



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE

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SC REVENUE RULING 21-13

- SUBJECT:** Age 65 and Older Deduction for Any Type Income;
Retirement Income Deductions:
- General Retirement Income Deduction at Any Age;
 - Military Retirement Income Deduction at Age 65 and Older; and
- Earned Income Offset by Military Retirement at Any Age
(Income Tax)
- EFFECTIVE DATE:** Applies to all periods open under the statute.
- SUPERSEDES:** SC Revenue Ruling #94-9, SC Information Letter #97-23 and any and all previous advisory opinions and any oral directives in conflict herewith.
- REFERENCES:** S.C. Code Ann. Section 12-6-1170 (2014) (Supp. 2020)
S.C. Code Ann. Section 12-6-1171 (Supp. 2020)
- AUTHORITY:** S.C. Code Ann. Section 12-4-320 (2014)
S.C. Code Ann. Section 1-23-10(4) (2005)
SC Revenue Procedure #09-3
- SCOPE:** The purpose of a Revenue Ruling is to provide guidance to the public and Department personnel. It is an advisory opinion issued to apply principles of tax law to a set of facts or general category of taxpayers. It is the Department's position until superseded or modified by a change in statute, regulation, court decision, or another Department advisory opinion.

OVERVIEW

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

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

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

The purpose of this advisory opinion is to provide guidance and examples regarding eligibility requirements for, and the calculation of, the income tax deductions in Code Sections 12-6-1170 and 12-6-1171. Guidance is also provided for military retirees and surviving spouses, and for spouses who inherit a qualifying retirement account and receive retirement income that is attributable to the deceased spouse.

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

Part I - South Carolina Law – Pages 4 - 6

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

Part II - Code Section 12-6-1170 Deductions – Pages 7 - 30

- A. “General” Retirement Income Based Deduction for Any Age - Summary
- B. Age Based “General” Deduction - Age 65 and Older Deduction for Any Type of Income (e.g., earned income, retirement income) - Summary
- C. Questions and Answers
- D. Examples Calculating Each Deduction (With Important Rules and Explanations):
 - Example 1 – Taxpayer is under Age 65 - Filing Status “Single”
 - Example 2 – Both Spouses are under Age 65 – Filing Status “Married Filing Joint”
 - Example 3 – One Spouse is under Age 65 and One Spouse is Age 65 or Older
 - Example 4 – Both Spouses are Age 65 or Older. Only One Spouse has Income.
 - Example 5 – Both Spouses are Age 65 or Older. Only One Spouse has Retirement Income.
 - Example 6 – Both Spouses are Age 65 or Older. Year of Death of One Spouse. Filing Status “Married Filing Joint.”
 - Example 7 – Year Following Death of Spouse. Surviving Spouse is Age 65 or Older.

Part III - Code Section 12-6-1171 Deductions – Pages 31 - 54

- A. Earned Income Deduction for Military Retiree of Any Age Receiving Both Earned Income and Retirement Income - Summary
- B. “Military” Retirement Deduction for Military Retiree Age 65 and Over - Summary
- C. Surviving Spouse Deduction
- D. Questions and Answers
- E. Examples Calculating Each Deduction:
 - Example 1 – Both Spouses are under Age 65
 - Example 2 – Single Military Retiree is Age 65 or Older
 - Example 3 – Both Spouses are Age 65 or Older. One has military retirement income.
 - Example 4 – Military Spouse Dies during the Year at Age 70. Surviving Spouse is Age 65.
 - Example 5 – Year Following Death of Military Spouse. Surviving Spouse is Age 65 or Older.

Important Points to Remember and Assumptions Used in Examples:

- The examples assume all retirement income is qualified retirement income.
- The examples apply to any legal marriage. When necessary, to clearly illustrate a specific person's income or deduction amounts, the examples will refer to one spouse as the "husband" and the other spouse as the "wife."
- The examples use the term "general" retirement income deduction and "general" age 65 and older deduction to refer to the deductions in Code Section 12-6-1170 that are available to both non-military and military individuals. When appropriate, the term "military" retirement income deduction in Code Section 12-6-1171(A)(2) is used to distinguish the "general" age 65 and older deduction in Code Section 12-6-1170(B).
- The age of a deceased individual had he or she been living on December 31st of the current tax year is used to calculate the deduction amounts (i.e., the deceased continues to age in the current tax year and thereafter, without regard to the actual date and year of his or her death).
- The deductions in Code Section 12-6-1171 were both phased in from 2016 to 2020. This advisory opinion uses the fully phased-in credit amounts - \$17,500 for the deduction in Code Section 12-6-1171(A)(1) and \$30,000 for the deduction in Code Section 12-6-1171(A)(2).
- NOTE: For taxpayer's filing original or amended returns for years prior to 2020, the phased-in amounts below should be used to compute the applicable prior year deduction allowed in Code Section 12-6-1171:

Code Section 12-6-1171(A)(1) – Earned Income Deduction: The deduction was phased in from tax years 2016 – 2020. The maximum deduction for tax years 2020 and thereafter is \$17,500. The maximum deduction was \$14,600 for tax year 2019; \$11,700 for tax year 2018; \$8,800 in tax year 2017; and \$5,900 in tax year 2016.

Code Section 12-6-1171(A)(2) – "Military" Retirement Income Deduction: The maximum deduction for tax years 2020 and thereafter is \$30,000. The maximum deduction was \$27,000 for tax year 2019; \$24,000 for tax year 2018; \$21,000 for tax year 2017; and \$18,000 for tax year 2016.

PART I

SOUTH CAROLINA LAW

Code Section 12-6-1170

Code Section 12-6-1171

Code Section 12-6-1170 reads:

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

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

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

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

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

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

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

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

Definition of Retirement Income

Surviving Spouse - Special Rules

Age 65 & Older General Deduction For any type of income

\$15,000 – one spouse is 65
\$30,000 – married and both spouses are 65

Military Claiming Section 12-6-1171 Deduction:

Reduction and Tracing Required by Military Retiree

Surviving Spouse Exception

Code Section 12-6-1171, providing for military retirement income deductions, reads:

(A)(1) An individual taxpayer who has military retirement income, each year may deduct an amount of his South Carolina earned income from South Carolina taxable income equal to the amount of military retirement income that is included in South Carolina taxable income, not to exceed seventeen thousand five hundred dollars. In the case of married taxpayers who file a joint federal income tax return, the deduction allowed by this section shall be calculated separately as though they had not filed a joint return, so that each individual's deduction is based on the same individual's retirement income and earned income. For purposes of this item, "South Carolina earned income" has the same meaning as provided in Section 12-6-3330.

**Taxpayer with
Earned Income and
Military Retirement
(Any Age)**

**Separate Income
Tracing**

(2) Notwithstanding item (1), beginning in the year in which an individual taxpayer reaches age sixty-five, an individual taxpayer who has military retirement income may deduct up to thirty thousand dollars of military retirement income that is included in South Carolina taxable income.

**Age 65 Deduction
Up to \$30,000 for
Military Retirement**

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

**Definition of
Retirement Income**

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

**Surviving Spouse -
Special Rules**

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

PART II

GENERAL DEDUCTIONS

UNDER CODE SECTION 12-6-1170

**“GENERAL” RETIREMENT INCOME DEDUCTION FOR ANY AGE
AGE BASED DEDUCTION – “GENERAL” AGE 65 OR OLDER DEDUCTION
AGAINST ANY TYPE OF INCOME**

SUMMARY OF CODE SECTION 12-6-1170 DEDUCTIONS¹

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

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

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

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

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

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

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

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

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

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

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

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

¹This summary is a brief overview of Code Section 12-6-1170 written in general terms. See the examples in this Revenue Ruling for more detailed guidance.

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

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

ADDITIONAL PROVISIONS FOR MILITARY RETIREES AND SURVIVING SPOUSES OF MILITARY RETIREES (See Part III for additional guidance)

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

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

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

DEDUCTION 2: AGE BASED DEDUCTION - AGE 65 OR OLDER DEDUCTION REDUCING ANY TYPE OF INCOME

Reduction Required for “Military” Retirement Income Deduction Claimed. Amounts deducted by a taxpayer under Code Section 12-6-1171 (military deductions) reduce the \$15,000 “general” age 65 and older deduction allowed under Code Section 12-6-1170. However, for married taxpayers who file a joint federal income tax return, this reduction applies to each individual separately. In other words, the reduction only applies to the amount the individual claiming the military deduction pursuant to Code Section 12-6-1171 otherwise could have claimed under Code Section 12-6-1170 if the individual had not filed a joint return. (See Part III for additional guidance.)

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

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

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

1. Q. What is “retirement income” for purposes of the \$3,000 or \$10,000 general retirement income deduction allowed by Code Section 12-6-1170(A)?
 - A. Code Section 12-6-1170(A)(2) defines the term “retirement income,” as used in this subsection, to mean the total of all otherwise taxable income not subject to a penalty for premature distribution² received by the taxpayer or the taxpayer’s surviving spouse in a taxable year from qualified retirement plans. These plans include:
 - All public employee retirement plans of the federal, state, and local governments, including military retirement.
 - Plans defined in Internal Revenue Code Sections:
401, “Qualified Pension, Profit-Sharing, and Stock Bonus Plan”
403, “Taxation of Employee Annuities”
408, “Individual Retirement Accounts” and
457, “Deferred Compensation Plans of State and Local Governments and Tax-Exempt Organizations.”
2. Q. Is retirement income that is not included in South Carolina taxable income eligible for the general retirement income deduction?
 - A. Based on the definition of “retirement income” in Code Section 12-6-1170(A)(2), retirement income eligible for the deduction must otherwise be taxable income. Income not included in South Carolina taxable income, such as social security income³ or total and permanent disability retirement income⁴ is not “otherwise taxable income” and, therefore, not eligible for the general retirement income deduction.
3. Q. Is an individual under age 65 eligible to claim the general retirement income deduction allowed by Code Section 12-6-1170?
 - A. Yes. An individual of any age is eligible to claim a deduction for retirement income allowed in Code Section 12-6-1170(A), providing the individual is the original owner of the retirement account (or a surviving spouse receiving qualified retirement income attributable to the deceased spouse who was the original owner of the retirement account, as discussed below). **See Examples 1 and 2.**

² South Carolina does not impose a penalty for premature distribution. This penalty is imposed for federal income tax purposes under Internal Revenue Code Section 72(t).

³ Code Section 12-6-1120(4) exempts social security from South Carolina tax.

⁴ See Code Section 12-6-1140(4).

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

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

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

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

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

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

7. Q. How is the age 65 and older deduction amount determined for a married couple filing a joint return when both spouses are 65 or older at the end of the tax year if only one spouse has income?
- A. The age 65 and older deduction is available as a deduction from any South Carolina taxable income. The deduction is \$30,000 for married taxpayers filing a joint return when both are 65 or older in the tax year. The deduction is \$30,000 per joint income tax return.

The statute does not require that married taxpayers filing a joint return allocate income as if they had filed separately.⁵ In the case of married taxpayers who file a joint income tax return, the deduction is not based on each individual’s separate income.

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

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

SURVIVING SPOUSE AND YEAR OF DEATH ISSUES

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

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

⁵ Code Section 12-6-1140(9) prior to amendment provided that if a married taxpayer eligible for this deduction files a joint federal income tax return with a spouse who is not eligible for this deduction, then their joint income must be allocated between them on a pro-rata basis in the manner the Department provides. Code Section 12-6-1140(9) was repealed in 1998.

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

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

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

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

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

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

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

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

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

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

A. For reasons other than tax purposes,⁶ funds of a deceased spouse may be maintained in a separate account (e.g., 401(k) spousal rollover IRA) or the funds may be combined in the surviving spouse’s retirement account (e.g., IRA) and may not be readily identifiable in the combined account.

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

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

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

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

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

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

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

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

EXAMPLES

GENERAL RETIREMENT INCOME DEDUCTION FOR ANY AGE

AND

AGE 65 AND OLDER DEDUCTION FOR ANY TYPE OF INCOME

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

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

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

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

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

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

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

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

Important Points to Remember and Assumptions Used in Examples:

- The examples assume all retirement income is qualified retirement income.
- The examples apply to any legal marriage. When necessary, to clearly illustrate a specific person’s income or deduction amounts, the examples will refer to one spouse as the “husband” and the other spouse as the “wife.”
- The examples use the term “general” retirement income deduction and “general” age 65 and older deduction to refer to the deductions in Code Section 12-6-1170 that are available to both non-military and military individuals. When appropriate, the term “military” retirement income deduction in Code Section 12-6-1171(A)(2) is used to distinguish the “general” age 65 and older deduction in Code Section 12-6-1170(B).
- The age of a deceased individual had he or she been living on December 31st of the current tax year is used to calculate the deduction amounts (i.e., the deceased continues to age in the current tax year and thereafter, without regard to the actual date and year of his or her death).

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

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

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

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

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

Explanation:

- **General Retirement Income Deduction:** The general retirement income deduction for the original owner of a retirement plan under age 65 is the lesser of: (1) the amount of qualified retirement income received or (2) \$3,000. Since the taxpayer received \$1,000 in qualified retirement income this year, the general retirement income deduction is limited to \$1,000.
- No general retirement income deduction is allowed for the \$2,000 received from an IRA inherited from the taxpayer’s parent, since the taxpayer was not the original owner of that retirement account.⁷
- Since the taxpayer is under age 65, the age 65 and older deduction to offset any type of income does not apply this year.

⁷ If the taxpayer was a surviving spouse and had inherited the IRA account from his deceased spouse years ago, the taxpayer would be allowed a \$2,000 general retirement income deduction as a surviving spouse for the retirement income from this inherited IRA. See Code Section 12-6-1170(A)(3).

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

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

Husband (Age 50):

Earned income - \$5,000

Retirement income - \$1,000

Wife (Age 55):

Earned income - \$100,000

Retirement income - \$45,000

Deduction Calculation: General Retirement Income Deduction = \$4,000

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

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

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

Explanation:

- **General Retirement Income Deduction:** The general retirement income deduction for the original owner of a retirement plan under age 65 is the lesser of: (1) the amount of qualified retirement income received or (2) \$3,000. Since the husband (age 50) received \$1,000 in qualified retirement income, his general retirement income deduction is limited to \$1,000 this year. Since the wife (age 55) received \$45,000 in qualified retirement income, she is allowed the maximum \$3,000 general retirement income deduction this year.

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

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

Husband (Age 65):

Earned income - \$5,000

Retirement income - \$1,000

Wife (Age 50):

Earned income - \$45,000

Retirement income - \$4,000

Deduction Calculation: General Retirement Income Deduction = \$4,000 and Age 65 and Older Deduction to Offset Any Type of Income = \$14,000. Total \$18,000 deduction on the joint return.

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

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

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

Explanation:

- **General Retirement Income Deduction:** The general retirement income deduction for the original owner of a retirement plan under age 65 is the lesser of: (1) the amount of qualified retirement income received or (2) \$3,000. The general retirement income deduction for the original owner of a retirement plan age 65 or older is the lesser of: (1) the amount of qualified retirement income received or (2) \$10,000. Since the husband (age 65) received \$1,000 in qualified retirement income this year, his general retirement income deduction is limited to \$1,000. Since the wife (age 50) received \$4,000 in qualified retirement income this year, her general retirement income deduction is \$3,000.
- **Age 65 and Older Deduction:** The age 65 and older deduction when only one spouse is 65 or older is the lesser of: (1) the joint taxable income or (2) \$15,000 less the general retirement income deduction⁸ claimed by the individual taxpayer age 65 or older. The remainder offsets any remaining taxable income on the joint return. Therefore, the age 65 and older deduction on the joint return is \$14,000 (\$15,000 less husband's \$1,000 general retirement income deduction). The \$14,000 deduction can offset any remaining taxable income on the joint return (e.g., husband's or wife's wages, interest income, retirement income, inherited IRA, etc.).
Note: Since the wife is under age 65, her \$3,000 general retirement income deduction does not reduce the husband's age 65 and older deduction.

⁸This reduction of the general retirement income deduction from the age 65 and older deduction does not apply to a surviving spouse for the retirement income received that is attributable to the deceased spouse. See Code Section 12-6-1170(A)(3) and Example 7.

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

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

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

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

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

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

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

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

Explanation:

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

claimed by each individual taxpayer age 65 or older, if any.⁹ The remainder offsets any remaining South Carolina taxable income on the joint return.

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

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

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

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

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

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

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

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

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

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

Explanation:

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

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

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

EXAMPLE 6 – Both Spouses are Age 65 or Older. Year of Death of One Spouse. Filing Status “Married Filing Joint”.¹¹

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

Husband (Age 70):

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

Wife (Age 65)¹² – Died During Tax Year:

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

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

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

¹¹ For income tax purposes, if a spouse dies during the tax year, the couple may be considered married for the entire year for filing status purposes. If the surviving spouse does not marry before the end of the tax year, a joint return may be filed for the surviving spouse and deceased spouse, if the executor consents. See IRC Section 6013, “Joint Returns of Income Tax by Husband and Wife,” and IRS Publication 559, “Final Income Tax Return of Decedent.”

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

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

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

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

Explanation:

- **General Retirement Income Deduction – As a Taxpayer:** The general retirement income deduction for the original owner of a retirement plan age 65 or older is the lesser of: (1) the amount of qualified retirement income received or (2) \$10,000. Since the husband (age 70) received \$10,000 in qualified retirement income this year from his own retirement plan, his separate, general retirement income deduction is \$10,000. Since the wife (age 65) received \$9,000 in qualified retirement income this year before her death from her own retirement plan, her general retirement income deduction is limited to \$9,000.
- **General Retirement Income Deduction – As a Surviving Spouse:** The general retirement income deduction as a “surviving spouse” receiving retirement income that is attributable to the deceased spouse (i.e., the deceased spouse was the original owner of the retirement plan) is the lesser of: (1) the amount of qualified retirement income received or (2) \$10,000. Since the husband received \$4,500 in qualified retirement income this year from the deceased spouse’s retirement plan, his separate, general retirement income deduction as a surviving spouse based on the deceased wife’s age (age 65) had she lived the entire year is \$4,500. Note: This deduction is not limited to \$3,000 based on the deceased age of 64 on the date of death this year.

- **Age 65 and Older Deduction:** The age 65 and older deduction when both spouses are 65 or older is the lesser of: (1) the joint taxable income or (2) \$30,000 less the general retirement income deduction claimed by each individual taxpayer age 65 or older, if any.¹³ The remainder offsets any remaining South Carolina taxable income on the joint return. Therefore, the age 65 and older deduction on this joint return is \$11,000 (\$30,000 maximum less \$10,000 of the husband's general retirement income deduction less \$9,000 of the wife's general retirement income deduction and less \$0 for the \$4,500 surviving spouse general retirement income deduction. The \$11,000 deduction can offset any remaining taxable income on the joint return (e.g., the husband's earned income).

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

¹³This reduction of the retirement income deduction from the age 65 and older deduction does not apply to a surviving spouse for the retirement income received that is attributable to the deceased spouse. See Code Section 12-6-1170(A)(3) and Example 7.

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

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

Husband (Age 71) Surviving Spouse:

Earned income - \$50,000

Retirement income - \$1,000

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

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

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

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

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

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

Explanation:

- **General Retirement Income Deduction – As a Taxpayer:** The general retirement income deduction for the original owner of a retirement plan age 65 or older is the lesser of: (1) the amount of qualified retirement income received or (2) \$10,000. Therefore, the taxpayer (husband) is allowed a \$1,000 retirement income deduction this year.
- **General Retirement Income Deduction – As a Surviving Spouse:** The general retirement income deduction for a “surviving spouse” receiving retirement income that is attributable to a deceased spouse age 65 or older (i.e., the deceased spouse was the original owner of the retirement plan) is the lesser of: (1) the amount of qualified retirement income received or (2) \$10,000. Since the husband received \$45,000 in qualified retirement income this year from the deceased spouse’s retirement plan, his separate, general retirement income deduction as a “surviving spouse” is \$10,000. The amount is based on the deceased wife’s age (age 66) as of December 31 of the current tax year; it is not \$3,000 based on her age of 64 on the date of death.
- **Age 65 and Older Deduction:** The age 65 and older deduction on a single return when the individual is 65 or older is the lesser of: (1) the taxable income or (2) \$15,000 less the general retirement income deduction claimed by the individual as the taxpayer (but not as the surviving spouse). Therefore, the age 65 deduction on the single return is \$14,000 (\$15,000 maximum less \$1,000 general retirement income deduction of the individual taxpayer only). The \$14,000 deduction can offset any remaining South Carolina taxable income on the single return (e.g., earned income, retirement income, or income inherited from a deceased spouse).

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

PART III

MILITARY DEDUCTIONS

UNDER CODE SECTION 12-6-1171

**AGE BASED RETIREMENT DEDUCTION - AGE 65 OR OLDER DEDUCTION FOR
MILITARY RETIREMENT INCOME**

**EARNED INCOME DEDUCTION - MILITARY RETIREE OF ANY AGE WITH BOTH
EARNED INCOME AND MILITARY RETIREMENT INCOME**

SUMMARY OF CODE SECTION 12-6-1171 DEDUCTIONS¹⁴

DEDUCTION 1: AGE BASED RETIREMENT DEDUCTION - AGE 65 OR OLDER DEDUCTION FOR MILITARY RETIREMENT INCOME

Maximum Amount: \$30,000

Law: Code Section 12-6-1171(A)(2)

General Provision. Code Section 12-6-1171(A)(2) provides an annual income tax deduction from South Carolina taxable income for an individual age 65 or older who has military retirement income. A qualifying taxpayer may deduct up to \$30,000¹⁵ of military retirement income that is included in South Carolina taxable income each year.

Joint Return - Calculation of Deductions. If one spouse (or both) receives qualified military retirement income, then the deduction amounts under Code Sections 12-6-1171 and 12-6-1170 for a return with filing status “married filing joint” must be calculated separately for each spouse (one deduction for the husband and one deduction for the wife). The separate computation amount of the “general” age 65 and older deduction is a maximum of \$15,000 for each spouse. However, this deduction can offset any type of remaining income on the joint return, after required reductions (e.g., each separate “general” age 65 and older deduction can offset both the civilian spouse’s or the military retiree spouse’s remaining income). See Code Section 12-6-1170(C).

Code Section 12-6-1170(C) – Reduction Required for Military Retirees Claiming a Deduction under Code Section 12-6-1171. Code Section 12-6-1170(C) provides modifications to the amounts allowed under the general provisions of Code Section 12-6-1170(A) and (B) discussed in Part II. Code Section 12-6-1170(C) provides:

- Reduction Required for “General” Retirement Income Deduction or Age 65 and Older Deduction Claimed. Amounts deducted by a military retiree under Code Section 12-6-1171 (military deductions) reduce the deductions allowed under Code Section 12-6-1170 (the \$3,000 or \$10,000 “general” retirement income deduction and the “general” age 65 and older deduction) by the amount the military retiree deducts under Code Section 12-6-1171.
- Reductions Calculated “Separately” for Married Couple Filing a Joint Return. In the case of married taxpayers who file a joint federal income tax return, the reduction required above applies to each individual separately. In other words, the reduction only applies to the amount the individual military retiree claiming the deduction pursuant to Code Section 12-6-1171 otherwise could have claimed under Code Section 12-6-1170 if the individual had not filed a joint return.

¹⁴ This summary is a brief overview of Code Sections 12-6-1171 and 12-6-1170(C) written in general terms. See the examples in this Revenue Ruling for more detailed guidance.

¹⁵ This deduction was phased in from 2016 to 2020. The maximum deduction for tax years 2020 and thereafter is \$30,000. The maximum deduction was \$27,000 for tax year 2019; \$24,000 for tax year 2018; \$21,000 for tax year 2017; and \$18,000 for tax year 2016.

Surviving Spouse Deduction Amounts. A surviving spouse receiving military retirement income that is attributable to the deceased spouse is allowed the \$30,000 military retirement deduction in the same manner that the deduction would have applied to the deceased spouse had he or she lived in the current tax year. If the surviving spouse also has his or her own qualified retirement income, a separate, additional deduction is allowed for his or her own retirement income. See Code Section 12-6-1171(C).

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

DEDUCTION 2: EARNED INCOME DEDUCTION - MILITARY RETIREE OF ANY AGE WITH BOTH EARNED INCOME AND MILITARY RETIREMENT INCOME

Maximum Amount: \$17,500

Law: Code Section 12-6-1171(A)(1)

General Provision. Code Section 12-6-1171(A)(1) provides that an individual who has both earned income (e.g., wages or income from self-employment) and military retirement income may deduct an amount of his or her “South Carolina earned income” from South Carolina taxable income equal to the amount of military retirement income that is included in South Carolina taxable income. The maximum deduction amount is \$17,500.¹⁶

Married Taxpayer – Joint Return Deduction Computation. When computing the earned income deduction on a return having a filing status “married filing joint,” the earned income reported by the military retiree is traced separately for the military spouse. Code Section 12-6-1171(A)(1).

Reductions Required for “General” Retirement Income Deduction Claimed. Amounts deducted from earned income under Code Section 12-6-1171 reduce the “general” retirement income deduction allowed under Code Section 12-6-1170(A) discussed in Part II, as follows:

- Separate Reduction Required for Married Taxpayer Filing a Joint Return. Taxpayers filing a joint federal income tax return must reduce their “general” retirement income deduction under Code Section 12-6-1170 as it applies to each individual separately. As such, any reduction only applies to the amount the individual claiming the deduction pursuant to Code Section 12-6-1171 otherwise could have claimed under Code Section 12-6-1170 if the individual had not filed a joint return. Code Section 12-6-1170(C).

Surviving Spouse Deduction Amount. A surviving spouse receiving military retirement income that is attributable to the deceased spouse is allowed the \$17,500 earned income deduction in the same manner as it applied to the deceased military retiree spouse. The surviving spouse’s deduction is the lessor of: (1) his earned income, (2) his taxable military retirement income received attributable to the deceased military spouse, or (3) \$17,500. Code Sections 12-6-1171(A)(1) and 12-6-1171(C).

¹⁶ The deduction was phased in from tax years 2016 – 2020. The maximum deduction for tax years 2020 and thereafter is \$17,500. The maximum deduction was \$14,600 for tax year 2019; \$11,700 for tax year 2018, \$8,800 in tax year 2017; and \$5,900 in tax year 2016.

Surviving Spouse Reduction Exception. Amounts deducted as a surviving spouse under Code Section 12-6-1171 do not reduce the general retirement income deduction allowed under Code Section 12-6-1170(A) (see Part II of the general retirement income deduction discussed above).

Note: The earned income deduction does not reduce the retiree's military retirement income deduction.

QUESTIONS AND ANSWERS – CODE SECTION 12-6-1171 MILITARY DEDUCTIONS

Earned Income Deduction For Any Age With Military Retirement (Up to \$17,500) and Military Retirement Age 65 and Older Deduction (Up to \$30,000).

1. Q. What is “military” retirement income for purposes of the deductions allowed by Code Section 12-6-1171?
 - A. Code Section 12-6-1171(B) defines the term “retirement income,” as used in this section, to mean the total of all otherwise taxable income not subject to a penalty for premature distribution¹⁷ received by the taxpayer or the taxpayer's surviving spouse in a taxable year from a qualified military retirement plan.

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

2. Q. Who qualifies as “military” for purposes of their military retirement income when determining eligibility for the deductions allowed by Code Section 12-6-1171?
 - A. Resident individuals who actively served in the following areas prior to retirement who receive military retirement income are eligible for the deductions in Code Section 12-6-1171:¹⁸
 1. Active duty in the Armed Forces of the United States (i.e., Army, Navy, Air Force, Marine Corps, and Coast Guard) and
 2. Active service in a state National Guard, or reserve component of the Army, Navy, Air Force, Marine Corps, and Coast Guard (excluding retirement benefits received from the United States or any state for the customary annual training period not to exceed 15 days for guard members or 14 days plus travel time for reserve members, weekend drills, and inactive duty training¹⁹).

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

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

¹⁹ See Code Section 12-6-1120(7) and SC Revenue Ruling #09-16 for more information.

Examples of individuals not eligible for the deductions in Code Section 12-6-1171 include those receiving retirement income from service in the following: (1) American Red Cross service to the Armed Forces; (2) Civilian employees of the United States Coast Guard or Department of Defense; (3) Civilian employment of a military employer; (4) National Guard or reserve component of the Armed Forces, unless such retirement is attributable to active military service; (5) National Oceanic and Atmospheric Administration; (6) Public Health Service; (7) Salvation Army; (8) South Carolina State Guard; (9) Other private, nonprofit, or governmental organizations providing services to the Armed Forces; and (10) United States Merchant Marines.

3. Q. Is retirement income that is not included in South Carolina taxable income eligible for the deductions in Code Section 12-6-1171?
 - A. Based on the definition of “retirement income” in Code Section 12-6-1171(B), retirement income eligible for the deduction must otherwise be taxable income. Examples of military income not included in South Carolina taxable income are the portion of pension or retirement income received by retired service personnel, residents of this State, that can be attributed to time served in the National Guard or Reserve components of the Armed Forces of the United States. The non-taxable portion is determined by using a ratio of the time actually served in the National Guard or Reserve to the total time spent in military service, times total yearly pension or retirement. See Code Section 12-6-1120(7) and Regulation 117-640.3, “National Guard or Reserve Pension or Retirement Income.”
4. Q. What is “earned income”?
 - A. Code Section 12-6-3330 defines “earned income” as income that is earned income within the meaning of Internal Revenue Code Section 911(d)(2) or 401(c)(2) and is taxable in South Carolina, with certain listed exceptions. Examples include: wages or income from self-employment.
5. Q. Is a military retiree age 65 or older allowed both the maximum “military” retirement income deduction and the maximum “general” retirement income deduction or “general” age 65 and older deduction?
 - A. No. Code Section 12-6-1170(C)(1) reduces the two deductions under Code Section 12-6-1170 for a military retiree. For example, if a military retiree over age 65 has \$50,000 of military retirement income, then the maximum age 65 and older “military” retirement income deduction allowed is \$30,000 under Code Section 12-6-1171. The \$10,000 “general” retirement income deduction under Code Section 12-6-1170(A) and the “general” age 65 and older deduction for any type of income of \$5,000 (\$15,000 maximum “general” age 65 and older deduction less \$10,000 “general” retirement income deduction) under Code Section 12-6-1170(B) for the military retiree is reduced to \$0 after complete offset by the \$30,000 military retirement income deduction. However, this computation is different for a civilian spouse or a military retiree’s surviving spouse. **See Examples 3 and 5 below.**

6. Q. Is a military retiree eligible for both deductions in Code Section 12-6-1171 – the age 65 and older “military” retirement income deduction and the earned income deduction for any age?
- A. Yes. Code Section 12-6-1171(A)(1) provides an earned income deduction to an individual of any age who has both earned income and military retirement income. Code Section 12-6-1171(A)(2) further provides a military retirement income deduction for a military retiree age 65 and older who has qualified military retirement income. The statute does not require one deduction to reduce the other deduction. Accordingly, the total maximum deduction allowed to a military retiree under Code Section 12-6-1171 is \$47,500 (up to a \$17,500 earned income deduction and up to a \$30,000 age 65 and older military retirement income deduction). **See Examples 2, 3, and 4 below.**

SURVIVING SPOUSE AND YEAR OF DEATH ISSUES

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

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

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

8. Q. On what date is the age determined for a military retiree who dies in the tax year for purposes of eligibility for the “military” retirement income deduction for an individual age 65 and older in Code Section 12-6-1171(A)(2)?
- A. For purposes of calculating the deduction in Code Section 12-6-1171(A)(2), in the year of death and thereafter, the age of the deceased military spouse had he or she been living on December 31st of the current tax year is used to calculate the deduction amount; the age of the deceased military spouse on the date of death or the age of the surviving spouse is not used to determine the deduction amount attributable to the deceased military spouse.
9. Q. If a surviving spouse is receiving military retirement income attributable to his deceased military spouse, is he eligible for the \$17,500 earned income deduction in Code Section 12-6-1171(A)(1), in the same manner as his deceased military spouse?
- A. Yes. Code Section 12-6-1171(A)(1) allows an individual taxpayer who has military retirement income each year to deduct an amount of South Carolina earned income from South Carolina taxable income equal to the amount of military retirement income that is included in South Carolina taxable income, not to exceed \$17,500. For purposes of a surviving spouse, “retirement income” includes retirement income from a qualified military retirement plan as a surviving spouse and a retirement benefit plan and dependent indemnity compensation related to the deceased spouse’s military service.

For example, assume a surviving spouse is receiving military retirement income attributable to his deceased spouse and is employed as a security guard at a private business. Code Section 12-6-1171(C) and (A)(1) permits the surviving spouse to reduce his earned income by the lesser of: (1) his earned income, (2) taxable military retirement income attributable to the deceased military spouse, or (3) \$17,500.

10. Q. Is a surviving spouse allowed a “general” retirement income deduction for his own retirement income, a “general” age 65 and older deduction, a separate “general” retirement income deduction for retirement income received that is attributable to the deceased military spouse, and a separate “military” retirement income deduction for military retirement income received that is attributable to the deceased military spouse?
- A. Yes. A surviving spouse 65 or older is eligible for his own “general” retirement income deduction of up to \$10,000, his own “general” age 65 and older deduction of \$15,000 (reduced by his own general retirement deduction, if any). If the surviving spouse is also receiving retirement income attributable to the deceased military spouse who would have been 65 or older had she been living in the current tax year, then the surviving spouse is also eligible for a separate \$10,000 “general” retirement income deduction as a surviving spouse. In addition, if the surviving spouse is also receiving “military” retirement income attributable to the deceased military spouse, then he is eligible for up to \$30,000 “military” retirement income deduction. The maximum deductions in this example available to the taxpayer under Code Sections 12-6-1170 and 12-6-1171(A)(2) would be \$55,000. Any separate surviving spouse calculation for retirement income that is attributable to the deceased spouse does not affect the living spouse’s deductions allowed under Code Section 12-6-1171 or Code Section 12-6-1170. See Code Sections 12-6-1171(C) and 12-6-1170(C)(1). **See Example 5 below.**

11. Q. In the year of death, can the surviving spouse also receive a surviving spouse “general” retirement income deduction under Code Section 12-6-1170 if the deceased spouse also claims a “general” retirement income deduction on the final joint income tax return?
- A. Yes. Code Sections 12-6-1171(C) and 12-6-1170(C)(1) allow a surviving spouse a separate, additional general retirement income deduction for retirement income received by the survivor that is attributable to the deceased spouse. **See Example 4 below.**

EXAMPLES

Military Retiree or Surviving Spouse - Earned Income Deduction

and

Age 65 and Older Military Retirement Income Deduction

Examples Calculating Each Deduction:

- Example 1 – Both Spouses are under Age 65
- Example 2 – Single Military Retiree Age 65 or Older
- Example 3 – Both Spouses are Age 65 or Older. One has military retirement income.
- Example 4 – Military Spouse Dies during the Year at Age 70. Surviving Spouse is Age 65.
- Example 5 – Year Following Death of Military Spouse. Surviving Spouse is Age 65 or Older.

Important Points to Remember and Assumptions Used in Examples

- The examples assume all retirement income is qualifying retirement income.
- The examples apply to any legal marriage. When necessary, to clearly illustrate a specific person's income or deduction amounts, the examples will refer to one spouse as the "husband" and the other spouse as the "wife." In examples illustrating military retiree deductions, it is assumed the "wife" is the military retiree.
- The examples use the term "general" retirement income deduction and "general" age 65 and older deduction to refer to the Code Section 12-6-1170 deductions and the term "military" retirement income deduction to refer to the Code Section 12-6-1171(A)(2) deduction.
- The age of a deceased individual had he or she been living on December 31st of the current tax year is used to calculate the deduction amounts (i.e., the deceased continues to age in the current tax year and thereafter, without regard to the actual date and year of his or her death).
- The deductions in Code Section 12-6-1171 were both phased in from 2016 to 2020. This advisory opinion uses the fully phased-in credit amounts - \$17,500 for the deduction in Code Section 12-6-1171(A)(1) and \$30,000 for the deduction in Code Section 12-6-1171(A)(2).
- NOTE: For taxpayer's filing original or amended returns for years prior to 2020, the phased-in amounts below should be used to compute the applicable prior year deduction allowed in Code Section 12-6-1171:

Code Section 12-6-1171(A)(1) – Earned Income Deduction: The deduction was phased in from tax years 2016 – 2020. The maximum deduction for tax years 2020 and thereafter is \$17,500. The maximum deduction was \$14,600 for tax year 2019; \$11,700 for tax year 2018, \$8,800 in tax year 2017; and \$5,900 in tax year 2016.

Code Section 12-6-1171(A)(2) – "Military" Retirement Income Deduction: The maximum deduction for tax years 2020 and thereafter is \$30,000. The maximum deduction was \$27,000 for tax year 2019; \$24,000 for tax year 2018; \$21,000 for tax year 2017; and \$18,000 for tax year 2016.

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

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

Husband (Age 60) - Civilian:

Earned income - \$6,000

Retirement income - \$4,000

Wife (Age 50) – Military Retiree:

Earned income - \$100,000

Retirement income (Military) - \$45,000

Deduction Calculation: Military Retiree Earned Income Deduction = \$17,500; “General” Retirement Income Deduction = \$3,000. Total \$20,500 deduction on the joint return.

	Income Reported on Joint Return (traced to each individual)	Military Retiree Earned Income Deduction – Any age Military Retiree with Both Earned Income and Military Retirement Income	Military Retirement Income Deduction - Age 65 and Older Deduction Reported on Joint Return	General Retirement Income Deduction	General Age 65 and Older Deduction	SC Taxable Income Computation
Income:						
Earned Income – Husband	\$ 6,000					\$ 6,000
Retirement Income (Non-military) – Husband - Age 60	\$ 4,000					\$ 4,000
Earned Income – Wife	\$100,000					\$100,000
Retirement Income (Military) – Wife - Age 50	\$ 45,000					\$ 45,000
SC Taxable Income before Adjustments	\$155,000					\$155,000
Military Deductions:						
Earned Income Deduction 12-6-1171(A)(1)		\$17,500				(\$17,500)
Military Retirement Income Deduction for Age 65 and Older 12-6-1171(A)(2)						
General Deductions:						
Wife – Age 50 General Retirement Income Deduction 12-6-1170(A)(1)				\$0 – offset completely by earned income deduction		(\$0)
Husband – Age 60 General Retirement Income Deduction 12-6-1170(A)(1) and (C)				\$3,000		(\$3,000)
Joint Return - Age 65 and Older Deduction 12-6-1170(B)						(\$0)
Total SC Deduction on Joint Return						\$20,500

Important Rules for Military Deductions and Exceptions to General Deduction Rules for This Example:

- Steps to Calculate Deductions on a Joint Return - The deductions in Code Sections 12-6-1171 and 12-6-1170 should be calculated in a specific order – first calculate all deductions for the military retiree and then calculate all deductions for the civilian spouse.
- The earned income deduction is calculated only on the military individual’s retirement income and earned income; it is not calculated on joint income amounts. Code Section 12-6-1171(A)(1).
- The earned income deduction is the lesser of: (1) earned income of the military individual, (2) taxable military retirement income of the individual, or (3) the \$17,500 maximum deduction allowed. Code Section 12-6-1171(A)(1).
- The “general” retirement income deduction is computed separately for each individual taxpayer on the joint return (i.e., the total retirement income is not combined when computing the deduction). Code Section 12-6-1170(C)(2).
- The general retirement income deduction for the military retiree is reduced by the earned income deduction claimed. Code Section 12-6-1170(C)(1).

Explanation:

Step 1: Calculate Earned Income Deduction of Military Retiree:

The earned income deduction of the wife is the lesser of: (1) earned income of the military individual (\$100,000), (2) taxable military retirement income (\$45,000), or (3) \$17,500. Therefore, the wife’s earned income deduction is \$17,500; this deduction reduces her \$100,000 taxable earned income to \$82,500. No portion of the military spouse’s earned income deduction offsets the husband’s earned income this year.

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

The general retirement income deduction for the original owner of a retirement plan under age 65 is the lesser of: (1) the amount of qualified retirement income received or (2) \$3,000. This result is further reduced by the earned income deduction claimed in Step 1. Therefore, since the wife (a military retiree) claimed a \$17,500 earned income deduction, her \$3,000 “general” retirement income deduction is reduced to \$0 (\$3,000 less \$17,500). Note: The answer would be different if the wife had \$0 earned income; she would then be allowed a \$3,000 “general” retirement income deduction, but \$0 military retiree earned income deduction.

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

The general retirement income deduction for the original owner of a retirement plan under age 65 is the lesser of: (1) the amount of qualified retirement income received or (2) \$3,000. Since the husband (a civilian) received \$4,000 in qualified retirement income, his general retirement income deduction is the maximum \$3,000 this year.

EXAMPLE 2 – Single Military Retiree Age 65 or Older - Filing Status “Single”

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

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

Deduction Calculation: Military Retiree Earned Income Deduction= \$17,500; “Military” Retirement Income Deduction = \$30,000. Total \$47,500 deduction on the single return.

	Income Reported on Single Return	Military Retiree Earned Income Deduction – Any age Military Retiree with Both Earned Income and Military Retirement Income	Military Retirement Income Deduction - Age 65 and Older Reported on Single Return	General Retirement Income Deduction and General Age 65 and Older Deduction	SC Taxable Income Computation
Income:					
Earned Income	\$20,000				\$20,000
Retirement Income (Non-military) – Age 65	\$10,000				\$10,000
Retirement Income (Military) – Age 65	\$40,000				\$40,000
SC Taxable Income before adjustments	\$70,000				\$70,000
Military Deductions:					
Earned Income Deduction 12-6-1171(A)(1)		\$17,500			(\$17,500)
Military Retirement Income Deduction for Age 65 and Older 12-6-1171(A)(2)			\$30,000		(\$30,000)
General Deductions:					
Taxpayer – Age 65 “General” Retirement Income Deduction 12-6-1170(A)(1)				\$0 – after offset by Section 12-6-1171 deduction	(\$0)
Age 65 and Older Deduction 12-6-1170(B)				\$0 – after offset by Section 12-6-1171 deduction	(\$0)
Total SC Deduction on Single Return					\$47,500

Important Rules for Military Deductions and Exceptions to General Deduction Rules for This Example:

- Steps to Calculate Deductions for a Single Taxpayer - The deductions in Code Section 12-6-1171 should be calculated first and then the deductions in Code Section 12-6-1170 should be calculated.
- An individual’s earned income military retirement deduction is the lesser of: (1) earned income of the military individual, (2) military retirement income of the individual, or (3) the \$17,500 maximum deduction allowed. Code Section 12-6-1171(A)(1).

- The “military” retirement income deduction for a military retiree age 65 and older who has military retirement income is the lesser of: (1) the amount of qualified military retirement income received or (2) \$30,000. Code Section 12-6-1171(A)(2).
- The earned income deduction does not reduce the “military” retirement income deduction. Code Section 12-6-1171(A).
- A single military retiree is eligible for the general deductions provided in Code Section 12-6-1170 (i.e., “general” retirement income deduction and the “general” age 65 and older deduction up to \$15,000 against any type of income), but these deductions are reduced by the earned income deduction and the “military” retirement income deduction. Code Sections 12-6-1170(C)(1), 12-6-1170(A)(1), and 12-6-1170(B).
- The “general” retirement income deduction for the original owner of a retirement plan age 65 or older is the lesser of: (1) the amount of qualified retirement income received or (2) \$10,000. This result is further reduced by any earned income deduction claimed. Code Sections 12-6-1170(C)(1) and 12-6-1170(A)(1).
- The “general” age 65 and older deduction of \$15,000 against any type of income will be completely reduced to \$0 for a military retiree who claims the maximum \$30,000 “military” retirement income deduction. Code Section 12-6-1170(C)(1).

Explanation:

Step 1: Calculate Earned Income Deduction of Military Retiree:

The earned income deduction of the military retiree is the lesser of: (1) earned income of the military individual (\$20,000), (2) taxable military retirement income (\$40,000), or (3) \$17,500. Therefore, the taxpayer’s earned income deduction is \$17,500; this deduction reduces her \$20,000 taxable earned income to \$2,500.

Step 2: Calculate “Military” Retirement Income Deduction for Age 65 and Older Military Retiree:

The “military” retirement income deduction for a military retiree age 65 and older who has military retirement income is the lesser of: (1) the amount of qualified military retirement income received or (2) \$30,000. Since the taxpayer received \$40,000 in a taxable military pension this year, she is allowed a \$30,000 military retirement income deduction.

Step 3: Calculate “General” Retirement Income Deduction for Military Individual – Caution: A “Reduction” Calculation (an exception to the General Rule) Applies to the Retiree’s Calculation:

The “general” retirement income deduction for the original owner of a retirement plan age 65 or older is the lesser of: (1) the amount of qualified retirement income received or (2) \$10,000. This result is further reduced by the earned income deduction claimed in Step 1 and by the “military” retirement income deduction for age 65 and older claimed in Step 2. Therefore, since the taxpayer claimed a \$17,500 earned income deduction, her \$10,000 “general” retirement income deduction is reduced to \$0 (\$10,000 less \$17,500).

Step 4: Calculate “General” Age 65 and Older Deduction against Any Type of Income – Caution: A “Reduction” Calculation (an exception to the General Rule) Applies to the Retiree’s Calculation:

The “general” age 65 and older deduction against any type of South Carolina taxable income on a return is the lesser of: (1) the taxable income or (2) \$15,000, less the general retirement income deduction claimed by the individual in Step 3. This result is further reduced by the earned income deduction claimed in Step 1 and by the “military” retirement income deduction claimed in Step 2. The remainder, if any, offsets any remaining South Carolina taxable income on the return. Therefore, since the taxpayer claimed a \$17,500 earned income deduction and a \$30,000 “military” retirement income deduction, her \$15,000 “general” age 65 and older deduction is reduced to \$0 (\$15,000 less \$47,500).

EXAMPLE 3 – Both Spouses are Age 65 or Older. Wife has Military Retirement Income. Filing Status “Married Filing Joint”.

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

Husband (Age 70) - Civilian:
 Earned income - \$10,000
 Retirement income - \$10,000

Wife (Age 65) – Military Retiree:
 Earned income - \$14,000
 Retirement income (Military) - \$45,000
 Retirement income (Non-Military) - \$9,000

Deduction Calculations: Military Retiree Earned Income Deduction = \$14,000; “Military” Retirement Income Deduction = \$30,000; “General” Retirement Income Deduction = \$10,000; and “General” Age 65 and Older Deduction = \$5,000. Total \$59,000 deduction on the joint return.

	Income Reported on Joint Return (traced to each individual)	Military Retiree Earned Income Deduction – Any age Military Retiree with Both Earned Income and Military Retirement	Military Retirement Income Deduction - Age 65 and Older Deduction Reported on Joint Return	General Retirement Income Deduction	General Age 65 and Older Deduction	Deductions On SC 1040
Income – Separate Tracing: Military Wife						
Wife – Earned Income	\$14,000					
Wife - Retirement Income (Military) – Age 65	\$45,000					
Wife - Retirement Income (Non-military) – Age 65	\$ 9,000					
Military Deductions:						
Earned Income Deduction 12-6-1171(A)(1)		\$14,000				(\$14,000)
Military Retirement Income Deduction for Age 65 and Older 12-6-1171(A)(2)			\$30,000			(\$30,000)
General Deductions:						
General Retirement Income Deduction 12-6-1170(A)(1)				\$0 – after complete offset by amount claimed under Section 12-6-1171		
Age 65 and Older Deduction 12-6-1170(B)					\$0 - after complete offset by amount claimed under Section 12-6-1171	

	Income Reported on Joint Return (traced to each individual)	Military Retiree Earned Income Deduction – Any age Military Retiree with Both Earned Income and Military Retirement	Military Retirement Income Deduction - Age 65 and Older Deduction Reported on Joint Return	General Retirement Income Deduction	General Age 65 and Older Deduction	Deductions On SC 1040
Income - Separate Tracing: Civilian Husband						
Husband – Earned Income	\$10,000					
Husband - Retirement Income (Non-military) – Age 70	\$10,000					
General Deductions:						
General Retirement Income Deduction – Per Separate Tracing of Husband’s Retirement Income (Age 70) 12-6-1170(A)(1)				\$10,000		(\$10,000)
Age 65 and Older Deduction Per Joint Return 12-6-1170(B)					\$5,000	(\$5,000)
Total SC Deduction on Joint Return						\$59,000

Important Rules for Military Deductions and Exceptions to General Deduction Rules for This Example:

Computation Rules Applicable to the Joint Return:

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

Military Retiree Computation Rules:

- The earned income deduction is calculated only on the military individual’s earned income and military retirement income (not on the joint income). Code Section 12-6-1171(A)(1).
- An individual’s earned income military retirement deduction is the lesser of: (1) earned income of the military individual, (2) military retirement income of the individual, or (3) the \$17,500 maximum deduction allowed. Code Section 12-6-1171(A)(1).
- The “military” retirement income deduction for a military retiree age 65 and older who has military retirement income is the lesser of: (1) the amount of qualified military retirement income received or (2) \$30,000. Code Section 12-6-1171(A)(2).
- The earned income deduction does not reduce the military retirement income deduction. Code Section 12-6-1171(A).

- A military retiree is eligible for the general deductions provided in Code Section 12-6-1170, however, the earned income deduction claimed and the military retirement income deduction claimed reduce the two “general” deductions allowed under Code Section 12-6-1170. Code Sections 12-6-1170(C), 12-6-1170(A)(1), and 12-6-1170(B).
- The “general” retirement income deduction for the original owner of a retirement plan age 65 or older is the lesser of: (1) the amount of qualified retirement income received or (2) \$10,000. This result is further reduced by the earned income deduction claimed. Code Sections 12-6-1170(C) and 12-6-1170(A)(1).

Civilian Computation Rules:

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

Explanation:

Step 1: Calculate Earned Income Deduction of Military Retiree:

The earned income deduction of the wife is the lesser of: (1) earned income of the military individual (\$14,000), (2) taxable military retirement income (\$45,000), or (3) \$17,500. Therefore, the wife’s earned income deduction is \$14,000; this deduction reduces her \$14,000 taxable earned income to \$0.

Step 2: Calculate “Military” Retirement Income Deduction for Age 65 and Older Military Retiree:

The “military” retirement income deduction for a military retiree age 65 and older who has military retirement income is the lesser of: (1) the amount of qualified military retirement income received or (2) \$30,000. Since the taxpayer received \$45,000 in a taxable military pension this year, she is allowed a \$30,000 military retirement income deduction.

Step 3: Calculate “General” Retirement Deduction for Military Individual – Caution: “Reduction” Calculations (an exception to the General Rule) Apply to the Retiree’s Calculation:

The “general” retirement income deduction for the original owner of a retirement plan age 65 or older is the lesser of: (1) the amount of qualified retirement income received or (2) \$10,000. This result is further reduced by the earned income deduction claimed in Step 1 and by any “military” retirement income deduction claimed in Step 2. Therefore, since the taxpayer claimed a \$14,000 earned income deduction, her \$10,000 “general” retirement income deduction is reduced to \$0 (\$10,000 less \$14,000).

Step 4: Calculate “General” Age 65 and Older Deduction against Any Type of Income – Caution: A “Reduction” Calculation (an exception to the General Rule) Applies to the Retiree’s Calculation:

The “general” age 65 and older deduction against any type of South Carolina taxable income on a return is the lesser of: (1) the **joint** taxable income or (2) **\$15,000**, less the general retirement income deduction claimed by the retiree in Step 3. This result is further reduced by the earned income deduction claimed in Step 1 and by the “military” retirement income deduction for an age 65 and older retiree claimed in Step 2. The remainder, if any, offsets any remaining South Carolina taxable income on the joint return. Therefore, since the military retiree taxpayer (the wife) claimed a \$14,000 earned income deduction and a \$30,000 “military” retirement income deduction, her \$15,000 “general” age 65 and older deduction is reduced to \$0 (\$15,000 less \$44,000).

Step 5: Calculate Civilian Spouse “General” Retirement Income Deduction:

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

Step 6: Calculate Civilian Spouse “General” Age 65 and Older Deduction against Any Type of Income – Computed Separately from Military Spouse, but Applies to Joint Income:

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

Note: The answer would remain the same if the husband’s only income was \$10,000 of civilian retirement income and \$0 earned income. The \$15,000 age 65 deduction, after reduction of the husband’s \$10,000 retirement income deduction, may reduce \$5,000 (\$15,000 less \$10,000) of any of the military retiree wife’s remaining taxable income on the joint return (e.g., military or non-military retirement income).

EXAMPLE 4 – Military Wife Dies during the Tax Year at Age 70. Surviving Husband is Age 65 or Older - Filing Status “Married Filing Joint”.

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

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

Deduction Calculation: Military Retiree Earned Income Deduction = \$17,500; “Military” Retirement Income Deduction = \$30,000; “General” Age 65 and Older Deduction against Any Type of Income = \$15,000; Surviving Spouse “General” Retirement Income Deduction = \$3,000. Total \$65,500 deduction on the joint return.

	Income Reported on Joint Return (traced to each individual)	Military Retiree Earned Income Deduction – Any Age Military Retiree with Both Earned Income and Military Retirement	Military Retirement Income Deduction - Age 65 and Older Deduction Reported on Joint Return	General Retirement Deduction – As Taxpayer(s) or As Surviving Spouse	General Age 65 and Older Deduction	Deductions On SC 1040
Income – Separate Tracing of Military Wife Earned Income and Retirement:						
Wife - Earned Income	\$18,500					
Wife - Retirement Income (Military) – Age 65	\$35,000					
Wife - Retirement Income (Non-military) – Age 65	\$10,000					
Military Deductions:						
Earned Income Deduction 12-6-1171(A)(1)		\$17,500				(\$17,500)
Military Retirement Income Deduction for Age 65 and Older 12-6-1171(A)(2)			\$30,000			(\$30,000)
General Deductions:						
General Retirement Income Deduction – Per Wife Only 12-6-1170(A)(1)				\$0 - after complete offset by amount claimed under Section 12-6-1171		
Age 65 and Older Deduction – Per Wife Only 12-6-1170(B)					\$0 - after complete offset by amount claimed under Section 12-6-1171	

	Income Reported on Joint Return (traced to each individual)	Military Retiree Earned Income Deduction – Any Age Military Retiree with Both Earned Income and Military Retirement	Military Retirement Income Deduction - Age 65 and Older Deduction Reported on Joint Return	General Retirement Deduction – As Taxpayer(s) or As Surviving Spouse	General Age 65 and Older Deduction	Deductions On SC 1040
Income - Civilian Husband Wages and Retirement:						
Earned Income - Husband	\$10,000					
Dividend Income - Husband	\$ 8,000					
Husband - Retirement Income (Non-military) – Age 70	\$0					
General Deductions:						
General Retirement Income Deduction – Per Husband Only 12-6-1170(A)(1)				N/A		(\$0)
Age 65 and Older Deduction – Per Joint Return 12-6-1170(B)					\$15,000	(\$15,000)
As Surviving Spouse – General Retirement Income Deduction 12-6-1170(A)(1) – Spousal IRA Inherited (Non-military)	\$ 3,000			\$3,000		(\$ 3,000)
Total SC Deduction on Joint Return						\$65,500

Important Rules for Military Deductions and Exceptions to General Deduction Rules for This Example:

Computation Rules Applicable to the Joint Return:

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

Military Retiree Computation Rules:

- The earned income deduction and “military” retirement income deduction are calculated only on the military individual’s retirement income and earned income; they are not calculated on joint income amounts (i.e., earned income and retirement income is traced separately for each spouse). Code Section 12-6-1171(A)(1).

- The earned income deduction does not reduce the “military” retirement income deduction. Code Section 12-6-1171(A).
- A military retiree is eligible for the general deductions provided in Code Section 12-6-1170, however, the earned income deduction claimed and the military retirement income deduction claimed reduce the two “general” deductions allowed under Code Section 12-6-1170. Code Sections 12-6-1170(C), 12-6-1170(A)(1), and 12-6-1170(B).

Civilian Computation Rules:

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

Surviving Spouse Rules:

- A surviving spouse is also allowed a separate, additional general retirement income deduction for retirement income received by the survivor that is attributable to the deceased spouse. The deduction is computed in the same manner that the deduction would apply to the deceased had she been living in the current tax year. Code Sections 12-6-1170(A)(2) and 12-6-1170(C)(1).
- The age 65 and older deduction is NOT reduced by amounts deducted as a “surviving spouse” for the separate, general retirement income deduction. Code Sections 12-6-1170(C), 12-6-1170(A)(1), and 12-6-1170(B).
- Additional surviving spouse deductions are allowed in the year of death of the military retiree spouse for income attributable to the deceased spouse. This includes the earned income deduction and the military retirement income deduction for military retirement income received after the spouse’s death that are attributable to the deceased spouse. Code Section 12-6-1171(C).

Explanation:

Step 1: Calculate Earned Income Deduction of Military Retiree:

The earned income deduction of the wife is the lesser of: (1) earned income of the military individual (\$18,500), (2) taxable military retirement income (\$35,000), or (3) \$17,500. Therefore, the wife’s earned income deduction is \$17,500; this deduction reduces her \$18,500 taxable earned income to \$1,000.

Step 2: Calculate “Military” Retirement Income Deduction for Age 65 and Older Military Retiree:

The “military” retirement income deduction for a military retiree age 65 and older who has military retirement income is the lesser of: (1) the amount of qualified military retirement income received or (2) \$30,000. Since the taxpayer (wife) received \$35,000 in a taxable military pension this year, she is allowed a \$30,000 military retirement income deduction.

Step 3: Calculate “General” Retirement Deduction for Military Individual – Caution: “Reduction” Calculations (an exception to the General Rule) Apply to the Retiree’s Calculation:

The “general” retirement income deduction for the original owner of a retirement plan age 65 or older is the lesser of: (1) the amount of qualified retirement income received or (2) \$10,000. This result is further reduced by the earned income deduction claimed in Step 1 and by the “military” retirement income deduction for age 65 and older claimed in Step 2. Therefore, since the taxpayer claimed a \$17,500 earned income deduction, her \$10,000 “general” retirement income deduction is reduced to \$0 (\$10,000 less \$17,500).

Step 4: Calculate “General” Age 65 and Older Deduction against Any Type of Income – Caution: “Reduction” Calculations (an exception to the General Rule) Apply to the Retiree’s Calculation:

The “general” age 65 and older deduction against any type of South Carolina taxable income on a return is the lesser of: (1) the taxable income or (2) \$15,000, less the general retirement income deduction claimed by the taxpayer in Step 3. This result is further reduced by the earned income deduction claimed in Step 1 and by the “military” retirement income deduction claimed in Step 2. The remainder, if any, offsets any remaining South Carolina taxable income on the return. Therefore, since the taxpayer claimed a \$17,500 earned income deduction and a \$30,000 “military” retirement income deduction, her \$15,000 “general” age 65 and older deduction is reduced to \$0 (\$15,000 less \$47,500).

Step 5: Calculate Civilian Spouse “General” Retirement Income Deduction – As a Taxpayer:

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

Step 6: Calculate Civilian Spouse “General” Age 65 and Older Deduction against Any Type of Income – Computed Separately from Military Spouse, but Applies to Joint Income:

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

Step 7: Calculate Civilian Spouse “General” Retirement Income Deduction – As a Surviving Spouse:

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

EXAMPLE 5 – Year Following Death of Spouse. Surviving Spouse Only. Survivor is Age 71 - Filing Status “Single”.

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

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

Earned income of survivor - \$50,000

Retirement income of survivor - \$25,000

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

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

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

Deduction Calculation: General Retirement Income Deduction for Any Age and Age 65 and Older Deduction for Any Type of Income = \$10,000; Deduction Amounts Allowed to a Surviving Spouse = \$57,500. Total \$72,500 deduction on the single return.

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

	Income Reported on Single Return	General Retirement Income Deduction Reported on Single Return (Age 71)	12-6-1170 and 12-6-1171 Deductions Allowed to a Surviving Spouse	Age 65 and Older Deduction Reported on Single Return	SC Taxable Income Computation
Military Deductions:					
As Surviving Spouse - Military Earned Income Deduction 12-6-1171(A)(1)			\$17,500		(\$17,500)
As Surviving Spouse - Military Retirement Income Deduction for Age 65 and Older 12-6-1171(A)(2)			\$30,000		(\$30,000)
As Surviving Spouse - General Retirement Income Deduction (Age 66, if still living) 12-6-1170(A)(1)			\$10,000		(\$10,000)
Total SC Deduction on Single Return					\$72,500

Important Rules for Military Deductions and Exceptions to General Deduction Rules for This Example:

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

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

NOTE: See Part II, Question 10 above for information on calculating the general retirement income deduction if the qualified retirement accounts of the deceased spouse and the surviving spouse are not maintained in separate accounts.

Explanation:

Calculation of Deductions – “As the Taxpayer”

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

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

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

The “general” age 65 and older deduction against any type of South Carolina income is the lessor of: (1) the taxable income on the single return or (2) \$15,000, less the general retirement income deduction claimed by the individual taxpayer age 65 or older in Step 1. This result is NOT further reduced by any amounts deducted as a surviving spouse below. The remainder offsets any remaining taxable income on the return. Therefore, the husband’s age 65 and older deduction is \$5,000 (\$15,000 less husband’s \$10,000 general retirement income deduction). The \$5,000 deduction can offset any remaining taxable income on the return (e.g., earned income, retirement income, or income inherited from the deceased spouse).

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

Step 3: Calculate Earned Income Deduction - As a Surviving Spouse:

The earned income deduction applies to the surviving spouse in the same manner as it applied to the deceased military retiree. The surviving spouse’s deduction is the lesser of: (1) his earned income (\$50,000), (2) his taxable military retirement income received attributable to the deceased military spouse (\$45,000), or (3) \$17,500. Therefore, the surviving spouse’s earned income deduction is \$17,500; this deduction reduces his \$50,000 taxable earned income from any source to \$32,500.

Step 4: Calculate the Military Retirement Income Deduction for Age 65 and Older – As a Surviving Spouse:

The “military” retirement income deduction applies to the surviving spouse in the same manner as it applied to the deceased military retiree. The surviving spouse’s “military” retirement income deduction for a military retiree who would have been age 66 had she been living on December 31st of the current tax year is the lesser of: (1) the amount of qualified military retirement income received by the surviving spouse or (2) \$30,000. Since the taxpayer received \$45,000 in a taxable military pension this year attributable to the deceased military spouse, he is allowed a \$30,000 military retirement income deduction.

**Step 5: Calculate “General” Retirement Deduction for Military Individual – As a Surviving Spouse
Caution: Reduction Calculations Required by Military Retiree DO NOT Apply to Military Surviving Spouse:**

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

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

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/W. Hartley Powell

W. Hartley Powell, Director

November 5, 2021
Columbia, South Carolina