – Brownfields Voluntary Cleanup Program Costs Part of Investment**

Code Sections 4-12-30(B)(3), 4-29-67(B), and 12-44-30(14), which address the minimum level of investment to qualify for a Fee, have been amended to provide that investments may include amounts expended by a sponsor or an affiliate of such sponsor as a nonresponsible party in a voluntary cleanup contract on the property pursuant to Article 7, Chapter 56 of Title 44 if the Department of Health and Environmental Control has issued a certificate of completion of the cleanup. If the cleanup amounts equal at least \$1 million, the investment requirements of the Fee will be deemed to be met.

Effective Date: For projects receiving a certification of completion from the Department of Health and Environmental Control after May 28, 2002.

Senate Bill 675 (Act No. 207)

**Tax Increment Financing for Redevelopment Projects in Municipalities – Amendments**

Tax increment financing allows tax revenues attributable to increases in the value of the property in a “redevelopment project area,” which is designated by a municipality, to be used to finance redevelopment projects that will improve the redevelopment project area. The following changes have been made to the municipal tax increment financing laws in Chapter 6 of Title 31.

1. The definition of “redevelopment project” in Code Section 31-6-30(6) has been expanded to provide that a redevelopment project may be located outside of the redevelopment project area provided the municipality makes specific findings of benefit to the redevelopment project area and the project area is located within the municipal limits.
2. Code Section 31-6-70 has been amended to provide that if 10 years have passed from the time a redevelopment project area is designated, and the municipality has not issued the initial obligations, at the end of the 10 year period, the municipality must adopt an ordinance terminating the designation of the redevelopment project area. The statute used to provide for a 5 year period before termination was necessary.
3. Code Section 31-6-80 has been amended to provide that if a redevelopment project, or any portion of it, is to be located outside the redevelopment project area, the municipality must, by resolution, make a specific finding of benefit to the redevelopment project area and provide written notice to the affected taxing district. No further action is required of the municipality.

Questions concerning tax increment financing should be directed to the Comptroller General.

Effective Date: April 22, 2002

House Bill 3633 (Act No. 179)

**Municipal Tax Sale Can Be Held at Same Place County Tax Sale Held**

Code Section 5-7-300 has been amended to provide that a delinquent tax sale for the purpose of collecting municipal taxes which is held in conjunction with a delinquent tax sale for the purpose of collecting county taxes may be held at the public place in the county that is designated by the county.

Effective Date: March 5, 2002

Senate Bill 852, Section 10 (Act No. 334)

**Index of Taxpaying Ability – Date Changed**

Code Section 59-20-20(3) has been amended to provided that the Department must provide a preliminary index of taxpaying ability to the State Department of Education and the auditor of each county by December 1<sup>st</sup> of each year. Under prior law, the preliminary index had to be provided by November 1<sup>st</sup>.

Effective Date: June 24, 2002

# SALES AND USE TAXES

House Bill 4337, Section 4. A (Act No. 363)

## **Sales Tax Discount - Increase for Electronic Filing**

Code Section 12-36-2610 allows a discount to retailers who file their sales and use tax return and pays taxes due on or before the final due date (including any date to which the time for making the return and paying the tax has been extended pursuant to Code Section 12-54-70).

In general, the maximum discount allowed during any one State fiscal year may not exceed \$3,000. The statute has been amended to increase that discount to a maximum of \$3,100 if the retailer files his sales and use tax returns electronically.

Effective Date: July 1, 2002

Senate Bill 852, Section 6 (Act No. 334)

## **Streamlined Sales Tax**

The Streamlined Sales Tax Project is an effort created by state governments, with input from local governments and the private sector, to simplify and modernize sales and use tax collection and administration. The Project is proposing uniform definitions, simplified audit and administrative procedures, and emerging technologies to substantially reduce the burdens of tax collections. The Streamlined Sales Tax System is focusing on improving sales and use tax administrative systems for both local and remote sellers and for all types of commerce.

The Streamlined Sales Tax System will provide sellers the opportunity to use one of three technology models. A seller may select Model 1 where a Certified Service Provider performs all the seller's sales tax functions. A seller may select Model 2, a Certified Automated System that only performs the sales or use tax calculation. A larger seller with nationwide sales that has developed its own proprietary sales tax software may select Model 3 and have its own system certified by the states. In addition, some sellers may choose to continue to use their current systems and still enjoy the other benefits of simplification.

Chapter 35 of Title 12 established the "Simplified Sales and Use Tax Administration Act." Code Section 12-35-50 provides that the Department shall enter into the Streamlined Sales and Use Tax Agreement to simplify and modernize sales and use tax administration to reduce the burden of tax compliance for all sellers and for all types of commerce.

Code Section 12-35-30 provides that South Carolina should participate in multi-state discussions to develop a simplified system for sales and use tax. The Act also establishes basic guidelines

for any agreement reached among the states. The Agreement will sets forth the legislative and other requirements each state must comply with in order to participate.

To continue this process and to participate in the system established by the Streamlined Sales Tax Project to simplify and modernize sales and use tax administration, South Carolina will need to enact legislation in future years to comply with the final agreement.

Effective Date: June 24, 2002

Senate Bill 852, Sections 11 and 12 (Act No. 334)

### **Prepaid Wireless Calling Arrangements**

Code Section 12-36-910 imposes the sales tax on the gross proceeds of sales of tangible personal property, laundry, dry cleaning, dyeing and pressing services, electricity, charges for the ways or means for the transmission of the voice or messages, the fair market value of property manufactured and used or consumed by its manufacturer, and prepaid wireless calling arrangements.

The provisions of this Act clarified two provisions of this section. The first was enacted to clarify that prepaid wireless calling arrangements are not subject to the tax as a charge for the ways or means for the transmission of the voice or message. In other words, prepaid wireless calling arrangements are only taxed once – as a prepaid wireless calling arrangement under Code Section 12-36-910(B)(5) and not as a charge for the ways or means under Code Section 12-36-910(B)(3).

The second clarification concerns the effective date for the sourcing, in accordance with the Mobile Telecommunications Sourcing Act in Title 4 of the United States Code, of mobile telecommunication services subject to the tax as charges for the ways or means for the transmission of the voice or message. Under this clarification, the sourcing of mobile telecommunication services under the provisions of the Mobile Telecommunications Sourcing Act will apply to bills rendered after August 1, 2002.

Effective Date: June 24, 2002 for the clarification of taxation of prepaid wireless calling arrangements and August 1, 2002, (for bills rendered after August 1, 2002) for sourcing mobile telecommunications in accordance with the Mobile Telecommunications Sourcing Act.

House Bill 4878, Part IB, Section 72, Proviso 72.82 (Act No. 289)

This temporary proviso, enacted in the last legislative session, was reenacted this year.

### **Private Schools – “Use Tax” Exemption**

Purchases of tangible personal property for use in private primary and secondary schools, including kindergarten and early childhood education programs, are exempt 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.

Effective Date: This temporary proviso is effective for the State fiscal year July 1, 2002 through June 30, 2003. Unless reenacted by the General Assembly in the next legislative session, the provisions of this Act expire on June 30, 2003.

House Bill 4878, Part IB, Section 19, Proviso 19.10 (Act No. 289)

This temporary proviso, enacted in the last legislative session, was reenacted this year.

**State Museum - Exempt from Admissions Tax**

This proviso exempts the State Museum from remitting admissions tax to the Department. The museum must earmark an amount equivalent to the tax in its budget for the purpose of promoting and marketing the museum.

Effective Date: This temporary proviso is effective for the State fiscal year July 1, 2002 through June 30, 2003. Unless reenacted by the General Assembly in the next legislative session, the provisions of this Act expire on June 30, 2003.

# MISCELLANEOUS

## ADMINISTRATIVE AND PROCEDURAL MATTERS

House Bill 4878, Part IB, Section 64, Proviso 64.14 (Act No. 289)

### **20% Collection Assistance Fee –Imposed on Unpaid Tax Debt**

Under this proviso, tax debts that are at least 120 days old will be assessed a 20% collection fee. This 20% fee is imposed on the overdue tax; it is not imposed if the taxpayer enters into and timely makes all payments required. The 20% collection fee is effective for all tax debts that remain outstanding on December 3, 2002, and is effective for all debts incurred after December 1, 2002. The Department may waive the fee to the same extent as if it was a penalty.

Effective Date: This temporary proviso is effective for the State fiscal year July 1, 2002 through June 30, 2003. Unless reenacted by the General Assembly in the next legislative session, the provisions of this Act expire on June 30, 2003.

House Bill 4878, Part IB, Section 64, Proviso 64.15 (Act No. 289)

### **Installment Agreement – New Fee Imposed**

This proviso allows the Department to impose a \$45 fee for entering into installment agreements for the payment of tax liabilities.

Effective Date: This temporary proviso is effective for the State fiscal year July 1, 2002 through June 30, 2003. Unless reenacted by the General Assembly in the next legislative session, the provisions of this Act expire on June 30, 2003.

House Bill 4878, Part IB, Section 64, Proviso 64.12 (Act No. 289)

### **Certificate of Compliance – Fee Increase**

This proviso increases the fee charged by the Department for the issuance of a certificate of compliance from \$35 to \$60. A certificate of compliance is prima facie evidence that the tax has been paid, the return has been filed, or information has been supplied as required. Requests are



often made for transactions involving bank loans; issuing stock; and purchasing a business, real estate, or assets of a business.

Effective Date: This temporary proviso is effective for the State fiscal year July 1, 2002 through June 30, 2003. Unless reenacted by the General Assembly in the next legislative session, the provisions of this Act expire on June 30, 2003.

House Bill 3286 (Act No. 291)

(See also House Bill 4878, Part IB, Section 72, Proviso 72.57 (Act No. 289))

**Returned Check – Service Charge Increase**

This proviso allows any state agency to collect a service charge as provided in Code Section 34-11-70 to cover the costs associated with the processing and collection of dishonored instruments or electronic payments where the amount is not paid due to insufficient funds or the instrument has an incorrect or insufficient signature on it. Code Section 34-11-70 has been amended to increase the charge for returned checks from \$25 to \$30. Previously, the service charge was \$25, or \$30 for checks over \$100.

Effective Date: June 3, 2002

House Bill 4879, Part X, Section A (Act No. 356)

(See also House Bill 4878, Part IB, Section 64, Proviso 64.1 (Act No. 289))

**Fees to Recover Certain Department Administrative Costs**

Code Section 12-4-390(A) has been added to codify a temporary proviso that allows the Department to collect and retain fees to recover the costs of the production, purchase, handling, and mailing of documents, publications, records and data sets.

Effective Date: July 1, 2002

House Bill 4337, Section 4. B (Act No. 363)

**Electronic Funds Transfer – Participation Amount Lowered**

Code Section 12-54-250 provides that consistent with the cash management policies of the State Treasurer, the Department may require that any person with a \$15,000 or more corporate income tax liability, sales tax liability, withholding tax liability, or certain types of miscellaneous tax liabilities in one tax period during the previous 12 months pay their tax liabilities in funds immediately available to the State. Such payments are made through South Carolina's Electronic Funds Transfer Program. Code Section 12-54-250 has been amended to lower the participation

amount from \$20,000 to \$15,000. The Department continues to encourage any taxpayer that does not meet the \$15,000 threshold to voluntarily participate in the program.

Effective Date: July 1, 2002

House Bill 4337, Section 4. C (Act No. 363)

**Outstanding Debts Collected by the Department – Definition of Governmental Entity**

Code Section 12-4-580(D)(1), concerning the Department’s authority to collect any outstanding liabilities owed a governmental entity, has been amended to delete debts owed to private institutions of higher learning from the definition of governmental entity.

Effective Date: July 1, 2002

Senate Bill 852, Section 9 (Act No. 334)

**Debt Setoff – “Claimant Agency” Expanded**

The Setoff Debt Collection Act in Chapter 56 of Title 12 allows the Department to assist a claimant agency in the collection of any delinquent account or debt by setting off the debt from any refunds due the debtor from the Department. Code Section 12-56-20(1) has been amended to add to the definition of “claimant agency” any other governmental or quasi governmental entity of any state or the United States.

Effective Date: June 24, 2002

Senate Bill 204 (Act No. 225)

**Family Privacy Protection Act - Established**

Chapter 2 of Title 30 has been added to establish the Family Privacy Protection Act of 2002. The Act requires all state agencies, boards, commissions, departments, and other state entities to develop privacy policies and procedures to ensure that the collection of personal information pertaining to citizens of South Carolina is limited to such personal information required by any such state entity and necessary to fulfill a legitimate public purpose. Further, Code Section 30-2-50(A) provides that a person or private entity shall not knowingly obtain or use any personal information obtained from a public body for commercial solicitation directed to any person in this State.

Effective Date: May 1, 2002

House Bill 4879, Part X, Section B (Act No. 356)  
(See also House Bill 4878, Part IB, Section 64, Proviso 64.20 (Act No. 289))

### **Disclosure of Information to the Department of Health and Human Services**

Code Section 12-54-240(B), pertaining to the prohibition of disclosure of records and returns by Department employees, has been amended to add and codify subitem (23) to provide that the Department may disclose any information on any return that has been filed with the Department to the Department of Health and Human Services for the purpose of verifying Medicaid eligibility.

Effective Date: July 1, 2002

House Bill 4878, Part IB, Section 72, Proviso 72.45 (Act No. 289)

### **Regulatory Audit of Laws, Regulations, and Provisos**

All State agencies, including the Department, must conduct a jurisdictional audit for the purpose of identifying laws, regulations, and provisos which are not being used or no longer need to be regulated. After identifying these laws, repeals are to be drafted for submission to the appropriate standing committee of the General Assembly by January 31, 2003.

Effective Date: July 1, 2002

Senate Bill 852, Section 18 (Act No. 334)

### **Joint Committee on Taxation – Established**

Chapter 41 of Title 2 has been added to establish a Joint Committee on Taxation. The nine member committee will (1) make a detailed study of South Carolina's revenue laws, (2) provide for the revision of revenue laws so as to develop a more easily understandable and workable system, (3) recommend changes in the basic tax structure and in the rates, (4) make a report of the economic impact of the South Carolina tax structure upon the business enterprises of various types of industry as compared with other southeastern states, and (5) make recommendations for long-range revenue planning.

The Committee will make recommendations to the General Assembly and the Governor by June 30, 2006, at which time the committee will be dissolved.

Effective Date: June 24, 2002

**Tax Reprieve (Amnesty) Program – October 15, 2002 through December 2, 2002**

The Tax Reprieve Program was enacted to encourage South Carolina taxpayers to clear up unpaid tax debts relating to all taxes collected by the Department for tax periods ending on or before December 31, 2001.

Under the Tax Reprieve Program, taxpayers meeting the requirements will have penalties due as of September 30, 2002, and one-half the interest due as of September 30, 2002, waived. The Tax Reprieve Program will begin on October 15, 2002, and will end on December 2, 2002.

The Tax Reprieve Program is available to all taxpayers – individuals, partnerships, limited liability companies, corporations, nonprofit organizations, and any other organization or association who meet the following requirements:

1. The taxes or fees due must be for periods which end on or before December 31, 2001.
2. The Department must have issued the taxpayer a notice of proposed assessment or a notice of assessment for the taxes, fees, interest, penalties, and costs due.
3. The taxpayer must not be the subject of a state tax related criminal investigation or criminal prosecution as of October 14, 2002.
4. The taxpayer must pay all taxes or fees with respect to every notice of proposed assessment and notice of assessment sent to the taxpayer by the Department, plus one-half the interest due as of September 30, 2002, and all costs. Penalties due as of September 30, 2002 and one-half the interest due as of September 30, 2002 will be waived.
5. Full payment must be made during the period of October 15, 2002, through December 2, 2002.

Reprieve does not apply to any municipal or county property taxes or the following civil violations:

12-28-1730(F)	Penalty for Selling or Using Dyed Motor Fuel on Highways
12-21-2738	Penalty for Failure to Comply with Coin-Operated Device Law
12-21-2748	Penalty for Failure to Place Identification on Coin-Operated Device
12-21-2804	Penalty Violation of Video Game Machine Act
12-54-90	Revocation of License for Failure to Comply with Tax Laws
12-54-43(H)	Penalty for Failure to Obtain License, Affix Stamps, or Follow Law
12-21-3960	Penalty for Violating Bingo Law
12-21-4140	Penalty for Violating Bingo Law
Title 61	Penalties for Violation of Liquor, Beer and Wine Laws in Title 61

Taxpayers who fail to pay tax debts under the Tax Reprieve Program will be subject to a 20% collection fee on all tax debt that has remained unpaid for 120 or more days after first notice. The 20% collection fee is effective for all tax debts incurred before December 1, 2002 which remain outstanding on December 3, 2002, and is effective for all debts incurred after December 1, 2002.

Effective Date: The Tax Reprieve Program will begin on October 15, 2002, and will end on December 2, 2002.

## **MISCELLANEOUS TAXES**

### House Bill 3663 (Act No. 217)

#### **Ordering of Credits for Estate Taxes**

Code Section 12-16-20(2), defining the term “federal credit,” has been amended to construe the term so as to take full advantage of the credit as allowed by Internal Revenue Code Section 2011, “Credit for State Death Taxes,” but (a) only after taking into account other federal estate tax credits permitted by the Internal Revenue Code and (b) not in excess of the amount necessary to reduce the federal estate tax to zero.

Effective Date: Applies to the calculation of South Carolina estate taxes due on or after April 22, 2002.

### Senate Bill 297, Sections 3, 4, and 5 (Act No. 200)

#### **Deed Recording Fee – Portion Credited to SC Conservation Bank Trust Fund**

The South Carolina Conservation Bank is established in Chapter 59 of Title 48 for the purpose of making grants and loans to public and private entities to acquire interests in real property worthy of conservation.

Chapter 24 of Title 12 imposes a deed recording fee on transfers of realty, a portion of which is credited to the State’s general fund. This Act requires that 25 cents of the State portion of the fee that is credited to the State general fund be credited the South Carolina Conservation Bank Trust Fund. However, in a fiscal year when the General Assembly in the annual general appropriations act provides less appropriations than what was provided for the previous year to at least one-half of the state agencies or departments contained in the budget or in any year when the Budget and Control Board orders across the board cuts to state agencies and departments in the manner

provided by law, no further transfer of deed recording fees may be credited to the trust fund for the fiscal year or balance of the fiscal year.

Effective Date: July 1, 2003; however, transfers of deed recording fees to the South Carolina Conservation Bank Trust Fund begin on July 1, 2004, and are repealed effective July 1, 2013, unless reenacted or otherwise extended by the General Assembly. The South Carolina Conservation Bank may continue to operate until the trust fund is exhausted or July 1, 2016, whichever occurs first.

House Bill 4878, Part IB, Section 8, Proviso 8.30 (Act No. 289)

### **Hospital Tax Revenue**

Code Section 12-23-810 imposes a tax on every hospital licensed as a general hospital by the Department of Health and Environmental Control. This proviso requires that the total annual revenues from this tax must equal \$49.5 million, rather than the \$29.5 million provided for by Code Section 12-23-810(C).

Effective Date: This temporary proviso is effective for the State fiscal year July 1, 2002 through June 30, 2003. Unless reenacted by the General Assembly in the next legislative session, the provisions of this Act expire on June 30, 2003.

House Bill 4878, Part IB, Section 8, Proviso 8.40 (Act No. 289)  
(See also House Bill 4498 (Act No. Unassigned))

### **Nursing Home Bed Franchise Fees – Imposed and Suspended**

House Bill 4498 established a nursing home bed franchise fee beginning February 1, 2002. The annual fee was to be calculated based on total patient days served by the nursing home multiplied by a \$3 per patient day fee for State fiscal year ending June 30, 2002, and a \$4 per patient day fee for State fiscal year ending June 30, 2003. The fee was payable monthly.

A temporary proviso in House Bill 4878 suspended the nursing home bed franchise fee for the State fiscal year July 1, 2002 through June 30, 2003.

Effective Date: The franchise fee was effective February 1, 2002. The suspension of the franchise fee by the temporary proviso is effective for the State fiscal year July 1, 2002 through June 30, 2003.

House Bill 4894 (Act No. 301)

**Motor Carrier Provisions – Repealed Statutes**

Code Section 58-23-350 which provided that motor carriers of property, except for those carrying household goods and hazardous waste for disposal, could not operate in this State without a Class E certificate of compliance from the Department, has been repealed. Also, Code Section 58-23-640 which allowed the Department to charge a \$5 fee for each identifier and Code Section 58-23-650 which allowed the Department to enter into reciprocal agreements with other states allowing motor carriers to register in one base state have been repealed and replaced with similar statutes, Code Sections 56-3-661, 56-3-662, and 56-3-663, which transfer these responsibilities and authority to the Department of Public Safety.

Effective Date: June 3, 2002

**OTHER ITEMS (including local taxes)**

Senate Bill 290 (Act No. 441)

**Government-Owned Telecommunications Service Providers**

Title 58, Chapter 9, Article 23 has been added to provide that “government-owned telecommunications service providers” are subject to the same local, state, and federal regulatory, statutory, and other legal requirements as non-government-owned telecommunications service providers. The Act provides several other requirements and limitations that will be imposed on government-owned telecommunications service providers.

A government-owned telecommunications service provider is defined as a state or local political subdivision or person or entity providing telecommunications services to the public for hire over a facility, operation, or system that is directly or indirectly owned by, operated by, or a financial benefit obtained by, or derived from, an agency or entity of the State or any local government. The term does not include the State Budget and Control Board for services provided as of this article’s effective date nor does it include a state or local governmental entity or agency that receives a financial benefit solely from leasing or renting property that is not, in and of itself, a facility used to provide telecommunications service.

For tax purposes, a government-owned telecommunications service provider must pay and collect taxes each year as though they were a non-government-owned telecommunications service provider including: (1) all state taxes, including corporate income taxes, (2) all local taxes and fees, including business license taxes under Code Section 58-9-2230 and franchise fees and, (3) all property taxes. A government-owned telecommunications service provider must determine and collect its tax as though it were non-government owned and is entitled to the same deductions as a non-government owned telecommunications service provider. A government-

owned telecommunications service provider must remit to the general fund of the government entity owning the telecommunications provider, an amount equal to all taxes and fees the provider is required to pay.

Code Section 58-9-2630(D) provides that the taxpayer confidentiality provisions of Title 12 do not apply to filings of government-owned telecommunications service providers. Additionally, all telecommunications service providers are required to file an annual report with the Department reporting the total gross of retail communications which are subject to the business license tax under Code Section 58-9-2220. This information is available to any entity, or its agent, who is authorized to collect a tax on retail communications. This information may only be used by an entity, or its agent, for purposes of determining the accuracy of tax returns, filings and payment of taxes, and may not be disclosed or provided in any manner to any other person.

Effective Date: July 1, 2002

Senate Bill 852, Section 13 (Act No. 334)

#### **“Responsible Party” for State and Local Tax Collected But Not Remitted**

Code Section 12-54-195, providing that a “responsible person” may be held liable, individually and personally for sales and use tax collected by a retailer from its customers but not remitted to the Department, has been amended to apply to local sales and use tax collected by the Department on behalf of a political subdivision in South Carolina, as well as to state sales and use tax. In addition, it clarifies that the responsible party is liable for the tax, penalties, and interest from the date the tax was due.

Effective Date: June 24, 2002

House Bill 4878, Part IB, Section 64, Proviso 64.17 (Act No. 289)

#### **Local Option Sales Tax Collections – County Allocations**

The Department administers and collects local option sales taxes on behalf of the counties. Under this proviso, the Department is allowed to make adjustments within the county allocations for the State fiscal year of July 1, 2001 through June 30, 2002 during the next State fiscal year of July 1, 2002 through June 30, 2003.

Effective Date: This temporary proviso is effective for the State fiscal year July 1, 2002 through June 30, 2003. Unless reenacted by the General Assembly in the next legislative session, the provisions of this Act expire on June 30, 2003.



### **Capital Project Sales Tax Act - Amendments**

Title 4, Chapter 10, Article 3 allows a county to impose a capital project sales and use tax to pay for capital projects within the county. The statutes have been amended to allow a county to propose to issue bonds to provide for the payment of any project costs. The amendments are:

1. Code Section 4-10-330(A)(3) has been amended to provide that the county ordinance which provides for the capital project sales tax (subject to referendum by the voters) must specify the maximum amount of bonds to be issued, whether sales tax proceeds or other sources of funds are to be used for the project, the maximum cost of the project or portion of the project to be funded from the tax or bonds, and the net proceeds that are expected to be used to pay the cost or debt service on the bonds.
2. Code Section 4-10-330(D) has been amended to provide that the referendum question must include the principal amount of bonds proposed to be authorized and the sources of payment if the sales tax approved is inadequate to pay for the bonds.
3. Code Section 4-10-340(B)(2) has been amended to provide that the tax will terminate on the earlier of: (1) the final day of the maximum time period specified for imposition or (2) the end of the calendar quarter during which the Department receives a certificate under Code Section 4-10-360 indicating that no more bonds approved in the referendum remain outstanding that are payable from the sales tax and that the costs of the project approved in the referendum will have been paid upon application of the net proceeds during this quarter.
4. Code Section 4-10-360 has been amended to provide that within 30 days of the receipt of any quarterly payment, the county treasurer or county administrator must certify to the Department a schedule of payments remaining due on the bonds that are payable from the net proceeds of the sales tax authorized in the referendum.
5. If bonds are to be issued to fund the capital project, then there must be a referendum question which sets forth information about the bonds. Code Section 4-10-330(C) has been amended to provide that the notice concerning the referendum must include a statement indicating the principal amount of the bonds proposed to be issued, and if the issuance of the bonds is to be approved as part of the referendum, stating that the referendum includes the authorization of issuance of bonds in that amount.
6. Code Section 4-10-330(C) has been amended to provide that a referendum to impose a capital project sales and use tax is to be held at the time of the general election, unless the vote is to impose a tax in effect on or before June 1, 2002, and in existence at the time of such vote in which case the referendum must be held either (1) on a general election day or (2) at the time the governing body of the county and the Department determine necessary to permit the tax to be reinstated and continue without interruption. The choice of election times is up to the governing body of the county, however, a referendum to reimpose an existing tax may only be held once.

7. Code Section 4-10-340(A) has been amended to provide that if the reimposition of an existing sales and use tax is approved in a referendum, the tax is imposed immediately following termination of the current tax.
8. A transitional provision was added for counties that already held referendums providing for such bonds. These counties may continue to collect the tax and repay the bonds from the sales tax proceeds, but the tax may not be calculated for any period longer than the maximum provided for in the referendum.

Effective Date: June 24, 2002

Senate Bill 1131 (Act No. 326)

### **Richland County School Districts Sales and Use Tax**

The Richland County School Districts Property Tax Relief Act has been enacted. The 1% sales and use tax within Richland County authorized by this Act may be imposed upon (1) the adoption of an approving resolution by each of the boards of trustees of the three school districts in Richland County and (2) the subsequent approval of the imposition of the tax by referendum open to all qualified electors residing in Richland County. The approving resolutions must specify the maximum time, stated in calendar years, not to exceed 20, for which the tax must be imposed, the date upon which the referendum is held, the precincts and polling places for the referendum, and the question to appear on the referendum ballot. The approving resolutions, upon adoption, must be forwarded to the Richland County Registration and Elections Commission.

The proceeds of the tax must be distributed to the three school districts in Richland County. The boards of trustees of each of the school districts, before the expenditure of the proceeds of the tax, must by resolution determine the specific purposes for which the proceeds of the tax as distributed must be expended. The proceeds must be applied to (1) reduce ad valorem property taxes imposed to pay debt service on general obligation bonds or (2) otherwise defray the cost of capital improvements within each school district, as determined by resolution of the boards of trustees of the respective school districts.

The tax terminates upon the earlier of (1) the final day of the maximum time specified for the imposition or (2) 60 days following the filing with the Department of certified copies of resolutions adopted by the boards of trustees of each of the three Richland County school districts each requesting termination of the tax.

This tax must be administered and collected by the Department in the same manner that other sales and use taxes are collected. The tax is in addition to all other local sales and use taxes. It applies to the gross proceeds of sales in the applicable jurisdiction which are subject to the tax imposed by Chapter 36, Title 12, and the enforcement provisions of Chapter 54, Title 12. The gross proceeds of the sale of food which may lawfully be purchased with food stamps and items subject to a maximum tax are exempt from this tax.

Those persons required to pay the use tax must identify the county in which the tangible personal property purchased at retail is stored, used, or consumed. Utilities are required to report sales in the county in which consumption of the tangible personal property occurs. Taxpayers subject to the sales tax on accommodations who own or manage rental units in more than one county must separately report the gross proceeds from business done in each county.

Sales of tangible personal property delivered after the imposition date of the tax, either under the terms of a construction contract executed before the imposition date, or a written bid culminating in a construction contract entered into before or after the imposition date, are exempt from this tax provided a verified copy of the construction contract is filed with the Department within six months after the imposition date of the tax. With respect to services regularly billed on a monthly basis, the tax is to be billed beginning on the first day of the billing period beginning on or after the imposition date.

The Department will furnish data to the State Treasurer and to the school district for the purpose of calculating distributions and estimating revenues.

Effective Date: June 18, 2002

Senate Bill 1195 (Act No. Unassigned)

### **Pickens County School District Sales and Use Tax**

The School District of Pickens County School Bond Property Tax Relief Act has been enacted. The 1% sales and use tax within Pickens County authorized by this Act may be imposed upon (1) the adoption of an approving resolution by the school district and (2) the subsequent approval of the imposition of the tax by referendum open to all qualified electors residing in Pickens County. The approving resolution must specify the maximum time, stated in calendar years, calendar quarters, or a combination of them, not to exceed 20 years, for which the tax must be imposed and must also specify the improvements to be financed through the issuance of general obligation bonds of the school district together with the imposition of the tax.

The tax terminates on the final day of the maximum time specified in the imposition (but not more than 20 years) or, if earlier, upon payment of the final maturing installments of principal of the bonds to which the application of the tax is authorized, or upon payment of the final maturing installments of principal of general obligation bonds issued to refund the bonds.

This tax must be administered and collected by the Department in the same manner that other sales and use taxes are collected. The tax is in addition to all other local sales and use taxes. It applies to the gross proceeds of sales in the applicable jurisdiction which are subject to the tax imposed by Chapter 36, Title 12, and the enforcement provisions of Chapter 54, Title 12. The gross proceeds of the sale of food which may lawfully be purchased with food stamps and items subject to a maximum tax are exempt from this tax.

Those persons required to pay the use tax must identify the county in which the tangible personal property purchased at retail is stored, used, or consumed. Utilities are required to report sales in

the county in which consumption of the tangible personal property occurs. Taxpayers subject to the sales tax on accommodations who own or manage rental units in more than one county must separately report the gross proceeds from business done in each county.

Sales of tangible personal property delivered after the imposition date of the tax, either under the terms of a construction contract executed before the imposition date, or a written bid culminating in a construction contract entered into before or after the imposition date, are exempt from this tax provided a verified copy of the construction contract is filed with the Department within six months after the imposition date of the tax. With respect to services regularly billed on a monthly basis, the tax is to be billed beginning on the first day of the billing period beginning on or after the imposition date.

The Department will furnish data to the State Treasurer and to the school district for the purpose of calculating distributions and estimating revenues.

Effective Date: June 6, 2002

House Bill 4464 (Act No. 174)

### **Florence County School District 1 - Allowed to Issue Bonds and Increase Millage**

This Act authorizes the Board of Trustees of Florence County School District 1 to issue general obligation bonds to provide funds necessary to meet its cost of operations and maintenance. The amount of bonds may not exceed the lesser of (1) the available 8% debt limit as prescribed by Article X, Section 15 of the South Carolina Constitution or (2) the difference between the total amount of state appropriations anticipated in the school district's budget for fiscal year 2001-2002 as originally adopted and the actual amount of state funds which the school district will receive for fiscal year 2001 - 2002, plus issuance costs. The bonds must mature no more than 15 months from the date of issuance. The Florence County Auditor is required to levy a tax on all taxable property in the school district sufficient to pay the interest and principal on the bond.

In addition, the Act authorizes the Board to increase the millage on all taxable property located in Florence County School District 1. The amount of additional millage authorized for fiscal year 2002 - 2003 is the amount necessary to replace any decrease in state appropriations to the school district from the amount of state appropriations anticipated in the school district's budget for fiscal year 2001 - 2002 as originally adopted. For fiscal year 2003 - 2004, the Board must reduce the millage rate by the number of mills that were levied pursuant to this Act subject to adjustment pursuant to Act No. 239 of 1981.

Effective Date: February 12, 2002

House Bill 4465 (Act No. Unassigned)

**Florence County School District 1 - Referendum to Allow Increase in Millage**

This joint resolution authorizes a referendum to be held on May 7, 2002, to determine if the Florence County School District 1 Board of Trustees may annually raise the millage for school operations by 5 mills over the millage levied for the prior year. In no event may the increase in millage exceed 20 mills over a 5 year period. The millage increase would be in addition to any increase in millage required to comply with the Education Improvement Act local maintenance of effort.

If the proposed millage exceeds the increase authorized annually or over a 5 year period, the increase must be approved through an additional referendum.

The provisions of the joint resolution are designed to supplement the changes made by Act No. 174 and not replace them.

Effective Date: March 28, 2002

House Bill 1052 (Act No. Unassigned)

**Marion County School District 7 – May Increase Millage**

The Marion County Board of Education may levy additional property tax millage annually in Marion County School District 7 to fund school facilities in the district acquired by the Board of Education. The additional millage may not exceed 25 mills and may not be imposed for more than 20 years. The revenue raised must not be included in the annual calculation of Marion County School District 7's local financial effort per pupil for noncapital programs for purposes of Code Section 59-21-1030 (which requires a school district to maintain a certain level of per pupil financial effort). If the Board wants to levy additional millage in excess of these limits, it must be approved in a referendum.

Effective Date: April 5, 2002

House Bill 5191 (Act No. 338)

**Dillon County Millage and Distribution of Funds**

The school millage imposed for fiscal year 2001 - 2002 in Dillon County for school purposes is reimposed for fiscal year 2002 - 2003, however, the 10 mills levied for debt service or school buildings and the .5 mills levied for the Dillon County Technical Center must be used for general

school operating purposes and operations with 70% allocated to Dillon School District 2, 15% to Lakeview area schools, and 15% to Latta area schools.

Effective Date: May 21, 2002

House Bill 5238 (Act No. 434)

**Dillon County Millage Increased**

Beginning with fiscal year 2002 - 2003, the school tax millage for Dillon County is increased by 1 mill with proceeds used for Northeast Technical College.

Effective Date: June 24, 2002

House Bill 1313 (Act No. Unassigned)

**York County School District 4 – May Increase Millage**

For fiscal year 2002 - 2003 only, the Board of Trustees for York County School District 4 (Fort Mill) may impose an additional property tax not to exceed four mills for the operations of that district.

Effective Date: July 1, 2002

House Bill 3851, Section 1 (Act No. 312)

**Local Accommodations Tax Expenditures - Amendments**

Code Section 6-1-530(A) has been expanded to allow local accommodations tax funds collected pursuant to Title 6, Chapter 1, Article 5 to also be used to fund tourism-related lands and water access, in addition to beach access and renourishment.

Effective Date: June 5, 2002

House Bill 3851, Sections 2 and 3 (Act No. 312)

(See also House Bill 4878, Part IB, Section 72, Proviso 72.100 (Act No. 289))

**Accommodations Oversight Provisions - Amendments**

Title 6, Chapter 4 addresses the allocation and expenditure of funds from the 2% state accommodations tax. Under the provisions of the law, counties and municipalities must spend the funds for certain purposes, most of which are designed to encourage tourism in the area

receiving the funds. The following amendments have been made to Title 6, Chapter 4.

1. Code Section 6-4-5(2) has been amended to eliminate a reference to the South Carolina Tax Oversight Committee since it no longer exists.
2. Code Section 6-4-5(5) defining “tourist” has been deleted. The definition of “tourist” previously provided that a tourist was any person traveling to and staying in places outside his usual environment for one night or more for leisure, business, or any other purpose. (See also Act No. 289, effective July 1, 2002, which provided that the term “tourist” as used in Section 6-4-10 will not apply to museums or to festivals, arts and cultural events, or the sponsoring organization of these events.)
3. Code Section 6-4-25(A) has been amended to provide that municipalities or counties receiving more than \$50,000 (previously \$25,000) from the accommodations tax in county areas collecting more than \$50,000 must appoint an advisory committee to make recommendations on the expenditure of accommodations tax revenue.

Effective Date: June 5, 2002

## **REGULATORY MATTERS**

Senate Bill 852, Section 16 (Act No. 334)

### **Bingo Laws**

Article 24 of Chapter 21 of Title 12 establishes the rules for managing, conducting, and operating a bingo game and operation. The bingo law has been amended as follows:

1. In order to be a promoter, a person must now be licensed as a professional solicitor by the Secretary of State. (Code Section 12-21-3920(4))
2. Bingo may only be played during a twelve-hour session between the hours of 12:00 p.m. and 2:00 a.m. (Code Section 12-21-3920(6))
3. The Department now has 45 days (instead of 30 days) to approve or reject a bingo application based on the requirements of the statute. (Code Section 12-21-3950(B))
4. Bingo cards must sell for face value and may not be given to players as prizes or for free. (Code Section 12-21-3990(A)(1))
5. At the conclusion of each game, the bingo operation must announce the prize awarded (specifically stating the dollar amount or value of the merchandise) before the next game begins. (Code Section 12-21-3990(A)(2))

6. The excess proceeds tax imposed under Code Section 12-21-4000(12)(b) must now be based on a quarterly average and not on each session.
7. The bingo operation may hold special promotions during the session offering players prizes other than from the play of bingo. These prizes may not exceed \$100 in cash or merchandise per session, may not be paid out of the bingo account, and may not be in the form of gambling or a game of chance. Also, there can be no additional charge to players to participate in a special promotion. (Code Section 12-21-4000(15))
8. The number of sessions a Class B bingo licensee may conduct has increased from 3 sessions per week to 5 sessions per week. (Code Section 12-21-4020(2))
9. The promoter may now deposit the gross proceeds from the session less the amount paid out as prizes into the bingo checking account. The promoter, if authorized to make the deposit, must furnish evidence to the nonprofit organization's representative that the deposit was made timely and such evidence must be delivered to the nonprofit organization's representative no later than the next business day following the day of the bingo session on which the proceeds were obtained. (Code Section 12-21-4080(A))
10. If a deficit occurs in the bingo checking account, money, other than from the conduct of bingo, may now be deposited in the bingo checking account in the form of a loan – 50% from the promoter and 50% from the nonprofit organization. Detailed information substantiating the loan must be maintained. (Code Section 12-21-4090(C))
11. An organization or promoter seeking clarification on the play or operation of a bingo game may submit to the Department's Regulatory Section a written request seeking a determination as to whether a certain or specific action constitutes a violation of the bingo laws. A conference may be requested upon the receipt of the clarification request. (Code Section 12-21-4120)
12. Vouchers, which must be purchased from the Department in order to purchase bingo paper, may now be paid by check, cash, or any electronic method in addition to certified checks. If a check is returned by the bank for any reason, then the bingo operation must make all future payments by certified funds. (Code Section 12-21-4270)
13. The operation of bingo games excludes machines and lottery games, including video poker lottery games, prohibited by Code Sections 12-21-2710, 16-19-40, and 16-19-50. (Code Section 12-21-4005)

Effective Date: October 1, 2002



House Bill 1047, Section 1 (Act No. 335)

**Liquor and Wine Tastings – Retail Liquor Stores**

Code Section 61-6-1035 has been added to allow the sampling of wines containing over 16% by volume of alcohol, cordials, and other distilled spirits sold in a retail alcoholic liquor store if the sampling is conducted as follows:

1. No sample may be offered from more than four products at any one time.
2. No more than one bottle of each of the four products to be sampled may be opened.
3. The sampling must be held in a designated tasting area of the retail liquor store and all open bottles must be visible at all times. All open bottles must be removed at the conclusion of the tasting.
4. Samples must be less than one-half ounce for each product sampled.
5. No person may be served more than one sample of each product.
6. No sampling may be offered for longer than four hours.
7. At least ten days before the sampling, a letter detailing the specific date and hours of the sampling must be mailed first class to the South Carolina Law Enforcement Division.
8. No sample may be offered to, or allowed to be consumed by, an intoxicated person or a person under the age of 21. This person must not be allowed to loiter on the store premises.
9. The tastings must be conducted by the manufacturer or an agent of the manufacturer, and must not be conducted by a wholesaler, retailer, or employee of a wholesaler or retailer.
10. No retail alcoholic liquor store may offer more than one sampling per day.

Effective Date: July 1, 2002

House Bill 1047, Section 2 (Act No. 335)

**Discounts – Retail Liquor Stores**

Code Section 61-6-1560 has been added to allow a retail dealer, wholesaler, or producer to offer discounts on alcoholic liquors or nonalcoholic items through the use of premiums, coupons, or stamps redeemable by mail.

Effective Date: July 1, 2002

House Bill 4426, Section 2 (Act No. 353)

**Lottery Tickets – Sales in Retail Liquor Stores**

Code Section 61-6-1540 has been amended to allow the sale of lottery tickets authorized under the South Carolina Education Lottery Act (Chapter 150 of Title 59) in retail liquor stores.

Effective Date: July 16, 2002

House Bill 4878, Part IB, Section 64, Proviso 64.19 (Act No. 289)  
(See also House Bill 4426, Section 1 (Act No. 353))

**Local Option Permits – Municipalities**

Code Section 61-6-2010 authorizes counties and municipalities to conduct referendums that, if approved, allow Sunday sales of beer, wine, and liquor (minibottles) in such counties and municipalities for on premises consumption locations only. Businesses that hold a minibottle license and are located within these counties and municipalities may purchase a local option permit for each Sunday they wish to be open and sell beer, wine and liquor.

If the voters in a county approve the Sunday sale of beer, wine, and liquor (minibottle) via a local option permit, then such sales may be made anywhere in the county, including the portion of any municipality within the county.

The temporary proviso in Act No. 289 states that local option permits “may be issued in all parts of a municipality when any part of the municipality has been approved for issuance of such permits.” Essentially, if a municipality is located in more than one county, then local option permits may be issued for any part of the municipality as long as one of the counties in which the municipality is located has approved the referendum for Sunday sales.

Under the legislation enacted in Act No. 353, Code Section 61-6-2010 has been amended to allow a municipality located in more than one county to order a referendum on the question of the issuance of local option permits in all parts of a municipality when as a result of a favorable vote in a county referendum permits may be issued in only the parts of the municipality located

in that county. This will allow the citizens of a municipality to determine, through a referendum, if they want to continue to allow local option permits to be issued for all parts of the municipality.

This referendum is in addition to the referendum method already provided in the statute and an unfavorable vote in the municipal referendum would not affect the authority to issue local option permits in the part of the municipality located in a county where these permits may be issued as a result of the county referendum.

Effective Date: The temporary proviso in Act No. 289 is effective for the State fiscal year July 1, 2002 through June 30, 2003. Unless reenacted by the General Assembly in the next legislative session, the provisions of this Act expire on June 30, 2003. Act No. 353 is effective July 16, 2002.

# REGULATIONS

The General Assembly approved 6 documents to repeal or amend various tax and regulatory regulations. The documents are:

- Document No. 2662            Amendment of Various Tax and Regulatory Regulations
- Document No. 2636            Repeal of Various Tax and Regulatory Regulations
- Document No. 2658            Reorganization of Sales and Use Tax Regulations
- Document No. 2650            Amendment or Repeal of Various Alcoholic Beverage Regulations
- Document No. 2695            Repeal of Outdated Alcoholic Beverage Regulations
- Document No. 2651            Repeal of Alcoholic Liquor Advertising Regulations

The following provides a detailed listing of all regulations repealed or amended in each document. The final notice concerning each document, including the text of the new regulations, was published in the State Register on June 28, 2002, and can be found at [www.lpittr.state.sc.us/regnsrch.htm](http://www.lpittr.state.sc.us/regnsrch.htm).

Document No. 2662

**Amendment of Various Tax and Regulatory Regulations**

The General Assembly approved the amendment of the following administrative, regulatory, license tax, income tax, and property tax regulations to change references from the former Tax Commission to the Department and to correct references to various code sections that were changed in recodification of administrative and income tax laws in Title 12 in previous years.

<b>Administrative Regulations</b>	
117-1	Supplying of Identifying Numbers
117-2	Retention of Books and Records and the Use of Microfilm Reproduction of Books and Records
<b>Alcoholic Liquor, Beer and Wine, and License Tax Regulations</b>	
117-12	Collection and Payment of Tax and the Maintaining of Records
117-20	Sales or Exchanges with other Wholesalers
117-21	Change in Distributors

117-38	Soft Drinks - Exemptions
117-49	Classification of Industrial Customers
<b>Income Tax Regulations</b>	
117-61	Tax Liability of Stockholders
117-73	Related Expenses Defined
117-74	Allocation of Out-of-State Income and Losses
117-81	Tax Credit to Residents of this State Upon Income from a Partnership Taxed in Another State
117-83	Copies of Withholding Statements
117-87.17	Unrelated Business
117-87.20	Information Reports
117-87.32	Active Duty Military Pay
117-88.1	Determining Net Income of Building and Loan Associations
117-88.2	Earnings Paid to Shareholders
117-89.1	Annual Reports of Public Utilities
117-91.1	Nonresident Employees Operating Common Carriers
117-91.7	The One-half Rule
117-92.1	Entire Net Income
117-92.3	Federal Income Tax Deduction
<b>Property Tax Regulations</b>	
117-115	General Requirements for Ratio Study
117-116	Form to Provide Tax Commission with Information for Ratio Studies
117-124.2	Licensed Automotive Vehicles and Airplanes
117-124.3	Manufacturing Plants Constructed Pursuant to the Industrial Revenue Bond Act
117-126	Use Value Procedure for Cropland and Timberland
117-127	Computation of Index of Taxpaying Ability for School District

Effective Date: June 28, 2002

**Repeal of Various Tax and Regulatory Regulations**

The General Assembly approved the repeal of the following sales tax, property tax, administrative, estate tax, income tax, license tax, and regulatory regulations since they are no longer needed due to changes in the law.

<b>Type Tax</b>	<b>Regulation</b>	<b>Regulation Title</b>
<b>Sales Tax</b>	117-174.38	Automobile Dealer’s Demonstrator
	117-174.221	Vendor’s Discount
<b>Property Tax</b>	117-109	Determining the Fair Market Value of the Inventory Merchandise of Merchants
	117-124.14	Inventory Tax – Alcoholic Liquors
	117-121	Mobile Homes Located on Leased Land Assessed as Real Property
	117-107	Assessment of Manufacturers’ Property
	117-108	Assessment of Property of Merchants
	<b>Administrative</b>	117-5
117-4		Procedure for Appeal to the Tax Commission from a County Board of Tax Appeals when the Statute Providing for such Appeal Fails to Specify the Manner in Which the Appeal is to be Made or the Grounds Therefor and Limits the Appeal to “Relief as Afforded by General Law”
117-3		Appeal Procedure Before County Tax Board of Appeals
<b>Estate Tax</b>	117-181.1	Rules and Regulations
	117-181.2	Transfer of Securities, Deposits or Other Assets
	117-181.3	Transfer of Contents of Safe Deposit Boxes
<b>Income Tax</b>	117-60	Nonresidents Having Income from a Business in this State Subject to Tax
	117-75	When Sales Allocated to State of the Purchaser
	117-76	Nonresident Partners of a Partnership May File Single Return
	117-77	Filing of a Consolidated Return for Two or More Corporations
	117-79	Extension of Time for Filing and Tentative Returns Required
	117-80	Application for Refund of Deceased
	117-82	Income Tax in Another State Defined
	117-84	Bond for Nonresidents Conducting a Temporary Business

	117-85	Filing of Reports and Annual License Fees of Corporations
	117-86	Foreign Corporation Defined
	117-87.54	Definitions of "Taxable," "State," and "Net Income Tax" in Connection with the Allocation Formula
	117-87.69	Allocation and Apportionment of Income
	117-87.74	Nonresident Aliens
	117-87.78	Retirement Benefits Paid to Public School Teachers and State Employees Living in this State
	117-89.3	License Fees - Professional Associations
	117-91.2	Withholding on Casuals
	117-91.3	Withholding of Rents
	117-91.4	Withholding on Rentals Paid to Nonresidents
	117-91.5	Relieve Residents Working Without the State from Double Withholding
	117-91.6	Agricultural Labor
	117-91.8	Qualification to do Business
	117-91.9	Credit for Tax Withheld by an Employee Even Though Not Paid to Tax Commission by Employer
	117-91.11	When Federal Forms W-2, W-4 and 1099 are Acceptable by the South Carolina Tax Commission
	117-95.1	Agreement for Withholding of Income Tax
<b>License Tax</b>	117-32	Stamps Required on Certain Articles
	117-33	Records
	117-36	Cigarettes Displayed in Vending Machines
	117-37	Cigars
	117-44	Documentary Stamps - Sale of by Others
	117-45.1	South Carolina Documentary Stamps must be Affixed before Instrument is Recorded
	117-46	Base of the Documentary Stamp Tax When Consideration Received for Property Transferred Does Not Have a Readily Ascertainable Fair Market Value
<b>Video Game</b>	117-191.1	Technical Standards for Video Game Machines
	117-191.2	Technical Standards for Location Controller
	117-191.3	Remote Shutdown of a Machine or Machines

Effective Date: June 28, 2002

**Reorganization of Sales and Use Tax Regulations**

The General Assembly approved the repeal of Article 7 of Chapter 117 of the SC Code of Regulations (SC Regulations 117-145 through 117-178) and the creation Article 11. Under this reorganization, 225 sales and use tax regulations were combined into 35 so that all regulations concerning one subject matter can be found in one place in the regulation code. For example, all issues concerning agriculture can be found in one regulation under Regulation 117-301. This regulation has several “subsections” numbered 117-301.1, 117-301.2, etc. This reorganization also incorporates longstanding Department policy with respect to building materials used in the construction of commercial housing for poultry and livestock; meals sold to or by medical institutions, colleges, and universities; charges by hotels and similar facilities; transactions involving state and local governments; and the calculation of the tax when a manufactured home is sold with furniture, appliances, and other items.

<b>New Regulation</b>	<b>Repealed/Former Regulation</b>	<b>Subject Matter</b>
117-300	117-145, 117-174.86, 117-175.1, and 117-175.2	Retail Licenses
117-301	117-174.8, 117-174.9, 117-174.10, 117-174.12, 117-174.14, 117-174.15, 117-174.16, 117-174.17, 117-174.18, 117-174.19, 117-174.20, 117-174.21, 117-174.22, 117-174.23, 117-174.24, 117-174.25, 117-174.26, 117-174.27, 117-174.28, 117-174.84, 117-174.85, 117-174.87, 117-174.198, 117-174.199, 117-174.237, 117-174.243, 117-174.252, and 117-174.255	Agriculture
117-302	117-173, 117-174.30, 117-174.31, 117-174.35, 117-174.42, 117-174.46, 117-174.49A, 117-174.50, 117-174.61, 117-174.80, 117-174.83, 117-174.88, 117-174.102, 117-174.103, 117-174.117, 117-174.120, 117-174.121, 117-174.122, 117-174.123, 117-174.124, 117-174.125, 117-174.126, 117-174.127, 117-174.128, 117-174.129, 117-174.130, 117-174.132, 117-174.134, 117-174.135, 117-174.136, 117-174.137, 117-174.138, 117-174.139, 117-174.140, 117-174.141, 117-174.142, 117-174.143, 117-174.144, 117-174.145, 117-174.146, 117-174.148, 117-174.149, 117-174.172, 117-174.173, 117-174.174, 117-174.175, 117-174.176, 117-174.177, 117-174.178, 117-174.179, 117-174.209, 117-174.210, 117-174.212, 117-174.216, 117-	Manufacturers, Processors, Compounders, Miners and Quarriers



	174.227, 117-174.228, 117-174.229, 117-174.230, 117-174.236, 117-174.244, 117-174.245, 117-174.246, 117-174.248, and 117-174.258	
117-303	117-174.232, 117-174.233, 117-174.234, 117-174.241 and 117-175.3	Laundries
117-304	117-174.92, 117-174.93, 117-174.94, 117-174.95, 117-174.96, 117-174.97, 117-174.98 and 117-174.100	State and Local Government
117-305	117-174.113, 117-174.114, 117-174.115, and 117-174.116	Meals
117-306	117-162, 117-163, 117-174.32, 117-174.33, 117-174.191, and 117-174.192	Repairs
117-307	117-174.101	Hotels, Motels and Similar Facilities
117-308	117-162, 117-163, 117-166, 117-167, 117-169, 117-174.33, 117-174.153, 117-174.158, 117-174.160, 117-174.161, 117-174.162, 117-174.163, 117-174.205, 117-174.206, 117-174.263, 117-174.264 and 117-174.266	Services
117-309	117-164, 117-165, 117-168, 117-174.36, 117-174.39, 117-174.40, 117-174.89, 117-174.90, 117-174.104, 117-174.109, 117-174.110, 117-174.165, 117-174.208, 117-174.218, 117-174.225, 117-174.231, 117-174.247 and 117-174.259	Retailers
117-310	117-156, 117-174.214 and 117-174.215	Freight and Delivery Charges
117-311	117-174.54, 117-174.55, 117-174.56, 117-174.114, 117-174.180, 117-174.181, 117-174.182, 117-174.183, 117-174.184, 117-174.185 and 117-174.186	Railroads
117-312	117-174.68, 117-174.78, 117-174.79, 117-174.91, 117-174.105, 117-174.164, 117-174.201, 117-174.222 and 117-174.260	Containers and Other Packaging Material
117-313	117-174.202, 117-174.203, 117-174.204 and 117-174.261	Labor
117-314	117-174.6, 117-174.7, 117-174.45, 117-174.47, 117-174.53, 117-174.62, 117-174.63, 117-174.131, 117-174.157, 117-174.170, 117-174.171 and 117-174.249	Construction
117-315	117-174.166, 117-174.167 and, 117-174.168	Newspaper
117-316	117-174.213 and 117-174.251	Books
117-317	117-176.1 and 117-176.2	Repossessed Property
117-318	117-174.48, 117-174.59, 117-174.106, 117-174.238, 117-174.240, 117-174.253 and 117-174.265	Gross Proceeds of Sales and Sales Price

117-319	117-174.223 and 117-174.224	Warehousemen
117-320	117-174.220 and 117-174.239	Use Tax
117-321	117-174.81 and 117-174.207	Ships
117-322	117-154	Casual and Isolated Sales
117-323	117-177	Residential Heating
117-324	117-174.82	Dual Business
117-325	117-174.196	Bulk Sales
117-326	117-174.41	Saving and Loan Associations
117-327	117-174.107	Leased Departments
117-328	117-174.250	Radio and TV Stations
117-329	117-174.235	Communications
117-330	117-174.262	Automatic Data Processing
117-331	117-174.254	Airport Fixed Based Operators
117-332	117-174.257	Medicine and Prosthetic Devices
117-333	117-157	Donors and Goods Given Away for Advertising Purposes
117-334	117-170	Interstate Commerce
117-335	117-178	Manufactured and Modular Homes
117-336	117-160.5	Definition of a Facility

In addition, the following regulations are repealed due to changes in the law, recent court cases, or because they are no longer needed as a result of the sales and use tax regulation reorganization project.

<b>Repealed Regulation</b>	<b>Subject Matter</b>
117-174.38	Automobile Dealer's Demonstrator
117-174.62	Contractor's Liability
117-174.178	Materials Used in Processing by Paper Manufacturers
117-174.188	Religious Publications
117-174.221	Vendor's Discount
117-175.4	Partnerships

Effective Date: June 28, 2002

**Amendment or Repeal of Various Alcoholic Beverage Regulations**

The General Assembly approved the amendment of various alcoholic beverage regulations to change references from the former Alcoholic Beverage Commission to the Department or the State Law Enforcement Division and to correct references to various code sections that were changed in recodification of the alcoholic beverage laws in Title 61 in previous years.

The General Assembly also approved the repeal of some outdated provisions. The affected regulations are as follows:

<b>Amended or Repealed Regulation</b>	<b>Regulation Title</b>
7-2	Applications
7-6	Licensed Premises
7-7	Maintenance of Records
7-8 (Repealed)	Inspection of Premises
7-9	Purchase or Possession by Person Under Twenty-one Years of Age
7-10	Retail Liquor Dealers
7-11	Measurements
7-13	Destruction of Two-ounce Containers
7-14	Private Functions
7-16	Purchase of Minibottles from Retail Liquor Dealers
7-17	Sale and Consumption at Nonprofit Organizations
7-19	Restaurants
7-21	Application
7-22	Display of License
7-25 (Repealed)	Inspection of Premises
7-26	Violations
7-27	Stipulations
7-31	Possession or Consumption of Alcoholic Liquors by Person Under Twenty-one Years of Age
7-33	Records to be Maintained on Licensed Premises
7-35	Transfer of Alcoholic Liquor Between Retail Stores
7-36	Purchases by Retail Dealer from Licensed Wholesaler Only; Purchases for Exclusive Use Prohibited
7-41	Natural Wines Defined
7-42 (Repealed)	Readvertising Not Necessary in Same Fiscal Year
7-48 (Repealed)	Corporations, Associations, etc. Responsible for all Violations on Premises
7-51 (Repealed)	Inspection, Refusal of
7-52	Underage Violations - Multiple Offenses
7-55	Measurements from Location to School, Church or Playground
7-56	Credit Cards Allowed for the Purchase of Liquor

7-58	Storage Areas in Retail Stores
7-60	Merchandise Other Than for Wines or Alcoholic Liquors Cannot be Advertised or Displayed
7-61	Time of Sale
7-62	Open Containers of Wine as Well as Alcoholic Liquors in Retail Liquor Stores
7-63	Dishonored Checks to Wholesalers
7-70	Person Under 21 - Violation to Allow Possession and Consumption of Alcoholic Liquors on Premises
7-71	Person Under 21 - Violation to Allow Possession and Consumption of Beer or Wine on Premises
7-72	Wines Sold by Beer and Wine Wholesalers
7-75 (Repealed)	Offers in Compromise Must be in Writing
7-76 (Repealed)	Clubs, Associations, etc., Responsible for all Violations
7-82 (Repealed)	Inspection of Premises Must be Permitted
7-85	Vending Machines for Beer Prohibited
7-86	Delivery or Removal of Beer and Wine During Restrictive Hours Prima Facie Evidence of Sale
7-88	Stipulations, Acceptance of
7-89	USDA Food Stamps Not Accepted in Payment for Beer or Wine
7-92	Sales by Retailer to Another Retailer for Resale
7-93	Beer and Wine Permit and Sale and Consumption License Must be in the Same Name
7-95	Refund on Permit Applications.
7-99	Sign Required Under Section 61-9-455; Size and Lettering

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Document No. 2695

**Repeal of Outdated Alcoholic Beverage Regulations**

The General Assembly approved the repeal of the following alcoholic beverage regulations since they are no longer needed due to changes in the law.

<b>Repealed Regulation</b>	<b>Regulation Title</b>
7-4	Reconsideration of Applications
7-19.1	Rehearings, Location of
7-30	Rehearing, Request for - Location
7-45	Offers in Compromise Must be in Writing
7-57	No Reconsideration on an Application Within Two Years Previously Denied as to Person
7-87	Hearing, After Denial
7-96	Rehearings, Location of

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Document No. 2651

**Repeal of Alcoholic Beverage Advertising Regulations**

The General Assembly approved the repeal of regulations 7-34 and 7-49, concerning alcoholic liquor advertising by wholesalers and retailers, since the U.S. Supreme Court, in *44 Liquormart v. Rhode Island*, 517 U.S. 484 (1996), held unconstitutional a similar Rhode Island statute that prohibited price advertising of alcoholic liquors.

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